

ISRAEL UNDER FIRE

Vol. 1

**International Legal and
Diplomatic Battlefield**

Edited by Amb. Alan Baker



Jerusalem Center for
Security and Foreign Affairs

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Contents

Foreword	
<i>Dr. Dan Diker</i>	5
Introduction	
<i>Amb. Alan Baker</i>	7
The War in Gaza: Can Contemporary International Law Cope with Today's Terror?	
<i>Amb. Alan Baker</i>	17
The Attempt to Deny the Foundational Legal, Historical, and National Rights of the Jewish People	
<i>Robert L. Meyer</i>	29
Israel's Survival: Little Room to Maneuver	
<i>Dr. Nicholas Rostow</i>	59
Detention, Prosecution, and Punishment following the October 7 Massacre	
<i>Lt.-Col. (res.) Maurice Hirsch</i>	83
Anatomy of a UN Crime against Humanity	
<i>Prof. Anne Bayefsky</i>	113
Israel's Legal Rights Regarding Settlements	
<i>Prof. Talia Einhorn</i>	251
About the Authors.....	289

Foreword

Dr. Dan Diker

Israel Under Fire is an unprecedented compendium of articles by independent, professional experts that assesses Israel's legal and diplomatic rights and responsibilities as a sovereign democratic state under assault by the terror network of Hamas in Gaza, Hizbullah in Lebanon and Syria, and the Houthi terror group in Yemen, all under the ideological auspices and the military and financial support of the Iranian regime.

This anthology also weighs military, economic, social, ideological, and psychological threats against Israel arising from Hamas's October 7, 2023, massacre and the subsequent war in Gaza.

This book is the first comprehensive study of the unique legal and other challenges confronting Israel as a lone democratic state under a multifront attack by terror proxies, which, unlike Israel, are unconstrained by international laws and accepted norms of armed conflict and human rights.

Instead, Iran and its proxies pursue a radical Islamic "total warfare" strategy.¹ This strategy includes terror warfare and, simultaneously, deception and disinformation operations to influence international institutions led by the UN, international courts, media, and human rights groups, all intent on questioning and undermining Israel's right to defend itself.

This compendium, “Israel Under Fire,” uniquely elucidates and analyzes the conflict’s factual and legal context. It also analyzes strategies to enhance psychological response and societal resilience in the aftermath of October 7, 2023, including confronting the unprecedented wave of global antisemitism, particularly in the face of the Iranian-led psychological warfare strategy. The insights here also apply to other democratic states confronting the same challenges of terrorism and subversion.

The Jerusalem Center is deeply grateful to international legal expert Robert Meyer for contributing content and enabling the publication of this compendium. JCFA also expresses its profound appreciation to Ambassador Alan Baker, head of its international law program and former legal advisor to Israel’s Ministry of Foreign Affairs and Israel’s ambassador to Canada, for envisioning and editing this anthology. The JCFA also thanks Lenny Ben-David, Ahuva Ben Dor, and Daniel Levin for their invaluable assistance in publishing this study.

Note

1. <https://jcpa.org/article/the-twenty-first-century-total-war-against-israel-and-the-jews-part-one/>

Introduction

Amb. Alan Baker

It is uniquely challenging to address in neutral and objective terms the various legal, psychological, economic, and other implications and consequences of the brutal and cruel massacre of Israeli and foreign nationals carried out on October 7, 2023, by Hamas and other terror organizations based in the Gaza Strip. No less uniquely difficult is it to analyze the consequences and implications of the war between Israel and Hamas following the October 7 massacre.

Such consequences and implications are relevant both in the context of the actual fighting on the ground and in the wider context of the international legal, political, psychological, and economic repercussions, as well as in the incredible renaissance of mass, public antisemitism that has been flooding and continues to flood the Western world.

Therefore, the title of this compilation—“Israel Under Fire”—is intended to refer, both figuratively as well as literally, to the wide range of legal and other aspects emanating from the events and phenomena of the October 7 massacre and the ensuing war.

This includes, first and foremost, the total and utter inhumanity demonstrated by Hamas and other terrorists on October 7, 2023, and their violation of humanitarian norms, principles, and international conventions.

Such violations include the massive barrage of missiles fired indiscriminately against Israel's civil population centers, the barbaric acts of murder and rape and the burning of families, and the taking of over 250 hostages. It includes the legal dilemmas facing Israel in dealing with terror groups embedded within and under the Gaza civilian population, using, as a matter of policy, homes, hospitals, schools, mosques, and international aid facilities as human shields.

The concept and title "Israel under Fire" relates in no less a manner to the concerted and blatant hostility against Israel within the international community, and chiefly within the United Nations and among its senior staff, including the Secretary-General himself, and in the refugee agency UNRWA, the staff and leadership of which has been actively involved in incitement against Israel and even in participation in the October 7 massacre.

The figurative aspect of the concept "Israel under Fire" covers the unprecedented renaissance of massive international antisemitism and hatred of Israel and Jews taking place on campuses and on the streets, principally in North America and Europe.

Motivating Factors

Any analysis of the various legal and other aspects surrounding Israel's unique situation on October 7 would be incomplete without considering the deep-seated religious and political motivating factors behind and beneath the actual events.

The stark Iranian influence and pressure on its terror proxies in the Middle East, including Hamas, Hizbullah, and the Houthi regime in Yemen, have played the most dominant

role in fanning the flames of this war. Public pronouncements by Iran's Supreme Leader Ali Khamenei supporting and inciting continued violence, Iran's heavy financial and material involvement in providing weapons and weapons systems to its terror proxies have played, and continue to play, a central contributing factor to the war. Furthermore, the heavy Iranian encouragement, incitement, and financing of the wide range of antisemitic demonstrations in Europe and North America—all add to the complexities of this crisis.

An additional motivating factor includes the formally declared desire and intention of the Hamas and Islamic Jihad terror organizations, in their respective national charters, to seek the utter annihilation of Israel and the genocide of the Jewish people.

The echoing of such motivation and intentions in the mass calls by incited and ignorant demonstrators on the streets and campuses in Western countries, including calls of “from the river to the sea Palestine will be free,” is indicative of mass negation of Israel's legitimate right to exist. This is no less evident in the extensive and elaborate propaganda and brainwashing in Western countries and on campuses, orchestrated, encouraged, heralded, and financed by the Iranian leadership with the often-willing support of elements hostile to Israel, especially in Europe.

A further major motivating factor is the manipulative, utterly false, and long-existing incentive created by fanatic Muslims and adopted by Hamas of a contrived and non-existent Israeli threat to destroy one of Islam's holiest sites—the Al Aqsa Mosque on the Temple Mount in Jerusalem. The title given by the Hamas leadership to the October 7 massacre—“The Al-Aqsa Flood,” is indicative of the constant Muslim incitement using this theme. It gives rise to a need to clarify the role played

by religion and such false incitement regarding the Al-Aqsa Mosque as part of the events leading up to the October 7 massacre and the ensuing war.

Chapters of this Compilation

The following experts have contributed to this authoritative compilation of articles under the collective heading “Israel under Fire”:

Robert L. Mayer, “The Attempt to Deny the Foundational Legal, Historic, and National Rights of the Jewish People.”

This article addresses the unceasing attempts to delegitimize Israel and to negate the rights of the Jewish People, illuminating the foundational legal and historical rights underlying the Jewish people’s long struggle to establish their national home in the area.

*Dr. Dan Diker, President of the Jerusalem Center,
“The Iranian Connection to the October 7 Massacre.”*

This article likens Iran’s involvement in every aspect of the war to an octopus with tentacles touching all the various aspects of the war, from ideological, tactical, strategic, financial, and military angles.

Dr. Nicholas Rostow, "Israel's Survival: Little Room to Maneuver."

This article analyzes Israel's strategic and tactical challenges and difficulties in waging multi-dimensional, asymmetric warfare against an opponent who violates the most fundamental rule of distinctions in the battle between combatants and non-combatants and between military and civilian installations and structures.

It also analyzes the unique dilemma where every Israeli action is placed under a global microscope in the international environment, and Israel is inevitably blamed for the destructive consequences of Hamas's illegal actions.

Amb. (ret.) Alan Baker, "The War in Gaza: Can Contemporary International Law Cope with Today's Terror?"

International law is faced with the challenge as to how sovereign states, obligated by the customary and conventional rules of international humanitarian law, may engage in asymmetrical war with terror organizations embedded within the civilian population that purposely, and by definition, do not consider themselves bound by such rules and therefore can violate them.

The international community, geared to anachronistic conceptions of armed conflict, presumes to judge those fighting terror by such anachronistic criteria and standards rather than adapting itself to the new situations and challenges that they bring.

Under the guise of "national liberation movements" or "freedom fighters," terror groups enjoy international respectability and acceptance, enabling them to gain political,

legal, and financial legitimacy and support from some states' international and regional organizations.

Prof. Anne Bayefsky, "Anatomy of a UN Crime against Humanity."

This article illuminates the UN's role as the central vehicle for hijacking and perverting international law and the principles of universal human rights in the service of warfare and antisemitism, intending to deny Israel's right to defend itself. It points to the various UN facilities and services that were connected to the Palestinian terrorist infrastructure, as well as to the UN employees who were physically engaged in atrocity crimes.

For more than half a century, the United Nations and its international appendages have become engorged with a terrible—and lethal—combination of antisemitism, wealth, and global influence. Today, we bear witness to the perversion of law and human rights in the cause of the destruction of Jews and the Jewish state.

*Dr. Rephael Ben-Ari and Dr. Shaul Sharf,
"UNRWA: Humanitarian Terrorism?"*

The United Nations Relief and Works Agency (UNRWA) for Palestine Refugees in the Near East is one of the largest UN programs, with over 30,000 personnel operating in Jordan, Lebanon, Syria, the West Bank, and the Gaza Strip.

UNRWA has become susceptible to political manipulation, particularly by the Palestinian leadership, extremist groups, and some Arab (host) countries, which manipulate it and

Amb. Alan Baker

influence its performance. It has lost its credibility and even its legitimacy in the eyes of many of the main stakeholders in the region, in particular within Israel.

The lack of any serious accountability framework prevents the international community and donor states from scrutinizing UNRWA's performance.

Amb. (ret.) Alan Baker, "Religion in the Service of Barbarity: The "Al-Aqsa Flood" Slogan and the October 7 Massacre."

The massacres of October 7, 2023, were committed in the name of the Al-Aqsa Mosque, the third most holy site in Islam, while the cruel, brutal murders, rape, and burning alive of over one thousand people were carried out under the name of religion while blessing the creator.

This illuminates the inherent linkage between Islam and the call to violently eliminate Israel and the Jewish state in the name of the antiquated and discriminatory "*status quo*" on Jerusalem's Temple Mount.

The article stresses the inherent dichotomy between the archaic "*status quo*," still recognized and acknowledged by the international community, and its acute undermining of accepted humanitarian norms of freedom of worship.

Prof. Talia Einhorn, "Israel's Legal Rights Regarding Settlements"

This chapter analyzes from an international law perspective the legality of settlements in east Jerusalem, Judea and Samaria, and the Gaza Strip, deriving from the historical, indigenous,

and legal rights of the Jewish people to settle in those areas, as validated in international documents.

Denying such rights is tantamount to denying Jews' ties to their biblical and historical homeland, precisely those ties that have been recognized in these international documents.

Lt. Col. (ret.) Maurice Hirsch, "Detention, Prosecution, and Punishment following the October 7 Massacre."

This chapter discusses the legal frameworks and complexities associated with detaining, prosecuting, and punishing those who invaded Israel and conducted a heinous massacre.

It offers an overview of the relevant provisions of Israeli law, the laws applicable in Judea and Samaria, and, where necessary, references to international law.

A substantial factor complicating any legal action and due punishment against the terrorists, including a consideration of the possibility of capital punishment, is the fact that Hamas is holding 115 hostages, living and dead, in captivity.

Prof. Gerald Steinberg, "NGO Warfare: From Human Rights Watch to Campus Mobs."

This article highlights the central role in the international anti-Israel campaign by the extensive NGO network, including Human Rights Watch, Amnesty International, the Paris-based International Federation of Human Rights, and others. This campaign is also fueling the campus-based anti-Israel and antisemitic mob violence that has accompanied the terror attacks launched on October 7.

Such influential NGOs claiming to promote universal human rights and moral principles are the engines that drive lawfare campaigns, including the 21st-century blood libels of genocide and starvation, adopted by the UN, the ICC, and the ICJ and manipulated to attract liberal students and faculty. They seek to deprive Israel of the fundamental right to self-defense against brutal enemies seeking its destruction.

The article analyzes over two decades of the NGOs' biases, hypocrisy, and propaganda, amplified by the UN, journalists, academics, and Western political officials.

Dr. Irwin J. Mansdorf, "Assessing the Damage: How the Events of October 7, 2023, Have Conditioned the Israeli Psyche."

This article reviews the significant emotional and behavioral impact on the Israeli public of the October 7 attack on Israel and its aftermath, leading to an increased need for psychological intervention.

It concentrates on internal distress among the Israeli public due to the often personal or family involvement in the war. It analyzes the distress emanating from external factors and threats, international criticism—even from allies—and accusations of genocide in judicial bodies.

The psychological effects of the street and campus demonstrations and the revival of massive international antisemitism have created a feeling of isolation and opprobrium among the Israeli public, with many Israelis experiencing a siege mentality.

David Brodet, "Israel's Economy in War and its Aftermath."

The article deals with the main economic developments since the war in the areas of macroeconomics, the cost of the war, the budget, the labor market, the economy's industries, and the financial system.

It analyzes the risks that have challenged the Israeli economy, their significance, and future challenges.

The War in Gaza: Can Contemporary International Law Cope with Today's Terror?

Amb. Alan Baker

The war between Israel, Hamas, and other terror organizations has heightened the awareness of the question of whether today's international law is capable of addressing armed conflict between a state and terror organizations.

Simply put, the question is how a sovereign state, obligated by the customary and conventional rules of international humanitarian law and the laws of armed conflict, is expected to engage in asymmetrical war with terror organizations that distinctly, and by definition, do not consider themselves as bound by such rules. Openly, they deliberately and even proudly consider themselves to be entitled, as terror organizations, to flout all accepted humanitarian norms and rules of international law to advance their aims. All this knowing that the international community lacks practical and legal means, as well as the basic desire and capability of obliging such terror groups to abide by the rules.

Today's international community is riven with a severe

dichotomy because what is currently known and acknowledged to be “the law of armed conflict,” by which states and their armed forces have operated, was developed over the years. The law was set out in clear terms in the late 1800s and early 1900s;¹ the laws of armed conflict have, from time to time, been updated and amended, whether immediately following the Second World War (1949)² and between 1974-7³ following the Vietnam War. Apart from specific instruments to reflect the need for the protection of cultural property in times of war⁴ and instruments reflecting technological developments in conventional and non-conventional warfare,⁵ the fundamental norms and principles have not been substantially updated since then.

It is questionable whether the law of armed conflict as it exists today, incorporating as it does international humanitarian law, is capable of providing legal as well as operative answers to the practical issues arising out of today’s struggle against terror, directed not necessarily against a defined and identifiable armed force of a state, but rather against terror groups purposely embedded within the civilian population. The conflicts today may not necessarily be confined to the territory of a particular state and, by its very definition, are not necessarily directed against the military forces of a state but against civilians.

This dilemma is not new. It has existed since the late ‘60s of the twentieth century when the phenomenon of terror, plane hijacking, and hostage-taking became prevalent as an effective and brutal tool to use against states and their populations.

More recently, terror organizations, under the guise of “national liberation movements” or “freedom fighters,” and with the political, legal, and financial support of some states and groupings of states, as well as international and

regional organizations, have gained international recognition and standing as semi-legitimate actors in the international community. Despite the inherent illegitimacy of their *modus operandi*, terrorist organizations can mobilize those states that politically sponsor and support their cause through manipulation of the international community. They give them recognition, standing, financial, diplomatic, and political backing.

The modes and tactics of terror develop and change concomitant with the technological advances in the means and techniques of combat and use of weaponry. As has been demonstrated in this recent war, Hizbullah, Hamas, and the Houthi terror regime in Yemen are equipped, principally by the terror regime in Iran, with unmanned aerial vehicles, drones, and long-range rockets, some equipped with precision-guided capabilities.

International law attempts to address such developments as they occur in a somewhat piecemeal manner, periodically adopting treaties and other instruments to cope with such phenomena as aviation and maritime terror, hostage-taking, nuclear and cyber terror, conventional and non-conventional weaponry, land mines, and the like.⁶

Over the years, the international community has updated international law by adopting several counter-terror conventions aimed at addressing contemporary issues of terror, whether this be terror against and aboard aircraft, airports, and maritime navigation, terror against diplomats and internationally protected persons, terror involving the taking of hostages, nuclear terror, and state-funded terror.⁷

However, these instruments, as forward-looking as they may be, do not address the immediate legal, moral, and practical dilemmas inherent in the actual confrontation with

terror on the battlefield and in facing terror organizations that openly violate international humanitarian norms.

This lacuna amplifies the need to adapt international humanitarian law to the conflict scenarios of today's world realities.

In light of the long Vietnam War (1955-1975), the international community, under the auspices of the International Red Cross Movement, negotiated and adopted the 1977 Protocols Additional to the Geneva Conventions relating to the protection of victims of international and non-international armed conflicts.⁸ With these instruments, current international humanitarian law attempted to modernize itself by acknowledging that wars are not just between states but within states and between states and involve non-state entities and groups.

As such, the 1977 Additional Protocols recognized and granted belligerent status to “armed conflicts in which peoples are fighting against colonial domination, alien occupation, and racist régimes in the exercise of their right of self-determination.”⁹

Does Asymmetrical Warfare Have Asymmetrical Rules of War?

Terror groups defining themselves as “national liberation movements” or “freedom fighters” have thus been acknowledged as legitimate belligerents with an element of international status, acceptability, and protection within the permissible framework of international law. As such, under the guise of international legitimacy, they can abuse such legitimacy granted to them by the 1977 Additional Protocols

to the Geneva Conventions by glibly and openly violating the accepted humanitarian norms. They proudly consider themselves to be immune and absolved from internationally accepted obligations. They celebrate and delight in the fact they continue to enjoy impunity and need not abide by accepted rules of warfare.

They can operate underneath and outside the accepted norms of armed conflict. They have been free from the restrictions and international standards of accountability under which normal states and even recognized liberation groups are obliged to function in conducting their military campaign.

To a considerable extent, this modernization of international humanitarian law has enabled states and organizations within the international community that sponsor, encourage, and support such groups to give them respectability and acceptance.

In any normal legal system—both civil and international, the individual components within the system can live and conduct themselves within the orderly parameters of the system on the assumption that the other elements of the system will comport themselves in the same way. Departure from such parameters and behavior in violation of such a normative system undermines and threatens the system's very existence and raises the question of the need to review the system, adjust the norms, or adapt them to meet the new realities or developments.

While the 1998 Rome Statute establishing the International Criminal Court¹⁰ provided the international community with a vehicle for preventing impunity by individuals—including terrorists accused of committing the most serious and grave

crimes—the extent to which this court is capable or willing to exact justice against such terrorists has yet to be proven.

Nowhere is this factor more evident than in the recent conflict between Israel and Hamas in the Gaza Strip, the Iranian-supported Hizbullah terror organization in Lebanon and Syria, and the Houthi terror regime in Yemen.

These terror entities, together with others such as the Islamic Jihad terror organization and an Iranian terror offshoot in Iraq, have openly and blatantly abused, violated, and continue to violate all accepted humanitarian norms. Nevertheless, through skillful manipulation of information and propaganda, they appear to enjoy support within the international community, in the international media, and, sadly, among large population groups on campuses and the streets of capital cities in North America and Europe.

The brutal massacre committed on October 7, 2023, against Israeli and foreign civilians in the towns and villages close to the Gaza Strip saw multiple crimes of rape, murder, torture, and kidnapping—all of which, in and of themselves, not only violate basic norms of humanity but also violate accepted principles of international law and specific international conventions prohibiting such acts and guaranteeing the rights of women, children, and the elderly.

The mass targeting of Israel's towns and villages by more than 10,000 missiles and rockets violates principles of international humanitarian law set out in the Geneva Conventions and the Additional Protocols to it, requiring the protection of civilian populations not involved in fighting. In clearly willful and open violation of international humanitarian law, as well as the customary principles enunciated in the laws and principles of armed conflict set out in the 1907 Hague Rules, the terrorists indiscriminately

targeted civilians in a distinct, deliberate, and concerted means to demoralize and terrorize the civil population and to pressure organized governments and society. This is their tactical *modus operandi*.

The use by both Hamas and Hizbullah of their own civilian population and public facilities—whether this be mosques, churches, schools, hospitals, private homes, office blocks, and even premises of international organizations—as human and civilian shields to protect their weapons storage, command facilities, and their operatives, and imprison hostages, constitutes a blatant violation of international humanitarian law.

The burrowing of hundreds of kilometers of tactical underground tunnels under homes, public thoroughfares, population centers, and hospitals for use solely for their fighters and not for the protection of the general public is no less a violation of international humanitarian law.

The use by terrorists of civilian ambulances adorned with recognized humanitarian emblems for carrying arms and terrorists; the use of civilian vehicles for transporting terror operatives accompanied by children and family to approach and attack roadblocks; the standard use of hospitals, mosques, churches, and schools as storage space for weapons and explosives, the location of militia offices and tactical headquarters in dense residential areas, are illustrative examples of the abuse and violation of humanitarian norms by Hamas.

Above all, the cruel, cynical use of hostages, including babies, women, children, and the elderly, parading them in the streets of Gaza, abusing their dignity, holding them in inhumane conditions underground, and sexual abuse are all violations of international conventions.¹¹

Through misleading media reporting, circulation of falsified statistics, and cynical use of video footage of casualties, Hamas assumes correctly that a naïve international community will quickly accuse Israel of using disproportionate military force against groups of apparently unorganized civilians.

The irony is that the accepted rationales of terms such as “combatant,” “legitimate target,” “defended locality,” and “human shield,” as well as the situation of “military necessity,” have become blurred in the context of a war on terror.

Despite this, the international community is still geared to somewhat anachronistic conceptions of armed conflict between States and presumes to judge those fighting terror by such anachronistic criteria and standards rather than adapting itself to the new situations and challenges that they bring.

This is particularly evident in the response of the international community to Israel’s engagement in combat with such terror organizations. The tendency is to view combat *against* the terrorists as if they are actions of conventional warfare against states. In so doing, the international community overlooks the criminal nature of the terrorist acts that gave rise to the critical need for response.

This dilemma is compounded by a situation in the UN and other international political fora in which automatic majority resolutions are adopted condemning those that fight terror while naively or deliberately giving encouragement and *carte-blanche* to those supporting and perpetrating the terror. This instills in them confidence that their actions are indeed achieving their intended political ends and have the sanction of the international community.

Conclusion

In light of the biased and partisan reaction of the international community and its automatic accusations against Israel of committing war crimes and even genocide, it is high time that responsible states come to terms with the fact that modern-day terror undermines and abuses accepted humanitarian norms and standards. This must be dealt with both militarily and legally. To do so requires addressing several unique issues that characterize the various components of terror, including:

1. Religious ideology and motivation driving and glorifying terror, whether this be in the form of incitement by religious leaders or educational materials aimed at children and students encouraging hatred.
2. The tendency of the Western world to view such fanatic religious glorification of terror through spectacles of “political correctness” or to overlook it out of fear of incitement, threats, violent reaction, or accusations of Islamophobia.
3. Media and social networking often cynically and deliberately manipulate the public through false reporting and circulation of false and inaccurate video footage and statistics.
4. Transfer by states of weaponry, ammunition, technology, and funding enable terror despite international conventions prohibiting and criminalizing such transfer.

5. Terror groups and their state sponsors manipulate and abuse the United Nations, its related organs, human rights, and international humanitarian law bodies. Such organizations serve to give respectability and acceptance to the terror groups, which in turn is interpreted by them as a green light and *carte blanche* for continued terror.

The essential question still remains as to whether today's highly politically polarized international community has the capability and will to overcome its limitations, ignorance, naivete, and misguided political correctness to adapt international humanitarian law to the urgent and vital needs of today in dealing with modern terror.

Time will tell....

Notes

1. Hague Convention No. II of 1899, and No. IV of 1907, Respecting the Laws and Customs of War on Land, and Annexed Regulations. Handbook of the International Red Cross and Red Crescent Movement, 13th ed. 1994
2. *Ibid*—1949 Geneva Conventions
3. *Ibid*—Protocols Additional to the Geneva Conventions
4. *Ibid*—1954 Hague Convention for the Protection of Cultural Property
5. 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be Deemed to be Excessively Injurious or to have Indiscriminate Effects as amended in 2001 <https://disarmament.unoda.org/the-convention-on-certain-conventional-weapons/> and Conventions on Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons 1971 <https://disarmament.unoda.org/biological-weapons/> and Convention on the Prohibition of the

Development, Production, Stockpiling and the Use of Chemical weapons 1993 <https://www.opcw.org/chemical-weapons-convention>

6. See 1980 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to have Indiscriminate Effects, Protocol on Non-Detectable Fragments (Protocol I), Protocol on Prohibitions or Restrictions on the Use of Mines, Booby-Traps and Other Devices (Protocol II), Protocol on Prohibitions or Restrictions on the Use of Incendiary Weapons (Protocol III), 1979 Resolution on Small-Caliber Weapon Systems <https://ihl-databases.icrc.org/en/ihl-treaties/ccw-finact-1980>
7. See the following international instruments detailed in the UN publication “International Instruments Related to the Prevention and Suppression of International Terrorism” (United Nations publication, Sales No. E.01.V.3) www.un.org/terrorism/:
 - Convention on Offences and Certain Other Acts Committed on Board Aircraft (1963);
 - Convention for the Suppression of Unlawful Seizure of Aircraft (1970);
 - Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (1971);
 - Convention on the Prevention and Punishment of Offences against Internationally Protected Persons, Including Diplomatic Agents (1973)
 - International Convention against the Taking of Hostages (1979)
 - Convention on the Physical Protection of Nuclear Material (1980)
 - Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation (1988)
 - Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (1988)
 - Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf (1988)
 - Convention on the Marking of Plastic Explosives for the Purpose of Detection (1991)

- International Convention for the Suppression of Terrorist Bombings (1997)
 - International Convention for the Suppression of the Financing of Terrorism (1999)
8. Protocols Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols#:~:text=The%20Additional%20Protocols%20to%20the%20Geneva%20Conventions&text=In%20response%2C%20two%20Protocols%20Additional,the%20way%20wars%20are%20fought.>
 9. Article 1(4) Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. <https://ihl-databases.icrc.org/en/ihl-treaties/api-1977>
 10. <https://www.icc-cpi.int/sites/default/files/Publications/Rome-Statute.pdf>
 11. International Convention against the Taking of Hostages 1979 <https://treaties.un.org/doc/db/terrorism/english-18-5.pdf>, UYN Convention on the Rights of the Child 1989 <https://www.unicef.org.uk/wp-content/uploads/2016/08/unicef-convention-rights-child-uncrc.pdf> , Convention on the Elimination of all Forms of Discrimination against Women 1979 <https://www.un.org/womenwatch/daw/cedaw/cedaw.htm>, UN Principles for Older Persons 1991 <https://www.ohchr.org/en/instruments-mechanisms/instruments/united-nations-principles-older-persons>

The Attempt to Deny the Foundational Legal, Historical, and National Rights of the Jewish People

Robert L. Meyer

Executive Summary

False Arab claims attempt to nullify Jewish historical and legal rights to the Land of Israel. Such claims include Palestinian Arab indigeneity and Jewish “land theft.” This paper presents the foundational principles of Israel’s legal and historical rights. As a historical and legal fact, there is no such thing as “Palestinian land” inasmuch as a Palestinian state does not exist and never has. The claim of “illegal occupation” is empty inasmuch as a situation of “occupation” is a legitimate component of the laws of armed conflict. Annual nonbinding and nonauthoritative UN General Assembly resolutions repeating accusations of the illegality of Israel’s presence in the territories have no authoritative status that match the international treaty status of the 1922 League of Nations Mandate for Palestine, which encapsulated the international

recognition of the rights of the Jewish people to establish their national home in the area.

False claims also prevail regarding the status of the areas of Judea and Samaria, with the manufactured term “Occupied Palestinian Territories” appearing repeatedly. The issues of the permanent status of Judea and Samaria, as well as the status of the Gaza Strip, are negotiating issues between Israel and the Palestinian leadership pursuant to internationally acknowledged agreements. This negotiation is ongoing and has not been completed. Similarly, the term “colonization by the Jewish people” is a politicized phrase with negative connotations that is intended to mislead. A more accurate description of the aim of the Mandate instrument would have been the “reconstitution of the Jewish people” through the League of Nations’ decolonization of the land from the 400-year Ottoman rule.

Introduction

False Palestinian claims, repeated incessantly both in the United Nations and throughout the international community, attempt to nullify the historical and legal rights of Israel and the Jewish people to the Land of Israel.

These claims are inherently flawed in all aspects and are basically devoid of any legal or historical authenticity.¹

Such claims include, among others:

- “The Palestinian Arabs are the original, indigenous people of Palestine.”

- “The Jews stole our land and are illegal occupiers of Palestinian Arab land.”
- “Jewish settlers illegally build on West Bank Arab land.”

The purpose of this paper is to show the inherently fatuous nature of the Palestinian claims and to present the true, basic, foundational principles and documentation underlying Israel’s full legal and historical rights.

In so doing, this paper poses three basic questions:

1. whether the nations of the world in 1922 made promises to the Jewish people in the Mandate for Palestine, or not;
2. whether the historical international promises to the Jewish people have been honored, or not; and
3. whether the Jewish people could trust and rely on the nations of the world to keep their promises in any future agreement regarding Jewish ownership of the Land of Israel; or not.

As a historical and legal fact, there is no such thing as “Palestinian land” inasmuch as a Palestinian state does not exist and has never existed. As such, claims by Palestinians and various leading international personalities that Israel illegally occupies “Palestinian” land are false and flawed claims.

The claim of “illegal occupation” is an empty claim inasmuch as a situation of “occupation” is a legitimate and accepted customary and conventional component of the laws of armed conflict, governed by several international conventions, norms and customs.

International law and practice do not recognize such a thing as “illegal occupation.”

Annual nonbinding and nonauthoritative United Nations General Assembly resolutions repeating accusations of the illegality of Israel’s presence in the territories, recognizing the Palestinian *Nakba* (catastrophe), and declaring the founding of the State of Israel to be “unjust” cannot in any way be seen to constitute valid international law. Such General Assembly resolutions have no mandatory legal effect. They merely represent the political viewpoint of those states sponsoring and supporting such resolutions.

Any claim that the land “belongs” to the Palestinians or is “Palestinian land” ignores the widely acknowledged historical, legal, and political connection of the Jewish people to the area of the Land of Israel and the historical rights of the Jewish people as the indigenous people in the area.

As such, those resolutions have no authoritative status that could match the international treaty status of the 1922 League of Nations Mandate for Palestine, which encapsulated the international recognition of the rights of the Jewish people to establish their national home in the area.

By the same token, subsequent UN General Assembly resolutions repeating the canard of “illegal Israeli occupation” have no legal authority whatsoever.

This flawed reasoning is equally applicable to the recent UN General Assembly resolution seeking an advisory opinion from the International Court of Justice in The Hague on the issue of alleged “Israeli illegal occupation” of Judea and Samaria.

False and untrue claims are also prevalent in the international community regarding the status of the areas of Judea and Samaria, where the term “Occupied Palestinian

Territories” repeatedly appears in statements and international resolutions.

In fact, the issues of the permanent status of the areas of Judea and Samaria on the west bank of the Jordan River, as well as the status of the Gaza Strip, are negotiating issues between Israel and the Palestinian leadership pursuant to internationally acknowledged agreements.² This negotiation is ongoing and has not been completed.

Accordingly, political determinations, whether by international leaders and foreign ministers or in UN resolutions and declarations, that any part of the land is “Palestinian land,” both undermine the agreed process of negotiation and seek to illegally prejudice its outcome.

From the point of view of historical truth, the League of Nations Mandate, which is clearly the basic foundational international agreement establishing the rights of the Jewish people to the Land of Israel, directly refutes the “stolen land” propaganda and the utterly false narrative claiming that Israel has no legal rights to the land.

Truthful and correct terminology is essential to dispel myths that attempt to gain control of the narrative.

Thus, the denomination “Judea and Samaria” correctly reproduces the terminology used before the Mandate and in the Mandate instrument, itself, which makes no mention of “the West Bank” or “Occupied Palestinian Territories.” This terminology is, in fact, used in the 1947 UN General Assembly Resolution 181 in detailing the territorial aspects of the UN Partition Plan, specifically mentioning “the hill country of Samaria and Judea.”³

Similarly, the term “colonization by the Jewish people” is a loaded, partisan, and politicized phrase with negative connotations that is intended to mislead the international

community with fabricated claims. A more accurate description of the aim of the Mandate instrument would have been the “reconstitution of the Jewish people” through the process of the League of Nations’ decolonization of the land from the 400-year rule of the Ottoman Empire.

Similarly, the spurious and misleading term “settlers” has been deliberately given a negative and politicized connotation within the international community. Israelis who legitimately reside in towns and villages in Judea and Samaria in accordance with the norms and principles of international humanitarian law are Israeli citizens.

The correct denomination of the Mandate document is “the League of Nations Mandate for Palestine” and not “the British Mandate for Palestine.” The Mandate for Palestine was created by the League of Nations, and Britain was merely the “Mandatory” or trustee of the “Mandate for Palestine.”

The Foundational Rights to the Land of Israel

The historical, political, and legal right of the Jewish people was originally acknowledged over 100 years ago in the 1917 Balfour Declaration issued by British Foreign Secretary Lord Arthur Balfour.⁴ It was reaffirmed utilizing the identical language of the Balfour Declaration by the League of Nations both in its San Remo Resolution of April 25, 1920, and on July 24, 1922, when the Balfour Declaration was encapsulated into an international agreement, unanimously adopted by the League of Nations, establishing the Mandate for Palestine.⁵

This indeed constitutes the original, foundational “land title deed” of the Jewish people to the Land of Israel.

This foundational right of the Jewish people was subsequently reaffirmed and incorporated into Article 80 of the United Nations Charter, which states: ...“nothing in this Charter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.”

The UN Charter preserves intact all the rights granted to the Jewish people under the Mandate for Palestine, even after the Mandate’s expiry on May 14–15, 1948, with the withdrawal of the British from Palestine and Israel’s Declaration of Independence.

As observed by Canadian attorney Howard Grief:

Under this provision of international law (the Charter is an international treaty), the rights of the Jewish people to Palestine and the Land of Israel were not to be altered in any way unless there had been an intervening trusteeship agreement between the states or parties concerned, which would have converted the Mandate into a trusteeship or trust territory. ⁶

Article 80 acknowledged the continuing validity of those rights of states or peoples or the terms of existing international instruments to which members of the United Nations may respectively be parties as established prior to the formation of the United Nations.

The Mandate for Palestine: A Brief History

The Mandate for Palestine represents the international community's recognition of the need for the "decolonization" of Palestine from its 400-year rule by the Ottoman Empire and the reconstitution of the Jewish people, its original, indigenous, native inhabitants, in the Land of Israel.

Decolonization was the purpose of the three "Class A" League of Nations Mandates in the Middle East covering the former Turkish Empire's colonial territories (Syria/Lebanon, Mesopotamia, and Palestine) and the 11 other Mandates worldwide covering colonial territories of the former German and Austrian Empires.

The title of the 13-page "Mandate for Palestine" is somewhat unclear and misleading. An examination of this treaty reveals it to be very supportive of the Zionist cause, mentioning "Jew," "Jewish," and "Zionist" some 14 times in its 13 pages. In fact, it would perhaps have been more apt and no doubt more appreciated had it been named "the International Agreement for the Reestablishment of the Sovereign Jewish Nation in the Land of Israel." However, post-World War I era terminology and perhaps mere political correctness evidently dictated the League of Nations terminology relating to "Mandates" and "Mandatoryes."

The Mandate for Palestine indeed recognizes the ownership by the Jewish people of the Land of Israel. It recognizes no other people. It refutes the flawed, misleading, and false allegations and accusations of the Jewish people illegally stealing and occupying "Palestinian land."

The following three key documents represent the evolution of the Mandate for Palestine and recognition of the Jewish people as the sole owners of the Land of Israel:

1. The Balfour Declaration of November 2, 1917, a statement of policy whereby Britain became the first nation in the world to recognize Jewish ownership rights in the Land of Israel.⁷
2. The San Remo Conference Resolution of April 25, 1920, which adopted the Balfour Declaration as a resolution for the League of Nations' Mandate for Palestine and recognized the legal entity of Palestine for the first time in more than 1,800 years.⁸
3. The Mandate for Palestine of July 24, 1922, which recognized and incorporated into international law the sole national and political rights of the Jewish people to Palestine.⁹
4. The Mandate for Palestine is an instrument of international law unanimously adopted by the 51-member League of Nations (the Nations of the World) after its confirmation on July 24, 1922. It recognizes and grants a national homeland in Palestine only to the Jewish people, the only indigenous people of that land.

The Mandate incorporates word-for-word and codifies the Balfour Declaration of November 2, 1917, and recognizes “the historical connection of the Jewish people with Palestine” and “the grounds for reconstituting their national home in that country.”

The Mandate for Palestine is one of three Class A Mandates adopted by the League of Nations. The importance of Class A Mandates is that this category was reserved only for former Turkish territories considered to be sufficiently advanced that their “provisional independence” was already recognized.

However, they were still subject to Allied administrative control until they were fully “able to stand alone.”¹⁰

In other words, a provisionally independent Jewish state was envisioned in the language of the Mandate under Article 22 of the Covenant of the League of Nations, which created a total of 14 Mandates. The other two Class A Mandates are Syria/Lebanon and Mesopotamia (Iraq.)

The Mandate for Palestine is a remarkable and profoundly Zionist document. As noted, the words “Jew,” “Jewish,” and “Zionist” appear 14 times in its 13 pages. It recognizes the national and political rights only of the Jewish people—and of no other people—and constitutes the legally binding codification into international law of the policy set out in the Balfour Declaration as resolved by the San Remo Conference into inalienable Jewish national and political rights in Palestine.

It constituted binding international law until the British ended the Mandate and withdrew from Palestine at midnight on May 14, 1948. The British ended their role as Mandatory (or Trustee) due to “frustration of purpose.”

The Mandate for Palestine expired with the Declaration of Independence by the State of Israel on May 14, 1948. However, the national “acquired legal rights” of the Jewish people in Palestine and the obligation of the nations of the world to “reconstitute” the Jewish national home in Palestine remain valid to this day under Article 80 of the UN Charter and the Vienna Convention on the Law of Treaties signed in 1989.

Under the international legal doctrine of *uti possidetis juris* (which means that a new state’s borders are the same as before, as determined at the very moment of independence), Israel’s borders were and are identical borders to the previous borders of Mandatory Palestine.

The United Nations accepted Israel as a member state on May 11, 1949, completing the legal steps to Jewish statehood in Palestine west of the Jordan River that began with the Balfour Declaration, the San Remo Resolution, and the Mandate for Palestine.

At the time of the Mandate, the League of Nations consisted of 51 countries, including the major countries—except for the United States, which never joined the League. However, the United States adopted the identical wording of the Mandate for Palestine in a separate treaty with Great Britain in 1924. This treaty was unanimously ratified by the US Congress in 1925 and became U.S. law under the Supremacy Clause of the U.S. Constitution, Article 6.

The number of League of Nations members peaked at 58 countries in 1934.

After World War II and the league's dissolution on April 19, 1946, the league was superseded by the United Nations. The UN Charter in Article 80, the so-called "Palestine article," extended the application of the Mandate for Palestine by stating that "nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or *any peoples or the terms of existing international instruments* to which Members of the United Nations may respectively be parties" (emphasis added).

In other words, the Mandate for Palestine remains valid.

The Mandate originally gave the Jewish people all the land west and east of the Jordan River. However, the eastern Jewish land of Palestine was detached two months later to create Transjordan (the Kingdom of Jordan) in 1922. This, in fact, can be considered the original "two-state solution"—in 1922!

The Balfour Declaration

The Balfour Declaration materialized during World War I, following lobbying by the Zionist Organization. It was promulgated to garner Jewish support in the United States and Russia for the war effort, as well as to reward the Zionist Organization's Chaim Weizmann for developing a form of acetone, a synthetic explosive.

On November 2, 1917, Arthur Balfour, the British foreign secretary under Prime Minister David Lloyd George, on behalf of the British cabinet, issued a statement of policy known as "the Balfour Declaration." The declaration states that "His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish people and will use their best endeavours to facilitate the achievement of this object."

This was the first time that any government had recognized and maintained a policy of Jewish national rights to Palestine.

The Covenant of the League of Nations

The League of Nations was established in January 1920. The league's covenant is the first part of the Treaty of Versailles signed in June 1919. It introduced the new concept of a "Mandate" or Trust to help former colonies and possessions achieve "self-determination" until they were ready for independence.

Article 22 of the Covenant of the League of Nations (the Mandates article) states:

Certain communities formerly belonging to the Turkish

Empire have reached a stage of development where their existence as independent nations can be provisionally recognized subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone.

The San Remo Conference Resolution

In April 1920, four of the Principal Allied Powers—Great Britain, France, Italy, and Japan, with the United States as an observer—met in San Remo, Italy, to deal with the former Turkish possessions of Palestine, Syria/Lebanon, and Mesopotamia (Iraq).

The Allied Powers at the San Remo Conference had heard presentations by both Jews and Arabs regarding their rights in Palestine. For the first time in over 1,800 years since Roman times, Palestine became a national legal entity, ending the longest colonization known in history by the Romans, Byzantines, Sassanid Persians, Arabs, Crusaders, Mamluks, and Turks.

The San Remo Conference:

1. Approved the final framework of a peace treaty with Turkey (later signed at Sèvres in August 1920 and replaced by the Treaty of Lausanne in 1923), abolished the Ottoman Empire, and obliged Turkey to renounce all rights over Arab Asia and North Africa.
2. Created the three Class A Mandates for: (i) Palestine, (ii) Syria/Lebanon, and (iii) Mesopotamia (Iraq.)

3. Incorporated the full text of the Balfour Declaration into their resolution regarding the proposed Mandate for Palestine, which included the entire area of Palestine, the territory that became the modern states of Israel and Jordan.

The Palestine Mandate

On July 24, 1922, the League of Nations Council or Executive Body approved the League of Nations Mandate for Palestine, thereby recognizing the Jewish people as the future owners of Palestine.

This document consists of two parts:

1. The Mandate for Palestine; and
2. A note by the secretary-general of the League of Nations relating to its application to the territory then known as Trans-Jordan under the provisions of Article 25, incorporating and approving Britain's Memorandum.

The Mandate's preambular provisions, far from being a mere series of declarations legally incorporated into Article 2 of the Mandate, cite five important stipulations:

1. Whereas the Principal Allied Powers [Britain, France, Italy, and Japan, which adopted the San Remo Resolution] have agreed, for the purpose of giving effect to the provisions of Article 22 [the Mandates article] of the Covenant of The League of Nations, to entrust to a Mandatory selected by the said Powers [Britain, as

will be seen below] the administration of the territory of Palestine, which formerly belonged to the Turkish Empire, within such boundaries as may be fixed by them [later there were adjustments to the border with Lebanon, the headwaters of the Jordan River, the Golan Heights, a slice of land in the Sinai, and the loss of Eastern Palestine across the Jordan River];

2. Whereas the Principal Allied Powers have also agreed that the Mandatory [Britain] should be responsible for putting into effect the declaration originally made on November 2, 1917 [the Balfour Declaration], by the Government of His Britannic Majesty, and adopted by the said Powers, in favour of the establishment in Palestine [all of Palestine?—yes, under the international legal principle of *uti possidetis juris*] of a national home [a State or just a “home?”—a State: this was the entire purpose of the Mandate System especially for the three “Class A” Mandates], it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities in Palestine [note that there is no mention of recognition of national or political rights of these other communities];
3. Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine [both the Jews and the Arabs presented their cases at the San Remo Conference; the Principal Allied Powers accepted the Jews’ case] and to the grounds for reconstituting their national home in that country [note the use of the important word “reconstituting,” not “creating”; after being dispossessed for many centuries,

the Jewish people were restored as the sole surviving, indigenous, native people of the Land of Israel deserving of self-determination and a reconstituted state; the Mandate for Palestine was actually *sui generis* (or one of a kind) compared with the Mandates for Syria/Lebanon and Iraq in that its national beneficiaries were the 14 million Jews worldwide rather than the local inhabitants];

4. Whereas the Principal Allied Powers have selected His Britannic Majesty as the Mandatory [Trustee] for Palestine [the Jews at the time, based on the Balfour Declaration and other pro-Zionist government sentiment in Britain and the conquest of Palestine by British general Allenby, favored Britain to be the Mandatory, there being no other choice];

5. Whereas His Britannic Majesty has accepted the mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations [note that this was the League of Nations Mandate for Palestine, *not* the British Mandate for Palestine as it is commonly misnamed; Britain was to be the administrator or the midwife to the birth of the Jewish state—*not* its new colonial master or the promoter of an Arab state in Palestine in its place, which unfortunately occurred]....

The Operative Terms of the Mandate

Six articles relate specifically to the Jewish people's legal claim to ownership of the Land of Israel under the Mandate:

Article 2. The Mandatory shall be responsible for placing the country under such political, administrative and economic conditions *as will secure the establishment of the Jewish national home*, as laid down in the preamble, and the development of self-governing institutions [“Jewish national home” in the context of the covenant’s Article 22 discussing “provisionally independent” states ultimately means a Jewish state; “the development of self-governing institutions” is necessary for this goal].... (emphasis added)

Article 4. *An appropriate Jewish agency* shall be recognized as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect *the establishment of the Jewish national home and the interests of the Jewish population in Palestine*.... (emphasis added)

There is no mention of a comparable Arab organization.

The Zionist organization...shall be recognized as such agency. It shall take steps in consultation with His Britannic Majesty’s Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home [the Zionist Organization is specifically mentioned as is the prospect of this organization securing the cooperation of all Jews worldwide for the establishment of the Jewish National Home; this includes later Jewish immigration to Palestine (see Article 6)]. (emphasis added)

Article 5. The Mandatory shall be responsible for seeing that no Palestine territory shall be ceded or leased to, or in any way placed under the control of the Government of any

foreign Power [the permanent inalienability of the Land of Israel in favor of the Jewish people is underscored by this article].

Article 6. “The Administration of Palestine...shall *facilitate Jewish immigration* under suitable conditions and shall encourage, in co-operation with the Jewish agency referred to in Article 4, *close settlement by Jews on the land*, including State land and waste lands not required for public purposes” [Britain as Mandatory is to “facilitate” Jewish immigration and not to restrict it as ultimately occurred; Britain is to “encourage” Jewish close settlement of the land including state and waste lands owned by the previous Turkish government; no such right is given to the Arabs]. (emphasis added)

Article 7. “The Administration of Palestine shall be responsible for enacting a *nationality law*. There shall be included in this law provisions framed so as to facilitate the acquisition of *Palestinian citizenship by Jews* who take up their permanent residence in Palestine” [nationality and citizenship are attributes of nationhood; Britain is to facilitate Jewish citizenship; there is no mention of Arab citizenship]. (emphasis added)

Article 11. The Administration may arrange with the *Jewish agency* mentioned in Article 4 to construct or operate...any public works, services and utilities, and to develop any of the natural resources of the country.... (emphasis added)

It is clear from the provisions of the Mandate that the states that were members of the League of Nations, constituting the

then international community, made explicit legal promises to the Jewish people establishing the Mandate for the purpose of guiding the “provisionally independent” area of Palestine into full statehood.

Accordingly, any claim that the Mandate for Palestine does not recognize Jewish national rights to the Land of Israel has no basis in fact or law.

By the same token, all the other 13 Class A and Class B Mandates became states and there exists no question as to the validity of their existence and borders.

The Detachment of Eastern Palestine to Transjordan

Some 78 percent of the Mandate for Palestine was the territory of Eastern Palestine initially included in the Mandate for Palestine on July 24, 1922.

However, at the time of the Mandate a deal had already developed whereby Britain had decided to give Eastern Palestine to the Hashemite Emir Abdullah bin al-Hussein as a reward for his and his family’s rebelling against the Turks in World War I.

It was for purposes of legally positioning itself against the French that Britain first included Eastern Palestine in the Mandate with an option to detach it. Two months later, on September 13, 1922, Eastern Palestine was detached as the Mandate of Trans-Jordan with Abdullah as king.

Note by the Secretary-General

of the League of Nations regarding Transjordan

The second document composing the July 24, 1922, Mandate for Palestine, the “Note by the Secretary-General,” relates to the Mandate’s application to the territory then known as Trans-Jordan under the provisions of Article 25 of the Mandate. It states:

In the territories lying between Jordan and the eastern boundary of Palestine *as ultimately determined*, the Mandatory shall be entitled, with the consent of the Council of the League of Nations to postpone or *withhold* applications of such provisions of this Mandate.... (emphasis added)

The British clearly envisioned severing Eastern Palestine from Western Palestine for their own political reasons.

Britain submitted a Memorandum to the secretary-general, incorporated in the Note, inviting the League of Nations Council to pass a resolution that the provisions of the Mandate for Palestine “are not applicable to the territory known as Trans-Jordan....”

Trans-Jordan is described as “all territory lying to the east of a line drawn from a point two miles west of the town of Akaba on the Gulf of that name up the centre of the Wady Araba, Dead Sea and River Jordan to its junction with the River Yarmuk; thence up the center of that river to the Syrian Frontier.”

The Memorandum further states: “His Majesty’s Government accepts full responsibility as Mandatory for Trans-Jordan....”

The Note was approved by the Council of the League of Nations on the same day as the Mandate for Palestine: July

24, 1922. It went into effect two months later on September 23, 1922.

"Two-State Solution"

Despite the fact that the Zionist Organization had presented to the San Remo Conference a map including land about 10 miles east of the Jordan River, up to the tracks of the Hejaz Railway, in which part of the biblical 12 Tribes of Israel (Reuben, Gad, and half of Manasseh) had dwelled, as well as land on the Golan Heights, in Lebanon south of the Litani River, and in a part of the Sinai, the outcome of the Mandate instrument was that Eastern Palestine or Transjordan was separated from the Mandate for Palestine.

Nowhere in the Mandate for Palestine were Jews excluded from Jerusalem, Judea, or Samaria nor were Arabs given any land in Western Palestine located west of the Jordan River. But Jews were not allowed to settle in or become citizens of

Transjordan, which ultimately became the Hashemite Kingdom of Jordan.

Similarly, despite the fact that the states that were members of the League of Nations had recognized in the Mandate that the Jewish people had the best claim to the land located on both sides of the Jordan River, they decided to reward and appease the Arabs by transferring 78 percent of the land promised to the Jews in Eastern Palestine to Emir Abdullah bin al-Hussein, who later became King Abdullah.

Thus, the Mandate for Palestine gave original, biblical Jewish land located east of the Jordan River to the Arabs, in what could indeed be described as the original "two-state solution," while returning to the Jewish people the land west of

the Jordan River including all of Jerusalem, Judea, and Samaria for their national home.

The Jordan River thus became the clear boundary between Israel and Jordan.

In light of the fact that the nations of the world seek today to once again divide Jewish land in a second “two-state solution,” it is perhaps necessary, before advocating and considering other solutions, to acknowledge and give appropriate weight to the context of the original “two-state solution” for Palestine as incorporated in the Mandate for Palestine.

This is necessary especially in light of the legitimate historical claims of the Jewish people to the land in its entirety. Advocating a new “two-state solution” that would further divide the Land of Israel could be interpreted as being tantamount to ignoring and rejecting Jewish historical rights on the part of those advocating it, and a tacit waiver by Israel of its deep-rooted historical rights, for which Jews have yearned and struggled over the centuries.

Interim Conclusion

From biblical times Palestine was always Jewish land. The name “Jew” comes from “Judea.” After the failure of the Jewish Revolt led by Bar Kochba in 136 CE, the Roman emperor Hadrian de-Judaized the name of the Land of Israel, calling it “Syria-Palestina” as an insulting reminder of the long-defunct Philistines, originally a seafaring people who were the archenemies of the Jews and who disappeared from history more than 700 years earlier in 604 BCE.

As stated above, any concept of peace must be based on

truth. There can be no peace based on falsehoods. Solutions cannot be built on lies and misconceptions.

As is evident from the factual history of the Palestine Mandate, the Jewish people and the State of Israel have consistently been denied their rights as promised in the international documentation.

This is presently being compounded by the utterly false narrative set out above, currently being circulated by the Palestinian leadership and accepted by the international community. It is to be hoped that the realization of Israel's historical and legal rights will be duly respected and honored.

Accordingly, and in answer to the basic questions posed above as to whether the international community made promises to the Jewish people in the Mandate for Palestine, the answer is clearly in the affirmative.

As to the question whether these promises were kept by the British as Mandatory and by the international community, which still falsely claims and considers that Israel is an illegal occupier, the answer is clearly negative.

To the question whether Jews have tragically suffered as a result of the failure of the international community to honor its promises, the answer is in the affirmative.

Regarding the question whether the Jewish people could trust the promises of the international community in any future solution to the Israel-Palestine Issue, the answer would be resoundingly negative in light of the fact that the prior promises and commitments have not been honored.

In light of the tragic history of the Jewish people, a history of oppression,

ill-treatment and discrimination, accompanied by ongoing hatred, antisemitism, and attempted genocide, the Jews have a moral right to know that international promises and

assurances to reconstitute their ancient national home are indeed genuine.

In this context, the international community is obliged to preserve Jewish dignity and honor and to stand by its commitment to recognizing the Jewish legal, historical, and national rights encapsulated in the League of Nations Mandate for Palestine.

The Status of the Land of Israel in Islamic Sharia Law

The role of Islam may be considered the “elephant in the room” in the Israeli–Palestinian conflict, and its importance is ignored by Western commentators and analysts.

In fact, the Palestinians have displayed complete intransigence in negotiating with Israel about any final resolution of the Israel-Palestine issue. They rejected every peace initiative, including the two negotiations held in the United States by Ehud Barak of Israel with Yasser Arafat in July 2000 and by Ehud Olmert with Mahmoud Abbas in November 2007.

The Palestinian side made no counteroffers to the generous and flexible terms for peace offered by the Israeli leaders in both cases. The reasoning for this is rooted in Islamic sharia law.

The Koran, sura 2, verse 191, states: “Drive them out from where they drove you out.” This divine commandment from Allah has been consistently interpreted by Muslim scholars for 1,400 years to mean that once land is conquered or otherwise obtained by Muslims, it must remain Muslim land forever. Not

a single inch of it can be retained by or returned to the infidels. This is the injunction of Allah in the Koran.

Since Caliph Umar's Muslim army conquered Palestine in 636 CE, the area was under continuous Muslim control up until the institution of the Mandate for Palestine in 1923—with the exception of the 188-year Crusader Period from 1099 to 1187 CE.

As observed by Bar-Ilan University professor Mordechai Kedar, Islamic conquest of land is a “one-way ticket.” Land can enter *Dar al-Islam* (the House of Islam), but it can never exit. For Muslims, according to the Koran, the Land of Israel has been and continues to be Muslim land from 636 CE until the present.

When Yasser Arafat returned from the Camp David negotiations with Ehud Barak, he was asked by an Arab journalist in Arabic why he walked away from the talks. He replied, “Because the Israelis would not give us 100 percent!” Arafat knew that if he had agreed to give up claims to any part of Palestine by recognizing the State of Israel, his life would have been in danger for contravening Koran sura 2, verse 191.

The Palestinian adviser on Islam who is also the supreme sharia judge of the Palestinian Authority has stated that the entire land of Palestine is a *Waqf* (an inalienable religious endowment under Islamic law). Therefore, it is prohibited for Muslims to sell, bestow ownership, or facilitate the occupation of even a millimeter of Palestine by non-Muslims.¹¹

The Hamas Covenant, Article 11 (1988), adopts the same position: “The Islamic Resistance Movement [Hamas] believes that the Land of Palestine is an Islamic *Waqf* consecrated for future Moslem generations until Judgement Day. It, or any part of it, should not be squandered: it, or any part of it, should not be given up.”¹²

This is the basis for the Palestinian claim to all the land “from the river to the sea.”

Thus, any further partition of the land would likely only lead to further demands for additional partitions later until the Palestinians, pursuant to the requirement of the Koran, have 100 percent.

In light of this Islamic viewpoint, the question arises as to why was Israel able to make peace with both Egypt and Jordan.

Both countries took the position that their responsibility was to regain every inch of Muslim land they had previously controlled within their respective borders. They succeeded in this endeavor inasmuch as that was the price of peace that Israel was willing to pay. Egypt, Jordan, and the other Arab League members decided it was up to the Palestinians to secure the land on which Israel exists.

Under the internationally recognized Mandate for Palestine, which constitutes a legitimate instrument of international law, it is very clear that the Land of Israel is given to the Jewish people. However, under Islamic sharia law, the reverse is the case inasmuch as the land is Muslim land forever.

As to the question of whether there could be any way to reconcile these two positions, the answer is regrettably negative. Islamic jurists will never accept that an instrument of international law could supersede immutable sharia law given by Allah in the Koran.

Thus, in all likelihood, Israel and the Palestinian Muslims will continue to be in a perpetual deadlock on this issue.

In view of such a dismal prognostication, Professor Kedar has advised that Israel must always maintain “invincible” military capabilities. If so, the Palestinian Muslims, who will never give up their position that they own all the land “from the river to the sea,” may decide that the timing is not right

for today's generation (and hopefully for future generations) to fulfill this Islamic commandment.

However, the Hamas terror organization evidently decided that the time was ripe to realize their ultimate designs, in the most brutal and tragic manner.

The Israel–Hamas War

At 6:30 a.m. on October 7, 2023, more than 3,000 Gaza-based Hamas jihadist terrorists launched a war, which they called the Al-Aqsa Flood, against Israel. Attacking 22 Jewish civilian communities and a number of Israeli army outposts in southern Israel, they killed more than 1,200 people and captured more than 240 hostages. They maimed, burned, beheaded, tortured, raped, and terrorized Israeli civilians and soldiers.

In response, Israel declared war on Hamas and sent its military forces into Gaza.

From the first days of this conflict, and totally ignoring the utter brutality, cruelty, and fanaticism of the Hamas terrorists, calls went out from campuses in North America and Europe and from the streets of major capital cities throughout the world condemning Israel's actions in response to the October 7 massacre, while crying, "From the river to the sea Palestine will be free!"

This statement is a call for the complete destruction of the State of Israel and its citizens.

The actions by the Hamas terrorists against Israel and its civilian population, as well as this outrageous international campaign on campuses and in the streets, orchestrated by Hamas and supported by Iran, clearly reflect the enhanced

Islamist propaganda calling for eliminating the Jews (as well as the Christians and all other non-Muslims) from the State of Israel (and the world) in accordance with the ultimate dream of jihad.

One may well ask: Where is the outrage from the non-Islamic world emphasizing Israel's right to exist in the borders set out in the 1922 Mandate for Palestine and the international legal doctrine of *uti possidetis juris*?

Similarly, one may ask: Where is the international community's understanding that under Islamic sharia law the Land of Israel has no legal standing because it constitutes land conquered by Caliph Umar's armies in 676 CE, which, under Koran sura 2, verse 191, became Islamic sovereign land forever?

It is high time that the international community take urgent and assertive action to make very clear to those elements in the Muslim world that international law trumps sharia law and, as shown above, supports the legality of the State of Israel in its boundaries set in 1922 including Judea and Samaria (the so-called "West Bank").

If, whether through fear of the Muslims or through political correctness, the international community continues to prevaricate and to sit by passively, rather than to actively and assertively restrain the Muslim dreams of global jihad, then it is highly likely that the severe violence and cruelty exhibited by Hamas against Israel will be copied and multiplied, and extended to Europe, the Americas, and beyond.

Notes

1. This includes recent statements by U.S. Secretary of State Anthony Blinken criticizing Israel's settlements; see <https://il.usembassy>.

- gov/secretary-antony-j-blinken-at-a-press-availability/ and <https://www.aljazeera.com/news/2023/1/31/blinken-criticises-settlements-but-stresses-support-for-israel>.
2. <https://www.gov.il/en/Departments/General/israel-plo-interim-agreements-since-1993>.
 3. https://avalon.law.yale.edu/20th_century/res181.asp
 4. https://avalon.law.yale.edu/20th_century/balfour.asp
 5. https://avalon.law.yale.edu/20th_century/palmanda.asp.
 6. Howard Grief, <https://www.algemeiner.com/2011/09/22/article-80-and-the-un-recognition-of-a-%E2%80%9Cpalestinian-state%E2%80%9D/> , September 22, 2011.
 7. <https://www.jewishvirtuallibrary.org/text-of-the-balfour-declaration>.
 8. <https://www.jewishvirtuallibrary.org/the-san-remo-conference>.
 9. https://avalon.law.yale.edu/20th_century/palmanda.asp.
 10. <https://digitallibrary.un.org/record/829707?ln=en&v=pdf>
 11. *al-Hayat al-Jadida* (official Palestinian Authority daily), October 22, 2014, translation by Palestinian Media Watch.
 12. https://avalon.law.yale.edu/20th_century/hamas.asp.

Israel's Survival: Little Room to Maneuver

Dr. Nicholas Rostow

[I]n war, something must be allowed to chance and fortune, seeing it is in its nature hazardous, and an option of difficulties.

— James Wolfe, 1757¹

Strategy is the use of armed force to achieve the military objectives and, by extension, the political purpose of the war.

— Peter Paret²

Yet, grand strategy is a matter involving great states and great states alone. No small states and few medium-size states possess the possibility of crafting a grand strategy. For the most part, their circumstances condemn them to suffer what Athenian negotiators suggested to their Melian counterparts in 416 BC about the nature of international relations: “The standard of justice depends on the equality of power to compel and that in fact the strong do what they have the power to do and the weak accept what they have to accept.”

— Williamson Murray³

Introduction

Strategy is all about goals; tactics are about how to achieve them. While a planning process is indispensable, plans rarely survive contact with reality. Strategy is developed and implemented in a world of uncertainty and variables—that is to say, the fluidity of human affairs and politics in particular.⁴ In politics, the composition of the next influential or governing group is unknown, and in democracies, political coalitions affect the content of strategy. Uncertainty, incompetence, and other hazards of all kinds form part of the fog of war. War does not follow a script. It is not a game. Nothing recently demonstrates the truth and relevance of these propositions for Israel's situation so clearly as Hamas's attacks of October 7, 2023, and Israel's response.

Hamas's goal, as set forth in the original and revised charters, is the elimination of Israel.⁵ On October 7, 2023, Hamas flooded Israel with notoriously inaccurate, unreliable, and terrorizing rockets. If they are useful—a doubtful notion—it is only against large civilian areas or troop concentrations where accuracy in targeting is irrelevant.⁶ In addition, Hamas carried out commando-style terrorist attacks on Israeli civilians, committing murder, rape, and other offenses, which Hamas fighters filmed. Those fighters seized hostages and destroyed whatever they could. They truly are terrorists: they use terror and spread fear to help achieve political objectives and change behavior.

Hamas did not act alone. Palestine Islamic Jihad joined it in the Gaza Strip. Hizbullah, Iran's arm in Lebanon, fired rockets at Israel. Terrorist attacks occurred in the West Bank, and Houthis fired missiles from Yemen at Israel. One observer has called this anti-Israel group, armed and financed by Iran and

others, including North Korea, a “ring of fire around Israel.”⁷ Since October 7, 2023, Iran-supported groups in Iraq, Syria, Lebanon, and Yemen have attacked Israel and U.S. forces and U.S. and allied shipping in the Red Sea and Gulf of Aden. The attacks have followed an all-points-of-the-compass strategy.

Hamas and Israel had blind spots. Hamas likely did not anticipate that Israel, which for months had been politically divided, would unite, almost immediately forming a coalition war cabinet, including as members leading opponents of the Netanyahu government. Nor is it likely that Hamas foresaw a grinding, multi-arm, multi-dimensional Israeli response, a counter-offensive aiming to remove Hamas as a factor in the Gaza Strip and the region. Probably, no one predicted that Israel’s friends, especially the United States, would give Israel so much time to achieve its aims or that Hamas’s allies would hesitate fully to join the fight.

By taking Israeli and non-Israeli hostages, Hamas held itself hostage to this form of human shield protection in this sense: Hamas could not readily give them up without great risk to itself. Hostage-taking and release, moreover, ceased to be a question only of how many prisoners in Israeli jails would be traded. In Israel’s case, self-delusion involved the notion that a *modus vivendi* existed with Hamas and the sense that the *status quo* with respect to Gaza and the West Bank could endure indefinitely.

Hamas’s actions and achievement of tactical surprise traumatized Israel. Israel suffered, not only immediate psychological and physical pain, but also the revival of the specifically Jewish, historical, *Shoah*, existential nightmare. Commentators like to compare October 7, 2023, and September 11, 2001. But the events on those days were markedly different. Apart from the different scale of the events measured in *per*

capita terms, before September 11, Al Qaeda's real success attacking the United States had occurred in Yemen and Africa. Though U.S. territory generally was not where international terrorists successfully conducted operations, a group led by Ramzi Yousef, nephew of Khalid Sheikh Mohammed, mastermind of 9/11, had almost destroyed New York's World Trade Center in 1993. The Gaza Strip, which borders Israel and whose urban centers are within 100 kilometers of Tel Aviv, for years provided a base for attacks on Israel. Since 2005, Hamas regularly has attacked Israel from Gaza with rockets and cross-border incursions.

After October 7, Israel had to decide what to do. Improvement in the decision-making process and outcomes is always possible. A better decision-making process might have prevented some Israeli officials from letting their fury guide their words, which helped fuel the cries of "genocide" and gave South Africa additional ammunition in its suit before the International Court of Justice. Better decision-making processes might have permitted a more precise goal definition for military action in Gaza than "destruction of Hamas," however much Arab governments privately say they share that goal.⁸ Different decision-making processes might have led to a better integrated diplomatic, media, and military approach than the one it adopted.⁹ Israel, caught by surprise on October 7, developed its responses *ad hoc*, seemingly with a great deal of improvisation, although it had fought Hamas and its allies off and on for nearly 20 years.

Good decision-making processes protect everyone involved. The United States would have been well-served by following established decision-making and legal procedures in its response to September 11. Yet, fear that September 11 was only the beginning of a series of attacks forced the pace of action.

For Israel, October 7 was followed by attacks from all points of the compass dedicated to the destruction of Israel. The Israeli conflict with Hamas, Hizbollah, and other Iranian proxies therefore is existential.

For decades, political, legal, and public opinion constraints have created a difficult international environment for Israel. They put every Israeli action under a global microscope. Israeli governments ignore this reality at peril to Israel itself, not just to the coalition in power. The Israeli government should make decisions with this context in mind, not to avoid acting, but to design action contextually. In all cases, governments have to live with their decisions and do not often have the chance to revisit them. As Dean Rusk, U.S. Secretary of State in the Kennedy and Johnson Administrations, once remarked in a different context, “If I urge a course of action on the President, he adopts it, and things go wrong, I can call up and say ‘Sorry, Sir,’ resign, and disappear. The President must live with his decisions and their consequences.”¹⁰ Rusk’s insight is applicable to all governments.

This essay highlights permanent features of Israel’s strategic position in light of the October 7, 2023, attacks. Therefore, it recalls relevant history because each generation has to learn that history and because it illuminates the fact that Israel’s room to maneuver diplomatically and politically is limited. Finally, the essay emphasizes again the asymmetrical reality that Israel cannot afford to lose a war.

I. How We Got Here

Since 1948, Israel’s fate has been to be at war. Syria, Lebanon, and Iraq have never agreed to enter a peace treaty with Israel.

Iraq was not a party to an armistice agreement ending its role in the 1948-49 war.¹¹ Saudi Arabia, which sent troops against Israel in 1948, also has eschewed formal peace. Lebanon itself has not exchanged fire with Israel since 1948 but has been too weak to prevent its territory from being a base of anti-Israel operations. For decades, Syria and now Iran, via Hizbullah, have used Lebanon as a launch pad for attacks. Militarily, Iraq has been on the sidelines since the overthrow of Saddam Hussein in 2003. Since the U.S. withdrawal from Iraq in 2011, Baghdad has lived under Iranian influence, if not control, and still officially regards Israel with hostility. Iran, which consistently calls for Israel's destruction, uses Hamas in Gaza, Hizbullah in Lebanon, Houthis in Yemen, and other groups and organizations as proxies to fight a war with no other purpose than the eradication of Israel. The world has seen this playbook used before and knows that no good comes from it. Only Egypt in 1979 and Jordan in 1994, among the five Arab states that fielded armed forces in 1948, have entered into peace treaties with Israel. Despite those landmark steps, Israel has known no real peace.

To date, Israel has emerged victorious from its battles and wars, but military victory by itself has never secured Israel's political objectives apart from cease-fires, separation agreements, and other temporary measures interrupting what otherwise would be continuous war. This fact emphasizes the weakness of Israel's position despite its military power. That power, which is essential to Israel's survival, means that its enemies know not to throw their regular armed forces against the Israel Defense Forces (IDF). At the same time, the fundamental and inescapable asymmetric reality of Israel's position remains: Israel's enemies treat defeats neither as final nor as politically determinative.

Israel, thus, has never been able to force its state and non-state enemies to make peace. In 1948-49, Israel had to settle for Armistice Agreements, not peace. In 1957, it defeated Egypt and conquered the Sinai Peninsula but had to withdraw its forces without conditions. In 1967, it achieved a quick, smashing victory over Egypt, Jordan, and Syria, only to confront the three “nos” of the Khartoum Declaration of the Arab League on September 1, 1967: “no peace with Israel, no recognition of Israel, no negotiations with it, and insistence on the rights of the Palestinian people in their own country.”

In Resolution 242 of November 22, 1967, the UN Security Council took a different view. The Resolution articulated principles for a negotiated peace that have proved to be the one durable, agreed framework:

Affirms that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles: (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict; (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force; 2. Affirms further the necessity (a) [to guarantee freedom of navigation], (b) For achieving a just settlement of the refugee problem; (c) [to guarantee the territorial inviolability and political independence of all states in the region].¹²

Subsequent UN Security Council resolutions tried to advance diplomatic solutions, principally to the Israel-Palestine conflict after Egypt made peace with Israel in 1979.

After the 1973 Yom Kippur War, Israel's strategic position showed improvement. That war led to formal Egypt-Israel peace (1979) and relative tranquility on the Israel-Syrian border via the Israel-Syria Separation-of-Forces/Disengagement Agreement (1974). Syria nevertheless continues to claim it is in a state of belligerency with Israel and has refused Israeli peace proposals. The end of the Cold War facilitated the 1993 Oslo Agreements between Israel and the Palestine Liberation Organization. They established the Palestine Authority with governing responsibility for parts of the West Bank and the Gaza Strip. Oslo was to lead to negotiation of a final settlement and agreement on all outstanding issues, including borders and Jerusalem, within the framework of UN Security Council Resolution 242 (1967). Jordan and Israel agreed on a peace treaty in 1994.

For more than 30 years, however, the Israelis have found the Palestinian governing authorities unwilling to take the final step in peacemaking. President Bill Clinton could not persuade Yasser Arafat to take that step in 2000; Arafat's successor has not done so.¹³ The Palestinian governing authorities assert that Israeli settlement activity in the West Bank amounts to annexation by another name. Together with a substantial number of members of the international community and observers, they see Israel in the West Bank as engaged in efforts to change facts on the ground and to prevent peace with the Palestinian Authority. To those holding these views, Israel often gratuitously takes actions disconnected from security requirements that humiliate the Palestinian population. Palestinians interpret UN Security Council Resolution 242 as

requiring Israel to relinquish every inch it conquered in 1967 as a precondition to peace and peace negotiations. Those who negotiated Resolution 242 understood that the withdrawal language allowed changes to Israel's 1949 boundaries in Israel's favor. In 2002, despite great terrorist violence to which Israel responded with force, the Security Council "Affirm[ed] a vision of a region where two States, Israel and Palestine, live side by side within secure and recognized boundaries."¹⁴ Today (Spring 2024), that vision seems like a mirage.

The social and psychological impact of war on all parties does not help peacemaking. The pressure of war has led to some harsh and occasionally brutal Israeli behavior and attitudes. For Palestinians and others who resist peace with Israel, war has had an equally poisonous attitude on behavior and perceptions. It reinforces willingness to engage in terrorism, tenacious insistence on zero-sum goals,¹⁵ and the unwillingness of governments to prepare their people for peace. It, therefore, is not an accident that attacks on Israel of whatever kind generate approbation, not criticism, among Palestinians and other Arab populations. Muslim fanaticism and its influence in the Arab world also discourage those in the Muslim or Arab world who might otherwise seek agreements on coexistence with Israel. And, of course, Hamas and others try to deter with threats of bodily harm any Arab who might seek peace.

While there is no general obligation for parties to an armed conflict to enter into a peace treaty, as a matter of international law, all *states* are to refrain from the threat or use of force against the territorial integrity or political independence of another state, whether by its armed forces or non-state proxies and armed bands. In the case of Israel, the UN Security Council has reinforced this fundamental norm set forth in the UN

Charter with repeated resolutions calling for peace, an end to states of belligerency, and settlement of such outstanding and difficult issues as refugee claims. Therefore, states like Iran, which freely speak of destroying Israel, and Syria, which refuses to end its state of belligerency, are *in flagrante delicto* in terms of international law. Terrorists, of course, ignore all law.

Does anyone care?

II. Law and War, 2023-24

UN organs have a record of hostility to Israel. The UN General Assembly routinely takes positions harshly critical of Israel, whether or not justified by a particular Israeli action. In 2003, the General Assembly asked the International Court of Justice (ICJ) for an advisory opinion on “the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?” The framing of the question told the ICJ what answer the General Assembly was requesting.¹⁶ The ICJ did not disappoint. Not only did it not say where Israel’s borders were, it only discussed Palestinian self-determination. The Court ignored Jewish self-determination, which the League of Nations Mandate for Palestine specifically had endorsed.¹⁷

The law should provide a common language, facilitating dispute resolution. After the ICJ issued its 2004 advisory opinion, one UN Ambassador (now an ICJ judge) remarked at a symposium at the Columbia Law School that Israel’s opponents

use the law and legal institutions like the ICJ to advance their political agenda against Israel.¹⁸

In 2023, the General Assembly asked for another advisory opinion. This time, the subject was, among other things, “the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to self-determination, from its prolonged occupation, settlement, and annexation of the Palestinian territory occupied since 1967, including measures aimed at altering the demographic composition, character, and status of the Holy City of Jerusalem, and from its adoption of related discriminatory legislation and measures?”¹⁹ Again, the General Assembly, using words chosen to make its point, told the ICJ what answer to give, and the ICJ did not disappoint.²⁰

South Africa’s 2023 ICJ case against Israel under the Genocide Convention echoes the 2003 and 2023 advisory opinion requests and further illuminates Israel’s strategic challenge. South Africa asked the Court to decide that Israel was violating the Genocide Convention and to require that, among other things, it immediately cease military operations in the Gaza Strip. On January 11, 2024, South Africa’s Ambassador to the Netherlands opened oral argument:

At the outset, South Africa acknowledges that the genocidal acts and omissions by the State of Israel (“Israel”) “inevitably form part of a continuum” of illegal acts perpetrated against the Palestinian people since 1948. The Application places Israel’s genocidal acts and omissions within the broader context of Israel’s 75-year apartheid, 56-year occupation and 16-year siege imposed on the Gaza Strip—a siege which itself, has been described by the Director of UNRWA Affairs in Gaza, as “a silent killer of people.”²¹

Though the lawsuit nominally is a response to Israel's counterattack in the Gaza Strip after October 7, 2023, the South African argument is that the creation of Israel in 1948 and the outcome of the Arab-Israeli War, 1948-49, were internationally wrongful acts. It ignored the settled law affirming Israel's place in the international community. The South African assertion, which a substantial number of commentators and governments support openly or in private, owes much to the 2004 ICJ Advisory Opinion and forms part of the battlefield, political, and social media realities with which Israel must contend.

The battlefield always poses tactical challenges for belligerents. In this regard, Israel is no different. Defense ministries with experience with urban warfare, such as the U.S. Department of Defense, may sympathize with Israel's difficult military choices in the Gaza Strip, where Hamas intentionally provoked counterattacks in urban areas. In the Gaza Strip, Hamas uses, as a matter of military tactics, civilians, and public properties and institutions as human shields. The Hamas goal, and that of Hizbullah and other anti-Israel groups, is to turn Israel's strengths against it, rather like *jiu-jitsu*. Hamas stretches Israeli missile defenses with thousands of rocket attacks, hurls Kamikaze raids against any large group of Israelis it can target, and invites Israel to come and get Hamas fighters in their urban hideouts. That is the essence of asymmetric warfare. Hamas, for example, centered its military capabilities in urban centers, maximizing civilian cover and imposing on Israel enormous moral and political costs. Hamas's strategy is to win as a matter of international public opinion, no matter the cost in terms of its own forces and the civilians it claims to champion.

In every battle, Israel's critics accuse Israel of "genocide,"

“disproportionate use of force,” “collective punishment,” and “war crimes.” Israel has had more difficulty fighting information warfare than armed conflicts. Among other things, Israel’s enemies ignore the connection between withdrawal from territory, ending states of belligerency, and peace in UN Security Council Resolution 242 (1967) and subsequent resolutions. They also ignore the reason why, in 1967, the UN Security Council did not force Israel to withdraw from the Sinai Peninsula, the Golan Heights, the Gaza Strip, and the West Bank without peace as it had in 1957.

In 1967, the Council’s approach reflected the dashed hopes of 1957. In 1957, at the insistence of the United States using the UN Uniting for Peace mechanism, Israel withdrew its forces from the Sinai Peninsula without conditions. The belief existed that Egypt would not again blockade the Straits of Tiran between the Gulf of Aqaba and Israel’s southernmost port, Eilat, and the Red Sea. President Eisenhower promised to break the blockade if it ever were reinstated.²² President Nasser reneged on that deal in 1967. According to U.S. President Lyndon Johnson, “Nasser slit our throat from ear to ear.” Nearly 57 years later, full implementation of Resolution 242 remains to be accomplished. To Israel’s critics and enemies, recalling the Resolution 242 framework as the legal basis for Israel’s holding territory until peace is achieved is mere “legalism.” That is part of the information war Israel fights daily.

Israel’s situation involves multiple other oddities. All states in the region, for example, assume that Israel possesses nuclear weapons but will use them only *in extremis*, if then. Assuming that Israel possesses nuclear weapons, such possession has not deterred its enemies from engaging in high-, medium-, and low-intensity armed conflict. In addition, Israel’s conventional

military strength is such that no states seem willing to fight Israel except with proxies.

Conclusion

Israel's strategic challenge thus is simple to state: because Israel's enemies want to destroy the State of Israel, survival has always been Israel's strategy. In all its battles, the State of Israel has known that to lose is to die: Israel's enemies do not want to see its borders changed; they want to see the State of Israel disappear. Since at least 1967, the United States has been Israel's chief ally. On October 10, 2023, President Biden spoke to the world and said: "And let there be no doubt: The United States has Israel's back. We will make sure the Jewish and democratic State of Israel can defend itself today, tomorrow, as we always have. It's as simple as that."²³ The U.S.-Israeli partnership is essential to Israeli security. It is essential to U.S. security as well because Israel is a faithful, democratic, ally with an innovative economy and military, a democratic island of stability in an unstable, strategically important region. Because of the U.S. role in the creation and recognition of Israel and because the United States and its allies in World War II could not end or foil the German extermination of Europe's Jews, the American people recognize a moral as well as strategic interest in Israel's survival. In any event, each Israeli government must manage the relationship with the United States so that periodic frictions do not rupture the tie to Washington. Aligned with the United States, Israel can stand up to enormous diplomatic and political pressure and intense lawfare. Without the United States providing military, economic, and political support, Israel has little, if

any, room to maneuver and few, if any, diplomatic options. On March 25, 2024, the United States drove this point home by abstaining on a UN Security Council demand for a cease-fire during Ramadan.²⁴ In context, the meaning of the U.S. action is reasonably clear. The text of the resolution was not the point. Rather, it was an occasion for the U.S. government to express frustration. The United States is frustrated by the failure of negotiations with Hamas for a cease-fire and hostage release. That failure cannot be pinned on Israel (or entirely on Israel, although Hamas and its supporters try to do so). At the same time, the United States is impatient with the pace of delivery of humanitarian assistance to those in need in Gaza and the lack of Israeli clarity on a post-conflict vision. The United States might be more tolerant of that lack of clarity in view of attacks on Israel from Lebanon, the West Bank, Gaza, and Yemen if there were a different Prime Minister, although that is not something to be assumed. From Ben-Gurion to Netanyahu, U.S. presidents, with few exceptions, have found reason to be frustrated by Israeli Prime Ministers who took positions with which they disagreed. Prime Minister Netanyahu's lack of support among Democratic politicians and the beginning of what promises to be an extremely ugly U.S. presidential campaign enhances the difficulty of managing the U.S.-Israeli relationship and keeping relations within acceptable bounds.

Israel's war with Hamas is paradigmatic of Israel's strategic situation. Its most determined enemies ignore law and morality in their pursuit of Israel's destruction; no matter how Israel fights back, no matter how it tries to follow the international law governing armed conflict,²⁵ Israel is at a political and possibly legal disadvantage. Israel trains its troops to follow the laws of war and stations lawyers in headquarters to advise commanders on the choice of targets and the law.

Israel believes that its actions adhere to the requirements of proportionality in the decision to use force—that quantum of force reasonably calculated to bring to an end the legal right to use force in the first place—and in military operations—that quantum of force reasonably calculated to achieve a lawful, battlefield, military objective with minimum collateral damage to non-combatants. Israel should know and prepare in advance for the fact that critics of almost every Israeli use of force since 1967 have decried it as disproportionate. With regard to the IDF move into Jenin in 2002, even an otherwise friendly UN Ambassador muttered that Israel was using “Gestapo tactics.” After-action assessments proved this characterization to be false. Nevertheless, that and similar accusations are routine. They are repeated with great fervor and frequency in the war Hamas launched in October 2023. Israel must prepare in advance to deal with them.

Today, Israel’s critics discount the fact that Hamas, for example, embedded its fighters, its weapons, and its command-and-control centers in and beneath civilian areas. Hamas uses protected civilian structures such as hospitals, schools, and religious edifices for war. Such actions violate the most fundamental rule of distinction in battle: do not mix combatants and non-combatants, military and civilian installations and structures, and military and civilian functions. When Hamas turned the Gaza Strip into an urban battlefield, it stripped civilian structures of their protections. Israel, of course, is blamed for the destructive consequences. What Israel is supposed to have done in response to the attacks of October 7, 2023, is never articulated or fleshed out in criticisms. That is but one of the fundamental realities with which Israel must live.

The foregoing leads to a number of recommendations about

how Israel can consider its strategy of survival. Israel must be prepared all the time to deal with the routine, repetitive criticisms of its military actions before they become public and to tailor military operations to the degree possible to answer these points. Israel's after-the-fact efforts in this regard during the course of the Gaza campaign were helpful but did not persuade those who believe that the Israeli government, particularly the Netanyahu government, lies, and that Israel, as South Africa argued, has been committing genocide and engaging in apartheid since 1948. It is not self-evident that people of this perspective can be persuaded to think anew, but it is important that Israel make the effort.

It is essential that Israel's national security decisions take account of this context. Sometimes, they obviously do, as when Israel refrained from responding to Iraqi Scud missile attacks in 1991. Israel needs to line up all the social media and public diplomacy tools it can to fight the battle of information before the shooting starts. In the war with Hamas, this recommendation means that, if possible, Israel should assemble the evidence of Hamas's acts and use of human shields and display it with question-and-answer briefings at UN Headquarters in New York and Geneva, where they can be broadcast worldwide. The United Nations allows a government to speak to the other 192 member states assembled in one place. Israel should create and avail itself of such opportunities. Israel is not strong enough to ignore international opinion. For too long, Israel has underestimated the importance of the United Nations as a forum for explaining its case to the world.

These points do not address the profound heart of Israel's option of difficulties. In September 1968, Moshe Dayan discussed the possibility of peace with Arab states in an address to the Israel Army Staff and Command College.²⁶ He

took as his theme the reflections during the inter-war period of Arthur Ruppin, a Zionist and a founder of Tel Aviv, who had moved to Palestine before World War I. When Ruppin arrived in Palestine, he initially conceived of a political entity with equal rights for all its citizens while allowing their national identities to persist. Palestinian realities during the period of the League of Nations Mandate for Palestine, particularly the great Arab revolt against the Mandate and the Jews, 1936-39, brought him to a different conception: not necessarily a purely Jewish state but a state capable of defending itself against its enemies and accepting the fact that it would have enemies determined to eradicate it as far into the future as could be seen. Ruppin, who died on January 1, 1943, saw no contradiction between Jewish immigration and Arab rights but had to conclude that the creation of Israel likely would not be accepted by the indigenous Arabs and, therefore, continual conflict would be the consequence. Nearly 100 years later, Israel has to accept that at least some part of the Arab and Islamic world still does not reconcile itself to the creation of a Jewish state in Palestine. We may hope that looking back, the Gaza War of 2023-24 will appear to be a milestone toward such reconciliation. We can only hope. We must also hope that Iran changes its position and its support for those who seek the destruction of Israel. However, such a change can likely only come with a change of government in Teheran and Qom. Until then, Israel's survival depends at bottom on the IDF and on alliance with the United States. The actions suggested might improve Israel's position; they cannot substitute for the IDF and the alliance.

Notes

1. Wolfe to Rickson, Nov. 5, 1757, Beckles Willson, *The Life and Letters of James Wolfe* (London: William Heineman, 1909), p. 339.
2. Peter Paret, "Introduction," in Peter Paret, ed., *Makers of Modern Strategy* (Princeton: Princeton University Press, 1986), 1.
3. Williamson Murray, "Thoughts on Grand Strategy," in Williamson Murray, Richard Hart Sinnreich, & James Lacey, eds., *The Shaping of Grand Strategy: Policy, Diplomacy, and War* (Cambridge: Cambridge University Press, 2011), 1 (quoting Thucydides, *History of the Peloponnesian War* (Rex Warner Trans., Penguin Classics, 1954, 1972), 402).
4. Williamson Murray & Mark Grimsley, "Introduction: On Strategy," in Williamson Murray, MacGregor Knox, & Alvin Bernstein, *The Makers of Strategy: Rulers, States, and War* (Cambridge: Cambridge University Press, 1994), 1.
5. <https://www.middleeasteye.net/news/hamas-2017-document-full>
6. If regular armed forces target civilians, they commit a war crime. If Hamas and other such groups target civilians or soldiers they commit a crime. Such groups do not enjoy combatant status and the combatant's privilege.
7. John Bolton, "Oct. 7 was the Opening Attack in Iran's 'Ring of Fire' War against Israel," *The Hill*, Jan. 14, 2024. <https://thehill.com/opinion/international/4407277-oct-7-was-the-opening-attack-in-irans-ring-of-fire-war-against-israel/>
8. See Robert Satloff, "From War to Peace in the Middle East? Observations from a Regional Tour," *Washington Institute for Near East Policy*, Feb. 23, 2024. <https://www.washingtoninstitute.org/policy-analysis/war-peace-middle-east-observations-regional-tour>
9. See, e.g., Richard Haass, "The War That Israel Could Have Fought," *The Wall Street Journal*, Mar. 16-17, 2024, C1.
10. W.W. Rostow, *Concept and Controversy: Sixty Years of Taking Ideas to Market* (Austin: University of Texas Press, 2003), 302.
11. This paper is not the place to revisit the history of the creation of Israel. A number of commentators today believe Israel committed genocide against Palestinians in the 1948 war. They omit reference

to Arab government statements about driving the Jews into the sea. In any event, it is fair to note that the Palestinian refugee problem had a variety of causes. What is not disputed, or should not be, is that, in 1947, the UN General Assembly recommended to the Security Council that the League of Nations Mandate for Palestine be partitioned, with one new Arab state and a Jewish state, and a special regime for Jerusalem. The Jewish organizations accepted the partition plan. Arab governments did not. When Israel declared itself to be a state, five Arab armies attacked (Egypt, Jordan, Syria, Iraq, and Lebanon. There also were contingents from Saudi Arabia.) The war ended with Armistice Agreements setting Israel's boundaries as they were prior to the June 1967 war. For a good summary of the different Israeli and Arab historical perceptions and narratives, see Dennis Ross, *The Missing Peace: The Inside Story of the Fight for Middle East Peace* (New York: Farrar, Straus & Giroux, 2004), ch. 1.

12. UN Doc. S/Res. 242 (1967), Nov. 22, 1967.
13. See, e.g., Aaron David Miller, "Lost in the Woods: A Camp David Perspective," Carnegie Endowment for International Peace, *Commentary*, July 13, 202; Avi Isacharoff, "Revealed: Olmert's 2008 Peace Offer to Palestinians," *The Jerusalem Post*, May 24, 2013.
14. S/RES/1397 (2002), Mar. 12, 2002. In telling evidence of the limits of Security Council consensus, the Council could not agree to insert "peacefully" after "live."
15. Among those is the notion that there exists, as a matter of international law a "right of return," for Palestinian refugees who left, under whatever circumstances, what is now Israel in 1948-49 or their descendants. Whatever the cause of a refugee flow, there is no such right of return for refugees in international unless established by treaty. In 1948, the UN General Assembly adopted Resolution 194(III), UN doc. UNGA Res. 194(III), Dec. 11, 1948, file:///E:/Int'l%20Law%20Readings/UNGA%20Res%20194%20(III).pdf. Paragraph 11 reads as follows: "Resolves that the 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 and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible." Note that the paragraph speaks of "refugees without further explanation and thus could be read to apply to all refugees—Arab and Jewish. In

any event, by its terms, it is not binding but a recommendation with respect to dealing with refugees who might wish to return to their homes and those who might wish compensation for property losses. This resolution does not constitute an international law right of return. The Israeli Law of Return is domestic legislation. All states are entitled to prescribe with respect to immigration. UN General Assembly resolutions generally do not make or state or restate international law. Shahd Hammouri ignores these facts in “Forgotten Detail: The Right of Return was a Condition for the Establishment of the State of Israel,” *Opinio Juris*, Mar. 11, 2024. <https://opiniojuris.org/2024/03/11/a-forgotten-detail-the-right-of-return-was-a-condition-of-the-establishment-of-the-state-of-israel/>.

16. G.A. Res. 10/14, U.N. Doc. A/RES/ES-10/14 (Dec. 12, 2003). UN Charter Art. 96 (authorization to request advisory opinions).
17. Article 80 of the UN Charter continued unaffected provisions of League of Nations Mandate agreements until they were superseded by new trusteeship agreements. This provision meant that the provisions of the League of Nations Mandate for Palestine remained in force under the UN Charter. Subsequent events—the 1949 Armistice Agreements, peace agreements between Israel and Egypt and Israel and Jordan, relevant Security Council Resolutions such as Resolution 242 (1967), agreements between Israel and the Palestine Authority—changed the legal landscape but did not repeal the affirmation of Jewish self-determination enshrined in the League of Nations Mandate for Palestine. See Nicholas Rostow, “Wall of Reason: Alan Dershowitz v. The International Court of Justice,” 71 *Alb. L. Rev.* 953 (2008). The ICJ is not like a domestic American or European or Israeli court. It is even more political than even the most political of domestic courts. ICJ judges are elected by, and responsive to, the U.N. General Assembly and Security Council. Its judgments, especially in cases such as the one brought by South Africa or the request for an advisory opinion on Israel’s occupation, must be understood in this context. In addition, those who have served in foreign ministries know that some judges consult with, and take direction from, their governments prior to reaching decisions. They also know that lawyers appearing before the ICJ engage in *ex parte* communication with judges. Yet ICJ decisions and opinions are among the most influential statements of what international law is. They may not be dismissed as irrelevant. “[T]he effect of the [ICJ] opinion is a matter of appreciation,” wrote the ICJ in its advisory opinion on nuclear weapons. *Legality of the Threat*

or *Use of Nuclear Weapons*, Advisory Opinion, [1996] I.C.J. Rep., at 237 para. 17. That statement is true for all ICJ opinions and decisions. ICJ rulings form part of the international context of which states must take account. Governments may disagree with an ICJ opinion or decision. ICJ decisions and opinions nonetheless remain and are taught in law schools and written about in commentaries as if unquestionably authoritative.

18. The public forum made the Ambassador's admission notable. After the Court issued its advisory opinion in 2004, the Egyptian judge, who had at least three years more of his term of office, resigned, probably thinking he had done his job.
19. UNGA A/RES/77/247, Jan. 9, 2023, para. 18 (a). The vote was 87-26-53, a majority of 8 if one counts naves and abstentions together. The slim majority should have given the ICJ pause.
20. International Court of Justice, Advisory Opinion, *Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, including East Jerusalem*, July 19, 1994. <https://www.icj-cij.org/sites/default/files/case-related/186/186-20240719-adv-01-00-en.pdf>.
21. Opening statement of Ambassador Vuzimuzi Madonsela, Jan. 11, 2024, *Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, CR 2024/1, p. 17. Punctuation and quotation marks in original. <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240111-ora-01-00-bi.pdf>
22. Toward the end of October 1956, Israel attacked Egypt as part of a British-French-Israeli response to the nationalization in the summer by Egypt of the Suez Canal. The British saw the nationalization as a replay of the 1936 Remilitarization of the Rhineland with President Nasser of Egypt in the role of Hitler. The French wanted to overthrow Nasser and stop Egyptian assistance to the Algerians fighting for independence from France. Israel wanted to stop Egyptian support for guerrilla/terrorist attacks inside Israel. Eisenhower, ignorant of the plan, running for reelection, and confronting the almost simultaneous Soviet invasion of Hungary, was livid. At the same time, he distinguished between Israel's and Britain's and France's situations. He therefore pushed Israel to withdraw from Sinai without conditions but simultaneously promised that, if Egypt blockaded the Straits of Tiran in the future, the United States would break the blockade. See Washington

Institute for Near East Policy, *UN Security Council Resolution 242: The Building Block of Peacemaking* (Washington, D.C.: Washington Institute for Near East Policy, 1993), 14 (chapter by Eugene V. Rostow).

23. President Biden, Remarks, October 10, 2023. <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/10/>
24. S/RES/2278 (2024), Mar. 25, 2024.
25. Also known as “*jus in bello*,” “the laws of war,” “international humanitarian law,” “the law of armed conflict,” or “the law of international armed conflict.” Terms like “international humanitarian law” introduce unnecessary confusion about the boundary between international human rights law and the laws of war. See W. Michael Reisman & Chris Antoniou, eds., *The Laws of War* (New York: Vintage Books, 1994), xxi-xxii.
26. Walter Laqueur, *The Israel-Arab Reader: A Documentary History of the Middle East Conflict* (Harmondsworth: Penguin Books, 1969), 526-38.

Detention, Prosecution, and Punishment following the October 7 Massacre

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Executive Summary

On the morning of October 7, 2023, more than 3,000 terrorists from Gaza, including members of Hamas and other terror organizations, invaded Israel and conducted a heinous massacre. The terrorists were joined in the massacre by Gaza residents. In response, Israel launched a war against the Palestinian terrorist organizations in the Gaza Strip and in Judea and Samaria. During the war in Gaza thousands of terrorists were killed and thousands more were detained, including terrorists who participated in the massacre and other terrorist activities.

This chapter discusses the legal frameworks and complexities associated with detaining, prosecuting, and punishing these terrorists. It offers an overview of the relevant provisions of Israeli law, the law applicable in Judea and Samaria, and where necessary, references to international law.

While intuitively any decent society would demand the

full punishment of the planners and participants in the October 7 massacre, in the current context there could be a substantial complicating factor: as part of the invasion, the Gazan terrorists took 253 people hostage. While some of them were released, 125 hostages remain in captivity.¹

Despite the heinous nature of the attack, Israel seeks to maintain its position among the liberal democracies of the West, fighting terror within the framework of the law as well as the international humanitarian norms and principles, even while its enemies intentionally and openly breach such law, norms, and principles. Similar to the punishment that most Israelis would have imposed on Nazis, most of the Israeli public would support imposing and implementing the death penalty on most, if not all, of the terrorists who planned and participated in the October 7 massacre. The death sentence for these terrorists would be the only moral punishment for people who committed such horrific genocidal acts.

On the morning of October 7, 2023, more than 3,000 terrorists from Gaza, including members of Hamas, Palestinian Islamic Jihad, the Popular Front for the Liberation of Palestine, and the al-Aqsa Martyrs' Brigades, all internationally designated terror organizations, together with others, invaded Israel and conducted a heinous massacre. The terrorists flooded more than 30 Israeli towns, villages, kibbutzim, and a number of military installations. Men, women, the elderly, sick people, children, and babies were murdered. Some were shot, others were raped. Some were beheaded, many were tortured, others were burned alive. Approximately 1,200 people were murdered. All that remained of some victims were their teeth. Two hundred and fifty-three hostages, most of them alive but also some bodies, were snatched by the terrorists to be used as leverage against Israel. An additional 6,900 people were

wounded to different degrees. The attack was carried out under a covering barrage of more than 3,000 rockets and mortars fired by the terrorists, indiscriminately targeting Israel's civilian population.²

The terrorists who invaded Israel were joined in the massacre by Gaza residents, and were armed with machine guns, RPGs, regular hand grenades, explosives, and other weapons. They moved around in trucks, motorbikes, bicycles, and even on foot. They dispersed in an organized manner with different groups storming multiple locations.

In the battle that took place in the different locations of the initial attack, an estimated 1,500 terrorists were killed. Hundreds of other terrorists escaped back into the Gaza Strip and hundreds were later apprehended by the Israeli security forces.

In response to the massacre, Israel launched a war against the Palestinian terrorist organizations in the Gaza Strip and in Judea and Samaria. During the war in Gaza thousands of terrorists were killed.³ Thousands more were detained, including terrorists who participated in the massacre and other terrorist activities.⁴

This chapter will discuss the legal frameworks and the complexities associated with detaining, prosecuting, and punishing these terrorists. It will offer an overview of the relevant provisions of Israeli law, the law applicable in Judea and Samaria, and where necessary, references to international law. The term "terrorist" in this chapter will collectively refer to people who are members of designated terrorist organizations, people who participated in the attacks on Israel on October 7 and in the massacre, or any part thereof, and people who operated on behalf of the terrorist organizations, whether prior to October 7, on that day, or since.

Detention

Israeli law, applied within the 1949 Armistice Lines,⁵ has four frameworks of detention that could potentially have been relevant for dealing with the terrorists arrested in Israel on the day of the massacre and in certain circumstances, also some of those arrested in Gaza since then. The fundamental difference between these procedures is that while one—arrest for investigation—focuses on determining criminal responsibility for past acts, the other three—administrative detention, detention of unlawful combatants, and the holding of prisoners of war—are all preventive⁶ in nature.

Arrest for Investigation

Arrest for investigation in Israel is governed by the Criminal Procedure (Enforcement Powers—Detention) Law, 5756-1996. The law provides that persons suspected of committing a crime can be arrested for the purpose of investigation.⁷ After an initial period of arrest, if the authorities wish to keep the suspect under arrest he must be brought before a judge.⁸ Given sufficient *prima facie* evidence and a reason for arrest,⁹ the judge is authorized to extend the arrest of the suspect for prescribed periods of time.¹⁰ As a rule,¹¹ suspects who have been held under arrest for 75 days but have not been indicted must be released, unless a judge of Israel's Supreme Court orders the suspect's continued remand.¹²

While there are certain additional provisions¹³ in Israeli law that apply specifically to detention of persons suspected of committing specific offenses,¹⁴ as a general rule, the body of Israeli criminal law and ancillary practices, such as remand for

investigation, is designed to deal with commonplace criminal activity, and even a limited degree of terrorist activity.

The acts committed by the terrorists on October 7—the infiltration to Israel, murder, rape, torture, arson, and so on—were clearly criminal offenses. Accordingly, the perpetrators could have been held under arrest pursuant to the provisions of this law.

However, the scope of the actions carried out during the massacre and the number of participants, were far beyond the purveyance of regular criminal activity and more akin to warlike actions, with battles against heavily armed terrorists continuing for hours.

Applying the regular laws of arrest, which would have included the duty to bring anyone arrested before a judge within a relatively short time, would not necessarily have been immediately possible. While a blanket order prevents the publication of any details of criminal proceedings regarding the October 7 massacre,¹⁵ video recordings of some of the interrogations of the terrorists released by the Israeli authorities clearly indicate that hundreds of terrorists are now being held in detention for purpose of investigation, and it is not unreasonable to suppose that many of them are now being held in detention pursuant to the regular laws.

Administrative Detention¹⁶

The second possibility would be to hold the terrorists in administrative detention pursuant to the Emergency Powers (Detentions) Law, 5739-1979. According to this law, Israel's defense minister can order the arrest of a person if he has "reasonable cause to believe that reasons of state security or

public security” require the arrest.¹⁷ An arrest order issued by the minister can be for a period of up to six months,¹⁸ which can be renewed for additional periods of up to six months.¹⁹ A person held in administrative detention must be brought before the president of the district court within a short time. The president can approve, cancel, or shorten the length of the order.²⁰ Israeli administrative detention is rooted in the 1945 British Mandate period Defense Regulations. The 1979 law surpasses the requirements for administrative detention as set out in Article 78 of the Fourth Geneva Convention relative to the Protection of Civilian Persons in Time of War (the Fourth Geneva Convention).

While the law would seem to provide wide scope for detention, case law has added a number of limitations. First, the Israeli Supreme Court judgments require that the minister and subsequently the judge be convinced that the person against whom the order has been made poses a personal and substantial security risk. The evidence underlying the risk must show an individual threat to “a degree of near certainty,” and that national or public security would be seriously harmed if the order is not issued.²¹ Additionally, case law has repeatedly noted that a person can only be held in administrative detention as a last resort and after other alternatives, such as arrest as part of a criminal investigation and prosecution, have been exhausted.²²

As a rule, the provisions of the Emergency Powers (Detentions) Law are primarily designed for use as a domestic security measure, and as such are used very infrequently. Administrative detention may also be used in circumstances where evidence is provided by intelligence and security sources that cannot be revealed in open court.

Since the law is forward looking, preventive in nature, and

is not usually used as an alternative to criminal proceedings,²³ it could theoretically have been used to detain some of the terrorists, in certain circumstances.

The difficulties would mostly have arisen in demonstrating the specific circumstances in which “Prisoner X” was arrested,²⁴ that there was no other alternative than to hold the subject in administrative detention, and that the evidence showed a concrete and individual danger that he posed to the national or public security. In most cases, given the circumstances of the arrests on October 7, the Israeli security authorities would have faced an uphill battle to meet that standard. As for specific arrests subsequent to October 7, it is more likely that the option of administrative detention could have been used. These arrests would also only have been possible in the absence of any other means to hold the terrorists in detention.

Unlawful Combatants

As a general rule, international humanitarian law (IHL)²⁵ distinguishes between two main categories of people: soldiers and civilians. Soldiers are legitimate military targets and can be the object of an attack. When soldiers are captured by the opposing side, they are entitled to enjoy the protections of the 1949 Third Geneva Convention relative to the Treatment of Prisoners of War (Third Geneva Convention). Civilians in the territory of the enemy state are protected from attack and enjoy the protection of the Fourth Geneva Convention and the First Protocol (1977) thereto.²⁶

Complications arise when civilians participate, in any manner, in the hostilities. These civilians, referred to as “direct participants in hostilities” or “unlawful combatants,” lose

their protections as civilians and do not enjoy the protections of soldiers. Since civilians can enter this category for acts as simple as using a program for cell phones that allows them to report on the movements of enemy forces,²⁷ it is clear that the October 7 terrorists and other Gazan terrorists could be considered unlawful combatants.

The Israeli Incarceration of Unlawful Combatants Law, 5756-2002,²⁸ was designed to provide a legal tool for preventive detention in the specific context of transboundary armed conflicts involving terrorists.²⁹ Drawing its inspiration from a combination of administrative detention, as recognized in Article 78 of the Fourth Geneva Convention, and provisions regarding the incarceration of prisoners of war, the Unlawful Combatants Law provides a legal framework for the detention of such foreign nationals involved in fighting for the enemy. Distinguished from the regular Israeli administrative detention described above, the Unlawful Combatants Law provides for the detention of both those who participate in hostilities against Israel or those members of a force carrying out such hostilities, with the goal of preventing their further participation.

Accordingly, the law could be applied to those terrorists who participated before, during, and after the October 7 massacre in the terror activities based on their active participation in hostilities against Israel. It could further be applied to other terrorists based solely on their organizational affiliation with the Palestinian terrorist organizations, without necessarily having to show active participation in the hostilities themselves. According to different reports, hundreds of the Gazan terrorists are indeed being held in detention as unlawful combatants.

Prisoners of War

Israel does not have a specific law that applies to the detention of prisoners of war. However, paragraph 10 of the Military Justice Law, 5715-1955, provides that the law applies to prisoners of war subject to regulations promulgated by the defense minister. Regulations regarding the detention of prisoners of war, based on Israel's obligations pursuant to the Third Geneva Convention, were promulgated in 1966.³⁰

According to the Third Geneva Convention, recognition of an enemy combatant as a prisoner of war has four cumulative requirements:³¹ (1) They must be “commanded by a person responsible for his subordinates;” (2) they must have “a fixed distinctive sign recognizable at a distance;” (3) they must carry “arms openly;” and (4) they must conduct “their operations in accordance with the laws and customs of war.”

As opposed to the terrorists, prisoners of war enjoy rights of protection pursuant to the convention, and are not considered to have committed criminal acts by dint of their participation as soldiers of the enemy army.

Since the terrorists detained, whether on October 7 or thereafter, do not meet any of the requirements to be classified as prisoners of war, none of them were held in this status.³²

Prosecution

The subject of the prosecution of the terrorists arrested on October 7 and thereafter in Gaza raises many different questions whose comprehensive discussion is beyond the scope of this chapter.³³ While some of the questions concern the relevant judicial forum—whether civilian or military³⁴—the

more substantive questions deal with the specific criminal provisions that would be relevant, and guiding legal principles.

As a general rule, Israel prosecutes terrorists based on its Criminal Law. This law provides for a wide spectrum of offenses including among others homicide,³⁵ rape,³⁶ arson,³⁷ and kidnapping.³⁸ There are also a number of specific provisions, under Chapter 7³⁹ of the Criminal Law, that could potentially be relevant for terrorism-related activities in general but are not necessarily relevant for the massacre. Thus, while the crimes of Impairment of Sovereignty or Integrity of the State⁴⁰ and Causing War⁴¹ are almost never used, whether in regular situations or in terror-related circumstances, the crime of Assistance to the Enemy in War⁴² is used in some terrorism cases. These offenses provide the everyday basis for prosecuting both regular criminals and terrorists.⁴³ The Anti-Terror Law, 2016-5776, also provides specific terror-related offenses and provisions; however, as a general rule, the Anti-Terror Law did not redefine or incorporate the offenses listed above, but proscribed them as terror offenses if committed with a nationalistic, religious, or ideological motivation or with the goal of causing fear and panic in the public or to force government or international bodies to perform an act or refrain from performing an act.

However, considering the nature, scale, and circumstances of the attack, the general consensus appears to be that these offenses do not sufficiently express the true and shocking nature of the events that transpired on October 7, 2023, and since. Accordingly, looking to what was considered to be the underlying driving force of the massacre—namely, indiscriminate mass murder and even potential genocide of Jews, simply for being Jews—consideration was also given to using the provisions of the Law for the Prevention and

Punishment of the Crime of Genocide, 5710-1949. While this law was enacted soon after the establishment of the State of Israel, it has never previously been used as the basis for the prosecution of anyone.⁴⁴

The provisions of the Law for the Prevention and Punishment of the Crime of Genocide would, among other things, have given expression to the Palestinian rejection of Israel's right to exist and the rights of Jews to settle in Israel. For the Palestinians, all Jews, irrespective of their place of residence, are "settlers," and all settlers are in the eyes of the Palestinians and many of their supporters, legitimate targets.

This is particularly relevant for the events of the massacre that was led by Hamas and whose Covenant⁴⁵ proclaims: "The Islamic Resistance Movement [Hamas] is one of the links in the chain of the struggle against the Zionist invaders."⁴⁶ According to the Hamas Covenant, all of Israel "is an Islamic Waqf consecrated for future Moslem generations until Judgement Day. It, or any part of it, should not be squandered: it, or any part of it, should not be given up. Neither a single Arab country nor all Arab countries, neither any king or president, nor all the kings and presidents, neither any organization nor all of them, be they Palestinian or Arab, possess the right to do that. Palestine is an Islamic Waqf land consecrated for Moslem generations until Judgement Day."⁴⁷ The Judgment Day, according to Hamas, "will not come about until Moslems fight the Jews (killing the Jews), when the Jew will hide behind stones and trees. The stones and trees will say O Moslems, O Abdulla, there is a Jew behind me, come and kill him."⁴⁸ For Hamas the very existence of Israel invokes a religious command: "Jihad becomes the individual duty of every Moslem."⁴⁹

Thus, when the terrorists invaded Israel to carry out the massacre, they did so with clear intent, defined in the

Convention on the Prevention and Punishment of the Crime of Genocide⁵⁰ and in Israel's law that mirrors the convention, to destroy, in whole or in part, the Jewish people.

However, having come to the conclusion that none of the existing legislation was sufficient to provide a comprehensive response to the massacre, the Knesset approved⁵¹ the formation of a confidential subcommittee in the Constitution, Law and Justice Committee to discuss the legal preparations, including new law and amendments to existing laws, that would be necessary for the prosecution of the terrorists. The subcommittee is ongoing.

In normal circumstances, it would not be necessary to note that Israel will of course respect the elementary provision of *nullum crimen sine lege*—that a person cannot or should not face criminal punishment except for an act that was criminalized by law before they performed the act. However, in the current climate, when Israel is itself being baselessly accused of committing genocide, sometimes stating the obvious is also necessary.

Judea and Samaria

In parallel to the war in Gaza, and as an integral part of the war on the Palestinian terrorist organizations, Israel has also conducted extensive counterterror operations in Judea and Samaria since October 7. In the course of these operations hundreds of terrorists were killed⁵² and thousands were arrested.⁵³

The focus of law enforcement and counterterror operations in Judea and Samaria, in the current context, subsequent to the

October 7 massacre, is different from the situation in Gaza and in Israel for a number of reasons.

First, the massacre happened in Israel and the participants were either killed at the scene, killed in Gaza in the war, arrested, or are still at large. There has been no suggestion that participants in the massacre fled to Judea and Samaria. As such the primary focus in Judea and Samaria is to continue the regular counterterror activities, but at higher intensity.

Second, the law applied in Judea and Samaria is officially different from the law applied in Israel. The difference is rooted in the decision made by the Israeli government in 1967, following the liberation of the area in the Six-Day War from the Jordanian occupation, which was never recognized by the international community as legitimate, not to apply Israeli law to the entire area but rather to hold and administer the area under military control. As a consequence of this decision, Israel also agreed to act in accordance with Article 43 of the Hague Regulations Concerning the Laws and Customs of War on Land, and to respect, unless absolutely prevented, the laws that were in force in Judea and Samaria prior to the liberation. Accordingly, the law in Judea and Samaria, until the Oslo Accords, was a mosaic of Ottoman law,⁵⁴ British Mandate law,⁵⁵ Jordanian law,⁵⁶ and military law promulgated by the Israeli military commander. Following the Oslo Accords, the Palestinian Authority also received legislative powers and promulgated many laws.

While legally distinguished and separate, the Israeli military legislation is often substantially similar to the Israeli legislation.

Considering the area's complex and unique status, for the purpose of law enforcement Israel also opted to follow the provisions of Article 66 of the Fourth Geneva Convention and

establish nonpolitical military courts. In these courts, persons suspected of committing criminal offenses, including terror offenses, are adjudicated.

While the Israeli military criminal legislation was issued over an extended period, most of it was amalgamated in 2009 into one central criminal code: the Order regarding Security Provisions [Consolidated Version] (Judea and Samaria) (No. 1651), 5770-2009 (OSP).⁵⁷

The OSP codifies both the relevant criminal provisions for detention and the relevant offenses.

Detention in Judea and Samaria

As regards detention, the OSP provides that a person can only be arrested if he is suspected of committing a crime.⁵⁸ After an initial period of arrest, if the authorities wish to extend the detention for investigation they must bring the suspect before a judge.⁵⁹

Uniquely in the case of Israel, the Order regarding Security Provisions provides for arrest in time of combat.⁶⁰ This provision, which can only be used in specific circumstances, provides for an extended initial period of arrest—up to eight days—to bring a suspect detained before a judge.⁶¹

If the suspect is indicted, the court then has the jurisdiction to order his detention pending trial.⁶² Similar to the law in Israel, in order to justify the extended detention of a suspect or defendant, the authorities must present the judge with the evidence gathered to support the suspicion and identify specific cause that specifically requires the detention.

Administrative Detention in Judea and Samaria

The OSP also codifies and regulates the use of administrative detention in Judea and Samaria. Similar to its Israeli counterpart, administrative detention in Judea and Samaria has its foundation in Article 78 of the Fourth Geneva Convention.

In Judea and Samaria, the jurisdiction to issue an administrative detention order rests with a specifically appointed military commander, who is authorized to issue an order for a period of up to six months.⁶³ The order can be extended for additional periods of up to six months.⁶⁴ Similar to Israel, prior to issuing the order, the military commander must be convinced that imperative reasons of security of the area and public security require the detention of the subject of the order. All the formal and substantive requirements, including the nature of the danger posed and the absence of alternatives, that apply to administrative detention in Israel, as noted above, also apply to administrative detention in Judea and Samaria.

Cumulatively, the provisions in the Order regarding Security Provisions (OSP) regarding administrative detention substantially surpass the minimum requirements for administrative detention set out in Article 78. While Article 78 does not require automatic judicial review of an administrative-detention order, the OSP does.⁶⁵ While Article 78 does not require an appeals process, the OSP gives the subject of the order an automatic right to appeal the decision made in the initial judicial review.⁶⁶ In addition to the provisions of the OSP, long-standing Israeli practice is to allow administrative

detainees to further challenge the orders by petitioning the Israeli Supreme Court.

In practice, as a preventive measure, hundreds of people in Judea and Samaria have been arrested and held in administrative detention since the October 7 massacre.

Prosecution in Judea and Samaria

The OSP also defines the central terror offenses, ranging from incitement to terror,⁶⁷ throwing rocks,⁶⁸ kidnapping,⁶⁹ illegal possession of weapons,⁷⁰ heading a terror organization,⁷¹ to murder.⁷²

The 1945 British Mandate Defence Regulations,⁷³ still applicable in Judea and Samaria, add the prohibition about being a member of a terror organization⁷⁴ and the prohibition to throw incendiary objects.⁷⁵

Punishment

In light of the unique (*sui generis*) nature of the massacre on October 7, 2023, the depth and extent of its cruelty and brutality, as well as the genocidal motivation that drove those who planned and carried it out, the question of the appropriate punishment for a terrorist who planned and/or participated in the massacre is in itself unique and complex, involving both questions of morality as well as law. These considerations would include the fundamental question of the suitability or unsuitability of the death penalty. As a general rule, capital punishment for the crime of murder was abolished in Israel in 1954. While some argue that the basis for that decision included

humanitarian, liberal, and progressive views of penology, the decision was also influenced by a form of national trauma combined with considerations of Jewish law.

In its history, Israel has only implemented the death penalty on two occasions: in the case of Nazi Adolf Eichmann and in the case of Meir Tobianski. The latter is a source of Israeli national trauma. Tobianski was an officer in the Israeli army during the War of Independence. After being accused of espionage, he was prosecuted in a court martial and found guilty. After his execution by firing squad, he was later posthumously exonerated. Fear of the fallibility of any legal system and the possibility of executing an innocent man has accompanied any discussion on capital punishment in Israel since the exoneration of Tobianski.

Jewish law, which also takes a stringent approach to capital punishment, has also been and remains a constant consideration. In Jewish law, only a properly constituted *Sanhedrin* (Jewish court) has the authority to pronounce the death sentence on a Jew.⁷⁶ Since the civilian courts that operate in Israel are not considered to be a Sanhedrin and do not operate in accordance with the prescribed Jewish laws of evidence, traditionally the ultra-Orthodox parties in the Knesset have blocked any attempt to revive the use of capital punishment out of fear that it may be imposed on a Jew.

There are, however, a number of offenses in the already-existing law that provide for capital punishment. For example, some of the offenses included in Chapter 7 of the Criminal Law, specifically that of providing Assistance to the Enemy in War, do carry the death sentence on condition⁷⁷ that the offense was committed while armed hostilities were carried out by or against Israel.

Thus, the question, in its essence, is not whether it is or is

not legal to impose the death sentence, but whether Israel sees itself as a country that views capital punishment as an option in general, and in relation to the terrorists who participated in the October 7 massacre in particular. This is one of the central questions presently being considered by the Israeli authorities and legislators.

While Israel's leadership has been reluctant to change its stance on the death penalty, most of the Israeli public does support imposing the death sentence on terrorists. In a survey conducted⁷⁸ after the October 7 massacre, 68% supported the notion of imposing the death sentence on the Gazan terrorists while 10% opposed it.

In this context, given the fact that the death sentence is already an option within existing Israeli law, and considering the broad public support for imposing it on these terrorists, it would appear likely that the law being prepared for the prosecution of the terrorists will include a provision for the death sentence.

The small minority who fundamentally object to the death penalty will no doubt argue that in imposing it Israel is acting against the general consensus and trend of restricting and even abolishing it. The majority, however, will no doubt support the general notion, leaving the question of individual implementation as an ad hoc assessment based on the actions of the specific terrorist and the decision of the judges.

Individual implementation will, of course, be the key issue. In principle, it would appear that there are potentially hundreds of terrorists who directly participated in the murder, rape, torture, kidnapping, arson, and other offenses carried out in the October 7 massacre.

While international opinion may have been able to digest the death penalty being imposed and carried out on a handful

of terrorists, the double standard generally applied to Israel by the international community would most likely result in widespread criticism and condemnation if Israel were to hand down and carry out the death sentence on hundreds of terrorists.

The punitive alternative to the death sentence would be life imprisonment. Despite the fact that thousands of Palestinians have been convicted of murder and sentenced to life in prison, immediately prior to October 7 there were approximately only 580 terrorists in Israeli prisons who were serving life sentences. The reason is that there have been more than 40 different instances in which Israel has released tens of thousands of terrorists, including brutal murderers. On some occasions the release was the product of Israeli-Palestinian negotiations,⁷⁹ some were just goodwill gestures, and others were the product of terrorists kidnapping Israelis to use them as bargaining chips.⁸⁰ As a general rule, the terrorists are not deterred by life in prison but celebrate it as a mark of their commitment to their struggle, and those released often quickly return to terror.⁸¹

Holding hundreds, possibly thousands, of additional terrorists in prison to serve life sentences would no doubt heighten the motivation of the terrorists to continue kidnapping Israelis as a means to free their comrades. While similar motivations would potentially exist during the period between the imposition of the death sentence and carrying it out, the timeline would at worst be limited in scope.

While intuitively any decent society would demand the full punishment of the planners and participants in the October 7 massacre, in the current context there could be a substantial complicating factor. As noted above, as part of the massacre, the Gazan terrorists took 253 people hostage.⁸² While some of

them were released, as of May 28, 2024, 125 hostages remained in captivity. The new hostages joined four Israelis—dead and alive—who have been held hostage by the terrorists since 2014–15.

In return for releasing the Israeli hostages, at present the terrorists demand the release of all the Palestinian terrorists being held by Israel, including those arrested before and since October 7. While this option would seem to be outrageous, the terrorists understand that the hostages are Israel's weak underbelly. The terrorists are bolstered by the demonstrations of some of the families of the hostages and the pressure being applied on Israel by the U.S. administration to capitulate and release terrorists as a means to free any number of the hostages.

As part of the negotiations to free the hostages, it has also been suggested that some of the terrorists would not be able to return to Gaza or Judea and Samaria and would have to leave the areas for prescribed periods or indefinitely. These suggestions are based on previous practice, among others in the 1985 Jibril deal, the 2011 Shalit deal, and even the 2002 standoff with the Palestinian terrorists who invaded the Church of the Nativity in Bethlehem.

Such a solution would of course be seen as a huge victory for the terrorists and a reward for carrying out the massacre.

Punishment in Judea and Samaria

Similar to Israel, the law in Judea and Samaria includes some offenses for which the prescribed penalty is potentially the death sentence. In practice, the directives of the Military Prosecution prohibit a prosecutor from requesting the

death sentence unless prior permission had been received. In addition, the OSP stipulates a number of prerequisites for handing down the death sentence, including that it can only be ordered after a conviction following a full evidentiary trial⁸³ and that the sentence must be decided upon unanimously by all three judges of the panel.⁸⁴ While there have been a number of cases in which individual prosecutors asked for the death sentence to be imposed and in which individual judges have ordered the death sentence, in practice no such final decision has been made.

In most cases, however, the terrorists in Judea and Samaria are convicted for offenses that are only subject to prison sentences.⁸⁵

Afterword

The October 7 massacre was the worst attack on the Jewish people since the Holocaust. It resulted in a war not only with the terrorists in the Gaza Strip, but also fighting with Hizbullah in Lebanon, attacks on Israel and international shipping by the Houthis in Yemen, and a missile-and-drone attack from Iran pointing to the danger of an overall war with Iran, which is the major source of incitement, encouragement, and support of the terrorism being perpetrated against Israel and unprecedented international lawfare.

Despite the heinous nature of the Hamas attack, it is important to Israel to maintain its position among the liberal democracies of the West, fighting terror within the framework of the law as well as the international humanitarian norms and principles, even while our enemies intentionally and openly breach such law, norms, and principles or distort them to attack

the true victims of the massacre. This is Israel's tradition. This is Israel's commitment. Israel acts as it does, not to find favor in the eyes of its friends or even its enemies, but to safeguard and maintain its own national soul. Similar to the punishment that most Israelis would have imposed on Nazis, most of the Israeli public would support imposing and implementing the death sentence on most, if not all, of the terrorists who planned and participated in the October 7 massacre. The death sentence for these terrorists would be the only moral punishment for people who committed such heinous genocidal acts.

Notes

1. Number of Israeli hostages, alive and dead, held in Gaza, as of May 28, 2024.
2. For more comprehensive details of the massacre, see (among others): <https://govextra.gov.il/mda/october-7/october-7/what-happened-on-the-7th-of-october/>; <https://www.hamasmassacre.net/>; <https://oct7map.com/>; <https://www.october7.org/>; <https://t.me/hamasdid>; <https://www.memri.org/reports/special-announcement-%E2%80%93-hamas-atrocities-documentation-center-hadc>.
3. According to IDF statistics published on April 6, 2024 (<https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/april-24-press-releases/war-against-hamas-6-months-operational-update/eliminations-and-interrogations-of-terrorists/>), more than 12,000 terrorists had been killed by Israeli forces since the beginning of the war.
4. According to IDF statistics published on April 6, 2024 (*ibid.*), approximately 4,600 people had been detained in Gaza and interrogated by IDF Unit 504 since the beginning of the war. Many of those interrogated have been identified as terrorists and some took part in the October 7 massacre.
5. Pursuant to the principle of *uti possidetis juris*, when Israel declared

its independence, it should have inherited the borders previously set by the League of Nations Mandate for Palestine. Accordingly, the geographic area of the nascent state should have included not only the area that is undisputedly considered to be Israel, but also the Gaza Strip and Judea, Samaria, and all of Jerusalem. However, since the Arab countries rejected Israel's right to exist, five Arab armies immediately invaded the nascent state with the declared goal of destroying it. While Israel managed to repel most of the aggression, the Gaza Strip was occupied by Egypt and Judea, Samaria, and east Jerusalem were occupied by Jordan. The lines separating Israel from the territories held by Egypt and Jordan were defined on a practical basis in the 1948-49 Armistice Agreements, never to be regarded as "borders." In the absence of clear borders, pursuant to paragraph 1 of Areas of Jurisdiction and Powers Ordinance, 5708-1948, Israel applied its law to the territories in an order of the defense minister. That area delineated Israel's territory according to the lines drawn for the purpose of the Armistice Agreements. In 1967, pursuant to the amended paragraph 11b of the Law and Administration Ordinance, 5708-1948, Israel expanded the application of its law to include the area of Greater Jerusalem. In contrast, Israel did not apply its law to the areas of the Gaza Strip, Judea, or Samaria.

6. The use of preventive detention in the fight against terror is not unique to Israel but, rather, common practice. While a thorough discussion of the practice is beyond the scope of this chapter, a substantial Israel-centric and comparative discourse can be found in these articles: Stephanie Blum, "Preventive Detention in the War on Terror: A Comparison of How the United States, Britain, and Israel Detain and Incapacitate Terrorist Suspects," *Homeland Security Affairs* 4 (October 2008), <https://www.hsaj.org/articles/114>; Dvir Saar and Ben Wahlaus, "Preventive Detention for National Security Purposes in Israel," 9 *Journal of National Security Law & Policy* 413 (2018), available at SSRN: <https://ssrn.com/abstract=3270294>.
7. The law provides for both arrest pursuant to an arrest warrant issued by a judge (para. 12) and spontaneous arrest, in certain circumstances, by a policeman (para. 23).
8. Para. 12.
9. Para. 13.
10. Para. 17.
11. Para. 59.

12. Para. 62. Theoretically, there is no time limit on the jurisdiction of the Supreme Court to extend the detention of the suspects until they are indicted.
13. One such example is paragraph 125 of the Criminal Law, 5737-1977.
14. The specific offenses are stipulated in paragraph 125.
15. <https://rotter.net/forum/scoops1/819358.shtml>.
16. Other countries that employ similar methods also refer to the measure as “preventive detention.”
17. Para. 2.
18. Para. 2(a).
19. Para. 2(b).
20. Para 4.
21. Admin. Det. Appeal 4/96 Ginzberg v. Minister of Defense 50(3) PD 221, 223 (1996).
22. Admin. Det. Appeal 2/82 Lerner v. Minister of Defense 42(3) PD 529, 531 (1982).
23. In limited circumstances, some terrorists suspected of committing a crime are held in administrative detention to avoid exposing intelligence sources. In these cases, according to case law, administrative detention is not an alternative for punishing the suspect for the offense he potentially committed, but remains a preventive measure to neutralize the danger the person poses.
24. Arrests carried out in warlike situations pose substantial difficulties. After regular arrests, law-enforcement officers fill out extensive documentation regarding the circumstances of the arrest, and start constructing the “chain of evidence” regarding objects seized. In warlike situations, the soldiers carrying out the arrests are required to continue their combat functions and cannot be expected to spend hours filling out forms.
25. Also known as the Laws of War. IHL incorporates the laws of armed conflict and is distinguished from international human rights law, which is applicable to regular situations within a state’s national legal system.
26. As opposed to the provisions of the Geneva Conventions of 1949, which generally enjoy the status of customary international law, only some of the provisions of the Additional Protocols have

achieved that status. Determining which exact provisions of the Additional Protocols have become customary international law requires individual analysis.

27. <https://lieber.westpoint.edu/civilians-reporting-cell-phones-direct-participation-hostilities/>.
28. The law was discussed extensively by the Israeli Supreme Court in Crim.A 6659/06 Anonymous v. State of Israel, 62(4) PD 329. The court's decision, translated into English, is available here: https://supremedecisions.court.gov.il/Home/Download?path=EnglishVerdicts/06/590/066/n04&fileName=06066590_n04.txt&type=4.
29. In the context of the war on terror, these terrorists are also often referred to as non-state actors (NSAs).
30. Military Justice Regulations (Alignment of the law with the Convention on the Treatment of Prisoners of War), 5726-1966.
31. Article 4.
32. While section 43 the Protocol Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts, relaxed some of the criteria for enemy combatants to be recognized as prisoners of war, the requirement that the combatant be "under a command responsible to that Party for the conduct of its subordinates," and that the enemy fighting units or groups be "subject to an internal disciplinary system which, inter alia, shall enforce compliance with the rules of international law applicable in armed conflict," still remain. The terrorist groups operating in Gaza do not meet even these relaxed criteria.
33. A comprehensive discussion of the prosecution of the participants in the massacre would require not only pointing to potentially relevant offenses but also considering subjects that include the rules of being party to an offense and different subjects relating to the rules of evidence. Both of these topics raise substantial questions about the massacre and would warrant their own paper.
34. While Israel had a military court in which some terrorists were prosecuted, it closed in the late 1990s. While this court also bore the name "Military Court," the basis for its constitution, function, and laws applied were different from the military courts Israel operated in Judea and Samaria.

35. Para. 300.
36. Para. 345.
37. Para. 448.
38. Paras. 369, 370, 371, 372, 374.
39. State Security, Foreign Relations and Official Secrets.
40. Para. 97:
 - (a) *If a person commits an act liable to impair the sovereignty of the State with the intention to impair that sovereignty, then he is liable to the death penalty or to life imprisonment.*
 - (b) *If a person commits an act liable to remove any area from the sovereignty of the State or to place it under the sovereignty of a foreign state with the intention to bring that about, then he is liable to the death penalty or to life imprisonment.*
41. Para. 98:

If a person, with intent to bring about military action against Israel, commits an act liable to result in such action, then he is liable to fifteen years imprisonment; if his intention was to assist the enemy, then he is liable to the death penalty or to life imprisonment.
42. Para. 99:
 - (a) *If a person, with intent to assist an enemy at war against Israel, commits an act that is liable to do so, then he is liable to the death penalty or to life imprisonment.*
 - (b) *For purposes of this section, "assistance" includes the provision of information with the intention that it fall into the enemy's hands, or in the knowledge that it will reach the enemy, and it is immaterial that war was not in progress when the information was provided.*
43. For example, even an arch-terrorist such as Abbas al-Sayed, responsible for multiple suicide bombings including the attack on the Park Hotel in Netanya in 2002 in which 29 people were murdered, was prosecuted on multiple counts of murder.
44. Nazis such as Adolf Eichmann and John Demjanjuk were prosecuted using the Nazis and Nazi Collaborators (Punishment) Law, 5710-1950.
45. https://avalon.law.yale.edu/20th_century/hamas.asp.
46. Article 7.

47. Article 11.
48. Article 7.
49. Article 15.
50. https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.
51. <https://wwwynet.co.il/news/article/b1m3llosa>.
52. According to IDF statistics published on April 6, 2024 (<https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/april-24-press-releases/war-against-hamas-6-months-operational-update/eliminations-and-interrogations-of-terrorists/>), 420 terrorists had been killed in Judea and Samaria since the beginning of the war on October 7, 2023.
53. According to IDF statistics published on April 6, 2024 (<https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/april-24-press-releases/war-against-hamas-6-months-operational-update/the-central-command/>), 3,700 terrorists had been arrested in Judea and Samaria.
54. The Ottoman Empire ruled the area from 1517 to 1917.
55. Great Britain ruled the area pursuant to the 1922 League of Nations Mandate for Palestine from 1922 to 1948.
56. The Hashemite Kingdom of Jordan ruled the area from 1948 to 1967.
57. https://www.idf.il/media/30zd1w0v/%D7%90%D7%95%D7%92%D7%93%D7%9F-%D7%94%D7%97%D7%A7%D7%99%D7%A7%D7%94-%D7%94%D7%A4%D7%9C%D7%99%D7%9C%D7%99%D7%AA-%D7%9E%D7%94%D7%93%D7%95%D7%A8%D7%94-%D7%97%D7%9E%D7%99%D7%A9%D7%99%D7%AA_compressed.pdf.
58. Para. 31.
59. Para. 31(a).
60. This provision was originally developed in 2002 as part of Operation Defensive Shield. It was discussed extensively in the Israeli Supreme Court in HCJ 3239/02 Marab et. Al v. the IDF Commander for the West Bank 57(2) PD, 349. For the decision of the Supreme Court, in English, see: https://supremedecisions.court.gov.il/Home/Download?path=EnglishVerdicts/02/390/032/A04&fileName=02032390_a04.txt&type=4.

61. Para. 33.
62. Para. 43.
63. Para. 285(a).
64. Para. 285(b).
65. Para. 287(a).
66. Para. 288.
67. Para. 251.
68. Para. 212.
69. Para. 213.
70. Para. 230.
71. Para. 237A.
72. Para. 209.
73. https://www.idf.il/media/30zd1w0v/%D7%90%D7%95%D7%92%D7%93%D7%9F-%D7%94%D7%97%D7%A7%D7%99%D7%A7%D7%94-%D7%94%D7%A4%D7%9C%D7%99%D7%9C%D7%99%D7%AA-%D7%9E%D7%94%D7%93%D7%95%D7%A8%D7%94-%D7%97%D7%9E%D7%99%D7%A9%D7%99%D7%AA_compressed.pdf.
74. Regulation 84.
75. Regulation 58, predominantly used as the basis for indicting defendants for throwing Molotov cocktails.
76. While there are many distinctions in Jewish law between Jews and gentiles, the Halachic authorities have traditionally held that there should be no distinction between the two groups in our times as regards the death penalty.
77. Per para. 96 of the Criminal Law.
78. https://www.runi.ac.il/research-institutes/government/libres/research/death_sentence/.
79. Such as the Oslo process during which thousands of terrorists, including murderers, were released.
80. Yahya Sinwar, the head of Hamas in Gaza and the one personally responsible for the October 7 massacre, was himself released in the 2011 deal to free IDF soldier Gilad Shalit, who was kidnapped in June 2006 and held hostage until October 2011.

81. During my service in the IDF Military Prosecution for Judea and Samaria, I dealt with scores of cases of terrorists who had been released and quickly returned to terror. For example, of the 120 terrorists released to Judea and Samaria as part of the first stage (the murderers) of the deal to release IDF soldier Gilad Shalit, more than 50% committed additional terrorist offenses within two and a half years, and were rearrested to serve the remainder of their original sentences.
82. <https://www.bringthemhome-diy.com/>.
83. Para. 121.
84. Para. 165.
85. For some of the considerations regarding punishment for terror offenses, focusing on a change in the punishment policy, see: <https://jcpa.org/article/to-defeat-terror-lenient-sentences-for-terrorists-must-end/>.

Anatomy of a UN Crime against Humanity

Prof. Anne Bayefsky

Executive Summary

War for Palestinian Arabs and Arab and Islamic states that reject coexistence with Jews and the Jewish state has long had two phases. The first is the physical annihilation of Jews. The second is commandeering the United Nations to deny the Jewish state the right to defend itself and to enable repeats of the first phase until their goal is accomplished. The UN is the central vehicle for hijacking and perverting international “law” and the principles of universal “human rights” in the service of warfare and antisemitism.

This scheme did not emerge for the first time after October 7, 2023. The overall endeavor to eradicate the Jewish state and reverse the General Assembly vote to approve its creation on November 29, 1947, has been in operation for 75 years. At the same time, the post-October 7 onslaught is different in speed, intensity, and reach. We are witnessing the frightening and predictable pathogenesis of phase 2. For more than half a century, the United Nations and its international appendages have become engorged with a terrible—and

lethal—combination of antisemitism, wealth, and global influence. Today, we bear witness to the perversion of law and human rights in the cause of the destruction of Jews and the Jewish state.

Events of October 7 and thereafter make the inextricable links between the United Nations and fatal antisemitism painfully clear. Physical proof shows that UN facilities were connected to Palestinian terrorist infrastructure and that UN employees were physically engaged in atrocity crimes. The UN moved immediately to deny Israel the right to defend itself. It excused, justified, and blamed the Jewish victims. It obstructed and prevented condemnation. It fostered indifference. It pushed discrimination. It denied the crimes. It refused to call out the events as antisemitism. It subverted legal principles to promote more terror and to create impediments to the release of the hostages. It redirected humanity's moral compass. It equated a lawless terror organization with a democratic society governed by the rule of law. It flipped the script between victim and perpetrator, attacked and attacker, right and wrong. It removed Israeli suffering from the scales of justice. It harnessed the velocity of the Palestinian attacks to mount a legal and political onslaught at breakneck speed.

It made no difference what Israel did afterward, short of self-immolation.

So here we are. Jews are still in captivity, tortured, raped, and starved. BDS is on steroids. The criminalization of Jewish self-defense and Jewish self-determination is underway.

We are witnessing a United Nations crime against humanity.

Table of Contents

1. Deny Israel Its Legal Right of Self-Defense
 - a. The Record of the UN Security Council
 - b. The Record of Other UN Actors and Denying Israel’s Right of Self-Defense
2. Excuse, Justify, Blame the Victim
3. Replicate Holocaust Denial with October 7 Denial
4. Mount a “Not Antisemitism” Campaign
5. Promote Violent Antisemitism and Call It “Law”
 - a. Legal Fraud and Fraudsters
 - b. The Anatomy of the “Anatomy of a Genocide”
6. Reinforce the Vicious Circle: Politics-Law-Politics
7. Moral Equivalence
8. Go on Offense
9. Déjà Vu
10. “It’s the Existence of Israel, Stupid”
11. Indifference and Discrimination
 - a. All Palestinian Atrocities
 - b. Palestinian Sexual-Violence Atrocities
12. The View from Hamas
13. The UN’s Israel-Bashing Tactical Campaign
 - a. Rely on Hamas for Statistics and Facts
 - b. Rewrite the Rules of International Law for a Party of One—Israel
 - c. Keep Israeli Suffering out of the Equation
 - d. Flip the Script: Invert Victim and Perpetrator
 - i. Inversion, fast and furious
 - ii. The Non-Racist Racist
 - iii. Jews Are Nazis
14. Conclusion

War for Palestinian Arabs, and Arab and Islamic states that reject coexistence with Jews and the Jewish state, has long had two phases. The first is the physical annihilation of Jews. The second is commandeering the United Nations to deny the Jewish state a right to defend itself and to enable repeats of the first phase until their goal is accomplished. The UN is the central vehicle for hijacking and perverting international “law” and the principles of universal “human rights” in the service of warfare and antisemitism.

This two-headed monstrosity did not emerge for the first time on October 8, 2023. The overall endeavor to eradicate the Jewish state and to reverse the General Assembly vote to approve its creation on November 29, 1947, had been in operation for 75 years. Hence, the current iteration of this genocidal war against the Jews follows a familiar path.

At the same time, the post-October 7 onslaught is different in speed, intensity, and reach. We are witnessing the frightening, and predictable, pathogenesis of phase 2. For more than half a century, the United Nations and its international appendages have been allowed to become engorged with a terrible—and lethal—combination of antisemitism, wealth, and global influence. Now we are forced to bear witness to the perversion of law and human rights in the cause of the destruction of Jews and the Jewish state. This is even more sinister given the widespread delusion that non-Jews will have immunity from the same nihilistic forces that today deny self-defense to Jews and the embodiment of Jewish self-determination, Israel.

Events of October 7 and thereafter make the inextricable links between the United Nations and fatal antisemitism painfully clear. There is physical proof that UN facilities were connected to Palestinian terrorist infrastructure, and that UN employees were physically engaged in atrocity crimes. And we

know that immediately, while the massacre of Jews was still unfolding, UN actors, agencies, and institutional structures lined up to vilify the State of Israel.

Within hours, the situation on the ground was public and shocking. The bodies were still being counted. The barriers between Gaza and Israel were still open, Israel's shoreline was still not secure. Terrorists within Israel were still being confronted. Israel was frantically attempting to rescue the hostages before they disappeared; all the while, Israel was under rocket fire and facing two other active fronts. The response from Israel in Gaza itself was still minimal. In these first few days, what did the United Nations do?

The United Nations moved immediately to deny Israel the right to defend itself. It excused, justified, and blamed the Jewish victims. It obstructed and prevented condemnation. It fostered indifference. It pushed discrimination. It denied the crimes. It refused to call out the events as antisemitism. It used legal principles to promote more terror and to create impediments to the release of the hostages. It confused humanity's moral compass. It equated a lawless terror organization with a democratic society governed by the rule of law. It flipped the script between victim and perpetrator, attacked and attacker, right and wrong. It removed Israeli suffering from the scales of justice. It harnessed the velocity of the Palestinian attacks to mount a legal and political onslaught at breakneck speed.

Slowing the momentum of this hate and aggression in phase 2—lethal politics and faux law through the United Nations—necessitates knowing what hit us.

We are witnessing UN crimes against humanity.

The analysis below is a snapshot of the first six months since October 7, 2023.

1. Deny Israel Its Legal Right of Self-Defense

First and foremost, UN actors refused to acknowledge or support Israel's right of self-defense. This fundamental right of every UN member state was *never* mentioned *even once* by the Security Council, the General Assembly, the Human Rights Council, the Secretary-General, or the UN High Commissioner for Human Rights. The calls for a "ceasefire" weren't issued because of anything in Gaza; they were issued immediately lest Israel even try to exercise its right, and its duty, to defend its people. The United Nations came right behind the Palestinian terrorists of October 7 to thwart the Israelis who survived.

The record includes:

UN High Commissioner for Human Rights Volker Türk, October 7, 2023¹

I call for an immediate stop to the violence, and appeal to all sides and key countries in the region to de-escalate to avoid further bloodshed.

President of the UN General Assembly Dennis Francis (from Trinidad and Tobago), October 7, 2023²

I urge all parties to refrain from further violence & to seek an immediate path to peace.

The UN refugee agency only for Palestinians, UNRWA, October 8, 2023³

UNRWA supports calls to reach an immediate ceasefire and a halt to the violence everywhere.

The unprecedented attack on Israel was only eight hours old, Israel had barely mustered its response, and Israel was already being told to stop doing anything “violent.” Telling Israel immediately to avoid further bloodshed was, in effect, advice to drop dead. The appeal to “all sides” from the United Nations’ top human rights official was moral bankruptcy, a grotesque equation between aggressor and defender, the rapist and the raped. From UNRWA, the alleged humanitarian agency, came a moral parallel between butchering Jewish civilians and preventing more of it. Israel supposedly should have instantaneously refrained from fighting back against the violence because to do so was violent. In short, from the UN came an immediate call for Israel to do nothing, and imagine peaceful coexistence with those in the midst of massacring its population. The UN told the bald-faced lie that international law says a country in these circumstances should restrain itself. Actual international law says Israel, like all countries, has a right and duty to defend itself, and to prevent further loss of Israeli lives.

a. The Record of the UN Security Council

The UN Security Council met on October 8, 2023, and did absolutely nothing.⁴

Contrary to the illusion of daylight between various Palestinian factions, from day one, the Palestinian Authority assumed the role of diplomatic representative of Hamas, Palestinian Islamic Jihad, and all the perpetrators of October 7. Palestinian UN representative Riyad Mansour went on offense in his familiar stomping grounds, convening a news conference in advance of the Security Council’s October 8 closed session.⁵

His finely honed strategy had four prongs.

1. Prevent the Council from issuing a statement supporting Israel's right of self-defense:

We know only too well that the messages about Israel's right to defend itself will be interpreted by Israel as license to kill.

2. Switch perpetrator and victim:

Where is the international protection the Palestinian people is entitled to?...We are not subhuman. We will never accept a rhetoric that denigrates our humanity and reneges our rights.

3. Issue threats of violence:

If this is about vengeance, then many Palestinians will feel they have much to avenge.... Israel cannot wage a full-scale war on a nation, its people, its land, its holy sites, and expect peace in exchange.

4. Repeat the reference to 1948 and the creation of the Jewish state (for the sake of those who still don't get it) as the original problem:

Israel has announced dozens of times that it had handled the Palestinian problem by war against our people or peace with others since 1948.

The gambit worked before October 7, and at the United Nations nothing on October 7 made a difference to its continued success.

The Security Council, the UN body defined as the central

agent for the “maintenance of international peace and security,” needed unanimity to issue a statement and could not muster it. Every one of the veto-holding members of the Council—the United States, the United Kingdom, France, China, and Russia—had citizens who were victims of Palestinian terrorist atrocities on October 7, both dead and missing or presumed kidnapped. Thirty-six UN member states had nationals murdered by Palestinian terrorists on October 7. And yet, the Council could not condemn Hamas and other Palestinian terrorists for the atrocities perpetrated against civilians or issue a statement in support of the UN member state of Israel’s right of self-defense.

Six months later, there have been three Security Council resolutions adopted after the United States refused to exercise its veto power.⁶ And yet, including those resolutions, the Security Council still has never condemned the October 7 attack, has never condemned Hamas for anything, and has never acknowledged or reaffirmed Israel’s UN Charter right of self-defense.

On the contrary, as late as March 2024, Russia and China vetoed, with the backing of Council member Algeria (on behalf of the “whole Arab world” in its words), a U.S. draft resolution that in the weakest possible manner would have condemned Hamas. The condemnation appeared only in the draft resolution’s preamble and the draft deliberately failed to label Hamas a terrorist organization.⁷

The Biden administration made speeches on the occasion of all three Security Council resolutions. It pointed out, for instance, that the resolutions “did not condemn Hamas or reaffirm the right of all Member States to protect their citizens from terrorist attacks.” And then the government of the United States folded. On March 25, 2024, the administration publicly

noted that “edits were ignored, including our request to add a condemnation of Hamas.”⁸ It was an embarrassing study in contrasts. The administration was reduced to requesting that Hamas be condemned for the atrocities of October 7 and, unlike the Russians and the Chinese, didn’t have the fortitude to say no to resolutions that did not.

In fact, the three resolutions adopted by the Security Council that concern October 7 and its aftermath⁹ never even mention “October 7.” The only reference to October 7 coming from the Security Council is a press statement issued six months later. The statement came after the *accidental* killing of seven humanitarian aid workers by Israel (as opposed to the *deliberate* mass murder of over a thousand Jews).¹⁰ The Security Council called the death of the aid workers “horrific.”¹¹ In none of its resolutions could the Council think of anything “horrific” about October 7 itself.

b. The Record of Other UN Actors and Denying Israel’s Right of Self-Defense

In addition to the Security Council, since October 7 not a single major UN body or agency has reaffirmed or acknowledged Israel’s UN Charter right of self-defense. That includes two General Assembly resolutions from “emergency sessions,” 13 other 2023 General Assembly resolutions critical of Israel or supporting ongoing UN anti-Israel operations, four UN Human Rights Council resolutions condemning Israel, and a resolution from the World Health Organization (WHO) also slammed Israel.

It also includes thousands of statements, interviews, press releases, news releases, media stakeouts, and tweets posted

on official UN websites and Twitter accounts, issued by UN Secretary-General António Guterres; UN Special Coordinator for the Middle East Peace Process Tor Wennesland; the Office of the High Commissioner for Human Rights (OHCHR); High Commissioner for Human Rights Volker Türk; the UN Committee on the Exercise of the Inalienable Rights of the Palestinian People; the UN Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel (COI); UN Resident and Humanitarian Coordinator in the Occupied Palestinian Territory Lynn Hastings;¹² 46 thematic UN Special Procedures; UN Special Rapporteur on the Situation of Human Rights in the Occupied Palestinian Territory Francesca Albanese; UNICEF; the United Nations Office for the Coordination of Humanitarian Affairs (OCHA); UNRWA; WHO; and UN Women. And it includes the hundreds of reports issued by UN Special Rapporteur Albanese, OHCHR, UNRWA, OCHA, WHO, and UN Women.

With the Biden administration capitulating on the stonewalling at the Security Council, joining and embracing the UN Human Rights Council, funding UNRWA, and adopting a general policy of full-throated support for a multilateralism that runs through the United Nations, UN attackers of Israel have been emboldened. They not only fail to acknowledge and reaffirm Israel's UN Charter right of self-defense; they deny it outright.

Only two and a half weeks after October 7, the UN Commission of Inquiry on Israel (COI)— established by the UN Human Rights Council in 2021—held a news conference at the United Nations in New York, and member Chris Sidoti told reporters: “The State of Israel cannot claim to act under Article 51 when it is being attacked not by a state, but by a

non-state actor.”¹³ Just a month after October 7, the head of that same Commission of Inquiry, Navi Pillay, said: “Article 51 of the Charter is not applicable in this case—when the threat originates from a territory over which Israel exercises control.”¹⁴ Exercises control? Except for the preparation and execution of mass murder from the territory, the launch of tens of thousands of rockets from the territory, the construction of 350–450 miles of terror tunnels and 5,700 tunnel shafts in the territory, and the hostages in the territory. And Israel totally evacuated Gaza in 2005.

In March 2024, the UN Human Rights Council formally adopted a resolution that declared: “Recalling that Israel, as the occupying Power, may not invoke the right to self-defense under Article 51 of the Charter of the United Nations.”¹⁵

This is shocking even by UN standards.

In 2004, the United Nations’ World Court (the International Court of Justice or ICJ) commented on the subject in an “advisory opinion,” which is not legally binding. Known as “the *Wall* case,”¹⁶ the Court opined that Israel’s physical barrier—the barrier that put an end to the ongoing horrific phenomenon of Palestinian suicide bombing and saved countless Jewish and Arab lives—was illegal. The sole dissenter was American judge Thomas Buergenthal, who was a Holocaust survivor. Among other things, the Court said the “wall” was illegal because Israel had no UN Charter right of self-defense against a non-state actor or terrorist group. Article 51 of the Charter only recognized a right of self-defense, the Court said, against an armed attack *by another state*. Article 51 said no such thing. It actually says:

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense *if an armed*

*attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security.*¹⁷

Not only did the Court insert words into the text that did not exist, but if taken seriously, this view would have dire consequences in a post-9/11 era for any country facing terrorist threats. Growing sophistication among terror organizations made this aspect of the “Wall” opinion highly controversial and widely ridiculed. Combating terrorist organizations as a legitimate exercise of self-defense, including those operating from defined territory largely under the organization’s control, is an imperative of survival, safety, security, and world peace.

The Human Rights Council purported to take the ICJ opinion to the next level, going from the ridiculous to the illegal. In effect, the Council’s resolution would amend the Charter unilaterally to add an exception clause to Article 51— “except for the state of the Jews.”

Every member of the UN Human Rights Council that is at the bottom of the scale of protecting human rights—“not free” according to Freedom House—with one exception,¹⁸ voted in favor of the resolution. That is a total of 12 of 13 “not free” states. Of the 18 Islamic states on the Council, 15 voted in favor.¹⁹ Israel didn’t stand a chance in this environment, a rogue’s gallery of Algeria, Burundi, China, Cuba, Eritrea, Somalia, Sudan, and company.²⁰

Notwithstanding that its resolution was preposterously entitled “...the obligation to ensure accountability and justice,” the Human Rights Council refused to condemn Hamas for perpetrating the October 7 attacks.

On the contrary, the Council demanded an arms embargo against Israel—and not Hamas, so that Israelis are denied the

means to defend themselves while Palestinian terrorists are equipped to kill.²¹ For her years of antisemitic hate speech and post-October 7 fanaticism, the Human Rights Council handed the resolution's arms-embargo portfolio to Navi Pillay and her Commission of Inquiry. The job: to mount a global UN-sponsored arms embargo, enforced by means of criminal prosecution and legal warfare, against the State of Israel.²² Pillay herself had been pushing an arms embargo against Israel for years.²³

According to the United Nations, nothing Israel did was legal. Pinpoint targeting of Hamas leaders was “extrajudicial killing.”²⁴ Targeting terrorists in Gaza while they illegally used human shields to maximize casualties was “collective punishment.”²⁵ Targeting key individuals who were in hiding outside Gaza,²⁶ and were involved in the Hamas war machine and the fate of the Israeli hostages, was illegal because it was outside Gaza.²⁷ Targeting those who planned and executed the crimes when inside Gaza, was illegal because it was inside Gaza and “occupied territory.”²⁸

In short, on October 7, the United Nations launched a global campaign to deny Israel's right of self-defense, to prevent the Jewish state from fighting back and rescuing Jewish hostages.²⁹

2. Excuse, Justify, Blame the Victim

Why was the United Nations' reaction from the start to deny Israel's right of self-defense? Because the UN—the majority of its members, the staff from those states, and the operations those states and staff define—is anti-Israel. Processing the legal and moral consequences of violent Palestinian antisemitism does not compute. October 7 is simply an uncomfortable

reminder that nothing Palestinians do to Jews will alter that standpoint. UN actors not only denied Israel a right to fight back, they weighed in on the side of Hamas to excuse and to justify its atrocities.

It was October 7. And the handpicked “expert” on the Israel-Palestinian Arab conflict of the UN Human Rights Council, Francesca Albanese, weighed in.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, October 7, 2023³⁰

Today’s violence must be put in context. Almost six decades of hostile military rule over an entire civilian population... are in themselves an aggression.

It is a well-worn strategy of antisemites to blame the victims of antisemitism. Albanese, a former UNRWA employee,³¹ is a cheerleader for Hamas. Her UN job description³² gives her a global platform to serve as the political front for terrorists who are dedicated to killing Jews. That is her context.

On October 9, Israeli forces were still engaged in door-to-door fighting to retake control of Israeli territory. Rocket fire from Gaza directed at Israeli citizens and resulting casualties continued and there was shelling from Lebanon into Israel. The full horror of October 7 was becoming clearer as the unrecognizable bodies and body parts were being gathered. And from the United Nations’ top official came the following.

UN Secretary-General António Guterres, October 9, 2023³³

This most recent violence does not come in a vacuum. The reality is that it grows out of a long-standing conflict, with a 56-year long occupation and no political end in sight. It’s

time to end this vicious circle of bloodshed, hatred and polarization.

Guterres also insisted that “Palestinians must see...their own state realized.” It is impossible to overstate the moral depravity of this statement—and the impact. Justification, sympathy, understanding—for the butchers. Reference to a “circle” as if there weren’t an unmistakable perpetrator. Provision of the political win desired by the terrorists, and visions of more power through statehood by which to do harm—therefore encouraging more terror. Half an hour after the Secretary-General’s statement, Hamas threatened to start executing the hostages unless its demands were met.³⁴

Guterres had no compunction about repeating his vile language a two weeks later. Further fueling the flames of antisemitism from the top of the UN hierarchy, here he addressed the UN Security Council.

UN Secretary-General António Guterres, October 24, 2023³⁵

It is important to also recognize the attacks by Hamas did not happen in a vacuum....The Palestinian people have been subjected to 56 years of suffocating occupation.... They have seen their land steadily devoured by settlements and plagued by violence; their economy stifled; their people displaced and their homes demolished. Their hopes for a political solution to their plight have been vanishing.

Attempts to blame the victims for October 7 have been characteristic of UN reactions across the system. Within 10 days of October 7, the Office of the UN High Commissioner for Human Rights issued a press release on behalf of another

UN human rights “expert” appointed by the UN Human Rights Council.

UN Special Rapporteur on the Right to Health Tlaleng Mofokeng, October 27, 2023³⁶

“The latest escalation and display of aggression in Israel and the occupied Palestinian territory must not be de-contextualized,” expert urged. “It represents a crushing moment of ongoing gross structural, systemic and sustained violence experienced by Palestinians every day since the occupation,” she said.... “The Palestinian people have been displaced for more than 75 years.”

Blaming the victims for the crimes of the rapists—when the victims are Jewish—was an extension of the big lie that has been peddled, festered, and mushroomed throughout the United Nations since 1948. Post-October 7 was business as usual, on steroids.

Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, October 25, 2023³⁷

So the message is clear. We have all this verified evidence that the attack isn’t an isolated incident. It flows from all these violations, as well, on both sides.... The Secretary-General is quite right in saying that this attack is not just something that arose in isolation, but that we must look at the context. We must look at how desperate Palestinians are for some end to the conflict and the oppression under which they have to live daily.”

UN High Commissioner for Human Rights Volker Türk, November 10, 2023³⁸

[F]or the violence to end, the occupation needs to end.

Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, November 10, 2023³⁹

This latest surge of violence does not come out of a vacuum, and we see a direct link to the occupation and the denial of self-determination.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, and company— “UN experts,” November 16, 2023, issued an appeal to the “international community”:

Address the underlying causes of the conflict by ending the Israeli occupation of the Palestinian territory...end Israeli apartheid and occupation.⁴⁰

Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, February 2, 2024⁴¹

We were asked to identify the root causes of the conflict, and that’s what we did in our report to the General Assembly in October 2022...75 years of occupation...

UN Special Rapporteur for the Situation of Human Rights

**in the Occupied Palestinian Territories Francesca Albanese,
March 26, 2024⁴²**

Israel's genocide on the Palestinians in Gaza is an escalatory stage of a longstanding settler colonial process of erasure. For over seven decades this process has suffocated the Palestinian people....

October 7 teaches us that this big lie—namely, that the Jewish state embodies 75 years of “occupation” by foreign Jews of an indigenous Palestinian population—is not some sloppy lesson plan. It incentivizes monsters, mass murderers, and those who choose rape as a weapon of war. Those who spread and repeat that lie are guilty of aiding and abetting Palestinian genocide of Jews.

3. Replicate Holocaust Denial with October 7 Denial

Along with excuses and justifications and blaming the Jewish victims came immediate efforts by UN actors to question the veracity of the horrors that had befallen Israeli Jews. Video details of Hamas barbarism were publicly released by Palestinians themselves: A bloodied face of a Jewish woman surrounded by men shouting “This is nothing, we are just starting.” A Jewish kidnap victim pulled by the hair, hands tied behind her back and her pants covered in blood.⁴³ Gang rape and murder.⁴⁴ And yet, here are the two top human rights “experts” on the “Occupied Palestinian Territories” and “Violence against Women and Girls.”

UN Special Rapporteur for the Situation of Human Rights

in the Occupied Palestinian Territories Francesca Albanese, October 11, 2023. Twitter.⁴⁵

Caution! Numerous claims are circulating, repeated by U.S. officials & amplified by mainstream media re Hamas' crimes including beheadings/rape. ISR military did not confirm such claims. Divulging unverified information risks to escalate tensions & endanger lives in a volative [sic] context.

UN Special Rapporteur on Violence against Women and Girls Reem Alsalem, October 11, 2023. Twitter.⁴⁶ Alsalem, a self-described "Jordanian-Palestinian,"⁴⁷ doubled down on Albanese's Tweet.

I second this! I have been taken aback by how quickly misinformation and disinformation has spread (like wild fire) and how individuals and States have quickly repeated allegations and reports of serious crimes without applying the usual standards of discernment and credibility evaluation."

Albanese and Alsalem didn't merely fail to denounce Palestinian atrocities against women and girls. They are UN actors at the forefront of globally spreading the lie that these crimes hadn't even occurred. Just like Holocaust deniers, Albanese and Alsalem have continued the cover-up for six months.

On March 5, 2024, Alsalem responded to a reporter who asked if she still believed Israeli women had not been raped on October 7. She answered that she had "not received any information" or seen any online digital material or films because "I'm not a technical expert on videos."⁴⁸

On March 27, 2024, Albanese used the same phrase in response to a reporter's question about whether she had "any evidence" that Israeli women had been raped. She answered, "I have not received information" and that she did not have "any convincing evidence."⁴⁹

Just as Holocaust denial went hand in glove with Holocaust revisionism, October 7 denial has done the same. UN actors hit the airwaves immediately to revise the record of October 7. Racing for center stage on October 10 was Pillay's Commission of Inquiry.

Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, October 10, 2023⁵⁰

There is already clear evidence that war crimes may have been committed in the latest explosion of violence in Israel and Gaza...war crimes committed by all sides."

Within 72 hours, Pillay was rewriting the invasion of a UN member state and slaughter of its civilians as a generic "explosion of violence in Israel and Gaza."

Within 96 hours, the Secretary-General was telling this to the press.

UN Secretary-General António Guterres, October 11, 2023⁵¹

I have been closely following dramatic events in Israel and Gaza. I will never forget the images of the supercharged cycle of violence and horror.

It is more accurately described as a supercharged cycle of UN misinformation, gaslighting, concealment, misrepresentation,

diversion, inversion, deception, deflection, dishonesty, and fraud.

4. Mount a “Not Antisemitism” Campaign

As part of the UN pattern of denial, deceit, and indifference came the immediate lie that what had happened on October 7 was not antisemitism. And what took place after October 7 was “Islamophobia”—which was to be set off against any possible evidence of post-October 7 antisemitism.

UN High Commissioner for Human Rights Volker Türk, October 10, 2023⁵²

The Human Rights Chief expressed deep concern at how hate speech and incitement to violence have surged since Saturday, fueling anti-Semitism and Islamophobia in the region and globally.

And after Saturday, October 7?⁵³

The Islamic Resistance Movement (Hamas)—bankrolled, weaponized, and trained by the Islamic Republic of Iran—has a Covenant that begins, “Israel will exist and will continue to exist until Islam will obliterate it.” Hamas engaged in a slaughter of Jews and others in the Jewish state because they were in a Jewish state. The slaughter of Jews is unprecedented since the Holocaust. Yet within three days, the United Nations said the events were about “Islamophobia”—a distortion of reality and “whataboutism” at its worst.

The immediate spin that antisemitism surged *after* the massacres is an intentional UN method to avoid identifying the massacres themselves, and their widespread celebration

by Palestinians and supporters—to this day—as antisemitism. Denying systemic, endemic Palestinian racism was necessary to avoid the reality that Palestinian attackers were genocidal and that antisemitism and the rejection of cohabitation with a Jewish state—not “occupation”—is the root cause of the conflict.

The denial of the fundamentally antisemitic character of October 7 is explained by the fight about defining antisemitism that had been playing out at the United Nations in the months leading up to October 7. UN actors and their partners had been waging a massive campaign to rebuff a definition of antisemitism that included discrimination against and the demonization of Israel. Human Rights Watch, Amnesty International, the American Civil Liberties Union (ACLU), and radical “human rights” impostors,⁵⁴ together with the Palestinians, pushed hard on UN officials to exclude the unequal and unjust treatment of the Jewish state from any UN definition of antisemitism. As such, they rejected the “IHRA definition” of antisemitism,⁵⁵ the only one to garner widespread support from dozens of countries and the major Jewish victims’ groups around the world.⁵⁶ The October 7 antisemitism cover-up was the logical result. The truth of pathological Palestinian antisemitism was, and is, denied and ignored.

In October 2023, the whole world knew about the decapitated Jewish victims. They knew that Palestinians, dressed for combat and armed with knives, guns, and grenades, entered *civilian* homes and killed their Jewish prey. They heard the eyewitnesses and first responders: “They killed babies in front of their parents and then killed the parents. They killed parents and we found babies between the dogs and the [dead] family.”⁵⁷

The world knew of the abduction of Jewish babies, families, the elderly, the disabled. They knew Jewish children had been shot under beds, Jewish women's sexual organs had been used for target practice, the breasts of Jewish women had been cut off and used as balls, Jewish children had been tied up and burned alive, Jews had had their heads bashed in by being stomped on, Jews had cowered in outdoor bomb shelters while Palestinians hunted them down and tossed in grenades to blow them up. And they knew that this carnage had been conducted by Palestinian Arabs and Muslims one-on-one, at point-blank range.⁵⁸ And all this was in addition to the voluminous and public record of written and oral proclamations by Palestinians of their anti-Jewish animus.

It was an orgy of hate laid bare by the killers and their supportive community themselves. From one Hamas terrorist speaking to his family during the killing came this recording:

TERRORIST: Hello dad. Dad I am inside Mefalsim. Open your WhatsApp right now, and see all the killed. Look at how many I killed with my own hands; your son killed Jews.

FATHER: *Allahu Akhbar, Allahu Akhbar.* May God protect you.

TERRORIST: This is inside Mefalsim, father. I am talking to you from the phone of a Jew, I killed her and her husband, I killed ten with my own hands.... Ten! Ten with my own bare hands. Their blood is on my hands, let me talk to Mom.

MOTHER: Oh, my son, may God protect you...I wish I was there with you.⁵⁹

And yet, from the United Nations came the refusal to describe and decry the abominations of October 7 as antisemitism; as targeting Jews as Jews, along with others in Israel at the time.

To this day, the massive UN “human rights” apparatus—councils, committees, commissions, rapporteurs, agencies, bodies, envoys—all theoretically dedicated to identifying, ringing alarm bells, demanding accountability for racial and religious intolerance, has not identified October 7 as vile antisemitism. Yet, this reality is as painful as it is obvious.

Fully aware that October 7 threatened to derail the Palestinian big lie, UN “human rights experts” claimed October 7 was *not* antisemitism.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, February 7, 2024, issued a direct attack on French president Macron and his reference to October 7 as the “greatest antisemitic massacre of our century.”⁶⁰

The victims of 7/10 were not killed because of their Judaism, but in response to Israel’s oppression.⁶¹

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, February 10, 2024.⁶² Referring to “the Hamas crimes of 10/7,” Albanese also said:

[E]xplaining these crimes as anti-Semitism obscures their true cause.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, February 15, 2024,⁶³ in the form of a formal UN press release:

I also felt compelled to challenge a persistent misinterpretation of the root causes of the October 7 attacks, particularly in Western countries: that the attacks were primarily motivated by anti-Semitism.... ‘56 years of suffocating occupation’ referred to by the Secretary-General is the very context that fuels the hatred and violence that endangers Israelis and Palestinians alike. This context is obscured by the framing of October 7 as primarily driven by anti-Semitism.

Here is a purported human rights expert, appointed by the UN Human Rights Council, whose pronouncements are broadcast globally by the official website of the Office of the UN High Commissioner for Human Rights, and who is bent on “framing” the beheading of Jews, the mutilation of Jewish women, the kidnapping of Jewish babies and wheelchair-bound Jews *en masse* as anything except antisemitism.

Nazi propagandists also “framed” the mass murder of Jews with a list of crimes that closely track Albanese’s drumbeat of accusations against Israelis: Jews are oppressors;⁶⁴ responsible for the misery of non-Jews;⁶⁵ alien, foreigners, usurpers;⁶⁶ bloodthirsty;⁶⁷ sexual deviants.⁶⁸ Jews persecute non-Jews;⁶⁹ conspire to gain power and control;⁷⁰ prey on the vulnerable;⁷¹ spread disease;⁷² and wreak economic and social ruin.⁷³

On occasion, Albanese has even forgotten to substitute “Israeli” for “Jew.”⁷⁴ Her Nazi-like formula for demonizing and dehumanizing Jews is evident whatever her disguise.

It is no accident that the same Human Rights Council—which selected, publishes, and promotes Albanese, added one more abomination. The Council’s April 2024 “accountability” resolution denies Israel’s UN Charter right of self-defense, fails to condemn Hamas, and demands an arms embargo against

the Jewish state. On top of all that, the resolution purports to exempt antisemites from accountability by defining their antisemitism away.⁷⁵ Specifically, the Council claims that “criticism of violations of international law by Israel should not be conflated with antisemitism.”⁷⁶

It was one of those “Methinks thou dost protest too much” moments. The same resolution negatively refers to Israel 59 times and Hamas zero times; charges Israel with violating international law but never Hamas; and reeks of double standards, discrimination, and xenophobia. It doesn’t mistakenly conflate with or get confused with antisemitism. It is antisemitism.

Here is Human Rights Council Rapporteur Francesca Albanese referring to the (accidental) death of World Central Kitchen workers on Twitter/X, April 2, 2024: “Knowing how Israel operates, my assessment is that Israeli forces intentionally killed #WCK workers so that donors would pull out & civilians in Gaza could continue to be starved quietly.”⁷⁷

Her blood libel, utterly inconsistent with the facts,⁷⁸ garnered two million views. This isn’t “criticism.” It’s global, UN-enabled hate speech.

5. Promote Violent Antisemitism and Call It “Law”

a. Legal Fraud and Fraudsters

UN actors now channel Nazis solutions as well as Nazi ideology. Albanese’s solutions to her Israel problem—boycotts, sanctions, legal emasculation, removal of the means of

self-defense—culminate in physical destruction. She frames a Palestinian violent “right to resist” together with a pathological deceit.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, March 28, 2024⁷⁹

The Palestinians have resisted peacefully for decades, but if we take away or if we make peaceful resistance useless, ineffective, if we crush it, every opportunity, then we leave no other choice to this people to recourse [sic]⁸⁰ to less peaceful means.

Albanese is not the only UN actor and lawyer perverting the law and intent on “framing” violent antisemitism.

Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, October 30, 2023⁸¹

The point I’m making is when you have a whole population oppressed for so long with no remedies, no relief, they are actually forced to resort to armed struggle.

Albanese and Pillay are extremists who are also both lawyers. The hate speech of these UN actors is both covered in a legal veneer and reaches the world’s highest international legal and judicial circles. In the UN’s universe of phony legal independence and impartiality, Pillay is currently a judge (ad hoc) of the ICJ⁸² on a case about genocide—at the same time that the same Court and judicial colleagues⁸³ are considering the interpretation and application of the crime of genocide to Israel.

In the fall of 2023, South Africa decided to become the legal arm of Hamas as part of its close relations with the terrorist organization on multiple levels.⁸⁴ South Africa launched a case against Israel at the ICJ on December 29, 2023, claiming that Israel was guilty of genocide. South Africa demanded that the Court act swiftly and order “provisional measures” to stop a “plausible” case, for which there was no need to prove actual genocide.⁸⁵ In possibly the most shameful development in a court of law in modern history, South Africa alleged that what was actually Jewish genocide-prevention was genocide by Jews against the genocidaires (and their wards, the Palestinian civilians whom ironically the genocidaires were elected to protect). The UN Court refused to throw out the obscene accusation that Israel is guilty of genocide against Palestinians for defending itself against genocide by Palestinians. And in doing so, the Court relied on Albanese as a legitimate source.⁸⁶ The UN Court didn’t shun her hate, it boosted her legitimacy.

b. The Anatomy of the “Anatomy of a Genocide”

The UN’s own cycle of violence then continued, as Albanese was emboldened to produce in March 2024 a UN report theatrically entitled “Anatomy of a Genocide.”⁸⁷ Her report is conceived and written along the lines of the notorious *Protocols of the Elders of Zion*—a 1903 work of fiction pretending to be fact, a forgery that has had an instrumental role in fostering a century of pogroms, massacres, and deadly discrimination against Jews. Although Albanese casts her report as a legal document, infused with legal-sounding language and concepts, it’s a recounting of facts that didn’t happen and laws that do not exist.

She begins, first, by repeating Hamas casualty figures with no distinction between combatants and civilians and no concern about their veracity, and second, by making the astonishing announcement that her report *does not examine* the events of October 7.⁸⁸

After situating her entire report in a vacuum with no context—given that it omits October 7—she proceeds to set out a “history” that denies the Jewish state’s right to exist. Including events of a day earlier is impossible, but certainty about events 75 years ago is not a problem.

Albanese claims that “the historical background against which the atrocities in Gaza are unfolding”⁸⁹ are these:

- Israel is an illegitimate “settler-colonial project in Palestine”;⁹⁰ “erasing the Indigenous Arab presence has been an inevitable part of the forming of Israel as a ‘Jewish state’”⁹¹ She puts “Jewish state” in quotation marks, and simply abolishes Jewish self-determination.
- Israel is genocidal by definition: “Israel’s actions have been driven by a genocidal logic integral to its settler-colonial project in Palestine, signaling a tragedy foretold.”⁹²
- Israel is a product of the world’s worst crime—a crime against humanity called ethnic cleansing: “Practices leading to the mass ethnic cleansing of Palestine’s non-Jewish population occurred in 1947–1949.”⁹³

She then proceeds to use language casting Israeli Jews as the devil’s agents:

- Israel’s actions in Gaza are the “equivalent of two nuclear

bombs”;⁹⁴ Israel “has caused death by starvation, including 10 children daily”;⁹⁵ Israel’s “onslaught on Gaza”;⁹⁶ “[t]he savagery of Israel’s latest assault”;⁹⁷ “the total siege and near-constant carpet-bombing”;⁹⁸ “decades of discourse dehumanizing Palestinians”;⁹⁹ “the complete destruction of life-sustaining infrastructure”;¹⁰⁰ “knowingly killing civilians *en masse*”;¹⁰¹ “safe areas’ were deliberately turned into areas of mass killing”;¹⁰² “evacuation orders and safe zones have been used as genocidal tools to achieve ethnic cleansing.”¹⁰³

Her legal analysis is a legal sham:

1. In order to find genocidal intent, she quotes from Israeli president Isaac Herzog who said the events of October 7 were “a barbarism that has no place in the modern world.”¹⁰⁴ (Herzog might well have been referring to such things as female genital mutilation, beheading, burning children alive, and filming atrocities for public viewing—but it’s hard to know since Albanese says events of October 7 are outside the scope of her report.) She then calls this statement by Herzog “racist rhetoric” because it means Palestinians have a “barbarian...character”¹⁰⁵—which he didn’t say.
2. She claims that the law in the hands of the “Jewish state” is an instrument to commit genocide. For the “Jewish state,” the proportionality principle means: “Israel appears to represent itself as conducting a ‘proportionate genocide.’”¹⁰⁶ To the diabolical “Jewish state,” the law against using human shields means “transforming everything and everyone into either a target or collateral damage, hence killable

or destroyable.”¹⁰⁷ Supposedly, Israel “has transformed an entire national group...into a destroyable target, revealing an eliminationist conduct of hostilities”;¹⁰⁸ Israel uses law “in an attempt to legitimize genocidal violence”;¹⁰⁹ “Israel... operates under a policy of *condoning* mass killing”;¹¹⁰ her gaslighting logic purports to find a “genocidal logic underpinning Israel’s military strategy.”¹¹¹

Ignorance is bliss:

- One of her many blood libels concerns events at Gaza’s al-Shifa Hospital, which Israel proved was seized for military purposes by Hamas and Islamic Jihad. Albanese asserts she has no clue “whether or not Israel’s accusations of hospital shielding at Al Shifa were true”¹¹² but claims it doesn’t matter for the application of the law in practice in any case—which is false.¹¹³

Projection is the golden ticket:

- Albanese highlights this claim: “A key finding of this report is that Israel has strategically invoked the IHL [international humanitarian law] framework as ‘humanitarian camouflage’ to legitimize its genocidal violence in Gaza.”¹¹⁴ The truth is exactly the opposite. Hamas uses Palestinian civilians as “humanitarian camouflage,” uses humanitarian aid to camouflage the resupply of its terrorist infrastructure, and conceals casualties of combatants among civilians as humanitarian camouflage to confound the application of IHL. In other words, the architect of humanitarian camouflage—using “law” to mask genocidal intent—is the terrorist enabler herself, Francesca Albanese.

In the end, she makes it very plain what she has in mind—the extinction of the “Jewish state.”

- She concludes by harking back to the illegitimacy of Israel’s creation in the first place—what she casts as a seven-decade-long Nakba/catastrophe that needs to be remedied, starting with eliminating Israel’s ability to defend itself. This is a call for erasing Israel as a remedy for Israel (allegedly) erasing Palestinians. In her words:

Israel’s genocide on the Palestinians in Gaza is an escalatory stage of a long- standing settler colonial process of erasure. For over seven decades this process has suffocated the Palestinian people as a group...seeking to displace it.... The ongoing Nakba must be stopped and remedied once and for all.¹¹⁵

Albanese concludes her treatise with recommendations that would put Hamas, Hizbullah, the Houthis, and their Iranian sponsors on course to realize their genocidal ambitions. If her plan were implemented, they could complete the latest phase of their genocidal enterprise in the name of UN rules.

Bottom line: the UN has now published and is currently pushing a genocidal “Anatomy of a Genocide.” That’s a crime, not justice or law.

6. Reinforce the Vicious Circle: Politics-Law-Politics

The United Nations immediately labeled October 7 a “cycle of violence”¹¹⁶ hoping to conceal the unidirectional crime of

Palestinian terrorists murdering Jews. But ironically, there is indeed a cycle of violence, one between UN politics and UN “law.”

When the United Nations’ World Court (ICJ) agreed to become a tool of Hamas’s continued aggression by refusing to shut down South African-Hamas lawfare under the Genocide Convention, it relied on a panoply of UN sources. It pointed to the UN Security Council, the UN General Assembly, OCHA, the UN Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, the Commissioner-General of UNRWA, more UN special rapporteurs and Working Groups, and the Secretary-General. The output, data, and conclusions of these UN sources were never questioned. There was no consideration of the people, their record, their biases. There was no acknowledgment of the political character of the agency or the agent. They were all just taken at their word.

The membership of the ICJ on the “Wall” advisory opinion,¹¹⁷ which purported to reduce dramatically Israel’s right of self-defense and is now serving as impetus for the Human Rights Council to follow suit in the context of October 7, included Egyptian judge Nabil Elaraby. Elaraby was a longtime representative of the Egyptian government at the United Nations (among other posts). He had a history of professional and personal statements against Israel directly related to the issues then before the Court. He used his ICJ “legal” perch to champion Palestinian terrorists; in his words: “Throughout the annals of history, occupation has always been met with armed resistance. Violence breeds violence.”¹¹⁸ Arguing in the “Wall” case against Israel on behalf of Jordan was its UN ambassador Zeid Ra’ad Zeid al-Husseini. Zeid would go on to another career in Israel-bashing as UN High Commissioner for Human Rights.

The president of the ICJ at the time was Shi Jiuyong—from China, which has no rule of law and no independent judiciary.

Twenty years later, there is the spectacle of another advisory opinion crafted to elicit another “legal” condemnation of Israel by the ICJ. In 2022, the UN General Assembly asked the ICJ for an opinion about the “consequences” of what the General Assembly had already determined were a litany of specific Israeli violations of law; they couldn’t find any Palestinian violation of law.¹¹⁹ The presiding judge in this case, which was heard February 23–25, 2024, was ICJ President Nawaf Salam. He is from Lebanon, a country that does not recognize Israel’s right to exist. His name was on the ballot for Prime Minister of Lebanon in the two most recent elections.¹²⁰ He was his country’s UN ambassador for 10 years up until 2017, served as President of the Security Council during his tenure, and as Vice President of the General Assembly.¹²¹ And in his spare time, he has tweeted such things as a meme that reads “unhappy birthday to you: 48 years of occupation.”¹²²

This is how the UN’s highest court does “law.”

7. Moral Equivalence

October 7 has a sobering lesson: when it comes to Jewish victims, the United Nations can’t and won’t distinguish between those who butcher and rape and the butchered and raped, except to blame the latter for the actions of the former. Such moral blindness is cast as principled evenhandedness. Here’s a sampling of the “all parties” messaging:

President of the UN General Assembly Dennis Francis (from Trinidad and Tobago), October 7, 2023¹²³

I urge all parties to refrain from further violence & to seek an immediate path to peace.

Chair of the Committee on Palestinian Rights, UN Ambassador of Senegal Cheikh Niang, October 7¹²⁴

I also join the Secretary-General's call for restraint from all parties to avoid further loss of life.

UN High Commissioner for Human Rights Volker Türk, October 10, 2023¹²⁵

“All parties must respect international humanitarian law...”
Türk stressed that it is vitally important that everyone deprived of their liberty in the Occupied Palestinian Territory and Israel is treated humanely.

UN Humanitarian Coordinator for the Occupied Palestinian Territory Lynn Hastings, October 10, 2023¹²⁶

...all parties must comply with their obligations under international humanitarian law. All military and armed groups must abide by the principles of distinction, proportionality, and precaution when conducting their operations.

Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, October 10, 2023¹²⁷

The Commission has been collecting and preserving evidence of war crimes committed by all sides since 7

October 2023, when Hamas launched a complex attack on Israel and Israeli forces responded with airstrikes in Gaza... underscores the urgency for the parties involved to cease all forms of violence...urges Israeli security forces and Palestinian armed groups to adhere strictly to international humanitarian law and international human rights law... [T]he only path towards ending violence and achieving sustainable peace is through addressing the root causes of the conflict including through ending the illegal occupation.

Hamas is openly dedicated to violating international law. Killing, enslaving, and mutilating, Jews (and willingly sacrificing fellow Palestinians for the cause) is its *raison d'être*. In the words of the Hamas Covenant: "Israel will exist and will continue to exist until Islam will obliterate it"; "Our struggle against the Jews is very great and very serious."¹²⁸

Hence, appealing to Hamas, and the various Palestinian terrorist organizations, not to violate international law is perfidy. Manufacturing "equal" demands on "all military and armed groups" to do the right thing is to deceive the global audience into believing this is not a conflict between a democratic society and pathological genocidaires. UN actors didn't call upon Osama bin Laden or the ISIS rapists of Yazidi women to take "precautions when conducting their operations."

To pretend that Palestinian "armed groups" need a lecture on the laws of armed conflict is to cover up the fact that these groups are dedicated to the violation of the laws of armed conflict. Palestinian terrorists bragged about raping and deliberately targeting civilians. They don't need a speech; they need to be militarily destroyed and politically rejected from civilized societies everywhere. So why the ruse? Because the

demonization and bias against the State of Israel is the bread and butter of UN operations—dressed up as human rights and humanitarian concerns and international law.

The UN fiction of evenhandedness saw the UN’s top “human rights” authority figure, Volker Türk, immediately hamper the release of the hostages by analogizing the brutalized kidnap victims in Gaza with prisoners justifiably held in Israeli jails. In February, he was demanding the release of “thousands of Palestinians arbitrarily detained by Israel.”¹²⁹

By mid-November, UN actors—led by Albanese—were doing everything in their power to deny Israel the means of self-defense disguised as equal treatment, and demanding that the “international community” “implement an arms embargo on all warring parties.”¹³⁰ The “all” fooled a lot of people and sowed global confusion about right and wrong.

8. Go on Offense

Instead of recognizing and decrying October 7’s gut-wrenching antisemitism, and springing into action to defend its victims and to rescue the abducted still subject to the ravages of Palestinian xenophobia, the UN machine did exactly the opposite. It revved up a frenetic global drive to spread the lies of systemic Israeli racism, apartheid, and genocide.

These are two sides of the same coin. Jews are racists; Palestinians are not. The Jewish state (whose citizens include millions of non-Jews with more rights and freedoms than in any Arab state) is racist; a *Judenrein* “Palestine” is not. The self-determination of the Jewish people, Zionism, is criminal according to the 1975 UN General Assembly and the 2001 UN Durban World Conference; Palestinian nationalism is to be

revered, notwithstanding that its foundations emanate from the Grand Mufti of Jerusalem Amin al-Husseini. Al-Husseini, described as “Palestine’s national leader” and “the voice of the Palestinian people,”¹³¹ was a Nazi collaborator. While celebrating al-Husseini’s partnership with Hitler, the founder of the Muslim Brotherhood said, “The Mufti is Palestine and Palestine is the Mufti”.¹³² Indeed.

From this perspective, UN actors went on offense. Albanese, the October 7 denier and revisionist, paralleled the tragedy of the Holocaust to the “tragedy” of the creation of Israel.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, March 27, 2024¹³³

There is amnesia...around the birth of the state of Israel. Because it was the outcome, not just of one tragedy, but it’s connected to two tragedies, and one is very well-known and absorbed, which is the tragedy, the horror of the Holocaust. The other, what it meant for the native people of Palestine, the creation of the State of Israel, dispossession, forced displacement.

By October 12, UN actors were accusing Israel of the worst atrocities known to humankind: “crimes against humanity” and “intentional starvation.”¹³⁴ As Israelis refused to lie down and die, the UN ratcheted up its attacks: October 19, “risk of genocide,”¹³⁵ October 25, “mowing down civilians,”¹³⁶ November 6, November 20, “genocide,”¹³⁷ December 7, “a war on healthcare workers,”¹³⁸ December 23, “a war of extermination,”¹³⁹ January 2, “induced disease,”¹⁴⁰ February 1, “one of the bloodiest, most ruthless conflicts of our times,”¹⁴¹ March 6, “systematically target aid-seekers,” “a pattern of

deliberately targeting civilians seeking healthcare,”¹⁴² April 18, “the systemic obliteration of education,”¹⁴³ “the annihilation of the cultural sector in Gaza.”¹⁴⁴

The demonization of Israelis by UN officials from the highest levels has been crazed. These are not a few isolated kooks. Their words are translated into multiple languages and disseminated globally, online, on social media, by video, press releases—and archived so that they are available permanently, to any legislature and any classroom, anytime anywhere.

UN Secretary-General António Guterres has produced a steady stream of extremist vitriol:

Gaza is becoming a graveyard for children.¹⁴⁵

The situation in Gaza is a festering wound on our collective conscience that threatens the entire region.¹⁴⁶

Israeli military operations have resulted in destruction and death in Gaza at a scale and speed without parallel since I became Secretary-General.¹⁴⁷

UN High Commissioner for Human Rights Volker Türk, February 20, 2024¹⁴⁸

There appears to be no bounds to—no words to capture—the horrors that are unfolding before our eyes in Gaza.... This is carnage.”

UN Human Rights Council “experts” have been pouring out statements such as:

Albeit through the glistening eyes, and burning flesh, thirst

and starvation, we witness the collective indestructible human spirit.... [T]he Palestinian people...continue to be dehumanized, abused and suffer from oppression, displacement, massacre and erosion of dignity.¹⁴⁹

Gazans now make up 80 per cent of all people facing famine or catastrophic hunger worldwide.”¹⁵⁰ (Simultaneously, the UN’s own World Food Program was telling its audience: “Nearly 350 million people around the world are experiencing the most extreme forms of hunger right now. Of those, nearly 49 million people are on the brink of famine.)¹⁵¹

(cont’d) Not only is Israel killing and causing irreparable harm against Palestinian civilians with its indiscriminate bombardments, it is also knowingly and intentionally imposing a high rate of disease, prolonged malnutrition, dehydration, and starvation.¹⁵²

Israel has been intentionally starving the Palestinian people in Gaza since 8 October.¹⁵³

I am horrified by the depravity of killing civilians while they are at their most vulnerable and seeking basic assistance. These constitute atrocity crimes of the highest order.¹⁵⁴

The flagrant and systematic slaughter of Palestinian civilians...¹⁵⁵

Navi Pillay, former UN High Commissioner for Human Rights and lead champion of the antisemitic UN Durban Declaration, understood full well that October 7 threatened her narrative.

She went on the warpath together with Hamas; no libel was too bloody.

Independent Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, October 30, 2023¹⁵⁶

How can children ever be deemed to be a threat so much so that Israel has to defend itself against these babies and children?

In mid-April 2024, just weeks after the Human Rights Council gave her the job of pushing an arms embargo against Israel, Pillay convened a briefing with UN member states that provided a clear view of her offensive strategy—how blood libels will serve as the foundation of her plan of attack. For instance, Pillay charged Israel with wantonly attacking health facilities.

Independent Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, April 16, 2024¹⁵⁷

Earlier this month, the Israeli Security Forces withdrew from a two-week long operation at the Al-Shifa Hospital in Gaza City that left the medical complex in ruins.

Pillay's audience would have no idea that Hamas and Islamic Jihad terrorists had repeatedly weaponized Gaza health-care facilities, used them for military purposes, and were operating from inside al-Shifa Hospital. Nor would they have any idea that these terrorists were firing at Israeli troops from inside the emergency room and maternity ward, hurling explosive devices from the burn ward, and that others located around

the hospital were firing mortars at Israeli forces and hitting the hospital. They would have no idea that Israeli troops had brought medical devices, medications, and medical supplies into the hospital.¹⁵⁸ Instead, the head of a UN Commission of Inquiry gathered the world's states to tell them it was Israel that had left the medical complex in ruins, and that she was sharing all her (false) "information" with the prosecutor of the International Criminal Court—and expected him to act on it soon.¹⁵⁹ Which he has now done.

The blood-libel strategy is a lynchpin of the UN response to October 7. The actual facts have no impact either on the Palestinian terrorists on the front line or the UN libelers bringing up the rear. A stark example was the accusation by UN actors, including Albanese, that on October 17, 2023, Israel targeted the al-Ahli Baptist Hospital in Gaza¹⁶⁰ and the sick civilians and health-care personnel therein. The claim echoed the same wild accusation of the "Health Ministry in Gaza"—what could be called the Hamas Ministry of Truth. Nine UN special rapporteurs—purported "human rights experts"—issued a press release expressing "outrage," stating that "470 civilians" had been killed, calling it "an atrocity" and a "crime against humanity"; their headline, blasted around the world by the Office of the UN High Commissioner for Human Rights, demanded the "prevention of genocide."¹⁶¹

It was a lie—exposed *before* the United Nations issued its global blood libel.¹⁶² The hospital had been hit by a Palestinian Islamic Jihad rocket that was aimed for Israeli civilians and misfired. In addition, non-Palestinian sources put the number of dead as a fraction of the Hamas-UN number, indicated a nearby parking lot had been struck, and showed the hospital walls still intact.

UN "experts" on offense spread this lie a mere 11 days since

Palestinian terrorists, with the active participation and support of Palestinian civilians¹⁶³ and UN employees,¹⁶⁴ had carried out the worst assault on the Jewish people since the Holocaust. Mutilated bodies remained unidentified. Jewish women and children and babies and old people held hostage—some inside Gaza hospitals—were being starved, murdered, and raped by Palestinians. And instead of uniting to end Hamas crimes, the United Nations was fabricating Israeli crimes.

To this day, the UN website still broadcasts the lie about al-Ahli Baptist Hospital with no retraction or admission of wrongdoing.¹⁶⁵ The media success of the initial outburst and UN support for Hamas mendacity reinforced the strategy of “demonize fast and furiously and never apologize.”

The vociferousness of the UN attack on Israel, starting on October 7, was intended to prevent the full horror and the actual root cause of the Arab-Israeli conflict—antisemitism and the violent pathological denial of Jewish self-determination—from sinking in.

The plan worked.

9. Déjà Vu

The swiftness of the massive UN attack on Israel that started on October 7 was made possible by the massive UN attack on Israel that had been underway long before October 7. By October 7 the prep work had all been done, the campaign had been in full swing for years, the actors were all primed and ready to put it in overdrive.

Navi Pillay was already referring to Israel as guilty of the international crime of apartheid.¹⁶⁶

The General Assembly was already engaged in yet another

case (“advisory opinion”) at the ICJ. This one is intended to launch BDS on a global scale. The General Assembly’s referral of the case to the ICJ begins by declaring Israel guilty. It asks the Court: “What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people...?”¹⁶⁷

The jackals at the International Criminal Court were already circling,¹⁶⁸ in between a steady stream of meetings with Palestinian and UN officials.¹⁶⁹

The Palestinian “refugee” agency, UNRWA, was churning out yet another generation of Palestinians bent on “return” and the end of the Jewish state,¹⁷⁰ in between lending a hand to Hamas.¹⁷¹

UN actors were already blaming Israel for the absence of world peace.¹⁷²

In other words, the tsunami of antisemitism that began on October 7 was caused by

a preexisting fault line, a rupture in civilization that had already occurred.

10. “It’s the Existence of Israel, Stupid”

On October 9, 2023, the UN Human Rights Council was in session and a Pakistani ambassador spoke on behalf of all 57 members of the Organization of Islamic Cooperation (OIC). He made it clear that in their view the existence of a Jewish state was the problem:

“This whole huge loss of lives and unabated violence is a sad reminder of more than seven decades of illegal foreign occupation, aggression and disrespect for the international law.”¹⁷³

He ended his statement with an appeal: “to remember victims of decades of foreign occupation in the occupied Palestinian Territory. I request you all to stand for one minute to honor those victims.”¹⁷⁴ The UN herd mentality worked and the representatives of Germany and France were among those who stood up.

The head of the Palestinian “refugee” agency, UNRWA Commissioner-General Philippe Lazarini, has connected the dots between the Gaza conflict and the big lie peddled by a community that has spent more than seven decades refusing to coexist with a Jewish state. It’s the same community that has turned “refugeeism” into a permanent inheritable occupation for Palestinians.

UNRWA Commissioner-General Philippe Lazarini, December 13, 2023¹⁷⁵

The events in Gaza are taking place against a backdrop of 75 years of displacement. 75 years of failure to find a just and lasting solution to the plight of Palestine Refugees. During this time, they have been deprived of their basic human rights and their right to self-determination.”

Since the revelation of incontrovertible evidence of UNRWA’s collusion with Hamas in various forms,¹⁷⁶ its representatives have had to rationalize their *raison d’être*—and have laid bare their anti-Israel agenda in the process.

UNRWA Commissioner-General Philippe Lazarini, March 4, 2024¹⁷⁷

Attacks against UNRWA seek to eliminate its role in protecting the rights of Palestine Refugees ...75 years after their Nakba.

“Nakba,” as previously noted, is Arabic for the catastrophe of the creation of a Jewish state.

Navi Pillay took a bow when the ICJ took up the General Assembly advisory-opinion request on “consequences” in February 2024,¹⁷⁸ claiming the General Assembly had acted on her initiative. She was thrilled by the legal trappings now surrounding the quest to turn back the clock before 1948.

Independent Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, February 2, 2024¹⁷⁹

We were asked to identify the root causes of the conflict... It's now before the ICJ. And isn't it incredible that it's taken 75 years of occupation for a matter such as whether the occupation is lawful or not, is before the Court for the very first time.

Francesca Albanese traffics in her own fake history. She ignores the aforementioned Nazi collaborator and Palestinian national leader, Grand Mufti Amin al-Husseini, and his attempts to expand Nazism to Palestine;¹⁸⁰ instead, she claims antisemitism was only a European problem. She also skips over the 800,000 Jewish refugees from Middle East and North African Arab countries who bore the brunt of antisemitism throughout the Arab world.¹⁸¹

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories, Francesca Albanese, April 1, 2024¹⁸²

Palestinians...have been asked to bear the brunt of something they didn't cause 75 years ago. Antisemitism has been applied in Europe for centuries....

In UN terminology, Amin al-Husseini aided and abetted the mainstreaming of antisemitism and the normalization of genocide among masses of followers and listeners. Albanese and Pillay have taken a page from his playbook and modernized it for our age by treacherously labeling it “law” and “human rights.”

11. Indifference and Discrimination

a. All Palestinian Atrocities

On June 1, 2010, when the Human Rights Council happened to be in session, it carved out time to hold an “urgent debate” to condemn Israel for an event that had taken place the day before on May 31.¹⁸³ A flotilla, originating in Turkey, attempted to violate the lawful Israeli sea blockade of Gaza, which had been instituted to prevent the creation of a lethal Iranian arms depot on Gaza’s Mediterranean coast. A violent attempt to murder the Israeli forces who had boarded one of the vessels in an effort to enforce the blockade ended in the death of nine flotilla participants. Twenty-four hours later, the Human Rights Council held the urgent session and on June 2 it adopted a resolution¹⁸⁴ that “condemns” Israel; it announced that the Council: “Deeply deplores the loss of life of innocent civilians, expresses its deepest sympathy and condolences to the victims and their families”; and it created an “international fact-finding mission” on “the Israeli attacks” that spawned three more Council resolutions and four reports condemning Israel over the following two years.

On October 9, 2023, the Human Rights Council was also incidentally in session. In response to more than a thousand

dead Jews, the Council held no urgent debate, issued no condemnation of Hamas, adopted no resolution deeply deploring the loss of Israeli lives or sending condolences to the victims of Palestinian terror. A UN fact-finding mission focused on Palestinian attacks didn't happen, has never happened, and will never happen.¹⁸⁵ Six months later, after another session in March 2024, the UN Human Rights Council adopted four resolutions condemning Israel and zero condemning Hamas and other Palestinian terrorists for their October 7 attacks.

In other words, in response to October 7 the UN Human Rights Council delivered exactly what Palestinian terrorists wanted and expected from the United Nations: talk of justifications, inversion of victim and perpetrator, and solidarity with their goals. All of which has been predictably interpreted as a sympathetic nod for more violence against Jews.

That was the United Nations' top "human rights" body. What about its top "international peace and security" body?

On December 16, 2023, the Security Council issued a unanimous press statement¹⁸⁶ that "condemned in the strongest terms the cowardly terrorist attack..."—that took place in Iran— "and resulted in the tragic loss of life of 11 Iranian police officers and inflicting [sic] critical injuries on eight others." The incident had occurred the day before.

On March 22, 2024, the Security Council issued a unanimous press statement¹⁸⁷ that "condemned in the strongest terms the heinous and cowardly terrorist attack at a concert hall..."—that took place in Russia—and "resulted in the grievous loss of dozens of lives and has left more than 100 injured." The incident occurred on the same day.

On October 8, 2023, the Security Council met. At the time, the known death toll in Israel was 700, the injured were 2,100,

Israel was fighting Palestinian terrorists on Israeli territory in multiple locations, and videos of atrocities at the Israeli music festival and elsewhere were public. The Council meeting ended without a word—and there has been no condemnation of the October 7 Palestinian terror attacks ever since.

b. Palestinian Sexual-Violence Atrocities

The UN response to the sexual violence perpetrated against Israeli women and girls is beyond shocking. It is a case study in modern antisemitism—the use and abuse of “rights” to do wrong.

The United Nations has a vast number of departments, officials, experts, committees, commissions, bodies, agencies, and resources dedicated to ferreting out the abuse of women and girls. Rape as a weapon of war, female genital mutilation, sexual slavery, and other sexual crimes are all identified, studied, and denounced from every conceivable aspect of this horrible pathology.

Then came mass atrocities—rape as a weapon of war, female genital mutilation, sexual torture, sexual slavery—against Jewish female victims by Palestinian males. And the United Nations responded by creating an exception clause for Jews to the organization’s gold standard of “universal” rights.

To the question, what did UN actors know and when did they know it, comes the undeniable answer that they knew on day one. They knew from the Palestinian perpetrators themselves who broadcast and boasted about their orgy of sexual violence against Jews. From October 7, videos of rape victims and gang rapes were globally available online. They knew from witnesses, first responders, medical personnel,

those collecting, processing, and identifying bodies, family members, war correspondents, and investigative reporters. All were shaken to their core by the pure horror of what had happened and what was continuing to happen to the kidnapped. Also shaken by the news were vast numbers of the rest of humanity who, unlike Hamas, were aroused by the pain and suffering of Jewish women and girls.

And what did the United Nations and its enormous women's rights apparatus do with this horrifying information? The UN Human Rights Council special rapporteurs most directly involved—on Israel and on violence against women, Francesca Albanese and Reem Alsalem—launched a campaign to cast doubt on whether it had ever happened.

Moreover, on the one hand, when these UN “experts” had stacks of solid evidence—including from the Palestinian perpetrators themselves—but the victims were Jewish, they came up with endless impediments to drawing conclusions. On the other hand, when the (alleged) victims were not Jewish, the absence of any evidence of Israeli crimes was no stumbling block to parroting immediately Hamas's fantastical charges.

UN Special Rapporteur on Violence against Women and Girls Reem Alsalem, November 20, 2023¹⁸⁸

Since 7 October, the assault on Palestinian women's dignity and rights has taken on new and terrifying dimensions.... Israel's continued assault on the reproductive rights of Palestinian women and their newborns has been relentless.”

That fiction, a blood libel, Alsalem was sure about. But when it came to Hamas's mutilation of Jewish women's bodies—recorded and made publicly available by the mutilators themselves—UN “expert” Alsalem had a different reaction.

UN Special Rapporteur on Violence against Women and Girls Reem Alsalem, November 20, 2023¹⁸⁹

Reports of sexual violence must be verified, thoroughly investigated and those responsible must be held accountable.

Also, at the forefront of attempting to spin Palestinian sexual violence against Jews was Commission of Inquiry chair Navi Pillay. After churning out multiple reports based on phony “hearings,” with select “witnesses,” and the deliberate trashing of millions of “submissions” deemed “pro-Israel,”¹⁹⁰ she hastened to claim jurisdiction and slow down judgment. From October 10, Pillay tried to thrust herself and her bogus inquiry into the spotlight by appointing herself lead investigator so the world might await her edicts.¹⁹¹

The scheme played out across the UN system, with UN actors systematically downplaying Hamas’s sexual violence as “reports,” “accounts,” or “allegations.”¹⁹²

In reality, for most of these UN actors, no amount of “verification” would do. The following is a list of UN players who—six months after October 7—had never acknowledged that the sexual violence against Israelis actually occurred (and not merely acknowledged that there have been “reports” or “accounts” or “allegations” of sexual violence), or condemned Hamas and other Palestinians for perpetrating this systematic sexual violence:

- the Security Council
- the General Assembly
- the Human Rights Council

- the UN High Commissioner for Human Rights¹⁹³
- the UN Commission on the Status of Women
- the UN Committee on the Elimination of Discrimination against Women (CEDAW)
- the World Health Organization
- 47 of 49 UN human rights “experts”/special rapporteurs¹⁹⁴

It took UN Secretary-General António Guterres *three and a half months* to acknowledge and condemn Hamas’s sexual violence—on January 23, 2024.¹⁹⁵ And in marked contrast to UN demands for more verification of Hamas’s sexual crimes from across the UN system, Guterres only did so while simultaneously repeating Hamas’s casualty figures in Gaza *without question*.¹⁹⁶ Moreover, Guterres subsequently backtracked in his annual report on “Conflict-Related Sexual Violence.”¹⁹⁷

What about the UN Secretariat’s lead women’s rights unit UN Women? Their home page proclaims: “We are the global champion for gender equality. UN Women is the UN organization delivering programmes, policies and standards that uphold women’s human rights and ensure that every woman and girl lives up to her full potential.”¹⁹⁸ Their “about” section begins: “UN Women is the United Nations entity dedicated to gender equality and the empowerment of women.”¹⁹⁹ The truth is an entirely different matter.

Executive Director of UN Women Sima Bahous (Jordanian) chimed in immediately on October 7. She labeled the massacre of Jews, before any Israeli military response, thus:

Executive Director of UN Women Sima Bahous, October 7, 2023²⁰⁰

An “escalation of hostilities in #Israel & the Occupied Palestinian Territory #OPT”

And she called for “immediate de-escalation.”

UN Women continued to equate Hamas barbarism targeting civilians and Israeli self-defense targeting combatants by condemning “the attacks on civilians in Israel *and* the Occupied Palestinian Territories”²⁰¹ and calling for a ceasefire within a week²⁰² At the same time, UN Women issued multiple statements, tweets, and reports focusing only on Palestinians and ignoring Israeli victims,²⁰³ including launching on October 20, 2023, a “rapid assessment and humanitarian response in the Occupied Palestinian Territory.”²⁰⁴

Then on November 24, 2023, UN Women posted this message on its Instagram page: “We condemn the brutal attacks by Hamas on October 7 and continue to call for the immediate and unconditional release of all hostages.”²⁰⁵ Except that message was then immediately deleted,²⁰⁶ and a day later, UN Women produced an Instagram post that read: “We remain alarmed by the *reports* of gender-based violence on 7 October & call for rigorous investigation...”²⁰⁷ There was no more Hamas, and no condemnation of their actual gender-based violence.

This UN-made atrocity went on and on.

UN Women, December 1, 2023²⁰⁸

We are alarmed by the numerous *accounts of* gender-based atrocities and sexual violence.... [W]e have called for all *accounts of* gender-based violence to be duly investigated.

Executive Director of UN Women Sima Bahous, January 19, 2024²⁰⁹

We have heard shocking *accounts* of unconscionable sexual violence during the attacks...We unequivocally condemn all acts of sexual and gender-based violence *wherever, whenever, and against whomever* they are perpetrated.

Finally, on March 4, 2024, five months after the attacks, came something different. One UN official, the “special representative of the Secretary-General on sexual violence in conflict,” Pramila Patten, issued a report²¹⁰ following a mission to Israel in late January and early February. Patten’s nine-person team had held dozens of meetings and interviews of survivors, victims, and witnesses of Palestinian sex crimes, and of released hostages, first responders, and health providers; conducted on-site visits to a morgue and to multiple locations where the crimes were committed; and reviewed 5,000 photos and 50 hours of footage of the attacks that included an “independent online review” of online sources. In her report, Patten stated that “in Israel, the mission team benefitted from the full cooperation of the Government of Israel.”

Her report made findings about the hostages.

Special Representative of the Secretary-General on Sexual Violence in Conflict Pramila Patten, March 4, 2024²¹¹

Patten found “clear and convincing information that some have been subjected to various forms of conflict-related sexual violence including rape and sexualized torture and sexualized cruel, inhuman and degrading treatment.”

Her report made findings about women at the music festival and in multiple locations.

Special Representative of the Secretary-General on Sexual Violence in Conflict Pramila Patten, March 4, 2024²¹²

Patten found that “there are reasonable grounds to believe that multiple incidents of rape, including gang rape, occurred...” and “reasonable grounds to believe that sexual violence occurred....”

Incredibly, the immediate response from UN Women was merely to point to Patten’s generic Twitter account and say that *she* “finds reasonable grounds to believe sexual violence occurred....” UN Women failed to accept her findings, name the victims, or identify the perpetrators.

UN Women, March 5, 2024²¹³

We condemn all acts of sexual violence [against nobody in particular] and call for [unknown] perpetrators to be brought to justice.

Instead, to solve the great mystery, they called “for a further @OHCHR [Office of the UN High Commissioner for Human Rights] investigation.

One week later, UN Women made a statement. It was now five months after October 7.

Executive Director of UN Women Sima Bahous, March 11, 2024²¹⁴

We are witnessing a destruction and killing of civilians, UN personnel, humanitarians, and journalists at an

unprecedented scale.... [T]he Special Representative for Sexual Violence in Conflict Ms. Pramila Patten’s report has horrific accounts of sexual violence against women and girls in the October 7 attack. There are also harrowing testimonies of sexual violence by Israeli forces against Palestinian women in detention, house raids, and checkpoints. All such acts and forms of violence against women and girls are condemned.

This was the *first* time that Bahous, the United Nations’ top women’s rights official, obliquely condemned “such acts” — and without condemning Hamas for those acts. And still, she couldn’t do it without fabricating comparable crimes by Israelis against Palestinians.

The story of the UN response to Palestinian sexual-violence atrocities against Israeli women and girls, however, didn’t end there. Simultaneously with the Patten mission and report, UN “independent experts,” former UNRWA employee Albanese and Jordanian-Palestinian Alsalem, were conducting a counteroperation to undercut Patten, to cast doubt on findings of Palestinian sexual atrocities, and to divert attention by substituting fabricated Israeli sexual atrocities in the minds of the public.

In February 2024, Albanese and Alsalem, along with Dorothy Estrada-Tanck,²¹⁵ chair-rapporteur of the Working Group on Discrimination against Women and Girls, produced a so-called “communication”²¹⁶ that consisted of a series of allegations and requests for information on issues upon which its authors had already decided.²¹⁷ The “communication” was sent to Israel in February 2024 and a response was requested within two months, which Israel provided in early April.²¹⁸ The UN actors didn’t wait for the Israeli response before sending an

explosive press release around the world, among other things charging Israel with sexual violence against Palestinians.²¹⁹

The timing was no coincidence.

On February 6, 2024, Patten's mission to Israel examining Hamas's sexual violence was the subject of an Israeli press release.²²⁰ On February 7, 2024, the Albanese and Alsalem-led "communication" was issued alleging Israelis were guilty of sexual violence.

On February 14, 2024, Patten's investigative team wrapped up its Israeli visit. On February 19, 2024, Albanese and Alsalem, and a few more Human Rights Council "experts," issued their press release on supposed Israeli sexual-violence crimes.

On March 4, 2024, Patten issued her report²²¹ finding "clear and convincing information" and "reasonable grounds to believe" horrific incidents of sexual violence and torture by Palestinians against Israelis had occurred.²²² Meanwhile, Alsalem was making the rounds from CNN²²³ to the BBC²²⁴ with her sensational and totally unverified accusations of Israeli sex crimes.

Albanese and Alsalem were evidently bent on sidelining Patten's report and making it impossible to refer to Palestinian sadists without (imaginary) Israeli doppelgängers. Their "communication"²²⁵ stands out as one of the most obviously contrived and offensive UN documents ever produced, revealing the sickness of the UN antisemitism machine. It is therefore spelled out in some detail.

Though these actors pass themselves off as serious investigative authority figures, the basics escape them. The "communication" begins: "...240 persons were reportedly taken hostage, including 19 women."²²⁶ Actually, Hamas abducted 67 women.²²⁷

The content of their UN "communication" includes the

following, what might be called body doubles from an alternate universe. They took Hamas atrocities and manufactured matching Israeli atrocities.²²⁸ The matches relate not only to sexual violence but also to kidnapping and other crimes, and illustrate how Israeli women and girls have been paying the price for the disturbing reality of indifference and discrimination against all Jews.

1. UN “communication”: “The Israeli Defense Forces (IDF) has reportedly carried out summary executions of Palestinian civilians.”

Actual Hamas atrocity: “[T]he bodies of at least two women were found inside a home, on the floor and naked, with gunshot wounds to their heads.”²²⁹

2. UN “communication”: “[W]omen and children, including girls, have also been reportedly detained from the informal shelters and their homes.”

Actual Hamas atrocity: Women and children kidnapped from their homes include: “Channa Peri, 79, of Kibbutz Nirim—Kidnapped from her home; Hanna Katzir, 77, of Kibbutz Nir Oz—Kidnapped from her home; Raz Katz Asher, 4, of Kibbutz Nir Oz—Kidnapped from her home; Aviv Katz Asher, 2, of Kibbutz Nir Oz—Kidnapped from her home; Doron Katz Asher, 34, of Kibbutz Nir Oz—Kidnapped from her home with her young children; Ruth Munder, 78, of Kibbutz Nir Oz—Kidnapped from her home; Keren Munder, 54, Kfar Saba—Kidnapped from her parents’ home in Kibbutz Nir Oz; Adina Moshe, 72, of Kibbutz Nir Oz—Kidnapped from her home;

Margalit Mozes, 78, of Kibbutz Nir Oz—Kidnapped from her home....”²³⁰

3. UN “communication”: “Reportedly, one of the women that was detained is over 80 years old.”

Actual Hamas atrocity: “25 elderly civilians aged 80 and over were murdered.”²³¹ The list of the kidnapped includes: “Yaffa Adar, 85, of Kibbutz Nir Oz;...Alma Avraham, 84, of Kibbutz Nahal Oz;...Ditza Heiman, 84, of Kibbutz Nir Oz.”²³² “The invasion included severe war crimes, including the kidnapping of innocent elderly people, Holocaust survivors....”²³³

4. UN “communication”: “[M]others are also detained with their infant children.”

Actual Hamas atrocity: “The invasion included severe war crimes, including the kidnapping of...mothers with their babies....”²³⁴

5. UN “communication”: “An undetermined number of women and children, including girls, have gone missing, and are believed to have been forcibly taken by the IDF.”

Actual Hamas atrocity: “Not since the Holocaust, have we witnessed scenes of Jewish women and children... being herded into trucks and taken into captivity.”²³⁵

6. UN “communication”: “[A] Palestinian female infant was reportedly taken by the IDF from her home in Gaza to Israel by an Israeli officer...in what appears to be a forced transfer

of a child out of Gaza. The IDF has so far not returned the infant and her exact location is reportedly unknown.”²³⁶ The “infant” was in fact a dog, rescued by an IDF soldier.²³⁷

Actual Hamas atrocity: “I would like to raise the plight of the Bibas family, the two young children, ten-month-old baby....Their whereabouts are unknown to us.”²³⁸ “Yarden, Shiri, Ariel, and Kfir Bibas were cruelly kidnapped on October 7th...Shiri was kidnapped along with Ariel, aged four, and Kfir, nine months old, at around ten in the morning, by terrorists using an ATV... we are making every effort to obtain more information about their fate.”²³⁹

7. UN “communication: “There are serious concerns that some of the children may have been abducted and forcefully carried off and transferred to Israel or killed.”

Actual Hamas atrocity: “Over two hundred Israeli citizens were abducted and many are still being held by Hamas in the Gaza Strip, including small children.... Civilian fatalities...39 were children under the age of 18: 5 children aged 0-5 (including the fetus of a woman who was severely wounded and whose baby did not survive), 5 children aged 6-10, 29 children aged 11-18.”²⁴⁰ “List of 28 children forcefully abducted to the Gaza Strip...”²⁴¹

8. UN “communication”: “Palestinian women who have been detained have reportedly experienced...denial of food, water and visits by their lawyers or members of the International Committee of the Red Cross.”

Actual Hamas atrocity: “Babies, the elderly, women, men, are being held in brutal captivity by Hamas, without vital medication or visitation from the Red Cross.”²⁴²

9. UN “communication”: “One of the detained women was reportedly placed in a truck with Palestinian men...and was stripped naked by the Israeli military in the place where she was detained.”

Actual Hamas atrocity: “We cannot forget...Shani Louk’s dead body thrown in the back of a pickup truck driven by terrorists.”²⁴³ “...a half-naked woman lying seemingly unconscious face-down in the back of a pickup truck in Gaza filled with armed men.”²⁴⁴

10. UN “communication”: “Two female detainees were reportedly raped and sexually assaulted.”

Actual Hamas atrocity: “The mission team received clear and convincing information that sexual violence, including rape, sexualized torture, and cruel, inhuman and degrading treatment occurred against some women and children during their time in captivity and has reasonable grounds to believe that this violence may be ongoing...female hostages were also subjected to other forms of sexual violence.”²⁴⁵

11. UN “communication”: “One woman was also reportedly threatened to be raped in front of her father.”

Actual Hamas atrocity: “Hamas’s attack included violent

acts of rape, accompanied by threats with weapons, and in some cases targeted towards injured women.... Often, the rape was perpetrated in front of an audience—partners, family, or friends—in a manner intended to increase the pain and humiliation of all present.”²⁴⁶

12. UN “communication”: “Sick detainees have reportedly been prevented from accessing medicine and medical treatment.”

Actual Hamas atrocity: “[H]ostages: babies, children, the elderly, women, and men, the wounded and sick, are threatened by despicable Hamas terrorists, held in diabolical cruelty, in the dark, in tunnels, without medical treatment, in terrible suffering.”²⁴⁷ “As part of the @IDF activity in the Nasser hospital, boxes of medicine were found with the names and photos of Israeli hostages on them. The packages of medicine that were found were sealed and had not been transferred to the hostages.”²⁴⁸

13. UN “communication”: “Female detainees were also reportedly threatened with rape and with burning their families alive.”

Actual Hamas atrocity: “Families were slaughtered in their beds...civilians were burnt alive...”²⁴⁹ “[A]t least 100 bodies had destructive burn damage.”²⁵⁰

14. UN “communication”: “Five female detainees in one prison were collectively stripped naked and allegedly asked to perform degrading motions such as opening their legs.”

Actual Hamas atrocity: “[C]orpses with conspicuously spread legs were observed.”²⁵¹

The level and detail of overlap between actual Hamas atrocities against Israelis and fictitious Israeli atrocities against Palestinians exposes this UN exercise as a very dangerous, incendiary, and provocative farce. To Albanese and Alsalem, October 7 was a PR problem they set out to solve. Due process, the UN code of conduct for rapporteurs, and the facts had nothing to do with it. With the Patten report in the pipeline, they issued a press release because “the wider public should be alerted”²⁵² to Israelis (supposedly) engaged in kidnapping and disappearances,²⁵³ and raping and sexually abusing Palestinian women.²⁵⁴

If there was no proof, that was no problem. Alsalem was interviewed by an Israeli reporter and asked about the source of this “information” on Israeli crimes. Her response was a travesty:

UN Special Rapporteur on Violence against Women and Girls Reem Alsalem, March 5, 2024, interview²⁵⁵

ALSALEM: This press release relates to reasonably credible information that has reached us regarding a number of violations that seem to have been committed.

REPORTER: What do you mean reasonably credible information?

ALSALEM: I cannot give you more details on how I got the information and from whom.

REPORTER: You got the information from the victims themselves or from family members?

ALSALEM: This is sensitive information. I've answered the question that I cannot for reasons of security.

Here is a "Jordanian-Palestinian" terrorist mouthpiece, passing herself off as an independent UN human rights expert, who would not give any insight into the sources of her incendiary accusations, which just happened to mirror the crimes of Palestinians against Jews.

When it comes to Israelis sexually abusing Palestinians, "seem to have been committed" and "reasonably credible" sources will suffice. When it comes to Palestinians sexually abusing Israelis, it's a different story. Alsalem answered the same reporter when asked if Israeli women were raped on October 7.

UN Special Rapporteur on Violence against Women and Girls Reem Alsalem, March 5, 2024, interview²⁵⁶

REPORTER: Do you still believe that Israeli women were not raped on that day, on 7th of October?

ALSALEM: The point is that I regret that until now I have not received any information. And that information is what I need in order to be able to do my work.

REPORTER: Hamas militants actually filmed all the brutal acts perpetrated on October 7th and the IDF also published a film that collected this evidence. Didn't you see the film?

ALSALEM: We cannot rely on only digital material or

material produced online or by the media. Just based on that I cannot at this stage say, you know, what exactly has happened. That said, I'm very open to looking at it.

REPORTER: You can't say that Israeli women were raped on October 7th?

ALSALEM: It may have happened, indeed.

REPORTER: It may have happened? But you can actually see the footage.

ALSALEM: I have not received the film. I'm not a technical expert on videos, so I on my own will not be able to assess these videos. I will also need to seek technical expertise.

Another way of describing Alsalem's behavior is willful blindness. If she refuses to see the evidence of Hamas atrocities, she can will them away—in contrast to the victims, their families, the witnesses, and the first responders, who will be bearing pain that no one will ever be able to will away. Of course, this isn't the behavior of an expert, investigator, or analyst; it's the behavior of an antisemitic polemicist.

Likewise, Albanese simply ignored Patten's findings of "reasonable grounds to believe sexual violence occurred." On March 27, 2024, in a press conference during the UN Human Rights Council session, Albanese was asked about the "raping of Israeli women" and whether she "received any evidence that it happened." She responded: "What I was very disturbed by was the weaponization of anything that has happened on the 7th of October." She continued, as recounted above, "Personally, I have not received information. I've read reports

that have been written. I didn't find any, any convincing evidence."²⁵⁷

The closest historical analogue of Francesca Albanese is Joseph Goebbels, Hitler's propagandist and master of deception. Reacting to the worst assault on the Jewish people since the Holocaust, she charged Israel with wrongly making a big deal of it. She told her global audience that "anything" that happened on October 7—which would include using the genitals of Jews for target practice and shooting Jews in the head while being gang-raped—was "weaponized" *by Jews*.

At the same press conference, Albanese was also asked about reports that the "Israeli occupation army raped Palestinian women.... Do you have any evidence about this?" She responded: "We have also denounced it publicly because it was of serious concern among other crimes being committed against the Palestinians."²⁵⁸

The inversion worked. Patten was sidelined. Hamas won.

In April 2024, UN Secretary-General Guterres released his report for the calendar year of 2023 on "Conflict-Related Sexual Violence."²⁵⁹ In the narrative portion, the Secretary-General gave equal billing to accusations of sexual violence *by Israelis* alongside Patten's report,²⁶⁰ and "recommended" Israel grant access to UN bodies like Pillay's inquiry to conduct "fully-fledged investigation" of all "alleged" sexual violence.²⁶¹ The centerpiece of the annual report is a specific list of states and non-state actors or terrorist organizations, a "[l]ist of parties credibly suspected of committing or being responsible for patterns of rape or other forms of sexual violence in situations of armed conflict on the agenda of the Security Council." Guterres refused to put Hamas on the list, or any other Palestinian rapist or violent sexual degenerate.

By comparison, the Secretary-General's list does include:

“Da’esh” (ISIS) for sexual violence “against 11 girls, three of whom were abducted in 2014 and rescued in 2023. The remaining eight cases had occurred in previous years.” And it includes Myanmar for “United Nations verified cases of sexual violence against two girls and one boy... Three women were abducted and later found dead with [signs of]...sexual violence.”²⁶²

There is no explanation other than #MeToo_Unless_Ur_A_Jew.

12. The View from Hamas

There is no accountability for killing Jews at the United Nations, which means only one thing: more dead Jews. Such a reality is in lockstep with Hamas. The Palestinian terrorists-UN symbiosis is no secret; it is openly flaunted.

Here’s mass murderer, Hamas political leader, and U.S. Specially Designated Global Terrorist Ismail Haniyeh on December 13, 2023, singing the praises of the Secretary-General and the General Assembly:

We also express our appreciation for the positions of the Secretary-General of the United Nations, António Guterres, especially his message to the Security Council concerning the situation in the Palestinian territories, regarding it as a threat to international peace and security, in implementation of Article 99 of the United Nations Charter.... We also welcome the resolution issued by the United Nations General Assembly yesterday, which stipulates a ceasefire by an overwhelming majority. We are certain that the brutal aggression will end and the resistance will remain a faithful

guardian of the rights and legitimate aspirations of our people.²⁶³

Here's the enthusiastic response of butchers, rapists, and sadists to the actions of the UN Security Council on March 25, 2024:

In the name of Allah, the Most Gracious, the Most Merciful. The Islamic Resistance Movement Hamas welcomes today's call by the UN Security Council for an immediate ceasefire.... Hamas appreciates the efforts of our brothers in Algeria and all countries in the Security Council that have supported and continue to support our people, and work to stop the aggression and the zionist (sic) genocide war.²⁶⁴

All is not right with the world when the Islamic Resistance Movement—a terrorist organization—is a fan of a world body theoretically dedicated to world peace and human dignity.

13. The UN's Israel-Bashing Tactical Campaign

a. Rely on Hamas for Statistics and Facts

UN officials set the stage for unquestioned reliance on Hamas “statistics.” Fully aware that Palestinian terrorists seek to inflate casualty numbers and have been repeatedly caught doing so,²⁶⁵ and knowing the major impact these figures have on public opinion, the United Nations has regurgitated the information from Hamas-controlled sources. If accuracy were the UN goal, solid reasons for challenging Hamas's numbers

abound.²⁶⁶ In early April 2024, even Hamas announced the data necessary to identify over 11,000 people was “incomplete.”²⁶⁷ In early May, the UN quietly altered its reports to halve the number of women and children killed, without explanation.²⁶⁸ And still, the UN serves as a global echo chamber for Hamas.

General Assembly President Dennis Francis, February 29, 2024²⁶⁹

Tragically, over 30,000 *civilians have been killed* in this current phase of conflict. How many more lives before this spree of indiscriminate killings ends?

Apparently, for the president of the General Assembly, all armed violent Palestinians are a fiction of Israel’s imagination.

The United Nations’ World Court repeated the slander:

While figures relating to the Gaza Strip cannot be independently verified, recent information indicates that *25,700 Palestinians have been killed....* (see United Nations Office for the Coordination of Humanitarian Affairs (OCHA), *Hostilities in the Gaza Strip and Israel—reported impact, Day 109*” (24 Jan. 2024)).²⁷⁰

The UN Court made no effort whatsoever to disaggregate combatants from civilians, or even to point out that the number killed would include both. It mouthed a caveat about verification and yet repeated the unverified, obviously highly prejudicial numbers anyway. It identified the “source” as OCHA, which is completely misleading since reverting to OCHA is simply another direction to move on to the actual source—in OCHA’s words: “Source: MoH Gaza.”²⁷¹ The Ministry of Health (MoH) is a euphemism for Hamas—a party to the conflict with

a record of lying about numbers and a vested interest in doing so. OCHA itself is at pains to take zero responsibility for the numbers, adding a “Disclaimer” that says:

Disclaimer: The UN has so far not been able to produce independent, comprehensive, and verified casualty figures; the current numbers have been provided by the Ministry of Health or Government Media Office in Gaza and the Israeli authorities and await further verification. Other yet-to-be verified figures are also sourced.²⁷²

To repeat: “not” verified casualty figures, “cannot be independently verified,” “await further verification,” “yet-to-be verified,” but fine to regurgitate—without even identifying the source as Hamas—by a so-called court of law as a key component of its analysis of the genocide accusation. The spectacle made a mockery of the rule of law.

From the start, the United Nations instituted a pattern of continuously announcing alleged numbers of dead and injured in Gaza without disaggregating casualties into terrorists and civilians. They have done so fully aware that killing the armed combatants of the enemy during a time of war is not illegal. Pretending they are all civilians or bemoaning the death of mass murderers doesn’t make it fact or law or right.

b. Rewrite the Rules of International Law for a Party of One—Israel

UN sources have continually misrepresented international law, claiming that any civilian casualty is a war crime. In fact, the rules prohibit *targeting* civilians, and they recognize that

within limits, civilian collateral damage or indirect harm is an unfortunate, but legal, cost.

UN sources pretend determining proportionality is about numbers. If the numbers of dead are troubling, which they are, it must be an Israeli war crime. If the numbers of Palestinian dead are high by comparison to the numbers of Israeli dead, it must be an Israeli war crime. This kind of analysis is false, it isn't law, it's propaganda.

First, we don't know the numbers of civilian deaths because we do know that Hamas lies about those numbers.²⁷³

Second, the laws of war do not prohibit *any* civilian casualties. They require proportionality—a principle that forbids attacks directed at legitimate military targets in which the expected civilian casualties will be excessive in relation to the anticipated military advantage gained.

Third, assessing the lawfulness of attacks is not a matter of hindsight. It depends on what was objectively reasonable based on the information available to the decision-maker at the time, not after-the-fact. The law does not require perfect accuracy in targeting. It requires that sufficient steps be taken to satisfy the proportionality analysis. The Hamas-UN legal team have no clue what was known to the reasonable decision-maker in the IDF at the time of IDF strikes, and they don't care. They also don't care about the steps taken by, and the involvement of, IDF lawyers in the targeting process. UN agents declare—immediately—that Israel's actions are illegal without any of the requisite knowledge or analysis.

Fourth, killing combatants is not a crime. Proportionality has no application to combatants or military objectives. On the contrary, losses inflicted on enemy combatants and military objectives may be far greater than the losses experienced by the other warring party. This is why UN “experts”—together

with Hamas's oxymoronic "Ministry of Health"—go to such lengths to pretend there are no Palestinian combatants, or claim Palestinians are all simply "resisting," or are not engaged in terrorism because killing Israelis/"occupiers" is not terror.²⁷⁴ These are legal-sounding contortions but they are not law.

Fifth, every time Israel has tried to get Palestinian civilians out of harm's way, to prevent their use as human shields, UN actors have intervened to keep them in danger. We are quite literally witnessing the deadliest UN crime in history.

1. UN officials have claimed that warning the population to move—warnings or precautionary measures consistent with international law, to prevent civilians from being used as human shields (a use of human beings inconsistent with international law)—is criminal on *Israel's* part. For instance, they condemned Israel's efforts to protect Palestinian civilians as "forcible population transfers," "collective punishment," a "crime against humanity," "a death sentence," a "noose around the civilian population."²⁷⁵ UN actors quoted "the Palestinian Ministry of Health"—aka Hamas—as saying evacuation was "impossible" from places like al-Shifa Hospital, where Hamas itself was holed up²⁷⁶ and hiding some of the Israeli kidnapped.²⁷⁷
2. The UN has actively inhibited and refused to help Palestinian civilians trying to get out of harm's way.²⁷⁸ Multiple UN agencies issued a joint statement declaring: "We will not participate in the establishment of any 'safe zone' in Gaza that is set up without the agreement of all the parties"²⁷⁹—giving the party engaged in the practice of human shielding a veto over whether or not to prevent the practice of human shielding.

3. The UN has objected to temporarily moving Palestinian civilians to safety in the neighboring state of Egypt or in other states that have offered refuge—keeping them instead as pawns to prevent Israel from defeating Hamas. UN actors continually object in the name of “forced” displacement, which would be news to the masses longing to get out but denied entry into Egypt, or the ability to depart for anywhere else.²⁸⁰

In 2012, the UN General Assembly gave the so-called “State of Palestine” non-member observer *state* status.²⁸¹ The so-called state proceeded to ratify human rights treaties, including the International Covenant on Civil and Political Rights.²⁸² The Secretary-General accepted this alleged ratification. And the treaty says: “Everyone shall be free to leave any country, including his own.”

Furthermore, international law says people have a right to seek asylum. And professional Israel-bashers like Amnesty International repeatedly demand that “Governments Welcome Refugees, Asylum Seekers and Migrants.”²⁸³ But the international lawyers and activists aren’t jumping up and down demanding Egypt or another state in the region or elsewhere do any welcoming, however temporary (while Israel removes the combatants permanently).

Instead, the UN High Commissioner for Refugees has been running a global campaign—in clear violation of the 1951 Refugee Convention—to prevent Palestinian civilians from fleeing or seeking refuge from the monsters in their communities who are using them as human shields.²⁸⁴

Hamás’s use of the Palestinian civilian population of Gaza as its human shield is both a war crime, and a win for Hamas

precisely because of the United Nations' falsification of legal standards and its active facilitation of human shielding.

And then there's Navi Pillay and her go-to strategy of fabricating the facts and the law. Pillay spoke to an African news station in February 2024, shortly after the International Court of Justice (ICJ) ordered provisional measures under the Genocide Convention in a case initiated by South Africa against Israel.

Independent Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Navi Pillay, February 2, 2024²⁸⁵

The highest judicial organ of the United Nations, has ruled decisively on the matter finding genocidal intent." Pillay called it "a profound ruling.

The misrepresentation of the outcome of the case by partisan actors was so serious that the presiding judge at the time, Joan Donoghue, took the unusual step of correcting the record for the media. After she retired, Donoghue told the BBC in April:

The Court decided that the Palestinians had a plausible right to be protected from genocide and that South Africa had the right to present that claim in the Court. It then looked at the facts as well, but it did not decide—and this is something where I'm correcting what's often said in the media—it didn't decide that the claim of genocide was plausible.... The short-hand that often appears, that there is a plausible case of genocide, isn't what the Court decided.²⁸⁶

c. Keep Israeli Suffering out of the Equation

From the start, UN players set up a numbers game for victims that counted Palestinians and not Israelis. On the UN scale, there are millions of Palestinians in Gaza negatively impacted by Israel and small numbers of Israelis harmed by comparison. The 1,200 Israelis butchered almost one by one and at point-blank range in a single day were a mere blip. In this sickening hierarchy, the United Nations both ignores Hamas's responsibility for the negative consequences of its actions for the Palestinian civilian population, and the massive effect of the unprecedented butchery on Israelis.

The United Nations took no account of the three to four million Israelis forced in and out of bomb shelters for days—repeated when rocket attacks recur; the tens of thousands internally displaced month after month; the one-third of the country's agricultural land deserted or decomposing with farming communities reduced to ghost towns; the schools closed and the education system radically disrupted by attacks, closures, displacement, and military service; the parents unable to go to work; the businesses devastated; the cuts in airline services. Of no interest to the UN are the hundreds of thousands of people required to upend their lives—and the millions of immediate family members directly affected—who risk mortal danger to serve in the armed forces as a matter of life and death for their communities. Across the board came the failure of the UN to recognize and acknowledge the colossal human resources, both tangible and intangible, physical and mental, required from a society that is forced to wage war to survive. All of it counts for nothing in the UN scale of human suffering.

Keeping Israeli suffering out of the equation has had grave

consequences. From day one “humanitarian aid” was a concept the UN applied only to non-Israelis. Not to the millions of Jews under rocket fire, not the Jews grappling with the trauma of October 7 and the fate of the kidnapped, not the Jews internally displaced in the hundreds of thousands, not the orphans whose parents had been butchered, not the families without fathers or mothers because in the hundreds of thousands they must defend their loved ones on the front lines. Humanitarianism was immediately appropriated to refer only to Palestinians, and to exclude the Jewish segment of humanity.

Also never counted in UN “statistics” is the suffering of millions of Israelis and Jews around the world, today’s remnant of the Jewish people still traumatized by the Holocaust. Their pain comes both from the events of October 7 themselves, the knowledge of the ongoing sexual brutality and starvation perpetrated on the hostages, and from the enormous stress and fear of the sacrifices being made by Israel’s civilian army fighting an enemy without a shred of human decency.

None of it—the fundamental denial of the Jewish people’s right of self-determination— matters for the UN calculus.²⁸⁷

d. Flip the Script: Invert Victim and Perpetrator

i. Inversion, fast and furious

UN officials immediately flipped the script from Israelis to Palestinians, with “humanitarianism” consisting of aid to Palestinians.

UN Special Coordinator for the Middle East Peace Process
Tor Wennesland, October 8, 2023²⁸⁸

Priority now is to avoid further loss of civilian life & deliver much needed humanitarian aid to the Strip.

Israel was still preventing more dead in ongoing warfare on the ground inside Israel, under rocket attack on civilian centers, still counting the bodies, and the world was learning of appalling atrocities against Jews in the 21st century. And the UN “priority” is humanitarian aid to non-Jews, specifically to those in places where the people in charge are committing the atrocities—the very people who sickeningly calculate that any collateral damage suffered by their own people, when Israel attempts to protect itself, is a win-win. This calculus includes the very predictability of the UN response.

It was only October 12, and the United Nations couldn’t tell the difference between the attacked and the attacker, a kidnapped baby and a convicted murderer—when the first was Jewish and the second Palestinian.

UN “human rights experts” appointed by the UN Human Rights Council, October 12, 2023²⁸⁹

UN independent experts today unequivocally condemned targeted and deadly violence directed at civilians in Israel *and* violent and indiscriminate attacks against Palestinian civilians in Gaza.... The experts urged...the release of hostages taken by Hamas *and* Palestinians arbitrarily detained by Israel.”

Since Hamas atrocities were something of a hard sell, in the post-October 7 world the United Nations took its pattern of inverting Israeli victim and Palestinian perpetrator to new heights of obscenity. As discussed above, UN “human rights experts” switched out Palestinian crimes ranging from sexual

violence to kidnapping to summary executions for forged Israeli crimes of the same ilk.

And then there is the profound inversion of the charge of genocide. Genocide, a word coined and defined by a Jew who survived the Holocaust²⁹⁰ to describe the annihilation of Jews by the Nazis, carved into an international crime because of that Jew, is now used to justify the very crimes against Jews it was intended to prevent. A word and a principle and a law are appropriated by antisemites to engage in antisemitism. This upheaval of good and evil is driven by the United Nations without shame, conscience, or remorse.

ii. The Non-Racist Racist

The charge of Israeli racism—manufactured in the face of overt Arab and Muslim antisemitism—has been a UN ploy for more than half a century, and it includes the General Assembly “Zionism is racism” resolution in 1975, the Durban Declaration of 2001 (repeatedly reaffirmed), the “apartheid” label from multiple UN actors, and the latest genocide charge. The lingo of the hour is that Israelis “dehumanize” Palestinians—and not the other way around.

On the one hand, Palestinian Authority president and Holocaust denier²⁹¹ Mahmoud Abbas²⁹² is a man with a very long history of overt antisemitism in his writing and his statements, recorded and televised. Jews “have no right to defile the al-Aqsa Mosque with their filthy feet”;²⁹³ Israel has committed “50 holocausts” against Palestinians;²⁹⁴ Jews were not persecuted by the Nazis because they were Jews, but because of their “function in society which had to do with usury”;²⁹⁵ “rabbis in Israel made a clear declaration demanding

that their government poison the water in order to kill the Palestinians.”²⁹⁶

Rival Palestinian factions have this much in common: antisemitism. Hamas’s voluminous record of antisemitism, its roots, its Covenant, its political fanaticism, its religious extremism, and the outpouring of hate speech from its leaders and clerics over the years have all been documented for decades.²⁹⁷ Hamas’s guiding instruments say: “The Prophet, Allah bless him and grant him salvation, has said: ‘The Day of Judgement will not come about until Moslems fight the Jews (killing the Jews).’”²⁹⁸ And “Palestine is a land that was seized by a racist, anti-human and colonial Zionist project.... The establishment of ‘Israel’ is entirely illegal and contravenes... the will of the Ummah.”²⁹⁹ Hamas officials periodically refer to Jews as the “brothers of apes and pigs.”³⁰⁰

And yet, in what might be called “*UNsplaining*,” October 7 has never been identified or condemned by the United Nations as antisemitism, as a manifestation of quintessential dehumanization of Jews by Palestinians,³⁰¹ including Palestinian leaders at the highest levels—from the Palestinian Authority “President” to Hamas’s founding Charter. It has never been done because to the UN masters of inversion, diversion, projection, and deception, the dehumanizers are the Jews. It isn’t logic. It’s racism.

iii. Jews Are Nazis

The ultimate antisemitic inversion is that the victims of the Nazis are Nazis. Drawing an analogy between Israelis and Nazis has been a fixture of the abominable antisemitism, for instance, of UN “human rights expert” Francesca Albanese.³⁰²

Only a week after October 7, the worst attack on Jews since the Holocaust, she said this about alleged Israeli crimes against Palestinians:

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, October 15, 2023³⁰³

[A]trocities crimes must not only be punished but also prevented. The only possible meaning of ‘never again’ is simply this: never again, for any human being.

Having started her own chain of atrocities, she has never stopped.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, December 4, 2023³⁰⁴

Fellow Europeans, Italians, Germans: after the Holocaust, we should instinctively know that Genocide starts with dehumanizing the Other. If Israel's current attack against Palestinians doesn't prompt our strong reaction, the darkest page of our recent history has taught us nothing.

UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, December 22, 2023³⁰⁵

Israel's apartheid and its attempt to exterminate Palestinians in Gaza.

UN Special Rapporteur for the Situation of Human Rights

**in the Occupied Palestinian Territories Francesca Albanese,
January 8, 2024³⁰⁶**

What happened in the Holocaust, and the persecution of the Jewish people in Europe, and the genocide that happened, must not be repeated by Israel against others.... What I am seeing today reminds me of that tragic experience.... What we need to understand is that this is similar to what happened in the Holocaust.

**UN Special Rapporteur for the Situation of Human Rights
in the Occupied Palestinian Territories Francesca Albanese,
March 27, 2024³⁰⁷**

In the case of Gaza, there exists a chilling clarity of this purpose, the systematic eradication of an entire people or at least a significant part thereof.

An Israeli state policy of genocidal violence toward the Palestinian people in Gaza.³⁰⁸

This ultimate inversion tactic of analogizing Jews to Nazis has also been invoked by Nazi protégés, apologists, and wannabees in the name of Palestinians before October 7. Palestinian president Mahmoud Abbas, speaking at the General Assembly five months before October 7, said: “The false Zionist and Israeli claims continue.... They cannot avoid lying, but what can they do? They lie and lie. Like Goebbels [said]: ‘Lie and lie, until people believe it.’”³⁰⁹

In other words, Goebbels, the master liar, claims Jews are liars—as part of the Nazi plan for mass slaughter of Jews. Now

Palestinian terrorists and their UN partners channel Goebbels. Liars lie; that's what they do.

14. Conclusion

This is but a snapshot of the unprecedented amount of vitriol demonizing the State of Israel that has poured forth from the United Nations since October 7. The UN—states and staff—stepped in to match the ferocity and velocity of the crimes committed on the ground by Palestinian terrorists. It made no difference what Israel did afterward, short of self-immolation. The system of legal-sounding gibberish and political wheeler-dealers was already in place, locked and loaded.

Prior to October 7, the General Assembly had already sent a case to the International Court of Justice bent on instituting a global network of boycotts, divestment, and sanctions. The International Criminal Court was in constant contact with Navi Pillay's "Inquiry," had already opened an investigation targeting Israelis, and had been readying itself to start prosecuting—more precisely, persecuting Jews—which it has now done.³¹⁰ The UN "Human Rights" Council had already launched global witch hunts for companies doing business with Israel in the form of published blacklists. There was no hope of the Security Council condemning Hamas or any other Palestinian terrorist group or individual no matter what they did—a Russian and Chinese veto would see to that. The UN Racial Discrimination Committee, with members notorious for their bias and anti-Israel associations, was poised to find Israel guilty of the racist crime of apartheid. Pillay's Commission of Inquiry was churning out volumes of hate speech, unperturbed by their members having been caught red-handed spewing

antisemitism. And UN special rapporteurs like Francesca Albanese were already engaged in an antisemitic social media blitzkrieg. The list goes on.

The only difference between October 8 and October 7 was that some hoped just maybe it would be a wake-up call; good people everywhere might recognize that October 7 was the natural progression of the demonization of the Jewish state and part company with the agenda already in motion at the United Nations. UN players and their Palestinian partners knew that, and that their years of planning and scheming to turn back the clock to 1947 were at risk. Hence the intensity of the reaction and the groundswell of aggression manufactured from so many quarters. And here we are. Jews are still in captivity, tortured, raped, and starved. BDS is on steroids. The criminalization of Jewish self-defense and Jewish self-determination is underway. And the United Nations is firmly on the side of evil.

Notes

- * I wish to acknowledge the superlative research of Sarah Willig, JD, in producing this chapter.
- * The chapter is current as of April 10, 2024.
- 1. “Comment by UN Human Rights Chief on unfolding situation in Israel and Gaza,” October 7, 2023, 6:51 a.m. EST, <https://www.ohchr.org/en/statements/2023/10/comment-un-human-rights-chief-unfolding-situation-israel-and-gaza>
- 2. Twitter account of UN General Assembly President @UN_PGA, October 7, 2023, 9:48 a.m., https://twitter.com/UN_PGA/status/1710653291611218143
- 3. “The Gaza Strip: Number of displaced people over 70,000 in UNRWA shelters, UNRWA school sheltering displaced families receives a

- direct hit,” October 8, 2023, 1:46 p.m., <https://www.unrwa.org/newsroom/news-releases/gaza-strip-number-displaced-people-over-70000-unrwa-shelters>.
4. *Journal of the United Nations*, October 8, 2023, 3:00 p.m., <https://journal.un.org/en/new-york/meeting/officials/f40083bf-fc9a-4140-42e5-08dbc75f10fd/2023-10-08>
 5. Palestinian representative Riyad Mansour, Security Council Media Stakeout, October 8, 2023, United Nations, New York, <https://www.youtube.com/watch?v=Yf7FThPVZ70>
 6. UN Security Council resolution S/RES/2712 (2023), adopted November 15, 2023, (12 in favor (Albania, Brazil, China, Ecuador, France, Gabon, Ghana, Japan, Malta, Mozambique, Switzerland, United Arab Emirates), 0 against, and 3 abstentions (Russian Federation, United Kingdom, United States); UN Security Council resolution S/RES/2720 (2023), adopted December 22, 2023 (13 in favor (Albania, Brazil, China, Ecuador, France, Gabon, Ghana, Japan, Malta, Mozambique, Switzerland, United Arab Emirates, United Kingdom), 0 against, 2 abstentions (Russian Federation, United States); UN Security Council resolution S/RES/2728 (2024), adopted March 25, 2024 (14 in favor (Algeria, China, Ecuador, France, Guyana, Japan, Malta, Mozambique, Republic of Korea, Russian Federation, Sierra Leone, Slovenia, Switzerland, United Kingdom), with 1 abstention (United States).
 7. The operative part of the American-led resolution did not “condemn” Hamas. Only the preamble mentioned “condemning all acts of terrorism, including the Hamas-led attacks of October 7, 2023.” There’s no doubt that the resolution could have done so—since the operative part contained “condemnation in the strongest terms of the attacks carried out by the Houthis on vessels in the Red Sea and its demand that they cease immediately.” So. when it came to commerce, no problem; Israeli lives didn’t carry the same weight. Furthermore, the American-led resolution did not state that Hamas is a terrorist organization. On the contrary, it explicitly refused to do so. In its “operative” portion, as opposed to the less weighty and less important preamble, the resolution referred only to “Hamas and other armed groups.” Its preamble referred to “Hamas and other terrorist and armed extremist groups.” The maneuver was intended to avoid any UN statement that Hamas is a terrorist group—which we know without a doubt because previous drafts of the US resolution said “Hamas and other terrorist groups.” Draft resolution/United States of America [on ceasefire in the Gaza

Strip], S/2024/239, March 22, 2024, https://digitallibrary.un.org/record/4042000/files/S_2024_239-EN.pdf?ln=en

8. “Explanation of Vote by Ambassador Linda Thomas-Greenfield on a Malta-Drafted UN Security Council Resolution on the Situation in the Middle East,” United States Mission to the United Nations, November 15, 2023, <https://usun.usmission.gov/explanation-of-vote-by-ambassador-linda-thomas-greenfield-on-a-malta-drafted-un-security-council-resolution-on-the-situation-in-the-middle-east/>
9. S/RES/2728 (2024), March 25, 2024; S/RES/2720 (2023), December 22, 2023; S/RES/2712 (2023), November 15, 2023.
10. The death of seven team members of the aid workers from the World Central Kitchen was admitted by Israel, which launched an immediate investigation and meted out harsh consequences for those responsible for the accident. See below.
11. “Press Statement on Humanitarian Workers and Threat of Famine in Gaza,” SC/15658, April 11, 2024, <https://press.un.org/en/2024/sc15658.doc.htm>
12. Her term has since ended.
13. “Hybrid Press Briefing by The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel,” October 25, 2023, <https://media.un.org/en/asset/k1m/k1m9kirxe4>
14. “Joint briefing of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,” Friday, November 10, 2023, https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/statements/20231010-Briefing_MSs_Geneva_COIOPTEJI.pdf
15. “Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice,” UN Human Rights Council resolution A/HRC/RES/55/28, April 5, 2024. The vote was 28 in favor (Algeria, Bangladesh, Belgium, Brazil, Burundi, Chile, China, Cote d’Ivoire, Cuba, Eritrea, Finland, Gambia, Ghana, Honduras, Indonesia, Kazakhstan, Kuwait, Kyrgyzstan, Luxembourg, Malaysia, Maldives, Morocco, Paraguay, Qatar, Somalia, South Africa, Sudan, United Arab Emirates, Vietnam), 6 against (Argentina, Bulgaria, Germany,

Malawi, Paraguay, United States), and 13 abstentions (Albania, Benin, Cameroon, Costa Rica, Dominican Republic, France, Georgia, India, Japan, Lithuania, Montenegro, Netherlands, Romania). The penultimate draft version (“Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice,” UN Human Rights Council resolution A/HRC/RES/55/28, (A/HRC/55/L.30 as orally revised), <https://undocs.org/A/HRC/RES/55/28>; March 26, 2024) said “Israel, as the occupying Power, may not invoke the right to self-defense under Article 51 of the Charter of the United Nations *against territory that it occupies*” (emphasis added).

16. “*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,” Advisory Opinion of the International Court of Justice, July 9, 2004, <https://www.icj-cij.org/case/131/advisory-opinions>:

Article 51 of the Charter thus recognizes the existence of an inherent right of self-defense in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State. The Court also notes that Israel exercises control in the Occupied Palestinian Territory and that, as Israel itself states, the threat which it regards as justifying the construction of the wall originates within, and not outside, that territory.... Consequently, the Court concludes that Article 51 of the Charter has no relevance in this case. (para. 139).

17. Emphasis added.
18. Cameroon.
19. Albania, Benin, and Cameroon abstained.
20. It also included the shameful spectacle of Belgium, Finland, and Luxembourg siding with the gang of human rights lowlives.
21. Among other things, the Human Rights Council resolution also contains these abominations:
- Specifies “terror attacks” committed by Israelis (allegedly) and no terror attacks by Hamas, including the terror attacks of October 7
 - Equates the brutally abducted, sexually assaulted, fate-unknown kidnap victims in Gaza with legally detained prisoners in Israel (who include October 7 perpetrators themselves)
 - Claims falsely that Israel targets protected persons, and never

says Hamas targets protected persons starting with October 7 itself

- Expresses “deep concern” about the conditions of Palestinian prisoners in Israel, and no concern about the conditions of the hostages
- Paints Israel as officially inciting genocide (untrue) and totally ignores official, public, recurrent, and recent Palestinian incitement to genocide

“Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice,” UN Human Rights Council resolution A/HRC/RES/55/28, April 5, 2024, <https://undocs.org/A/HRC/RES/55/28>

22. “Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice,” UN Human Rights Council resolution A/HRC/RES/55/28, April 5, 2024, <https://undocs.org/A/HRC/RES/55/28>
23. See, for instance: “Sanction Apartheid Israel,” June 18, 2020, available at https://hrvoices.org/assets/attachments/articles/Global_South_Statement_FINAL.pdf signatories: June 18, 2020, <https://drive.google.com/file/d/1kgt6PK7sNH5ecokc7yCG4bcBUyOz4--2/view>; see also:

42. Requests *the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel to report on both the direct and indirect transfer or sale of arms, munitions, parts, components and dual use items to Israel, the occupying Power, including those that have been used during the Israeli military operation in Gaza since 7 October 2023, and to analyze the legal consequences of these transfers, applying international humanitarian law, customary international law related to State responsibility and the Arms Trade Treaty, where applicable, and to present its report to the Human Rights Council at its fifty-ninth session*; “Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice,” UN Human Rights Council resolution A/HRC/RES/55/28, April 5, 2024, <https://undocs.org/A/HRC/RES/55/28>

43. Requests *the Secretary-General, in view of the unprecedented*

magnitude of crimes and violations, to ensure the availability of all additional resources, including through voluntary resources, necessary to enable the Commission of Inquiry to carry out its mandate, in particular investigative and outreach expertise, and in the areas of legal analysis and evidence-collection

“Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice,” Resolution of the UN Human Rights Council, A/HRC/RES/55/28, April 5, 2024, <https://undocs.org/A/HRC/RES/55/28>

24. “UN experts deplore extraterritorial use of lethal drones to conduct killings in countering terrorism,” January 9, 2024, Press Release, Office of the UN High Commissioner for Human Rights, <https://www.ohchr.org/en/press-releases/2024/01/israel-and-lebanon-un-experts-deplore-extraterritorial-use-lethal-drones>
25. “with the Israeli action, or reaction, to the Hamas attack...we are concluding that this is indiscriminate attacks against civilians.... This cannot be equated with self-defense. It amounts to collective punishment.” “Navi Pillay Talks to Al Jazeera,” October 30, 2023, https://www.youtube.com/watch?v=cz1th-a_2M4&t=5s
26. “Profile of Saleh al-Arouri, a Senior Hamas Terrorist,” Meir Amit Intelligence and Terrorism Information Center, November 4, 2023, <https://www.terrorism-info.org.il/en/profile-of-saleh-al-arouri-a-senior-hamas-terrorist/>
27. “UN experts condemned Israel’s alleged killings of Hamas deputy leader Saleh al-Arouri and six others last week in Lebanon, which would amount to extrajudicial killings.... Israel was not exercising self-defense because it presented no evidence that the victims were committing an armed attack on Israel from Lebanese territory.” “UN experts deplore extraterritorial use of lethal drones to conduct killings in countering terrorism,” January 9, 2024, Press Release, Office of the UN High Commissioner for Human Rights, <https://www.ohchr.org/en/press-releases/2024/01/israel-and-lebanon-un-experts-deplore-extraterritorial-use-lethal-drones>
28. “Such egregious violations cannot be justified in the name of self-defense after attacks by Hamas on 7 October’...Israel remains the occupying power in the occupied Palestinian territory, which also includes the Gaza Strip, and therefore cannot wage a war against the population under its belligerent occupation”; “UN experts call on international community to prevent genocide against the Palestinian people,” November 16, 2023, Press Release, Office of

the UN High Commissioner for Human Rights, <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>

29. The reach of the United Nations' BDS campaign against Israel extends far beyond an arms embargo. UN BDS activities have been in motion for years, and are intended to expand under cover of recent events. For instance, see: "all Member States can and must use their leverage to prevent and stop violations of international humanitarian law—through diplomatic and economic pressure, conditioning arms exports on compliance with the rules of war, and cooperation in combating impunity." "OCHA tells Security Council the six-month devastating war in Gaza must end," Briefing to the Security Council on the humanitarian situation in Gaza, by Ramesh Rajasingham Director Coordination Division, OCHA, on behalf of Martin Griffiths, Under-Secretary-General for Humanitarian Affairs and Emergency Relief Coordinator, April 5, 2024, <https://www.unocha.org/news/ocha-tells-security-council-six-month-devastating-war-gaza-must-end>
30. UN Special Rapporteur for the Situation of Human Rights in the Occupied Palestinian Territories Francesca Albanese, Twitter account @FranceskAlbs, October 7, 2023, <https://twitter.com/FranceskAlbs/status/1710652724147065023>
31. "Application and Biography of Francesca Albanese for the position of Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967," November 23, 2021, OHCHR website https://www.ohchr.org/sites/default/files/2021-12/ALBANESE_Francesca_form.pdf
32. "Question of the violation of human rights in the occupied Arab territories, including Palestine," Commission on Human Rights resolution 1993/2, E/CN.4/RES/1993/2 (A+B), February 19, 1993; "The Special Rapporteur firmly condemns the crimes committed by Hamas and other Palestinian armed groups in Israel on 7 October.... This report does not examine those events, as they are beyond the geographic scope of her mandate." "Anatomy of a Genocide," Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, UN Human Rights Council 55th session, A/HRC/55/73, para. 2, March 25, 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf>

33. “Secretary-General’s remarks to the press on the situation in the Middle East,” October 9, 2023, <https://www.un.org/sg/en/content/sg/speeches/2023-10-09/secretary-generals-remarks-the-press-the-situation-the-middle-east>
34. The Secretary-General spoke at 12:30 pm ET. UN Web TV Live Schedule, October 9, 2023, <https://webtv.un.org/en/schedule/2023-10-09>; Hamas threat reported by *The Times of Israel* at 1:17pm ET (8:17 pm local time). “Hamas threatens to begin executing hostages in response to strikes,” *The Times of Israel*, October 9, 2023, https://www.timesofisrael.com/liveblog_entry/hamas-threatens-to-begin-executing-hostages-in-response-to-strikes/
35. “Secretary-General’s remarks to the Security Council—on the Middle East,” October 24, 2023, <https://www.un.org/sg/en/content/sg/speeches/2023-10-24/secretary-generals-remarks-the-security-council-the-middle-east%C2%A0>
36. “UN expert urges immediate ceasefire and humanitarian access as Gaza health sector reaches ‘breaking point,’” UN Special Rapporteur on the right to health Tlaleng Mofokeng, October 17, 2023, <https://www.ohchr.org/en/press-releases/2023/10/un-expert-urges-immediate-ceasefire-and-humanitarian-access-gaza-health>
37. “Navi Pillay Talks to Al Jazeera,” October 30, 2023, https://www.youtube.com/watch?v=cz1th-a_2M4&t=5s
38. “Statement by UN High Commissioner for Human Rights Volker Türk on Israel and the Occupied Palestinian Territory,” November 10, 2023, <https://www.ohchr.org/en/statements-and-speeches/2023/11/opening-remarks-un-high-commissioner-human-rights-volker-turk>
39. “Joint briefing of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel and the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967,” Friday, November 10, 2023, https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/statements/20231010-Briefing_MSs_Geneva_COIOPTEJI.pdf
40. “UN experts call on international community to prevent genocide against the Palestinian people,” November 16, 2023, Media Center, Office of the UN High Commissioner for Human Rights, <https://>

- www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against
41. “Declaring Israel’s occupation of Palestine unlawful is legitimate— Judge Navi Pillay,” Newzroom Afrika, February 2, 2024, <https://www.youtube.com/watch?v=cOt-IoLW4Ic>.
 42. Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, para. 956, A/HRC/55/73, March 26, 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf>
 43. “The Woman in the Hamas Video Is My Daughter,” —Naama Levy, 19— *The Free Press*, December 8, 2023, <https://www.thefp.com/p/the-woman-in-the-hamas-video-is-my-daughter>.
 44. “Rape and murder of a young girl from the music festival,” Special Announcement— The Hamas Atrocities Documentation Center (HADDC), Video No. 16, Issue No. 2, posted October 16, 2023, MEMRI, <https://www.memri.org/reports/special-announcement-%E2%80%93-hamas-atrocities-documentation-center-hadc>
 45. <https://twitter.com/FranceskAlbs/status/1712059782029328580>, @FrancesAlbs, October 11, 2023.
 46. Reem Alsalem, UN Special Rapporteur on Violence against Women and Girls, @UNSRVAW, October 11, 2023, <https://twitter.com/UNSRVAW/status/1712076899046859059>
 47. “Q&A: UNHCR team helps women in eastern Libya,” UNCHR website, July 6, 2011, <https://www.unhcr.org/news/stories/qa-unhcr-team-helps-women-eastern-libya>
 48. UN Special Rapporteur on violence against women and girls Reem Alsalem, Report on Hazinor Channel 13 News, Israel, March 5, 2024, https://twitter.com/Bar_ShemUr/status/1764990599172694319
 49. She added this deliberately convoluted double negative that was not an affirmation that Palestinians had in fact raped Jews: “But this doesn’t mean that I believe that rape didn’t occur.” Francesca Albanese, UN Special Rapporteur on Israel, Press Conference during the UN Human Rights Council session, March 27, 2024, <https://webtv.un.org/en/asset/k19/k199zd7ei5>
 50. “Commission of Inquiry collecting evidence of war crimes committed by all sides in Israel and Occupied Palestinian Territories since 7 October 2023,” Press Release, OHCHR, October 10, 2023,

<https://www.ohchr.org/en/press-releases/2023/10/commission-inquiry-collecting-evidence-war-crimes-committed-all-sides-israel>

51. “Secretary-General’s remarks to the press on the situation in the Middle East,” António Guterres, October 11, 2023, <https://www.un.org/sg/en/content/sg/speeches/2023-10-11/secretary-generals-remarks-the-press-the-situation-the-middle-east>
52. Volker Türk, UN High Commissioner for Human Rights, October 10, 2023, <https://www.ohchr.org/en/press-releases/2023/10/un-human-rights-chief-urges-states-defuse-powder-keg-situation-israel-and>
53. The High Commissioner has continued the ruse. See, for instance: “UN Human Rights Chief Volker Türk today strongly deplored the sharp rise in hatred globally—including anti-Semitism and Islamophobia—since 7 October, while at the same time expressing concerns about undue restrictions on protests over the conflict in Israel and Gaza, and related free expression. The High Commissioner said he was disgusted by the sharp rise in cases of anti-Semitism, Islamophobia and other hate-speech, both online and offline, since 7 October.” “UN Human Rights Chief condemns rise in hatred,” OHCHR Press Release, November 4, 2023, <https://www.ohchr.org/en/press-releases/2023/11/un-human-rights-chief-condemns-rise-hatred>
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55. “Working definition of antisemitism,” International Holocaust Remembrance Alliance, <https://holocaustremembrance.com/resources/working-definition-antisemitism>
56. “Letter Urging Inclusion of IHRA Working Definition of Antisemitism in UN Action Plan,” Anti-Defamation League website, May 18, 2023, <https://www.adl.org/resources/letter/letter-urging-inclusion-ihra-working-definition-antisemitism-un-action-plan>
57. IDF soldiers who were first on the scene relayed information to reporters: “October 10, 2023—Israel-Hamas war news,” CNN, October 11, 2023, https://www.cnn.com/middleeast/live-news/israel-hamas-war-gaza-10-10-23/h_

acc9121c3e878d221f6e5ee32e74be80; I24NEWS English, October 10, 2024, “It’s not a war, it’s not a battlefield. It’s a massacre.” IDF Major General Itai Veruv, Kfar Aza, <https://twitter.com/i/web/status/1711692051266273496>; I24NEWS English, October 10, 2024, “...they cut heads of children, cut heads of women...,” David Ben Zion, Deputy Commander of Unit 71 in Kfar Aza in southern Israel, https://twitter.com/i24NEWS_EN/status/1711781404344721828

58. Atrocity documentation is readily available from a great many sources. Here are just some that have collected evidence on many of the crimes: “Sexual Violence Crimes on October 7,” The Association of Rape Crisis Centers in Israel, February 2024, https://www.gov.il/BlobFolder/news/arcci-submits-first-report-to-un-21-feb-2024/en/English_Swords_of_Iron_DOCUMENTS_Sexual%20violence%20crimes%20on%20October%207-Feb.%202024.pdf; “Oct. 7 2023, Hamas Massacre: Documentation of Crimes Against Humanity,” Government of the State of Israel, <https://saturday-october-seven.com/>; “What Happened on the 7th of October,” Israel National Digital Agency website, <https://info710.com/october7/what-happened-on-the-7th-of-october/>; “Eyewitness Stories From Inside the Massacre,” October7.org (a site created by Israeli volunteers of eyewitness testimonies), <https://www.october7.org/about-october-7/>; “Hamas Massacre October 2023,” <https://www.hamasmassacre.net/> (shared by the official Israel X account on November 2, 2023, <https://twitter.com/Israel/status/1720088273664811259>); “Screams Before Silence: A documentary film on the sexual violence committed by Hamas on October 7, 2023,” Kastina Communications, <https://www.screamsbeforesilence.com/>; “Hamas Atrocities Documentation Center,” MEMRI, <https://www.memri.org/reports/special-announcement-%E2%80%93-hamas-atrocities-documentation-center-had>
59. “LISTEN: ‘Your son killed 10 Jews,’ Hamas terrorist tells Gazan parents,” *Jerusalem Post*, October 24, 2023, <https://www.jpost.com/middle-east/article-769989>
60. “le plus grand massacre antisémite de notre siècle” (original). “Hommage aux victimes de l’attaque du Hamas: ‘Le plus grand massacre antisémite de notre siècle,’ dénonce Emmanuel Macron,” February 7, 2024, <https://www.publicsenat.fr/actualites/politique/hommage-aux-victimes-de-lattaque-du-hamas-le-plus-grand-massacre-antisemite-de-notre-siecle-denonce-emmanuel-macron>
61. Tweet by UN Special Rapporteur on the situation of human rights in the occupied Palestinian territory Francesca Albanese,

February 10, 2024, <https://twitter.com/FranceskAlbs/status/1756351236909965591>

62. Tweet by UN Special Rapporteur on the situation of human rights in the occupied Palestinian territory Francesca Albanese, February 10, 2024, (translation from French) <https://twitter.com/FranceskAlbs/status/1756505201576436144>
63. “Israel’s symbolic ‘ban’ must not distract from atrocity crimes in Gaza: UN expert,” Press Release by UN Special Rapporteur on the situation of human rights in the occupied Palestinian territory Francesca Albanese, OHCHR website, February 15, 2024, <https://www.ohchr.org/en/press-releases/2024/02/israels-symbolic-ban-must-not-distract-atrocity-crimes-gaza-un-expert>. Albanese ridicules the antisemitism charge as possibly present for the odd isolated actor, and disputes the demonstrable reality that antisemitism was (and is) characteristic of Hamas and October 7 perpetrators: “while anti-Semitism could have played a role in the attacks at an individual level for some, their main determinants are to be found elsewhere.”
64. “I am with those who see recent developments in Israeli politics as symptomatic of the sustained oppression that Israel has inflicted upon the Palestinians...” Tweet by Francesca Albanese, UN Special Rapporteur, Twitter account @FranceskAlbs, February 18, 2023, <https://twitter.com/FranceskAlbs/status/1626983201007624195>; “Since 1967, Israel has advanced its settler-colonial project.... Punishing their indigeneity and rejection of colonization, Israel construed Palestinians as a ‘security threat’ to justify their oppression,” Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, A/HRC/55/73, para. 12, March 26, 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf>
65. “The intensity of suffering & the scope of destruction *resulting from* [emphasis added] 13 days of Israel’s relentless bombing are unprecedented & unimaginable. Palestinians & Israeli/int’l hostages are all at great risk.” Tweet by Francesca Albanese, UN Special Rapporteur, Twitter account @FranceskAlbs, October 20, 2023, <https://twitter.com/FranceskAlbs/status/1715379297836277954,1/4>; “UN experts demand safe passage for Freedom Flotilla’s humanitarian mission to Gaza,” April 26, 2024, <https://www.ohchr.org/en/statements/2024/04/un-experts-demand-safe->

passage-freedom-flotillas-humanitarian-mission-gaza; “... stories Palestinians and other witnesses relay add [] new depths to atrocities the world has witnessed since the beginning of *Israel’s assault* [emphasis added] on Gaza over six months ago...no Palestinian is safe under Israel’s unfettered control,” “Testimonies from the Occupied Palestinian Territory show new depths of Israel’s atrocities: UN expert,” Press Release by Francesca Albanese, Office of the UN High Commissioner for Human Rights, April 25, 2024, <https://www.ohchr.org/en/press-releases/2024/04/testimonies-occupied-palestinian-territory-show-new-depths-israels>

66. “...Zionism. This movement saw Palestine as the land to realize a ‘State for the Jews’ through settlement and colonization. However, in that land a native Palestinian Arab population had resided for millennia. In 1947, the United Nations resolved to reconcile the separate claims to the land of the indigenous Palestinian people and the largely European Jewish settlers...,” Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, September 21, 2022, A/77/356, para. 26, <https://documents.un.org/doc/undoc/gen/n22/598/03/pdf/n2259803.pdf>; “Genocide is a dormant gene of settler-colonialism. Seeing ISR as the state born out of the Holocaust, some countries cant [sic] accept that it might commit atrocities, incl genocide. Acknowledging ISR’s settler-colonial origins would help remedy that false perception & move twd justice.” Francesca Albanese, UN Special Rapporteur, Twitter account @FranceskAlbs, January 26, 2024, <https://twitter.com/FranceskAlbs/status/1750951992476717470>.
67. Here is just one example of a UN blood libel, signed by Albanese among others, which followed the pattern of taking wild unsubstantiated claims of Palestinian terrorists at face value—and then spreading them. “GENEVA (19 October 2023)—UN experts today expressed outrage against the deadly strike at Al Ahli Arab Hospital in Gaza City, which killed more than 470 civilians on Tuesday (17) and trapped hundreds under the rubble. The strike reportedly followed two warnings issued by Israel that an attack on the hospital was imminent if people inside were not evacuated. “The strike against Al Ahli Arab Hospital is an atrocity... We are sounding the alarm: There is an ongoing campaign by Israel resulting in crimes against humanity in Gaza....” Press Release, Office of the UN High Commissioner for Human Rights, October 19, 2023, <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against->

humanity; “UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide,” October 19, 2023; actually—“US assesses that Israel is ‘not responsible’ for Gaza hospital blast,” CNN report on US National Security Council report, October 18, 2023, <https://www.cnn.com/2023/10/18/politics/us-intel-gaza-hospital-blast/index.html>; “Between 100 and 300 believed killed in Gaza hospital blast, according to preliminary US intelligence assessment,” CNN report on intelligence assessment by the Office of the Director of National Intelligence, October 19, 2023, <https://www.cnn.com/2023/10/19/politics/us-intelligence-assessment-gaza-hospital-blast/index.html>

68. “We are particularly distressed by reports that Palestinian women and girls in detention have also been subjected to multiple forms of sexual assault.... At least two female Palestinian detainees were reportedly raped while others were reportedly threatened with rape and sexual violence,” “UN experts appalled by reported human rights violations against Palestinian women and girls” (Alsalem, Albanese, Estrada Tanck), Press Release, Office of the UN High Commissioner for Human Rights, February 19, 2024, <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>
69. “Israel’s pernicious practices of killing and displacement from Gaza...Israeli policies spanning the occupied Palestinian territory are unquestionably endangering Palestinian existence on their land...the most likely implication—the ethnic cleansing of Palestinians”; “Testimonies from the Occupied Palestinian Territory show new depths of Israel’s atrocities: UN expert,” Francesca Albanese, UN Special Rapporteur, April 25, 2024, <https://www.ohchr.org/en/press-releases/2024/04/testimonies-occupied-palestinian-territory-show-new-depths-israels>; “Colonialism is characterized as ‘settler’ when also driven by the logic of elimination of the indigenous character of the colonized land. This manifests in the establishment and promotion of colonies, namely, settlements of foreign people implanted among the indigenous population with the aim of subjugating and dispossessing the natives,” Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, September 21, 2022, A/77/356, para. 13, <https://documents.un.org/doc/undoc/gen/n22/598/03/pdf/n2259803.pdf>; “The detention of Salah Hammouri and the practices it entails are not ‘just’ unlawful, they are sadistic. This persecution, emblematic of Israel’s treatment of many Palestinians, must cease.” Tweet by

Francesca Albanese, UN Special Rapporteur, Twitter account @FranceskAlbs, October 19, 2022, <https://twitter.com/FranceskAlbs/status/1582772841396973568> (Salah Hammouri was deported to France, where he holds citizenship; Israel said he was a member of the terrorist organization Popular Front for the Liberation of Palestine. Previously, he had been convicted in an alleged plot to kill a prominent Israeli rabbi but was released from prison following a 2011 prisoner swap with Hamas.)

70. “a web of national and international businesses operate in the illegally occupied Palestinian territory,” (para. 51), “Attacks on cultural objects of significance to eliminate all traces and expressions of Palestinian existence, and the incorporation of a revisionist view of history to assert (false) claims of sovereignty in the occupied Palestinian territory, demonstrate the occupier’s intention to permanently strip the land of its indigenous identity” (para. 55), Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, A/77/356, September 21, 2022, <https://documents.un.org/doc/undoc/gen/n22/598/03/pdf/n2259803.pdf>; “Knowing how Israel operates, my assessment is that Israeli forces intentionally killed #WCK [World Central Kitchen] workers so that donors would pull out & civilians in Gaza could continue to be starved quietly,” @FranceskAlbs, April 2, 2024, <https://twitter.com/FranceskAlbs/status/1775243387043471706>
71. “With their status as protected persons deliberately denied, Palestinian children have been made vulnerable without redress,” Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, A/78/545, para. 8, October 20, 2023, <https://documents.un.org/doc/undoc/gen/n23/315/25/pdf/n2331525.pdf>
72. After accusing Israel of a “crime against humanity,” Albanese says: “It has now taken it to a new level by terrorizing people through...induced disease,” Francesca Albanese, Twitter account @FranceskAlbs, January 2, 2024, <https://twitter.com/FranceskAlbs/status/1742176687993823330>; “knowingly and intentionally imposing a high rate of disease,” “Over one hundred days into the war, Israel destroying Gaza’s food system and weaponizing food, say UN human rights experts,” Press Release, Office of the UN High Commissioner for Human Rights, January 16, 2024, <https://www.ohchr.org/en/press-releases/2024/01/over-one-hundred-days-war-israel-destroying-gazas-food-system-and>

73. “Israel’s genocide on the Palestinians in Gaza is an escalatory stage of a longstanding settler colonial process of erasure. For over seven decades this process has suffocated the Palestinian people as a group—demographically, culturally, economically and politically—, seeking to displace it and expropriate and control its land and resources,” Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, para. 956, A/HRC/55/73, March 26, 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf>; “The ‘de-development’ that Israel has imposed on the occupied Palestinian territory has irreparably harmed the Palestinian economy,” Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, A/77/356, para. 52, September 21, 2022, <https://documents.un.org/doc/undoc/gen/n22/598/03/pdf/n2259803.pdf>
74. Open letter posted to the Facebook page of Francesca Albanese, July 31, 2014: “America and Europe, one of them subjugated by the Jewish lobby, and the other by the sense of guilt about the Holocaust, remain on the sidelines and continue to condemn the oppressed—the Palestinians—who defend themselves with the only means they have (deranged missiles), instead of making Israel face its international law responsibilities,” available at <https://static.timesofisrael.com/www/uploads/2022/12/Screen-Shot-2022-12-07-at-12.28.55-PM.jpg>
75. “Human rights situation in the Occupied Palestinian Territory, including East Jerusalem, and the obligation to ensure accountability and justice,” UN Human Rights Council resolution A/HRC/RES/55/28, April 5, 2024, para. 254.
76. The full paragraph disingenuously reads the Council: “*Reaffirms* that criticism of violations of international law by Israel should not be conflated with antisemitism”; except that, actually, this was the first time the Council had affirmed this.
77. @FranceskaAlbs, April 2, 2024, <https://twitter.com/FranceskaAlbs/status/1775243387043471706>
78. The death of seven aid workers from the World Central Kitchen was promptly admitted by Israel, which launched an immediate investigation and imposed serious consequences on those responsible for the accident. “Statement by PM Netanyahu upon

Leaving Hadassah-Ein Kerem Hospital,” Israeli Prime Minister’s Office, Press Release, February 4, 2024, <https://www.gov.il/en/pages/spoke-hadassah020424>: “Unfortunately, in the past day there was a tragic event in which our forces unintentionally harmed non-combatants in the Gaza Strip. This happens in war. We are conducting a thorough inquiry and are in contact with the governments. We will do everything to prevent a recurrence.” “Conclusion of the investigation of the General Staff Fact-Finding and Assessment Mechanism into the incident in which seven employees of the World Central Kitchen were killed during a humanitarian operation in the Gaza Strip,” IDF Announcement, April 5, 2024, <https://idfanc.activetrail.biz/ANC0504245555>:

The investigation’s findings indicate that the incident should not have occurred. Those who approved the strike were convinced that they were targeting armed Hamas operatives and not WCK employees. The strike on the aid vehicles is a grave mistake stemming from a serious failure due to a mistaken identification, errors in decision-making, and an attack contrary to the Standard Operating Procedures. After being presented with, and considering the investigation’s findings, the IDF Chief of the General Staff decided that the following command measures will be taken: the brigade fire support commander, an officer with the rank of major, will be dismissed from his position. The brigade chief of staff, an officer with the rank of colonel in reserve, will be dismissed from his position. Additionally, the brigade commander and the 162nd Division commander will be formally reprimanded. The IDF Chief of Staff decided to formally reprimand the commander of the Southern Command for his overall responsibility for the incident.

World Central Kitchen announced on April 28, 2024, that it would resume operations in Gaza.

79. “Side event” during the UN Human Rights Council, organized by the NGO Association Ma’onah for Human Rights and Immigration, entitled “Human Rights Violations Against Women and Children,” 11:00 a.m.–12:00 p.m. CET, United Nations Palais des Nations, Room XXV, Geneva, March 28, 2024.
80. *Ricorrere* is also the word for “resort” in her native language of Italian.
81. “Navi Pillay Talks to Al Jazeera,” October 30, 2023, https://www.youtube.com/watch?v=cz1th-a_2M4&t=5s; see also: Navi Pillay speaking at a Hybrid Press Briefing by The Independent International Commission of Inquiry on the Occupied Palestinian

Territory, including East Jerusalem, and Israel, October 25, 2023, <https://webtv.un.org/en/asset/k1m/k1m9kirxe4>: “President Nelson Mandela explained...why they adopted the policy of resorting to armed struggle. And he spelt that out as a legitimate means.... I can’t compare that with Palestine, except the suffering here is so much worse, so much longer.”

82. International of Court of Justice, <https://www.icj-cij.org/index.php/node/4136>
83. Minor differences in the composition result from retirement or departure.
84. “ Hamas ends ANC visit,” October 21, 2015, <https://www.dw.com/en/hamas-ends-south-africa-visit/a-18798099>; “ANC Parliamentary Caucus signs MoU with Hamas parliamentarians,” December 4, 2018, https://english.palinfo.com/o_post/ANC-Parliamentary-Caucus-signs-MoU-with-Hamas-parliamentarians/; “Parliament delegation led by Zahar signs a memorandum of understanding with the ruling parliamentary bloc in South Africa,” December 4, 2018, Sawa News Agency, <https://palsawa.com/post/178992>; “The new conflagration has arisen from the continued illegal occupation of Palestine land, continued settlement expansion, desecration of the Al Aqsa Mosque and Christian holy sites, and ongoing oppression of the Palestinian people,” “South Africa calls for the immediate cessation of violence, restraint, and peace between Israel and Palestine,” Media Statement, Department of International Relations & Cooperation, South Africa, October 7, 2023, <https://dirco.gov.za/south-africa-calls-for-the-immediate-cessation-of-violence-restraint-and-peace-between-israel-and-palestine/>; “South Africa’s support for the Palestinian cause has deep roots,” January 11, 2024, *The Economist*, <https://www.economist.com/middle-east-and-africa/2024/01/11/south-africas-support-for-the-palestinian-cause-has-deep-roots>; “South Africa’s call to Hamas leader embarrasses government,” October 21, 2023, <https://www.thecitizen.co.tz/tanzania/news/africa/south-africa-s-call-to-hamas-leader-embarrasses-government-4408638>; “South Africa’s Foreign Minister Pandor speaks with Hamas leader,” October 18, 2023, <https://www.theeastafrican.co.ke/tea/rest-of-africa/south-africa-s-foreign-minister-speaks-with-hamas-leader-4405076>; “Palestine Conference in Johannesburg Calls For True, Meaningful Liberation,” *Palestine Chronicle*, December 7, 2023, <https://www.palestinechronicle.com/palestine-conference-in-johannesburg-calls-for-true-meaningful-liberation>

85. Order, *Application of The Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, January 26, 2024, para. 59, <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>
86. “The Court also takes note of a press release of 16 November 2023, issued by 37 Special Rapporteurs, Independent Experts and members of Working Groups part of the Special Procedures of the United Nations Human Rights Council, in which they voiced alarm over ‘discernibly genocidal and dehumanizing rhetoric coming from senior Israeli government officials.’” The list of 37 is led by Albanese. Order, *Application of The Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)*, January 26, 2024, para. 53, <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>
87. “Anatomy of a Genocide,” Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, Francesca Albanese, UN Human Rights Council 55th session, A/HRC/55/73, March 25, 2024, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/sessions-regular/session55/advance-versions/a-hrc-55-73-auv.pdf>
88. Full quote: “This report does not examine those events [of October 7], as they are beyond the geographic scope of her mandate.” “Anatomy of a Genocide,” A/HRC/55/73, para. 2.
89. “Anatomy of a Genocide,” para. 14.
90. “Anatomy of a Genocide,” para. 7, 12.
91. “Anatomy of a Genocide,” para. 10.
92. “Anatomy of a Genocide,” para. 7.
93. “Anatomy of a Genocide,” para. 11.
94. “Anatomy of a Genocide,” para. 24.
95. “Anatomy of a Genocide,” para. 26.
96. “Anatomy of a Genocide,” Summary.
97. “Anatomy of a Genocide,” para. 33.
98. “Anatomy of a Genocide,” para. 37.
99. “Anatomy of a Genocide,” para. 51.
100. “Anatomy of a Genocide,” para. 87.

101. "Anatomy of a Genocide," para. 68.
102. "Anatomy of a Genocide," para. 80.
103. "Anatomy of a Genocide," para. 86.
104. "Anatomy of a Genocide," para. 54.
105. The full quote: "Israel's Prime Minister and President have stated that Israel was fighting on behalf of 'all civilized states and... peoples,' 'a barbarism that has no place in the modern world,' that they 'will uproot evil and it will be good for the entire region and the world.' This racist rhetoric echoes that of other colonial powers, and tries to construe Israel's genocidal violence as legitimate in light of Palestinians' alleged 'barbarian' and 'premodern' character." "Anatomy of a Genocide," para. 54.
106. "Anatomy of a Genocide," para. 75.
107. "Anatomy of a Genocide," para. 94.
108. "Anatomy of a Genocide," para. 57.
109. "Anatomy of a Genocide," Summary.
110. "Anatomy of a Genocide," para. 72.
111. "Anatomy of a Genocide," para. 92.
112. "Anatomy of a Genocide," para. 90.
113. "Anatomy of a Genocide." The full quote: "Whether or not Israel's accusations of hospital shielding at Al Shifa were true—but still remain to be proven—, the civilians in the hospitals should have been protected and not subjected to siege and military attack" (para. 90). Except that Israel did not attack "the civilians"; it targeted the enemy combatants who she pretends not to know were present and not to know were using the facilities for military purposes (and at one time to hold kidnapped Israeli civilians). Among all the other facts she ignores are Israel's documented deliveries of medical supplies to al-Shifa Hospital.
114. "Anatomy of a Genocide," para. 6.
115. "Anatomy of a Genocide," para. 95.
116. "Secretary-General's remarks to the press on the situation in the Middle East," António Guterres, October 11, 2023, <https://www.un.org/sg/en/content/sg/speeches/2023-10-11/secretary-generals-remarks-the-press-the-situation-the-middle-east>

117. “*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,” Advisory Opinion of the International Court of Justice, July 9, 2004, <https://www.icj-cij.org/case/131/advisory-opinions>:

Article 51 of the Charter thus recognizes the existence of an inherent right of self-defense in the case of armed attack by one State against another State. However, Israel does not claim that the attacks against it are imputable to a foreign State. The Court also notes that Israel exercises control in the Occupied Palestinian Territory and that, as Israel itself states, the threat which it regards as justifying the construction of the wall originates within, and not outside, that territory.... Consequently, the Court concludes that Article 51 of the Charter has no relevance in this case. (para. 139)

118. “*Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory*,” Advisory Opinion of the International Court of Justice, Separate Opinion of Judge Elaraby, July 9, 2004, <https://www.icj-cij.org/sites/default/files/case-related/131/131-20040709-ADV-01-06-EN.pdf>

119. The General Assembly referral to the ICJ includes, for instance:

Expressing grave concern about the continuing systematic violation of the human rights of the Palestinian people by Israel,... Reiterates that all measures and actions taken by Israel, the occupying Power, in the Occupied Palestinian Territory, including East Jerusalem...in violation of the relevant provisions of the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, and contrary to the relevant resolutions of the Security Council, are illegal and have no validity.... Condemns all acts of violence, including all acts of terror, provocation, incitement and destruction, especially any use of force by the Israeli occupying forces against Palestinian civilians in violation of international law....What are the legal consequences arising from the ongoing violation by Israel of the right of the Palestinian people to... (emphasis added)

“Legal consequences arising from the policies and practices of Israel in the Occupied Palestinian Territory, including East Jerusalem,” Request for Advisory Opinion transmitted to the Court pursuant to General Assembly resolution 77/247 of December 30, 2022.

120. In 2019 and 2022. “Incumbent Lebanese PM keeps post as economic crisis deepens,” Associated Press, June 23, 2022, <https://apnews.com/article/middle-east-religion-elections-lebanon-692e870338f>

- c2030e877e24f36326f56; see also: “Bipartisan letter from members of Congress to Secretary of State Antony Blinken re: International Court of Justice Judge Nawaf Salam,” March 28, 2024, website of Congressman Ronny L. Jackson, https://jackson.house.gov/uploadedfiles/03_28_2024_final_signed_jackson_sherman_letter_to_secretary_blinken_re_icj_judge_salam.pdf
121. https://www.icj-cij.org/sites/default/files/2024-02/20240206_salam_en.pdf
 122. Twitter account of Nawaf Salam @nawafasalam, June 5, 2015, <https://twitter.com/nawafasalam/status/607020119705960449>
 123. UN General Assembly President Dennis Francis, Twitter account, @UN_PGA, https://twitter.com/UN_PGA/status/1710653291611218143
 124. Chair of the UN Committee on Palestinian Rights, UN Ambassador of Senegal, Cheikh Niang, October 7, Twitter account, UNISPAL, <https://twitter.com/UNISPAL/status/1710778860785016917>
 125. UN High Commissioner for Human Rights, Volker Türk, Press Release, October 10, <https://www.ohchr.org/en/press-releases/2023/10/un-human-rights-chief-urges-states-defuse-powder-keg-situation-israel-and>
 126. UN Humanitarian Coordinator for the Occupied Palestinian Territory, Lynn Hastings, Statement, OCHA, October 10, <https://ochaopt.org/content/statement-humanitarian-coordinator-occupied-palestinian-territory-lynn-hastings-hostilities-between-palestinian>
 127. Navi Pillay, chair, UN Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Press Release, October 10, <https://www.ohchr.org/en/press-releases/2023/10/commission-inquiry-collecting-evidence-war-crimes-committed-all-sides-israel>
 128. “The Covenant of the Islamic Resistance Movement,” August 19, 1988, https://avalon.law.yale.edu/20th_century/hamas.asp
 129. “Türk calls for end to ‘carnage’ in Gaza,” February 29, 2024, <https://www.ohchr.org/en/statements-and-speeches/2024/02/turk-calls-end-carnage-gaza>
 130. “Gaza: UN experts call on international community to prevent genocide against the Palestinian people,” November 16, 2023, <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>

131. Edward Said, Ibrahim Abu-Loghud, Janet L. Abu-Loghud, Mohammad Hallaj, and Elia Zureik, "A Profile of the Palestinian People," Edward Said and Christopher Hitchens, eds., *Blaming the Victims: Spurious Scholarship and the Palestinian Question*, 1988, p. 248.
132. "Hassan Al-Banna and the Mufti of Palestine," in "Contents of Secret Bulletin of Al Ikhwan al-Muslimin dated 11 June 1946," Cairo, July 23, 1946, NACP RG 226 (Office of Strategic Services), Washington Registry SI Intelligence, Field Files, entry 108A, box 15, folder 2 (cited in Jeffrey Herf, *Nazi Propaganda for the Arab World*, New Haven, CT, Yale University Press, 2009, p. 244). When al-Husseini arrived in Egypt in June 1946, founder of the Muslim Brotherhood Hasan al-Banna declared: "The Mufti is worth the people of a whole nation put together. The Mufti is Palestine and Palestine is the Mufti. Oh Amin!... Yes, this hero who challenged an empire and fought Zionism, with the help of Hitler and Germany. Germany and Hitler are gone, but Amin Al-Husseini will continue the struggle."
133. Press Conference during the UN Human Rights Council session, UN Special Rapporteur on the OPT, March 27, 2024, <https://webtv.un.org/en/asset/k19/k199zd7ei5>
134. "UN experts deplore attacks on civilians, call for truce and urge international community to address root causes of violence," October 12, 2023, <https://www.ohchr.org/en/press-releases/2023/10/israeloccupied-palestinian-territory-un-experts-deplore-attacks-civilians>; "UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide," October 19, 2023, <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity>. No amount of food or facts is capable of contradicting a starvation charge that has been manufactured from week 1. Of a war the supposed "starver" didn't start. Inconvenient facts include:
 - Palestinian terrorists destroyed preexisting aid delivery crossings between Israel and Gaza (and used them for mass murder);
 - the alleged Israeli "starvers" fixed the crossings and shipped aid in again;
 - the murderers and rapists have stolen, and continue to steal, aid from the Palestinian people they were elected to protect;

- in the knowledge that the aid is supplying and assisting a genocidal enemy, the “starvers” have continued to ship aid into Gaza anyway;
 - the murderers and rapists continue to target the aid crossings hoping to kill more Jews (in particular, to harm the “starvers” trying to facilitate the aid);
 - the “starvers” continue to ship aid into Gaza that they know will not be delivered to feed their own people—the kidnapped Israelis—being starved by the Palestinian aid recipients.
 - The starvation charge and assignments of responsibility to Israel, aren’t logical, factual or legal. On the aid specifics, see: “Swords of Iron: Humanitarian Efforts,” COGAT (Coordinator of the Government Activities in the Territories), “the official Israeli unit tasked with the coordination and facilitation of said humanitarian initiatives and is doing so in coordination with the international community,” <https://govextra.gov.il/cogat/humanitarian-efforts/home/>
135. “UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide,” October 19, 2023, <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity>
136. Navi Pillay, head, UN COI, “Hybrid Press Briefing by The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel,” October 25, 2023, <https://media.un.org/en/asset/k1m/k1m9kirxe4https://webtv.un.org/en/asset/k1m/k1m9kirxe4>
137. Yuri Boychenko, Chief of the Anti-Racial Discrimination Section, Thematic Engagement, Special Procedures and Right to Development Division, Office of the United Nations High Commissioner for Human Rights, and Representative of the Secretary-General, “Committee Experts Address the Conflict in the Gaza Strip,” Committee on the Elimination of Racial Discrimination Opens 111th Session in Geneva, November 20, 2023, <https://www.ohchr.org/en/news/2023/11/committee-elimination-racial-discrimination-opens-one-hundred-and-eleventh-session>; “Women bearing the brunt of Israel-Gaza conflict: UN expert,” Reem Alsalem, UN Special Rapporteur on violence against women and girls, its causes and consequences, November 20, 2023, <https://www.ohchr.org/en/>

- press-releases/2023/11/women-bearing-brunt-israel-gaza-conflict-un-expert
138. “UN expert condemns ‘unrelenting war’ on health system amid airstrikes on hospitals and health workers,” Tlaleng Mofokeng, Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health, December 7, 2023, <https://www.ohchr.org/en/press-releases/2023/12/gaza-un-expert-condemns-unrelenting-war-health-system-amid-airstrikes>
 139. United Nations Special Rapporteur on the right to adequate housing, Balakrishnan Rajagopal, Twitter account @adequatehousing, December 23, 2023, 4:31 PM, <https://twitter.com/adequatehousing/status/1738673584980070414>
 140. Francesca Albanese, UN Special Rapporteur, Twitter account @FranceskAlbs, January 2, 2024, <https://twitter.com/FranceskAlbs/status/1742176687993823330>
 141. Five “experts” including Francesca Albanese, “UN experts condemn killing and silencing of journalists,” February 1, 2024, <https://www.ohchr.org/en/press-releases/2024/02/gaza-un-experts-condemn-killing-and-silencing-journalists>
 142. Paula Gaviria Betancur, Special Rapporteur on the human rights of internally displaced persons, “Israel’s dehumanization of displaced persons must end, says UN expert,” March 6, 2024, <https://www.ohchr.org/en/press-releases/2024/03/gaza-israels-dehumanisation-displaced-persons-must-end-says-un-expert>
 143. “UN experts deeply concerned over ‘scholasticide’ in Gaza,” April 18, 2024, <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>, including Albanese.
 144. “UN experts deeply concerned over ‘scholasticide’ in Gaza,” April 18, 2024, <https://www.ohchr.org/en/press-releases/2024/04/un-experts-deeply-concerned-over-scholasticide-gaza>, including Albanese.
 145. António Guterres, UN Secretary-General, Press Conference, UN Headquarters, November 6, 2023, <https://press.un.org/en/2023/sgsm22021.doc.htm>
 146. “Secretary-General’s remarks to the General Assembly on Priorities for 2024,” February 7, 2024, <https://www.un.org/sg/en/content/sg/>

statement/2024-02-07/secretary-generals-remarks-the-general-assembly-priorities-for-2024-scroll-down-for-bilingual-delivered-all-english-version

147. The scale and speed of the destruction and death on October 7 apparently doesn't count. "Secretary-General's remarks to the General Assembly on Priorities for 2024," February 7, 2024, <https://www.un.org/sg/en/content/sg/statement/2024-02-07/secretary-generals-remarks-the-general-assembly-priorities-for-2024-scroll-down-for-bilingual-delivered-all-english-version>
148. "Türk calls for end to 'carnage' in Gaza," February 20, 2024, <https://www.ohchr.org/en/statements-and-speeches/2024/02/turk-calls-end-carnage-gaza>
149. "Statement by Tlaleng Mofokeng, UN Special Rapporteur on the right to health," November 16, 2023, <https://www.ohchr.org/sites/default/files/documents/issues/health/sr/20231116-statement-sr-health-israel-opt.pdf>
150. "Over one hundred days into the war, Israel destroying Gaza's food system and weaponizing food, say UN human rights experts," eight "experts" including Francesca Albanese, Reem Alsalem, and Tialeng Mofokeng, January 16, 2024, <https://www.ohchr.org/en/press-releases/2024/01/over-one-hundred-days-war-israel-destroying-gazas-food-system-and>
151. World Food Program USA, "Global Food Crisis: 10 Countries Suffering the Most From Hunger" (Democratic Republic of the Congo, Afghanistan, Yemen, Syria, the Sahel (Burkina Faso, Chad, Mali, Mauritania, and Niger), South Sudan, Sudan, Somalia, Northern Ethiopia, Haiti), <https://www.wfpusa.org/articles/global-food-crisis-10-countries-suffering-the-most-from-hunger/>
152. "Over one hundred days into the war, Israel destroying Gaza's food system and weaponizing food, say UN human rights experts," January 16, 2024, <https://www.ohchr.org/en/press-releases/2024/01/over-one-hundred-days-war-israel-destroying-gazas-food-system-and>
153. Nine "experts" including Francesca Albanese, Reem Alsalem, and Tialeng Mofokeng, "UN experts condemn 'flour massacre,' urge Israel to end campaign of starvation in Gaza," March 5, 2024, <https://www.ohchr.org/en/press-releases/2024/03/un-experts-condemn-flour-massacre-urge-israel-end-campaign-starvation-gaza>

154. Paula Gaviria Betancur, Special Rapporteur on the human rights of internally displaced persons, “Gaza: Israel’s dehumanization of displaced persons must end, says UN expert,” March 6, 2024, <https://www.ohchr.org/en/press-releases/2024/03/gaza-israels-dehumanisation-displaced-persons-must-end-says-un-expert>
155. Francesca Albanese, UN Special Rapporteur on the Palestinian Territories Occupied Since 1967, March 27, 2024, Press Conference, <https://webtv.un.org/en/asset/k19/k199zd7ei5>
156. “Navi Pillay Talks to Al Jazeera,” October 30, 2023, https://www.youtube.com/watch?v=cz1th-a_2M4&t=5s
157. “Statement by Navanethem Pillay, Chair of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel,” April 16, 2024, Geneva, <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/statements/2024-04-16-commissioners-briefing-ms-commissioner-pillay-v2-0.pdf>
158. “March 24, 2024 Update Regarding the Shifa Hospital Operation by IDF Spokesperson, Rear Admiral Daniel Hagari,” IDF website, <https://www.idf.il/en/mini-sites/hamas-israel-war-24/briefings-by-idf-spokesperson-rear-admiral-daniel-hagari/march-24-press-briefings/update-regarding-the-shifa-hospital-operation-by-idf-spokesperson-rear-admiral-daniel-hagari/>
159. In her words: “[T]he Commission has been sharing, on an ongoing basis, information with the Office of the Prosecutor of the International Criminal Court. Commissioner Sidoti and I have met both with Prosecutor Karim Khan and Deputy Prosecutor Nazhat Khan. We look forward to and expect to see progress on the ICC investigations this year.” Briefing to Member States, April 16, 2024, Geneva, “Statement by Navanethem Pillay, Chair of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel,” <https://www.ohchr.org/sites/default/files/documents/hrbodies/hrcouncil/coiopt/statements/2024-04-16-commissioners-briefing-ms-commissioner-pillay-v2-0.pdf>
160. Bearing in mind that:
Medical establishments and units...[w]hen they are used to interfere directly or indirectly in military operations, and thereby cause harm to the enemy, the rationale for their specific protection is removed. This would be the case for example if a hospital is used as a base from which

to launch an attack; as an observation post to transmit information of military value; as a weapons depot; as a center for liaison with fighting troops; or as a shelter for able-bodied combatants.... An act harmful to the enemy may render a medical establishment or unit liable to attack.... A concrete example would be the placing of a medical establishment or unit in proximity to a military objective with the intention of shielding it from enemy's military operations.

“The protection of hospitals during armed conflicts: What the law says,” International Committee of the Red Cross (ICRC), <https://www.icrc.org/en/document/protection-hospitals-during-armed-conflicts-what-law-says>

161. “UN experts decry bombing of hospitals and schools as crimes against humanity, call for prevention of genocide,” October 19, 2023, <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity>
162. “US assesses that Israel is ‘not responsible’ for Gaza hospital blast,” CNN report on US National Security Council report, October 18, 2023, <https://www.cnn.com/2023/10/18/politics/us-intel-gaza-hospital-blast/index.html>; “Between 100 and 300 believed killed in Gaza hospital blast, according to preliminary US intelligence assessment,” CNN report on intelligence assessment by the Office of the Director of National Intelligence, October 19, 2023, <https://www.cnn.com/2023/10/19/politics/us-intelligence-assessment-gaza-hospital-blast/index.html>.
163. “Freed hostage says she was abducted by armed Gaza civilians, sold to Hamas,” *The Times of Israel*, April 9, 2024, <https://www.timesofisrael.com/freed-gaza-hostage-says-she-was-abducted-by-armed-civilians-sold-to-hamas/>; “Israeli family’s agony as they mark Jewish festival without 19-year-old daughter taken hostage by Hamas and kept as a domestic slave by the terror group in Gaza,” *The Daily Mail*, March 24, 2024, <https://www.dailymail.co.uk/news/article-13234071/Israeli-family-agony-mark-Jewish-festival-without-19-year-old-daughter-taken-hostage-Hamas-kept-domestic-slave-terror-group-Gaza.html>
164. “Israel reveals 12 UNRWA staffers it says took part in Oct. 7, says 30 more assisted,” *The Times of Israel*, February 16, 2024, <https://www.timesofisrael.com/israel-reveals-12-unrwa-staffers-it-says-took-part-in-oct-7-says-30-more-assisted/>; Press Briefing by IDF Spokesperson, Rear Admiral Daniel Hagari, March 4, 2024, <https://www.idf.il/en/press-briefing-by-idf-spokesperson-rear-admiral-daniel-hagari-march-4-2024>

- www.idf.il/en/mini-sites/hamas-israel-war-24/briefings-by-idf-spokesperson-rear-admiral-daniel-hagari/march-24-press-briefings/press-briefing-by-idf-spokesperson-rear-admiral-daniel-hagari-march-4-2024/; “I’m inside with the Jews’: IDF releases recordings of UNRWA staff accused of joining Oct. 7 attack,” by Emanuel Fabian, *The Times of Israel*, March 4, 2024, https://www.timesofisrael.com/liveblog_entry/im-inside-with-the-jews-idf-releases-recordings-of-unrwa-staff-accused-of-joining-oct-7-attack/; tweet by the IDF, March 4, 2024, <https://twitter.com/IDF/status/1764742950628569551>; tweet by the IDF, March 4, 2024, <https://twitter.com/IDF/status/1764716524768461115>
165. <https://www.ohchr.org/en/press-releases/2023/10/gaza-un-experts-decry-bombing-hospitals-and-schools-crimes-against-humanity>, last accessed April 17, 2024.
166. Navi Pillay, “Hybrid Press Briefing by the United Nations Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and in Israel,” October 27, 2022, <https://webtv.un.org/en/asset/klj/kljzwwf8gg>
167. “*Legal Consequences Arising from the Policies and Practices of Israel in the Occupied Palestinian Territory, Including East Jerusalem*,” Request for Advisory Opinion transmitted to the Court pursuant to General Assembly resolution 77/247 of December 30, 2022, January 19, 2023, <https://www.icj-cij.org/sites/default/files/case-related/186/186-20230117-REQ-01-00-EN.pdf>
168. “Statement by Karim A.A. Khan KC, Prosecutor of the International Criminal Court, at the 21st session of the Assembly of States Parties,” Opening plenary, December 5, 2022, <https://asp.icc-cpi.int/sites/asp/files/2022-12/ASP21-STMT-PROS-ENG.pdf>; Annual Report of the Office of the Prosecutor—2022, December 1, 2022, <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-05-annual-report-of-the-office-of-the-prosecutor.pdf>; ICC prosecutor Kharim Khan announced the opening of an investigation into the “Situation in the State of Palestine” on March 3, 2021 (“Statement of ICC Prosecutor, Fatou Bensouda, respecting an investigation of the Situation in Palestine,” International Criminal Court website, March 21, 2021, <https://www.icc-cpi.int/news/statement-icc-prosecutor-fatou-bensouda-respecting-investigation-situation-palestine>), following a decision on December 20, 2019, by former ICC Prosecutor Fatou Bensouda that an investigation was warranted (“Statement of ICC Prosecutor, Fatou Bensouda, on the conclusion of the preliminary examination of the Situation in Palestine, and

- seeking a ruling on the scope of the Court’s territorial jurisdiction,” International Criminal Court website, December 20, 2019, <https://www.icc-cpi.int/news/statement-icc-prosecutor-fatou-bensouda-conclusion-preliminary-examination-situation-palestine>), and a ruling by the Pre-Trial Chamber on February 5, 2021 (Decision by the Pre-Trial Chamber on the “Prosecution request pursuant to article 19(3) for a ruling on the Court’s territorial jurisdiction in Palestine,” February 5, 2021, <https://www.icc-cpi.int/court-record/icc-01/18-143>), that the Court could exercise its criminal jurisdiction over the situation.
169. For instance: ICC prosecutor meeting with UN and Palestinian officials: Annual Report of the Office of the Prosecutor—2022, December 1, 2022, <https://www.icc-cpi.int/sites/default/files/2022-12/2022-12-05-annual-report-of-the-office-of-the-prosecutor.pdf>; “The Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel,” OHCHR website, <https://www.ohchr.org/en/hr-bodies/hrc/co-israel/index> and https://www.ohchr.org/sites/default/files/2022-06/OPTEJI_ICC.png
170. “Review of UNRWA-Produced Study Materials in the Palestinian Territories,” Institute for Monitoring Peace and Cultural Tolerance in School Education (IMPACT-se), <https://www.impact-se.org/wp-content/uploads/UNRWA-Produced-Study-Materials-in-the-Palestinian-Territories—Jan-2021.pdf>; “Review of 2022 UNRWA-Produced Study Materials in the Palestinian Territories,” July 2022, Institute for Monitoring Peace and Cultural Tolerance in School Education (IMPACT-se), <https://www.impact-se.org/wp-content/uploads/Review-of-2022-UNRWA-Produced-School-Materials.pdf>
171. “The Secretary-General creates inquiry on Gaza,” <https://humanrightsvoices.org/schabas/the-secretary-general-creates-a-second-inquiry-on-gaza> (for instance: Incident No. 1: July 17, 2014; Incident No. 2: July 22, 2014; Incident No. 3: July 30, 2014); UNRWA facilities have been repeatedly used by Hamas terrorists for military purposes, as staging grounds, weapons depots, and hideouts, and as shields to provide cover to nearby military assets. UNRWA teachers and officials have been, and continue to be, exposed as members and supporters of Hamas.
172. “Two-State Solution Only Viable Way to Resolve Israeli-Palestinian Conflict, Secretary-General Tells International Meeting as It Opens in Moscow,” International meeting in support of Israeli-Palestinian peace, AM meeting, GA/PAL/1336, July 1, 2015, <https://press.un.org/>

- en/2015/gapal1336.doc.htm; Tor Wennesland, Special Coordinator for the Middle East Peace Process briefing to the Security Council on the Situation in the Middle East, November 28, 2022, https://unsco.unmissions.org/sites/default/files/security_council_briefing_-_28_november_2022.pdf; 9236th meeting of the UN Security Council (PM), SC/15167, January 5, 2023, <https://press.un.org/en/2023/sc15167.doc.htm>
173. 42nd Meeting—54th Regular Session of Human Rights Council, tweeted out by the Office of the UN High Commissioner for Human Rights, https://twitter.com/UN_HRC/status/1711426746036244847, and <https://webtv.un.org/en/asset/k1d/k1dnjffexu>
174. 42nd Meeting—54th Regular Session of Human Rights Council, tweeted out by the Office of the UN High Commissioner for Human Rights, https://twitter.com/UN_HRC/status/1711426746036244847, and <https://webtv.un.org/en/asset/k1d/k1dnjffexu>
175. Remarks of UNRWA Commissioner-General Philippe Lazzarini at the Global Refugee Forum, December 13, 2023, <https://www.unrwa.org/newsroom/official-statements/statement-unrwa-commissioner-general-philippe-lazzarini-global-refugee>
176. “Inside UNRWA Facilities: Weapons and Underground Hamas Intelligence Asset,” IDF website, February 10, 2024, <https://www.idf.il/en/mini-sites/idf-press-releases-regarding-the-hamas-israel-war/february-24-pr/inside-unrwa-facilities-weapons-and-underground-hamas-intelligence-asset/>; see note 169 above.
177. “Statement of the Commissioner-General of UNRWA to the General Assembly,” March 4, 2024, <https://www.unrwa.org/newsroom/official-statements/statement-commissioner-general-unrwa-general-assembly>
178. See note 123 above.
179. “Declaring Israel’s occupation of Palestine unlawful is legitimate—Judge Navi Pillay,” Newzroom Afrika, February 2, 2024, <https://www.youtube.com/watch?v=cOt-IoLW4Ic>
180. Al-Husseini was a Nazi propagandist who trafficked in hate speech against Jews and whose Jewish victims spanned continents, from the Middle East to Europe, from Palestine to Iraq to Nazi Germany. As he had promised Hitler himself, al-Husseini plotted sabotage operations in the Middle East, including “a 1944 mission for Palestinian Arabs and Germans to carry out sabotage and propaganda after German planes dropped them into Palestine by

- parachute.” Richard Breitman and Norman Goda, *Hitler’s Shadow: Nazi War Criminals, U.S. Intelligence, and the Cold War*, National Archives and Records Administration, 2011, p. 20, <https://www.archives.gov/iwg/reports/hitlers-shadow.pdf>; Sean McMeekin, *The Berlin-Baghdad Express: The Ottoman Empire and Germany’s Bid for World Power* (Cambridge, MA: Belknap Press of Harvard University Press, 2010), p. 362; Rafael Medoff, “The Mufti’s Nazi years re-examined,” *Journal of Israeli History*, September 1996, p. 327; “4 JULY 2001 RELEASE: KURT WIELAND,” MI5 Security Service, available at <https://web.archive.org/web/20110611043738/https://www.mi5.gov.uk/output/4-july-2001-releases-kurt-wieland.html>; The Grand Mufti of Jerusalem Haj Amin al Hasanji (Husseini): “To the Reichsfuehrer SS and Minister of the interior H. Himmler,” July 17, 1944, available at: <http://cojs.org/july-27-1944-2/>
181. Approximately one million Jewish refugees fled persecution from Arab countries, Iran, and Turkey after the creation of the modern State of Israel in 1948. Today, Jewish communities are nonexistent in Algeria, Egypt, Iraq, Lebanon, Libya, Syria, and Yemen. Minute populations remain in Morocco and Tunisia. Less than 10% and 20% of the pre-1948 Jewish population in Iran and Turkey, respectively, remain.
 182. “Mehdi Hasan exclusive Town Hall with special guest Francesca Albanese,” Zeteo, April 1, 2024, <https://www.youtube.com/watch?v=ifSvNHA1c4s&t=1s>
 183. “Report of the Human Rights Council on its fourteenth session,” A/HRC/14/27, October 23, 2012.
 184. “The grave attacks by Israeli forces against the humanitarian boat convoy,” UN Human Rights Council Resolution 14/1, adopted June 2, 2010.
 185. Pillay’s Commission of Inquiry claimed it was the investigative UN address, guaranteeing another inquisition contextualizing Hamas atrocities, faux facts and bad law. UN Navi Pillay, chair, UN Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Press Release, October 10, <https://www.ohchr.org/en/press-releases/2023/10/commission-inquiry-collecting-evidence-war-crimes-committed-all-sides-israel>; See notes 189, 190.
 186. “Security Council Press Statement on Terrorist Attack in Rasak, Sistan and Baluchistan, Islamic Republic of Iran,” SC/15534, December 16, 2023, <https://press.un.org/en/2023/sc15534.doc.htm>

187. “Security Council Press Statement on Terrorist Attack in Moscow Region, Russian Federation,” SC/15640, March 22, 2024, <https://press.un.org/en/2024/sc15640.doc.htm>
188. “Women bearing the brunt of Israel-Gaza conflict: UN expert,” Press Release, Office of the UN High Commissioner for Human Rights, November 20, 2023, <https://www.ohchr.org/en/press-releases/2023/11/women-bearing-brunt-israel-gaza-conflict-un-expert>
189. “Women bearing the brunt of Israel-Gaza conflict: UN expert,” Press Release, Office of the UN High Commissioner for Human Rights, November 20, 2023, <https://www.ohchr.org/en/press-releases/2023/11/women-bearing-brunt-israel-gaza-conflict-un-expert>; see also: “the experts expressed alarm at increasing allegations of sexual violence perpetrated by Hamas and other armed groups against women and girls in Israel on 7 October, as well as sexual assault and threats of sexual violence against women in the occupied Palestinian territory since then. ‘These reports must be investigated, and those responsible must be held accountable through an independent process,’ they said.” The “experts” referred to included Reem Alsalem and Francesca Albanese: “Occupied Palestinian territory and Israel: UN experts call for permanent ceasefire to protect rights and futures of women and girls,” Press Release, Office of the UN High Commissioner for Human Rights, December 14, 2023, <https://www.ohchr.org/en/press-releases/2023/12/occupied-palestinian-territory-and-israel-un-experts-call-permanent>
190. A series on the UN Human Rights Council’s “Independent International Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem and Israel” (COI) by Anne Bayefsky and published by the Jerusalem Center for Public Affairs (JCPA): (1) “The Newest Anti-Israel UN Action Must Be Challenged—Now,” JCPA, December 20, 2021, <https://jcpa.org/article/the-newest-anti-israel-un-action-must-be-challenged-now>; (2) “The UN Commission of Inquiry: An Exercise in Historical Revisionism,” JCPA, June 8, 2022, <https://jcpa.org/article/the-un-commission-of-inquiry-an-exercise-in-historical-revisionism>; (3) “The Latest UN Commission of Inquiry on ‘Occupied Palestinian Territory’ Is an Inquisition,” JCPA, June 27, 2022, <https://jcpa.org/the-latest-un-commission-of-inquiry-on-occupied-palestinian-territory-is-an-inquisition/>; (4) “The UN Human Rights Council’s ‘Commission of Inquiry’ Goes Openly Antisemitic,” JCPA, August 1, 2022, <https://>

jcpa.org/article/the-un-human-rights-councils-commission-of-inquiry-goes-openly-antisemitic/; (5) “New UN Commission of Inquiry Report a Masterpiece of Modern Antisemitism,” JCPA, October 23, 2022, <https://jcpa.org/new-un-commission-of-inquiry-report-a-masterpiece-of-modern-antisemitism/>; (6) “Lies and Unapologetic Antisemitism from the UN ‘Commission of Inquiry,’” JCPA, November 6, 2022, <https://jcpa.org/lies-and-unapologetic-antisemitism-from-the-un-commission-of-inquiry/>; (7) “Pillay’s Latest Propaganda Crusade against Israel: The June 2023 UN Human Rights Council’s Commission of Inquiry Report,” JCPA, June 18, 2023, <https://jcpa.org/article/pillays-un-propaganda-crusade-continues-the-latest-un-human-rights-councils-commission-of-inquiry-report/>; (8) “Pillay’s Pogrom: The UN Tells Palestinian Terrorists, ‘We Have Your Back,’” JCPA, October 22, 2023, <https://jcpa.org/article/pillays-pogrom-the-un-tells-palestinian-terrorists-we-have-your-back/>

191. “The Commission has been collecting and preserving evidence of war crimes committed by all sides since 7 October 2023...The Commission is gravely concerned with Israel’s latest attack on Gaza... the Commission is committed to investigating current events and identifying those responsible for violations of international law on all sides... It will continue sharing information collected with the relevant judicial authorities, especially with the International Criminal Court,” UN Navi Pillay, chair, UN Commission of Inquiry on the Occupied Palestinian Territory, including East Jerusalem, and Israel, Press Release, October 10, <https://www.ohchr.org/en/press-releases/2023/10/commission-inquiry-collecting-evidence-war-crimes-committed-all-sides-israel>
192. “I am alarmed by disturbing reports of gender-based and sexual violence.” UN Women Executive Director Sima Bahous, “Briefing by UN Under-Secretary-General and UN Women Executive Director Sima Bahous to the 9,484th meeting of the UN Security Council on ‘The situation in the Middle East, including the Palestinian question’”, November 22, 2023, <https://www.unwomen.org/en/news-stories/speech/2023/11/speech-now-more-than-ever-we-must-seek-peace>; “We remain alarmed by gender-based violence reports on 7 Oct & call for rigorous investigation,” UN Women, Twitter account @UN_Women, November 24, 2023, https://twitter.com/UN_Women/status/1728262284537925701
193. On February 29, 2024, High Commissioner Türk still refers only to “reports” of sexual violence: “The killing of civilians, reports of

torture and sexual violence inflicted by Hamas and other Palestinian armed groups, and the holding of hostages since that time, are appalling and entirely wrong.” Türk calls for end to “carnage” in Gaza, OHCHR Press Release, February 29, 2024, <https://www.ohchr.org/en/statements-and-speeches/2024/02/turk-calls-end-carnage-gaza>

194. The exceptions are Alice Jill Edwards, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, and Morris Tidball-Binz, Special Rapporteur on extrajudicial, summary or arbitrary executions. They issued a press release on January 8, 2024:

The allegations include grave violations of international law, including killings, hostage-taking, and torture including sexual torture. Across 22 villages approximately 1,200 Israeli and foreign nationals were killed.... “The growing body of evidence about reported sexual violence is particularly harrowing....” Allegations of sexual torture include rapes and gang rapes, sexual assaults, mutilations and gunshots to genital areas. Female bodies were found with their clothing pulled up to their waists, with underpants removed or torn or stained with blood. “These acts constitute gross violations of international law, amounting to war crimes which, given the number of victims and the extensive premeditation and planning of the attacks, may also qualify as crimes against humanity,” the experts said. “There are no circumstances that justify their perpetration,” the experts said....

“UN experts demand accountability for victims of sexual torture and unlawful killings during 7 October attacks,” January 8, 2024, <https://www.ohchr.org/en/press-releases/2024/01/un-experts-demand-accountability-victims-sexual-torture-and-unlawful>

195. *Not one* UN official unequivocally acknowledged Hamas’s sexual violence for more than 60 days, until December 10, 2023. “Statement by the United Nations Resident and Humanitarian Coordinator in the Occupied Palestinian Territory, Lynn Hastings, on International Human Rights Day,” December 10, 2023, <https://www.ochaopt.org/content/statement-united-nations-resident-and-humanitarian-coordinator-occupied-palestinian-territory-lynn-hastings-0>
196. “Secretary-General’s remarks to the Security Council—on the Middle East,” January 23, 2024, <https://www.un.org/sg/en/content/sg/statement/2024-01-23/secretary-generals-remarks-the-security-council-the-middle-east-bilingual-delivered-scroll-down-for-all-english>

197. See below.
198. UN Women, <https://www.unwomen.org/en>
199. “About UN Women,” <https://www.unwomen.org/en/about-us/about-un-women>
200. Emphasis added. Tweet by Executive Director of UN Women Sima Bahous, October 7, 2023, <https://twitter.com/unwomenchief/status/1710833472095269002>
201. Emphasis added. “UN Women statement on the situation in Israel and the Occupied Palestinian Territory, October 14, 2023,” <https://www.unwomen.org/en/news-stories/statement/2023/10/un-women-statement-on-the-situation-in-israel-and-the-occupied-palestinian-territory>
202. Tweet by UN Women, October 28, 2023, https://twitter.com/UN_Women/status/1718310451761848692
203. See, e.g., “Civilians, including women & girls in #Gaza URGENTLY need: Lifesaving inputs,...”, tweet by UN Women, October 22, 2023, https://twitter.com/UN_Women/status/1716107205823377832; “Voices from Gaza: Amani’s story of loss,” UN Women website, November 1, 2023, <https://www.unwomen.org/en/news-stories/feature-story/2023/11/voices-from-gaza-amanis-story-of-loss>; “We condemn the strikes on #Jabalia refugee camp, all refugee camps and civilian infrastructure. The continuous bombardment has caused devastating destruction and loss of lives, leaving nowhere safe for the people of #Gaza, including women & children. Civilians are #NotATarget.” Tweet by UN Women, November 2, 2023, https://twitter.com/UN_Women/status/1720206701654065328; “Hospitals are #NotATarget. Safe access to health care is essential for women & children. #Gaza needs: Protection of civilians...”, tweet by Sima Bahous, Executive Director of UN Women, November 10, 2023, <https://twitter.com/unwomenchief/status/1723117461069804029>
204. UN Women rapid assessment and humanitarian response in the Occupied Palestinian Territory, October 20, 2023, <https://www.unwomen.org/en/digital-library/publications/2023/10/un-women-rapid-assessment-and-humanitarian-response-in-the-occupied-palestinian-territory>
205. “After backlash over silence, UN Women tweets, then deletes, statement condemning Hamas attack in Israel,” JTA, November 27, 2023, <https://www.jta.org/2023/11/27/israel/after-backlash-over->

- silence-un-women-tweets-then-deletes-statement-condemning-
hamas-attack-in-israel
206. UN Women Instagram account, November 24, 2023, <https://www.instagram.com/p/CODbiwnsus2/>
 207. Emphasis added. UN Women Instagram account, November 25, 2023, <https://www.instagram.com/p/COFMI8ZPv1Y/>
 208. Emphasis added. “UN Women statement on the situation in Israel and Gaza,” December 1, 2023, <https://www.unwomen.org/en/news-stories/statement/2023/12/un-women-statement-on-the-situation-in-israel-and-gaza>
 209. Emphasis added. “Statement on Gaza by UN Women Executive Director Sima Bahous,” January 19, 2024, <https://www.unwomen.org/en/news-stories/statement/2024/01/statement-on-gaza-by-un-women-executive-director-sima-bahous>
 210. “Mission report: Official visit of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) to Israel and the occupied West Bank 29 January—14 February 2024,” March 4, 2024, <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2024/03/report/mission-report-official-visit-of-the-office-of-the-srsg-svc-to-israel-and-the-occupied-west-bank-29-january-14-february-2024/20240304-Israel-oWB-CRSV-report.pdf>
 211. “Mission report: Official visit of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) to Israel and the occupied West Bank 29 January—14 February 2024,” para. 17, March 4, 2024.
 212. “Mission report: Official visit of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) to Israel and the occupied West Bank 29 January—14 February 2024,” paras. 58, 60, 61, March 4, 2024.
 213. UN Women, Twitter account @UN_Women, March 5, 2024, https://twitter.com/UN_Women/status/1765011961987617273
 214. “We can and must choose to end poverty for women and girls,” Opening remarks by UN Under-Secretary-General and UN Women Executive Director Sima Bahous at the opening of the 68th session of the Commission on the Status of Women, March 11, 2024, <https://www.unwomen.org/en/news-stories/speech/2024/03/speech-we-can-and-must-choose-to-end-poverty-for-women-and-girls>

215. Tanck has only acknowledged “*allegations* of sexual violence perpetrated by Hamas and other armed groups against women and girls in Israel on 7 October, as well as sexual assault and threats of sexual violence against women in the occupied Palestinian territory since then. “These *reports* must be investigated....” (emphasis added) “Occupied Palestinian territory and Israel: UN experts call for permanent ceasefire to protect rights and futures of women and girls,” December 14, 2023, <https://www.ohchr.org/en/press-releases/2023/12/occupied-palestinian-territory-and-israel-un-experts-call-permanent>; see also: “UN experts urge the international community to step up pressure to end crimes, uphold international law and save lives in Gaza,” March 7, 2024, <https://www.ohchr.org/en/press-releases/2024/03/un-experts-urge-international-community-step-pressure-end-crimes-uphold>
216. AL ISR 1/2024, February 7, 2024, posted on the website of the Office of the UN High Commissioner for Human Rights, “Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls,” <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28727>
217. It includes, for instance, “...suggests coordinated planning and authorization from higher authorities,” and “is suggestive of an intent to spread terror among [*sic*] local population.” AL ISR 1/2024, February 7, 2024, posted on the website of the Office of the UN High Commissioner for Human Rights, “Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls,” <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28727>
218. “The response of the State of Israel to the Joint communication AL ISR 1/2024 by the Special Rapporteur on Violence Against Women and Girls, its Causes and Consequences, and the Working Group on Discrimination Against Women, received on 21 February 2024,” OHCHR Communication database, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38342>
219. “UN experts appalled by reported human rights violations against Palestinian women and girls,” Office of the UN High Commissioner

for Human Rights, February 19, 2024, seven “experts,” the first and second being Alsalem and Albanese, <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>; the “communication” was sent to the government of Israel’s representative *in Geneva* via the Office of the UN High Commissioner for Human Rights *in Geneva*. It is dated February 7, 2024; it was received on February 21, 2024. The missive gave Israel 60 days to respond, and Israel responded on April 11, 2024. On February 19, 2024, Reem Alsalem, Francesca Albanese, Dorothy Estrada Tanck (chair), and the other members of the Working group on discrimination against women and girls, Claudia Flores, Ivana Krstić, Haina Lu, and Laura Nyirinkindi, put out a press release without the response.

220. “UN Special Representative Pramila Patten concludes her visit to Israel,” Special Representative of the Secretary-General on Sexual Violence in Conflict, February 6, 2024, <https://www.gov.il/en/pages/un-special-representative-patten-concludes-visit-to-israel-6-feb-2024>
221. “Mission report Official visit of the Office of the SRSO-SVC to Israel and the occupied West Bank 29 January–14 February 2024,” Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSO-SVC), March 4, 2024, <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2024/03/report/mission-report-official-visit-of-the-office-of-the-srsg-svc-to-israel-and-the-occupied-west-bank-29-january-14-february-2024/20240304-Israel-oWB-CRSV-report.pdf>
222. “The applicable standard of proof adopted by the mission team is one of ‘reasonable grounds to believe,’ consistent with the practice of investigative bodies, including those established by the UN Security Council and Human Rights Council....[T]here have been occasions where more information has supported a finding of fact, and the overall finding has therefore been stated to be established at the level of ‘clear and convincing’ information.” “Mission report Official visit of the Office of the SRSO-SVC to Israel and the occupied West Bank 29 January–14 February 2024,” paras. 26, 27, Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (SRSO-SVC), March 4, 2024, <https://www.un.org/sexualviolenceinconflict/wp-content/uploads/2024/03/report/mission-report-official-visit-of-the-office-of-the-srsg-svc-to-israel-and-the-occupied-west-bank-29-january-14-february-2024/20240304-Israel-oWB-CRSV-report.pdf>

223. “U.N. experts urge independent probe into reports of sexual assault against women by IDF,” CNN, February 23, 2024, <https://www.cnn.com/videos/world/2024/02/23/exp-ctw-un-israel-allegations-reem-alsalem-intv-fst-022310aseg1-cnni-world.cnn>
224. “Israel-Gaza war: World Food Programme stops deliveries to northern Gaza,” February 20, 2024, <https://www.bbc.com/news/world-middle-east-68349031>
225. AL ISR 1/2024, February 7, 2024, posted on the website of the Office of the UN High Commissioner for Human Rights, “Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls,” <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28727>
226. AL ISR 1/2024, page 1, para. 3, February 7, 2024, posted on the website of the Office of the UN High Commissioner for Human Rights, “Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls,” <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28727>
227. Forty-eight abducted Israeli women have been released and 19 remain in captivity (as of May 13, 2024). “Return of hostages,” Israel Ministry of Foreign Affairs, updated date: April 9, 2024, <https://www.gov.il/en/pages/return-of-hostages-24-nov-2023>; “Swords of Iron: Hostages and Missing Persons Report—Hostages and missing persons update—updated to 7 May 2024,” <https://www.gov.il/en/pages/hostages-and-missing-persons-report>
228. AL ISR 1/2024, February 7, 2024, posted on the website of the Office of the UN High Commissioner for Human Rights, “Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls,” <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28727>
229. “Mission report: Official visit of the Office of the Special Representative of the Secretary-General on Sexual Violence in

- Conflict (OSRSG-SVC) to Israel and the occupied West Bank 29 January-14 February 2024,” para. 61, March 4, 2024; see also: “One discernible pattern emerged: 24 out of the 29 soldiers displayed apparent, often multiple, gunshot wounds to the head” (para. 70).
230. “Return of hostages: Marking six months since the October 7 terror attack,” Israel Ministry of Foreign Affairs, April 9, 2024, <https://www.gov.il/en/pages/return-of-hostages-24-nov-2023>
 231. “Swords of Iron: War in the South— Hamas’ Attack on Israel,” Israel Ministry of Foreign Affairs, April 30, 2024, <https://www.gov.il/en/pages/swords-of-iron-war-in-the-south-7-oct-2023>
 232. “Return of hostages: Marking six months since the October 7 terror attack,” Israel Ministry of Foreign Affairs, April 9, 2024, <https://www.gov.il/en/pages/return-of-hostages-24-nov-2023>
 233. “What Happened on the 7th of October,” Israel National Digital Agency website, last accessed May 1, 2024, <https://info710.com/october7/what-happened-on-the-7th-of-october/>
 234. “What Happened on the 7th of October, Israel National Digital Agency website,” last accessed May 1, 2024, <https://info710.com/october7/what-happened-on-the-7th-of-october/>
 235. “President Isaac Herzog’s statement to the international community,” Israel Ministry of Foreign Affairs, October 9, 2023, <https://www.gov.il/en/pages/president-herzog-s-statement-to-the-international-community-9-oct-2023>
 236. Full quote of the communication allegation: “In January 2024, a Palestinian female infant was reportedly taken by the IDF from her home in Gaza to Israel by an Israeli officer, Harel Itach, a commander in the Givati Brigade, after the alleged killing of her family members, in what appears to be a forced transfer of a child out of Gaza. The IDF has so far not returned the infant and her exact location is reportedly unknown.” (AL ISR 1/2024, February 7, 2024, posted on the website of the Office of the UN High Commissioner for Human Rights, “Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls,” <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28727>)
 237. The Israeli reply states: “One type of allegation the communication

makes relates to alleged ‘abduction of children’ by IDF forces. The only allegation made with sufficiently concrete details concerns the alleged case of a female infant who was ‘taken by the IDF from her home....’ However, the communication fails to mention that this claim was already examined and publicly denied by the IDF [IDF spokesman speaking to Israel Public Broadcasting, January 2, 2024, reported in English, <https://twitter.com/AmichaiStein1/status/1742301776567533853>, and Hebrew, <https://twitter.com/roysharon11/status/1742298408730189985>]. Instead, the communication claims that ‘the IDF has so far not returned the infant and that her exact location is unknown.’ (“The response of the State of Israel to the Joint communication AL ISR 1/2024 by the Special Rapporteur on Violence Against Women and Girls, its Causes and Consequences, and the Working Group on Discrimination Against Women, received on 21 February 2024,” para. 13, OHCHR Communication database, <https://spcommreports.ohchr.org/TMResultsBase/DownloadFile?gId=38342>)

Captain Harel Itach, a captain in the IDF, was mortally wounded in Gaza at the end of December 2023.

A eulogy at his funeral and an interview with a second-hand source, who had not heard the story from Captain Itach directly, relayed that Captain Itach had found a baby alone in a Gaza building and brought her to Israel for treatment. (“The wounded soldier paid tribute to the fallen commander: ‘I agree to die for you ten times,’” *Ynetnews*, December 31, 2023, <https://www.ynet.co.il/news/article/slzxmkkot> [translation from Hebrew]. *Galgatz Radio*; a third-party site has the interview here: January 1, 2024, <https://www.youtube.com/watch?v=GqlU2pi6Fk0>)

Questions were quickly raised about the story. (*Kan* Israeli public broadcasting journalist, January 2, 2024, <https://twitter.com/nurityohanana/status/1742110684911902831>)

Within 48 hours, on January 2, 2024, the IDF corrected the mistaken information and informed a *Kan* reporter that the story was false. (“IDF spokesman to @roysharon11: ‘After an investigation, no baby girl was taken from Gaza to Israeli territory. The allegations regarding the abduction of a baby girl have no foundation.’” The reporter added: “The late Capt. Harel Itach rescued a dog from the rubble in Gaza and brought it to Israel, somehow his friend mistakenly heard that it was a baby (and said it in an interview).” (Tweet in English, Amichai Stein, correspondent at the *Kan*

Diplomatic desk, Israeli public broadcasting corporation, <https://twitter.com/AmichaiStein1/status/1742301776567533853>)

Further details emerged on January 5, 2024, that describe Captain Itach's rescue of the dog. ("He gave her some of his food': Harel rescued a dog he found in Gaza, and she was present at his funeral," *Walla News*, January 5, 2024, <https://news.walla.co.il/item/3633602> [translation].)

Neither the humanitarian intent nor the swift correction made any difference to Albanese's decision to run with the story—more than a month after it was disproven—and claim that it raised "serious concerns" that "children may have been abducted and forcefully carried off and transferred to Israel or killed."

238. "President Herzog meets US Secretary of State Blinken in Tel Aviv," Israel Ministry of Foreign Affairs, November 30, 2023, <https://www.gov.il/en/pages/president-herzog-meets-us-secretary-of-state-blinken-30-nov-2023>
239. Press Briefing by IDF Spokesperson, Rear Admiral Daniel Hagari, February 19, 2024, <https://www.idf.il/en/mini-sites/hamas-israel-war-24/briefings-by-idf-spokesperson-rear-admiral-daniel-hagari/february-24-press-briefings/press-briefing-by-idf-spokesperson-rear-admiral-daniel-hagari-february-19th-2024-2/>
240. "Swords of Iron: War in the South— Hamas' Attack on Israel," Israel Ministry of Foreign Affairs, April 30, 2024, <https://www.gov.il/en/pages/swords-of-iron-war-in-the-south-7-oct-2023>
241. Israeli Ministry of Foreign Affairs, https://www.gov.il/BlobFolder/news/swords-of-iron-war-in-the-south-7-oct-2023/en/English_Swords_of_Iron_Abducted%20children.pdf
242. "President Herzog calls on world leaders to advance return of hostages," Israel Ministry of Foreign Affairs, December 31, 2023, <https://www.gov.il/en/pages/president-herzog-calls-on-world-leaders-to-advance-return-of-hostages-31-dec-2023>
243. "As women," Israel Government Press Office, March 7, 2024, <https://www.gov.il/en/pages/internationalwomensdayisraelifemalehostages070324>
244. "German-Israeli Shani Louk, seen paraded by terrorists in Gaza, confirmed dead," *The Times of Israel*, October 30, 2023, <https://www.timesofisrael.com/german-israeli-shani-louk-seen-paraded-by-terrorists-in-gaza-confirmed-dead/>

245. “Mission report: Official visit of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) to Israel and the occupied West Bank 29 January–14 February 2024,” paras. 71, 72, March 4, 2024.
246. “Silent Cry: Sexual Crimes in the October 7 War: Special Report of the Association of Rape Crisis Centers in Israel,” February 21, 2024, https://www.gov.il/BlobFolder/news/arcci-report-october-7/ru/Russian_ARCCI%20report%20.pdf
247. “President Herzog addresses central rally marking 100 days of captivity for the hostages held by Hamas in Gaza,” Israel Ministry of Foreign Affairs, January 14, 2024, <https://www.gov.il/en/pages/president-herzog-addresses-central-rally-marking-100-days-of-captivity-of-the-hostages-14-jan-2024>
248. Tweet by Embassy of Israel to the USA, Twitter account @IsraelinUSA, February 20, 2024, <https://twitter.com/IsraelinUSA/status/1759988785884913705>
249. “Swords of Iron: War in the South—Hamas’ Attack on Israel,” Israel Ministry of Foreign Affairs, April 30, 2024, <https://www.gov.il/en/pages/swords-of-iron-war-in-the-south-7-oct-2023>
250. “Mission report: Official visit of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) to Israel and the occupied West Bank 29 January–14 February 2024,” para. 72, March 4, 2024.
251. “Mission report: Official visit of the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict (OSRSG-SVC) to Israel and the occupied West Bank 29 January–14 February 2024,” para. 75, March 4, 2024.
252. AL ISR 1/2024, February 7, 2024, posted on the website of the Office of the UN High Commissioner for Human Rights, “Mandates of the Special Rapporteur on violence against women and girls, its causes and consequences; the Special Rapporteur on the situation of human rights in the Palestinian territory occupied since 1967 and the Working Group on discrimination against women and girls,” <https://spcommreports.ohchr.org/TMResultsBase/DownloadPublicCommunicationFile?gId=28727>
253. “The experts expressed concern that an unknown number of Palestinian women and children, including girls, have reportedly gone missing after contact with the Israeli army in Gaza. “There are disturbing reports of at least one female infant forcibly transferred

- by the Israeli army into Israel, and of children being separated from their parents, whose whereabouts remain unknown,' they said.” “UN experts appalled by reported human rights violations against Palestinian women and girls,” Office of the UN High Commissioner for Human Rights, February 19, 2024, seven “experts,” the first and second being Alsalem and Albanese, <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>
254. “We are particularly distressed by reports that Palestinian women and girls in detention have also been subjected to multiple forms of sexual assault, such as being stripped naked and searched by male Israeli army officers. At least two female Palestinian detainees were reportedly raped while others were reportedly threatened with rape and sexual violence.” “UN experts appalled by reported human rights violations against Palestinian women and girls,” Office of the UN High Commissioner for Human Rights, February 19, 2024, seven “experts,” the first and second being Alsalem and Albanese, <https://www.ohchr.org/en/press-releases/2024/02/israelopt-un-experts-appalled-reported-human-rights-violations-against>
255. Interview conducted by Bar Shem-Ur, Hazorfim, aired on Hazinor, Channel 13, March 5, 2024, <https://twitter.com/i/status/1764990599172694319>
256. Interview conducted by Bar Shem-Ur, Hazorfim, aired on Hazinor, Channel 13, March 5, 2024, <https://twitter.com/i/status/1764990599172694319>
257. “Human Rights Council—Press conference: UN Special Rapporteur on the OPT,” Francesca Albanese, March 27, 2024, <https://webtv.un.org/en/asset/k19/k199zd7ei5>
258. “Human Rights Council—Press conference: UN Special Rapporteur on the OPT,” Francesca Albanese, March 27, 2024, <https://webtv.un.org/en/asset/k19/k199zd7ei5>
259. “Conflict-related sexual violence,” Report of the Secretary-General, S/2024/292, April 4, 2024, https://digitallibrary.un.org/record/4044629/files/S_2024_292-EN.pdf?ln=en
260. “Conflict-related sexual violence,” Report of the Secretary-General, S/2024/292, April 4, 2024, paras. 39–43, https://digitallibrary.un.org/record/4044629/files/S_2024_292-EN.pdf?ln=en
261. Full quote: “I call upon the Government of Israel to grant, without further delay, access to relevant United Nations bodies to carry

- out a fully-fledged investigation into all alleged violations, including conflict-related sexual violence, to ensure justice and accountability.” “Conflict-related sexual violence,” Report of the Secretary-General, S/2024/292, April 4, 2024, para. 43, https://digitallibrary.un.org/record/4044629/files/S_2024_292-EN.pdf?ln=en
262. “Conflict-related sexual violence,” Report of the Secretary-General, S/2024/292, April 4, 2024, paras. 36, 53, https://digitallibrary.un.org/record/4044629/files/S_2024_292-EN.pdf?ln=en
263. Link to original video, interview with Ismail Haniyeh on Al Jazeera, December 13, 2023, <https://www.youtube.com/watch?v=DnshQIn5R3k>; translation, “Media Ignore Hamas’ Praise for the UN After Gaza Ceasefire Resolution, by Rinat Harash,” Honest Reporting, December 20, 2023, <https://honestreporting.com/media-ignore-hamas-praise-for-the-un-after-gaza-ceasefire-resolution/>
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274. The UN refused to condemn Hamas or identify its heinous actions as "terrorism." The UN has no definition of terrorism, precisely because Islamic states refuse to include targeting Israelis within any definition.
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help with the evacuations. Is there any will on your side to help with this?" SPOKESMAN: "...We will not be party to forced displacement of people." Stéphane Dujarric, Spokesman for the Secretary-General, Daily Press Briefing by the Office of the Spokesperson for the Secretary-General, February 12, 2024, <https://press.un.org/en/2024/db240212.doc.htm>

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282. Acceded to by the "State of Palestine," April 2, 2014.
283. <https://www.amnesty.org/en/what-we-do/refugees-asylum-seekers-and-migrants/#definitions>; see also: "The right to flee from danger and seek safe haven ought to be something we all innately

- understand.” <https://www.amnestyusa.org/updates/everyone-has-the-right-to-seek-asylum/>
284. Filippo Grandi, UN High Commissioner for Refugees: “An exodus of Gazans into Egypt must be ‘avoided at all costs’...the UN refugees chief said. “The position of Egypt has been very clear. People should not go across the border.” “Gazans Should Not Flee To Egypt: UN Refugees Chief,” AFP, Barron’s News, February 16, 2024, <https://www.barrons.com/news/gazans-should-not-flee-to-egypt-un-refugees-chief-4dfc89c0>; Filippo Grandi, United Nations High Commissioner for Refugees (UNHCR)” “[W]e must fervently do everything’ to avoid such an outflow of the Gazan population.” “UN refugee chief says outflow of Gazans into Egypt would make conflict resolution impossible,” April 12, 2024, Reuters, <https://www.reuters.com/world/un-refugee-chief-says-outflow-gazans-into-egypt-would-make-conflict-resolution-2024-04-12/>
285. “Declaring Israel’s occupation of Palestine unlawful is legitimate— Judge Navi Pillay,” Newzroom Afrika, February 2, 2024, <https://www.youtube.com/watch?v=cOt-IoLW4Ic>
286. In full, the statement reads:
- The Court test for deciding whether to impose measures, uses the idea of plausibility, but the test is the plausibility of the rights, that are asserted by the applicant, in this case South Africa. So, the Court decided that the Palestinians had a plausible right to be protected from genocide and that South Africa had the right to present that claim in the Court. In then looked at the facts as well, but it did not decide—and this is something where I’m correcting what’s often said in the media—it didn’t decide that the claim of genocide was plausible. It did emphasize in the Order that there was a risk of irreparable harm to the Palestinian right to be protected from genocide. But the shorthand that often appears, that there is a plausible case of genocide, isn’t what the Court decided.*
- “Former head of ICJ explains ruling on genocide case against Israel brought by S Africa,” Interviewing Joan Donoghue, HARDtalk, BBC, April 25, 2024, <https://www.bbc.com/news/av/world-middle-east-68906919>
287. In UN circles, the fires of antisemitism now spreading to Jews outside of Israel as a corollary of legitimizing Palestinian violence inside of Israel count— for even less. On the contrary, the likes of Francesca Albanese are encouraging more hate speech and chaos on the streets and campuses of America and elsewhere (in

- the name of—her list—peace, law, values, rights, human rights, equal rights, justice, freedom, dignity, non-discrimination, mass intersectional consciousness, and climate change). (“Love” didn’t make the cut.) Francesca Albanese, Twitter account @FranceskAlba, April 22, 2024, <https://twitter.com/FranceskAlbs/status/1782283476902822323>
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290. Polish Jewish refugee Raphael Lemkin.
291. “Palestinian Leader: Number of Jewish Victims in the Holocaust Might be ‘Even Less Than a Million...’ Zionist Movement Collaborated with Nazis to ‘Expand the Mass Extermination’ of the Jews,” MEMRI, Inquiry & Analysis Series No. 95, May 31, 2002, <https://www.memri.org/reports/palestinian-leader-number-jewish-victims-holocaust-might-be-even-less-million-zionist>
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293. “Palestinian President Mahmoud Abbas: Jews ‘Have No Right to Defile the Al-Aqsa Mosque with Their Filthy Feet,’” MEMRI TV, #5850, source: Palestinian Authority TV, September 16, 2015, <https://www.memri.org/tv/palestinian-president-mahmoud-abbas-jews-have-no-right-defile-al-aqsa-mosque-their-filthy-feet>
294. “Palestinian Authority President Mahmoud Abbas During Press Conference With German Chancellor: Israel Has Committed 50 Holocausts Against The Palestinian People,” MEMRI TV, #9761, source: Al-Jazeera Network (Qatar), <https://www.memri.org/tv/>

pa-president-abbas-press-conference-germany-israel-commits-fifty-holocausts

295. “The Persecution Of The Jews In Europe Throughout History Was Due To ‘Their Function In Society, Which Had To Do With Usury, Banks, And So On,’” MEMRI TV, Special Dispatch No. 10799, September 18, 2023, <https://www.memri.org/reports/he-said-it-all-already-2018-and-more-jews-poison-wells-%E2%80%93-mahmoud-abbas-antisemitism-and>
296. “Palestinian Authority President Mahmoud Abbas at EU Parliament: Israeli Rabbis Urged to Poison Palestinian Water,” MEMRI TV #5537, source: Palestinian Authority TV, June 23, 2016, 00:37-00:46, <https://www.memri.org/tv/palestinian-authority-president-mahmoud-abbas-eu-parliament-israeli-rabbis-urged-poison>
297. See, for instance: “The Ideology Of Hamas—In Its Own Words,” MEMRI, #10899, October 23, 2023, <https://www.memri.org/reports/ideology-hamas-%E2%80%93-its-own-words>; “‘The Protocols Of The Elders Of Zion’ In The Hamas Charter: Islamization Of Western Antisemitism And Its Integration Into The Jihad Against The Jews,” MEMRI, #1748, February 26, 2024, <https://www.memri.org/reports/protocols-elders-zion-hamas-charter-islamization-western-antisemitism-and-its-integration>; “Based on Koranic Verses, Interpretations, and Traditions, Muslim Clerics State: The Jews Are the Descendants of Apes, Pigs, And Other Animals,” MEMRI #11, October 31, 2002, <https://www.memri.org/reports/based-koranic-verses-interpretations-and-traditions-muslim-clerics-state-jews-are>
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hamas-interior-minister-fathi-hammad-we-will-annihilate-brothers-apes-and-pigs; “ Hamas MP Fathi Hammad Slams Arab and Islamic Regimes for Being Ruled by ‘ 4 Million Brothers of Apes and Pigs, ’ ” MEMRI TV, #1688, source: Al-Aqsa TV (Hamas/Gaza), <https://www.memri.org/tv/hamas-mp-fathi-hammad-slams-arab-and-islamic-regimes-being-ruled-4-million-brothers-apes-and-pigs>

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302. See, for instance: post by Francesca Albanese on her Facebook page, “ In the first pic a Nazi soldier, a dog, and a man on the ground — who is a Jew. In the second pic an Israeli soldier, a dog, and a man on the ground — who is a Palestinian. ” Facebook page Francesca Albanese, November 29, 2015, <https://www.facebook.com/franci.albanese/posts/10153014874326706>
303. Francesca Albanese, UN Special Rapporteur, Twitter account, @FranceskAlbs, October 15, 2023, <https://twitter.com/FranceskAlbs/status/1713513705533473243>
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306. “ UN Special Rapporteur On The Occupied Palestinian Territories Francesca P. Albanese: What Is Happening Today Is Similar To The Holocaust; The Holocaust Does Not Give Israel The Right To Destroy The Palestinian People, ” MEMRI TV, #10793, source: Interview on Alghad TV (Egypt), January 8, 2024, <https://www.memri.org/tv/francesca-albanese-un-palestine-holocaust-israel-destroy>
307. Francesca Albanese, UN Special Rapporteur on the Palestinian Territories occupied since 1967, Press Conference during the UN Human Rights Council session, March 27, 2024, <https://webtv.un.org/en/asset/k19/k199zd7ei5>

308. While particularly fanatical, Albanese is not alone in UN circles in pushing this ultimate slander. Nouredin Amir (Algeria), Member of the UN Committee on the Elimination of Racial Discrimination: “75 years later it is the same state that continues to take a stand against the international community, against international law.... [T]he horrible Holocaust, where...six million Jews were exterminated. So, what is happening today? Today, there is a new Holocaust and it is the Palestinian people that are paying the price.... We are living a true Holocaust, a veritable Holocaust and the international community must be seized of this, to put an end to this.” 3020th Meeting, 111th Session, Committee on the Elimination of Racial Discrimination (CERD), November 20, 2023, <https://webtv.un.org/en/asset/k1m/k1m0vprv07>
309. “Palestinian Authority President Mahmoud Abbas In U.N. General Assembly Speech: U.S., Britain Created Israel To Get Rid Of Their Jews; The Israelis Lie Like Goebbels,” MEMRI TV, #10291, source: Palestinian Authority TV, May 15, 2023, <https://www.memri.org/tv/pa-president-abbas-usa-britain-established-israel-get-rid-of-jews-no-historical-evidence> (1:48-1:55 original Arabic); also “High-level event to commemorate the 75th anniversary of the Nakba at the UN Headquarters in New York,” May 15, 2023 (UN translation into English varies slightly), https://www.youtube.com/watch?v=gq5RX_znbXQ
310. On May 20, 2024, the Prosecutor of the ICC, Karim Khan, announced he had filed applications for arrest warrants to the Pre-Trial Chamber of the ICC against Israeli Prime Minister Benjamin Netanyahu and Israel’s Minister of Defense Yoav Gallant, and Hamas leaders Yahya Sinwar, Mohammed Diab Ibrahim Al-Masri (Deif), and Ismail Haniyeh. A detailed analysis of this development is beyond the scope of this paper. But one thing is immediately clear. It has UN fingerprints, such as those of Navi Pillay, all over it. The simultaneous prosecution of Hamas terrorists and the democratically-elected defenders of the Jewish state is a perversion of justice, not equal justice. Even-handedness between those committed to perpetrating genocide and those committed to preventing it—the again side and the never-again side—is the problem. Or the latest UN solution to the continued existence of the State of Israel. “Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for arrest warrants in the situation in the State of Palestine,” May 20, 2024, <https://www.icc-cpi.int/news/statement-icc-prosecutor-karim-aa-khan-kc-applications-arrest-warrants-situation-state>

Israel's Legal Rights Regarding Settlements

Prof. Talia Einhorn

Executive Summary

This chapter analyzes from an international law perspective the legality of Jewish settlements in east Jerusalem, Judea and Samaria, and the Gaza Strip. Since the Six-Day War, Israel has extended its law, jurisdiction, and administration over eastern Jerusalem but not to Judea, Samaria, and Gaza. In the interim period, which lasted since 1967, Jewish settlements were established on that land.

Many in the international community contend that the Palestinian Arabs are entitled to an independent state in all of these areas, while Jewish settlement there is forbidden under international law. In their view, since Israel took over these territories in 1967, it has held them under belligerent occupation. The demarcation lines stipulated in the Armistice Agreements between Israel and Jordan, on the one hand, and between Israel and Egypt, on the other (the “Green Line”), is, in their view, an international border beyond which Jews are not allowed to settle.

The legality of the Jewish settlements in Jerusalem, Judea

and Samaria, and Gaza derives from the Jewish people's historical, indigenous, and legal rights to settle in those areas, validated in international documents. Denying Jews their right to live in the Old City of Jerusalem and Judea and Samaria means denying their ties to their biblical and historical homeland, precisely those ties that have been recognized in these documents.

The claim that the Palestinian Arabs are entitled to an independent state in all the territories, while Jewish settlement is forbidden, is unfounded in international law. The Palestinians themselves do not consider that the recognition of a right to self-determination in these territories will conclude their national claims since those extend "from the [Jordan] River to the [Mediterranean] Sea."

Following Israel's War of Independence in 1948, there was an exchange of approximately 600,000 people from each side. Whereas Israel absorbed the Jewish refugees, the Arab states, rather than absorbing the Arab refugees, invented a new "Palestinian people" that had never before ruled the land; there is no "Palestinian" language and no specific "Palestinian" culture or history.

The Oslo Agreements were drafted to enhance "a just, lasting, and comprehensive peace." Yet, since they came into effect, the Middle East has witnessed not peace but violence and terror. The establishment of the Palestinian Authority and the subsequent takeover of Gaza by Hamas, as well as the popular support Hamas enjoys in Judea and Samaria, should serve as a "guide to the bewildered" of the grave risks posed by such an Arab state, which may eventually lead to the destruction of the Jewish state.

Introduction

This chapter analyzes, from an international law perspective, the legality of Jewish settlements in east Jerusalem (including the Old City of Jerusalem), Judea and Samaria (the West Bank), and the Gaza Strip.

The State of Israel's official position is that since the Six-Day War, Israel extended its law, jurisdiction, and administration over eastern Jerusalem but chose not to do so concerning Judea and Samaria and the Gaza Strip. However, it is widely acknowledged that, in light of its historical and legal rights, Israel nevertheless has a prior claim to sovereignty over all these territories. In the interim period, which lasted since 1967, establishing Jewish settlements on that land was fully in accordance with international law.

The opposing position, advanced by numerous members of the international community, contends that the Palestinian Arabs are entitled to an independent state in all of these areas, while Jewish settlement there and in east Jerusalem, including the Old City, is forbidden under international law. In their view, since Israel took over these territories in 1967, it has held them under belligerent occupation. The demarcation line stipulated in the Armistice Agreements between Israel and Jordan, on the one hand, and between Israel and Egypt, on the other (the "Green Line"), is, to all intents and purposes, an international border, beyond which Jews are not allowed to settle.

The Establishment of the State of Israel, the Jewish State

“If I forget thee, O Jerusalem, may my right hand forget its cunning,” declared Charles Malik, the Lebanese delegate to the United Nations, immediately after the UN General Assembly adopted its Partition Plan on November 29, 1947, quoting King David’s *Psalms* 137. Abba Eban, the Israeli delegate, retorted, “If you continue saying this for 2,000 years, we shall start believing it.”¹ The Jewish people can trace their roots in Judea back to the days of the patriarch Abraham. All generations of the Jewish people have maintained their ties to their Promised Land, from which they had been expelled by force repeatedly.

During two millennia of Diaspora, Jews retained a clear, direct link to their heritage thanks to a unique language (Hebrew), religion (Judaism), and culture (practices common to Jews all over the world). Jewish settlement in the Land of Israel has not ceased for even a single generation after sovereignty had been lost.²

The Jewish people are the only people who considered the Land of Israel their homeland throughout history. After the Jews lost sovereignty in 70 CE, the country was ruled by the Romans, Byzantines, Persians, Arabs, Crusaders, Mamluks, and Ottomans. The desolation and destruction of the land were recorded in numerous sources. Under the first period of Islamic rule (634–1096 CE), most agricultural settlements were gradually abandoned.³ Ineffective irrigation and drainage methods turned fertile land into swampland. On a visit to the Holy Land in 1867, Mark Twain described the Jezreel Valley as having “not a solitary village throughout its whole extent—not for thirty miles in either direction. There are two or three clusters of Bedouin tents, but not a single permanent

habitation. One may ride ten miles hereabouts and not see ten human beings.”⁴ Twain ends by quoting the biblical curse from Leviticus 26:32–33: “I myself will lay waste the land so that your enemies who live there will be appalled. I will scatter you among the nations and I will draw out a sword and pursue you. Your land will be desolate and your cities waste.”

Jerusalem fared no better. When Muslims controlled the city, they never made it their capital.⁵

Before the establishment of the State of Israel, there was no “Palestinian” Arab state west of the Jordan River. The name “Palestine” does not have Arab roots. It derives from the name the Romans gave the land after crushing the Jewish revolt. Attempting to delete from history and memory any identification between the province of Iudæa and the Jewish people, they renamed the province Syria Palæstina, which eventually became Palestine, so-called after the Philistines who had resided in the coastal plain in the biblical era⁶ and had since vanished from the face of the earth, no longer having any ties to the land nor chance of returning there.

The change in the state of the land came with the large-scale waves of Jewish immigration since the 19th century, throughout which Jews were the most significant minority in Jerusalem. After a visit to Palestine in March 1921, Winston Churchill was deeply impressed with the progress made by the Jewish settlements established there by Zionist immigrants. At a parliamentary debate following that visit, Churchill told the Parliament members how the Zionist immigrants had turned “the most inhospitable soil, surrounded on every side by barrenness and the most miserable form of cultivation ... into a fertile and thriving country estate, where the scanty soil gave place to good crops and good cultivation, and then to vineyards and finally to the most beautiful, luxurious orange

groves, all created in 20 or 30 years by the exertions of the Jewish community who live there.”⁷ Churchill also noted that the Jewish enterprises served as a magnet for Arabs searching for employment.

It was in appreciation of the special connection between the Jewish people and their biblical homeland that the international community came to recognize Israel as a state in which this indigenous people had the right to regain their sovereignty.⁸ This recognition was enhanced by the further acknowledgment that Jews in the Diaspora were in constant danger of persecution and annihilation, their precarious status culminating in the Holocaust. The right of every Jew to immigrate (“return”) to the Land of Israel is the cornerstone of the Jewish state, whose *raison d’être* is to provide a safe haven for Jews worldwide who wish to pursue a Jewish lifestyle openly and undisturbed, in a state whose official day of rest is the Sabbath, where Jewish festivals are official holidays, the language is Hebrew, and where Jews are free from antisemitic attacks or at least are capable of actively defending themselves.

The Land of Israel in International Law

The Jewish People’s Rights: The League of Nations and the UN Charter

In 1920, the San Remo Conference of the Allied Powers, when allocating the lands of the former Ottoman Empire, assigned to Great Britain a Mandate to establish the Jewish national home on a territory covering Israel, Jordan, and part of the Golan Heights.⁹ The preamble to the Mandate specifies that “recognition has thereby been given to the

historical connection of the Jewish people with Palestine, and to the grounds for reconstituting their National Home in that country.”

The Mandate made Britain responsible for placing the country under such political, administrative, and economic conditions as would secure the establishment of the Jewish national home in Palestine. It required Britain to facilitate Jewish immigration to Palestine and encourage close settlement by Jews on the land, including state lands and waste lands not required for public purpose, and to introduce a land system that would promote the close settlement and intensive cultivation of the land. Britain was made responsible for enacting a nationality law that would enable Jews who took up permanent residence in Palestine to acquire Palestinian citizenship.

Shortly before the Mandate’s ratification, Article 25 was added. It empowered Britain, with the Council of the League of Nations’ consent, to postpone or withhold the application of the Mandate provisions to the territories between the Jordan River and the eastern boundary of Palestine.

The Palestine Mandate does not mention Arab national or political rights in Palestine. It provides that “nothing should be done which might prejudice the civil and religious rights of existing non-Jewish communities.” The reason is clear: the purpose of the Mandate was to reconstitute the political ties of the Jewish people to their biblical homeland.

Out of the three classes of Mandates established by Article 22 of the Covenant of the League of Nations, the Palestine Mandate was considered a “Class A” Mandate, albeit with unique (*sui generis*) characteristics since it was designed to establish a state for the Jewish people, most of whom were not resident in Palestine at that time, rather than independent

statehood of the local population as was the case with other mandates.¹⁰ At the San Francisco Conference in 1945, at which the United Nations Charter was drafted and adopted, the rights under the Mandates were set forth in Article 80, which addressed the need to maintain the rights “of any states or any peoples or the term of existing international instruments to which Members of the United Nations may respectively be parties.”¹¹ The Arab delegations made several unsuccessful attempts to prevent the use of the word “peoples” in Article 80. Those proposals were rejected, and the Arab delegates did not manage to prevent the protection of the rights granted in the Palestine Mandate in its entirety, including its provisions pertaining to the rights of the Jewish people in Eretz Israel.

Arab pressure and riots in Palestine (supported by British officials favoring the establishment of a homogeneous Arab empire affiliated with Britain in the whole of the Middle East)¹² resulted in Churchill’s White Paper of 1922. While reiterating the right of the Jewish people to a national home in Palestine, it permanently detached the area of the Jewish homeland east of the Jordan River (constituting about 76% of the original Mandate territory), regarding which Churchill made a separate agreement with Emir Abdullah of Transjordan granting him control of that area, first as an emirate subject to the British Mandatory and, since March 22, 1946, as the independent Kingdom of Jordan.

During the entire period of the Mandate, Britain, entrusted with ensuring its fulfillment, acted to frustrate its very purpose, wishing thereby to appease the Arab and Muslim world. They did so by restricting Jewish immigration to Palestine, on the one hand, while, on the other hand, permitting the entry of Arabs from neighboring countries who sought to settle in Palestine following its development

by the Zionist movement and the ensuing work opportunities; by restricting the sale of land to anyone who was not an Arab resident of Palestine; and by the poor administration of state lands, allowing the Arab population to seize them freely.¹³ The Palestine Citizenship Order-in-Council (1925) contained no provision enabling Jewish immigrants to acquire Palestinian citizenship, as provided in the Palestine Mandate.¹⁴

As explained briefly below,¹⁵ the status in international law of that part of the Jewish homeland remaining after Britain's severance of the 76% to the east of the Jordan River has remained unchanged.

The Status of Jerusalem, Judea and Samaria, and the Gaza Strip in International Law

In international law, under the *uti possidetis* (as you possess) principle, the borders of a new state are determined by its borders when it was first established.¹⁶ When Israel was created, its borders were those provided for reconstituting the national home of the indigenous Jewish people in the Land of Israel by the League of Nations, as determined in the British Mandate and confirmed in Article 80 of the UN Charter.¹⁷ No subsequent event has affected this determination.¹⁸

Jerusalem, Judea and Samaria, and the Gaza Strip were all part of the Palestine Mandate territory until 1948. The 1947 UN Assembly Partition Resolution of November 29, 1947 (General Assembly Resolution 181 (II) regarding the partition of Palestine west of the Jordan River into an Arab state and a Jewish state linked by an economic union) was only a recommendation.

During Israel's War of Independence, Egypt occupied

(unlawfully, under public international law) the Gaza Strip, and Jordan occupied (likewise unlawfully) Judea and Samaria (the “West Bank”).¹⁹ Egypt has never claimed title to the Gaza Strip. By contrast, Jordan purported to annex Judea and Samaria in 1950; the annexation was invalid under international law.²⁰

The 1949 Armistice Agreements signed between Israel and its neighbors provided expressly that “[t]he Armistice Demarcation Line is not to be construed in any sense as a political or territorial boundary.”²¹ The Armistice Agreements specified that they were intended to facilitate the transition to “permanent peace” and the end of military aggression. No sooner had the ink dried on these agreements than Israel suffered Arab violations thereof.

In 1967, Egypt’s President Gamal Abdel Nasser poured Egyptian Army divisions into the Sinai Peninsula and made public declarations about his imminent intentions to wage war on Israel. At his behest, UN Secretary-General U Thant removed the United Nations Emergency Force (UNEF) from Sinai two days later. In international law, no state is expected to wait until bombs are dropped on its territory. The state that engages in aggressive activities and statements is considered the one to have launched an aggressive attack in violation of international law. After weeks of mobilization, which paralyzed the Israeli economy, Israel was finally forced to act in anticipatory self-defense. On June 5, 1967, it struck the Egyptian Air Force, destroying its aircraft on the ground. Syria and Jordan, totally unprovoked, attacked Israel on that same day, opening fire all along the Armistice Lines. Contingents supporting the Arab attack arrived from Iraq, Algeria, and Kuwait as well. The war ended with Israel’s victory. The Sinai Peninsula, the Golan Heights, east Jerusalem, Judea and Samaria, and the Gaza Strip were under Israeli rule; all of east Jerusalem, Judea and

Samaria, and Gaza had been initially designated as the Jewish national home by the Mandate document.

Leading international law scholars opined that Israel was in lawful control of Judea and Samaria and the Gaza Strip, that no other state could show better title than Israel to these territories, and that these territories were not “occupied” in the sense of the Geneva Convention. Those rules are designed to assure the reversion of the former legitimate sovereign, which, in this case, did not exist.²² Israel was, therefore, entitled to declare that it had exercised its sovereign powers over Judea, Samaria, and Gaza.

UN Security Council Resolution 242, passed in the wake of the Six-Day War, was aimed at establishing the guidelines for a “peaceful and accepted settlement” to be agreed upon by the parties. Accordingly, it affirmed that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East that should include the right of all states—including Israel—to “secure and recognized boundaries.” These should guarantee “the territorial inviolability and political independence of every state,” the “termination of all claims or states of belligerency, and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force,” as well as the withdrawal of Israeli armed forces (not necessarily all Israeli armed forces) from territories (not necessarily all territories) occupied in 1967.²³

UN Security Council Resolution 338, which dates to the 1973 Yom Kippur War waged by Egypt and Syria against Israel without any provocation,²⁴ reiterates Resolution 242 (1967) and declares that “immediately and concurrently with

the ceasefire, negotiations shall start between the parties ... aimed at establishing a just and durable peace in the Middle East.” Both resolutions were adopted under Chapter 6 of the UN Charter, which authorizes the Security Council to make nonbinding recommendations for the peaceful settlement of disputes.

In practice, however, Israel extended its law, jurisdiction, and administration only to east Jerusalem. Regarding the rest of the areas, Israel’s official position was that Israel had the most substantial historical and legal right to them. Since they had not been taken from a legitimate sovereign, the Fourth Geneva Convention did not apply to them. Nonetheless, Israel chose voluntarily to observe and abide by the humanitarian provisions included therein.²⁵

The peace treaties that Israel signed with Egypt in 1979 and with Jordan in 1994 did not determine sovereignty over the West Bank and Gaza.²⁶

On September 13, 1993, the PLO signed a Declaration of Principles²⁷ stating that Resolutions 242 and 338 would provide the basis for negotiations with Israel. Following that declaration, on May 4, 1994, the Agreement on the Gaza Strip and the Jericho Area (“Gaza-Jericho Agreement”) was signed, transferring control of Jericho and the Arab towns in the Gaza Strip to the Palestinian Authority (PA). Overall security in the territory (as distinct from internal security in the areas handed over to the PA) remained under Israeli control, as did control of the Israeli settlements in the Gaza Strip, the roads leading to them from Israeli territory, and the Philadelphi Corridor—a narrow strip of land between the Gaza Strip and Egypt.

The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, signed on September 28, 1995, five years from the date of signature of the Gaza-Jericho

Agreement, provided that the West Bank and the Gaza Strip would be transferred to the PA gradually, including state lands (Art. 16 of Annex III to the Interim Agreement).²⁸ After signing the Interim Agreement, Israel handed over broad powers—in both civil and security matters—to the PA in extensive areas in the West Bank, in which the Arab population was concentrated. In every area transferred to the PA, powers over state lands were likewise transferred for an interim period of five years. However, the Interim Agreement did not apply at all to issues reserved for the negotiations on the permanent status agreement, including Jerusalem and the settlements. Furthermore, both parties agreed that the Interim Agreement would not prejudice the outcome of the talks on the permanent status, and neither party would be deemed to have renounced or waived any of its existing rights, claims, or positions by virtue of having entered into the agreement. The five-year interim period elapsed almost a quarter of a century ago, yet to date, no final agreement has been concluded.

On June 6, 2004, the Israeli government adopted a decision on Israel's unilateral disengagement plan from the Gaza Strip. The decision was passed by the Knesset in the Disengagement Plan Implementation Law, 5765-2005, and in August-September 2005, Israel withdrew unilaterally from the Gaza Strip, uprooting all Jewish settlements from this area.²⁹ Since the withdrawal was a unilateral act, it could not affect the status of the Gaza Strip.

To sum up, the status of the territories of Jerusalem, Judea and Samaria, and the Gaza Strip has remained unchanged since the establishment of the State of Israel.

The Legality of the Settlements in International Law

The International Law Rules

The areas of Judea and Samaria constitute the biblical homeland of the Jewish people. Since there is no question as to the Jewish people's widely acknowledged historical and legal roots in these areas, and given the unique *sui generis* status of these areas, Israel is not considered to be a foreign occupying power, and there is no obstacle to the establishment of civilian Jewish settlements on state and public lands. Regarding private property, Israel is obliged to respect it but may expropriate it (in consideration for payment) for various public purposes, according to accepted criteria in law-abiding democratic nations.

This position was confirmed in the Levy Committee Report (2012), authored by a committee established by the Israeli government, the members of which were Supreme Court Justice (ret.) Edmund Levy (chairman), District Court Justice (ret.) Tchia Shapira, and former Legal Adviser to the Foreign Ministry, Attorney Alan Baker.³⁰ The Committee held that the legality of the settlements' presence derives from the Jewish people's historical, indigenous, and legal rights to settle in those areas, validated in international documents recognized and accepted by the international community.

The Oslo Agreements with the PLO

The 1995 Interim Agreement between Israel and the PLO does not cover the matters to be negotiated regarding permanent

status, including Jerusalem and settlements (Art. XXXI(5) of the Interim Agreement). It provides that “neither Party shall be deemed, by virtue of having entered into this Agreement, to have renounced or waived any of its existing rights, claims or positions” (Art. XXXI(6)). It is true that Article XXXI(7) determines that “neither side shall initiate or take any step that will change the status of the West Bank and the Gaza Strip pending the outcome of the permanent status negotiations.” However, had this provision been capable of preventing the establishment of new settlements, then it would have rendered paragraph (6) devoid of meaning and, therefore, redundant. The Palestinian Authority (PA) has not applied such an interpretation to its own acts since such an interpretation would have prevented the Arab population, too, from undertaking any building on the territories handed over to the PA under the Interim Agreement. Furthermore, in Article 27 (Planning and Zoning) of Annex III (Protocol Concerning Civil Affairs) of the Interim Agreement, the Palestinian side had undertaken to ensure that no construction close to the settlements and military locations would harm, damage, or adversely affect them or the infrastructure serving them.

It has been further pointed out that, during the negotiations on the Interim Agreement in 1995, the Palestinian delegation requested that a “side letter” be attached, the text of which would be agreed upon, whereby Israel would commit to restricting settlement construction in Area C during the process of implementation of the agreement and the ensuing negotiations. However, the Palestinian leadership ultimately withdrew its request for such a side letter.³¹ Hence, nothing in the Interim Agreement restricts Israel’s right to establish settlements, as well as to expand the existing ones.

Israeli Practice Regarding the Settlements

As observed above, given the *sui generis* status of Judea and Samaria and the Gaza Strip, Israel was under no obligation to apply the Fourth Geneva Convention. However, in the cases deliberated in Israeli courts, the state declared that, although not legally obliged to apply these rules, it would nevertheless apply the humanitarian provisions included therein. The courts accepted the state's position without deciding this issue on its merits. This is the background against which one must read the decisions of the Israeli Supreme Court in the cases deliberated before it. The Supreme Court has declined to address the legality of Jewish settlements beyond the Green Line since their status would be determined definitively in the peace treaty, when such is signed, and "until then, it is the duty of the respondent [i.e., the commander of the Israel Defense Forces in the Gaza Strip] to protect the civilian population (Arab and Jewish) in the area under its military control."³²

The court ruled that private lands may be seized (against consideration) for the purpose of civilian settlements only where such a settlement is necessary for security reasons, whereas the expropriation of private land for settlement purposes not motivated by security needs is prohibited (e.g., the Elon Moreh case).³³ The court has ordered the eviction of Jewish settlers upon suspicion that Palestinian private property had been used for building a Jewish settlement, or a neighborhood, or even minor parts of houses within that neighborhood, decades after the settlement had been established, even if that land had never before been the home of or cultivated by any Palestinian.³⁴

Even if Israel had been an alien occupying power in Judea, Samaria, and the Gaza Strip, Jewish settlements there would

have still been permissible under international law. Under the sixth paragraph of Article 49 of the Fourth Geneva Convention (to which Israel is a High Contracting Party), an occupying power “shall not deport or transfer parts of its own civilian population into the territory it occupies.”³⁵ According to the Commentary of the International Committee of the Red Cross (ICRC), this paragraph was intended to “prevent a practice adopted during the Second World War by certain Powers, which transferred portions of their own population to occupied territory for political and racial reasons or in order, as they claimed, to colonize those territories. Such transfers worsened the economic situation of the native population and endangered their separate existence as a race.”³⁶ It is noted that a breach of this prohibition was not considered a grave breach of the convention. Additional Protocol I, added to the Geneva Convention in 1977, provides (Art. 85(4)) that a breach of the prohibition would be considered a grave breach.³⁷ Israel is not a contracting party to the protocol.

Israel has never forcibly uprooted its civilians or transferred large numbers of them to these territories. Israel has only allowed people to settle of their own free will on land that is not privately owned. In some cases, Israel allowed its citizens who, either themselves or their parents, owned land in Judea and Samaria or in east Jerusalem before 1948 and had been expelled or dispossessed by Jordan to return to their land and properties after 1967. The Geneva Convention does not apply to such settlements. Israel did not attempt to confiscate the land or uproot the local population out of political or racial motivation, nor has it sought to alter the demographic nature of the area.³⁸

The voluntary settlement of citizens of the occupying power in occupied territory (not on private land) is permissible, as

otherwise there would be no meaning to the term “transfer,” which the provision forbids.³⁹ The purchase of land by citizens of the occupying power in occupied territories is likewise not banned.⁴⁰ Nor is there any obstacle to the occupying power taking active steps to settle its citizens in civilian settlements in the occupied territory if the settlement is justified for security reasons and is established in a strategic location.⁴¹

Regarding state-owned land, Hague Regulation 55 provides that the occupying state is only an administrator and usufructuary of “public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country.” It must safeguard the capital of these properties (subject to regular wear and tear). Property ownership is not transferred to it, but it may enjoy its benefits. The occupying state may also let, lease, or cultivate the land.⁴² Hence, the use of public land for settlements is not prohibited as long as it does not involve the transfer of ownership and remains subject to the outcome of the permanent status negotiations. In practice, registration of property ownership in Israel’s settlements in the areas is not in the name of the residents but in the name of the state and subject to the outcome of the negotiations on the areas’ permanent status.

The situation is different for private property. According to Hague Regulation 46, the occupying state must respect private property and may not confiscate it, that is, expropriate it without compensation for an illegal purpose. However, the occupying state may temporarily take possession of privately owned land, which is against consideration, to establish civilian settlements that serve its security needs.⁴³

The Palestinian Position in International Law

A Palestinian Right to Self-Determination

According to the Advisory Opinion of the International Court of Justice (ICJ) regarding “The Wall,”⁴⁴ only the Palestinian people have the right to self-determination in all areas of Judea and Samaria beyond the Green Line. The General Assembly resolution seeking the Advisory Opinion bears the title “Illegal Israeli actions in Occupied East Jerusalem and the rest of the Occupied Palestinian Territory.” Even though Israel has been condemned countless times by numerous members of the international community, first and foremost the General Assembly, these assertions deserve a critical analysis.

An examination of the various documents dealing with the Palestinians and their claim to self-determination reveals that the Palestinians themselves do not consider that the recognition of a right to self-determination in these territories will conclude their national claims. In fact, they appear to view their position as parallel to the Jewish people or rather as a substitute for them.

The parallel is inappropriate. The Jewish people have only one homeland where they can realize their right to self-determination. The Palestinians maintain (Art. 1, 1968 PLO Charter) that “Palestine is the homeland of the Arab Palestinian people; it is an indivisible part of the Arab homeland, and the Palestinian people are an integral part of the Arab nation.” Yet the Arab nation has more than 20 states in which they have realized their self-determination, including Jordan, ruled by a Bedouin minority, in which the Palestinians form most of the population in a territory comprising, as noted, about 76% of

the overall territory allocated initially to the British Mandate for Palestine.

Moreover, the Palestinian claim to self-determination in the whole of Palestine refers not only to Arabs currently living in the areas, but also to any Arab defined as a refugee according to the rules laid down by the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), established by the UN after Israel's War of Independence specifically to "carry out direct relief and works programs for Palestine refugees." This claim covers all people who lived in Palestine for at least two years prior to the conflict of 1948, that is, between June 1946 and May 1948, and lost their home and livelihood because of the Israeli-Arab conflict, as well as their offspring to eternity, regardless of whether they have acquired citizenship elsewhere. This is why, since 1948, the number of Palestinian refugees has grown from about 600,000 (like the number of Jews who had fled all Arab states at that time and have all since been absorbed into Israel) to 5.9 million at present.⁴⁵

UN Security Council Resolution 242 declared the necessity "for achieving a just settlement of the refugee problem." Yet it made no mention of the *Palestinian* refugees. This was no chance omission; the resolution was drafted in recognition of the fact that there were refugees on both sides. Indeed, when discussing a just settlement to bring about an end to the dispute, it is impossible to ignore the fact that the War of Independence produced both Jewish and Arab refugees.

In recent years, a claim is frequently heard that the Palestinians are a separate people, and thus, there was no exchange of population following the War of Independence. However, there is no "Palestinian" language and no specific "Palestinian" culture or history. The Palestinians are Arabs,

indistinguishable from Jordanians, Syrians, Lebanese, Iraqis, and others.

A declaration by Jamal al-Husseini, representative of the Arab Higher Committee to the United Nations Ad Hoc Committee on the Palestinian Question, which debated the question of Palestine in 1947, makes this point clearly (even though it ignores the lack of unity and rivalries between the Arab factions):

One other consideration of fundamental importance to the Arab world was that of racial homogeneity. The Arabs lived in a vast territory stretching from the Mediterranean to the Indian Ocean, spoke one language, and had the same history, tradition, and aspirations. Their unity was a solid foundation for peace in one of the most central and sensitive areas of the world. It was illogical, therefore, that the United Nations should associate itself with the introduction of an alien body into that established homogeneity, a course that could only produce new Balkans.⁴⁶

Likewise, the testimony given in 1937 by the secretary-general of the Arab Higher Committee in Mandatory Palestine, Auni Abdul Hadi, to the British Royal Commission (the Peel Commission):⁴⁷

There is no such country as Palestine! "Palestine" is a term the Zionists invented! There is no Palestine in the Bible. Our country was, for centuries, part of Syria.

Prior to 1967, the Palestinians who lived in Judea, Samaria, and the Gaza Strip did not demand a separate right to self-determination.

The Foreseeable Consequences of Fulfilling Palestinian Aims

The architects of the Oslo Agreements expected them to establish a sound economic base in the territories that were transferred to Palestinian Authority rule to enhance a just, lasting, and comprehensive peace in both Israel and these territories. Such a development has not taken place. Instead, the PA has given Israel a preview of the risks posed by a terrorist entity established alongside it.

The PLO Charter of 1968 states that “armed struggle is the only way to liberate Palestine,” and that further “it is the overall strategy, not merely a tactical phase. The Palestinian Arab people assert their absolute determination and firm resolution to continue their armed struggle and to work for an armed popular revolution for the liberation of their country and their return to it. They also assert their right to normal life in Palestine and to exercise their right to self-determination and sovereignty over it.” Other articles of the Charter assert that “the partition of Palestine ... and the establishment of the state of Israel are entirely illegal,” and that “the Balfour Declaration, the Palestine Mandate, and everything that has been based on them, are deemed null and void.” Chairman Yasser Arafat’s promise to President Bill Clinton to amend the Charter has not been fulfilled. To this day, no new charter has been drawn up. The Hamas Covenant, for its part, calls for the obliteration of the State of Israel by the Islamic resistance movement, whose path is jihad and loftiest wish is death for the sake of Allah. According to the covenant, jihad for the liberation of Palestine is an individual duty.

The withdrawal from the Gaza Strip offered yet another preview of what happens when Israel withdraws, and control

passes entirely into the hands of the Palestinian leadership. It might have been expected that the Palestinians would make the best of their complete control of this beautiful sea-side area, in which innovative Israeli agricultural settlements had made successful products for consumption in Israel and abroad and in which Israel had established an industrial zone in which Jews and Arabs cooperated both in ownership of the various industrial plants and in management and employment. All of those were dismantled or destroyed shortly after Israel's withdrawal. Not only has Hamas not established civilian institutions to tend to the Palestinians' welfare, but instead, they have established a terror entity that does not allow for any kind of coexistence with its neighbor.

In January 2006, the Islamic Hamas movement won the elections to the Palestinian Legislative Council. Several rounds of confrontation between PLO operatives and Hamas in Gaza ended with Hamas gaining control in June 2007 after taking over military installations that had previously been under PLO control, followed by the execution of officers of the PLO security forces. In response, PA leader Mahmoud Abbas dismantled the Palestinian Unity Government. Since then, control of Arab towns in the West Bank has been in the hands of Fatah (the largest PLO faction), while Hamas controls Gaza and enjoys widespread support in the West Bank as well.

Israel's withdrawal from Gaza did not contribute to peace. In the aftermath of the disengagement, Hamas has invested the massive resources received from donor states in building a vast network of underground tunnels, amassing armaments, and launching thousands of rockets at Israeli cities, forcing Israel to mount successive military operations in the Gaza Strip.

On October 7, 2023, the Hamas and Palestinian Islamic Jihad terror organizations launched an attack on Israel. They

invaded Israeli sovereign territory with a force of thousands and slaughtered, in the most gruesome manner, about 1,400 people, mostly civilians, including women, children, and babies. The terrorists abused the victims, beheaded adults and babies, burnt people alive, including babies, raped women brutally, and committed atrocities, the like of which has not been seen since the genocide of European Jews during the Holocaust. More than 4,000 people were injured, many of them gravely. In addition, about 250 people (among them elderly citizens, women, children, and babies, as well as people in feeble health) were taken hostage to Gaza. Thousands of rockets and missiles have since been launched at Israeli cities, towns, and villages, targeting only civilians. Following that attack—in which war crimes, crimes against humanity, and genocide crimes were committed—the Israeli government declared war against Hamas and Palestinian Islamic Jihad. The war on terror is still ongoing, mainly in Gaza but also in Judea and Samaria, with both PLO and Hamas members taking part in terrorist activities against the Israeli civilian population both inside and outside the Green Line.

Is There a Palestinian Right to Statehood?

In international law, the objective conditions for the existence of a state are those determined in the Montevideo Convention on the Rights and Duties of States (1933): (1) a permanent population; (2) a defined territory; (3) an effective government; and (4) the capacity to enter into international relations with other states.

Those conditions have not been fulfilled. The territory of the new Arab state must be determined in an agreement with

Israel; the territories in which powers have been transferred to the PLO are currently under dual government—that of the Palestinian Authority in the West Bank and Hamas in the Gaza Strip; and the status of many residents is that of eternal refugees who do not consider themselves permanent residents of those territories. The PLO does not even enjoy widespread support in the West Bank. They claim a right of return for themselves to Israeli territory within the Green Line. To date, the PA and Hamas have refused to recognize Israel's right to exist as the state of the Jewish people.

The conditions for membership in the United Nations are stipulated in Articles 3–6 of the UN Charter. Pursuant to Article 4(1): “Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.”

A Security Council recommendation in support of membership is a precondition for admission to the United Nations. Under Article 27(3) of the UN Charter, Security Council resolutions on all substantive matters require the affirmative votes of nine member states, including the agreement of all permanent members of the Security Council (since the permanent members have the power to veto a council decision). Once the recommendation is adopted, the membership question passes to the General Assembly. Since admission to the United Nations is an “important question” under Article 18(2) of the UN Charter, the decision on admitting a new member state must be made “by a two-thirds majority of members present and voting.” Each of the 193 member states has one vote, and no state has veto power.

On November 11, 2011, the Security Council approved a report by a special council committee stating that it could not

make a unanimous recommendation to the council concerning the Palestinian Authority's application for admission as a UN member.⁴⁸ The United States announced it would veto any decision supporting the application. Two other permanent members, France and Britain, said that they would abstain in the event of a vote. Alongside the states that supported the application, there was a group of states maintaining that the PA did not meet the conditions required by the UN Charter—specifically, that it was not “peace-loving,” that it would not accept the obligations of member states under the Charter, and that it would not be capable of, or willing to, fulfill those obligations.

On November 29, 2012, precisely on the 65th anniversary of the General Assembly's Partition Resolution of November 29, 1947, the General Assembly, by a large majority (138 members in favor, nine against, and 41 abstentions), adopted a resolution to “accord to Palestine non-member observer State status in the United Nations.” Even some of the nations that supported the upgrade, such as New Zealand, pointed out that whether Palestine is a state is a separate question and that it can only be a state *de facto* with Israel's agreement.

Comparative Perspectives

Since World War II, several wars have resulted in settlements in territories occupied during the war. A study examining such incidences revealed not a single case where the settlers were required to evacuate their homes after those territories reverted to the state whose territory had been occupied, not even where the occupying state encouraged the emigration of its residents to influence the demography of the occupied

territory, in contravention of the provisions of the Fourth Geneva Convention.⁴⁹

Several cases before the European Court of Human Rights (ECtHR) are instructive. Those concerned claims of Greek Cypriots regarding the homes in Northern Cyprus that they had been forced to leave following the Turkish occupation in 1974. At the time of the occupation, some 200,000 Greek Cypriots, who had hitherto lived in the area occupied by the Turks, were forced to leave. At the same time, some 80,000 Turkish Cypriots fled their homes in the Greek part of the island. Turkey continues to occupy that area to this day. About half of the region's residents are Turkish immigrants who were settled there by the Turkish government. The TRNC (Turkish Republic of Northern Cyprus) has been recognized only by Turkey. The Turkish settlement in Northern Cyprus was undertaken in breach of the Geneva Convention.

In an application that was heard on the merits in 1996, the *Loizidou* case,⁵⁰ the court ruled that the Greek Cypriots who were forced to leave their homes in 1974 were the legal owners of the property that remained in the territory occupied by Turkey. Furthermore, since the occupation, Turkey has been responsible for the continuing violation of their rights under the European Convention. The TRNC's claims that it had expropriated the property were dismissed; since the TRNC had not been recognized in international law, such expropriation was likewise not recognized. Therefore, the applicant's right to enjoy her possessions had been violated.

By contrast, the court ruled that there was no violation of the applicant's right to respect for her home pursuant to Article 8 of the convention. In 1972, the claimant married and moved to Nicosia, in a neighborhood that became part of the island's Greek side two years later. Even if she intended to return to

her family home on the Turkish side, such intention is not protected under the convention. “Home” is the place where a person actually lives, not the place where he grew up, or the place that had been the family home for generations (para. 66). Regarding the compensation, the court ruled that the parties should negotiate an agreed settlement within the six months after the ruling and notify the court of any agreement that they may reach.

In 2005, Turkey established the Immovable Property Commission (IPC) in Northern Cyprus. The commission’s purpose was to “establish an effective domestic solution” for the claims of Greek Cypriots who had been forced to leave their property in Northern Cyprus.

In 2010, in the case of *Demopoulos*,⁵¹ the ECtHR heard applications of Greek Cypriots who claimed that the remedies provided by the IPC—that is, compensation—were wholly inadequate since they effectively prevented them from reclaiming possession of their property and homes. The applicants claimed that financial compensation should be awarded only in rare instances where it was materially impossible to reconstitute their homes (e.g. if the house had been destroyed). In any other event, the appropriate remedy was the de facto restitution of their homes. The Turkish government submitted that the restitution of private property is impossible if the property has been transferred to other private persons, is in military areas, or is being used for a public purpose—roads, schools, hospitals, or serves some other public interest.

As a starting point, the court considered that “some 35 years have elapsed since the applicants lost possession of their property in northern Cyprus in 1974. Generations have passed. The local population has not remained static. Turkish Cypriots who inhabited the north have migrated elsewhere;

Turkish-Cypriot refugees from the south have settled in the north; Turkish settlers from Turkey have arrived in large numbers and established their homes. Much Greek-Cypriot property has changed hands at least once, whether by sale, donation or inheritance” (para. 84). The court dismissed (paras. 92ff.) the applicants’ arguments that the failure to reconstitute their property *in specie* retroactively legitimized illegal Turkish acts.

The court further added (para. 116) that to order Turkey to effect restitution in every case, save those in which it was physically impossible (e.g. if the actual property no longer existed), would risk being arbitrary and injudicious. Some 35 years after the applicants, or their predecessors in title, had left their property, Turkey also had to take into account all the legal and practical factors that prevented restitution, primarily the rights acquired in the intervening period by third parties. The European Court of Human Rights could not be expected to interpret and apply the rules of the convention in a manner that would unconditionally obligate a government to embark on the forcible eviction and rehousing of potentially large numbers of men, women, and children, even to vindicate the rights of victims of violations of the convention. To do so would create disproportionate new wrongs.

The court reiterated its determination that it is the duty of the states to respect the right of every citizen to his home, meaning only a real home with which the person has “a concrete tie in existence at this moment in time,” not just “‘family roots,’ which is a vague and emotive concept.” For instance, regarding the claim of one applicant to restitution of her home, the court ruled (para. 137) that

the Applicant was very young at the time she ceased to live

in the then-family home in 1974.... The applicant has lived with her family elsewhere for almost her entire life. The fact that she might inherit a share in the title of that property in the future is a hypothetical and speculative element, not a concrete tie in existence at this moment in time. The Court accordingly does not find that the facts of the case are such as to disclose any present interference [by Turkey] with the applicant's right to respect for her home.

To summarize, the ECtHR ruled that all the applicants must first exhaust their domestic remedies before the Immovable Property Commission of Northern Cyprus. The court was satisfied that the IPC's composition met the requirements of independence and impartiality and that it carried out its functions according to legislation that sought to provide a mechanism of redress and that had been interpreted to comply with international law, including the convention, providing an accessible and practical framework of redress. The court noted that the applicants were not compelled to appear before the IPC. They could await a political solution when the international dispute over Cyprus would be settled peacefully.

Conclusions

The legality of the presence of Jewish settlements in Jerusalem, Judea and Samaria, and the Gaza Strip derives from the historical, indigenous, and legal rights of the Jewish people to settle in those areas, validated in international documents recognized and accepted by the international community.

Under public international law, Israel is entitled to diligently encourage and promote close Jewish settlement of

the territories lying to the west of the Jordan River, realizing the principles set out by the League of Nations in the original Mandate document and later confirmed in Article 80 of the UN Charter.

Denying Jews their right to live in the Old City of Jerusalem and Judea and Samaria means denying their ties to their biblical and historical homeland, precisely those ties that have been recognized in these documents.

The opposing position—that the Palestinian Arabs are entitled to an independent state in all the territories while Jewish settlement is forbidden under international law—is unfounded in international law. The various documents dealing with the Palestinian claim to self-determination reveal that the Palestinians themselves do not consider that the recognition of a right to self-determination in these territories will conclude their national claims since those, including a claim of a right to “return,” extend “from the [Jordan] River to the [Mediterranean] Sea.”

Following Israel’s War of Independence in 1948, there was an exchange of approximately 600,000 people from each side. Whereas Israel absorbed the Jewish refugees, the Arab states, rather than absorbing the Arab refugees, invented a new Palestinian people that had never before ruled the land, even though there is no “Palestinian” language and no specific “Palestinian” culture or history.

The PLO Charter of 1968 determines that “armed struggle is the only way to liberate Palestine,” that “it is the overall strategy, not merely a tactical phase,” that “the partition of Palestine ... and the establishment of the state of Israel are entirely illegal,” and that “the Balfour Declaration, the Palestine Mandate, and everything that has been based on them, are deemed null and void.” The Hamas Covenant calls for

the obliteration of the State of Israel by the Islamic resistance movement, whose path is jihad and whose loftiest wish is death for the sake of Allah. According to the Covenant, the jihad for the liberation of Palestine is an individual duty. Given their common purpose and aim, it does not matter which of these, the PLO or Hamas, is going to lead Arab Palestinians.

The Oslo Agreements enhanced “a just, lasting, and comprehensive peace.” Yet, since they came into effect, the Middle East has witnessed not peace but violence and terror of the worst kind in recent history. The establishment of the Palestinian Authority and the subsequent takeover of the Gaza Strip by Hamas, as well as the popular support Hamas enjoys in Judea and Samaria, should serve as a “guide to the bewildered” of the grave risks posed by such an Arab state, which may eventually lead to the destruction of the Jewish state.

Notes

1. The facts were verified by the author with Mr. Abba Eban.
2. See Dan Bahat, Benjamin Zeev Keidar, and Zeev Vilnai, *The Continuity of Jewish Settlement in Eretz Israel from the Bar Kochva Uprising to the Beginning of New Immigration* (1974); *The History of Eretz Israel* (Yaacov Shavit, editor-in-chief) (1981) (Heb.), vols. 5ff.
3. *The History of Eretz Israel*, n. 2 above, vol. 6: *Moslem and Crusader Rule (634-1291)*, pp. 151ff., with further references.
4. Mark Twain, *The Innocents Abroad* (1869, reprint 2007), p. 371.
5. For the status of Jerusalem in Islam, see Dore Gold, *The Fight for Jerusalem: Radical Islam, the West and the Future of the Holy City* (2008) (Heb.), p. 94f.
6. *The History of Eretz Israel*, vol. 6, n. 2 above, p. 50. For the historical development of the term Palestine as a synonym for the Holy Land or the Land of Israel, see Uriel Dan and Yaakov Shimoni,

- “Palestinian-Arab Society and the Trans-Jordan Emirate,” *The History of the Land of Israel*, vol. 9: *The British Mandate and the National Homeland (1917-1947)* (Yehoshua Porath and Yaacov Shavit, eds.) (1982) (Heb.), pp. 263ff.
7. Churchill’s speech is available on HC Deb, June 14, 1921, vol. 143, cc.265-334, at cc.286-87; cf. the report of Churchill’s biographer, Martin Gilbert, *Churchill and the Jews: A Lifelong Friendship* (2007), p. 65f.
 8. See Benzion Netanyahu, *The Founding Fathers of Zionism*, 3rd ed. (2003) (Heb.), the chapter on Theodor Herzl and his endeavors to obtain official recognition by the Ottoman Empire, Germany, France, and Great Britain of the Jewish people’s right to establish a sovereign state in the Land of Israel, pp. 83-126. Thanks to Herzl’s groundwork, the acceptance of Zionism by the League of Nations had been well prepared even before the league was established; *Founding Fathers*, pp. 113-14.
 9. Britain ceded that part of the Golan Heights to France in the Franco-British Agreement on Northern Border (Paulet-Newcombe Agreement), concluded on March 7, 1923, <https://ecf.org.il/issues/issue/246>; see Moshe Brawer, *Israel’s Boundaries* (1988) (Heb.); Brawer, *The Northern Border of the Land of Israel and Its Determination during the British Mandate* (1970) (Heb.), with further details and maps.
 10. J. Stoyanovsky, *The Mandate for Palestine* (1928), pp. 40-47, with further references.
 11. See *Documents of the United Nations Conference on International Organization, San Francisco 1945 Documents* (UN Information Organizations, 1945), vol. 10, pp. 477, 487, 515-16; see also Nathan Feinberg, *The Arab-Israel Conflict in International Law* (1970), pp. 40ff.
 12. See, e.g., the account of the riots written in April 1920 by Robert Meinertzhagen, *Middle East Diary 1917-1956* (1959), pp. 79ff.
 13. Yaacov Shavit and Gideon Biger, “The British Mandate for Palestine: Government, Administration and Legislation,” *The History of the Land of Israel*, vol. 9: *The British Mandate and the National Home (1917-1947)* (Yehoshua Porath and Yaacov Shavit, eds.) (1982) (Heb.), pp. 86, 103-6.
 14. *Ibid.*, pp. 93-94.
 15. For a detailed study, see Talia Einhorn, *The Status of Judea & Samaria*

(*The West Bank*) and *Gaza and the Settlements in International Law* (Jerusalem Center for Public Affairs, 2014), available at [https://jcpa.org/wp-content/uploads/2014/08/THE_STATUS_OF_JUDEA_&_SAMARIA_\(THE_WEST_BANK\)_AND_GAZA.pdf](https://jcpa.org/wp-content/uploads/2014/08/THE_STATUS_OF_JUDEA_&_SAMARIA_(THE_WEST_BANK)_AND_GAZA.pdf).

16. The *uti possidetis* principle has been applied in territorial delimitations following the establishment of new states, in particular but not only subsequent to decolonization, as well as in maritime delimitations; see Giuseppe Nesi, “*Uti possidetis* Doctrine,” in *Max Planck Encyclopedia of International Law* (2018).
17. Details of the pertinent boundaries are provided by Moshe Brawer, *Israel’s Boundaries* (1988) (Heb.); Brawer, *The Northern Border of the Land of Israel and Its Determination during the British Mandate* (1970) (Heb.).
18. This rule has been the basis for determining the borders following the peace treaties between Israel and Egypt in 1979 and between Israel and Jordan in 1994; see Robbie Sabel, *International Law and the Arab-Israeli Conflict* (2022), pp. 255ff., 284ff., with further references. This has also been the basis for demarcating the Blue Line (withdrawal line) identified by the United Nations in 2000 as a *de facto* border of Lebanon, even though not an official boundary, as it has not been agreed upon in a peace treaty.
19. Stephen Schwebel, “What Weight to Conquest?,” 64 *American Journal of International Law* 344 (1970). The author explains the illegality of the Egyptian and Jordanian occupation based on the maxim *ex injuria jus non oritur*; the illegal attack by Israel’s Arab neighbors could not vest them with lawful title in the territories of Palestine that they occupied following their invasion.
20. Yehuda Zvi Blum, “The Missing Reversioner: Reflections on the Status of Judea and Samaria,” 3 *Israel Law Review* 279 (1968); Peter Malanczuk, “Israel: Status, Territory and Occupied Territories,” *Encyclopedia of Public International Law*, vol. 12 (1st ed., 1990), p. 149. Britain (with a reservation regarding east Jerusalem) and Pakistan were the only states to recognize Jordan’s annexation, which was also vehemently opposed by the Arab states.
21. Article V(2), Israel-Egypt Armistice Agreement, February 24, 1949; similarly, Article VI(9), Israel-Jordan Armistice Agreement, April 3, 1949.
22. Stephen Schwebel, n. 19 above, concludes that “[w]here the prior holder of territory had seized that territory unlawfully, the state

which subsequently takes that territory in the lawful exercise of self-defense has, against the prior holder, better title"; Julius Stone, *The Middle East under Cease-Fire* (1967); Stone, *No Peace—No War in the Middle East* (1969); Blum, n. 20 above.

23. Shabtai Rosenne, "On Multi-Lingual Interpretation," 6 *Israel Law Review* 360 (1971); Eugene V. Rostow, "Are the Settlements Legal?," *The New Republic*, October 21, 1991; see also the statements by Sir Hugh Foot, Britain's ambassador to the UN, who authored the text of 242: <https://honestreporting.com/un-resolution-242-why-matter/>.
24. Eugene V. Rostow, "The Illegality of the Arab Attack on Israel of October 6, 1973," 69 *American Journal of International Law* 272 (1975).
25. Meir Shamgar, "The Observance of International Law in the Administered Territories," 1 *Israel Yearbook of Human Rights* 262 (1971). Shamgar compares Israel's position regarding the inapplicability of the Fourth Geneva Convention and the Hague Regulations in Judea, Samaria, and Gaza to France, which did not apply in Alsace-Lorraine Rules 42-56 of the Hague Regulations following their seizure by France from Germany until the signing of the peace treaty at the end of World War I. In both cases, the territory was not taken from a lawful sovereign.
26. Yoram Dinstein, "The International Legal Status of the West Bank and Gaza Strip," 28 *Israel Yearbook on Human Rights* 37 (1998), p. 41f.
27. <https://www.gov.il/en/Departments/General/declaration-of-principles>.
28. <https://www.gov.il/en/Departments/General/the-israeli-palestinian-interim-agreement>.
29. Even though there are currently no Jewish settlements in the Gaza Strip, the analysis regarding the status of Gaza and, consequently, also their legality is still pertinent.
30. Report on the status of building in Yesha (Edmund Levy Report), June 21, 2012 (Heb.), https://www.gov.il/BlobFolder/news/spokeedmond090712/he/documents_doch090712.pdf. An English summary of the committee's findings and recommendations is provided at http://en.wikipedia.org/wiki/Levy_Report.
31. Alan Baker, "Israel's Rights Regarding Territories and the Settlements in the Eyes of the International Community," in *Israel's Rights as a Nation-State in International Diplomacy* (Alan Baker, ed.) (2011), pp. 65, 68.

32. HCJ 4219/02 *Gossin v. Commander of IDF Forces in the Gaza Strip*, 56(4) PD 608, 611 (per Justice Aharon Barak, President).
33. HCJ 390/79 *Duweikat v. The State of Israel*, 34(1) PD 1.
34. See, e.g., HCJ 9949/08 *Hamad et al. v. Minister of Defense* (25/12/2014) (“Amona settlement”); HCJ 7292/14 *Mussa et al. v. Minister of Defense* (1/9/2016) (“Netiv Ha’Avot neighborhood”).
35. The transfer of civilians of the occupying power to occupied territories for other purposes became a war crime only in Additional Protocol I to the Geneva Convention (1977). Under pressure from Egypt it became a “most serious crime” in the Rome Statute of the ICC, prohibiting a state from settling its civilians in occupied territories whether directly or indirectly. Israel is not a contracting party to the Rome Statute and this rule is not considered customary international law.
36. ICRC Commentary: <http://www.icrc.org/ihl/COM/380-600056>.
37. Protocol I Additional to the Geneva Conventions of August 12, 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), June 8, 1977.
38. See Baker, n. 31 above, p. 71f.
39. Yoram Dinstein, *The International Law of Belligerent Occupation* (2nd ed., 2019), pp. 257–66.
40. *Ibid.*, p. 259, citing also in this matter the decision of the Military Tribunal in the Nuremberg Trials in the matter of IG Farben: *IG Farben Trial* (Krauch et al.) (US Military Tribunal, Nuremberg, 1948), 10 LRTWC [*Law Reports of Trials of War Criminals*] 1, 44: “We look in vain for any provision in the Hague Regulations which would justify the broad assertion that private citizens of the nation of the military occupant may not enter into agreements respecting property in occupied territories when consent of the owner is, in fact, freely given.”
41. Dinstein, *ibid.*, pp. 261ff. See also HCJ 606, 610/78, *Ayub et al. v. The Minister of Defense* (“Beit-El” case), 33(2) PD 113, pp. 124–27.
42. HCJ 285/81 *El Nazer v. The Commander in the Judea and Samaria areas*, 36(1) PD 701.
43. *Ibid.*, pp. 129–30.
44. Legal Consequences of the Construction of a Wall in the Occupied

- Palestinian Territory (ICJ Advisory Opinion of July 9, 2004), <http://www.icj-cij.org/docket/files/131/1671.pdf>.
45. <https://www.unrwa.org/who-we-are>.
 46. GAOR, 2nd Session, 1947, Ad Hoc Committee on the Palestine Question, pp. 5–11, in Ruth Lapidoth and Moshe Hirsch (eds.), *The Jerusalem Question and Its Resolution: Selected Documents* (1994), p. 13.
 47. <http://www.jewishvirtuallibrary.org/jsource/myths3/MFroots.html>.
 48. Report of the Committee on the Admission of New Members concerning the application of Palestine for admission to membership in the United Nations, UN Security Council, S/2011/705 of November 11, 2011.
 49. Eugene Kontorovich, “Unsettled: A Global Study of Settlements in Occupied Territories,” 9 *Journal of Legal Analysis* 285–350 (2017).
 50. *Loizidou v. Turkey* (merits), Case 40/1993/435/514 (ECtHR, 1996), <http://www.hri.org/news/special/loizidou/onmerits.html>.
 51. *Demopoulos and others v. Turkey*, Cases 46113/99, 3543/02, 21819/04, 19993/04, 10200/04, 13466/03 (ECtHR, 2010), [https://hudoc.echr.coe.int/fre#{%22itemid%22:\[%22002-1067%22\]}](https://hudoc.echr.coe.int/fre#{%22itemid%22:[%22002-1067%22]}).

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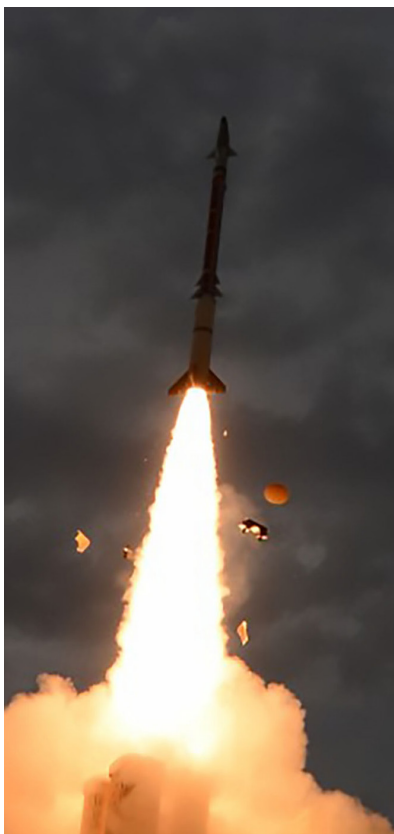
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Contents

UNRWA: Humanitarian Terrorism? <i>Dr. Rephael Ben-Ari and Dr. Shaul Sharf</i>	5
NGO Warfare: From Human Rights Watch to Campus Mobs <i>Prof. Gerald M. Steinberg</i>	57
Assessing the Damage: How the Events of October 7, 2023, Have Conditioned the Israeli Psyche <i>Dr. Irwin J. Mansdorf</i>	77
Religion in the Service of Barbarity – The “Al-Aqsa Flood” Slogan and the October 7 Massacre <i>Amb. Alan Baker</i>	97
The Israeli Economy during the October 7, 2023 War and Its Aftermath <i>David Brodet</i>	111
Iran’s Involvement in the October 7, 2023 Massacre: From the Shadows to Center Stage <i>Dr. Dan Diker</i>	127
About the Authors.....	137

UNRWA: Humanitarian Terrorism?

Dr. Rephael Ben-Ari and Dr. Shaul Sharf

Abstract

UNRWA is one of the largest UN programs today. Since its inception nearly seventy-five years ago, it has provided relief and humanitarian aid in one of the most complex geopolitical arenas in the world. Nevertheless, the Agency has attracted considerable criticism within the last few decades. Arguably, the Agency has become deeply involved in Middle Eastern politics in a way that might overshadow any substantive accomplishments. Recently, following the Israel-Hamas war that began following the events of October 7, 2023, UNRWA's involvement with the Hamas terror organization became increasingly evident. It is, therefore, the appropriate time to consider the recent developments in UNRWA's controversial practices and trends. This paper reviews the main areas of criticism regarding UNRWA's actual performance and policies, as well as the legal-institutional and political factors that have combined to bring about the current situation, which calls, in particular, for awareness and action on the part of UNRWA's donor countries.

1. Introduction

The United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) has become one of the largest UN programs, with over 30,000 personnel operating in Jordan, Lebanon, Syria, the West Bank, and the Gaza Strip. It remains the only UN agency whose area of operation is not global but regional, established to deal with a single group of people. It is also unique in directly providing government-like public services to its beneficiaries.

Since its inception nearly 75 years ago, UNRWA has undoubtedly provided relief and essential public services while operating in one of the most complex geopolitical arenas under the challenging conditions of political uncertainty and physical insecurity. Nevertheless, within the last few decades, it has attracted considerable criticism. Some of UNRWA's long-standing policies have made it susceptible to political manipulation, particularly by extremist groups, in a way that might overshadow its accomplishments.

Recently, against the background of the Israel-Hamas war in the Gaza Strip, the criticisms regarding UNRWA intensified and included accusations, alongside evidence from the field, of "silent" support and even encouragement and active involvement in terrorist activity. In light of the above, the time has come to examine the controversial practices and trends that characterize the Agency's activities. In this article, we will review the main areas of criticism of UNRWA's policy and functioning, as well as the legal-institutional and political factors that have come together to bring about the current situation, which requires, first and foremost, to increase awareness alongside taking determined action from the countries that donate and fund the Agency's activities.

2. An Active Political Actor

On June 20, 2013, on the occasion of World Refugee Day, Catherine Ashton, the then EU's High Representative for Foreign Affairs and Security Policy, decided to visit the Rimal Boys' School in Gaza. Choosing a Gazan elementary school out of the numerous refugee facilities and camps scattered around the world was no coincidence. Hosted by Filippo Grandi, then Commissioner-General of UNRWA, Ashton made it clear that her visit was meant to "underline the situation in Gaza" and to support the work of UNRWA.¹ She took that opportunity to share her wish to see the crossings opened. She declared that the EU would continue to be the strongest supporter, providing the required financial aid and "also the political support."² Clearly, Ashton's visit was a significant achievement for UNRWA, resulting from an ongoing, intensive, world-embracing lobbying effort by the UN Agency's leadership, tailored to attract international public attention to the *political* problem of Palestinian refugees.

The bloody conflict that broke out in Syria in March 2011 provided an excellent platform for the former UNRWA's Commissioner-General Grandi to recall "the plight of Palestinian refugees, resulting in a 65-year-old diaspora."³ In a written interview given by Grandi (March 2013), broadly spread by the *UN News Center*, he emphasized UNRWA's endeavors to assist Palestinian refugees residing in Syria while expressing grave concerns that the situation in Syria might divert international attention away from the "ongoing Gaza blockade."⁴ This very same point had been made earlier by Grandi at the *Conference on Cooperation Among East Asian Countries for Palestinian Development*, which was hosted by Japan, where he stated—alongside Salam Fayyad, the

then-Palestinian Authority (PA) Prime Minister—that Syria’s brutal war “should not make us forget that for Palestinian refugees, *as for other Palestinians*, the most powerful obstacle to development continues to be the Israeli occupation.”⁵ Grandi publicly condemned the “tightening grip” of Israeli policies, while presenting UNRWA as the “international *political framework*” that “strives to afford a measure of human development amidst the carefully structured and ever-expanding occupation,” calculated, according to Grandi, to “slowly but surely alienate Palestinians from their land and assets.”⁶

In November 2023, in an address at the joint summit of the League of Arab States (LAS) and the Organization of Islamic Cooperation (OIC), Philippe Lazzarini, the Commissioner-General of UNRWA, described the realities unfolding in Gaza and the dire humanitarian situation while emphasizing that Israel led to this situation: “The Israeli Forces have pushed over 1.5 million people out of the north of the Gaza Strip. More than 700,000 women, children, and men now live in UNRWA schools and shelters.” Lazzarini failed to mention Israel’s justification for the war following the massacre of Israeli citizens by the Hamas terror organization and residents of Gaza.⁷ Expressing the urgent need for humanitarian action, he called for a ceasefire, stressed the necessity of a *political* solution for millions facing life-threatening conditions, and emphasized again that “UNRWA is ready to do its part.”

In other statements delivered to the members of the UN Security Council and the Fourth Committee of the General Assembly, Philippe Lazzarini took the trouble, albeit in one short sentence, to state that “the massacres committed by Hamas on October 7th were shocking.” Still, immediately afterward, he noted the “shock of the unrestrained bombings

of the Israeli forces,” without mentioning that the second event is a reaction to the first event.⁸ Lazzarini emphasized that the level of destruction is unprecedented, and includes attacks on churches, mosques, hospitals, and UNRWA facilities. He also clarified that half of the population of the Gaza Strip was displaced over three weeks, so in his view, what is being done in the Gaza Strip is a crime of “forced transfer” of a population. Lazzarini noted that close to 70% of the dead are children and women and that the number of children killed exceeds the total number of children killed in all conflicts in the world since 2019 every year. He also clarified that the data indicate violations of humanitarian law and cannot be “incidental damage. The crimes of Hamas,” he stressed, “do not absolve Israel of its obligations under humanitarian law [...] the current absolute blockade of Gaza is a collective punishment, which is known to have extremely severe and far-reaching consequences.”

Lazzarini also emphasized that “the population of Gaza is over two million, half of them are children, all of them are vital, educated people, who aspire to live a normal life, a family life, raising children and dreaming of a better future,” but now they feel “that they have fallen into a war that is not theirs, and that the world compares them to Hamas. [...] An entire population experiences dehumanization.” On top of that, he made it clear that the conflict in Gaza should not divert attention from other actions that Israel is doing outside the Strip: “The West Bank, including East Jerusalem, is simmering with tension, as violence has reached unprecedented levels not seen in the last 15 years. Rising settler attacks and movement restrictions have displaced over 800 people in the West Bank since October 7th. The Israeli military is conducting daily incursions into refugee camps.”

These are only a few examples of the overriding, in-built anti-Israel orientation and motivation of the Agency as represented by the respective commissioners-general; they demonstrate the extent to which UNRWA has become an active player involved in Middle-Eastern politics and a powerful tool within the anti-Israel propaganda campaign. Nevertheless, this proficiency in translating humanitarian hardship into political gains has been only one cause of the growing body of criticism directed at UNRWA within the past few decades.⁹ UNRWA's actual performance, which includes the breeding of an atmosphere of hatred and violence among Palestinian youth and even the support of terrorist activities, as well as the upholding of the concept of the "right of return" and the determined policy of inflating the number of refugees, have raised concern among experts, commentators, and statesmen alike—as will be exemplified in the forthcoming chapter.¹⁰

3. Manipulation of Facilities and Activities

3.1 Improper Use of Facilities

Over the years, there has been criticism regarding improper activities in UNRWA schools and summer camps. In 2000-2001, Palestinian children were reported to have received military training in summer camps that had been organized by the PA using UNRWA facilities.¹¹ In 2001, during an awards ceremony held in a UNRWA facility by a Palestinian NGO, an Agency teacher was reported to have publicly praised suicide bombers; a speech by Sheikh Ahmed Yassin, who at the time was Hamas' "spiritual" leader, followed.¹² These incidents—the most prominent to come to light—were most likely the tip of

the iceberg, given that out of the Agency's 30,000 personnel, fewer than 150 are international staff. The remaining staff consists almost entirely of locals.¹³

Indeed, as the journalist Linda Polman acknowledged in her famous book, "The Crisis Caravan: What's Wrong with Humanitarian Aid," UNRWA camps have, in fact, introduced the world to the phenomenon now referred to as "refugee warriors":

The UNRWA camps that sprang up [half a century ago] in Lebanon, Syria, Jordan, the West Bank, and the Gaza Strip have since developed into fully fledged city-states, from which the 'freedom struggle' against Israel—and one another—continues to this day. The recruitment of fresh blood is effortless in the camps; one uprooted generation after another has been trained to fight.¹⁴

James Lindsay, UNRWA's former Legal Advisor, also concluded in his in-depth 2009 report, "Fixing UNRWA,"¹⁵ that UNRWA makes no attempt to remove individuals who support extremist positions; the Agency has taken very few steps to detect and eliminate terrorists from its ranks while taking "no steps at all to prevent members of terrorist organizations, such as Hamas, from joining its staff."¹⁶ Applicants in the West Bank and Gaza are thus exempt from pre-employment security checks, and the Agency does not check up on staff members to see what activities they are engaged in outside office hours.¹⁷

The fact that there are UNRWA staff members who support violence, terrorism, and extremist political philosophies does not seem to particularly bother UNRWA's leadership, as was expressed by former Commissioner General Peter Hansen in 2004:

I am sure that there are Hamas members on the UNRWA payroll, and I don't see that as a crime. Hamas, as a political organization, does not mean that every member is a militant, and we do not do political vetting.¹⁸

Moreover, even staff members who come from the refugee camp population who disagree with extremist views can hardly express any disagreement. As Lindsay observes, it is rare for staff members, especially in Gaza or the West Bank, to report or confirm that another staff member has violated rules against political speech, let alone exhibited ties to terrorism. Allegations of improper speech or misuse of UNRWA facilities, therefore, remain difficult to prove, as “virtually no one is willing to be a witness against gang members.”¹⁹ This is probably why hardly any incidents of improper use of language or power have come to light, not—as some commentators have presumed—that UNRWA has become more meticulous in screening for the use of its schools.²⁰

This became more evident when video footage came to light, entitled “Camp *Jihad*,” showing the curriculum of Palestinian children in several UNRWA summer camps, which incited hostility towards Israel and the Jews.²¹ The documentary that filmed summer programs in the Gaza Strip and Balata refugee camp (north of Nablus) shows young campers being educated about the “*Nakba*”²² and taught about “the villages they came from,” such as Acre, Ashkelon, Beersheba, Haifa, Jaffa, Lod, Nazareth, Safed, and even Tel-Aviv (Sheikh Munis)—all cities within sovereign Israel. Even the names of the teams in the summer camps take on the names of these cities. In the documentary, the director of the Gaza camp explains that these programs are meant to motivate the youngsters “to return to their original village,” and she expresses her deep gratitude

to UNRWA for financing the camp. One scene shows a teacher telling a group of young students a story about the “wolf” — that is, the Jews, who brutally expelled their parents from their peaceful sea-side “palaces and villas.” Another teacher tells a group of young campers that “with education and *jihad*, we will return to our homes; we will wage war.” Evidently, the indoctrinating messages are well absorbed by the youngsters, as several scenes in the documentary show young girls singing, “I will not forget my promise to take back my land” and “We are filled with rage.” A young camper declares to the camera that she “will defeat the Jews,” who are “a gang of infidels” that “don’t like *Allah*,” while in another scene, a young boy explains that “the summer camp teaches us that we have to liberate Palestine.”

On June 1, 2017, UNRWA found part of a tunnel that passed under two of the Agency’s schools in the Ma’azi camp in the Gaza Strip (the Ma’azi A&B elementary school for boys and the preparatory school for girls). UNRWA complained to Hamas and informed that it intends to seal the tunnel under its compound in the immediate future and that it will not approve the entry of a student or faculty member into the building until the matter is settled. After a thorough inspection of the site, UNRWA confirmed that there are no entry and exit points to the tunnel in the complex and no connection between the tunnel and the schools or other buildings in the complex.²³ However, these random complaints on the part of UNRWA do not contradict the fact that UNRWA employed, and still employs, many Hamas operatives in its teams, as evidenced by a recent report by the organization IMPACT-se.²⁴

The first section of the report details how 13 UNRWA staff members publicly praised, celebrated, or expressed their support for the unprecedented deadly assaults on civilians

on October 7. The second section of the study documents the profiles of 18 Hamas terrorists who graduated from UNRWA schools, using material from the Hamas website, which confirms that they died carrying out acts of terror. The research indicates that according to Hamas sources, more than 100 UNRWA graduates served as active Hamas terrorists.

Abnormally, on October 16, 2023, UNRWA accused Hamas, in a post on Twitter, of stealing diesel fuel and medical equipment from the Agency: “UNRWA received reports that yesterday a group of people with trucks purporting to be from the Ministry of Health of the de-facto authorities in Gaza, removed fuel and medical equipment from the Agency’s compound in Gaza City.”²⁵ A few hours later, the tweet was deleted.²⁶

Not just the recent evidence shows that UNRWA staff are affiliated with Hamas. According to the Meir Amit Intelligence and Terrorism Information Center, Hamas has controlled the UNRWA Gaza staff union since 2009, and many UNRWA employees are affiliated with Hamas.²⁷ UNRWA spokeswoman Tamara Alrifai confirmed to *Foreign Policy* in 2021 that UNRWA takes action only when its employees are found to hold a political position within Hamas; the organization acts if a staff member is formally affiliated with a terrorist group.²⁸ However, In April 2017, UNRWA engineer Muhammad al-Jamassi was also elected to the Hamas Politburo, but it is unknown whether UNRWA took any action regarding him.²⁹

Considering the totality of the mentioned discoveries, along with old cases of UNRWA facilities being used to shoot at IDF forces in previous rounds of hostilities, it is not surprising that during the recent Israel-Hamas war, a tunnel shaft was discovered in the north of the Gaza Strip near an UNRWA school, which led to an underground tunnel 18 meters deep

and about 700 meters long, which served as a central military intelligence asset of Hamas and passed under UNRWA's central headquarters in the Gaza Strip. From there, the day-to-day activities of the UN Agency were conducted. The electrical infrastructure in the tunnel was connected to the central headquarters building, indicating the electricity supply to the tunnel route through UNRWA assets.³⁰

Later, in a raid on the headquarters that includes the offices of several international humanitarian organizations, uniforms, and combat equipment were found, as well as many weapons, including guns, ammunition, grenades, vests, explosive charges and belts, explosives, and explosive activation systems. In the offices of UNRWA, officials found intelligence measures and documents that indicate that Hamas terrorists also used the offices. It was also exposed that UNRWA disconnected its communication and operating systems, including the recording and photography devices at the site, and also removed its signage in an attempt to disguise the use it allowed Hamas terrorists to make of the Agency's infrastructure and facilities. During a raid on the UNRWA headquarters in the Rimal neighborhood, a combat compound was found containing ammunition that was taken from the IDF on October 7, including personal weapons, cartridges, grenades, and a machine gun, along with charges, explosive devices, and equipment of Hamas terrorists.³¹

These revelations join the reports of Israeli abductees who said that UNRWA personnel, including a teacher at the agency, held them. Intelligence reports revealed that UNRWA staff members participated in the terrorist attack on October 7, while others assisted logistically, provided weapons, and more. According to estimates, about 10% of the 12,000 UNRWA staff in Gaza are associated with or related to the

terrorist organizations operating in the Gaza Strip— Hamas and the Palestinian Islamic Jihad— while about half of the workers have a relative active in one of the organizations.³² If there was still doubt, given all the indications that have been accumulating for years, UNRWA not only turns a blind eye to the activities of the terrorist organizations in the Gaza Strip while using its facilities and resources but cooperates with them on an ongoing basis, and sometimes even mobilizes in practice to support the combat operations.³³

3.2 Inappropriate Textbooks

The continued use of inappropriate textbooks in UNRWA schools, particularly in Gaza and the West Bank,³⁴ also remains a source of much controversy, even though reports of various sources have repeatedly raised the issue of a hostile attitude towards Israel and the Jewish people, promoted by the schoolbooks.³⁵ A decade-long research study on the Palestinian curriculum at UNRWA schools examined some 150 textbooks of various subjects taught in grades 1-10, which the PA issued between 2000-2005.³⁶ The study found three fundamental negative attitudes in the presentation of the Jewish/Israeli “other”: denial of the legitimacy of the State of Israel, demonization of the State of Israel, and advocacy for the violent struggle for Palestinian liberation.

According to this research report, PA schoolbooks, for example, do not recognize any Jewish rights or Jewish holy places in Palestine but merely “greedy ambitions.” Generally, the name of the state, “Israel,” does not appear on the maps (or within textual material), and Jewish cities and regions within Israel proper are presented as exclusively Palestinian.

Israel's Jews are not counted among the country's legitimate inhabitants, which are comprised solely of Israeli Arabs and Diaspora Palestinians. The demonization of Israel presents it as an occupying entity, existing at the expense of the Palestinian people's right to self-determination and as a source of many evils committed against the Palestinians and other Arabs. Consequently, no peaceful solution to the conflict has been advocated in PA books used in UNRWA schools. Instead, the books advocate a violent struggle for liberation, not restricted to the West Bank and Gaza, and underlined by the notions of *Jihad* and *Shahadah* (martyrdom).

Another research study, which examined 364 schoolbooks across all grades and subjects published between 2013 and 2018, along with 89 teachers' guides published in 2016-2018, came to the same conclusions and stated that UNRWA, through the education system it maintains, is in practice a full partner in the anti-Israeli and even anti-Semitic indoctrination promoted by the PA in the West Bank and the Gaza Strip.³⁷

A 2019 research study by the U.S. Government Accountability Office found that UNRWA teachers created their own supplementary material during the coronavirus; the materials were found to be rife with incitement to violence and hatred and support for terrorism, such as glorifying the infamous terrorist Dalal Mughrabi, who participated in the massacre on the coastal road in 1978, in which dozens of Israelis were murdered. As a result, the IDF launched *Operation Litani*.³⁸ At the time, UNRWA claimed that the material had been distributed "mistakenly" and that it was put together in a "rush" by UNRWA teachers who "are refugees themselves." It is clear that by blaming its teachers, UNRWA admitted that the teachers are part of the problem since they cannot distinguish those contents that are against the UN's standards and should

be avoided. Following this incident, UNRWA insisted that the “mistake” had been rectified.³⁹ Yet, a July 2022 report by the Institute for Monitoring Peace and Tolerance in School Education (IMPACT-se) found that institutional UNRWA-branded and UNRWA-produced school materials labeled for use in 2022 contained content encouraging *Jihad*, violence, and martyrdom, as well as promoting antisemitism, conflict discourse, hate, and intolerance.⁴⁰

A March 2023 joint report by UN Watch and IMPACT-se distributed to U.S. Secretary of State Anthony Blinken, EU Commissioner Joseph Borrell, German Chancellor Olaf Schulz, UN Secretary-General Antonio Guterres, and UNRWA Commissioner-General Lazzarini included dozens of examples of hateful educational content collected from 10 various schools of UNRWA between the years 2021-2023 and intended for the 7th and 9th grades.⁴¹ The contents were collected from materials prepared by UNRWA’s education departments and its staff—directors, deputy directors, education experts, and teachers, bearing the agency’s logo. These contents were removed from UNRWA’s digital learning platform, which it claims is the only source of learning materials, but it was found that they were distributed to hundreds of students through various alternative means and studied in the Agency’s classrooms.

The report indicates 133 UNRWA educators and staff members who were found to have encouraged hatred and violence in the media and 82 other teachers and staff members who are involved in producing and distributing hateful content to students. The evidence showed the glorification in the classrooms of the terrorist Dalal Moghrabi as a warrior leader and a hero to be admired, as well as an admired sermon in the fifth grade (September 2022) of Ezz al-Din al-Qassam, as a

hero who preached the murder of Jews. Testimonies from the middle school for the children of Al-Ma'azi in Gaza exhibited education about violence, the demonization of Israel, and encouragement for martyrdom; 9th-grade students (December 2022) learned a section on reading comprehension in Arabic on behalf of UNRWA, which glorified the attack on a Jewish bus that was presented as a "barbecue party," and another text from the UNRWA creative house that was prepared for 9th-grade students who presented Israelis as "sadistic predators" accompanied by harsh graphic descriptions, attached to fictitious texts, of Israelis brutally murdering Palestinians (for example, a "Zionist officer" deliberately shoots a Palestinian fisherman in front of his son, as a fountain of blood erupts from his chest). 5th-grade students at the school in Al-Ma'azi learned that "martyrdom and *Jihad* are the most meaningful things in life" through vocabulary and grammar exercises in the Arabic language (September 2022). At the middle school in Tel al-Hua in Gaza, as part of a social studies lesson (September 2022) to the 9th graders, the message was conveyed that a violent conflict against Israel is a "divine right." Another text to the 9th graders spread the blood plot according to which Israel causes cancer in Palestinians through the burial of toxic waste in the West Bank and Gaza. In the middle school in Asma for girls, the students were encouraged to liberate the homeland through the "sacrifice of blood" and *Jihad*; material for learning the Arabic language for classes at the school in Asma (September 2022) included an exercise encouraging self-sacrifice of one's life for the homeland as a matter of duty, and a grammar exercise stated that "I will wage *Jihad* to liberate the homeland," and "I will not give up an inch of my land."

Another report revealed that at least 100 Hamas members committing the terror attacks were graduates of UNRWA's

education system; their textbooks include content that encourages antisemitism, glorifies violence, and promotes militant *Jihad*.⁴²

The educational services provided by UNRWA to Palestinian students—particularly in the West Bank and the Gaza Strip, but also in neighboring countries—help to propagate a non-peaceful point of view, upholding a political vision of a continued struggle against a delegitimized Israel until its eventual destruction.⁴³ By maintaining the policy of non-involvement in the local curricula taught in its schools⁴⁴—a policy that should not be taken for granted in the first place by a UN body⁴⁵—as well as by refraining from screening the use of its facilities and by ignoring the “unofficial” activity of its local staff, UNRWA ignored the obvious.⁴⁶

4. Politicization of Relief

4.1 Self-Proclaimed “Protection Mandate” and Political Advocacy

It is no secret that UNRWA’s work has long crossed the lines of humanitarianism and relief deep into the political realm. Indeed, the acceptance by UNRWA’s leadership of the mission to enhance the *political* rights of Palestinians, not only refugees, has gradually become a key trend, characterizing the Agency’s activity.⁴⁷ Particularly since the first *intifada* (1987), and following the request of the former UN Secretary-General Javier Perez de Cuellar that UNRWA expands its activities to protect refugees and non-refugees alike “on an emergency basis and as a temporary measure,”⁴⁸ UNRWA has unilaterally

expanded its mandate to include ‘protection’ and to encompass all Palestinians.⁴⁹

The Agency’s international staff, including its Refugee Affairs Officers (RAOs) in the West Bank and Gaza, who had been nominated to implement UNRWA’s so-called “protection mandate,” became intensively involved in publicity activity—that is, the collection and collation of information on protection issues, and their publication—either through reports or by making this information available to the media.⁵⁰ Consequently, as Lindsay observes, even when the first *intifada* ended and the Interim Self-Government Arrangements had been signed,

the mandate to protect Palestinians, and the accompanying sense of being joined with the Palestinians against Israel, remained a part of UNRWA’s culture.⁵¹

UNRWA’s endorsement of Palestinian political views was also notable throughout the second *intifada* (2000). The Agency’s RAOs were replaced by Operations Support Officers (OSOs), whose primary duty was to provide “general assistance” protection, including “observing and reporting.”⁵² The one-sided positions of UNRWA officials were reflected by their focus on condemning Israeli counter-terrorism efforts in language associated with war crimes. Criticism of Palestinian-initiated attacks was mild and infrequent.⁵³ This trend has continued ever since.

UNRWA officials frequently condemn the IDF’s attacks on terrorists in response to rocket strikes on Israeli civilian targets launched from Gaza as a “disproportionate, indiscriminate, and excessive use of force.”⁵⁴ For the appearance of balanced reporting, UNRWA commentary would sometimes also

mention “the firing of rockets from Gaza into Israel”—but as an afterthought, not in terms of war crimes or terrorist attacks, never protesting the bombarding of innocent Israeli civilians.⁵⁵ In fact, on several occasions, former Commissioner-General Karen Abu Zayd even referred to the continuous firing of Qassam rockets into Israel from Gaza as a legitimate “response” to “military incursions.”⁵⁶ In May 2021, UNRWA was forced to re-assign its Gaza Director, Mathias Schmale, after he had admitted in a television interview that the Israeli strikes were “very precise,” i.e., not targeting civilians, and Hamas declared him *persona non grata* in Gaza. In another interview, Schmale was asked about the possibility of tunnels under UNRWA’s central headquarters in the Gaza Strip. Schmale stated that it was indeed proved that a tunnel was found under a school located very close to the headquarters after Israel precisely bombed it. He clarified that during his four years of service in Gaza, many people told him that there were tunnels everywhere. However, he could not state whether the tunnels were under the UNRWA headquarters. However, in any case, according to him, it was a reasonable assumption, considering that a tunnel was found so close to the headquarters.⁵⁷

The UNRWA leadership’s political position is also reflected in the continuous, unqualified support it provides to Hamas in various international fora, despite its violent methods and declared dedication to eliminating Israel. In the past, Commissioner-General Abu Zayd was particularly active in campaigning devotedly against the West’s isolation of Hamas, calling upon European leaders in particular to engage with the group as a pre-condition for “regaining credibility with Palestinians” and ending “the partisan approach to denouncing violence and to blaming the victims.”⁵⁸ In the same spirit,

UNRWA's leadership also protested the Quartet's embargo of the Hamas government, thus openly challenging the formal policies of its primary donors—the USA and the EU—as well as the UN.⁵⁹ Since 2008, UNRWA has echoed Hamas' views by keenly criticizing the Israeli blockade of Gaza on humanitarian grounds while at the same time ignoring reports regarding the theft of humanitarian assistance items by the group.⁶⁰

Indeed, in practice, UNRWA's so-called “protection mandate” has allowed the Agency to become a fierce advocate for Palestinians in its dealings with Israel. However, the Agency remains nearly silent and indifferent when Arab governments in host countries violate or restrict Palestinian civil rights.⁶¹ Such was the case, for example, when almost 400,000 Palestinians were expelled from Kuwait in 1991, despite repeated warnings issued by human rights organizations regarding the large-scale violation of their rights. As well there is the more recent case of the grievous treatment of Palestinians by the government of Lebanon, where Palestinians live, according to Human Rights Watch, “in appalling social and economic conditions” due to far-reaching legal restrictions on their access to the labor market and discrimination under property and title laws.⁶²

4.2 Growing Involvement in Political Speech

As cited earlier, UNRWA's current leadership follows the path of routinely exploiting every international stage and forum available to delegitimize Israel and its policies. This method has become essential to UNRWA's extensive global fund-raising campaign. A recent collection of UNRWA's outgoing chief executive's pronouncements is illuminating.

In his farewell speech before the Fourth Committee of the UN General Assembly in November 2013, Grandi repeated his motto of “profound concern” regarding the international community’s preoccupation with Syria. According to Grandi, it might divert attention from the situation in Gaza, which was “exacerbated by the closure of tunnels, through which many basic commodities were entering”⁶³—completely ignoring the systematic use of such tunnels by terrorist groups for their massive smuggling operations of illegal arms and ammunition into the Gaza Strip.⁶⁴ He further condemned, at length, the “stifling restrictions imposed by Israel in the West Bank including East Jerusalem,” as well as settlers’ behavior, the “possible transfer of the Bedouin community,” and the conduct of Israeli military operations.⁶⁵ No censorship whatsoever was mentioned of Palestinian violence or terrorist activity against Israel and Israeli citizens. “Rockets launched towards southern Israel” were briefly mentioned—not condemned—by Grandi, and only after raising concerns about possible “Israeli military incursions.”

A few days later, at the opening session of UNRWA’s Advisory Commission (AdCom), Grandi suggested that “strengthening the human security of the people of Gaza is a better avenue to ensuring regional stability than physical closures, political isolation, and military action.” To obtain this, according to Grandi, “first and foremost, the Israeli blockade, which is illegal⁶⁶, must be lifted.”⁶⁷ At the previous round of the AdCom’s meetings, several months earlier, Grandi blamed “the interests of the Israeli government in sustaining an unresolved situation” and trumping “the real substance of security and stability” in the region, including the fact that “Palestinian leadership remains divided.”⁶⁸ During a visit to Rio-de-Janeiro to add Brazil to UNRWA’s donor base, Grandi spoke about the

Gaza blockade as “one of the harshest occupation measures of modern times” and condemned the “complex web of policies and restrictions” that “thrives under the umbrella of military occupation and has been slowly depriving Palestinians of assets and livelihood.”⁶⁹

It is no wonder that the style, tone, and example set by UNRWA’s Commissioners-General has impacted other UNRWA officials. Another example was provided by Former UNRWA spokesperson Chris Gunness, who took advantage of a public event (2013) to commemorate the anniversary of the death of Count Folke Bernadotte in 1948 to condemn Israeli officials who were, according to Gunness, “venerated in the most senior echelons of Israeli public life,” and whose “values and rejectionist attitudes towards the UN sadly are reinforced by repetitious nationalistic mythologizing.”⁷⁰ “Selective ignorance” was his preferred terminology for describing the attitude of these officials, who, according to Gunness, followed Ben-Gurion’s dismissive attitude towards the UN. Recently, Chris Gunness was interviewed on a podcast called *The Electronic Intifada*, where he “debunks Israel’s lies” during the 2023 Israel-Hamas war.⁷¹

In this regard, it is no surprise that UNRWA’s Area Staff Regulations, as well as International Staff Regulations (and also UN Staff Regulations),⁷² both necessitate “to avoid any action and in particular any kind of pronouncement which may adversely reflect on their status, or on the integrity, independence, and impartiality which are required by that status,” as well as the engagement “in any political activity which is inconsistent with or might reflect upon the independence and impartiality required by their status,” are easily ignored. After all, if the Agency’s most high-ranking officials disregard their obligation for impartiality, what can be

asked—or expected—from the more junior officials, let alone the area staff, made up almost entirely of locals?

Despite repeated statements that UNRWA is not a political organization,⁷³ the Agency is regularly involved in political speech and public pronouncements.⁷⁴ This is mainly due to the fact that UNRWA lacks outside controls over its chief executive, who receives hardly any political guidance from any of the relevant international bodies that are in a position to provide direction⁷⁵ and thus effectively enjoy broad authority and freedom of action and speech.

5. *Lex Specialis* Bypassing International Law

5.1 Defining a “Refugee” and Upholding the “Right of Return”

UNRWA’s activity involves two complex, interrelated conceptual-legal controversies: the definition of a “refugee” entitled to the protection of certain international arrangements and the existence of a so-called “right of return.” A thorough doctrinal investigation into these issues is beyond the scope of this commentary.⁷⁶ Nevertheless, it is important to note how UNRWA’s very existence and its actual performance have created a sort of *lex specialis* in the case of Palestinian refugees, thus bypassing existing and internationally accepted legal definitions, requirements, and arrangements, thereby contributing to the complication and misconception of these issues.

UNRWA remains the only UN agency whose area of operation is not global but regional and which deals with a single group of people.⁷⁷ It is also unique among UN

agencies in that it directly provides various government-like public services. Unlike its sister organization, the UN High Commission for Refugees (UNHCR), mandated in 1950 to coordinate the handling of all refugee communities worldwide, UNRWA was established in that year to deal exclusively with Palestinian refugees, who were excluded from the protection of the UNHCR.⁷⁸ Furthermore, while the aims and operations of the UNHCR are based on international instruments—mainly the 1951 Convention Relating to the Status of Refugees—UNRWA was never provided with a specific statute or charter.⁷⁹ It has operated since its inception under a general mandate, renewed every three years by the General Assembly.⁸⁰ The latter, however, has been offering little guidance concerning the evolution of the Agency’s mandate.⁸¹ It, therefore, remains for the UNRWA Commissioner-General to determine, in good faith, any questions concerning the mandate.⁸²

The decision to establish UNRWA, just a few days after the decision had been taken to establish the UNHCR, was the initiative of Arab countries that feared that the inclusion of Palestinian refugees under the general definition of “refugees” would be interpreted as a waiver of their claim that “return” was the sole solution, and as an implied agreement to resettlement in their territories.⁸³ The creation of a separate, autonomous UN agency thus allowed them to impose limitations on UNRWA’s mandate to provide “temporary assistance,” while the UNHCR’s mandate generally provided for refugees’ rehabilitation and resettlement.⁸⁴ Indeed, in the following years, the majority of refugees, as well as Arab states, objected to any attempt by UNRWA to facilitate integration into their countries of residence, insisting on the return of refugees to Israel.⁸⁵ As was acknowledged by Lt. Gen. Sir Alexander Galloway, director of UNRWA in Jordan, 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.⁸⁶

UNRWA, which never criticized the refugees or the Arab states for failing its original resettlement and reintegration scheme,⁸⁷ has consequently developed into a vast welfare agency, providing quasi-governmental services for a huge population of refugees, which has grown more and more dependent on its benefits. It has thus entrenched the idea of return and its misconception as a legal right rather than a privilege or a political claim.⁸⁸ Today, UNRWA's leadership does not hesitate to openly advocate the solution of return, as reflected in the words of UNRWA's outgoing chief executive, who stated recently that,

[Palestinians'] refugee status remains unresolved, and their exile continues everywhere. In spite of the passage of time and even where they have lived for two or three generations in relative peace and stable coexistence with host communities, *refugee status continues to set them apart as a temporary group, unable to return to a state that they call their own, and to permanent homes.*⁸⁹

The fact that UNRWA was established as a distinct arrangement by the General Assembly also allowed for the development of a unique operational definition of a "Palestinian refugee" entitled to the Agency's services. Based on UNRWA documents rather than any formal UN decision, such a definition deviates from the general definition recognized under international

refugee law (as a key for benefitting under UNHCR protection) and was tailored to fit the political interests of those states that initially sponsored the Agency. According to UNRWA's original definition, a Palestinian refugee was a person whose normal place of residence had been Palestine between June 1946 and May 1948,⁹⁰ who had lost his home and means of livelihood as a result of the 1948 war. Controversially, in 1965, UNRWA decided to create an extension of eligibility to the third generation of refugees (that is, to children of persons who were themselves born after 14 May 1948).⁹¹

In 1982, the Agency took another far-reaching decision to extend eligibility to *all* subsequent generations of descendants without any limitation.⁹² Further deviating from the accepted norms and arrangements regarding refugees worldwide,⁹³ UNRWA also registers as “refugees” those who have acquired citizenship in other countries.⁹⁴ Given UNRWA's broad definitions, it is, therefore, no wonder that the current number of Palestinian refugees, according to the Agency's figures,⁹⁵ amounts to nearly 6 million—approximately 20 percent of the number of refugees in the entire world⁹⁶—whereas the formal number of original refugees who fled Palestine in 1948 was around 700,000-750,000,⁹⁷ out of whom nearly 5 percent or less are still alive.⁹⁸ As was stated recently in a report presented to the U.S. Senate Appropriations Committee, UNRWA's practice in this regard is,

artificial and misleading, and undermines any possibility of resolving the refugee issue in future peace negotiations. It manufactures fictional refugees who vastly outnumber the actual remaining 1948 and 1967 ‘refugees.’ The real refugees are today only a small fraction of the five million nominal ‘refugees’ registered with UNRWA.⁹⁹

Even PA President Mahmoud Abbas has openly acknowledged in the past that,

it is illogical to ask Israel to take five million, or indeed one million. That would mean the end of Israel.¹⁰⁰

5.2 Mythologizing “Refugeeism”

Whereas the mission of the UNHCR is generally to reduce the number of refugees in the world, UNRWA has brought about an exponential increase in the number of Palestinian refugees. More than anything else, its actions have underlined the issue of Palestinian refugees as a significant, far-reaching, practical *political* concern, not simply a humanitarian one.¹⁰¹ In this, as acknowledged by Zilbershats and Goren-Amitai, the UN Agency serves as an agent, fulfilling “the political desire of the Arab states and the Palestinians to preserve, expand, and perpetuate the refugee problem in order to avoid the need to recognize the State of Israel as a Jewish state.”¹⁰² Others have also acknowledged the financial aspect of the situation, pointing to the fact that a decrease in the number of refugees would result in the PA losing hundreds of millions of dollars in annual aid.¹⁰³

Furthermore, UNRWA’s ideological insistence on the “right of return,” combined with its policy of inflating the number of refugees, greatly contributes to the strengthening of the sense of nationalism and solidarity underlined by feelings of injustice, cultivating a collective memory based on a mentality of victimhood.¹⁰⁴ Over the years, the Agency’s leadership plainly—and actively—supports this mindset, as demonstrated when the former Commissioner-General

showed pride in unveiling UNRWA's newly digitized archives under the title: "The Long Journey: Digitizing the Palestine Refugee Experience."¹⁰⁵ According to UNRWA's website, these archives, funded by the governments of Denmark and France, Palestinian NGOs, and private sector partners, consist of "over half a million negatives, prints, slides, films and videocassettes covering all aspects of the life and history of Palestine refugees from 1948 to the present day." Describing the UNRWA archives, considered since before their digitization to be part of Palestinian national heritage,¹⁰⁶ Grandi stated that,

Collective memory is a vital element of communal identity, and this rich archive documents *one element of Palestinian identity, the refugee experience...*¹⁰⁷ These photos are part of an important legacy.... *To preserve this legacy is an important duty we have to the Palestinian people.* They raise awareness about the history of the Palestinian refugee issue.¹⁰⁸

Notably, UNRWA organized and launched a traveling exhibition based on the new archives; after being presented in the Old City of Jerusalem, UNRWA scheduled the exhibition to go on tour, starting in January 2014, to key cities in the Agency's areas of operation, as well as "centers of culture and politics in Europe and North America."¹⁰⁹

Such activity exemplifies UNRWA's decisive role in constructing Palestinian political identity and in mythologizing refugeeism,¹¹⁰ as has been suggested by R. Bowker:

[T]he political mythologies and memoirs of Palestinian refugees in which UNRWA is deeply embedded...are central elements in Palestinian politics. Palestinian refugees... are not merely recipients of international aid. Viewed in

terms of the historical conflict between Palestinians and Israelis, the relationship of the refugees to UNRWA has been instrumental in forging their sense of identity as refugees, their claims for justice, and their perceptions of the roles and responsibilities of other parties relevant to their situation and aspirations.¹¹¹

Indeed, in recent years, more and more commentators have raised concerns that UNRWA's determined policies, in fact, overwhelm voices coming from within Palestinian society—of those who wish their people to abandon the refugee camps without claiming return. An article in *The Economist*, from a decade ago, noting that almost 70 percent of West Bank refugees already live outside refugee camps, quotes a camp psychologist admitting that “people don't even dream anymore of returning.”¹¹² Also, Palestinian leaders privately confess that even if there were a deal with Israel, “the refugees and their offspring will never return en masse to Israel.”¹¹³ Thus, by treating Palestinian refugees as a collective socio-political group, UNRWA overlooks differing attitudes of adaptation to changing political contexts and economic circumstances and studies that show how new “pragmatic” discourses among Palestinians and new symbolic meanings attached to the “right of return” have emerged.¹¹⁴

6. Donor Countries' Awareness and the Quest for Accountability

Within the last few decades, under the orchestration of impassioned commissioners-general,¹¹⁵ the vast, quasi-governmental machinery into which UNRWA has evolved has

made itself highly susceptible to political manipulation. It has become an active agent in reaching out to international actors and audiences and an effective tool in manipulating public opinion worldwide.

Evidently, several legal-institutional and political factors have combined to bring about this situation. The “original sin” of creating a unique, “temporary” agency tailored to meet certain political demands without providing a specific statute or an accountability framework left UNRWA’s leadership with unparalleled broad discretion and authority to shape the Agency’s mandate and implement its policies. Furthermore, because the Agency’s funding system is guaranteed almost exclusively by voluntary contributions from donor countries, it has to constantly develop sophisticated communication skills to market its mission and secure its funding. This mission has become more and more difficult since the 1990s.

Apparently, crucial policy decisions taken throughout the years and bearing far-reaching political consequences, such as those regarding the definition of the Agency’s beneficiaries that resulted in the relentless inflation in the number of Palestinian refugees or the adoption of initiatives within a so-called, never-clearly-stated “protection mandate,” have inflicted tremendous, steadily growing budgetary constraints on the Agency. Eventually, the international community has to shoulder the burden of these costs.

UNRWA’s leaders have thus become occupied with efforts to break the vicious circle created by the Agency’s own policies—either by convincing donor countries to enlarge their contributions or campaigning to persuade other countries to join its donor base.¹¹⁶ Clearly, within these efforts, criticizing the conduct of camp residents, host authorities, or extremist groups for the poor humanitarian conditions of the refugees

would lead to their disenfranchisement with UNRWA and would badly affect local refugee communities, and is therefore not an option. However, as was demonstrated earlier, “naming and blaming” Israel definitely is. Mythologizing refugeeism and upholding the “right of return” further validate the Agency’s *raison d’être*.

Altogether, such activities are not always compatible with the interests and political positions of moderate Palestinian leadership; they obstruct pragmatic efforts to mediate the positions of Israelis and Palestinians. On the other hand, UNRWA is a vital source of income and a caretaker of unstable factions within Palestinian society.

Going against its policies would probably cause much political unrest and be perceived as defying the cause of Palestinian refugees.¹¹⁷ In this way, the *status quo*, which allows a growing political involvement by UNRWA, mostly plays into the hands of extremist groups such as Hamas, whose position and practices the Agency has been backing in international fora since it took over the Gaza Strip.

Within the last few years, however, there has been a growing awareness within political, diplomatic, and academic circles regarding UNRWA’s policies and the Agency’s growing tendency toward active political involvement. This has attracted attention to UNRWA’s lack of accountability and the unfettered freedom of speech enjoyed by its executive officers, defying the fundamental norms of objectivity and neutrality that oblige UN officials as international civil servants.¹¹⁸ Consequently, some donor states have not remained indifferent.

In January 2010, the government of Canada decided to cut off funding to UNRWA, redirecting its contributions to the PA to “ensure accountability.”¹¹⁹ In December 2011, the Dutch foreign minister declared its government’s intention

to “thoroughly review” its policies toward UNRWA.¹²⁰ The British parliament’s International Development Committee has also launched an inquiry into UNRWA funding within its assessment of the United Kingdom’s development work in the Middle East.¹²¹ In March 2009, in the U.S. House of Representatives, 22 Democrats and Republicans criticized UNRWA for having violated the requirement of neutrality and assisting Hamas.¹²² Furthermore, in May 2012, a significant amendment was passed by the U.S. Senate Appropriations Committee and incorporated into the *Fiscal Year 2013 Department of State, Foreign Operations, and Related Programs Appropriations Bill*, directing the Secretary of State to report to the Committee on the current number of UNRWA beneficiaries in different categories (“original” 1948 refugees; their descendants), as well as the extent to which the provision of UNRWA services “furthers the security interests of the United States and of other U.S. allies in the Middle East.”¹²³ Recently, Under the leadership of former U.S. President Donald Trump, the United States cut funding to UNRWA in 2018, labeling the agency “irredeemably flawed.”¹²⁴ However, President Biden unconditionally resumed funding UNRWA in 2021.¹²⁵

Such initiatives testify to the fact that UNRWA’s position as a stabilizing, “peace servicing” factor in the region and as a guardian of refugee interests¹²⁶ is no longer taken for granted in the eyes of Western donor countries. They also reflect the growing quest for accountability and acknowledgment of donor countries’ responsibility to scrutinize UNRWA’s policies to ensure the strict application of their tax-payer money toward relief and humanitarian causes.

7. Conclusion

Seventy-five years after its establishment, UNRWA still has no settled accountability framework—let alone a broadly accepted, defined mandate—that would enable the international community to scrutinize and direct the Agency’s daily performance. This situation allows its leadership, as well as interested parties—first and foremost the Palestinian leadership and some Arab (host) countries—to manipulate this vast UN agency, mainly sponsored by goodwill contributions of the international taxpayer. The Agency’s relatively powerful influence on Palestinian educational activities, as well as the fact that more than half of its general budget is dedicated to education,¹²⁷ further highlight UNRWA’s problematic educational role in the Middle East conflict. It demands urgent, ongoing scrutiny on the part of donor countries—most of which are Western democracies—to ensure that their contributions are not being misused to support terrorism or to incite violence and hatred.

As commentators have observed in the past, donor countries, particularly those with the most influence on UNRWA’s leadership, need to persuade the Agency to strictly limit its actions and public pronouncements to humanitarian issues.¹²⁸

UNRWA is funded by the voluntary contributions of a relatively *narrow* donor base. Therefore, Western donor countries are likely in the most effective position to influence and direct UNRWA leadership to prevent the humanitarian Agency from being further exploited for the promotion of extremist agendas, the backing of terrorist groups, and the growing involvement of its officials in political speech and public pronouncement. As one commentator put it recently,

paraphrasing Clausewitz: “Humanitarianism, not just war, has now become the continuation of politics by other means.”¹²⁹ Indeed, if we are to judge according to some of UNRWA’s activities and policies within the last few decades, accountable, restrained leadership and more determined action on the part of donor states are required in order to prevent the Agency from further exemplifying this.¹³⁰

In January 2024, following the revelations on the ground and the intelligence regarding the involvement of UNRWA and its staff in terrorist activities and cooperation with Hamas elements, the central donor countries, led by the United States and Germany,¹³¹ as well as the United Kingdom, France, the Netherlands, Italy, Finland, and Austria,¹³² decided to suspend the aid funds transferred to UNRWA. This unprecedented step could completely paralyze the Agency’s activities.¹³³ Following this, UN Secretary-General Guterres announced that, in consultation with General-Commissioner Lazzarini, and in response to the latter’s request, he appointed an independent review team “to examine whether the agency is doing everything within its power to ensure neutrality and to provide an answer to the accusations regarding the serious violations.”¹³⁴ The former French foreign minister, Catherine Colonna, was appointed as the head of the team, which cooperated in the examination with three research institutes: the Raoul Wallenberg Institute from Sweden, the Michelsen Institute from Norway, and the Danish Institute for Human Rights. This, at the same time as the examination by the UN inspection bodies of the concrete accusations leveled against the involvement of 12 UNRWA staff members in the October 7 Hamas attack. The so-called Colonna Independent Review Panel Report on UNRWA was released on February 2024, providing 50 recommendations and noting that “Israeli

authorities have yet to provide proof of their claims that UN staff are involved with terrorist organizations.”¹³⁵ Following the report’s release, many UNRWA donor countries hurried to lift the pause on their funding to the Agency.¹³⁶

Notwithstanding the conclusions of the Colona Report, recently, it was reported that Israel, based on new revelations, has submitted UNRWA’s Commissioner-General Lazzarini a letter listing in detail (names, ID, and military ID numbers) more than 100 UNRWA workers who are allegedly Hamas and Palestinian Islamic Jihad terrorists, stating that the names included are part of a “broader list” of the Agency’s workers affiliated with these terrorist organizations.¹³⁷ Also, there are ongoing reports regarding the widespread military use by Hamas terrorists of UNRWA’s facilities.¹³⁸

Because of the nature of the problematic revelations and the harsh criticisms that have been leveled against UNRWA at various levels for many years, the examination that the UN Secretary-General initiated was not even in the scope of “too little and too late” but rather a camouflage and a diversion of the attention of the international community, while deliberately ignoring completely the root of the problem and the seriousness of the accusations involved in UNRWA’s activities and conduct. The nature of the allegations and deficiencies indicates that the examination is not a matter for various human rights institutes, political parties, and close associates but rather for objective, independent experts and for an examination of the entirety of the parties involved, including the conduct of the UNRWA Commissioners-General and even of the UN Secretary-General himself, who bears overall responsibility for the activities of UN agencies.

An effective investigation that may bring about a fundamental change in the Agency’s conduct while setting

clear standards and establishing sustainable supervision and control mechanisms can only be carried out by qualified and objective national bodies on behalf of the donating countries, both at the military and intelligence level and at the criminal legal level, and only then by experts in providing humanitarian aid.

Moreover, this examination must consider, once and for all, the inherent problems involved in the activity of a UN agency of huge dimensions, that by its very existence, upholding the “right of return,” it practically negates the existence of a sovereign UN Member State—Israel, and paradoxically perpetuates one of the fundamental factors of the violent ongoing conflict, whose bloody results she seeks to alleviate through the humanitarian aid on whose behalf she works.

It is yet unclear what part UNRWA will be able to take, if any, within future arrangements after the present war in the context of rebuilding Gaza and overseeing the humanitarian aid that will presumably be provided to the residents of the Gaza Strip. What is obvious, however, is that UNRWA has lost its credibility and even its legitimacy in the eyes of many of the main stakeholders in the region, in particular within Israel.¹³⁹ Thus, if the Agency does not take serious steps to regain its trustworthiness, first and foremost, by pulling the hands of its workers and leadership from any terrorist and political activity, it is hard to see it integrating and acting meaningfully and authoritatively within any future civil administration arrangements. Unfortunately, deeply rooted in past conceptions, and judging by the recent slight steps taken by the UN Secretary-General and UNRWA Commissioner-General against the background of the severe allegations

regarding the conduct of the Agency, it seems quite obvious that neither UNRWA nor the UN can lead the profound reforms required. It, therefore, remains the primary responsibility of UNRWA's central donor countries to take prompt action in terms of determined tight supervision over the Agency's field and political activity, as well as their strict demand for accountability on behalf of its workers.

Notes

1. See Remarks by Catherine Ashton with UNRWA Commissioner General, Filippo Grandi, at Rimal Boys' Elementary School, *Council of the European Union*, Press Release (Gaza, 20 June, 2013), A337/13, available at: <http://www.eeas.europa.eu>.
2. Ibid.
3. See Interview with UNRWA Commissioner General Filippo Grandi, *UN News Centre*, (14 March, 2013), p. 1, available at: <http://www.un.org/apps/news/newsmakers.asp?NewsID=86>.
4. Ibid, pp. 3-4.
5. Remarks by Filippo Grandi, at the Conference on Cooperation among East Asian Countries for Palestinian Development (Feb. 14, 2013), p. 3 (*italics added*).
6. Ibid. According to Grandi, 'occupation policies' include 'the blockade of Gaza; the cantonization of the West Bank; the expansion of settlements; the usurpation of water resources; and the alienation of Palestinians from East Jerusalem'.
7. Statement of Mr. Philippe Lazzarini The Commissioner-General at The Joint Emergency Summit of the League of Arab States and the Organization of Islamic Cooperation, UNRWA (11 Nov. 2023). <https://www.unrwa.org/newsroom/official-statements/statement-mr-philippe-lazzarini-commissioner-general-joint-emergency-Summit-League-Arab-States>.
8. Remarks by UNRWA Commissioner-General Philippe Lazzarini to the United Nations General Assembly Fourth Committee, UNRWA (3

- Nov. 2023), <https://www.unrwa.org/newsroom/official-statements/remarks-unrwa-commissioner-general-philippe-lazzarini-to-the-united-nations>; Briefing of Mr. Phillippe Lazzarini, The Commissioner General of the United Nations Relief and Works Agency for Palestine Refugees in the Near East on the situation in the Middle East, Including the Palestinian Question, New York, 30 October, 2023.
9. See generally Lindsay, op. cit. note 1, pp. 33-48. See also A. Kushner, The UN's Palestinian Refugee Problem, *Azure*, No. 22 (2005), available at: <http://azure.org.il/>; A. Kushner, UNRWA: A Hard Look at an Agency in Trouble, *Centre for Near East Policy Research*, (2005); B. Rubin, A. Romirowsky, J. Spyer, UNRWA: Refuge of Rejectionism, *Global Research in International Affairs*, (2008), available at: <http://www.romirowsky.com/>; N. Nachmias, UNRWA at 60: Are There Better Alternatives?, *MEF Policy Forum*, (2009), available at: <http://www.meforum.org/>; M.S. Bernstam, The Palestinian Proletariat, *Commentary*, (Dec. 2010), available at: <http://www.commnetarymagazine.com/>; A. Kushner, UNRWA's Anti-Israel Bias, *The Middle East Quarterly*, (2011), available at: <http://www.meforum.org/>. A significant collection of research papers can be found within the *Refugee Survey Quarterly*, Vol. 28 (Nos. 2 & 3), (2010) that was dedicated to commemorating UNRWA's 60th anniversary.
 10. Lindsay, op. cit. note 1, p. 33. See also R. G. Khouri, Sixty Years of UNRWA: From Service Provision to Refugee Protection, *Refugee Survey Quarterly*, Vol. 28 (Nos. 2 & 3), (2010), p. 449.
 11. Lindsay, *ibid*, pp. 39-40.
 12. *Ibid*, p. 30 fn. 30, 40.
 13. *Ibid*, p. 31, 39; 'UNRWA in Figures' (as of 1 Jan., 2013), available at: <http://www.unrwa.org/sites/default/files/2013042435340.pdf>. In the West Bank there are some 4,500 UNRWA area staff members, while in Gaza there are 12,000.
 14. L. Polman, *The Crisis Caravan: What's Wrong with Humanitarian Aid?*, (Picador), (2010), p. 108. See also R. Bocco, UNRWA and the Palestinian Refugees: A History within History, *Refugee Survey Quarterly*, Vol. 28 (Nos. 2 & 3), (2010), pp. 239-240.
 15. Lindsay's work is probably the most comprehensive, systematic, and articulate commentary written on UNRWA so far.
 16. Lindsay, op. cit. note 1, pp. 31-32.

17. Ibid, p. 41.
18. Ibid. See also in this regard accusations regarding Hamas control over UNRWA area staff unions—ibid. See also Luis Lema, *La victoire probable du Hamas effraie l'UE*, LE TEMPS (6 octobre, 2004) [in French]. <https://www.letemps.ch/monde/victoire-probable-hamas-effraie-lue>.
19. Lindsay, op. cit. note 1, p. 32.
20. Ibid, p. 40.
21. The video was uploaded to YouTube on July 2013, and was screened in part on Israel's Channel 2 news. It was directed by journalist D. Bedein, and produced by the *Nahum Bedein Center for Near East Policy Research*—available at: <http://www.IsraelBehindTheNews.com>. For UNRWA's official comment regarding the video, see 'UNRWA Rejects Allegations of Incitement as Baseless: Statement by UNRWA Spokesperson Chris Gunness' (22 Aug., 2013), available at: <http://www.unrwa.org/>.
22. "Al Nakba"—"the Catastrophe" in Arabic—generally refers to the 1948 War of Independence, while the 'Nakba Day' refers to the State of Israel's day of independence.
23. Judah Ari Gross, "L'UNRWA confirme qu'un tunnel passait en dessous d'une école ciblée à Gaza," *The Times of Israel* (7 Juin 2021). [in French]. <https://fr.timesofisrael.com/lunrwa-confirme-quun-tunnel-passait-en-dessous-dune-ecole-ciblee-a-gaza/>.
24. UNRWA Education: Textbooks and Terror, 10-44 (IMPACT-se, Nov. 2023), <https://www.impact-se.org/wp-content/uploads/UNRWA-Education-Textbooks-and-Terror-Nov-2023.pdf>.
25. <https://twitter.com/BarakRavid/status/1713915954759889300/photo/1>. See also: "Gaza: le Hamas dérobe 24 000 litres de carburant et du matériel médical à l'UNRWA," *i24NEWS*(16 octobre 2023) [in French]. <https://www.i24news.tv/fr/actu/israel-en-guerre/1697470481-gaza-le-hamas-derobe-24-000-litres-de-carburant-et-du-materiel-medical-a-l-unrwa>.
26. "L'UNRWA accuse le Hamas de lui avoir volé des fournitures, puis se rétracte," *Times of Israel Staff* (17 octobre 2023) [in French]. <https://fr.timesofisrael.com/lunrwa-declare-que-le-hamas-lui-a-vole-des-fournitures-avant-de-se-retracter/>.
27. Resignation of Suhail al-Hindi, chairman of the UNRWA staff union in the Gaza Strip, after exposure of his election to Hamas'

- new Gazan political bureau, *The Meir Amit Intelligence and Terrorism Information Center* (24/04/2017). <https://www.terrorism-info.org.il/en/21194/>.
28. Yardena Schwartz, "Palestinian Schools Have a Problem—and Are Running Out of Time," *Foreign Policy Magazine* (Nov. 5, 2021). https://foreignpolicy.com/2021/11/05/unrwa-palestine-israel-refugees-united-states-funding-corruption-education/#cookie_message_anchor.
 29. *supra* note 30.
 30. See IDF Spokesperson site, <https://www.idf.il/-/אתרי-יחידות/יומן-המלחמה/כלל-הכתבות/חשיפה-המטה-המרכזי-של-אוניברסיטת-ברצות-עזה>; Emanuel Fabian, Directly beneath UNRWA's Gaza headquarters, IDF uncovers top secret Hamas data center, *The Times of Israel* (10 Feb. 2024), <https://www.timesofisrael.com/directly-beneath-unrwas-gaza-headquarters-idf-uncovers-top-secret-hamas-data-center/>.
 31. See <https://www.mako.co.il/pzm-soldiers/Article-46a4a3057c39d81027.htm> [in Hebrew].
 32. See, for example, Intelligence Reveals Details of UN agency Staff's Links to Oct. 7 Attack, *Wall Street Journal*, 29/1/24; A UN Agency Is Accused of Links to Hamas, *Wall Street Journal*, 2/2/24; UNRWA Workers Accused of Kidnapping Woman, Taking Part in Kibbutz Massacre, *New York Times*, 29/1/24; Bret Stephens, Abolish the UN's Palestinian Refugee Agency, Opinion, *New York Times*, 30/1/24; Israeli Intelligence Report Details UNRWA Workers' Alleged Involvement in Oct 7 Attack, *GNN*, 29/1/24.
 33. See in this context David Meir-Levi, *History Upside Down—The Roots of Palestinian Fascism and the Myth of Israeli Aggression* (2007) (Brief Encounters—Encounter Books), pp. 45-46, who concludes that "perhaps the most valuable asset of all for Hamas has been the UN, which has assisted the organization by turning a blind eye to its terrorist interactions with UN personnel." He acknowledges, for example, that UNRWA ambulances have been photographed being used by Hamas for terrorist activities. Meir-Levi determines that "of even greater value to Hamas is its dominance in UNRWA's workforce; all but a few hundred of UNRWA's twenty-two thousand workers are Palestinians and a good chunk of UNRWA's billions of dollars of salaries flow into the hands of Hamas sympathizers and hence into Hamas terrorist activities."

34. UNRWA uses the books provided by the host governments. Generally, textbooks used by the Agency in Lebanon, Syria, and Jordan have raised less attention—see Lindsay, *op. cit.* note 1, p. 42. Nevertheless, in some cases these books have advocated an armed struggle against Israel, denied its legitimacy as a sovereign state and demonized it, and even called for the annihilation of Jews—see research report by A. Groiss, *Problematic Educational Role of UNRWA in the Middle East War*, *Israel Resource Review*, (Oct. 18, 2013), p. 1, available at: <http://www.IsraelBehindTheNews.com>.
35. See generally, Lindsay, *op. cit.* note 1, pp. 13, 18, 41-45. Indeed, in the past, it was Commissioner General Michelmores who admitted that UNRWA schools had been supporting a ‘bitterly hostile attitude to Israel’—see p. 18.
36. See Groiss, *op. cit.* note 35.
37. Arnon Groiss, Israel, “Jews and Peace in Palestinian Authority Teachers’ Guides,” *The Center for Near East Policy Research Ltd.* (August 2019). <http://israelbehindthenews.com/wp-content/uploads/2018/03/Antisemitism-UNRWA-education.pdf>; Arnon Groiss, “Anti-Semitism in UNRWA Education,” *The Bedein Center for Near East Policy Research* (March 21, 2018). <https://israelbehindthenews.com/2018/03/21/anti-semitism-in-unrwa-education/>. See also: Nadav Shragai, “A Lesson in Incitement,” *Israel Hayom* (12 Jan. 2018), <https://www.israelhayom.com/2018/01/12/a-lesson-in-incitement/>.
38. Itam Shalev, *Review of UNRWA-Produced Study Materials in the Palestinian Territories*, IMPACT-se (Jan. 2021). <https://www.impact-se.org/wp-content/uploads/UNRWA-Produced-Study-Materials-in-the-Palestinian-Territories%E2%80%9494Jan-2021.pdf>.
39. *UNRWA improves safeguards on ensuring adherence of educational materials with UN principles; prepares to launch secure agencywide self-learning platform*, UNRWA (14 January 2021). <https://www.unrwa.org/newsroom/official-statements/unrwa-improves-safeguards-ensuring-adherence-educational-materials-un>.
40. *Review of 2022 UNRWA-Produced Study Materials in the Palestinian Territories*, IMPACT-se (July 2022). <https://www.impact-se.org/wp-content/uploads/Review-of-2022-UNRWA-Produced-School-Materials.pdf>.
41. UN Watch, *UN Teachers Call to Murder Jews, Reveals New Report*, 14/3/23; *UNRWA Education: Reform or Regression? a Review of UNRWA*

- Teachers and Schools Concerning Incitement to Hate and Violence* (UN WATCH & IMPACT-se, March 2023). <https://unwatch.org/wp-content/uploads/2023/03/2023-Report-UNRWA.pdf>
42. *UNRWA Education: Textbooks and Terror*, 45-97 (IMPACT-se, Nov. 2023). <https://www.impact-se.org/wp-content/uploads/UNRWA-Education-Textbooks-and-Terror-Nov-2023.pdf>.
 43. See 'Conclusion' in *ibid*, p. 7.
 44. Since the mid-1950s, when UNRWA's mandate changed from relief and emergency assistance to social development, education became UNRWA's central program, with the Agency adopting the host country curriculum to its schools—see Takkenberg, *op. cit.* note 1, pp. 255-256.
 45. Lindsay argues that, being a UN body, that its schools are not adjuncts to the PA or to the host countries educational systems, UNRWA should provide its students with a UN curriculum using UN textbooks—see *op. cit.* note 1, p. 61. See also Bocco, *op. cit.* note 15, p. 245.
 46. Lindsay, *ibid*, p. 7. See also p. 41, regarding Hamas control over UNRWA area staff unions. In this regard, UNRWA's declared efforts to supplement the host governments' curricula with additional materials and courses designed to 'foster thinking about human rights, tolerance, and conflict resolution' are quite unhelpful—see p. 6. Bocco concludes that, with due respect to the national curricula of host countries, 'UNRWA schools could do more to foster a culture of peace and reconciliation'—see *ibid*, *ibid*. See also I. Marcus, 'UNRWA Workers 'Adamantly Opposed' to Holocaust Education in UNRWA Schools', *Palestinian Media Watch*, (Apr. 27, 2011), available at: <http://www.palwatch.org>.
 47. Lindsay, *ibid*, p. 13.
 48. *Ibid*, p. 20. See also J. Al-Husseini, R. Bocco, *The Status of the Palestinian Refugees in the Near East: The Right of Return and UNRWA in Perspective*, *Refugee Survey Quarterly*, Vol. 28 (Nos. 2 & 3), (2010), p. 267 & fn. 29, regarding the *ad hoc* nature of UNRWA protection programs.
 49. Undoubtedly, UNRWA's evolving 'protection mandate' is one of the most controversial issues regarding the Agency's activities—see generally M. Kagan, *Is There Really a Protection Gap? UNRWA's Role vis-à-vis Palestinian Refugees*, *Refugee Survey Quarterly*, Vol. 28 (Nos. 2 & 3), (2010), pp. 511-530. Notably, in 2000, the UN

Secretary General described UNRWA's mandate, acknowledging that 'Under its mandate ... the scope of the Agency's activities is mainly humanitarian in nature'—*Secretary General's Bulletin*, 'Organization of UNRWA', UN Doc. ST/SGB/2000/6 (17 Feb. 2000), note 1, as quoted in L. Bartholomeusz, *The Mandate of UNRWA at Sixty*, *Refugee Survey Quarterly*, Vol. 28 (Nos. 2 & 3), (2010), pp. 461-462. Nevertheless, Commissioner General K. AbuZayd stated that, despite the fact that, 'unlike UNHCR, UNRWA's creation was not by a statute with express references to "protection", nevertheless, protection is an integral part of UNRWA's mandate and in view of the human rights challenges faced by many Palestinians and Palestine refugees, this aspect of our work has gained greater importance since the 1980s'—see K. AbuZayd, *UNRWA and the Palestinian Refugees after Sixty Years: Assessing Developments and Marking Challenges*, *Refugee Survey Quarterly*, Vol. 28 (Nos. 2 & 3), (2010), p. 228, (italics added). For AbuZayd's significant role in promoting UNRWA's 'protection mandate' through international lectures and by addressing UN bodies—see Khouri, op. cit. note 11, p. 439, 447-448.

50. Lindsay, op. cit. note 1, p. 20; Khouri, *ibid*, pp. 438-439, acknowledges that UNRWA officials have become recognizable in the global mass media as symbols of the Agency's responsibility to speak out for the physical protection of the refugees, in particular against Israel.
51. Lindsay, *ibid*, *ibid*.
52. *Ibid*, p. 21; Bartholomeusz, op. cit. note 50, p. 467.
53. Lindsay, *ibid*.
54. See *ibid*, fn. 54. See as well statement of K. AbuZayd at the UN Security Council (2009)—the first time an UNRWA Commissioner General was invited to address the Council—discussing Israel's 'systematic destruction' of civilian facilities in Gaza, as well as the 'attackers' failing to distinguish between military targets and civilians' and 'indiscriminate violence'— UN Security Council Closed Consultations Session, *Statement by UNRWA Commissioner General, Karen AbuZayd*, (New York, 27 Jan., 2009), and discussion in Kouri, op. cit. note 11, p. 447.
55. See Lindsay, *ibid* & fn. 55.
56. See *ibid*, & p. 5, 23.
57. Daniel Estrin, *He Was the Top UN Official in Gaza; An Israeli TV Interview Cost Him His Post*, NPR (18 Nov. 2021); *Fact Checking*

UNRWA Claims About Teachers and Education, UN WATCH (7 Nov. 2023). <https://unwatch.org/fact-checking-unrwa-claims-about-teachers-and-education/>.

58. See Lindsay, *op. cit.* note 1, p. 22 and fn. 60, p. 23. See, for example, speech by AbuZayd delivered at the University of Iceland, Reykjavik (Mar. 8, 2007), where she compared the history of the 1948 war with the present Israeli conflict against Hamas, stating that ‘there is a striking historical continuity in the systematic approach to use overwhelming and disproportionate force in the name of security; to separate and exclude Palestinians from the mainstream; to eject them from their land; and to occupy Palestinian land ... [T]hat was the sequence of events in 1948. The very same sequence defines Palestinian reality today’—see K. AbuZayd, ‘Crisis in Gaza and the West Bank’, available at: www.un.org/unrwa/news/statements/2007/IcelandUniv_Mar07.html, as quoted in Lindsay, p. 19, fn. 45.
59. See *ibid.*, p. 22.
60. See p. 23 & fn. 65, p. 24; T. Sternthal, ‘Media, UNRWA Silent on Attacked Aid Convoy’, *Camera*, (Jan. 21, 2009), available at: <http://www.camera.org>. On UNRWA, as well as other humanitarian organizations, playing the role of Hamas fig leaves—see Bocco, *op. cit.* note 15, p. 243.
61. See Proposed Report Language on UNRWA, *Proposal to the Senate Appropriations Committee, Subcommittee on State, Foreign Operations, and Related Programs, Regarding Senate Report on the Department of State, Foreign Operations, and Related Programs Appropriations Bill, 2013, Section: Migration and Refugee Assistance account; funds appropriated to the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)*, pp. 7-8 (on file with the author). See also Kagan, *op. cit.* note 50, pp. 522-528.
62. See Proposed Report Language on UNRWA, *ibid.*, p. 8; ‘Lebanon: Seize Opportunity to End Discrimination against Palestinians’, *Human Rights Watch*, (June 18, 2010), available at: <http://www.hrw.org/news/2010/06/17/lebanon-seize-opportunity-end-discrimination-against-palestinians>. See also Al-Husseini & Bocco, *op. cit.* note 49, p. 270.
63. Statement by Filippo Grandi, Commissioner General of UNRWA, to the Fourth Committee of the United Nations General Assembly (7 Nov., 2013), available at: <http://www.unrwa.org>, pp. 2-3

64. See J. Khoury, Egyptian Army Destroys 152 Smuggling Tunnels to Gaza Since July, *Haaretz Online*, (Sep. 16, 2013); Egypt Destroys Smuggling Tunnels on Gaza Border, *Times of Israel*, (Nov. 12, 2013); T.G. Lichtenwald, F.S. Perri, Terrorist Use of Smuggling Tunnels, *International Journal of Criminology and Sociology*, Vol. 2, (2013), pp. 210-226.
65. Statement by Filippo Grandi, op. ct. note 64, pp. 2-3.
66. Recall in this regard that the Report of the Secretary General's Panel of Inquiry on the 31 May 2010 Flotilla Incident (Sep. 2011) determined that: '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'—see para. 82, p. 45, available at: http://www.un.org/News/dh/infocus/middle_east/Gaza_Flotilla_Panel_Report.pdf.
67. See Statement by Filippo Grandi, Commissioner General of UNRWA, at the Opening Session of the Advisory Commission, (18 Nov., 2013), available at: <http://www.unrwa.org/newsroom/official-statements/>.
68. Opening Statement by the Commissioner General of UNRWA, Filippo Grandi, at the Meeting of the UNRWA Advisory Commission (16 June, 2013), available at: <http://www.unrwa.org/newsroom/official-statements/>, p. 2, 7.
69. See 'Palestine Refugees: An Unresolved Question at the Time of the Syria Crisis', *Lecture by Filippo Grandi, Commissioner General, UNRWA, Pontifical Catholic University, Rio de Janeiro, Brazil*, (4 Oct., 2013), available at: <http://www.unrwa.org/newsroom/official-statements/>.
70. See 'Bernadotte: His Legacy to Palestinian Refugees', Speech by Chris Gunness, UNRWA Spokesperson, on Behalf of the UNRWA Commissioner General at an Event in Jerusalem to Commemorate the Sixty-Fifth Anniversary of the Death of Count Bernadotte, (17 Sep., 2013), available at: <http://www.unrwa.org/newsroom/official-statements/>, p. 2.
71. <https://www.youtube.com/watch?v=-KrsOLdlcQA>.
72. See UNRWA Area Staff Regulation 1.4 & 1.7, and UNRWA International Staff Regulation 1.4 & 1.7, as quoted in Lindsay, op. cit. note 1, pp. 29-30. With regard to UN Staff Regulations—see infra note 122.

73. Note, however, Grandi's proclamation, emphasizing that although 'UNRWA is not a political organization', it is 'ultimately *a political framework* that supports development' (italics added)—see Remarks by Filippo Grandi, op. cit. note 6, p. 3.
74. See Lindsay, op. cit. note 1, p. 59. Bocco acknowledges that although UNRWA is officially a non-political organization, it has been deeply involved in a highly politicized context from its inception—see Bocco, op. cit. note 15, p. 232.
75. The General Assembly; the Advisory Commission (AdCom); the UN Secretary General; the host countries; and the donor countries—see Lindsay, *ibid.*, p. 46 & fns. 91-92.
76. See, for example, E. Benvenisti, C. Gans, S. Hanafi (eds.), *Israel and the Palestinian Refugees*, (Springer), (2007); Y. Zilbershats, N. Goren-Amitai, *Return of Palestinian Refugees to the State of Israel*, in R. Gavison (Ed. of Series), *Position Papers, The Metzilah Center for Zionist, Jewish, Liberal and Humanist Thought*, (Feb. 2011).
77. See Bocco, op. cit. note 15, p. 231. Bernstam maintains that UNRWA, being unique by design, has been 'one of the most bizarre humanitarian organizations in human history'—see op. cit. note 10, p. 2.
78. Refugees under the protection of the UNHCR are subjected to the 1951 Convention Relating to the Status of Refugees, that restricts its application (under Art. 1D) to persons who do not receive protection or assistance from other UN organs or agencies. See also Art. 7 of the Statute of the Office of the High Commission.
79. See Bocco, op. cit. note 15, p. 232; Bartholomeusz, op. cit. note 50, pp. 454-455, who recognizes that UNRWA's mandate, therefore, has to be derived implicitly from all relevant resolutions and requests of the UN General Assembly and the Secretary General.
80. UNRWA is a subsidiary organ of the General Assembly (see Arts. 7(2) and 22 of the UN Charter), established by General Assembly Resolution 302(IV) (Dec. 8, 1949), and started operating in 1950. It is one of only two UN agencies that report directly to the General Assembly—see Bartholomeusz, *ibid.*, pp. 453-454.
81. See Bocco, op. cit. note 15, p. 232; Bartholomeusz, *ibid.*, p. 456.
82. See Bartholomeusz, *ibid.*, p. 456, 474. The Commissioner General consults, as appropriate, with the Advisory Commission, established by the General Assembly 'to advise and assist' UNRWA's

chief executive; the General Assembly could reconsider the Commissioner General's decisions.

83. See Zilbershats & Goren-Amitai, *op. cit.* note 77, pp. 28-29. See also Al-Husseini & Bocco, *op. cit.* note 49, pp. 266-267. On the dispute regarding General Assembly Resolution 194(III) (Dec. 11, 1948), interpreted by Palestinians (and Arab host states) as a legitimization of the 'right of return'—see Zilbershats & Goren-Amitai, *ibid.*, pp. 24-26, 49-57.
84. See Zilbershats & Goren-Amitai, *ibid.*, p. 29. See also Bocco, *ibid.*, p. 231.
85. See Bocco, *ibid.*, pp. 231-232; Zilbershats & Goren-Amitai, *ibid.*, pp. 29-30.
86. Report by K. Baehr, Executive Secretary of the American Christian Palestine Committee, to the Committee on Foreign Relations, Palestine Refugee Program, *Hearings before the Subcommittee on the Near East and Africa of the Committee on Foreign Relations, United States Senate, Eighty-Third Congress, First Session on the Palestine Refugee Program* (May 1953), (Government Printing Office, 1953), p.103. See also A. H. Joffe, A. Romirowsky, A Tale of Two Galloways: Notes on the Early History of UNRWA and Zionist Historiography, *Middle Eastern Studies*, Vol. 46 (No. 5), (2010), pp. 655-675. Until today, Arab states remain among the most modest contributors to UNRWA. Within the last years, the Agency's chief executive, 'being aware of the reasons for Arab reluctance in supporting UNRWA, namely that Arabs feel that the solution is allowing the refugees to return and therefore Western countries should bear the brunt of the budget of UNRWA', has repeatedly called upon the states of the Arab League to 'achieve and sustain the longstanding 7.8% target of their collective contributions to UNRWA's basic programs'—see D. Kuttab, Filippo Grandi: The New UN Official Intent on Defending Palestinian Refugees Rights and Living Conditions, available at: <http://huffingtonpost.com/>; Statement by Filippo Grandi, *op. cit.* note 64, p. 6.
87. See Zilbershats & Goren-Amitai, *op. cit.* note 77, p. 30.
88. See generally Zilbershats & Goren-Amitai, *ibid.*, pp. 43-78.
89. See 'Palestine Refugees: An Unresolved Question at the Time of the Syria Crisis', *op. cit.* note 70, p. 7 (*italics added*). See also Kushner, The UN's Palestinian Refugee Problem, *op. cit.* note 10.
90. Clearly, the mere requirement of two years of residence was

designed to inflate the number of ‘original’ refugees. See, for example, Joan Peters, *From time Immemorial—The Origins of the Arab-Jewish Conflict Over Palestine*, (1984), pp. 4-5, 18-19, 398-400.

91. See Proposed Report Language on UNRWA, op. cit. note 62, p. 2.
92. Initially along the male line, and later also along the female line—see Proposed Report Language on UNRWA, *ibid*, p. 2. This decision was indirectly endorsed by General Assembly Resolution 37/120, Section I (A/RES/37/120(A-K)), (16 Dec., 1982), that was adopted without a vote; Zilbershats & Goren-Amitai, op. cit. note 77, p. 35; Bartholomeusz, op. cit. note 50, p. 460.
93. See, for example, Art. 1(C)(3) to the 1951 Convention Relating to the Status of Refugees.
94. This is most significant in Jordan, where the majority of the recipients of UNRWA services has been given Jordanian citizenship—see Proposed Report Language on UNRWA, op. cit. note 62, pp. 5-6, and holds a Jordanian passport—see Bocco, op. cit. note 15, p. 235 & fn. 20, 237; B. Goldstein, B. Muller, ‘Refugee or Not Refugee? No Longer a Question’, *American Thinker*, (Jul. 13, 2012), available at: <http://www.americanthinker.com>, state that in Jordan, 82% of UNRWA’s Palestinian refugees do not live in camps and many of them have full Jordanian citizenship.
95. See ‘UNRWA in Figures’ (as of Feb. 2024), op. cit. note 14.
96. See discussion in Zilbershats & Goren-Amitai, op. cit. note 77, p. 37. By the end of 2022, the UNHCR documented 29.4 million refugees worldwide (excluding Palestinian refugees administered by UNRWA)—see <http://www.unhcr.org/>.
97. The number of refugees who actually fled due to the 1948 war is still under some dispute—see Zilbershats & Goren-Amitai, op. cit. note 77, p. 22; see also Y. Arnon-Ohanna, ‘Line of Furrow and Fire: The Conflict for the Land of Israel, 1860-2010’, (2013), pp. 397-415; Al-Husseini & R. Bocco, op. cit. note 49, p. 266.
98. That is, nearly 60,000—see ‘Palestinian Refugee Camps—A New Type of Settlement’, *The Economist* (12-18 Oct. 2013), p. 36, <http://www.economist.com/news/middle-east-and-africa/21587846-some-palestinians-want-their-people-abandon-refugee-camps-without-demanding-Palestinian-Refugee>.
99. Proposed Report Language on UNRWA, op. cit. note 62, p. 3.
100. See <http://www.guardian.co.uk/world/palestine-papers->

documents/4507. See also Bocco, *op. cit.* note 15, pp. 229-230, 241, regarding Palestinian leadership (as well as some host countries) progressive awareness of the impossibility of return and the adoption of a 'pragmatic' interpretation of the notion of 'return', as well as the opposition by several refugee camp committees to the possible, gradual transfer of assistance programs from UNRWA to the PA, due to their fear of losing their 'right of return'.

101. Zilbershats & Goren-Amitai, *op. cit.* note 77, p. 41.
102. *Ibid*, p. 39.
103. See Goldstein & Muller, *op. cit.* note 97, p. 2. UNRWA is also the second largest employer in the PA after the Palestinian government—see Remarks by Filippo Grandi, *op. cit.* note 6, p. 2. Three quarters of UNRWA's budget are devoted to local staff salaries—see Al-Husseini & Bocco, *op. cit.* note 49, p. 268.
104. See Zilbershats & Goren-Amitai, *op. cit.* note 77, p. 39; S. J. Rosen, D. Pipes, *Lessening UNRWA's Damage*, *Jerusalem Post*, (9 July, 2012), available at: <http://www.jpost.com>.
105. See 'The Long Journey': Digitizing the Palestine Refugee Experience, available at: <http://www.unrwa.org>; the archives were inscribed with UNESCO 'Memory of the World' register, which includes collections of 'outstanding cultural and historical significance'.
106. See Bocco, *op. cit.* note 15, p. 236.
107. 'The Long Journey', *op. cit.* note 108.
108. Statement by Filippo Grandi, *op. cit.* note 68, pp. 7-8 (*italics added*).
109. See 'The Long Journey', *op. cit.* note 108.
110. The term follows Bernstam, *op. cit.* note 10. Khouri also recognizes UNRWA becoming 'a symbol of Palestinian refugeehood and denied rights'—see *op. cit.* note 11, p. 451.
111. See R. Bowker, *Palestinian Refugees—Mythology, Identity, and the Search for Peace*, (2003), as quoted in Bocco, *op. cit.* note 15, p. 236.
112. See *op. cit.* note 101. See also Peters, *op. cit.* note 93, p. 32.
113. See *ibid*.
114. See Bocco, *op. cit.* note 15, pp. 249-250; Al-Husseini & Bocco, *op. cit.* note 49, pp. 274-275.
115. Undoubtedly, former Commissioner General Abu Zayd was

particularly involved in political speech and thus had set an example for her predecessor, Filippo Grandi. It was under Abu Zayd's leadership that UNRWA developed a very explicit focus on protection—see Takkenberg, *ibid*, p. 258. AbuZayd has continued to proliferate anti-Israeli positions after leaving office—see, for example, H. Chehata, *Middle-East Monitor (MEMO) Interview with Karen Abu-Zayd*, available at: <https://www.middleeastmonitor.com/>.

116. Traditional UNRWA donors include the US, the EU and its Member States, Norway, Japan, Switzerland, and Australia (providing collectively over 90% of UNRWA's budget). Brazil and Turkey have substantially increased their contributions due to extensive UNRWA lobbying. Constant efforts are invested to persuade members of the Arab League to meet their 7.8% target for collective contributions. The US has consistently been the largest donor, currently contributing more than 25% of UNRWA's total revenue (and in total, since its inception in 1950, has contributed approximately \$4.4 billion)—see Proposed Report Language on UNRWA, *op. cit.* note 62, p. 1.
117. Obviously, the State of Israel shares in some of these interests—see, for example, Rosen & Pipes, *op. cit.* note 107.
118. See, for example, Staff Regulations of the United Nations, UN Doc. ST/SGB/2009/6, (27 May 2009), Regulation 1.2(f) ('Basic Rights and Obligations of Staff'), that requires that UN staff members 'shall conduct themselves at all times in a manner befitting their status as international civil servants and shall not engage in any activity that is incompatible with the proper discharge of their duties with the United Nations. They shall avoid any action and, in particular, any kind of public pronouncement that may adversely reflect on their status, or on the integrity, independence and impartiality that are required by that status'.
119. See Rosen & Pipes, *op. cit.* note 107, p. 2; A. Zerbisias, Canada Redirects Funding for UN Relief Agency, *Toronto Star*, (Jan. 15, 2010), available at: http://www.thestar.com/life/2010/01/15/canada_redirects_funding_for_un_relief_agency.html.
120. *Ibid.*
121. See <http://www.parliament.uk/business/committees/committees-a-z/commons-select/international-development-committee/inquiries/parliament-2010/middle-east/>.

122. See Text of H.Con.Res. 29, as Introduced in House, *Expressing the sense of Congress that the United Nations should take immediate steps to improve the transparency and accountability of UNRWA to ensure that it is not providing funding, employment, or other support to terrorism*, available at <http://www.opencongress.org/bill/111-hc29/text>, as referred to in Khouri, op. cit. note 11, p. 450.
123. The ‘Senator Kirk (R-IL) UNRWA Amendment’ was passed in spite of State Department opposition. For the Letter of Opposition to Kirk Amendment from the Deputy Secretary of State, Thomas R. Nides, see <http://www.scribd.com/doc/94703915/DepSec-State-Opposes-Kirk-Amdt>. The initiative opens the door for the Congress to scrutinize UNRWA’s policies regarding the definition of ‘Palestinian refugee’—a Background Paper on the amendment, as well as the Proposed Report Language on UNRWA, op. cit. note 62, submitted to the *Senate Appropriations Committee* are on file with the author; see also J. Schanzer, Status Update: With the Stroke of a Pen, a New Bill in Congress Could Slash the Number of Palestinian Refugees and Open a World of Controversy, *Foreign Policy*, (May 21, 2012), available at: http://www.foreignpolicy.com/articles/2012/05/21/status_update.
124. See Daniel Estrin Trump Administration Cuts Funds for Palestinian Aid Program, NPR, 2 Sep. 2018; Criticism of that: “ Hamas Terror Tunnel Next to UNRWA School in Gaza Destroyed,” *Foundation for Defense of Democracies* (Nov. 10, 2023). <https://www.fdd.org/analysis/2023/11/10/hamas-terror-tunnel-next-to-unrwa-school-in-gaza-destroyed/>. See also Statement by UNRWA Spokesperson Sami Mshasha on Implications of funding Shortfall on Emergency Services in OPT, UNRWA, 26 July 2018.
125. Mark Katkov, Biden Administration Restores Aid to Palestinians, Reversing Trump Policy, NPR, 26 Jan. 2021.
126. See Al-Husseini & Bocco, op. cit. note 49, p. 269.
127. Approximately 60% out of a total budget of \$1,6 billion in 2022—see UNRWA Website, at: <http://www.unrwa.org>.
128. See Lindsay, op. cit. note 1, pp. 46-47, 59.
129. D. Rieff, ‘Afterward’, in C. Magone, M. Neuman, F. Weissman (eds.), *Humanitarian Negotiations Revealed: The Médecins Sans Frontières (MSF) Experience*, (2012), available at: <http://www.msf-crash.org/livres/en/book/export/html/2012>.

130. Tara Suter, *Biden's UN Ambassador Calls for 'Fundamental Changes' to Resume UNRWA Funding*, *The Hill*, 30 January 2024.
131. *Statement on UNRWA Allegations, Press Statement, US Department of State* (26 Jan. 2024); Michael Crowley, "Frozen US Spending for UN in Gaza Is Minimal, State Dept. Says," *New York Times* (30 Jan. 2024).
132. Ella Joyner, "After US, Germany Freeze Aid to UNRWA, Could EU Follow?" *DW* (29 Jan. 2024).
133. See, for example, *Gaza: Aid Cuts to UN Agency Could Be Felt in Weeks*, United Nations, UN News (30 Jan. 2024); Josh Rogin, *Biden's 'catastrophic' cutoff of Palestinian Aid is More Than Inhumane*, Opinion, *The Washington Post* (30 Jan. 2024); Zeeshan Aleem, *The Biden Administration Is Wrong to Suspend Aid to UNRWA*, opinion, *MSNBC* (29 Jan. 2024)
134. *Statement by the Secretary General on UNRWA* (5 Feb. 2024).
135. See <https://news.un.org/en/story/2024/04/1148821>; for the text of the final report—see https://www.un.org/sites/un2.un.org/files/2024/04/unrwa_independent_review_on_neutrality.pdf.
136. However, on July 19, 2024, the new Labor FM announced that the UK will lift the pause on funding to UNRWA, see <https://www.gov.uk/government/news/uk-to-restart-funding-to-unrwa>; On his statement to the parliament, FM David Lammy observed that although he "was appalled by the allegations that UNRWA staff were involved in the 7th October attacks", he was "reassured that after Catherine Colonna's independent review, UNRWA is ensuring they meet the highest standards of neutrality and strengthening its procedures, including on vetting", and that he acts in line with "partners like Japan, the EU, Norway, Germany, Sweden and France".
137. See <https://govextra.gov.il/unrwa/unrwa/>—it is stated that "over 10% of senior UNRWA educators in Gaza (school principals or deputy principals, directors or deputy directors of training centers) were found to be members of Hamas or Islamic Jihad"; see also 'Israel sent UNRWA list of 100 employees who are Hamas terrorists—report', *The Times of Israel*, (11 July, 2024), https://www.timesofisrael.com/liveblog_entry/israel-sent-unrwa-list-of-100-employees-who-are-hamas-terrorists-report/, quoting the report by the German daily *Bild*'s report by Phillipp Piatov (11 July, 2024), <https://www.bild.de/politik/ausland-und-internationales/>

hamas-islamisten-arbeiten-bei-un-deutschland-finanziert-mehr-als-100-terroristen-668e8e49a76a581c61f687e7.

138. See <https://govextra.gov.il/unrwa/unrwa/>—it is stated that “over thirty UNRWA facilities in Gaza have been found to contain terror infrastructures such as tunnel shafts, reflecting a deeply concerning, and possibly systematic, abuse of the status of these facilities for terrorist purposes.”
139. Due to the many recent revelations regarding UNRWA’s deep connections with the Hamas and Palestinian Islamic Jihad terror organizations, there are demands by several senior Israeli government and Knesset officials to completely dissolve UNRWA and even to outlaw it as a terror organization—see, for example, Sam Sokol, Knesset Committee Discusses Trio of Bills Aimed at Shutting Down UNRWA—Proposed legislation would ban UN’s Palestinian aid agency from operating in Israel, remove employees’ legal immunities and brand it a terrorist organization, *The Times of Israel*, (2 July, 2024), <https://www.timesofisrael.com/knesset-committee-discusses-trio-of-bills-aimed-at-shutting-down-unrwa/>.

NGO Warfare: From Human Rights Watch to Campus Mobs

Prof. Gerald M. Steinberg

Many of the slogans chanted by antisemitic mobs on university campuses and in major cities following the October 7, 2023, atrocities—“genocide... starvation... apartheid... war crimes... from River to the Sea...” —are propelled by an extensive network of non-governmental organizations (NGOs) that carry the flags of human rights and international law. Similarly, the statements and reports of the United Nations Human Rights Council (UNHRC) and the pronouncements of the International Criminal Court (ICC) prosecutor Karim Khan, including the decision to seek arrest warrants for at least two Israeli leaders—Prime Minister Netanyahu and Defense Minister Galant on the claim of “starvation”—directly reflect the impact of these NGOs.

Immediately following the October 7 attacks, these NGOs launched concerted major political campaigns that downplayed or whitewashed Hamas and the other perpetrators and targeted Israel. Interviewed as “experts” on major media platforms and using social media posts, NGO officials like Omar Shakir (Human Rights Watch) declared: “Depriving an occupied

population of food & electricity is collective punishment—a war crime—as is using starvation as a weapon of war.”¹

In parallel, Amnesty International called on the ICC Prosecutor to “urgently expedite its ongoing investigation in the situation of Palestine, examining alleged crimes by all parties, and including the crime against humanity of apartheid against Palestinians.”² The Paris-based International Federation of Human Rights (FIDH) published and marketed a call for the investigation of “Israel’s unfolding crime of genocide and other crimes in Gaza and against the Palestinian People,” as well as “Israel’s use of starvation as a tool of warfare... “forced displacement... and systematic domination and oppression over the Palestinian people for over 75 years.”³

The litany of demonization and modern blood libels, accompanied by expressions of support for Hamas and other terror organizations, is systematically repeated and amplified by a broad network consisting of hundreds of localized NGOs. These include groups organizing and supporting the pro-Palestinian activists based on university campuses and also conducting mob violence against Jews and other targets in major cities.

As described and analyzed in detail below, the role of NGOs in promoting antisemitism through anti-Zionism and demonization of Israel has become an enduring feature of the public discourse—paralleling a resurgence of physical violence against Jewish targets, particularly after October 7. The two primary NGO-led and mutually reinforcing dimensions are:

1. the campus-based groups and activities and
2. the broader international campaigns based on accusations including war crimes, genocide, apartheid, and starvation.

Structure and Funding of the NGO Lawfare Network

The size and influence of the anti-Israel NGO network leading the demonization and antisemitism campaigns is reflected in the number of active organizations, which exceeds 250, and the resources they provide. These groups operate at four levels:

1. global organizations with staff and offices located in many locations and with significant resources to support their operations;
2. local and regionally-based NGOs in which Israel-related issues are predominant, including numerous Palestinian and Israeli groups;
3. campus-based organizations, led by Students for Justice in Palestine (SJP) primarily operating out of the United States, focusing exclusively on attacking and demonizing Israel through the language of human rights and international law; and
4. a small number of NGOs claiming to be “authentic Jewish voices” that support the pro-Palestinian groups, providing a shield to deflect evidence of antisemitism.

The global NGOs leading this campaign include Amnesty International, with an annual budget exceeding €300 million, HRW (yearly budget of \$100 million), and FIDH (budget of €9 million). Although claiming to promote the universality of human rights, these organizations devote a highly disproportionate percentage of their staffing and funding to

the demonization of Israel. Their publications (“reports”), press releases, and advocacy campaigns repeatedly accusing Israel of war crimes, genocide, and apartheid are cited as the primary sources in the weaponization of human rights and international law by the other NGOs, as well as UN agencies and officials, media platforms, and among academics.

The second tier of NGOs includes at least 200 smaller NGOs based primarily in Europe and North America, including several church-related political advocacy groups, as well as Palestinian and Israeli NGOs claiming to promote international humanitarian law (IHL) and human rights. Among the Palestinian NGOs active in the lawfare and related boycott (BDS) campaigns, the most significant is a core group of 13 organizations that are linked directly to and serve as political and civil society fronts for the Popular Front for the Liberation of Palestine (PFLP)—a designated terrorist organization in the United States, Israel, and the EU. The heads of the three core Palestinian NGOs linked to the PFLP terror group—Shawan Jabarin (Al-Haq), Raji Sourani (PCHR), and Issam Younis (Al-Mezan)—are advisers in the “genocide” case brought by South Africa before the International Court of Justice and sat with the South African delegation during the court sessions.⁴ Prominent Israeli NGOs in this network include B’Tselem, Breaking the Silence, and Yesh Din. These Israeli and Palestinian NGOs are largely funded by European governments, justified as support for “civil society organizations” and for human rights. The combined budgets of these groups, as compiled by NGO Monitor and excluding the global NGOs, are estimated to exceed €100 million.

The third layer of this NGO network is based in American universities, led by Students for Justice in Palestine (SJP), which claims over 300 campus branches, coordinated under

the nebulous National SJP framework, founded and run by Hatem Bazian, a part-time lecturer in ethnic studies at UC Berkeley. Allied NGOs, often with overlapping leaders and working in close coordination, include Within Our Lifetime, the U.S. Campaign for Palestinian Rights (USCPR), Palestine Legal, Jewish Voice for Peace, and the Palestinian Youth Movement.⁵ In parallel, Samidoun, which the Israeli Ministry of Defense has designated as a terrorist organization and “a subsidiary of the Popular Front for the Liberation of Palestine (PFLP),” is very active. This organization was founded by and continues to be led by Khaled Barakat, identified as a member of the PFLP Central Committee, who was expelled from Germany and currently resides in Vancouver with his wife, Charlotte Kates, also a Samidoun leader.⁶

A subset in the third tier consists of ostensibly Jewish NGOs, including Jewish Voice for Peace (JVP), If Not Now (INN), Jews For Racial & Economic Justice (JFREJ), and Independent Jewish Voices (Canada). These groups are sometimes referred to as “the Jewish arms of the SJP” or as the fig leaves used to refute allegations of antisemitism. JVP’s explicit mission is to create “a wedge” within the American Jewish community while working toward the goal of eliminating U.S. economic, military, and political aid to Israel.⁷

NGO Leadership on the Campus-based Front

The NGO network led by SJP and Samidoun provides the organization, planning, staffing, publicity, and funding for the waves of anti-Israel and antisemitic attacks in North America and Europe. Already, on October 9, 2023, SJP held a call-in session for its affiliates to plan “a national day of resistance

on college campuses” on October 12 and provided a detailed toolkit, including messages and framing (“When people are occupied, resistance is justified—normalize the resistance”), and graphics for posters and social media posts.⁸

This instantaneous and highly effective response reflects more than 30 years of experience led by Bazian. In this time frame, he and the SJP leadership were deeply involved in annual campus Israel Apartheid Week events, as well as student government BDS resolutions and similar forms of propaganda and demonization.

After October 7, and continuing through the end of the academic terms, these groups coordinated the occupation of campus buildings, created roped-off tent encampments, harassed, intimidated, and attacked Jewish and “Zionist” students, faculty, and administrators, and forced cancellation of lectures by Israeli academics and events at Hillel and other Jewish institutions. These were accompanied by banners calling for “resistance” and mobs chanting slogans of “intifada now” and “from the river to the sea, Palestine will be free.” The same NGOs were responsible for disruptions and violence in several cities. For example, Within Our Lifetime (WOL), which, until 2019, operated as the New York branch of SJP, led several attacks and posted online maps detailing the locations of Jewish organizations in New York that had “blood on their hands.”⁹

In examining the details of individuals associated with the branches of SJP, WOL, and many of the other groups in this network, it appears that most are led by Palestinians, Arabs, and Muslims, for whom this is their primary activity. In addition to Bazian, the former SJP activists who now lead WOL include Nerdeen Kiswani, Abdullah Akl, and Fatima Mohammed, and there are many more examples.

The second circle beyond this core is composed of non-Moslem and non-Arab ideological neo-Marxist, intersectional, and NGO activists, including supporters of Black Lives Matter and others who identify as or support “minorities of color,” and for whom the Palestinian cause is seen as central in the anti-western agenda based on the opposition to “settler-colonialism.”

The third or outer circle consists primarily of students and faculty whose knowledge of the history and details is minimal and who join the “protests” based on sympathy for the perceived Palestinian victims as they are portrayed in media platforms and NGO “reports,” including the accusations of genocide, starvation, apartheid, and war crimes (see analysis below).

It is important to note that critical aspects of these NGOs, including budget, donors, number of employees, and other essential information, are carefully hidden. In contrast to most political advocacy NGOs in the first and second tier, SJP, WOL, Palestine Youth Movement, and allied groups do not exist in formal legal frameworks, do not report financial information, and are not registered as non-profit organizations with the IRS. With the exception of a few known donors, such as the Rockefeller Brothers Fund, which provides some support to JVP, INN, Palestine Legal, and USCPR, most of the money is provided by fiscal sponsors and pass-through donation arrangements.¹⁰ These frameworks include American Muslims for Palestine (also controlled by Bazian), the Tides Foundation, and the WESPAC foundation, which also hide sources of funding (potentially including foreign governments), salaries paid to staff, and similar details.¹¹ Samidoun’s sources of funding are also entirely non-transparent.

Reflecting this central concern and the possibility that

significant funding comes from foreign governments and terror frameworks, Representatives Virginia Foxx (U.S. House of Representatives' Committee on Education and the Workforce) and James Comer (Committee on Oversight and Accountability) sent a letter to Treasury Secretary Yellin requesting relevant documents for an investigation of “the sources of funding and financing for groups who are organizing, leading, and participating in pro-Hamas, antisemitic, anti-Israel, and anti-American protests with illegal encampments on American college campuses,” including SJP, Jewish Voice for Peace, and allied organizations.¹² As of August 1, 2024, no response has been made public, and the funding questions remained unanswered.

The Central Role of NGO Lawfare: 2001–2024

As noted, the SJP network's ability to mobilize supporters and generate favorable media coverage for disruptive and violent antisemitic attacks is closely linked to and dependent on the demonization that propelled allegations of war crimes, genocide, apartheid, and starvation. In this form of soft-power warfare that accompanies the “hard” power of terrorism and missile attacks against Israel, the first and second NGO tiers play central roles.

The NGO campaigns that were launched immediately after the October 7 atrocities were refined over the previous two decades following the NGO Forum of the antisemitic UN World Conference Against Racism in Durban, South Africa, in September 2001, which reactivated the 1975 General Assembly resolution labeling “Zionism is racism.” The Durban NGO

Forum's Final Declaration adopted a strategy of lawfare and boycotts designed to promote "a policy of complete and total isolation of Israel as an apartheid state...and the full cessation of all links (diplomatic, economic, social, aid, military cooperation, and training) between all states and Israel."¹³

In the past two decades, the NGO Durban soft-power warfare strategy has been implemented through publications, press statements, and media essays. Claiming to present credible and "neutral research," HRW, Amnesty, FIDH, and the second-tier groups publish reports echoed by journalists, cited in United Nations pseudo-investigations, quoted in scholarly journals and books, and embraced by many diplomats.

A central strategy since Durban has been to expand the impact from the UN to the International Criminal Court (ICC) and the International Court of Justice (ICJ). Following the negotiation of the Rome Treaty and after the ICC began operations in 2002, the NGOs demanded investigations targeting Israel. NGO leaders held numerous meetings with ICC prosecutors, submitted "documentation," lobbied governments, appeared as "experts" on influential media platforms, and coordinated with UN agencies—particularly the Human Rights Council. The close links between the NGOs in the network were reflected in joint publications, and HRW appointed Al Haq's executive director, Shawan Jabarin, to its MENA advisory board. (Jabarin was convicted for membership in the PFLP terror group, and the Israeli High Court referred to him as a "Doctor Jekyll and Mister Hyde, acting some of the time as the CEO of a human rights organization and at other times as an activist in a terror organization."¹⁴)

The Durban lawfare strategy was implemented in condemnations and demands for "independent international investigations" of the IDF's 2002 Jenin operation (*Defensive*

Shield) in response to Palestinian mass bombings. HRW issued press releases and published a report based on unverifiable Palestinian “eyewitness testimony,” declaring: “Israeli forces committed serious violations of international humanitarian law, some amounting prima facie to war crimes.” These were cited as justifications for the academic and other boycotts (BDS), and speakers from NGOs such as HRW, Amnesty, and Al Haq conducted university speaking tours.

The NGO campaigns continued as the Palestinian terror attacks increased, particularly from Gaza, followed by Israeli responses. In 2009, during the first Gaza war (*Cast Lead*), NGOs demanded an “independent international investigation of Israeli war crimes.”¹⁵ Reflecting NGO influence, the UN Human Rights Council appointed the Goldstone Commission, and in its report, most of the over 500 references were sourced to NGOs.¹⁶ Following the script, the Commission recommended that the UN Security Council consider referring “the situation in Gaza to the International Criminal Court (ICC).”¹⁷ Although Goldstone later retracted his own report, acknowledging that the claims were false or unsupported, the UN and the NGO network continued to promote the allegations.¹⁸

Another NGO lobbying push accompanied the Gaza War of 2014 (*Protective Edge*). HRW called for Palestinian accession to the ICC, and Amnesty referred to Israel’s “entrenched impunity for war crimes and crimes against humanity.”¹⁹ The Israeli NGO B’Tselem declared that the targeted destruction of the homes of Hamas leaders violated international humanitarian law and might constitute war crimes.²⁰

In coordination with Palestinian Authority officials and UN appointees such as the Special Rapporteurs of the Human Rights Council, the NGO network focused on countering the two main ICC constraints—jurisdiction and complementarity.

According to the Rome Statute, only state parties and the UN Security Council have standing to initiate cases, but by accepting Palestine as a state, the ICC prosecutor would open the door to investigating Israelis. In 2009, the Palestinian Authority (PA) applied to join the Court, and the Prosecutor, Luis Moreno Ocampo, initiated a three-year examination.²¹ HRW’s Ken Roth was very active in pressing the prosecutor to accept jurisdiction, including numerous social media posts—for example, “ICC Prosecutor Says Palestine Statehood Status Rests with UN General Assembly (Which Is Why Israel Is so Worried).”²²

In January 2015, Ocampo’s successor, Fatou Bensouda, agreed to the accession of the “State of Palestine,” preparing the way for ICC jurisdiction over alleged “crimes in the West Bank, Gaza, and East Jerusalem.” Once again, HRW, Amnesty, and FIDH were very active in this process, accompanied by Palestinian, Israeli, and other NGOs funded by Europe. These included earmarked projects vis-à-vis the ICC, “international justice,” and other coded phrases, as detailed in the examples below.

Table 1: European funding for NGO Campaigns on the International Criminal Court (ICC)²³

NGO	Top European Funders
Addameer	Ireland, Switzerland, Spain
Al-Dameer	Switzerland, European Union
Al-Haq	Sweden, France, Italy

NGO	Top European Funders
Al Mezan	European Union, Sweden, Netherlands
Palestinian Center for Human Rights (PCHR)	European Union, Norway, Switzerland
Adalah	Switzerland, Bread for the World-EED (Germany), Christian Aid (UK)
B'Tselem	Norway, Switzerland, NGO Development Center
Breaking the Silence	European Union, Switzerland, NGO Development Center
Yesh Din	European Union, NGO Development Center, Norwegian Refugee Council
International Federation of Human Rights (FIDH)	France, European Union, Sweden
Diakonia - Sweden	Sweden, Swedish Embassy, European Union

Roth met with ICC prosecutors to press the campaign on Israel. In February 2019, a post on the official ICC Twitter account (now X) featured a photo of the meeting between Roth and Bensouda and declared that civil society “continues to play an indispensable role in promoting the fight against #impunity for #atrocities crimes.”²⁴

The focus of the NGO lawfare campaign shifted to complementarity and the position that the ICC prosecutor is prevented from opening investigations when there are “genuine national proceedings” investigating the potential commission of international crimes.

As in most other aspects of international law (IHL/LOAC),

the inherent ambiguity allowed for easy manipulation of the criteria. Claiming expertise and moral authority, the NGOs attacked the Israeli legal process. The Israeli political advocacy NGO Yesh Din published a report, “Lacuna: War Crimes in Israeli Law and Court-Martial Rulings,” labeling Israel’s legal system “defective.”²⁵ (Like many Israeli and Palestinian NGO lawfare reports, this was funded by the European Union under a grant “to change Israeli policy vis-à-vis criminal accountability of Israeli Security Forces Personnel.”)

Breaking the Silence, also funded by European governments, repeatedly discredits the Israeli judicial system, claiming that the “investigation of low-ranking soldiers allows Israel to present a semblance of objective investigation mechanisms before international investigative bodies.”²⁶ The Israeli news site Ynet reported that ICC Prosecutor Bensouda “was trying to get a copy of the [Breaking the Silence] report” in her review of the 2014 Gaza war.²⁷

HRW also emphasized this theme. In a June 2018 statement, “Israel: Apparent War Crimes in Gaza,” Sarah Leah Whitson, the NGO’s former MENA Director, stated, “The international community needs to rip up the old playbook, where Israel conducts investigations that mainly whitewash the conduct of its troops...”²⁸

In December 2019, Bensouda filed a brief with the Pre-Trial Chamber asking for confirmation of jurisdiction to open an investigation into the “Situation in Palestine,” and the Court granted authorization to intervene on alleged war crimes “committed in Palestine by members of the Israeli military or Hamas and other Palestinian armed groups.” Amnesty immediately voiced support: “For over half a century, Israel has committed crimes under international law and other serious

human rights violations in both Israel and the Occupied Palestinian Territories (OPT).”²⁹

In February 2021, Bensouda issued a finding asserting jurisdiction, followed by announcing the opening of an investigation in March. Al-Haq, Al-Mezan, and the Palestinian Center for Human Rights (PCHR) declared “...it is imperative that the Prosecutor include acts of apartheid in the scope of her investigation...” and stressed their “tireless” cooperation with the ICC, having submitted “six substantial communications and thousands of eyewitness files to the Office of the Prosecutor...”³⁰ Ken Roth tweeted, “The International Criminal Court wouldn’t need to investigate Israeli and Palestinian war crimes if Israeli and Palestinian authorities had been prosecuting their own war criminals. They haven’t been. At all.”³¹

This 23-year campaign (beginning with the 2001 Durban NGO Forum) reached its objective on May 20, 2024, when ICC Prosecutor Karim Khan announced that he was seeking arrest warrants against Israeli Prime Minister Benjamin Netanyahu and Defense Minister Yoav Galant (as well as for three Hamas leaders, incorporating the NGO façade of balance).

The NGO network immediately praised the move. Amnesty Secretary General Agnes Callamard posted, “No one is above international law... All states must respect the legitimacy of the court; they must refrain from any attempts to intimidate or pressure the court to allow the judges to conduct their work with full independence and impartiality.”³² HRW’s Sari Bashi wrote: “2007 was the first time Israeli authorities acknowledged deliberately depriving civilians in Gaza of basic goods, including food. No one intervened & the policy got worse, graduating to starvation as a weapon of war. May today’s ICC statement set in motion, finally, accountability.”³³

Al Mezan, Al-Haq, and PCHR urged the ICC prosecutor to

go further by adding “genocide as an additional crime...”³⁴ A statement from the Europe-funded Israeli NGO B’Tselem—headlined “The era of impunity for Israeli decision-makers is over”—joined in supporting the “prosecutor’s request to issue arrest warrants for Israeli Prime Minister Benjamin Netanyahu and Defense Minister Yoav Gallant on suspicion of committing war crimes in Gaza.”³⁵

Conclusions

This history highlights the central role of the anti-Israel NGO network in anti-Israel lawfare and the campus-based anti-Israel and antisemitic mob violence that has accompanied the terror attacks launched on October 7. These influential NGOs claiming to promote universal human rights and moral principles are the engines that drive lawfare campaigns, including the 21st-century blood libels of genocide and starvation, adopted by the ICC and ICJ and manipulated to attract liberal students and faculty.

For more than two decades, the biases, hypocrisy, and propaganda of the NGOs have been amplified by the UN, journalists, academics, and Western political officials—some ideologically allied and others blinded by the NGO halo effect. Their massive budgets, in many cases provided by hidden donors, enable them to employ large staffs, which produce a constant torrent of “reports” and statements based on unverifiable and invented factual and legal claims, which are then aggressively marketed by the NGO public relations teams.

These NGOs and their allies have inverted the principles adopted after the Holocaust and embodied in the 1948 Universal Declaration of Human Rights (UDHR), as well as the

institutions created to promote them—in particular, the UN Human Rights Council and, with the Rome Treaty, the ICC. By weaponizing these principles for demonization and lawfare against Israel, they sought to deprive the nation-state of the Jewish people of the fundamental right to self-defense against brutal enemies seeking their destruction. Beyond 21st century blood libels, NGO manipulation of genocide, apartheid, and starvation against Israel are a form of Holocaust inversion, under the false banners of human rights and international law.

Shortly after the October 7 atrocities, Danielle Haas, a senior editor at HRW for 13 years, left the organization, denouncing the blatant anti-Israel and antisemitic climate, and declared, “Human rights are too important to be left to human-rights groups.”³⁶ From within what she referred to as “the human rights establishment,” Haas confirmed the repeated evidence of cynical manipulation, demonstrating the juxtaposition of the moral principles of human rights and the actions of the powerful NGO network that has captured and weaponized these principles.

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Assessing the Damage: How the Events of October 7, 2023, Have Conditioned the Israeli Psyche

Dr. Irwin J. Mansdorf

- Traditionally, Israelis have had expectations that the IDF would be capable of defending and repelling all attacks. The massive intelligence and operational failures of October 7, 2023, may have eroded some of that confidence, although data to date suggests that this is limited to trust in the political leadership.
- As with all seminal events, the October 7 attack on Israel and its aftermath have had significant emotional and behavioral impact on the Israeli public. On the personal level, the demand for psychological intervention has increased.
- On a national and communal level, daily life continues to flow in the face of an ongoing and unresolved conflict, with an ever-present threat of additional and expanded conflict. Israelis live in “circles of trauma,” with a general overriding common distress coexisting with multiple sub-circles of

distress depending on one's personal connection with the events.

- While collective agreement on the need to react was almost unanimous after the attack, with time, fissures have entered the discourse on how to continue prosecuting the war effort. The primary factor splitting Israeli society is the continued imprisonment of Israeli hostages and a debate on how best to pursue their release, and the forced displacement of tens of thousands of residents in the North has created an additional significant trauma for those affected.
- Externally, the reality of international criticism against Israel, even from allies, that includes legal threats, street and campus demonstrations accusing Israel of genocide, along with the revival of massive international antisemitism, has created a feeling of isolation and opprobrium among the Israeli public, with many Israelis suddenly experiencing a siege mentality.
- The concept of psychological asymmetry, where Israel, despite its military advantage and legitimate goals, is at a disadvantage to an enemy who deliberately sacrifices civilians for perceptual gain, applies here. A "bottom-line" realization that what has been referred to as Iran's "axis of evil" will threaten Israel, at least for the foreseeable future, may deepen the malaise and create unforeseen social consequences for Israel.
- Despite all the above, Israelis have also benefitted from an inoculation effect where resilience has developed through

repeated coping with terrorism in its many forms over the years.

Internal Factors Affecting the Israeli Psyche: Expectations and the Formation of Trauma

The Israeli public has traditionally had positive views of the military, especially during times of conflict. A study several years ago found that “the Jewish-Israeli public’s trust in the IDF generally remains very high and stable and strengthens significantly when the cannons start to roar.”¹ While evidence shows that this still applies, there is a feeling among some that some of that trust has been questioned, with proof that this includes both the political and military echelons in Israel.² The colossal collapse of intelligence and operational response by the IDF on October 7, the massive loss of life and the kidnapping of 251 Israelis and foreigners have resulted in perceptible distress in almost all strata of Israeli society. The continued war with ongoing casualties of IDF personnel, at times daily, has contributed to a malaise and sadness that, at times, has been mixed in with anger.³

In the immediate aftermath of the attack, there was a reported 30% rise in demand for psychiatric drugs.⁴ As much as 35% of war-related casualties were also found to be related to psychological issues.⁵ As time moved on, it became clear that the individual mental health needs of Israelis have increased, with talk of an impending mental health “pandemic.”⁶

On a broader societal level, the presence of trauma continues in the background as daily life moves on. Israelis not only face the challenges of the consequences of the October 7 attack but also the challenges of an ongoing and threatened

expansion of the conflict. The nature of Israeli society is such that there is little emotional separation between those who suffered direct consequences of the attack in Gaza border communities and the Nova festival and those who did not.⁷ Added to this are the military casualties of soldiers who are family, co-workers, and neighbors and who have so much in common with the average citizen, making it indeed a “people’s army.”⁸

It may be helpful to see Israelis as experiencing a “circle of trauma” where the outer circle is a collective one that is shared by most of the population. Within this outer circle are various smaller “circles” that include those who have experienced or continue to experience additional, more specific traumatic experiences such as losing a family member, being displaced from one’s home, or having a relative held hostage.

The “More than Normal” Changes in Israel

“Normal” life in Israel consists of a routine that includes regular reserve military service, exposure to and constant vigilance for terrorist attacks, high taxes, and social challenges. Since October 7, each of these factors has blurred the line between “normal” routine and heightened anxiety owing to what can be categorized as “more than normal” living. One writer described it as “The war (that) invades every public space with unbridled persistence. A new, seemingly irrelevant layer is constantly added to everyday objects and experiences.”⁹

The Stresses of Reserve Duty

Reserve duty has long been considered a necessary burden on Israelis, accepted as a fact of life. The mass mobilization following October 7, however, has taken this burden to new levels, with thousands of reservists in need of mental health support, struggling with the challenges of operating an independent business, being laid off from work, and coping with family issues.¹⁰ Organizations have been mobilized¹¹ to deal with the recognizable but not yet fully documented psychological ramifications facing individuals and families of reserve soldiers, some of whom have been away from home for many months on end. For its part, the IDF has recognized this and has instituted limited program funding¹² for counseling for individuals, couples, and families of reserve soldiers in need of mental health assistance since October 7.

Increased Terror on the Roads

Another phenomenon that has increased is that of “terror on the roads,” where lethal Molotov cocktails, rocks, and gunfire are directed against Israeli vehicles driving on roads in Judea and Samaria, where the Hamas terror organization is resurgent. Even before October 7, the threat was recognized as a dangerous¹³ phenomenon that called for increased IDF involvement.¹⁴ However, since October 7, the frequency of such attacks has increased, as documented by the organization “Hatzalah Without Borders,” which maintains a Telegram account¹⁵ that has recorded the increase since October 7.¹⁶

“Settler Violence”

A politically sensitive issue plaguing Israel has been the allegation of “settler violence” leveled against Jewish residents of Judea and Samaria even before the war.¹⁷ Since the war, this behavior has come under increasing scrutiny and has been widely condemned by international actors.¹⁸ While the roots of this violent behavior are most certainly not explicitly linked to the events of October 7, a study by Brookings contends that there has been a “surge” since then.¹⁹ Although some dispute this,²⁰ the images of rampaging settlers labeled as “extremists” may further deepen the psychological alienation experienced by a significant portion of the Israeli public living in what the world calls the “West Bank” despite the legality of their communities²¹ and the public condemnation of extremist activities by community leaders.²²

From Unity to Discord: The Hostage Debate

Initially, Israelis were united in their views regarding the necessity for continued military response against Hamas in Gaza. While support for the war effort is still strong among most Israelis,²³ there have been signs of fissure, especially in the weekly protests demanding a ceasefire deal to free the hostages.²⁴

The issue of how best to approach freeing the kidnapped hostages is perhaps the most central consequence of the war. While the government has continued an approach of increased military pressure²⁵ to soften Hamas demands, others, particularly those hostage families leading weekly vigils and protests, take a more demanding approach that

calls for far-reaching concessions and eschews a strict military response.²⁶

The contrast between a strategy of continued war to eliminate Hamas as a fighting or ruling force and a strategy of agreement to limit the initial war goals to secure a deal has split Israelis, with one survey finding a slight majority (56%) favoring a hostage deal over continued military action.²⁷

Displacement: The Israeli Refugee Crisis

Since the October 7 attack, tens of thousands of Israelis have been displaced from their homes and communities. Initially, this was in the South, where communities were destroyed or targeted with ongoing missile attacks. This homelessness very soon spread to the North, where, after Hizbullah joined the war effort, whole communities in rocket range became virtual ghost towns. The failure of definitive government action to restore these communities (the IDF has limited itself to reacting in a predominantly “tit-for-tat” manner and has not yet initiated an offensive that would restore safety to the North) has resulted in demands for broadening the war to include an invasion of Lebanon.²⁸ The discord has resulted in one demonstration that included a call for residents of the North to “disengage” from Israel.²⁹ Others have noted what they call the “forgotten citizens” of the North.³⁰

Equitable Sharing of the Burden: The Israeli Draft Crisis

For years, one segment of Israeli society known has the

“Haredim” (or ultra-Orthodox) have been exempt from mandatory military service.³¹ After October 7, with the increased demands on reservists amidst the absence of Haredi conscription,³² public demand for a “sharing of the burden” became more pronounced. This came to a head once the Supreme Court ruled against blanket Haredi exemptions,³³ sparking anger in the Haredi sector and calls to refuse to obey any conscription notice.³⁴ Some demonstrations turned violent and included illegal blocking of highways and traffic³⁵ (note: this tactic was also employed by hostage families pressing their demands).³⁶ (For a background on the origin of the Haredi exemption, see this footnote.³⁷)

Political instability

Prior to the October 7 attack, Israelis were experiencing a government that was formed after a series of multiple elections over the years that failed to produce a clear winner and the ability to form a viable coalition. The war and the tensions raised increased an already fraught atmosphere that existed immediately before the war, with public disagreement over a proposed judicial reform initiated by the government. This proposal resulted in large demonstrations that persisted until the October 7 attack. While the brutal and tragic events surrounding the outbreak of the war led to initial unity with a significant opposition faction joining the government, this unity eventually dissipated, leaving the public again in a state of uncertainty about Israel’s political future. Part of the reason for the renewed political tension is an apparent shift by the opponents of judicial reform before the war to efforts ostensibly seen as designed to support the demands of

the families of the hostages to reach a ceasefire agreement, as well as efforts to aid victims of the war following October 7.³⁸ Whatever the reason behind the effort, the renewed political tension, along with renewed calls for new elections and changing the government³⁹ also contributed to the tension experienced by the public. Complicating this feeling are tensions within the government itself and between the government and the military leadership, especially between the prime minister on one side and the defense minister⁴⁰ and the army chief of staff⁴¹ on the other. Some see these tensions as stemming from differences in strategy,⁴² while others see it as arising from political considerations.⁴³ Either way, the public is more uncertain and unpredictable about the future.

Questioning the IDF

Long considered a “sacred cow” in Israeli society, the military establishment’s massive failure noted earlier has created a sense of concern for many Israelis. As some experts have expressed, one would think this would lead to decreased confidence in the IDF. Evidence, however, has shown the opposite. While confidence in political institutions has declined, it was found that confidence in the IDF increased, with over 86% of Israelis expressing confidence.⁴⁴ However, a word of caution is in order, as a recent study by the IDF showed, “The IDF was not prepared for the extensive infiltration scenario that occurred.” More investigations are to follow, and the possibility that further conclusions confirming IDF failures may change the current relatively high confidence levels in Israel’s military establishment.

External Factors: Israel as an International Outcast

Although Israel has, since 1967, been widely criticized as an occupying power and violator of the human rights of the Palestinians, the criticism has never reached levels that created actual formidable legal moves that included accusations of genocide. When the International Court of Justice (ICJ) ruled that the South African claim that Israel had committed genocide had “plausibility,”⁴⁵ a new and far more noxious standard of judging Israel was reached. The ruling was but one part of a chain of events that included, among many others, street demonstrations in San Francisco,⁴⁶ New York,⁴⁷ in front of U.S. synagogues⁴⁸ and protests on university campuses.⁴⁹ On some occasions, the protests included actions that directly threatened “Zionists,” such as one incident where a group of protestors entered a New York subway asking “Zionists” to identify themselves⁵⁰ and leave. Another protest took place at an exhibit honoring victims of the October 7 Nova festival massacre.⁵¹ The atmosphere created abroad led Israel to issue a travel alert to some popular destinations,⁵² with reports indicating significant anxiety among Israelis abroad⁵³ and hesitations among others to even travel abroad.⁵⁴

Israel Physically Isolated

Adding to the anxiety is an “on-again, off-again” ability to plan for travel abroad with recurring cancellations of airlines flying to Israel. Flights have been disrupted several times since the war, including during the busy Passover season.⁵⁵ The latest disruptions include multiple foreign airlines, some with no

projected date to resume travel.⁵⁶ These cancellations resulted in thousands of Israelis stranded abroad, another anxiety-provoking situation.⁵⁷ Israelis' feeling of emotional isolation is now combined with tangible physical isolation, along with the uncertainty of when the problem will be resolved. These restrictions have further confined Israelis' movement, with travel within Israel limited, making an already small country psychologically even smaller and further contributing to a sense of loss of control over one's destiny.⁵⁸

Political Isolation

All the above is combined with evident changes in how countries relate to Israel. Turkey, with its already shaky relationship, has upped its anti-Israel rhetoric and instituted an economic boycott, and voiced veiled threats.⁵⁹ Relations with the European Union, Spain, Norway, and Ireland have deteriorated with announcements of intentions to recognize a Palestinian state.⁶⁰ Norway's intention to recognize a Palestinian state provoked a move by Israel to revoke the diplomatic accreditation of Norwegian representatives to the Palestinian Authority.⁶¹ Foreign leaders, such as France's Macron, have made direct statements implicating Israel in the killing of women and children.⁶² But perhaps the most distressing aspect of this isolation is the perceived tension with the United States, Israel's most important ally.⁶³ It is important to note that this tension has not moved the United States from its policy of standing by Israel, as military assets have been moved several times to the Middle East in the face of Iranian threats.⁶⁴ Nevertheless, public statements repeatedly taking Israel to task for what are claimed to be excessive

Palestinian civilian casualties⁶⁵ have led to a need to see how these differences can be resolved.⁶⁶ There has been legitimate speculation that the strategy of some Democrats, especially in an election year, involves projecting a sense of “balance” on the Israel-Palestinian issue.⁶⁷ However, this also has raised concerns that antisemitism on the part of certain party activists is driving decision-making.⁶⁸ In either case, some Israelis may see this as another reason for concern, especially considering the historic bipartisan support of Israel by the United States.⁶⁹

Psychological Asymmetry

The relative psychological advantage of Hamas and other terrorist groups over democratic societies like Israel is known as “psychological asymmetry.”⁷⁰ Since Hamas, which does not consider itself bound by international humanitarian norms, can engage in otherwise unacceptable behavior that includes using human shields, intentionally sacrificing civilians, and exploiting exaggerated casualty figures, they hold a propaganda and influence advantage over an Israeli military that “acts by the rules.” This asymmetry has created an environment that has nurtured an effective strategy by fostering increased criticism of Israel, leading to international pressure restricting military options. The conditions that have increased psychological stress on the Israeli public stem from this concept as well. The more that Hamas is seen as a victim, the more that Israel and Israelis are viewed as responsible for that victimhood. The continued use of the “victim” strategy by Palestinians and Hamas will continue to result in actions

that will pressure Israel and lead to continued psychological angst for the public.

Positive Psychological Factors: Inoculation and Resilience

Years of being subjected to war, missile attacks, terror attacks, and general uncertainty have created what is known as “psychological inoculation” for the Israeli public. Like biological inoculation, psychological inoculation (related to Meichenbaum’s stress inoculation training⁷¹) involves building emotional coping skills to psychologically traumatic situations through repeated gradual exposure to stresses that are successfully coped with. The Israeli experience has been a natural laboratory for stress inoculation and can be said to play a role in the flip side of trauma, namely resistance. Israel has established a network of “resilience centers”⁷² throughout the country that specialize in helping people learn “...how to take targeted actions to improve personal and community capacity in a manner that allows for the continuation of normal family and community life, even in times of crisis.”⁷³ The resilience of Israeli society in the face of continued threats and trauma is evidence of the ability to rebound and function despite the difficulties experienced. Even after months of war, Israel still ranks fifth (ahead of countries like the United States, Canada, and Germany) in the world in self-perceived happiness,⁷⁴ showing the power of Israeli resilience and coping despite significant stress.

Summary

Israel has undergone almost a year of unprecedented challenges sparked by October 7, 2023. Psychological reactions have been influenced by the shock of the collapse of the IDF's ability to protect its citizenry and the subsequent murder and kidnapping of so many Israelis. This has been complicated by the continued losses of IDF soldiers and the international reaction to the war that has painted Israel as an outcast nation and its leaders as "war criminals." We have reviewed some of the factors psychologically impacting Israelis, such as a sense of isolation, a lack of personal control, and abandonment by others. We also touched on both external and internal factors that stoke these feelings. This review is not exhaustive and includes other factors such as economic ramifications (loss of tourism, loss of business, cost of reserve duty and munitions, lowering of Israel's credit rating⁷⁵) and individual factors (e.g., exacerbation of previous personal issues). The way the Israeli media covers the war is another factor that deserves a separate and more extensive analysis. Despite the challenges, resilience, which continues to be tested, persists.

The outlook remains challenging with the continued threats of Iran's "axis of evil"⁷⁶ having the potential to create yet unknown consequences for an already traumatized Israeli public.

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This arrangement came to be known as *torato omanuto* (תורתו אומנותו), translating to “his Torah is his occupation,” and was implemented not through legislation, but rather through a Defense Ministry regulation. This mechanism allows Haredi men to “defer” their IDF service by studying in yeshiva from age 18 until they reach an established age at which the draft no longer applies. Legally,

Haredim out of yeshiva were subject to the draft until age 40, although in practice they could leave yeshiva at age 30 and join the workforce without fear of conscription (see endnote 16).

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Religion in the Service of Barbarity – The “Al-Aqsa Flood” Slogan and the October 7 Massacre

Amb. Alan Baker

On the morning of Saturday, October 7, 2023, Palestinian arch-terrorist and the commander-in-chief of Hamas’s Al-Qassam Brigades, Mohammed Deif, festively heralded the opening of their brutal massacre of October 7, 2023, entitled “the Al-Aqsa Flood,” in which over a thousand Israeli citizens and foreign residents were cruelly and brutally murdered, raped, violated and kidnapped.

The decision to integrally link this horrific massacre with Islam’s third most Holy Site carried with it a clear and particular intent and message—to present Hamas, before the Islamic world, as the sole and most worthy defender of Islam’s holy sites, and in so doing to attract the support of all of Islam in the war against Israel and the Jews.

The nature of this incitement by Mohammed Deif, specifically aimed and oriented towards the Muslim world and even calling upon all Muslims as well as Muslim and Arab

states to join the battle, included particularly bitter, false, and malicious accusations against Israel and Jews.

Deif's words, as translated and reproduced in the *Palestinian Chronicle* and the *Middle East Monitor* on the morning of October 7, 2023, include:

Palestinian Chronicle¹:

The Israelis have “attacked (our) worshippers and desecrated Al-Aqsa (Mosque), and we have previously warned them. The enemy desecrated Al-Aqsa and dared to harm the Prophet's path.

We have decided to put an end to all of the occupation's crimes. The time is over for them (Israel) to (continue to) act without accountability. Thus, we announce the ‘Al-Aqsa Flood’ operation, and in the first strike within 20 minutes, more than 5,000 rockets were launched.

Starting from today, security coordination (between Israel and the Palestinian Authority) ends. Today, the people reclaim their revolution, correct their path, and return to the march of return.

O, our people in Al-Quds (Occupied East Jerusalem), expel the (Israeli) occupiers and demolish the walls. O, our people in the interior (Palestine pre-48 regions), Al-Naqab (Negev), Al-Jalil (Galil), and the Triangle (Jenin, Nablus, Tulkarem), turn the land into flames beneath the feet of the occupiers.

O, our brothers in the Islamic resistance in Lebanon, Iraq, Syria, and Yemen, today is the day when your resistance

Amb. Alan Baker

merges with the resistance of your brothers in Palestine. It is time for the Arab resistance to unite.

We call for mobilization towards Palestine. O, our brothers in Algeria, Morocco, Jordan, Egypt, and the rest of the Arab countries, take action and heed the call.

The era of (losing) bets has ended, and the occupation must be expelled.

O, our people in all Arab and Islamic countries, start marching (today), not tomorrow, and breach the borders and barriers.

This is the day of the grand (plan) to end the occupation.

Today, whoever has a gun, let him bring it out; it's time. Everyone should come out with their trucks, cars, or (fighting) tools. Today, history opens its most pure and honorable pages.

Middle East Monitor²

...the Israeli occupation banned the Palestinian citizens from accessing the Al-Aqsa Mosque and allowed Israeli colonial settlers to defile the Muslim sacred site and conduct daily raids into the Muslim holy compound.

During such raids, Israeli colonial settlers performed religious rituals and prayers and blew the horn at the Al-Aqsa Mosque. They have declared their intentions to build their purported temple on the ruins of Al-Aqsa Mosque.

They also insulted our Prophet Muhammad (PBUH) inside the Al-Aqsa compound, tore up the Quran, and brought dogs into the Muslim sacred site.

Each day, the Israeli colonial settlers attempt to impose a new fait accompli on the ground, attack the Palestinian citizens of occupied Jerusalem, and steal their homes and property.

The Israeli occupation has desecrated the Al-Aqsa Mosque, from which the Prophet Muhammad (PBUH) ascended to heaven on the Al-Isra wa Al-Mi'raj journey.

The Muslim religious element of this Hamas massacre of October 7, 2023, was even more blatant, obvious, and visible to all who witnessed the actual photographic images and footage during the day of the massacre. In such grim footage, filmed mainly by the body-cameras carried by the Hamas Nukhba terrorists themselves who carried out the outrages, each act of murder, rape, torture, dehumanizing individuals, as well as burning families, and destruction of homes, was proudly and gleefully accompanied by the exclamation “*Allahu Akbar*” (God is great).³

The fact that Hamas “celebrated” this massacre by glorifying and associating it with Islam’s third holiest Mosque, Al-Aqsa, and through associating each of their gruesome acts of terror with the praise of God is undoubtedly appalling in and of itself.

One might have expected that this shocking phenomenon would have generated weighty introspection and discomfort among Muslims throughout the world, as well as among the wider international community, regarding this juxtaposition of one of the most reprehensible acts of terror known to

humanity, together with one of the most revered Muslim Holy Sites and the Muslim praise to God.

It evidently did not.

Indeed, one may well wonder how millions of Muslims worldwide are able to resignedly tolerate and live with the regrettable association and identification of one of their holiest religious sites with one of civilization's most cruel massacres?

By any accepted and universal logic and reason, holy sites revered as such by all religions, and especially one of the most sacred and most central religious sites revered by Muslim worldwide, should signify peace, brotherhood, and love of humanity rather than wholesale murder, rape, and terror.

The basic norms and values of religion inherent in the various Biblical, Koranic, or other scriptures and sources would assume that the aim of religion—all and any religion—is for humankind to live at peace, in dignity, and in harmony with God and with humanity and not serve as a source of constant and unending conflict.

Some might even believe that among various sects in Islam and possibly in other religions, the targeting of Jews has, throughout history and even today, not been considered to be incompatible with this juxtaposition of terror and religion.

However, one would hope that the majority of modern Muslims would be thoroughly shocked and alarmed by it.

Regrettably, there appears to be no indication that any serious Muslim scholar, organization, or state, or, for that matter, any self-respecting non-Muslim state, international organization, or international leader, has thought it appropriate to object to and disassociate themselves from the juxtaposition of Islam, its holy sites, and the October 7 Hamas “Al-Aqsa Flood” massacre.

The opposite is the case.

Iran's Supreme Leader, Ali Khamenei, consistently initiates, dictates, sanctions, and personally incites pernicious, antisemitic weekly sermons by Iranian religious leaders (Imams) and military commanders, as well as his own statements. Such declarations include calls to "mobilize the whole Islamic world for a sharp confrontation with the Zionist regime.... If we abide by the Koran, all of us should mobilize to kill."⁴

Further examples of more recent official Iranian antisemitism include a toxic speech on October 25, 2023, by senior Iranian cleric and preacher Alireza Panahyan, who broadcast throughout the Iranian media calling for Muslims and Christians to "eliminate the Jews as the global strategy of Muslims."

Similarly, on October 27, 2020, the Imam of Gorgan, the capital of Golestan Province, described Jews as "animals in human form" and the worst enemy of the Muslims."

On February 28, 2024, General Azim Ibrahim Poor, the commander of the Consciousness Command in the Iranian Revolutionary Guards, stated, inter alia, at the Bahonar University in Kerman:

Know the devil. Know that the true worshippers of Satan are the Jewish rabbis who established the triangle of money, power, and deception. Today, we are the greatest enemy of the Jews in the world, and we face the enemy.... Today, 45 years have passed since the Islamic Revolution, and we have been fighting with Jews for 45 years.

General Azim Ibrahim Poor also accused the Jews of:

taking their children as a kind of organ supply facility

for rabbis and great Jews; every time one of the greatest Jews needs an organ transplant, the Jews kill children who have grown up and give their organs to that Jew.... The Jews know that there are verses in the real Bible that say that the Iranians will exterminate the Jews....⁵

The *Status Quo* as a Cause for Incitement and Violence

From time immemorial, throughout history, and sadly up to the present day, religion, religious practice, religious sites, and rights of worship have figured and continue to figure as significant and sometimes sole factors causing, affecting, and influencing internecine friction, violence, bloodshed, international crises, and disputes throughout the world.

Thus, calls by international leaders, expressed in numerous international declarations, conventions, and resolutions, for “interreligious understanding and dialogue” are, at best, nothing more than a naive and lofty yet wholly unrealistic ideal and, at worst, utter ignorance, naivete, and/or ill-advised political correctness.

In fact, it is religion itself and its associated issues of rights of worship and modes of practice that serve as one of the central instigating or causative factors in local and international conflicts and the basic cause behind incitement to internecine violence.

In many instances, religious practices and observances at major religious sites and shrines are based strictly and uncompromisingly on historical determinations, customs, and practices that have been given the revered and even irreversible and holy stature of a “*status quo*.”

Such determinations, customs, and practices were developed and established to address the specific historical circumstances relevant at the time of their establishment. But by accepted norms and standards of interreligious tolerance and human rights, they are inherently discriminatory and run counter to such norms.

***Status Quo* on Jerusalem's Temple Mount**

One of the most striking examples of such a historical and irreversible "*status quo*" causing endless incitement to hatred, strife, and violence between religious faiths, communities, and states is Jerusalem's Temple Mount, in which the Al-Aqsa Mosque is located, and which has weathered innumerable conflicts and holy wars from time immemorial between Islam, Christianity, and Judaism.

A historic *status quo* such as that existing at the Al-Aqsa Mosque, perpetuating an ancient and outdated social structure that no longer exists, practicing religious discrimination and denying or restricting rights of worship, and serving as a magnet for ongoing religious incitement, should logically no longer be relevant and should not be tolerated in modern international society.

Such a phenomenon is distinctly and blatantly incompatible with accepted international norms and concepts of equality, human rights, freedom of religion and worship, interreligious and intercultural dialogue, tolerance, understanding, and cooperation.

As has been proven by the "Al-Aqsa Flood," the continued usage of an ancient *status quo* serves as an inevitable cause of ongoing internecine strife, incitement, and hysteric violence.⁶

Jerusalem

With its long history and holy sites, Jerusalem undoubtedly represents one of the most complex, unique, passionate, and explosive issues that have, literally from time immemorial, beleaguered the world in general and the Middle East in particular.⁷

Jerusalem and its holy sites have posed and continue to pose an intractable dilemma, whether one traces Jerusalem to biblical times or to the Christian Crusades of the 11th, 12th, and 13th centuries, in which European Christian states sought to secure control of those holy sites considered sacred by both Christians and Muslims.

Disputes regarding control, governance, and daily maintenance on the Temple Mount have always existed and continue up to the present day.⁸

The Connection Between the “Al-Aqsa Flood” and the Status Quo on Jerusalem’s Temple Mount

As is evident from the “Al-Aqsa Flood” denomination, Jerusalem and its holy sites are of great importance far beyond immediate questions of right of worship, territorial control, legal and administrative authority, public order, or their substantial economic and touristic potential.

Indeed, the title “Al-Aqsa Flood” was generated by the Hamas terror organization in the context of the oft-repeated and patently false Arab accusation and cause of incitement claiming that “Al Aqsa is in danger.”⁹

As pointed out at length in the article by Nadav Shragai, this

fictional and empty but ominous catchphrase has repeatedly and historically served the Arab world, and more recently Hamas, in its attempts to mobilize Jerusalem as a magnet for uniting Muslims behind their campaign to delegitimize and even to eliminate Israel and to claim leadership in the Arab world.

International Support for the Temple Mount Status Quo as a Source of Encouragement for the Hamas "Al-Aqsa Flood"

Western democracies, whether out of political correctness *vis-à-vis* the Muslim world or fear of religious and social sensitivities, have consistently accepted, acknowledged, and given credence to this anachronistic *status quo* despite its being wholly at odds with the developing 20th- and 21st-century international notions of equality, human rights, and liberalism.

Increasingly, progressive, liberal, and democratic societies and bodies in the international community, including the United States, the UK, and other European states, as well as international and regional organizations and bodies, have consistently overlooked and ignored its inherently discriminatory nature, accepting and perpetuating it in a cynical demonstration of double standards.

This is evident from a long series of international decisions and resolutions sustaining the status quo, including the U.S. formal declaration dated December 6, 2017, recognizing Jerusalem as Israel's capital city, in which President Trump called on all parties "to maintain the *status quo* at Jerusalem's

holy sites, including the Temple Mount, also known as Haram al-Sharif.”¹⁰

As could have been expected, the U.S. declaration elicited a series of predictable if superfluous responses by a choir composed of the United Nations, the European Union, European leaders, and Christian church leaders, all calling for respecting Jerusalem’s *status quo* according to the relevant UN resolutions regarding the city.¹¹

It is indeed regrettable that those states, international organizations, and churches, in parroting their long-established political positions regarding Jerusalem and inglibly and automatically echoing their support for the *status quo*, chose to do so without realizing the inherent conflict between such a policy viewpoint and current international practice that they systematically advocate in the field of human rights.

They also did so without realizing that such recognition would ultimately serve to fuel Hamas’s appalling adoption of Al-Aqsa as the theme and slogan for their October 7, 2023 “Al-Aqsa Flood” massacre.

Conclusion

The juxtaposition of the religion of Islam with the October 7 massacre and its fruition in the form of one of the cruelest massacres since the Holocaust should be treated by the international community as an ominous precedent.

This is primarily because Iran has served as the religious and political inspiration and chief financier and weapons provider to Jihadist terror groups, including Hamas, Hizbullah,

and the Houthi terror regime in Yemen. Such state-inspired support of terror coupled with religion is fatal.

The continued pampering of the Muslim world by democratic Western countries, whether out of political correctness or false sensitivity or fear, together with the Western tendency to appease the various Muslim Jihadi terror organizations and even to attempt to formalize them within the international community bodies, will surely backfire, as the world has seen with the “Al-Aqsa Flood.”

It remains to be seen if the international community will learn anything from this and reach the necessary conclusions before it is too late.

Notes

1. <https://www.palestinechronicle.com/today-the-people-claim-their-revolution-this-is-what-al-qassam-commander-said-in-his-speech/>
2. <https://www.middleeastmonitor.com/20231007-statement-by-hamass-al-qassam-brigades-top-military-commander/amp/>
3. For graphic and detailed footage of the massacres, see <https://www.ghaza-massacre.net/> and <https://www.youtube.com/watch?v=omTTRqZhw8Q>. See also *Time Magazine's* article “The Worst 45 Minute Film You Will Ever See” <https://time.com/6565186/october-7-ghaza-attack-footage-film/>
4. See the 2012 publication by Prof. Joshua Teitelbaum and Lt. Col. (ret.) Michael Segall “The Iranian Leadership’s Continuing Declarations of Intent to Destroy Israel—2009-2012” (JCPA).
5. Iran Desk at the Jerusalem Center for Foreign Affairs.
6. For an in-depth analysis of the history and related issues regarding the status quo on Temple Mount see Alan Baker “The Discriminatory “Status Quo” on Jerusalem’s Temple Mount: An International Law Viewpoint” JCPA August 10, 2022 <https://jcpa.org/>

org/article/the-discriminatory-status-quo-on-jeruselems-temple-mount-an-international-law-viewpoint/#_edn6

7. See Jacques Paul Gauthier “Sovereignty over the Old City of Jerusalem—A study of the historical, religious, political and legal aspects of the question of the Old City”, Geneva 2007 https://books.google.co.il/books/about/Sovereignty_Over_the_Old_City_of_Jerusal.html?id=AEbtSAAACAAJ&redir_esc=y
8. See Alan Baker “Is Jerusalem Really Negotiable” An Analysis of Jerusalem’s Place in the Peace Process” JCPA Strategic Perspective, 2013 <https://jcpa.org/article/is-jerusalem-really-negotiable-an-analysis-of-jeruselems-place-in-the-peace-process/>
9. See Nadav Shragai, “The “Al-Aksa is in Danger” Libel: The History of a Lie”, 2012 Jerusalem Center for Public Affairs <https://jcpa.org/al-aksa-is-in-danger-libel/>
10. <https://il.usembassy.gov/statement-by-president-trump-on-jerusalem/>
11. <https://www.jordantimes.com/news/local/jordan-will-continue-protecting-holy-sites-jerusalem%C2%A0%E2%80%94king> See also UN Security Council resolution of September 17, 2015, that “urged that the status quo of the Haram al-Sharif should be maintained and visitors should be without fear of violence or intimidation.” <https://press.un.org/en/2015/sc12052.doc.htm>, and similar actions by UNESCO Executive Board decision of April 11, 2016, UNESCO Executive Board 199EX/PX/DR.19.1.Rev, <http://www.dci.plo.ps/en/article/4521/April-24,-2016—PNN-UNESCO-slams-Israeli-occupation-of-Palestinian-sites> <https://www.haaretz.com/israel-news/2016-10-18/ty-article/full-text-of-unescos-resolution-on-jerusalem/0000017f-e016-db22-a17f-fcb7ab8b0000> and the EU-Arab League “Sharm-el-Shiekh Summit Declaration of February 25, 2019, that “recalled the importance of upholding the historic status quo for the holy sites in Jerusalem, including with regard to the Custodianship of the Hashemite Kingdom of Jordan.” <https://www.consilium.europa.eu/en/press/press-releases/2019/02/25/sharm-el-sheikh-summit-declaration/>

The Israeli Economy during the October 7, 2023 War and Its Aftermath

David Brodet

The Israeli economy was in good shape before October 7, 2023, and the subsequent war. The foreign currency reserves were high (about \$200 billion). The balance of payments was good (a surfeit of about \$20 billion). Israel was lending (net) about \$200 billion to the world. There was full employment, a low debt-to-GDP ratio (61 percent), and a reasonable expected budget deficit for 2023 without the war (less than 2 percent).

The Israeli economy is strong thanks to good foundations, especially in the years after the 1985 stabilization plan. The condition was the fruit of the hard and ongoing work of a responsible economic policy, reforms, openness to the world, and the building of a superb high-tech industry as a growth engine and source of foreign currency. Good institutions were built at the Finance Ministry, at the Bank of Israel, in the judicial system, in regulation, and in a robust financial system. At the beginning of 2023, attempts were made to damage some institutional achievements that formed the basis of economic stability, but the economy remained strong.

The Hamas war intensified the security, social, and

international risks. The macroeconomic level appears “reasonable,” but this is an illusion in the short time that has elapsed. The lack of an appropriate economic and budgetary policy for the new reality and a preference for nonproductive sectors while avoiding cuts in political and coalition funding have increased economic uncertainty. Because of the economy’s strength, the financial crisis is not immediately apparent. There is a lag until the changes affect the economic trend. The processes are not linear, but they are not at all robust.

A Different Kind of War

The Gaza war was completely different from previous rounds in Gaza or from the Second Lebanon War. In terms of reserve call-ups, it resembles the Yom Kippur War; in terms of its length, it resembles the War of Independence. The goals set for the military—to dismantle Hamas’s military and governmental capabilities—require an intensive and ongoing military effort. The duration of the war increases the economic damage. The fact that the war began as a great surprise, similar to the Yom Kippur War, need not in itself lead to economic outcomes like those that followed the Yom Kippur War—“the lost decade.” At the same time, the current war will have a significant long-term impact on the Israeli economy that depends primarily on the conduct of the government, which has not excelled at economic policy and devising a suitable state budget.

A large-scale security crisis, alongside a failed economic policy and management, worsens the dangers and the situation. The direct expenses of the war, military and civilian, are assessed at about NIS 180 billion from the last quarter of 2023 to the end of 2024 (without American aid). A large deficit

was created in the 2024 budget (about 8 percent of GDP), public debt grew, and so did interest expenses. The crisis was not exploited to make significant cuts in the coalition funding and the unnecessary expenses of the government ministries. The 2024 budget was a disappointment: it did not include growth engines, economic and public reforms, or an orderly plan to emerge from the crisis. Faulty management will result in a lengthy recovery and high public debt.

Precisely because of the continuation of the war and its heavy costs, the government needed to formulate a responsible budget for 2025. A budget is the work plan for the government and the economy. Lax budgetary management harms growth and employment. The problems and the issues that roiled the Israeli economy—socially and politically—before October 7 were not resolved after the war began. On the contrary, some of them were exacerbated and grew more complex, such as the shortage of infrastructure, low productivity, the high-tech crisis, and housing prices. In addition to these, new problems such as damage to the functioning of institutions, appointments of unqualified persons to public positions, and harm to the quality of the public service are also present. The damage to Israel's diplomatic standing affected foreign investment in high tech, trade relations, Israel's image, especially in light of a lowered credit rating, and specifically its image as attractive and stable.

The war raised new issues that require serious attention: agriculture and food security, local production versus defense imports, maintenance of military and civilian inventories in light of problems with supply chains (involving Turkey and the Houthis), and disruptions in the labor market caused by the lack of Palestinian and foreign workers.

A complex problem threatening the economy and the

country is the high growth rate of the Haredi (ultra-Orthodox) population and its lack of integration in the labor market and the military. This situation endangers the Israeli economy and society, including the Haredi society itself. The Haredi issue has been aggravated by its resistance to military recruitment and the entrenchment of its autonomy, which is detached from the state. The manpower needs of the army and the civilian economy have become acute, and haredi conscription has become an operational problem, not only a moral one.

The war highlighted the great strength of the civilian society, the third sector, and many nonprofit associations that compensated for the government's weakness. The wartime behavior of the civilian society was encouraging and impressive, but it cannot replace an efficient and functioning public service. The war allowed tens of thousands of volunteers to act upon their desire to help and soften the harsh blows that many families and communities suffered in the war. The business and private sectors contributed funds, and Israel was also blessed with contributions from world Jewry.

The war combined the front and the home front. Damages were caused to communities in the western Negev and in the north, and branches of the economy were hit hard by the extensive reserve mobilization and the barring of Palestinian and foreign workers (in the construction and agriculture branches). Damages were also caused in branches other than construction—tourism, aviation, and recreation. Rehabilitating the western Negev and northern communities will require rebuilding homes, production facilities, and infrastructure so that the veteran residents can return and new residents can be absorbed.

Costs of the War

Israel's security concept was that wars should be short in light of international factors, reserve mobilization, and the functioning of the national economy. The current war caused a loss of the sense of security along the borders, affecting the defense budget's size. A new and updated reference scenario will be needed for the use of force, the crafting of the order of battle, and technological developments while internalizing the latest lessons and threats. Israel can withstand a one-time heavy burden of a war, but a permanent high increase in the defense burden will entail the raising of taxes, the cutting of educational, health, welfare, and infrastructure services, or a deficit and public debt. A mistaken policy could create phenomena, as in the aftermath of the Yom Kippur War, of an ongoing loss of output.

The prolongation of the war raised the expenses of reserve mobilization, the consumption of ammunition, fuel, food, spare parts, and the wear and tear on operational tools and supplies. The generous American aid of \$14 billion softened the impact on the state budget. Still, the local defense burden grew significantly. It will cast a heavy shadow in the future on the return to serviceability of damaged weapons, the renewal and reinforcement of inventories, and military equipment in the aftermath of the war. The war highlighted the need for military manpower, affecting the length of military service, reserve mobilization, and pressures for recruiting marginalized groups. The increase in the burden of reserve duty for a relatively small but productive group over the long term will harm the economy. This is another reason why greater equality is needed in sharing the burden of military service, both in the standing army and the reserves.

The assessment is that the GDP loss from the start of the war to the end of 2024 will come to about \$17 billion. To this must be added ongoing defense and civilian expenditures of about \$45 billion (beyond the special American aid), as well as additional budgets for rehabilitating buildings, equipment, infrastructure, forests, and small businesses at a cost of about \$20 billion. Restoring military equipment and renewing and reinforcing supplies will cost about \$15 billion. The war exacted (up to September 2024) human damages with the deaths of 1,630 soldiers and civilians, and about 6,000 who have been physically and psychologically injured. Rehabilitation of the injured and compensation to bereaved families are assessed at about \$15 billion. That is, the war has cost, so far, about \$95 billion—or about 18 percent of Israel’s annual GDP.

Budget

The updated state budget for 2023 included a supplement of about NIS 30 billion beyond the internal changes in the budget, for both defense and civilian expenditures, and the deficit came to 4.2 percent of GDP. The deficit planned for the 2024 budget was 6.6 percent of GDP. In actuality, it will be higher, about 8 percent, increasing government debt to about 70 percent of GDP (compared to about 60 percent before the war). The defense aid from the United States (about \$14 billion) helped to fund part of the high expenses of the war.

In 2023 and 2024, an addition to the debt resulting from the deficit growth due to the war came to about NIS 175 billion. In 2025, Israel will be forced to pay another NIS 7 billion in interest expenses (including recycled debt) compared to 2024, and in 2026, the sum will reach NIS 10 billion. High deficits

and rising debt affect the trust of investors and rating agencies while also accelerating inflation and lowering the shekel's value.

The war was an opportunity to correct distortions created by coalition pressures for expenses whose contribution to the economy and society was minimal and even harmful. A temporary rise in the deficit and public debt is inevitable. Still, the finance minister increased both expenses and the deficit in the 2024 budget, which will raise the deficit to about 8 percent of GDP. The composition of the 2024 budget did not take the war into account, weakening the credibility of fiscal policy and the ability to contend with future challenges. In wartime, a budget requires prioritization, which the government avoided because of a political fear of unpopular measures. For 2025, a deficit without restraining measures will result in a debt-to-GDP ratio of 80 percent of GDP and raise the risk for Israel of a financial crisis.

The finance minister announced the outline for the 2025 budget, albeit belatedly.¹ It included a deficit target of 4 percent of GDP and a plan for fiscal measures amounting to about NIS 35 billion involving the freezing of National Insurance benefits, tax rates, and the minimum wage and wages in the public sector. These measures will mainly harm the middle class, the weak strata, and consumption, and there is doubt about their political feasibility. The fiscal framework is important (with its deficit of 4 percent of GDP), but its contents are no less important. In the Finance Ministry itself, some cast doubt on implementing the budget proposal in light of "unrealistic hopes." Deficit reduction is necessary to stabilize the debt-to-GDP ratio by 2025. Also needed is an announcement on a plan for the deficit to decline, beginning in 2026, to about 2.5 percent of GDP.

GDP and Economic Activity

In 2023, growth came to only about 2 percent. The growth forecast for 2024 will be lower at 0.5–1 percent,² entailing a decrease in GDP per capita. The Israeli economy coped well with the COVID-19 crisis thanks to the dominance of the high-tech branch (10 percent of GDP), which was not harmed, and the low weight of the hospitality and food (tourism) branches, accounting for only 2.6 percent of GDP. The current war, however, is not similar to the COVID-19 crisis because its economic ramifications are ongoing rather than temporary. Moreover, a significant escalation in the fighting in the north, or, God forbid, an expansion to a regional conflict, will create shockwaves and could slow down even worldwide growth (as oil prices rise). The lengthening of the war is likely to cause additional weak quarters in which Israel will fail to exhaust its growth potential, and the gap between Israel's GDP and its growth potential only widens. The risk to growth will also stem from a sharp rise in debt and interest expenses.

Before the war, the inflation rate was about 4 percent per annum. Inflation has somewhat moderated to 3.25–3.5 percent; in the great uncertainty, the Bank of Israel's high interest rate of 4.5 percent hampers growth and makes household debts (mortgage payments) hard to meet. The uncertainty surrounding the 2025 budget, which concerns the adjustments needed to reduce the deficit continuously, has contributed to a rise in the risk premium and will make it difficult for inflation to return to its target. The risk of stagflation—recession and inflation—has grown, and this combination poses a difficult challenge for economic policy.

The Labor Market

At the war's inception, the reserve call-up of about 8 percent of the labor force harmed local manufacturing. The callup, consisting mainly of young men (aged 21 to 45), affected the industry, high-tech, and agriculture branches. A significant mobilization of drivers caused disruptions in supply and logistics chains. The most significant impact was in the construction branch because of Palestinian laborers' barring and foreign laborers' departure. Working at home is more feasible in the high-tech and financial branches, and many businesses increased the proportion of those working at home during the war.

Seemingly, there is an anomaly in the labor market: a low unemployment rate and slow growth. The reason for this disparity is the shortage of about a hundred thousand Palestinian workers, which affects GDP growth. In addition, the Israelis uprooted from their homes and the reserve soldiers are not considered unemployed—though, nonetheless, they contribute little to growth. Unemployment is at a minimum, not because the economy is growing, but mainly because of the shortage of workers.

The construction branch includes a large number of Palestinian and foreign workers. Numerous construction projects for dwellings, infrastructure, public buildings, and commercial projects have been delayed, affecting housing prices. In the agriculture branch, the shortage of workers has affected the consumption yields and the prices of agricultural products. The war has highlighted the economy's significant dependence on Palestinian workers. The quantity of these workers, with or without permits, from the West Bank and Gaza came before the war to about 170,000, or about 4 percent

of the total of employed Israelis—and at a high rate in the construction and agriculture branches. This dependence will require Israel to rethink the matter. At the same time, the Palestinian Authority is dependent to a large extent on Palestinians' salaries from work in Israel. Despite political declarations over the years about wanting to reduce this dependence, nothing has been done. This is an issue with broad ramifications for the economic relations between, on the one hand, the Palestinian Authority and Gaza and, on the other, Israel, which will not be discussed in this article. Closing the gates to the Palestinian workers has sparked internal unrest and created a pressure cooker in the Palestinian Authority, with a rise in terror that, for its part, increases risks for the economy.

The volunteering of tens of thousands from the civilian society replaced the missing workforce in many domains, which enabled the economy and the society to function, even in the first difficult days after the murderous attack. In some branches, the volunteers were full of good intentions but not sufficiently professional, and it was unclear how long they could continue in their tasks. The unemployment rate has remained stable throughout the war.

The Branches of the Economy

Small businesses—Small and tiny businesses have been especially hard hit by the war. In 2024, for the first time in years, the economy is expected to be in a negative balance, with the number of businesses that close exceeding the number that open, harming Israeli economic activity in general.

High tech—Since the 1990s, high tech has become a

leading branch and the economy's growth engine, accounting for about 50 percent of Israeli exports. The war has reduced foreign investment in high tech, causing companies to relocate abroad. Since the start of 2023, the state of Israeli high tech has worsened with the world crisis. Israeli high tech suffered further from the judicial overhaul and the war.

Agriculture—The war has depleted agriculture along the Gaza border, a chief source of potatoes, carrots, onions, and tomatoes. The same holds for communities along the border with Lebanon, which supply eggs and fruits. The ongoing problem in the branch is a shortage of workers. The war raised food security and Israeli imports to the agenda. Care must be taken to rehabilitate the farmers of the western Negev and the north so that they will continue to be Israel's vegetable garden.

Construction—The direct weight of the output of the construction branch is 6.5 percent, and with the associated services, about 9 percent. Now that about a hundred thousand Palestinian laborers have been barred from Israel and about fifteen thousand foreign laborers have returned home to Turkey and Moldova, the branch's activity has suffered.

Industry—Industry has been harmed by the shortage of workers caused by the reserve call-up. Demand has grown in the industry branches of food, security, medications, and health products. The factories that produce raw materials for the construction branch have suffered from the reduced demand for their products because of the stoppage of work at construction sites. In most industrial factories, the work continues as usual (despite the reserve call-ups).

Tourism—Tourism from abroad has sharply declined. Some of the hotels have dealt with the crisis in the short term by hosting Israelis evacuated from the Gaza border and the north,

with state funding. The concern is that an ongoing crisis as the war continues will discourage tourism.

Air Travel—This branch is volatile amid the suspension of flights by many foreign companies, which has also affected cargo imports by air. Maritime cargo has grown more expensive because of the increased risk and the smaller number of vessels visiting the ports (the port of Eilat was paralyzed by the Houthis).

Energy—The beginning of the war saw a shutdown of the Tamar gas field, which is about 25 kilometers from Ashkelon, for fear of rocket attacks and risk to the workers. The shutdown caused damage amounting to about NIS 800 million per month. The Tamar field is the leading gas supplier to the Israel Electric Company. The company was forced to use coal and solar fuel, and air pollution grew. In the short time, the Leviathan gas field did not manage to supply the same quantity as Tamar. After a month, the energy supply stabilized and returned to the prewar level.

Private services—Recreation (restaurants, entertainment) declined due to reduced demand.

The Financial System

The immediate response to October 7 was a considerable devaluation of the shekel to about four shekels per dollar. The Bank of Israel declared its willingness to intervene in the foreign currency market with an allocation of up to \$30 billion from Israel's large foreign currency reserves. This declaration stabilized the shekel rate. In October 2023, the Bank of Israel sold about \$8 billion, ensuring the regular activity of the foreign exchange market and the financial system. Liquidity problems

did not arise in the banks. The banks and the insurance and pension companies have large enough capital cushions. At the same time, the war affected the rise in Israel's risk premium in the international capital market (CDS), in turn causing a rise in interest in the government's raising of capital in the business sector both abroad and at home. Israel's risk premium in the world increased sharply (from about 50 points to about 120) because of the prolongation of the war and the increase in both defense and civilian expenses. The international rating agencies—Standard and Poor, Fitch, and Moody's—lowered Israel's rating and left it on a negative-outlook list amid fear of a further reduction. The lowered rating stemmed from the war and the government's incompetence in budget management. It reflects the decline in political and geopolitical stability, alongside the fear that the war will continue into 2025. In reality, the Israeli rating in the international capital market is lower than the reduced rating of the rating agencies (A+) and stands at BBB. The capital market in Israel responded, as expected, with significant volatility. The Israeli stock market, on average, rose less than its companies in the world, unlike in the past.

Eighty-five percent of the government debt is from the local market. The war was financed primarily by a sharp increase in the issuance of government bonds in the Tel Aviv stock market. Israel's government debt before the war³ stood at about NIS 1,060 billion, with 52 percent of it being negotiable debt. The debt denominated in foreign currency came to about NIS 160 billion, about 15 percent of the debt balance and about 9 percent of the GDP. The accountant general has significantly accelerated debt financing since the war, and most of the issuances are in the local market—primarily for the institutional bodies that manage public savings. The larger

the debt needs and the higher the risk, the greater the yield that the government is forced to pay. The option of significant financing at favorable prices in foreign currency is limited, so most financing comes from the tradable local market. The state must raise large sums, including the existing debt cycle, on the order of NIS 15–20 billion monthly.

The heightened debt financing makes the government debt more expensive and increases interest expenses. In such a situation, a responsible government would have hastened to implement a plan to reduce expenses or increase revenues and quickly present a responsible budget with a clear order of priorities that could accelerate growth. The growth of this debt poses the most significant risk of a financial crisis.

Challenges

The war in Gaza is substantially affecting the economy even before the expected escalation along the Lebanon border. The great unknown is the lack of an economic policy precisely in wartime, with the war's expenses and their ramifications constantly growing. The lack of a policy, both economic and budgetary, lowers the confidence of people and companies both in Israel and abroad. The risk of stagflation—recession and inflation—has increased. That is the main reason the rating agencies have lowered Israel's credit rating alongside a negative outlook. The war has produced a change in Israel's security situation amid concern that Israel's enemies will try to undermine the society's resilience, which has been responsible for the economic prosperity and social cohesion during the decades of the Israeli economy's growth.

The war has shown that Israel has difficulty sustaining a

long war entailing a very large reserve call-up, with deleterious effects on high tech and tourism, a paucity of foreign workers in agriculture and construction, and growing difficulties in the international arena amid economic boycotts. The war has also revealed the dilemmas in the munitions economy, with the costs of Israel's interceptors incomparably higher than the enemies' cheap airborne munitions, something that can seriously damage the Israeli economy.

The lack of professional economic thinking and procrastination about an economic policy (as in the budget talks for 2025) harms national security. The political polarization and the coalitional, political, and sectoral needs have resulted in flawed government management, leading to long-term economic and national security damage. A responsible state budget requires investing in growth engines and infrastructure, cutting unnecessary expenses, rebuilding the fiscal reserves, and investing in the social needs that are growing because of the war. The shirking of conscription and absence from the labor market by many Haredim impose an intolerable burden on the economy and society. The Haredi population is the fastest growing in Israel today and will be in the future.

Instead of updating the orders of priority, the government has dealt with the economic challenge primarily with horizontal cuts that have harmed education, health, and welfare, impairing essential elements of national resilience and have not helped the economy. Israel's challenges after the war will require a strong economy and firm social resilience. Israel faces an ongoing war of attrition against the Iranian axis with its proxies. It will need new thinking for security, economic, political, and diplomatic coping with a long war at different intensities. Among the practical necessities are

increased sharing of the burden by the Haredi population and suitable compensation for reserve soldiers who carry the burden. Israeli resilience lies in finding the balance between the requirements of the war and the need to sustain a flourishing economy. The economy and the society must not be overly subordinated to security objectives.

Notes

1. At a press conference on September 3, 2024.
2. Data of the Central Bureau of Statistics and forecasts of the Finance Ministry, the Bank of Israel, the rating agencies, and foreign banks.
3. Data of the account general.

Iran's Involvement in the October 7, 2023 Massacre: From the Shadows to Center Stage

Dr. Dan Diker

The massacres on October 7, 2023, brought the Iranian regime's three-dimensional strategy of terror, subversion, and psychological warfare into plain view. This culminated in the regime's April 14, 2024, direct ballistic missile and drone attacks of 300 projectiles, the first direct assault on Israel since the ayatollahs' bloody 1979 takeover in Tehran. This attack moved the Iranian regime from the shadows onto the center stage in the Middle East.

For decades, Iran has been the world's leading sponsor and purveyor of international terror. It has supported, supplied, armed, and inspired Islamic terror proxies across the Middle East: Hamas, Lebanon-based Hizbullah, and Yemen-based Houthis among them. As far back as 2008, the Jerusalem Center for Foreign Affairs (then called the Jerusalem Center for Public Affairs) published *Iran's Race for Regional Supremacy*¹ which coined the term "the Iranian octopus," pointing to

its violent regional hyperactivity as the source for regional instability.²

The October 7, 2023 atrocities revealed a bolder, more public Iranian campaign to destroy Israel in a war of attrition, both militarily and by its campaign of international political and psychological warfare. The regime was deeply involved in the planning and execution of Hamas's massacre and hostage-taking.³ October 7, 2023, and Iran's subsequent missile and drone attack on Israel on April 14, 2024, more than six months later, prove Iran plans to make good on its long-stated intention of dominating the Middle East and, ultimately, the rest of the world, under a nuclear umbrella.⁴ Iran has also been deeply involved in influencing U.S. and Arab public opinion through perception warfare on media and social networks.⁵

Iranian Funding for Hamas Terror

The Iranian-Hamas connection is decades old. According to Matthew Levitt, former senior counterterrorism official at the U.S. Department of the Treasury, Hamas began receiving Iranian regime financial support in 1987. By 1994, Iran had provided Hamas with tens of millions of dollars' worth of logistical support and training.⁶ By 1999, the Iranian intelligence service MOIS transferred \$35 million to Hamas to finance terrorist activities against Israelis and provided terror training in Iran, resulting in a series of 1996 terror attacks on buses. When Iraq could no longer make "pay for slay" (incentive grants for murdering Israelis) to the families of dead, wounded, or jailed Palestinian terrorists, Iran took its place via Hizbullah contacts.⁷

After the 2004 deaths of Hamas leaders Abdel Aziz

al-Rantissi and Sheikh Ahmed Yassin, Iranian support and IRGC guidance increased.⁸ By 2010, three years after Hamas seized the Gaza Strip from the Palestinian Authority, the U.S. Department of Defense reported that money was being smuggled into Gaza through the Philadelphi Corridor, the critical passage from Egypt to the Gaza Strip.⁹ After the 2014 war between Israel and Hamas, codenamed “Protective Edge,” Iran provided additional rocket technology and tunnel repair funds. In September 2015, the U.S. Treasury Department identified a dual British-Jordanian citizen, Mahir Jawad Yunis Salah, based in Saudi Arabia, who was coordinating the transfer of tens of millions of dollars from Iran to fund Hamas’ Qassam Brigades and activities in Gaza.¹⁰

In 2017, Hamas leader Yahya Sinwar, who replaced the Qatari-supported Ismail Haniyeh, who was subsequently assassinated in 2024 in Tehran, confirmed that Iran was Hamas’s “largest backer financially and militarily.”¹¹

In 2018, the U.S. Department of the Treasury’s Office of Foreign Assets Control (OFAC) identified an international network through which the Iranian regime, working with Russian companies, provided millions of barrels of oil to the Syrian government, an Iranian proxy state. The Assad regime, controlled by the Alawite minority, a radical Shiite offshoot, in turn, then facilitated the movement of hundreds of millions of U.S. dollars to the Islamic Revolutionary Guard Corps-Quds Force (IRGC-QF) to be funneled to Hamas and Hizbullah.¹² Iran-backed militia groups have attacked U.S. troops in Iraq, Syria, and Jordan 170 times since the October 7 Hamas attack.¹³ Before October 7, attacks on U.S. targets were also frequent.¹⁴

In 2019, it was reported that Iran pledged tens of millions of dollars to Hamas in financial assistance.¹⁵ Former Hamas Politburo leader Ismail Haniyeh claimed in a 2022 interview

with Al Jazeera that the terror organization received \$70 million per year from Iran.¹⁶

Iran's Exploitation of the Palestinian Issue Masks its Religious Ambitions

Iran's policies and motivation to eliminate Israel are ideological and religiously driven. Iran's Supreme Leader Ali Khamenei and, notably, former president Mahmoud Ahmadinejad,¹⁷ invoked the Iranian iteration of the Shiite "end of days" belief that the destruction of Israel and the Jews would trigger the emergence of the Mahdi, the Shiite messiah from occultation, ushering in an era of justice.¹⁸ Some Shiites consider the 1979 Iranian Revolution to be an early sign of the Mahdi's appearance.¹⁹

The West has been naively and largely oblivious and uninformed of the practical relevance of the Iranian regime's religious doctrine. The United States and the Western powers have viewed October 7 solely as an extreme expression of the Palestinian-Israeli conflict. The U.S. political and public discourse has also largely ignored or underemphasized the Iranian regime's subversion of Western governments and malign psychological influence over their public.

Iran's war on the West continues its decades-long campaign that began with the Islamic Revolution's kidnapping of 52 Americans in 1979, who were held for 444 days in Tehran. In August 2024, American intelligence released a statement that Iran is actively attempting to affect U.S. election results.²⁰ Iran created and managed fake online accounts and cyberwarfare against Israel and its other enemies.²¹ Iran is involved in its proxy Hizbullah's narco-terror arrangement in which

Hizbullah raises money for its militia by dealing in drugs and facilitating the drug trade worldwide through its international network.²²

October 7, 2023, and the Gaza war have provided the U.S.-led Western alliance a convenient pretext to focus on solving what they see as the Palestinian-Israeli conflict. Whether naively or deliberately, they have declined publicly to confront the Iranian threat to the entire Middle East region, which includes its commitment to destroy Israel and its race for hegemony over Sunni and Shiite states and strongholds alike.

The Iranian regime's most important goal, besides the destruction of Israel and the United States, is the preservation of the government itself at all costs. This explains the regime's mobilization of its terror proxies and its accelerated atomic weapons program—even at the expense of massive human losses—as a necessary precondition to achieve its objective of Iranian regional and, ultimately, global domination.

Iran's Aim of Regional Supremacy

The Palestinian cause provides a cover for Iran's greater ambitions in the region. Iran has branded its propaganda-driven days of solidarity with Palestinians as "Al Quds [Jerusalem] Day," celebrated annually in Tehran. In a Western sense, solidarity often means sympathy for other parties. In the Iranian mullahs' version of apocalyptic Shiism, though, solidarity means providing weapons and training for martyrs—those who willingly sacrifice themselves for jihad. That is, the Iranian regime is willing to assist potential martyrs' "Islamikaze," to use historian Raphael Israeli's term,²³ without regard to their survival, just as it did with its Iranian children

in its Basij para-military militia, resulting in the deaths of thousands of children. Iran uses and exploits the Palestinian cause to advance its interests.

This is important to understand in forecasting the future trajectory of Iran's strategic mobilization of its proxies and its pursuit of nuclear capability. Though Israel has weakened Hamas, Hizbullah, the "crown jewel" of Iran's proxies and front-line defender of its nuclear program, with some 200,000 rockets, missiles, and drones, still constitutes a strategic and even existential threat to Israel.²⁴ Hizbullah, copying what Hamas did in Gaza, rules southern Lebanon and has excavated, with the help of North Korea, a complex of tunnels comparable to or better than those established by Hamas, including wide tunnels that can accommodate vehicles such as the tunnels unearthed by the IDF in the Philadelphi Corridor on the border of the Gaza Strip and Egypt.²⁵ Hizbullah also shares Iran's Shiite messianism and glorification of jihadi martyrs and also believes that the destruction of Israel will bring about the reappearance of the Hidden Imam (the Mahdi-Messiah).²⁶

This immutable ideology fuels Iran's desire for regional supremacy, the destruction of Israel, and the subordination of non-Shiites. The West's lenient interpretation of Iran's intention to "free Palestine from the Zionists" naively ignores that the Iranian regime's plans require the destruction of Israel and any state or other political actor that attempts to block the mullahs' path to victory. Hamas's use of human shields is not a mistake or a sacrifice made for a "Free Palestine" but an expression of the disposability of human life that the Iranian regime encourages in service of its apocalyptic meta-objectives. This renders the Palestinian issue a weapon for Iranian supremacy, not subject to political or territorial compromise between Israel and the Palestinian Authority.

Considering this rigid value set bent on destruction and death, there is no choice but for Israel and the West to stand together against the Iranian regime and its proxies in their “long war.”

Notes

1. <https://jcpa.org.il/wp-content/uploads/2013/12/ספר-על-איראן.pdf>
2. <https://jcpa.org/hamas-is-acting-as-an-arm-of-iranian-power/> ; <https://jcpa.org/book/iran-hizbullah-hamas-and-the-global-jihad-a-new-conflict-paradigm-for-the-west/>
3. See <https://www.memri.org/reports/iranian-officials-acknowledge-irans-role-planning-and-executing-october-7-hamas-invasion-and>: An April 3, 2024, regime announcement clearly indicated that Gen. Mohammed Reza Zahedi of the IRGC was involved in the planning and execution of the October 7 attack:

The strategic role of the martyr Zahedi in consolidating and strengthening the resistance front, and in the planning and execution of Al-Aqsa Flood, are part of the great pride that will transform the quiet efforts of this great commander into the eternal history of the struggle against the occupation by the Zionist regime.

In a May 12, 2024 interview with Iran’s Tasnim News Agency, IRGC Qods Force deputy operations chief General Mohsen Chizari said that Qods Force Deputy Commander in Syria and Lebanon Hajj Rahimi, one of the officers killed in the April 1 airstrike in Damascus, had been responsible for training resistance axis members and that his command and efforts had ‘resulted’ in the Al-Aqsa Flood.

General Chizari elaborated: “The honorable [Iranian Supreme Leader Ali Khamenei] is the commander of the resistance axis, and he alone directs, leads, and commands it. At one point, the command in the area was in the hands of Hajj Qassem [Soleimani], who worked under Khamenei. Under this command, other commanders [including Hajj Rahimi] successfully advanced the resistance front to a certain place, the result of which was Operation Al-Aqsa Flood [on October 7, 2023].

4. See: <https://jcpa.org/article/20-threats-iranian-leaders-made>

in-2013/; <https://mei.edu/publications/irans-revolutionary-guard-and-rising-cult-mahdism-missiles-and-militias-apocalypse/>; <https://jcpa.org/salam-ya-mahdi-how-irans-indoctrination-policy-mobilizes-shiite-audiences-to-support-the-islamic-republic/>; <https://erfan.ir/arabic/5267.html> This source contains 29 Islamic Shiite sources for the global nature of “Mahdism.”

5. See https://www.inss.org.il/strategic_assessment/evolution-of-irans-perception-of-israel/; <https://researchbriefings.files.parliament.uk/documents/CBP-9504/CBP-9504.pdf> ; <https://www.rferl.org/a/iran-us-election-disinformation-harris-trump/33089022.html> ; <https://www.washingtoninstitute.org/policy-analysis/understanding-irans-vast-media-network-arab-countries> ; <https://ecfr.eu/publication/proxy-battles-iraq-iran-and-the-turmoil-in-the-middle-east/>
6. See Matthew Levitt’s detailed report on pre-October 7 Iranian funding of Hamas: <https://jstribune.com/levitt-the-hamas-iran-relationship/>
7. Levitt, *ibid.*
8. See Levitt, *ibid.*
9. <https://www.bbc.com/news/world-middle-east-19975211>
10. See <https://home.treasury.gov/news/press-releases/jl0159>

Levitt writes:

From 2012 through 2016, Hamas finance operatives in Lebanon helped facilitate the flow of funds from Iran’s IRGC, through Lebanese Hizuollah, to Hamas. Consider the case of Beirut-based Mohammad Sarur, who is tied to both Hezbollah and Hamas. According to the U.S. Treasury Department, “Sarur served as a middle-man between the IRGC-QF and Hamas and worked with Hizbullah. operatives to ensure funds were provided to [Hamas’] Izz-Al-Din Al-Qassam Brigades.

11. <https://www.timesofisrael.com/hamas-leader-in-gaza-ties-with-iran-now-fantastic-were-preparing-battle-for-palestine/>
12. <https://ru.usembassy.gov/treasury-designates-illicit-russia-iran-oil-network-supporting-the-assad-regime-hizballah-and-hamas/>
13. Carl, Nicholas; Jhaveri, Ashka; Braverman, Alexandra (28 January 2024). “Iran Update, January 28, 2024” (Think tank analysis). Washington, D.C.: Institute for the Study of War. Retrieved 29 January 2024.

14. <https://www.politico.com/news/2024/03/06/proxy-attacks-iraq-syria-red-sea-00145428> Between January 2021 (when Biden took office) and March 25, 2023, there were at least 80 attacks by Iran proxies on U.S. forces.
15. <https://www.timesofisrael.com/iran-agrees-to-increase-hamas-funding-to-30-million-per-month-report/>
16. <https://www.aljazeera.net/programs/the-interview/2022/1/2/معركة-سيف-القدس-بروفة-لتحرير-فلسطين>
17. <https://jcpa.org/article/irans-second-islamic-revolution-its-challenge-to-the-west/> In his book “Islamic Government,” Khomeini wrote: “We must protest and make the people aware that the Jews and their foreign backers are opposed to the very foundations of Islam and wish to establish Jewish domination throughout the world.” Given his view of the Jewish people, it was not surprising that in 1979 he labeled Israel as a “cancerous growth in the Middle East,” adding that “every Muslim has a duty to prepare himself for battle against Israel.”

See [https://www.memri.org/reports/iranian-officials-acknowledge-irans-role-planning-and-executing-october-7-hamas-invasion-and-IRGC-Spokesman-Ramazan-Sharif-said-that-Hamas's-October-7-attack-was-One-Of-The-Resistance-Axis's-Acts-Of-Vengeance-Against-The-Zionists-For-The-Killing-Of-\[Qassem\]-Soleimani.](https://www.memri.org/reports/iranian-officials-acknowledge-irans-role-planning-and-executing-october-7-hamas-invasion-and-IRGC-Spokesman-Ramazan-Sharif-said-that-Hamas's-October-7-attack-was-One-Of-The-Resistance-Axis's-Acts-Of-Vengeance-Against-The-Zionists-For-The-Killing-Of-[Qassem]-Soleimani.) (MEMRI)

Iranian regime *Kayhan* daily newspaper also reported that “Iran Is The Mind And Hands Behind Hamas; Operation Al-Aqsa Flood Was Planned And Orchestrated By Qods Force Commander Qassem Soleimani Before He Was Killed.” *Kayhan* reported that Khamenei hinted that Iran’s aim was “the Complete Conquest” of Israel, in both August 2022 and in August 2023.

For years, the Iranian regime, including Khamenei, has referred to Israel as a “tumor.” Radical cleric Ayatollah Mesbah Yazdi, who provides religious indoctrination for the Revolutionary Guard said that the Jews are the source of global corruption. Ayatollah Nur-Hamedani, another lecturer to the Revolutionary Guard, has said that the Jews must be vanquished to prepare for the arrival of the Hidden Imam. See <https://jcpa.org/article/shiites-sunnis-and-israel/>

18. See also <https://www.memri.org/reports/israels-eradication->

%E2%80%93ideological-and-practical-goal-irans-islamic-revolution-regime

19. https://shiism.hds.harvard.edu/files/shiism-global-affairs/files/the_hidden_imam_and_the_end_of_time_-_a_primer_on_the_mahdi_islamic_theology_and_global_politics_04.pdf : “The Hidden Imam refers to the Guardian of the Age (*Vali-ye Asr*) as well as the end times Savior for many Muslims, especially among most Shi’a Muslim denominations.... According to these beliefs, the Hidden Imam will emerge at the End of Time with the Messiah, Jesus Christ, as his partisan to lead humanity, and he will bring justice to earth just as it had been filled with injustice, ignorance, and tyranny before his advent....The belief in the Hidden Imam is not only significant doctrinally among Muslims, but it also has had practical consequences including in social, cultural, political, military, and economic arenas throughout Muslim societies across time.”
20. <https://www.fbi.gov/news/press-releases/joint-odni-fbi-and-cisa-statement-on-iranian-election-influence-efforts/?s=08>
21. <https://themedialine.org/mideast-daily-news/social-media-warfare-bot-farms-fueling-anti-israel-campaigns/>
22. <https://www.washingtoninstitute.org/media/3195> <https://www.files.ethz.ch/isn/99054/WP%2018,%202009.pdf>
23. See: Raphael Israeli. *Islamikaze: Manifestations of Islamic Martyrology*. London: Cass, 2003.
24. <https://www.csis.org/analysis/coming-conflict-hezbollah>
25. <https://www.jpost.com/opinion/op-ed-contributors/mining-for-trouble-in-lebanon> <https://thediplomat.com/2024/01/what-hezbollahs-fortifications-teach-us-about-north-korean-defenses/>
26. <https://digitalcommons.usf.edu/cgi/viewcontent.cgi?article=4810> Robert Wistrich. *A Lethal Obsession: Anti-Semitism from Antiquity to the Global Jihad*. New York: Random House, 2010. p. 770

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Following retirement from the civil service, he served as Chairman of Mizrahi Bank and Bank Leumi, Chairman of Yes, and Chairman of the Executive Committee of Hadassah College, Ben-Gurion University, Hadassah Hospital, and the Jerusalem Foundation.

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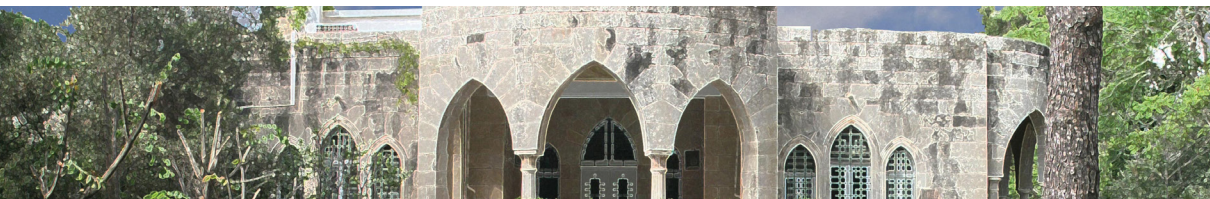
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Cover Photos (left to right):

Pro-Palestinian rally in front of the Ministry of Foreign Affairs,
on August 10, 2024, in Madrid (Spain). (Diego Radamés/Europa
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United Nations General Assembly Hall in the UN Headquarters,
New York. (Basil D Soufi/ CC BY 2.0)

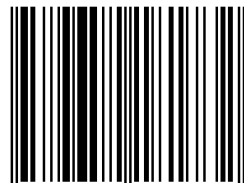


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