

AGENDA ITEM 7

COUNTRY CLAIMS & UN WATCH RESPONSES



HUMAN RIGHTS COUNCIL

H.E. Mr. Mahmoud Abbas
President of the State of Palestine

About UN Watch

Founded in 1993, UN Watch is a non-governmental organization based in Geneva, Switzerland, that monitors the United Nations by the yardstick of its charter and protects human rights worldwide. For more information, please visit our website: www.unwatch.org.

About the Cover

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An examination of country statements delivered at the United Nations Human Rights Council under the agenda item concerning Israel.

INTRODUCTION

Every session of the UN Human Rights Council devotes a special agenda item to the “Human rights situation in Palestine and other occupied Arab territories,” which is defined by UNHRC Resolution 5/1 as covering “Human rights violations and implications of the Israeli occupation of Palestine and other occupied Arab territories.” The other nine items on the Council’s permanent agenda are all generic, and do not refer to any particular country or situation.

Under the debate that takes place three times a year pursuant to Agenda Item 7, the Palestinian Authority (PA), Syria, North Korea and dozens of other Council members and observers routinely accuse Israel of numerous crimes and human rights violations, while making no mention of Hamas, Islamic Jihad or the Palestinian Authority. The debate is entirely one-sided. Israel, along with the United States and many other democracies, no longer participates in protest against the agenda item’s selectivity.

As a result, many claims enter the record at the United Nations despite having no basis in fact. The purpose of this report is to remedy that situation by providing the first examination of claims made under Item 7, and to provide a detailed analysis, citing to sources of fact and international law. The period covered in this report is the six UNHRC sessions held in 2019 and 2020.

BACKGROUND ON ITEM 7

When the creation of the new Human Rights Council was being debated in 2006, the UN’s Department of Public Information distributed a chart promising that, in its words, the “agenda item targeting Israel” of the old Commission on Human Rights, Item 8, would be replaced at the new council by a “clean slate.” Although this course correction never came

to fruition, it is important to note that a key UN document acknowledged the true nature of the agenda item: to target Israel.

Despite the promise of reform, the new Human Rights Council that was established in June 2006 revived the infamous agenda item, which became Item 7. No other country in the world is subjected to a stand-alone focus that is engraved on the body’s permanent agenda, ensuring its prominence, and the notoriety of its target, at every Council meeting.

The Council’s credibility and legitimacy remain compromised so long as one country is singled out while serial human rights abusers escape scrutiny. Item 7 negates the Council’s own founding principles of non-selectivity and impartiality.

Indeed, UN Secretary-General Ban Ki-moon criticized this act of selectivity a day after it was instituted. On June 20, 2007, Mr. Ban “voiced disappointment at the council decision to single out Israel as the only specific regional item on its agenda, given the range and scope of allegations of human rights violations throughout the world.”

In addition, Western democracies have on numerous occasions stated their opposition to Item 7. In statements delivered before and after its adoption, traditional supporters of human rights opposed the agenda item as biased. The UK said that “the practice of ‘singling out one’ risked undermining the Human Rights Council’s own principles.” France “regretted that the agenda was imbalanced by the singling out of Palestine, which was contrary to non-selectivity.”

Australia and the Netherlands expressed similar objections, describing the agenda item as “unhelpful.” Canada said the Council breached its own principles of universality, impartiality, objectivity, and non-selectivity. Targeting any UN member state, said Canada, was “politicized, selective, partial, and subjective.” The US has also been a forceful opponent of Item 7.

Importantly, as a general rule today, the US, the EU and other democracies no longer speak under Item 7. Rather, they voice any of their criticisms of Israel and the Palestinian Authority during the general debate on all country human rights situations, which is Item 4.

It is our hope that the Council will uphold the UN Charter promise of equal treatment for all nations by removing Agenda Item 7. Until that happens, we are prepared to correct the record by publishing reports such as this.

CLAIM 1:

“ISRAEL HAS OCCUPIED PALESTINIAN TERRITORY FOR 70 YEARS”

EXAMPLES:

Lebanon, 41st session

“Lebanon is concerned with the occupation of Arab lands by Israel over 70 years ago, which constitutes a violation of international law and human rights.”

Tunisia for the African Group, 43rd session

“Throughout seven decades, the Israeli military occupation of Arab conflict lands itself in situation of conflict that is continuous and has taken its heavy toll on the livelihood and human rights and fundamental rights on human lives on the occupied Palestinian and Arab territories.”

Pakistan, 40th session

“During the past seventy years, they [Palestinians] have been driven from their homes and their homeland, militarily occupied and obliged to live in conditions resembling apartheid.”

UAE, 41st session

“Item seven provides a forum...to identify ways to ensure that Israel is held accountable for the violations it has committed for the confiscation of the fundamental rights of the Palestinians for more than seventy years.”

RESPONSE:

UN Watch

Accusing Israel of 70 years of occupation—meaning, from the moment of its birth—is to deny Israel’s right to exist. Israel recently celebrated 70 years since it declared independence on May 14, 1948, on the basis of the November 29, 1947 UN partition resolution (A/RES/181(II)) that called for Jewish and Arab states to succeed the British Mandate in Palestine. Israel was admitted a year later to the United Nations as a member state.

While the Jewish people had accepted the UN partition plan, the Arab side rejected it. Palestinian Arabs launched a war against the Jewish community with the stated aim of destroying the nascent Jewish state. On May 15, 1948, when the British withdrew, the armies of Egypt, Jordan, Lebanon, Syria and Iraq joined the war against Israel. The conflict ended in January 1949 with armistice agreements signed between Israel and Egypt, Jordan, Lebanon and Syria. When the United Nations admitted Israel as a member state several months later, it was within those internationally recognized armistice lines. Arabs living in Israel were granted Israeli citizenship.

CLAIM 2:

“ISRAEL IS RESPONSIBLE FOR THE IMPASSE IN PEACE TALKS”

EXAMPLES:

Djibouti, 45th session

“Put an end to the occupation and the blockade imposed on the Gaza Strip [which is] seeking to harm the two-state solution...Djibouti urges Israel to come to the table to discuss a two-state solution.”

Russia, 45th session

“We oppose Israel’s unilateral actions that run counter to the norms of international humanitarian law and negatively affect the prospects for achieving sustainable peace in the region.”

Venezuela, 45th session

“We reject the colonial policy of the occupying power that appeals to terror, siege and discrimination, and ignores all calls for dialogue and peace made by the community of nations.”

RESPONSE:

UN Watch

Historically, dating back to the 1947 UN Partition Plan and before, it is the Palestinians who have categorically rejected opportunities for peace with Israel on the basis of a two-state solution. Since the Oslo Accords in the mid-1990s, the Palestinians have rejected outright three peace proposals.¹ In 2000, under the leadership of Yasser Arafat, the Palestinians responded to the Camp David Accords with the terrorist uprising known as the Second Intifada in which more than 1,000 Israelis were killed and many more injured. In 2008, under the leadership of Mahmoud Abbas, they refused Israeli Prime Minister Ehud Olmert’s plan which would have given them control of more than 90% of the West Bank.²

Now again, in response to the January 2020 U.S. peace plan, Palestinian President Mahmoud Abbas declared: “After the nonsense that we heard today, we say a thousand no’s to the Deal of The Century.”³ The Palestinian leadership have refused to even participate in negotiations.

In stark contrast, “Israel is ready for negotiations,” stated Prime Minister Benjamin Netanyahu. “I am ready for negotiations, and believe that many Arab states hope we will enter such negotiations with the Palestinians.”⁴

As a consequence of the normalization agreement signed between Israel and the United Arab Emirates, Israeli proposals to annex parts of the disputed territories—which had been vehemently opposed by the Palestinians—were indefinitely sus-

1 For a timeline of Israeli-Palestinian peace talks see Jeffrey Heller, *Long line of Israeli-Palestinian peace bids precede Trump push*, **Reuters** (Jan. 27, 2020), <https://www.reuters.com/article/us-israel-palestinians-plan-history/long-line-of-israeli-palestinian-peace-bids-precede-trump-push-idUSKBN1ZQ0RQ>; see also *Israel and the Palestinians: Chronology of a Two-State Solution*, **Congressional Research Service** (June 30, 2020), <https://fas.org/sgp/crs/mideast/IF11237.pdf>.

2 Mark Lavie, *Missed Opportunity: Olmert, Abbas, and Media Bias*, **Tablet** (Nov. 24, 2015), <https://www.tabletmag.com/sections/news/articles/missed-opportunity-olmert-abbas-and-media-bias>.

3 Mohammed Daraghme & Fares Akram, *Palestinians angrily reject Trump Mideast peace plan*, **Associated Press** (January 29, 2020), <https://apnews.com/article/0dcb0179faf41e1870f35838058f4d18>.

4 *Netanyahu: ‘I am ready for negotiations with the Palestinians’*, **I24 News** (June 29, 2020), <https://www.i24news.tv/en/news/israel/diplomacy-defense/1593409350-netanyahu-i-am-ready-for-negotiations-with-the-palestinians>.

pending.⁵ From a Palestinian perspective, one of the most immediate stumbling blocks to negotiations was therefore removed. Yet in 2020 the Palestinians still refused to return to the table. According to Prince Bandar bin Sultan, former Saudi ambassador to the US, the Palestinian leaders are “failures” who have consistently missed opportunities for making peace with Israel.⁶

Rather than posing as an obstacle to regional peace, Israel has, in the space of only a few months, reached peace and normalization agreements with the UAE, Bahrain, Sudan and Morocco. The United Nations and its member states ought to welcome the Arab-Israeli peace agreements and encourage the Palestinians as well as other Arab states to join the circle of peace.

Furthermore, Israel has demonstrated a willingness to withdraw its citizens from occupied territory for the sake of peace. For example, Israel uprooted some 7,000 Israelis from the Sinai Peninsula in connection with its 1979 peace treaty with Egypt.⁷ More recently, Israel evacuated some 8,500 Israelis from Gaza when it unilaterally withdrew from the area in 2005.⁸ Regrettably, the Gaza withdrawal did not bring peace, but paved the way for Hamas’s takeover of the Gaza Strip.

5 Anne Geran and Steve Hendrix, *Trump announces historic peace agreement between Israel and United Arab Emirates*, **Washington Post** (August 14, 2020), https://www.washingtonpost.com/politics/trump-announces-historic-peace-agreement-between-israel-and-united-arab-emirates/2020/08/13/363f3c54-dd76-11ea-8051-d5f887d73381_story.html.

6 *Saudi former intelligence chief slams Palestinian leadership’s criticism of UAE-Israeli deal*, **Reuters** (October 6, 2020), <https://www.reuters.com/article/us-israel-gulf-saudi-idUSKBN26Q33U>.

7 David K. Shipler, *Israeli Completes Pullout, Leaving Sinai to Egypt*, **New York Times** (April 26, 1982), <https://www.nytimes.com/1982/04/26/world/israeli-completes-pullout-leaving-sinai-to-egypt.html>.

8 *Israel completes Gaza withdrawal*, **BBC** (Sep. 5, 2005), <http://news.bbc.co.uk/2/hi/4235768.stm>; Anna Aronheim, *Gaza Disengagement was ‘absolute mistake,’ says a withdrawal commander*, **Jerusalem Post** (July 31, 2020), <https://www.jpost.com/arab-israeli-conflict/gaza-disengagement-was-absolute-mistake-says-commander-who-oversaw-it-636926>.

CLAIM 3:

“ISRAEL COMMITS APARTHEID AGAINST THE PALESTINIANS”

EXAMPLES:

Iran, 42nd session

“We ask the international community to respond immediately to the aggressive, expansionist and apartheid regime.”

Saudi Arabia for the Arab Group, 41st session

“We express our resentment to the decision of some countries to boycott Item 7, which gives the green light to the occupying power to continue its apartheid policies.”

Pakistan, 41st session

“During the past seventy years, [the Palestinians] have been driven from their homes and their homeland, militarily occupied and obliged to live in conditions resembling apartheid.”

Tunisia, 42nd session

“The daily grave violations all over the Arab occupied lands and the ongoing attempts to occlude identity and impose status quo through...apartheid.”

RESPONSE:

UN Watch

Discrimination against Arab and other minority groups in Israel exists. But the notion that this is akin to apartheid South Africa—where the black majority was oppressed by the white minority and denied the most fundamental human rights—has no basis.⁹ In apartheid South Africa, blacks were denied the vote; in Israel, Arabs, Druze, Christians and other minorities enjoy full citizenship and voting rights, with 17 currently-serving Arab Members of Knesset—nearly one sixth of the legislature—belonging to several different parties.

Unlike in apartheid South Africa, Arabs and other minorities are represented in the Knesset and on Israel’s Supreme Court; attend and teach at Israeli universities; work as doctors and receive world-class medical treatment in Israeli hospitals; and fully access public spaces alongside Jewish Israelis, such as buses, malls, restaurants, and beaches. Anyone who has walked in any public space in Israel, especially in cities with sizable Arab minorities such as Haifa and Jerusalem, will routinely encounter visible minorities such as Arab Israelis, including women proudly wearing hijabs without fear of discrimination.

The situation in the West Bank, where under the Oslo Accords jurisdiction over Palestinians and Israelis is divided between the Palestinian Authority and Israel, is more complex, but there too institutionalized racism does not exist. Checkpoints or other security measures are designed to prevent suicide bombers and other terrorists from infiltrating from Palestinian areas into Israel and killing innocents in cafés, pizza shops or discos, and are not acts of racism.

Prominent South Africans who had first-hand experience of apartheid emphatically reject the claim that Israel is an apartheid state. Frederik

9 Alan Dershowitz, *Alan Dershowitz: Debating BDS with Cornel West*, **Algemeiner** (Jan. 1, 2018), <https://www.algemeiner.com/2018/01/01/alan-dershowitz-debating-bds-with-cornel-west/>.

Willem de Klerk, the South African president who ended apartheid, stated in 2014 that “it is unfair to call Israel an apartheid state,” noting “you have Palestinians living in Israel with full political rights,” and “you don’t have discriminatory laws against them, not letting them swim on certain beaches or anything like that.”¹⁰

Kenneth Meshoe, President of the African Christian Democratic Party and a member of the South African Parliament, has dismissed the Israel apartheid charge as “an empty political statement that does not hold any truth,” noting that in Israel “you see people of different colors, backgrounds and religions” interacting with each other daily. “Those who know what real apartheid is, as I know, know that there is nothing in Israel that looks like apartheid,” said Meshoe.¹¹

Benjamin Pogrund, a veteran South African journalist and anti-apartheid activist, says that “those who accuse Israel of apartheid—some even say, ‘worse than apartheid’—have forgotten what actual apartheid was, or are ignorant, or malevolent.” Although he is critical of Israel’s policies in the West Bank, Pogrund adds, “from my perspective, there is none of the institutionalized racism, the *intentionality*, that underpinned apartheid in South Africa.” Pogrund explains, “In South Africa, the white rulers deliberately set about forcing segregation and discrimination into every aspect of life; that was their intention from the start, with the aim of securing power and privilege for the white minority.”¹² However, “that is not Israel on the West Bank. There is no ideological aim to discriminate against Palestinians.”¹³

One of Israel’s most famous critics, Judge Richard Goldstone, author of the UN’s 2009 Goldstone Report which excoriated Israel over its war that year with Hamas, wrote in the *New York Times* that accusing Israel of apartheid “is an unfair and inaccurate slander against Israel.” The former South

African judge said that “in Israel, equal rights are the law, the aspiration and the ideal; inequities are often successfully challenged in court.”¹⁴

Judge Goldstone also categorically rejected any claims of apartheid in the West Bank, stating:

There is no intent to maintain ‘an institutionalized regime of systematic oppression and domination by one racial group.’ This is a critical distinction, even if Israel acts oppressively toward Palestinians there. South Africa’s enforced racial separation was intended to permanently benefit the white minority, to the detriment of other races. By contrast, Israel has agreed in concept to the existence of a Palestinian state in Gaza and almost all of the West Bank and is calling for the Palestinians to negotiate the parameters.

10 Marissa Newman, *South Africa’s de Klerk: Israel not an apartheid state*, **Times of Israel** (May 27, 2014), <https://www.timesofisrael.com/south-africas-de-klerk-israel-not-an-apartheid-state/#gs.gd4njv>.

11 *I know what apartheid was, and Israel is not apartheid, says S. African parliament member*, **Jerusalem Post** (Aug. 25, 2015), <https://www.jpost.com/Israel-News/Politics-And-Diplomacy/I-know-what-apartheid-was-and-Israel-is-not-apartheid-says-S-African-parliament-member-413101>.

12 Benjamin Pogrund, *Why Israel is nothing like apartheid South Africa*, **New York Times** (March 31, 2017), <https://www.nytimes.com/2017/03/31/opinion/why-israel-is-nothing-like-apartheid-south-africa.html>.

13 Raphael Ahren, *Is Israel an apartheid state? Answers from someone who’d know*, **Times of Israel** (Dec. 30, 2014), <https://www.timesofisrael.com/is-israel-an-apartheid-state-answers-from-someone-whod-know/#gs.gd8f2m>.

14 Richard Goldstone, *Israel and the apartheid slander*, **New York Times** (Oct. 31, 2011), <https://www.nytimes.com/2011/11/01/opinion/israel-and-the-apartheid-slander.html>.

CLAIM 4:

“ISRAEL COMMITS ETHNIC CLEANSING AGAINST THE PALESTINIANS”

EXAMPLES:

Qatar, 42nd session

“This is a racist settler occupation that seeks ethnic cleansing against Palestinians and the destruction of their identity.”

Kuwait, 41st session

“The occupying Power continues...to pursue a policy of ethnic cleansing.”

South Africa, 42nd session

“South Africa is concerned that the annexation of Palestinian territory is highly likely in the South Hebron Hills and Jordan Valley, selected because of their low population density, with potential for ethnic cleansing.”

RESPONSE:

UN Watch

Ethnic cleansing, according to the United Nations, “has not been recognized as an independent crime under international law.” However, the term, which originated in the context of the conflict in the former Yugoslavia in the 1990s, is used in various UN resolutions and institutions as well as in other international bodies.

The UN commission of experts that investigated international law violations in the Yugoslavia conflict applied the following definitions: “rendering an area ethnically homogeneous by using force or intimidation to remove persons of given groups from the area” and “a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas.”¹⁵

Ethnic cleansing in former Yugoslavia

In that conflict, Serbian forces used violence to remove the non-Serbian local population from certain strategic areas that linked Serbia proper with Serb-inhabited areas in Bosnia and Croatia. As documented by the UN Commission on Yugoslavia and the International Criminal Tribunal for the Former Yugoslavia, the means used included mass murder, torture, rape and other forms of sexual assault; burning villages to the ground; destruction of cultural or religious monuments; and forcible expropriation of property.¹⁶ These acts were carried out in a manner designed to instill terror among the local civilians and cause them to flee. Furthermore, they were highly orchestrated—supervised by “crisis committees,” which were comprised of local leaders working with the Bosnian-Serb Army.

15 *Ethnic Cleansing, United Nations Office on Genocide Prevention and the Responsibility to Protect* (last visited Jan. 17, 2021), <https://www.un.org/en/genocideprevention/ethnic-cleansing.shtml>.

16 *Letter Dated 24 May 1994 From The Secretary-General To The President Of The Security Council*, UN Doc. S/1994/674 (May 27, 1994), <https://undocs.org/S/1994/674>; *Landmark Cases, United Nations International Criminal Tribunal for the former Yugoslavia*, <https://www.icty.org/en/features/crimes-sexual-violence/landmark-cases>.

This was epitomized in the Bosnian-Serb Army's July 1995 invasion of Srebrenica, a UN-declared safe zone. General Ratko Mladic, later convicted of war crimes, oversaw the deportation of 23,000 women and children and the massacre of over 8,000 boys and men aged 12 to 77.¹⁷ The Islamic State's August 2014 massacre of Yazidi men and forced enslavement of Yazidi women and children is a more recent example of ethnic cleansing.¹⁸ In a 2016 report, the UN Commission of Inquiry on Syria quoted the Islamic State's own words regarding its intent to kill the Yazidi men and enslave the women.¹⁹

Israel is not committing ethnic cleansing

By any definition of the term, Israel is not committing ethnic cleansing against the Palestinians in Gaza and the West Bank. Indeed, since Israel won territories in the Arab-Israeli War of 1967, the only forcible mass removal of populations has been Israel's removal of Israeli Jews from the Sinai in 1982, and of Israeli Jews from Gaza in 2005.

The Israeli military's response to deadly Hamas rockets, suicide bombers or violent border confrontations and infiltrators, even when involving force or lethal force, has no connection with the examples cited above concerning Serbian forces and ISIS, and does not fit the UN experts' definition of ethnic cleansing.

Legal disputes about land rights do not amount to a purposeful policy to remove the Palestinians from their land. Land disputes are generally dealt with through the court system, which sometimes rules in favor of Palestinians. For example, in June 2018, the Israeli army evicted Jewish settlers from 15 homes which the Israeli Supreme Court ruled had been built on private Palestinian land.²⁰ In

other cases, the Israeli Supreme Court has ruled in favor of Palestinian land-owners and against the Israeli government seeking to use land for security infrastructure.²¹ Palestinians have the right to file direct petitions to Israel's Supreme Court when they believe their rights are being violated.

By contrast, however, the Palestinian Authority and Hamas have directed a purposeful policy to remove by violent and terror-inspiring means the Israeli Jewish civilian population from the West Bank and Gaza Strip. These Palestinian terror campaigns include the Second Intifada from 2000 to 2005, in which over 1,000 Israelis were killed and thousands more injured; the indiscriminate firing of thousands of terror rockets from Gaza into Israel causing deaths, injuries and property damage; the wave of terror in 2015-16 dubbed the Knife Intifada; and ongoing deadly terrorist attacks in the form of stabbings, car rammings, shootings and attacks using fire bombs and other explosives. In wake of the Second Intifada, Israel completely withdrew from the Gaza Strip and no Israeli Jews have resided there since 2005.

Palestinian law prohibits the sale of land to Israeli Jews and considers it an act of treason. Palestinians suspected of facilitating such sales have received harsh sentences, including life in prison with hard labor and the death penalty, and some have even been extrajudicially executed.²² Other Palestinian laws and policies promote violence against Israeli Jews to eliminate their presence in the West Bank. For example, Palestinian laws mandate financial rewards to convicted terrorists, increasing by severity of the crime. This encourages Palestinians to commit deadly terrorist attacks against Israeli Jews. The Palestinian Authority has justified these payments on grounds that the

17 *What happened in Srebrenica*, **Remembering Srebrenica** (last visited Jan. 17, 2021), <https://www.srebrenica.org.uk/what-happened/srebrenica-genocide/happened-srebrenica/>.

18 Matthew Levitt and A.J. Beloff, *Genocide or not, civilians need protection from ISIS*, **The Hill** (March 11, 2016), <https://thehill.com/blogs/pundits-blog/international/272648-genocide-or-not-civilians-need-protection-from-isis>.

19 *"They came to destroy": ISIS Crimes Against Yazidis*, UN Doc. A/HRC/32/CRP.2 (June 15, 2016), https://ohchr.org/Documents/HRBodies/HRCouncil/CoISyria/A_HRC_32_CRP.2_en.pdf.

20 Dedi Hayun, *Israeli forces evict settlers in West Bank land dispute case*, **Reuters** (June 12, 2018), <https://www.reuters.com/article/us-israel-palestinians-settlements/israeli-forces-evict-settlers-in-west-bank-land-dispute-case-idUSKBN1J81QO>.

21 Yotam Berger, *Israeli Army Suspends Seizure of Palestinian Land to Expand West Bank Checkpoint*, **Haaretz** (July 15, 2019), <https://www.haaretz.com/israel-news/premium-israeli-army-suspends-seizure-of-palestinian-land-to-expand-west-bank-checkpoint-1.7528360>; Isabelle Kershner, *Israeli Court Orders Barrier Rerouted*, **New York Times** (Sep. 5, 2007), <https://www.nytimes.com/2007/09/05/world/middleeast/05mid-east.html>.

22 *Palestinian court jails U.S.-Palestinian for life for Jerusalem land sale*, **Reuters** (Dec. 31, 2018), <https://www.reuters.com/article/us-israel-palestinians-usa-detainee/palestinian-court-jails-u-s-palestinian-for-life-for-jerusalem-land-sale-idUSKCN10U0JG>; *Palestinian handed death sentence*, **BBC** (April 29, 2009), <http://news.bbc.co.uk/2/hi/middle-east/8024281.stm>.

terrorists were acting on “orders” from the Palestinian Authority and carrying out the Palestinian “national interest.”²³

Jewish Israelis cannot live in or even enter the territories controlled by the PA (areas A and B of the West Bank), which include a number of Jewish holy sites, as they risk being physically assaulted or murdered. Indeed, Israel prohibits Israeli Jews from entering these areas precisely because it cannot guarantee their safety there. Israelis who have ended up in such areas, whether on purpose or by accident, have been attacked by angry mobs and needed to be rescued. Examples of this include the February 2018 attack on an Israeli who mistakenly entered the Palestinian town of Abu Dis near Maaleh Adumim²⁴; the February 2018 attack on IDF soldiers who accidentally entered the Palestinian city of Jenin²⁵; and the June 2016 attack on Israeli peace activists who visited the Palestinian city of Ramallah for an Iftar meal with Palestinian colleagues.²⁶

For more information about Palestinian Authority and Hamas antisemitism, see UN Watch’s 2018 submission to the UN treaty body review of Palestinian compliance with the Convention on Elimination of All Forms of Racism.²⁷

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- 23 Itamar Marcus and Nan Jacques Zilberdik, *PA admits: All Palestinian terrorists sent by PA; “receive orders from us,”* **Palestinian Media Watch** (May 8, 2019), <https://palwatch.org/page/15551>.
- 24 Elior Levy, Yishai Porat and Yoav Zitun, *Israeli enters Abu Dis and is attacked, his vehicle is torched,* **Ynet** (Feb. 2, 2018), <https://www.ynetnews.com/articles/0,7340,L-5079878,00.html>.
- 25 Adam Rasgon, *IDF soldiers rescued by PA security forces after accidentally entering Jenin,* **Jerusalem Post** (Feb. 12, 2018), <https://www.jpost.com/Arab-Israeli-Conflict/IDF-soldiers-assailed-by-Palestinians-after-accidentally-entering-Jenin-542398>.
- 26 Judah Ari Gross, *Israeli activists evacuated from Ramallah after car is set on fire,* **Times of Israel** (June 30, 2016), <https://www.timesofisrael.com/israeli-activists-evacuated-from-ramallah-after-car-is-set-on-fire/#gs.gxfgdo>.
- 27 *Alternative Report of United Nations Watch to the 99th Session of the Committee on the Elimination of Racial Discrimination for its review of State of Palestine,* **UN Watch** (July 12, 2019), <https://unwatch.org/wp-content/uploads/2012/01/Alternative-Report-of-United-Nations-Watch-to-the-99th-Session-of-the-Committee-on-the-Elimination-of-Racial-Discrimination-for-its-review-of-State-of-Palestine.pdf>.

CLAIM 5:

“PALESTINIAN REFUGEES HAVE A RIGHT OF RETURN”

EXAMPLES:

Algeria, 43rd session

“Action needs to be carried out to guarantee return for refugees...”

Iraq, 45th session

“Iraq renews its position of solidarity with the Palestinian people’s struggle to obtain their legitimate and inalienable rights, including the right to return...”

Oman, 45th session

“My delegation reaffirms that ending the misery of the Palestinian people and the violations they have been subjected to for decades can only be achieved by granting them the right to...returning refugees...”

RESPONSE:

UN Watch

These statements blame Israel for the plight of Palestinians who fled their homes in Mandatory Palestine or were forced to leave as a result of the 1948 Arab-Israeli War. However, that war could have been avoided, along with the refugee problem, had the Arab side accepted territorial compromise from the outset, in the form of the 1947 UN partition plan. The Jewish side accepted this compromise, while the Arab side responded by completely rejecting it and waging war against the Jews with the goal “to eliminate the Jews of Palestine, and to completely cleanse the country of them.”²⁸

At the end of the war, although many local Arabs had fled, many also remained. Those that remained became full citizens of Israel. By contrast, no Jews remained in any of the areas of Mandatory Palestine conquered by neighboring Arab countries like Jordan and Egypt. They either were expelled or killed. Moreover, the conflict also created hundreds of thousands of Jewish refugees who were forced to leave their homes in Arab countries. Unlike the Palestinians, these Jews moved on and settled in other countries and are no longer refugees.

Having lost the territorial war, Arab leaders began to view the refugees as another weapon in their war to eliminate the State of Israel, as documented in *The War of Return*, the authoritative new book by Dr. Einat Wilf and Adi Schwartz. In the words of Egyptian Foreign Minister Muhammad Salah al-Din in October 1949, “It is well known and understood that the Arabs, in demanding the return of the refugees to Palestine, mean their return as masters of the Homeland and not as its slaves. With greater clarity, they mean the liquidation of the State of Israel.”²⁹ Thus, the refugee issue has always been political rather than legal. Indeed, rec-

28 Adi Schwartz and Einat Wilf, *The War of Return*, **All Points Books** (2020), p. 17 (quoting Ismail Safwat, in charge of coordination between the different Arab forces during the 1948 war).

29 *Id.* at p. 37.

ognizing that this is a political issue which can only be resolved through negotiations, the Palestinians agreed in the Oslo Accords that it would be dealt with in final status negotiations.³⁰

As a legal matter, there is no “right of return” under international law. The 1951 Refugee Convention contains a prohibition against forcible return of refugees against their will (known as the right of non-refoulement), but not the reverse—a right of return for refugees.³¹ The United Nations High Commissioner for Refugees (UNHCR) recognizes three possible durable solutions for refugees—repatriation, local integration and resettlement—and “there is no formal hierarchy” among them, meaning that each is equally acceptable.³²

By UNHCR standards, over 4 million of the 5.5 million refugees currently registered with UNRWA already have benefitted from a durable solution—resettlement—and no longer qualify for refugee status. UNRWA admits on its website that most of the 2 million registered Palestinian refugees in Jordan have Jordanian citizenship.³³ Likewise, the nearly 2.2 million registered Palestinian refugees in the West Bank and Gaza already reside in their homeland, *i.e.*, territory that was once part of Mandatory Palestine and designated for a future Palestinian state—in fact, they never left this territory which begs the question of why they were classified as refugees in the first place.

The Palestinians base their claim to a legal “right of return” into the sovereign State of Israel on Paragraph 11 of General Assembly Resolution 194(III) of December 11, 1948 titled *Palestine – Progress report of the United Nations Mediator*. That resolution established a conciliation commission to mediate a resolution to the conflict. In that context, it included provisions concerning negotiating a final settlement (Para 6), Holy Places (Para 7), Jerusalem (Paras 8-9), facilitating economic development of the area (para 10) and refugees (para 11).

Resolution 194 does not create any legal rights. General Assembly resolutions by nature are political declarations which cannot confer legal rights. Furthermore, Paragraph 11 says nothing about an absolute “right of return.” It simply resolves that “refugees wishing to return to their homes and live at peace with their neighbors *should be permitted* to do so...and that compensation should be paid for the property of those choosing not to return...”³⁴ (Emphasis added). Use of the words “should be” and not “must be” confirms that this paragraph is not about the legal rights of the Palestinians, but about seeking a resolution to the conflict. The word “permitted” also indicates that the ultimate decision as to whether to allow the return of refugees would be left to the sovereign, *i.e.*, Israel.³⁵

In addition, the concept of “return” is presented as one option alongside the option of compensation and only for those wishing to “live at peace with their neighbors.” As explained above, at its core, the Palestinian insistence on an absolute right of return is antithetical to peace and thus to the spirit of Resolution 194, as it is intended to undermine the State of Israel’s sovereignty and ultimately bring about its demise.

Finally, consistent with international refugee law, the UN itself later adopted several resolutions presenting resettlement of Palestinian refugees in Arab states as a solution equivalent to return.³⁶ For example, General Assembly Resolution 393 (V), which “considers that...the reintegration of the refugees into the economic life of the Near East, either by repatriation or resettlement, is essential...”³⁷

30 Israeli Palestinian Interim Agreement, Article XXXI (Sep. 28, 1995), <https://mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20israeli-palestinian%20interim%20agreement.aspx>.

31 1951 Convention Relating to the Status of Refugees, Article 33, <https://www.unhcr.org/3b66c2aa10>.

32 *Solutions*, UNHCR (last visited Dec. 24, 2020), <http://www.unhcr.org/solutions.html>; *UNHCR Resettlement Handbook*, UNHCR, p. 30 (2011), <http://www.unhcr.org/46f7c0ee2.pdf>.

33 Where We Work, UNRWA (last visited Dec. 24, 2020), <https://www.unrwa.org/where-we-work/jordan>.

34 *Palestine – Progress Report of the United Nations Mediator*, UN Doc. A/RES/194(III) (Dec. 11, 1948), [https://undocs.org/A/RES/194%20\(III\)](https://undocs.org/A/RES/194%20(III)).

35 *The War of Return* at p. 54.

36 *Id.* at p. 35.

37 *Assistance to Palestine Refugees*, UN Doc. A/RES 393(V) (Dec. 2, 195), [https://undocs.org/en/A/RES/393\(V\)](https://undocs.org/en/A/RES/393(V)).

CLAIM 6:

“ISRAEL’S BLOCKADE OF GAZA IS ILLEGAL”

EXAMPLES:

Libya, 40th session

“The occupying power is still practicing an unjust blockade on Gaza Strip and imposing collective punishment on citizens...”

Nicaragua, 41st session

“The illegal blockade imposed against the Gaza Strip is a systematic violation.”

North Korea, 42nd session

“The ongoing blockade of the Gaza Strip is a flagrant violation of international law...”

RESPONSE:

UN Watch

The United Nations itself, in the Secretary-General’s Panel of Inquiry report of 2011 concerning the Mavi Marmara incident from the previous year, found that Israel’s Gaza blockade is legal under international law. “Israel faces a real threat to its security from militant groups in Gaza,” determined the UN inquiry, headed by Sir Geoffrey Palmer, the former Prime Minister of New Zealand. “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.”³⁸ (See ¶ 82)

The UN inquiry’s additional specific findings, which belie the accusation by Libya, Nicaragua and North Korea that the Gaza blockade is illegal, include:

- The conflict between Israel and Hamas in Gaza is an international armed conflict for the purposes of the law of blockade. (See ¶ 73).
- Israel had intercepted ships smuggling weapons into Gaza, and it faced a real security threat from thousands of Gaza rocket and mortar attacks targeting civilians, the purpose of which was (and remains) “to do damage to the population of Israel.” (See ¶ 72).
- The blockade was declared and notified, and it is implemented in an impartial manner. (See ¶¶ 75-76).
- The blockade was imposed pursuant to a valid military objective. It is not collective punishment against the people of Gaza for having elected Hamas, as Israel’s earliest maritime interceptions to prevent weapons smuggling to Gaza predated the Hamas take-over, and the blockade itself was instituted more than one year after the take-over. (See ¶ 77).

38 *Report of the Secretary-General’s Panel of Inquiry on the 31 May 2010 Flotilla Incident* (Sep. 2011), https://reliefweb.int/sites/reliefweb.int/files/resources/Full_Report_2235.pdf.

- The blockade is not disproportionate, as Gaza's port is too small to handle large shipments of goods, which are instead transferred to Gaza through land crossings. Thus, the impact of the blockade on the delivery of supplies to Gaza is "slight in the overall humanitarian situation." (See ¶ 78).

Significantly, the UN inquiry reviewed the reports of the detailed national investigations into the Mavi Marmara incident conducted by both Turkey and Israel (Turkel Commission Report).³⁹ On the issue of the legality of Israel's blockade, the UN inquiry agreed with Israel's legal analysis. For a summary of Israel's conclusions, see ¶ 112 of the Turkel Commission Report.

For more information on the UN inquiry's Palmer Report, see analysis by legal expert Tervor S. Norwitz.⁴⁰

Moreover, while Israel has maintained a naval blockade on the Gaza Strip and restrictions on land crossings due to Hamas's control of the Strip and its ongoing terrorism against Israel, there has always been significant traffic in goods and services between Israel and Gaza. Israel administers two crossing points, Kerem Shalom, which is the main crossing point for goods, and the Erez crossing for people, including Gazans in need of medical treatment, foreign officials, journalists and Palestinians from Israel and the West Bank.

Contrary to the images conjured up by the "illegal blockade" accusation, every day an average of 800 trucks enter the Gaza Strip carrying food, medical equipment, fuel, building materials, agricultural inputs, textile products and more, according to Israel's Office of Coordination of Government Activities in the Territories (COGAT), which publishes weekly data about humanitarian traffic in and out of Gaza. In the first week of May 2020, 260

tons of medical supplies were transferred to Gaza through the Kerem Shalom crossing, in addition to 12,500 tons of food, 100 tanks of fuel and 355 tons of agricultural products.⁴¹ Also, on May 7, 2020, Israel facilitated the transfer to Gaza of a Watergen water machine that can create 600 liters of water per day from air.⁴²

This movement of goods and services continues even during closures due to Hamas rocket attacks. For example, despite hundreds of rockets fired against Israel from Gaza in the summer of 2018, Israel continued to allow food and medical supplies into Gaza. On August 13, 2018, the day before Israel reopened the crossings, COGAT reported the transfer of 3,889 tons of goods in 156 trucks, which entered Gaza through Kerem Shalom Crossing.⁴³

Notably, trade conducted through the Egyptian side of the Gaza border (which began only in February 2018) is only 10% of the trade passing through the Kerem Shalom crossing. Critics of Israel tend to overlook Egypt's role in sealing off Gaza.⁴⁴ Egypt administers the Rafah Crossing which has been effectively closed since Hamas took over the Gaza Strip in 2007, opened only intermittently to allow limited movement of medical cases, students with visas to study abroad, and holders of foreign passports or residency permits.⁴⁵ In February 2020, Egypt commenced work on a concrete barrier along its border with Gaza.⁴⁶

39 *The Public Commission to Examine the Maritime Incident of 31 May 2010 report Part I, The Turkel Commission* (Jan. 2010), <http://www.turkel-committee.gov.il/files/worddocs/8808report-eng.pdf>.

40 Trevor S. Norwitz, *The Importance of the Palmer Report*, **UN Watch** (2011), <https://unwatch.org/issue-315-importance-palmer-report/>.

41 @cogatonline, **Twitter** (May 10, 2020, 4:54 PM), <https://twitter.com/cogatonline/status/1259481844019531777>.

42 @cogatonline, **Twitter** (May 7, 2020, 7:59 PM), <https://twitter.com/cogatonline/status/1258441249532624896>.

43 Judah Ari Gross, *Key Gaza crossing reopens as calm along border holds*, **Times of Israel** (Aug. 15, 2018), <https://www.timesofisrael.com/key-gaza-crossing-set-to-fully-reopen-as-calm-along-border-holds/#gs.gd5o16>; @cogatonline, **Twitter** (Aug. 13, 2018, 11:55 AM), <https://twitter.com/cogatonline/status/1028927903491403776>.

44 Neri Zilber, *New Gaza Crossing Raises Questions About Blockade Policies*, **The Washington Institute** (Oct. 23, 2019), <https://www.washingtoninstitute.org/policy-analysis/view/new-gaza-crossing-raises-questions-about-blockade-policies>.

45 Khaled Abu Toameh, *Why Egypt Does Not Want to Help Gaza*, **Gatestone Institute** (Sep. 11, 2019), <https://www.gatestoneinstitute.org/14859/egypt-gaza-help>.

46 AFP and TOI staff, *Egypt begins building concrete wall along Gaza border*, **Times of Israel** (Feb. 19, 2020), <https://www.timesofisrael.com/egypt-begins-building-concrete-wall-along-gaza-border/#gs.gd5xz3>.

CLAIM 7:

“THE PROTESTERS AT THE GAZA BORDER WERE PEACEFUL”

EXAMPLES:

Somalia, 40th session

“We condemn the excessive use of force by Israeli security forces against peaceful Palestinian demonstrators at the Gaza fence...”

North Korea, 42nd session

“Ruthless suppression of peaceful protesters, disproportionate use of force by Israel...”

Libya, 42nd session

“In 2018, 307 Palestinians were killed, 96 were wounded and that during peaceful demonstrations.”

RESPONSE:

UN Watch

Hamas co-founder Mahmoud al-Zahhar admitted to Al-Jazeera on May 13, 2018 that using the term “peaceful resistance” to describe the March of Return border confrontations amounted to “deceiving the public.”⁴⁷ While the majority of participants in the so-called demonstrations, which commenced in March 2018, were unarmed civilians, many were armed members of Hamas, which has been designated as a terrorist group by the United States, the European Union, Japan, Canada and other countries.

Hamas uses sophisticated military strategy and tactics, and is funded, armed and trained by the Islamic Republic of Iran. Hamas’ strategy was deliberately to embed violent attackers within crowds of otherwise non-violent demonstrators. The violent actions of the Hamas attackers at the border had nothing in common with peaceful demonstrations, nor even with riots that take place in an urban context. Rather, these were military-organized border confrontations, amounting to an assault on Israel’s international border with Gaza.

The border confrontations were marked by violence, including throwing Molotov cocktails, catapulting flaming kites into Israeli territory in order to set fields on fire and cause harm, stone-throwing, attempts to cut through the border fence and infiltrate Israel, and firing at Israeli soldiers.⁴⁸ In less than six months, the arson kites had burned over 7,000 acres of land, causing millions of dollars of damage to Israeli agricultural land and nature reserves, and threatening the welfare of Israeli civilians, including children playing in kindergarten.⁴⁹

47 Senior Hamas Official Mahmoud al-Zahhar on Gaza Protests: This Is Not Peaceful Resistance, It Is Supported By Our Weapons, **MEMRI** (May 13, 2018), <https://www.memri.org/tv/senior-hamas-official-mahmoud-zahhar-on-gaza-protests-this-is-not-peaceful-resistance>.

48 Amb. Alan Baker, *Did Israel Use “Disproportionate Force” to Protect the Gaza Fence?* **Jerusalem Center for Public Affairs** (May 28, 2018), <https://jcpa.org/article/did-israel-use-disproportionate-force-to-protect-the-gaza-fence/>.

49 *Arson kite lands in West Bank settlement vineyard, causing fire but no damage*, **Times of Israel** (Aug. 6, 2018), <https://www.timesofisrael.com/arson-kite-lands-in-west-bank-settlement-vineyard-causing-fire-but-no-damage/#gs.gcoabo>.

On April 27, 2018, for example, the attackers succeeded in breaching the fence for a short time.⁵⁰ A number of Palestinians arrested after breaching the border fence with Israel were armed.⁵¹ In the first two weeks of May 2018, attackers incited by Hamas burned down the Kerem Shalom border crossing, the main entry point for humanitarian aid into Gaza, causing extensive damage.⁵² Just before the May 14, 2018 protests, Hamas leaders posted to social media maps of the quickest routes into Israeli towns and villages.⁵³ The maps were widely shared on social media by Gazans intent on invading those communities.⁵⁴ Hamas officials incited to the murder of Israelis and rallied the crowds to violence with slogans like: “We will tear down the border and we will tear out their hearts from their bodies” (Yehya Sinwar),⁵⁵ and “Palestine and Jerusalem belong to us...We will break the walls of the blockade, remove the occupation entity and return to all of Palestine” (Ismail Haniyeh).⁵⁶ The weekly protests continued to be violent in 2019, with numerous examples of militant activity along the border fence and attempts to breach the fence. (See UN Watch’s Rebuttal to the UN Commission of Inquiry (COI) on Gaza,⁵⁷ and Response to its press conference of February 2019.⁵⁸ See also UN Watch’s Rebuttal to the High Commissioner’s September 2019 update on the COI.⁵⁹)

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- 50 Noga Tarnopolsky, *Palestinian protesters breach Israel-Gaza border fence; 3 killed, hundreds injured in clashes*, **LA Times** (April 27, 2018), <https://www.latimes.com/world/middleeast/la-fg-israel-gaza-friday-protests-20180427-story.html>.
- 51 *In third separate incident, 2 armed Palestinians arrested after crossing Gaza border into Israel*, **Ynet** (April 29, 2018), <https://www.ynetnews.com/articles/0,7340,L-5245866,00.html>.
- 52 Judah Ari Gross, *Israel reopens Gaza crossing, but Palestinians turn back some trucks*, **Times of Israel** (May 15, 2018), <https://www.timesofisrael.com/israel-reopens-gaza-crossing-but-palestinians-turn-back-some-trucks/#gs.gcpck2>.
- 53 *Israel drops leaflets on Gaza warning Palestinians to stay away from border fence ahead of US embassy move protests*, **Independent** (May 14, 2018), <https://www.independent.co.uk/news/world/middle-east/srael-gaza-us-embassy-protests-opening-jerusalem-border-fence-leaflets-a8350511.html>.
- 54 *The ‘Great Return March’ Campaign: An Initiative Sponsored By Hamas, Whose Goal Was To Breach The Border Fence, Penetrate Israeli Territory*, **MEMRI** (May 18, 2018), <https://www.memri.org/reports/great-return-march-campaign-initiative-sponsored-hamas-whose-goal-was-breach-border-fence>.
- 55 @Ostrov_A, **Twitter** (May 15, 2018, 11:09 AM), https://twitter.com/Ostrov_A/status/996301534718844928.
- 56 Khaled Abu Toameh, *Hamas vows Gaza protests to last until Palestinians ‘return to all of Palestine’*, **Times of Israel** (April 9, 2018), <https://www.timesofisrael.com/hamas-vows-gaza-protests-to-continue-until-they-return-to-all-of-palestine/#gs.gcr3kn>.
- 57 *Breaking: UN Watch rejects findings of today’s report by UN Commission of Inquiry on Gaza violence*, **UN Watch** (March 5, 2019), <https://unwatch.org/breaking-un-watch-rejects-findings-todays-report-un-commission-inquiry-gaza-violence/>.
- 58 *UN Watch response to press conference of UN Commission of Inquiry on Gaza*, **UN Watch** (March 2019), <https://unwatch.org/un-watches-response-press-conference-un-commission-inquiry-gaza/>.
- 59 *UN Watch rebuttal to High Commissioner’s Gaza COI update*, **UN Watch** (Sep. 2019), <https://unwatch.org/un-watches-rebuttal-to-high-commissioners-gaza-coi-update/>.

CLAIM 8:

“THE GAZA PROTESTERS WERE CIVILIANS”

EXAMPLES:

China, 40th session

“China opposes the use of force and condemns the violent acts against civilians.”

Arab Group, 41st session

“Mr. President, the civilian protesters who do not constitute any threat to life in Gaza continue to be subjected to lethal power by the occupying Power...”

Iraq, 42nd session

“We condemn...the excessive use of force against civilians.”

This accusation was also voiced in 2019 sessions in statements by Djibouti, the Gulf Cooperation Countries (GCC), Iraq, Nigeria and North Korea.

RESPONSE:

UN Watch

Framing the Gaza border events as civilian “distorts reality,” said military law expert Lt. Col. Geoffrey Korn at the UN Human Rights Council, at a side event hosted by UN Watch in March 2019. “What happened at that border, I think most rational observers would agree, was not an overall civilian protest, but the use of a civilian protest as a tactic in an ongoing armed conflict between Israel and Hamas.”⁶⁰

Indeed, classifying the border confrontations as a civilian protest ignores crucial evidence that the “March of Return” was in fact used as a cover for militant activities that were intended to harm Israeli soldiers and civilians. The voluminous evidence includes:

- Statements by Hamas leaders inciting attackers to murder Israelis and rallying the crowds to violence. Hamas Gaza leader Yehya Sinwar, for example, said: “We would rather die as martyrs than die out of oppression and humiliation...We are ready to die, and tens of thousands will die with us.” (*New York Times*, May 10, 2018)⁶¹
- Statement by Hamas Co-founder Mahmoud al-Zahhar admitting the protests are not “peaceful resistance.” (*Al Jazeera*, May 13, 2018)⁶²
- Hamas press release admitting that the marches are being conducted by “the organizations of jihad fighters,” and that they are managed and supervised by “combat organizations.” (*May 14, 2018*)⁶³

60 Renowned Law of War expert Geoffrey Corn testifies against biased UN report, **UN Watch** (March 18, 2019), <https://unwatch.org/renowned-law-of-war-expert-geoffrey-corn-testifies-against-biased-un-report/>.

61 David Halbfinger and Iyad Abuheweila, *As Gaza tears on precipice, a Hamas leader speaks out*, **New York Times** (May 10, 2018), <https://www.nytimes.com/2018/05/10/world/middleeast/gaza-protests-yehya-sinwar.html>.

62 Senior Hamas Official Mahmoud Al-Zahhar on Gaza Protests: This Is Not Peaceful Resistance, It Is Supported By Our Weapons, **MEMRI** (May 13, 2018), <https://www.memri.org/tv/senior-hamas-official-mahmoud-zahhar-on-gaza-protests-this-is-not-peaceful-resistance>.

63 Lt. Col. (ret.) Jonathan D. Halevi, *Why Is Hamas So Interested in Palestinian Deaths?* **Jerusalem Center for Public Affairs** (May 16, 2018), <https://jcpa.org/article/why-hamas-interested-palestinian-deaths/>.

- The establishment of special military-style units at the border, each responsible for a different type of tactic against Israel.⁶⁴
- Instructions posted on the March of Return Facebook page for the May 14 border confrontations, directing attackers to bring weapons (knife, dagger, or handgun), in order to attempt a mass breach of the border.⁶⁵
- Numerous examples of violent and militant activities at the border fence, including shooting attacks, planting IEDs at the fence, cutting the fence, and throwing Molotov cocktails into Israel. *See, e.g.,* Meir Amit Intelligence and Terrorism Information Center’s findings about the identities of Palestinians killed in the Gaza border confrontations⁶⁶; Tweet by analyst Joe Truzman with photos of Molotov Cocktails being prepared⁶⁷; Tweet by analyst Joe Truzman with video of machine gun attack on IDF jeep and homes in Sderot⁶⁸; Tweet by Hamas (@PalinfoAr) with video of Gazans cutting the border fence with wire cutters.⁶⁹
- Statements by attackers of their intent to breach the fence, invade Israeli communities and kill or kidnap Israelis. One attacker posted this on Facebook: “Kibbutz Kerem Shalom, east of Rafah, is only 300 meters from the

border. It has turkey pens, a football field and a pool, [although] it houses only 15 families. Pounce on them with knives.”⁷⁰

- Hamas politburo member Salah Bardawil’s admission on May 14, 2018 that 50 out of the 62 people killed on that day were Hamas members, and that more than 50% of those killed since the start of the border confrontations were Hamas members.⁷¹

For more information on the Gaza border confrontation, *see* UN Watch’s December 2018 submission to the COI on Gaza⁷²; Rebuttal to the COI on Gaza⁷³; and Response to the Gaza COI February 2019 press conference.⁷⁴

64 *Members of Gaza “Fence Cutters’ Unit” Proclaims: Victory or Martyrdom! – Scenes from Gaza “Return March,”* MEMRI (April 27, 2018), <https://www.memri.org/tv/fence-cutters-unit-gaza-proclaims-victory-or-martyrom>.

65 Itamar Marcus and Nan Jacques Zilberdik, “Bring a knife, dagger, or handgun,” kidnap Israeli civilians, and murder soldiers and settlers – Instructions on Facebook to Gazans for “March of Return,” **Palestinian Media Watch** (May 16, 2018), <https://palwatch.org/page/14246>.

66 *Findings of the ITIC’s examination of the identity of Palestinians killed in the events of the “Great Return March,”* **Meir Amit Intelligence and Terrorism Information Center** (May 28, 2018), <https://www.terrorism-info.org.il/en/findings-itics-examination-identity-palestinians-killed-events-great-return-march-march-30-2018-may-15-2018/>.

67 @JTruzmah, **Twitter** (May 14, 2018, 10:27 AM), <https://twitter.com/Jtruzmah/status/995928538661376000>.

68 @JTruzmah, **Twitter** (May 19, 2018, 9:37 AM), <https://twitter.com/Jtruzmah/status/997728018381488128>.

69 @PalinfoAr, **Twitter** (May 16, 2018, 12:27 AM), <https://twitter.com/PalinfoAr/status/996502411744370688>.

70 *The ‘Great Return March’ Campaign: An Initiative Sponsored By Hamas, Whose Goal Was To Breach The Border Fence, Penetrate Israeli Territory,* **MEMRI** (May 18, 2018), <https://www.memri.org/reports/great-return-march-campaign-initiative-sponsored-hamas-whose-goal-was-breach-border-fence>.

71 *Hamas Political bureau Member Salah Al-Bardawil: 50 of the Martyrs Killed in Gaza were from Hamas, 12 Regular People,* **MEMRI** (May 16, 2018), <https://www.memri.org/tv/hamas-politburo-member-bardawil-fifty-martyrs-were-hamas-members>.

72 *Submission to United Nations Commission of Inquiry on the 2018 Protests in the Occupied Palestinian Territory Established Pursuant to UNHRC Resolution S-28/1,* **UN Watch** (Dec. 9, 2018), <https://unwatch.org/wp-content/uploads/2012/01/Submission-to-Gaza-COI-United-Nations-Watch.pdf>.

73 *Breaking: UN Watch rejects findings of today’s report by UN Commission of Inquiry on Gaza violence,* **UN Watch** (March 5, 2019), <https://unwatch.org/breaking-un-watch-rejects-findings-todays-report-un-commission-inquiry-gaza-violence/>.

74 *UN Watch response to press conference of UN Commission of Inquiry on Gaza,* **UN Watch** (March 2019), <https://unwatch.org/un-watches-response-press-conference-un-commission-inquiry-gaza/>.

CLAIM 9:

“ISRAEL USED EXCESSIVE FORCE AGAINST GAZA PROTESTERS”

EXAMPLES:

North Korea, 40th session

“The indiscriminate and disproportionate killing by the Israeli military of civilians including children, women and elderly persons...”

Algeria, 41st session

“My country condemns the continuing and disproportionate use of excessive, unacceptable and unjustified force by Israel...”

Ecuador, 42nd session

“My country...condemns the disproportionate use of force used by Israel in the latest protests in the Gaza Strip...”

Accusation was also voiced in 2019 sessions by the Arab Group, China, Djibouti, Ecuador, GCC, Iraq, Maldives, Nigeria, North Korea and Somalia.

RESPONSE:

UN Watch

Blanket claims like this divorce these terms of their legal meaning and suggest that Israel must allow its own citizens to be attacked or killed before it can respond, in order to even out the body count. Like any other state, however, Israel has an inherent right to self-defense under international law, enshrined in Article 51 of the UN Charter.

“It is too simplistic to say a threat can never be imminent until the barrier is breached,” said Lt. Col. Geoffrey Korn, a legal scholar and expert in the laws of war. “What qualifies as an imminent threat when you’re trying to prevent a breach of a barrier that will result in an influx of hundreds if not thousands of protesters is a very complicated question.”⁷⁵

Col. Richard Kemp, a British military expert who traveled to the border multiple times to observe the events from close range, clarified this issue in his submission to the UNHRC Commission of Inquiry into the Gaza border confrontations:

Today, it is well accepted in international law that live ammunition can be used when there is a serious threat of death or injury, and where no other means have succeeded in confronting the threat. There is no requirement that the threat be ‘immediate’—rather, such force can be used at the point where it becomes ‘imminent’; *i.e.* when there is no intermediate stage in which an aggressive action can be prevented before it becomes an immediate threat.⁷⁶

The reality, wrote the former Commander of British forces in Afghanistan, is that:

⁷⁵ *Renowned Law of War expert Geoffrey Corn testifies against biased UN report*, **UN Watch** (March 18, 2019), <https://unwatch.org/renowned-law-of-war-expert-geoffrey-corn-testifies-against-biased-un-report/>.

⁷⁶ *Submission by Col. (Retd) Richard Kemp CBE to the United Nations Commission of Inquiry on the 2018 Protests in the Occupied Palestinian Territory*, **High Level Military Group** (Feb. 28, 2019), <http://www.high-level-military-group.org/pdf/hlmg-unhrc-col-richard-kemp-2.pdf>.

Under the conditions deliberately created by Hamas, there was no effective intermediate step that could have been taken, short of shooting those who posed an imminent threat. Had these people (who can hardly be called mere ‘demonstrators’) been permitted to reach the fence and breach it there would have been not just an imminent but an immediate threat to life, which could only have been prevented by inflicting far higher casualties.⁷⁷

Speaking at a UNHRC breakout session as the Commission of Inquiry presented its report to the plenary, Col. Kemp said that based on his own military experience “I could not work out any single way that the IDF could have operated differently and still achieve their objectives,” of protecting the Israeli population by avoiding a mass border breach.⁷⁸

Furthermore, it is essential to correct a common misunderstanding about both when and how the test of proportionality is applied under International Humanitarian Law (IHL). The test is not an ex post facto count of which side had more deaths; rather, it is a prospective consideration based on the military commander’s assessment—before his military action—of whether the expected civilian casualties will be excessive in relation to the anticipated military gain.⁷⁹

In fact, IHL accepts the possibility of civilian casualties (see Article 57 of the First Additional Protocol to the 1949 Geneva Conventions). The above accusations during the UNHRC’s Item 7 debate completely ignore the very real threat to the lives of Israeli civilians by Hamas-orchestrated attackers who sought to breach the Gaza border fence, intent on infiltrating nearby Israeli communities and murdering civilians. Under international law, it is up to the Israeli commanders to make case by case proportionality determinations, based on the real

time facts and data available at the time, to defend against the threat posed by these attackers at the border.

For more information on the Gaza border confrontation see UN Watch’s 2018 submission to the HRC Commission of Inquiry⁸⁰, response to the 2019 Commission of Inquiry’s report⁸¹ and response to the related press conference.⁸²

77 *Id.*

78 Col. Richard Kemp on UN Gaza Protests Inquiry, **YouTube** (Mar. 18, 2019), <https://www.youtube.com/watch?v=qizxk9sKFKk>.

79 Kenneth Anderson, *Laurie Blank follow-up on Gaza, proportionality, and the law of war*, **Washington Post** (Aug. 6, 2014), <https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/08/06/laurie-blank-follow-up-on-gaza-proportionality-and-the-law-of-war/>.

80 *Submission to United Nations Commission of Inquiry on the 2018 Protests in the Occupied Palestinian Territory Established Pursuant to UNHRC Resolution S-28/1*, **UN Watch** (Dec. 9, 2018), <https://unwatch.org/wp-content/uploads/2012/01/Submission-to-Gaza-COI-United-Nations-Watch.pdf>.

81 *Breaking: UN Watch rejects findings of today’s report by UN Commission of Inquiry on Gaza violence*, **UN Watch** (March 5, 2019), <https://unwatch.org/breaking-un-watch-rejects-findings-todays-report-un-commission-inquiry-gaza-violence/>.

82 *UN Watch response to press conference of UN Commission of Inquiry on Gaza*, **UN Watch** (March 2019), <https://unwatch.org/un-watches-response-press-conference-un-commission-inquiry-gaza/>.

CLAIM 10:

“ISRAEL COMMITS EXTRAJUDICIAL KILLINGS”

EXAMPLES:

Algeria, 41st session

“My country condemns [Israel’s] widespread use of summary and extrajudicial killings.”

State of Palestine, 42nd session

“Israel continues its illegal practices of targeting and killing children, people with special needs, paramedics, medical staff and journalists... and extrajudicial killings.”

Venezuela, 41st session

On behalf of ALBA (Cuba, Nicaragua & 6 other states)—“Numerous reports from the Office of the High Commissioner for Human Rights reveal a series of serious violations of human rights and international humanitarian law committed against the Occupied Palestinian Territory, including... extrajudicial executions...”

RESPONSE:

UN Watch

The Israeli military does engage in targeted killings of high-level Palestinian terrorists, such as senior leader of the Palestinian Islamic Jihad Baha Abu al-Ata. However, as noted by Yale Law School Professor Harold Koh, this does not amount to “extrajudicial killing” and is not a violation of international law. The Supreme Court of Israel addressed the legality of targeted killings under international law in its 2006 judgment in *The Targeted Killings Case*.⁸³ The court found that targeted killings were permissible under the Laws of Armed Conflict and that “the legality of each individual act must be determined in light thereof,” *i.e.*, each case must be assessed on its own merits. At the same time, the Supreme Court imposed limitations and restrictions on the practice to ensure it would not be abused. A 2010 article in the *Harvard National Security Journal*, which concluded that the practice of targeted killings was “legally justifiable” and “morally permissible” in the war on terror, described the *Targeted Killings* decision as “the most comprehensive judicial decision ever rendered addressing the legal framework of the ‘war on terrorism.’”⁸⁴

In a Brookings Institution paper, Israeli MK Avi Dichter, former head of the Israeli Security Agency, and Daniel Byman, Director of the Georgetown University Center for Peace and Security Studies Program, wrote the following:

The Israelis have developed an entire method for implementing targeted killings. The key requirement is superb intelligence... Israel also goes through several steps to minimize the loss of innocent life. Only those individuals who cannot be easily arrested can be considered for the list of targets. The Israeli

83 *Israel Supreme Court decision on targeting terrorist operatives*, **Israel Ministry of Foreign Affairs** (Dec. 20, 2006), <https://mfa.gov.il/mfa/aboutisrael/state/law/pages/israel%20supreme%20court%20decision%20on%20targeting%20terrorist%20operatives%2020-dec-2006.aspx>.

84 Gabriella Blum and Philip Heymann, *Law and Policy of Targeted Killing*, **Harvard National Security Journal** (June 27, 2010), https://harvardnsj.org/wp-content/uploads/sites/13/2015/01/Vol-1-Blum-Heymann_Final.pdf.

intelligence services then carefully evaluate these individuals, with only the most dangerous arch terrorists put on the list to be killed...

The government prohibits targeted killings in crowded areas, such as narrow streets where many innocents may be present. As a result, Israel has passed up a number of opportunities to kill terrorist leaders during parades because of crowded conditions and because the inevitable panic that would follow such an attack would lead to innocent deaths.⁸⁵

It is notable that during President Barack Obama's tenure, the U.S. conducted hundreds of drone strikes targeting terrorists in Pakistan, Somalia, Yemen and elsewhere. In a March 2010 speech to the American Association of International Law, Harold Koh, then Legal Advisor for the State Department, rejected the argument that these drone strikes constituted extrajudicial killings. In addition to applying "extremely robust" procedures to identify targets, Koh explained that the U.S. "rigorously" implemented "the principles of distinction and proportionality" to ensure its operations were "conducted in accordance with all applicable law."⁸⁶ Distinction prohibits targeting of civilian objects, *i.e.* only military objectives are lawful targets. Proportionality prohibits strikes that will result in incidental death or injury to civilians that would be clearly excessive in relation to the anticipated military advantage.

Other Obama administration officials likewise defended the legality of the U.S. drone strikes. For example, in February 2012, General Counsel for the Department of Defense Jeh Johnson stated: "Under well-settled legal principles, lethal force against a valid *military* objective, in an armed conflict, is consistent with the law of war and does not, by definition, constitute an 'assassination.'"⁸⁷

President Obama himself justified the U.S. strikes in a January 2012 speech, emphasizing that the targets were "on a list of active terrorists who are trying to go in and harm Americans, hit American facilities, American bases, and so on."⁸⁸

In addition to the targeted killings of high-level terrorists, Israeli security forces are routinely faced with individual or small team attacks requiring them to make quick assessments in the field as to whether a particular gunman or infiltrator from the West Bank or Gaza poses an imminent threat to life. When faced with life-threatening situations, such as attacks by armed Palestinians at checkpoints or infiltration of armed Palestinians into Israel through the Gaza security fence, Israeli soldiers may use force commensurate with the threat, including deadly force. Even seemingly "harmless" activities like rock throwing can be life-threatening. In the last two years, two Israeli soldiers were killed by rocks—including by marble slabs dropped on their heads from rooftops—and Israeli civilians have also been killed by rocks thrown at cars, causing fatal crashes.⁸⁹

International law permits the use of deadly force by security forces for self-defense, and the IDF uses deadly force as a matter of last resort when other less lethal means cannot be used. As the Supreme Court of Israel recently stated in its decision concerning Israel's Rules of Engagement for the Gaza border confrontations: "The basic principles of international law also permit the use of potentially lethal force, provided that it is applied for recognized and specific objectives—*inter alia*, for the sake of self-defense, or the defense of others..." (HCJ 3003/18 and HCJ 3250/18, May 24, 2018).⁹⁰

Thus, use of deadly force by the Israeli security forces for self-defense is legal under international law subject to compliance with the applicable IDF rules which are drafted pursuant to legal advice

85 Avi Dicter and Daniel L. Byman, *Israel's Lessons For Fighting Terrorists And Their Implications For The United States*, **Brookings Institution** (March 8, 2006), <https://www.brookings.edu/wp-content/uploads/2016/06/byman20060324.pdf>.

86 Micah Zenko, *How the Obama Administration Justifies Targeted Killings*, **Council on Foreign Relations** (July 5, 2012), <https://www.cfr.org/blog/how-obama-administration-justifies-targeted-killings>.

87 *Id.*

88 *Id.*

89 Judah Ari Gross, *IDF soldier killed by rock thrown at his head during West Bank arrest raid*, **Times of Israel** (May 12, 2020), <https://www.timesofisrael.com/idf-soldier-killed-by-rock-thrown-at-his-head-during-west-bank-arrest-raid/#gs.gd77gf>; *Man killed in Jerusalem rock-throwing attack named as Alexander Levlovitz*, **Times of Israel** (Sep. 15, 2015), <https://www.timesofisrael.com/man-killed-in-jerusalem-rock-throwing-attack-named-as-alexander-levlovitz/#gs.gd77v9>.

90 *Yesh Din, et al. v. IDF Chief of Staff, et al.*, Case No. HCJ 3003/18 and HCJ 3250/18, **Supreme Court of Israel** (May 24, 2018), <https://supremecourt.gov.il/Home/Download?path=EnglishVerdicts%5C18%5C030%5C030%5Ck08&fileName=18030030.K08&type=4>.

and in accord with international law. When a soldier departs from the IDF rules, such as in the Elor Azaria case, the IDF has shown that it will prosecute the soldier and punish him accordingly.⁹¹ Israel also has avenues for civilian review by the Attorney General, and judicial review, including by the Supreme Court.⁹²

91 Yoav Zitun and Yonatan Baniyeh, *Sgt. Elor Azaria convicted of manslaughter after Hebron shooting*, **Ynet** (April 1, 2017), <https://www.ynetnews.com/articles/0,7340,L-4902894,00.html>.

92 *The IDF Military Justice System*, **IDF** (last visited Jan. 17, 2021), <https://www.idf.il/en/minisites/military-advocate-generals-corps/the-idf-military-justice-system/>.

CLAIM 11:

“ISRAEL ARBITRARILY DETAINS PALESTINIAN CHILDREN”

EXAMPLES:

Palestine, 42nd session

“Israeli occupying forces perpetrate all forms of violations including the arbitrary detention of children...”

South Africa, 40th session

“It is a matter of concern to us that mass arbitrary arrests, including of women and children, by Israeli forces continue...”

Oman, 41st session

“My delegation condemns all violations committed against the Palestinians and expresses its concern about the detention of children and all illegal practices committed against them...”

RESPONSE:

UN Watch

It is true that Israel arrests Palestinian minors who commit stabbings, throw Molotov cocktails or engage in other violence or terrorist activity, in many cases under the direction of Hamas or other groups. Even though many are arrested in an armed conflict situation, the rate of Israel’s arrest of Palestinian minors is less than the rate of minors arrested in other democracies in regular situations, for example five times lower than England and Wales.⁹³ Moreover, according to data from the Israel Prison Service, the average monthly number of Palestinian minors in Israeli detention has steadily declined from 2016 to 2019. This is attributable to a decrease in participation of Palestinian minors in terror activity.

There is no evidence that IDF arrests of Palestinian minors is “arbitrary.” Regrettably, Palestinian minors often take part in terrorist activity and have carried out violent terrorist attacks, including deadly terrorist attacks.

For example:

- *October 2015*: two teenage Palestinian boys seriously wounded two Israelis, including a 13-year-old boy riding his bicycle, in stabbing attack in Pisgat Ze’ev neighborhood of Jerusalem.⁹⁴
- *January 2016*: 16-year-old Palestinian Morad Bader Abdullah Adais stabbed to death Israeli mother-of-six Dafna Meir at her home.⁹⁵

93 *No Way to Represent a Child: Defense for Children International Palestine’s Distortions of the Israeli Justice System*, **NGO Monitor** (Sep. 2017), http://www.ngo-monitor.org/pdf/DCIP_No_Way_to_Represent_A_Child_Web.pdf.

94 Daniel K. Eisenbud, *Two teens, 13 and 15, carry out Pisgat Ze’ev terror attack, critically hurt 13-year-old*, **Jerusalem Post** (Oct. 12, 2015), <https://www.jpost.com/arab-israeli-conflict/initial-report-stabbing-attack-in-pisgat-zev-third-of-day-in-jerusalem-423719>.

95 *Palestinian teen convicted in killing of Dafna Meir*, **Times of Israel** (May 3, 2016), <https://www.timesofisrael.com/palestinian-teen-convicted-in-killing-of-dafna-meir/#gs.gxjxf7>.

- *January 2016*: 17-year-old Palestinian Hussein Muhammad Abu Ghosh with an accomplice stabbed to death 23-year-old Shlomit Krigman.⁹⁶
- *June 2016*: 17-year-old Palestinian Mohammed Taraireh stabbed to death 13-year-old Hallel Yaffa Ariel as she slept.⁹⁷
- *August 2019*: Palestinian teens stabbed Israeli police officer near the entrance to Jerusalem’s Temple Mount.⁹⁸
- *Feb. 2020*: 17-year-old Palestinian teen threw Molotov cocktail at Israeli soldiers.⁹⁹

These are not isolated examples. They reflect the pervasive culture of hatred and violence inculcated in Palestinian youth from a very early age. *See* critique of Palestinian Authority by Israeli and American security experts.¹⁰⁰ Through the education system and the media, Palestinian children are taught that Israel has no right to exist because Israel-proper really belongs to Palestine.¹⁰¹ These children are encouraged to follow in the footsteps of famous terrorists, who are honored and glorified. Israel, Israelis, and Jews are routinely demonized.¹⁰²

UN stakeholders must address Palestinian education to hate

Instead of condemning Israel for legitimately arresting Palestinian children committing acts of terrorism, UN stakeholders ought to hold the Palestinian Authority accountable for its state-sanctioned incitement of children to violence and martyrdom, which the Committee on Elimination of Racial Discrimination found “fuels hatred and may incite violence, particularly hate speech against Israelis, which at times also fuels antisemitism.”¹⁰³ This violates the Convention on the Rights of the Child and other international treaties.¹⁰⁴

Indeed, the Palestinian educational curriculum is known to be notoriously anti-peace. Recent studies by IMPACT-se, the Institute for Monitoring Peace and Tolerance in School Education, have found that Palestinian textbooks, in breach of UNESCO standards for peace and tolerance, radicalize Palestinian children by severely demonizing Israel, glorifying martyrdom, teaching that Palestinians will “return” to and defeat Israel. Western governments, including the EU, UK, and US have denounced this teaching of hate to children.¹⁰⁵ On May 14, 2020, the European Parliament adopted a resolution expressing concern that “problematic material in Palestinian school

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- 96 *The stabbing attack in Beit Horon showed an increase in relative complexity, daring and premeditation*, **Meir Amit Intelligence and Terrorism Information Center** (Jan. 27, 2016), <https://www.terrorism-info.org.il/en/20947/>.
- 97 Elisha Ben-Kimon, Elior Levy, *Teenage girl killed, man hurt in Kiryat Arba stabbing attack*, **Ynet** (June 30, 2016), <https://www.ynetnews.com/articles/0,7340,L-4822376,00.html>.
- 98 Maayan Jaffe-Hoffman, *Hamas: Murder Israeli policeman who shot 17-year-old Palestinian stabber*, **Jerusalem Post** (Aug. 19, 2019), <https://www.jpost.com/israel-news/hamas-murder-israeli-policeman-who-shot-17-year-old-palestinian-stabber-599096>.
- 99 Judah Ari Gross and Jacob Magid, *Palestinian teen shot dead as he threw firebomb at troops – army*, **Times of Israel** (Feb. 5, 2020), <https://www.timesofisrael.com/palestinian-teen-shot-dead-as-he-threw-firebomb-at-troops-army/#gs.gxkxm2>.
- 100 Yosef Kupperwasser and Sander Gerber, *Abbas’ Palestinian Authority Hurts Everybody*, **Tablet** (Feb. 9, 2020), <https://www.tabletmag.com/sections/israel-middle-east/articles/palestinian-authority-peace-plan>.
- 101 *Written Submission of United Nations Watch to the 83rd Session and Pre-Sessional Working Group of the Committee on the Rights of the Child for its review of State of Palestine*, pp. 5-14, **UN Watch** (March 1, 2019), <https://unwatch.org/wp-content/uploads/2012/01/United-Nations-Watch-Shadow-Report-to-CRC-on-State-of-Palestine.pdf>.
- 102 See studies of Palestinian curriculum by IMPACT-se which analyzes education for compliance with the UNESCO standards of peace and tolerance, available at <https://www.impact-se.org/reports/palestinian-territories/>; European Parliament passes resolutions condemning Palestinian failure to stop hate in school textbooks, **EU Reporter** (May 18, 2020), <https://www.eureporter.co/frontpage/2020/05/18/european-parliament-passes-resolutions-condemning-palestinian-failure-to-stop-hate-in-school-textbooks/> (discussing EU Parliament resolutions condemning PA for teaching hate and violence in textbooks).
- 103 *Concluding observations on the combined initial and second periodic reports of the State of Palestine*, **Committee on Elimination of Racial Discrimination**, UN Doc. CERD/C/PSE/CO/1-2 (Aug. 29, 2019), https://unwatch.org/wp-content/uploads/2012/01/Concluding-Observations-CERD_C_PSE_CO_1-2_36938_E.pdf.
- 104 *See, e.g.*, UN Watch written statement to the 44th Session of the Human Rights Council on Palestinian Violations of Child Rights, UN Doc. A/HRC/44/NGO/132 (July 17, 2020), <https://unwatch.org/hrc-44-written-statement-palestinian-violations-of-child-rights/>.
- 105 Marcus Sheff, *Doubling down on the PA’s curriculum deception*, **Times of Israel** (Feb. 15, 2019), <https://blogs.timesofisrael.com/doubling-down-on-the-pas-curriculum-deception/>.

textbooks has still not been removed,” and over the PA’s “continued failure to act effectively against hate speech and violence in school textbooks.”¹⁰⁶

Incitement of Palestinian children to violence is also pervasive in statements by Palestinian officials and in the media. For example, Palestinian officials, including school officials, regularly reject Israel’s right to exist and praise child terrorists as “martyrs.”¹⁰⁷ Both Palestinian Authority and Hamas television routinely screen content for children glorifying martyrdom and praising children for endorsing violence.¹⁰⁸ For example, in a December 2019 PA TV program, the host demonized Israelis as child killers while children recited a poem exalting martyrdom: “The blood of the Martyrs flows in my veins... My sword is drawn and won’t return to the sheath... the Dark-Eyed [Virgins] yearn for me...”¹⁰⁹

Children are further propelled to violence by the common Palestinian practices of turning terrorists into role models through the naming of schools, summer camps and youth centers after terrorists, and exploiting youth activities to train children in terrorism. For example, in the summer of 2019, a Hamas summer camp provided children with terrorist training, while a Palestinian Authority summer camp had children chanting praise for famous terrorists such as Abu Iyad, who masterminded the slaughter of Israeli athletes at the 1972 Munich Olympics.¹¹⁰

Having been indoctrinated from an early age to hate Israel and aspire to martyrdom, it should not be surprising that Palestinian children engage in terrorist violence, and that they are then arrested for such criminal activity. Even 17-year-old Ahed Tamimi, who was embraced in a massive social media

campaign by Amnesty International, endorsed blood, violence and martyrdom after being released from Israeli prison in 2018, when she pledged “to continue on the path of the martyrs, so that their blood will not have been shed in vain,” adding “we shall always continue on their path... even sacrificing my life, for the sake of liberating Palestine.”¹¹¹

Finally, if UN stakeholders are genuinely concerned about arbitrary arrest in the Palestinian territories, they ought to address the Palestinians’ own record with regard to arbitrary arrest of children. Both the Palestinian Authority and Hamas have been known to arrest children without any basis and to subject them to harsh treatment, including torture, in violation of international law. For example, in August 2018, Hamas arrested and tortured a 13-year-old boy who got into a fight with the son of a Hamas military leader. Similarly, in September 2015, the PA police beat and detained a 14-year-old boy who got into a fight with other children outside a wedding party.¹¹²

For more information on Palestinian Authority and Hamas violations against children, see UN Watch’s 2019 submission to the Committee on the Rights of the Child.¹¹³

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- 106 Raphael Ahren and TOI Staff, *EU parliament passes resolution condemning hate speech in Palestinian textbooks*, **Times of Israel** (May 15, 2020), <https://www.timesofisrael.com/eu-parliament-passes-resolution-condemning-hate-speech-in-palestinian-textbooks/#gs.gxp0in>.
- 107 *Palestinian education official*, **Palestinian Media Watch** (Dec. 27, 2017), <https://palwatch.org/page/13555>; *PA Directorate of Education representative at event at school commemorating terrorist who killed 3*, **Palestinian Media Watch** (April 24, 2016), <https://palwatch.org/page/10123>.
- 108 *Children & Education: Violence and Martyrdom for Kids*, **Palestinian Media Watch** (last visited Jan. 17, 2021), <https://palwatch.org/analysis/37>.
- 109 *“The Dark-Eyed [Virgins] yearn for me”- Martyrdom-death promoted to kids on PA TV children’s program*, **Palestinian Media Watch** (Dec. 2, 2019), <https://palwatch.org/page/16977>.
- 110 *COGAT: Hamas summer camp trains kids to ‘commit acts of terror;’* **Jerusalem Post** (June 11, 2020), <https://www.jpost.com/middle-east/cogat-reports-hamas-summer-camp-back-in-session-595804>.
- 111 *Palestinian teen icon Tamimi urges more assaults on Israeli troops*, **Times of Israel** (Oct. 25, 2018), <https://www.timesofisrael.com/palestinian-teen-icon-tamimi-urges-more-assaults-on-israeli-troops/>.
- 112 *Hamas fighters torture 13-year Adham, because he hit son of Hamas military leader*, **Palestinian Media Watch** (Aug. 29, 2018), <https://palwatch.org/page/14624>; *Child endures beating by a Palestinian police officer in Jericho*, **DCI-Palestine** (Sep. 10, 2015), https://www.dci-palestine.org/child_endures_beating_by_a_palestinian_police_officer_in_jericho.
- 113 *Written Submission of United Nations Watch to the 83rd Session and Pre-Sessional Working Group of the Committee on the Rights of the Child for its review of State of Palestine*, pp. 5-14, **UN Watch** (March 1, 2019), <https://unwatch.org/wp-content/uploads/2012/01/United-Nations-Watch-Shadow-Report-to-CRC-on-State-of-Palestine.pdf>.

CLAIM 12:

“ISRAEL ARBITRARILY WITHHOLDS BODIES OF PALESTINIAN ‘MARTYRS’”

EXAMPLES:

Arab Group, 45th session

“The Arab Group condemns the violations...including...seizing the bodies of martyrs...”

Iraq, 45th session

“Iraq condemns...the seizure of the bodies of martyrs...”

Palestine, 45th session

“Israel unlawfully withholds 66 bodies of Palestinian martyrs in refrigerators, in a blatant violation of international law.”

RESPONSE:

UN Watch

The claims about the bodies of “martyrs” held by Israel, which concern the remains of Palestinian terrorists who perpetrated attacks against Israelis, is a distortion of fact and law. Hamas and other Palestinian terror groups use kidnapping as a military tactic, which is a grave violation of international law. For the limited purpose of enabling Israel to respond to this threat and to negotiate the return of living or dead Israelis who were kidnapped or are otherwise unlawfully being held in Palestinian custody, Israel withholds and temporarily buries the remains of Palestinian terrorists, which is not a violation of international law. There is no moral equivalence between Hamas, which openly violates and disdains the laws of armed conflict, and Israel, which is forced to respond to these violations and protect its citizens.

Over its long history of fighting Palestinian terrorism, Israel has had to deal with many hostage situations.¹¹⁴ Palestinian terror groups like Hamas and Hezbollah employ a deliberate strategy of kidnapping Israeli soldiers and civilians in order to achieve prisoner exchanges. In 2008, Israel obtained from Hezbollah the return of the remains of Israeli soldiers Ehud Goldwasser and Eldad Regev, abducted and killed at the start of the 2006 Lebanon War, only because it was able to exchange five live terrorists and the remains of dozens of others. In 2011, Israel succeeded in negotiating the return of just one captured Israeli soldier—Gilad Shalit, unlawfully kidnapped by Hamas and held captive for five years—by exchanging 1,027 Palestinian security prisoners.¹¹⁵

114 Karl Vick, *Israel Is Experienced With Prisoner Exchanges and Their Consequences*, **Time** (June 3, 2014), <https://time.com/2809411/israel-experienced-with-prisoner-exchanges-and-their-consequences/>; *Hamas chief threatens to kidnap more Israeli soldiers*, **I24 News** (May 14, 2020), <https://www.i24news.tv/en/news/israel/1589439468-hamas-chief-threatens-to-kidnap-more-israeli-soldiers>.

115 Attila Somfalvi, *Cabinet approves Shalit deal*, **Ynet** (Oct. 12, 2011), <https://www.ynetnews.com/articles/0,7340,L-4134408,00.html>.

In violation of international law, Hamas has been holding the bodies of two Israeli soldiers, Hadar Goldin and Oron Shaul, since 2014. Hamas also holds hostage two mentally ill Israelis, Avera Mengitsu and Hisham al-Sayed, who separately entered Gaza in 2014 and 2015, respectively.¹¹⁶

Contrary to the claims made in the UNHRC by the Palestinians, Iraq, and the Arab Group, Israel's policy does not violate international law:

- Article 17 of the First Geneva Convention provides that burial should be “preceded by careful examination...with a view to confirming death” and “establishing identity” and should be done “honorably...if possible, according to the rites of the religion to which they belonged.” However, the Article contains no obligation to return the bodies.¹¹⁷
- The Commentary of the International Committee of the Red Cross to this provision explains that the principle underlying Article 17 “is to preserve the dignity of the dead.” In this regard, the commentary states that the “obligation to ensure that the dead are buried or cremated can be satisfied in different ways. The Party in question may itself honorably inter the deceased. Alternatively, it may return the bodies of the deceased to their families for burial or cremation.” While the commentary adds that “the preferred option” is to return the remains of the deceased to their families, which it adds is a “basic humanitarian goal,” return of the bodies is presented as “the preferred option,” rather than as an obligation.¹¹⁸
- Article 34 of the First Additional Protocol to the Geneva Conventions provides that parties to a conflict should “conclude agreements” to “facilitate the return of the remains of the

deceased and of personal effects to the home country upon its request.” It adds that “in the absence of agreements,” the party where the graves are situated “may offer to facilitate the return of the remains...” Again, the provision encourages return of the remains but does not present it as an obligation.

- Red Cross Rule 114 of the Customary Rules of International Law states “Parties to the conflict *must endeavor to facilitate* the return of the remains of the deceased upon request of the party to which they belong or upon the request of their next of kin. They *must* return their personal effects to them.” (Emphasis added).¹¹⁹ According to this rule, return of the deceased’s personal effects is an obligation, but return of the remains is not.

The Supreme Court of Israel, with an expanded panel of seven justices, recently examined this difficult question in *Commander of IDF forces in Judea and Samaria v. Alyan*, Case No. 10190/17 (Sep. 9, 2019). The Supreme Court acknowledged that withholding terrorists’ bodies and preventing them from being buried by family entails some harm to the dignity of the deceased and their families, but noted that the withholding is temporary, the remains are buried with dignity, in a metal coffin in a cemetery, and with proper genetic identification.¹²⁰ The Supreme Court concluded that the policy was authorized by Israeli law and did not violate international law which it said should be interpreted dynamically to take into account new threats arising from terrorism. The court emphasized that the withholding was temporary and for a limited security purpose—to negotiate and exchange.¹²¹

116 *2 Israelis Who Entered Gaza Held Incommunicado*, **Human Rights Watch** (May 2, 2017), <https://www.hrw.org/news/2017/05/03/2-israelis-who-entered-gaza-held-incommunicado>.

117 Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, Article 17 (Aug. 12, 1949), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=6E2CC750300A2364C12563CD00519FEC>.

118 Commentary to Article 17 of the First Geneva Convention (2016), <https://ihl-databases.icrc.org/applic/ihl/ihl.nsf/Comment.xsp?action=openDocument&documentId=3B9DE4D08498C74AC1257F150049F509>.

119 Jean-Marie Henckaerts, *Study on customary international humanitarian law: A contribution to the understanding and respect for the rule of law in armed conflict*, **International Review of the Red Cross** (Vol. 87, No. 857, March 2005), https://www.icrc.org/en/doc/assets/files/other/icrc_002_0860.pdf.

120 *Commander of IDF forces in Judea and Samaria v. Alyan*, Case No. 10190/17 (Israeli Supreme Court, Sep. 9, 2019), p. 25.

121 *Id.* at pp. 33-34.

CLAIM 13:

“ISRAEL WITHHOLDS PALESTINIAN FUNDS UNDER FALSE PRETEXT”

EXAMPLE:

Palestine, 45th session

“The occupation forces and settlers are continuing and increasing their attacks against the civilian population, by...withholding Palestinian funds under the pretext that we are helping the families of the martyrs, prisoners and the wounded.”

RESPONSE:

UN Watch

The Palestinian “Martyrs Fund” incentivizes terror against Israelis by rewarding imprisoned terrorists and the families of those killed carrying out acts of terror with monthly salary stipends far in excess of regular social welfare payments. These stipends total approximately \$330 million, which was roughly 7 percent of the Palestinian Authority’s \$5 billion budget in 2018.¹²² According to The World Bank, the Martyrs Fund did “not seem justified from a welfare or fiscal perspective,” the prisoners fund was “the most generous PA program” and the combined programs benefited a relatively small number of families.¹²³

Palestinian law fixes the amount of the monthly stipends for convicted Palestinian terrorists based on the length of the prison term, such that the more serious the crime, the longer the prison sentence and the higher the salary.¹²⁴ The International Criminal Court’s chief prosecutor Fatou Bensouda has warned that Palestinian stipends to attackers and their families could constitute a war crime.¹²⁵

In 2018, Israel passed a law allowing the country to deduct the amount of these Martyrs Fund payments from the taxes that Israel collects and transfers to the Palestinian Authority pursuant to the Oslo Accords. Under that law, Israel withholds the approximate amount included in the PA budget for this Martyrs Fund, but has continued to transfer the remaining sums collected on the PA’s behalf. This arrangement was temporarily halted after the PA announced in June 2020 that it would refuse to accept the monthly transfer of over \$100 million

122 Ilan Ben Zion, *Israel law freezes funds for Palestinian attackers’ families*, **Associated Press** (July 2, 2018), <https://apnews.com/article/5c5cb018c24a4cecb081607195ed1a0e>.

123 Glenn Kessler, *Does the Palestinian Authority pay \$350 million a year to ‘terrorists and their families’?* **Washington Post** (March 14, 2018), <https://www.washingtonpost.com/news/fact-checker/wp/2018/03/14/does-the-palestinian-authority-pay-350-million-a-year-to-terrorists-and-their-families/>.

124 *PA Government Decision No. 23*, **Birzeit University** (last visited Jan. 10, 2021), <http://muqtafi.birzeit.edu/pg/getleg.asp?id=16259>.

125 *ICC Prosecutor’s Annual Report on Preliminary Examination Activities (2019) – Situation in Palestine – Report* (Dec. 5, 2019), <https://www.un.org/unispal/document/icc-prosecutors-annual-report-on-preliminary-examination-activities-2019-situation-in-palestine-report/>.

as part of ending coordination with Israel. The transfer of some \$725 million in back-tax revenues was eventually authorized by the Israeli security cabinet after the PA decided to renew cooperation in November 2020.¹²⁶

A number of Western governments have cut off direct funding to the PA because of these payments incentivizing terrorism. For example, in December 2017, the U.S. Congress passed the Taylor Force Act, which calls on the Palestinians to “stop payments for acts of terrorism by individuals who are imprisoned after being fairly tried and convicted for acts of terrorism,” and for those who died committing acts of terrorism.¹²⁷ The Act makes any further U.S. aid dependent on the Palestinians revoking any law which authorizes “a system of compensation for imprisoned individuals that uses the sentence or period of incarceration of an individual imprisoned for an act of terrorism to determine the level of compensation paid.”

In 2018, Australia also cut off direct funding to the PA, with Foreign Minister Julie Bishop saying that “any assistance provided by the Palestine Liberation Organization to those convicted of politically motivated violence is an affront to Australian values and undermines the prospect of meaningful peace between Israel and the Palestinians.”¹²⁸

In November 2019, the Netherlands cut its funding to the Palestinians over salaries to terrorists, saying talks with the PA “did not lead to the desired outcome.”¹²⁹

In sum, members of the international community including governments and international bodies have joined Israel in recognizing the dangers posed by the financial incentivization of Palestinian terror, and have acted accordingly.

126 *Cabinet okays tax revenues transfer to Abbas, holds back some 'pay to slay,' Times of Israel* (Nov. 30, 2020), <https://www.timesofisrael.com/cabinet-okays-transfer-of-tax-revenues-to-palestinians-as-pa-renews-cooperation/>.

127 *H.R.1164 - Taylor Force Act, 115th Congress (2017-2018)*, **Congress.gov** (last visited Jan. 10, 2021), <https://www.congress.gov/bill/115th-congress/house-bill/1164>.

128 *Australia ends direct aid to Palestinian Authority*, **ABC News** (July 2, 2018), <https://www.abc.net.au/news/2018-07-02/australia-ends-direct-aid-to-palestinian-authority/9932828>.

129 *Netherlands cuts aid to Palestinian Authority over terrorist salaries*, **Times of Israel** (Nov. 21, 2019), <https://www.timesofisrael.com/netherlands-cuts-aid-to-palestinian-authority-over-terrorist-salaries/>.

CLAIM 14:

“ISRAEL RESTRICTS THE MOVEMENT OF PALESTINIANS”

EXAMPLES:

Palestine, 45th session

“The occupation forces and settlers are continuing and increasing their attacks against the civilian population, by...imposing restrictions on movement...”

Syria, 45th session

“[Syria] demands an end to the barbaric practices committed by the occupation army and Israeli settlers, including...the imposition of restrictions on the movement of goods and people, the closure of crossings...”

Turkey, 45th session

“The oppression by Israel in the Occupied Palestinian Territories continues unabated...movement restrictions remain as daily practices in the Occupied Territories.”

RESPONSE:

UN Watch

Free movement of Palestinians was the norm before suicide terrorism. Until the First Intifada in the late 1980s, Palestinians were generally free to travel between the West Bank, Israel and Gaza. The same was true for Israelis who traveled to the West Bank for commerce, tourism and to visit Jewish holy sites. However, the burst of suicide bombings in the 1990s and other Palestinian forms of terrorism over time caused Israel to implement certain security measures to protect its citizens. This resulted in restrictions for both Israelis and Palestinians. Israelis, too, can no longer freely enter Areas A and B of the West Bank.

During the Second Intifada from 2000 to 2005, more than 1,000 Israelis were killed and thousands more severely injured by Palestinian terrorists, most of whom had infiltrated Israel from the West Bank. The construction of Israel’s security barrier significantly reduced Israeli fatalities. Before construction on the barrier began, in 2002, 457 Israelis were killed. After the barrier was erected, in 2009, eight Israelis were killed.¹³⁰ In the Samaria region of the West Bank, according to MK Avi Dichter, the former head of the Israel Security Agency, the security barrier successfully reduced terrorist attacks by 90%.¹³¹

Similarly, checkpoints have proven to be an effective tool in thwarting terrorist attacks.¹³² It should be noted that security checkpoints are not unique to Israel. Countries such as France¹³³ and Spain¹³⁴ have established security checkpoints in response

130 Mitchell Bard, *West Bank, Gaza and Lebanon Security Barriers: Background and Overview*, **Jewish Virtual Library** (last visited Dec. 24, 2020), <https://www.jewishvirtuallibrary.org/background-and-overview-of-israel-s-security-fence>.

131 Avi Dichter and Daniel L. Byman, *Israel’s Lessons For Fighting Terrorists And Their Implications For The United States*, **Brookings Institution** (March 8, 2006), <https://www.brookings.edu/wp-content/uploads/2016/06/byman20060324.pdf>.

132 *Id.*

133 *Paris attacks suspect ‘got past three police checkpoints,’ France24* (Dec. 20, 2015), <https://www.france24.com/en/20151220-paris-attacks-suspect-salah-abdeslam-police-checks-hamza-attou>.

134 Jonathan Watts and Stephen Burgen, *Police extend hunt for Barcelona attack suspect across Europe*, **Guardian** (Aug. 21, 2017), <https://www.theguardian.com/world/2017/aug/20/spain-attacks-king-joins-public-at-mass-for-victims-in-barcelona>.

to major terrorist attacks, as have other countries engaged in conflict.¹³⁵ Many countries have also instituted checkpoints to enforce coronavirus lockdowns.¹³⁶

Unfortunately, Palestinian terrorism has never stopped and the checkpoints and other restrictions are still necessary to protect Israelis. While the measures do inconvenience many innocent Palestinians passing through, they save lives. Israel's Shin Bet security agency said it thwarted at least 560 terror attacks in 2019, an astonishing figure that illustrates the threat.¹³⁷

Apart from the checkpoints, Israel administers 13 border crossings with the West Bank. These operate like any other border crossing terminal anywhere in the world, with security and identity checks, and of course involve some waiting time. Like every other sovereign state, Israel has no legal obligation to allow Palestinians, who are non-citizens, to freely enter its territory. Israel has the right to control who enters its territory and under what conditions, *e.g.*, the length of the stay, activities permitted during the stay, or whether to require a permit.

Nevertheless, Israel has an interest in maintaining calm and improving the economic situation of the Palestinians. Accordingly, in the last number of years, Israel invested more than \$85 million to upgrade the technology at nearly all of these crossings, in order to streamline the process and reduce waiting times.¹³⁸ The improvements at the traffic-heavy Qalandiya crossing, which were completed in April 2019, reduced the waiting time from approximately one hour to a few minutes.¹³⁹

According to Israel's Coordination of Government Activities in the Territories (COGAT), in the second half of 2020, an average of around 250,000 West Bank Palestinians entered Israel weekly.¹⁴⁰

Notably, while it is not mentioned at the UNHRC, Israel is not the only country to control the entry of Palestinians into its territory. Egypt operates the Rafah crossing from the Gaza Strip to the Sinai, which is heavily restricted and often closed.¹⁴¹

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- 135 See, *e.g.*, *Iraq 2020 Crime & Safety Report: Baghdad*, **OSAC** (May 12, 2020) (concerning checkpoints in Iraq), <https://www.osac.gov/Country/Iraq/Content/Detail/Report/0352cf01-82a2-41e8-b2ce-18aa92be0ab9>; *Afghan forces killed as Taliban attacks checkpoints: Gov't*, **Al Jazeera** (March 30, 2020) (concerning checkpoints in Afghanistan), <https://www.aljazeera.com/news/2020/3/30/afghan-forces-killed-as-taliban-attacks-checkpoints-govt>; *Turkey has developed 73 checkpoints in southeast provinces since 2015 – report*, **Ahval** (July 5, 2019) (concerning checkpoints in Turkey), <https://ahvalnews.com/kurds-turkey/turkey-has-developed-73-checkpoints-southeast-provinces-2015-report>.
- 136 Oliver Holmes and agencies, *Three killed in Gaza after explosions at two police checkpoints*, **Guardian** (Aug. 28, 2019), <https://www.theguardian.com/world/2019/aug/28/gaza-explosions-amas-police-checkpoints>.
- 137 Yoav Zitun and Itamar Eichner, *Israel foiled 560 'significant' terror attacks in 2019, says head of intel agency*, **Ynet** (Jan. 20, 2020), <https://www.ynetnews.com/article/HIYWYUQZL>.
- 138 Ilan Ben Zion, *Israel invests in high-tech upgrades at West Bank crossings*, **Associated Press** (July 29, 2019), <https://apnews.com/article/705e2ffbea5342bc96d3fe88e307c24f#:~:text=Israel's%20Defense%20Ministry%20poured%20over,by%20improving%20conditions%20for%20Palestinians>.
- 139 Adam Rasgon, *Israel opens new Qalandiya checkpoint, phasing out inadequate crossing*, **Times of Israel** (April 25, 2019), <https://www.timesofisrael.com/israel-opens-new-qalandiya-checkpoint-phasing-out-inadequate-crossing/>.
- 140 *Movements in Judea and Samaria and Gaza*, **COGAT** (last visited Dec. 24, 2020), <https://www.gov.il/en/Departments/faq/movements>.
- 141 Adam Rasgon, *Hamas-run Gaza government shuts Egypt crossing to travelers amid virus crisis*, **Times of Israel** (March 15, 2020), <https://www.timesofisrael.com/hamas-run-gaza-government-shuts-egypt-crossing-to-travelers-amid-virus-crisis/>; Nidal al-Mughrabi, *Egypt limits Gaza passage after Palestinian Authority quits border crossing*, **Reuters** (Jan. 8, 2019), <https://www.reuters.com/article/us-palestinians-gaza-egypt-idUSKCN1P21AJ>.

CLAIM 15:

“ISRAEL HARASSES PALESTINIAN HUMAN RIGHTS DEFENDERS”

EXAMPLES:

Libya, 45th session

“Human rights defenders including Palestinians are harassed by the Israeli forces.”

Russia, 44th session

“We are concerned by...persecutions of civil society.”

South Africa, 45th session

“We are gravely concerned at intimidation, harassment and threats at human rights defenders and civil society actors in the Occupied Palestinian Territory.”

RESPONSE:

UN Watch

Human rights defenders and media workers everywhere have a right to be protected, and in Israel, as a rule, they are protected. Israel is a party to the International Covenant on Civil and Political Rights and its legal system guarantees the rights to freedom of expression and association, which are vigorously safeguarded by an independent judiciary. Israel is home to a rich and vibrant media and civil society which regularly criticize government policies with regard to human rights issues including the treatment of Palestinians.

Israel recognizes the right to protest as a fundamental right. Anti-government protests in front of the prime minister’s residence and at other locations in Israel have continued during the strictest COVID-19 lockdowns, even when public prayer was severely curtailed.¹⁴² Israel permits NGOs to operate freely, including many NGOs that sharply oppose the government. For example, the New Israel Fund, largely funded by American Jews, has provided more than \$300 million to 900 registered nonprofits in Israel since it was founded.¹⁴³ Many of these organizations are known for their vocal pro-Palestinian advocacy, including the Association for Civil Rights in Israel, Breaking the Silence, B’Tselem, Gisha, Machsom Watch and Yesh Din.¹⁴⁴ Israel permits human rights defenders to file petitions to the Supreme Court challenging Israeli government action. In the last year alone, the Israeli Supreme Court heard cases brought by pro-Palestinian organizations such as Adallah, Peace Now, The Association for Civil Rights in Israel, Yesh Din and others.

142 *Hundreds of anti-Netanyahu protesters march in Tel Aviv despite virus lockdown*, **Times of Israel** (Oct. 9, 2020), <https://www.timesofisrael.com/hundreds-of-anti-netanyahu-protesters-march-in-tel-aviv-despite-virus-lockdown/>.

143 *Grantmaking, New Israel Fund* (last visited Dec. 24, 2020), <https://www.nif.org/about/grantmaking/>.

144 *Id.*

In areas of the West Bank under Israeli jurisdiction, human rights defenders are generally free to carry out their work. Restrictions arise in connection with the ongoing military conflict between Israel and the Palestinians. Palestinian terrorist organizations such as Hamas and the Popular Front for the Liberation of Palestine (PFLP) routinely plan and carry out deadly terror attacks against Israelis, including thousands of rocket attacks from Gaza which target Israeli civilians. Operatives of these terrorist groups have been known to associate with Palestinian civil society organizations, even as they continue their terror activities. For example, the head of Palestinian NGO Al-Haq, Shawan Jabarin, is a convicted PFLP terrorist.¹⁴⁵ Likewise, the Palestinian NGO Addameer is known to be a PFLP affiliate and several of its current and former employees are linked to the PFLP.¹⁴⁶ Yet when Israel confiscated materials from Addameer's offices in September 2019, Amnesty International rushed to attack Israel for violating civil society rights and ignored the group's ties to the PFLP.¹⁴⁷ A number of Addameer activists were later arrested by Israel in connection with the August 2019 terrorist bombing that killed Israeli teen Rina Schnerb. Among these was West Bank PFLP leader Khalida Jarrar, former Vice-Chair and Executive Director of Addameer.¹⁴⁸ Amnesty criticized Israel over the arrest, instead of condemning Jarrar for her PFLP activities.¹⁴⁹

At that time, the Israeli Security Agency arrested some 50 PFLP members in connection with the deadly August 2019 bombing. Members of other Pal-

estinian NGOs, including the Union of Agricultural Workers Committees (UAWC), Health Workers Committees (HWC) and Sabin were among those arrested for their PFLP activities.¹⁵⁰ This caused a scandal in the Netherlands, whose funding to UAWC had paid part of the terrorists' salaries. The Netherlands immediately suspended its donations to UAWC.¹⁵¹ In January 2019, recognizing that many Palestinian NGOs have ties to terrorism, the EU itself canceled a grant to BADIL after the Palestinian NGO refused to sign the anti-terror clause committing that funds would not go to listed terror organizations.¹⁵²

145 See, e.g., *Shawan Rateb Abdallah Jabarin v. Commander of IDF Forces in the West Bank*, Case No. 1520/09 (Israeli Supreme Court, March 10, 2009), <https://supremedecisions.court.gov.il/Home/Download?path=HebrewVerdicts\09\200\015\p02&fileName=09015200.p02.txt&type=4> ("We found that the material indicating the appellant's involvement in the activities of terrorist groups is genuine and authoritative.")

146 *Addameer's Ties to the PFLP Terrorist Group*, **NGO Monitor** (Jan. 27, 2020), <https://www.ngo-monitor.org/reports/addameers-ties-to-the-pflp-terrorist-group-2/>.

147 *Israel ramps up assault on civil society with chilling raid on Palestinian NGO Addameer*, **Amnesty International** (Sep. 19, 2019), <https://www.amnesty.org/en/latest/news/2019/09/israel-ramps-up-assault-on-civil-society-with-chilling-raid-on-palestinian-ngo-addameer/>.

148 Khaled Abu Toameh, *IDF rearrests senior PFL official Khalida Jarrar*, **Jerusalem Post** (Oct. 31, 2019), <https://www.jpost.com/israel-news/idf-rearrests-senior-pflp-official-khailda-jarrar-606464>.

149 *Israel and Occupied Palestinian Territories 2019*, **Amnesty International** (last visited Dec. 24, 2020), <https://www.amnesty.org/en/countries/middle-east-and-north-africa/israel-and-occupied-palestinian-territories/report-israel-and-occupied-palestinian-territories/>.

150 Dima Abumaria, *Israel, Palestinian Authority violate rights of journalists – report*, **Jerusalem Post** (Jan. 8, 2020), <https://www.jpost.com/israel-news/report-pa-israel-violate-rights-of-journalists-613534>; *Current and Former NGO Employees Arrested as Part of PFLP-Terror Cell*, **NGO Monitor** (Dec. 19, 2019), <https://www.ngo-monitor.org/reports/current-and-former-ngo-employees-arrested-as-part-of-pflp-terror-cell/>.

151 Lahav Harkov, *Netherlands admits to paying terrorists who killed 17-year-old Israeli*, **Jerusalem Post** (July 23, 2020), <https://www.jpost.com/israel-news/netherlands-admits-to-paying-terrorists-who-killed-17-year-old-israeli-635792>.

152 Raphael Ahren, *In first, EU nixes grant to Palestinian NGO refusing to sign anti-terror clause*, **Times of Israel** (June 17, 2020), <https://www.timesofisrael.com/in-first-eu-nixes-grant-to-palestinian-ngo-refusing-to-sign-anti-terror-clause/>.

CLAIM 16:

“ISRAEL TARGETS PALESTINIAN MEDIA WORKERS”

EXAMPLES:

Maldives, 43rd session

“We call upon Israel to refrain from using lethal force against innocent Palestinians including journalists...”

Palestine, 45th session

“The occupation forces and settlers are continuing and increasing their attacks against the civilian population, by targeting media workers...”

RESPONSE:

UN Watch

Israel has the most free press in the entire Middle East, and accredits many more journalists and media workers than any of its neighboring countries. As former Associated Press correspondent Matti Friedman has pointed out, prior to the Arab Spring, the global news agency had only one regime-approved stringer in all of Syria while it had 40 news-gathering staffers in Israel. During the Arab Spring, there were more AP staffers in Israel than the combined total of news-gathering AP employees in all of the countries where Arab Spring uprisings occurred.¹⁵³

Contrary to the suggestion in the accusations quoted above, Israel does not target media workers. Israel is engaged in an ongoing armed conflict with the Palestinians which is characterized by violence and terrorism. Since 2009, Israel has fought three wars with the Hamas terrorist group in Gaza. In addition, since 2018, Israel has been forced to respond to violent border confrontations along the Gaza border fence, which have been used as a cover for terrorist activity. There have been cases where journalists placed themselves in dangerous situations too close to the violence, were caught in the crossfire and injured or even killed. However, journalists who cover conflict zones are well aware of the dangers.

In addition, there are numerous examples of supposed Palestinian journalists abusing their press credentials to further terrorist activity. When journalist Yasser Murtaja was killed in April 2018 during the Gaza border confrontations, Hamas and the Palestinians exploited his death to launch a propaganda campaign against Israel. However, Yasser Murtaja was proven to be a veteran Hamas operative who continued his Hamas activities up

153 Matti Friedman, *An Insider's Guide to the Most Important Story on Earth*, **Tablet** (Aug. 26, 2014), <https://www.tabletmag.com/sections/israel-middle-east/articles/israel-insider-guide>.

until the time of his death.¹⁵⁴ In the summer of 2014, eight out of 17 purported journalists claimed by Hamas to be killed in the Hamas-Israel conflict were actually Hamas or Palestinian Islamic Jihad operatives, or journalists working for Hamas propaganda networks.¹⁵⁵ Furthermore, only six of the journalists were killed in the course of their journalistic work, while the rest were killed during the fighting in circumstances not related to their journalism.¹⁵⁶ Two of these names were confirmed not to have been killed by the IDF.

In another recent example, in February 2019, the Israeli Security Agency exposed a network of Hamas terrorists from Gaza who posed as media workers for Hamas's al-Aqsa TV in order to recruit Hamas operatives in the West Bank and East Jerusalem. They passed covert messages to the recruits through al-Aqsa TV broadcasts.¹⁵⁷ Other supposed journalists are sympathizers or collaborators with Hamas. Hind Khoudary, who claimed to be a reporter while attending violent confrontations at the Gaza-Israel border— where she posed smiling with men wielding industrial wire-cutters to infiltrate into Israel¹⁵⁸—was found to have incited Hamas to arrest Gaza peace activist Rami Aman, who was jailed for six months.¹⁵⁹

Israel has every right to take action against terrorists who pose a security threat, even if they pose as journalists.

154 *The killing of Palestinian press photographer Yasser Murtaja by the IDF during the events of the Great March of Return highlighted a phenomenon of operatives of Hamas employed as media personnel*, **Meir Amit Intelligence and Terrorism Information Center** (April 11, 2018), <https://www.terrorism-info.org.il/en/killing-palestinian-press-photographer-yasser-murtaja-idf-events-great-march-return-highlighted-phenomenon-operatives-hamas-employed-media-personnel/>.

155 *Id.*; Yaakov Lappin, 'Half of Names of Gaza journalist casualties are terror operatives, or members of Hamas media,' **Jerusalem Post** (Feb. 12, 2015), <https://www.jpost.com/arab-israeli-conflict/half-of-names-of-gaza-journalist-casualties-are-terror-operatives-or-members-of-hamas-media-390871>.

156 *Id.*

157 *Terrorism and the media: Hamas operatives in the Gaza Strip who also worked as media personnel were involved in recruiting a terrorist network exposed in Judea and Samaria*, **Meir Amit Intelligence and Terrorism Information Center** (Feb. 24, 2019), <https://www.terrorism-info.org.il/en/terrorism-media-hamas-operatives-gaza-strip-also-worked-media-personnel-involved-recruiting-terrorist-network-exposed-judea-samaria/>.

158 Samantha Mandeles, *Gaza-based Amnesty Int'l Consultant Accused of Turning In Other Gazans For Video Chat With Israelis*, **Legal Insurrection** (April 16, 2020), <https://legalinsurrection.com/2020/04/gaza-based-amnesty-intl-consultant-accused-of-turning-in-other-gazans-for-video-chat-with-israelis/>.

159 *The Disappearance of Rami Aman & Amnesty International – Timeline*, **UN Watch** (May 6, 2020), <https://unwatch.org/the-disappearance-of-rami-aman-amnesty-international-timeline/>.

CLAIM 17

“ISRAEL SUPPRESSES PALESTINIAN FREEDOMS”

EXAMPLES:

Egypt, 45th session

“The challenges that the Palestinian people are going through as a result of the Israeli occupation are still escalating in light of human rights violations, the suppression of freedoms...”

Algeria, 45th session

“The occupying power has used this fragmentation and the climate of intimidation as tools to instill institutionalized racial oppression and restrict the basic freedoms of the Palestinian people.”

Russia, 43rd session

“We are particularly troubled by...restrictions on the right to free expression of opinion, and peaceful assembly...”

RESPONSE:

UN Watch

While freedom of Palestinian movement is undeniably affected by Israeli security measures concerning the West Bank and Gaza, this issue—which is addressed in greater detail in Claim 14—only tells part of the story.

According to Freedom House, the Palestinian Authority “governs in an authoritarian manner,” and engages in “acts of repression against journalists and human rights activists.” Abuses of basic freedom include:

- The PA has not held a presidential election since 2005 and Palestinians in the West Bank do not have a functioning legislative body.
- The PA deals harshly with political opposition and rivals of President Abbas within Fatah.
- Official corruption remains a major problem and government transparency is lacking.
- The news media are generally not free in the West Bank. Under PA law, journalists can be fined and jailed, and newspapers closed, for publishing information that might harm national unity, contradict national responsibility, or incite violence.
- Human rights organizations have accused the PA of monitoring social media posts and detaining individuals for harsh questioning related to their comments.
- Human rights groups regularly document allegations of arbitrary detention by PA security forces.¹⁶⁰

Likewise, the Gaza Strip functions as a de facto one-party state under Hamas rule, which severely curtails civil liberties:

160 See, e.g., *Freedom in the World 2020: West Bank*, Freedom House (2020), <https://freedomhouse.org/country/west-bank/freedom-world/2020>.

- The media are not free and Gazan journalists and bloggers continue to face Hamas repression. Intimidation by Hamas and other armed groups curbs personal expression and private discussion in Gaza, and the authorities monitor social media for critical content.
- Hamas significantly restricts freedom of assembly, with security forces violently dispersing unapproved public gatherings.
- Hamas has restricted the activities of non-governmental and civil society organizations that do not submit to its regulations.
- Hamas security forces and militants regularly carry out arbitrary arrests and detentions.¹⁶¹

Human Rights Watch and Amnesty International have strongly criticized PA and Hamas violations of Palestinians' basic rights and freedoms.¹⁶²

Ultimately, it is not Israel that is responsible for much of the lack of freedom experienced by Palestinians but their dual leadership, the PA and Hamas, which systematically deny political and civil rights to those under their control.

161 See, e.g., *Freedom in the World 2020: Gaza Strip*, **Freedom House** (2020), <https://freedomhouse.org/country/gaza-strip/freedom-world/2020>.

162 See, e.g., *Two Authorities, One Way, Zero Dissent, Arbitrary Arrest & Torture Under the Palestinian Authority & Hamas*, **Human Rights Watch** (2018), https://www.hrw.org/sites/default/files/report_pdf/palestine1018_web4.pdf; *Another Brutal Crackdown by Hamas in Gaza*, **Human Rights Watch** (March 20, 2019), <https://www.hrw.org/news/2019/03/20/another-brutal-crackdown-hamas-gaza>; *Palestine: No Letup in Arbitrary Arrests, Torture*, **Human Rights Watch** (May 29, 2019), <https://www.hrw.org/news/2019/05/29/palestine-no-letup-arbitrary-arrests-torture>; *State of Palestine: Stop Excessive Use of Force, Arbitrary Detention and Torture Against Peaceful Demonstrators*, **Amnesty International** (June 22, 2018), <https://www.amnesty.org/en/documents/mde21/8656/2018/en/>; *Palestine: End arbitrary detention of critics in West Bank and Gaza*, **Amnesty International** (May 7, 2020), <https://www.amnesty.org/en/latest/news/2020/05/palestine-end-arbitrary-detention-of-critics-in-west-bank-and-gaza/>.

CLAIM 18:

“ISRAEL VIOLATES HUMAN RIGHTS IN THE GOLAN HEIGHTS”

SOURCES:

Syria, 40th session

“The children of the occupied Syrian Golan still hold on to their Syrian identity in the face of the serious and systematic violation of their rights at the hands of the Israeli occupying forces.”

Nicaragua, 41st session

“We are concerned by the violations that the occupying Power commits against the human rights of the citizens of the occupied Syrian Golan.”

Egypt, 40th session

“The illegal Israeli occupation of the Syrian Arab Golan... as well as the human rights violations of the people of these areas, whether their political and civil rights or their economic, social and cultural rights, also continue.”

RESPONSE:

UN Watch

There is no evidence that Israel violates the human rights of the Druze people living on the Golan Heights, which Israel captured from Syria in the 1967 Six Day War. The Golan Heights is home to four Druze villages, Majdal Shams, Ein Qiniyye, Masadeh and Buqata, with a total population of approximately 23,000. Over more than 50 years, these towns have flourished under Israeli rule, especially in comparison to their counterparts on the Syrian side of the border. Since 2011, it is estimated that the Syrian regime of President Bashar al-Assad massacred hundreds of thousands of its own people, including 3,000 Palestinians.¹⁶³

By contrast, the Druze villages of the Golan, known for their hospitality and culinary delicacies, attract tourists both from inside Israel and abroad.¹⁶⁴ The village of Majdal Shams has developed a bustling nightlife with six bars serving mostly local residents.¹⁶⁵ Golan Druze, who for many years were allowed by Israel to pursue higher education in Damascus, now study in Tel Aviv.¹⁶⁶ In short, the Druze communities are growing and developing.

Furthermore, Golan Druze have the right to obtain Israeli citizenship. While most Golan Druze historically declined Israel’s offer of citizenship, since 2015 there has been a significant increase in applications for citizenship from this population.¹⁶⁷ In addition, citizenship aside, the Golan Druze hold

163 *More than 3,000 Palestinians killed in Syria since 2011*, **The New Arab** (May 3, 2016), <https://english.alaraby.co.uk/english/news/2016/5/3/more-than-3-000-palestinians-killed-in-syria-since-2011>.

164 Dana Kessler, *A Taste of Druze Cuisine*, **Tablet** (Nov. 15, 2019), <https://www.tabletmag.com/sections/food/articles/taste-of-druze-cuisine>.

165 Ilan Ben Zion, *Drinking with the Druze in Majdal Shams*, **Vice** (May 19, 2015), https://www.vice.com/en_us/article/3djen9/drinking-with-the-druze-in-majdal-shams.

166 Moshe Gilad, *Druze Delights: New Tourist Spots on the Golan*, **Haaretz** (Oct. 30, 2013), <https://www.haaretz.com/israel-news/culture/premium-golan-s-druze-open-up-tourists-1.5281871>.

167 Tia Goldenberg, *First elections in Israeli Golan divide community*, **Associated Press** (Oct. 27, 2018), <https://apnews.com/91ada88aa02b4bdb9cf3f2a4229919a0>; Kyle S. Mackie, *An Experiment in Democracy: Torn Between Syria and Israel, Golan Druze Divide Over First Election*, **Haaretz** (Sep. 6, 2018), <https://www.haaretz.com/israel-news/premium-torn-between-syria-and-israel-golan-druze-divided-over-first-election-1.6459572>.

Israeli residency status which enables them to travel and work freely. Many even prefer to travel using their Israeli documents rather than their Syrian documents.¹⁶⁸

As of October 2018, the Golan Druze also have the right to vote in municipal elections to choose their local representatives, just like in every other Israeli city. Prior to 2018, the village representatives were not democratically elected, but were appointed by Israel. However, the Israeli Supreme Court granted a petition filed by local Druze demanding the right to hold elections in their towns.¹⁶⁹ Although only Israeli citizens may run for election as candidates, all Druze residents are entitled to vote.

The October 2018 municipal elections in the Golan were a subject of controversy within the Druze community, but one of the candidates, Samira Rada-Amran—the first female Druze ever to run for mayor in Israel—explained that the local resistance to the elections was due to fear: “they don’t want to look like traitors in the eyes of the Syrian regime.”¹⁷⁰ Another candidate, Monjd Abu Saleh, said he defines himself as both Druze and Israeli, adding that he supported the U.S. decision to officially recognize the Golan Heights as part of Israel, because it made him “feel safe” from the war in Syria.¹⁷¹

The accusation expressed by Syria, Nicaragua and Egypt—legitimized every year by a UNHRC resolution—is particularly absurd given that while the Syrian regime has been massacring its people, causing over 5.6 million to flee and internally displacing another 6.6 million (according to the UNHCR), Israel has provided life-saving medical treatment to Syrians injured in the conflict. From 2013 to 2018, Israel facilitated provision of human-

itarian assistance to Syrians on the other side of the border, and allowed sick and injured Syrians into Israel to receive free medical treatment.¹⁷²

As reported in the *Times of Israel*, during this time, the IDF treated 4,900 Syrians at Israeli hospitals and another 7,000 at its day clinic on the border.¹⁷³ In addition, Israel transported into Syria 1,700 tons of food, 1.1 million liters of fuel, and 26,000 cases of medical supplies. From 2016 to 2018, Israel also operated a day clinic on the border. Israel ended the program when Assad’s regime took back control of the border area.

Given that the 23,000 Druze people on the Golan are in no way victims of repression or other forms of gross human rights violations, it is absurd that the Human Rights Council devotes an entire resolution to this matter.

168 Ilan Ben Zion, *Drinking with the Druze in Majdal Shams*, **Vice** (May 19, 2015), https://www.vice.com/en_us/article/3djen9/drinking-with-the-druze-in-majdal-shams.

169 Tia Goldenberg, *First elections in Israeli Golan divide community*, **Associated Press** (Oct. 27, 2018), <https://apnews.com/91ada88aa02b4bdb9cf3f2a4229919a0>.

170 Kyle S. Mackie, *An Experiment in Democracy: Torn Between Syria and Israel, Golan Druze Divide Over First Election*, **Haaretz** (Sep. 6, 2018), <https://www.haaretz.com/israel-news/premium-torn-between-syria-and-israel-golan-druze-divided-over-first-election-1.6459572>.

171 *Id.*

172 Judah Ari Gross, *As war nears end, IDF shuts ‘Good Neighbor’ Syrian aid program*, **Times of Israel** (Sep. 13, 2018), <https://www.timesofisrael.com/as-war-nears-end-idf-shutters-good-neighbor-syrian-aid-program/#gs.gdai46>; Rami Amichay, *In the dead of night, Syrians cross frontier for doctor’s appointment in Israel*, **Reuters** (July 11, 2018), <https://www.reuters.com/article/us-mideast-crisis-syria-israel-aid/in-the-dead-of-night-syrians-cross-frontier-for-doctors-appointment-in-israel-idUSKBN1K12BA>.

173 Judah Ari Gross, *As war nears end, IDF shuts ‘Good Neighbor’ Syrian aid program*, **Times of Israel** (Sep. 13, 2018), <https://www.timesofisrael.com/as-war-nears-end-idf-shutters-good-neighbor-syrian-aid-program/#gs.gdai46>; see also *Operation Good Neighbor: Inside the IDF’s Effort to Provide Aid to Syria*, **IDF** (July 19, 2017), <https://www.idf.il/en/minisites/operation-good-neighbor/operation-good-neighbor-inside-the-idf-s-effort-to-provide-aid-to-syria/>.

CLAIM 19:

“ISRAEL HARASSES PALESTINIAN PATIENTS DURING HOSPITAL STAYS”

EXAMPLES:

Morocco, 41st session

“The harassment and prevention of Palestinian patients during their stay in hospitals by the Israeli occupation authorities...”

Palestine, 42nd session

“The blockade imposed on the Gaza Strip that prevents the transportation of patients in need of treatment...”

RESPONSE:

UN Watch

Despite the conflict, Israel has granted entry to tens of thousands of Palestinians who received top-level medical care at Israeli hospitals. Medical coordination between Israel and the Palestinian Authority dates back to 1995. According to statistics from Israel’s Coordination of Government Activities in the Territories (COGAT), in 2018 West Bank Palestinians received more than 20,000 permits for treatment in Israel.¹⁷⁴ A Knesset report published in 2017 found that from 2011 to 2015 more than 42,000 Palestinians had received medical treatment in Israel, with the numbers receiving treatment increasing by 37% during those years.¹⁷⁵

Notably, Israel has continued to grant entry to residents of Gaza and the West Bank seeking medical treatment despite numerous cases where Palestinians abused the permits for terrorist purposes. In May 2019, Hamas operative Fadi Abu al-Subh entered Israel on a medical permit, intending to team up with other Hamas operatives and plan terrorist operations.¹⁷⁶ Prior to that, two sisters from Gaza, one of whom needed cancer treatment in Israel, took advantage of the medical permits to attempt to smuggle explosives into Israel using tubes labeled for medication.¹⁷⁷ There have been numerous other such cases.¹⁷⁸

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- 174 Maayan Jaffe-Hoffman, *Palestinians get more medical treatment permits in Israel in 2018 - report*, **Jerusalem Post** (Feb. 12, 2019), <https://www.jpost.com/arab-israeli-conflict/palestinians-get-more-medical-treatment-permits-in-israel-in-2018-report-580440>.
- 175 *Data on Medical Treatment to Palestinians in Israeli hospitals*, **Knesset Research and Information Center** (Jan. 2, 2017), https://fs.knesset.gov.il/globaldocs/MMM/302ae8cf-a7b3-e511-80d0-00155d0acb9e/2_302ae8cf-a7b3-e511-80d0-00155d0acb9e_11_10394.pdf.
- 176 *Gazan Operative of Hamas Received Medical Permits but Exploited Them for Terrorist Purposes*, **COGAT** (July 3, 2019), <https://www.gov.il/en/departments/news/hamas-operative-arrested-eng-060319>.
- 177 Judah Ari Gross, *Gazan sisters accused of smuggling explosives as cancer medicine*, **Times of Israel** (April 19, 2017), <https://www.timesofisrael.com/gazan-sisters-accused-of-smuggling-explosives-in-cancer-medicine/#gs.gxhchs>.
- 178 *Exploiting Israel’s humanitarian policies for terror activities*, **Israeli Security Agency**, <https://www.shabak.gov.il/SiteCollectionImages/english/TerrorInfo/%D7%A0%D7%99%D7%A6%D7%95%D7%9C-%D7%9E%D7%93%D7%99%D7%A0%D7%99%D7%95%D7%AA-%D7%94%D7%95%D7%9E%D7%A0%D7%99%D7%98%D7%A8%D7%99%D7%AA-%D7%90%D7%A0%D7%92%D7%9C%D7%99%D7%AA.pdf#page=4>.

Contrary to what is said during Item 7 debates at the UNHRC, Palestinians who have received treatment in Israel acknowledge the care they received. For example, a 2015 report by the Associated Press, “Palestinian patients find help in Israeli hospital,” told of Gaza brother and sister Ahmed and Hadeel Hamdan, teenagers who spend 12 hours a day connected to dialysis machines. “These contraptions—and their hopes for a better life—come from a surprising source: an Israeli hospital.” The teenagers were regular guests at the Rambam Health Care Campus in Haifa since July 2012. “The hospital would not let them go back to Gaza until Hadeel was able to walk again after being incapacitated for a month,” reported AP. “I thank them very much because they exerted tireless effort, especially with the girl,” their mother, Manal, said.¹⁷⁹

In another case, Palestinian teen Yusef Rabaya, who was bedridden and unable to stand due to a spinal deformity, received complex reconstructive surgery at Hadassah Hospital. His father praised the medical team “who saved my son.”¹⁸⁰ Palestinian writer Kamell Hussein, whose mother was a cancer patient at Hadassah Hospital for many years wrote: “At Hadassah Hospital, cancer patients from Palestine and Israel still treat each other with humanity and respect, despite all of their differences.” He added: “I never felt discriminated against in my dealings with the Jewish doctors and nurses.”¹⁸¹

Despite this long history of cooperation that has benefited tens of thousands of Palestinians, in March 2019, the Palestinian Authority announced that it would cease medical referrals to Israeli hospitals, for political reasons. PA Health spokesperson

Osama al-Najjar said this was a response to Israel’s decision to deduct \$138 million (the amount the Palestinian Authority paid to terrorists in 2018) from tax revenues it collects for the PA. Therefore it is the PA, not Israel, that is currently obstructing Palestinians from receiving life-saving medical treatment in Israel. “These are young children who are dying,” said Dr. Raz Somech, director of pediatrics at the Sheba Medical Center in Ramat Gan. “They desire treatment...and we are happy to give it. They must come.”¹⁸²

Israel also coordinates with Palestinian medical professionals to provide training and assistance. Amid the coronavirus pandemic, Israel transferred medical equipment and Israeli teams trained dozens of Palestinian doctors, nurses and medical personnel from Gaza.¹⁸³ Trainings took place at the Erez Border Crossing, at Barzilai Medical Center in the Israeli city of Ashkelon and through conference calls. The training at the Erez Border Crossing also included Palestinian doctors from the West Bank.¹⁸⁴ In January 2020, a group of nurses from the West Bank and Gaza completed a four-day medical simulation course at Sheba Medical Center. Since 2009, 150 Palestinian health professionals have completed these medical courses in this Israeli center.¹⁸⁵ Similarly, in September 2019, Assuta Hospital in Ashdod hosted a joint Israeli-Palestinian medical training to perform tracheotomies on small children and babies.¹⁸⁶ In some cases, Israeli doctors go to the Palestinian territories to treat patients. For example, Dr. Iyad Khamaysi of the Rambam Medical Center in Haifa, has visited Gaza to treat patients, train physicians and deliver medical equipment.¹⁸⁷

179 Fares Akram, *Palestinian patients find help in Israeli hospital*, **Associated Press** (May 19, 2015), <https://apnews.com/7d40f9aa5ce54e41a4fa555793f24ca1>.

180 Brian Blum, *Israeli surgeon enables Palestinian teen to stand again*, **Israel 21c** (Jan. 9, 2018), <https://www.israel21c.org/israeli-surgeon-enables-palestinian-teen-to-stand-again/>.

181 Kamel Hussein, *The Hadassah Model*, **Ynet** (Nov. 12, 2011), <https://www.ynetnews.com/articles/0,7340,L-4159504,00.html>.

182 Maayan Jaffe-Hoffman, *Palestinian infants and children are dying*, **Jerusalem Post** (Aug. 16, 2019), <https://www.jpost.com/israel-news/palestinian-infants-and-children-are-dying-598771>.

183 *Amid coronavirus pandemic, Gaza medics trained by Israeli teams – report*, **Times of Israel** (April 11, 2020), <https://www.timesofisrael.com/amid-coronavirus-pandemic-gaza-medics-trained-by-israeli-teams-report/#gs.gxl9ej>; *Israelis and Palestinians Fight COVID-19 Together*, IDF (July 8, 2020), <https://www.idf.il/en/minisites/idsf-response-to-covid-19/israelis-and-palestinians-fight-covid-19-together/>.

184 Entsar Abu Jahal, *Hamas quietly allows Gaza doctors to get COVID-19 training in Israel*, **AL-Monitor** (April 26, 2020), <https://www.al-monitor.com/pulse/originals/2020/04/gaza-doctors-coronavirus-training-israel-ramallah.html>.

185 Adam Rasgon, *Palestinian nurses from West Bank and Gaza hone their skills at Israeli hospitals*, **Times of Israel** (Jan. 2, 2020), <https://www.timesofisrael.com/palestinian-nurses-hone-their-skills-at-israeli-medical-institution/#gs.gxlovf>.

186 *First Israeli-Palestinian Medical Conference of its Kind Held at Assuta Medical Center in Ashdod*, **COGAT** (March 19, 2020), <https://www.gov.il/en/departments/news/medicalconferenceinashdod260919>.

187 Sara Toth Stub, *Crossing the Gaza Border for Care*, **US News and World Report** (May 17, 2018), <https://www.usnews.com/news/best-countries/articles/2018-05-17/medical-missions-to-gaza-reveal-collaboration-between-israelis-palestinians>.

CLAIM 20:

“ISRAEL HINDERS THE PALESTINIAN FIGHT AGAINST COVID-19”

EXAMPLES:

Mauritania, 45th session

“Mauritania condemns the acts of the occupying power Israel that undermines the efforts to fight COVID-19 in the Palestinian territories. It arrested doctors and confiscated hospitals...”

Indonesia, 43rd session

“Israel has used COVID-19 quarantine measures as a smokescreen to expand illegal settlements through nefarious means.”

Gulf Cooperation Countries, 43rd session

“Israel should take all necessary protective measures in order to combat the COVID pandemic in line with international law with regards to the right of access to health care for Palestinians who live under occupation...”

RESPONSE:

UN Watch

Israel has been severely affected by the COVID-19 pandemic. The coronavirus does not respect borders and given the proximity of Palestinians to Israeli population centers, it is in Israel’s interest to assist the Palestinian Authority in fighting COVID-19.

Contrary to the statements by Mauritania, Indonesia and the GCC quoted above, “since the start of the crisis,” reported the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) in March 2020, “the Palestinian and Israeli authorities have maintained a close, unprecedented cooperation on efforts aimed at containing the epidemic.”¹⁸⁸ According to the UN, “representatives from both ministries of health, as well as from Israel’s Coordination of Government Activities in the Territories (COGAT), have been meeting on a regular basis to agree on matters of mutual concern, such as the understandings concerning Palestinian workers employed in Israel.” The OCHA report noted that as part of these efforts, Israel’s COGAT “is facilitating four trainings for Palestinian medical teams, while the Israeli Ministry of Health donated over 1,000 testing kits and thousands of PPEs to the West Bank and Gaza.”

Likewise, the UN Special Coordinator for the Middle East Peace Process praised the Israeli-Palestinian coordination, describing it as “excellent,” in comments made before other members of the Middle East Quartet.¹⁸⁹

Since then, the level of coordination has declined, as a result of Palestinian intransigence as well as Israel’s difficulties in effectively handling its own coronavirus outbreak. In May, the Palestinian Authority cut ties with Israel, in response to its

188 COVID-19 Emergency Situation Report 1, OCHA (March 24, 2020), <https://www.ochaopt.org/content/covid-19-emergency-situation-report-1>.

189 COVID-19: UN envoy hails strong Israel-Palestine cooperation, UN News (March 28, 2020), <https://news.un.org/en/story/2020/03/1060572>.

then-declared annexation plans which were subsequently suspended.¹⁹⁰ The PA's cutting of ties with Israel further impacted Palestinians seeking medical care in Israeli hospitals for treatments not available in PA areas, who already had been harmed by the PA's March 2019 decision to cease medical referrals to Israeli hospitals.

According to OCHA, the PA's suspension of coordination with Israel "has already affected humanitarian operations across the occupied Palestinian territory (oPt), including preparedness and response to the COVID-19 pandemic."¹⁹¹ Since the beginning of June, the UN agency reported, "the import of essential supplies by humanitarian agencies has been disrupted, affecting some of the major operational organizations, including the World Health Organization (WHO), the UN Children's Fund (UNICEF), and the UN Development Programme (UNDP), in addition to some NGOs."

Moreover, the Palestinian Authority on two occasions refused to accept airborne deliveries of medical supplies from the United Arab Emirates "because it was coordinated directly between Israel and them [the UAE]," according to Palestinian civil affairs minister Hussein al-Sheikh.¹⁹² This was in reaction to warming Israel-UAE relations which eventually resulted in normalization.

The PA also falsely claimed that Israel was spreading coronavirus to the Palestinians.¹⁹³ If that were true, senior Palestinian official Saeb Erekat would not have sought and obtained treatment for coronavirus and related complications in an Israeli hospital, where he received high-level care.¹⁹⁴

190 Steve Hendrix and Sufian Taha, *Palestinian leader cuts ties with Israel over annexation plans. His own people feel the pinch.*, **Washington Post** (May 30, 2020), https://www.washingtonpost.com/world/middle_east/palestinian-leader-cuts-ties-with-israel-over-annexation-plans-his-own-people-feel-the-pinch/2020/05/29/9f70c39e-9f61-11ea-be06-af5514ee0385_story.html.

191 *End of Palestinian Authority coordination with Israel in response to annexation threat: decision already impacting medical referrals*, **The OCHA Humanitarian Bulletin** (July 20, 2020), <https://www.ochaopt.org/content/end-palestinian-authority-coordination-israel-response-annexation-threat-decision-already>.

192 *Palestinians again refuse planeload of virus aid from UAE*, **Times of Israel** (June 11, 2020), <https://www.timesofisrael.com/palestinians-again-refuse-planeload-of-virus-aid-from-uae/>.

193 *Israel said fuming at PA accusations it's spreading virus in West Bank*, **Times of Israel** (April 13, 2020), <https://www.timesofisrael.com/israel-said-fuming-at-pa-accusations-its-spreading-virus-in-west-bank/>.

194 *Intubated and on life support, PA's Saeb Erekat undergoes bronchoscopy*, **Times of Israel** (Oct. 22, 2020), <https://www.timesofisrael.com/intubated-and-on-life-support-palestinian-adviser-erekat-undergoes-bronchoscopy/>.

CLAIM 21:

“ISRAEL STEALS PALESTINIAN NATURAL RESOURCES”

EXAMPLES:

Arab Group, 45th session

“The Arab Group condemns the violations and the continuous escalation of the occupying power against Palestinian civilians, including...stealing natural resources...”

Bangladesh, 45th session

“We are witnessing with a deep sense of frustration the continued occupation... exploitation of Palestine natural resources have compounded their suffering, impoverishment, and underdevelopment.”

Iraq, 45th session

“Iraq condemns the violations and the continuous escalation of the occupying power against Palestinian civilians...the theft of natural resources...”

RESPONSE:

UN Watch

Although the above accusations were not specific as to which natural resources Israel is allegedly stealing, others campaigning on this subject have cited stone quarries and water. For example, Amnesty International has devoted an entire campaign on its website to Israel’s alleged theft of Palestinian water.¹⁹⁵ Similarly, Human Rights Watch accuses Israel of “exploitation of resources in occupied territory” through its West Bank quarries.¹⁹⁶ Michael Lynk, the UNHRC’s Special Rapporteur on Palestine, has also made these accusations.¹⁹⁷

In fact, as detailed below, both Israel and the Palestinians have certain rights to the natural resources in the West Bank, as defined in the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, known as the Oslo II Accord, which was signed in September 1995 by Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasser Arafat, and witnessed by U.S. President Bill Clinton as well as by representatives of Russia, Egypt, Jordan, Norway, and the European Union, and deposited with the United Nations.¹⁹⁸ The subject was specifically addressed under the Interim

195 *The Occupation of Water*, **Amnesty International** (Nov. 29, 2017), <https://www.amnesty.org/en/latest/campaigns/2017/11/the-occupation-of-water/>.

196 Sarah Saadoun, *The Gaping Hole in Jared Kushner’s “Peace Plan,”* **Human Rights Watch** (July 3, 2019), <https://www.hrw.org/news/2019/07/03/gaping-hole-jared-kushners-peace-plan>.

197 *Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967*, UN Doc. A/HRC/40/73 (March 15, 2019).

198 *Letter dated 27 December 1995 from the Permanent Representatives of the Russian Federation and the United States of America to the United Nations addressed to the Secretary-General*, UN Doc. A/51/889; S/1997/357 (May 5, 1997), https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_950928_InterimAgreementWestBankGazaStrip%28OsloII%29.pdf.

Agreement's Annex III.¹⁹⁹ Other issues, including agriculture, fisheries, electricity and gas were also addressed in the Oslo Accords.

Quarries

Since the mid-1970s, Israel has been operating stone quarries in what the Oslo Accords defines as Area C of the West Bank, which is subject to Israeli administrative and security control. It is false to accuse Israel of stealing from the quarries because the Israeli rights to the quarries were obtained following examination of land ownership, adherence to statutory planning procedures and through a licensing process pursuant to the applicable Jordanian law.

Moreover, the Oslo II Accord, under Article 31 of Appendix 1 to Annex III, recognizes Israel's rights in the quarries, and expressly authorized Israel's continued operation of them. Article 31 provides that during the interim period, until overall control of the area is transferred to the Palestinians, the quarries would continue to operate as before, and any issue that arose would be addressed by a joint Israeli-Palestinian committee. Notably, until the decision of that committee, "the Palestinian side shall not take any measures which may adversely affect these quarries."

This is also consistent with international law. Regulation 55 of the 1907 Hague Regulations, as well as military manuals from the U.S., the UK, Canada and other countries, recognize the right of an occupying power to administer mines and even benefit from the profits, provided that it does not damage or destroy the quarries.²⁰⁰ As pointed out by the Supreme Court of Israel, even if Israel would continue to mine the quarries for the next 30 years, it would only use up about half a percent of the total mining potential in the area.²⁰¹ Moreover, in this case, cessation of mining activities could damage the existing infrastructure and endanger the ability of the Palestinians to work the quarries in the future. Hague Regulation 55 requires Israel to "safeguard the capital." To do so, until overall

control of the area is transferred to the Palestinians, it would seem that Israel must continue to operate the quarries.

Furthermore, a significant number of West Bank Palestinians benefit from the quarries either because they are directly employed by the quarries or their work is dependent on the quarries. Significantly, Palestinians also operate their own quarries in Areas A, B and C of the West Bank.

When Israel's quarrying activities in Area C of the West Bank were challenged before the Israeli Supreme Court,²⁰² the Israeli government committed not to establish new stone quarries in the West Bank and to focus on restoring abandoned quarries to their natural state. It also committed to use the proceeds of the quarrying for projects in the West Bank for the benefit of both the Israeli and Palestinian populations to be overseen by the Israeli army's civil administration in the area. The Supreme Court found that this was a political issue already addressed by the Oslo Accords, and that it could only be resolved through further negotiations.²⁰³

Water and Sewage Resources

The Oslo II Accord also addressed the issue of water and sewage rights. While it did not resolve ownership rights, leaving this for final status negotiations, it provided, under Article 40 of Appendix 1 to Annex III, that the two sides should "coordinate the management of water and sewage resources and systems in the West Bank" and form a joint committee for that purpose. Each side was authorized to maintain existing quantities of water utilization from existing resources. In addition, the Palestinians could take additional resources primarily from the Eastern Aquifer. They were also to develop their own additional water resources, to prevent waste and deterioration of water quality, avoid harming the water resources and sewage systems of either side and to treat, reuse or properly dispose of sewage.

The claim that Israel steals Palestinian water resources is false. In fact, it has been shown that the Palestinians steal water from Israel, and not

199 *The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Annex III* (last visited Dec. 24, 2020), <https://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT%20-%20Annex%20III.aspx>.

200 Hague Convention IV Respecting the Laws and Customs of War on Land and its Annex: Regulations Concerning the Laws and Customs of War on Land, Article 55 (Oct. 18, 1907), <https://ihl-databases.icrc.org/ihl/WebART/195-200065>.

201 *Yesh Din v. Commander of IDF forces in the West Bank*, Case No. 2164/09 (Israeli Supreme Court, Dec. 26, 2011).

202 *Id.*

203 *Id.*

the other way around.²⁰⁴ Instead of drilling in the Eastern Aquifer as allocated to the Palestinians, or developing new water resources as required by the Oslo Accords, they have drilled several hundred unauthorized wells in the Western and Northern Aquifers in violation of the Oslo Accords, harming Israel's water supply and the surrounding environment. The Palestinians also steal water directly from Israel's national water company, Mekorot, by tapping into its pipes, thereby harming the water supply to both Israelis and Palestinians.

Moreover, Palestinian use of water has been characterized by waste and mismanagement. The Palestinian Authority has a history of failing to fix water leaks, collect and treat sewage, conserve water used for agriculture, or collect payment for water from most Palestinians in the West Bank and Gaza. The PA could easily solve its water problems in the West Bank by drilling the Eastern Mountain Aquifer, fixing the main leaks in their pipes, collecting and treating their urban waste and implementing drip irrigation technology for agriculture.²⁰⁵ They could do the same in Gaza. Furthermore, the international community has offered to build a desalination plant in the Gaza Strip which, according to water expert Haim Gvirtzman, "could completely solve the Gaza Strip's water shortages," but the Palestinians originally opposed this on political grounds.²⁰⁶ According to recent sources, construction on the project is in the very early stages.²⁰⁷

Finally, this accusation ignores that Israel and the Palestinians have been working together to resolve water issues. For example, in July 2017, Israel and the Palestinian Authority signed a U.S.-brokered water-sharing deal pursuant to which Israel agreed to sell to the Palestinians 32 million cubic meters of water annually at a reduced

price. Palestinian Water Authority head Mazen Ghuneim welcomed the deal.²⁰⁸ This was part of a larger trilateral agreement between Israel, the Palestinian Authority and Jordan for construction of a pipeline to transfer water from the Red Sea to the Dead Sea. The parties had originally signed a memorandum of understanding concerning the Red Sea-Dead Sea project in 2013. Regrettably, despite this cooperation, the issue of water has been politicized by certain campaign groups, leading to the false narrative reflected in the accusations above by the Arab Group, Bangladesh and Iraq.²⁰⁹

204 Prof. Haim Gvirtzman, *The Truth Behind the Palestinian Water Libels*, **The Begin-Sadat Center for Strategic Studies** (Feb. 24, 2014), <https://besacenter.org/perspectives-papers/truth-behind-palestinian-water-libels/>.

205 *Id.*

206 *Id.* See also *Myths vs. Facts: NGOs and the Destructive Water Campaign Against Israel*, **NGO Monitor** (March 22, 2015), https://www.ngo-monitor.org/reports/myths_vs_facts_ngos_and_the_destructive_water_campaign_against_israel/.

207 *Focus Areas: Water*, **Office of the Quartet** (last visited Dec. 24, 2020), <http://www.quartetoffice.org/page.php?id=5e2231y6169137Y5e2231>; see also *Gaza desalination plant: UFM flagship project ready for implementation*, **EU News** (June 30, 2020), <https://www.eunighbours.eu/en/south/stay-informed/news/gaza-desalination-plant-ufm-flagship-project-ready-implementation>.

208 Jeffrey Heller, *Trump envoy announces Israeli-Palestinian water deal, silent on peace prospects*, **Reuters** (July 13, 2017), <https://www.reuters.com/article/us-israel-palestinians-usa-water-idUSKBN19Y1EZ>; Raphael Ahren and Melanie Lidman, *Israel, Palestinians reach landmark water deal for West Bank, Gaza*, **Times of Israel** (July 13, 2017), <https://www.timesofisrael.com/israel-palestinians-reach-landmark-water-deal-for-west-bank-gaza-strip/>.

209 *Myths vs. Facts: NGOs and the Destructive Water Campaign Against Israel*, **NGO Monitor** (March 22, 2015), https://www.ngo-monitor.org/reports/myths_vs_facts_ngos_and_the_destructive_water_campaign_against_israel/.

CLAIM 22:

“ISRAEL DAMAGES PALESTINIAN HOLY SITES”

EXAMPLES:

Syria, 45th session

“Syria demands an end to the barbaric practices committed by the occupation army and Israeli settlers, including...the destruction of historical monuments.”

Iraq, 43rd session

“The city of Jerusalem is changing in character. The international community should bear its moral responsibility to preserve and protect sacred sites as well as the people under occupation...”

Palestine, 43rd session

“The occupying power is continuing its efforts to change east Jerusalem status and to take measures against the al-Aqsa mosque and other religious sites.”

RESPONSE:

UN Watch

Accusations of this nature have often served as a means of inciting the Muslim world into believing that Israel threatens its holy sites, particularly the al-Aqsa mosque.²¹⁰ The charge that Israel is “Judaizing” Jerusalem likewise aims at delegitimizing Israeli and Jewish historical rights in the city.

Unlike other Middle East actors, Israel values the preservation of the holy sites of all major religions. Its 1967 Protection of Holy Places Law states:

The Holy Places shall be protected from desecration and any other violation and from anything likely to violate the freedom of access of the members of the different religions to the places sacred to them or their feelings with regard to those places.²¹¹

The Temple Mount is Judaism’s most holy religious site. Well before the advent of Islam, it housed both the First and Second Temples, each of which stood for hundreds of years before being destroyed by the Babylonians and the Romans, respectively. While under Israeli control, the Temple Mount is administered by the Islamic Waqf under a status quo agreement. Contrary to allegations made about violations of Muslim rights, it is Jews who are forbidden from praying at the site, and their visits are limited to times and restrictions imposed by Israeli security officials.

While Palestinians may object to Jews visiting their most holy site, there are no Israeli initiatives to alter the existing status quo. In addition, commenting on the American peace plan, U.S. Ambassador David Friedman confirmed that “the status quo, in the manner that it is observed today, will continue, absent an agreement to the contrary. There is noth-

210 Nadav Shragai, *The “Al-Aksa Is in Danger” Libel: The History of a Lie*, Jerusalem Center for Public Affairs (2012), <https://jcpa.org/al-aksa-is-in-danger-libel/the-al-aksa-is-in-danger-libel-intro/>.

211 *Protection of Holy Places Law 5727 (1967)*, The Knesset (last visited Jan. 10, 2021), <https://www.knesset.gov.il/laws/special/eng/holyplaces.htm>.

ing in the plan that would impose any alteration in the status quo that is not subject to the agreement of all the parties.”²¹²

Israel makes every effort to safeguard holy sites. The Palestinians, however, have actively targeted Jewish religious and historical sites. For example, Joseph’s Tomb near Nablus has been attacked on multiple occasions, most recently in 2015 when it was torched by Palestinian rioters.²¹³ Palestinian renovations and excavations on the Temple Mount have also sought to erase Jewish historical ties to the site by removing and destroying ancient artifacts dating back to the periods of the First and Second Temples.²¹⁴

Ultimately, all sacred religious sites are safe under Israeli sovereignty while Jerusalem, a city with a continuous Jewish presence dating back to the biblical era, continues to service its Palestinian residents.

212 *U.S. sees no imposed change to ‘status quo’ around Al-Aqsa mosque*, **Reuters** (Jan. 29, 2020), <https://www.reuters.com/article/us-israel-palestinians-plan-prayer-idUSKBNIZSIYH>.

213 *Palestinian rioters torch Jewish holy site Joseph’s Tomb*, **BBC** (Oct. 16, 2015), <https://www.bbc.com/news/world-middle-east-34547523>.

214 Amanda Borschel-Dan, *Muslim cleanup project ‘illegally disturbed, removed’ ancient soil on Temple Mt*, **Times of Israel** (June 22, 2018), <https://www.timesofisrael.com/muslim-cleanup-project-illegally-disturbed-removed-ancient-soil-on-temple-mt/>.

CLAIM 23:

“ISRAEL ENGAGES IN MILITARY AGGRESSION AGAINST SYRIA AND LEBANON”

EXAMPLE:

Iran, 41st session

“Continuous military aggression of the occupying power against the sovereign states of Syria and Lebanon and their innocent people are clearly example of flagrant violations of international law, principle, and norms.”

RESPONSE:

UN Watch

Israel is not committing aggression in Syria and Lebanon, but it does routinely respond to threats and attacks from both countries, in most cases stemming from Iran and its proxy Hezbollah.

Conflict in Syria

During Syria’s decade-long civil war which began in 2011, Israel has avoided any serious entanglement with the warring parties, unlike other countries that have directly intervened with troops on the ground such as Russia, Iran and Turkey. However, as Iran and its proxy Hezbollah used their presence in Syria to dramatically escalate their military deployment against Israel, it has responded.

Iran’s presence in Syria, under the strategy overseen by the late General Qassem Soleimani, has had two goals. The first goal was to provide funding and military power so that the Bashar al-Assad regime could maintain its grip on power in the ongoing civil war. According to the IDF, since 2011, Iran has deployed 3,000 Iranian Quds Force militants in Syria, and funded the deployment there of 8,000 Hezbollah militants as well as thousands of foreign Shiite militias.²¹⁵ Second, and no less important, the Islamic Revolutionary Guards Corps (IRGC) has focused its efforts on establishing advanced weapons capabilities and command infrastructure in Syria, building a military and proxy network in the country, to threaten and attack Israel.

Iran is not shy about its intentions. Senior Iranian officials routinely call for Israel’s destruction. In April 2020, Iranian official Mohsen Rezaei threatened: “If the Zionist entity takes even the slightest initiative, you may rest assured that we will raze the Israeli cities to the ground.”²¹⁶

215 *Iran Attacks Israel from Syria*, **IDF** (Nov. 20, 2019), <https://www.idf.il/en/minisites/iran/iran-in-syria/iran-attacks-israel-from-syria/>.

216 *Top Iran official renews threat to ‘raze Israeli cities’ amid friction with US*, **Times of Israel** (May 4, 2020), <https://www.timesofisrael.com/top-iran-official-repeats-threat-to-raze-israeli-cities-amid-friction-with-us/#gs.gxfyav>.

Recent examples of Iranian aggression against Israel from Syria, and Israel's response, include:

- *Feb. 10, 2018*: Iranian UAV armed with explosives, launched from an airbase in Syria, infiltrated Israeli airspace in attempted attack, which was prevented by Israeli helicopters. In response, Israel struck the UAV launch site and 12 other Iranian and Syrian targets in Syria. Israel lost one of its F-16 planes in the counter-offensive—a rare loss for the Israeli air force, though both crew members survived after ejecting. More from *BBC*.²¹⁷
- *May 9, 2018*: Iranian Quds Force in Syria fired 20 rockets at Israel. In response, Israel carried out strikes on dozens of Iranian Quds Force military targets in Syria. More from *New York Times*.²¹⁸
- *Jan. 20, 2019*: Iranian Quds Force in Syria fired Iranian-made rocket at Israeli civilian ski resort on Golan Heights. In response, Israel struck Iranian Quds Force targets in Syria, including munition storage sites, a military compound in Damascus International Airport, and Iranian intelligence and military training sites. More from *CNN*.²¹⁹
- *Aug. 24, 2019*: Iranian Quds Force killer drone attack, directly commanded by Iranian General Qassem Soleimani, was preemptively foiled by IDF. More from *Washington Times*.²²⁰

- *Sept. 9, 2019*: Shiite militants in Syria, operating under the direct command of Iranian Quds Force, fired several rockets at Israel. Rockets fell short and landed in Syria. More from *The Washington Post*.²²¹
- *Nov. 19, 2019*: Iranian forces in Syria fired four rockets at Israel. In response, the IDF struck dozens of Iranian and Syrian targets in Israel, including surface-to-air missiles, Quds Force headquarters, weapon warehouses and military compounds. More from *BBC*.²²²

World leaders have condemned Iranian attacks on Israel from Syria and defended Israel's right to respond. In May 2018, British Prime Minister Theresa May stated: "We condemn Iran's attack on Israel. Israel has every right to defend itself."²²³ Boris Johnson, then foreign minister, urged Iran "to refrain from further escalation."²²⁴ Germany likewise condemned Iran's attack as a "serious provocation" and recognized that "Israel has a right to self-defense."²²⁵ EU foreign affairs representative Federica Mogherini responded to the Iranian attack by affirming that "Israel has the right to defend itself."²²⁶

In view of the above, it is clear that Israel's actions in response to Iran's military threats and aggression in Syria amount to self-defense and are legal under international law.

217 *Iranian drone was sent to Israel 'to attack,' BBC* (April 13, 2018), <https://www.bbc.com/news/world-middle-east-43762193>.

218 Isabel Kershner, *Iran fires rockets into Golan Heights from Syria, Israelis say*, **New York Times** (May 9, 2018), <https://www.nytimes.com/2018/05/09/world/middleeast/israel-iran-attack.html>.

219 Oren Liebermann, *Israel strikes Iranian targets in Damascus after missile fired at Golan Heights*, **CNN** (Jan. 22, 2019), <https://edition.cnn.com/2019/01/21/middleeast/israel-strikes-iran-targets-syria-intl/index.html>.

220 Ben Wolfgang, *Israel thwarts Iranian 'killer drone' attack*, **Washington Times** (Aug. 25, 2019), <https://www.washingtontimes.com/news/2019/aug/25/israel-thwarts-iranian-killer-drone-attack/>.

221 James McAuley, *Hezbollah downs Israeli drone in ongoing tension between Iranian-backed groups and Israel*, **Washington Post** (Sep. 9, 2019), https://www.washingtonpost.com/world/middle_east/hezbollah-downs-israeli-drone-in-ongoing-tension-between-iranian-backed-groups-and-jerusalem/2019/09/09/9c712628-71b5-46b3-a1cb-93d3c9ddcfe9_story.html.

222 *Israel carries out 'wide-scale strikes' on Iranian forces in Syria*, **BBC** (Nov. 20, 2019), <https://www.bbc.com/news/world-middle-east-50485521>.

223 *Britain condemns Iran attack on Israel*, **Reuters** (May 10, 2018), <https://www.reuters.com/article/us-mideast-crisis-iran-britain/britain-condemns-iran-attack-on-israel-idUSKBN1IB1BX>.

224 @BorisJohnson, **Twitter** (May 10, 2018, 6:48 PM), <https://twitter.com/borisjohnson/status/994605038734540805?lang=en>.

225 *France, Russia, Germany, UK urge 'de-escalation' between Israel, Iran*, **i24 News** (May 10, 2018), <https://www.i24news.tv/en/news/international/174381-180510-france-russia-germany-urge-de-escalation-between-israel-iran>.

226 Itamar Eichner, *EU, UK stress Israel's right to defend itself after strikes*, **Ynet** (Nov. 5, 2018), <https://www.ynetnews.com/articles/0,7340,L-5257687,00.html>.

Lebanon and Hezbollah

Iran and Hezbollah typically condemn all Israeli actions in Lebanon as violations of international law or aggression. In August 2018, two IDF drones crashed between residential buildings in Beirut. Hezbollah leader Hassan Nasrallah lashed out at Israel, saying this was “a very, very dangerous development.”²²⁷ According to a report by the Washington Institute, the drones were targeting Iranian weapons facilities in Lebanon.²²⁸ In January 2018, Hezbollah accused Israel of a bomb attack in the city of Sidon that wounded a member of the Hamas terror group.²²⁹ In January 2019, when Israel discovered a series of sophisticated attack tunnels dug from Lebanon into Israel, and responded by putting up a barrier, Lebanon’s National Security Council complained that this constituted “an act of aggression.”²³⁰ Do these and related actions in fact constitute aggression?

One cannot understand Lebanon without appreciating the central role played by Iran and its proxy militia Hezbollah, which, according to the New York Times, “dominated” the last Lebanese government. Iran finances Hezbollah to the tune of \$800 million per year, part of estimated billions that Tehran spends annually to fuel conflicts across the Middle East, including massive support to the Syrian regime and “resistance” groups in Iraq, Lebanon, Yemen, Gaza and the West Bank.²³¹ According to a UN statement by 11 Arab states, Iran is today “a state sponsor of terrorism” throughout the Middle East, committing “aggression in the region.”²³²

Hezbollah is widely recognized as a terrorist organization, including by the United States, United Kingdom, Australia and Germany. In 2009, Hezbol-

lah released a new Charter in which it called Israel an “eternal threat to Lebanon,” vowed to support “the Palestinian resistance” and stated: “We categorically reject any compromise with Israel or recognizing its legitimacy...”

Hezbollah has repeatedly escalated conflict on Israel’s northern border. In 2006, Hezbollah’s kidnapping of Israeli soldiers sparked a 34-day war in which Hezbollah indiscriminately fired 3,900 rockets at Israeli population centers, killing 49 civilians and wounding 1,384. In addition, 121 Israeli soldiers were killed and another 1,244 injured. The war ended in a ceasefire pursuant to Security Council Resolution 1701 which called for the disarmament of Hezbollah, providing that the only armed forces permitted to operate in southern Lebanon would be UNIFIL and the Lebanese Army. Hezbollah has repeatedly violated the ceasefire through various acts of aggression along the Lebanon-Israel border.

In December 2018 and January 2019, Israel discovered six Hezbollah attack tunnels crossing under the border from Lebanon into Israel.²³³ The tunnels contained advanced infrastructure, including electricity, ventilation and communications systems enabling terrorists to remain inside for extended periods. They were part of a Hezbollah plan to attack northern Israel. In the UN debate of December 2018, the Lebanese government (which includes Hezbollah) refused to acknowledge any violations of international law.²³⁴ On the contrary, when Israel responded by constructing a barrier, Lebanon’s National Security Council complained that this constituted “an act of aggression.”²³⁵

227 Laila Bassam, Lisa Barrington, *Hezbollah leader says Israeli army to face quick retaliation to drone ‘attack’ in Beirut*, **Reuters** (Aug. 25, 2019), <https://uk.reuters.com/article/us-mideast-security/hezbollah-leader-says-israeli-army-to-face-quick-retaliation-to-drone-attack-in-beirut-idUSKCNIVFOCK>.

228 Hanin Ghaddar, *How Will Hezbollah Respond to Israel’s Drone Attack?* **Washington Institute** (Aug. 28, 2019), <https://www.washingtoninstitute.org/policy-analysis/view/how-will-hezbollah-respond-to-israels-drone-attack>.

229 *Hezbollah accuses Israel of Sidon bombing*, **Reuters** (Jan. 19, 2018), <https://fr.reuters.com/article/us-lebanon-israel-hezbollah-idUSKBN1F81QB>.

230 *In Lebanon, U.S. State Department official calls Hezbollah ‘unacceptable,’* **Reuters** (Jan. 14, 2019), <https://www.reuters.com/article/us-lebanon-usa/in-lebanon-us-state-department-official-calls-hezbollah-unacceptable-idUSKCN1P81UI>.

231 David Adesnik, *Iran Spends \$16 Billion Annually to Support Terrorists and Rogue Regimes*, **Foundation for Defense of Democracy** (Jan. 10, 2018), <https://www.fdd.org/analysis/2018/01/10/iran-spends-16-billion-annually-to-support-terrorists-and-rogue-regimes/>.

232 *Note verbal dated 27 October 2016 from the Permanent Mission of the United Arab Emirates to the United Nations addressed to the Secretary-General*, UN Doc. A/71/581 (Oct. 31, 2016), <https://digitallibrary.un.org/record/847916>.

233 Trey Yingst, *Reporter’s Notebook: Inside Hezbollah’s attack tunnels*, **Fox** (May 30, 2019), <https://www.foxnews.com/world/fox-news-goes-inside-one-of-hezbollahs-attack-tunnels-in-israel>.

234 *Tunnels under ‘Blue Line’ between Lebanon, Israel Violate Resolution 1701 (2006), Peacekeeping Chief Says, Urging Calm in Briefing Security Council*, **UN Press Release** (Dec. 19, 2018), <https://www.un.org/press/en/2018/sc13634.doc.htm>.

235 *In Lebanon, U.S. State Department official calls Hezbollah ‘unacceptable,’* **Reuters** (Jan. 14, 2019), <https://www.reuters.com/article/us-lebanon-usa/in-lebanon-us-state-department-official-calls-hezbollah-unacceptable-idUSKCN1P81UI>.

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