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Israel's Fateful March: From Settler Colonialism to Genocidal State

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ABSTRACT *This article delves into the legal discussions surrounding the crisis unleashed by the military operation launched on October 7, 2023, in Southern Israel by Palestinian forces of the resistance based in Gaza. Israel considered this a "terrorist attack," asserted the right of self-defense, declared war on Gazans, and started the continuous and indiscriminate bombardment of Gaza. As a result, Gaza has become the new Dresden, in which thousands have been killed and tens of thousands injured. This article is an attempt to answer the following questions to illuminate the legal issues surrounding the current crisis and the broader context of Israel's legal status as a state and its territorial claims: Was the Palestinian offensive in Southern Israel an instance of terrorism and/or an act of aggression? Which side of the conflict can rightfully claim the right of self-defense? Did Israel commit genocide in Gaza? Do Israel's statehood and territorial claims rest on firm legal grounds? Is it legally sensible to argue that Israel is a threat to international peace and security?*

Keywords: Operation al-Aqsa Flood, Israel's Assault on Gaza, Genocide, Dubious Origins of Israel, Israel as Global Threat

Insight Turkey 2023
Vol. 25 / No. 4 / pp. 181-196

Received Date: 20/11/2023 • **Accepted Date:** 23/12/2023 • **DOI:** 10.25253/99.2023254.11

Introduction

On October 7, 2023, an unexpected military operation was launched in Southern Israel by a group of Palestinian resistance fighters led by the military wing of the Hamas government in Gaza, namely the Izzad-Din al-Qassam Brigades. Named Operation al-Aqsa Flood, this surprise attack, which was accompanied by the launching of thousands of rockets into Israel, was set in motion from land, air, and sea. Gaza is a tiny territory (365 km^2) on the Mediterranean coast with a population of 2.4 million people, which makes it one of the most densely populated places in the world. Within hours of the operation, the Palestinian fighters managed to seize a number of military bases, police headquarters, and towns hosting Jewish occupier settlers. For a few days following the October 7 offensive, Palestinian armed groups continued to engage in gun battles with Israeli forces in various parts of Southern Israel.

Operation al-Aqsa Flood was motivated by a variety of factors, all of which demonstrate the desperation of the Palestinians who have been faced with extinction as a "political" category in part due to the Abraham Accords, which brought about normalization between Israel and a number of Arab states (the United Arab Emirates, Bahrain, Morocco, and Sudan) and to the then ruling Israeli government's attempt to assimilate the occupied Palestinian territories into Israel proper fully. The intention to entirely devour the territories belonging to the Palestinians was disclosed insolently by Prime Minister Benjamin Netanyahu before the UN General Assembly in September 2023.[1] The October 7 operation was also intended to draw the world's attention to the all-out blockade and military siege of Gaza since 2007, an international crime, which had turned Gaza into an open-air prison. Palestinians were also infuriated by the constant Zionist assaults on the sanctity of the al-Aqsa Mosque, provocations, and the imposition of ever-increasing restrictions on Muslim worshippers. Finally, the escalation of settler violence against the Palestinian residents in the West Bank and the expansion of new Jewish occupier settlements were among the main motives.[2]

The Zionist state immediately tagged this military operation as a "terrorist attack" and claimed that international law gave it the right to self-defense. Accordingly, Prime Minister Netanyahu declared that his country was at war.[3] On the same day of the Palestinian forces' incursion into Southern Israel, Israeli armed forces launched a heavy bombardment of Gaza from air, land, and sea, which has not subsided since. Israel's ruthless and all-out indiscriminate and continuous attacks on Gaza for 40 days (as of November 16, 2023) brought about a horrendous humanitarian tragedy that saw the killing of about 13,000 and the wounding of at least 30,000 Gazans. Gaza has been utterly devastated as a result of the bombing spree, which saw the full destruction of 41,000

houses and 71 mosques and the partial destruction of 222,300 housing units, 25 hospitals (now not functioning), 253 schools (63 rendered unusable), 156 mosques, and 3 churches as of November 14.[4] After having committed a never-ending cycle of international crimes against the Palestinian people, such as war crimes, crimes against peace, crimes against humanity, and the crime of apartheid, the Zionist state can now "pride" itself on perpetrating a new evil deed, even surpassing others in its scale and monstrosity: namely, genocide.

The right of a people to liberate their homeland/country through armed resistance against alien occupation is as natural a right as a human's right to live. In contrast, an occupying power has no right of self-defense against those who are under military occupation

This article investigates the Gaza crisis from the perspective of international law. It raises the question as to whether Operation al-Aqsa Flood could be described as a "terrorist attack" and/or as an instance of "military aggression." It accordingly draws on the right of self-defense under international law and points to its implications for the Gaza crisis. It also reviews the international law of armed conflict. It then probes as to whether Israel has committed genocide in Gaza. The text proceeds with a discussion of the legal origins, acts of aggression, and the territorial expansion of the state of Israel. Then, it reflects on the possibility of characterizing Israel as a 'global threat' to international peace and security. The adoption of countermeasures against Israel and the possibility of suing Israeli criminals, from the president and prime minister to the rest of the culprits, are discussed in the final part of this essay.

Right of Self-Defense and the Gaza Crisis

In evaluating the attack on October 7, Israel and almost all the Western governments claimed that Israel became the victim of a "terrorist attack" by Hamas and that, therefore, the Zionist state was fully entitled to defend itself against its enemy. In their view, since the Palestinian armed groups caused this "unprovoked attack," Palestinians had to face the death and destruction meted out to them by Israel in an act of self-defense.[5] This interpretation –armed (or massive terrorist) attack vs. the right of self-defense– could perhaps make sense in situations of normalcy between two independent states. It is well-known that the Charter of the UN (1945) is designed to rule out military aggression, which tends to result in a breach of international peace and security.[6] However much this formulation may be favored by the Zionist states and its Western

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backers, it has little relevance to the situation in Gaza. Gaza, alongside the West Bank and East Jerusalem (al-Quds), was occupied by Israel during the Six-Day War of 1967. Despite the UN Security Council Resolution No. 242,[7] Israel refused to withdraw from these areas. In the specific case of Gaza, Israel has continued to exercise effective control over Gaza. However, it officially announced the withdrawal of its troops and the evacuation of four illegal Jewish settlements in 2005. This is mainly because the "disengagement plan" explicitly stated that Israel would continue to control Gaza by air, sea, and land while it would retain its control of border crossings as well as public utilities and services, such as the supply of water and electricity.[8] Hence Gaza continued to suffer from the Israeli aggression in the form of de facto occupation as acknowledged by the UN and respected international human rights or humanitarian bodies, such as Amnesty International and the International Red Cross.[9] It ought to be recalled that, in addition to customary law, the UN General Assembly's two historic resolutions adopted respectively in 1970[10] and 1974[11] declared the illegality of territorial acquisition by force.

This explains why the surprise military offensive against Israel by armed forces based in Gaza does not constitute an armed attack or an act of military aggression as defined in international law. This is because a state under military occupation enjoys the right of self-defense as mentioned in Article 51 of the UN Charter, which confers on "the inherent right of individual or collective self-defense if an armed attack occurs" against a state. The illegality of territorial acquisition by force had largely been recognized even before the Second World War.[12] Palestine has been a state –albeit under military occupation– since the declaration of Palestinian independence in 1988.[13] It is recognized by about 140 states as such and has been an "observer state" of the UN since 2012. If one insists that Gaza or, more generally, Palestine is short of being a state, the right of resistance of a people under military occupation furnishes the necessary legal qualification for the Palestinians. This was, for instance, the case for the people of South West Africa which endured the many decades of ruthless military occupation by South Africa until it gained independence in 1990 and the process leading to the independence of East Timor in 2002 which had been occupied by Indonesia in 1975. Based on the right of self-determination, international law gives the Palestinian people the right to liberate their homeland from "alien occupation."[14] Both the right of self-defense and the right of resistance to foreign occupation are dynamic rights that continue to exist so long as the occupation continues. This explains why, for instance,

various resistance movements set up after numerous European countries had been occupied by Nazi Germany in the Second World War continued to launch attacks on German targets even after the German control of these territories had been firmly established. This is why General Charles de Gaulle was perfectly entitled to lead the French resistance against the German occupation from his exile in London during the Second World War. The right of a people to liberate their homeland/country through armed resistance against alien occupation is as natural a right as a human's right to live. In contrast, an occupying power has no right of self-defense against those who are under military occupation.

That Israel claimed to have exercised the right of self-defense against the military incursion of the Palestinian armed groups into Southern Israel on October 7, 2023, is a travesty of the rules and principles of international law on the use of force, military occupation, self-determination, and statehood. Military occupation and general acts of aggression are among the most hideous crimes in international law. In the current crisis, it is Israel that has been committing armed aggression against Gaza and its people, in addition to perpetrating genocide, war crimes, and crimes against humanity. It should be said, yet again, that the core problem is the continued Israeli occupation of the Palestinian territories.

Laws of War and Genocide in Gaza

Considering that Israel has been the occupying power in Gaza since 1967 (de facto occupant since 2005), it has been under a legal duty to comply with the Hague Conventions (1907) and the Fourth Geneva Convention (1949) as well as with customary international law on the laws of armed conflict and military occupation.[15] Under the pertinent rules of international law, an occupying state is barred from changing the status quo within the occupied territory and thus should avoid extending its laws and regulations to the occupied area.[16] It is under the obligation not to take legal and administrative measures that are prejudicial to the safety and well-being of the population living in the occupied territory. Decisions and practices whose goals are to deprive the residents of their basic livelihood are strictly prohibited by international legal rules.

Yet, in breach of its international legal duties, Israel's assault on Gaza has become a case of deliberate and indiscriminate killing, wounding, and maiming of the Palestinians in Gaza. There is ample evidence to suggest that Israel committed genocide against Gazans during its barbaric assault on Gaza from air, sea, and land because it sought to eliminate as many people as possible. Cutting off the essentials for human survival in Gaza, namely, water, food, medicine, and electricity, was likewise calculated to cause as many deaths as pos-

A man walks among the rubble in the residential area known as Juhor ad-Dik, in the Southeastern part of the Gaza Strip, which has been heavily damaged by Israeli attacks, November 28, 2023.

MUSTAFA HASSONA / AA

sible. Both mischievous strategies also served Israel's goal of ethnic cleansing through the forcible transfer of the Palestinian population from Gaza.

To repeat, then, the drama unfolding in Gaza has, *inter alia*, featured Israel's perpetration of genocide against the Palestinians, as defined in the Convention on the Prevention and Punishment of the Crime of Genocide of 1948[17] (shortly, the Genocide Convention). Article 2 describes actions or conditions that are tantamount to genocide. The first three categories constituting such an act are assuredly applicable to the current humanitarian tragedy in Gaza in 2023:

> In the present Convention, genocide means any of the following acts committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, such as:
>
> (i) Killing members of the group,
> (ii) Causing serious bodily or mental harm to members of the group,
> (iii) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part.[18]

In light of the Genocide Convention, there is no doubt that the physical element of genocide, the gravity of acts perpetrated, namely, *actus reus,* was present in the Gaza case. The element of intent (*mens rea*) to commit genocide was likewise present vis-à-vis the ruthless attacks on Gaza from October 7 onward.

As soon as Operation al-Aqsa Flood was launched, the Israeli Prime Minister, government, and high officials brazenly disclosed their intention to kill and destroy the whole population of Gaza, whom they blamed for supporting Hamas. Israeli Defense Minister Yoav Gallant openly declared that the Israeli army was given free rein by the new war cabinet in its war against Hamas. This meant that Israel refused to constrain itself within the rules of war and international humanitarian law.[19] Prime Minister Benjamin Netanyahu ruled out the possibility of a ceasefire in Gaza although the Israeli war machine, including round-the-clock bombing and shelling of Gaza, continued unrelentingly to kill, wound, and maim hundreds of Palestinians every day. Israel branded the entire people of Gaza as an "enemy population" and targeted them indiscriminately.[20] This is the logic that explains why the Zionist state turned Gaza from being an "open prison" (which was the case before October 7, 2023) into an "open graveyard" given that the killing spree was supplemented by a total siege of Gaza that denied the residents the essentials of life, namely water, food, medicine, and electricity. In defense of this deadly siege, Gallant even dared to describe the Palestinian residents of Gaza as "human animals" who deserved this despicable treatment.[21] For his part, Israeli President Isaac Herzog, whom many outside of Israel were fond of portraying as a "moderate voice," was equally unflinching when he blamed the entire population of Gazans for failing to rise up against the "evil regime that took over Gaza."[22] Such announcements are clear indications of Israel's deliberate intention to commit genocide in Gaza. In other words, Israeli decision-makers held no distinction between combatants and non-combatants in the deadly assault on Gaza and precluded any concern about international humanitarian law. Therefore, as a manifestation of its genocidal intent, the entire population of Gaza was the target of Israel's all-out assault.

The heavy Israeli bombing of the al-Ahli Baptist Hospital, which instantly caused the death of nearly 500 people, was proof that Israel has surpassed, in cruelty, all of the previous perpetrators of genocide known in modern history

The element of clear and explicit intent to destroy Palestinians is one crucial factor that separates the Israeli case from other instances of genocide that the world has witnessed in the last century. With barbaric impulses to destroy, Israel sought to inflict as much harm and suffering as possible on the victims of its genocidal intent. To maximize harm and civilian suffering, it has targeted residential areas, hospitals, clinics, schools, marketplaces, ambulances, mosques, and churches. As a result, thousands of civilians have been killed in Gaza, while tens of thousands of Gazans have suffered serious injuries. The heavy Israeli bombing of the al-Ahli Baptist Hospital, which instantly caused

the death of nearly 500 people, was proof that Israel has surpassed, in cruelty, all of the previous perpetrators of genocide known in modern history. This single case could alone constitute proof of genocide against the Palestinian people by Israel, besides amounting to a war crime and a crime against humanity.

Legally Dubious Origins and Historical Criminality of the State of Israel

The state of Israel came into existence thanks to the trigger that was started by the infamous Balfour Declaration of November 2, 1917, roughly a month before the British occupied Jerusalem as part of its war campaign in the First World War.[23] This expressed the British determination to create a "national homeland" for Jews in Palestine. The document was an apparent travesty of the fledgling principle of national self-determination that constituted the backbone of the mandates system during the League of Nations (1919) because, at the time of its proclamation, more than 90 percent of the inhabitants of Palestine were Arabs (mostly Muslims, some Christians).[24] There was further absurdity in this plan. Although the mandatory regime, as defined by Article 22 of the Covenant of the League of Nations[25] concerning the A group mandates, which were established in the Arab-majority countries in the Middle East previously ruled by the Ottoman Empire, merely conferred the mandatory states, like Britain and France, the "right of administration," and not "the right of sovereignty," Britain continued its mischief by encouraging Jewish immigration into Palestine after seizing the area. Furthermore, despite the massive Jewish migration for over three decades (1917-1948), the great majority of the population in the area still consisted of Palestinian Arabs, Britain refused to give independence to Palestine (to be governed by Arabs) at the close of the Second World War. This was unique among other Arab majority states, which were similarly placed under the mandates system, such as Iraq, Syria, and Jordan, where the Arab majorities were granted independence.

After Britain decided to pull out from Palestine, it brought the matter to the agenda of the UN General Assembly, which, in 1947, decided to partition Palestine between a Jewish and an Arab state while Jerusalem would be an international city. This resolution, Resolution 181,[26] was another major blow to the aspirations of the Palestinian Arabs who had insisted on an undivided Arab state –with legal and political guarantees for the Jewish minority rights– in accordance with the principle of self-determination. The notorious resolution allocated 56.5 percent of Palestine to the Jews, while the Arabs, constituting 70 percent of a population of roughly 2 million in Palestine, were accorded only 43 percent of the land. This resolution was legally suspect on a number of fronts: First, the UN General Assembly was not empowered to adopt binding resolutions; second, the Assembly had no authority to create states; third, on the eve of the historic voting leading to Resolution 181, the U.S. (and Zionist

lobbies) exerted enormous pressure on some UN member states to vote in favor of this draft to the extent that it threatened some states.[27] This is a breach of Article 2(4) of the UN Charter, which holds that: "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state."

The international community, including the Muslim world, has failed to offer any solutions to the Palestinians other than the one that is dictated by realpolitik considerations of the weighty international actors that reduced the Palestinian aspirations to the 1967 borders, namely, the West Bank, East Jerusalem, and Gaza, constituting only a fraction of Mandatory Palestine

The weak legal foundations that led to the creation of Israel were supplemented by its unfounded claim to the Palestinian territories that it occupied during the Arab-Israeli war in 1948-1949. During this war, Israel occupied nearly half of the territories that had been allotted to Palestinians in the UN partition plan. Although international law had, by then, prohibited the seizure of territory by force, Israel incorporated those parts of Palestine into Israel proper instead of withdrawing from these areas. This is astonishing because international acts or legal titles obtained as a result of the illegal use of force or threat to use force are invalid under international law.[28]

The legal dubiousness of Israel and its territorial claims are matched by its continuous criminality via the Zionist terrorist groups before independence and then the state of Israel. The Zionist presence in Palestine never sought a peaceful coexistence with Arabs, so to speak, in the "promised land." The Jewish residents in Palestine steadily grew in strength thanks to the permissive policy of Britain, enabling Jewish immigration in large numbers and allowing special privileges for the Zionists. Various Zionist terrorist groups were formed in Mandatory Palestine, such as Haganah, Irgun, and Stern, to consolidate the Jewish gains at the expense of the Arabs. They launched countless bloody attacks against Palestinian targets in the decades preceding the establishment of the State of Israel. These brutal and pernicious attacks were a manifestation of the criminal character of the Zionist pioneers. Ethnic cleansing of ordinary Palestinians, mass murder, indiscriminate killings, and the burning of houses were among the heinous crimes leading to the mass expulsions or exodus of the Palestinian population in 1947-1949. The Zionist leadership, from top to bottom, was single-mindedly fixed on the idea of creating a Jewish state in which there would –eventually– be no Palestinians. This was an ideological choice, and the means to achieve that was, as proven in time, the ethnic cleansing of Palestin-

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ians. It reached its climax in the 1948-1949 Arab-Israeli war, commonly known as the Naqba,[29] leading to the violent displacement of about 750,000 Palestinians. The ethnic cleansing of Palestinians has since remained the favorite demographic strategy of the Zionist state. The Zionists immediately began embarking on egregious crimes against the Palestinian inhabitants as soon as Israel came into existence in May 1948. Its unwavering and perpetual goal has been to eliminate, dislocate, and marginalize the indigenous Palestinians through which Palestine would be cleansed of its indigenous population. The current commission of genocide in Gaza could thus be seen as a sequel to the perpetual criminality of the Zionist terrorist network.

For decades, the international society has chosen to resign itself to a discourse that has served the expansionist agenda of the Zionist state and its imperial backers. Accordingly, the international community, including the Muslim world, has failed to offer any solutions to the Palestinians other than the one that is dictated by realpolitik considerations of the weighty international actors that reduced the Palestinian aspirations to the 1967 borders, namely, the West Bank, East Jerusalem, and Gaza, constituting only a fraction of Mandatory Palestine (only 22 percent). What is more, in recent years, the Palestinians have also been coerced to concede the reality of ever-mushrooming Jewish occupier settlements in the West Bank (including East Jerusalem).

Israel is not only an aggressive and expansionist state; it is also a colonial-settler state. To make Palestine "home" to a huge wave of Jewish immigrants from all over the world, the strategies deployed by the Zionist state have not been confined to the daily harassment of the Palestinians living under the throes of a ruthless military occupation. Since occupying what remained of the Palestinian territory in 1967, in East Jerusalem and the West Bank, it established about 250 illegal Jewish settlements in which about 750,000 Jews live. The Zionist state has routinely engaged in cold-blooded ethnic cleansing, massacres, and indiscriminate killings of Palestinians. It has perpetrated large-scale and deeply disturbing human rights violations, including the denial of most basic human rights in the "occupied territories" (one could reason that the pre-1967 borders of Israel are also "occupied territories"). It has extended its laws and regulations to claim jurisdiction in East Jerusalem and parts of the West Bank and has tried its utmost to wipe out the traces of Palestinian cultural, religious, and political heritage in Palestine. Such policies and strategies have stood out

Hamas' armed wing, the Izz ad-Din al-Qassam Brigades, started a fully-fledged military operation in Southern Israel on October 7, 2023.

MOHAMMED AHMED / AA

as major instruments of the Palestinian dispossession and marginalization in their ancestral homeland.

Israel not only victimizes Palestinians. Its strategies of territorial expansion, domination, and infliction of utmost violence also target the Arab and Muslim worlds. Besides, with the complex mechanics of influence at its disposal, aided in particular by the sheer power of Zionist lobbies all over the world, Israel ought to also be viewed as a major menace to international peace and security.

Israel as a "Global Threat" to International Peace and Security

Israel is an anomalous state that practices settler colonialism at the precise time in which colonialism has been universally accepted as a detestable malpractice of a bygone age. The Zionist state employs strategies of domination, terror, and intimidation toward any actors it deems "hostile" or "inimical to its high policy interests." More concretely, they include techniques of violence such as extra-judicial killings, kidnapping, threats, and undercover operations against targets inside and outside its borders. Besides, one should also mention that Israel is today the only remaining apartheid state in the world. It is also astonishing to note that its territorial boundaries (borders) are unknown. Furthermore, it has not ceased to pursue aggressive policies toward its Arab neighbors although they no longer pose any threat to it. It is sufficient to note that, for decades, it has been treating Syria and Lebanon as a hunting ground for its insatiable appetite

for aggression, destruction, and intimidation. It also perpetually threatens to attack states geographically further from it, like Iran. On the nuclear front, on different occasions, it has threatened to use its nuclear weapons against its adversaries. The world witnessed this during the October War of 1973 when, having been forced to retreat from the occupied Sinai because of Egypt's military advances, the Zionist state informed the U.S., that, unless something was done, it would use nuclear weapons against Egypt.[30] A similar scenario was played out when an Israeli minister spoke of the desirability of using nuclear weapons in Gaza in the course of the 2023 crisis in the enclave.[31]

Israel is commonly viewed in the non-Western world as an agent of Western imperialism in the Middle East. It is an accomplice of the U.S. in its aggressive policies, dirty wars, and greater militarization of the world. Israel is a major instrument of imperialist hegemony in the Arab and more broadly Muslim world. It is also a "reliable" accomplice of the U.S. in the UN General Assembly.[32] Both states mostly act as one in their opposition to resolutions on progressive issues for the betterment of the world, like the establishment of a new international economic and political order, calls for an end to direct and indirect aggression, and disarmament. Israel is in fact a major "black hole" within the prevailing international order.

The picture is very clear for those who wish to see it. It is the right time for the Zionist state to be declared as a global threat to international peace and security by the UN. Israel ought to be confronted with the full force of international society and its potential for punitive action.

Countermeasures and Criminal Procedures for Israel and Israeli Criminals

As the "sacred cow" of the existing international order, Israel's impunity from punishment has up until now only served to exacerbate its criminality. This ought to change. The UN must take up the case of Zionist crimes in Palestine and impose countermeasures and penalties against Israel. The certainty of a U.S. veto against an impending draft resolution stipulating any form of military enforcement action and/or imposing a wholesale embargo against Israel should caution us about the Security Council. The General Assembly, then, comes to the fore as an alternative platform considering that it was armed with such a function by a Uniting for Peace Resolution[33] in 1950 in situations when the Security Council failed to fulfill its function of protecting peace in case of international (security) crises due to the veto by a permanent member. Although its resolutions, in principle, are non-binding, there is no –ordained– reason why members should choose to ignore, say, a General Assembly resolution envisioning the dispatch of peacekeeping troops and/or the imposition

of extensive embargo against Israel, as was sometimes occasioned in the history of the UN.[34] Economic, political, military, and cultural embargoes against Israel ought to be brought to the agenda of the Organization of Islamic Cooperation, the African Union, the Shanghai Cooperation Organization, and the Association of Southeast Asian Nations. Muslim countries should also consider closing their airspace to Israeli flights. Israel should not be allowed to get off the hook this time. This is a time to act and not to talk. Therefore, humanity's demand for justice for Palestinians ought to be reflected in the posture adopted by the main agents in the international order, which ought to go beyond "condemning" the never-ending Zionist atrocities by taking effective action.

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In addition, on the judicial front, the UN General Assembly must establish a special international tribunal that will investigate and judge the countless crimes committed by Israel against the Palestinians and a long list of states and individuals as victims of Israeli aggression and state terror in various parts of the world. The UN General Assembly could also adopt a resolution declaring, as did it in 1975,[35] that it later rescinded in 1991,[36] Zionism as a category of racism and racist aggression that constitute international crimes.

Undoubtedly, the hideous crimes in Gaza necessitate the deployment of legal processes and mechanisms of international criminal law to indict the Israeli high officials for crimes against peace, war crimes, and crimes against humanity, as well as for genocide. Indeed, some appeals have already been made to the International Criminal Court for a ruling concerning the Israeli crimes in Gaza in the latest assault. There is already a case involving, *inter alia*, Israeli crimes perpetrated during its assault on Gaza in 2014 pending before the court that was found admissible, *inter alia,* for the following reasons: first, the State of Palestine was party to the Statute of the International Criminal Court since 2015; secondly, the alleged crimes under investigation were committed in Palestinian territory.[37] The "universality principle" in regard to the subject of state jurisdiction is also pertinent here. Accordingly, any state whose municipal penal law permits the prosecution of foreign suspects engaged in the aforementioned crimes may claim jurisdiction.

For freedom and justice, then, it is fitting to say, "From the river to the sea, Palestine will be free."

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17. "Convention on the Prevention and Punishment of the Crime of Genocide," *United Nations,* (December 9, 1948), retrieved from https://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.1_Convention%20on%20the%20Prevention%20and%20Punishment%20of%20the%20Crime%20of%20Genocide.pdf.

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23. "Balfour Declaration 1917," *Yale Law School,* (November 2, 1917), retrieved from https://avalon.law.yale.edu/20th_century/balfour.asp.

24. In 1918, against a population of roughly 689,000 Palestinian Arabs, Jews numbered nearly 59,000. A very detailed information about the yearly changes in the population composition in Palestine, from 1850s up until 1948, as presented in tables, see: Youssef Courbage, "Demography and the Palestine Question (I) 1850s-1948," *Interactive Encyclopedia of the Palestine Question,* retrieved from https://www.palquest.org/en/highlight/294/demography-and-palestine-question-i.

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26. "Resolution Adopted on the Report of the Ad Hoc Committee on the Palestinian Question," *United Nations,* (November 29, 1947), retrieved from https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/038/88/PDF/NR003888.pdf?OpenElement.

27. Roger Garaudy, *The Case of Israel: A Study of Political Zionism,* (London: Shorouk International, 1983), pp. 48-49.

28. "No Territorial Acquisition Resulting from the Threat or Use of Force Shall Be Recognized as Legal," Declaration on Friendly Relations, 1970, *op.cit.* According to the UN Resolution on the Definition of Aggression, 1974, *op.cit.*, Article 5(3), "No territorial acquisition or special advantage resulting from aggression is or shall be recognized as lawful." Similarly, under the Vienna Convention on the Law of Treaties (1969), as enshrined in Article 52, "A treaty is void if its conclusion has been procured by the threat or use of force in violation of the principles of international law embodied in the Charter of the United Nations." See: "Vienna Convention on the Law of Treaties," *United Nations,* (May 23, 1969), retrieved from https://legal.un.org/ilc/texts/instruments/english/conventions/1_1_1969.pdf.

29. On the ethnic cleansing of Palestinians between 1947-1949, see: Ilan Pappé, *The Ethnic Cleansing of Palestine,* (Oxford: Oneworld Publications, 2007).

30. Hany Konayyesi, "October War: Israel Hinted to the US at Using Nuclear Weapons," *Asharq Al-Awsat*, (October 5, 2023), retrieved from https://english.aawsat.com/features/4586521-october-war-israel-hinted-us-using-nuclear-weapons; Sebastien Roblin, "Israel Nearly Went Nuclear to Win the 1973 Yom Kippur War," *The National Interest*, (November 8, 2020), retrieved from https://nationalinterest.org/blog/reboot/israel-nearly-went-nuclear-win-1973-yom-kippur-war-172087.

31. Ikram Kouachi, "Israeli Minister Says Dropping 'Nuclear Bomb' on Gaza Is 'Option,'" *Anadolu Agency*, (November 6, 2023), retrieved from https://www.aa.com.tr/en/middle-east/israeli-minister-says-dropping-nuclear-bomb-on-gaza-is-option-/3044272.

32. The following web site that takes up the issue from 2000 up until 2021 demonstrates the extremely high level of convergence between the US and Israeli voting preferences in the UN General Assembly.

The rate of convergence between them almost never dropped below 90 percent during the period under investigation. See: "United Nations Member States Voting Records Voting Coincidence with the United States (2005–Present)," *Jewish Virtual Library,* retrieved from https://www.jewishvirtuallibrary.org/united-nations-member-states-voting-records.

33. "Resolution 377(V)," *United Nations,* (November 3, 1950), retrieved from https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/059/75/PDF/NR005975.pdf?OpenElement.

34. Uniting for Peace Resolution was first put in motion in June 1950 by Resolution 83 when the General Assembly recommended member states to "furnish such assistance to the Republic of Korea as may be necessary to repel the armed attack and to restore international peace and security in the area." The Assembly similarly held an emergency session during the crisis which broke out as a result of the military assault on Egypt by Israel, France and Britain following the nationalization of the Suez Canal in 1956. Likewise, the General Assembly held an emergency session on Congo in September 1960 as a response to the Congolese government's appeal for international help against military aggression by Belgium. All of these cases manifested two peculiar features which were common to all: first, in all these cases, the UN Security Council was paralyzed by the use of veto; second, the UN either authorized armies for military intervention (Korea) or dispatched peacekeeping troops to the war zones in question. As expressed by Tomuschat, "Although the shifting of responsibilities to the General Assembly may not be consistent with the original intentions of the drafters of the Charter, it is today fully accepted that emergency special sessions have become an integral part of the legal order of the United Nations." See: "Uniting for Peace General Assembly Resolution 377 (V), Introductory Note," *United Nations*, (2008), retrieved from https://legal.un.org/avl/ha/ufp/ufp.html. The General Assembly also adopted a series of resolutions providing for sanctions against the apartheid South Africa.

35. "Resolution 3379 (XXX) Elimination of all Forms of Racial Discrimination," *United Nations*, (November 10, 1975), retrieved from https://www.palquest.org/en/historictext/9987/unga-resolution-3379-xxx.

36. "Resolution 48/86," *United Nations,* (December 16, 1991), retrieved from https://documents-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/581/74/IMG/NR058174.pdf?OpenElement.

37. "Statement of ICC Prosecutor, Fatou Bensouda, Respecting an Investigation of the Situation in Palestine," *International Criminal Court,* (March 3, 2021), retrieved from https://www.icc-cpi.int/news/statement-icc-prosecutor-fatou-bensouda-respecting-investigation-situation-palestine.