

5. The Role of International Legal and Justice Discourse in Promoting the New Antisemitism

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Since the founding of Israel in 1948, the discourse of international law and human rights and the associated institutions have been widely used to attack the legitimacy of the Jewish state and to intimidate its Jewish citizens. In these contexts, the right of the Jewish people to self-determination, Zionism (the movement founded to realize this right), and the modern state of Israel are often characterized as threats to the post–World War II international legal order, on a par with the contemporary world’s worst evils: racism, colonialism, imperialism, and apartheid. The nation-state of the Jewish people is characterized as illegitimate and illegal, and Israel is portrayed as the primary violator of international norms, based on extreme double standards and highly disproportionate focus. The Boycott, Divestment, Sanctions (BDS) campaigns and the ritual singling out of Israel for censure in the United Nations and other international frameworks all claim to be grounded on the imperative of international law.

The use of international legal rhetoric to attack Zionism and the Jewish state was pioneered by the Arab countries and the Soviet Union as a modern and more acceptable way of expressing hostility toward Jews, particularly after the Holocaust. Such rhetoric was also used to attack Israel as a US proxy as part of the Cold War. As the Cold War drew to a close and the apartheid regime in South Africa was disbanded, civil society frameworks, notably church groups and nongovernmental organizations (NGOs) claiming to promote human rights and

humanitarian agendas, embraced the Arab/Soviet rhetoric and increasingly adopted this international legal and human rights discourse.

This campaign is a direct reflection of the growth in the normative and political significance of international law and human rights during the past century. As many analysts and historians have noted, the Nuremberg trials following the Holocaust and World War II marked a key turning point and established the legitimacy of international legal frameworks in holding political and military officials responsible for moral failures.

The newly founded United Nations adopted the Universal Declaration of Human Rights and the accompanying Genocide Convention in 1948. In the 1960s and 1970s, the United Nations established various human rights mechanisms that evolved into the current Human Rights Council, headed by a commissioner for human rights, as well as ancillary bodies. These instruments enshrined the prioritization of universal requirements and principles of human rights over previously inviolable national sovereignty and established the basis for external intervention on these moral grounds. According to Samuel Moyn, in this period, “the moral world of Westerners shifted, opening a space . . . that coalesced in an international human rights movement that had never existed before.”¹

In parallel, these human rights and international legal mechanisms were directed disproportionately against Zionism, Israel, and Jewish sovereign equality, becoming the language of a new antisemitism, with the emphasis on international law and United Nations resolutions.

This chapter outlines the history of this process and its manifestations. The first section discusses the emergence of these processes following the creation of the state of Israel, in the context of classical and theological antisemitism. Then we examine how this new antisemitism

presented itself in campaigns to portray Israel as a threat to the post–World War II international legal order and to label Zionism as a violation of international law and human rights. We trace these campaigns in the United Nations, spearheaded by the Arab League and the Soviet Union, and their adoption by NGOs proclaiming humanitarian and human rights mandates. A further section describes and analyzes the ways in which Israel and Zionism are presented not only as illegitimate and illegal under international law but also as the primary violator of international law and human rights. This process takes place through campaigns of extreme double standards and disproportionate focus and erases the context of Arab violence.

<A>New Antisemitism versus Old Antisemitism<\>

Collective antisemitism, in the form of denying the right of the Jewish people to sovereign equality, has joined classic theological antisemitism, which targeted individual Jews due to their religion and culture. The new antisemitism negates Jewish collective identity as a people and a nation with national rights, and it rejects the legitimacy of any Jewish state, regardless of borders, in the land of Israel.²

Following the founding of political Zionism and as the restoration of Jewish sovereignty became a reality, Israel, as the nation-state of the Jews, became the central target of hatred and rejection. The flag of postcolonial ideology was used to justify fierce opposition to Jewish self-determination while campaigning for the independence of other ethnonational groups with much weaker historical claims.³ Expanding on this theme, Alan Johnson observes that the “left hoped to dissolve Jewish peoplehood in the solvent of progressive universalism.”⁴ Attacking Israel as a state in which Jewish culture thrived made antisemitism acceptable on the left, as “negative feelings [would] not be expressed against all Jews but only against Jewish Israelis—under the guise that the feelings are political rather than anti-Semitic.”⁵ As former Swedish deputy prime

minister Per Ahlmark remarked in a May 2004 address to the American Jewish Committee, while “anti-Zionists accept the right of other peoples to national feelings and a defensible state . . . they reject the right of the Jewish people to have its national consciousness expressed in the state of Israel and to make that state secure.” According to Ahlmark, “anti-Semites of different centuries had always aimed at destroying the then center of Jewish existence . . . today, when the Jewish state has become a center of identity and a source of pride and protection for most Jews, Zionism is being slandered as a racist ideology.”⁶

In his comprehensive research, the late historian of antisemitism Robert Wistrich documented the formulae of the anti-Zionist narrative, in which Jews were portrayed as “rapacious, bloodsucking colonialists . . . rootless, imperialist invaders who came to Palestine to conquer the land by brute force, to expel or ‘cleanse’ it of its natives.”⁷ Zionism was described as a modern crusade that “succeeded only because of a gigantic occult conspiracy in which the Zionists (i.e., the Jews) manipulated Great Britain and subsequently America.”⁸ The Jewish state of Israel, they said, was created in sin—a unique sin from which other nations in Europe, North America, and elsewhere were somehow exempt.

The denial of Jewish national rights, particularly among intellectuals claiming to promote universalist values, merged with and was reinforced by the human rights and legal discourse. The Holocaust had made overtly antisemitic language in the West unacceptable, particularly on the left, but the language of international law and human rights was used instead.

In tracing this process, former chief rabbi of the United Kingdom Jonathan Sacks discusses the process of adaptation:

<EXT>Antisemitism always needs justification by the highest source of authority in the culture at any given age. Throughout the Middle Ages the highest authority

in Europe was the Church. Hence anti-Semitism took the form of Christian anti-Judaism. In the post-enlightenment Europe of the 19th century the highest authority was no longer the Church. Instead it was science. Thus was born racial anti-Semitism, based on two disciplines regarded as science in their day: the “scientific study of race” and the Social Darwinism of Herbert Spencer and Ernst Haeckel.

Today, that role is taken by human rights. It follows that any assault on Jewish life—on Jews or Judaism or the Jewish state—must be cast in the language of human rights. Hence the by-now routine accusation that Israel has committed the five cardinal sins against human rights: racism, apartheid, ethnic cleansing, attempted genocide and crimes against humanity. This is not because the people making these accusations seriously believe them—some do, some don’t. It is because this is the only form in which an assault on Jews can be stated today.⁹

Similarly, Robert Wistrich observed, “Zionism and the Jewish people have been demonized in ways that are virtually identical to the methods, arguments, and techniques of racist anti-Semitism. Even though the current banner may be ‘antiracist’ and the defamation is being carried out today in the name of human rights.”¹⁰

In this paradigm or discourse, Israel is knowingly compared to Nazism because “Nazism in the postwar world has become the defining metaphor of absolute evil.” Zionism is characterized “as heir to the darkest pages of Western colonial history,” and Israel is accused of exploiting the Holocaust to justify its alleged crimes. Instead of relying on tactics of the old antisemitism (which still manifests in manifold ways) via images of global conspiracy, financial control, and manipulation, the new version paints Israel as the enemy of international human

rights, singularly guilty of warmongering, ethnic cleansing, and occupation. Whereas in the past, it was necessary to “watch out” for the Jew and to denigrate Judaism, there is now “a moral obligation to wage war against Israel”—the state of the Jews.¹¹

Building on this formulation, international law professor and former Canadian minister of justice Irwin Cotler declared that this new antisemitism “can best be identified from an anti-discrimination, equality rights, and international law perspective. . . . The new anti-Semitism involves the discrimination against, denial of, or assault upon, the right of the Jewish people to live as an equal member of the family of nations” masked through the language of universal public values and “under the protective cover of the UN, the authority of international law, the culture of human rights, and the struggle against racism.”¹²

Based on these ideological foundations, and assisted by the ongoing Arab and Islamic effort to roll back the establishment and legitimacy of Israel in 1948, the influence of this anti-Zionist discourse expanded, skillfully exploiting the rhetoric of international law and universal human rights. As will be demonstrated in the next section, the United Nations became a central arena for broadening this campaign, and during the Cold War, Soviet and Arab propaganda relied on these themes. In addition, powerful civil society groups, ostensibly created to promote human rights, provided additional support for the campaigns targeting Israel through this form of soft power.

<A>“Zionism Is Racism” and the Existence of Israel as a Threat to the International Legal Order<\>

United Nations<\>

At the beginning, the United Nations, and its predecessor—the short-lived League of Nations—played central roles in conferring legitimacy on the right of the Jewish people to self-

determination and in the creation of the state of Israel. Yet the UN has also become the central platform through which the new antisemitism has been promoted.

The foundational principles of the United Nations as expressed in the preamble of its charter are the maintenance of international peace and security and the reaffirmation of “fundamental human rights.” Even before the November 29, 1947, adoption by the General Assembly of the Partition Plan for Palestine, and the declaration of the establishment of the state of Israel on May 14, 1948, Zionism was often portrayed in UN meetings as an enemy of international peace and security and a violation of equality and tolerance for all peoples.¹³ In other words, in these attacks, the Zionist movement and Jewish self-determination were painted as assaults on the heart of the new postwar international legal order.

Arab leaders recognized from the outset in 1945 that “the UN era would be one that would see the proliferation of international organizations and specialized agencies, and regional arrangements.”¹⁴ They embarked on a strategy to exploit these frameworks via international diplomacy that rejected the legitimacy of Zionism. This diplomacy employed highly charged rhetoric melding the themes of classical antisemitism with the developing postwar international legal discourse.¹⁵

Moreover, this rhetoric was an integral part of the accompanying legal strategy to isolate and exclude Israel, such as through boycotts and sanctions. As described by the Fatah movement (headed by Arafat) in 1968, the diplomatic objective was not to gain direct support for Israel’s destruction (a nonnegotiable Palestinian “right”) but rather to use means “which will satisfy public opinion or be acceptable to it” so that “public opinion will not castigate us with Fascism, anti-Semitism, or other inhuman epithets.”¹⁶

After the 1967 war, this nascent “lawfare” intensified.¹⁷ According to Barnidge, “it was not a question of the Arab world being willing to accommodate a Jewish State with territorial adjustments; the Arabs remained opposed, as they always had been to a Jewish State of any kind.”¹⁸ Instead, while the objective of destruction was unchanged, the means increasingly reflected the language of the UN Charter and of international human rights mechanisms.

Cold War Politics</>

Initially, Arab leaders attacked Zionism as part of the Communist conspiracy, particularly as the Soviet Union had recognized Israel. But during the height of the Cold War in the 1960s, as Israel moved closer to the United States and the West, the Soviet leadership joined with the Arab League in aggressively attacking Zionism and the legitimacy of the Jewish state. Soviet propaganda, which reserved the term *racist* for the propaganda of the United States and the West, the Soviet leadership “and more especially that Zionism was vitally indistinguishable from Nazism.”¹⁹ In the UN, Arab leaders echoed the Soviets as the UN, Arab leaders echoed the Soviets as indistinguishable from Nazism. Soviet leadership joined with the Arab League in aggrereseemblances between Israel and South Africa, and even more remarkably, between Zionists and Nazis.²⁰ Jewish self-determination was denigrated as an abomination, and the Soviet-Arab bloc sought to have Israel declared an “apartheid state” to expel it from the UN, and to replace it with a Palestine Liberation Organization (PLO)-led state.²¹

In UN resolutions and documentation, Zionism was categorized as equivalent to the evils of imperialism, colonialism, racial discrimination, apartheid, and, in some cases, even equivalent to antisemitism. It was the only national liberation movement singled out in this way. Actual racist practices such as those endemic in Islamic and Arab societies (including slavery and extreme gender and religious discrimination and segregation) were ignored, creating an entirely

artificial framework in which to attack Israel. To gain support for their objectives, Latin American and African countries would join in condemnation of Zionism in return for benefits from the Soviet Union and the Gulf States.²²

In Daniel Patrick Moynihan's elegant words,

<EXT>The UN system, in thirty years, had granted legitimacy to all manner of economic, social, and political arrangements: democratic and totalitarian; capitalist and socialist; pluralist and centralist. All were equally accepted as equally legitimate. Only regimes based on racism and racial discrimination were held to be unacceptable. This is not to say that anything that might be accorded the standing of international law held that a state determined to be racist had no right to exist, but this was very close to political reality especially at the UN. There were now but 3 states left in all of Africa or Asia still dominated by European whites: South Africa, Rhodesia, and Israel.²³</>

In this process, the Non-Aligned Movement (NAM), which at the time was the largest political bloc in the UN, was co-opted by the Arab League and as early as 1955 began repeating anti-Israel rhetoric couched in the language of anticolonialism. With the support of the NAM, it was possible for the Arab states and the Soviet Union to pass virtually any resolution attacking Zionism and the Jewish people.²⁴ In October 1964, Egyptian president Nasser hosted the annual NAM summit conference and secured a declaration branding Jewish self-determination as a form of a declara²⁵ By 1973, the NAM conference went so far as to call for the eradication of Zionism

itself and a full boycott of Israel and demanded the blocking of Jewish immigration to anywhere in the territory of Mandated Palestine west of the Jordan River.²⁶

With the backing of the Soviets and the NAM, meetings on human rights treaties debated whether to include Zionism as a prohibited movement. In 1965, during the drafting of the Convention of the Elimination of Racial Discrimination, the Soviets proposed an amendment in which “State Parties condemn anti-Semitism, Zionism, Nazism, neo-Nazism and all other forms of the policy and ideology of colonialism, national and race hatred and exclusiveness and shall take action as appropriate for the speedy eradication of those inhuman ideas and practices in the territories subject to their jurisdiction.”²⁷

A 1973 proposed International Convention of the Suppression and Punishment of Apartheid included a definition of apartheid that would encompass Zionism. In November 1974, UNESCO adopted a resolution condemning Israel for altering the historical features of Jerusalem and rejected a motion to include Israel in the Europe regional group. The UN 1975 World Conference on Women in Mexico City again called for the elimination of Zionism and, according to Moynihan, according to Moynihanion of Zionismion of the Suppression and Punishment²⁸

1975 UN “Zionism Is Racism” Resolution</>

These intense efforts in many UN frameworks to demonize Zionism as a violation of international human rights culminated in the 1975 vote by the United Nations General Assembly (UNGA), adopting Resolution 3379, declaring Zionism a form of racism, which, as described by Moynihan, bed by ionabomination of anti-Semitism the appearance of international legal sanction.²⁹ To accompany Resolution 3379, the UNGA also approved the creation of a special mechanism—the Committee on the Exercise of the Inalienable Rights of the Palestinian

People—which, among other activities, expanded the legal attacks on the legitimacy of Israel. (See the discussion below in the section “Israel as the Primary Violator of International Law.”)

The debate surrounding the resolution included overt expressions of antisemitism integrated with international legal rhetoric. Andrei Sakharov remarked that, “if this resolution is adopted, it can only contribute to antisemitic tendencies in many countries by giving them the appearance of international legality.”³⁰ At the UNGA session, Idi Amin, speaking on behalf of Uganda and the Organization of African Unity, declared, “America has been colonized by the Zionists who hold all the tools of development and power. They own vitally all the banking institutions. . . . How can we expect freedom, peace, and justice in the world when such a powerful nation as the US is in the hands of the Zionists? . . . I call for the expulsion of Israel from the UN and the extinction of Israel as a state so that the territorial integrity of Palestine may be ensured and upheld.” Amin’s speech received a standing ovation, and Moynihan noted that the “Zionism Is Racism” resolution “made it easier to attack the concept of a secular Jewish state and thus furnished the first new philosophical framework of anti-Semitism since WWII.”³¹

2001 UN Durban Conference and Beyond</>

Although the 1975 “Zionism Is Racism” resolution was repealed in 1991 in the context of international coalition building, including Israel, responding to Iraq’s invasion of Kuwait, attacks on Zionism and Jewish self-determination nevertheless continued apace. Following the fall of the apartheid regime in South Africa in 1994, Israel was portrayed as the sole remaining apartheid state. Echoing the language from the Rwandan genocide and the Balkan conflict of the mid-1990s, Israel became the main embodiment of a “genocidal” regime guilty of “ethnic cleansing.”

In 2001, the UN Human Rights Commission organized a massive conference in Durban, South Africa, ostensibly held to mark the fall of the South African apartheid regime, grandiosely

named the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance. The real focus was against Israel, with numerous displays of antisemitism and the exclusion of “pro-Zionist” speakers. The NGO Forum, which was attended by five thousand delegates from fifteen hundred groups, adopted a final declaration based on drafts written at a preparatory conference in Tehran, which referred to Israel as an apartheid state, guilty of war crimes, genocide, racism, and ethnic cleansing. Keynote speakers included PLO head Yassir Arafat, and NGO participants, including Amnesty International and Human Rights Watch, adopted a plan of action, based on the South African model, designed to lead to “the complete total isolation of Israel.”³²

Post-Durban, new institutions, such as the International Criminal Court (ICC), provided additional venues for demonization. Israel was an immediate target, primarily due to the Arab League push in the final phase of the negotiation of the Rome Treaty, which established the ICC. Palestinian leaders were quick to maximize the use of this platform, and they campaigned for UN recognition as a member state in order to be able to use the ICC and other bodies for legal attacks. Writing in the *New York Times* in May 2011, PLO leader Mahmoud Abbas stated that, in this way, Palestinians would pursue “the internationalization of the conflict as a legal matter.”³³ As Abbas made clear, obtaining statehood would allow the Palestinians to expand the use of international law and human rights to continue their attacks on the legitimacy of the Jewish state.

The Contributions of NGOs and Civil Society to the Delegitimization Campaign</>

In the campaign to equate Zionism with racism and to paint Israel as an illegal and illegitimate state, nongovernmental organizations became centrally involved. At first, Arab groups, such as the Arab Higher Committee, and unions and agricultural groups associated with nationalist Palestinian factions were integral in assisting state attacks on Zionism and Judaism.³⁴

Later, these campaigns were joined by NGOs proclaiming a human rights or humanitarian mandate. Church organizations such as the American Friends Service Committee, Diakonia (Sweden), ICCO (Netherlands), and Trocaire (Ireland) played a prominent role in promoting the new antisemitism. These groups began intensively campaigning both directly and through funding other NGOs active on issues such as the claimed “right of return” for Palestinian refugee descendants; commemorating the 1948 Nakba (“catastrophe”); and portraying Israel as a racist and apartheid state.

As noted above, the NGO campaign expanded significantly in the aftermath of the 2001 UN Durban Conference in response to directives laid out in the Final Declaration of the NGO Forum using international legal rhetoric. Article 162 of the declaration proclaimed “Israel as a racist, apartheid state in which Israel’s brand of apartheid as a crime against humanity” demanded an “immediate end to the Israeli systematic perpetration of racist crimes including war crimes, acts of genocide and ethnic cleansing” and called “upon the international community to impose a policy of complete and total isolation of Israel as an apartheid state.”

Palestinian groups such as Sabeel Ecumenical Liberation Theology Center, an Anglican NGO based in Jerusalem that merges Palestinian “liberation theology,” classical antisemitism, and Palestinian nationalism, and Badil, an influential Bethlehem-based NGO funded by a number of European countries ostensibly to assist Palestinian refugees, took up the charge of Durban. These NGOs and many others adopted the legal and human rights discourse laced with antisemitic language and imagery to advance their political agendas in UN frameworks, European parliaments, and churches.³⁵ When confronted with the antisemitic nature of their rhetoric, these organizations dismissed such charges as a pretext to “justify the racism of Zionism and Israeli policies.”³⁶

Several Israeli NGOs have also been formed to campaign for a “de-Zionized Palestine,” such as Zochrot and the Alternative Information Center. Like their Palestinian counterparts, these organizations advance the concept of an “occupation” that began in 1948 (not 1967), and they repeat the standard rhetoric portraying the Jewish state, regardless of borders, as inherently racist.

As can be readily demonstrated by multiple examples, the links between officials from these organizations and UN bodies as well as European institutions are extensive, and they extend to academic institutions such as human rights and international law programs. Individuals seamlessly transition from one to the other and back again, entrenching these campaigns and agendas and amplifying attacks on Jewish sovereign equality. Many NGO officials obtain positions in which they are placed in charge of decisions to allocate funding to their former employers, and they utilize them as consultants to bolster their politics and ideologies. Again, this process reinforces a dominant narrative among international bureaucratic elites that Zionism is illegitimate and the state of Israel is illegal. Activities promoted include a widely publicized South African government–funded report titled “Occupation, Colonialism, Apartheid? A Re-assessment of Israel’s Practices in the Occupied Palestinian Territories under International Law,” authored by former UN officials, academics, and NGO activists to “analyze” Israel’s violations of the “crimes” of apartheid and colonialism and to declare that laws to protect Israel as the nation-state of the Jewish people “are not merely symbolic formulas but establish a basis in Israeli law for racial discrimination.”³⁷ At a May 2013 conference, “Advocating for Palestinian Rights in Conformity with International Law Guidelines,” held at Birzeit University in Ramallah with many former UN officials, PLO representatives, and NGOs, participants advocated using

international law to “liberate Palestine,” to “expose the intent of colonization,” and to “weaken Israel’s legitimacy and international standing.”

<A>Israel as the Primary Violator of International Law</>

In addition to using international legal and human rights discourse to undermine the legitimacy of Zionism, Israel international law to “liberate Palestine,” to “expose antisemitism portrays Israel as the primary violator of international law—and, in particular, of human rights and humanitarian law.³⁸ Following the end of the Cold War and the collapse of the Soviet bloc, the international human rights network, including the UN bodies and the NGOs, redirected their focus to maintain impact and funding.³⁹ They shifted emphasis to international humanitarian law (IHL)—the law of armed conflict.⁴⁰ Concurrently, the legal discourse on Israel expanded from claims that Zionism was a form of racism to Israeli, the legal discourse on Israelites ended from claims that, including war crimes and crimes against humanity. UN committees, European parliaments, NGOs, and others began issuing statements and organizing conferences where speakers strategized about how Israel could be held by the UN bodies for its purported abuses. These frameworks constituted what academic researchers refer to as the “human rights industry,” which perpetuates itself through political campaigns, particularly in the West, generating large donations and increasing annual budgets, which, in turn, lead to further public relations activities.⁴¹ For the reasons discussed above, targeting Israel through allegations based on international law and human rights (the two are often thrown together without distinction) became a major focus of this “industry.”

The campaigns of the human rights industry involve microscrutiny and obsessive attention to Israeli actions during armed conflict, where every policy and practice, regardless of the merits, is deemed illegal. The various actors use *sui generis* interpretations of international

law and what can be described as aspirational approaches focusing intensely against the Jewish state.⁴² Israeli policies are characterized using the terms *occupation*, *siege*, and *collective punishment*, regardless of the actual legal definitions.⁴³ As Wistrich noted, the use of legal rhetoric also incorporates allegations that Israel implements “monstrous biblical doctrines” and Nazi practices toward Palestinians.⁴⁴

The BDS campaign, which often cites the problematic 2004 International Court of Justice advisory opinion on “the Wall” (Israel’s security barrier), explicitly states it will remain active until Israel “complies with international law and Palestinian rights,” including ending “occupation” and implementing a “right of return.”⁴⁵ The invocation of legal terminology is the primary language used in resolutions, publications, and other BDS materials, and it highlights the unique focus of these campaigns to target Israel.

Double Standards and Disproportionate Focus</>

The promotion of severe double standards and extreme disproportionate focus on Israel in contrast to other conflicts or states is the central means through which Israel is portrayed as the singular violator of international law. Natan Sharansky explains that such double standards become a form of antisemitism, as opposed to legitimate criticism of Israel, when Israel is portrayed as the singular violator of international law while the behavior of known and major abusers is ignored.⁴⁶ Ultimately, this form of antisemitism is based on the abuses while the behavior of known and major abusers is ignored.⁴⁷

<C>United Nations Platforms</>

As with campaigns portraying Israel as the singular violator of international law, the United Nations has become the primary venue for promoting double standards and disproportionate attacks on Israel using the discourse of international law.

Numerous UN platforms demonize the Jewish state as the primary violator of human rights and humanitarian norms. The UNGA typically issues more resolutions condemning Israel for violations of international law than all other countries combined. Annual meetings and reports of the Secretary-General's office, UNESCO, and UN Women, for instance, include resolutions condemning Israel alone.⁴⁸ Despite the facade of universality and impartiality, UN Human Rights Treaty bodies, such as the Committee against Torture and the Committee on the Elimination of Racial Discrimination, are far from immune.⁴⁹

These attacks are most acute within the special mechanisms provided by the UN uniquely for the Palestinians' cause. In 1974, only ten weeks after the Ma'alot massacre when more than thirty Israelis were killed during a Palestinian terror attack on a school,⁵⁰ the PLO was granted observer status at the UN, a status not conferred on any other armed guerrilla movement.⁵¹ Following the adoption of Resolution 3379 ("Zionism Is Racism"), the Division for Palestinian Rights was created to support the Committee for the Exercise of the Inalienable Rights of the Palestinian People established by Resolution 3379, the only UN division devoted to a single national group or cause. The division hosts international conferences, events, and exhibits; issues publications; and organizes the UN's annual International Day of Solidarity with the Palestinian People, aimed at advancing the Palestinian narrative, denigrating the Jewish connection to Jerusalem and the land of Israel, and promoting claims of Israeli legal violations.⁵² The division also runs the UN Information System of the Question of Palestine, providing the PLO and allied NGOs a free online platform to advertise conferences and events and to distribute anti-Israel propaganda.

In addition, the United Nations Relief and Works Agency for Palestine, ostensibly established to assist refugees, is a major source of attacks against Israel based on legal and

human rights claims.⁵³ The agency has its own public relations apparatus and officials who are active in promoting the Palestinian narrative, a “right of return,” and other pseudolegal claims.

Special attention must be directed to the UN Human Rights Council (HRC). The HRC, which was established in 2006, and its predecessor, the Commission on Human Rights,⁵⁴ have exhibited entirely disproportionate and obsessive focus on Israel. Israel is the only country with its own permanent agenda item (Item 7) at the HRC; it has been the focus of more than 80 percent of the resolutions; and one-third of the special sessions have been devoted to condemnations of the Jewish state. Since 2006, the HRC has appointed at least five fact-finding committees, most notably the 2009 United Nations Fact Finding Mission on the Gaza Conflict (also known as the “Goldstone Mission”), to investigate alleged Israeli abuses under human rights and humanitarian law—more than any other country.⁵⁵

Israel is also one of only fourteen countries for which a special rapporteur was appointed to monitor human rights violations, and it is the only country where the rapporteur’s mandate is one-sided and does not expire.⁵⁶ Many of the thematic rapporteurs addressing particular issues such as the right to food also routinely prioritize Israel as a prime violator of these rights. The special rapporteur appointed by the HRC to “investigate Israel’s violations of the principles and bases of international law, international humanitarian law and the Geneva Convention relative to the Protection of Civilian Persons in Time of War, of 12 August 1949, in the Palestinian territories occupied by Israel since 1967, international humanitarian law and the Geneva Convention relative to⁵⁷

Members appointed to the HRC commissions of inquiry have a similar history of prejudicial statements singling out Israel. For instance, three of the four members of the 2009 UN fact-finding mission empaneled to investigate the 2008–2009 Gaza War—Richard

Goldstone, Hina Jilani, and Desmond Travers—signed a widely publicized March 2009 letter initiated by Amnesty International accusing Israel of “gross violations of the laws of war” and stating that “events in Gaza have shocked us to the core.”⁵⁸ The fourth member, Christine Chinkin, signed a letter published in the *Sunday Times of London* on January 11, 2009, declaring Israel’s actions to be a “war crime” and denying that the operation was a legal form of self-defense. To the extent staffers can be identified for these commissions (the process is hidden), many have worked for civil society organizations that produce the biased material that largely forms the basis of the resulting reports.

The proceedings of these commissions have portrayed Israelis as uniquely immoral, child killers, psychologically disturbed, and akin to Nazis. In an exchange during hearings held in June 2009 by the Goldstone Mission, for instance, Desmond Travers asked Eyed Sarraj, head of the political NGO known as the Gaza Community Mental Health Program, the following:

<EXT,D>Travers: I would like to put a question to, it may not be entirely within your field, but nevertheless it’s a question that continuously comes around in my mind. We have heard testimony of great, uh, violence, seemingly *un-militarily, unnecessary violence inflicted particularly on children*. There have been instances of the *shooting of children in front of their parents* As an ex-soldier I find that kind of action to be *very, very strange and very unique*. I would like to ask you if you have any professional insights as to *what mindset or what conditioning or what training* could bring around a state of behavior that would cause a soldier, a fellow human being to shoot children in front of their parents. Do you have any professional insights into that kind of behavior? [emphasis added]

Sarraj: There is a psychological process, a long-term psychological process based in the situation of dehumanization of the enemy. The Palestinian in the eyes of the Israeli soldier is not an equal human being. This leads to what is called, uh, the, uh, arrogance of power. The most serious matter is that this state was not dealt with psychologically, this state of the victim and it became a perpetual state. It is very serious is that a victim who is not treated and then is given a dangerous weapon. There we see the arrogance of power and he uses it without thinking of humanity at all.</>⁵⁹

A follow-up question by Richard Goldstone prompted the following response from Sarraj: rraj: engrompted logical process, a long-term psychological process based in the situation of dehumanizabeings, as a whole human being . . . inside Israel there is an identification with the aggressor, the Nazi. N

In the case of Goldstone,⁶⁰ as in other instances, the resulting HRC reports lead to further condemnations and meetings in international frameworks and on university campuses and media reports of Israel's alleged legal violations. In 2014, for instance, the government of Switzerland convened a meeting of the High Contracting Parties to the Geneva Conventions to examine Israel's violations of international humanitarian law. These meetings have taken place only two other times in history, in 2001 and 2010; as in 2014, the other two conferences were similarly focused on Israel's alleged violations of the Geneva Conventions.

The double standards and disproportionate treatment of Israel in UN and other international frameworks are greatly bolstered and amplified by corresponding campaigns carried out by local Palestinian and Israeli NGOs advancing one-state agendas, international NGO superpowers such as Amnesty International and Human Rights Watch, churches, and humanitarian organizations such as Oxfam and Médecins Sans Frontières whose massive budgets rival those of multinational corporations. The next section details this dimension and the centrality of the rhetoric of international humanitarian law in these campaigns. It also highlights the merging of classical antisemitism and Holocaust inversion with this legal discourse and the prominent role played by church organizations and "dissident" Israelis.

<C>Civil Society Campaigns<\>

Accompanying the UN bodies, churches and NGOs claiming human rights and humanitarian mandates also disproportionately focus on the Jewish state through international legal discourse

and double standards. The accusations of these organizations include tentionately foc,t through international legal discourse and double standards. The accusations of these organi“through international l.t Measures to prevent civilian casualties, such as the issuing of warnings in Gaza despite the loss of strategic advantage to the Israel Defense Forces (IDF)—measures that military officials from around the world note far exceed legal requirements—are condemned and cited as further evidence of Israeli immorality, malice, and war crimes. IDF attempts to counter rocket fire and other attacks on the civilian population are branded as “pretexts” to inflict death and destruction on Palestinians—and children in particular. As Robert Bernstein, who founded Human Rights Watch and then criticized his organization, wrote in an October 19, 2009, *New York Times* op-ed, p-edrk Times 19, 2009e founded Human Rights Watch and then imes. IDF attempts to counter rocket fire rategic advalaw than of any other country in the region. . . . Yet Israel, the repeated victim of aggression, faces the brunt of Human Rights WatchIsrael, the re

A number of Israeli and Palestinian NGOs claiming to promote human rights and international law are similarly active in targeting Israel through these instruments (see the discussion below). These NGOs are largely funded primarily by European governments. For example, Sweden, Switzerland, the Netherlands, and Denmark jointly fund the International Humanitarian Law and Human Rights Secretariat based at the Birzeit University Institute of Law in Ramallah. This initiative provided at least \$13 million over three years (2014–16) to NGOs to document alleged Israeli violations of law.⁶¹ These institutions and their employees issue glossy publications, produce videos, and are highlighted at the UN and in European parliaments aimed at furthering condemnations of Israel and the imposition of sanctions and other punitive measures. A central goal of this funding is to have Israelis prosecuted by the International Criminal Court. Similarly, in 2008, Oxfam Novib and the European Union, in conjunction with

the NGO Palestinian Center for Human Rights, funded a conference, “Impunity and Prosecution of Israeli War Criminals.” The event was held in Cairo and broadcast on Al Jazeera; participants strategized ways in which Israelis could be prosecuted under universal jurisdiction statutes and by the ICC.

The legal language and accusations of the NGOs and UN bodies provide ammunition for the Israel boycott campaigns. For example, in February 2010, a group of British academics who penned an open letter (published in *Haaretz* and elsewhere) demanding that Elton John cancel a concert in Tel Aviv, wrote, “We’re struggling to understand why you’re playing in Israel on June 17. You may say you’re not a political person, but does an army dropping white phosphorus on a school building full of children demand a political response? Does walling a million and a half people up in a ghetto and then pounding that ghetto to rubble require a political response from us, or a human one?”⁶²

<D>NGO Theological Antisemitism, Holocaust Inversion <\>

Classical antisemitic themes, such as deicide, blood libel, poisoning the wells, conspiracy, cabals, manipulation, financial control, and the all-powerful Jew, as well as references to the Jewish Bible and Holocaust inversion are woven, often overtly, within these pseudolegal texts. These “civil society” campaigns frequently increase during Christian holidays.

To coincide with Christmas, the Amos Trust, a UK church-based “creative human rights organization,” sells a nativity scene with Israel’s “wall” cutting through it. War on Want, a powerful UK group that “fights against the root causes of poverty and human rights violation, as part of the worldwide movement for global justice,” offers a set of holiday cards, one of which shows Joseph and a pregnant Mary being stopped and searched by an IDF soldier on the way into Bethlehem. Another shows the Three Wise Men “tunneling” under the “wall.” The

description on the back of the card reads, “Bethlehem is one of the many Palestinian towns devastated by Israel’s illegal Separation Wall. . . . Despite being ruled illegal by the International Court of Justice in 2004, construction of the Wall continues.”

During the 2014 Gaza War, NGOs and the media made a point of condemning Israel for launching operations during Ramadan and while Palestinians were breaking their fasts, calling them war crimes and religious freedom violations.⁶³ In contrast, Palestinians were not condemned for launching rockets on Israeli Muslims and Palestinians in the West Bank at the same time. Nor were rocket launches on Tisha B’Av, one of the most somber days in the Jewish calendar, condemned.

During the 2006 Lebanon War in a July 31 letter to the *New York Sun*, Ken Roth, executive director of Human Rights Watch, condemned Israel for allegedly “bombing Lebanese civilians” and targeting “fleeing villagers.” He ascribed Israel’s actions to motivations from the Old Testament: “An eye for an eye—or, more accurately in this case, twenty eyes for an eye—may have been the morality of some more primitive moment. But it is not the morality of international humanitarian law.” In 2014, Roth promoted on his Twitter account a highly propagandistic advertisement equating “Nazi genocide” with “the massacre of Palestinians in Gaza” under the tagline “‘Never again’ must mean NEVER AGAIN FOR ANYONE!” Professor Deborah Lipstadt, in a 2014 interview, refers to this language as soft-core denigration of the Holocaust.⁶⁴ The head of Human Rights Watch’s Middle East and North Africa Division, Sarah Leah Whitson, has likened Israeli policy to Nazis and the crime of genocide as well as promoted the tropes of Jewish particularism and Jewish cabals. In response to a tweet praising the United States Holocaust Memorial Museum for hosting an exhibit on Syria, Whitson wrote, “@BBCKimGhattas @DRovera @HolocaustMuseum @BBCNewsUS should also show pics of

death and destruction in #Gaza,” implying that the Gaza War was the equivalent of genocide and the mass murder in Syria.⁶⁵ In a 2012 op-ed published in the *Huffington Post*, ffiMatter of Civil Rights,quivalent of genocide and and Jewish cabals. In response to a tweet praising the ust.law.” In 2014, Roth prom while singling out and chastising American Jews for supporting these alleged policies. Her ascribing culpability to US Jews for Israeli policies invokes the antisemitic canards of Jewish power, dual loyalty, and immorality.⁶⁶

In May 2016, a group of scholars called for the cancelation of a conference of the International Network of Genocide Scholars at Hebrew University (“organized by complicit institutions and taking place in a colony on occupied land”) in West Jerusalem because “Israel’s actions against the Palestinian people—from the Nakba to the ongoing displacement of Palestinians from their lands, and from repeated military offensives against Gaza to the ongoing blockade—are increasingly being viewed through lenses of ethnic cleansing and genocide linked to settler colonialism.”⁶⁷ The letter closed with “Never again means never again for anyone.”⁶⁸

A letter authored by activist “doctors and scientists” published in the medical journal the *Lancet* in July 2014 during the Gaza War is a particularly stark example. The letter accuses Israel of a “ruthless assault of unlimited duration, extent, and intensity.”⁶⁹ The authors “challenge the perversity of a propaganda that justifies the creation of an emergency to masquerade a massacre.”⁷⁰ They allege that Israel “clearly direct[ed] fire to target whole families killing them within their homes” and “targeted weaponry used indiscriminately and on children.”⁷¹ They further claim “none of these are military objectives.”⁷² These attacks aim to terrorise, wound the soul and the body of the people, and make their life impossible in the future.”⁷³ They conclude that “Israel’s behaviour has insulted our humanity, intelligence, and dignity as well as our professional ethics and efforts.”⁷⁴

Notably, a few weeks after the publication of this letter, two of the main authors, Dr. Swee Ang Chai and Paola Manduca, circulated a video, “CNN Goldman Sachs and the ZioMatrix,” created by white supremacist and former Ku Klux Klan grand wizard David Duke.⁷⁵ Chai’s cover email stated, “This is shocking video please watch. This is not about Palestine—it is about all of us!”⁷⁶ It also contained, in bold red lettering, “SEE THIS VIDEO BEFORE IT IS REMOVED FROM CIRCULATION—Please do pass on to others who you think would be interested and would pass on>>>The whole world needs to know.”⁷⁷

<D>Church-Supported International Humanitarian Law Frameworks<\>

Humanitarian aid organizations, primarily operated by European churches, also routinely emphasize Israel’s alleged violations of international law, in marked contrast to how they describe other conflict zones, reflecting the double standards applied to the Jewish state. For instance, Trocaire, the humanitarian arm of the Irish Catholic Church that is supported with funding from the Irish and UK governments as well as the European Union, describes its work for “OPT [Occupied Palestinian Territory—a term incorporating legal judgment] and Israel” as working “to support those affected by conflict and human rights violations, as well as helping to raise international awareness around the injustice of human rights violations.”⁷⁸ The expanded description states, “For almost half a century, Israel has maintained a military occupation of the OPT (the West Bank and Gaza). Israel continues to displace Palestinian communities by force and confiscate their land, a practice which has been ongoing for over six decades. Israeli settlements, which are illegal under international law, have been established on Palestinian land. Palestinians remain without a state, and human rights violations such as house demolitions, land confiscation, forced displacement, restrictions of movement and violence against civilians occur on an almost daily basis.”⁷⁹ In this telling, Israel is the sole violator and responsible party for the

conflict. Palestinians are absolved of all culpability. In contrast, Trocaire describes its work in South Sudan as “primarily focused on supporting communities affected by the country’s ongoing conflict.”⁸⁰ Its work in the Democratic Republic of Congo focuses on “humanitarian response and building resilient communities, supporting women’s empowerment, including through governance work, and sustainable livelihood activities.”⁸¹ The introduction to the Syria page says simply that “the conflict in Syria has resulted in the worst humanitarian crisis in a generation.”⁸² The rest of the text discusses only the numbers of refugees created by the conflict.

None of the in-depth descriptions for these countries, in sharp contrast to the case of Israel, detail human rights or humanitarian law violations, nor does Trocaire ascribe responsibility for the conflicts. Instead, Trocaire speaks in humanitarian terms, in contrast to discourse about Israel, in which the primary framework employed is international law and alleged violations by Israel alone.

Trocaire is not unique—many of the church-aid frameworks run international humanitarian law programs exclusively focusing on Israel’s violations of law and promoting the narrative that these alleged violations are unique among nations. Diakonia, a humanitarian aid organization established by five Swedish churches, runs the Global International Humanitarian Law Centre (funded by the Swedish government). Despite the universal name, the program has “a mandate to address the ongoing violations of IHL that characterise the Israeli-Palestinian conflict,” centering on Israel’s alleged abuses. The Harvard School of Public Health also ran an “IHL in Israel and the Occupied Palestinian Territory” program in conjunction with Diakonia and funded by Sweden, Switzerland, Norway, and the UN.

<C>Citing “Dissident” Israelis and Jews as Sources of Evidence</>

A common theme in much NGO activity is the moral failure of the Israeli military. The Israeli NGOs active on this issue purport to expose the Israeli public to the the Occupied Palestinian Territory”“violations of international law”; the NGO officials are presented as the Israeli military. The Israeli NGwho are trying to suppress the truth about IDF “war crimes.” As noted by Anthony Julius, the about IDF entsi military. The Israeli NGOs active on this issue purport to expose the Israeli public to the the Occupied Pal.”⁸³

The Israeli NGO Breaking the Silence (BtS) is a prime example. This group of “veteran combatants” claims to “expose the Israeli public to the reality of everyday life in the Occupied Territories” and to portray the “deterioration of moral standards . . . in the character of orders and the rules of engagement, and are justified in the name of Israel's security.”⁸⁴ The activists (fewer than ten in number) claim that, “while this reality is well-known to Israeli soldiers and commanders, Israeli society in general continues to turn a blind eye and deny what is being done in its name.”⁸⁵

BtS carries out its objectives by publishing anonymous testimonies alleging war crimes and other international legal violations and presenting them primarily to global audiences. With over \$1 million to finance its activities around the world, the organization publishes books in several languages, and international media outlets readily publish articles promoting the group’s claims. Recent headlines include “New Report Details How Israeli Soldiers Killed Civilians in Gaza: ‘There Were No Rules,’”⁸⁶ “Soldiers Group: In Gaza War, IDF Assumed Everyone Was a Terrorist,”⁸⁷ and “Gaza: Killing Gets Easier.”⁸⁸ As noted journalist Matti Friedman observed in a May 2015 article for *Mosaic* magazine, “Breaking the Silence’s money is foreign, not Israeli, and the primary customers for its product are foreign, not Israeli. At its extensive English

website, Jewish soldiers are presented for international consumption as a spectacle of moral failure, a spectacle paid for by Norwegians, French Catholics, and Germans.”

In 2016, the IDF asked BtS to provide evidence in order to prosecute a soldier for violations that were alleged by BtS to have taken place in the Gaza conflict. BtS refused, claiming that, like journalists, the sources of the testimonies it received were protected. The issue, which is being considered by the Israeli courts, increased Israeli criticism of the organization on the grounds that, on the one hand, it claimed that the IDF would not prosecute soldiers for violations, but, on the other hand, it refused when asked to provide the evidence for such a prosecution.⁸⁹

Israeli NGO B’Tselem is a similar organization, and from 2012-2014 it received 64.7 percent of its income from European governments and churches.⁹⁰ Until recently, the NGO claimed “to document and educate the Israeli public and policymakers about human rights violations in the Occupied Territories.”⁹¹ Like BtS, B’Tselem also claimed to “combat the phenomenon of denial prevalent among the Israeli public, and help create a human rights culture in Israel.”⁹² In November 2017, the group revised its mission and explained its new credo as, “after more than half a century of occupation, . . . it is clear that this reality cannot be viewed as temporary. Therefore, B’Tselem continues to document and publicize human rights violations while also exposing the injustice, violence and dispossession that lie at the very core of this regime of occupation, challenging its legitimacy in Israel and abroad and helping to expedite its end.”⁹³ In pursuit of that goal, aside from a few token statements condemning Palestinian terror attacks, the vast majority of B’Tselem’s work is focused on alleged Israeli violations. One project provides video cameras to Palestinians to catch on film IDF and settler abuses in process. No cameras are provided to document Palestinian terrorism or wrongdoing. On its “About” page,

B'Tselem embraces this bias: “We are proud to represent this part of Israel to a world which is all too often unaware of it.”⁹⁴

Other B'Tselem projects portray the IDF as brutal killers who deliberately target civilians and commit war crimes. During the 2014 Gaza War, for instance, B'Tselem initiated a campaign called “Families Bombed at Home” involving emotive accounts and sophisticated interactive graphics. This campaign often erased the details of Palestinian combatant activity and branded fighters as civilians to magnify its narrative of Israeli wrongdoing. B'Tselem's graphics and themes were adopted by many other NGOs and were a central focus of the UN Human Rights Council's report on the war. The Office of the High Commissioner of Human Rights issued its own graphics, something it had done before, mirroring B'Tselem's, so that everyone could “see” Israel's alleged war crimes.

In many cases, the “good” Israeli NGOs join with their Palestinian counterparts to issue joint statements and submissions, including to UN groups, based on the language of international law and human rights. For example, the United Nations Office for the Coordination of Humanitarian Affairs casualty claims made during the 2014 Gaza conflict were provided by the NGO “protection cluster” consisting of B'Tselem (Israel), Al Mezan (Gaza), and the Palestinian Center for Human Rights (Gaza). Both Palestinian groups, along with Al Haq, are centrally involved in lawfare—and in particular, the campaign to have the ICC prosecutor open cases against Israelis. Although B'Tselem has no personnel or verification capabilities in Gaza, its presence in the cluster provides a form of Israeli credibility to these claims. (As in the past, the allegations regarding civilian deaths in Gaza were shown to be unsubstantiated.)⁹⁵

Erasing the Context of Palestinian Violence, Denial of Self-Defense, Promotion of Terrorism</>

Another central feature of the above examples is that they all minimize or erase completely Palestinian agency and the context of terrorism. Israel is the sole aggressor in its conflict with the Palestinians. Israel is acting not to protect its citizens from suicide bombings, rockets, tunnels, and other attacks but rather to punish and deliberately inflict harm on Palestinians.

Amnesty International's Gaza Platform, a collaboration between Amnesty and BDS activists, epitomizes this practice. The platform is an "online tool launched in July 2015—ostensibly "an interactive map of attacks by Israeli forces on Gaza" during the 2014 Gaza conflict, using satellite imagery and advanced graphics. Users can click on a location and read a narrative account of alleged Israeli wrongdoing supplied by the Palestinian NGOs Al Mezan and the Palestinian Center for Human Rights. The context of combat with Hamas, Islamic Jihad, and other Palestinian terror groups is completely erased, instead presenting a story of arbitrary and unjustified assaults by Israel. There is no mention of the more than four thousand rockets launched from Gaza against Israeli civilians.

An extension of this theme in these campaigns is not only to erase the context of Palestinian violence but also to deny Israel's right to self-defense and at the same time promote a so-called "right of resistance" (Palestinian terrorism) as a matter of law. The right to self-defense is an inherent concept in law "and is fundamental to the system of states." It is recognized and protected by Article 51 of the UN Charter. Yet many documents issued in international frameworks and by civil society deny Israel alone the right to self-defense because it is "occupying" another people.

Often these documents make a token statement that Israel has a "right to live in security" or to "defend its citizens." Yet every policy and action taken by Israel is deemed a violation of law, and no viable or realistic alternatives to end attacks on Israeli civilians are suggested. This

practice, as described by Professor Kenneth Anderson in a December 14, 2009, post on the *Volokh Conspiracy* blog, is known as “functional pacifism” or “the setting of standards” by “the human rights monitoring community . . . that in principle allow [states] to engage in war, but in the important actual situations, the use of force always turns out to be wrongfully performed.”

Again, NGOs affiliated with churches are prominent in advancing this discourse. Sabeel, for example, asserts, “One of the most common refrains . . . is, ‘Israel has the right to defend itself.’ . . . First, we should consider that there is no clear ‘self’ for Israel to defend. . . . In light of the fact that Israel has no defined borders and is occupying another state, it is not even possible to define the ‘self’ that Israel has a right to defend.” Justin Kilcullen, director of Trocaire, admonishes, “Israel says it is defending itself from Palestinian aggression. But Israel is an occupying power controlling the lives of another people.”⁹⁶

In December 2003, the Arab League and the NGO community lobbied and secured from the General Assembly a referral to the International Court of Justice for an Advisory Opinion on the “legal consequences” of Israel’s security barrier, or “wall” in the request’s parlance.⁹⁷ On July 9, 2004, the court issued its opinion that Israel had no right to a claim of self-defense under international law because the suicide bombings and other attacks on its civilians were not “imputable to a foreign state.”⁹⁸ Although not legally binding and despite procedural irregularities, the decision was then used (and continues to be) in international frameworks and by civil society as a basis to further condemn and push for sanctions against Israel.

Coupled with the attempt to have Israel’s right to self-defense nullified, these same actors justify terrorism against Israelis and Jews globally. UN Secretary-General Ban Ki Moon said in 2015 that Palestinian terrorism is understandable because it is “human nature to react to occupation.” The Commission on Human Rights resolution (1993/2) establishing the special

rapporteur for Israel promotes a “right of resistance”: “Affirms the right of the Palestinian people to resist the Israeli occupation by all means, in accordance with the relevant United Nations resolutions, consistent with the purposes and principles of the Charter of the United Nations, as has been expressed by the Palestinian people in their brave intifada since December 1987, in legitimate resistance against the Israeli military occupation.”⁹⁹

Palestinian combatants are also frequently characterized as “also frequently characterized to resist the Israeli occupation by all means, ,” and those advancing this rhetoric claim as a matter of law that Palestinians should have immunity to engage in such acts.

<A>Conclusion and Looking Forward</>

As demonstrated in this chapter, the rhetoric and institutions claiming the mantle of human rights and international law play central roles in the development and growing impact of the new antisemitism. The repeated exploitation of terms such as *racism*, *apartheid*, and *war crimes* in the United Nations, continuing for decades, has had an erosive impact, while the organizations claiming to promote human rights have amplified this process. The activities of global NGOs such as Amnesty International and Human Rights Watch reflect the obsessive double standards and strategy of singling out of Israel for attacks, in clear contradiction to the moral and universal principles of human rights and international law.

In parallel, the abuse of these values against Israel has done major damage to these same values and institutions. In the words of Professor Irwin Cotler, “this laundering of antisemitism under universal public values erodes the integrity of the UN, diminishes the authority of international law, corrupts the culture of human rights, and shames the real struggle against real racism.”¹⁰⁰ Robert L. Bernstein, the founder of Human Rights Watch, as noted, denounced in the *New York Times* his own organization for its role in this campaign of bias.

Given the formidable powers and interests that are arrayed to promote this corrosive process, the efforts that are required to halt and then reverse the damage should not be underestimated. In the United Nations, the strength of the Islamic bloc (the Organization of Islamic Cooperation) and the apparent unwillingness of Europe, in particular, to oppose this process make any change extremely difficult and unlikely. For example, although the role of the UN Human Rights Council has been noted many times, there is no indication of any significant changes.

In other arenas and platforms, the prospects for improvement based on public education and “naming and shaming” the abusers of international law and the values of human rights are somewhat better. Although the language and relevant institutions are obscure and thus readily manipulated by those given the aura of “experts,” this halo effect in the case of human rights NGOs can be challenged and reversed. The *New York Times* op-ed by Robert Bernstein diminished Human Rights Watch’s credibility among some major journalists, including in the *New York Times*, and the references in this central media platform citing this NGO on Israel-related issues decreased visibly. Other challenges to Human Rights Watch’s activities dealing with Israel have added to this process, including the exposure of the obsessive collection of Nazi paraphernalia involving its “senior military analyst,” who wrote many of the publications that falsely accused Israel of war crimes.

Similarly, the criticism of the Ford Foundation accused Israel of paraphernalia involving international law and the values of human rights led to fundamental changes in the funding patterns of this powerful philanthropy. In addition to a public letter pledging not to fund organizations that call for the elimination of any state (in other words, the virulently anti-Israel and antisemitic NGOs at

Durban), the Ford Foundation gradually ended funding for all NGOs that exploit human rights and international law to demonize Israel and promote virulent anti-Zionism.¹⁰¹

In academic venues, the detailed criticism of NGO fact-finding in the context of human rights and international law, including, but not limited to, Israel-related issues, has also expanded in recent years.¹⁰² In addition, critics such as Hopgood, Moyn, and others have placed the broader questions resulting from the lack of universality and the politicization of human rights and international law on the agendas of law schools and human rights programs at major universities. Orde Kittrie's book *Lawfare: Law as a Weapon of War* explicitly confronts the politicization process, moving the lofty normative image of human rights rhetoric, which has been central to modern antisemitism, down to the realist political realm.¹⁰³

At the same time, these processes of demystifying the institutions and rhetoric of international law and human rights, which are used to single out Israel and promote antisemitism, are only beginning. Journalists, liberal religious leaders, and other molders of public opinion, particularly in the West, still largely copy and emphasize the activities and publications of the United Nations frameworks and the NGOs claiming to promote noble agendas, particularly in the demonization of Israel. In this area, there is still a great amount of work to be done.

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- ³³ Mahmoud Abbas, “The Long Overdue Palestinian State,” *New York Times*, May 16, 2011, <https://www.nytimes.com/2011/05/17/opinion/17abbas.html>
- ³⁴ Barnidge, *Self-Determination*; Lauro Burkart, “The Politicization of the Oslo Water Agreement” rPhD diss., Graduate Institute of International and Development Studies, 2012.
- ³⁵ For instance, Sabeel’s Naim Ateek calls the “establishment of Israel” a “relapse to the most primitive concepts of an exclusive, tribal God.” In one Easter address, Ateek stated, “In this season of Lent, it seems to many of us that Jesus is on the cross again with thousands of crucified Palestinians around him” (David Parsons, “Behind the ‘Christ at the Checkpoint’ Conference, March 2, 2012, Accessed on July 15, 2018: <https://ca.icej.org/news/press-statements/behind-christ-checkpoint-conference>). In 2007, Badil was joined by several European churches in a “Call to Action,” advocating for anti-Israel boycotts and sanctions, and enlisted “journalists to organize a targeted campaign to expose the lies of AIPAC [American Israel Public Affairs Committee] and the Anti-Defamation League and to expose the Jewish and Zionist community’s

double standards regarding Nakba & Occupation” (Document on file with authors). In 2010, Badil published and awarded a prize to a cartoon of a Jewish man garbed in traditional Hasidic attire, with a hooked nose and side locks. He stands on a blue block branded with Jewish stars and the year 1948 crushing two children surrounded by skulls and holds a menorah-shaped pitchfork dripping with blood (BADIL, “4th Annual Al-Awda Award (2010),” Accessed on July 15, 2018: <https://web.archive.org/web/20150102072849/http://badil.org/annual-al-awda-award/item/1416-award2010-winners>). A cartoon published in 2007 shows an octopus with a blue Jewish star on its forehead hovering over skulls (NGO Monitor, “BADIL,” June 5, 2018, Accessed on: July 15, 2018: <https://www.ngo-monitor.org/ngos/badil/#jp-carousel-5605>).

³⁶ Nidal Azza, “Israel the Racist Ghetto,” *Defining the Conflict*, BADIL Resource Center, 2007, <http://www.badil.org/en/publication/periodicals/al-majdal/item/438-israel-the-racist-ghetto.html>.

³⁷ Human Sciences Research Council, *Occupation, Colonialism, Apartheid? A Re-assessment of Israel’s, Practices in the Occupied Palestinian Territories under International Law*, Democracy and Governance Programme, Middle East Project (HSRC: Cape Town, 2009), http://www.alhaq.org/attachments/article/236/Occupation_Colonialism_Apartheid-FullStudy.pdf.

³⁸ As noted by Goldsmith and Posner, international law is no longer viewed as the law among nations but rather as the law of human rights. Moyn, *The Last Utopia*, 176.

³⁹ Aryeh Neier, *The International Human Rights Movement: A History* (Princeton, NJ: Princeton University Press, 2012); Lynn Hunt, *Inventing Human Rights* (New York: W. W. Norton, 2007); Moyn, *The Last Utopia*, 176.

⁴⁰ Kahn observes, that since 2001, the Geneva Conventions of 1949 have “skyrocketed in prominence.” Moyn, *The Last Utopia*, 177.

⁴¹ Stephen Hopgood, *The Endtimes of Human Rights* (Ithaca, NY: Cornell University Press, 2013).

⁴² Hopgood, *The Endtimes of Human Rights*, 120–25.

⁴³ For example, according to the governing 1907 Hague Convention (Art. 42) and 1949 Fourth Geneva Convention (Art. 6), occupation requires “For example, according to thtrol of government functions of a High Contracting Party by a hostile army. Despite not meeting these conditions, the human rights industry claims that Gaza is “occupied” by Israel. A similar distortion of the law regarding occupation is not found in other conflict situations.

⁴⁴ Robert Wistrich, *A Lethal Obsession* (New York: Random House, 2010), 8.

⁴⁵ BDS Movement, “What is BDS,” Accessed on July 12, 2018, <https://bdsmovement.net/what-is-bds>

⁴⁶ Natan Sharansky, “3D Test on Antisemitism: Demonization, Double Standards, Delegitimization,” *Jewish Political Studies Review* 16, (2004), <http://www.jcpa.org/phas/phas-sharansky-f04.htm>.

⁴⁷ Anthony Julius, *Trials of the Diaspora: A History of Anti-Semitism in England* (Oxford: Oxford University Press, 2010), 476.

⁴⁸ In 2015, UN agencies, Human Rights Watch, and other NGOs intensely lobbied the Secretary-General to include Israel in the list of the “Parties that Commit Grave Violations against Children”—a list that exclusively comprises terrorist organizations, armed guerrilla groups, and militias associated with failed states. Under the standards proffered by Human Rights Watch

regarding Israel, every Western country should also be listed, all the more so countries such as Russia and Ukraine (to name two). However, Israel alone was targeted.

⁴⁹ For example, the Committee against Torture, which reviews state compliance with the Convention against Torture, employs severe distortions of the treaty provisions when evaluating Israel. When discussing what constitutes cruel, inhuman, and degrading treatment, or CIDT, under Article 16 of the treaty, the Committee has asked Israel about “settlement policy,” “the Fence/Wall,” “checkpoints and roadblocks,” and even “access to health care in Gaza. These topics fall outside the scope of torture and CIDT. Questions asked by the committee pertaining to Article 16 for other countries do not contain references to such out-of-scope topics. Rather, they focus on their countries do not contain references to such and CIDTn discussing what constitutes cruel, inhumanof isolation cells, and prison conditions—all accepted topics of discussion under Article 16.

⁵⁰ More than one hundred children were held hostage during the attack.

⁵¹ UN General Assembly Resolution 3237, UN Doc. A/RES/3237 (XXIX), November 22, 1974.

⁵² 2014 was declared the International Year of Solidarity with the Palestinian People, providing the division with a platform for the entire year to carry out events and to use UN resources to promote the Palestinian political agenda.

⁵³ Arlene Kushner, “The UN’s Palestinian Refugee Problem.” *Azure* 22 (2005): 57–77; Martha Gellhorn “The Arabs of Palestine.” *h Atlantic*, October 1961.

⁵⁴ The Human Rights Council was created to ostensibly remedy the problems of politicization and selectivity that had plagued its predecessor entity, the Commission on Human Rights. In 2005, former UN Secretary-General Kofi Annan remarked that “the Commission’s ability to perform its tasks has been . . . undermined by the politicization of its sessions and the selectivity of its work.” Kofi Annan (speech on creating the Human Rights Council, Geneva, April 7, 2005). In testimony before the US Congress on May 17, 2016, Hillel Neuer, executive director of United Nations Watch, detailed the continuing double standards and politicization at the UN Human Rights Council; see <http://www.unwatch.org/wp-content/uploads/2016/05/Hillel-Neuer-Testimony-May-17-2016-TLHRC.pdf>.

⁵⁵ Fact-finding missions were established for Israel (2006, 2008, 2009, 2012, 2014), Libya (2011), Syria (2011), North Korea (2013), Eritrea (2014), Sri Lanka (2014), and Burundi (2015). The resolutions establishing the commissions declared Israel a priori to be a violator of international law.

⁵⁶ The other thirteen are Belarus, Cambodia, Central African Republic, Ivory Coast, Eritrea, Haiti, Iran, Mali, Myanmar, North Korea, Somalia, Sudan, and Syria and must be renewed annually.

⁵⁷ Res 1993/2, E/CN.4/RES/1993/2A. In a comment on a 2014 *EJIL: Talk!* blog post (Joseph Weiler, “After Gaza 2014: Schabas,” November 4-5, 2014, <https://www.ejiltalk.org/after-gaza-2014-schabas/>), Christina Cerna, a well-respected expert and former member of the Inter-American Commission on Human Rights applied for the position of rapporteur but was rejected for not being sufficiently anti-Israel, remarked that when it comes to Israel, “[i]mpartiality is not a requirement sought by the Council” and that “the Organization of Islamic Cooperation and the League of Arab States both officially opposed me . . . because I had never said anything pro- Palestinian and consequently was not known to be ‘partial’.” “In my view,” she continues, “Israel has a unique status in the UN Human Rights Council. Impartiality is not a requirement sought by the Council for the appointment of experts when it comes to Israel.”

⁵⁸ Concurrent with the Gaza War were massacres involving thousands in the Democratic Republic of Congo and a civil war in Sri Lanka involving more than forty thousand civilian

deaths. No letter was organized by Amnesty International for these events, nor did the Goldstone mission members publicly express being vil war in Sri Lanka involving more than nda.both oficts.

⁵⁹ United Nations Fact Finding Mission on the Gaza Conflict, “Public hearings – Gaza City, Morning Session of 29 June 2009,” June 29, 2009, Accessed on July 12, 2018: <https://www.ohchr.org/Documents/HRBodies/HRCouncil/SpecialSession/Session9/Transcript29062009AM.doc>

⁶⁰ Judge Richard Goldstone subsequently recanted many of the findings of his report; see Conal Urquhart, “Judge Goldstone Expresses Regrets about His Report into Gaza War,” *The Guardian*, April 3, 2011, <https://www.theguardian.com/world/2011/apr/03/goldstone-regrets-report-into-gaza-war>.

⁶¹ More than half of the NGO recipients promote BDS, antinormalization, and one-state agendas. Several have also been linked to the Popular Front for the Liberation of Palestine terror group.

⁶² Hagit Klaiman, “British academics ask Elton John to read Goldstone,” YNet, February 2, 2010, <https://www.ynetnews.com/articles/0,7340,L-3846340,00.html>

⁶³ See, e.g., Peter Beaumont, “Ramadan in Gaza: life under missile-fire,” *The Guardian*, July 11, 2014, <http://www.theguardian.com/world/2014/jul/11/ramadan-gaza-life-under-missile-fire>; Amnesty International, *Families under the Rubble: Israeli Attacks on Inhabited Homes* (London: Amnesty International, 2014), <https://www.amnestyusa.org/files/familiesundertherubble.pdf>; Human Rights Watch, “Gaza: Airstrike Deaths Raise Concerns on Ground Offensive,” <https://www.hrw.org/news/2014/07/22/gaza-airstrike-deaths-raise-concerns-ground-offensive>.

⁶⁴ The ad, sponsored by the International Jewish Anti-Zionist Network was placed in the names of 327 “Jewish survivors and descendants of survivors and victims of Nazi genocide” who “unequivocally condemn the massacre of Palestinians in Gaza.” In the text, Israel is condemned for “colonialism, racism, and genocide” and unnamed “right-wing Israelis” are compared to Nazis, and it ends with support for BDS in the form of a “full economic, cultural, and academic boycott of Israel.” <https://globalvoices.org/2014/08/23/over-300-holocaust-survivors-and-their-descendants-condemn-israels-massacre-of-palestinians-in-gaza/>

⁶⁵ Sarah Leah Whitson, Twitter, @sarahleah1, January 28, 2015, <https://twitter.com/sarahleah1/status/560700886805389312>. In a responding tweet, columnist Jeffrey Goldberg asked Whitson, In a responding tweet, columnist Jeffrey Goldberg asked Whitson, “Is it Human Rights Watch’s position that what is happening in Gaza is genocide?” asked Whitson He added, “It certainly would be appropriate for the Holocaust Museum to feature an exhibit on genocidal Hamas theology.”

⁶⁶ Julius, *Trials of the Diaspora*.

⁶⁷ “Open letter to INoGS from international academics,” PACBI, <http://www.pacbi.org/etemplate.php?id=2781>, Accessed on July 13, 2018.

⁶⁸ “Open letter to INoGS from international academics.”

⁶⁹ Paola Manduca, Ian Chalmers, Derek Summerfield, Mads Gilbert, Swee Ang, on behalf of 24 signatories, “An open letter for the people in Gaza,” *The Lancet*, July 30, 2014, Accessed on July 12, 2018: <https://www.thelancet.com/gaza-letter-2014>.

⁷⁰ “An open letter for the people in Gaza.”

⁷¹ “An open letter for the people in Gaza.”

⁷² “An open letter for the people in Gaza.”

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- ⁷³ “An open letter for the people in Gaza.”
- ⁷⁴ “An open letter for the people in Gaza.”
- ⁷⁵ Jake Wallis Simons, “Lancet ‘hijacked in anti-Israel campaign,’” *The Telegraph (UK)*, September 14, 2014, <https://www.telegraph.co.uk/news/health/news/11112930/Lancet-hijacked-in-anti-Israel-campaign.html>, Accessed July 12, 2018.
- ⁷⁶ Simons, “Lancet ‘hijacked in anti-Israel campaign.’”
- ⁷⁷ <https://www.ngo-monitor.org/data/images/File/CNN%20Goldman%20Sachs%20&%20the%20Zio%20Matrix.pdf>
- ⁷⁸ Trocaire, “Occupied Palestinian Territory (OPT) and Israel,” Accessed on: July 12, 2018: <https://www.trocaire.org/whatwedo/wherewework/opt-israel>.
- ⁷⁹ Trocaire, “Occupied Palestinian Territory (OPT) and Israel.”
- ⁸⁰ Trocaire, “Trocaire’s Work in South Sudan,” Accessed on: July 12, 2018, <https://www.trocaire.org/whatwedo/wherewework/south-sudan>
- ⁸¹ Trocaire, “Trocaire’s Work in DRC,” Accessed on: July 12, 2018, <https://www.trocaire.org/whatwedo/wherewework/democratic-republic-congo>
- ⁸² Trocaire, “Syria,” Accessed on: July 12, 2018, <https://www.trocaire.org/whatwedo/wherewework/syria>
- ⁸³ Wistrich notes, “every prestigious platform has been open for decades to Jewish anti-Zionists in Western democracies who aspire to the status of heroic dissidents.” Julius, *Trials of the Diaspora*, 477; Wistrich, *A Lethal Obsession*, 527.
- ⁸⁴ Breaking the Silence, “About,” Accessed on: July 12, 2018: <http://www.breakingthesilence.org.il/about/organization>
- ⁸⁵ Breaking the Silence, “About.”
- ⁸⁶ William Booth, “New Report Details How Israeli Soldiers Killed Civilians in Gaza: ‘There were no rules,’” *The Washington Post*, May 4, 2015, https://www.washingtonpost.com/news/worldviews/wp/2015/05/04/israeli-soldiers-reveal-this-is-how-we-fought-in-gaza/?utm_term=.f11e71c7272c.
- ⁸⁷ Gili Cohen, “Soldiers’ Group: In Gaza War, IDF Assumed Everyone Was a Terrorist,” *Haaretz*, May 4, 2015, <http://www.haaretz.com/israel-news/.premium-1.654823>.
- ⁸⁸ David Shulman, “Gaza: Killing Gets Easier.” *New York Review of Books*, May 29, 2015.
- ⁸⁹ Israeli Supreme Court Docket No. 21184-01-16.
- ⁹⁰ NGO Monitor, “B’Tselem,” March 11, 2018, Accessed on July 15, 2018: https://www.ngo-monitor.org/ngos/b_tselem/
- ⁹¹ B’tselem, “About B’tselem,” Last Accessed: July 12, 2018, https://web.archive.org/web/20160304194830/https://www.btselem.org/about_btselem
- ⁹² B’tselem, “About B’tselem.”
- ⁹³ B’tselem, “About B’tselem,” Last Accessed: July 12, 2018, https://www.btselem.org/about_btselem
- ⁹⁴ B’tselem, “About B’tselem,” Last Accessed: July 12, 2018, https://web.archive.org/web/20160304194830/https://www.btselem.org/about_btselem
- ⁹⁵ *Filling in the Blanks: Documenting the Missing Dimensions in UN and NGO Investigations of the Gaza Conflict*, eds. Gerald M. Steinberg and Anne Herzberg (Jerusalem NGO Monitor: 2015), 115-120.

⁹⁶ Trocaire, “OPT: Israel’s actions only serve to feed Palestinian contempt,” Trocaire, January 6, 2009, Accessed on: July 12, 2018: <https://reliefweb.int/report/occupied-palestinian-territory/opt-israels-actions-only-serve-feed-palestinian-contempt>.

⁹⁷ UN General Assembly Resolution, UN Doc. A/RES/ES-10/14, December 12, 2003, Accessed July 12, 2018:

<https://unispal.un.org/DPA/DPR/unispal.nsf/357668878a81e92785256df9005c23c2/f953b744269b9b7485256e1500776dca?OpenDocument>. The advisory opinion question posed to the International Court of Justice was: “What are the legal consequences arising from the construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, as described in the report of the Secretary-General, considering the rules and principles of international law, including the Fourth Geneva Convention of 1949, and relevant Security Council and General Assembly resolutions?”

⁹⁸ International Court of Justice, Legal Consequences of the Constr. of a Wall in the Occupied Palestinian Territory, Advisory Opinion, 2004 I.C.J. (July 9) See the decision at 108–0. A minority opinion written by Judge Thomas Buergenthal strongly criticized the biases in the majority opinion, in particular, the court’s lack of “requisite factual bases” on which it made “sweeping findings” and its failure to address the context of terrorism. Burgenthal also admonishes, “the nature of these cross-Green Line attacks and their impact on Israel and its population are never really seriously examined by the Court, and the dossier provided the Court by the United Nations on which the Court to a large extent bases its findings barely touches on that subject.” Judge Higgins took the court to task for pronouncing on only “one element of a multifaceted dispute,” and that its retelling of the “history” of the Arab-Israeli conflict was “neither balanced nor satisfactory”.

⁹⁹ “Question of the violation of human rights in the occupied Arab territories, including Palestine,” Office of the High Commissioner for Human Rights, 1993, ap.ohchr.org/documents/E/CHR/resolutions/E-CN_4-RES-1993-2.doc, 2.

¹⁰⁰ Cotler, “Anti-Semitism, Old and New.”

¹⁰¹ William Korey, *Taking on the World's Repressive Regimes: The Ford Foundation's International Human Rights Policies and Practices* (New York: Palgrave, 2007), 249–69; Gerald M. Steinberg, 7), “Analyzing the Durban II Conference.”, 9 *Jerusalem Center for Public Affairs* no. 96 (March 4, 2010) <http://jcpa.org/article/analyzing-the-durban-ii-conference/>.

¹⁰² Gerald M. Steinberg, Anne Herzberg, and Jordan Berman, *Best Practices for Human Rights and Humanitarian NGO Fact-Finding* (Leiden, Netherlands: Nijhoff, 2012).

¹⁰³ Orde Kittrie, *Lawfare: Law as a Weapon of War* (Oxford: Oxford University Press, 2015).