
HUMAN RIGHTS VIOLATIONS IN THE ISRAEL- PALESTINE CONFLICT-AN ANALYSIS

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ABSTRACT

In order to interfere with democracy and the rule of law, terrorists frequently aim to create a climate of utter ambiguity in which regular decision-making procedures are made difficult, if not impossible. According to the Security Council, governments are required by Chapter VII of the UN Charter to safeguard people living within their borders from terrorism and to use all available legal means to suppress and stop terrorist activity. The Global Counter-Terrorism Strategy of the United Nations further emphasises the significance of respect for human rights in any successful counterterrorism strategy by designating one of its four pillars. Measures to ensure respect for human rights for all and the rule of law as the cornerstones of the war on terrorism. States have repeatedly used the death penalty as a deterrent for terrorist-related crimes, which has consequences for the right to life, in their efforts to combat terrorism. Certain restrictions are always in effect as essential and inviolable rights under international human rights law and/or international humanitarian law, regardless of whether this policy is implemented in times of peace or armed conflict.

The only Jewish state in the world, Israel, is situated close to the Mediterranean Sea to the east. Arab residents of the territory that Israel currently occupies who call themselves Palestinians aspire to create a state called Palestine on all or a portion of the same territory. Who gets to own what land and how it is handled is at the heart of the Israeli-Palestinian conflict. The "two-state solution," which would create an independent Palestinian state in Gaza and the majority of the West Bank while giving Israel control of the remaining territory, is currently the main strategy for resolving the conflict. The two sides remain sharply divided over how to make the two-state plan work in practise, despite the fact that it is clear in theory.

This research paper is an undertaking to reflect on the same issue.

Introduction

The evaluation of human rights activity is inherently challenging. Change can take a very long time, and the results of our work frequently take time to become visible. Events are influenced by numerous variables outside of the human rights community in our complicated operational environment. Therefore, it may be challenging to link the good things that occur for example, developments that improve human rights to our work. Even while protecting human rights is a crucial function of advocacy for these rights, it is challenging to quantify our contribution in this regard.

However, the objective is to consider the impact on human rights due to the increase in the perceived danger caused by violent acts of terrorism from both the ends. The term "human rights" refers to the body of law, practise, and scholarly work that has developed around a topic that has attracted a great deal of interest over the past 60 years, starting with the establishment of the new international order at the end of World War II and dramatically exploding into the public eye with the end of the Cold War in 1989.¹

This provides legal and socio-political viewpoints on the subject of victim compensation in light of theory and practise. Many victims of flagrant and persistent abuses of human rights have long endured their pain in silence.² Their situation went unnoticed, and their anguish went unrecognised. Despite numerous provisions in international human rights and humanitarian law that call for redress and reparation, this trend is nevertheless prevalent today. However, it appears that the victim's perspective is gaining ground recently.

Human rights – Analytical understanding

According to the traditional definition, a human right is one that all people have and are entitled to.

By definition, a human right is a moral obligation that every person has simply because they are human. This means that every man, everywhere, at all times, should have that right. No one may be denied that right without seriously undermining the rule of law.

¹ Patrick C. R. Terry, "Britain in Palestine (1917-1948): Occupation, the Palestine Mandate, and International Law; University of Bologna Law Review, Vol. 2, No. 2 (January 2017), p. 190.

² Teresa (1992) Making Worn Talk: The Interrogation of Palestinian Women Security Detainees by the Israeli General Security Services. London: Lawyers for Palestinian Human Rights.

Human dignity and human rights are closely related concepts. Is it true that "human dignity is the quintessence of human rights," as Chief Justice of India J.S. Verma has said, Human rights are any rights that are necessary for the defence and upkeep of an individual's dignity and establish circumstances that allow every person to fully express his or her self. Although it has never been properly defined by consensus, dignity broadly aligns with justice and a civilised society.

Historical and legal implications

The Palestinian territories, which had been a part of the Ottoman Empire for four centuries, were given to Britain in 1920 as part of the League of Nations' mandate system. - The necessary powers were to be used by the League to teach "peoples not yet prepared to exist by themselves under the severe conditions of the modern world," as stated in Article 22 of the Statute, which was regarded as the mandates system's constitution.³

With the UK's approval and the help of Zionist organisations, the British mandate was grossly misused between 1922 and 1939 by permitting significant Jewish immigration to the Palestinian Territories. The Jewish population increased as a result, growing from roughly 56,000 at the start of the mandate to 608,000 by 1946. The Palestinian Arab resistance that began in the 1930s as a result of the Jewish exodus has persisted ever since.

An unidentified Arab State and an unnamed Jewish State were to be established on the Palestinian territory, according to the non-binding resolution. In essence, the decision partitioned all of Palestine into eight districts, leaving three for the Arab State and three for the Jewish State. Al-Quds was declared a *corpus separatum* and given to the control of the world government and the UN Trusteeship Council for a term of ten years, while Jaffa, the seventh zone, would be an Arab stronghold within the Jewish sector.

With the exception of the West Bank and the Gaza Strip, all of Palestine was occupied by Israel in the years that followed, particularly during the 1967 Arab-Israeli War. The United States' subsequent resolutions called for Israel to leave the seized areas. Following the 1967 War, the U.S. Security Council unanimously adopted Resolution 237,⁴ which declares that "gaining a country through war" is unacceptable and calls for Israel to leave the territories it has recently

³ League of Nations Covenant, Article 22(1) and (2).

⁴ Dor (1982) "The Reports of the UN Special Committees on Israeli Practices in the Territories: A Survey and Evaluation," in Shamgar 1982.

occupied. Nevertheless, Israel persisted in flagrantly disobeying the standards for the defence of fundamental human rights outlined in Resolution 181 and later U.S. resolutions.

Although the Court's openness is a rare occurrence, the High Court's decisions are frequently criticised by the human rights movement. The Court rarely sides with human rights organisations against government or military policy on questions of principle or petitions that contest policy. Despite this, the Court has been crucial to almost every victory for human rights. It obtained the highest score in the tool matrix. The High Court is the worst vehicle for advancing human rights—aside from all the others, to borrow Winston Churchill's famous quote on democracy.

International advocacy plays a significant role in almost every accomplishment of the human rights community, as seen by its high ranking in the tool matrix. Advocacy with the local diplomatic community and decision-makers in Europe and the US is the main strategy. The concern of the local human rights community is amplified and brought to the attention of the world by the international press. International organisations like the UN, the International Court of Justice (ICJ), and the International Criminal Court (ICC) have been instrumental in resolving particular disputes.

Reflection of crime and terrorism on the conflict

The criminal-justice approach holds the police, whose actions are constrained by the state legal system, responsible for addressing the situation. The defensive paradigm, which does not directly address the terrorists or their complaints but instead shields the targets of terrorism, stands in the background and leaves the problem in the hands of politicians and diplomats who deal with its core causes through talks and compromise.⁵

Most people consider the formation of rights in political theory to be a recent phenomenon. There are those who contend that rights were non-existent in prehistoric societies and those who contend that non-Western moral systems do not contain rights. Any examination of the history of rights demonstrates how ill-defined the intellectual framework that has guided their development has been. It seems incredible that anyone would draw firm conclusions regarding the function of rights in other eras and civilisations based on the scant data provided. The presumption of human rights being universal is at best doubtful due to the lack of any

⁵ "Origins and Evolution of the Palestine Problem" p. 33.

consideration given to moral concepts equivalent to rights. Democracies, on the other hand, typically reduce their use of the reconciliatory model and increase their use of defensive measures when they perceive an oncoming threat. Policymakers are likely to worry less about restricting their measures to those that have been constitutionally approved and are more likely to embrace the war model if the fight against terrorism extends beyond the boundaries of the democratic state.⁶

Israeli military operations on a large scale in the Gaza Strip in response to Iranian rocket fire into Israel have caused significant property and infrastructure damage and taken a heavy toll on civilian life.

Human rights organisations have challenges forming their activities as a result of this fact. Many of the same restrictions that are placed on the general Palestinian populace are also placed on Palestinian groups, blocking vital travel between Gaza and the West Bank and restricting travel abroad.

A comparison of the war model, the criminal-justice model, and the atonement model of terrorism When viewed through the lens of the war paradigm, terrorism is viewed as an act of revolutionary warfare. It is viewed as a criminal crime in the criminal justice paradigm and as a political issue in the reconciliatory approach.⁷ Their various responses to terrorism are consistent with their respective viewpoints. The military, which can mobilise all of its resources to stop terrorist actions, is responsible for responding under the war paradigm.

United Nations perspective

Everyone has the right to a nationality, according to the Universal Declaration of Human Rights, which was adopted by the United Nations General Assembly on December 10, 1948. However, this right was qualified by the addition that "no one shall be arbitrarily deprived of his nationality or denied the right to change his nationality" (Article 15). The Universal Declaration of Human Rights appears to acknowledge the state's power to revoke nationality (albeit in certain situations), even though doing so leaves the person stateless. This raises the question of whether, in the eyes of the international community, nationality is a fundamental

⁶ Id, at 268

⁷ Yahav, David, ed. (1993) *Israel, the "Intifada" and the Rule of Law*, Tel Aviv: Israeli Ministry of Defence Publications.

human right to which everyone is inalienably entitled or whether statelessness is simply a condition that exists.

After Israel's successive occupations and the June war, a new international consensus emerged in the UN. The introduction to Resolution 242 emphasised the impossibility of acquiring territory through conflict and the necessity of working toward a fair and long-lasting peace wherein every State in the region can live in security. The resolution categorically demanded the removal of Israeli armed forces from areas occupied in the most recent conflict, but simply referring to the Palestinians as refugees and not acknowledging their national rights.

After the war of 1967, the United Nations repeatedly voted in favour of holding an international peace conference with all sides to the dispute (including the Palestine Liberation Organisation, which became a significant force after 1967) to end the Israel-Palestine conflict once and for all. However, the US consistently cast a negative vote. The two colonial has-beens of the Middle East, Britain and France, had essentially given dominance to the US and the Soviet Union by 1969, when the Cold War's principal participants were still at it. Moscow and Washington were the only two countries that progressively controlled and limited diplomacy in the UN context.

In its reports, the Secretary-General and UN High Commissioner for Human Rights laid out the relevant international legal framework. The legal framework that applies and the foundation for the obligations of the various duty-bearers in the Occupied Palestinian Territory, the State of Israel as the occupying Power, the Palestinian Authority, and the de facto authorities in Gaza are extensively analysed in the High Commissioner's first periodic report on the situation of human rights in the Occupied Palestinian Territory.

An endeavour to harmonise the issue

The first phase of a nearly eight-decade-long period of conflict between Palestine and some Arab nations on the one hand, and Israel on the other, occurred after the creation of the State of Israel in 1948.

Israel has occupied a sizeable portion of Palestinian territory during the conflict, as stated in numerous resolutions of the United States Security Council and General Assembly. These conflicts, particularly Israel's attacks in the Palestinian territories, have violated fundamental

rights of Palestinians and continue to do so. Most of these violations amount to criminal acts on the part of those responsible.

Thousands of people have benefited directly from the work of the human rights movement, including those who were released from arbitrary detention, improved detention conditions, prevented the demolition of a home, gained residency permits, were able to travel within the occupied territories and abroad, had a roadblock to their village removed, were compensated for violent crime victims, and gained access to farmland.

It is crucial that this blotch on the planet gets eliminated as humanity moves into a new stage of globalisation in the twenty-first century.

In order to promote this righteous cause and ensure peace, stability, and a happy and healthy living for future generations, the main nations of the globe, including the United States, Russia, Germany, China, Japan, and the European Union, must rise above their limited national interests. An illustration of the interactions between the local and the international in one particular situation can be seen in cause lawyering in the Israeli military tribunals. We can conclude from this, certain fundamental tensions between sovereignty and security on the one hand, and human rights safeguards and guarantees on the other, are sustained and strengthened by the state-centric international system. Globalising the study of cause lawyering draws attention to the various ways that international human rights inspire and empower lawyers to be politicised legal professionals and to reform or transform local orders. Cause lawyering generally assumes the possibility of "justice" and a principle of rights.