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# Mental Maps, Occupation... Liberation? The Impact of the Israel-Palestine Conflict on the Security and Legitimacy of the State of Israel and the Struggle of Palestine

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Mental Maps, Occupation... Liberation?  
The Impact of the Israel-Palestine Conflict on  
the Security and Legitimacy of the State of  
Israel and the Struggle of Palestine

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April 23, 2018

### **Abstract**

The Israel-Palestine issue has been present for decades, making it one of the world's most prominent unresolved conflicts. Conflict for Israel-Palestine over the years has meant war, border insecurity, questions of legitimacy and sovereignty, and today, the role of the international community in the issue. One of the most paradoxical aspects of the Israel-Palestine issue is that Israel's unequal treatment of Palestinians in the occupied territories could be against Israel's own interests in the long run. Given this conflict, the purpose of this paper, while contextualizing the long and divided historical nature of this issue, was to focus on the role that mental maps play in Israeli, Palestinian, and other theoretical perceptions of borders and legitimacy. The paper also sought to understand the role that International Humanitarian Law and International Human Rights Law play in the conflict. Ultimately, the paper is intended to conclude how each of these ways in which borders are established— through mental maps and through legitimate corridors— come together to impact Israeli and Palestinian state legitimacy. The research methods include both qualitative and quantitative sources, with a series of formally conducted face-to-face interviews as well as analysis of peer-reviewed books and articles. My results indicate that finding where mental maps and international law come together and intersect is the most logical approach to understanding state legitimacy. My conclusion explores how we might extrapolate potential solutions from an analysis of Israeli and Palestinian state legitimacy.

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## **I. Introduction**

### **A. The Problem**

The Israel-Palestine issue has been present for decades, making it one of the world's most prominent unresolved conflicts. Conflict for Israel-Palestine over the years has meant war, border insecurity, questions of legitimacy and sovereignty, and today, the role of the international community in the issue. One of the most paradoxical aspects of the Israel-Palestine issue is that Israel's unequal treatment of Palestinians in the occupied territories could be against Israel's own interests in the long run. From some angles, it appears that "the Israelis have all these cards right now. But in the bigger picture the time is playing to the advantage of the Palestinians" (Goodarzi, personal communication, March 20, 2018). As Dr. Goodarzi asserted to me in an interview, "When talking about a small piece of land which is the size of the state of New Jersey with these two peoples there, and talking about limited resources, and talking about the demographics with the Arab population increasing: as this continues both Israeli democracy and Israel as a state will not be viable" (personal communication, March 20, 2018). If Israel wants to gain legitimacy on the world stage and ultimately secure its borders in a way that is recognized by Palestinians, Israelis and the world, it is confounding that Israel would conduct state-sponsored human rights abuses in the eyes of the United Nations. One reason that Israel might not feel threatened by losing state legitimacy, however, is the United States' unwavering support for Israel (Goodarzi, personal communication, March 20, 2018).

What are the origins of the Israel-Palestine conflict, and what is the conflict's status today? The rise of Zionism—a word that encompasses a wide range of aspects of the movement in support Israel's creation and continued existence—dates back to before the Holocaust, but after World War II we see the Israel-Palestine conflict take on a new dimension. The 1948 "War

of Independence” is a pivot point in the Zionist dream of establishing a Jewish state: in 1948, “A collective Israeli identity was created, the ‘Law of Return’ was passed and absorption centers were established to incorporate into the Israeli society the new waves of Jewish immigrants who flooded the country, but the Arab Palestinian refugees were not permitted to return to their homes” (Hasan, 2010, p. 5). Tensions between Israelis and Palestinians after this date intensified, as Palestinians were denied Israeli citizenship until 1966, and thereafter have “been denied the basic rights that the Jewish citizens enjoyed” (Hasan, 2010, p. 5). In three wars during the years 1956, 1967, and 1973 Israel continued to gain control of land, eventually controlling “the rest of historical Palestine” (Hasan, 2010, p. 5). During the 1967 war, Israel began its occupation of the West Bank and Gaza (Hasan, 2010, p. 7). Israel sees recognition from nearby state Egypt, but “its legitimacy has not been accepted by most countries of the region,” and the unequal treatment of Palestinians has not ceased (Hasan, 2010, p. 5). Even with its thriving economy, Israel today “is still an active immigrant settler sociopolitical entity with no final boundaries or size or even a constitution, creating a sense of vulnerability among its citizens” (Hasan, 2010, p. 6).

## **B. The Focus**

While contextualizing the long and divided historical nature of this issue, this research paper will focus on the role that mental maps play in Israeli, Palestinian, and other theoretical perceptions of borders and legitimacy. The paper will also look at the legalistic aspects of Israeli and Palestinian legitimacy, under International Humanitarian Law, International Human Rights Laws, and norms of each. Finally, the paper will address how each of these ways in which borders are established— through mental maps and through legitimate corridors— come together to impact Israeli and Palestinian state legitimacy.

## **C. Research Question**

Thus, the research question is as follows: how do mental maps inform perceived realities of occupation, liberation, and legitimacy in Israel and Palestine? How do Israel's actions towards Palestinians as well as Gaza and West Bank land impact its own statehood and legitimacy in light of International Humanitarian and Human Rights Laws and Norms? Ultimately, how do these mental maps and the actual legalistic reactions to the conflict come together to shape the reality for Israeli and Palestinian legitimacy?

#### **D. Literature Review**

With the binary nature of the Israel-Palestine conflict, literature tends to be divided in this way, although this is by no means the only distinction in the literature. Palestinian and Israeli authors tend towards writing that presents their own people's history as the "right" history. While both histories are factual, the omission of the opposing side's history does tend to make these works factually biased. From a legalistic perspective, some literature tends to support the Palestinian 'side' of the conflict, because as we will see it is objectively undeniable that under IHL and IHRL, Israel has made violations. Thus, in works such as "Is There a Court for Gaza?" edited by Chantal Meloni and Gianni Tognoni as well as R. Otto's "Targeted Killings and International Law," an IHL approach that analyzes Israel's occupation and targeted killings of Palestinians is heavily criticized. There is also a binary division amongst scholars over what the proper solution to the conflict would be: pro-two state solution versus pro-one state solution. Some scholars argue that the only way Palestinians can receive the rights that they deserve is via a one-state solution, because "The reunification of Palestine's shattered remains in a unitary state for all its inhabitants, old and new, is the only realistic, humane and durable route out of the morass. It is also the only way for the Israeli Jewish community (as opposed to the Israeli state) to survive in the Middle East" (Karmi, 2007, p. 266). Others believe that the one-state solution is

the only viable option because of how muddled the current boundaries are in Israel-Palestine, considering the number of, albeit illegal, settlement in the West Bank and Gaza. Some literature also supports the politically popular two-state solution, which calls for state recognition for both Israel and Palestine, arguing that both sides want sovereignty and until that is granted, hostility will continue. Finally, there is a growing number of scholars that consider the more theoretical parts of the conflict like competing historical stories and mental maps, such as Efrat Ben-Ze'ev's qualitative studies on Israeli and Palestinian schoolchildren, as well as Mike Berry and Greg Philo's "Israel and Palestine: Competing Histories."

### **E. Research Methodology**

My research methodology includes four face to face, formal interviews. My interviewees were sent the transcription of the interview before quotes from the interview were integrated into the final version of this research paper. All interviewees were informed of the way in which the interviews were being used: solely for the purpose of this paper. All interviewees were asked for permission to be recorded or to have quotes written down prior to conducting the interview.

My research methodology additionally includes research collected from peer reviewed sources. These sources include both qualitative and quantitative research. For example, one source conducts interviews with schoolchildren in Israel and Palestine (Ben-Ze'ev, 2015, p. 238), thus taking a more qualitative approach. Other sources look at legal frameworks. Finally, other sources have conducted and used priorly conducted numerical research and data.

### **F. Definitions**

Some of the most important terms to define and address include: Palestinian, Palestine, Israel, Gaza, West Bank, refugee, migrant, mental map, state legitimacy, state sovereignty, occupation, border, International Humanitarian Law, and International Human Rights Law. In

some cases, these terms have straightforward definitions that are not disputed. In other cases, these words have multiple definitions, with the “right” definition always either in dispute or changing based on current events.

Palestinian can mean an individual who is a refugee as a result of Israeli occupation, living outside of Israeli or Palestine. It could also be an Israeli citizen who is Palestinian, and lives within Israeli borders. A Palestinian could also be an individual who lives in the West Bank or Gaza and faces the growing impact of Israeli settlements (Finaud, personal communication, March 16, 2018).

Palestine is not recognized as a state by the United Nations, but Palestinians, Israelis, and others have differing ideas of what the land of Palestine encompasses. Some Palestinians call for the retaking of the entire land that was once Palestine. Others call for the West Bank and Gaza to be Palestine, thus drawing issue with the Israeli settlements in these lands. “While Palestine’s borders have always been vague and changing, its center has never been uncertain. Nestled in the hills of Jabal al-Quds, or the Judean mountains, Jerusalem (in Arabic, *al-Quds*) is synonymous for most people with the Holy Land” (Kimmerling, 2009, p. 3).

It is also important to distinguish between a refugee and a migrant. These are not interchangeable terms. All refugees are migrants but not all migrants are refugees. A refugee is a migrant that is specifically taking refuge from an act of violence or oppression occurring in their home. A migrant is simply someone who moves from their home to a new place for any given reason, whether it be out of necessity or not (Goodarzi, personal communication, March 2018).

State legitimacy and state sovereignty are also connected, but not interchangeable, as is the concept of mental maps. State legitimacy is whether a state is recognized as existing by the international community. State sovereignty is the right of a legitimate state to have control over

its own land, economy, military and more. But, state sovereignty comes with responsibility: a sovereign state must protect its citizens under international laws (Arnold, 2008, p. 2). Mental maps are constructed ideas about state legitimacy, coming from individuals or from a government, that may or may not be internationally recognized, but do often have significant influence on international relations. State legitimacy can result in internationally recognized borders, whereas mental maps can draw borders that are accepted by some but not necessarily accepted by the international community at large.

International Humanitarian Law is the set of treaties and norms that are also known as the law of war. IHL applies in times of armed conflict, and “its first treaty codification dates back to 1864 when the Geneva Convention of August 22, 1864 for the Amelioration of the Condition of the Wounded in Armies in the Field was drafted. This convention was followed by a range of treaties, each of them the product of the acknowledgment that individuals needed to be protected in times of armed conflict” (Arnold, 2008, p. 2). Rules about occupation are one example of IHL, and these specific laws will be discussed in fuller length later in the paper. As Mr. Finaud pointed out in our interview, “Most experts agree that the Israel-Palestine conflict is an international armed conflict, and therefore IHL applies” (personal communication, March 2018).

International Human Rights Law “concerns the need to protect the individual against the abuse of power by the monarch, the tyrant, protect the individual against the abuse of power by the monarch, the tyrant, or the State.or the State” (Chowdhury, 2010, p. 28). Furthermore, IHRL is truly international, and does not only propagate Western ideals of human rights. “Though the Western has dominated the development of the principle of human rights and monopolized its internationalization, the idea of dignity is universal and cannot come from one particular civilization. The international human rights system at the United Nations enshrines the values of

all humanity” (p. 28). It should be noted, however, that while this may be true today of human rights law, this has not always been the case. At the time when, for example, the partition of Israel and Palestine occurred following the British mandate by a UN decision, Mr. Finaud points out that the “UN was not as representative as it is now, and it was highly under the influence of Western powers, which were more favoring Israel” (personal communication, March 16, 2018).

Finally, it is important to note that while IHL and IHRL can and do overlap, there still remains an important distinction between the two: “human rights law applies all the time including peacetime, and IHL only applies to conflict situations” (Finaud, personal communication, March 16, 2018).

## **G. Theoretical Framework**

The theoretical framework, given the lack of consensus about this issue, will only assume the above definitions to be true. No other theoretical assumptions will be made. The theoretical framework also does not assume that these definitions will always be true; rather, it attempts to develop an objective, factual, and current base upon which to work off considering the highly subjective and constantly morphing nature of the issue at large. Such definitions could and should be reassessed in further research.

## **II. Analysis**

### **A. Mental Maps**

#### **1. Mental Maps of Israeli and Palestinian Youth**

The way in which young people come to understand his or her country’s borders can come to largely influence the national understanding of borders and state legitimacy, with each generation that grows up coming to influence everything from politics to protests. As Dr. Meur stated in my email correspondence with her, a mental map “plays a role when a politician

decides to take possession of a new territory, it plays a role when a citizen decides to protest against this decision, using peaceful or violent means, [and] it plays a role when a crowd of people demonstrates for peace” (personal communication, April 19, 2018). One study in particular by Efrat Ben-Ze’ev (2015) which focuses on a sample of 96 high school students with equal numbers of Jewish and Palestinian individuals uses spatial perceptions of these students to understand how young people see the state that they identify with (p. 240). It is important to consider young people when looking at mental maps because young people are future voting citizens and, as Dr. Meur emphasizes, it is average citizens who are often the driving force behind making political psychology and mental maps relevant in a political atmosphere.

The students were asked to draw two maps on a blank page of paper. One map was to be of their “country” (words such as “Israel” or “Palestine” were not used) as well as one map of the “Middle-East.” These terms were asked in each of the student groups’ respective languages, Hebrew and Arabic. In addition, students completed a questionnaire asking about their individual backgrounds as well as what difficulties they ran into while completing the task. Focus groups and interviews were also conducted to examine students’ prior knowledge about geography (p. 240). The results were very telling of the historical factors of the geopolitical situation in Israel Palestine. The border that maintained the most confusion was “the Green Line, i.e., the line that divides pre-1967 Israel from the West Bank. The students’ mental maps show that this line is mostly unknown, whether they are Palestinian citizens of Israel or Israeli Jews” (p. 243). Furthermore, “in interviews, some students mentioned their encounters with checkpoints, interpreting them as indicators of the Green Line (which they are usually not). However, they could not extrapolate from these occasional encounters a coherent border line” (p. 243). Thus, checkpoints such as visa stops, consular offices, and ticket offices often result in conceptions of

where a border is that are not necessarily accurate. On the one hand, such mental maps could be utilized by the state of Israel to legitimize its occupation of Palestine. On the other hand, “a one-state or two-state solution would be hardly discernible” (p. 250) if both sides of the conflict simultaneously maintain a conflicting set of mental maps. Furthermore, as Dr. Meur pointed out, “political psychology plays a role at different levels in conflicts: individual, societal, and political” (personal communication, April 19, 2018). It is then important to remember that even within one ‘side’ of a conflict, a plurality of opinions and perceptions exist.

With security in this region always a top priority considering the constant territorial strife and border insecurity, having an educational system that encourages certain mental maps in the minds of youth— especially considering the obligatory military service that follows for young adults in Israel— would likely be thought of as essential for maintaining civilian support for policies and military actions that explicitly challenge borders and seek to increase security. Yet, it is also youth of a country that come to influence it as time passes, and as such mental maps on the Palestinian side might throw Israeli legitimacy into question. Especially considering the human rights abuses that Palestinians have faced, such as a general lack of equality between Palestinians and Israeli— the very abuses that have in turn shaped Palestinian mental maps of the region— we can see how mental maps on the one hand strengthen Israeli legitimacy but on the other can draw attention on the world stage to the ways in which Israel has perhaps broken international law, which I will discuss in length later in the paper.

## 2. Mentally Mapping Religion

Another qualitative study conducted by Nir Gazit (2010) in West Jerusalem exhibits how religion, as seen most especially with the case of Jerusalem, can shape “social boundaries,” as well as the security implications of these mental maps. The study purposefully focuses on “the

Jewish population who live in Western Jerusalem that is recognized by the international community as part of Israel” (Gazit, 2010, p. 395), whereas Eastern Jerusalem is seen “as an integral part of Palestine” (p. 395). This intercity boundary provides the perfect location to see how religious division contributes and reacts to mental maps amongst two physically close, yet socially conflicted, populations. Jerusalem then serves as “a prototype for a mixed city, an urban ‘situation’ in which two rival national communities occupy the same urban jurisdiction” (p. 396). Yet, because “most of the Palestinian Jerusalemites reside in the old city and in its eastern neighborhoods, while the Jewish population is concentrated in areas considered to be the western side of the city,” (p. 396) Jerusalem is “one of the most significant territories in dispute between Israelis and Palestinians” (p. 396).

One interviewee from the study gave a particularly telling statement when saying, “Jerusalem is a city of neighborhoods. Each neighborhood has its own people and its own way of life. It’s not a formal thing, but everyone acknowledges it” (p. 397). What is so interesting about this statement is that it explicitly shows the making of a mental map, and also shows how easy it is to assume that others’ mental maps are the same as one’s own, seen when the individual here says “everyone acknowledges it.” It is true that everyone might acknowledge the divided nature of Jerusalem, but the constant strife over who the holy city truly ‘belongs’ to shows that this acknowledgment might look quite different depending on who is asked. For example, another Jewish interviewee once again expressed the almost contradictory nature of the city, when stating “I know it a holy city for all three great monotheistic religions, but it is the capital of the Jewish people” (p. 397). The praise of the three great monotheistic religions does not quite match the exclusivity of the mental map painted in the second part of the statement. This individual chooses to separate the religious ownership of the land from the “official” ownership, using

political language like “capital.” In reality, however, calling Jerusalem a holy city for three religions— and acknowledging the obvious strife that has come with this— is a much more holistic depiction of Jerusalem than declaring it as the Jewish capital. The latter is idealistic and self-benefitting, as mental maps naturally tend to be.

Ultimately, mental maps play a larger role than one might first think. Though mental maps are often elusive and not internationally recognized or even internationally understood, such perceptions exist and persist on the individual level, often resulting from an individual experience associated with displacement or difficulty of movement. Qualitative studies are essential in this case in that such studies are able to tap into what individuals feel and experience through research methods such as interviews and drawing maps. Though we will come to see that there are many other factors at play in the Israel-Palestine conflict, mental maps can not be ignored if the situation is ever going to find a resolution: a conflict so driven by the religious and the historical is inevitably a personal one.

## **B. Occupation**

### 1. Israel’s Actions in Relation to IHL and IHRL

While mental maps can be certainly telling of the way in which individual people perceive borders and state legitimacy, and while such perceptions as we have seen do come to be materialized in ways that have real world effects, more concrete definitions of state legitimacy and borders tend to come from codified sources. Furthermore, certain sets of laws are in place to make sure that states in the international community respect internationally recognized borders. One set of laws known as “International Humanitarian Law” regulate actions that states might take against one another in armed conflicts.

Out of all the experts that I interviewed, one of the most common threads that I heard repeated was the importance of looking at Israel's occupation of Palestinian territories from a legalistic standpoint. While Israel has and continues to spread settlements in the West Bank and Gaza while the international community for the most part stands idly by, this does not mean that Israel's actions are necessarily legitimate. Dr. Mohamedou told me in our interview that "There's the general basic violation [of IHL] that the occupation represents— the holding of lands against specific United Nations resolutions since 1967— and as a result of that you have a sense of everything that flows from that is going to be based on a certain problematic nature" (personal communication, March 16, 2018).

What is the exact wording of the IHL against occupation, and how does this apply specifically to Israel's actions? Additionally, how does International Human Rights Law then come to play a role as well? According to IHL, "an occupant is not the sovereign of the territory it occupies, but merely a temporary administrator," and furthermore, "an occupying power is also under the duty to afford human rights guarantees to the population of territories under its control" (Akram, 2011, p. 229). Thus, the specific IHL that deals with occupation inherently brings in the concept of IHRL, because an occupant has the duty to not only follow the rules of IHL but also provide human rights so as not to violate IHRL. IHL also emphasizes the need for an occupant to not use the occupied land for any form of economic gain, to only use the occupied land and its resources to meet the needs of the local population, and finally that the occupier must only remain an occupant for the length of hostilities, and no longer (p. 229). Thus, occupation in and of itself is a factor of armed conflict, and thus would not be legal if the occupant has motives outside of war.

Given this definition and its specifications, it becomes clear why Dr. Mohamedou emphasizes that the only way to understand the problematic nature of the Israel-Palestine conflict is by first looking at IHL: Israel is in direct and obvious violation of it. Dr. Mohamedou suggests, “the more we see a specific operation by Israel in the name of its security... the more that actually invisibilizes the larger question of the occupation. It’s like you’re looking at a corner of a problem, rather than looking at the whole room itself which should be exited from” (personal communication, 2018). Indeed, the need for security is often a justification that is used for the occupation, but as Dr. Mohamedou suggests, such a justification ignores the larger framework of IHL that prioritizes occupation for armed conflict purposes far over the security of a state established in violation of these very factors.

Additionally, as IHL states, an occupant must provide human rights to those which it occupies. Yet, if Israel is starting out with this problematic base of illegal occupation— for example, Israel’s economic exploitation of oil fields (Akram, 2011, p. 235)— then Israel is not further motivated to provide basic human rights, because the occupation itself is already outside what is legal by IHL: “all you have following is violations of human rights, of individuals, of families, detention, occupation, extrajudicial killings, all manners of violations, going above and beyond the humanitarian necessity doing any one of these occupations” (M. Mohamedou, personal communication, 2018).

While occupation is then perhaps the most problematic of Israel’s actions, there are other ways in which international law has been violated during this conflict. One example is targeted killings. A targeted killing is defined as a “lethal attack on a person that is not undertaken on the basis that the person concerned is a ‘combatant,’ but rather where a state considers a particular individual to pose a serious threat... even at a time when the individual is not engaging in hostile

activities” (Otto, 2010, p. 13). Under human rights law, targeted killings throw into question an individual’s “right to life” (p. 198). As it pertains to IHL, such killings throw into question basic terms such as “combatant” and “civilian,” muddling the lines between the two and thus increasing the difficulty to determine whether such killings fall under IHL jurisdiction (p. 219). Ultimately, Israel has engaged in targeted killings, although “Israeli officials refer to ‘targeted thwarting,’ ‘interception,’ and ‘elimination policy,’ whereas the terms ‘extra-judicial killings’ and ‘assassination’ are not used by Israel itself” (p. 12), and as such language is used to a certain extent to veil the reality of what is happening. While targeted killings “are universally condemned, [and] most governments who practice assassinations surround such actions in secrecy and deny carrying out the killings they may have ordered” (p. 491). Israel, however, has “confirmed that such killings are a deliberate government policy carried out under government orders” (p. 491). Thus, through a combination of calling these killings by alternate names and by being overall open and unapologetic about such international law violations, Israel has come to normalize their actions to a certain extent in the eyes of the world. With the recent news in Gaza of the IDF killing Palestinian citizens who were peacefully protesting, such human rights violations are more relevant than ever.

The normalization of such violations then leads to a overarching question: how will Israel be held accountable for these actions? The general answer has long been that states follow international laws and norms so as to protect their own legitimacy and trustworthiness on the world stage. But, if the international community (and the United States in particular) continues to turn a blind eye to what is happening, how can we ever see change? The Israeli Supreme Court at many turns seems hopeless to the situation. For example, between 2000 and 2007 “210 Palestinian suspected militants and 130 civilians have been killed in targeted strikes carried out

by the Israel Defense Forces” (p. 492), but “Still in January 2002, the Israeli Supreme Court, sitting as High Court of Justice, declared that it was barred from examining the practice of targeted killings as it would not judge on an ongoing conflict” (p. 492). Then, when the ISC did decide to address the issue, it ruled that “targeted killings are not *per se* illegal and thus much of the immediate press coverage emphasized that the Court had authorized the Israeli policy” (p. 492). As a highly press-covered case, much of the world walked away with the impression that this was the extent to the ruling.

The reality of this December 2006 ruling is a bit more complex than what the press covered. The Court did rule that these killings were not *per se* illegal, but it also should be noted that “the Court developed numerous criteria that have to be fulfilled to render a targeted killing legal on a case by case basis. The Court based its decision on the presumption that the killings take place in the context of an international armed conflict and that thus the law of armed conflict is applicable” (p. 493). While this seems just under IHL in theory, in practice the situation in Israel ultimately is not isolated to targeted killings: as we have seen, unlawful occupation and basic violations of human rights persist with or without targeted killings (p. 493). Once again, a simplification of the issue renders it acceptable on the surface, and while it is encouraging to see the ISC making reference to IHL, it is also problematic to ignore the other ways in which the state of Israel has violated it.

So, the question remains: how will Israel be held accountable, if they are unwilling— or perhaps more accurately, unmotivated— to do it themselves? In May of 2009, a group of motivated individuals tried to answer this question by holding an international conference called, ‘Is There a Court for Gaza?’ Following the Israeli military operation in the Gaza Strip in late 2008 to early 2009, “International and local independent human rights organisations—as

Amnesty International, Human Rights Watch, FIDH, B'Tselem, PCHR—all issued reports detailing the extent of the alleged violations, and the disregard for the basic principles of international law, in particular of the principles of necessity, proportionality and of distinction between civilian and military targets.” (Meloni, 2012, p. 1). A UN Fact Finding Committee was then prompted to assess the situation on behalf of the international community, a promising step towards holding Israel accountable via international questioning of its legitimacy. The report, called the Goldstone Report, actually found potential war crimes and crimes against humanity committed by both sides of the conflict (p. 2). Such findings would in theory hold the potential to begin the process of holding both sides of the conflict accountable for their actions, and thus creating an impetus for good behavior that would in turn strengthen the legitimacy of both sides, paving the way towards a solution: perhaps even a situation where Palestine would receive recognition under international law and become a UN member (p. 3).

Yet, as is the pattern with this conflict, especially in regards to the United Nations on Israel-Palestine, “the ‘Goldstone Report’ appears to have been intentionally forgotten” (p. 3), and as such, “it appears also clear that no real sovereignty will be achieved and no self-determination enjoyed by the Palestinians as far as the occupation of their territory will continue” (p. 3). ‘Is There a Court for Gaza?’ then reacted off of this by developing a goal to look at the situation entirely legalistically, outlining how the situation must move beyond UN Fact Finding, and considers the role of the International Criminal Court as a separate entity from the United Nations, considering that the fact finding mission was “now blocked for political reasons” (p. 4). Ultimately, “when it comes to the Palestinian situation, political interests have been hindering justice for so many decades that a dramatic change would be needed, at the international level, in order to overcome such an impunity crisis and restore the rule of law” (p. 4). So, perhaps an

approach that evolves beyond the politically tainted approach of the United Nations is necessary to hold Israel accountable.

It also would appear necessary that such an approach would work with Israel, not against it. Perhaps by working the legalistic methods that Israel already uses into a larger plan, Israel would be more motivated to change their actions. Furthermore, the reality of the situation is that it *is* political, and thus the future of this conflict often rests in the hands of the Israeli political administration. As Dr. Mohamedou pointed out in our interview,

The Israeli society is not a one-dimensional society, like any society for that matter... There's a lot of people in Israel that have many different views on the 'Palestine question,' on the future of Israel, on what they regard as the proper resolution of this. Some people are more hawkish, others more center, others most left wing. There is a spectrum of perspectives. Some actually fighting for Palestinian rights, with and alongside them, others being at the other end of that. There's a variety and a plurality of views. Netanyahu, and the Netanyahu government, represent a particular political orientation, which certainly has support among the Israeli population, but certainly have many opponents as well (personal communication, March 16, 2018).

What Dr. Mohamedou says seems obvious, yet this is also something that media coverage and physical distance from the situation tend to obscure: Netanyahu does not represent the entirety of Israeli civilian opinion, or even the IDF for that matter. We have seen such a disconnect come to relevance recently, especially with corruption charges being brought against Netanyahu. It cannot be denied that for the time being Netanyahu holds an immense amount of weight in the future of Israel and the lack of a future for Palestine, but remembering that not all Israelis agree

with him is important in that Israel does maintain a voting system (albeit, one that inherently leaves out Palestinian voices, a quality of Israel that indeed provides the foundations for accusations of human rights abuse) that could elect a leader and an administration far different from Netanyahu in the future.

Professor Olsson also gave the example of when “shootings at checkpoints... come to prosecuting the soldiers who actually killed civilians, the IDF has been much more legalistic than politicians in general and Netanyahu in particular” (C. Olsson, personal communication, February 26, 2018). He continued, “In other words, one thing is that the laws of war and at least the principle of discrimination call for set tribunals to prosecute people who would, without any particular reason, kill civilians.” While Dr. Mohamedou maintained a more optimistic perspective that the existence of Israelis who oppose Netanyahu could one day stand up against some of his policies and enact change, Mr. Finaud took a slightly different viewpoint in our interview. He said, “All governments in Israel are based on coalitions. The coalitions include all sorts of small parties, which are even more conservative or nationalist or religious, and maybe less influential separately. But because of the proportional electoral system, they have disproportionate influence... Any small member of the coalition can threaten to withdraw. Even if people don’t like him, he is sure to stay in power” (personal communication, March 16, 2018).

Regardless of whether Netanyahu maintains his power, though, it can be more certainly ascertained that the political system in Israel is constructed in a way that grants heavy power to its prime minister. Thus, a future approach, as ‘Is There a Court for Gaza?’ points out, would need to take into account the legalistic backing for and against Israel’s and Palestine’s respective statehoods, while also understanding that politics and administrations have the ability to either support or push down such legalistic approaches and as such should be considered in tandem. It

would be unrealistic to assume that politics and laws exist simultaneously without affecting one another.

## 2. In the Name of Security: Israel's Alternative Narrative

After the British and then Israeli occupation of Palestine forced more than half of the Palestinian population to seek refuge in neighboring countries, violent exchanges were commonplace. Rather than seeking a peaceful solution, "Israeli leaders... decided to construct a wall. This wall has been defined by many Palestinians as the 'Apartheid Wall' and by Israeli state leaders as a 'security fence'" (Shalhoub-Kevorkian, 2006, p. 1103). While Israelis can freely pass back and forth across the wall, Palestinians must "face a bureaucratic nightmare" (p. 1103) in order to obtain permission to cross. A mental map materialized, the wall is seen as a human rights violation by the International Court for Justice, and the UN called it the "most alarming development in 2003 in the West Bank" (p. 1103). Other ways that Israel has materialized these mental maps is through actual cartography, using physical maps to "produce a range of recurrent genres of maps that put forth particular geopolitical visions" (Schnell & Leuenberger, 2014, p. 529). All of these physical manifestations seem to come down to Israel's attempt to self-legitimize, especially in the face of the international community giving its doubts: it's an act of security, reacting off of insecurity.

Furthermore, security is often the word used to legitimize the walls, the segregation, and the inequality that Palestinians face, "whereby the settlers' security concerns can justify placing restrictions on the rights of the local residents," and thus "the wall's physical structure is not challenged either" (Gross, 2017, p. 266). The International Court of Justice has long been concerned with the construction of the wall, and after various legal cases, it was determined that Israel simply uses a "different factual background" (p. 269) to come to the conclusion that the

wall is justified. To a certain extent, this is true: Israel has consistently pointed to the Fourth Geneva Convention— known as the Protection of Civilian Persons During a Time of War— to justify the wall, namely by “making Israeli settlers part of the population that the military commander should care for, and by relying on a proportionality doctrine that separates matters of authority to act from matters about the proportions of the act” (p. 265). While the Fourth Geneva Convention would in this case justify the protection of Israeli citizens, the original illegal qualities of those settlements in and of themselves is a fact that is conveniently ignored. Yet, some scholars argue that the different assessments of the legality of the wall between the ICJ and the Israeli High Court of Justice go beyond just the choice of facts: “Rather, the different conclusions should be attributed mostly to the two courts’ variant attitudes toward questions of ‘security’ and of the barrier itself, and toward its place within the broader context of the occupation” (p. 269). For Israel, the wall is a security measure. For Palestine, the wall represents one of the many illegal actions that Israel has taken as an occupant: denying the same ease of access to resources that Israelis receive to Palestinians, and furthermore making it physically difficult for Palestinians to move. Considering that the HCJ maintains its own state and citizen interests as its highest priority, it makes sense that for Israel and its HCJ the wall is not an offense act but a defensive act.

Furthermore, the reason that Israel views the wall and other actions as an act of security could be because of the different set of facts that exist surrounding the conflict. In a work titled “Israel and Palestine: Competing Histories,” the authors explore how the way in which a state represents its own history— in that states tend to include some facts, but exclude others— and in turn how this shapes what the state considers its priorities to be today, and the legality of such priorities. For Israel, a Jewish state, Zionism is rooted in decades-old historical and religious

standpoint: we can trace “the contemporary emergence of Zionist thought to the European Rabbis, Judah Alkalai and Zvi Hirsh Kalischer, who from the 1830s onwards stressed the need for Jews to return to the Holy Land as a necessary prelude to the Redemption and the coming of the Messiah” (Berry, 2006, p. 1). Furthermore, as European Jews dealt with an increase in anti-Semitism during the late 19th and early 20th century, individuals such as Theodor Herzl, who is commonly thought of as the father of political Zionism, came to think “that a central issue for Jews was their dispersal across the Diaspora and their existence as a minority in each country they inhabited” (p. 3). The push for the establishment of a state of Israel thus is rooted in this personal and specific history. It is a factual history, but also a history that focuses on the pain of one group, and does not necessarily prioritize the pain that could be brought about by the creation of the state of Israel. Today, these priorities then transfer over to maintaining the state of Israel as a Jewish state, and this continues to mean exclusion of Palestinians. Is this legal on the basis of international law? No. Does the history of Israel override the sanctity of international law? No. But, can we take what we know about the history of the Jewish people and the state of Israel and use this particular history to better address the situation in a way that might satisfy both sides of the situation? Perhaps.

### 3. Palestine’s Competing Narrative

Palestine, too, has its own personal history that informs its current positionality and actions. Palestine has a rich history that dates back centuries upon centuries, with agriculture life and a peasant style livelihood a constant for its working class population. In the mid 19th century, the Palestinians saw strife with Egyptian empire builders, which “confirmed that the parameters of peasant society would be redrawn” (Kimmerling, 2003, p. 6). This resulted in a rebellion in the 1830s when Palestinians were forced into conscription that “was little more than

a death sentence: The term of service was frequently for life and, given the sanitary conditions and military technology of the day, there was little chance parents would ever see their sons again” (p. 6). What is ironic in retrospect is that in the 1830s, Jews and Palestinians were simultaneously struggling in different ways: Jews were suffering from historically rooted anti-Semitism in Europe, and Palestinians were struggling from larger empires taking away their historically rooted livelihood in Palestine. Israel was not yet founded; Palestinians were not yet occupied. Yet, both populations were experiencing key moments in their histories that would come to shape their future actions. When Israel did come to exist, we can make sense of it by analyzing the history of Jewish civilization. Yet, the existence of Israel, a state so loved and celebrated by Jews across the world, a state that genuinely means so much to so many individuals, causes the hurt and oppression of a population that was already in peril when the first waves of Zionist Jews arrived.

Given the history that Palestinians have faced from their surrounding Middle Eastern neighbors, the creation of Israel and the eventual inclusion of Palestinians within Israel-occupied Palestine as Israeli citizens was a double hit to the Palestinian people. First, “until 1967, at least, [Palestinians] were often shunned by other Arabs, even when traveling outside the country. And, within Israel, they found themselves on the lowest rung of the social and economic ladder and treated by the majority Jews as a potentially dangerous population,” (p. 169) because Israelis saw their existence as a threat to the *Jewish* state. As Mr. Finaud expressed to me in our interview, the fear was “of having the Jewish characteristics of the state become washed away” (personal communication, March 16, 2018). Ultimately, Palestinians who received citizenship “became citizens of a state that celebrated its independence around the event that they considered their biggest catastrophe” (Kimmerling, 2003, p. 169). Similarly to mental maps, competing histories

influence how states perceive their own legitimacy, as well as what states see as their rights outside of what is necessarily legal under IHL or IHRL. Mr. Finaud expressed a very similar sentiment to scholar Kimmerling when he asserted, “The most difficult aspects are not the technical ones, but the more psychological elements, or ethical ones. The ones related to the discourse, the narrative, the history, the responsibility. On the same day Israelis celebrate the birth of Israel, the Palestinians mourn” (personal communication, March 16, 2018).

### **C. Liberation?**

#### 1. Israeli versus Palestinian State Legitimacy

Through their vulnerable borders, Israel and Palestine are in a constant struggle for their respective statehood and legitimacy. As we have seen in the previous two sections, the conflict on the one hand is influenced by mental mapping of borders and legitimacy, and on the other hand is bound by international law. In some cases, mental maps reign supreme: Israel’s illegal settlements have not been challenged in a major way by the international community, for example. In other cases, IHL and IHRL show that the PLO’s call for change and liberation is absolutely justified: many of Israel’s actions are blatantly illegal under international recognized laws and norms. In order to work towards potential solutions, we must then pose the question: how can mental maps and international law come together to stop this conflict in a way that makes both sides feel satisfied, and to a certain extent, liberated from the endless war that has plagued this land for decades? How can Israel’s and Palestine’s respective state legitimacies come to coexist?

One reason why Israel might not feel international law to be a threat to their legitimacy is the fact that the United States appears to be a friend to Israel no matter what actions Israel takes. While Israel’s demand for recognition is not a new phenomenon, it was only in 2001 that “the

phrase ‘Israel as a Jewish state’ slipped into the U.S. lexicon” (Buttu, 2014, p. 42). Since this phrase became standard, U.S. administrations “have not only taken up such language but appear to endorse Israel’s demand that Palestinians must agree to the concept of Israel as a Jewish state” (p. 42). Furthermore, as Professor Olsson pointed out in my interview with him, the Obama administration was not necessarily more undering to the Palestinian cause than the Trump administration: “The fact that Obama let one of the resolutions pass, it was a one time occurrence. There were no constraints actually attached to it. So although that resolution recognized the fact that it is an occupied territory, there were no constraining conditions attached to it. And would there have been, Obama probably would not have allowed it to pass” (C. Olsson, personal communication, February, 26 2018). Thus, the U.S. seems to have taken on an almost permanent role in being Israel’s ally, regardless of political party.

This does not mean, however, that the Trump administration does not bring an entirely new dimension to this issue. President Trump, like the Israel-Palestine conflict, is rather unpredictable: “given the President-elect’s penchant for throwing away the established rule book, he could adopt a completely novel, high-risk approach designed to inject a new and very different dynamic” (Indyk, 2017, p. 315). Most apparently with his decision to move the U.S. embassy to Jerusalem, President Trump has indeed taken on this approach as scholar Indyk predicted. President Trump could continue to take actions that intentionally “spark an explosion of anger in the Palestinian, Arab, and Muslim worlds” (p. 317). Then, “having provoked the crisis, President Trump could then seek to end it by declaring that he was willing to suspend U.S. recognition of Jerusalem as Israel’s capital... until both sides resolved its status” (p. 317). This ponderance alone shows the scope of power that the U.S. has over this issue, both in a destructive sense and a potentially solution-oriented sense.

As such, it seems that the first step towards a solution would need to involve giving Israel a motivation to follow IHL and IHRL. As we have seen in almost every aspect of modern international relations, in the modern day diplomacy does not just mean the United Nations coming together, or the biggest state actors and what their interests may be. Today, NGOs can have a huge influence over decisions that are made on the world stage. Furthermore, lobby groups in the United States have come to have a great deal of influence over our political system, and the money and support that such lobby groups can offer to politicians can be as influential as what a Congressperson's constituents want. While this is a highly problematic aspect of the U.S. political system, it is also the reality at the present moment in time, and with a growing number of NGOs and lobby groups in the U.S. becoming interested in and concerned with Israeli-U.S. relations, these organizations and groups could come to influence the United States into being more strict with Israel when it makes illegal decisions.

For example, organizations such as J Street work to offer an alternative narrative to Jews: the narrative that a strong Israel can only result from the ceasing of internationally recognized illegal actions towards Palestinians. As scholar Ben White (2012) points out in his book, *Palestinians in Israel*, perhaps a more secure solution for Israel-Palestine, rather than the wall, is “a future based on a genuine co-existence of equals, rather than ethno-religious supremacy and segregation” (p. 89) that is brought about by these mental maps brought to life. J Street argues that such a future is achievable only through a two-state solution. To quote the organization’s website, “Israel must choose among three things: being a Jewish homeland, remaining democratic and maintaining control over all the land between the Jordan River and the Mediterranean Sea. It can only have two — it can only remain both Jewish and democratic by giving up the land on which a Palestinian state can be built in exchange for peace” (J Street,

2018). A two-state solution essentially would harness the mental maps of the two groups and make these borders realities, in a way that gives equal representation to Palestinian mental maps. Furthermore, JStreet is a lobby group: they have the potential to actually influence how the United States makes decisions. Another way to combat the automatic siding of the U.S. with Israel, as Mr. Finaud pointed out in our interview, is if Palestine can simply avoid negotiations with the U.S. altogether: “The Palestinians will not attempt at all to mediate with the U.S. because they have lost any hope of swaying the U.S.-Israeli relationship. Palestinians may turn to the UN, the security council, or the EU, to promote a more objective potential solution” (personal communication, March 16, 2018).

## 2. Looking Forward: A Solution?

As far as a potential solution goes, whether such a solution comes from the power of the United States or the power of other international groups, many scholars do agree that a two-state solution is the most viable. Scholar B. Morris argues that “the inability of the Israelis and Palestinians... to reach an agreement and bring forth a West Bank–Gaza Palestinian state” could even necessitate that Israel and Jordan reach an agreement that would allow for the Palestinian population to “redistribute” into the relatively underpopulated Jordanian lands, which in effect would circumvent the issue of Israel’s currently illegal occupation of Palestinian land and the privilege that Israel maintains via its connections to the United States (Morris, 2009, p. 76). However, not all scholars agree that a two-state solution is the best thing for Israel or for Palestine: White argues for the melting away of mental borders into “Israeli-Palestinian coexistence in one nation” (2012, p. 90). Furthermore, while the two-state solution is perhaps more practical given the fact that it does not attempt to mix Israeli and Palestinian culture and identity, the number of Palestinian refugees who have been displaced so far by this conflict

makes it difficult to imagine that any “Palestinian leadership could accept such a state” drawn around the current settlement of Israelis in occupied land (Susser, 2012, p. 166).

Each of these solutions comes with its own unique set of potential challenges. For the two-state solution, some of the borders of a two-state solution that have been proposed would be so convoluted— due to the very mixed nature of these populations, in part because of scattered Israeli settlements already illegally in the West Bank— that it would likely be immensely difficult to enforce these borders without resorting to more wall building. Regarding the latter, a one-state solution is great in theory but in practice might create more hostilities because it rejects the validity and importance of the very distinct mental maps that both Israelis and Palestinians maintain in regards to the land of Israel-Palestine. Ultimately, it seems that if a lasting solution is to occur it must be a balanced one, for the conflict is truly one of the binary: Israel versus Palestine; mental maps versus law; two-state versus one-state; international versus local, and more. All of these dualities are at war in this conflict, and to ignore any one side is to continue to put short-term solution bandaids on a conflict that needs something more. As Ghada Karmi so eloquently asserts in her book, *Married to Another Man*, if and when Israel and Palestine come to a solution, “the concept [of a solution] itself must have been established long before, not as an immediate attainable goal but as a vision, an aspiration and a belief in the ultimate humanity of Jews and Palestinians and all those who wish to see them prosper” (2007, p. 267).

### **III. Conclusion**

The Israel-Palestine conflict may be one of the longest lasting conflicts currently occurring in the world today, but this does not mean that it is necessarily impossible to understand the roots of the conflict. After conducting formal interviews as well as collected both qualitative and quantitative peer-reviewed research, this paper argues that it is a combination of mental

maps, competing histories, IHL violations, and IHRL violations that have allowed this issue to persist for so long. Thus, my culminating argument is that by looking at where the theoretical side and the concrete side of the conflict intersect, we can work towards a solution, and ultimately this solution will improve the state legitimacy of both Israel and Palestine. While it is undeniably important to look at the ways in which IHL and IHRL have been broken to hold states accountable to their actions, it is vital that the international community not forget about the individual and personal stories and histories that shape this conflict, and how we must integrate such stories into a potential solution. During my interview with Mr. Finaud, I found one story that he told me particularly poignant as well as an important microexample of what needs to happen on a larger scale in Israel-Palestine. He told me,

In Israel, there are some very courageous people who have tried to bridge the gaps between these two peoples. If we are talking about a solution, we need to remember the importance of people-to-people cooperation, not just government-to-government. There is one NGO that I know of in particular. It was founded by a fairly nationalist Israeli, who lived in the one of the settlements and his daughter, who was a soldier, was abducted and killed by Hamas. He could have called for revenge, stirred these sorts of emotions. On the contrary, he established a group of bereaved families, on the Israeli side and the Palestinian side, who started to meet and exchange their emotions and experiences. It was very brave. This very small family circle started to grow, and now twenty years later, it has 600 families. Yes, compared to the scale of both countries it is small, but it shows that it's possible (personal communication, March 16, 2018).

As Mr. Finaud has emphasized by this story, what this conflict needs is understanding, compassion, and balance. Also shown by this story, these seeds of a solution seem to be cultivating already. Thus, the international community needs to let this process unfold naturally, tending to it now and then as a gardener would tend to young sprouts. With too much water or attention, the solution may shrivel; but, with patience and time, the flower of a resolution will bloom.

**Abbreviation List**

**PLO:** Palestinian Liberation Organization

**IDF:** Israel Defense Forces

**IHL:** International Humanitarian Law

**IHRL:** International Human Rights Law

**ISC:** Israeli Supreme Court

**ICC:** International Criminal Court

**HCJ:** (Israeli) High Court of Justice

**UN:** United Nations

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