2013

A Holistic Approach to the Conflict of Israel and Palestine: Where We Are Now and Where We Can Go

Oraneet Shikmah Orevi
Golden Gate University School of Law

Follow this and additional works at: http://digitalcommons.law.ggu.edu/annlsurvey

Part of the Comparative and Foreign Law Commons, and the International Law Commons

A HOLISTIC APPROACH TO THE CONFLICT OF ISRAEL AND PALESTINE: WHERE WE ARE NOW AND WHERE WE CAN GO

ORANEET OREVI[*]

OVERVIEW

The Israeli-Palestinian conflict has spanned over six decades, resulting in brutal deaths of civilians, assassinations of political figures, and casualties of countless soldiers on both sides. Dominant discourse on the conflict focuses largely on the prevalence of violence and State-figures' failure to properly address the issue. This paper will take a different approach by exploring the legality under International Law of the continual expansion of Israeli settlements in the West Bank *and* by illuminating the peacebuilding efforts of grassroots organizations focused on education, uniting communities, and engaging international actors. A discussion of the history is important not only to inform present context, but also to impart wisdom and lessons from our past that may inform our present and future. However, there is only so much criticism a conflict can undergo before it becomes destructive and staggering. While Part One focuses on the settlements, Part Two moves beyond the focus of a critical eye on the conflict toward an emphasis on education and peacebuilding efforts activists have taken to promote a holistic approach to achieving a lasting and just peace.

105

In light of this paper's topic on settlements and non-violence, it is important for me to acknowledge and address that I am an Israeli-American living in the United States. I have the privilege of not experiencing the conflict on a daily basis contrary to that of my family living in Israel, the Palestinians living in Palestine,[1] and the Palestinian citizens living within the borders of Israel. Finally, during the most recent peak of violence in Palestine and Israel between Hamas and the Israeli government, it is imperative to recognize the suffering of both Palestinians and Israelis subjected to the violence and demand that it stop. This article is dedicated to them.

PART ONE – AN EXAMINATION OF THE CONSTRUCTIONS AND EXPANSION OF JEWISH SETTLEMENTS AND ITS EFFECTS IN THE WEST BANK UNDER INTERNATIONAL HUMANITARIAN LAW – LAWS OF ARMED CONFLICT

I.   INTRODUCTION

The Israeli government has authorized the continuing construction of residential dwellings in the West Bank area of what will eventually be part of the Palestinian state.[2] With Israel's expansion efforts has come destruction of property and transfer of populations.[3] While Israel maintains that the construction and expansion of settlements is a legal exercise of its sovereign right,[4] Palestinian officials sees it as an obstacle to peace that undermines a two-state solution and the Palestinian right to self-determination.[5] Furthermore, the international community views the Israeli settlement policies as violations of international law.[6] Section I will explore the legitimacy of Israeli actions in pursuing the settlement

---

1.   For the purposes of this article and to further contextualize this paper, the West Bank and Gaza (or what is slated to be the future Palestinian State) will be referred to as Palestine.

2   Joel Greenberg, *After U.N. vote, Netanyahu authorizes new building in settlements*, THE WASHINGTON POST (November 30, 2012), http://articles.washingtonpost.com/2012-11-30/world/35585851_1_maaleh-adumim-israeli-construction-denunciations-from-palestinian-officials. (last visited May 27, 2013).

3.   *Aid agencies call for immediate end to demolitions and settlement expansion as Israel displaces Palestinians acrossthe West Bank*, THE UNITED NATIONS INFORMATION SYSTEM ON THE QUESTION OF PALESTINE (UNISPAL)(May 1, 2013), http://unispal.un.org/UNISPAL.NSF/0/998B72485D85EBD385257B5E004DF3F8. (last visited May 25, 2013).

4.   Israel Ministry of Foreign Affairs, http://mfa.gov.il/MFA/ForeignPolicy/FAQ/Pages/FAQ_Peace_process _with_Palestinians_Dec_2009.aspx#Settlements. (last visited May 25, 2013).

5.   *Palestinian official: Israeli settlements are main obstacle to peace*, MIDDLE EAST MONITOR (May 21, 2013), http://www.middleeastmonitor.com/news/middle-east/6079-palestinian-official-israeli-settlements-are-main-obstacle-to-peace-. (last visited May 25, 3013).

6.   Yuval Ginbar, Israeli Settlement in the Occupied Territories as a Violation of Human Rights: Legal and Conceptual Aspects 25 B'TSELEM (Yael Stein March 1997), *available at* http://www1.idc.ac.il:549/2004/ 13009.pdf.

policies in light of obligations under International Humanitarian Law – Laws of Armed Conflict (IHL-LOAC).

Section II will examine the history of the Israeli-Palestinian conflict to illuminate how Israel came to be an Occupying Power. It will show how Israel's policies regarding the settlements in the West Bank, as well as Israel's actions to accommodate construction and implementation of the settlements, are inconsistent with Israel's obligations as an Occupying Power delineated in the Fourth Geneva Convention (4GC) and Protocol I Additional to the Geneva Convention (P1AGC). Section III will show how the Israeli-Palestinian Conflict could be characterized as an international armed conflict in which peoples are fighting against colonial domination, alien occupation, and racist regimes (CARs) in the exercise of their right of self-determination. Part IV concludes that Israel is in violation of International Humanitarian Law for its expansionist efforts and continued construction of Israeli settlements in the West Bank.

II.   ISRAEL AS AN OCCUPYING POWER THAT VIOLATES ITS OBLIGATIONS UNDER INTERNATIONAL HUMANITARIAN LAW – LAWS OF ARMED CONFLICT.

A.   HISTORY OF THE ESTABLISHMENT OF THE STATE OF ISRAEL AND THE ARMED CONFLICT THAT LED TO ISRAELI OCCUPATION OF THE WEST BANK

In November 1947, the United Nations General Assembly proposed Resolution 181 to recommend a Partition Plan for two separate states in British-Mandated Palestine: a Jewish State and a Palestinian State.[7] The surrounding Arab nations and Palestinian Arabs rejected the recommendation and refused to adopt Resolution 181.[8] However, the Jews accepted the recommendation and proceeded to establish the Jewish State of Israel on14 May 1948.[9] The United Nations accepted the proclamation of the State of Israel, despite the fact that the newly founded state "was established on a more extensive territory than recommended in the partition plan."[10] As a result of the establishment of Israel, five Arab armies attacked Israel, including Transjordan (now

---

7.   Nicholas Rostow, *The Historical and Legal Contexts of Israel's Borders*, 77, JERUSALEM CENTER FOR PUBLIC AFFAIRS, *available at* http://www.jcpa.org/text/israel-rights/kiyum-rostow.pdf

8.   PUBLIC BROADCAST STATION, History of the Israeli-Palestinian Conflict, (December 2001), http://www.pbs.org/pov/pdf/promiese/promises-timeline.pdf. (last visited Apr. 12, 2012).

9.   *Id.*

10.   Sara Yarden, *The Right to Self Determination*, DIAKONIA (26 August 2009), http://www.diakonia.se/sa/node.asp?node=3142. (last visited Mar. 18, 2012) (noting that Israel included some of the territories that were to be reserved for the Palestinian Mandate).

Jordan), Egypt, Iraq, Saudi Arabia, and Syria.[11] After the hostilities ended, Israel signed four Armistice Agreements to institute a ceasefire with Jordan, Egypt, Syria, and Lebanon.[12] The Armistice Agreement between Israel and the Hashemite Jordan Kingdom, signed on 3 April 1949, established demarcation lines between Israeli and Jordanian forces; the borders came to be known as the Green Line.[13]

The borders of the Armistice Agreement indicated that the West Bank remained under the control of Jordanian occupation and were intended to be temporary until a final peace settlement could be reached.[14] On 25 April 1950, Jordan annexed the West Bank, declaring the West Bank as sovereign Jordanian territory and offering Jordanian citizenship to the Palestinian residents of the West Bank.[15] However, Jordanian assertion of State sovereignty over the West Bank was pronounced illegal by the international community and was recognized by only two states, the United Kingdom and Pakistan.[16]

On 5 June 1967, Israel executed a pre-emptive strike on Egypt that ultimately drew Jordan and Syria into a regional war[17] known as the 1967 Arab-Israeli War.[18] By the end of the war, Israel took control of the West Bank and other territories outside of the agreed upon Israeli borders in the Jordan-Israel Armistice Agreement.[19] In doing so, Israel took control overland that had been previously mandated as the Palestinian homeland. While the international community considers the West Bank occupied by Israel after the 1967 Arab-Israeli War, Israel insists that its control of the West Bank does not make it an "occupied territory," but rather a "disputed territory."[20]

---

11.   Rostow, *supra* note 7, at 78.
12.   UNITED NATION SECURITY COUNCIL, HASHEMITE JORDAN KINGDOM-ISRAEL ARMISTICE AGREEMENT (DOCUMENT S/1302/REV.1 1/ 3 April 1949), *available at* http://unispal.un.org/UNISPAL.NSF/0/F03D55E48F77 AB698525643B00608D34.
13.   *Id.*
14.   *Id.*
15.   PHILLIP ROBINS, HISTORY OF JORDAN 73 (Cambridge University Press 2004).
16.   *Three Myths About the 'Occupation*,' JERUSALEM CENTER FOR PUBLIC AFFAIRS, *available at* http://jcpa.org/text/occupation _responses.pdf.
17.   *Key Maps*, BBC NEWS, http://news.bbc.co.uk/2/shared/spl/hi/middle_east/03/v3_israel _palestinians/maps/html/six_day_war.stm. (last visited May 28, 2013).
18.   PUBLIC BROADCAST STATION, *supra* note 8, at 3. The 1967 Arab-Israeli War is known as The Six Day War to Israelis and as al-Naksah or "the setback" to Palestinians.
19.   *Id.*
20.   Israel Ministry of Foreign Affairs, Israeli Settlements and International Law, (May 20, 2001), http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israeli+Settlements+ and+International+Law.html. (last visited Feb. 20, 2012).

B.   OCCUPIED TERRITORIES VS. DISPUTED TERRITORIES

Israel's interpretation of the Fourth Geneva Convention forms the basis of its contention that the West Bank is not an occupied territory. Article 2 of the Fourth Geneva Convention defines occupation as territory that includes "all cases of partial or total occupation of the territory of a High Contracting Party by another High Contracting Party."[21] Israel interprets this applicable provision of the Fourth Geneva Convention to mean that a territory only becomes occupied when a High Contracting Party that is a signatory to the Fourth Geneva Convention conquers territory of another High Contracting Party that is a signatory to the same. Thus, Israel maintains that because the West Bank was not under the sovereign control of any State before 1967, the West Bank could not be considered "occupied" when Israel seized control in the 1967 War.

On the other hand, the United Nations (UN) is unpersuaded that the application of the laws relating to occupation or "belligerent occupation" is contingent upon sovereign control of a territory. The UN has consistently referred to the territories won by Israel after the 1967 War as "occupied territories."[22] An interpretation of occupation that does not include a sovereign control element has been reinforced in the language used by several actors within the international community to refer to the conflict. For example, after the 1967 War, the UN Security Council passed Resolution 242 requiring the "withdrawal of Israel armed forces from territories *occupied* in the recent conflict."[23] Another example occurred in October 2001, when UN Special Rapporteur, John Durgard, stated unequivocally in his report to the I.C.J. that Israel is an Occupying Power that is indeed occupying the territories, because Israel has the military capacity to exercise control over the West Bank and employs its military to do so.[24] Furthermore, the UN International Court of Justice issued an advisory opinion entitled, "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory" stating,

> At the close of its analysis, the Court notes that the territories situated between the Green Line and the former eastern boundary of Palestine under the Mandate were occupied by

---

21.   Geneva Convention (IV)Relative to the Protection of Civilian Persons in Time of War art. 2, Aug. 12, 1949, 75 UNTS 287, *available at* http://www.icrc.org/ihl.nsf/full/380.

22.   S.C. RES. 242, (22 Nov. 1967), *available at* http://unispal.un.org/unispal.nsf/0/7D35E1F729DF491C85256EE7 00686136. (emphasis added).

23.   *Id.*

24.   *Report of the Special Rapporteur of the Commission on Human Rights on the situation of human rights in the Palestinian territories occupied by Israel since 1967* 4 Annex I to Request for an Advisory Opinion Submitted by Palestine (October 2001), *available at* http://domino.un.org/pdfs/Annex.pdf.

Israel in 1967 during the armed conflict between Israel and Jordan. Under customary international law, the Court observes, these were therefore occupied territories in which Israel had the status of occupying Power. Subsequent events in these territories have done nothing to alter this situation. **The Court concludes that all these territories (including East Jerusalem) remain occupied territories and that Israel has continued to have the status of occupying Power**.[25]

The Israeli Supreme Court itself has declared that the Fourth Geneva Convention applies to the West Bank – or Judaea and Samaria – and in doing so, defined that area as an occupied territory. In the case, *Jam'iyyat Iskan al-Mu'aliman al-Mahddudat al-Mas'uliyyah, Teacher's Housing Cooperative Society Duly Registered at Judea and Samaria Headquarters v. Commander of IDF Forces in Judea and Samaria et al Piskei Din*, Justice Aharon Barak wrote, "as regards the obligation of the occupying state vis-à-vis the international community, the Fourth Geneva Convention are found both in customary international law and treaty-based law, to which Israel is [sic] party, and they apply to the West Bank."[26] Because the applicable provisions of the Fourth Geneva Convention regulate an occupying power that has occupied territory now under the High Contracting Power's control, the Israeli Supreme Court's application of the Fourth Geneva Convention to the West Bank reveals that it considers the West Bank to be an occupied territory. And again, on 30 May 2004, the Israeli Supreme Court, High Court of Justice, referenced in the case *Beit Sourik Village Council v. The Government of Israel*, that "Israel has been holding the areas of [the West Bank] in belligerent occupation" since 1967.[27]

Indeed, Israel's own Foreign Minister's legal counsel, Theodore Meron, "noted with embarrassment, *Israel itself had recognized the status of the West Bank as an occupied territory* by publishing military decrees declaring explicitly that it could respect the Geneva Conventions."[28]

Nevertheless, the Israeli government maintains the territories are not occupied and the United Nations' interpretation is not determinative of

---

25.   *Summary of the Advisory Opinion on Legal Consequences of Construction of a Wall in the Occupied Palestinian Territories* (emphasis added), INTERNATIONAL COURT JUSTICE (9 July 2004), *available at* http://www.icj-cij.org/docket/files/131/1677.pdf.

26.   Ginbar, *supra* note 6, at 6.

27.   *Beit Sourik Village Council v. The Government of Israel*, High Court of Justice 2056/04, Israel: Supreme Court, 30 May 2004, *available at* http://elyon1.court.gov.il/files_eng/04/560/020 /a28/04020560.a28.pdf.

28.   TOM SEGEV, 1967: ISRAEL, THE WAR, AND THE YEAR THAT TRANSFORMED THE MIDDLE EAST 576 (Metropolitan Books 2005). (emphasis added).

the issue. However, it is my position that Israel is an Occupying Power, because the Israeli conquest of land reserved for a Palestinian State establishes an occupation. Therefore, the following sub-sections of Part II explore the applicability of international humanitarian laws to the armed conflict as it pertains to Israel's obligations as an Occupying Power of the West Bank.

C.   CHARACTERIZATION OF THE PALESTINIAN-ISRAELI CONFLICT AND APPLICATION OF IHL-LOAC OBLIGATIONS IN THE CONTEXT OF AN OCCUPYING POWER

Assuming the UN Security Council's position is correct that Israel is occupying the West Bank, then the conflict could be classified as a Common Article 2 traditional state v. state international armed conflict in which the Hague Convention, Four Geneva Conventions, and both Additional Protocols apply. However, if Israel's position that the territories are not occupied is assumed, then the conflict could be classified as one of the following: an international armed conflict under CARs (colonial domination, alien occupation, racist regime, self determination), a Common Article 3 non-international internal armed conflict, or a Common Article 3 Non-international armed conflict. This section will examine the first two potential classifications in turn, because they are the most applicable to the Israeli-Palestinian conflict.

1.   STATE VERSUS STATE INTERNATIONAL ARMED CONFLICT

In order for the Israeli-Palestinian conflict to be characterized as a traditional international armed conflict, *both* parties to the conflict must be a State. While it is not contested that Israel established its independence in 1948, the question of Palestine achieving statehood is more complicated and thus requires further analysis. From an international legal standpoint, the achievement of statehood for the Palestine Authority (PA) would result in the characterization of a State v. State armed conflict. Therefore, if Palestine is recognized as a State, all Four Geneva Conventions, the Hague Regulations, and both Additional Protocols to the Geneva Conventions would apply to the Israeli-Palestinian conflict. As a result, the Israeli government and the PA would be forced to comply with a larger body of applicable laws of armed conflict (listed above) with the exception of those laws that were not ratified by the PA or Israel, namely the Hague Regulations and Additional Protocols, in which case the application of customary law status would have to be established. Statehood can be proven by either: 1) being a recognized member of the United Nations or 2) by having attributes of statehood.

Palestine has recently been deemed a non-member observer State, but it does not enjoy full membership recognition in the UN. In November 2012, member States of the UN voted on the bid for Palestinian statehood. One hundred thirty eight of the 193 States of the UN recognized the State of Palestine, not including the United States and Israel who opposed the move.[29] As a result of the majority vote, the United Nations General Assembly "resolution elevate[d] [Palestine's] status from 'non-member observer entity' to 'non-member observer state.'"[30] As a non-member observer State, Palestine is in the same position as The Vatican, for instance, but like it, Palestine cannot vote on any resolutions. It is notable that when the former republic of Yugoslavia was broken up into six separate States, recognition only required the formal acknowledgement by one other UN member State.[31] Therefore, some may argue that the 138 votes were sufficient to establish Palestinian statehood.

However, one of the five permanent members of the Security Council, the United States, opposed the bid and would likely respond accordingly if the matter were brought to the Security Council.[32] Because observer status does not require Security Council approval, Palestine has still not received full membership recognition in the United Nations.[33]

Accordingly, there are contradicting views as to whether non-member observer State status accords statehood to Palestine. Therefore, it is necessary to conduct an additional analysis of Palestine's statehood under a different set of criteria - the attributes of statehood as set out in the Montevideo Convention. To establish that Palestine has become a *de facto* State, the Montevideo Convention of 1933 on the Rights and Duties of States (hereinafter the Montevideo Convention) sets out the traditional criteria for (and attributes of) statehood including: 1) a permanent population 2) defined territory 3) government and 4) the capacity to enter into relations with other states.[34]

---

29.   Louis Charbonneau, *Palestinians Win Implicit U.N. Recognition of Sovereign State*, REUTERS (November 29, 2012), http://www.reuters.com/article/2012/11/29/us-palestinians-statehood-idUSBRE8AR0EG20121129. (last visited Jan. 26, 2013).

30.   David Ariosto**,** Michael Pearson**,** *U.N. Approves Palestinian 'observer state'* bid, CNN (November 30, 2012), http://www.cnn.com/2012/11/29/world/meast/palestinian-united-nations. (last visited Jan. 27, 2013).

31.   LORI F. DAMROSCH ET. AL, INTERNATIONAL LAW CASES AND MATERIALS 315 (Louis H. Higgins 2001).

32.   *But cf. infra* text accompanying note 53.

33.   Ariosto, *supra* note 30.

34.   Montevideo Convention on the Rights and Duties of States (1933), 165 L.N.T.S. 19

Before delving into the substantive analysis of statehood, an explanation of the Palestinian Liberation Organization (PLO) and Palestinian Authority (PA) is necessary. The PLO was established in 1964 and was later "recognized as 'the sole legitimate representative of the Palestinian people' at the 1974 Arab League Summit in Rabat Morocco."[35] The PA is a subsidiary agency of the PLO, temporarily "established as a result of the 1993 Oslo Declaration of Principles," but thus far "remains the governing body of the autonomous areas in the West Bank and the Gaza Strip."[36] The temporal aspect of the PA's control has to do with the fact that the PA was created as an interim administrative body until a final status negotiation commences. While the PLO conducts foreign relations, however, the PA has no foreign relations powers. For purposes of avoiding the use of the term "Palestine" in the analysis of statehood for Palestine, PLO and PA will be used interchangeably.

The PA exhibits several attributes of statehood. It is uncontested that the PA has a permanent population – Palestinians.[37] For example, the Israeli human rights organization, B'Tselem, estimated in its 2012 Annual Report, that there are approximately 2.5 million Palestinians living in the West Bank. According to the Central Intelligence Agency, an estimated 2,164,311 Palestinians are living in the West Bank as of July 2013.[38] Palestinians have been around since long before the establishment of Israel and although there is no specified number requirement for a population to be permanent,[39] a large number of Palestinians live in the occupied territories, identify themselves as Palestinians, and have the reproductive capabilities to procreate. Therefore, the PA has a permanent population.

Establishing statehood under the Montevideo Convention also requires that the State have a defined territory. As reflected in various resolutions and opinions, the UN has formally named the territories controlled by Israel the "Occupied Palestinian Territories" (OPT). For example, UN Security Council Resolutions 242 and 338 demand that Israel withdraw from the territories it occupied in the 1967 War, including the West

---

35. *PLO-PA Comparison Chart*, PROCON.ORG, http://israelipalestinian.procon.org/view.additional-resource.php?resourceID=904. (last visited May 15, 2013).

36. *Id*.

37. Iain Scobbie, Alon Margalit, Sarah Hibbin, *Recognizing Palestinian Statehood*, YALE JOURNAL OF INTERNATIONAL AFFAIRS, *available at* http://yalejournal.org/2011/08/recognizing-palestinian-statehood/.

38. *Human Rights in the Occupied Territories: Annual Report 2011* 3 B'TSELEM, *available at* http://www.btselem.org/sites/default/files2/2011_annual_report_eng.pdf; *see also* The World Factbook, Central Intelligence Agency, https://www.cia.gov/library/publications/the-world-factbook/geos/we.html.
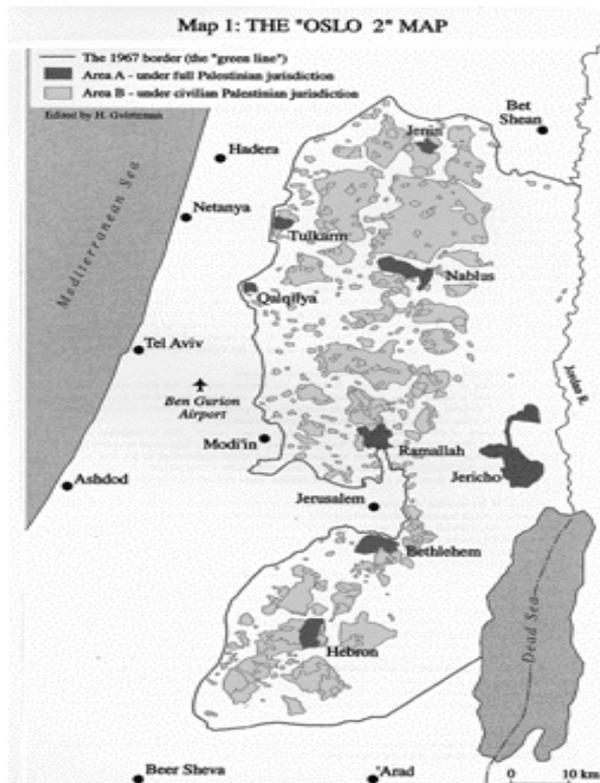
39. DAMROSCH, *supra* note 31, at308.

Bank, and withdraw to the 1949 armistice lines.[40] This demand indicates that the territories occupied by Israel during the war constitute the territories of the Palestinian State.

However, according to the agreement between Jordan and Israel, the armistice lines were not intended to be final borders. Pursuant to Article II(2), the demarcation lines proposed by the agreement were "without prejudice to future territorial settlements or boundary lines or claims of either Party related thereto."[41] Therefore, the Armistice Agreement "was not intended to be a final settlement of border disputes, but was a provisional measure intended to facilitate the transition from a truce to a future permanent peace settlement in the region."[42] Nevertheless, in 1948 when Israel was applying for UN membership, U.S. representative to the UN Security Council, Phillip Jessup, argued in favor stating, "both reason and history demonstrate that the concept of territory does not necessarily include precise delimitation of the boundaries of that territory."[43] Subsequently, Israel was recognized as a State. Therefore, the lack of exact boundaries did not hinder statehood for Israel. Many renowned scholars on the topic support Phillip Jessup's reasoning, asserting that past practice reveals that "the existence of full defined

Map 1: THE "OSLO 2" MAP

The 1967 border (the "green line")
Area A - under full Palestinian jurisdiction
Area B - under civilian Palestinian jurisdiction

Edited by H. Gvirtzman

---

40.   Scobbie, *supra* note 37.
41.   Rostow, *supra* note 7, at 78.
42.   Yoav Tadmor, *The Palestinian Refugees of 1948: The Right to Compensation and Return*, 411, TEMPLE INTERNATIONAL AND COMPARATIVE LAW JOURNAL (Fall 1994), 8 TMPICLJ 403.
43.   DAMROSCH, *supra* note 31, at 306.

frontiers is not required" to establish a defined territory.[44] Thus, although it does not follow the traditional criteria for statehood, lack of exact boundaries is not fatal to the determination of whether or not Palestine has a defined territory.

The third element of statehood established under the Montevideo Convention mandates that there be a government. The PLO can be considered a government in that it has been recognized by the international community as the representative of the Palestinian people. As mentioned above, in 1974, the UN General Assembly (GA) recognized the Palestinian Liberation Organization as the official representative of the Palestinian people in Resolution 3236.[45] Thereafter, in Resolution 3237, the GA granted the PLO observer status in the UN, which allowed the PLO to have similar rights to other members of the UN except for voting on resolutions.[46] Also, in 1993, Israel officially recognized the PLO as the representative of the Palestinian people in the international treaty known as the Israeli-Palestinian Declaration of Principles on Interim Self-Government Arrangements. This treaty "provided for a transitional period of Palestinian self-rule in the West Bank and the Gaza Strip,"[47] in which "Israel ha[d]transferred to the PA certain governmental powers and responsibilities."[48] As a result of this treaty, the PA has exclusive security and civil control over Area A (darker shaded area) and civil control over Area B (lighter shaded area) in the map on the previous page.[49] Combined, these areas constitute 27.9% of the West Bank. Area C (not delineated on the map) is wholly controlled by Israel.[50]

However, the UN Secretary-General has clarified, "where a revolutionary government presents itself as representing a State, in rivalry to an existing government, the question at issue should be…whether the new government **exercises effective authority** within

---

44.   CHRIS N. OKEKE, CONTROVERSIAL SUBJECTS OF CONTEMPORARY INTERNATIONAL LAW: AN EXAMINATION OF THE NEW ENTITIES OF INTERNATIONAL LAW AND THEIR TREATY MAKING CAPACITY 88 (Rotterdam University Press 1973), (citing Ian Brownlie, *op. cite.,* p.67*)*.

45.   G.A. Res. 3210 (XXIX) [1974]; 3236 (XXIX) [1974].

46.   G.A. Res. 3237 (XXIX) [1974], *available at* http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/738/38/IMG/NR073838.pdf?OpenElement.

47.   Central Intelligence Agency, The World FactBook, https://www.cia.gov/library/publications/the-world-factbook/geos/we.html.

48.   Scobbie, *supra* note 37.

49.   Haim Gvirtzman, *Maps of Israeli Interests in Judea and Samaria Determining the Extent of the Additional Withdrawals*, BEGIN-SADAT CENTER FOR STRATEGIC STUDIES, http://www.biu.ac.il/Besa/books/maps.htm. (last visited May 1, 2013).

50.   *Id.*

the territory of the State and is **habitually obeyed by the bulk of the population**."[51]

While the fact that Israel transferred control to the PA during the Oslo Accords maybe significant, the transfer of control was both limited in terms of governmental power and scope of territory. For example, while "the PA delivers governmental services [to] about 40 percent of the West Bank, the remaining 60 percent of the West Bank and East Jerusalem [are] controlled by Israel."[52] Because the bulk of the population includes large numbers of Palestinians living in Areas B and C who are subject to Israeli military rule, the PA does not have effective authority over the entire territory of the West Bank. Therefore, there is a strong argument that the PA falls short in establishing a government with effective authority over its territory.[53]

The fourth and final element required to satisfy the Montevideo Convention definition of statehood is an established capacity to enter into relations with other States. This element is a non-issue, as it is uncontested that the PLO has demonstrated and is capable of entering into relations with other States, including Israel. The most obvious example of course is the seminal 1993 Oslo Accords or Oslo Peace Process, in which Israel and the PLO attempted to reach a peace agreement.[54] Because the PLO has entered into, and has the ability to enter into, agreements with members of the United Nations including but not limited to Israel, the PLO satisfies this element of statehood.

Although the PA and the PLO have strong arguments to posit that they exhibit the four attributes of statehood, not all of them, namely a government with effective control, can be definitively proven to establish Palestine as a *de facto* state. Thus, assuming the PA has not achieved

---

51.   The rules established in this memo apply to the PA, because this conflict is classified as an international armed conflict in self-determination to overthrow an alien occupation, *See infra* pp. 28-29. Characterization of the Conflict as an International Armed Conflict under CARs). from the Secretary-General to the President of the Security Council on the Legal Aspects of the Problem of Representation in the United Nations, U.N. Doc. S/1466 (March 9, 1950), *available at* http://www.historyofmacedonia.org/IndependentMacedonia/UN.html. (last visited May 27, 2013) (emphasis added).

52.   Scobbie, *supra* note 37.

53.   It is interesting to note however, that the United States does not apply the "effective authority" analysis when considering if the government prong of the Montevideo Convention has been satisfied. Rather, the comment in the Restatement proffers a considerably easier standard: "there must be **some** authority exercising governmental functions and able to represent the entity in international relations" RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW § 201 cmt. d (1987) (emphasis added). Were the United States to apply the Restatement to an evaluation of Palestine's statehood, Palestine would likely meet the criteria for recognition.

54.   PUBLIC BROADCAST STATION, *supra* note 8, at 6.

statehood, the Israeli-Palestinian conflict should not be characterized as a traditional State v. State armed conflict.

However, assuming also that the arguments proffered in Section II establish that the West Bank is occupied by Israel, Israel's actions with respect to the settlement policies must be consistent with the international legal obligations of an Occupying Power. The applicable principles of IHL – LOAC that delineate Israel's obligations as an Occupying Power are set forth in the Fourth Geneva Convention of 1949 and Protocol I Additional to the Geneva Conventions.

2.   Application of the Fourth Geneva Convention of 1949

Israel contends that the Fourth Geneva Convention does not apply *de jure* to the West Bank, because the West Bank is not an occupied territory. However, the International Court of Justice held in an advisory opinion that:

> [The Geneva Convention] is applicable when two conditions are fulfilled: that there exists an armed conflict …; and that the conflict has arisen between two contracting parties. If those two conditions are satisfied, the Convention applies, in particular, in any territory occupied in the course of the conflict by one of the contracting parties.[55]

Assuming the first condition is satisfied by the arguments set forth in Part II regarding establishment of the West Bank as an occupied territory, the Fourth Geneva Convention is applicable to Israel's actions in the West Bank if it can be established that Israel was a contracting party. Israel and Jordan ratified the Geneva Conventions of 1949 on June 7, 1951 and May 29, 1951, respectively, thus making them both parties to the Conventions when the 1967 War broke out.[56] In paragraph 91, the I.C.J. explicitly states that because Israel had ratified the Fourth Geneva Convention in 1951, it was a party to the Convention at the time of the war in 1967. Furthermore, the Court notes that the interpretation above "reflects the intention of the drafters of the Fourth Geneva Convention to protect civilians who find themselves…in the hands of the

---

55.   Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion, Int'l Ct. of Justice, ¶ 177 (Jul. 9, 2004), *available at* http://www.icj-cij.org/docket/files/131/1671.pdf.

56.   Geneva Conventions of 1949,75 U.N.T.S. 31, 75 U.N.T.S. 85, 75 U.N.T.S. 135, 75 U.N.T.S. 267, *available at* http://www.icrc.org/eng/war-and-law/treaties-customary-law/geneva-conventions/index.jsp.

occupying Power…regardless of the status of the occupied territories." Therefore, the Geneva Convention applies to the West Bank and Israel must act consistently with the obligations of an Occupying Power therein.

U.N. Security Council (U.N.S.C.) resolutions 446, 452, and 465 condemn Israel's policy of building settlements in the occupied territories, and the U.N.S.C. has taken the position that establishing settlements in the occupied territories constitutes a "flagrant violation" of the Convention.[57] Furthermore, the I.C.J. concluded in its Advisory Opinion requested by the General Assembly that the "Israeli settlements in the Occupied Palestinian Territory (including East Jerusalem) have been established in breach of international law."[58]

Article 47 of the Fourth Geneva Convention of 1949 states, "**Protected persons** who are in occupied territory shall not be deprived…of the benefits of the present Convention…**by any annexation by [the Occupying Power] of the whole or part of the occupied territory**.[59] Therefore, Israel is violating this provision if: 1) Palestinians are protected persons and 2) Israel has annexed the whole or part of the occupied territory.

According to Article 4 of the Fourth Geneva Convention, Palestinians are considered protected persons if they are "those who, at a given moment and in any manner whatsoever, find themselves, in case of a conflict or occupation, in the hands of a Party to the conflict or Occupying Power of which they are not nationals."[60] It has already been established that there is a conflict or occupation (see analysis above), so the remaining question is whether Palestinians are in the hands of a Party to the conflict or Occupying Power of which they are not nationals. "The Palestinian residents of the Occupied Territories are not Israeli citizens and cannot participate in Israeli national elections," except for those living in annexed East Jerusalem who were offered Israeli citizenship if

---

57.   S.C. Res. 446, *available at* http://unispal.un.org/UNISPAL.NSF/0/BA123CDED3 EA84A5852560E50077C2DC.

58.   *In Advisory Opinion requested by U.N. General Assembly, International Court of Justice concludes that Jewish Settlements in the occupied territory are unlawful and that, despite Israel's undoubted right of self-defense against terrorism, construction of wall on that occupied territory is violating customary international law and several conventions on human rights and humanitarian law to which Israel belongs,* TRANSNATIONAL LAW ASSOCIATES (International Law Update Vol. 10, July 2004), http://www.internationallawupdate.com/09/in-advisory-opinion-requested-by-u-n-general-assembly-international-court-of-justice-concludes-that-jewish-settlements-in-occupied-palestinian-territory-are-unlawful-and-that-despite-israels-undo/.

59.   Geneva Convention (IV), *supra* note 21, at art. 47.

60.   *Id.* at art. 4.

they renounced any other citizenship.[61] Israel could argue that Palestinians are not protected people, because they have elected not to receive Israeli citizenship for political reasons. However, the PLO is a Party to this conflict and has been affirmed by Israel and the United Nations to be the official representative of the Palestinian people.[62] Furthermore, as referenced above, Palestinians in the West Bank under Area A are under the control of the PA. Thus, because Palestinians are "a people," they are protected persons.

With respect to annexation, the UN Security Council and General Assembly passed Resolution 2253 and Resolution 2254 deploring Israel's *de facto* annexation of East Jerusalem and parts of the West Bank.[63] Furthermore, newly elected UN Special Rapporteur Professor Richard Falk stated recently, "Israel is implementing a deliberate policy of forcing Palestinians out of their homes and off their land, in order to establish more illegal settlements and to proceed with the *de facto* annexation of the West Bank."[64]

By taking control of the West Bank, Israel had informally annexed East Jerusalem because that land was considered occupied land belonging to Jordan. Within the first ten years after the 1967 War, Israel "set up border-area settlements, called 'nahalim,' that were populated with young Israelis and were intended to help stem infiltration of Palestinian guerrillas and provide a first line of defense against conventional attack by Arab armies."[65] The areas where Israel established settlements include the highland ridges of the West Bank overlooking the Jordan Valley.[66] By deliberately establishing settlements in and around the perimeter of territories within the West Bank, Israel created a border of control within these areas to keep Palestinians out, thereby annexing these areas. The Israeli settlements (shown as small triangle shaped objects in the map)

---

61.   George E. Bisharat, *Land, Law, and Legitimacy in Israel and the Occupied Territories* 528 AMERICAN UNIVERSITY LAW REVIEW, 1994, 43 AMULR 467, available at http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi? article=1537&context=aulr.

62.   G.A. Res. 3210 (XXIX) [1974]; 3236 (XXIX) [1974].

63.   G.A. Res. 2253, *available at* http://unispal.un.org/UNISPAL.NSF/0/ A39A906C89D3E98685256C29006D4014; G.A. Res. 2254, *available at* http://unispal. un.org/UNISPAL.NSF/0/3E28F2C76EBEA214852560DF00575C0E.

64.   *UN Special Rapporteur Condemns Israel of De Facto Annexation of the West Bank,* THE ISRAELI COMMITTEE AGAINST HOUSE DEMOLITIONS (February 21, 2012), *available at* http://www.icahd.org/?p=8177.

65.   Bisharat, *supra* note 61, at 531.

66*.   Ibid.*

and settlement blocks (shown as non-uniform shaped masses in the map) in the West Bank can be seen in the map below.[67]
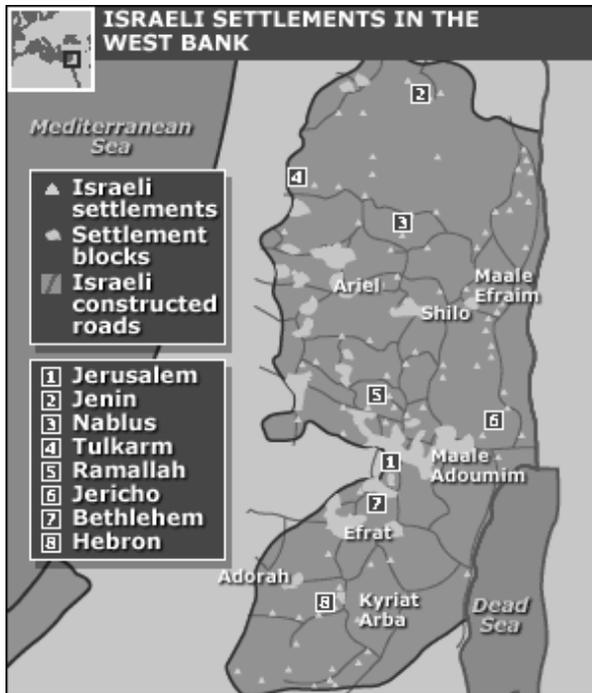
In 1980, Israel passed a bill declaring the Holy City of Jerusalem as the capital of Israel, finalizing the unilateral annexation of East Jerusalem – an action that the international community condemned.[68] To further evidence the annexation of East Jerusalem, Israel provided Palestinian residents living within East Jerusalem the option to receive Israeli citizenship as opposed to other Palestinian Arabs living in other parts of the West Bank who cannot attain Israeli citizenship even if they wanted it.[69]

Israel may argue that it has not annexed all of the West Bank, as Area A is solely under PA control and the PA also has partial control of Area B. However, the provision does not require annexation of the entire occupied territory in order to establish a violation. Rather, annexation in "whole or part of the Occupied Territory" constitutes a violation of Article 47.[70] Therefore, because Israel has annexed parts of the West

---

67.   *see* Israeli Settlements in the West Bank, Key Maps, BBC News, http://news.bbc.co.uk/2/shared/spl/hi/middle_east/03/v3_israel_palestinians/maps/html/settlements_ checkpoints.stm.

68.   Pierre Tristam, *Jerusalem as the Capital of Israel: Legal Status or Illegal Occupation?*, ABOUT.COM, http://middleeast.about.com/od/arabisraeliconflict/a/me081005g.htm. (last visited May 30, 2013).

69.   Bethany M. Nikfar, *Families Divided: An Analysis of Israel's Citizenship and Entry into Israel Law* Para. 69 NORTHWESTERN UNIVERSITY SCHOOL OF LAW (Spring 2005), *available at* http://www.law.northwestern.edu/ journals/jihr/v3/5/Nikfar.pdf.

70.   Geneva Convention (IV)*, supra* note 21, at art. 47.

Bank and East Jerusalem, it is arguably in violation of Article 47 of the Fourth Geneva Convention.

Article 49 of the Fourth Geneva Convention contains two provisions pertaining to Occupying Powers that are particularly relevant to settlement expansionist activities conducted by Israel. The first relevant portion of the provision states, "Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power…are prohibited, regardless of their motive."[71] Therefore, Israel is in violation of this portion of Article 49 if Israel conducts 1) Individual or *mass* forcible transfers or 2) deportations of protected persons from occupied territory to the territory of Israel.

In 1994, "the Civil Administration [of Israel] ordered the eviction of dozens of Jahalin [Palestinian Bedouin] families from land that was intended as a new settlement neighborhood" for the expansion of the Ma'ale Adumim settlement.[72] The community decided to petition the Israeli High Court of Justice against the military order, because they refused to move out of their homes. However, the Court denied their petition and by 1995, the Israeli army forcibly evicted the Jahalin from their homes and relocated them to a site next to the Jerusalem municipal garbage dump."[73] These acts of the Israeli government constitute a transfer, because Palestinians had to move from their established homes in the occupied territories to another area in the West Bank, the dump-site. Furthermore, these transfers were considered *mass* transfers, because the 1995 transfer was followed by two more movements of other Jahalin families in 1997 and 1998 from their established homes to the same location.[74] Finally, these can be classified as forcible transfers, because the Palestinians' attempt to petition the Israeli HCJ evidences their clear intention not to leave their homes. The Palestinians ultimately moved, however, solely because their petition was denied and the Israeli army subsequently removed them from their homes.

Israel insists that because the principle regarding individual or mass forcible transfers or deportations was drafted immediately following the Second World War, it is not relevant to the situation of the Palestinians. Israel contends,

---

71.   *Id.*
72.   Amnesty Int'l, *Stop the Transfer: Israel About to Expel Bedouin to Expand Settlements* 6 (February 2012), *available at* http://www.amnesty.org/en/library/asset/MDE15/001/2012/en/ 0b66dcc1-bb09-4a0d-8560e10ac19f8f9e/ mde150012012en.pdf.
73.   *Id.*
74.   *Id.*

As International Red Cross' authoritative commentary to the Convention confirms, the principle was intended to protect the local population from displacement, including endangering its separate existence as a race, as occurred with respect to the forced population transfers in Czechoslovakia, Poland and Hungary before and during the war. This is clearly not the case with regard to the West Bank and Gaza.[75]

Despite Israel's contentions, this provision of Article 49 does indeed pertain to the situation of Palestinians, because the ICRC commentary of the provision indicates that it seeks to prevent "physical and mental suffering endured by these 'displaced persons,' among whom there were a great many women, children."[76] The broad and general purpose of Article 49 is to protect displaced persons, specifically women and children who may be affected by a transfer, and thus, the provision is not narrowly limited only to transfers resulting from World War II. Moreover, other international conventions designed to specifically protect victims of World War II, like the Refugee Convention, were limited temporally and geographically. Thus, in the absence of such restrictions, it stands to reason that the Article was intended to endure time and space. Therefore, Israel's mass forcible transfers of Palestinians to other locations in the West Bank violates Article 49.

The second relevant portion of Article 49 states, "[t]he Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies."[77] Therefore, Israel is in violation of this portion of the provision if they are deemed to have: 1) deported current occupants or 2) transferred parts of its own civilian population into the West Bank.

Israeli settlements and outposts were established in the occupied territories with the intention to be inhabited by Jewish settlers.[78] According to the U.S. Central Intelligence Agency, there are approximately 311,100 Israeli settlers living in the West Bank and approximately 186,929 Israeli settlers living in East Jerusalem, in settlements or outposts.[79] As of December 2011, there are over 124 Israeli settlements in the West Bank and approximately 100 outposts (not including East Jerusalem). Outposts are essentially Jewish settlements, but they are not recognized as settlements by the Israeli Ministry of the

---

75. Israel Ministry of Foreign Affairs, *supra* note 20.

76. Geneva Convention (IV), *supra* note 21, at art. 49.

77. *Id.*

78. Fact About Settlements, Jewish Virtual Library, http://www.jewishvirtuallibrary. org/jsource/Peace/ settlements.html. (last visited January 17, 2013).

79. *supra* note 47.

Interior, because Israel contends they were established by Israeli settlers allegedly without Israeli approval.[80] While all settlements receive governmental support for infrastructure, construction, and establishment of public institutions,[81] outposts "were built [by settlers] without government approval, without land being formally allocated, without an approved building plan, and in some instances on privately-owned Palestinian land."[82] However, like settlements, outpost "construction has been aided by the government and carried out with the knowledge of the military."[83]

Israel first began constructing settlements in 1948 and "until the end of the 1970s, the Government of Israel claimed that the settlements were established on the grounds of military necessity and security, [pursuant to Article 27 of the Fourth Geneva Convention], but it has since abandoned this position."[84] With respect to settlements built after that time, Israel contends that each Israeli citizen decides privately, of his own free will, to move to the settlement, and therefore because the settlers' movement is entirely voluntary, Israel is not in violation of this provision.[85] However, the movement of settlers to the West Bank is not entirely voluntary, because the Israeli government has "implemented a vigorous and systematic policy to encourage [Jewish] Israeli citizens to move from Israel to the West Bank."[86] While the settlers still have the agency to reject such a move, the Israeli government is providing large incentives to impact their decision, making settler transfers not entirely voluntary. For example, these incentives include financial benefits to Jewish Israeli citizens and favoritism in the form of support granted to local authorities that serve settlements in the West Bank as opposed to settlements in Israel.[87]

Additionally, Israel purports that the construction of settlements on seized land in the West Bank is justified by Israel's law of eminent domain, which grants Israel an absolute right to do what it pleases with

---

80.   B'TSELEM, *supra* note 38, at 37.
81.   B'TSELEM, *supra* note 6, at 7.
82.   B'TSELEM, *supra* note 38, at 39.
83.   B'TSELEM, *supra* note 38, at 39.
84.   Richard Goldstone, *Report of the United Nations Fact-Finding Mission on the Gaza Conflict* 47 United Nations General Assembly, Human Rights Council A/HRC/12/48 (25 September 2009), *available at* http://www2.ohchr.org/english/bodies/hrcouncil/docs/12session/A-HRC-12-48.pdf.
85.   Israel Ministry of Foreign Affairs, *supra* note 20.
86.   Elisha Efrat, The West Bank and Gaza Strip: A Geography of Occupation and Disengagement 38 (Routledge 2006).
87.   *Id.*

its sovereign land.[88] However, using Israel's position that the West Bank is disputed territory and therefore not under the sovereign control of any State, Israel may not invoke the defense of eminent domain. By providing incentives for its Jewish citizens to leave Israel and move to settlements or illegally constructed outposts located in occupied territory of the West Bank, Israel is transferring parts of its civilian population and therefore, is in violation of this provision of Article 49.

3.   Application of Protocol I Additional to the Geneva Convention

Israel has not ratified either of the Additional Protocols to the Geneva Convention.[89] Therefore, Israel is not required to adhere to the provisions therein unless the Additional Protocols or any of their provisions have ripened into international customary law. While the Israeli government and some scholars contend that the additional protocols have not yet ripened into customary law, there has been significant international recognition that certain applicable provisions regarding the obligations of an Occupying Power have attained customary law status. Provision 4 of Article 85 of Protocol I Additional regards violations of Article 49 of the Fourth Geneva Convention as grave breaches of the treaty.[90] Provision 5 in Article 85 of Protocol I Additional to the Geneva Convention deems grave breaches of the Geneva Conventions or of this Protocol, war crimes.[91] Therefore, because Israel is in violation of the provisions of Article 49 of the Fourth Geneva Convention (discussed above), Israel's actions may be deemed war crimes if this provision has ripened into international customary law.

For an international instrument to ripen into customary international law, *opinio juris* requires consistent action by states because those states believe there is a manner in which they are obligated to act. The Israeli government and Professor Robbie Sabel of Hebrew University in Jerusalem contend that Protocol I has not attained customary law status.[92] However, "there has been international recognition that the concept of war crimes and grave breaches are applicable in internal, as well as international armed conflicts," because this particular provision has

---

88.   Ian Lustick, *Israel and the West Bank after Elon Moreh: The Mechanics of De Facto Annexation* 564 MIDDLE EAST JOURNAL (Middle East Institute 1981).

89.   Goldstone, *supra* note 84, at 72.

90.   Protocol Additional I to the Geneva Conventions of 1949, 1125 U.N.T.S. 3, Article 85(4) and 85(5), *available at* http://www.icrc.org/ihl.nsf/full/470?opendocument.

91.   *Id.*

92.   Dr. Robbie Sabel, *The Problematic Fourth Geneva Convention: Rethinking the International Law of Occupation*, HEBREW UNIVERSITY FACULTY OF LAW (July 16, 2003), *available at* http://jurist.law.pitt.edu/forum/forumnew120.php.

ripened into customary law.[93] For example, "the ICTY and International Criminal Tribunal for Rwanda (ICTR) have convicted individuals of committing war crimes in non-international conflicts" despite the treaties governing internal armed conflicts containing no grave breach provisions.[94] Therefore, grave breaches of the Geneva Convention can amount to war crimes in customary international law. Under such an analysis, and assuming they are found in breach of Art. 49, Israel could conceivably be found guilty of not only grave breach, but war crimes as well.

III.   ARMED CONFLICT TO OVERTHROW A FOREIGN OPPRESSIVE REGIME IN THE NAME OF SELF-DETERMINATION (CARS)

A.   CURRENT STATE OF ARMED CONFLICT BETWEEN ISRAEL AND THE PALESTINIANS

Although "the Geneva Conventions do not provide an authoritative definition of 'armed conflict,'"[95] persuasive authority established in the *Prosecutor v. Tadic* and *Prosecutor v. Haradinaj* cases decided by the International Criminal Tribunal for the former Yugoslavia (ICTY) Appeals Chamber provide a test and factors to determine the existence of an armed conflict. In *Tadic*, the ICTY generally explains, "an armed conflict exists whenever there is a resort to armed force between States or protracted armed violence between governmental authorities and organized armed groups."[96] The court then clarified in the *Haradinaj* case that this explanation for what constitutes an armed conflict may be understood as a two-prong test: 1) Conflict reaches a requisite level of intensity and 2) Parties to the conflict are organized.[97]

According to the *Haradinaj* case, the Trial Chamber considered many factors to assess intensity including:

> number, duration and intensity of individual confrontations; the type of weapons and other military equipment used; the number and calibre of munitions fired; the number of persons and type of

---

93.   GARY D. SOLIS, THE LAW OF ARMED CONFLICT: INTERNATIONAL HUMANITARIAN LAW IN WAR 99 (Cambridge University Press 2010).

94.   *Id.* at 101.

95.   *Id.*(citing Derek Jinks, "The Applicability of the Geneva Conventions to the 'Global War on Terrorism,'" 46-1 *Virginia J. of Int'l L.* (2006), 1,20-1).

96.   *Prosecutor v. Dusko Tadic (Appeal Judgment)*, IT-94-1-A, Int'l Criminal Tribunal for the former Yugoslavia (ICTY), 2 Oct. 1995, para. 60.

97.   *Prosecutor v. Haradinaj (Trial Judgment)*, IT-04-84-T, International Criminal Tribunal for the former Yugoslavia (ICTY), 3 April 2008, para. 38, 49-50.

forces partaking in the fighting; the number of casualties; the extent… of material destruction; and the number of civilians fleeing combat zones. The involvement of the UN Security Council may also be a reflection of the intensity of a conflict.[98]

During both *Intifadas*[99] and still today, Palestinians have resorted to the use of arms to combat Israeli rule. For example, some have employed suicide bombers to target Israeli civilians in bus stations.[100] The suicide bombings have taken place in Israeli cities including but not limited to Tel-Aviv.[101] Israel has retaliated by initiating targeted killings of Palestinians suspected of terrorism in Gaza.[102] Both the suicide bombings and the targeted killings have occurred in territories of a High Contracting Power, Israel. The intensity and duration elements of an armed conflict have been established by the fact that more than seventy suicide bombings since the first Intifada, all aimed at Israeli civilians, and the targeted killings sometimes result in destroying schools or homes in Gaza where the suspected terrorists are residing.[103]

To elaborate on the second prong, the court states, "an armed conflict can exist only between parties that are sufficiently organized to confront each other with military means."[104] While "state governmental authorities have been presumed to dispose of armed forces that satisfy this criterion," the organization of armed groups is not as clear-cut.[105] Therefore, the court relies on several factors to determine when the organization criterion for armed groups is fulfilled, including the following:

> the existence of a command structure and disciplinary rules and mechanisms within the group; the existence of a headquarters;

---

98.   *Id.* at para. 49.

99.   *Intifadas* are known as the Palestinian and Arab violent uprisings directed at Israeli civilians beginning in late 1987 and continuing sporadically into the early 1990s. The uprisings manifested as suicide bombings of Israeli hotels, buses, and other public places and were exercised in protest against Israeli occupation of the West Bank and Gaza Strip.

100.   Israel Ministry of Foreign Affairs, Suicide and Other Bombing Attacks in Israel Since the Declaration of Principles (Sept 1993), http://mfa.gov.il/MFA/ForeignPolicy/Terrorism/Palestinian/Pages/Suicide%20and%20 Other%20Bombing%20Attacks%20in%20Israel%20Since.aspx.   (last visited May 30, 2013).

101.   Israel's   History   of   Bomb   Blasts,   BBC   NEWS,   http://news.bbc.co.uk/ 2/hi/middle_east/1197051.stm (last visited May 30, 2013).

102.   Johannes Haushofer, *Both Sides Retaliate in the Israeli-Palestinian Conflict*, PROCEEDINGS OF THE NATIONAL ACADEMY OF SCIENCES OF THE UNITED STATES OF AMERICA, *available at* http://www.pnas.org/content/107/42/17927.full.

103.   Katherine Iliopoulos*, Israel Institutes Proceedings in Relations to Gaza War*, CRIMES OF WAR,   http://www.crimesofwar.org/commentary/israel-institutes-proceedings-in-relation-to-gaza-war/. (last visited May 30, 2013).

104.   *Prosecutor*, *supra* note 97, at para. 60.

105.   *Id.*

the fact that the group controls a certain territory; the ability of the group to gain access to weapons, other military equipment, recruits and military training; its ability to plan, coordinate and carry out military operations, including troop movements and logistics; its ability to define a unified military strategy and use military tactics; and its ability to speak with one voice and negotiate and conclude agreements such as cease-fire or peace accords.[106]

The second prong, whether the armed groups are sufficiently organized to confront one another with military means must be applied to both Israel and the Palestinians. Israel meets the second prong, because there is a presumption that State governmental authorities have the requisite level of organization.[107] Therefore, the question is whether Palestinians can meet the criterion of an organized armed group. As mentioned above, the PA has control of Area A and partial control of Area B, so this fact speaks to the factor delineated above regarding the group's control over a certain territory. Also, the PLO has the Palestinian Liberation Army (PLA) and the PA has the Palestinian Security and Police Forces, both of whom give the Palestinians the ability to gain access to weapons, other military equipment, recruits, and military training.[108] Finally, the PLO's actions during the Oslo Accords and subsequent attempts to negotiate peace agreements and cease-fires reflect its ability to speak with one voice and negotiate and conclude agreements such as cease-fire or peace accords. Therefore, Palestinians are sufficiently organized to establish the second prong.

Next, according to *Tadic*, "International humanitarian law applies from the initiation of such armed conflicts and extends beyond the cessation of hostilities until a general conclusion of peace is reached; or, in the case of internal conflicts, a peaceful settlement is achieved."[109] Any intermittent temporary cease-fire agreements during the conflict were just that, temporary, and therefore they did not bring military operations to a close in these regions. Thus, although the suicide bombings or targeted killings may not necessarily be taking place at this very moment, international humanitarian law still applies to this conflict and it is characterized as a current armed conflict, because no peace has been reached yet.

---

106.   *Prosecutor*, *supra* note 97, at para. 70.
107.   *Prosecutor*, *supra* note 97, at para. 60.
108.   PLO-PA Comparison Chart, PROCON.ORG, http://israelipalestinian.procon.org/view.additional-resource.php?resourceID=904.
109.   *Prosecutor*, *supra* note 96, at para. 70.

Therefore, an armed conflict currently exists between Israel and the Palestinians, because as discussed above, the requisite level of intensity has been met by the amount, duration, and type of violence exchanged, both parties are sufficiently organized to confront each other with military means, and no final peace agreement has been reached yet.

B.   CHARACTERIZATION OF THE CONFLICT AS AN INTERNATIONAL
     ARMED

1.   Conflict under CARS

Despite some evidence to characterize the Israeli-Palestinian conflict as a State v. State armed conflict, the overwhelming evidence indicates that the conflict is an international armed conflict in self-determination to overthrow an oppressive regime – or CARs (colonial domination, alien occupation, racist regime, self determination). Specifically, the General Assembly, Security Council, and the International Court of Justice have affirmed the right of the Palestinian people to self-determination.[110] Dr. Christian Nwachukwu Okeke, Professor of Law and Director of the LLM and SJD International Legal Studies Programs at Golden Gate University clarifies and eloquently proposes that "the essential consideration is whether the demand of a given people or nation to assert their right of declaring the nature of their socio-political status is basically recognized and encouraged."[111] Thus, based on Dr. Okeke's approach, Palestinians have a right of self-determination, because the U.N.G.A., U.N.S.C., I.C.J., and majority of member States in the U.N. basically recognized and encouraged the Palestinian right of self-determination via resolutions, opinions, and approval of the Palestinian bid for statehood, respectively.

Breaking down the analysis further, one can establish an armed conflict in the name of self-determination if there are a people who are fighting in the exercise of their right of self-determination. However, it should be noted that the term "people" has not been precisely defined.[112] Nevertheless, a San Francisco based attorney who practices human rights and humanitarian law full time, Karen Parker, provided a definition of "people" at her Presentation to the First International Conference on the Right to Self-Determination in Geneva in August 2000. She asserts that for a people to possess the right of self-determination, they must have: 1) a history of independence or self-rule in an identifiable territory 2) a

---

110.   Advisory Opinion, *supra* note 55.
111.   OKEKE, *supra* note 44, at 116.
112.   *Reference RE Secession of Quebec,* Supreme Court of Canada, [1998] 2 S.C.R. 217 (Can.).

distinct culture and 3) a will and capability to regain self-governance.[113] Finally, self-determination emanates from some type of foreign occupation. Because Israeli occupation over the Palestinian Occupied Territories (specifically the West Bank for the purposes of this paper) has been established above, this element need not be discussed further.

First, although the Palestinians do not have a history of independence, since they did not adopt or implement the Palestinian Mandate, they do have self-rule in an identifiable territory. For example, as discussed previously, the PA has sole control over Area A and partial control of Area B in the West Bank. This control of the PA is likely sufficient control for the purposes of self-rule, because it would not seem reasonable for self-rule to be as high a standard as forming a government.[114] Furthermore, the West Bank is an identifiable territory; it has been recognized as such by the United Nations in various resolutions,[115] by the United States in The World Factbook,[116] by the Israeli Government who refers to the West Bank as Judea and Samaria,[117] and by the international community. Therefore, the Palestinians are self-ruled by the PA in the identifiable territory, the West Bank.

Second, the Palestinians have a distinct culture, because they share a common cultural foundation. For instance, the majority of Palestinians share a common religion, Islam, and they also speak the same language, Arabic.[118] These characteristics are wholly different from a large majority of the population of Israel who are Jewish and speak Hebrew.[119] Thus, Palestinians have a distinct culture.

Third, the history of Palestinians and the goals of the PA reflect that Palestinians have a will and capability to regain self-governance. Since the establishment of the state of Israel, Palestinians have had the will to govern themselves as demonstrated by their attempts to establish a Palestinian State in the territories they deem to be their homeland. For example, with respect to the Partition Plan of the UNGA, the

---

113.   Karen Parker, Presentation to First International Conference on the Right to Self-Determination United Nations, ASSOCIATION FOR HUMANITARIAN LAWYERS (August 2000), *available at* http://www.guidetoaction.org /parker/selfdet.html.

114.   Again, because no law has provided a precise definition of a "people," various interpretations are up for debate.

115.   G.A Res. 3236 (XXIX) [1974]; *see also supra* note 55.

116.   Central Intelligence Agency, *supra* note 47.

117.   Israel Ministry of Foreign Affairs, Judea and Samaria, (January 1, 2004), http://www.mfa.gov.il/MFA/Facts+About+Israel/Israel+in+Maps/Judea+and+Samaria.htm.   (last visited May 30, 2013).

118.   Central Intelligence Agency, *supra* note 47.

119.   Central Intelligence Agency, *supra* note 47.

"Palestinians considered the proposal unrepresentative of the demographic distribution of Jews and Arabs living in Palestine at that time, and so rejected it," because they wanted to establish Palestine in a larger territory.[120] Therefore, although they rejected the recommendation, they did so to ensure future establishment of a Palestinian homeland that would encompass all the territories to which they felt entitled.

Because all three elements have been satisfied, the Palestinians are a people who may exercise their right to self-determination. Therefore, there is a strong argument and international support that the Israeli-Palestinian conflict is characterized as a CARs armed conflict in the name of self determination. The IHL-LOAC instruments that apply to this type of characterization are all four Geneva Conventions and Protocol I Additional to the Geneva Conventions, but because the provisions applying to an Occupying Power have been discussed above, the provisions discussed below will not include those detailing the obligations of an Occupying Power.

C.   APPLICATION OF THE FOURTH GENEVA CONVENTION WHERE ISRAEL IS NOT DEEMED TO BE AN OCCUPYING POWER

Article 147 of the Fourth Geneva Convention states that unlawful deportations or transfers of persons protected by the Fourth Geneva Convention are deemed grave breaches. Thus, Israel's actions may be deemed a grave breach if the settlement expansionist efforts have led to the unlawful transfer of protected persons.[121] Because Jahalin Bedouins are Palestinians, Palestinians are protected persons, and the transfer of the Jahalin Palestinians has already been established (see above), the issue is whether this article would still apply to Israel not deemed an Occupying Power and whether the transfer is unlawful. The ICRC commentary indicates this provision refers to breaches of Articles 45 or 49 and Article 45 is not a provision that deals with the obligations of an Occupying Power. Therefore, Article 147 applies. The ICRC commentary also indicates that transfer is not unlawful "in cases where the safety of the protected persons may make them absolutely necessary."[122]

Jahalin have been transferred to an area in Jerusalem near the municipal dumpsite. Some Israeli officials have tried to argue that they were transferred for their own protection. However, Israel admitted that the

---

120.   PUBLIC BROADCAST STATION, *supra* note 8, at 2.
121.   Geneva Convention (IV), *supra* note 21.
122.   ICRC Commentary on Geneva Convention (IV) Relative to the Protection of Civilian Persons in Time of War, *available at* http://www.icrc.org/ihl.nsf/COM/380-600169?OpenDocument.

reason for the transfer was to expand the Ma'Aleh Adumim Settlement Bloc.[123] Moreover, "settlers in the nearby settlements consistently harass the Bedouin communities and attack their property with virtual impunity."[124] For example, settler attacks against Palestinians have included: destroying olive trees and other Palestinian personal property, throwing rocks at Palestinians, gunfire, assault, forcing Palestinians off their land, making threats, theft of crops, and torching of fields.[125] "From September 2000 to the end of 2011, B'Tselem submitted 352 complaints to the Israel Police" and in the same time period, B'Tselem submitted 57 complaints of incidents in which it was suspected that security forces stood idly by during acts of violence by settlers against Palestinians.[126] Therefore, the transfer is unlawful because it was clearly done for expansion purposes and not for the protection of the Jahalin; instead of ensuring the safety of Palestinians, the Israeli Police has actually allowed violence against Palestinians to occur with impunity. As a result, Israel's actions of wrongfully transferring Jahalin Palestinians may amount to a grave breach.

IV.   CONCLUSION

Since 1967, Israel has engaged in operations to construct and expand settlements for Jewish Israeli citizens. As part of the expansionist efforts, Israel has demolished Palestinian homes and structures to accommodate the construction of settlements and roads to connect them. These demolitions have led to the forcible transfer of Palestinians to other parts of the Occupied Palestinian Territories as well as to transfer parts of its civilian population from Israel to the occupied territories of the West Bank. As a result of Israel's construction of settlements and expansionist efforts, Israel is in violation of International Humanitarian Law – Laws of Armed Conflict including the Fourth Geneva Convention, Protocol II Additional to the Geneva Conventions, and Common Article 3.

While it is necessary to recognize and address the potential obstacles to peace in order to validate the struggles of the conflict, a holistic approach to the conflict also requires a robust discussion of the work being done on both sides to promote peace. This shift in the discourse on Israel and Palestine is necessary to assure Palestinians and Israelis that there is a partner for peace and to educate the international community about how peace and change can be accomplished.

---

123.   Amnesty Int'l, *supra* note 72, at 3.
124.   *Id.*
125.   B'TSELEM, *supra* note 38, at 44.
126.   *Id.*

PART TWO – METHODS OF NON-VIOLENCE AS PROGRESS
TOWARD A LASTING RESOLUTION OF THE CONFLICT

I.   INTRODUCTION

Although the Israeli government and Palestinian Liberation Organization (PLO) entered into peace agreements known as the Oslo Accords in 1993 and resumed peace talks in 2000, they proved unsuccessful. However, much work has been done on the ground with Palestinians, Israelis, and interested communities in the Diaspora to make progress towards peace; these grassroots efforts have not received the proper recognition and support they deserve. It is my contention that – like the women's rights movement and movement for LGBT equality in Israel – a lasting peace and holistic approach to conflict resolution between Israelis and Palestinians can only come from a revolution inspired by the people. Such a movement would then serve as a catalyst for agreements between the governments to ensue. It is vital for Palestinians, Israelis, and the international community to be aware of and engage in the peacebuilding efforts on the ground.

Part one needs to be followed by a discussion of grassroots efforts. Working on the ground with everyday people is vital to the promotion of understanding on both sides. It fuels the momentum of populace-based movements, builds consensus on the terms of a peace agreement, and mobilizes the current governments to sincerely negotiate with one another to end the conflict. It follows that a discussion of the conflict is incomplete without education about the presence of non-violence, as it is an essential piece to peacebuilding and making progress toward resolution of the Israeli-Palestinian conflict. Education about existing grassroots organizing is therefore necessary to validate our past, accept our present, and make strides towards how we envision the future between Israel and Palestine – one of a lasting and sustainable peace.

Section II highlights several grassroots organizations engaged in various non-violent peacebuilding methods. It will discuss how these diverse methods of non-violence, particularly when taken in conjunction with one another, are a necessary component for making progress toward ending the conflict. Section III illuminates the importance of emigrant community involvement and Section IV provides specific information about how to get involved in the grassroots, non-violent movement toward a lasting peace in Israel and Palestine. Part V concludes that methods of non-violence are an essential piece to a lasting peace in Israel and Palestine.

II. METHODS OF NON-VIOLENCE UTILIZED BY
     GRASSROOTS ORGANIZATIONS THAT ARE A NECESSARY
     COMPONENT OF PEACEBUILDING AND CONFLICT
     RESOLUTION.

Various methods of non-violence are being utilized by various grassroots organizations working diligently and constructively to build peace and make progress toward ending the conflict. The methods of non-violence necessary to make progress towards achieving a lasting peace include: dialogue and reconciliation, utilization of media, public education, political outreach and advocacy, parallel programs in Palestine and Israel to build consensus, "constructive unilateralism,"[127] youth leadership programs, education of and involvement of the Diaspora, and coalition building across community lines. Each one of these methods of non-violence will be represented and carefully articulated by the work of the following organizations: The Parents Circle, Combatants for Peace, OneVoice, Seeds of Peace, Shatil of the New Israel Fund, and Blue White Future. However, for non-violent methods to be successful, there must be widespread education about the non-violent movement, so that it may gain momentum through public education about and accessibility to these methods.

A.   THE PARENTS CIRCLE – FAMILY FORUM (PCFF)

"The Parents Circle - Families Forum (PCFF) is a joint Palestinian-Israeli organization of over 600 families, all of whom have lost a close family member as a result of the prolonged conflict."[128] The PCFF conducts face-to-face Reconciliation Programs, public and media activities, and member activities.

1.   Dialogue and Reconciliation

As part of the face-to-face Reconciliation Program, "every year, members of the Parents Circle meet over 30,000 youth and adults – Israelis and Palestinians"[129] to share their personal narratives about losing their family member(s) to the conflict and to emphasize the joint message of reconciliation.[130] "These meetings convey a message of

---

127.   Constructive Unilateralism is a term coined by Blue White Future, a non-partisan political movement based in Tel Aviv-Yaffo, Israel; *see* http://bluewhitefuture.org/the-new-paradigm-2012/.
128.   The Parents Circle – Family Forum, Introduction, http://www.theparentscircle.org/Content.aspx?ID=2#.UKmFcOOe8s0. (last visited November 29, 2012).
129.   The Parents Circle – Families Forum, Video Gallery, http://www.theparentscircle.org/VideoGallery.aspx. (last visited November 30, 2012).
130.   The Parents Circle - Families Forum, Dialogue Meetings, http://www.theparentscircle.org/Content.aspx?ID=9#.UKmrQOOe8s0. (last visited November 30, 2012).

dialog [sic] and the possibility of reconciliation" as an alternative to violence.[131] Consequently, the audience members listening to the narratives will likely identify with the Israeli or Palestinian PCFF member who shares a similar story to them. Because the Israeli and Palestinian members are sharing their narratives in the same physical space, alongside one another, the audience members will also hear the stories of the other side in a potentially non-threatening way. Thus, with the clear objective of sharing their narratives, the PCFF members are able to demonstrate "an understanding of the needs of the other" to the audience.[132]

2.   Media Outlets as Education and Counter-Narratives for Non-Violence

Utilizing media on an even larger scale, the PCFF spreads the message beyond its own membership that reconciliation is possible and a prerequisite to achieving a sustainable peace. For example, PCFF created "Good Intentions" – a TV drama series about a Palestinian and an Israeli woman who worked together on a cooking show. They develop a strong connection despite their respective families' strong disapproval of their jobs in working with "the enemy."[133] The series "seeks to show the humanity of both sides…of the conflict through the experiences of [these] two women." Using fictitious characters based on real stories, it demonstrates that the conflict is not as black and white as our collective consciousness allows us to believe.[134] Art has a very real impact on how we view ourselves and people in communities different from our own. Thus, by providing Palestinian and Israeli women and girls with a character they can identify with, the show has the potential to inspire people to see themselves having positive interactions with those deemed to be the enemy.

More recently, PCFF released the film, "Two-Sided Story," which "documents the reactions when Israelis and Palestinians from different generations, backgrounds and political persuasions meet, talk, and get to know each other as human beings."[135] The twenty-seven Israeli and Palestinian participants in this dialogue workshop in the Palestinian city of Beit Jala included: "Bereaved families, Orthodox Jews and religious

---

131.   The Parents Circle – Families Forum, *supra* note 129.
132.   The Parents Circle – Families Forum, *supra* note 130.
133.   Sara Sorcher, *Finding Peace Through Food & Entertainment*, ABC NEWS (25 July 2008), http://abcnews.go.com/International/story?id=5448893&page=1#.UKomKeOe8s0. (last visited May 30, 2013).
134.   *Id.*
135.   United States Institute of Peace, PeaceMedia, http://peacemedia.usip.org/resource/trailer-two-sided-story-%E2%80%93-parents-circle-families-forum. (last visited May 30, 2013).

Muslims, settlers, ex soldiers in the Israeli army, ex security prisoners, citizens of the Gaza strip, kibbutz members, second generation holocaust survivors, non violent activists and more."[136] This film reveals that it is possible "to acknowledge the story of 'the other,' to show empathy and to express a desire for reconciliation."[137]

Television and film are easy ways to disseminate information to large audiences and shape the way we view the conflict. Media largely focuses on the violence of the conflict— arguably to boost ratings —and in doing so, further fuels feelings of anger and division amongst involved groups of the conflict. At the very least, television and films about the peaceful aspects of the conflict are imperative to creating a balance. Media outlets, such as those employed by PCFF, reveal an alternative to violence. Notably, those people most negatively impacted by the conflict are successfully utilizing it. The more wide-reaching non-violent media becomes, the greater chance it will have of influencing the way people conceive of and engage with the conflict.

Admittedly, the number of Palestinians engaged in dialogue and reconciliation in the last few years has decreased significantly due to the financial crisis, fatigue, and anti-normalization campaigns.[138] Some Palestinians and radical activists are adamantly opposed to efforts of dialogue and reconciliation, because they "perceive activities that [do not] challenge the occupation directly as normalization, or acceptance of the status quo."[139]

However, members of this anti-normalization movement are missing the point. No method alone, violent or non-violent, can directly change the status quo overnight. Change comes gradually by both direct and indirect means that work together to transform the minds of the involved parties. The fact that Combatants for Peace, a dialogue and reconciliation based organization has "maintained a steady level of activity over time" shows that minds are being transformed and the non-violent method of dialogue and reconciliation is making progress.[140]

---

136. Parents Circle – Family Forum, Two-Sided Story, http://www.theparentscircle.com/Twofaces_en.aspx?ID=50#.UKoumeOe8s0. (last visited November 30, 2012).

137. Facebook event initation, http://www.facebook.com/events/384381641618546/. (last visited August 22, 2013).

138. Ophir Bar-Zohar, *Peace Activists are sick of talking about soccer*, HA'ARETZ (25 April 2012), *available at* http://www.haaretz.com/news/national/peace-activists-are-sick-of-talking-about-soccer-1.426396.

139. *Id.*

140. *Id.*

Without the dialogue and reconciliation effort, the non-violent movement would have had no platform on which to discuss more non-violent methods to challenge the status quo. To overcome the barriers of changing the status quo, dialogue and reconciliation efforts must be exercised and vigorously coupled with, political outreach and advocacy, public education, and utilization of other non-violent methods. However, to quash the dialogue and reconciliation efforts altogether would unravel the non-violent movement and undo the progress made toward ending the conflict. Human connection is the foundation of the non-violent movement and the driving force motivating and uniting the people to challenge the status quo.

B.   COMBATANTS FOR PEACE (CFP)

Combatants for Peace (hereinafter CFP) is a movement jointly started by Palestinians and Israelis who formerly partook in violence within the conflict, but who have since abandoned their violent means and forged a united front to achieve a just resolution to the conflict via dialogue and reconciliation. Their shared vision for a lasting and fair resolution to the conflict is "to terminate the Israeli occupation, to halt the settlement project and to establish a Palestinian state with its capital in East Jerusalem, alongside the State of Israel."[141] CFP seeks to raise consciousness about the suffering of both sides, "to educate toward reconciliation and non-violent struggle in both [societies]," and to place political pressure on both Governments by operating in the following ways:

- To continue with the combatants' meetings, which allow each side to understand the other's narrative, via the approach of reconciliation rather than conflict.

- To implement an educational lecture series in public forums on both sides (universities, youth groups, schools etc.). The lectures will be given jointly by an Israeli and a Palestinian veteran, who will concentrate on the transition from violent struggle to the recognition of the limits of violence…

- To set up Bi-National media teams which will act in order to influence public opinion in Israel, Palestine and the rest of the world.

---

141.   Combatants for Peace, About, http://cfpeace.org/?page_id=2. (last visited May 26, 2013).

- To participate in demonstrations and other non-violent actions against the occupation as a bi-national group.[142]

1.   Dialogue and Reconciliation and Public Education

Combatants for Peace utilizes dialogue and reconciliation, public education, and political outreach and advocacy as methods of non-violence to make progress toward resolution of the conflict. A theme that permeates throughout the personal stories of former vets on the website is that dialogue and reconciliation allow for mutual understanding.[143] This theme is significant because mutual understanding yields validation of both sides. This validation has resulted in a personal transformation of the most violent people in the conflict to believe that non-violence is a necessary step in making progress toward peace and resolving the conflict.[144]

The implementation of lectures adds a layer of public education to the dialogue and reconciliation method. Educating the public with a united front of historically opposed former violent extremists is a showing of solidarity. This solidarity promotes compassion and understanding in the audience because they can identify with the representative of their nation. By instilling compassion and understanding in the audience, CFP has used a combination of dialogue and reconciliation and public education to inspire a transformation in the audience. Alternatively, CFP at the very least has provided the audience with a reason to explore dialogue and reconciliation as a method of non-violence toward ending the conflict.

The dialogue and reconciliation method has had success within this organization and in separate armed conflicts. In a different conflict, an organization called Conciliation Resources launched a Dialogue Series in 2011 to play a part in reaching a peace agreement on 7 October 2012 between the government of the Philippines and the Moro Islamic Liberation Front (MILF). This agreement "[signaled] an end to more than four decades of armed conflict in Mindanao."[145] The dialogue and reconciliation efforts used in this instance are examples of when non-violence methods yield effective results and positive change.

---

142.   *Id.*
143.   Combatants for Peace, Personal Stories, http://cfpeace.org/?cat=6. (last visited May 24, 2013).
144.   *Id.*
145.   Conciliation   Resources,   http://www.c-r.org/resources/historic-agreement-paves-way-peace-mindanao. (last visited December 12, 2012).; *see also* Global Peace Foundation, Global Peace Convention, http://www.globalpeace.org/our-work/global-peace-convention.

In the Israeli-Palestinian context, the dialogue and reconciliation efforts within CFP have stopped the cycle of violence between some of the most egregious offenders in the conflict: former Israeli soldiers who illegally attacked and killed Palestinian civilians and Palestinians who attempted a suicide bombing. These changed Israelis and Palestinians have been working together to promote a message of non-violence that will transform the minds of the people into wanting to end the conflict using non-violent means.

2.   Political Outreach and Advocacy

In addition, Combatants for Peace supplements its dialogue and reconciliation and public education efforts with political outreach and advocacy. For example, CFP representatives regularly meet with ministers and political parties to promote non-violent positions within the political scene. On the Palestinian side, members of the movement have met the President Mr. Mahmoud Abbas twice and a third meeting is planned in the near future."[146] Unlike some political activists who demonstrate against Israel or Palestinians for the sole purpose of protesting, CFP actually uses the momentum of its demonstrations to put pressure on political leaders. This pressure is more effective than blind protesting, because CFP is intentional in selecting its audience and is coming from a place of compassion rather than from attacking its audience.

However, as will be discussed in section C below, no political pressure is seemingly strong enough to sway the current Israeli Government or the Palestinian Government in Gaza - Hamas; they have made it clear, especially during the recent violence, that they have no intention of pursuing negotiation peace talks or resolving the conflict. Rather, under these circumstances, more drastic measures must be taken – there must be a collective transformation of people's minds so that the change comes from a revolution of the people.

While revolutions often entail violence and chaos, the revolution I am referring to is one of progress through calculated and intentional non-violence, inspired by a ground swell of the population to make social and legal changes. This ground swell of progress through the use of non-violence is not a new concept to Israeli culture or history.

---

146.   Combatants for Peace, Projects, Meetings with Ministers and Political Parties, http://cfpeace.org/?cat=7&story_id=873. (last visited November 12, 2012).

In fact, the women's movement in Israel had a recent legal victory due to the tenacity and bravery of women committed to change and equality. Previously in Israel, women were legally forbidden from wearing tallitot[147] and tefillin while praying at the Western Wall, a holy site for the three major monotheistic religions – Judaism, Christianity, and Islam. Tallitot and Tefillin are religious garb that ultra-Orthodox Judaism reserves for only men to wear. Ultra-Orthodox Judaism also forbids women to read from the Torah (Jewish Bible) out loud in front of male congregants. During prayer, men and women are forbidden from sitting together, and are thus divided into two sections – male and female – separated by a barrier. Pursuant to this rule, a separation barrier is in place at the Western Wall, but there is no designated area for differing religious observers to pray at the Western Wall in accordance with their own customs.

On December 1, 1988, the "first International Jewish Feminist Conference [was] held in Jerusalem," where "one hundred Jewish women gather[ed] for a prayer service and Torah reading at the Kotel," many of them wearing a prayer shawl or tallit.[148] Although the women's service was held in the back of the women's section, away from the ultra-Orthodox observers,[149] ultra-Orthodox men and women at the site became enraged and disrupted the women's service, verbally and physically assaulting the women for disobeying ultra-Orthodox customs. However, these women, who began a coalition called the Women of the Wall, continued their Torah reading out loud, exercising their right of religious freedom on a regular, monthly basis.[150]

In response, Israel codified the ultra-Orthodox customs into law on December 31, 1989. As a result and on many occasions, Israeli police detained and arrested women praying at the Western Wall for wearing tallitot and tefillin; the arrests were based on the charge that the women's religious customs were disturbances to the public order.[151] However, in spite of the law and opposition by the ultra-Orthodox faction in Israel, the Women of the Wall maintained their strong conviction of religious gender equality, filing numerous petitions and appeals with the Israeli

---

147.   Tallitot is the Hebrew word for prayer shawls and the singular term is tallit.

148.   Women of the Wall, History, http://womenofthewall.org.il/about/history/. (last visited May 27, 2013).

149.   Marcy Oster, *Women Should Not Have Been Arrested at Western Wall, Judge Rules*, JTA (April 25, 2013), http://www.jta.org/2013/04/25/news-opinion/israel-middle-east/women-should-not-have-been-arrested-at-western-wall-judge-rules. (last visited May 27, 2013).

150.   Women of the Wall, *supra* note 148.

151.   *Id.*

Supreme Court and continuing their monthly Torah service at the Western Wall.[152]

Recently, on 25 April 2013, "the Jerusalem District Court [ruled]… that customs change and women should not be arrested for wearing prayer shawls at the site."[153] Also in April 2013, "an envoy appointed by Prime Minister Benjamin Netanyahu…proposed adding a mixed-gender section for non-Orthodox denominations of Judaism," so that they would be able to observe their religious customs at the Western Wall as well.[154]

Additionally, the LGBTQ movement in Israel has followed a similar trajectory of starting out with groups of advocates whose voices gained momentum and ultimately resulted in concrete law and policy changes. A significant portion of activism began in media and popular cultural events. In 1993, the Israeli TV network, Arutz 2, began to regularly dedicate air-time to LGBTQ social and political topics.[155] "In 1997, Education Minister Zvulun Hammer sought to ban an Educational Television program on homosexual teenagers. The Association for Civil Rights in Israel, joined by several gay rights organizations, petitioned the High Court to overturn Hammer's decision," and the "Court ordered Hammer to permit the program to be aired."[156] In 1998, despite violent protests by the conservative right, annual gay pride parades began to take place in Israel. By 2006, Jerusalem served as host to the World Pride Festival.[157]

Within less than a decade, these types of civic engagement and activist campaigns around LGBTQ issues began to generate enough political pressure and will to change laws and policies in Israel. Example changes include recognition of gay marriages performed abroad in 2006[158] and

---

152. *Id.*
153. *Jewish 'Women Of The Wall' Plan Further Court Battles Over Prayer Rights At Western Wall*, REUTERS, http://www.huffingtonpost.com/2013/04/28/women-of-the-wall-_n_3173669.html. (last visited May 28, 2013).
154. *Id.*
155. LEE WALZE, BETWEEN SODOM AND EDEN: A GAY JOURNEY THROUGH TODAY'S CHANGING ISRAEL 151 (2000).
156. GaytlvGuide, Significant Dates and Developments, http://www.gaytlvguide.com/start-here/gay-rights-in-israel. (last visited May 28, 2013).
157. Michael T. Luongo, *Jerusalem Hosts World Pride*, THE WORLD CONGRESS OF GAY, LESBIAN, BISEXUAL, AND TRANSGENDER JEWS, http://www.glbtjews.org/article.php3?id_article=205. (last visited May 28, 2013).
158. Ruth Eglash, *Jerusalem Registers Its First Gay Couple*, JPOST.COM, http://www.jpost.com/Israel/Jerusalem-registers-its-first-gay-couple (2007). (last visited May 28, 2013).

application of the Law of Return to the non-Jewish gay husband of an immigrant.[159]

While the fight for women and LGBTQ equality in Israel is far from over, the leaps and bounds that Israel has made regarding these issues is derived from the commitment and fervor of grassroots organizations and ordinary Israeli people non-violently fighting for equal rights. From the example of these two Israeli movements, it becomes clear that political pressure must come from a larger scale, collective transformation of the people. That transformation can be achieved via parallel programs in Israel and Palestine, uniting the ordinary people on both sides to elect respective governments that reflect their true desires for peacebuilding and negotiations.

C.   ONEVOICE

OneVoice is "an international grassroots movement that amplifies the voice of mainstream Israelis and Palestinians, empowering them …to forge consensus for conflict resolution and build a human infrastructure capable of mobilizing [themselves] toward a negotiated, comprehensive and permanent agreement between Israel and Palestine."[160] OneVoice has four programs including: OneVoice Israel, OneVoice Palestine, OneVoice Europe, and OneVoice International. Engaging its many programs, OneVoice utilizes various methods of non-violence, such as crafting parallel programs in Israel and Palestine to build consensus, holding youth leadership programs, doing political outreach, and educating the Diaspora.

1.   Parallel Programs in Israel and Palestine to Build Consensus

OneVoice Israel and OneVoice Palestine have parallel programs for each of its own populations to build consensus on what each side needs to resolve the conflict peacefully. The nature of these parallel programs is to appeal to each side's national self-interests in order to build a solid consensus. According to OneVoice, "progress at the negotiating table is only one step in the process of reaching an agreement that can be implemented. An end to the conflict will only come when the leaders come to an agreement *that their peoples are ready to understand, accept,*

---

159.   Raphael Ahren, *Ministry Grants Citizenship to Gay Spouse of Immigrant*, HAARETZ, *available at* http://www.haaretz.com/weekend-/anglo-file/ministry-grants-citizenship-to-gay-spouse-of-immigrant-1.382066 (2011).

160.   OneVoice, http://www.onevoicemovement.org/. (last visited November 14, 2012).

142   ANNUAL SURVEY OF INT'L & COMP. LAW   [Vol. XIX

and support."[161] Thus, the first step to reaching an agreement is consensus regarding the needs of each side.

In 2009, OneVoice administered a "Public Polling" phase to find out what the Palestinian and Israeli public cares most about and the people would like to see included in a final agreement.[162] In addition to eliciting the core issues and positions of the Israeli and Palestinian populations, "thoughtful polling [was] used to engage and inform ordinary people, highlight existing agreement, bolster moderate views, expose extreme positions, and ultimately build consensus and even peace."[163] The public polling phase, therefore did "not merely *gauge* public opinion, but [*engaged*] the public in crafting consensus on the issues at the heart of the conflict."[164]

According to the polling phase conduct by OneVoice, the top twelve most urgent issues for Palestinians (from most urgent to least) are:

   1. Establishing an independent sovereign state of Palestine (97%)
   2. The rights of refugees (95%)
   3. Agreement on the future of Jerusalem (94%)
   4. Agreement on managing Holy sites (91%)
   5. Security for Palestine (90%)
   6. Settlements in the Occupied Territories/West Bank (89%)
   7. Rights to natural resources (88%)
   8. Agreeing on borders for Israel and Palestine (77%)
   9. Peace between Israel and the Arab World (35%)
   10. Peace between Israel and Lebanon (31%)
   11. Peace between Israel and Syria (30%)
   12. Security for Israel (21%)[165]

The top twelve most urgent issues for Israelis are:

   1. Security for Israel (77%)
   2. Agreement on the future of Jerusalem (68%)
   3. Rights to natural resources (62%)
   4. Agreement on managing Holy sites (57%)
   5. Agreeing on borders for Israel and Palestine (49%)

---

   161.   OneVoice, Programs, Public Polling, http://onevoicemovement.com/programs/polling.php (emphasis added). (last visited May 30, 2013).
   162.   *Id.*
   163.   *Id.*
   164.   *Id.*
   165.   OneVoice, Programs, Part 1. The Shape of an Agreement, http://onevoicemovement.com/programs/polling_part1.php#substance. (last visited May 30, 2013).

6. Peace between Israel and Jordan (47%)
7. Peace between Israel and Egypt (46%)
8. Peace between Israel and the Arab World (37%)
9. Peace between Israel and Lebanon (36%)
10. Peace between Israel and Syria (36%)
11. Establishing an independent sovereign state of Palestine (33%)
12. Settlements in the Occupied Territories/West Bank (33%)[166]

Although what is the most urgent issue for one group is not the top issue for the other, it is profoundly noteworthy that each side is concerned about the top twelve urgent issues of the other side in some capacity. Specifically, the polling phase revealed that the vast majority (approximately 75% of each side) of Palestinians and Israelis would accept a two state solution as a basis for a peace agreement.[167] These results were then analyzed and prepared into a report, but more importantly they were used as a basis from which to launch and inform the next phase, Town Hall Meetings.[168]

Once the poll results were gathered, OneVoice held town hall meetings to convert the outreach from individual level engagement of the peacebuilding process to that of a community level engagement.[169] These meetings served to "surface issues and break taboos, while building understanding that ending the conflict, ending the occupation, ensuring security, and achieving a two state solution is possible."[170]

Building national consensus about what each side wants is imperative to resolution of the conflict, because the consensus can inform the content and structure of a peace agreement. The content and structure of the peace agreement can then be used as a framework for the government to engage in negotiations. With a growing civilian interest in pursuing where each side's national self-interests overlap, the people of the conflict will have the opportunity to put pressure on the government to enter into negotiations or elect officials to government who reflect the people's desire for peace and negotiation.

An example of the changing consciousness of the Israeli people was the Israeli audience's positive reaction to President Obama's recent address

---

166.   *Id.*
167.   *Id.*
168.   OneVoice, *supra* note 161.
169.   OneVoice, Programs, Breaking Taboos, http://www.onevoicemovement.org/programs/town_hall.php. (last visited November 16, 2012).
170.   *Id.*

in March 2013.[171] Despite President Obama making some less than traditionally conservative statements, him and his speech were received very well by the young Israelis. For example, when Obama stated that peace is necessary, and security for Israel is not possible without "the realization of an independent and viable Palestine," the audience gave President Obama a standing ovation.[172] Obama also stated, "the Palestinian peoples' right to self-determination, their right to justice, must also be recognized," and his words were met with cheering and applauding by the Israeli audience.[173] Finally, Obama adamantly asserted, "Israelis must recognize that continued settlement activity is counterproductive to the cause of peace," and again, the Israeli audience responded with clapping and unwavering support.[174] The positive reaction of Israelis to President Obama's speech is a testament to the fact that more Israelis share these progressive views about peace than the media leads us to believe; change is happening.

When people change their minds, they elect officials who reflect their beliefs and put pressure on their current elected officials to make tangible strides toward changing the status quo. As mentioned above, it is clear that neither the Israeli Government nor the Palestinian elected government in Gaza seem interested in resuming peace talks or resolving the conflict. Violence has escalated by both Hamas and the Netanyahu government, and Netanyahu's continual expansion of settlements on what will eventually be part of the Palestinian State are an obstacle to peace that undermines a two-State solution.

However, the Israeli reaction described above is not just a spectacle; the change in Israeli consciousness is having a real impact. This shift that Israelis are moving in a more progressive direction was evident in the most recent Israeli elections held in late January 2013. The far right wing electoral alliance, Likud Beiteinu headed by Netanyahu, won far less seats in the current Israeli Parliament, decreasing dramatically from 42 down to 31 seats.[175] Replacing those seats is a growing centrist party

---

171.   Grace Wyler, *Obama Just Finished His Speech In Israel, And People Are Already Saying He Made History* BUSINESSINSIDER (March 21, 2013), http://www.businessinsider.com/obama-israel-speech-2013-3. (last visited May 28, 2013) (President Obama spoke to an audience of Israelis in Jerusalem, most of whom were university students. It should be noted that Jerusalem is one of the most religious and politically conservative cities in Israel.)

172.   Erin Delmore, *Obama to Young Israelis: 'You are not alone,'* MSNBC, http://tv.msnbc.com/2013/03/21/watch-live-president-obama-speaks-to-israelis/. (see video at 27:55) (last visited May 28, 2013).

173.   *Id.* (see video at 31:44).

174.   *Id.* (see video at 39:27).

175.   Harriet Sherwood, *Binyamin Netanyahu suffers setback as centrists gain ground in Israel election Results give narrowest of victories to the prime minister's rightwing-religious block*, THE

known as "Yesh Atid," meaning "there is a future" in Hebrew, who received 19 seats, and the third largest contingency is the Labour party with 15 seats.[176] "Erel Margalit of Labour said the results indicated 'a protest vote against Netanyahu' and that the huge social justice protests that swept Israel 18 months ago 'were not a fringe phenomenon. Perhaps some of it is moving from the streets into the political arena.'"[177]

While the far right still has the most seats, this move towards the center is a reflection of the changing nature of the Israeli consciousness. This changing Israeli consciousness has been prompted by the more progressive contingency and is likely (at least in part) a result of the positive methods of non-violence. Thus, to unite the ordinary people of Palestine and Israel to elect new governments or sway their current elected officials, the movement needs youth leadership programs, education programs in the Diaspora, political outreach advocacy, and coalition building across community lines.

2.   Youth Leadership Program

The OneVoice Youth Leadership Program is run on two separate tracks – OneVoice Israel and OneVoice Palestine. OneVoice Israel conducts lectures on Israeli university campuses about the OneVoice movement and holds initial training seminars to teach youth leadership skills. It also holds an advanced seminar to designate OneVoice Ambassadors the "responsibility and reward of representing the Movement before different audiences – on a college tour, in Town Hall Meetings, in meetings with supporters and donors oversees, or at events with groups from abroad."[178] These lectures and seminars then prepare the youth to become OneVoice Trainers who "[represent] the Movement at conferences and events" including "being interviewed as spokespersons for OneVoice in print and broadcast media, joining delegations to the World Economic Forum, and meeting with dignitaries on behalf of the Movement."[179]

OneVoice Palestine also has a training program, which has been completed by 1,500 youth activists spanning across 8 West Bank cities and has developed a pilot program for youth in Gaza. OneVoice Palestine

---

GUARDIAN, (January 23, 2013), http://www.guardian.co.uk/world/2013/jan/22/israel-elections-binyamin-netanyahu. (last visited February 20, 2013).

176.   *Id.*
177.   *Id.*
178.   OneVoice, OneVoice-ISRAEL, http://onevoicemovement.com/programs/onevoice-israel.php. (last visited May 30, 2013).
179.   *Id.*

[supports] the youth leaders in planning and implementing youth initiatives that serve their communities and help spread the OneVoice message and recruit new members. The purpose of these activities is to empower [their] youth leaders, give them more responsibility, strengthen their relationships with their local communities, and promote OneVoice as a real grassroots movement interested in civic engagement[180]

These Israeli and Palestinian parallel youth programs strengthen the respective national communities and create a united front on each side. By creating a united a front, OneVoice is ensuring that the people on each side stay engaged in the end goal, resolution of the conflict. Furthermore, the existence of these parallel programs provides each group with the reassurance that when the people are ready, there is someone to talk to and negotiate with on the other side.[181]

3.   Education Programs and Political Outreach in the Diaspora

OneVoice Europe and OneVoice International Programs engage the people living outside of Israel and Palestine, including students and political leaders in the UK and US. As part of the International Education Program, OneVoice organized tours for Palestinians and Israelis living the conflict everyday to interface with, and provide a better understanding to, their families, friends, and supporters abroad. "The program shares the reality on the ground with American, Europeans and many other international audiences, and offers them the opportunity to experience the conflict through the eyes of ordinary Israelis and Palestinians who work tirelessly to achieve Middle East peace."[182] In the United States alone, "more than 19,000people have attended OneVoice regional tour events on over 100 U.S. university campuses and community centers."[183]

OneVoice Europe initiated political outreach and education programs to address the Anti-Israel and Anti-Palestinian communities in Europe who were increasingly taking extreme positions and further polarizing the conflict.[184] "In 2011, OneVoice Europe launched a new Outreach and Education Programme [sic] that continues the work [done in Israel and

---

180.   *Id.*
181.   OneVoice, About OneVoice, http://www.onevoicemovement.org/about-onevoice/ activities.php. (last visited May 30, 2013).
182.   OneVoice, Programs, OneVoice INTL, http://www.onevoicemovement.org/programs/ onevoice-international.php. (last visited May 30, 2013).
183.   *Id.*
184.   OneVoice, Programs, OneVoice EUROPE, http://www.onevoicemovement.org/ programs/onevoice-europe.php. (last visited May 30, 2013).

Palestine] on university campuses in the form of conflict resolution training sessions and student support."[185] The "Outreach and Education Programme" is:

> a future-focused initiative, engaging its participants in forward-thinking dialogue about solutions, rather than backward-looking debate about historical narratives. Its potential to build bridges between communities, empower moderate students, and promote conflict resolution is powerful and unique, involving members of British, Palestinian, and Israeli society from many faiths and backgrounds.[186]

Community and university leaders meet for "an in depth conflict resolution and leadership training session, with the aim of empowering them to carry on such discussion activities and to continue promoting a transformation of attitudes within their own communities."[187] This education model is imperative to non-violently combat the anger and hatred incited by the media. It provides a constructive way for the international community to engage in what ordinary Palestinians and Israelis really want – peace.

OneVoice Europe has also reached out to the political community by organizing meetings with the Right Honorable David Miliband Foreign Secretary and by liaising with former Prime Minister Tony Blair and the Quartets representative to the Middle East. Additionally, OneVoice Europe has successfully organized a rally in Parliament square "attended by over 300 members of the public and 30 parliamentarians" to demand that the OneVoice principles be used going forward and to prioritize the conflict and future negotiations.[188] Thus, political outreach has allowed "grassroots to be heard at the highest level of the international community."[189]

Recently "in 2011, Shadow Middle East Minister Stephen Twigg commended [OneVoice's] work to the House of Commons, calling on the Foreign Secretary William Hague to join him in recognizing the movement and its achievements."[190] International political involvement is yet another way for the international community to constructively engage in promoting negotiations to end the conflict. Political advocacy is also

---

185.   *Id.*
186.   *Id.*
187.   *Id.*
188.   *Id.*
189.   *Id.*
190.   *Id.*

another powerful tool that can be used to spread information about methods of non-violence. In addition to the separate youth programs in Israel and Palestine and education of youth and students abroad, it is important to engage the youth of Palestine and Israel in a coexisting environment so that they can develop positive associations with one another and share that experience with the older generations.

D.   SEEDS OF PEACE

Seeds of Peace is a non-profit organization that conducts a three-week intensive conflict resolution program for youth ages 14-16 from regions of conflict. The children (also known as "Seeds") coexist in a camp in Maine, United States and engage in "hours of discussion guided by professional facilitators" to "confront each other directly over their competing historical narratives and share their personal experiences of the conflict."[191] After "the Seeds have reached new thresholds for understanding perspectives," they return to their respective homes. At home, the organization provides year round local programs for the graduates to ensure their continual development as effective peace builders.[192] "Seeds of Peace offers more targeted programs and advanced skills training as alumni move into their university years and begin their careers, leveraging their unique relationships, understanding, and skills to shift the landscape of conflict and peace in the Middle East."[193]

Youth programs do not just promote education and understanding amongst the young, but also help bridge the older generations to the younger progressive movements. While older generations are more likely to have stories of pain and suffering that have been compounded by time and anger, the younger generation has had less time to process and internalize their stories of pain and loss into deeply imbedded hatred. Children are resilient; they have more energy, more free time, and a more probable chance of mustering enough forgiveness to work towards a resolution in comparison to their older counterparts. Thus, the younger generation that is exposed to and generally more inclined to progressive thinking can and likely will have a transformative impact on older generations.[194]

---

191.   Seeds of Peace, International Camp, http://www.seedsofpeace.org/?page_id=770. (last visited May 30, 2013).
192.   *Id.*
193.   Seeds of Peace, Middle East Programs, http://www.seedsofpeace.org/?page_id=1252.
194.   *See* Welsh-Huggins, *Personal ties can change gay marriage attitudes*, FOXNEWS.COM (12 May   2012),   http://www.foxnews.com/us/2012/05/12/personal-ties-can-change-gay-marriage-attitudes/. (last visited May 30, 2013).

In line with this thought, the younger the children involved in these programs, the sooner they will be exposed to a positive interaction with their alleged enemy and the better chance that they will have to work through any pain and suffering caused by the conflict. The sooner young children have these interactions and engage in conflict resolution work, the more likely it is that when and if they do experience loss and pain, they will still pursue methods of non-violence to resolve the conflict, because they have the most to lose if the status quo is maintained. The inherent intergenerational work accomplished by youth programs ensures long lasting progress toward peace efforts. Young people involved in the program feel a sense of empowerment and responsibility, which will inspire them to transform the minds of their parents and to carry on their activism into their adult life.

E.   SHATIL OF THE NEW ISRAEL FUND

Creating coalitions across community lines, Shatil of the New Israel Fund bridges existing gaps between Israeli civilians and non-Jewish Arabs living within the borders of Israel.

> Shatil was founded by the New Israel Fund to help build and strengthen civil society in Israel. [They] work for social change together with activists, organizations, networks, grass-roots groups and social movements in Israel and worldwide. [They] aspire toward a society based on equality of all citizens and residents of Israel – a society that believes in the principles of social, economic and environmental justice and works to achieve them; a society that promotes human and civil rights, respects religious and cultural differences, and recognizes the importance of shared society.[195]

Shatil has various initiatives working on a myriad of aspects in Israeli civil society, including: twenty-two (22) religious and feminist organizations working against the exclusion of women from the public sphere, The Umbrella Forum for Bedouin Education, The Coalition against Immigrant Under-employment, and Yachdav for the Prevention of Violence in the Ethiopian Family, to name only a few.

To promote a unified Israeli society, Shatil has a "Shared Society" initiative, which "is working to establish a society in which all groups feel a sense of belonging and shared ownership – facilitating Arab-

---

195.   New Israel Fund, Shatil, Shared Society, http://www.shatil.org.il/english/change/shared-society/. (last visited June 29, 2012).

Jewish dialogue and joint action to address the root causes of conflict, alleviate tensions and develop interim and long-term solutions."[196] Shatil utilizes strategic tools and methodologies to accomplish this goal, including 1) "*Formation and capacity-building* of Arab-Jewish leadership groups to effect change 2) *Consulting and training* of activists and organizations in the use of constructive tactics 3) '*Workplace Dialogue*,'" which creates a safe space for the "facilitation of Arab-Jewish dialogue groups in institutions, enterprises and organizations to advance equality in workplace policies and practices[197] and 4) *Leadership training* "for creating new visions and the practical skills to mobilize and implement them."[198]

The various programs and initiatives of Shatil serve the vast diverse population within Israel, which allows for coalition building across community lines. These human connections between different and historically opposed communities will strengthen the collective Israeli identity to be one that is inclusive of people from all ethnic backgrounds and religions. In turn, this inclusivity will promote understanding, internal peace, and a solid core for making progress toward peace with Palestinians.

F.   BLUE WHITE FUTURE (BWF)

Utilizing the methods of non-violence discussed above establishes a strong foundation of political activism, creates consensus for the goal of two separate states, and builds momentum for constructive change and progress toward peace negotiations. Blue White Future (hereinafter BWF) employs this momentum by promoting a process called constructive unilateralism – "a move by either party that helps to further the achievement of two states."[199] According to BWF, constructive unilateralism "is in line with the two-state vision as described in the many blueprint proposals for a two state solution" and "a constructive unilateral move will not become an obstacle once the parties resume negotiations."[200] An example of constructive unilateralism was the Israeli disengagement from Gaza in 2005. Accordingly, BWF urges the Israeli Government and the Palestinians to take measures of constructive

---

196.   *Id.*
197.   *Id.* ("An example of this mediated intervention is [their] successful on-going program with the professional and administrative staff at the multicultural Safed College.").
198.   *Id.*
199.   *White Paper – A New Paradigm for the Israeli-Palestinian Political Process:Promoting Two States for Two People via Constructive Unilateralism with International Support*, The New Paradigm 2012, BLUE WHITE FUTURE (January 6, 2012), *available at* http://bluewhitefuture.org/the-new-paradigm-2012/.
200.   *Id.*

unilateralism even before peace negotiations occur to aid that process.[201] Thus, "the underlying principle of the new paradigm calls for gradually creating a reality of two states by performing a series of gradual constructive unilateral steps."[202]

The most obvious next steps for the Israeli Government are to halt construction and expansion of settlements in the West Bank and to "enact a law that allows for *voluntary* evacuation, compensation and eventual absorption of settlers presently residing [within the Occupied territory of the West Bank], to encourage settlers who wish to relocate" to Israel proper.[203] BWF also insists "Israel should prepare a national plan for the absorption of the settlers who would relocate to Israel proper, whether before or after an agreement is signed. Such a plan should have urban, vocational, social, psychological and other appropriate components" to compensate these settlers.[204] "According to recent polls, nearly 30 percent of [the] 100,000 settlers [living in the Occupied West Bank] would accept compensation and quickly relocate into Israel proper."[205] Therefore, taking the constructive unilateral step to assist those settlers who voluntarily wish to leave the settlements would be a feasible process with incentives and compensation and not similar to the arguably traumatic disengagement of Gaza in 2005.[206]

The next step for the Palestinians is to halt all acts of violence and terrorism against the State of Israel and its residents. The various Palestinian Governments, but mainly Hamas, must unilaterally cease any and all acts of violence and take measures to stop their own Palestinian citizens from engaging in any violence or acts of terrorism. However, constructive unilateralism should not only be reserved to Israel and Palestine. The international community has more resources to assist with these processes, and therefore should contribute as well.[207]

---

201.   *Id.*
202.   *Id.*
203.   *Id.*
204.   *Id.*
205.   Gilead Sher, *Op Ed: Steps Israel Should Take to Control its Destiny*, BLUE WHITE FUTURE (October 11, 2012), http://bluewhitefuture.org/news-category/news/. (last visited January 11, 2013).
206.   *Id.*
207.   While eventual dismantling of the settlements is a necessary step to make progress towards peace and will probably be a condition to the peace negotiations, this process and how to achieve complete settlement disengagement for the settlers who do not wish to leave voluntarily is in and of itself likely not considered a non-violent procedure. Therefore, it is outside the scope of this paper.

III.   WHAT IS AT STAKE FOR US ABROAD?

Although the aforementioned methods of non-violence are actively being utilized by a myriad of non-profit organizations, the Palestinian-Israeli conflict is still underway because there is not enough media attention, education about the non-violent movement, or access to information about how to get involved. Therefore, it is no surprise that the people's collective consciousness about the conflict has not yet been transformed and more work must be done to that end.

Simply put, it is in the global interest as well as in the national self-interest of Americans to get involved in securing a peace agreement between the Israeli and Palestinian Governments. The international community and the U.S. cannot afford to financially support a conflict that is unsustainable. On the international front, many surrounding Arab nations provide weapons and military contributions to Hamas, further perpetuating the cycle of violence. Instead, this aid should be provided in the form of resources, such as food, water, education, and health assistance. If the neighboring States are really concerned with the plight of the Palestinian people, then their contributions should be geared toward the prosperity of the people, not the destruction of Israel. Similarly, U.S. tax money goes toward providing arms to the Israeli military, so the U.S. can and should use this fact to leverage a peace negotiation.

Like any armed conflict, the Israeli-Palestinian conflict has created negative environmental repercussions that have a global effect.[208] Thus, the international community and can and should get more involved in the conflict to address and ideally prevent these environmental harms from occurring. Finally, all first-world superpower States with a lot of privilege and pull in the U.N. should put at least some of their resources into achieving peace if for no other reason than to bolster international security, and thereby national security.

According to OneVoice:

> Israelis and Palestinians equally share the role and responsibility to propel their leaders toward the two-state solution that resolves all final status issues and establishes an independent Palestinian state, based on the borders of 1967, at peace with Israel. This can

---

   208.   Eugenia Ferragina, *The Effects of the Israeli-Palestinian Conflict on Water Resources in the Jordan River Basin*, GLOBAL ENVIRONMENT, *available at* http://www.globalenvironment.it/ferragina.pdf.

only be achieved if the international community embraces its role, helping realize the vision of the movement through constructive engagement and action.[209]

The international community has an ethical obligation to Israel, Palestine, and its respective people to engage in peacebuilding efforts that promote negotiations. International direct engagement and activism to end the Palestinian-Israeli conflict may help bridge gaps between communities abroad. These historically polarized and unaffiliated groups may even develop a holistic approach to conflict resolution that can be applied in all international political spheres.

IV.   HOW CAN WE BECOME INVOLVED?

The first and most important way to get involved is to get educated about the non-violent work being done. The second and easiest way to get involved is to donate money to any one or more of the organizations committed to ending the conflict in a non-violent way. The third way to get involved is to write letters to senators, congressman, and the president to request that they prioritize the Israeli-Palestinian conflict and promote negotiations between both governments. The fourth and most rewarding way to get involved is to check out the links below and attend a local program, become an active member of an organization committed to non-violent work, volunteer in an internship, engage in community work regarding this or any other conflict, and/or practice any one or more of the methods of non-violence.

Name of Organization	Websites Regarding Specific Ways to Get Involved
Parents Circle Family Forum	http://theparentscircle.com/MalingList.aspx
Combatants For Peace	http://cfpeace.org/?page_id=123#
OneVoice International	http://onevoicemovement.org/get-involved/ http://www.onevoicemovement.org/programs/IEP/ documents/TrainingSeminarApplication04.02.12.pdf
New Israel Fund	http://www.nif.org/get-involved
Israel Palestine Center for Research and Information	http://www.ipcri.org/IPCRI/Get_Involved.html

If we in the Diaspora are truly concerned with achieving a lasting and just peace in Palestine and Israel, we must seek out information about this movement, instead of being victims to the only aspect of the conflict

---

209.   OneVoice, *supra* note 182.

that the media seeks to portray which are violence and destructive criticism.

V.   CONCLUSION

The status quo in Israel and Palestine is not sustainable. The escalating violence and current governments of both sides are a reflection of the people's omnipresent fear of the other side. However, we do not have to sit idly by. Dialogue and reconciliation are the first steps to peacefully combating fear, because they promote understanding. Understanding will inform counter narratives of the conflict like non-violence and peacebuilding. Non-violence will be echoed in and utilized by media to educate the public. Educating the public will inspire political outreach and advocacy. Political activism will strengthen parallel programs in Palestine and Israel that build consensus among the people. Youth leadership programs can further bolster consensus among the people, because youth play a part in transforming the minds of the older generations and collective consciousness. Education about consensus reached in Palestine and Israel must reach the Diaspora so the Diaspora can do its part to support the consensus with constructive unilateralism to end the conflict. The non-violent movement in Palestine, Israel, and abroad will inspire coalition building across community lines everywhere. Finally, when the people are provided with the tools and resources to work with one another on a grassroots level, they will be united to change the status quo. They will both elect new governments that share their beliefs and desires for peace and resolution to the conflict or put pressure on current governments to resume and conclude final peace negotiations. This transformation of the government and people using methods of non-violence is an essential piece to a lasting peace in Israel and Palestine.