



BOOKLET SERIES:
UNDERSTANDING THE PRESENT

THE WEST BANK

Occupied Territory vs Disputed Territory,
International Law, and Other Key Issues



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SECTION I: Historical Background

The West Bank/Judea and Samaria is a territory that sits between Israel and Jordan and plays a crucial role in the Israeli-Palestinian conflict. It is home to important holy sites for Jews, Christians, and Muslims alike. The Palestinian Authority and some international bodies consider it occupied territory that is supposed to be part of a Palestinian state. The Israeli government sees it as disputed territory that is part of the Jewish people's ancestral homeland and is subject to peace negotiations with the Palestinian leadership.

Let's begin sorting this out:

Prior to 1949, the term West Bank did not exist. The territory was known as Judea and Samaria for thousands of years. It is home to some of the holiest sites in Judaism, such as the Cave of the Patriarchs and Rachel's Tomb. The former site is also holy to Muslims, who call it the Sanctuary of Abraham or Al-Haram Al-Ibrahimi. Rachel's Tomb is in the city of Bethlehem, which also hosts Christian pilgrims from around the world who come to visit the Church of the Nativity.



Did You Know?

The word Jew is an English version of the original Hebrew *Yehudi* (יהודי). Likewise, Judea comes from the Hebrew *Yehudah* (יהודה). So, Jew is literally Judean. Other languages have kept the original Hebrew: German is *Jude* (pronounced Yu-deh), Dutch is *Jood* (pronounced Yood), and Arabic is *Yahud*.

The first four letters of Judaism are J-U-D-A, derived from Judea (Yehuda).

Jewish Roots

Judea and Samaria were part of the ancient Jewish Kingdom of Israel. This area is the birthplace of Jewish identity, language, religion, and culture, and Jews have lived there continuously for over 3,000 years.

Jews had independent kingdoms in Israel off and on for over one thousand years. This lasted until the first century CE when Jews organized three rebellions against the Roman Empire. After crushing the last of these revolts, Imperial Rome massacred and expelled massive numbers of Jews and renamed the territory “Syria Palaestina” in a bid to erase Jewish ties to the land.¹ In the following centuries, a series of other foreign empires colonized Judea and the surrounding region, reducing Jews to an indigenous minority in their ancestral home.

While most were scattered across the Middle East and Europe, Jews remained in ancient cities like Hebron (the first capital of ancient Judea, before King David moved it to Jerusalem). Through centuries of foreign conquests, violence, and oppression, their communities survived and were strengthened by numerous waves of Jews returning home. As such, Jews maintained a continuous presence in Israel until the present day.

Jews around the world retained a deep connection to their ancestral homeland as well, particularly to Jerusalem, which is also called Zion. Innumerable Jewish texts going back over 2,000 years express a profound yearning to rebuild Jerusalem and regain Jewish independence in their ancestral homeland. This has been a constant theme since Jews were dispossessed of their land, and it remains so today.

In the late 1800s, Jews created modern Zionism as a liberation movement. They were motivated by rising antisemitism and pogroms (massacres of Jews), which ultimately led to the Holocaust. Their goal was to overcome centuries of brutal oppression in Europe and the Middle East by creating a free, independent state in their ancient home. Jews from Europe and the Middle East began moving back to the Land of Israel/Palestine in waves. They joined Jews who were already living in cities like Jerusalem, Hebron, Safed, and Tiberius. They also created new communities, such as the city of Tel Aviv on the Mediterranean coast (1909) and Gush Etzion in Judea (1935).

¹ H.H. Ben-Sasson, *A History of the Jewish People*, (Cambridge: Harvard University Press, 1976), p. 334 and Ariel Lewin. *The archaeology of Ancient Judea and Palestine*. (Los Angeles: Getty Publications, 2005), p. 33.



A Roman coin celebrating victory over the Jews, with the words “Judea is subdued.”

Is it Israel or Palestine or Both?

Under the 20th century British Mandate, both Jewish and Arab institutions used the name Palestine.

Jews established the *Palestine Post* (now *Jerusalem Post*) and Palestine Symphony Orchestra (now Israel Philharmonic Orchestra). Arabs established the Palestine Arab Congress and a newspaper called *Filastin*. Coins from that period used both names: Palestine and Eretz Israel (Land of Israel).

Ottoman Palestine

From 1511 to 1917, Palestine (including the region of Judea and Samaria) was a geographical area divided into several districts within the Ottoman Empire (a Muslim empire based in Turkey). No independent nation had existed there since the Kingdom of Judea, as it was ruled by a series of foreign empires.

The 1911 *Encyclopedia Britannica* entry for Palestine defined the territory this way:

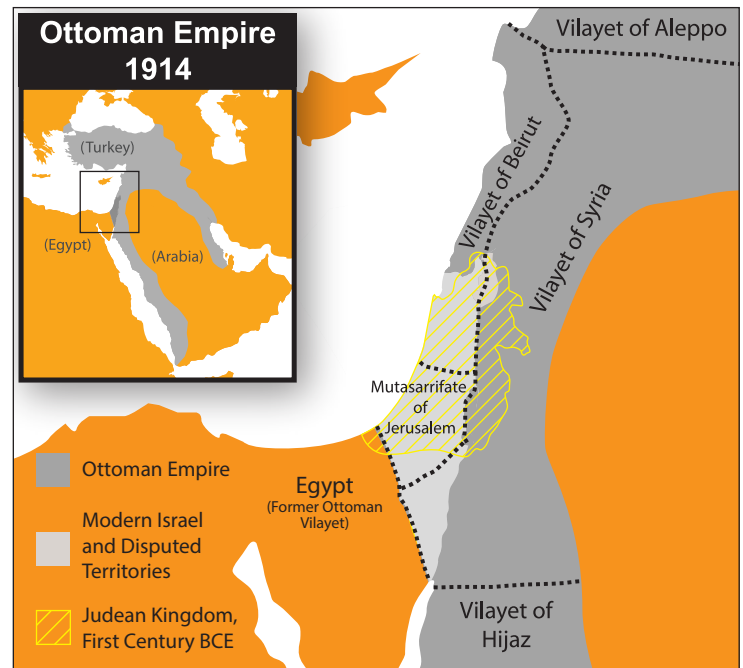
“PALESTINE, a geographical name of rather loose application... Except in the west, where the country is bordered by the Mediterranean Sea, the limit of this territory cannot be laid down on the map as a definite line...”

The 1911 *Encyclopedia Britannica* describes Palestine’s population as follows:

“The inhabitants of Palestine are composed of a large number of elements, differing widely in ethnological affinities, language and religion. It may be interesting to mention, as an illustration of their heterogeneousness, that early in the 20th century a list of no less than fifty languages, spoken in Jerusalem as vernaculars...”

In the 19th century, Arab Muslims were the majority in the districts comprising Ottoman Palestine. Many had arrived with various conquering empires over hundreds of years, starting with the forces of Caliph Umar ibn al-Khattab, who defeated the Byzantine Empire in the 7th century. For example, numerous leaders in Ottoman Palestine were members of the prominent Khalidi family who trace their roots in the region to three individuals who were judges in the Mamluk Empire in the 14th and 15th centuries. Others were descended from locals who had converted from Judaism and Christianity centuries earlier. Arabs, Bosnians, Circassians, Persians, Sudanese, and others also immigrated from across the region in the 19th and 20th centuries.^{2,3} In many cases, they came to pursue economic opportunities in the area, including those created by the growing Zionist movement.

The 1911 *Encyclopedia Britannica* estimated the total population of the region at 650,000. This is a fraction of the over 14 million Israelis and Palestinians living in Israel, the West Bank, and Gaza today. Though Palestine was certainly not empty, there was more than enough room in the territory to create a Jewish state without displacing anyone.



Under Ottoman rule, the former lands of the Judean kingdom were broken up into various provinces and did not constitute a single political unit.

² Seth Frantzman and Ruth Kark. (2013). “The Muslim Settlement of Late Ottoman and Mandatory Palestine: Comparison with Jewish Settlement Patterns.” *Digest of Middle East Studies*. 22. 10.1111/j.1949-3606.2012.00172.x.

³ Anat Bar Cohen. (2001). “The Relation between the Environment Conditions and the Traditional Rural Settlement and the Agrarian Situation in Menashe Plateau before 1948.” Ramat Gan, Israel: Bar Ilan University.

The Arab-Israeli Conflict Takes Shape

1914 – 1918: World War One and the Balfour Declaration

International chaos during and after World War I played a major role in the development of the Israeli-Palestinian conflict. The end of the war brought about the fall of great empires and the rise of nation-states. The Ottoman Empire was allied with the German Empire, and both were defeated. After ruling Palestine for 400 years, the Ottomans lost this and neighboring territories to the British and French Empires in 1917.

This new reality opened the way for many groups to push for independence, as national self-determination became the ideal of the post-war order. Peoples across the Middle East, including Arabs, Persians, Kurds, Assyrians, and Berbers, organized their own national movements. Meanwhile, Jews from Europe and the Middle East were already returning to their historic homeland to build an independent state.

During the transformation of the Middle East, Kurds, Assyrians, and other non-Arab minorities were betrayed by the colonial powers. Britain and France both denied these indigenous peoples the right to self-determination in their ancestral lands, and instead surrendered to the demands of Turkish, Iranian, and pan-Arab nationalists who established their respective states on large portions of Kurdish and Assyrian territory.

The Jewish people escaped this fate. By the end of WWI, they had already spent decades building the foundations for a state. This included the founding of Tel Aviv in 1909 (along with other towns and villages) and Israel's first university (the Technion Institute of Technology) in 1912. Then, in 1917, the Zionist movement persuaded the British government to issue the Balfour Declaration. This was a groundbreaking statement that recognized the well-documented connection of the Jewish people to their homeland. The British supported a Jewish national home in Palestine, and pledged to protect the rights of all other groups living there.

Some historians have identified the seeds of conflict in a dispute over the Balfour Declaration and a separate series of letters called the McMahon-Hussein Correspondence. In these letters from 1915–1916, the British promised Arab leader Sharif Hussein land in return for turning against the Ottoman Empire. The letters did not mention Palestine, and the British later claimed it was intentionally left out. However, Hussein and other Arab nationalist leaders insisted it was part of the land the British promised, and that the Balfour Declaration violated this agreement.

For the Jewish people, the Balfour Declaration was the first step in gaining modern international recognition for their rights in the Land of Israel, including what is now the State of Israel. However, it was only a symbolic promise and not yet a concrete policy guaranteed by international law.



Founding of Tel Aviv, 1909.

The Balfour Declaration, November 2, 1917

“His Majesty’s government view with favour the establishment in Palestine of a national home for the Jewish people, and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.”

The League of Nations

At the San Remo Conference in 1920, the League of Nations (the precursor to the United Nations) adopted the Balfour Declaration, including its recognition of “the historical connection of the Jewish people with Palestine.” It enshrined the collective rights of the Jewish people to self-determination in their homeland under international law, embedded until today through Article 80 of the UN Charter.

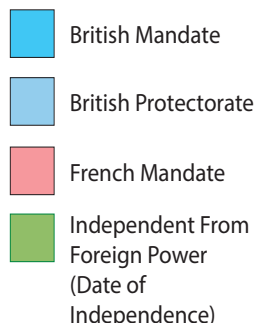
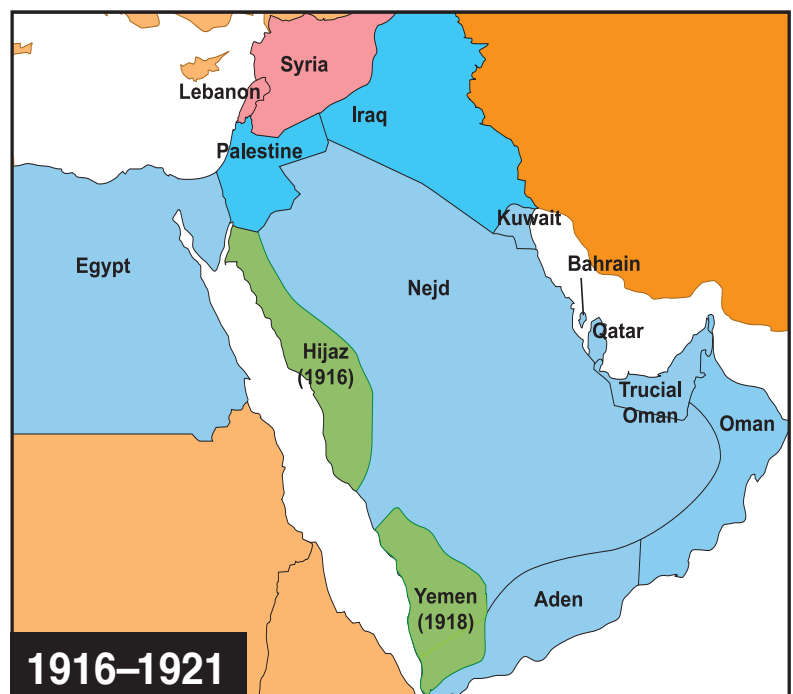
The right of all peoples to self-determination was also included in the San Remo Treaty and later in the Charter of the United Nations. As such, Israel’s legitimacy under international law is based on the same treaties that led to the creation of many nations around the world after the First and Second World Wars. These include Greece, Romania, Egypt, Transjordan, Saudi Arabia, India, and scores of others.

The Mandates

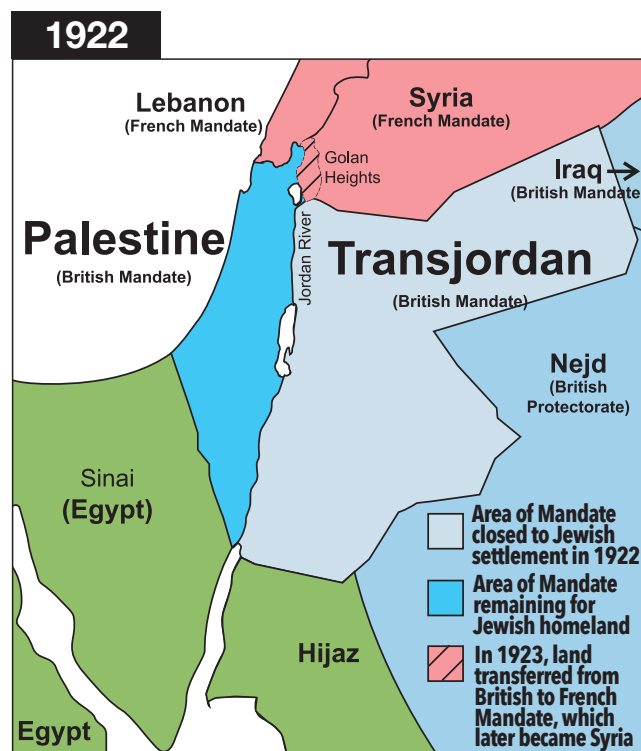
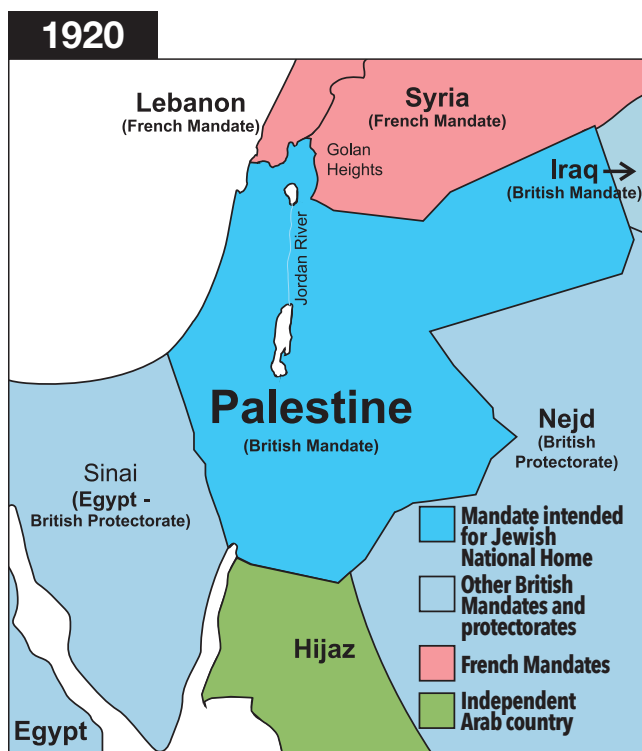
The League of Nations split the Ottoman Empire into different territories or mandates governed by the victorious powers Britain and France. These included the British Mandate of Mesopotamia (Iraq), the French Mandates in Syria and Lebanon, and the British Mandate of Palestine, which included the Judea & Samaria region (along with territory that now makes up Israel, Gaza, and Jordan). Britain was required to help create a “national home for the Jewish people” while ensuring the rights of all other groups living there.

However, by 1920 Arabs in the Palestine Mandate initiated their own nationalist movement, and their leaders strongly opposed Jewish immigration and self-determination. Initially, they demanded the creation of a large Arab state combining Syria and Palestine (referring to Palestine as Southern Syria). Later, they shifted focus to demanding an exclusively Arab state in Palestine alone.

Thus, the Palestinian-Israeli conflict began as a clash between Jews who wanted self-determination in their ancestral home (with backing from the League of Nations) and Arabs who saw the Jews as foreign colonizers and insisted that all of Palestine should be an Arab state like all the surrounding territories.



The newly established League of Nations set up mandates to be administered by France and England until the new territories were ready for self-government. The boundaries established at the end of World War I would be changed several times before assuming their current form.



In the 1917 Balfour Declaration, Britain endorsed "Zionist aspirations" to reestablish the Jewish homeland in Palestine and promised to "facilitate" the effort. In 1920, the League of Nations adopted this goal, embedding it into international law. In 1922, Britain cut off 77 percent of the Palestine Mandate to Jewish immigration, giving the land to a powerful Arab clan called the Hashemites. This would become the nation of Jordan. In 1923, Britain gave the Golan Heights to the French Mandate of Syria.

The first shots were fired in 1920 when Haj Amin al-Husseini incited deadly violence against Jews in Jerusalem and elsewhere. Hussein was a prominent Palestinian Arab nationalist who would later be appointed as Grand Mufti of Jerusalem (a powerful religious and political leadership role) by the British authorities. Similar attacks ensued in 1921. The worst violence of that period took place in 1929, when nearly 70 members of the ancient Jewish community of Hebron were massacred and the rest were forced to flee. These atrocities prompted the Jews to create their first major self-defense organization in the Mandate—the Haganah. This organization would later become the Israel Defense Forces (IDF). A small minority of the Jewish population also became radicalized by al-Husseini's riots and retaliated with violence of their own.



Scenes from the aftermath of the Hebron massacre.

In the decade that followed, the conflict escalated further. Jewish nationalist leaders expressed a willingness to negotiate and share the Palestine Mandate, despite being promised the entire territory for their national home by the League of Nations. However, Arab nationalist leaders rejected the creation of a Jewish state in any part of the territory. Before and during WWII, Haj Amin al-Husseini forged an alliance with Nazi Germany. During the war, he met Hitler in

Berlin, worked directly with SS Chief Himmler, recruited Bosnian Muslim troops for the Nazis, and systematically spread antisemitic propaganda across the Middle East. He also supported Nazi Germany's plan to bring the Holocaust to the Middle East. The Nazis murdered thousands of Jews (mostly in Tunisia) and stopped only because their forces were defeated in North Africa.⁴

Meanwhile, on the eve of WWII, Britain violated its legal obligations by cutting off Jewish immigration to Palestine, even as refugees were desperately fleeing the Nazis.

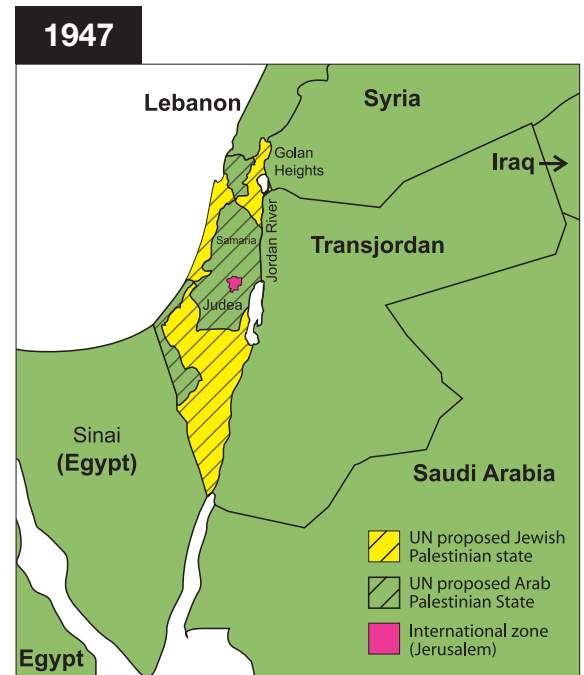
The UN Partition Plan and the 1948 War

The conflict came to a head in 1947, when the UN adopted Resolution 181. Their plan would have created two states for two peoples in the British Mandate for Palestine: a Jewish state and an Arab state. Jewish leaders accepted the compromise, but all Arab League states and Palestinian Arab leaders rejected it and immediately launched a civil war. On May 14, 1948, the British Mandate expired, and the State of Israel declared independence. The next day, the armies of seven Arab states (Egypt, Syria, Lebanon, Transjordan, Saudi Arabia, Yemen, and Iraq) invaded Israel and publicly threatened to destroy it. However, Israel overcame numerous disadvantages, defeated this invasion, and won the war.

The decision by Arab and Palestinian leaders to launch this war of aggression was catastrophic. It left thousands dead on both sides (including about one percent of all Israelis), and it led to between 500,000 to 750,000 Palestinian Arabs and over 850,000 Jews from Arab states becoming refugees. It also created over 10,000 internal Jewish refugees who were expelled by the Transjordanian Arab Legion from all of eastern Jerusalem (including the Old City's Jewish Quarter) and Gush Etzion (a community in the West Bank/Judea and Samaria).⁵

The 1949 Armistice Lines

In 1949, fighting between the invading Arab states and Israel stopped and the two sides signed Armistice Agreements. These agreements set ceasefire lines that were not recognized as final borders by the international community or by the Arab states (which continued to oppose Israel's existence). This was how the modern territories of Gaza and the West Bank were created.



⁴ See Klaus-Michael Mallmann and Martin Cüppers, *Nazi Palestine: The Plans for the Extermination of the Jews in Palestine*, (United States Holocaust Memorial Museum and Enigma Books, 2005).

⁵ Anita Shapira, "The Past is Not a Foreign Country," *New Republic*, November 29, 1999, archived at ontology.buffalo.edu/smith/courses01/rrtw/Shapira.htm

Egypt occupied Gaza, while Transjordan (which soon changed its name to Jordan) occupied and illegally annexed Judea, Samaria, and eastern Jerusalem. It renamed these areas the “West Bank” because they sit on the west bank of the Jordan River. Jordan also violated the ceasefire agreements in 1949 by prohibiting Jews from visiting their holiest sites in Jerusalem for 19 years, destroying 52 synagogues in the Old City, and desecrating the ancient Jewish cemetery on the Mount of Olives.

Jordan ruled the West Bank, and Egypt ruled Gaza until 1967. Both prevented Palestinian self-determination in these territories. Jordan gave citizenship to West Bank Palestinians, but Egypt refused to do the same for Palestinians in Gaza, leaving them stateless. The two regions were also used as bases to launch terrorist attacks against Israeli civilians, killing hundreds, wounding thousands, and provoking Israeli counterattacks.

“Those [Israelis] who survive will remain in Palestine. I estimate that none of them will survive.”

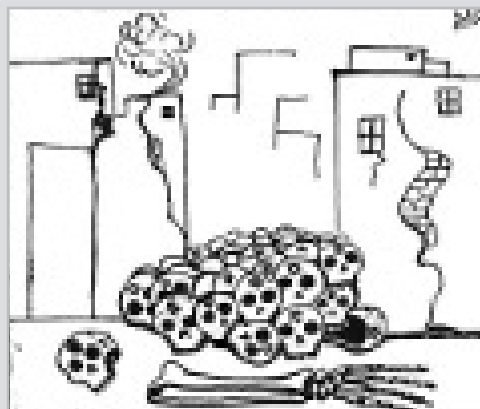
*Ahmed Shukairy, PLO Chairman,
June 1, 1967, four days before the war.*

The 1967 War and its Aftermath

In May 1967, Egypt, Syria, Jordan, and other Arab states surrounded Israel with 250,000 troops, thousands of tanks, and hundreds of warplanes. The crisis was instigated by the Soviet Union, which fed its Egyptian and Syrian allies false intelligence of an Israeli military

buildup. Egypt blockaded the Straits of Tiran (an international waterway leading to the Red Sea and the Israeli port city of Eilat) to Israeli shipping. Blockading international waters is considered an act of war. Egypt also expelled UN observers from its border with Israel and sent a massive army to the Sinai Peninsula, while Syria did the same in the Golan Heights. Arab leaders repeatedly declared their intent to destroy Israel, and U.S. attempts to persuade them to stand down were undermined by the Soviets. After these efforts failed, Israeli leaders concluded they had to act in self-defense if they wanted their country to survive. They decided to launch a pre-emptive strike against Egyptian and Syrian forces.⁶

Examples of Genocidal Antisemitic Propaganda in Egypt and Syria Leading Up to the Six-Day War



Jewish skulls lie in the ruins of Tel Aviv in this Syrian cartoon.



Egypt's President Nasser kicking an antisemitic caricature of a Jew off a cliff in this Egyptian cartoon.

⁶ Michael B. Oren, *Six Days of War: June 1967 and the Making of the Modern Middle East*, (Oxford: Oxford University Press, 2002).

Israel sent a message via diplomatic channels urging Jordan to stay out of the war. Instead, Jordanian forces began shelling Tel Aviv and Jerusalem and bombing other Israeli cities. In response to these acts of war, Israel defeated the Jordanian army, which retreated from Jerusalem and the West Bank. The war ended in just six days, with Israel gaining control of the West Bank, eastern Jerusalem, the Sinai Peninsula, the Gaza Strip, and the Golan Heights.

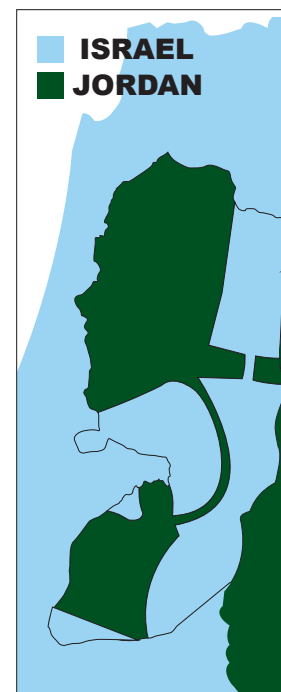
Another consequence of the war was that 250,000 Palestinians, who had Jordanian citizenship, fled from the West Bank to Jordan. Palestinians refer to the 1967 War as the *Naksa* or Setback.

UN Security Council Resolution 242

Soon after the 1967 war, the United Nations Security Council passed Resolution 242, calling on Israel to withdraw from territory in return for secure borders and peace with its neighbors.

Legal experts involved in writing Resolution 242 stated that its language intentionally did not demand that Israel withdraw from every inch of territory acquired during the war. This was done to leave the question of final borders open to peace negotiations.

Israel agreed to Resolution 242. Weeks after the war, Israel's government had already voted unanimously to return the Sinai to Egypt and the Golan Heights to Syria in exchange for peace. The Arab League responded with its infamous "Three No's." No peace with Israel, no recognition of Israel, and no negotiations. The following year, in 1968, Israel offered much of the West Bank to Jordan in secret negotiations, but this was rejected as well.



Map depicting Israel's offer to Jordan in 1968.

The Palestine Liberation Organization

In 1964, the Arab League created the Palestine Liberation Organization (PLO). That year, the PLO published the Palestinian National Charter and explicitly avoided making any territorial claims to the West Bank—which was under Jordan's control. However, after 1967, the PLO became more independent due to the Arab states' failure to defeat Israel. The group revised its charter in 1968, solidifying the Palestinian nationalist movement's narrative and goals.⁷

The 1968 charter of the PLO:

- Defined Palestinian identity and Palestine as exclusively Arab. "Palestine is the homeland of the Arab Palestinian people; it is an indivisible part of the Arab homeland, and the Palestinian people are an integral part of the Arab nation." It also asserted their "right to self-determination and sovereignty over" the entire country.
- Denied the historic connection of the Jewish people to the Land of Israel and imposed its own definition on Jewish identity. "Judaism, being a religion, is not an independent nationality. Nor do Jews constitute a single nation with an identity of its own."
- Called Israel's establishment an "entirely illegal" form of "imperialism."

⁷ Palestine Liberation Organization, "The Palestinian National Charter: Resolutions of the Palestine National Council July 1–17, 1968," Yale Law School, at avalon.law.yale.edu/20th_century/plocov.asp

- Rejected “all solutions which are substitutes for the total liberation of Palestine” and stated that “armed struggle is the only way to liberate Palestine.”

In 1969, Cairo-born Yasser Arafat, the head of a Palestinian nationalist faction called Fatah, became leader of the PLO. Throughout the 1970s and 1980s, the PLO engaged in frequent cross-border terrorist raids into Israel. It was widely designated as a terrorist organization due to its intentional targeting and killing of Israeli civilians.

Supported and trained by the Soviet Union, the PLO set up a base in Jordan to launch attacks against Israel. With the aid of Soviet ally Syria, the group also tried to topple the government in Jordan, leading to weeks of armed conflict in September 1970. This became known as Black September because Jordanian forces killed thousands of Palestinians and expelled the PLO to Lebanon.

Once entrenched in Lebanon, the PLO began taking over sovereign Lebanese territory with the backing of Syria and the Soviets. This was a major contributing factor to the catastrophic Lebanese Civil War, which killed some 120,000 people from 1975–1990. The PLO used southern Lebanon to launch terrorist attacks against Israeli communities, destabilizing Lebanon even further. This unstable situation led to the 1982 Lebanon War, in which Israel forced the PLO to withdraw its forces from the country and relocate to Tunisia. The PLO would go on to play a central role in the ongoing conflict over the West Bank, which will be covered in Section III.

SECTION II: The West Bank and International Law

After the 1967 War, Israel extended its laws to eastern Jerusalem and the immediate surrounding areas and provided an option for citizenship to Palestinian residents there. Most refused for political reasons, though this has begun to change in recent years. The West Bank/Judea and Samaria and Gaza, home to roughly one million Palestinians, were ruled by an Israeli military administration in the absence of a peace agreement deciding the final status of these territories. In this section, we review many of the key arguments surrounding the West Bank from various legal and political perspectives.

Is it Occupied or Disputed Territory Under International Law?

Palestinian leaders, the United Nations (UN), and others argue that the West Bank is occupied Palestinian territory, which should be part of a Palestinian state. The Israeli government and others argue that it is disputed territory under international law because Israel has legitimate legal, historic, and security claims to it.

It is crucial to understand that international law related to the area is complex and controversial. It does not provide cut-and-dried solutions to the conflict, and care should be taken to avoid generalizations.

Those who call the West Bank “occupied territory” refer to a section of the Hague Regulations

of 1907 called Military Authority Over the Territory of the Hostile State. This section says, “territory is considered occupied when it is actually placed under the authority of the hostile army.”⁸ The concept of belligerent occupation comes from this part of the Hague Regulations and refers to a situation when, in a war between two countries, the territory of one comes under the military control and administration of the other. The Fourth Geneva Convention, a 1949 treaty that plays an important role in international law, is often cited as well. The argument is that because both Jordan and Israel are signatories of the Geneva Convention and fought a war in 1967, the laws of belligerent occupation apply to the West Bank (which was under Jordan’s control from 1949–1967).

Those who use the term “disputed territory” or say that Israel has the best claim to sovereignty over the area believe that the laws of belligerent occupation do not apply in this case. Their argument is that the West Bank did not legally belong to another state in 1967. They point to the fact that Jordan illegally annexed the West Bank after the 1948 war, and its sovereignty there was never recognized by the international community. They note that even if one were to agree that the West Bank was occupied territory after 1967 because Israel and Jordan both signed the Geneva Conventions, the occupation would have ended in 1994 when Israel and Jordan reached a full and unconditional peace agreement. The territory was not under Palestinian sovereignty in 1967 either, because Palestinian leaders rejected the 1947 UN Partition Plan and instead launched a war of destruction against Israel. As a result, no Palestinian state was ever established in any territory. The PLO’s original 1964 charter acknowledged that reality, stating that the organization “does not exercise any territorial sovereignty over the West Bank in the Hashemite Kingdom of Jordan.”⁹

Who did the territory legally belong to, according to this argument? Prior to the 1948 war, the West Bank/Judea and Samaria was under British administration as part of the Palestine Mandate, which the League of Nations set up after World War I to create a “Jewish national home” (see pages six through seven).¹⁰ As such, a legal doctrine called *uti possidetis juris* applies. This doctrine “provides that emerging states presumptively inherit their pre-independence administrative boundaries.”¹¹ As the British Empire and other colonial powers fell apart, *uti possidetis juris* was used to determine the territories of independent nations that were emerging around the world.

⁸ International Committee of the Red Cross, “ANNEX TO THE CONVENTION: REGULATIONS RESPECTING THE LAWS AND CUSTOMS OF WAR ON LAND - SECTION III : MILITARY AUTHORITY OVER THE TERRITORY OF THE HOSTILE STATE - REGULATIONS: ART. 42.” Regulations concerning the Laws and Customs of War on Land, October 18th, 1907, at ihl-databases.icrc.org/applic/ihl/ihl.nsf/Article.xsp?action=openDocument&documentId=01D426B0086089BEC12563CD00516887; International Court of Justice, “Advisory opinion of the International Court of Justice on the Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory,” United Nations, July 9th, 2004, at www.un.org/unispal/document/auto-insert-178825/ ⁹ Permanent Observer Mission of Palestine to the United Nations, “Palestine National Charter of 1964,” United Nations, at web.archive.org/web/20101130144018/www.un.int/wcm/content/site/palestine/pid/12363

⁹ Permanent Observer Mission of Palestine to the United Nations, “Palestine National Charter of 1964,” United Nations, at <https://web.archive.org/web/20101130144018/http://www.un.int/wcm/content/site/palestine/pid/12363>

¹⁰ Maurice Ostroff, “Articles by Eugene W. Rostow,” n.d., at maurice-ostroff.tripod.com/id45.html; Julius Stone, “International Law and the Arab-Israel Conflict,” 2003, at www.strateias.org/international_law.pdf; David M. Phillips, “The Unexplored Option: Jewish Settlements in a Palestinian State,” 2006, Penn State International Law Review, at law.bepress.com/cgi/viewcontent.cgi?article=5809&context=expresso; Eugene Kontorovich, “The Legal Case for Israel,” YouTube, December 31, 2012, at www.youtube.com/watch?v=ub2x5UvjUs4; Maurice Ostroff, “Articles by Eugene W. Rostow,” n.d., at maurice-ostroff.tripod.com/id45.html; Julius Stone, “International Law and the Arab-Israel Conflict,” 2003, at www.strateias.org/international_law.pdf

¹¹ Abraham Bell and Eugene Kontorovich, “Palestine, Uti Possidetis Juris, and the borders of Israel,” Arizona Law Review, 58:633, (University of Arizona, 2016).

This is why some argue that Israel not only is not an occupying power but actually has the strongest claim to the West Bank. Or, as explained by historian Anita Shapiro:

“Israel’s borders are those of the Palestine Mandate that preceded it, except where otherwise agreed upon by Israel and its relevant neighbor.”¹²

While the Israeli government argues that it has a legal right to the West Bank/Judea and Samaria, it has never made the territory part of Israel. Instead, it has negotiated with Jordan and the PLO in an effort to exchange land for peace (without giving up its legal claim to the territory).

It is also important to note that the laws of war do not prohibit occupation of territory. Instead, international law is meant to regulate the actions of occupying powers (i.e., how they treat people in the territories they occupy). As such, whether the West Bank is considered occupied or disputed territory, international law does not require Israel to withdraw its soldiers or civilians from the West Bank before signing a peace treaty with its neighbors. Indeed, no country that has occupied territory and had a civilian population has been forced to expel its citizens as a precondition of peace.¹³

Because all Israeli peace offers to the Palestinians have been rejected, much of the West Bank is still ruled by the Israeli military (alongside an autonomous Palestinian government – see page 18). The term occupation is sometimes used to describe the experience of Palestinians living under Israeli military rule rather than to promote a legal claim. However, such distinctions are rarely made clear in debates about this issue. Many extremists also refer to the existence of Israel in any territory, including in Israeli cities like Tel Aviv and Haifa, as an occupation. This muddies the waters and polarizes debate even further.

What are Settlements in the West Bank/Judea and Samaria?

After 1967, Israel began building Jewish communities, often called settlements, in the West Bank (and Gaza). In some cases, such as in Gush Etzion and Hebron, Jews returned to places where they lived before being driven out by Arab forces during the 1948 war. Most of the settlements were new, though they were often named after and located near the sites of historic Jewish communities.

In eastern Jerusalem, Israel restored the Jewish Quarter of the Old City and other areas from where Jews were expelled in 1948 and built new neighborhoods. Some disparagingly refer to these neighborhoods as settlements. Israel does not call them settlements, primarily because these areas are part of the Jewish people’s ancient and modern capital and are home to their holiest and most significant historical sites.

Since 1967, Israeli policies regarding settlements have ranged from supporting their growth (mainly in the West Bank) to removing them (most notably from Gaza and the Sinai Peninsula). Settlements existed in the Sinai Peninsula until 1982, when Israel removed them and gave up that entire territory as part of its historic peace treaty with Egypt. They also existed in Gaza until 2005, when Israel dismantled all of them without a peace agreement, along with four others in the northern Samaria region of the West Bank. Israel hoped this would be a step towards peace, but it didn’t work out that way (see page 20).

¹² Anita Shapiro, “The Past is Not a Foreign Country,” *New Republic*, November 29, 1999, archived at ontology.buffalo.edu/smith/courses01/rrtw/Shapira.htm

¹³ Eugene Kontorovich, “Unsettled: A Global Study Of Settlements In Occupied Territories,” *Journal of Legal Analysis*, December 8, 2017, at academic.oup.com/jla/article/9/2/285/4716923

Why are Settlements Politically Controversial?

Settlements have been politically controversial inside and outside of Israel ever since 1967.

Many opponents see them as an obstacle to peace that endangers Israel's future. They argue that expanding settlements makes it more difficult to reach a negotiated agreement because it increases Palestinian animosity towards Israel and makes Palestinians think that Israel is not serious about making peace. They believe that without a peace agreement that creates a Palestinian state, Israel will be forced to choose between being a Jewish state where Palestinians do not have equal rights or a non-Jewish state where Jews will eventually lose their right to self-determination and become a vulnerable minority once again. They point to Jewish extremists who live in the West Bank and have engaged in violence against Palestinians, along with some settlement leaders who have said that the purpose of these communities is to prevent a Palestinian state. More broadly, they sometimes argue that ruling over another people is a moral crisis that deeply harms Israelis and Palestinians, and that settlements contribute to this crisis.

Additionally, many Palestinian nationalists and their allies claim that Jews who live in settlements have no right to be there and are “colonizers taking land from an indigenous Palestinian population.” They often go even further, calling Israel's entire existence a form of illegitimate colonialism.

Supporters of the settlements believe Jews have moral, legal, historical, and religious rights to live in all parts of their ancestral homeland and that settlements help Israeli security by giving Israel strategic depth in the West Bank. They see it as racist to prohibit or limit Jews from living in any area, especially a place that is the cradle of Jewish civilization. This argument is sometimes tied to the fact that nearly two million Arabs live peacefully in Israel as full citizens with equal rights, making it unclear why Jews should be prohibited from living in the West Bank as citizens in a future Palestinian state or under some other arrangement.

Some also argue that the settlements are not the root of the conflict and, therefore, not the obstacle to peace. They point to the wars and terrorism Israelis were subjected to long before there were any settlements, and that Israel demonstrated a willingness to dismantle settlements in the Sinai Desert in return for a real peace agreement with Egypt. They also point to the fact that in 2000 and 2008, Palestinian leaders rejected Israeli offers to dismantle West Bank settlements in return for peace. They sometimes note that roughly 80 percent of Jews in these communities live near the line between Israel and the West Bank and can, therefore, be easily incorporated into Israel in a future peace deal. They reference the fact that after Israel withdrew from parts of the West Bank in the 1990s and removed all the settlements from Gaza in 2005, terrorism increased dramatically. They often see Palestinian demands to end settlement building as disingenuous, motivated by a desire to avoid good faith negotiations, and/or part of an effort to weaken and later destroy Israel. Moreover, they argue that settlers are only seen as obstacles to a Palestinian state because Palestinian leaders have said they refuse to have any Jews living in their territory. They see this as a blatantly racist demand that no other nation has made as a condition for its independence.

Some also argue that creating a Palestinian state in the West Bank would pose an unacceptable threat to Israel, exposing the most populated central region of the country to rockets and other terrorist attacks like the ones coming from Gaza since 2005. They see expanding settlements as a way to prevent this outcome, though they differ widely about how to resolve the conflict in the absence of a two-state solution (see pages 21–25 for more info about proposed solutions to the conflict).

Are the Settlements Legal or Illegal Under International Law?

In addition to the political controversy surrounding settlements, there is also a dispute over whether they are legal or illegal under international law.

Although they are separate issues, conflicting legal claims are often brought into debates about the morality or wisdom of Israeli policies in the West Bank/Judea and Samaria. It is important to keep in mind that political or moral goals are not the same thing as legal requirements under international law.

Those who call settlements illegal base their argument on Article 49(6) of the Fourth Geneva Convention, which says:

“The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.”

They argue that by building or expanding settlements, Israel is “transferring” its civilian population into a “territory it occupies”—the West Bank. The UN regularly cites the Fourth Geneva Convention to criticize Israeli settlements.

Those who believe settlements are legal argue that Israel is not an occupying power (see pages 12-14), making the Fourth Geneva Convention irrelevant because it only applies to situations of occupation. They also point to language in the Convention stating that it only applies to occupation of territory belonging to a “high contracting party”¹⁴ (meaning a recognized state).¹⁵ As previously mentioned, the West Bank did not legally belong to Jordan or any other state in 1967.

Additionally, legal scholars have challenged the idea that Israel has deported or transferred its civilian population to settlements. U.S. Ambassador Morris Abram, who was involved in drafting the Fourth Geneva Convention, said “deport or transfer” meant moving large numbers of people somewhere by force. The Israeli government has not forcefully moved civilians to the West Bank. Rather, it has allowed Israelis to move there if they wanted to and offered some financial incentives to do so.

According to the former Dean of Yale Law School, Eugene Rostow:

*“Jews... have a right to settle in the territories under international law... The Jewish right of settlement in the area is equivalent in every way to the right of the existing Palestinian population to live there.”*¹⁶

Scholars also note that numerous countries have occupied territory and had hundreds of thousands of civilians move there. None have been accused of “deportation or transfer” by the UN except for Israel, meaning that in practice, settlements are only considered criminal when Israel is involved.¹⁷

Nevertheless, settlements became more and more controversial in the years after 1967, leading up to the Israeli-Palestinian Oslo peace process.

¹⁴ ICRC, “Convention (IV) relative to the Protection of Civilian Persons in Time of War,” August 12, 1949, at www.icrc.org/ihl.nsf/full/380

¹⁵ Rosa Brooks, “The Politics of the Geneva Conventions: Avoiding Formalist Traps,” *Virginia Journal of International Law*, Fall, 2005, at rosabrooks.squarespace.com/the-politics-of-the-geneva-con/

¹⁶ Maurice Ostroff, “Articles by Eugene W. Rostow,” n.d., at maurice-ostroff.tripod.com/id45.html; Julius Stone, “International Law and the Arab-Israel Conflict,” 2003, at www.strateias.org/international_law.pdf;

¹⁷ Eugene Kontorovich, “International Law for Just One Nation,” *The Tel Aviv Review of Books*, Autumn, 2020, at www.tarb.co.il/international-law-for-just-one-nation/

SECTION III:

The Rise, Fall, and Future of the Israeli-Palestinian Peace Process

First Intifada 1987–1993

The First Intifada was a years-long series of riots and demonstrations which started in Gaza in 1987 and soon spread to the West Bank and eastern Jerusalem. Though originally spontaneous, the Palestine Liberation Organization (PLO) quickly asserted control and issued daily bulletins directing demonstrations and their level of violence.

Many claim the First Intifada was non-violent. In fact, it was often characterized by Molotov cocktails, slingshots, stabbings, car-rammings and occasionally shootings. Some 277 Israelis (mostly civilians) were killed, and another 1,400 Israeli civilians were wounded, as were about 1,700 Israeli soldiers. In direct clashes with Israeli troops, some 1,100 Palestinians were killed. Internal Palestinian fighting, called the “Intrafada,” also claimed the lives of about 1,000 Palestinians.¹⁸

The First Intifada was a contributing factor to the launch of the Israeli-Palestinian peace process, which fundamentally transformed the West Bank and the conflict as a whole.

Hamas

During the First Intifada, an offshoot of the Egyptian Muslim Brotherhood founded the Islamic Resistance Movement in Gaza, known by its Arabic acronym as Hamas. Hamas is a terrorist organization motivated by Islamist extremism and genocidal racism against Jews. Its goal is to destroy Israel and replace it with an Islamic state.

Hamas has launched countless attacks against both Israeli civilians and soldiers. It is notorious for its suicide bombings, which began in the 1990s, rocket and missile attacks, and the horrific massacre of October 7, 2023.

Jordan Gives Up All Claims to West Bank

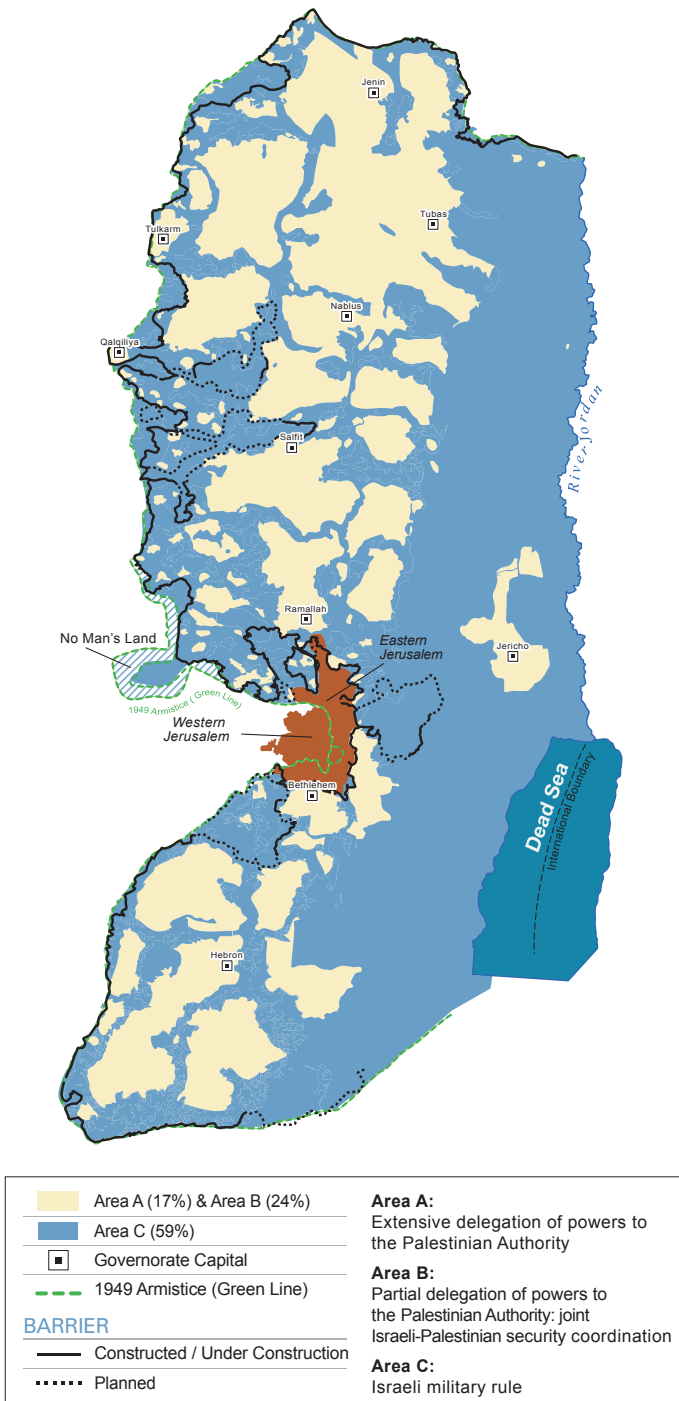
A key step in the peace process happened in 1988 when Jordan gave up its legal and administrative ties with the West Bank and expressed support for the PLO’s claim to the territory. However, Jordan continued its role in overseeing Muslim and Christian holy sites in Jerusalem.

The Oslo Peace Process

In 1993, after years of secret negotiations, Israel and the PLO signed the Declaration of Principles, in which the PLO recognized Israel and Israel recognized the PLO as the sole legitimate representative of the Palestinian people. This was the start of a serious effort, dubbed the Oslo Peace Process, aimed at achieving a formal peace treaty.

The first accord in the Oslo process, the Gaza-Jericho Agreement, was signed in 1994. It established the Palestinian Authority (PA) to govern almost all Palestinians in the West Bank and Gaza. Yasser Arafat and his Fatah faction were elected in 1996 and took power as the dominant political party.

¹⁸ Palestinian Human Rights Monitoring Group; B’tselem; *Haaretz*, (January 23, 2008)



In 1995, Israel and the PLO signed a second accord, the Israeli-Palestinian Interim Agreement, or Oslo II, which changed the legal status of the West Bank. In the agreement, the “two sides agreed pending the outcome of the negotiations on a permanent status agreement between them, to divide their respective jurisdictions in the West Bank.”¹⁹ It was officially witnessed by the United States, the European Union, Egypt, Jordan, Russia, and Norway. The UN also passed resolutions acknowledging the agreement.

Oslo II gave the PA full control of 17 percent of the West Bank (Area A) and civilian control over another 24 percent (Area B). The PA established its own legal system, police force, healthcare, education, and other governing institutions. Israel retained security control over Area B and full control over the remaining 59 percent of the West Bank (Area C). This was supposed to be a temporary arrangement until a final peace agreement.

While the Oslo Accords created immense optimism, they did not go according to plan.

During and after the signing of the treaty, Hamas and other terrorist groups began a campaign of suicide bombings designed to derail the peace process. More Israelis were killed between 1993 and 2000 than in the 15 years before the agreement. Incitement against Jews and Israel increased as well.

In 1994, there was a major terrorist attack in which a Jewish extremist named Baruch Goldstein murdered 29 Palestinian worshipers in Hebron. Although the assault was overwhelmingly condemned by Israelis and the Israeli government, it was used by Palestinian terrorist groups to justify more violence. Palestinians also expressed frustration at the continued growth of Israeli settlements.

Terrorism in the 1990s led to major political divisions within Israeli society and delays in Israeli withdrawals from parts of the West Bank and Gaza. These divisions became so toxic that in 1995, Israeli Prime Minister Yitzhak Rabin was assassinated by a far-right Israeli extremist after a massive peace rally in Tel Aviv. Initially, Israelis reacted to this devastating tragedy with increased support for negotiations. However, waves of brutal suicide bombings by Palestinian terrorist groups undermined that support. Still, Israel withdrew from significant amounts of land as it agreed to do, ultimately leaving 98 percent of the Palestinian population under full or partial Palestinian rule.

¹⁹ Israeli-Palestinian Interim Agreement on the West Bank and Gaza Strip, Sept. 28, 1995, at Article XVIII, para. 1, www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/THE+ISRAELI-PALESTINIAN+INTERIM+AGREEMENT.Htm cited in “Israel’s Rights as a Nation-State in International Diplomacy,” Jerusalem Center for Public Affairs and World Jewish Congress.

The Second Intifada (aka the Al-Aqsa Terror War)

In 2000, U.S. President Bill Clinton hosted Israeli Prime Minister Ehud Barak and Palestinian Authority President Yasser Arafat for intensive peace talks at Camp David. President Clinton offered a proposal requiring Israel to make serious concessions for a final peace deal, including a withdrawal from over 90 percent of the West Bank. Barak accepted, but Arafat walked away. He made no counteroffer and launched a five-year terror war called the Al-Aqsa Intifada. Clinton called this a “colossal historical blunder.”

This Second Intifada was directed by terrorist groups like Hamas, Islamic Jihad, Tanzim, the Al-Aqsa Martyrs Brigade, and others. They targeted Israeli civilians in restaurants, nightclubs, markets, schools, buses, cars, and homes with suicide bombings, shootings, knifings, car-rammings, and rocket attacks. From 2000 to 2005,²⁰ some 1,100 Israelis—mainly civilians of all backgrounds, including Jews, Arabs, Druze, Bedouin, Muslims, and Christians—were murdered. Thousands more were maimed for life. During that period, there were nearly 24,000 attempted attacks against Israelis, an average of 12 per day.

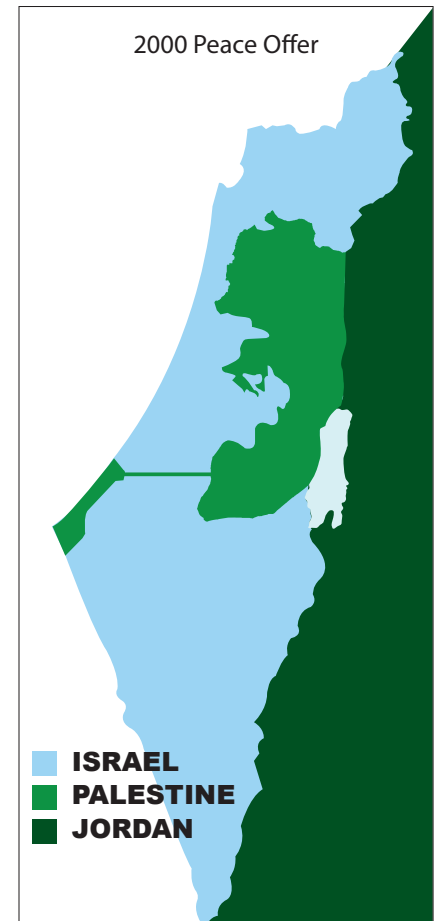
Israel responded to the terrorism of the Second Intifada by significantly increasing its security measures and military operations. This meant building checkpoints in the West Bank and a security barrier (92 percent of it is a fence, and eight percent is a concrete wall). It also meant sending the IDF into Palestinian communities to fight and apprehend terrorists who embedded themselves among civilians in areas under the PA's control. This led to the formation of elite new IDF units responsible for gathering intelligence and arresting terrorists in their houses within Palestinian cities and towns. Over 2,700 Palestinians were killed in clashes with Israel from 2000–2005. While most of them were members of terrorist groups or Palestinian security forces, there is no question that many Palestinian civilians lost their lives, and many more suffered immensely due to the fighting between Israel and terrorists in the West Bank and Gaza.



Haifa bus suicide bombing, March 5, 2003, in which 17 passengers were killed and 53 injured. Many victims were students from Haifa University.



Israel's security barrier.



²⁰ “Breakdown of Fatalities: 27 September 2000 through 1 January 2005”. International Institute for Counter-Terrorism, Inter-Disciplinary Center, Herzliya, Israel archived at <https://bit.ly/2VgYwV2>

The purpose of Israel's checkpoints, security barrier, and IDF operations was and is to keep Israelis of all backgrounds alive. They succeeded in drastically reducing civilian deaths from terrorist attacks. At the same time, these policies have often been at the center of Palestinian grievances against Israel since they were implemented.

Many Palestinians say the checkpoints and security barrier are discriminatory, dehumanizing, violate their rights to freedom of movement, and deny access to farmland and other forms of livelihood. Moreover, they see IDF house arrests as raids of their towns that are solely meant to intimidate and instill fear. While many Israelis acknowledge that these security measures have made life more difficult for Palestinians, they argue that Israel was forced to put them in place to save lives.

Before 2000, there were only a few checkpoints, and prior to 2002, there was no security barrier. The IDF did not conduct frequent operations in areas under the PA's control. This meant that terrorists could plan attacks in Area A without IDF interference and then simply walk into Israel to kill civilians in the streets. This nightmarish situation created terrible dilemmas in Israel, forcing its government to choose between creating hardships for Palestinians and keeping Israelis alive.

After the Second Intifada ended, Israel took steps to alleviate the hardships its security measures created for innocent Palestinians. As terrorist attacks decreased, Israel dramatically reduced the number of checkpoints in the West Bank. This was enabled partly by expanded intelligence gathering and house arrests, which made checkpoints less necessary. In recent years, Israeli authorities have also decreased waiting times and minimized face-to-face interactions with soldiers at checkpoints. This has significantly reduced the possibility of humiliating confrontations with Palestinians who enter Israel for work, medical care, or other purposes.

Still, Israel's security measures remain in place because of continued incitement to violence by Palestinian leaders and terrorism against Israeli civilians. As long as this constant threat to Israeli lives continues, it is unlikely that Palestinian civilians in the West Bank will be able to thrive fully.

The Recent Past and Future of the West Bank

In 2005, the same year the Second Intifada ended, Israel removed every soldier, civilian, and settlement community from Gaza, without a peace agreement in place. Israel hoped this would move the peace process forward, but in 2006, the Palestinian Authority held legislative elections, and Hamas won a majority of the seats. The victory of a terrorist organization dedicated to Israel's destruction created an international crisis. A year later, Hamas violently overthrew their rival Fatah, took control over Gaza, and



Israel's security concerns include the danger of terrorist groups like Hamas taking over the West Bank and using that strategic high ground to threaten the lives of millions of Israelis.

Photographer: Hagai Nativ, courtesy of Dr. Martin Sherman, Academic Director of the Jerusalem Summit.

began dramatically increasing rocket attacks against families and communities in southern Israel. Hamas has also spent hundreds of millions of dollars to dig terror tunnels, with the goal of massacring and kidnapping Israelis.

The situation was frozen until the October 7th War, with one faction, Fatah, ruling over nearly all Palestinians in the West Bank, and another faction, Hamas, ruling Gaza.

Israelis became pessimistic about the chances of a peace agreement after the brutal suicide bombings of the Second Intifada and the rockets that followed Israel removing its settlements from Gaza. Nevertheless, in 2008, Israeli Prime Minister Ehud Olmert negotiated with Palestinian President Mahmoud Abbas, who was elected in 2005 after Yasser Arafat's death in late 2004. Olmert offered to withdraw from nearly all the West Bank and much of eastern Jerusalem in return for peace. However, Abbas rejected this proposed agreement, and made no counteroffer.

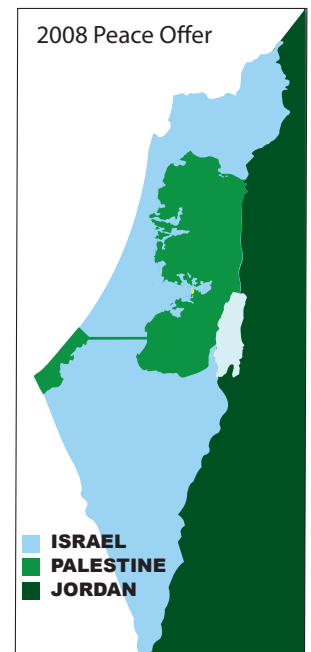
Since then, pessimism and distrust have only increased among Israelis and Palestinians. Palestinian leaders argue that the growth of settlements, the IDF's control over Palestinians, and violence by Israeli extremists in the West Bank prove that Israel doesn't want peace. Israeli leaders point to the fact that the PA systematically promotes hatred and violence from a very young age, financially rewards Palestinians who attack or murder Israelis, and has allowed terrorist groups to grow unchecked in cities like Jenin.

Additional efforts to resolve the conflict have failed thus far, though the U.S. Administration's 2020 peace plan did change the politics of the region. This "Peace to Prosperity" plan called for a demilitarized Palestinian state in all of Gaza, roughly 70 percent of the West Bank, and on portions of Israeli land near those two territories. Those portions would be given to the Palestinians in exchange for roughly 30 percent of the West Bank becoming part of Israel.

Israeli leaders across the political spectrum embraced the plan, while Palestinian leaders rejected it out of hand. However, when a new Israeli government was formed in 2020, its platform included a highly sensitive section about Israel incorporating up to 30 percent of the West Bank into its territory. This application of sovereignty/annexation was to be done according to the U.S. peace plan, with backing from the U.S. government. The plan became deeply controversial inside and outside of Israel and ended up being set aside. Nevertheless, it made an impact in two important ways.

The first was that the Palestinian Authority cut off security and financial coordination with Israel for months. The second was that Israel negotiated a peace deal with the United Arab Emirates (UAE) in 2020, facilitated by the U.S. Administration. The deal included a commitment by Israel to suspend its plan to apply sovereignty/annex parts of the West Bank. This helped give the UAE some cover to enter into a historic agreement with Israel, though the decision was mainly driven by other geopolitical, economic, and cultural factors. Israel also signed similar peace deals with Bahrain, Sudan, and Morocco later in 2020, with help from the U.S. Administration.

In 2022 and 2023, there were deadly waves of Palestinian terrorist attacks from the West Bank, along with increased violence by Israeli extremists and counter-terrorist operations by the IDF. However, the conflict changed dramatically after the horrific massacre carried out by Hamas on October 7, 2023. As of January 2024, Hamas and Israel remain at war in Gaza, and Hezbollah is attacking Israel from Lebanon, leading to Israeli counter-strikes. Tensions and violence have risen further in the West Bank as well, but the focus has shifted to the north and south.



As the October 7th War rages, many in the international community are advocating for a return to peace negotiations. However, the political situation in Israel, the West Bank, and Gaza is very uncertain as of this writing. In the West Bank, PA President Mahmoud Abbas is 88 years old, and it is not clear who his successor will be. In Gaza, Israel has pledged to remove Hamas from power and prevent it from being able to repeat the atrocities of October 7. Meanwhile, within Israel, there is increasing pressure to hold elections in the near future. Additionally, distrust between both peoples is at an all-time high, making progress very difficult. Nevertheless, the Abraham Accords in 2020 showed how fast realities in the Middle East can change.



Isaac Herzog Presidential Visit to the United Arab Emirates, January 2022
Photo: Amos Ben Gershom / Government Press Office of Israel, CC BY-SA 3.0

Proposed Solutions to the Conflict Over Territory

There are many ideas for how Israelis and Palestinians can achieve a just peace going forward. StandWithUs is an education organization that does not take positions on this issue. Instead, we have summarized the most common ideas, arguments, and counter-arguments below.

Two States for Two Peoples:

The two-state solution originated with the 1937 Peel Commission Plan and 1947 UN Partition Plan (both rejected by Arab leaders). It is the model that Israeli-Palestinian negotiations have focused on since the 1990s, and it has broad support in the international community. This solution would involve establishing an independent Palestinian state alongside Israel. The West Bank and Gaza Strip would likely be linked by a highway and railway, and the final borders would be determined by negotiations. In the past, the two parties agreed in principle that large Israeli settlements near the line between Israel and the West Bank would become part of the Jewish state in return for portions of Israeli land becoming part of the Palestinian state. However, they disagreed over how much land they would exchange and many more divisive issues unrelated to territory in the West Bank. The plan put forward by the U.S. in 2020 called for a significantly larger amount of the West Bank to become part of Israel, in return for larger portions of Israeli land near Gaza to become Palestinian. As of January 2024, it is unclear whether negotiations will resume or how Israeli and Palestinian leaders will approach issues of territory.

The tables below summarize common arguments for and against two states for two peoples.

SUPPORT WITHIN ISRAELI SOCIETY	SUPPORT WITHIN PALESTINIAN SOCIETY
The two-state solution is the only way for Israel to stop ruling another people and remain a Jewish and democratic state, and the only way for Palestinians to achieve independence without violating Jewish rights to self-determination.	For better or worse, Israel's existence is a reality. While a Palestinian state on only a small part of historic Palestine is a huge compromise, it is worth it to end the occupation, free the Palestinian economy, and build a better future.
SUPPORT FROM MULTIPLE SOURCES	
The two-state solution is the one supported by the international community and backed by international law. It is the only way for both Jews and Palestinians to have self-determination and begin to heal. While an agreement may not be likely now, it is ultimately a matter of political will among Palestinian and Israeli leaders, along with efforts to build trust and cooperation on a grassroots level.	

OPPOSITION FROM WITHIN ISRAELI SOCIETY	OPPOSITION FROM WITHIN PALESTINIAN SOCIETY
The West Bank is the cradle of Jewish civilization, so making it part of a Palestinian state and/or forcing any Jews to leave the settlements would be unjust.	Israelis are colonizers. All of the land (including Israel) belongs exclusively to the Palestinians. A two-state solution would legitimize Israel's unjust existence and control over the region.
Israelis would face an unacceptable level of danger and violence if Hamas took over the West Bank like they did in Gaza.	Israeli settlement building in the West Bank has made a two-state solution impossible.
Palestinian leaders rejected every two-state solution and refused to recognize the rights of the Jewish people to self-determination for generations. They continue to incite hatred and violence, and some say two states would merely be a first step to "liberating all of Palestine" and dismantling Israel.	Israeli leaders oppose the two-state solution or aren't serious about it. They have never agreed to fully end the occupation and allow for a truly independent and viable Palestinian state.
OPPOSITION FROM MULTIPLE SOURCES	
The two-state solution doesn't truly reflect the best interests of Israelis and Palestinians and is being imposed on them by self-serving politicians, organizations, media outlets, and academics.	

Confederation Plan:

Also known as Two States, One Homeland, this proposal is based on the European Union model, where independent nations entered a confederation, giving some of their power to a larger authority. Supporters of this plan envision two states, Israel and Palestine, joined together in a single federal government. Each state would have its own government and ministries, but they would share the country's natural resources, along with responsibilities for its security and the economy. Critics argue that it is unrealistic to expect Israeli and Palestinian leaders to cooperate on this level. They also point out that Middle Eastern states with similar power-sharing arrangements between different ethnic or religious groups (i.e., Lebanon and Iraq) have experienced even worse divisions and violence than Israelis and Palestinians.

Jordan is Palestine:

This plan is based on a peace offer Israel made to Jordan after the 1967 War. It calls for parts of the West Bank where Palestinians live to become part of Jordan, which already has a very large Palestinian population. Some versions of this plan call for a Palestinian-Jordanian confederation. Critics of the plan generally point out that the Jordanian government and most Palestinians don't support it and likely wouldn't accept it.

One-state solutions:

The term “one-state solution” covers such a broad spectrum of ideas that some Israelis on both the far-right and the far-left support it, as do some Palestinians. On one extreme end are those who support either an exclusively Jewish or Palestinian state that requires the expulsion of the other group. On the other end, there are those who dream of one democratic state—neither Jewish nor Palestinian—with equal rights for all its citizens. Here are some of the main one-state solutions discussed in recent years.

- **Liberation of all of Palestine:** This plan, embodied in the slogan “from the river to the sea, Palestine will be free,” is advanced by genocidal religious extremists like Hamas and some Palestinian nationalists. It calls for all of Israel, the West Bank, and Gaza to become a Palestinian Arab state, an Islamic theocracy, or both. This would most likely involve killing, ethnically cleansing, or brutally oppressing the Jewish population. It usually faces opposition because it would be extremely violent, immoral, and a violation of Jewish rights to self-determination. Some Palestinians also oppose it for pragmatic reasons—they may want all the land to become a Palestinian state but don’t believe it is realistic.
- **Transfer:** This plan advanced by Israeli extremists on the far right calls for paying Palestinians to leave or ethnically cleansing them by force from the West Bank and/or Gaza. All of the land would then become part of an ultra-nationalist and/or theocratic Jewish state. The plan is widely criticized because it would be violent, immoral, a violation of Palestinian rights to self-determination, and go against the values of Israel’s government and society.
- **One democratic state:** This plan calls for the establishment of a secular or bi-national state in all of Israel, the West Bank, and Gaza. While the vision for this state is usually described as a democracy that wouldn’t privilege one group over another, the majority of the population would be Palestinian Arab and Muslim. This is because millions of Palestinians who claim refugee status (the original refugees from the 1948 war and their descendants) would be able to move to this new state. This plan is supported by some Palestinians, far-left Israelis, and international activists, who argue it is a just and peaceful solution that would guarantee freedom and equality to all people living



in the land. Critics argue that it is unrealistic, likely to lead to a dramatic increase in violence, and/or is a smokescreen for replacing Israel with a Palestinian state. They note that most Israelis and Palestinians oppose this plan and the dominant forces in Palestinian politics—Fatah and Hamas—both systemically promote violence and hatred against Israel and Jews. They also point out that ethnic and religious minorities face severe persecution across the Middle East, and that Jews have every reason to fear the same thing will happen to them if Israel is replaced with a majority Palestinian state. They argue that after 1,900 years of antisemitic oppression across Europe and the Middle East, forcing Jews to become a minority again is immoral and unjust.

- **Annexation to Israel:** This plan calls for all of the West Bank/Judea and Samaria (but not Gaza) to become part of Israel. Some call this applying sovereignty, while others call it annexation. It is supported by some Israelis on the right of the political spectrum. There are also different versions – some call for granting full citizenship and rights to all Palestinians living in the West Bank/Judea and Samaria, while others call for partial rights or conditional citizenship (i.e., giving citizenship after Israel brings in two million new Jewish immigrants). Another version of this plan also calls for Israel to transition to a federal form of government, where different districts across the country have more power over their own affairs and elect leaders to represent them in the national government (much like in the United States). Supporters generally argue that these solutions would ensure Israel's security and Jewish rights in all of their historic homeland, while offering West Bank Palestinians equal rights and/or a better life than what they experience under the corrupt Palestinian Authority. Critics believe such plans are unjust because most Palestinians want self-determination and not citizenship or unequal residency status in Israel. They also argue that the practical result would not be peace but rather more severe internal conflict, which would lead to more suffering for both peoples and threaten Israel's existence as a Jewish and democratic state. The version where Palestinians don't immediately get equal citizenship is also criticized as a form of apartheid.
- **Make Area C of the West Bank/Judea and Samaria part of Israel:** This plan calls for Area C of the West Bank/Judea and Samaria (59 percent of the territory), which is currently under full Israeli control, to become part of Israel. Areas A and B, where nearly all Palestinians live, would remain under some form of Palestinian self-rule. Gaza usually does not factor into this proposal. However, there is a version that calls for creating eight independent Palestinian Emirates in major population centers (Gaza, Ramallah, Jenin, Nablus, Jericho, Tulkarm, Qalqilya, and the Palestinian part of Hebron), reflecting tribal differences among Palestinians who live in these communities. Supporters argue that an independent Palestinian state would pose too much of a strategic threat to Israel by leaving the eastern border with Jordan under the control of a potentially hostile government. Their position is that Israeli settlements in Area C should remain part of Israel. They also believe that leaving Areas A and B under Palestinian self-government would solve the problem of Israel ruling over another people. Critics argue that Palestinians would overwhelmingly reject such an arrangement, seeing it as a denial of their rights to self-determination and theft of their land. They predict that Palestinian leaders would refuse to take any responsibility for Areas A and B, forcing Israel to rule over millions of Palestinians who live there. They believe some Palestinian factions would engage in escalating violence against Israelis, and many others would demand equal citizenship and rights in a one democratic state solution (see above).

According to polls, no alternative to the two-state solution has gained a critical mass of support among Israelis and Palestinians. At the same time, the two-state solution has lost the momentum it had in the late 1990s and early 2000s, and both populations are deeply pessimistic that a peace deal will happen any time soon.²¹

²¹ Palestinian Center for Policy and Survey Research & The Evens Program in Mediation and Conflict Management at Tel Aviv University, "Palestinian-Israeli Pulse: A Joint Poll," PCPSR, October 26, 2020, at http://www.pcpsr.org/sites/default/files/Summary%20Report_%20English_Joint%20Poll%20Oct%202020.pdf

Conclusion

The many disputes over land in the West Bank/Judea and Samaria are one part of a larger and even more complex conflict between Israelis and Palestinians. Other critical aspects include:

- **Broader tensions** between Israel and the Palestinian Authority in the West Bank
- **The October 7th War** and the future of Gaza
- **Terrorism, institutional incitement, and rewards for violence** against Israelis
- **The status of Jerusalem**
- **Demands for millions of Palestinian refugees** and their descendants to move to Israel, rather than to a future Palestinian state
- **The claims of Jewish refugees** from Arab states and their descendants
- **The rights of both peoples to self-determination**, safety, and freedom

Ultimately, it is up to Israelis, Palestinians, and their leaders to resolve their differences over these issues. However, individuals and governments around the world can and do influence the situation in either a constructive or a destructive way. To be a part of the solution, people of goodwill have to know the facts and be able to correct the misinformation and prejudices that frequently distort public debate about these issues. This is more important than ever, considering the deep pessimism and lack of trust among Israelis and Palestinians today. All of us have a responsibility to avoid fanning the flames of hatred and conflict. Likewise, all of us can help promote mutual respect and understanding, which are essential for any type of progress.

We encourage you to learn more and use this resource to educate yourself and your community, in support of a just and peaceful future between Israelis and Palestinians.

For more resources, visit [**www.standwithus.com/booklets**](http://www.standwithus.com/booklets).



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