

H-Diplo | Robert Jervis International Security Studies Forum

On the Israel-Hamas War

Commentary II-5

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 Introduction by Seth Offenbach, Bronx Community College

On 7 October 2023, Hamas attacked Israel in an unprecedented and unexpected manner. The attack, which included taking 240 hostages, killing more than 1,100 citizens, and engaging in “widespread sexual assaults against Israeli women” shocked the Israeli national psyche.¹ Israel responded with unprecedented force which (as of mid-April 2024) has led to more almost 38,000 Palestinian deaths, more than 76,000 injuries, and approaching famine for the residents of Gaza.² What began as a one-day surprise attack by Hamas resulted in a devastating war which has lasted more than six months and seen tens of thousands of deaths. The scope of the battle has expanded, and now includes fighting taking place between Israel and both Hezbollah and Iran.

While the fighting between Hamas and Israel is occurring in the Middle East, the conflict has moved far beyond the region. Rhetoric from Israeli and Palestinian advocates have intensified their criticisms of the other. On college campuses, speaking events have been turning into rallies and protests and counter-protests. Throughout all of this, Jewish and Muslim students have often been the victims of intense racial and religious hatred. The reverberations for the war are being felt on college campuses throughout the world.

In the six months since the war began, reports of destabilizing events on college campuses have rocketed throughout the news.³ US federal agencies have gotten involved, trying to force colleges to protect their Jewish and Muslim students and faculty.⁴ Donors have used their wealth to push ideas (and silence others).⁵ And activists and advocates have used their slogans and numbers to push their ideas (and silence others).⁶ As Sonja Wentling, writing for H-Diplo, noted in January 2024, “the Israel-Hamas War has led to an unprecedented response by the scholarly community in the form of op-eds and open letters that not only lay bare disagreements over the interpretation of present events but also bring into focus the role and

¹ Michael A. Cohen, “The Rape Denialists,” *The Atlantic*, 17 April 2024,

<https://www.theatlantic.com/ideas/archive/2024/04/october-7-hamas-sexual-assault/678091/>

² “Health Ministry In Hamas-run Gaza Says War Death Toll Tops 34,000,” Agence France Presse, 19 April 2024, https://www.barrons.com/news/health-ministry-in-hamas-run-gaza-says-war-death-toll-tops-34-000-b3c5f4fb?refsec=topics_afp-news

³ Theo Baker, “The War at Stanford,” *The Atlantic*, 26 May 2024,

<https://www.theatlantic.com/ideas/archive/2024/03/stanford-israel-gaza-hamas/677864/> ; Liam Stack, “Columbia Closes Campus as Israel-Hamas War Protests Erupt,” *New York Times*, 12 October 2023,

<https://www.nytimes.com/2023/10/12/nyregion/columbia-university-israel-hamas-protests.html>; Elle Reeve, “Protest, fear and pride: US college students reflect on how they’re impacted by Israel-Hamas war,” *CNN*, 4 November 2023,

<https://www.cnn.com/2023/11/04/us/us-students-impacted-by-israel-hamas-war/index.html>

⁴ “Fact Sheet: Biden-Harris Administration Takes Action to Address Alarming Rise of Reported Antisemitic and Islamophobic Events at Schools and on College Campuses,” *The White House*, 14 November 2023,

<https://www.whitehouse.gov/briefing-room/statements-releases/2023/11/14/fact-sheet-biden-harris-administration-takes-action-to-address-alarming-rise-of-reported-antisemitic-and-islamophobic-events-at-schools-and-on-college-campuses/> .

⁵ Max Annunziata, “How the ongoing donor backlash against the University will affect Penn’s finances and academics,” *The Daily Pennsylvanian*, 3 November 2023, <https://www.thedp.com/article/2023/11/penn-donor-crisis-expert-opinions> .

⁶ Collin Binkley, “As a new generation rises, tension between free speech and inclusivity on college campuses simmers,” *AP News*, 12 January 2024, <https://apnews.com/article/campus-free-speech-young-generation-tension-b931b0dd41aacaac5c50710de9549b09> ; David Leonhardt, “Why Campus Speech is Vexing,” *New York Times*, 12 December 2023 <https://www.nytimes.com/2023/12/12/briefing/campus-free-speech-israel-hamas.html>

responsibility of the historian and public intellectual in times of crisis.”⁷ In short, scholars and academics are notably divided by the events of, and the actions since, 7 October.

H-Net and H-Diplo have tried to wade into this scholastic dispute. In December 2023, H-Net emailed network editors to figure out how we, as an international academic institution, can talk about the current conflict. H-Diplo, which is one of the five largest networks on H-Net, is the only network for “Diplomatic History, International Affairs, Foreign Policy, International Relations, Peacekeeping Studies, Nuclear History and Policy Studies, and Transnational Studies.” This makes us well situated to talk about the conflict, as does our close to 30 years of scholarly publications. The H-Diplo editors have taken this challenge using the typically high standards we hold for all our publications. We always strive to publish thoughtful, critical, and intellectual pieces, and we have worked to maintain our “strict scholarly standards” when publishing commentaries on this war; much as we have when publishing about other wars.⁸ This is a difficult challenge given the current international climate, but it is important that we try. After all, this conflict is one of great importance, and ignoring it will not improve the scholarly discourse.

H-Diplo has already published three commentaries by James R. Stocker, Benjamin Miller, and Sonja Wentling.⁹ Stocker’s article, which was published a week after the attack, suggested that “the coming days and weeks will show how transformative these events will be.”¹⁰ This is correct. Six months after the conflict began, it is fair to say that this war, once it is completed, will have an immensely transformative effect. Miller, writing the following week, attempted to understand the American response to the attacks through the lens of international relations and great-power diplomacy. Would the United States continue to support Israel, and how much was President Joe Biden’s response tied to the United States’ relationship with the other nations in the Middle East along with its rivalry with China and Russia? Wentling, writing three months after the Hamas attack, examined how the memories of the Holocaust have been used to inform both sides of this conflict. The pain and anger from both Israeli Jews and Palestinian people is informed by their interpretation of the Holocaust.

Today’s forum includes two new essays which nicely compliment one-another. The articles, written by political scientist Michael Barnett and historian Gil Troy, take very different perspectives. They ask scholars to begin examining the actions and events by asking provocative questions. Like the authors of our previous articles, neither Barnett nor Troy seek to solve the problem of Middle East peace. Neither do they claim to have all of the answers. Instead, they take an analytical approach to uncovering some of the conflict’s many layers.

Barnett’s article, “Who Will Protect the Palestinians?” examines the “Responsibility to Protect” doctrine from the perspective of the Palestinian people. Barnett’s analysis begins by outlining why the Palestinian people need to be protected and how the international community has abrogated that responsibility: “The international community seems to have run out of options for protecting Palestinians. Such circumstances raise the possibility of armed resistance.” Should the Palestinian people arm themselves? He clearly states that

⁷ Sonja P. Wentling, “The Long Shadow of World War II and the Holocaust—How the Politics of Memory are Shaping Public and Scholarly Narratives during the Israel-Hamas War,” *H-Diplo | RJISSF Commentary*, 17 January 2024, <https://issforum.org/ISSF/PDF/RJISSF-Commentary-II-3.pdf>

⁸ “About This Network,” *H-Diplo*, <https://networks.h-net.org/ZZ-about-diplo-ZZ>

⁹ James R. Stocker, “Massacre in Israel: A Transformational Moment, or More of the Same?” *H-Diplo | RJISSF Commentary*, 15 October 2023, <https://issforum.org/ISSF/PDF/RJISSF-Commentary-II-1.pdf>; Benjamin Miller, “From Disengagement to Unprecedented Engagement: the US, the War in Gaza and the New World Order,” *H-Diplo | RJISSF Commentary*, 23 October 2023, <https://issforum.org/ISSF/PDF/RJISSF-Commentary-II-2.pdf>; Wentling, “The Long Shadow.”

¹⁰ Stocker, “Massacre in Israel,” 7.

“Armed struggle is generally treated as a last resort; much more preferable is nonviolent resistance.” Barnett continues by provocatively asking: “Once it is decided that a people have a right to armed resistance, the follow-up question is: who can act in the name of the people?”

Barnett’s argument is thought provoking. What is the international legal right to self-defense and in what circumstances is violence appropriate? Barnett is unequivocal: Hamas’s violent history, which flagrantly disregards the rules of war, makes it ill-suited to defend the Palestinian people. The Palestinian Authority’s lack of public support among the Palestinian people also makes it ill equipped. If not them, then who? And is violence *actually* the answer? Barnett does not have all the answers, but he does an admirable job of asking tough questions.

Troy’s article looks at the future scholarly debate regarding the 7 October event. Troy examines the many “*conceptzias*” surrounding the attack. These *conceptzias* are “self-delusional strategic concept[s]” which were held by Israelis, American government leaders, and American academics who doubted “the possibility that Hamas could execute an attack of this magnitude and sophistication.” What lulled them into this *conceptzia*? What does this say about their collective views? How does this influence the future studies of the Israel-Hamas War?

Troy further examines how scholars will study the 7 October attack. He argues that some of them should study the events of that day in the same manner that others have “focused in on Pearl Harbor or September 11th to tell a more sweeping story about America in those critical moments.” These are three days which changed their nations’ narratives. How will historians understand this moment in the future?

As of the publication of these essays in early May 2024, the fighting in Gaza has not stopped. Additionally, the war at the international level has continued to reverberate. Recently, Nicaragua accused Germany of supporting Israel’s attempts at genocide; a damning accusation against the country whose genocidal past makes it especially sensitive to the charges.¹¹ Iran and Israel have traded missile strikes.¹² Meanwhile, the Anti-Defamation League has created a new college report card aimed at exploring which US colleges have an antisemitism problem.¹³ Simultaneously Muslim Campus Life has set up a Campus Islamophobia Tracker on its website.¹⁴ While the fighting in the Middle East continues, the tensions throughout the world, particularly on Western college campuses, remain high. And throughout this turmoil, H-Diplo will continue to strive to publish academic work which meets our standards for quality and integrity. We seek to ask tough questions and look at this, and other relevant issues, from a scholarly perspective.

Contributors:

¹¹ Mike Corder, “Germany rejects allegations that it’s facilitating acts of genocide in Gaza at UN court,” *AP News*, 9 April 2024, <https://apnews.com/article/israel-gaza-nicaragua-germany-genocide-court-91a605921b44110ac5534e6438405997>

¹² Jonathan Yerushalmy, “What we know so far about Israel’s strike on Iran,” *The Guardian*, 19 April 2024, <https://www.theguardian.com/world/2024/apr/19/israel-attack-on-iran-idf-military-operation-us-officials-air-defences-latest-update-details-today>.

¹³ “College Antisemitism Report Card” *Anti-Defamation League*, <https://www.adl.org/campus-antisemitism-report-card>

¹⁴ “Campus Islamophobia Tracker,” *Muslim Campus Life*, <https://muslimcampuslife.com/islamophobia-tracker/>

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Michael Barnett is University Professor of International Affairs and Political Science at the George Washington University. Among his many books are *The Star and the Stripes: The Foreign Policies of American Jews* (Princeton: Princeton University Press, 2016); and *Israel and the One State Reality* (Ithaca: Cornell, 2023), co-edited with Nathan Brown, Marc Lynch, and Shibley Telhami.

Gil Troy is a Distinguished Scholar of North American History at McGill University and the author of nine books on the American presidency.

“Who Will Protect the Palestinians?”
by Michael Barnett, George Washington University

In early 2023, I wrote two short pieces on the fate of the Palestinians. In the first I used the UN’s early warning framework for atrocity crimes to gauge whether Israel should be placed on a watch list.¹ The answer was yes, and all that might be needed was a shock and spark.

In the second piece I asked about the responsibility to protect the Palestinians.² The “responsibility to protect” is a much cited but rarely used mechanism to protect those populations at risk when the state fails to do so by omission or commission. My conclusion was that the Palestinians needed international protection from Israeli actions. Combining these two pieces painted a picture wherein the Palestinians could expect to face aggression by Israel and the international community would be nothing more than bystanders.

It gives me little pleasure to write that these forecasts have become reality. On 7 October 2023, Hamas fighters swarmed into Israel and indiscriminately and savagely killed over 1,100 people and injured 4,834, committed sadistic and graphic rapes and gender-based violence, and took 240 hostages. It is difficult to overstate the collective trauma felt by Jewish (and many Palestinian) Israelis. There was an overwhelming and understandable desire in Israel to deliver an earth-shaking response. Declaring its right of self-defense, Israel unleashed a scorched-earth campaign to destroy Hamas.

As of April 2024, and as a consequence of aerial attacks with bunker busters and hundreds of two-thousand-ton bombs, tank assaults, siege tactics and denial of humanitarian aid, over 30,000 Palestinians are dead, tens of thousands more are injured and traumatized, over three-quarters of Gaza’s population are homeless, cities and towns have been razed, the population is experiencing mass starvation that is crossing into famine, and historical cultural sites have been demolished. For those who rank wars based on levels of destruction, Israel’s destruction of Gaza now compares to the Russian devastation of Ukraine, the Russian and Syrian government’s razing of various Syrian cities, and Dresden in World War Two.³

Israel argues that it is following international humanitarian law, is doing everything it can to protect civilians, and is delivering aid without delay. The blame, it argues, falls squarely on Hamas: it uses civilians as human shields, siphons off the available aid for itself, and has hundreds of miles of tunnels that run throughout Gaza and whose access points are buried in hospitals, schools, and mosques. In other words, Israel is doing what is proportional and militarily necessary. But many world leaders and UN officials, as well as global public opinion, see it differently and blame an Israeli military strategy that is on the verge of, or has already committed, war crimes and genocide.⁴ South Africa argued before the International Court of Justice, citing statements by Israeli leaders that make no distinction between Palestinians and Hamas, that the civilian toll is not accidental but intentional. South Africa has argued that Israel is violating the Geneva Convention and its actions are “genocidal in character.” And legal action is now being taken not against Israel but those who arm it. Nicaragua has charged Germany with aiding and abetting a genocide; the very idea that Israel and Germany

¹ Michael Barnett, “Is Israel on the Precipice of Genocide?” *Political Conflict at a Glance*, March 6, 2023. <https://politicalviolenceataglance.org/2023/03/06/is-israel-on-the-precipice-of-genocide/>.

² Michael Barnett, “The Responsibility to Protect the Palestinians,” *Political Conflict at a Glance*, June 2, 2023. <https://politicalviolenceataglance.org/2023/06/02/the-responsibility-to-protect-palestinians/>.

³ See for instance, Evan Dyer, “Israel’s Gaza bombing campaign is the most destructive of this century, analysts say,” *CBC*, December 30, 2023. <https://www.cbc.ca/news/politics/israel-gaza-bombing-hamas-civilian-casualties-1.7068647>.

⁴ The most complete and recent statement by a UN official is from the UN special rapporteur on human rights in the territories. <https://news.un.org/en/story/2024/03/1147976>.

are now being investigated for carrying out a genocide is stranger than fiction,⁵ The international legal system is now quite busy investigating Israel, Hamas, and their benefactors for war crimes, crimes against humanity, and genocide.⁶

The Gaza war should make the question of protecting Palestinian lives a matter of urgency, not only in the here and now but also going forward. Israel has been a serial violator of international law in the occupied territories; perhaps what is occurring now is not an aberration but rather is Israeli policy on steroids. Fifty-seven years of occupation, the Gaza war, and the relentless assault on Palestinians by settlers and their co-conspirators the Israeli army in the West Bank, provides a surplus of examples of unnecessary suffering by Palestinians. What is Plan B? Below I go through various options, including the option of last resort: armed struggle.

Two-State Solution

Oslo remains something of a phantom limb. It was there for a decade after its beginning in 1993, but over the last decade has disappeared and been pushed aside by the 2020 Abraham Accords. Yet it remains something of the holy grail in terms of a just and stable peace. If these two peoples cannot live together then the only Solomonic solution is to have two states for two peoples. In other writings I have argued that the two-state solution has been dead for quite some time.⁷ Israel began to see a Palestinian state as having more costs than potential benefits, and Hamas's attack led it to double down on its opposition and see a future Palestinian state as a specter of horror.

Not only are negotiations for a two-state unlikely to happen now, but there is harm in trying for two reasons. The first is the possibility that Israel will use Oslo 2.0 in the way it used Oslo 1.0: as a form of misdirection as it negotiates with one hand while using the other to create more facts on the ground that are designed to create an immovable barrier to a future Palestinian state. The second reason is that the Palestinians will remain at Israel's mercy.

Raise the Costs to Israel

If the international community wants to protect the Palestinian people, then then it must be prepared to impose the necessary costs on Israeli action. The United States and its Western allies have the sticks that would hurt the most, but they have been quite reluctant to do much more than slap Israel on the wrist. Indeed, the White House is a walking contradiction. Throughout the occupation the US has enabled Israel's violation of the laws of occupation and international human rights and refugee law, and has been a knowing bystander as Israel has eroded the territorial basis for a Palestinian state. Although President Joe Biden and his top foreign policy advisors want Israel to allow aid in and to lose its "over the top" behavior, they have only issued public reprimands and refused to consider growing calls for a ban on US weapons shipments, even though doing so would be consistent with US law.⁸ The US has demanded that Israel open up the land

⁵ <https://www.nytimes.com/2024/04/09/world/middleeast/germany-nicaragua-israel-gaza-icj-genocide.html>.

⁶ <https://www.icj-cij.org/sites/default/files/case-related/192/192-20231228-app-01-00-en.pdf>.

⁷ See M. Barnett, N. Brown, M. Lynch, and S. Telhami, eds., *Israel and the One State Reality* (Ithaca: Cornell University Press, 2023).

⁸ Kevin Liptak, "Biden calls Israel's response in Gaza over the top," *CNN*, 8 February 2024. <https://www.cnn.com/2024/02/08/politics/biden-calls-israels-response-in-gaza-over-the-top/index.html>.

bridge into Gaza to hasten the delivery of necessary aid, and Israel's refusal led the US to propose building a temporary port off Gaza. The catch is that the US will only do so if Israel approves.⁹ In March 2024, it too the historic step of breaking from its policy of protecting Israel in the UN Security Council, choosing to abstain from a recent resolution. Clearly unhappy, Prime Minister Benjamin Netanyahu halted talks with the United States regarding how it planned to minimize civilian casualties as it launched the next phase of its Gaza war.¹⁰

In a slightly sterner register, the US and the UK have identified several Jewish extremists to be banned from their countries and their banking system. While this is an attempt to punish Israeli actions, it would be more effective if these and other countries labeled some of the settler organizations as terrorist organizations, applied their bountiful counterterrorism laws to them, and aimed material support clauses at the foreign funders of their activities. However, this day might be getting near. In response to another horrific attack by Jewish settlers on a Palestinian village in the West Bank, on April 19 the Biden administration imposed sanctions on two entities that are accused of fundraising for the perpetrators.¹¹

The Arab states are no better and following a longstanding tradition of speaking loudly and doing nothing. Since October 2023, the strongest action taken by most Arab states was to freeze any further consideration of establishing relations with Israel.

While the US, the West, and the Arab states have done little to protect the Palestinian people, the global South, international legal institutions, and transnational movements have attempted to make Israel pay for its failure to abide by international humanitarian law. As noted, South Africa petitioned the International Court of Justice (ICJ) to consider whether Israel is committing genocide. The ICJ ruled that while it could not say for sure based on the current evidence, there was enough evidence that Israel was commanded to alter its policies.¹² Israel's response to the ICJ ruling did not satisfy the Court, thus, it issued a slightly sterner letter.¹³ Israel's war strategy thus far implies that it will continue to ignore the Court's ruling. The International Criminal Court (ICC) is currently investigating Hamas and Israel for war crimes. Israeli leaders, cabinet ministers, military officials, and soldiers, though, might soon find themselves served an arrest warrant if they enter a country that has deemed their behavior criminal; South Africa and France have recently announced that dual nationals who fought along Israeli forces in Gaza and commit war crimes will likely be arrested.¹⁴ With all of these actions, the transnational Boycott, Divestment, and Sanctions campaign has gotten a boost of attention and legitimacy from Israeli actions. These and other developments are a black eye for Israel, rough up its reputation, and will potentially damage Israel's economy.

⁹ "What to know about the floating pier the U.S. military is building to help deliver aid to Gaza," *PBS*, 9 March 2024, <https://www.pbs.org/newshour/world/what-to-know-about-the-floating-pier-the-u-s-military-is-building-to-help-deliver-aid-to-gaza>.

¹⁰ <https://www.nbcnews.com/news/world/live-blog/israel-hamas-war-live-updates-rcna144870>.

¹¹ [https://apnews.com/article/gaza-israel-west-bank-war-settlers-sanctions-3d1a6595f7c4cecaa42de7901c81c752#:~:text=WASHINGTON%20\(AP\)%20%E2%80%94%20The%20Biden,whose%20members%20regularly%20assault%20Palestinians](https://apnews.com/article/gaza-israel-west-bank-war-settlers-sanctions-3d1a6595f7c4cecaa42de7901c81c752#:~:text=WASHINGTON%20(AP)%20%E2%80%94%20The%20Biden,whose%20members%20regularly%20assault%20Palestinians).

¹² <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-00-en.pdf>.

¹³ <https://www.icj-cij.org/sites/default/files/case-related/192/192-20240328-ord-01-00-en.pdf>.

¹⁴ "South Africa to Arrest Citizens Fighting for Israel in Gaza" *Tasnim News Agency*, 14 March 2024, <https://www.tasnimnews.com/en/news/2024/03/14/3055043/south-africa-to-arrest-citizens-fighting-for-israel-in-gaza>; Adil Faouzi, "France Vows Legal Action Against Dual-National Soldiers Involved in Gaza War Crimes," *Morocco World News*, 30 March 2024, <https://www.moroccoworldnews.com/2024/03/361710/france-vows-legal-action-against-dual-national-soldiers-involved-in-gaza-war-crimes>.

None of this seems to have phased Israeli leaders or the public. Israel, like most countries, is pretty hard to move when it believes its security interests are at stake; and by all accounts Hamas's attack on 7 October led Israel to see the war in existential terms.¹⁵

Responsibility to Protect

The responsibility to protect was built for these very moments: when a state fails in its responsibility to protect those under its control, and this failure leads to large-scale loss of life, then the responsibility to protect falls to the international community. Unfortunately, the international community has offered the Palestinian people platitudes and nothing more. It is not protecting the innocent people living in Gaza.

Armed Resistance

The international community seems to have run out of options for protecting Palestinians. Such circumstances raise the possibility of armed resistance. It is important to note at the outset that to recognize armed resistance as an option is not to recommend it, sanction it, or condone the use of violence against civilians. Armed struggle is generally treated as a last resort; much more preferable is nonviolent resistance.¹⁶ But armed resistance has a venerable history long before its legalization after World War Two; for instance, the American Revolution.¹⁷

International law began to consider the question of resistance in aftermath of World War Two, where citizens formed resistance movements to fight the Nazis and codified the right to armed resistance, while following the laws of war, in the Geneva Conventions.¹⁸ The legitimacy of armed resistance was taken up again against the backdrop of the principle of self-determination as applied to decolonization. After World War Two, the colonial powers were reluctant to let go of many of their possessions and were willing to use force to defend their claims. In response, anticolonial movements took up arms to raise the costs of continued colonization. Article 1 (4) of the Geneva Conventions recognizes armed resistance against “colonial domination, and alien occupation and against racist regimes.”¹⁹

The UN passed a series of resolutions that created the foundation for the right of a colonial people to engage in armed resistance. The cornerstone is the 1960 UN General Assembly Declaration on the Granting of Independence to Colonial Countries and Peoples, which stipulated that the colonial people have a right to self-determination, international law prohibits the denial of such right, and forcible resistance to that forcible denial is legitimate.²⁰ Although some argue that the right to armed resistance does not quite mean the legal

¹⁵ <https://www.wsj.com/world/middle-east/israel-state-middle-east-war-0ef86623>.

¹⁶ Douab Kuttab, “Non-Violent Options for Palestinian Resistance,” *Peace Review*, 15, 1, 2003, 19-24. There is the impression that Palestinians have not tried nonviolent resistance, but it has been hidden in plain sight. See Yousef Munayyer, “Palestine’s Hidden History of Nonviolence,” *Foreign Policy*, May 18, 2011; <https://foreignpolicy.com/2011/05/18/palestines-hidden-history-of-nonviolence-2/>.

¹⁷ As stated in the Declaration of Independence, “whenever any Form of Government becomes destructive of these ends [rights], it is the Right of the People to alter or to abolish it, and to institute new government.” However, current interpretations of the right to resist and rebel set the bar higher than unwanted taxation.

¹⁸ Marco Longobardo, *The Use of Armed Force in Occupied Territory* (NY: Cambridge University Press, 2018), 145.

¹⁹ Cited in Longobardo, *The Use of Armed Force in Occupied Territory*, p. 153.

²⁰ <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-granting-independence-colonial-countries-and-peoples>.

definition of a right, which depends on positive affirmation by states, the legal consensus is that because states had multiple opportunities to prohibit armed resistance but did not, it qualifies as something of a “right.”²¹

Unlike the law of occupation that is heavily regulated by international law, the right of resistance is not.²² There is one sacrosanct rule, though: the use of force must comply with international humanitarian law and the distinction between combatant and civilian. If not, then armed struggle qualifies as terrorism and is no longer treated as an act of resistance. Hamas’s attack on 7 October 2023 was *not* an act of resistance. There was no connection between the atrocities and the legitimate right to resist occupation. It was terrorism.²³ Additionally, the international community and law treats the use of force as a last resort; as such, “the legitimacy of such an armed resistance is restricted to those cases where the occupying power refuses to negotiate and maintain a territory under occupation for a long time.”²⁴

Once decolonization ran its course, the legal and political conversation turned to whether others, such as the Palestinian people, also had a right to armed struggle in their fight for self-determination and statehood. We need to pause here to address a legal matter. The question of armed resistance is discussed in the context of occupation. Although the international legal consensus treats the Palestinian territories as occupied, the official Israel position disagrees. It treats the territories as “disputed lands” and claims that it no longer occupies Gaza after its withdrawal in 2005. This is not accepted by the international community. In any event, considerable legal opinion, backed by UN resolutions, support the extension of the right to armed resistance to the Palestinians.²⁵

It is thus possible to argue that the Palestinians have a right to self-determination, Israel is forcibly denying that right, and therefore the Palestinians have a right to meet force with force.²⁶ In another resolution in 1982, the UN affirmed the legitimacy of the struggle for independence, territorial integrity, national unity, and liberation from foreign domination and foreign occupation by all available means, including armed struggle.²⁷ Once it is decided that a people have a right to armed resistance, the follow-up question is: who can act in the name of the people? There is no legal rulebook to answer this question; in fact, international law has relatively little to say.²⁸

²¹ Longobardo, *The Use of Armed Force in Occupied Territory*, chapter 4.

²² Longobardo, *The Use of Armed Force in Occupied Territory*, 148.

²³ Marco Longobardo, “Some Reflections on the Use of Force in the Recent Escalation of the Israeli-Palestinian Conflict,” Italian Society of International Law and EU Law, 15 Oct 2023. <https://westminsterresearch.westminster.ac.uk/download/8bb340b3f511c974b3d0eb7ca0528a0128bd5d8c8d0a95ba25319a9befc4a530/163357/Longobardo%2C%20Gaza%202023.pdf>.

²⁴ Longobardo, *The Use of Force in Occupied Territories*, 163.

²⁵ For examples, see Shahd Hammouri, “The Palestinian People Have the Right to Resistance by All Means Available at their Disposal,” Law for Palestine. October 8, 2023. <https://law4palestine.org/the-palestinian-people-have-the-right-to-resistance-by-all-means-available-at-their-disposal-dr-shahd-hammouri/>. However, see Tal Becker, “Self-Determination in Perspective: Palestinian Claims to Statehood and the Relativity of the Right to Self-Determination,” *Israel Law Review*, 32, 2, Spring, 1998, 301-54. He argues that its status as a right demands scrutiny in many cases.

²⁶ Richard Falk, “Azmi Bishara, the Right of Resistance, and the Palestinian Ordeal,” *Journal of Palestine Studies*, 31, 2, 2002, p. 27. There is a legal debate regarding whether this resolution applies to the Palestinian people if they are not deemed to be a colonial people as understood in the resolution.

²⁷ <https://www.jewishvirtuallibrary.org/un-general-assembly-resolution-37-43-december-1982>.

²⁸ However, see Stefan Talmon, “Recognition of Opposition Groups as the Legitimate Representative of a People,” *Chinese Journal of International Law*, 2013, 219-53; Matthias Edtmayer, “The Re-Emergence of the Legitimate Representative of a People: Libya, Syria, and Beyond,” *LSE Law Review*, 2018, 3, 1-26.

A critical determinant appears to be the legitimacy of the organization. For instance, in the 2010s, when the United States was debating who to recognize in the Libyan and Syrian opposition, it often looked for those whom it viewed as the legitimate representative of a people. But legitimacy according to whom? Legitimacy has external and internal dimensions: there is legitimacy according to others such as states and legitimacy according to the people such as the Palestinians. A comparison of the Palestinian Liberation Organization (PLO) and the Palestinian Authority (PA) with Hamas provides an apt illustration.

The PLO was recognized at the Arab League Summit in Rabat in 1974 to serve as the “sole and legitimate” representative of the Palestinians.²⁹ The UN later that year followed suit. By all logic, therefore, the PLO was the agent of the Palestinian people and inheritor of the right to armed struggle. Indeed, armed struggle was an important element of its legitimacy. But the PLO did not confine its violence to the existing laws of war and human rights laws. Instead of attacking combatants and military entities such as bases, the PLO conducted a series of horrific attacks on civilians, including women and children, both in Israel and at Jews around the world. Consequently, most Western states and the Israeli government labeled the PLO a terrorist organization.

As a condition for the Oslo Accords in 1993, PLO leader Yasir Arafat renounced armed struggle and recognized the State of Israel’s right to exist. Armed struggle had always been a means to an end, and Oslo provided the possibility that negotiations rather than violence might be a better course of action. The PLO unilaterally disarmed and the PA continued this commitment to nonviolence. States that once had withheld recognition because of the PLO’s terrorist ways now recognized it as the legitimate voice of Palestinian sovereignty. As of June 2023, 139 of 193 member states of the United Nations recognize a state of Palestine with the PA as its leader.

The PA might have external legitimacy, but it has lost internal legitimacy over the past three decades of rule. Negotiations never led to self-determination and Israel continued down the path of the one-state reality. Today, the PA has little legitimacy or popularity at home with Palestinians. The PA cabinet recently resigned, and for many Palestinians that is a good start: about 90 percent want PA President Mahmoud Abbas to do the same.³⁰ The newly formed cabinet does not appear to be more popular among the Palestinian people.³¹ The PA maintains its international standing largely because of support from Israel and the international community.

Hamas is a rival to the PA. Formed in 1987 as an offshoot of the Muslim Brotherhood, armed resistance, which is, quite literally, part of its name. There is debate regarding whether Hamas is steadfast in its refusal to recognize Israel’s right to exist, whether there has been or can be moderation in its stance, and whether any moderation is sincere or strategic. Like the PLO, Hamas rarely targeted soldiers or military entities and instead mainly targeted civilians. Israel’s withdrawal from Gaza in 2005 did not change Hamas’s strategy, and, with the help of Iran, Hezbollah, and a few others, it has devoted much of its resources toward increasing its arms.³² Over the past twenty years, like clockwork, every few years a war between Israel and Hamas broke out, with Hamas aiming at civilian populations, and Israel launching punishing ground invasions and aerial

²⁹ <https://www.jewishvirtuallibrary.org/plo-recognized-as-sole-legitimate-representative-of-the-palestinians>.

³⁰ Karin Laub, “Palestinian poll shows a rise in Hamas support and close to 90% wanting US-backed Abbas to resign,” *Associated Press*, 13 December 2023, <https://apnews.com/article/israel-hamas-palestinians-opinion-poll-wartime-views-a0baade915619cd070b5393844bc4514>.

³¹ <https://www.nytimes.com/2024/03/15/world/europe/palestinian-authority-prime-minister.html>.

³² Nathan Brown, *Gaza Five Years On: Hamas Settles In* (Washington, DC: Carnegie Endowment for International Peace, 2012); Tareq Baconi, *Hamas Contained: The Rise and Pacification of Palestinian Resistance* (Stanford University Press, 2018); Leila Seurat, *The Foreign Policy of Hamas: Ideology, Decision Making and Political Supremacy* (I.B. Tauris, 2022).

assaults. A cease-fire would follow, and the entire tragic cycle would restart. Hamas has previously stated that the laws of war do not apply to it and that in its view, there are no civilians in Israel, just combatants. The violence of 7 October was part of Hamas's playbook, but on a more chilling register.

Could Hamas possibly claim legitimacy and the right to armed resistance in the name of the Palestinian people? Not according to most states. Not only does the international community continue to recognize the PA as the sole and legitimate representative of the Palestinian people, but Hamas's track record of terrorism and brutal rule in Gaza have won it few supporters abroad. Yet a strong case can be made that Hamas has outdone the Palestinian Authority in terms of internal legitimacy. Hamas's support since 7 October has risen (though not necessarily because of the savagery of the attacks but rather because of its willingness to fight). Hamas is more popular than the Palestinian Authority, and if elections between the PA and Hamas were held today, Hamas would have a strong chance of winning.³³ However, because of Hamas's indiscriminate violence, it is doubtful that Western states would ever recognize Hamas's status as the legitimate representative of the Palestinians or the right to carry out armed struggle.

Where does all this leave the Palestinian people? They remain the same vulnerable people that desperately require protection from Israel. No separate independent Palestinian state is in the offing. The international community, and namely the US and its allies, have been unwilling to use the sorts of tools that might raise the costs of Israeli actions and get its attention. The responsibility to protect is rarely seriously considered and has received almost no mention in the Palestinian-Israeli conflict. Armed struggle is an option to a people that have suffered from decades of occupation, grave violations of their human rights, and a one-state reality that is akin to apartheid—with no end in sight. But armed struggle is an option only insofar it follows basic international humanitarian law and the distinction between civilian and combatant. But what is permitted might not necessarily be smart. A militarized intifada might cause Israel to rethink the costs of ruling over the Palestinians. But just as likely Israel will carry out another Gaza. This has been true for many decades, and yet there are armed nonstate actors that are ready to pay the price (and to have Palestinian civilians who do not participate in the hostilities pay as well).

What does all this say for the future of the Palestinians? They are no closer to being able to live in dignity and peace. Indeed, the very real possibility is that things will worsen. There seems to be little standing in the way of an Israel that pays no mind to international law, is intent on expanding its control over Gaza, and is slowly strangling one Palestinian village after another on the West Bank. For those who thought things could not get worse, just wait.

If Israel, the United States, and the international community wants to discourage armed resistance, then it is imperative that they offer serious alternatives for protecting the Palestinian people, ending the occupation, and providing Palestinians with self-determination and statehood.

³³ Laub, "Palestinian poll shows a rise in Hamas support," *Associated Press*.

“October 7: A Preliminary Research Agenda for Diplomatic Historians....”
by Gil Troy, McGill University

Hamas’ 7 October 2023 attack on Israel should have forced historians as well as policymakers worldwide to re-examine core assumptions about Israeli-Palestinian relations. Clearly, the Israelis were caught in a “*conceptzia*,” their self-delusional strategic conception dismissing the possibility that Hamas could execute an attack of this magnitude and sophistication. But Americans were caught in their own *conceptzia* too.

Many in the Western media have far-too-simplistically singled out Israeli Prime Minister Benjamin Netanyahu as the only leader lulled by talk of Hamas’s “pragmatism.” The *New York Times* has published a series of articles reporting how Netanyahu boosted Hamas “as a counterweight to the Palestinian Authority in the West Bank.”⁴⁸ The *Washington Post* has also reported that letting Hamas rule in Gaza “served the purposes of Netanyahu and opponents of a negotiated two-state solution to the conflict by hobbling the Palestinians’ ability to oppose Israel’s occupation.”⁴⁹ No matter how often reporters, experts, and diplomats repeat these assertions, it simply proves the old idiom that half-truths are more dangerous than big lies. Netanyahu certainly had his motives for supporting Hamas—and he miscalculated catastrophically. But this spin overlooks the inconvenient fact that presidents Barack Obama and Joe Biden, America’s foreign policy establishment, and much of the international community, not only believed in Hamas’s pragmatism, but they also pressured Netanyahu and Israel to act based on that delusion.

The seventh of October was not just a significant event affecting Israel. It affected America and the West too. American intelligence and American policymakers were as surprised as their Israeli peers. Hamas terrorists and their followers killed at least 31 American citizens that day, and kidnapped another ten or so.⁵⁰ Daniel Byman of Georgetown University and Alexander Palmer from the Center for Strategic and International Studies offered an initial assessment of this intelligence failure in *Foreign Policy*, under the authoritative title of “What You Need to Know about the Israel-Hamas War.” In this article, Byman and Palmer correctly addressed the “massive Israeli intelligence failure” and the “major failure” of the “Netanyahu government,” while ignoring the stunning failures in America and the West.⁵¹

Similarly, in *Foreign Affairs*, Martin Indyk from the Council of Foreign Relations justifiably criticized the “total system failure on Israel’s part” and its “hubris,”⁵² without criticizing American and Western shortcomings—let alone his own article in 2011 that described “Hamas’ path toward greater pragmatism and flexibility and

⁴⁸ Mark Mazzetti and Ronen Bergman, “Buying Quiet’: Inside the Israeli Plan That Propped Up Hamas,” *New York Times*, 10 December 2023 <https://www.nytimes.com/2023/12/10/world/middleeast/israel-qatar-money-prop-up-hamas.html>.

⁴⁹ By Steve Hendrix and Hazem Balousha, “Netanyahu and Hamas depended on each other. Both may be on the way out,” *Washington Post*, 26 November 2023, <https://www.washingtonpost.com/world/2023/11/26/netanyahu-hamas-israel-gaza/>.

⁵⁰ Joe Biden, “Remarks by President Biden on the October 7th Terrorist Attacks and the Resilience of the State of Israel and its People,” *White House*, 18 October 2023, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2023/10/18/remarks-by-president-biden-on-the-october-7th-terrorist-attacks-and-the-resilience-of-the-state-of-israel-and-its-people-tel-aviv-israel/>.

⁵¹ Daniel Byman and Alexander Palmer, “What You Need to Know About the Israel-Hamas War,” October 7, 2023 <https://foreignpolicy.com/2023/10/07/hamas-attack-israel-declares-war-gaza-why-explained/>.

⁵² Martin Indyk, “Why Hamas Attacked-and Why Israel was Taken by Surprised,” 7 October 2023 <https://www.foreignaffairs.com/middle-east/martin-indyk-why-hamas-attacked-and-why-israel-was-taken-surprise>.

willingness to do a deal with Israel.”⁵³ These governmental failures and academic oversights should challenge historians to re-examine the *conceptizations* of both the American government and its academic elite.

Clearly, after only six months, a literature review is premature. But it is not too early for diplomatic historians in particular to start thinking about what questions and issues this event raises. An ever-expanding historical research agenda should attempt to understand this historic disaster in context. Americanists should ask what lessons emerge regarding American foreign policy, and America’s reading—or misreading—of the world.

Academic inquiry will, of course, eventually have to go much farther too. Diplomatic historians should also keep generating research agendas seeking to understand the broader Israel-Hamas war, the even broader looming regional conflict, and the history of the Middle East. There is a growing body of literature about the fight against terrorism and the complexities of asymmetrical warfare, but more is required—including an historical look at how the phrase “we don’t negotiate with terrorists” became as believable as “the check is in the mail.” The Israel-Hamas war demonstrates the importance of these studies. Still, it is helpful, and not premature, to start focusing on the compelling questions arising from 7 October—in the same way that some historians have focused in on Pearl Harbor or 9/11 to tell a more sweeping story about America in those critical moments.

Though some scholars will integrate 7 October into the story of the aftermath, there are interesting studies to launch regarding 7 October as a singular event. Judging what happened on 7 October by the rights and wrongs or successes and failures of Israel’s subsequent response is irresponsible. It would be like analyzing 9/11 exclusively through the lens of the Iraq War. The mistakes America made starting in March 2003 should not blur other compelling lessons that American leaders can learn about the massive terror attack that occurred 18 months earlier.

As a preliminary brainstorming exercise, in order to develop a proper research agenda, scholars should begin to analyze 7 October from five perspectives: the precipitating event; the build-up of tensions; America’s *conceptization*; the geopolitical context; and some meta-historical questions that diplomatic historians should be asking.

When examining the build-up of tensions, scholars can look back to 2004, when President George W. Bush wrote to Prime Minister Ariel Sharon, encouraging Israel’s disengagement from Gaza—which Sharon initiated. Bush envisioned Palestinians ceasing “official” incitement, along with ending “armed activity and all acts of violence against Israelis anywhere.” He affirmed Israel’s “right to defend itself against terrorism.” And he promised an international effort “to build the capacity and will of Palestinian institutions to fight terrorism, dismantle terrorist organizations, and prevent the areas from which Israel has withdrawn from posing a threat that would have to be addressed by any other means...”⁵⁴ Why Bush and the foreign policy establishment had such faith in those promises—and how the resultant events devolved—illuminates longstanding assumptions and blind spots in America’s Middle East strategy. They also reflect a Western worldview that problems are solvable and most parties in any conflict are rational players seeking a compromise.

Following Bush’s 2004 letter came strategic misfires, which included Palestinian military forces building up their weapons, digging tunnels, and continuing to attack Israel, especially after Hamas seized power in its 2007 coup. The expectations—which many Israelis shared—that the Gazans would invest in developing

⁵³ Martin S. Indyk. (2011). “A shift in Israel-Hamas Relations?” Interviewed by Bernard Gwertzman. *Council on Foreign Relations*, 19 October 2011 <https://www.cfr.org/interview/shift-israel-hamas-relations>.

⁵⁴ The White House, “Letter from President Bush to Prime Minister Sharon,” 14 April 2004 <https://georgewbush-whitehouse.archives.gov/news/releases/2004/04/20040414-3.html>.

Gaza rather than still trying to destroy Israel—proved delusional. How Israel managed and mismanaged the conflict also merits research and analysis. Whether there were inflection points when different policies might have yielded different outcomes is well worth exploring. Clearly, the cat-and-mouse pattern of rockets and reprisals accomplished little—and helped precipitate the 7 October rampage.

Even as the violence continued, even as Hamas invested more and more in weaponry and tunnels, America and the West encouraged Israel to see Hamas as pragmatic and tolerate the massive amounts of cash Qataris brought into Gaza for Hamas. Year after year, America’s greatest foreign policy experts opined that, as Richard Haass, the president of the Council of Foreign Relations, first advised in 2006, “U.S. officials ought to sit down with Hamas officials, much as they have with the leaders of Sinn Féin.”⁵⁵ Seventeen years later, Haass continued urging Israel not to invade after 7 October, instead he insisted that Israel distinguish between “Hamas and the people of Gaza.” He explained: “To suggest that Hamas poses an existential threat to Israel is overblown.”⁵⁶

Israelis at that moment were still mourning 1,200 dead—many of them murdered in grotesque fashion that had been intentionally captured on livestreams. Haass’s remarks illustrated the gap between American foreign policy conceptions and Israeli realities—even as America’s two-state agenda ended up overlapping with Benjamin Netanyahu’s no-Palestinian-state agenda. Both needed to believe in a reasonable Hamas leadership to succeed. As Hamas’s Ali Barak boasted to Russia Today TV on 8 October 2023, as translated by the Middle East Media Research Institute, “We made them think that Hamas was busy with governing Gaza, and that it wanted to focus on the 2.5 million Palestinians” there.⁵⁷

Of course, policymakers make mistakes—that is excusable. But refusing to learn from them, to incorporate new information, is inexcusable.

More broadly, as America enters into another fraught presidential election in November 2024, it is important to consider how to analyze 7 October in the context of the deep divisions in America, and America’s inconsistent foreign policy over the last two decades. To what extent has America’s growing polarization and demoralization, exacerbated by Donald Trump’s presidency, weakened America—emboldening attacks against American allies? Similarly, to what extent can historians draw connections, linking Hamas’s boldness on 7 October with Biden’s catastrophic 2021 withdrawal from Afghanistan, the standoff in Ukraine since February 2022, and the growing impunity of Russia and China? On one level, it seems that Hamas developed its plans regardless of what was happening in Israel, with America and worldwide. But such bold elaborate plans were not developed in a vacuum. Scholarship on this topic could prove fruitful.

And, while it may be too early to assess the true historical impact of the nuclear deal with Iran, it is not too early to ask bigger questions about how America has handled and mishandled Iran since Obama tried opening more direct negotiations with the regime. These questions are particularly relevant following Iran’s massive rocket attack on Israel on 13 April.

It is equally important to go wider, not only seeing the conflict through an American lens. Egypt’s role as both uncomfortable neighbor to Hamas and a launching pad for smuggling remains unexamined. And the

⁵⁵ Richard Haass. (2006), The New Middle East, *Foreign Affairs*, 85(6), 11.

⁵⁶ Richard Haass, “Israel’s was must distinguish between Hamas and the people of Gaza” *Financial Times*, 27 October 2023, <https://www.ft.com/content/779d082a-efdc-4ae4-86b4-aaebec88f810>.

⁵⁷ Senior Hamas Official Ali Baraka. (2023), MEMRI, <https://www.memri.org/reports/senior-hamas-official-ali-baraka-we-have-been-secretly-planning-invasion-two-years-russia>.

role major shifts such as the 2020 Abraham Accords and the hoped-for Egyptian-Saudi Arabian-Israeli alignment played in either calming the region—or inflaming it—are worth exploring too.

Finally, going even deeper than the geopolitical context, diplomatic historians should start framing some meta-historical questions too. American foreign policymakers' actions implied that they thought that the Palestinians would be satisfied with an Oslo peace process or a full Gaza withdrawal. These policymakers did not account for the actions of actors who are not rational and transactional but apocalyptic. (Israelis currently are debating just how transactional Hezbollah in Southern Lebanon is—and just how apocalyptic.)⁵⁸ The transactional mind seeks compromise, a solution; the apocalyptic Messianist seeks total victory, viewing all concessions as weakness.

Similarly, it is worth evaluating the roles of the UN, the broader diplomatic community, the mass media, social media, and academics, in managing moments like these—which command so much attention—and managing other conflicts which are ignored. Does more martial rhetoric from outside the conflict inflame matters or put pressure on the players to end the violence? What happens when “pro-peace” groups call for ceasefires after a conflict arises? Sometimes, that stance does indeed advance peace; but sometimes, calling for peace too quickly ultimately triggers greater violence, making some professedly “pro-peace” stances downright warlike—and dangerous.

This paradox, for example, explains former US President Theodore Roosevelt's frustration with President Woodrow Wilson during the tense debate regarding whether America should enter what we now call World War I. In June 1915, Roosevelt wrote a friend “I do not believe that Wilson was right on the Lusitania matter”—the German sinking of the British ship that killed 1,198 people. Roosevelt was frustrated that Wilson had been silent days before the Lusitania sinking when a German U-Boat torpedoed the *Gulflight*, killing three Americans. “Had he acted with reasonable firmness in the Gulflight business,” Roosevelt reasoned, “the thousand men, women, and children who were murdered on the Lusitania on the high seas would be alive today.”⁵⁹ In Roosevelt's opinion, Wilson's *conceptzia* about Germany's intention and his reluctance to use violence helped expand the fighting and eventually meant that more violence was necessary.

Clearly, formulating historical questions when history is happening, is like trying to take a snapshot of a movie. The historian's job begins long after the clean-up crews have left. But it is never too early to start setting an agenda and asking questions—even while knowing that authoritative answers and explanations must wait.

⁵⁸ “79 percent of the Israeli Public Believes there is No change for Peace with the Palestinians,” *Jerusalem Post*, 17 March 2024, <https://www.jpost.com/israel-hamas-war/article-792361>.

⁵⁹ Theodore Roosevelt to John Lorimer, Oyster Bay, Long Island, 21 June 1915 in The Shapell Manuscript Foundation, <https://www.shapell.org/manuscript/tr-lusitania/>.