

## Special Article

## Positivism as a Colonial Tool in Palestine

*Noah Salameh<sup>1</sup> Lana Salameh<sup>2</sup>*

(Received: April 8, 2023; Revised: April 18, 2023; Accepted: June 13, 2023)

The Palestinian struggle is a constant one. The land called Palestine, Palestina, Philistine or Philistia, has been a ground for battles for centuries. This land has seen violence, death, betrayal, occupation and oppression. Human violence is indeed a natural occurrence. We are capable of destruction, wars, and tyranny; this reality creates space for the right questions that shape the modern philosophy of human nature and the values that we should live by from the scope of our rights and freedom to our responsibilities towards other human beings and the planet. History proves that violence is a longstanding and fundamental attribute to human nature, it is full of injustice and suffering. This however, is undeniably the core cause of human development and, the reason that people fight every day; to live a better life and to acquire the type of freedom to which any human being is entitled.

As Palestinians; it is our cause and duty to talk about Palestine, to share our history, to spread stories of our struggle, our daily life, and our suffering. Because this world does not protect

---

<sup>1</sup> Independent Scholar, Bethlehem, Palestine, Former Visiting Professor of Institute for Peace Studies, Prince of Songkla University, E-mail: salamehn@hotmail.com (Corresponding Author)

<sup>2</sup> Student of the Master Degree of European Legal Studies, University of Torino, Italy, E-mail: salamehlana469@gmail.com

people who do not dare to speak up, to fight and try, even when fighting means standing against a nuclear country with one of the strongest armies in the world, with only your voice and perhaps a rock. That is the Palestinian reality; every day is a near-death experience; there is no escape; there is no safe place. There is only confrontation between the oppressor and the oppressed, a confrontation that is now normalised in daily life for Palestinians. Resilience is one of the most famous Palestinian symbols. It does not indicate the length of the time that Palestinians have been waiting or fighting to get rid of their occupation. Rather, it illustrates the confidence in which Palestinians live on day- by- day under the threat of death. It symbolises the righteousness of people who would dare to die on their lands defending their olive trees from the cruelty of the greedy world that seeks to deprive them of the joy of existing in their simple way of life.

To write about Palestine is not an easy task; it is more difficult to write down things you have seen so clearly with your eyes; describing what it feels like to be under gunshot. put inside a 30 feet wall surrounding the whole area called **‘the West Bank’**, and facing the absurd suggestions of creating the ‘State’ of Palestine on those chunks of pieces of separated lands; fearing that such demands and suggestions are answered; which in a way they have been internationally, politically, and legally.

The giant walls surrounding what is called the “Palestinian territories” is one of the highlights of the daily life of Palestinian resilience. However, as surprising as it may sound, it is not the worst figure of oppression befalling Palestinian daily life. Through a policy of destruction, oppression, torture, unlawful detentions and

prohibition of movement, Palestinians have been driven out of their homeland, denied the right to return in many cases and the right to leave the West Bank or the Gaza Strip in other cases.

The purpose of this article is to create a historical legal understanding of the Palestinian modern situation as an occupied land. This is to shed light on some of the most important political notions and legal instruments that factored into building the present reality of Israeli oppression in Palestine. The article begins with a brief but essential explanation of the notion of Orientalism as the ideological perspective motivating the British mandate into introducing the legal instruments creating the state of Israel and starting in the process of annexation of Palestine; namely: the Sykes-Picot Agreement and the Balfour Declaration. The article outlines the importance of the 1948 Nakba, the 1967 war and the era of negotiations between Israel and the Palestinian Liberation Movement (PLO). The article addresses the outcome of this period represented by the rule of the Palestinian Authority given a legal framework by the Oslo Agreement of 1994 in light of the so-called conflict between Palestinians and Israelis.

## **1. Orientalism**

Orientalism in very simple terms is the Western approach to the Orient. It is an assumption that Occident holds about the Orient; a full understanding of Oriental societies, their language, history, traditions, aspirations and behaviours. This approach created the “otherness” of the Oriental. These assumptions were struck from a position of power that Western states had during the mass campaign

of colonial occupations carried out in the Middle East, Africa, and Asia.<sup>2</sup>

Throughout the colonial invasions and occupations that were orchestrated by countries like Britain and France, colonial leaders were responsible for creating justifications for invading Oriental societies such as; Egypt; India; and Algeria. The justification was that a state of colonialism was needed in such societies to give them contemporary civilisation that Britain and other European countries already achieved. Through this approach, Oriental societies were described on many occasions by western scholars and leaders such as John Stuart Mill, Arthur Balfour and Lord Cromer to be “civilizationally and racially inferior; deficient in the logical faculty and incapable of reaching the most obvious conclusions”.<sup>3</sup>

Orientalism is also a study of Oriental societies. In this sense, oriental societies are objectified and made into something that must be studied, understood, and simply put into a framework. And to later appropriate into the contemporary western civilisation, and be stripped of their old traditional behaviours that do not cohere with the new civilisation rules. Consequently, Oriental heritage and cultural behaviours did not suit the new civilisation that needed to be brought upon the Oriental underdeveloped societies, making it important to create a new societal paradigm of laws and codes to civilise the Oriental world.<sup>4</sup>

Based on this brief introduction to the connotations and implications of the phenomenon of Orientalism, the next part of the

---

<sup>2</sup> Said, E. (1978), *Orientalism (1<sup>st</sup> Edition)*. Vintage Books a Division of Random Books.

<sup>3</sup> Said, E. (1978), *Orientalism (1<sup>st</sup> Edition)*. Vintage Books a Division of Random Books.

<sup>4</sup> Said, E. (1978), *Orientalism (1<sup>st</sup> Edition)*. Vintage Books a Division of Random Books.

paper attempts give a better understanding of how Orientalist leaders applied their ideology in reality, and in the case of Palestine in particular, starting with the famous agreement of Sykes-Picot.

## 2. Sykes-Picot - 1916

To gain control over the Suez Canal and to support its path to India, Britain conceived multiple ways in which it would be able to conquer the lands satisfying its existence in the Middle East as a legitimate entity. The chance appeared to the British and French ambassadors when the Ottoman Empire, which was the ruler in the area for over 400 years began to weaken. The Ottoman Empire was also one of the many occupations that had befallen Palestine. this occupation was an outcome of the creation of the Ottoman Empire by Turkish tribes in Anatolia. It stretched out in the Middle East area beginning from Turkey through Iraq, Palestine, and Egypt and ending in Algeria.<sup>5</sup>

In achieving its goal in driving the Ottoman Empire out of the Middle East, and back into what it called “Asiatic Turkey”, Great Britain, in the name of self-determination, created a narrative describing the Ottoman Empire as the Barbaric illegitimate and destructive empire. This served as a justification for its destruction and replacement by a ‘British mandate’. Moreover, in the aim of the justification of such destruction and the necessary replacement of

---

<sup>5</sup> Bentwich, N. (1948). The Legal System of Palestine Under the Mandate. *The Middle East Journal*. (No. 3), 33-46; Renton, J. (2007). Changing Language of Empire and The Orient: Britain and the Invention of The Middle East. *Cambridge University Press*. (No. 3), 645-667.; The Sykes-Picot Agreement (1916)  
<<https://resources.saylor.org/wwwresources/archived/site/wp-content/uploads/2011/08/HIST351-9.2.4-Sykes-Picot-Agreement.pdf>>.

the Ottoman Empire, the area of the Middle East had to be praised as the ‘cradle of civilization’ which must be saved by the British and as such liberated from the Barbaric Ottoman rule that was no more than a violator of an ancient important historical and geographic area.<sup>6</sup>

This narrative was the cornerstone upon which British and French Ambassadors made agreements. The Sykes-Picot was a secret agreement between the UK and France. The agreement outlined the sphere of control and influence of both parties in the Middle East countries, as they were expecting the fall of the Ottoman Empire during WWI. Consequently, the agreement served as a legal tool dividing the Arab world into areas under British control and others under French and Russian as minor parties.<sup>7</sup>

Accordingly, the British decided to rule Palestine colonially by establishing the British administration in the area governed by what was called the British Mandate. It is important to stop here and explain what the British mandate means. The mandate system was a perspective seeking to assist those “peoples not yet able to stand by themselves under the strenuous conditions of the modern world”.<sup>8</sup> As obvious as it may seem, the Mandate system was meant

---

<sup>6</sup> Renton, J. (2007). Changing Language of Empire and The Orient: Britain and the Invention of The Middle East. *Cambridge University Press*. (No. 3), 645-667.; Lee, E. & Lee, S. (2010). Positivism in International Law: State Sovereignty, Self-Determination, and Alternative Perspectives. *Asian Yearbook of International Law*. Vol. 16, 1-24.

<sup>7</sup> Renton, J. (2007). Changing Language of Empire and The Orient: Britain and the Invention of The Middle East. *Cambridge University Press*. (No. 3), 645-667.; Lee, E. & Lee, S. (2010). Positivism in International Law: State Sovereignty, Self-Determination, and Alternative Perspectives. *Asian Yearbook of International Law*. Vol. 16, 1-24.

<sup>8</sup> Allian, J. (2014). Orientalism and International Law: The Middle East as the Underclass of the International Legal Order. *Leiden Journal of International Law*. 391 -404; Syed, A. (2021). The Middle

to serve as an instrument of political control. The true objectives of the Sykes Picot Agreement was to divide the area into several different 'states', each independent economically and politically, and as such requiring "the mandate system" which was aimed to prepare the newly formed states for eventual freedom and independence.<sup>9</sup>

### 3. The Balfour Declaration - 1917

As mentioned earlier, Britain created several legal instruments to legitimise and make its existence of importance in the area. The Balfour Declaration is a legal treaty of utmost importance in the context of the legal status of Palestine. It is the shifting point; as this declaration introduces Jewish Zionism to the area. Consequently, Zionism became the pivotal point in the new narrative.<sup>10</sup>

The Balfour Declaration was created in 1917. It was a letter by the British Foreign Secretary to a prominent supporter and benefactor of the Zionist movement. It consisted of a promise made by Arthur James Balfour to Zionist Jews about the creation of a Jewish nation for them on the land of Palestine. The Declaration neglected the existence of indigenous people already in Palestine, who had an identity, lives, lands, a system and a way of life. The

---

East: An Orientalist Creation. Retrieved April 19, 2023, from <https://www.e-ir.info/2021/02/25/the-middle-east-an-orientalist-creation/>.

<sup>9</sup> Syed, A. (2021). The Middle East: An Orientalist Creation. Retrieved April 19, 2023, from <https://www.e-ir.info/2021/02/25/the-middle-east-an-orientalist-creation/>.

<sup>10</sup> Renton, J. (2007). Changing Language of Empire and The Orient: Britain and the Invention of The Middle East. *Cambridge University Press*. (No. 3), 645-667.; Lee, E. & Lee, S. (2010). Positivism in International Law: State Sovereignty, Self-Determination, and Alternative Perspectives. *Asian Yearbook of International Law*. Vol. 16, 1-24.

people who existed in Palestine were composed of indigenous Palestinian Christians, Muslims, and Jews who were not Zionists.<sup>11</sup>

The Balfour Declaration was built on a very strange concept. This is because the British were never the owners of the land of Palestine. The Mandate system was imposed upon the people of Palestine, as explained earlier. The Mandate system had the purpose of “civilising” the people of a nation to be liberated eventually. This was not the true intention. Palestine as a geographical space was chosen by Britain for several reasons. Firstly, and most importantly Palestine shares the Sinai Sahara with Egypt which serves the benefits of Britain in the Suez Canal for its trade route from India. Secondly, the strategic Haifa-Akka Port connects the whole Middle East area to Europe. As the Jewish community was struggling in Europe, it was the perfect solution to send European Jewish people to the “empty land of Palestine” as Britain liked to manifest it.<sup>12</sup> The promise was the Orientalist approach of Britain that hostile Arabs in Palestine were not trustworthy, making the creation of a Jewish European society a convenient solution for Britain’s desire to have control in the area.<sup>13</sup>

---

<sup>11</sup> Renton, J. (2007). Changing Language of Empire and The Orient: Britain and the Invention of The Middle East. *Cambridge University Press*. (No. 3), 645-667.

<sup>12</sup> Terry, P. (2017). Britain in Palestine (1917-1948) - Occupation, the Palestine Mandate, and International Law. *University of Bologna Press*, Vol. 2:2.

<sup>13</sup> Terry, P. (2017). Britain in Palestine (1917-1948) - Occupation, the Palestine Mandate, and International Law. *University of Bologna Press*, Vol. 2:2; Ataov, T. (2004). One Arab-Jewish State, The Ottoman Experience and After. *The Turkish Yearbook*. Vol. XXXV; Bentwich, N. (1984). The Legal System of Palestine Under the Mandate. *The Middle East Journal*. (No. 3), 33-46; Lee, E. & Lee, S. (2010). Positivism in International Law: State Sovereignty, Self-Determination, and Alternative Perspectives. *Asian Yearbook of International Law*. Vol. 16, 1-24.



#### 4. The Great Palestinian Revolt - 1936 -1939

The British colonisation of Palestine represents the forefront of the Jewish migration into Palestine, Britain's colonialist interests in the area were the core stimulator of the harsh demeaning and systematic brutal measures implemented against indigenous Palestinians. Favouring Jewish immigrants, depriving Palestinians of their right to self-determination and disregarding any objection they had to the immigration policies followed by the British mandate at the time. the British Mandate left Palestinians devastated, helpless, and furious.<sup>14</sup>

Ottoman land laws were exploited at the time by the British Mandate, allowing some Arabs, mostly amongst whom were non-Palestinian Arabs. To sell lands to Jewish migrants and thus contribute to Palestinian land loss to the Zionist-Jewish political advantage. With this plot carried out, more and more Palestinian lands were seized by Jewish immigrants. According to official records and statistics, the numbers of Jewish immigrants was rapidly increasing, with no accountability whatsoever to the 'illegal' Jewish migration. On the other hand, illegal Arab migration was mainly for work purposes and only on a seasonal basis, was met with strict deportation measures. Consequently, the Arab Committee complained to the British Mandate about the great numbers of

---

<sup>14</sup> Hughes, M. (2008) From Law and Order to Pacification: Britain's Suppression of the Arab Revolt in Palestine 1936-39. *Journal of Palestine Studies*. Retrieved April 18 2023 from <[https://www.palquest.org/sites/default/files/From\\_Law\\_and\\_Order\\_to\\_Pacification\\_Britains\\_Suppression\\_of\\_the\\_Arab\\_Revolt\\_in\\_Palestine\\_1936-39-Mathew\\_Hughes.pdf](https://www.palquest.org/sites/default/files/From_Law_and_Order_to_Pacification_Britains_Suppression_of_the_Arab_Revolt_in_Palestine_1936-39-Mathew_Hughes.pdf)>; Anderson, C. (2017). State Formation from Below and the Great Arab Revolt. *Journal of Palestine Studies*. Retrieved April 18 2023 from <[https://www.palquest.org/sites/default/files/State\\_Formation\\_from\\_Below\\_and\\_the\\_Great.pdf](https://www.palquest.org/sites/default/files/State_Formation_from_Below_and_the_Great.pdf)>

Jewish immigrants and the increasing number of Palestinian lands being acquired by Jewish immigrants, pointing out that in any other context this would have been justifiable. However, the Jewish acquisition of land was driven by political motives at the time, namely; the establishment of the State of Israel.<sup>15</sup>

Despite of the Arabs' attempts at negotiating the Jewish immigration and acquisition of land, the British Mandate remained negligent to its position. It even implemented the British Defence (Emergency) Law; which provided the British administration with unusual authority, such as; the occupation of buildings, the confiscation and control of foods, feeds and stores, the control over local transportation services, curfews, censorship over letters, telegraphs, and press matters. It further gave the right to the authorities to arrest anyone without an arrest warrant or document, house inspections and confiscation of goods, and lastly given the right to the administration to exile citizens. At this stage the Palestinian tolerance for the British Mandate's brutal measures was exhausted, and people realised that they needed to express their anger and refusal more effectively.<sup>16</sup>

Accordingly, the first organised resistance attacks against two British colonial soldiers were carried out by members of Al Qassam political party, constituting the flame of the Arab revolution, which was called for by the Arab leaders after an attack by three armed Palestinians on a group of Jewish travellers on the road from Nablus

---

<sup>15</sup> Anderson, C. (2017). State Formation from Below and the Great Arab Revolt. *Journal of Palestine Studies*. Retrieved April 18 2023 from  
<[https://www.palquest.org/sites/default/files/State\\_Formation\\_from\\_Below\\_and\\_the\\_Great.pdf](https://www.palquest.org/sites/default/files/State_Formation_from_Below_and_the_Great.pdf)>.

<sup>16</sup> Wassif Abboushi, *'The Unmaking of Palestine'*, Riad Al-Rayyes Books Ltd 56 Knightsbridge, London (1985).

to Tulkarem. At this time, a decision by the Supreme Arab committee was taken calling for a six-month strike. The Great Arab Revolt began in 1935, and it can be divided into three main phases; the first phase lasted from the spring of 1936 to July 1937; the second phase from July 1937 until the fall of 1938. and the third phase of the revolution took place from the fall of 1938 to the summer of 1939.<sup>17</sup>

The positive aspects of the Great Palestinian Arab Revolt can be portrayed through the unification of the political parties in a confrontation with the British mandate. They collectively declared that the strike will be maintained until Britain changes its applied policies in a manner which shows genuine change by ending the Jewish flow of immigration into Palestine. However, the British Mandate did not take the declaration in consideration allowing 4,500 new Jewish immigrants in Palestine. This is for the strike taking, disabling the Jaffa port, and filling the streets with demonstrations. As the British suppression and non-collaboration got stronger, the Arab revolt intensified leading in the second phase of the revolt for large swaths of the hilly Palestinian interior including the Old City of Jerusalem to fall under the revolt control, the British Mandate. However, continued as it had been since the beginning of the revolt

---

<sup>17</sup> Hughes, M. (2008) From Law and Order to Pacification: Britain's Suppression of the Arab Revolt in Palestine 1936-39. *Journal of Palestine Studies*. Retrieved April 18 2023 from

<[https://www.palquest.org/sites/default/files/From\\_Law\\_and\\_Order\\_to\\_Pacification\\_Britains\\_Suppression\\_of\\_the\\_Arab\\_Revolt\\_in\\_Palestine\\_1936-39-Mathew\\_Hughes.pdf](https://www.palquest.org/sites/default/files/From_Law_and_Order_to_Pacification_Britains_Suppression_of_the_Arab_Revolt_in_Palestine_1936-39-Mathew_Hughes.pdf)>

; Anderson, C. (2017). State Formation from Below and the Great Arab Revolt. *Journal of Palestine Studies*. Retrieved April 18 2023 from

<[https://www.palquest.org/sites/default/files/State\\_Formation\\_from\\_Below\\_and\\_the\\_Great.pdf](https://www.palquest.org/sites/default/files/State_Formation_from_Below_and_the_Great.pdf)>; Wassif Abboushi, 'The Unmaking of Palestine', Riad Al-Rayyes Books Ltd 56 Knightsbridge, London (1985).

by applying its famous practice of counterinsurgency embodied by the so-called Guerilla methods.<sup>18</sup>

Britain's long experience as a colonial power, and its familiarity with colonial revolts allowed it to develop effective savage practical traditions and inhumane legal systems consisting of collective punishments where thousands of Palestinians were relegated to detention camps. Residential quarters were destroyed; schools were closed; villages were collectively fined and forced to billet British troops and police. This tradition was not a matter of necessity for Britain. It delineates Britain's orientalist approach to achieving its objectives through its colonialist experiments. This approach is embodied in the quote of, Colonel Callwell in describing counterinsurgency *"It must be remembered that one way to get the enemy to fight is to make raids on his property - only the most cowardly of savages and irregulars will allow their cattle to be carried off or their houses to be destroyed without making some show of resistance"*. The quotation suggests that the practice adopted against the Arab Revolt was merely a part of Britain's plan to create the Zionist State of "Israel" on the lands already inhabited and owned by Palestinians through the application of the means of provocation.<sup>19</sup>

---

<sup>18</sup> Wassif Abboushi, *'The Unmaking of Palestine'*, Riad Al-Rayyes Books Ltd 56 Knightsbridge, London (1985).

<sup>19</sup> Wassif Abboushi, *'The Unmaking of Palestine'*, Riad Al-Rayyes Books Ltd 56 Knightsbridge, London (1985); Hughes, M. (2008) From Law and Order to Pacification: Britain's Suppression of the Arab Revolt in Palestine 1936-39. *Journal of Palestine Studies*. Retrieved April 18 2023 from <[https://www.palquest.org/sites/default/files/From\\_Law\\_and\\_Order\\_to\\_Pacification\\_Britains\\_Suppression\\_of\\_the\\_Arab\\_Revolt\\_in\\_Palestine\\_1936-39-Mathew\\_Hughes.pdf](https://www.palquest.org/sites/default/files/From_Law_and_Order_to_Pacification_Britains_Suppression_of_the_Arab_Revolt_in_Palestine_1936-39-Mathew_Hughes.pdf)>

## 5. Al-Nakba - 1948

The numbers of Zionist Jews increased day by day in Palestine since the Balfour Declaration, as a systematic policy to place Jews in Palestine and out of Europe until the end of WWII. When massive numbers of Jews were imported via Mediterranean Sea from Europe to Palestinian lands as a consequence of the horrors of the Nazism, leading to the occurrence of Al-Nakba.<sup>20</sup>

Al-Nakba is an Arabic term which translates in English to “the Catastrophe”. This date is referred to by Israel as the Israeli-Palestinian conflict. It is celebrated by Israeli settler Zionists as an Independence Day. This date marks the beginning of a series of military operations carried out by Israeli Zionists in historical Palestinian villages and cities, massacring its inhabitants and terrifying the rest into leaving their homes and villages. Al-Nakba constituted an act of organised expulsion of approximately 750,000 Palestinians from their homes, consequently placing Zionist Jews as settlers on what became the occupied lands.<sup>21</sup>

Al Nakba was just the beginning; after the awful crimes committed against Palestinian villagers and inhabitants of the coastal Palestinian cities in particular, the construction and

---

; Anderson, C. (2017). State Formation from Below and the Great Arab Revolt. *Journal of Palestine Studies*. Retrieved April 18 2023 from

<[https://www.palquest.org/sites/default/files/State\\_Formation\\_from\\_Below\\_and\\_the\\_Great.pdf](https://www.palquest.org/sites/default/files/State_Formation_from_Below_and_the_Great.pdf)>

<sup>20</sup> Sadaka, ‘Nakba’, The Ireland Palestine Alliance,

<<https://www.sadaka.ie/Articles/Factsheets/FACTSHEET-Nakba.pdf>>

<sup>21</sup> Sadaka, ‘Nakba’, The Ireland Palestine Alliance,

<<https://www.sadaka.ie/Articles/Factsheets/FACTSHEET-Nakba.pdf>>; Nakba Fact Sheet. Jewish Voice

for Peace <<https://salsa.democracyinaction.org/o/301/images/Nakbafactsheet1.pdf>>; Hurst, D. (2003)

The Gun and the Olive Branch: The Roots of Violence in the Middle East. *ThunderMouth Press*,

*Nation Books*.; Cook, J. (2022) Disappearing Palestine: Israel’s Experiments in Human Despair, Zed

Books.

development of Israeli settlements began, with the economic aid and political support of Britain and then later the United States. The country started to develop very quickly and the colonial settlements began to expand and eat up more and more of the Palestinian lands. Implementing policies and discriminating against the indigenous Palestinians, and finally building the Israeli Apartheid wall makes the Israeli settlers' policy a very clear one. It's not just a normal form of discrimination and abuse against indigenous Palestinians. It is an Apartheid separation system.<sup>22</sup>

On the other side of the wall in the literal sense, Palestinians were aided by the UNRWA to build "Refugee Camps". The United Nations' role was crucial, it played an essential role in creating a justifiable situation for Israel to carry on with its land seizing and deprivation of every kind of right to Palestinians. By simply creating the UNRWA, it reinforced and asserted the situation of Palestinians. However, instead of addressing the problem, it created an alternative situation for refugees who were uprooted and made homeless.<sup>23</sup>

Refugee camps are overcrowded, dirty, unhealthy as a living space, and above all burdening the remaining cities of the West Bank. With huge numbers of refugees that were displaced, during the Zionist invasion and massacres, overwhelming those cities with poorly structured refugee camps that crowded the cities and cut half of their size back. In this scenario unoccupied cities were

---

<sup>22</sup> Cook, J. (2022) Disappearing Palestine: Israel's Experiments in Human Despair, Zed Books; Nakba Fact Sheet. Jewish Voice for Peace,  
<<https://salsa.democracyinaction.org/o/301/images/Nakbafactsheet1.pdf>>

<sup>23</sup> Sadaka, 'Nakba', The Ireland Palestine Alliance,  
<<https://www.sadaka.ie/Articles/Factsheets/FACTSHEET-Nakba.pdf>>

completely trapped from the one side by the giant walls and from the other side by huge numbers of houses that were urgently built for refugees to live in.

## 6. Tripartite Aggression 1956 - Suez Crisis

The Tripartite aggression, or as internationally known as; the Suez Crisis is one of the most significant events in the so-called Middle East area led by the infamous colonialist forces of Britain and France alongside the newly established state of Israel. The post Second World War era was a time of great colonial decline. It is often referred to as the Decolonisation era, in which many formerly colonised parts of Africa and Asia including the 'Middle East' were acquiring their independence. It was peaceful and orderly in some areas, where in other areas had to go through a revolutionary phase in order for colonial powers to decline. Egypt was one of those countries which had to fight through its independence process. The anti-colonial movement in Egypt was led by the accomplished President Gamal Abdel Nasser. The French and British colonies in the area had shares in the Suez Canal Company at that time due to their dominant colonial powers in the area. The two countries were actually controlled the Canal. As mentioned earlier, the Canal was of great interest to those two colonial powers because the canal offers a strategic trade route between the Mediterranean with the Red Sea and the Indian Ocean.<sup>24</sup>

---

<sup>24</sup> Hussein, M. (2022). Remembering the Suez Crisis and the Tripartite Invasion of Egypt. *Middle East Monitor*. Retrieved April 18 2023 from < <https://www.middleeastmonitor.com/20221029-remembering-the-suez-crisis-and-the-tripartite-invasion-of-egypt/> >; Winder, A. 1965 War, The Political Failure of the Tripartite Aggression. Interactive Encyclopedia of the Palestinian Question. Retrieved April 18 2023 from < <https://www.palquest.org/en/highlight/161/1956-war> >

The Suez Canal Crisis began when Egyptian President Gamal Abdel Nasser nationalised the Canal ending the ownership of the Suez Canal by the Suez Canal Company, and as such revoking Britain and France's ownership of the Canal. The nationalisation of the Canal was Gamal Abdel Nasser's response to the US and Britain's decision not to finance Egypt's construction of the Aswan High Dam. Gamal Abdel Nasser had calculated the tolls collected from ships that would be passing through the Canal as a result of the nationalisation to be enough to cover the finances of the construction in five years. In this way he challenged the British and French colonial powers and the United States. Egypt's control over the Canal led Britain and the United States to believe that Gamal Abdel Nasser might close the Canal, blocking the passing of the ships.<sup>25</sup>

The nationalisation of the Canal was Britain and France's justification to ally along with Israel to attack Egypt. The Egyptian resilient resistance and the international diplomatic pressure mainly applied by US President Dwight Eisenhower through the UN, resulted the US threat to sanction the aggression powers if they did not withdraw from Egypt. Accordingly the tripartite aggression failed and resulted in a major decline in British and French colonial activities in the Middle East.<sup>26</sup>

---

<sup>25</sup> Hussein, M. (2022). Remembering the Suez Crisis and the Tripartite Invasion of Egypt. *Middle East Monitor*. Retrieved April 18 2023 from <<https://www.middleeastmonitor.com/20221029-remembering-the-suez-crisis-and-the-tripartite-invasion-of-egypt/>>; Winder, A. 1965 War, The Political Failure of the Tripartite Aggression. Interactive Encyclopedia of the Palestinian Question. Retrieved April 18 2023 from <<https://www.palquest.org/en/highlight/161/1956-war>>

<sup>26</sup> Hussein, M. (2022). Remembering the Suez Crisis and the Tripartite Invasion of Egypt. *Middle East Monitor*. Retrieved April 18 2023 from <<https://www.middleeastmonitor.com/20221029-remembering-the-suez-crisis-and-the-tripartite-invasion-of-egypt/>>.



## 7. Palestinian Liberation Organisation - 1964

It was after the first world war when Palestinian nationalists started the idea of establishing liberation movements to rid themselves of British imperialism. This was triggered after the above-mentioned Sykes-Picot agreement, which marginalised the existence and role of indigenous Arabs in the area. The establishment of the Palestinian Liberation Organisation however, took place officially only after the second world war. The Arab states concerned in the Sykes-Picot agreement had been granted independence by then, except for Palestine, as we have mentioned before. The British Mandate had other plans for the land of Palestine and Palestinians, namely the Balfour Declaration through which; the Jews have been awaiting their right to claim their “promised land”.

As a result of Sykes-Picot, Balfour Declaration, and the catastrophe of 1948 Al-Nakba, Palestinian refugees scattered all over the surrounding area of Palestine fled to Syria, Lebanon, Jordan, Egypt, Iraq and other states of the Arab world.<sup>27</sup> This was a temporary situation in which Arab states tried to go along with the new order of things, and ignore the issue of Palestinian displacement as long as their nation was not directly attacked by Israeli military forces. In 1964 the Arab neglect of the newly established Israeli state and its threat to the Palestinian existence came to the end. This occurred in result of Israel’s interest in the Jordan River water. The Arab league at this point turned their attention to Palestine and decided to set up the Palestinian Liberation Organisation led by Ahmad Al Shukeiry. The Palestinian Liberation Organisation was

---

<sup>27</sup> Hussain, M. (1973). The Palestine Liberation Movement and Arab Regimes: The Great Betrayal. *Economic and Political Weekly*. (No. 45), 2023-2028.

established at the Arab League Summit in Cairo in January 1964, and until 2012 remained the sole representative of the Palestinian people at the international and national levels. In 1974, the PLO was officially recognised by the United Nation General Assembly to be the sole legitimate representative of the Palestinian people.<sup>28</sup>

## 8. Arab-Israeli War 1967 - Al-Naksa

The total Arab rejection of the newly established Jewish state in the land of Palestine was a natural and inevitable consequence of the Israeli occupation of Palestine. The establishment of the state of Israel had to be built through the violent uprooting, exile, humiliating torture, destruction and coldblooded murder in the 1948 catastrophe was a justification for why Arabs would not accept a western supported colonial oppressor who wants to take over control in the area. Israel was a British colonial invention which had only one purpose; to complete the establishment of the state of Israel as a national home for Jewish people without regard to the consequences or effects of such an operation. However, like any situation in the world, the existence of an oppressor demands resistance, which was the case ever since the Balfour Declaration.<sup>29</sup>

---

<sup>28</sup> Hussain, M. (1973). The Palestine Liberation Movement and Arab Regimes: The Great Betrayal. *Economic and Political Weekly*. (No. 45), 2023-2028.

<sup>29</sup> Parker, R. (1992). The June War: Whose Conspiracy. *Journal of Palestine Studies*, retrieved April 2023 From <[https://www.palquest.org/sites/default/files/The\\_June\\_War\\_Whose\\_Conspiracy-Richard\\_B\\_Parker.pdf](https://www.palquest.org/sites/default/files/The_June_War_Whose_Conspiracy-Richard_B_Parker.pdf)>; Segev, T. (2007) The June 1967 War and the Palestinian Refugee Problem', (2007), *The Journal of Palestine Studies*, retrieved April 19 2023 from <[https://www.palquest.org/sites/default/files/The\\_June\\_1967\\_War\\_and\\_the\\_Palestinian\\_Refugee\\_Problem-Tom\\_Segev.pdf](https://www.palquest.org/sites/default/files/The_June_1967_War_and_the_Palestinian_Refugee_Problem-Tom_Segev.pdf)>.

After the establishment of the PLO, resistance operations carried out by Palestinian refugees were increasing, especially between 1965 to 1967. Israel threatened to launch a military attack on Syria in response to its support for the Palestinian resistance and the signature of a mutual defence pact with Egypt. The rise of Arab Nationalism at that time was a source of concern for Israel. It felt threatened especially in light of the wide national Arab non-acceptance and support for Palestinian resistance. Israel was being aided by the United States with a supply of arms and launched its promised attack on Syria, gaining over the Syrian Golan Heights, which until today are under Israeli military occupation. Being completely enforced with arms provided by the US, Israel launched another attack on Egypt destroying its air force completely, and the war ended in a great defeat to the Arab forces.<sup>30</sup>

The events of the war which ended in the defeat of the Arab armies were not the most significant highlight of the six-day war. The war constituted an opportunity for Zionist leaders to make demographic changes on the Palestinian land. Many of the villages that Israel was not able to seize back in 1948 fell under occupation. Palestinians were displaced from their homes and killed and many refugees ended up in neighbouring countries like Jordan, Egypt, Syria, and Lebanon. This wave of murder and eviction was even greater than the previous Nakba where Palestinians were massacred and dispossessed of their lands and homes. The catastrophe of 1967

---

<sup>30</sup> Segev, T. (2007) 'The June 1967 War and the Palestinian Refugee Problem', (2007), *The Journal of Palestine Studies*, retrieved April 19 2023 from

<[https://www.palquest.org/sites/default/files/The\\_June\\_1967\\_War\\_and\\_the\\_Palestinian\\_Refugee\\_Problem-Tom\\_Segev.pdf](https://www.palquest.org/sites/default/files/The_June_1967_War_and_the_Palestinian_Refugee_Problem-Tom_Segev.pdf)>; Hussain, M. (1973). The Palestine Liberation Movement and Arab Regimes: The Great Betrayal. *Economic and Political Weekly*. (No. 45), 2023-2028.

made profound changes and damage to the Palestinian demography. It shaped the new territories of the West Bank and Israel, paving the way for Israel to claim the sum of land seized during the war as Israeli property and using many British and Ottoman property and land law to have actual legal rights for ownership by exiling its owners and prohibiting them from entering again. Moreover, the war resulted in more than just the defeat of Arabs against Israel. Arab nationalism, which had reached its peak when Arab leaders were determined to drive Israel out of the Palestinian lands and win over their stolen land, declined massively and the defeat left Arabs devastated. Arab leaders had to abide by the 242 UNSC resolution proposed by Britain to recognise the right of all the countries in the region to live in peace within secure borders. This equalled an actual recognition by all Arab countries of the State of Israel and marks the borders of Israel between its neighbouring countries and the West Bank and the Gaza strip as Palestinian inhabited territories. This resolution was another form of the use of positivism as a means to implement Britain's initial plan of building an Israeli colony in Palestine.<sup>31</sup>

## 9. Oslo Agreement - 1994

The PLO's determination for the non-recognition of the state of Israel began to deter and finally shifted towards the beginning of the 1990's due to US and Israeli pressure to accept the

---

<sup>31</sup> SBarakat, S. Al-Naksa: (2022). Remembering the Six Day War of 1967. Retrieved April 18 2023 from <<https://egyptianstreets.com/2022/06/10/al-naksa-remembering-the-six-day-war-of-1967/>>; Nuseibeh, M. (2017). The Second Nakba: Displacement of Palestinians in and After the 1967 Occupation', *Orientxxi*. Retrieved April 18 2023 from <<https://orientxxi.info/magazine/the-second-nakba-displacement-of-palestinians-in-and-after-the-1967-occupation,1875>>.

242 UNSC resolution and the right of Israel's right to exist. The compromises followed by the recognition of Israel and the acceptance of the 242 Resolution weakened the PLO's position. This shift in its position was followed by the resort to the Oslo's Agreement. The irony is that the PLO had accepted to go into negotiations and had finally officially agreed to recognise Israel when Israel made the resort to Oslo more difficult initially, it refused to agree to the negotiations and finally considered its acceptance to negotiate a generous compromise.<sup>32</sup>

The Oslo Accords are a series of agreements that took place from 1993 to 1999 within the overall category "Interim Arrangements" on the West Bank and Gaza Strip territories. The main concept of the Oslo Accords was that the two parties were not ready for a peace agreement, but both agreed that there has to be some kind of an arrangement. According to the *de facto* situation they were in, namely; that Palestinians and Israelis are sharing the same country resulting in an inevitability of contact between the two sides. The arrangements concluded several matters. The first arrangement was in 1993 consisting of: Letters of mutual recognition between Israel and the PLO and the declaration of interim self-government arrangements. The second arrangement in 1994: agreement on the Gaza Strip and Jericho area (economic relations);

---

<sup>32</sup> Hassan, S. (2011). The Genesis and Consequences for Palestine, *Social Scientist*, Vol. 39. Retrieved April 18 2023 from <<https://www.jstor.org/stable/pdf/41289422.pdf>>; AbuZayyad, Z. (2014). Israel and Palestine - Last Chance for the Bilateral Process. *Palestine Israel Journal*. Vol. 19 (No. 3). Retrieved April 18 2023 from <<https://www.corteidh.or.cr/tablas/r32514.pdf>>; Oslo Agreement, Occupied Palestinian Territory - Israel, 1995, <[https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS\\_950928\\_InterimAgreementWestBankGazaStrip%28Osloll%29.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_950928_InterimAgreementWestBankGazaStrip%28Osloll%29.pdf)>

in 1995: the agreement on the preparatory transfer of powers and responsibilities, the Israeli-Palestinian interim agreement on the West Bank and the Gaza Strip; the 1996 protocol concerning the redeployment of Hebron, 1998 Wye River Memorandum and the 1999 Sharm El-Sheikh Memorandum.<sup>33</sup>

The Oslo Agreement is one of the most important legal documents regarding to the present Palestinian situation. This agreement led to the creation of the reality Palestinians live in today, from the division between the Gaza Strip and the West Bank. The Israeli acquisition of land and the Israeli military control on Palestinian lands to the construction of the apartheid wall. The Oslo agreement deprived the Palestinian society of any means they had to determine their future. This is because Oslo was supposed to be an interim agreement which ends in the establishment of the state of Palestine on what is called the “1967 borders”, meaning that the state of Palestine would be the West Bank and the Gaza Strip. Aside from the opposition of many Palestinian political parties and a great part of the Palestinian society to this compromise, the Israeli occupation never stopped building settlements and it never intended to. This means that Oslo had not done more than give the Palestinians a false right to self-government. It was not genuine because Israel remained capable of invading the West Bank, putting

---

<sup>33</sup> Hassan, S. (2011). The Genesis and Consequences for Palestine, *Social Scientist*, Vol. 39. Retrieved April 18 2023 from <<https://www.jstor.org/stable/pdf/41289422.pdf>>; Ziad AbuZayyad, ‘*Israel and palestine - Last Chance for the Bilateral Process*’ (2014) Palestine Israel Journal, Vol. 19 No. 3 <<https://www.corteidh.or.cr/tablas/r32514.pdf>>; Oslo Agreement, Occupied Palestinian Territory - Israel, 1995, <[https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS\\_950928\\_InterimAgreementWestBankGazaStrip%28Oslo%29.pdf](https://peacemaker.un.org/sites/peacemaker.un.org/files/IL%20PS_950928_InterimAgreementWestBankGazaStrip%28Oslo%29.pdf)>

it under siege, controlling the movement in and out. On the other hand, it would exempt Israel from any responsibility towards Palestinians. This is contrary to international humanitarian law by which; Israel is an occupier who has duties toward the occupied people. Moreover, Israel remained in control of many areas since the 1967 war, and was seizing more land as days went by through the building of settlements. The Palestinian Authority was clearly no matching power to stand up to such a powerful army with advanced technological equipment.

### **10. The Illusion of the ‘State of Palestine’**

The ‘State of Palestine’ as it is recognised by the United Nations is the territories making up the West Bank and the Gaza Strip; those territories are 11% of historical Palestine. The majority of Palestinians are only allowed to exist in the West Bank and Gaza, in an overpopulated and overcrowded ghettoised 11% percent of their original land. Palestinians have limited access to water, electricity and any true resources, Palestinian have been surviving and fighting for true recognition of their human existence, value and dignity, with very minimal, to no results at all. This terrible and humiliating truth led many Palestinian to migrate to other countries, to seek life elsewhere, driven by fear, trauma, and daily violence. It is a true form of imprisonment that the whole world is denying. The ability to move from any place to the other is very complicated. Places so close on the map take hours to reach in practice, with the necessity to go around the apartheid wall choking the Palestinian lands. Nevertheless, the international community could gather in the UN General Assembly and vote to recognise the state of Palestine as it

is today and clap, considering it an achievement towards peace. This proves how ignorant the world is towards the true values of peace. The Palestinian efforts towards its recognition as a state were but a mere attempt to bring the Israeli humanitarian violations against Palestinians to international courts.

Under international law, a state is considered one through the fulfilment of a four requirements test; it has a piece of land to be considered its territory, a population which constitutes its citizens, a government and the capacity to conduct international relations. The State of Palestine does not fulfil this simple test for several reasons. It is a state which has no true clear or territories. The border between ‘the state of Palestine’ and ‘Israel’ is the apartheid wall which the Palestinian Authority cannot control. People trying to cross it would most likely be shot or captured by the Israeli military. The Israeli military can cross this border. It can come in and out, conduct military operations, shoot people, and invade houses and capture Palestinians. Moreover, the Gaza Strip has been subject to a collective punishment by Israel by being put under a siege since 2007. The Palestinian Authority does not have sovereignty. it is completely controlled by Israel, the Israeli military controls checkpoints within the West Bank. It controls the Gaza borders, and the borders between the West Bank and Jordan. Furthermore, Palestinian citizens have identification documents that are issued through the Israeli administration's approval. Finally, the population constituting Palestinian citizens are Palestinians in the West Bank, Palestinians holding Israeli identification cards, Palestinians in Gaza, Palestinians in Jordan, Iraq, Lebanon, Egypt and all over the world. It includes Palestinians who are prohibited by



Israel to coming back to their homeland and, Palestinians in the diaspora. Therefore, it would not be compatible with international law or logic to say that Palestine is a state, for a state requires independence. It requires freedom, rights, and unity and most importantly a state requires effective control over its statehood which Palestine does not have.

To conclude, the title of this paper is, “Positivism as a Colonial Tool in Palestine”. This title stems from a deep belief that the legal values and traditions of modern humanism are very corrupt. Human rights are selectively applied. International law is controlled by political powers. Laws are created and applied by the dominant party and are manipulated according to the interests of leading countries, and for the achievement of international cooperation which benefits them. The accomplishment of Britain, France and the United States, could not have been possibly accepted in a legal based era, if it were not for the cleverness of manipulating rules and obligations. Inventing ‘colonisation’ as a means to help less developed civilisations, justifying every immoral act against indigenous people who never asked for foreign intervention, and calling it heroic is exactly what colonial countries have done in Palestine and in many other past colonised countries that did not deserve to be interfered with. The only difference in Palestine is that, the colonial plan created a *de facto* situation in which Israel is now a reality that Palestinians have to endure every day. Most importantly, it is a *de facto* state that was born through the oriental colonial project implemented by colonial Britain with the support of other colonials like France. The British, French, and other European colonial powers misused the United Nations. They

enforce a reality in the Middle East to create instability that serves its economic interests by stealing the resources of these countries, as they do now also in Africa and Asia.

## References

- Abboushi, W. (1985), *The Unmaking of Palestine (1<sup>st</sup> Edition)*.  
Riad Al-Rayyes Books Ltd.
- AbuZayyad, Z. (2014). Israel and Palestine - Last Chance for the Bilateral Process. *Palestine Israel Journal*. Vol. 19 (No. 3).  
Retrieved April 18 2023 from  
<https://www.corteidh.or.cr/tablas/r32514.pdf>
- Allian, J. (2014). Orientalism and International Law: The Middle East as the Underclass of the International Legal Order. *Leiden Journal of International Law*. 391 -404.
- Anderson, C. (2017). State Formation from Below and the Great Arab Revolt. *Journal of Palestine Studies*. Retrieved April 18 2023 from  
[https://www.palquest.org/sites/default/files/State\\_Formation\\_from\\_Below\\_and\\_the\\_Great.pdf](https://www.palquest.org/sites/default/files/State_Formation_from_Below_and_the_Great.pdf)
- Ataov, T. (2004). One Arab-Jewish State, The Ottoman Experience and After. *The Turkish Yearbook*. Vol. XXXV.
- Barakat, S. Al-Naksa. (2022). Remembering the Six Day War of 1967. Retrieved April 18 2023 from  
<https://egyptianstreets.com/2022/06/10/al-naksa-remembering-the-six-day-war-of-1967/>
- Bentwich, N. (1948). The Legal System of Palestine Under the Mandate. *The Middle East Journal*. (No. 3), 33-46.

- Britain and the Invention of The Middle East' (2007). Cambridge University Press.
- Cook, J. (2022) *Disappearing Palestine: Israel's Experiments in Human Despair*, Zed Books.
- Hassan, S. (2011). The Genesis and Consequences for Palestine, *Social Scientist*, Vol. 39. Retrieved April 18 2023 from <https://www.jstor.org/stable/pdf/41289422.pdf>
- Hussain, M. (1973). The Palestine Liberation Movement and Arab Regimes: The Great Betrayal. *Economic and Political Weekly*. (No. 45), 2023-2028.
- Hughes, M. (2008) From Law and Order to Pacification: Britain's Suppression of the Arab Revolt in Palestine 1936-39. *Journal of Palestine Studies*. Retrieved April 18 2023 from [https://www.palquest.org/sites/default/files/From\\_Law\\_and\\_Order\\_to\\_Pacification\\_Britains\\_Suppression\\_of\\_the\\_Arab\\_Revolt\\_in\\_Palestine\\_1936-39-Mathew\\_Hughes.pdf](https://www.palquest.org/sites/default/files/From_Law_and_Order_to_Pacification_Britains_Suppression_of_the_Arab_Revolt_in_Palestine_1936-39-Mathew_Hughes.pdf)
- Hussein, M. (2022). Remembering the Suez Crisis and the Tripartite Invasion of Egypt. *Middle East Monitor*. Retrieved April 18 2023 from <https://www.middleeastmonitor.com/20221029-remembering-the-suez-crisis-and-the-tripartite-invasion-of-egypt/>
- Hurst, D. (2003). The Gun and the Olive Branch: The Roots of Violence in the Middle East. *ThunderMouth Press, Nation Books*.
- Lee, E. & Lee, S. (2010). Positivism in International Law: State Sovereignty, Self-Determination, and Alternative

- Perspectives. *Asian Yearbook of International Law*, 16, 1-24.
- Nakba Fact Sheet. Jewish Voice for Peace.  
<https://salsa.democracyinaction.org/o/301/images/Nakbafactsheet1.pdf>
- Nuseibeh, M. (2017). The Second Nakba: Displacement of Palestinians in and after the 1967 Occupation', *Orientxxi*. Retrieved April 18 2023 from  
<https://orientxxi.info/magazine/the-second-nakba-displacement-of-palestinians-in-and-after-the-1967-occupation,1875>
- Oslo Agreement, Occupied Palestinian Territory - Israel, 1995.
- Parker, R. (1992). The June War: Whose Conspiracy. *Journal of Palestine Studies*, retrieved April 2023 From  
[https://www.palquest.org/sites/default/files/The\\_June\\_War\\_Whose\\_Conspiracy-Richard\\_B.\\_Parker.pdf](https://www.palquest.org/sites/default/files/The_June_War_Whose_Conspiracy-Richard_B._Parker.pdf)
- Renton, J. (2007). Changing Language of Empire and The Orient: Britain and the Invention of The Middle East. *Cambridge University Press*. (No. 3), 645-667.
- Sadaka, Nakba. *The Ireland Palestine Alliance*,  
<https://www.sadaka.ie/Articles/Factsheets/FACTSHEET-Nakba.pdf>
- Said, E. (1978), *Orientalism (1<sup>st</sup> Edition)*. Vintage Books a Division of Random Books.
- Segev, T. (2007) The June 1967 War and the Palestinian Refugee Problem', (2007), *The Journal of Palestine Studies*, retrieved April 19 2023 from

[https://www.palquest.org/sites/default/files/The\\_June\\_1967\\_War\\_and\\_the\\_Palestinian\\_Refugee\\_Problem-Tom\\_Segev.pdf](https://www.palquest.org/sites/default/files/The_June_1967_War_and_the_Palestinian_Refugee_Problem-Tom_Segev.pdf)

Syed, A. (2021). The Middle East: An Orientalist Creation. Retrieved April 18, 2023, from <https://www.e-ir.info/2021/02/25/the-middle-east-an-orientalist-creation/>

Terry, P. (2017). Britain in Palestine (1917-1948) - Occupation, the Palestine Mandate, and International Law. *University of Bologna Press, Vol. 2:2.*

The Sykes-Picot Agreement. (1916).

Winder, A. 1965 War, The Political Failure of the Tripartite Aggression. Interactive Encyclopedia of the Palestinian Question. Retrieved April 18 2023 from <https://www.palquest.org/en/highlight/161/1956-war>