

CHAPTER I

INTRODUCTION

A. Background

The Israeli and Palestine conflict has always been a never-ending conflict. It is a modern phenomenon dating to the end of 19th century. Palestine has long been a territorial designation on the eastern shore of the Mediterranean Ocean. The ancient territory mirrors the expanse that carried the designation Palestine into modern times. In terms of its population, Palestine is one of the most stable areas on the planet. The culture of Palestine's ancient people was impacted by an Arab invasion from the East in the seventh century, which brought to them the Arabic language and the religion is Islam. From 1517, Palestine pertained to the sprawling empire of the Turks, called Ottoman after Othman I, a fourteenth-century Turkish ruler.¹

Before, for centuries there was no such conflict. It all started around the 19th century where the land of Palestine was still inhabited by a multicultural population consisting of approximately 86 percent Muslim, 10 percent Christian, and 4 percent Jewish altogether living in peace.² Religious differences are not the cause of the strife.

¹ John Quigley, *The Statehood of Palestine: International Law in the Middle East Conflict*, (New York: Cambridge University Press, 2010)

² Mike Berry and Greg Philo, *Israel and Palestine* (Pluto Press, 2006) p. 1

The conflict began as a struggle for land. From the end of World War I until 1948, the area that both groups claimed was thus known internationally as Palestine. That same name was also used to designate a less well-defined “Holy Land” by the three monotheistic religions. Following the war of 1948–1949, this land was divided into three parts: the State of Israel, the West Bank (of the Jordan River) and the Gaza Strip.³

It is a small area—approximately 10,000 square miles. The competing claims to the territory are not reconcilable if one group exercises exclusive political control over all of it. Jewish claims to this land are based on the biblical promise to Abraham and his descendants, on the fact that the land was the historical site of the ancient Jewish kingdoms of Israel and Judea, and on Jews’ need for a haven from European anti-Semitism. Palestinian Arab claims to the land are based on their continuous residence in the country for hundreds of years and the fact that they represented the demographic majority until 1948. They reject the notion that a biblical-era kingdom constitutes the basis for a valid modern claim. If Arabs engage the biblical argument at all, they maintain that since Abraham’s son Ishmael is the forefather of the Arabs, then God’s promise of the land to the children of Abraham includes Arabs as well. They do not

³ Joel Beinin and Lisa Hajjar “Palestine, Israel and The Arab-Israeli Conflict, The Primer” [www.merip.org/sites/.../Primer_on_Palestine-Israel\(MERIP_February2014\)final.pdf](http://www.merip.org/sites/.../Primer_on_Palestine-Israel(MERIP_February2014)final.pdf), downloaded on 2 November 2016

believe that they should forfeit their land to compensate Jews for Europe's crimes against Jews.⁴

In the 19th Century, following a trend that emerged earlier in Europe, people around the world began to identify themselves as nations and to demand national rights, foremost the right to self-rule in a state of their own (self-determination and sovereignty). Jews and Palestinians both started to develop a national consciousness and mobilized to achieve national goals. Because Jews were spread across the world (in diaspora), the Jewish national movement, or Zionist trend, where they sought to identify a place where Jews could come together through the process of immigration and settlement. Palestine seemed the logical and optimal place because it was the site of Jewish origin. The Zionist movement began in 1882 with the first wave of European Jewish immigration to Palestine.⁵

At that time, the land of Palestine was part of the Ottoman Empire. This area did not constitute a single political unit, however. The northern districts of Acre and Nablus were part of the province of Beirut. The district of Jerusalem was under the direct authority of the Ottoman capital of Istanbul because of the international significance of the cities of Jerusalem and Bethlehem as religious centers for Muslims, Christians and Jews. According to Ottoman records, in 1878 there were 462,465 subject inhabitants of the Jerusalem, Nablus and Acre districts: 403,795 Muslims (including

⁴ *ibid*

⁵ *ibid*

Druze), 43,659 Christians and 15,011 Jews. In addition, there were perhaps 10,000 Jews with foreign citizenship (recent immigrants to the country) and several thousand Muslim Arab nomads (Bedouin) who were not counted as Ottoman subjects. The great majority of the Arabs (Muslims and Christians) lived in several hundred rural villages. Jaffa and Nablus were the largest and economically most important towns with majority-Arab populations.⁶

Until the beginning of the twentieth century, most Jews living in Palestine were concentrated in four cities with religious significance: Jerusalem, Hebron, Safed and Tiberias. Most of them observed traditional, orthodox religious practices. Many spent their time studying religious texts and depended on the charity of world Jewry for survival. Their attachment to the land was religious rather than national, and they were not involved in—or supportive of—the Zionist movement that began in Europe and was brought to Palestine by immigrants. Most of the Jews who emigrated from Europe lived a more secular lifestyle and were committed to the goals of creating a modern Jewish nation and building an independent Jewish state. By the outbreak of World War I (1914), the population of Jews in Palestine had risen to about 60,000, about 36,000 of whom were recent settlers. The Arab population in 1914 was 683,000.⁷

During 1915–1916, as World War I was underway, the British high commissioner in Egypt, Sir Henry McMahon, secretly corresponded with Husayn ibn

⁶ *ibid*

⁷ *ibid*

‘Ali, the patriarch of the Hashemite family and Ottoman governor of Mecca and Medina. McMahon convinced Husayn to lead an Arab revolt against the Ottoman Empire, which was aligned with Germany against Britain and France in the war. McMahon promised that if the Arabs supported Britain in the war, the British government would support the establishment of an independent Arab state under Hashemite rule in the Arab provinces of the Ottoman Empire, including Palestine. The Arab revolt, led by Husayn’s son Faysal and T. E. Lawrence (“Lawrence of Arabia”), was successful in defeating the Ottomans, and Britain took control over much of this area during World War I.⁸

By the early years of the twentieth century, Palestine had become a trouble spot of competing territorial claims and political interests. As time goes on in Palestine, the situation was getting more complicated. The rising tide of European Jewish immigration was sought, land purchases and settlement in Palestine generated increasing resistance by Palestinian peasants, journalists and political figures. They feared that the influx of Jews would lead eventually to the establishment of a Jewish state in Palestine.⁹

In 1920 and 1921, clashes broke out between Arabs and Jews in which roughly equal numbers from both communities were killed. In the 1920s, when the Jewish National Fund purchased large tracts of land from absentee Arab landowners, the Arabs

⁸ *ibid*

⁹ *ibid*

living in these areas were evicted. These displacements led to increasing tensions and violent confrontations between Jewish settlers and Arab peasant tenants.¹⁰

European Jewish immigration to Palestine increased dramatically after Hitler's rise to power in Germany in 1933, leading to new land purchases and Jewish settlements. Palestinian resistance to British control and Zionist settlement climaxed with the Arab revolt of 1936–1939, which Britain suppressed with the help of Zionist militias and the complicity of neighboring Arab regimes. After crushing the Arab revolt, the British reconsidered their governing policies in an effort to maintain order in an increasingly tense environment. They issued the 1939 White Paper (a statement of government policy) limiting future Jewish immigration and land purchases and promising independence in ten years, which would have resulted in a majority-Arab Palestinian state. The Zionists regarded the White Paper as a betrayal of the Balfour Declaration and a particularly egregious act in light of the desperate situation of the Jews in Europe, who were facing extermination. The 1939 White Paper marked the end of the British-Zionist alliance. At the same time, the defeat of the Arab revolt and the exile of the Palestinian political leadership meant that the Palestinians were politically disorganized during the crucial decade in which the future of Palestine was decided.¹¹ Clashes and clashes went over and over again with no resolution.

¹⁰ *Ibid*

¹¹ *ibid*

There are two primary issues at the core of this continuing conflict. First, there is the inevitably destabilizing effect of trying to maintain an ethnically preferential state, particularly when it is largely of foreign origin.¹² The original population of what is now Israel was 96 percent Muslim and Christian, yet, these refugees are prohibited from returning to their homes in the self-described Jewish state (and those within Israel are subjected to systematic discrimination).¹³

Second, Israel's continued military occupation and confiscation of privately owned land in the West Bank, and control over Gaza, are extremely oppressive, with Palestinians having minimal control over their lives. Thousands of Palestinian men, women, and children are held in Israeli prisons.¹⁴ Few of them have had a legitimate trial; Physical abuse and torture are frequent.¹⁵ Palestinian borders (even internal ones) are controlled by Israeli forces.¹⁶ Periodically men, women, and children are strip

¹² John V. Whitbeck, "What 'Israel's right to exist' means to Palestinians," http://www.ifamericansknew.org/cur_sit/rte.html, accessed on 27 January 2017

¹³ Qumsiyeh, "Palestinian Refugees Right to Return and Repatriation" (<http://ifamericansknew.org/history/ref-qumsiyeh.html>), accessed on 27 January 2017

¹⁴ Ifamericansknew, "Political Prisoners in Israel/Palestine", <http://ifamericansknew.org/stat/prisoners.html>, accessed on 27 January 2017

¹⁵ B'Tselem – The Israeli Information Center for Human Rights in the Occupied Territories, "Absolute Prohibition: The torture and Ill-Treatment of Palestinian Detainees," , http://www.btselem.org/publications/summaries/200705_utterly_forbidden May 2007

¹⁶Ifamericansknew, "Israeli Checkpoint and Their Impact on Daily Lives" http://ifamericansknew.org/cur_sit/checkpoints.html, accessed on 10 December 2016

searched¹⁷; people are beaten; women in labor are prevented from reaching hospitals (at times resulting in death)¹⁸; food and medicine are blocked from entering Gaza, producing an escalating humanitarian crisis. Israeli forces invade almost daily, injuring, kidnapping, and sometimes killing inhabitants.¹⁹

According to the Oslo peace accords of 1993, these territories were supposed to finally become a Palestinian state. However, after years of Israel continuing to confiscate land and conditions steadily worsening, the Palestinian population rebelled. (The Barak offer, widely reputed to be generous, was anything but.²⁰ This uprising, called the “Intifada” (Arabic for “shaking off”) began at the end of September 2000.

The precepts of modern international law and the decades-old Israel-Palestine conflict have had a long, tangled, and disquieting relationship. Born at the same time in the immediate aftermath of the second World War and shaped by some of the same special forces unleashed by the War, the two phenomenon have matured in the shadow of each other. Yet, while one has developed into a respected and a substantial body of universal legal principles, the other has metastasized into a destructive struggle that has

¹⁷ If Americans Knew, “Israeli Strip Searches: A Partial List”, http://www.ifamericansknew.org/cur_sit/strip-searches.html, accessed on 10 December 2017

¹⁸ Saed Bannoura, “68 Woman Gave Birth on Checkpoints, 34 Infants and 4 Woman Died” http://www.ifamericansknew.org/cur_sit/68births.html, accessed on 10 December 2017

¹⁹ If Americans Knew, “Major Israeli Invasions Into The West Bank and Gaza” http://ifamericansknew.org/cur_sit/invasions-articles.html, accessed on 10 December 2017

²⁰ If Americans Knew, “Frequently Asked Questions Regarding the Camp David Peace Proposal of July, 2000 and Barak’s so-called Generous Offer,” http://ifamericansknew.org/cur_sit/processfaq.html accessed on 10 December 2017

contaminated the entire Middle East and beyond. The tragic irony is that the Israeli-Palestine conflict has contributed decisively to the content of modern international law in a number of significant areas – giving enhanced meaning to such concepts as belligerent occupation, the right of refugees, the prohibition on the acquisition of territory by conquest, the legal status of civilian settlements in occupied lands, the concept of terrorism, and the rules of war and resistance – while its numerous victims have received few of the benefits that the emerging rule of law on international conflicts has promised to endow. Based on the elaboration above, the researcher would like to conduct a research with the title “INTERNATIONAL LAW ANALYSIS ON THE TERRITORIAL CONFLICT BETWEEN ISRAEL AND PALESTINE”.

B. Research Questions

Based on the introduction above, the author is interested on doing research to find the answer to these questions:

1. Why does Israel invades Palestine?
2. How does the international law approach the invasion of Israel to Palestine?
3. What is the best solution to resolve the invasion of Israel to Palestine?

C. Research objectives and benefits:

This research has the purposes to:

1. To ascertain what are the reasoning behind the invasion of Israel to Palestine

2. To analyze what are the different approaches that has been sought by the International Law towards the invasion of Israel to Palestine.

3. To analyze on finding the best solution to resolve the case of the invasion of Israel to Palestine

The benefits from this research that may be gained are:

1. Enhancing the reader's knowledge more especially about the International Law and all the variables under it

2. To raise awareness to the readers regarding current international issues especially to conflicts that involves the unjustified Human Rights

3. To give out current information regarding the current International issues

4. To present a solution to the International readers and United Nation

5. Enhancing the reader's knowledge more especially regarding the issue of the invasion of Israel to Palestine

6. Giving out critics and recommendations on how to achieve a solution to the conflict of Israel and Palestine