

# **INTERNATIONAL LAW AND THE ARAB-ISRAEL CONFLICT**

## **Extracts from "Israel and Palestine - Assault on the Law of Nations" by Professor Julius Stone**

**Second Edition 2003**

**with updated commentary and additional material**

**by Ian Lacey, B.A., LL.B.**

The late Professor Julius Stone was recognised as one of the twentieth century's leading authorities on the Law of Nations. His short work "Israel and Palestine", which appeared in 1980, represents a detailed analysis of the central principles of international law governing the issues raised by the Arab-Israel conflict. This summary provides a short outline of the main points in the form of extracts from the original work, and in the context of subsequent developments.

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## EDITOR'S PREFACE TO THE 2003 EDITION

*Israel and Palestine* was written in 1980, and the first edition of this short summary appeared in 1990. Since then the rights of the parties have been modified by agreement, and the optimism which followed those agreements has been succeeded by violent conflict. This second edition now appears in the context of a return to concentrated political warfare which has renewed the relevance of Professor Stone's clear analysis of the status under international law of the Territories which came into Israel's possession in 1967.

A new section has been added which comprises extracts from the provisions of the Oslo Accords and the consequential agreements, and from the Israel-Jordan peace treaty, with short notes on the effect of those agreements on the current legal status of the Territories.

There is also a further section comprising extracts from and commentary on the international instruments relating to the revived Palestinian claim to a "right of return".

The writer is grateful for the advice and assistance of David D. Knoll, author of *The Impact of Security Concerns upon International Economic Law* and Peter J. Wertheim, author of *Unlawful Coercion and the Law of Treaties: the case of Syria and Lebanon*.

This booklet is, of course, a mere description of the legal position, and it charts no course for the future. However it is hoped that this summary will contribute to a more general understanding of the current issues.

Ian Lacey

### **PROFESSOR JULIUS STONE (1907 - 1985)**

The late Professor Julius Stone was recognised as one of the twentieth century's leading authorities on the Law of Nations. His short work "Israel and Palestine", which appeared in 1980, represents a detailed analysis of the central principles of international law governing the issues raised by the Arab-Israel conflict. This summary is intended to provide a short outline of the main points in the form of extracts from the original work, and in the context of subsequent developments.

One of the rare scholars to gain outstanding recognition in more than one field, Professor Stone was one of the world's best-known authorities in both Jurisprudence and International Law.

From 1942 until 1972 he was the Challis Professor of International Law and Jurisprudence at the University of Sydney. From 1972 until his death in 1985 Professor Stone held concurrently with his appointment as visiting Professor of Law at the University of New South Wales the position of Distinguished Professor of Jurisprudence and International Law at the Hastings College of Law, University of California. In 1956 he received the award of the American Society of International Law, and in 1962 he was made an honorary life member of the society. In 1964 the Royal Society of Arts named him as a recipient of the Swiney Prize for Jurisprudence. In 1965 he received the World Research Award of the Washington Conference on the World Peace through Law.

His 26 major works include the authoritative texts "Legal Controls of International Conflict", "Aggression and World Order", "The International Court and World Crisis" and "The Province and Function of Law".

## INTRODUCTORY CHRONOLOGY WITH DOCUMENTARY EXTRACTS

*The outline below summarises those historical events which are relevant to the legal conclusions reached in the text.*

### **1947 United Nations General Assembly recommends partition of mandated Palestine with an internationalised Jerusalem.**

#### ***U. N. General Assembly Resolution 181***, November 29, 1947

The General Assembly,

Having met in special session at the request of the mandatory Power to constitute and instruct a Special Committee to prepare for the consideration of the question of the future Government of Palestine at the second regular session...

Recommends to the United Kingdom, as the mandatory Power for Palestine, and to all other Members of the United Nations the adoption and implementation, with regard to the future Government of Palestine, of the Plan of Partition with Economic Union set out below...

### **1947 The Palestinian Arabs reject the Partition resolution and refuse to set up a provisional government for the proposed Arab state.**

### **1948 Israel declares its independence.**

**The regular armies of Egypt, Trans-Jordan, Syria, Lebanon and Iraq, with volunteers from Sudan and Saudi Arabia, invade.**

### **1949 The truce which ends hostilities is followed by Armistice Agreements which establish military “demarcation lines”, including a line which divides Jerusalem between Trans-Jordan and Israel.**

#### ***1949 Jordanian-Israeli General Armistice Agreement, April 3, 1949***

##### **Article I**

2. No aggressive action by the armed forces - land, sea, or air - of either Party shall be undertaken, planned, or threatened against the people or the armed forces of the other; it being understood that the use of the term planned in this context has no bearing on normal staff planning as generally practiced in military organizations;

4. The establishment of an armistice between the armed forces of the two Parties is accepted as an indispensable step toward the liquidation of armed conflict and the restoration of peace in Palestine.

##### **Article II**

1. The principle that no military or political advantage should be gained under the truce ordered by the Security Council is recognized;

2. It is also recognized that no provision of this Agreement shall in any way prejudice the rights, claims and positions of either Party hereto in the ultimate peaceful settlement of the Palestine question, the provisions of this Agreement being dictated exclusively by military considerations.

#### **Article IV**

2. The basic purpose of the Armistice Demarcation Lines is to delineate the lines beyond which the armed forces of the respective Parties shall not move

**1950 The Kingdom of Trans-Jordan purports to annex the “West Bank” of the Jordan river and East Jerusalem, and changes its name to “The Hashemite Kingdom of Jordan”.**

**1967 Egypt blockades the Straits of Tiran and demands the withdrawal of the UN force in Sinai. The forces of Egypt, Syria and Jordan mass on the borders with the declared intention of invading.**

**In the ensuing war Israel takes possession of the Sinai, the West Bank, East Jerusalem and the Golan.**

#### ***UN Security Council Resolution 242, November 22, 1967***

The Security Council,

...

**1. Affirms** that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

- (i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;
- (ii) Termination of all claims or states of belligerency and respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

**2. Affirms** further the necessity

- (a) For guaranteeing freedom of navigation through international waterways in the area;
- (b) For achieving a just settlement of the refugee problem;
- (c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

**3. Requests** the Secretary General to designate a Special Representative to proceed to the Middle East to establish and maintain contacts with the States concerned in order to promote agreement and assist efforts to achieve a peaceful and accepted settlement in accordance with the provisions and principles in this resolution;

...

**1979 Following Sadat’s historic visit to Jerusalem and the Camp David Accords, the peace treaty with Egypt sets Israel’s southern boundary, “without prejudice to the issue of the Gaza Strip”.**

***Egyptian-Israeli Peace Treaty – 1979, March 26, 1979***

Article II

The permanent boundary between Egypt and Israel is the recognized international boundary between Egypt and the former mandated territory of Palestine, as shown on the map at Annex II, without prejudice to the issue of the status of the Gaza Strip. The Parties recognize this boundary as inviolable. Each will respect the territorial integrity of the other, including their territorial waters and airspace.

**1993 The Oslo Accords provide for the establishment of an interim Palestinian self-governing authority, and a timetable for the redeployment of Israeli forces in the Territories and the negotiation of a final status agreement. The terms of the “Declaration of Principles” are crystallised in a formal agreement in 1995.**

**1994 The peace treaty with Jordan implies the renunciation of any Jordanian claim to sovereignty over the West Bank or east Jerusalem, and sets Israel’s eastern boundary “without prejudice to the status of any territories that came under Israeli military control in 1967”.**

***Treaty of Peace Between The State Of Israel And The Hashemite Kingdom Of Jordan, October 26, 1994***

**Article 3 International Boundary**

2. The boundary, as set out in Annex I (a), is the permanent, secure and recognised international boundary between Israel and Jordan, without prejudice to the status of any territories that came under Israeli military government control in 1967...

**Annex I (a)**

2. The boundary is delimited as follows:

...The boundary line shall follow the middle of the main course of the flow of the Jordan and Yarmouk Rivers...

**1995 The “Oslo II” Agreement of 1995 becomes the currently binding agreement defining the interim power-sharing arrangement in the Territories.**

***Israeli-Palestinian Interim Agreement On The West Bank And The Gaza Strip, Washington, D.C., September 28, 1995***

**RECOGNIZING** that the aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Government Authority ... for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not

exceeding five years...leading to a permanent settlement based on Security Council Resolutions 242 and 338

#### **Article I - Transfer of Authority ...**

5. After the inauguration of the Council, the Civil Administration in the West Bank will be dissolved, and the Israeli military government shall be withdrawn. The withdrawal of the military government shall not prevent it from exercising the powers and responsibilities not transferred to the Council...

#### **Article XII Arrangements for Security and Public Order**

1... Israel shall continue to carry the responsibility for ...overall security of Israelis and Settlements, for the purpose of safeguarding their internal security and public order, and will have all the powers to take the steps necessary to meet this responsibility.

#### **Article XV**

##### **Prevention of Hostile Acts**

1. Both sides shall take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against each other, against individuals falling under the other's authority and against their property and shall take legal measures against offenders.

#### **Article XXII Final Clauses...**

6. Nothing in this Agreement shall prejudice or pre-empt the outcome of the negotiations on the permanent status to be conducted pursuant to the DOP. Neither Party shall be deemed, by virtue of having entered into this Agreement, to have renounced or waived any of its existing rights, claims or positions.

*[See Part 5 for a fuller extract]*

**2000 Final Status negotiations at Camp David II and Taba fail. However the interim arrangements under the Oslo agreements remain in force.**

## Part 1

### THE LEGAL STATUS OF THE TERRITORIES

*Professor Stone examines the principles governing the legal status of the Territories which came into Israel's possession in 1967. In his analysis Stone draws upon the writings of Professor Stephen Schwebel, the former Chief Judge of the International Court of Justice.*

*Stone's conclusions still remain relevant in the context of the subsequent agreements extracted in Part 5. The agreements implementing the Oslo Accords of 1993 provide for a sharing of governmental powers and responsibilities with the Palestinian Authority on an interim basis pending the negotiation of a "permanent status" agreement, but leave the existing legal title intact. The peace treaty between Israel and Jordan in 1994 sets the international boundary between the parties at the centre of the Jordan river, "without prejudice" to the legal status of the Territories.*

#### **The Self-Defence Principle**

The basic precept of international law concerning the rights of a state victim of aggression, which has lawfully occupied the attacking state's territory in the course of self-defence, is clear. And it is still international law after the Charter, which gave to the UN General Assembly no power to amend this law. This precept is that a lawful occupant such as Israel is entitled to remain in control of the territory involved pending negotiation of a treaty of peace.

Both Resolution 242 (1967) and Resolution 338 (1973), adopted by the Security Council after respective wars of those years, expressed this requirement for settlement by negotiations between the parties, the latter in those words. Conversely both the Security Council and the General Assembly in 1967 resisted heavy Soviet and Arab pressures demanding automatic Israeli withdrawal to the pre-1967 frontiers. Through the decade 1967-1977, Egypt and her Arab allies compounded the illegality of their continued hostilities by proclaiming the slogan "No recognition! No Peace! No negotiation!" thus blocking the regular process of international law for post-war pacification and settlement...

Israel's territorial rights after 1967 are best seen by contrasting them with Jordan's lack of such rights in Jerusalem and the West Bank after the Arab invasion of Palestine in 1948. The presence of Jordan in Jerusalem and elsewhere in cis-Jordan from 1948 to 1967 was only by virtue of her illegal entry in 1948. Under the international law principle *ex iniuria non oritur ius* she acquired no legal title there. Egypt itself denied Jordanian sovereignty; and Egypt never tried to claim Gaza as Egyptian territory

By contrast, Israel's presence in all these areas pending negotiation of new borders is entirely lawful, since Israel entered them lawfully in self-defence. International law forbids acquisition by unlawful force, but not where, as in the case of Israel's self-defence in 1967, the entry on the territory was lawful. It does not so forbid it, in particular, when the force is used to stop an aggressor, for the effect of such prohibition would be to guarantee to all potential aggressors that, even if their aggression failed, all territory lost in the attempt would be automatically returned to them. Such a rule would be absurd to the point of lunacy. There is no such rule....



International law, therefore, gives a triple underpinning to Israel's claim that she is under no obligation to hand back automatically the West Bank and Gaza to Jordan or anyone else. In the first place, these lands never legally belonged to Jordan. Second, even if they had, Israel's own present control is lawful, and she is entitled to negotiate the extent and the terms of her withdrawal. Third, international law would not in such circumstances require the automatic handing back of territory even to an aggressor who was the former sovereign. It requires the extent and conditions of the handing back to be negotiated between the parties.

### **The Status of Competing Claims to Title**

Because the Jordanian entry onto the West Bank and East Jerusalem in 1948 was an unlawful invasion and an aggression, the principle *ex iniuria non oritur ius* beclouded even Jordan's limited status of belligerent occupant. Her purported annexation was invalid on that account, as well as because it violated the freezing provisions of the Armistice Agreement. Conversely Israel's standing in East Jerusalem after her lawful entry in the course of self-defence certainly displaced Jordan's unlawful possession.

Once this position is reached, and it is remembered that neither Jordan nor any other state is a sovereign reversioner entitled to re-enter the West Bank, the legal standing of Israel takes on new aspects. She becomes then a state in lawful control of territory in respect of which no other state can show better (or, indeed, any) legal title. The general principles of international law applicable to such a situation, moreover, are well-established. The International Court of Justice, when called upon to adjudicate in territorial disputes, for instance in the *Minquiers and Eehrehos* case between the United Kingdom and France, proceeded "to appraise the relative strength of the opposing claims to sovereignty". Since title to territory is thus based on a claim not of absolute but only of relative validity, the result seems decisive in East Jerusalem. No other state having a legal claim even equal to that of Israel under the unconditional cease-fire agreement of 1967 and the rule of *uti possidetis*, this relative superiority of title would seem to assimilate Israel's possession under international law to an absolute title, valid *erga omnes*...

The most succinct statement of this position is in Professor Stephen Schwebel's "What Weight to Conquest?" published in 1970, before he entered U.S. government service. He points out that the answer to that question in terms of international law, after the Charter's prohibitions of the use of force, makes necessary a vital distinction "between aggressive conquest and defensive conquest, between the taking of territory legally held and the taking of territory illegally held":

"Those distinctions may be summarized as follows:

- a) A state acting in lawful exercise of its right of self-defence may seize and occupy foreign territory as long as such seizure and occupation are necessary to its self-defence.
- b) As a condition of its withdrawal from such territory, that state may require the institution of security measures reasonably designed to ensure that that territory shall not again be used to mount a threat or use force against it of such a nature as to justify exercise of self-defence.
- c) Where the prior holder of the territory had seized that territory unlawfully, the state which subsequently takes that territory in the lawful exercise of self-defence has, against that prior holder, better title."

*Note:*

*The issues discussed by Professor Stone remain particularly relevant in the context of current assertions that Israeli presence in the Territories constitutes an “illegal occupation”. Such assertions ignore both Israel’s right to lawful possession of the Territories as outlined by Stone, and the specific provisions of the interim power-sharing agreements under the Oslo Accords, which entitle Israel to maintain a military presence in the Territories and to protect its citizens.*

*As Stone remarks, a state victim of aggression is entitled to lawful possession of territory taken in self-defence from a defeated aggressor. The dismemberment of Germany after two World Wars, as a protection against any repeated aggression, is a classic example of the operation of the customary law. It is a principle which is now enshrined in Article 75 of the Vienna Convention on the Law of Treaties, adopted in 1980.*

*Israel has, of course, never sought to effect a permanent annexation of the whole of the Territories. However this does not derogate from the fact that unless and until a Palestinian state is lawfully established, and its borders are determined by agreement, Israel remains the only sovereign state with a right to lawful possession of the West Bank and Gaza, subject only to the interim agreements under the Oslo accords.*

*It is also significant that if Israeli presence in the Territories was indeed considered to be “illegal”, then Israel would be bound to withdraw unilaterally from the whole of the Territories, and without any peace agreement, security guarantees or border adjustments. As Professor Stone points out, this would negate the whole basis for the negotiation of a peaceful settlement with “secure and recognized boundaries” as contemplated by UNSC Resolution 242.*

## Part 2

### SOVEREIGNTY IN JERUSALEM

*The Partition Plan of 1947 envisaged an international Jerusalem, separated from both Israel and the then proposed Palestinian State. During the 1948 war, East Jerusalem (which includes the holy places of Judaism, Christianity and Islam in the old city) came into Jordanian hands; and Jordan claimed sovereignty. In 1967, after Jordan launched an attack on West Jerusalem, the whole of Jerusalem came under Israeli rule; and Israel claimed sovereignty over a united Jerusalem. Professor Stone examines the legal principles which apply, and considers the analysis of Professor Elihu Lauterpacht, the distinguished editor of the authoritative "Oppenheim's International Law".*

*The agreements implementing the Oslo Accords provide that Jerusalem is one of the issues to be considered in the permanent status negotiations, and failure to reach agreement on sharing of administration in Jerusalem was one of the reasons for the failure of those negotiations at Camp David II and at Taba in 2000. In the absence of such agreement, however, sovereignty over Jerusalem under international law remains as described by Stone.*

#### **The Effect of the Partition Plan**

Elihu Lauterpacht concludes, correctly that the 1947 partition resolution had no legislative character to vest territorial rights in either Jews or Arabs. Any binding force of it would have had to arise from the principle *pacta sunt servanda*, that is, from the agreement of the parties concerned to the proposed plan. Such an agreement, however, was frustrated *ab initio* by the Arab rejection, a rejection underlined by armed invasion of Palestine by the forces of Egypt, Iraq, Lebanon, Syria and Saudi Arabia, timed for the British withdrawal on May 14, 1948, and aimed at destroying Israel and at ending even the merely hortatory value of the plan...

The State of Israel is thus not legally derived from the partition plan, but rests (as do most other states in the world) on assertion of independence by its people and government, on the vindication of that independence by arms against assault by other states, and on the establishment of orderly government within territory under its stable control. At most, as Israel's Declaration of Independence expressed it, the General Assembly resolution was a recognition of the natural and historic right of the Jewish people in Palestine. The immediate recognition of Israel by the United States and other states was in no way predicated on its creation by the partition resolution, nor was its admission in 1949 to membership in the United Nations...

As a mere resolution of the General Assembly, Resolution 181(11) lacked binding force *ab initio*. It would have acquired the force under the principle *pacta sunt servanda* if the parties at variance had accepted it. While the state of Israel did for her part express willingness to accept it, the other states concerned both rejected it and took up arms unlawfully against it. The Partition Resolution thus never became operative either in law or in fact, either as to the proposed Jerusalem *corpus separatum* or other territorial dispositions in Palestine.

### **The "*Corpus Separatum* " Concept**

We venture to agree with the results of the careful examination of the *corpus separatum* proposal by E. Lauterpacht in his monograph "Jerusalem and the Holy Places".

(1) During the critical period of the changeover of power in Palestine from British to Israeli and Arab hands, the UN did nothing effectively to implement the idea of the internationalization of Jerusalem.

(2) In the five years 1948-1952 inclusive, the UN sought to develop the concept as a theoretical exercise in the face of a gradual realization that it was acceptable neither to Israel nor to Jordan and could never be enforced. Eventually the idea was allowed quietly to drop.

(3) In the meantime, both Israel and Jordan demonstrated that each was capable of ensuring the security of the Holy Places and maintaining access to and free worship at them-with the exception, on the part of Jordan, that the Jews were not allowed access to Jewish Holy places in the area of Jordanian control.

(4) The UN by its concern with the idea of territorial internationalization, as demonstrated from 1952 to the present date (1968) effectively acquiesced in the demise of the concept. The event of 1967 and 1968 have not led to its revival.

(5) Nonetheless there began to emerge, as long ago as 1950, the idea of functional internationalization of the Holy Places in contradistinction to the territorial internationalization of Jerusalem. This means that there should be an element of international government of the City, but only a measure of international interest in and concern with the Holy Places. This idea has been propounded by Israel and has been said to be acceptable to her. Jordan has not subscribed to it."

Even if no notion of a *corpus separatum* had ever floated on the international seas, serious questions about the legal status of Jerusalem would have arisen after the 1967 War. Did it have the status of territory that came under belligerent occupation in the course of active hostilities, for which international law prescribes a detailed regime of powers granted to the occupying power or withheld it from in the interest of the ousted reversionary sovereign? Or was this status qualified in Israel's favour by virtue of the fact that the ousted power, in this case, Jordan, itself had occupied the city in the course of an unlawful aggression and therefore could not, under principle of *ex iniuria non oritur ius*, be regarded as an ousted reversioner? Or was Jerusalem, as we will see that a distinguished authority thought at the time, in the legal status of *res nullius modo juridico*? That is, was it a territory to which by reason of the copies of international instruments, and their *lacunae*, together with the above vice in the Jordanian title, no other state than Israel could have sovereign title? The consequence of this could be to make the legal status of Jerusalem that of subjection to Israel sovereignty.

### **Acquisition of Sovereignty**

This analysis, based on the sovereignty vacuum, affords a common legal frame for the legal positions of both West and East Jerusalem after both the 1948-49 and the 1967 wars. In 1967, Israel's entry into Jerusalem was by way lawful self-defence, confirmed in the

Security Council and General Assembly by the defeat of Soviet and Arab-sponsored resolutions demanding her withdrawal...

Lauterpacht has offered a cogent legal analysis leading to the conclusion that sovereignty over Jerusalem has already vested in Israel. His view is that when the partition proposals were immediately rejected and aborted by Arab armed aggression, those proposals could not, both because of their inherent nature and because of the terms in which they were framed, operate as an effective legal redistribution of the sovereign title. They might (he thinks) have been transformed by agreement of the parties concerned into a consensual root of title, but this never happened. And he points out that the idea that some kind of title remained in the United Nations is quite at odds, both with the absence of any evidence of vesting, and with complete United Nations silence on this aspect of the matter from 1950 to 1967?...

In these circumstances, that writer is led to the view that there was, following the British withdrawal and the abortion of the partition proposals, a lapse or vacancy or vacuum of sovereignty. In this situation of sovereignty vacuum, he thinks, sovereignty could be forthwith acquired by any state that was in a position to assert effective and stable control without resort to unlawful means. On the merely political and commonsense level, there is also ground for greater tolerance towards Israel's position, not only because of the historic centrality of Jerusalem to Judaism for 3,000 years, but also because in modern times Jews have always exceeded Arabs in Jerusalem. In 1844 there were 7,000 Jews to 5,000 Moslems; in 1910, 47,000 Jews to 9,800 Moslems; in 1931, 51,222 Jews to 19,894 Moslems; in 1948, 100,000 Jews to 40,000 Moslems, and in 1967 200,000 Jews to 54,902 Moslems.

### Part 3.

#### THE GENEVA CONVENTIONS AND THE LEGALITY OF THE SETTLEMENTS

*It is often claimed that settlement by Jews in the administered territories is in breach of the Geneva Conventions. Professor Stone was the author of the treatise "Legal Controls of International Conflict", which included an extensive commentary on the Geneva Conventions. Here he discusses their applicability in the Territories.*

Perhaps the central current criticism against the government of Israel in relation to its administration of the territories occupied after the 1967 War concerns its alleged infractions of the final paragraph (6) of Article 49, of the Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War, of August 12, 1949. The preceding paragraphs deal with deportation or transfer of a population out of the occupied territory. The final paragraph (6) reads as follows. "The occupying Power shall not deport or transfer parts of its own civilian population into territory it occupies."

It has been shown that there are solid grounds in international law for denying any sovereign title to Jordan in the West Bank, and therefore any rights as reversioner state under the law of belligerent occupation... Not only does Jordan lack any legal title to the territories concerned, but the Convention itself does not by its terms apply to these territories. For, under Article 2, the Convention applies "to cases of...occupation of the territory of a High Contracting Party, by another such Party. Insofar as the West Bank at present held by Israel does not belong to any other State, the Convention would not seem to apply to it at all. This is a technical, though rather decisive, legal point.

It is also important to observe, however, that even if that point is set aside, the claim that Article 49 of the convention forbids the settlement of Jews in the West Bank is difficult to sustain.

It is clear that in the drafting history, Article 49 as a whole was directed against the heinous practice of the Nazi regime during the Nazi occupation of Europe in World War II, of forcibly transporting populations of which it wished to rid itself, into or out of occupied territories for the purpose of liquidating them with minimum disturbance of its metropolitan territory, or to provide slave labour or for other inhumane purposes. The genocidal objectives, of which Article 49 was concerned to prevent future repetitions against other peoples, were in part conceived by the Nazi authorities as a means of ridding their Nazi occupant's metropolitan territory of Jews - of making it, in Nazi terms, judenrein. Such practices were, of course, prominent among the offenses tried by war crimes tribunals after World War II.

If and insofar, therefore, as Israel's position in Judea and Samaria (the West Bank) is merely that of an occupying power, Article 49 would forbid deportation or transfer of its own population onto the West Bank whenever this action has consequence of serving as a means of either

- (1) impairment of the economic situation or racial integrity of the native population of the occupied territory; or

(2) inhuman treatment of its own population

**Impairment of Racial Integrity of the Native Population of the Occupied Territory**

The prominence of the question of legality of Jewish settlements on the West Bank reflects the tension of the peace process, rather than the magnitude of any demographic movement. Despite vociferous political warfare pronouncements on both sides, it seems clear, therefore, that no serious dilution (much less extinction) of the separate racial existence of the native population has either taken place or is in prospect. Nor do well-known facts of dramatic improvement in the economic situation of the inhabitants since 1967 permit any suggestion that the situation has been worsened or impaired..

**Inhuman treatment of its own population**

On that issue, the terms of Article 49(6) however they are interpreted, are submitted to be totally irrelevant. To render them relevant, we would have to say that the effect of Article 49(6) is to impose an obligation on the state of Israel to ensure (by force if necessary) that these areas, despite their millennial association with Jewish life, shall be forever judenrein. Irony would thus be pushed to the absurdity of claiming that Article 49(6) designed to prevent repetition of Nazi-type genocidal policies of rendering Nazi metropolitan territories judenrein, has now come to mean that Judea and Samaria the West Bank must be made judenrein and must be so maintained, if necessary by the use of force by the government of Israel against its own inhabitants.

## Part 4

### THE PRINCIPLE OF SELF-DETERMINATION

*It is sometimes asserted that the principle of self-determination creates a legal obligation for Israel to “give back” the Territories to the Palestinians. Here Stone examines the applicability of the “doctrine of self-determination” to the conflict.*

Whether the doctrine is already a doctrine of international law *stricto sensu*, or (as many international lawyers would still say) a precept of politics, or policy, or of justice, to be considered where appropriate, it is clear that its application is predicated on certain findings of fact. One of these is the finding that at the relevant time the claimant group constitutes a people of nation with a common endowment of distinctive language or ethnic origin or history and tradition, and the like, distinctive from others among whom it lives, associated with particular territory, and lacking an independent territorial home in which it may live according to its lights...

Palestine Liberation Organization (PLO) leaders have frankly disavowed distinct Palestine identity. On March 3, 1977, for example, the head of the PLO Military Operations Department, Zuhair Muhsin, told the Netherlands paper *Trouw* that there are no differences between Jordanians, Palestinians, Syrians and Lebanese:

“We are one people. Only for political reasons do we carefully underline our Palestinian identity. For it is of national interest for the Arabs to encourage the existence of the Palestinians against Zionism. Yes, the existence of a separate Palestine identity is there only for tactical reasons. The establishment of a Palestinian State is a new expedient to continue the fight against Zionism and for Arab unity.”...

The myth of the 1966 Palestinian Covenant that the Palestinian people was unjustly displaced by the Jewish invasion of Palestine in 1917 is widely disseminated and unquestioningly and dogmatically espoused in studies from the United Nations Secretariat. However, it is necessary to recall, not only the Kingdom of David and the succession of Jewish polities in Palestine down to Roman conquest and dispersion at the turn of the present era, but also that the Jews continued to live in Palestine even after that conquest, and were in 1914 a well-knit population there. Hundreds of thousands of other Jews, driven from Palestine homeland by successive waves of Roman, Arab, and other conquerors, continued to live on for centuries throughout the Middle East, often under great hardship and oppression. And, of course, millions of others were compelled to move to other parts of the world where too often, as in pogrom-ridden Russia and Poland, they live in conditions of tyrannous and humiliation subjection and under daily threat to their lives...

That the provision for a Jewish national home in Palestine was an application of the principle of self-determination is manifest from the earliest seminal beginning of the principle. The Enquiry Commission, established by President Wilson in order to draft a map of the world based on the Fourteen Points, affirmed the right of the Jewish people that Palestine should become a Jewish State clearly on this ground. Palestine, the commission said, was “the cradle and home of their vital race”, the basis of the Jewish spiritual contribution, and the Jews were “the only people whose only home was in Palestine”...



The problem of competing self-determination becomes, indeed, even more difficult, whether for purposes of determining aggression or for other purposes, where the competing claims and accompanying military activities, punctuated by actual wars, armistices, and cease-fire agreements, have been made over protracted historical periods. The test of priority of resort to armed force in Article 2 of the 1974 Definition presupposes a fixed point of time from which priority is to be calculated. Does one fix the aggression in the Cyprus crisis of 1974 from the action of the Greek officers who led the coup d'etat, or the Turkish response by invasion, even assuming that the 1974 crisis can be severed from earlier struggles? Is the critical date of the Middle East crisis 1973 or 1967, or the first Arab states' attack on Israel in 1948, or is it at the Balfour Declaration in 1917, or at the Arab invasions and conquest of the seventh century AD, or even perhaps at the initial Israelite conquest of the thirteenth century BC? The priority question, as well as the self-determination question, is difficult enough. They become quite baffling when, in the course of such a long span of time, a later developing claim of self-determination like that of the Palestinian people in the 1960s, arises, and claims to override retrospectively the sovereign statehood of another nation, here the Jewish people, already attained by right of self-determination.

*Notes:*

*Stone's characterization of the doctrine of self-determination as a "precept of policy, or politics or of justice" has been clarified in a number of decisions of the International Court of Justice. While the Court has acknowledged the right of various peoples to self-determination as a matter of principle, it has been careful to make rulings only in cases where there has been no finding of lawful possession by a sovereign state.*

*In the East Timor case (1995), for example, the Court was asked to declare that the Timor Gap treaty between Australia and Indonesia was unlawful because it failed to respect the right of the East Timorese people to self-determination. While it strongly affirmed the East Timorese right of self-determination, the Court nevertheless held that in the absence of Indonesia's submission to the Court's jurisdiction, it could not determine the legality of the treaty, since*

*"the effects of the judgment requested by Portugal would amount to a determination that Indonesia's entry into and continued presence in East Timor are unlawful and that, as a consequence, it does not have the treaty-making power in matters relating to the continental shelf resources of East Timor. Indonesia's rights and obligations would thus constitute the very subject matter of such a judgment made in the absence of that State's consent."*

*The East Timor case appears to be precisely in point in its application to Israel's status in the Territories, which were lawfully entered and are lawfully held in self-defence against defeated aggressors.*

*Stone's observations on the competing Jewish and Palestinian claims of self-determination were, of course, made before the mutual recognition implicit in the Oslo Accords, and at a time when the phrase "the inalienable rights of the Palestinian people" was still a coded reference to the projected destruction of Israel, as contemplated by the Palestinian Covenant.*

*In clarification of the reality of that time, Stone cited*

a letter dated February 20, 1980 to the Secretary-General, transmitted for UN circulation to the General Assembly and the Security Council in connection with item 26 of A/35/11000-S/13816 (Situation in the Middle East) [which] declared a propos of inclusion in the Charter of a principle of non-use of force:

“The principle of non-use of force shall apply to the relations of the Arab Nation and Arab States with the nations and countries neighbouring the Arab homeland. Naturally, as you know, the Zionist entity is not included, because the Zionist entity is not considered a State, but a deformed entity occupying an Arab territory. It is not covered by these principles.”

*Unfortunately the breakdown of the final status negotiations under the Oslo agreements and the revival of Palestinian claims to a “right of return” into Israel raise the prospect of a reversion to the conceptual framework of pan-Arab self-determination which applied before 1993. In such circumstances the right of Israel under international law to maintain its lawful presence in the Territories assumes renewed significance.*

## Part 5

### THE LEGAL EFFECT OF THE “PEACE PROCESS”

#### Extracts from Documents 1993-2001 with Notes

#### **DECLARATION OF PRINCIPLES ON INTERIM SELF-GOVERNMENT ARRANGEMENTS**

**September 13, 1993**

*The “Oslo Accords” (the “DOP”) represented an historic agreement to negotiate a final peace settlement within an anticipated period of five years, during which successive interim measures would be implemented. These measures included an interim transfer of autonomous powers to a Palestinian self-governing Authority, and the “re-deployment” of Israeli military forces out of populated areas in the Territories, on the terms which were negotiated in the later agreements extracted below.*

#### **Article I      Aim Of The Negotiations**

The aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Government Authority, the elected Council (the "Council"), for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years, leading to a permanent settlement based on Security Council Resolutions 242 and 338...

#### **Article XIII      Redeployment of Israeli Forces**

2. In redeploying its military forces, Israel will be guided by the principle that its military forces should be redeployed outside populated areas.
3. Further redeployments to specified locations will be gradually implemented commensurate with the assumption of responsibility for public order and internal security by the Palestinian police force...

#### **TREATY OF PEACE BETWEEN THE STATE OF ISRAEL AND THE HASHEMITE KINGDOM OF JORDAN**

**October 26, 1994**

*Following the negotiation of the Oslo Accords, the Peace Treaty between Israel and Jordan incorporated an implicit renunciation by Jordan of its former claim to sovereignty over the “West Bank” of the Jordan river. The definition of the border is therefore qualified by the words “without prejudice to the status of any territories that came under Israeli military control in 1967”. The relevant provision is extracted in the Introductory Chronology.*

## **ISRAELI-PALESTINIAN INTERIM AGREEMENT ON THE WEST BANK AND THE GAZA STRIP**

**Washington, D.C., September 28, 1995**

*This Agreement superseded the previous agreements which comprised the first stages of the “peace process” under the Oslo Accords. It was re-affirmed in the subsequent documents, and as at 2003 it remains the operative document of the process.*

*The Agreement provided for the replacement of Israel’s governmental institutions in the Territories by the Palestinian Authority, and the transfer of all government powers to that Authority, with the exception of the powers specifically reserved to Israel.*

*Significantly for determining the current status of the Territories, the Agreement is entitled “Interim Agreement”. It is expressed to be for a term not exceeding five years, and it contains a provision preserving existing rights.*

*Article XII (1), gives Israel “all the powers necessary” to meet its “responsibility for overall security of Israelis and settlements”.*

**RECOGNIZING** that the aim of the Israeli-Palestinian negotiations within the current Middle East peace process is, among other things, to establish a Palestinian Interim Self-Government Authority ... for the Palestinian people in the West Bank and the Gaza Strip, for a transitional period not exceeding five years...leading to a permanent settlement based on Security Council Resolutions 242 and 338...

### **Article I - Transfer of Authority ...**

5. After the inauguration of the Council, the Civil Administration in the West Bank will be dissolved, and the Israeli military government shall be withdrawn. The withdrawal of the military government shall not prevent it from exercising the powers and responsibilities not transferred to the Council...

### **Article X**

4. Israel shall continue to carry the responsibility for external security, as well as the responsibility for overall security of Israelis for the purpose of safeguarding their internal security and public order.

### **Article XI Land**

1. The two sides view the West Bank and the Gaza Strip as a single territorial unit, the integrity and status of which will be preserved during the interim period...

2. The two sides agree that West Bank and Gaza Strip territory, except for issues that will be negotiated in the permanent status negotiations, will come under the jurisdiction of the Palestinian Council in a phased manner, to be completed within 18 months from the date of the inauguration of the Council, as specified below:

a. Land in populated areas (Areas A and B), including government and Al Waqf land, will come under the jurisdiction of the Council during the first phase of redeployment.

- b. All civil powers and responsibilities, including planning and zoning, in Areas A and B ... will be transferred to and assumed by the Council during the first phase of redeployment.
- c. In Area C, during the first phase of redeployment Israel will transfer to the Council civil powers and responsibilities not relating to territory ...

## **Article XII Arrangements for Security and Public Order**

1. In order to guarantee public order and internal security for the Palestinians of the West Bank and the Gaza Strip, the Council shall establish a strong police force as set out in Article XIV below. Israel shall continue to carry the responsibility for defence against external threats, including the responsibility for protecting the Egyptian and Jordanian borders, and for defence against external threats from the sea and from the air, as well as the responsibility for overall security of Israelis and Settlements, for the purpose of safeguarding their internal security and public order, and will have all the powers to take the steps necessary to meet this responsibility.

3. Except for the Palestinian Police and the Israeli military forces, no other armed forces shall be established or operate in the West Bank and the Gaza Strip.

4. Except for the arms, ammunition and equipment of the Palestinian Police described in Annex I, and those of the Israeli military forces, no organization, group or individual in the West Bank and the Gaza Strip shall manufacture, sell, acquire, possess, import or otherwise introduce into the West Bank or the Gaza Strip any firearms, ammunition, weapons, explosives, gunpowder or any related equipment, unless otherwise provided for in Annex I.

## **Relations between Israel and the Council**

1. Israel and the Council shall seek to foster mutual understanding and tolerance and shall accordingly abstain from incitement, including hostile propaganda, against each other and, without derogating from the principle of freedom of expression, shall take legal measures to prevent such incitement by any organizations, groups or individuals within their jurisdiction.

2. Israel and the Council will ensure that their respective educational systems contribute to the peace between the Israeli and Palestinian peoples and to peace in the entire region, and will refrain from the introduction of any motifs that could adversely affect the process of reconciliation...

## **Article XV**

### **Prevention of Hostile Acts**

1. Both sides shall take all measures necessary in order to prevent acts of terrorism, crime and hostilities directed against each other, against individuals falling under the other's authority and against their property and shall take legal measures against offenders.

## **Article XXII Final Clauses...**

5. Permanent status negotiations will commence as soon as possible, but not later than May 4, 1996, between the Parties. It is understood that these negotiations shall cover remaining

issues, including: Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbours, and other issues of common interest

6. Nothing in this Agreement shall prejudice or pre-empt the outcome of the negotiations on the permanent status to be conducted pursuant to the DOP. Neither Party shall be deemed, by virtue of having entered into this Agreement, to have renounced or waived any of its existing rights, claims or positions.

## **ISRAELI-PALESTINIAN JOINT STATEMENT**

**27 January 2001**

*The optimistic tone of the statement which followed the failure of the talks at Taba did not reflect the situation on the ground. The violence which began at the end of September 2000 still continues in 2003, and permanent status negotiations have not been resumed.*

*However the undertaking by the parties to observe “their mutual commitments” and continue the negotiations implied a further affirmation that the Interim Agreement remained current.*

The Israeli and Palestinian delegations conducted during the last six days serious, deep and practical talks with the aim of reaching a permanent and stable agreement between the two parties...

The sides declare that they have never been closer to reaching an agreement and it is thus our shared belief that the remaining gaps could be bridged with the resumption of negotiations following the Israeli elections...

The two sides take upon themselves to return to normalcy and to establish [a] security situation on the ground through the observation of their mutual commitments...

### *SUMMARY*

1. *In 1980 Professor Stone concluded that Israel had a right to lawful possession of the Territories.*
2. *The Jordan-Israel Peace Treaty of 1994 set the boundary “between Jordan and Israel” along the Jordan River. The reservation “without prejudice to the status of the territories” therefore refers to Israel’s right to lawful possession as modified by the agreements for autonomous powers made under the Oslo Accords.*
3. *The Interim Agreement of 1995, which is the current operative agreement, vested autonomous powers over the Territories in the Palestinian Authority for a limited “transitional” period pending the negotiation of a permanent status agreement, and subject to preservation of existing rights.*

4. *The Interim Agreement made no provision for termination of the interim self-governing regime in the event of a conclusive failure to reach a permanent status agreement, or in the event of fundamental breach of the Agreement's conditions.*
5. *Despite the failure to conclude a permanent status agreement, and fundamental breaches of the Interim Agreement, both parties have elected to continue the "peace process".*
6. *Accordingly Israel's lawful presence in the Territories is as regulated by the Interim Agreement. If that agreement should lapse, then the position would revert to the status quo ante.*

## Part 6

### ARAB REFUGEES AND THE “RIGHT OF RETURN”

#### Extracts from Relevant Instruments

*A central reason for the failure of the final status negotiations at Camp David II in July 2000 and at Taba in January 2001 was a Palestinian insistence that Israel should recognise that the Arab refugees of 1947-1948 and their descendants have a “right of return” into Israel. As at the date of writing this remains a central Palestinian demand.*

*Estimates of the number of refugees who left their homes in Israel in 1947-1948 vary from 419,000, calculated on the basis of numbers before and after the exodus, to 726,000, based on UNRWA relief figures.*

*As at 1996 UNRWA registered over four and a half million people as Palestinian refugees and their descendants, as follows:*

<i>West Bank</i>	<i>1.2 million.</i>	<i>Gaza</i>	<i>880,000</i>	<i>Jordan</i>	<i>1.8 million</i>
<i>Lebanon</i>	<i>372,700</i>	<i>Syria</i>	<i>352,100</i>		

*Many of the refugees face great hardship, and their situation has been a matter of humanitarian concern for over half a century. Obviously repatriation into Israel of a large and hostile population is not a realistic proposition. However the question is whether international law places Israel under any legal obligation to accept such a right of return.*

*Extracts from the relevant international instruments, with notes, appear below.*

#### **United Nations General Assembly Resolution 194 (III) 11 December 1948**

The General Assembly,

Having considered further the situation in Palestine...

11. Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible;

Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations;

*Notes:*



1. *The Resolution consisted of some 15 clauses, making various recommendations aimed at the peaceful conciliation of the war that was still in progress. These included procedures for the establishment of a new Conciliation Commission, and placing Jerusalem, and also Nazareth, under UN control with guaranteed freedom of access.*

*In this context it will be seen that Clause 11 uses the word "should", the language of recommendation, and that it does not purport to enunciate principles of law. This is consistent with the absence of any power under the Charter for the General Assembly to create binding rules of law or to make a binding judicial determination.*

*Resolution 194 should therefore be seen in its proper context not as a law-making exercise, but as an attempt to provide a formula for the peaceful settlement of hostilities that were still continuing when the Resolution was passed in December 1948.*

2. *Most significantly, clause 11 is conditioned on a desire to "live in peace with their neighbours" by those who wish to return, a clearly unrealistic prospect.*

3. *The resolution also calls for compensation "by the governments or authorities responsible", leaving that issue to be determined according to law. In the current circumstances, however, the content of any international compensation scheme is more likely to be determined by negotiation in the context of a future peace settlement, than by any legal determination.*

*If a question of ultimate "responsibility" were to arise, it might become necessary to look at the circumstances of the Arab exodus of 1947-1948, which remain the subject of historical controversy. What is not disputed, however, is that the exodus began in the period of the armed attacks on the Jewish population which followed the Partition resolution of November 1947, and that it continued during the war commenced by the Arab invasion of March 1948.*

## **CONVENTION RELATING TO THE STATUS OF REFUGEES, 1951 (189 UNTS 150)**

### **Article 1. - Definition of the term "refugee"**

A. For the purposes of the present Convention, the term "refugee" shall apply to any person who:

(2) ... owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable, or owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it...

*[Note: This definition assumes a factual situation of a radically different character to that of those Palestinians who actively seek to return to the country of their former residence.]*

C. This Convention shall cease to apply to any person falling under the terms of section A if:

(3) He has acquired a new nationality, and enjoys the protection of the country of his new nationality; ...

*[Note: This excludes those Palestinians who have taken Jordanian citizenship.]*

D. This Convention shall not apply to persons who are at present receiving from organs or agencies of the United Nations other than the United Nations High Commissioner for Refugees protection or assistance....

*[Note: This excludes Palestinians registered with UNRWA.]*

### **Article 33. - Prohibition of expulsion or return ("refoulement")**

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.

*[Note: This is the critical right created by the Convention. It is not relevant to those Palestinians who are not currently seeking refuge from persecution.]*

*Conversely, the Convention does not include any right to compel the former country of residence to accept repatriation.]*

## **The Ten-Point Program 1974**

### **Approved by the Palestine National Council at the 12th Session, 8th June 1974**

1. The assertion of the PLO position regarding Resolution 242 is that it obliterates the patriotic and national rights of our people and deals with our people's cause as a refugee problem. Therefore, dealing with this resolution on this basis is rejected at any level of Arab and international dealings including the Geneva conference.
2. The PLO will struggle by every means, the foremost of which is armed struggle, to liberate Palestinian land and to establish the people's national, independent and fighting authority on every part of Palestinian land to be liberated. This requires more changes in the balance of power in favour of our people and their struggle.
3. The PLO will struggle against any plan for the establishment of a Palestinian entity the price of which is recognition, conciliation, secure borders, renunciation of the national right, and our people's deprivation of their right to return and the right to determine their fate on the national soil...

*[Note: The Ten point program represented a clear assertion by the Palestinian National Council that the Right of Return was not to be regarded as arising out of Palestinian refugee status, but was rather a national right to be achieved by armed struggle.]*

**International Covenant on Civil and Political Rights, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171, entered into force Mar. 23, 1976.**

***Article 12***

1. Everyone lawfully within the territory of a State shall, within that territory, have the right to liberty of movement and freedom to choose his residence.
2. Everyone shall be free to leave any country, including his own.
3. The above-mentioned rights shall not be subject to any restrictions except those which are provided by law, are necessary to protect national security, public order (ordre public), public health or morals or the rights and freedoms of others, and are consistent with the other rights recognized in the present Covenant.
4. No one shall be arbitrarily deprived of the right to enter his own country.

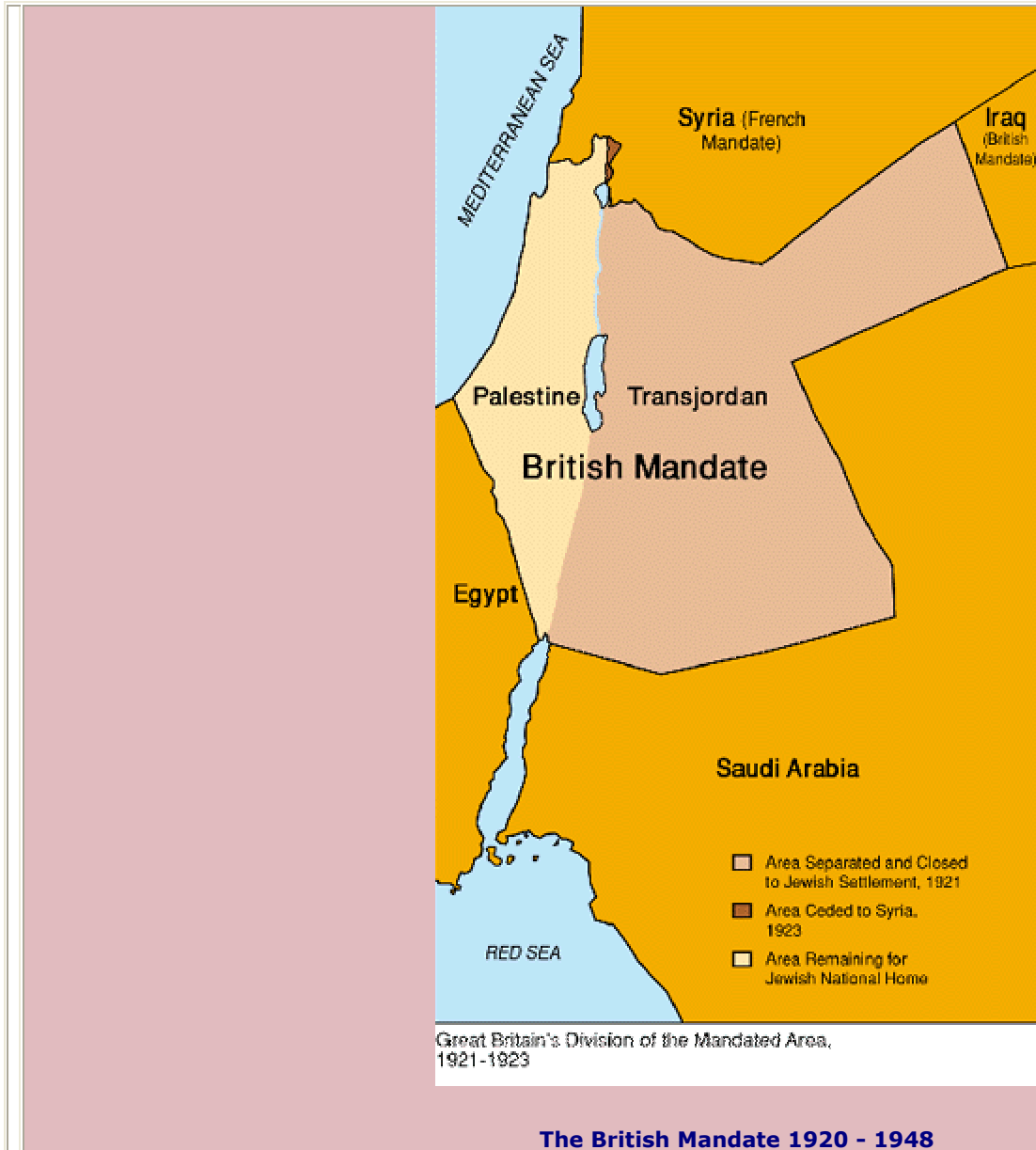
*Article 1.4 is sometimes claimed as a basis for a right of return. Sub-clause 3, preserving the state's right to protect national security, apparently applies only to sub-clauses 1 and 2, and not to sub-clause 4.*

*The key word in this respect is therefore "arbitrarily", which implies that a state is entitled to exercise its discretion to refuse entry, provided that it specifies reasonable grounds which are universally applicable.*

*Another key phrase, "his own country", clearly refers to citizenship, since any alternative construction of the Covenant protecting, say, a claim of right of entry by descent, would not accord with any current international practice.*

## MAPS

### The British Mandate, 1920-1948



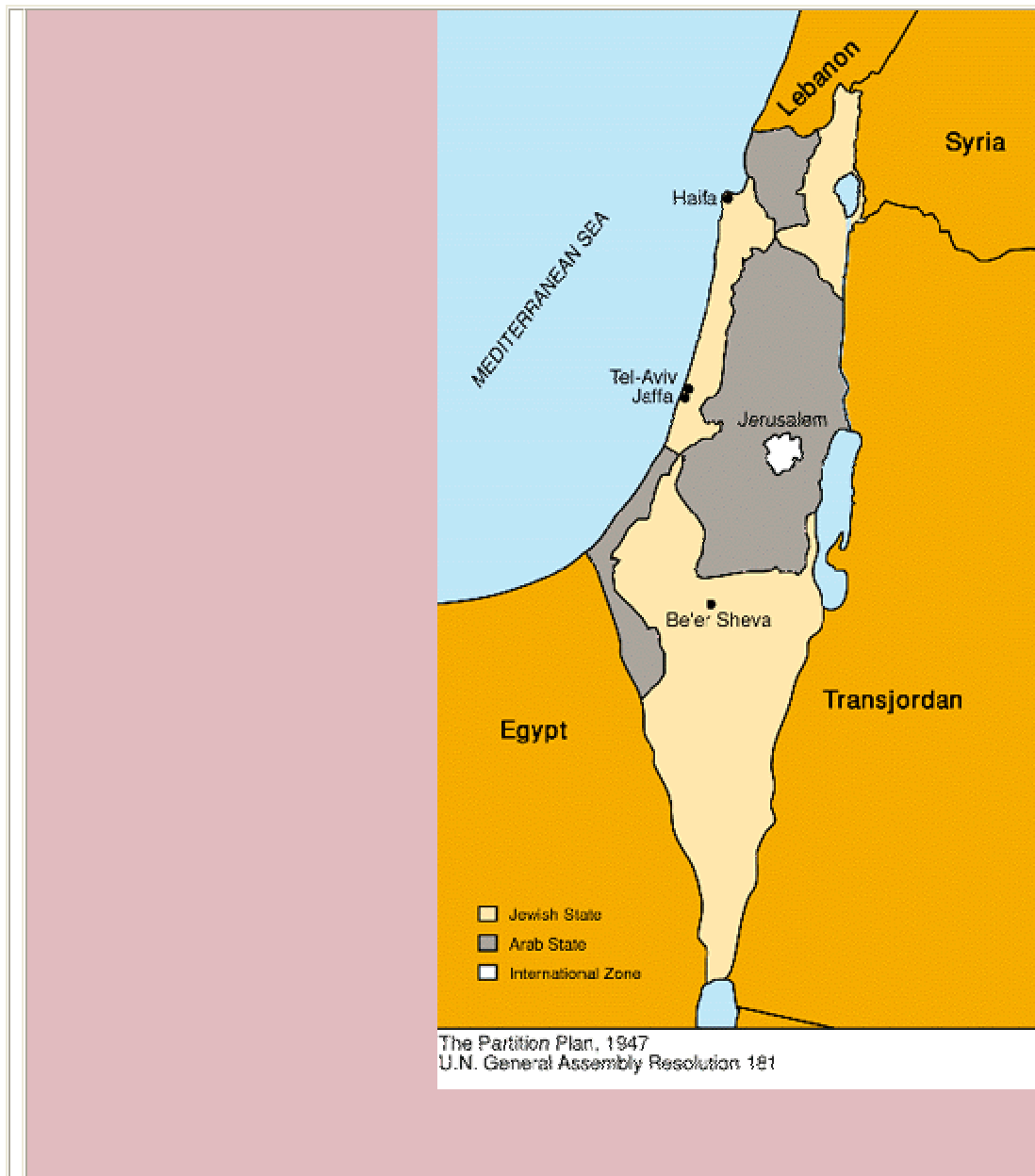
Source: Website of the Israel Ministry of Foreign Affairs

This is the territory held by Britain under the Mandate agreed upon in the Treaty of San Remo in 1920 and formally granted by the League of Nations in 1922. The Mandate incorporated the provisions of the Balfour Declaration, “the establishment in Palestine of a national home for the Jewish people.”

In 1946, the Kingdom of Trans-Jordan gained its independence, and Israel became independent in 1948.

The Golan was ceded to the French Mandate of Syria in 1923.

## The UN Partition Plan, 1947



Source: Website of the Israel Ministry of Foreign Affairs

The Partition Resolution was rejected by the Palestinian Arabs, who refused to establish a Palestinian Arab state alongside Israel. Hostilities commenced in 1947, and the neighbouring Arab states invaded in 1948. As a result no Palestinian state was established, and there was no international regime in Jerusalem.

## Armistice lines 1949-1967



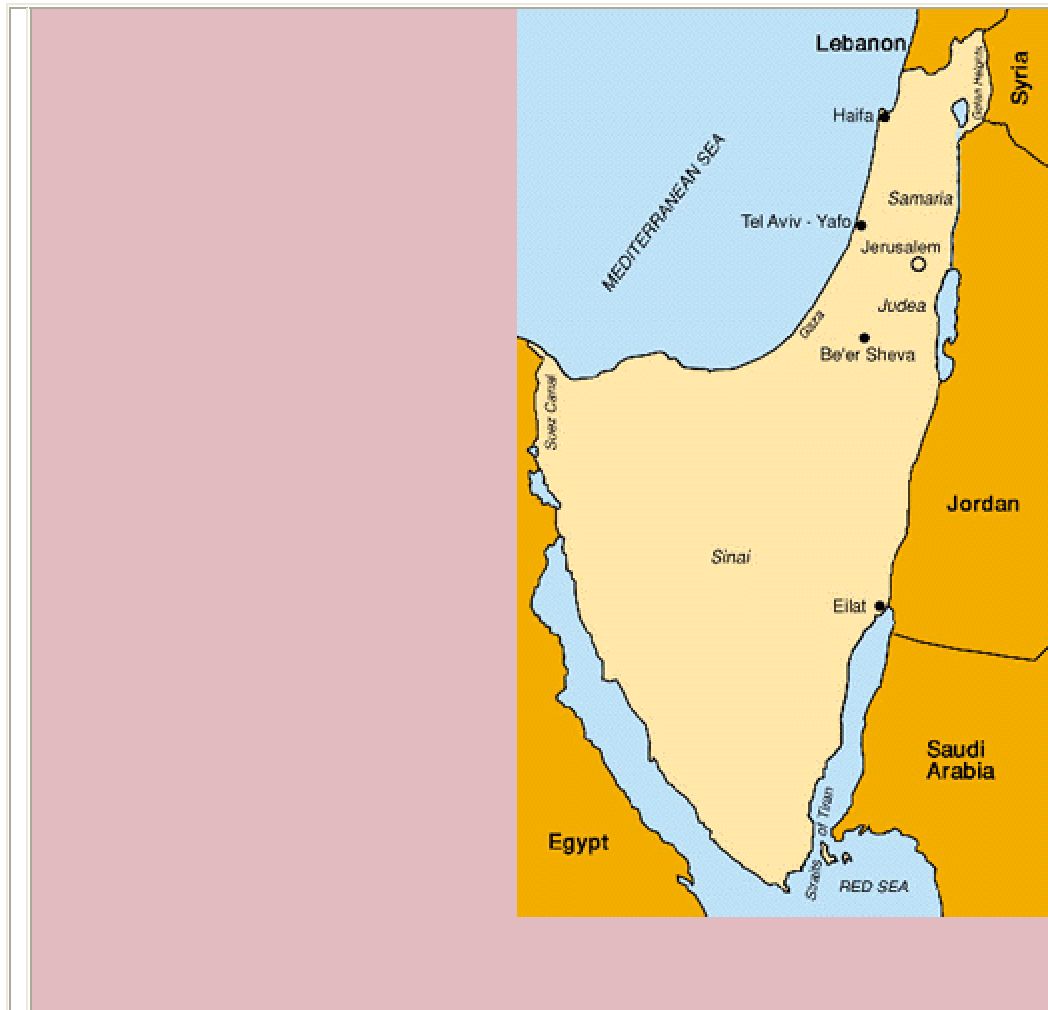
Armistice Lines, 1949

Source : Website of the Israel Ministry of Foreign Affairs

The above demarcation lines were fixed by the Rhodes Armistice Agreements. Article V.2 of the Agreement with Egypt (in similar terms to the other Agreements), provided:

“The Armistice Demarcation Line is not to be construed in any sense as a political or territorial boundary, and is delineated without prejudice to rights, claims and positions of either Party to the Armistice as regards ultimate settlement of the Palestine question.”

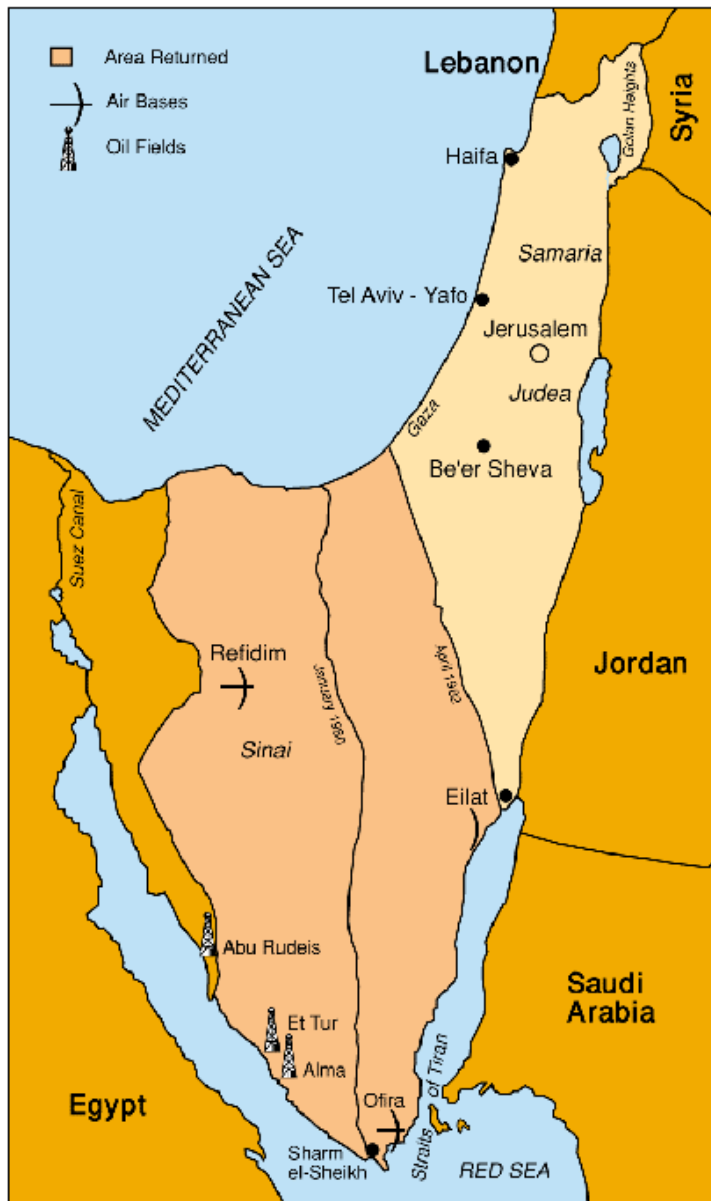
## Ceasefire Lines, 1967-1982



Source: Website of the Israel Ministry of Foreign Affairs

These are the cease-fire lines at the end of the “Six Day War” of June 1967. That war followed the removal of UN forces from the Sinai at Egypt’s demand, Egypt’s blockade of the Straits of Tiran and the massing of Egyptian, Syrian and Jordanian forces on the borders under joint command with the declared aim of annihilating Israel.

## Areas under Israel's Jurisdiction 1982-1993



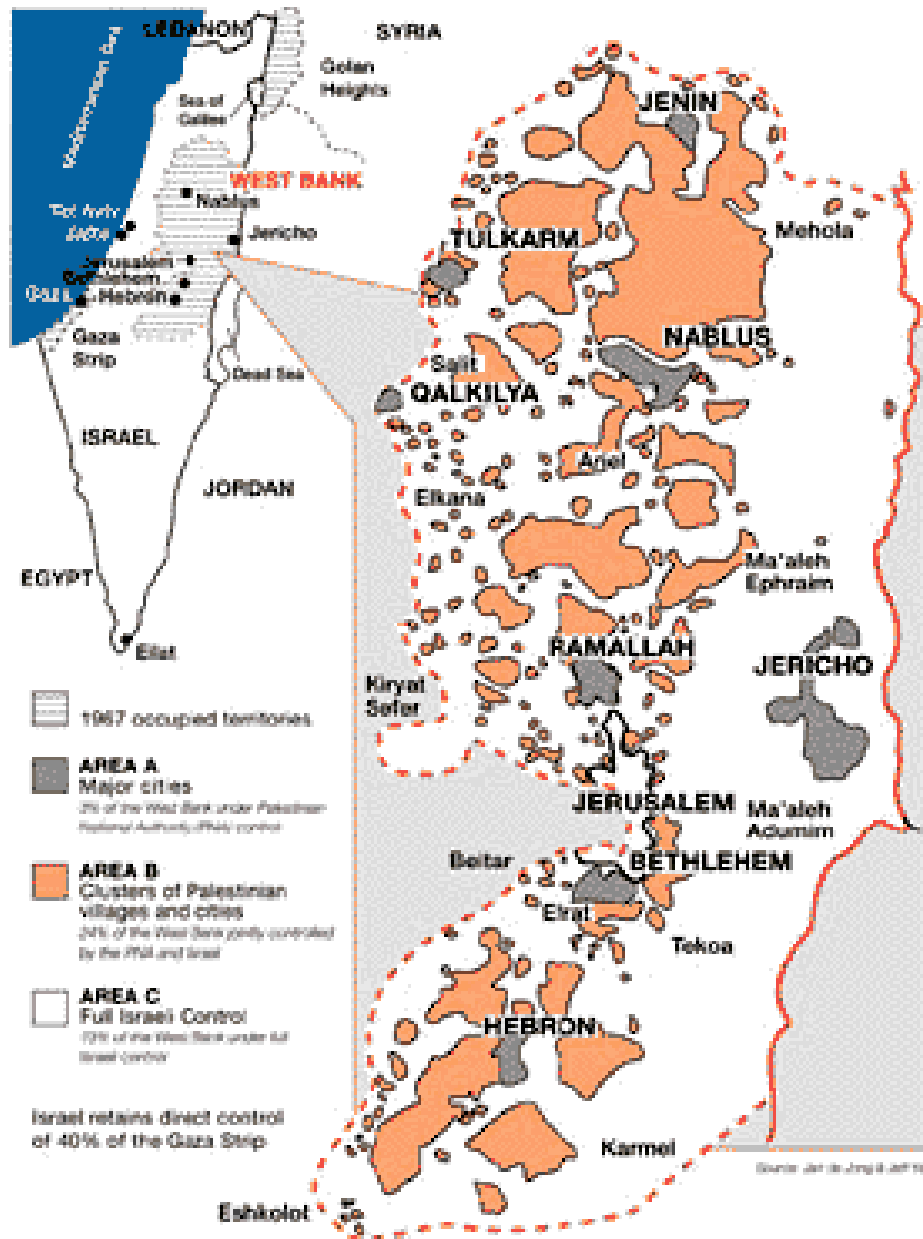
Withdrawal from Sinai Following the Israel-Egypt Peace Treaty

Source: Website of the Israel ministry of Foreign Affairs

These boundaries followed the final implementation of the Egypt-Israel Peace Treaty in 1982. The demarcation lines of 1949 are not shown, as they were no longer legally applicable, although those lines were treated as an informal “green line”. East Jerusalem was formally annexed and Israeli law was applied in the Golan. Otherwise land beyond the green line was governed by Israel as “the Territories”, pending the negotiation of “secure and recognized boundaries” under UN Resolution 242.



## The Interim Agreement under the Oslo Accords, 1995



Source: Howard M. Sachar, A History of Israel

Under Clause 1 of Article XIII of the Interim Agreement, known as “Oslo II”, the Palestinian Authority has full jurisdiction in Area A, which comprises the main population centres.

Under Clause 2(a) Israeli forces are re-deployed out of Area B, but retain “overriding responsibility for security” to protect Israelis and confront terrorism.

Under Article XI the PA exercises jurisdiction in Area C in matters not related to land or security.

Between 1995 and 2000 land was progressively transferred by negotiation from Areas B and C to Areas A and B respectively.

