b) As a condition of its withdrawal from such territory, that state may require the institution of security measures reasonably designed to ensure that territory shall not again be used to mount a threat or use of force against it of such a nature as to justify exercise of self-defence.

c) Where the prior holder of 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.

THE LEGALITY OF THE SETTLEMENTS, AND ISRAEL'S OCCUPATION OF JERUSALEM

Professor Stone is the author of the treatise "*Legal Controls of International Conflict*", which included an extensive commentary on the Geneva Conventions. He showed that with regard to the issue of Jewish settlements in the 'occupied territories', Israel is by no means in breach of the Geneva Convention by her settlement activity. Moreover, Israel's occupation of Jerusalem is entirely in accord with international law, and she has better and prior claim to Jerusalem than any other people group.

It would appear that, especially since the supply of oil was used as a weapon in 1973, a concerted effort has been made both by the Arabs and by the United Nations to engage in a wide-reaching and illicit re-writing or re-interpretation of history.

Since truth is the only weapon against lies, these matters should be made known as widely as possible.

The original text by Derek White has been updated in February 2024.

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THE WAR ON HISTORY

In the midst of the Hamas-Israel War and endeavours to bring a solution to the 'Palestinian problem', distortions of history are being spread by those who would see Israel abandon territory and ultimately be destroyed. Some of these distortions of history are so frequently portrayed in the headlines of the main media and social media that by constant repetition they become perceived as true in the minds of journalists, politicians, and ordinary people.

Frequent references are made to United Nations resolutions and international law as it relates to Israel and the so-called 'occupied territories.' A primary example is UN Security Council Resolution 2334, passed in 2016, concerning Israeli 'settlements' in 'Palestinian territories.' Others are laws regarding genocide and the conduct of war – which are particularly relevant in 2024. Clarification is needed on these matters.

WHO ARE THE PALESTINIANS?

The claim that the Palestinians are the original occupants and owners of the land of 'Palestine' has been made by the leaders of Arab and Muslim countries, the leaders of Israel's other enemies around the world, and even Church leaders in various denominations – despite there being no mention of Palestine in the Bible.

In his impeccably researched book *'Claim of Dispossession'*, published in 1984, Arieh Avneri, showed conclusively that a large proportion of 'Palestinians' were in fact recent immigrants, descended from Egyptian, Algerian, Circassian, Yemeni, Bedouin, and other groups. They had entered the country since the 1880s – both legally and illegally. Indeed, he says:

"The few Arabs who lived in Palestine a hundred years ago, when Jewish settlement began, were a tiny remnant of unending conflicts between local tribes and local despots … Social paroxysms, wars and destruction prevented the Arab population in Palestine from taking root and from handing down a tradition of permanent settlement from generation to generation." (pp 11,12)

This ancestry ploy is the most common Palestinian distortion. Former leader Yasser Arafat is reported as once claiming "that Palestinian Arabs are descendants of the Jebusites who inhabited the city even before King David."

Zuhair Muhsin, head of the Palestine Liberation Organisation Military Operations Department, said on 3rd March 1977:

"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 Palestinian identity is there only for tactical reasons."

Such claims might seem facetious apart from the fact that they are proclaimed by those who seek to gain the sympathy of leaders in the West, and are believed by those who do not know the details of the history of this part of the Middle East.

INTERNATIONAL LAW

International law, as it relates to Israel's position in the 'occupied territories', is of a much more serious nature. Professor Julius Stone, one of the world's best-known authorities in both jurisprudence and international law, has examined this whole question. His findings are briefly summarised as follows:

The principle *ex injuria jus non oritur* operates in international law to the effect that no legal claim to territory can arise out of an illegal aggression. Professor Stone examined the application of this rule to the competing claims of Israel and Arabs over the 'occupied 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.

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 UN Resolution 242 (1967) and UN Resolution 338 (1973), adopted by the Security Council after the respective wars of those years, expressed this requirement for settlement by "negotiations between the parties", the latter in those very words. Conversely, both the Security Council and the General Assembly in 1967 resisted heavy Soviet and Arab pressures demanding automatic Israel withdrawal to the pre-1967 ceasefire lines. Through the decade 1967-77, 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 processes 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 the 'West Bank' from 1948 to 1967 was only by virtue of her illegal entry in 1948. Under the international law principle *ex injuria jus non oritur* she acquired no legal title there. Egypt itself denied Jordanian sovereignty; and Egypt never tried to claim the Gaza Strip as Egyptian territory.

By contrast, Israel's presence in all these areas, pending negotiation on new borders, is entirely lawful since Israel entered them lawfully in self-defence. International law forbids acquisition by unlawful force; but not where the entry on the territory was lawful, as in the case of Israel's self-defence in 1967. 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 automatically be 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 after the Six Day War that she is under no obligation to automatically return the West Bank and the Gaza Strip to the Jordanians or any other group. In the first place, these lands never legally belonged to Jordan (which captured them in 1948). 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 return of territory even to an aggressor who was the former sovereign. It requires the extent and conditions of such return to be negotiated between the parties, as was attempted with the Oslo Accords.

The most succinct statement of this position is in Professor Stephen Schwebel's 'What Weight to Conquest?' published in 1970 before he entered US Government service and became an eminent judge of the International Court of Justice. He points out that the answer to that question in terms of international law, after the UN 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." He writes:

"Those distinctions may be summarised 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.