

# Statutory Strategy for the Palestinian Struggle

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## **Abstract**

### **Statutory Strategy for the Palestinian Struggle**

The present book constitutes the product of an MESC symposium titled Statutory Strategy for the Palestinian Struggle, held in Amman on February 26, 2013. It was joined by a number of intellectuals, experts and professors of international law and political science.

The book is divided into 3 main sections: the occupation and Palestinians in the international law; the rights of return self-determination; and the strategy and practice of the occupation resistance at the level of international law. Recommendations are made, questions are raised and the performance of the Palestinian and Arab sides is assessed. In addition, several realities are listed of Western conspiring on the side of Israel and overlooking of its frequent crimes against the Palestinian people.

Section One explores the protection of the civilians in the Palestinian occupied territories in accordance with the rules of the human international law. It begins with these territories' legal status. The issues related to occupation needs to be revised in the international law as well as in the regulations loaded with the problems of land war and occupation, along with the consequent responsibilities for such land. Customs, agreements and resolutions made since 1907 – when war occupation was known – until the provisions of the 1949 Geneva Convention on the protection of civilians' rights under conflicts.

After that the book turns to the rights of the Palestinian civilian inhabitants in the international human law. Going back to the Geneva Convention and its two additional protocols, the headlines for the Palestinian people as one under occupation are the following: the personal rights of civilian inhabitants in occupied territories; judicial rights; rights of civilian detainees; and right of armed resistance. They are detailed as they are discussed in the treaty to indicate the Israeli violation of each of them. Obvious examples could be the siege on Gaza; the practices against Jerusalemites; the apartheid wall; checkpoints; settlements; arbitrary arrests; taking over Palestinian properties; and other innumerable daily breaches.

One of the focuses of the book is the Palestinian right of resistance, as none of its forms can be excluded. Furthermore, Palestinian liberation movements are entitled to international legal protection, based on the Fourth Geneva Convention

and its additional protocols, as well as many of the General Assembly and Security Council Resolutions. For instance, Resolution 1514 of Session 15 issued on December 14, 1960 is concerned with putting an end to colonization and granting independence to countries and nations under occupation. It is concluded here that the Palestinians detained by the Hebrew State shall be internationally protected as prisoners of war in a national liberation battle, rather than outlaws or terrorists.

Accordingly, Israel shall provide financial compensation and make an official apology to the Palestinians due to its civil responsibility as country of occupation. It is also accountable in penal terms before the international community, requiring a resolution by the Security Council in accordance with the international law. The five permanent members bear the responsibility of the Israeli systematic aggression as they – especially the US – continue to protect it.

It is unclear whether it is feasible to sue Israeli officials in the International Justice Court based in The Hague. However, the above legal and moral responsibility could be a starting point to embarrass the international community in a bid to stick to such international agreements, so that the occupation practices would halt and the Palestinian people would be compensated. Those countries hindering that process should be held accountable.

Back to the legitimacy of the Palestinian resistance in all its forms, mainly weapons, it is stressed that armed resistance derives its authenticity from human and religious conventions before any old or new global treaties caring for occupied nations. Such a mission may adopt a national formula and find support by the masses. On the other hand, terrorism and resistance need to be differentiated in international bodies when discussing the Palestinian issue.

The right of self-determination is detailed in terms of its definition and relevant resolutions, especially those affecting the Palestinian people, who are insistent on gaining all of its rights, including that of self-determination. There are a number of instances when the West deprived the Palestinians of this natural right, starting with the Balfour Declaration and not ending with the resolution of dividing Palestine.

As for the settlements, they need to be investigated in terms of the international law and human rights, other than their actual impact on the Palestinian refugees' rights of self-determination and return. While it would deprive the Palestinians of return, the imposed reality of the ongoing settlement activity cuts apart the West Bank and, thus, destroys self-determination.

Therefore, it is also recommended to make use of the international law and

conventions as well as the old resolutions. For example, it is necessary to concentrate on that of 465/1980, which was unanimously taken to call for the halt of the settlements and the removal of the units built in East Jerusalem, rather than attempting to obtain new resolutions which will be definitely opposed by a US veto.

There are several possible means to sue Israeli officials and criminals, mainly before international courts. The Israelis have breached over 14 agreements, protocols and international declarations in their crimes against the Palestinians. It is also important to refer to the declining role of human rights organizations for various reasons. There are also double standards followed by some of such groups, other than Western states and bodies. Finally, the Israeli crimes need to be documented and presented to international tribunals, especially the IJC, the ICC and the European Court of Human Rights, in addition to those in the countries which see that they are authorized to look into war crimes committed against their citizens in other countries.