

**The Human in Human Rights: A Philosophical Exploration of the
post-World War II Human Rights Regime in Parallel to the Historical
Developments in the Occupied Palestinian Territories**

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Echo Mulder

Prof.dr. A.A.G.M. (Ronald) van Raak

(Alexandru) A Stanescu-Bellu

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Chapter 1: Introduction

[The] recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,¹

I was a Life Sciences major when I decided to take International Human Rights Law as an elective. During the class' first gathering, the lecturer played the UNHR's video on the Universal Declaration of Human Rights. It was the promise of a 'faith in fundamental human rights, the dignity and worth of the human person, and a commitment to promote better standards of life in larger freedom'² transcending geographical boundaries, cultural differences, and political ideologies that took me in an ideological chokehold and inspired me to change to an International Law major. I was sold on the narrative of a collective commitment to protecting and promoting fundamental rights and human dignity.

However, this enthusiasm was met with a sobering reality after my transfer. Turns out that International Human Rights Law, akin to any discipline, harbours a discernible gap between theory and practice. In the words of Professor Louis Henkin, 'International law is the law of the international system of nation-states. Of course, it reflects the politics and

¹ Universal Declaration on Human Rights (UDHR) (adopted 10 December 1948) 217 A(III) (UNGA).

² United Nations Human Rights, 'Universal Declaration of Human Rights' (*YouTube*, 15 May 2017) <<https://www.youtube.com/watch?v=5RR4VXNX3jA&t=79s>> accessed 16 February 2024.

values of the system and serves its purposes.³ Entrenched within the sphere of international relations, this field has historically been shaped by those in power, tailoring it to suit their interests; feudalism, slavery, and colonialism have previously been deemed compatible with conceptions of human rights.⁴

Exemplary philosophers such as Immanuel Kant teach us that contemporary narratives are crafted underneath the veil of the prevailing zeitgeist. An outspoken advocate for the inherent dignity of all individuals, Kant may simultaneously be the most influential racist, sexist, moral philosopher.⁵ He evidences how it is in retrospect that an ideology's principal contradictions become blatant. Curious to this dialectical process, this thesis aims to scrutinise the dominant narratives produced and reproduced in our modern human rights era, in hopes to bring to light the inconsistencies that might be hidden in plain sight. To this end, this work will address the following thesis:

What does the historical parallelism of the post-World War II advancements in human rights and the establishment of a 'Jewish homeland' in occupied Palestinian territory reveal about the presuppositions that underlie the patterns of inclusion or exclusion of specific groups from effective human rights protection?

³ Louis Henkin, 'International Law: Politics and Values' (1995) 18 *Developments in International Law* 1.

⁴ Ziyad Motala, 'Human Rights in Africa: A Cultural, Ideological, and Legal Examination' (1989) 12 *Hastings International and Comparative Law Review* 373, 409

⁵ Pauline Kleingeld, 'On Dealing with Kant's Sexism and Racism' (2019) 2 *Society for German Idealism & Romanticism* 3.

Ensuing this introductory chapter, 'Chapter 2: Literature Review - Divine Promise and State Responsibility: Tracing the Historical and Legal Roots of Human Rights and the Israel-Palestine Conflict,' will provide a comprehensive foundation in both geopolitical and historical context of the thesis. Additionally, it will offer an essential basis of the relevant human rights theory. The chapter addresses the following themes: the historical and geopolitical origins of Israel's settlement in post-World War II Palestine, the evolution of human rights and the Universal Declaration of Human Rights, and the principle of state responsibility in protecting individual rights.

Next, 'Chapter 3.1: Analysis - The Philosophy of Dignity, Reason, and Conscience,' will explore the meanings of the three philosophical concepts foundational to the rights enshrined in the UDHR: dignity, reason, and conscience. These core principles establish the normative basis for global human rights protection and constitute guiding principles for international relations. Following this, 'Chapter 3.2: Analysis - Dignity, Statecraft, and Domination after the World Wars,' will analyse the post-World War II human rights regime as one characterised by a tripartite paradox of protection: protection from, protection by, and protection of the state. This chapter discusses the impoverishment of human rights through legalism and professionalism, the fortification of state supremacy, and the normalisation of domination through an ethics of violence.

Lastly, 'Chapter 4: Conclusion' underscores the inherently territorial nature of the Zionist and Palestinian nationalist conflict. Moreover, it critiques the UN's selective legal recourse and highlights Palestine's persistent struggle for statehood amidst politically influential pro-Zionist entities. The chapter elucidates how the prevailing narrative of Israel as a humanitarian solution for displaced Jewish populations reveals the disconcerting intersection of human rights, statehood, and domination. It explores how human rights have been utilised to legitimise state domination, and advocates for deprofessionalising human rights whilst empowering grassroots movements like the Palestinian Boycott, Divestment, and Sanctions (BDS) initiative.

Chapter 2: Literature Review

Divine Promise and State Responsibility: Tracing the Historical and Legal Roots of Human Rights and the Israel-Palestine Conflict

Historical and Geopolitical Roots of Israel's Settlement in Post-World War II Palestine

Over the past century, the conflict between Zionists and Palestinian nationalists has ignited a renewed exploration of the region's history as both groups have retroactively produced histories that evidence their respective 'unbroken lineage' within the territory to substantiate their claim to an exclusive sovereign state.⁶ The backdrop of the Middle East, the birthplace of the Abrahamic religions, lends itself to the production of historical accounts intricately 'infused with religious symbols and values.'⁷

Divine Promise and Historical Imperative: The Zionist Quest for Israel in the Shadow of Galut

Zionists claim the land based on God's oath to the descendants of Abraham in the book of Genesis, asserting a divine promise to the children of Israel.⁸ This claim holds particular significance given Jews have faced enduring persecution throughout history, forcing them to live life under *galut*

⁶ James L. Gelvin, *The Israel-Palestine Conflict: One Hundred Years of War* (3rd edn, Cambridge University Press 2014) 5-6.

⁷ Yitzhak Reiter, 'Religion as a Barrier to Compromise in the Israeli-Palestinian Conflict' in Yaacov Bar-siman-Tov (ed), *Barriers to Peace in the Israeli-Palestinian Conflict* (Jerusalem Institute for Israel Studies: Jerusalem 2010) 229.

⁸ Reiter 239.

conditions. *Galut* is a Hebrew expression of disputed interpretation typically representing a state of exile for Jews, signifying their separation from ancestral land and divine source.⁹ Whereas instances of *galut* predate the Roman destruction of the Second Temple in 70 CE Jerusalem, this particular event constituted a paradigmatic shift transforming *galut* from a state of exception to a rule for Jewish life.¹⁰ In the face of adversity, many individuals retained hope for a return to the homeland; a sentiment particularly fortified during World War Two where the systematic murder of six million Jews and the displacement of thousands as refugees strengthened the desire to be released from the depredations of *galut*.¹¹

Roots of Belonging: The Enduring Narrative of Palestinian Nationalism in the Holy Land

Like their Zionist counterparts, Palestinian nationalists have a deeply held belief in the holiness of the Israel/Palestine region. Both of the main religions found amongst the Palestinian nationalists - Christianity and Islam - have sacred sites within the boundaries of Palestine. For many of them, their claim to the land extends back millennia, with some asserting a historical claim to the land dating back 5000 years to the time of the early Arab tribes like the Jebusites and Canaanites.¹² This historical continuity serves to strengthen their sense of belonging and attachment to the region.

⁹ Eliezer Don-Yehiya, 'The Negation of Galut in Religious Zionism' (1992) 12 *Modern Judaism* 129, 130-131.

¹⁰ Howard Wettstein, *Diasporas and Exiles: Varieties of Jewish Identity* (University of California 2002) 1.

¹¹ Don-Yehiya 142; Wettstein 2.

¹² Reiter 246.

Unlike many Jewish families whose histories have been marked by diaspora and dispersion (*galut*), most Palestinian nationalists can trace their family lineage back to specific towns or villages in Palestine.¹³ They feel that this ancestral connection, often spanning generations, imbues their claim to the land with a sense of authenticity through lived experience.

From Balfour to Partition: Navigating Political Challenges in Mandated Palestine

Following the conclusion of the First World War, Palestine, along with several other former Ottoman Arab territories, was designated as a mandated territory by the League of Nations.¹⁴ The crux of the ensuing political challenges lies in the League of Nations' resolution to delegate the administration of Palestine to Great Britain, appointing it as the Mandatory Power within the League's Mandates System.¹⁵ Acting under the Palestine Mandate, conceived as a pivotal mechanism leading towards statehood, Great Britain distinguished itself within the League of Nations' paradigm of territorial administration. Going beyond a mere administrative role, Great Britain strategically positioned the mandate's principal objective as the implementation of the Balfour Declaration which it had promulgated in

¹³ Karl Sabbagh, 'A Partial History of Palestine' (2006) 1 Center for Macro Projects and Diplomacy Working Paper Series 23, 24-25.

¹⁴ United Nations, 'Introduction' in *The Origins and Evolution of the Palestine Problem: Part II (1947-1977)* <<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-ii-1947-1977/>> accessed 10 March 2024.

¹⁵ United Nations, 'Introduction' in *Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)* (United Nations) <<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>> accessed 10 March 2024.

1917.¹⁶ This declaration unequivocally committed Britain to the establishment of a national home for the Jewish people in Palestine.¹⁷ Consequently, the commitment to a Jewish state was enshrined in the original Mandate assigned in 1922.¹⁸ Notably, this was done without seeking the perspectives of the Palestinian populace, as was expressly mandated by the League of Nations' Covenant.¹⁹

The British mandate for Palestine persisted from 1922 to 1947, a period witnessing a substantial influx of Jewish immigrants primarily originating from Europe.²⁰ This demographic shift intensified during the 1930s amidst the notorious Nazi persecution of Jewry. The Jewish population, constituting less than 10 percent of the Palestinian demographic in 1917, witnessed a notable increase as it had reached over 30 percent by 1947.²¹ Zionist movements actively advocated for Jewish settlement,

¹⁶ United Nations, 'Introduction' in *The Origins and Evolution of the Palestine Problem: Part II (1947-1977)* (United Nations)

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-ii-1947-1977/>> accessed 10 March 2024.

¹⁷ Arthur James Balfour, 'Balfour Declaration' (communication from the British Foreign Secretary to Zionist leader Lionel Walter Rothschild, 1917)

<<https://palestina-komitee.nl/wp-content/uploads/2017/11/Balfour-Declaration-1917.pdf>> accessed 15 March 2024.

¹⁸ League of Nations Council, 'Mandate for Palestine' (18 April 1947) UN Doc A/292.

¹⁹ Covenant of the League of Nations (The Peace Treaty of Versailles, 28 June 1919), art 22.

²⁰ United Nations, 'Introduction' and 'United Nations General Assembly Special Session on Palestine' in *The Origins and Evolution of the Palestine Problem: Part II (1947-1977)* (United Nations)

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-ii-1947-1977/>> accessed 10 March 2024.

²¹ United Nations, 'Introduction' in *The Origins and Evolution of the Palestine Problem: Part II (1947-1977)* (United Nations)

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-ii-1947-1977/>> accessed 10 March 2024.

promising Jewish refugees: 'A land without people for a people without land.'²²

The Zionist aspiration to establish a settler state on Palestinian territory met a violent resistance from the Palestinians who perceived these developments as an infringement of the League of Nations' commitment to Palestine's independence.²³ Great Britain increasingly struggled to retain control over the territory and was forced to recognise that the obligations it had assumed under the Mandate conflicted in an irreconcilable manner.²⁴ Hence, a quarter-century after assuming the Mandate, it sought to divest itself of administrative responsibilities. In 1947, what had become the Palestine problem was referred to the newly formed United Nations.²⁵

In a desperate attempt to quell the violence stemming from the self-contradictory terms of the 1922 Mandate, in 1947 the UN proposed partitioning Palestine into two independent states: one for Palestinian Arabs and one for Zionist Jews, with Jerusalem internationalised (Resolution 181

²² United Nations, 'The Balfour Declaration' in *Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)* (United Nations)
<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>>
accessed 10 March 2024.

²³ United Nations, 'Mandated Palestine: The "Jewish National Home"' in *Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)* (United Nations)
<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>>
accessed 10 March 2024.

²⁴ United Nations, 'The Ending of the Mandate' in *Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)* (United Nations)
<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>>
accessed 10 March 2024.

²⁵ United Nations, 'Introduction' in *The Origins and Evolution of the Palestine Problem: Part II (1947-1977)* (United Nations)
<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-ii-1947-1977/>>
accessed 10 March 2024.

(II) of 1947).²⁶ This proposal, not novel, had been suggested by Great Britain in 1937 and had been opposed by Palestinian Arabs.²⁷ Resolution 181, much like its 1937 predecessor, lacked any formal power of imposition. UNGA Resolution 181 was a recommendation, not a binding directive; and thus the Palestinian Arabs were under no obligation to accept it. Undeterred by Arab opposition, Jewish leadership unilaterally seized the opportunity to declare statehood. On Friday, 14th May 1948, they established the state of Israel in the area of land referred to as the Eretz-Israel.²⁸

Charting Human Rights: Post-World War II Developments and the Universal Declaration of Human Rights

The Universal Declaration of Human Rights, which was adopted by the UN General Assembly on 10 December 1948, was the result of the experience of the Second World War. With the end of that war, and the creation of the United Nations, the international community vowed to never again allow atrocities like those of that conflict to happen again. World leaders decided to complement the UN Charter with a road map to guarantee the rights of every individual everywhere. The document they considered, and which would later become the Universal

²⁶ United Nations General Assembly Res 181 (29 November 1947) UN Doc A/RES/181(II).

²⁷ United Nations, 'Mandated Palestine: The Partition Plans' in *Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)* (United Nations)
<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>>
accessed 10 March 2024.

²⁸ David Ben-Gurion, 'The Declaration of the Establishment of the State of Israel' (14 May 1948).

Declaration of Human Rights, was taken up at the first session of the General Assembly in 1946.²⁹

Following the cataclysmic events of World War II, the global community found itself grappling with the aftermath of large scale destruction and human suffering. Over a hundred million individuals from thirty different countries were actively involved in the conflict.³⁰ Accounting for both the Axis and Allied powers, World War II has remained unparalleled in its scope and devastation. To this day, the Second World War stands as the deadliest conflict in history, marred by the largest state-organised genocide ever recorded. Estimates suggest that between forty-eight and fifty-nine million civilians perished, alongside twenty-one to twenty-six million military personnel.³¹

Moreover, the systematic extermination by the Nazi regime of six million Jews -as well as millions of others belonging to ethnic, religious, political, disabled, and LGBTQ+ minorities-³² shocked the conscience of humanity, laying bare the consequences of unchecked bigotry and

²⁹ United Nations, 'Universal Declaration of Human Rights (UDHR): History of the Declaration' <<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> accessed 18 March 2024.

³⁰ World Population Review, 'World War II Casualties by Country 2024' (2024) <<https://worldpopulationreview.com/country-rankings/world-war-two-casualties-by-country>> accessed on 20 March 2024.

³¹ World Population Review.

³² Michael Berenbaum, *The World Must Know: The History of the Holocaust as Told in the United States Holocaust Memorial Museum* (Johns Hopkins University Press 2005), 125; United States Holocaust Memorial Museum, 'Mosaic of Victims: In Depth' (Holocaust Encyclopedia, 22 August 2023) <<https://encyclopedia.ushmm.org/content/en/article/mosaic-of-victims-in-depth?parent=en%2F2765>> accessed on 20 March 2024.

intolerance. Following the War, 'the international community', as postulated by the United Nations, vowed to 'never again allow atrocities like those of that conflict to happen again.'³³ It is in this context that the UN General Assembly adopted the Universal Declaration of Human Rights (UDHR) on 10 December 1948 to articulate the fundamental rights and freedoms of individuals; rights that the 'international community' would never again allow to be violated.

Although the collective memory of Nazi atrocities loomed large, this was not the sole source of inspiration behind the formation of the UDHR. In her paper *Reclaiming and rebuilding the history of the Universal Declaration of Human Rights*, Susan Waltz meticulously explores a spectrum of events that guided the drafting of the UDHR.³⁴ By way of illustration: the Spanish Civil War and the merciless bombing of Guernica had reverberations that extended beyond European borders, making a profound impact on the Latin Americas. In 1937, Japanese forces brutally invaded Nanking, resulting in the slaughter of over 200,000 Chinese people. In South-Africa of 1948, the Reunited National Party won the national election with a racist and segregating party programme. Their apartheid utilised existing laws, but increased their rigidity and enforced them in exceedingly aggressive

³³ United Nations, 'Universal Declaration of Human Rights (UDHR): History of the Declaration' <<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> accessed on 20 March 2024.

³⁴ Susan Waltz, 'Reclaiming and rebuilding the history of the Universal Declaration of Human Rights' (2002) 23 *Third World Quarterly* 437, 439-440.

fashion.³⁵ Meanwhile, Pakistan and India were at war that was arguably genocidal.³⁶ In Palestine, Zionist leaders were working toward their claim to statehood, dispossessing and displacing thousands of Palestinian Arabs concurringly. Horrific lynchings were commonplace in the USA, and the humiliation of colonial rule was painfully familiar to many. And although the scope of Stalin's brutal policies were not yet fully appreciated, Soviet intentions to limit individual freedoms were apparent. In conclusion, those prepared to contemplate human rights and the need to protect them had a rich tapestry of experiences to draw from.

Writing Human Rights: The UN's Journey to a Universal Declaration

The establishment of the United Nations (UN) on October 24, 1945, marked a turning point in global diplomacy, ushering in a new paradigm of international cooperation and peacekeeping efforts. Enshrined within the UN Charter is a profound commitment to human rights, recognising the imperative of upholding the dignity and rights of every individual worldwide. In building upon the commitment to human rights outlined in the UN Charter, world leaders embarked on an effort to further reinforce these principles with a comprehensive 'road map' to 'guarantee the rights of every individual everywhere.'³⁷ This initiative reached a pivotal moment during the inaugural session of the General Assembly in 1946, as a draft document,

³⁵ Michigan State University, 'Unit 3. The Rise of Apartheid' (*Overcoming Apartheid*) <<https://overcomingapartheid.msu.edu/unit.php?kid=163-571-5&page=1>> accessed 30 March 2024.

³⁶ Waltz 439-440.

³⁷ United Nations, 'Universal Declaration of Human Rights (UDHR): History of the Declaration' <<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> accessed 30 March 2024.

originally titled the Declaration on Fundamental Human Rights and Freedoms, was submitted for thorough review.³⁸ Concluding its deliberations, the General Assembly transmitted the draft to the Economic and Social Council (ECOSOC) for further consideration. ECOSOC was thus tasked with appointing a Human Rights Commission mandated to develop an appropriate international framework for human rights.

In preparation for the establishment of the Commission on Human Rights, ECOSOC convened the 'Nuclear Commission,' formally designated as the Preparatory Committee. This commission's mandate was to outline the parameters including terms of reference, membership size, and status (governmental or individual) for the impending Commission on Human Rights.³⁹ It was decided that the primary focus of the Human Rights Commission would be to present proposals, recommendations, and reports for an international bill of human rights. Furthermore, the Nuclear Commission assigned the Secretary-General the responsibility of compiling comprehensive information on human rights. Consequently, the Division of Human Rights within the UN Secretariat commenced an extensive examination of all human rights documentation provided by delegations, non-governmental organisations, and intergovernmental bodies.

³⁸ United Nations, 'Universal Declaration of Human Rights (UDHR): History of the Declaration' <<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> accessed 30 March 2024.

³⁹ United Nations, 'Universal Declaration of Human Rights (1948), Drafting History' <<https://research.un.org/en/undhr/draftingcommittee>> accessed on 30 March 2024.

Subsequently, from 1946 to 1948, the drafting phase unfolded, during which the Human Rights Commission diligently deliberated on the formulation of the UDHR. Committees within the Commission grappled with pivotal questions regarding the nature and scope of the proposed document. Debates revolved around whether the UDHR should exist as a singular comprehensive document or as a series of thematic instruments, and whether its provisions should be legally binding or aspirational in nature.⁴⁰ Ultimately, the decision was reached to adopt a non-binding Declaration; a choice made to foster broader consensus and facilitate its acceptance among UN member states.

Following the completion of the drafting process, the next phase of the UDHR project involved a formal debate, which commenced in the autumn of 1948. During this stage, the adopted draft of the UDHR was formally introduced to the United Nations General Assembly's Third Committee.⁴¹ The Third Committee meetings presented an opportunity for nations without representation on the eighteen-member Human Rights Commission to voice their opinions.⁴² UN delegates engaged in thorough examination and debate, scrutinising the content and provisions of the document. Over the course of

⁴⁰ Robin Ramcharan, 'Chapter 2 - Crafting Universal Values: The UDHR Model, Context, and Process' in his and Bertrand Ramcharan (ed), *Asia and the Drafting of the Universal Declaration of Human Rights* (Palgrave Macmillan Singapore 2019), 28-29.

⁴¹ Ramcharan (2019) 28-29.

⁴² Peter Danchin, 'Drafting History'

<https://ccnmtl.columbia.edu/projects/mmt/udhr/udhr_general/drafting_history_9.html> accessed 30 March 2024.

two months, delegates convened daily to meticulously review the draft's content, article by article.⁴³

In December 1948, an amended version of the Universal Declaration of Human Rights (UDHR) underwent thorough deliberation during the plenary session of the General Assembly. Despite encountering dissenting voices and reservations, the General Assembly formally adopted the Universal Declaration of Human Rights (UDHR) through its resolution 217 A (III) on 10 December 1948, during a session held in Paris.⁴⁴ This adoption occurred without any formal objections, owing to a notable consensus among member states regarding the principles enshrined in the declaration. It remains noteworthy that eight member states chose to abstain from the final vote, indicating differing levels of support or reservations regarding specific aspects of the declaration. Regardless, the adoption of the UDHR represented a first step in the elaboration of human rights as stipulated in the UN Charter.⁴⁵

Creating Universality: The Content of the UDHR

Following our comprehensive examination of both the underlying purpose and the historic drafting process of the UDHR, I believe it is imperative to provide an abstract elucidating its essence and significance before proceeding with further analysis.

⁴³ Waltz (2002) 442.

⁴⁴ United Nations, 'Universal Declaration of Human Rights (UDHR): History of the Declaration' <<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> accessed 30 March 2024.

⁴⁵ United Nations, 'Universal Declaration of Human Rights (1948), Drafting History' <<https://research.un.org/en/undhr/draftingcommittee>> accessed on 30 March 2024.

The UDHR is widely esteemed as a landmark document. In accordance with Frans Viljoen's perspective, 'the origin of "human rights" lies in the nature of the human being itself, as articulated in all the world's major religions and moral philosophy,' but, '"human rights law" is a more recent phenomenon that is closely associated with the rise of the liberal democratic State.'⁴⁶ He posits that in such states, the principle of majoritarianism frequently serves as legitimation for legislation and the increasingly bureaucratised functioning of the executive. Consequently, the government apparatus typically operates with minimal concern for 'numerical' minorities; such as convicted individuals, linguistic or religious communities, non-citizens, indigenous populations, and the socially stigmatised.⁴⁷

Crafted with the purpose of protecting the rights of vulnerable populations whose suffering was magnified during the turbulent period culminating in the world wars, the Universal Declaration of Human Rights (UDHR) emerged as a universally embraced document championing the inherent freedom and equality of every individual, regardless of 'race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.'⁴⁸ At its core, the UDHR is a compendium of 30 rights and freedoms that 'range from the most fundamental - the right to life - to those that make life worth living, such as the rights to food,

⁴⁶ Frans Viljoen, 'International Human Rights Law: A Short History' (*United Nations*) <<https://www.un.org/en/chronicle/article/international-human-rights-law-short-history>> accessed 1 April 2024.

⁴⁷ Viljoen.

⁴⁸ UDHR art 2.

education, work, health, and liberty.⁴⁹ In an ideal scenario, the rights delineated within the UDHR exhibit a 'universal' nature that transcends geographical and temporal boundaries; not contingent upon cultural, social, or political factors. Thus, these rights are intended to apply to all individuals by the mere virtue of their humanity.

State Responsibility: Protecting Individuals Against the State

Human rights exhibit a reciprocal quality, whereby the exercise of one's rights should not encroach upon the rights of others. Although human rights violations can involve acts carried out by both state and non-state actors, international consensus is that litigation within this legal framework is centred exclusively on states as the potential perpetrators of human rights violations. Non-state actors, owing to their non-party status in pertinent treaties, are typically viewed as lying outside the direct jurisdiction of international human rights law.⁵⁰ Consequently, they are only considered bound by human rights obligations to the extent that states can extend and enforce these obligations through governmental actions. Access to human rights litigation mechanisms has been primarily limited to individuals whose rights have been violated, and states, which may bring cases either on behalf of their citizens or to address violations occurring in other states.⁵¹

⁴⁹ Office of the United Nations High Commissioner for Human Rights, 'What are human rights?' <<https://www.ohchr.org/en/what-are-human-rights>> accessed 1 April 2024.

⁵⁰ Philip Alston, *Non-State Actors and Human Rights* (Oxford University Press 2005).

⁵¹ Office of the United Nations High Commissioner for Human Rights, 'Complaints procedures under the human rights treaties' <<https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/complaints-procedures-under-human-rights-treaties#overview>> accessed 1 April 2024.

As aforementioned, states hold the paramount responsibility within their territorial jurisdiction to safeguard the human rights of all individuals residing therein. Upon signing and ratifying human rights conventions, governments at both national and subnational levels are mandated to solemnly commit to abstain from any actions that might infringe upon or lead to the violation of human rights.⁵² Furthermore, a plethora of treaty obligations impose upon governments the imperative to undertake proactive measures, denoted as *positive obligations*, aimed at guaranteeing or enhancing the enjoyment of human rights. Contrasting the classical *negative obligation* of abstaining from human rights violations, positive obligations necessitate a state's active engagement in endeavours designed to ensure the effective realisation of rights.⁵³

Legal Framework: The Nature of Protection

Furthermore, to safeguard individuals from state abuses, human rights cannot be subject to arbitrary deprivation. The UDHR has served as a model, both directly and indirectly, for numerous domestic constitutions, laws, regulations, and policies aimed at safeguarding fundamental human rights.⁵⁴ Moreover, many provisions of the Universal Declaration have been integrated into customary international law and enshrined within multilateral

⁵² United Nations, 'Remedies for Rights Violations' <<https://www.un.org/esa/socdev/enable/comp103.htm>> accessed 1 April 2024.

⁵³ United Nations Office on Drugs and Crime, 'Positive and negative obligations of the State' <<https://www.unodc.org/e4j/zh/tip-and-som/module-2/key-issues/positive-and-negative-obligations-of-the-state.html#:~:text=Positive%20obligations%20require%20national%20authorities,the%20rights%20of%20the%20individual.>> accessed 1 April 2024.

⁵⁴ Hurst Hannum, 'The UDHR in National and International Law' (1998) 3 Health and Human Rights 144, 145-146.

international treaties. Notably, the International Covenant on Civil and Political Rights (ICCPR) and the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) have introduced new terminology to the human rights discourse: *absolute* and *non-derogable* rights.⁵⁵ This development evidences that not all human rights principles are afforded an equivalent level of protection, with these concepts serving to delineate their distinct legal characteristics.⁵⁶

Absolute rights, such as the prohibition of torture, slavery, or retroactive criminal laws, are considered inviolable under any circumstances. Analogously, article 2 of the CAT asserts that '[n]o exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification[.]'⁵⁷ Non-derogable rights may be either absolute or non-absolute. While non-derogable rights, like absolute rights, cannot be suspended, non-derogable rights provide for limitations in their ordinary application.⁵⁸ What makes them non-derogable is that states may not

⁵⁵ European Union Agency for Asylum, 'Is the act a violation of a non-derogable human right or a sufficiently severe violation of another basic human right?' <<https://euaa.europa.eu/easo-practical-guide-qualification-international-protection/2-act-violation-non-derogable-human-right-or-sufficiently-severe-violation-another-basic-human-right>> accessed 1 April 2024; Australian Human Rights Commission, 'Limitations on ICCPR rights' <<https://humanrights.gov.au/our-work/rights-and-freedoms/permissible-limitations-rights>> accessed 1 April 2024.

⁵⁶ United Nations Office on Drugs and Crime, 'Limitations permitted by human rights law' <<https://www.unodc.org/e4j/en/terrorism/module-7/key-issues/limitations-permitted-by-human-rights-law.html>> accessed 1 April 2024.

⁵⁷ United Nations General Assembly, 'Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (10 December 1984) Res 39/46.

⁵⁸ European Commission, 'fundamental rights' <https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/fundamental-rights_en> accessed 1 April 2024.

derogate from the conditions of ordinary application regardless of whether there is an emergency.

Chapter 3.1: Analysis

The Philosophy of Dignity, Reason, and Conscience

[R]ecognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world⁵⁹

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. ⁶⁰

Yes, we agree about the rights, but on the condition that nobody asks us why.⁶¹

This chapter examines the meaning of the three philosophical concepts most foundational to the rights enshrined in the UDHR: 'dignity,' 'reason,' and 'conscience.' These core principles form the normative basis for the global protection of human rights and, in turn, to provide a guiding force for international relations.⁶² First, this chapter elucidates how dignity operates

⁵⁹ UDHR Preamble.

⁶⁰ UDHR Article 1.

⁶¹ Jacques Maritain, *Human Rights: Comments and Interpretations* (Columbia University Press 1949), i.

⁶² Francisco J. Rivera Juaristi, 'Chapter 1: Article 1 - Dignity and Equality' in Humberto Cantú Rivera's (ed), *The Universal Declaration of Human Rights: A Commentary* (Brill 2023), 12-13; Pinghua Sun, *Chinese Contributions to International Discourse of Human Rights* (Springer 2022), 79-80.

as the ethical justification for the existence of human rights. Second, it will evidence how 'reason and conscience' can encompass both metaphysical and epistemological dimensions. The analysis will be conducted via examination of the UDHR text and its drafting history. In the ensuing chapter, this philosophical framework will be employed as an interpretive lens through which the exclusion of Palestinian civilians from human rights protection can be theoretically comprehended.

Dignity

Embedded within the UDHR is a profound acknowledgment of the intrinsic dignity of each human being; a notion that reverberates throughout the document's Preamble and substantive articles. The Preamble's function is to provide a comprehensive overview of the drafting parties' objectives and motivations for reaching agreement, thereby serving as an introductory segment preceding the enumeration of rights within the document.⁶³ To this end, the UDHR's Preamble proclaims that the 'recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.'⁶⁴ Subsequently, the Universal Declaration of 1948 refers to 'dignity' in five different places: twice in the preamble, most prominently in Art. 1, and twice in the context of social and economic rights in Arts. 22 and 23 para. 3.

⁶³ Johannes van Aggelen, 'The Preamble of the United Nations Declaration of Human Rights' (2000) 28 *Denver Journal of International Law & Policy* 129, 132.

⁶⁴ UDHR, Preamble.

Whereas the UDHR did not originate the use of dignity in the context of human rights, its adoption certainly popularised dignity-based approaches to international human rights instruments. Prior to the UDHR's 1948 adoption, there had been no systemic references to dignity in legal texts.⁶⁵ But since 1948, international instruments have repeatedly invoked dignity as 'the only consensually identifiable basis from which human rights are derived.'⁶⁶ Ever since, the relevance of the term dignity has extended well beyond the scope of international law, and its permeation into the vernacular of various social and political arenas has coincided with a resurgence of interest among philosophers and political theorists into both its uses and analyses.⁶⁷

Dignity (Un)defined

The UDHR does not define dignity. This is remarkable considering the term's extensive philosophical lineage and its historical inclusion as an inherent human attribute in legal texts dating back to the first three decades of the 20th century.⁶⁸ In his work 'Human Dignity and Judicial Interpretation of Human Rights,' Christopher McCrudden reveals that it was an intentional decision to omit any substantive definitions for dignity from the UDHR's text

⁶⁵ Klaus Dicke, 'The Founding Function of Human Dignity in the Universal Declaration of Human Rights' in David Kretzmer and Eckart Klein (ed), *The Concept of Human Dignity in Human Rights Discourse* (Brill 2001) 112.

⁶⁶ Paolo G. Carozza, 'Human Dignity and the Foundations of Human Rights' (elaborated version; The Heritage Foundation 2020), 1.

⁶⁷ Christopher McCrudden, 'Human Dignity and Judicial Interpretation of Human Rights' (2008) 19 *European Journal of International Law* 655, 663.

⁶⁸ McCrudden 664.

to enhance the term's linguistic flexibility.⁶⁹ This decision emerged as a strategic response to the challenges encountered during the drafting process, which was marked by the proliferation of theoretical frameworks vying for recognition as the foundational basis for human rights. None of these pre-existing theories could attain an intellectual or ideological consensus, primarily due to their inherent parochial positionality. Sequentially, this caused considerable friction, raising concerns that the completion of the UDHR might be in jeopardy.

In their efforts to reach consensus, UNESCO consulted with French philosopher and political thinker Jacques Maritain. Maritain, recognising the contentious nature of a universal theoretical basis, recommended that negotiations concentrate not on reaching such an agreement but on what particular practices should be prohibited. This is how, in McCrudden's words, '[d]ignity was included in that part of any discussion or text where the absence of a theory of human rights would have been embarrassing.'⁷⁰ This pragmatism is perhaps best captured by Maritain himself in his humorous statement: 'yes, we agree about the rights, but on the condition that nobody asks us why.'⁷¹

Dignity thus became the 'common minimum core' that 'supplied a theoretical basis for the human rights movement in the absence of any other

⁶⁹ McCrudden 677-678.

⁷⁰ McCrudden 678.

⁷¹ Maritain i.

basis for consensus.⁷² It is crucial to note that - unlike linguistic placeholders that serve merely as empty slots without inherent meaning - dignity is infused with semantic content adaptable to different people. By retaining a degree of abstraction, the term effectively evolved into a versatile linguistic symbol capable of encompassing diverse value systems. This flexibility has allowed dignity to serve as a robust foundation for justifying such a concrete political agreement as the UDHR.⁷³ Ultimately, rather than being a principle in itself, dignity embodies the attribute that enables human beings to possess human rights.⁷⁴

Judicial & Ideological Value

Dignity has undeniably succeeded in attaining agreement among cultures with different ideologies on a definite set of civil, political, economic, social, and cultural rights. Yet, in the context of the judicial interpretation of these rights, concerns have been raised regarding the dignity's abstract nature. Despite recently commemorating the UDHR's diamond jubilee, a unified and coherent judicially interpreted conception of dignity across the spectrum of rights remains elusive.⁷⁵ Hitherto, nations have persistently disagreed on what intrinsic worth inheres in, what treatment is (in)consistent with that worth, and which state responsibilities ensue.

⁷² McCrudden 677.

⁷³ Doron Shultziner, 'Human Dignity – Function and Meanings' 3 *Global Jurist Topics* (2003) 5, at fn. 24.

⁷⁴ Deryck Beyleveld and Shaun D. Pattinson, 'The Concept of Human Rights in the UDHR and the Rule of Law for the World Today' in Moa Dahlin and others', *Equality of opportunities? The right to health in the Nordic welfare societies* (Iustus förlag 2023), 52.

⁷⁵ McCrudden 723.

At most, certain characteristics pertaining to dignity's 'basic minimum content' can be discerned by dissecting the UDHR's text. First, dignity is a quality inherent to 'all members of the human family.'⁷⁶ Second, dignity forms 'the foundation of freedom, justice and peace.'⁷⁷ Third, dignity must be 'recognised.'⁷⁸ When read in isolation, this third characteristic is not self-evident; for the phrasing of the Preamble is open to an interpretation of 'recognition' as the act from which dignity is derived. However, when read in juncture with the second reference in the Preamble - '[w]hereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person'-⁷⁹ dignity must be understood as independent from its recognition; which necessarily creates the obligation to recognise it.⁸⁰

Endowed with Reason & Conscience

In full, Article 1 of the UDHR proclaims that 'all human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.' This assertion underscores the universality of dignity while introducing 'reason' and 'conscience' as essential attributes that facilitate the realisation and respect of human dignity. The subsequent section will thus engage in a rigorous exploration of the philosophical underpinnings of 'reason' and

⁷⁶ UDHR, Preamble.

⁷⁷ UDHR, Preamble.

⁷⁸ UDHR, Preamble.

⁷⁹ UDHR, Preamble.

⁸⁰ Dicke 114.

'conscience' by examining their theoretical origins and implications. Through this examination, we aim to elucidate how 'reason' and 'conscience' support and reinforce the intrinsic worth of individuals, both metaphysically and epistemologically.

Emerging Essentialism

During the early drafting phases of the Universal Declaration of Human Rights (UDHR), the United Nations Economic and Social Council (ECOSOC) was provided with an opportunity to consider the content of the Declaration.⁸¹ In the fourth session, held in March and April of 1947, Dr. Charles Malik, Rapporteur for the Commission on Human Rights, declared that the Declaration should offer a substantive interpretation of the 'dignity and worth of the human person;' a phrase which had been previously incorporated into the preamble of the UN Charter.⁸² Moreover, Malik aimed to address a foundational question: 'What is [hu]man?'⁸³ In pursuit of these prerogatives, Malik seemingly diverged from Jacques Maritain's recommendation that the Declaration should favour practical agreements over a unified theoretical foundation. Malik justified his philosophical endeavours to explore human nature by contending that any statement issued by the UDHR will perforce imply a particular philosophical perspective. He argued that the document's mere choice of terminology, including words

⁸¹ William A. Schabas, *The Universal Declaration of Human Rights: The travaux préparatoires; Volume I; October 1946 to November 1947* (Cambridge University Press 2013) lxxxvii.

⁸² United Nations, 'Charter of the United Nations' (24 October 1945) XV UNCIO 335.

⁸³ Schabas lxxxvii.

such as 'recognition,' 'inherent,' and 'inalienable,' inevitably constructs a teleological reality.⁸⁴ On account of this, Malik defends his philosophical quest for humanity's essence:

I wish further to say that the very phrase "human rights" obviously refers to [humans] and that by "rights," you can only mean that which belongs to the essence of [the human species]. This means that which is not accidental, that which does not come and go with the passage of time and with the rise and fall of fads and styles and systems [...] By "right" then, you certainly mean something, as I said, that flows from the nature of [humanity] ... [Our respective presuppositions concerning these fundamental premises] are [therefore] implied in all our thinking.⁸⁵

Favourable to a Thomistic idea of natural law, Malik sought to connect the nature and origin of human rights to human nature itself. This approach was intended to protect human rights from the flux and vagaries that threaten positive rights.⁸⁶ As such, Malik became the principal defender of Article 1's essentialist stance that 'all human beings [...] are endowed with

⁸⁴ Charles Malik, 'Human Rights and Christian Faith' (The Presbyterian Tribune 1950) <<https://charlesmalikinstitute.org/wp-content/uploads/Human-Rights-and-Christian-Faith.pdf>> accessed 8 May 2024, 6.

⁸⁵ Charles Malik, *The Challenge of Human Rights: Charles Malik and the Universal Declaration* (Charles Malik Foundation 2000) 23-24.

⁸⁶ Malik, 'Human Rights and Christian Faith' 4.

reason and conscience.⁸⁷ According to Malik, the inclusion of 'reason and conscience' at the heart of human nature in the Declaration's very first article demonstrates that human dignity, along with all subsequent Articles that derive from it, is not contingent upon social, political, or cultural consensus.⁸⁸ In other words, this inclusion evidences that the UDHR enumerates a set of pre-political rights which are morally binding on all states and political systems; irrespective of whether they choose to recognise the equality of all humans and the irrelevance of accidental characteristics to fundamental moral considerations.⁸⁹

Malik's approach has been controversial since its inception, as many diplomats considered that philosophical assertions exceeded the mandate extended to the UDHR's Drafting Commission.⁹⁰ Moreover, they were concerned that extensive philosophical debates would leave the Commission stuck in a 'maze of ideology,' risking the failure to produce a final document.⁹¹ Above all, their unease with specifying any essential human characteristic stemmed from a recognition of how Nazi ideology had

⁸⁷ Mary Ann Glendon, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (Random House 2001) 109.

⁸⁸ Malik, 'Human Rights and Christian Faith' 5.

⁸⁹ Thomas Finegan, 'Conceptual Foundations of the Universal Declaration of Human Rights: Human Rights, Human Dignity and Personhood' (2012) 37 *Australian Journal of Legal Philosophy* 182, 189.

⁹⁰ Pedro Pallares-Yabur, 'Charles Malik, his idea of "reason" and the formula "being endowed with reason" from the Universal Declaration of Human Rights's Article 1' (2022) *Revista de Estudios Histórico-Jurídicos* 179, 186.

⁹¹ Malik, *The Challenge of Human Rights* 31.

carefully constructed a sub-human category for those it believed did not meet its criteria for being 'fully' human.⁹²

Notwithstanding, Malik maintained that for human rights to be universal, they must derive from a universally recognised truth regarding a shared human condition. Fellow Lebanese diplomat Karim Azkoul demonstrated this logical truth during a 1948 meeting:

If man were endowed with reason and conscience by chance, then it could be claimed that his right to freedom and equality was equally accidental; if it were believed that the essence of man was determined by the social structure in which he lived, then his claim to freedom should be subordinated to the social order. If, however, reason and conscience were the distinguishing characteristics of man as distinct from animals, then nothing could change man's essential right to freedom and equality⁹³

Even if we accept Malik's more abstract reasoning that for human rights to be universal and enduring, they must be anchored in an immutable characteristic intrinsic to human nature, it remains intriguing that he would argue against limiting the UDHR to a parochialist philosophical perspective,

⁹² Johannes Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (University of Pennsylvania Press 1999) 296.

⁹³ United Nations Third Committee, 'Summary Record of the Ninety-Ninth Meeting' (11 October 1948) A/C.3/SR.99.

yet simultaneously endorse a concept as philosophically situated as 'reason and conscience' to define the human condition. This apparent contradiction asks for an evaluation of how Malik reconciled his commitment to universalism with his emphasis on attributes commonly associated with Western philosophical traditions.

Endowed with Reason: Malik's Philosophical Empathy

To contextualise his philosophical stance, it is important to recognise Charles Malik as an Orthodox Christian philosopher whom later transitioned into the realm of diplomacy. Prior to his involvement with the UN, Professor Malik taught 'Introduction to Philosophy,' where he emphasised that philosophy cannot be reduced to its ideas and theories; but is composed of the philosophers themselves.

We must study the great thinkers directly because philosophy is the personal articulation of the truth by individual [people] reacting in their total being to their several worlds. An interpreter colours the [people they interpret] with [their] own presuppositions and therefore yield [their] philosophy of [them], rather than that [person]'s own philosophy. The right method is to let the other [person] interpret [themselves] directly.⁹⁴

⁹⁴ Charles Malik, *Readings in Philosophy: Selection from the Great Masters* (American University of Beirut 1939) xiii-xiv.

In accordance with this understanding, true philosophical insight is realised through a sort of philosophical empathy as a way of reasoning with someone else from and within their perspective.⁹⁵ Malik's concept of philosophical empathy is deeply rooted in the belief that human reason can serve as a bridge connecting diverse cultural experiences. He argued that reason, when cultivated, enables individuals to transcend their particular cultural contexts and recognise a common humanity.⁹⁶ This form of empathy involves a high degree of intellectual flexibility; incorporating a cognitive dimension that surpasses mere emotional resonance. It entails a commitment to engaging with the emotional experiences of others as well as their specific motivations and underlying rationales.

Crucially, Malik contended that reason is not necessarily actualised in each individual but rather a potentiality innately present in all.⁹⁷ He insisted that literature and philosophy can be critical instruments to the cultivation of this potentiality by offering exposure to a wide variety of ideas, stimulating the examination and evaluation of one's own entrenched beliefs.⁹⁸ Just as Malik saw philosophical empathy as a function of reason, he envisioned peace as a manifestation of understanding.⁹⁹ Given this account of his philosophy, we can empathise with the philosopher's reaction to the 1948 motion to eliminate any reference to reason from the UDHR's Article 1:

⁹⁵ Pallares-Yabur 187.

⁹⁶ Pallares-Yabur 186-188.

⁹⁷ Finegan 186.

⁹⁸ Pallares-Yabur 188-189.

⁹⁹ Pallares-Yabur 189.

Without reason, the very work they were engaged in would be impossible; what, then, more “reasonable” than the explicit mention of the factor which constituted the basis of their work, in the very first article?¹⁰⁰

Malik's controversial inclusion of 'reason' ultimately made it into the final text of the UDHR with a narrow vote of 6–5, with 6 abstentions.¹⁰¹ According to Morsink, those who voted in favour of retaining the term did so not because they believed reason captured an essential aspect of human nature, they rather ‘only kept it in out of respect for Malik, who had been one of the core group of drafters since the beginning.’¹⁰²

Pengchun Chang's (张彭春) Confucianist Coverage

To complement Malik's concept of 'reason,' a second essential human characteristic, 'conscience,' was added to the UDHR's first article. Within philosophy, conscience is a familiar term in discussions on fundamental human attributes. Certainly, conscience has been a longstanding subject of philosophical inquiry; philosophers have engaged with the concept of conscience for centuries, exploring its nature, role in moral decision-making,

¹⁰⁰ United Nations Economic and Social Council, ‘Consideration of Draft International Declaration on Human Rights, Submitted by the Drafting Committee’ (21 May 1948) E/CN.4/95 Annex A.

¹⁰¹ United Nations Economic and Social Council, ‘Commission of Human Rights Third Session Summary Record of the Fiftieth Meeting’ (27 May 1948) E/CN.4/SR.50, 15.

¹⁰² Morsink 297.

and implications for human behaviour and self-understanding.¹⁰³ Throughout various philosophical approaches, conscience has been consistently defined by its inward looking and subjective nature. It has been conventionally conceived of as an embodiment of our self-awareness, involving an acknowledgment of our moral precepts, a reflective assessment of our behaviours, and an inherent impetus to pursue ethical conduct. Furthermore, it is typically specifically regarded as a force that originates internally - representing an inner moral orientation - as opposed to being mandated externally.¹⁰⁴

This understanding of conscience is evident in its inclusion in the Preamble of the UDHR. Renowned Professor Emeritus of Political Philosophy, Johannes Morsink, has strikingly attributed the lasting success of the UDHR to the universal '[outrage of] the conscience of mankind' in response to the 'barbarous acts' of the Nazi regime.¹⁰⁵

In Article 1, however, 'conscience' takes on another distinct meaning. Proposed by Chinese representative and philosopher Pengchun Chang as an augmentation to 'reason,' the purpose of 'conscience' was to include a communitarian perspective that could complement conventional

¹⁰³ Alberto Giubilini, 'Conscience' (The Stanford Encyclopedia of Philosophy, published 14 March 2016 and revised 11 February 2021) <<https://plato.stanford.edu/entries/conscience/>> accessed 11 May 2024.

¹⁰⁴ Giubilini.

¹⁰⁵ Johannes Morsink, 'The Universal Declaration and the Conscience of Humanity' (Rights That Make Us Human Beings. Human Rights as an Answer to Historical and Current Injustice, Nuremberg, 20 November 2008) <<https://www.menschenrechte.org/wp-content/uploads/2013/05/The-Universal-Declaration-and-the-Conscience-of-Humanity.pdf>> accessed on 6 May 2024.

individualistic interpretations.¹⁰⁶ 'Conscience' was to be integrated into the UDHR as a manifestation of the Chinese Confucian principle of 'rén,' rendered in English as 'two-man-mindedness.'¹⁰⁷ The term 'two-man-mindedness' stems from the Chinese character 仁 (rén), comprising 人 (rén; human being) and 二 (two; èr).¹⁰⁸ Regrettably, the English 'conscience' falls short of fully conveying rén's emphasis on mutual recognition; the notion that two people can feel each other's existence.¹⁰⁹ In English, a more fitting translation might entail 'sympathy,' 'benevolence,' or 'consciousness of one's fellow humans.'¹¹⁰ Rén was first introduced to the philosophical tradition by philosopher Meng Zi (372–289 B.C.), who is often regarded as the 'second Sage' in Confucianism; second only to Confucius himself. Zi taught that people possess an inherent goodness that can be actualised through a conscientious cultivation of 'benevolence.'¹¹¹ This cultivation entails a conscious acknowledgement of the inherent goodness in human nature, which inspires 'benevolence:' a profound respect for the innate humanity of others.

Chang's proposal was prompted by the plea of René Cassin, French representative and jurist, to recognise within the UDHR the correlation

¹⁰⁶ Morsink, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* 296-297.

¹⁰⁷ United Nations, 'Summary Record of the Eighth Meeting [of the Drafting Committee of the Commission on Human Rights]' (17 June 1947) E/CN.4/AC.1/SR.8.

¹⁰⁸ Frédéric Krumbein, 'P. C. Chang—The Chinese Father of Human Rights' (2015) 14:3 *Journal of Human Rights* 332, 347.

¹⁰⁹ Sun 71.

¹¹⁰ Krumbein 347.

¹¹¹ Sun 120.

between rights and duties, forming the foundation of community.¹¹² In essence, Cassin sought to capture in Article 1 'the particular spark that distinguishes [people] from animals and at the same time obligates them to more grandeur and to more duties than any other beings on earth.'¹¹³ Chang's philosophical perspective merged the teachings of Meng Zi with Rousseau's moral philosophy to argue that the recognition of our mutual goodness is what distinguishes humans from animals. According to Chang, this recognition enables humans to embrace the responsibilities and obligations of communal living, transcending the mere pursuit of self-interest.¹¹⁴

Concluding Remarks

Ultimately, the drafting process of the UDHR - while intermittently addressing philosophical themes - predominantly assumed the character of a political negotiation rather than a philosophical discourse on ethics and morality. For the most part, those partaking in the drafting process were content to assume the truth of the prevailing human rights traditions without engaging in defence of their axioms or rebuttal of their critics.¹¹⁵ Still, certain individuals involved in the drafting process, as delineated in this study, have contributed insightful perspectives on the philosophical foundations of the UDHR. Nonetheless, even those with a pronounced philosophical inclination

¹¹² Morsink 296.

¹¹³ UN, 'Summary Record of the Eighth Meeting [of the Drafting Committee of the Commission on Human Rights]'

¹¹⁴ Sun 36.

¹¹⁵ Finegan 183-184.

recognised that excessive theoretical deliberation could compromise the document's objective of serving as a potent political instrument. Hence, pragmatic concerns frequently took precedence over theoretical intricacies in shaping the UDHR.

This pragmatic position reveals itself in the discourse surrounding the interpretation of the Declaration's inaugural article. As the majority of the drafters considered the inclusion of 'reason and conscience' as an ontological foundation for the possession of human rights to be problematic, an alternative epistemological interpretation emerged; one which conceived of 'reason and conscience' not as essential human characteristics but as the faculties through which we come to comprehend the imperative to 'act towards one another in a spirit of brotherhood' enclosed in Article 1. This perspective reflects the widespread post-WWII belief, prevalent amongst the drafters of the Declaration, in the 'universal epistemic condition;' a condition which posits that '—unless there is some special case of blockage—we can all come to know that people have inherent dignity and moral rights by our natural and unaided epistemic equipment.'¹¹⁶ Notwithstanding this competing epistemological interpretation, an enduring affirmation of the necessity to anchor human rights in essential characteristics — whether construed as actualities or potentialities — has equally persisted.

¹¹⁶ Morsink 294.

Chapter 3.2: Analysis

Dignity, Statecraft, and Domination after the World Wars

Accordingly we, members of the People's Council, representatives of the Jewish community of Eretz-Israel and of the Zionist movement, are here assembled on the day of the termination of the British Mandate over Eretz-Israel and, by virtue of our natural and historic right and on the strength of the resolution of the United Nations General Assembly, hereby declare the establishment of a Jewish State in Eretz-Israel, to be known as the State of Israel.¹¹⁷

Whereas Member States have pledged themselves to achieve, in cooperation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,¹¹⁸

Simultaneous to the drafting process of the Universal Declaration of Human Rights (UDHR), which set forth general principles of human rights without creating binding legal obligations, the UN developed the 1948 Convention on the Prevention and Punishment of the Crime of Genocide.

¹¹⁷ Israel's government services and information website, 'The Declaration of the Establishment of the State of Israel (*gov.il*, 14 May 1948)

<<https://www.gov.il/en/pages/declaration-of-establishment-state-of-israel>> accessed 20 May 2024.

¹¹⁸ Universal Declaration on Human Rights Preamble.

This Convention created binding legal obligations for the prevention and punishment of genocide and was the first human rights treaty adopted by the UN General Assembly in the aftermath of World War II.¹¹⁹ First, the Convention instituted the protection from states by recognising that acts of genocide and human rights violations are attributable to states and state officials. Second, it prescribed protection by the state by requiring states to prosecute those whom committed genocide. Third, it ensured the continued protection of the state by empowering it to safeguard its citizens, thereby offering continuous recognition and legitimacy to states as the sole enforcers of the Convention and therefore the primary actors within the international order. Thus, by granting states the responsibility to protect human rights, the United Nations has heralded the post-World War II human rights regime as one characterised by a tripartite paradox of protection: protection from, protection by, and protection of the state.

The Impoverishment of Human Rights

The decisions made by the original Drafting Committee set a precedent for the ensuing human rights regime. The drafters pursuit for broad consensus through a non-enforceable declaration has rendered the UDHR bereft of the legal jurisdiction necessary to enforce compliance. Consequently, the enforcement of human rights is contingent on the

¹¹⁹ United Nations Office at Geneva, 'Explainer: What is the Genocide Convention?' (ungeneva.org, 11 January 2024)
<<https://www.ungeneva.org/en/news-media/news/2024/01/89297/explainer-what-genocide-convention>> accessed 20 May 2024.

willingness of states to integrate the UDHR principles into their domestic legislature, leading to an inconsistent and inadequate protection of rights. Furthermore, in their deliberate avoidance of aligning human rights with any particular ideology, the drafters sought to foster universal recognition through the principle of dignity. However, while instrumental to the document's conclusion and adaptation, the open-ended nature of this placeholder concept has inadvertently led to an overreliance on positive law justifications.¹²⁰ Thus, while the UDHR aimed to establish a universal standard for human rights, its non-enforceable nature and philosophical ambiguity have, paradoxically, undermined its universality. Presently, human rights are contingent upon the legislative and judicial actions of state actors, rather than being seen, in accordance with the drafters' vision, as inherent and inalienable rights independent of state recognition.

The decision not to establish a judiciary body to enforce the UDHR has inspired actors to craft their own interpretations and subsequent legal traditions. This has resulted in the reduction of human rights discussions to a legalist discourse wherein debates primarily revolve around the legality or illegality of violence, leaving questions about the morality and validity of the law itself largely unaddressed.¹²¹ The phenomenon becomes apparent when analysing the operations of human rights organisations. Operating with a primary concern for ensuring the scholastic validity of their endeavours,

¹²⁰ Kenneth Roth, 'Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organisation' (2004) 26 *Human Rights Quarterly* 63, 64.

¹²¹ Nicola Perugini and Neve Gordon, *The Human Right to Dominate* (Oxford University Press 2015) 133.

these organisations prioritise their cases according to their legal simplicity over, say, the immediacy of threat. Accordingly, Kenneth Roth, the executive director of Human Rights Watch, observes that the focus of most human rights organisations is rarely dictated by the severity of the abuses encountered.¹²² Evidently, these observations compromise the UDHR drafters' conviction that the inherent 'outrage [of] the conscience of mankind' in response to egregious abuses would be sufficient to galvanise a steadfast commitment to the 'never again' pledge.

A pertinent example is Human Rights Watch's publication of a 98-page report on US drone strikes in Yemen. The report concludes that, provided the US employs 'discriminate weapons' and takes 'the feasible precautions' in targeting militants, the resultant civilian casualties from 'deliberate killing by a government' comply with international law.¹²³ Notably, the report fails to scrutinise any ulterior motivations for the US military intervention or its ramifications for the humanitarian crisis in the region affected. This shows how human rights organisations confine themselves to mitigating the hegemonic structure's excesses without contesting the structure itself, exemplifying how the modern human rights regime typically values legal compliance over substantive justice.

¹²² Perugini and Gordon 130-131.

¹²³ Human Rights Watch, "'Between a Drone and Al-Qaeda' The Civilian Cost of US Targeted Killings in Yemen' (Human Rights Watch, 22 October 2013) <<https://www.hrw.org/report/2013/10/22/between-drone-and-al-qaeda/civilian-cost-us-targeted-killings-yemen>> accessed 26 May.

Reinstating and Fortifying State Supremacy

Through the essentiality of dignity, the UDHR strived to make human rights universal; accessible to all persons regardless of 'the political, jurisdictional or international status of the country or territory to which a person belongs.'¹²⁴ Hannah Arendt, the German-Jewish political philosopher who witnessed the plight of the stateless during the interwar period, famously observed that human rights appeared most irrelevant and ineffectual precisely when they were most needed. In her seminal work, *The Origins of Totalitarianism*, Arendt articulated that an individual is deprived of human rights when they are merely a human being; that when unrecognised by any territory or jurisdiction, one finds oneself unacknowledged and unprotected by the nation-state.¹²⁵ Notably, this observation is not unique to Europe's stateless population, nor was Arendt the first or only thinker to make this remark. On the contrary, this phenomenon is emblematic of the colonial concept of 'juridical humanity,' wherein colonial law has historically tied the notion of being human to the recognition and power of the (colonial) state.¹²⁶

In the wake of the World Wars, formerly colonised peoples have reappropriated the concept of juridical humanity to frame their struggle for human rights as a quest to join the family of nations, whether through

¹²⁴ UDHR Art 2.

¹²⁵ Hannah Arendt, *The Origins of Totalitarianism* [1951] (Brace and Jovanovich 1979 edn.) 296-297.

¹²⁶ Samera Esmeir, *Juridical Humanity: A Colonial History* (Stanford University Press 2012) 2.

independent self-determination or integration into existing states.¹²⁷ By pursuing sovereignty or citizenship within a sovereign state, individuals without nationality sought to secure protection, international recognition, autonomy, and dignity—the prerequisites for being acknowledged as human by those who had already acquired citizenship. It comes as no surprise that the aspiration to accede to the community of nations, enshrined within the UDHR as a universal human right, became a paramount objective for stateless individuals; a convergence that evidences how human rights have become synonymous with the struggle for national statecraft. The UDHR has manifestly functioned as the contemporary expression of international juridical humanity whereby universal human rights serve as the conceptual framework for the instalment of new states aspiring to self-determination. Even former Chair of the Human Rights Commission Eleanor Roosevelt came to espouse self-determination as a ‘universal human right’ for the benefit of all peoples.¹²⁸

The Birth of Israel

Following the conclusion of World War II, approximately one million Europeans found themselves displaced from their countries of origin.¹²⁹ This demographic encompassed various groups, including those forcibly relocated

¹²⁷ Perugini and Gordon 29-30.

¹²⁸ U.S. Department of State, ‘The Universal Validity of Man’s Right to Self-Determination’ (8 December 8 1952) Bulletin 27, no. 702.

¹²⁹ National Archives of Australia, ‘Refugees displaced by World War II’ <<https://www.naa.gov.au/explore-collection/immigration-and-citizenship/migrant-stories/refugees/refugees-displaced-world-war-ii>> accessed 30 May 2024.

to Germany for labour during the Nazi occupation, civilians fleeing the advances of the Russian Army in their homelands, and former soldiers liberated from German prisoner of war camps. Notably, Professor of Jewish Studies Gerard D. Cohen asserts that among these displaced individuals, the quarter-million Jewish displaced persons formed the most conspicuous group, their plight underscored by the revelations of atrocities unveiled during the Nuremberg Trials and the International Military Tribunal.¹³⁰ Many of the Great Powers' influential figures expressed a deep connection to the Jewish predicament. Among them, US President Truman demonstrated a particularly vested interest. He closely monitored the situation of Jewish refugees in Europe. In 1945, Truman dispatched Earl G. Harrison, a dean from the University of Pennsylvania, to conduct a survey on the conditions faced by displaced persons in Europe.

Harrison's findings were stark. He reported that approximately one million Jewish survivors inhabited temporary refugee camps scattered throughout the continent, often confined behind barbed wire fences reminiscent of the concentration camps they had endured. Their sustenance was meagre, relying mainly on bread and coffee for survival. Harrison concluded his study by recommending that the 'only real solution' would be 'the quick evacuation of all non-repatriable Jews ... to Palestine.'¹³¹ He

¹³⁰ Gerard Daniel Cohen, 'The Holocaust and the "Human Rights Revolution": A Reassessment,' in Akira Iriye, Petra Goedde, and William I Hitchcock (eds), *The Human Rights Revolution: An International History* (Oxford University Press 2012) 56-66.

¹³¹ Earl G. Harrison, 'Report of Earl G. Harrison: Mission to Europe to inquire into the condition and needs of those among the displaced persons in the liberated countries of Western Europe and the SHAEF area

believed that 'the evacuation of the Jews ... will solve the problem of the individuals involved and will also remove a problem from the military authorities who have had to deal with it.' In its concluding remarks, the Harrison report, as it is now known, posits that 'the civilised world owes it to this handful of survivors to provide them with a home where they can again settle down and begin to live as human beings.' This proposal introduced a unique approach to the extensive displacement crisis that would garner wide international support: whereas for the non-Jewish displaced groups, the UN's International Refugee Organisation limited itself to providing arranged transport, accommodation, and employment,¹³² for the Jewish displacement, it suggested humanitarian reparation in the form of a settler nation-state.

Normalising Domination: The Ethics of Violence

This section commences with statistics. Figure 1 illustrates the number of Palestinians and Israelis who were killed or injured in the occupied Palestinian territory and Israel from 2008 to October 2023, within the context of the occupation and conflict.¹³³ The data, sourced from the United Nations Office for the Coordination of Humanitarian Affairs (OCHA), is

of Germany – with particular reference to the Jewish refugees – who may possibly be stateless or non-repatriable' (July 1945)

<<https://www.eisenhowerlibrary.gov/sites/default/files/research/online-documents/holocaust/report-harrison.pdf>> accessed 30 May 2024.

¹³² United Nations, 'Annex X - International Refugee Organization (IRO) - to the Convention on the Privileges and Immunities of the Specialized Agencies' (*United Nations Treaty Collections*, 16 August 1949)

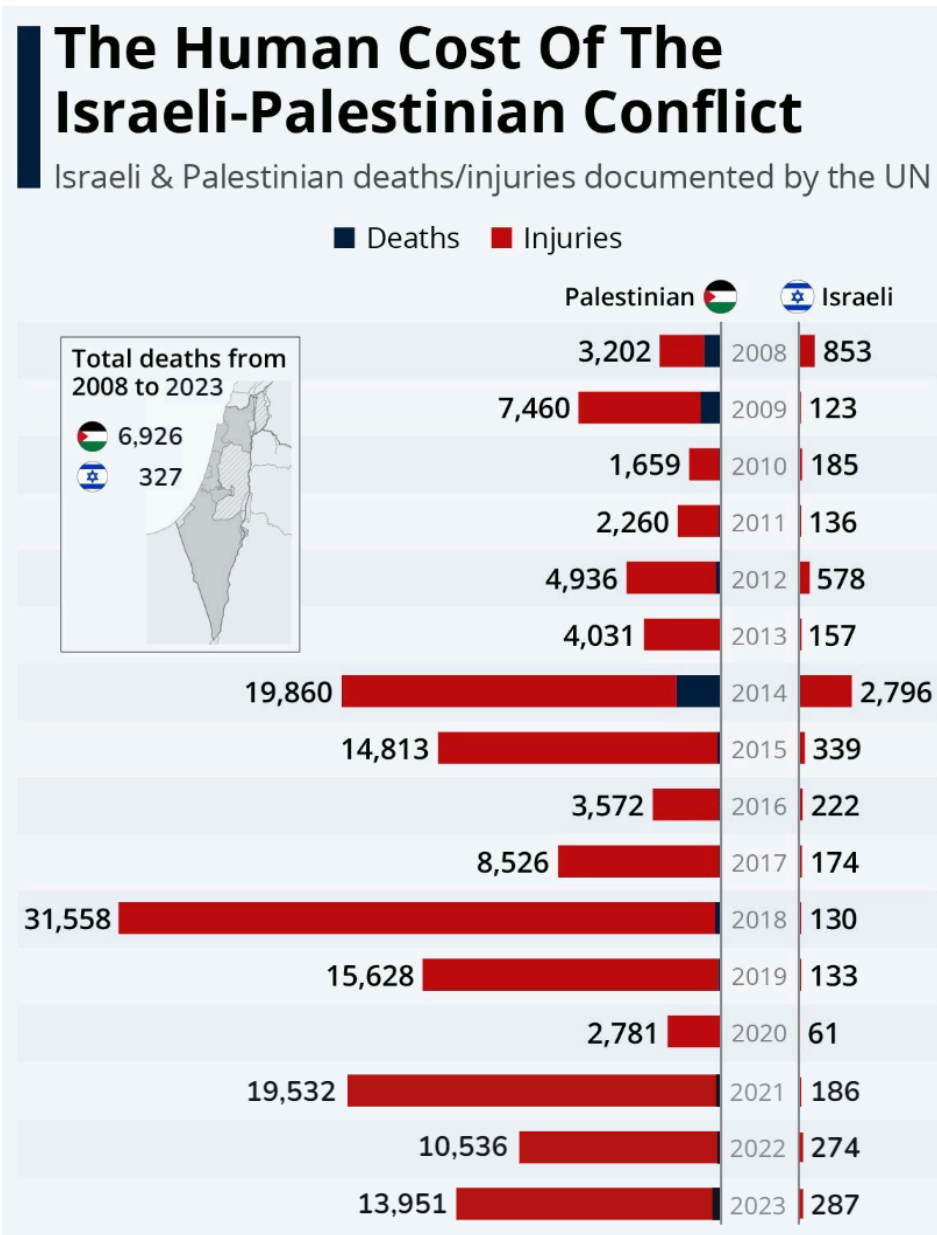
<https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-2-10&chapter=3&clang=_en> accessed 30 May 2024.

¹³³ United Nations Office for the Coordination of Humanitarian Affairs, 'Data on casualties' <<https://www.ochaopt.org/data/casualties>> accessed 31 May 2024.

collected by OCHA field staff and recorded in OCHA's Protection of Civilians database upon review and verification. Per rule, an incident must be corroborated by at least two independent and reliable sources to be included in the database. Exceptions to this rule are made for incidents resulting in Israeli injuries, where information is usually based on media reports. The ongoing hostilities in the Gaza Strip and Israel, which began on 7 October 2023, are not yet fully represented in this data. According to Al Jazeera, an independent international news network, there have been 36,743 Palestinian fatalities and 1,139 Israeli fatalities since October 2023.¹³⁴ Al Jazeera compiles data from various sources including the Palestinian Ministry of Health, the Palestine Red Crescent Society, the Israeli army, and Israel's social security agency. Their database is regularly updated, with the most recent update for this report being on 30 May 2024.

¹³⁴ Al Jazeera, 'Israel-Gaza war in maps and charts: Live tracker' <<https://www.aljazeera.com/news/longform/2023/10/9/israel-hamas-war-in-maps-and-charts-live-tracker>> accessed 31 May 2024.

Figure 1

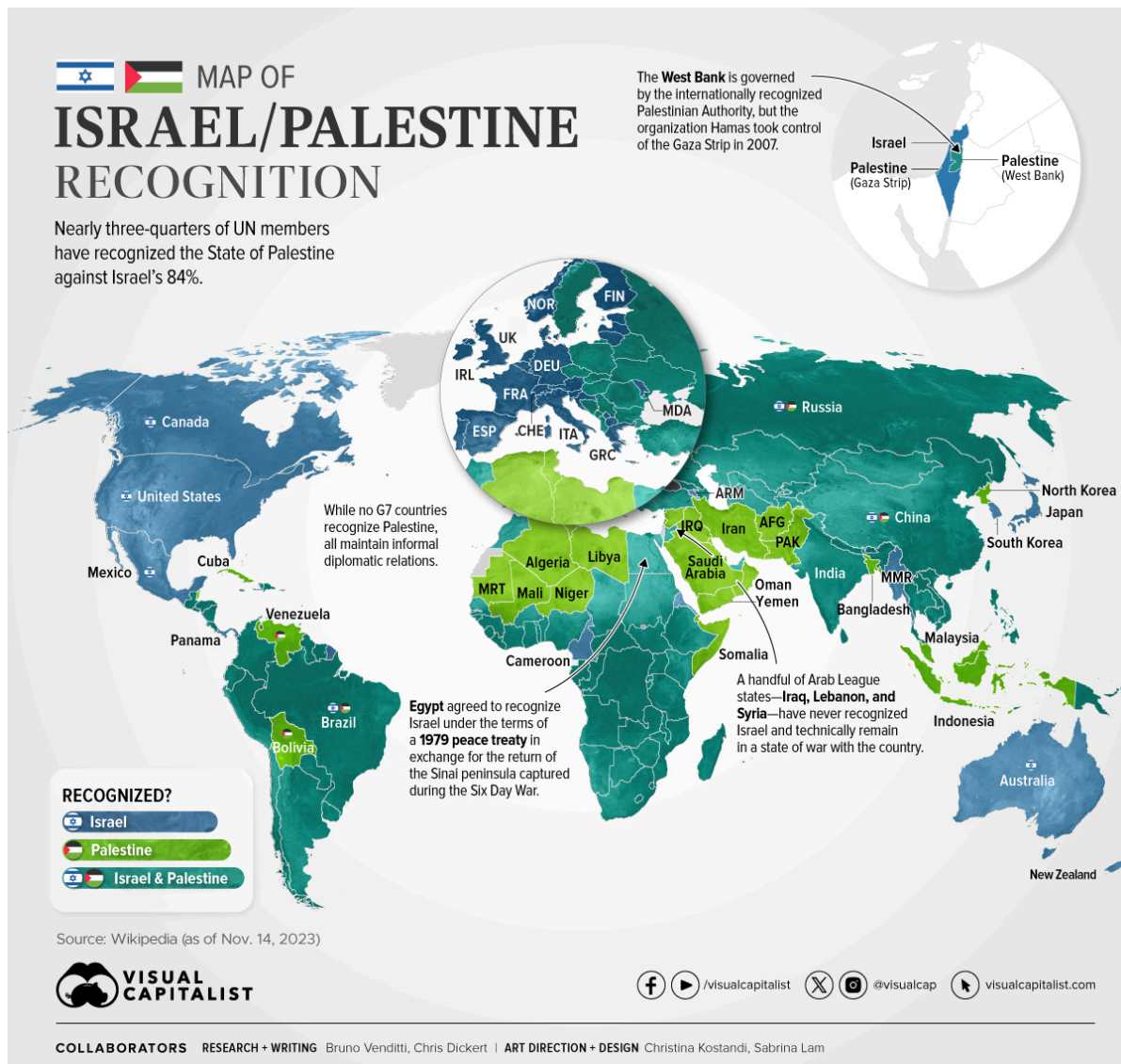


Note. This figure was originally created by data journalist Niall McCarthy.¹³⁵It was altered by the author of this thesis to include the OCHA data of 2021-2023.

¹³⁵ Niall McCarthy, 'The Human Cost Of The Israeli-Palestinian Conflict' (statista, 12 May 2021) <<https://www.statista.com/chart/16516/israeli-palestinian-casualties-by-in-gaza-and-the-west-bank/>> accessed on 31 May 2024.

Two additional infographics are offered for consideration. Figure 2 depicts the international recognition status of Israel and Palestine as sovereign states. Figure 3 depicts the global responses to the events that transpired on 7 October 2023.

Figure 2



Note. Chris Dickert and others.¹³⁶

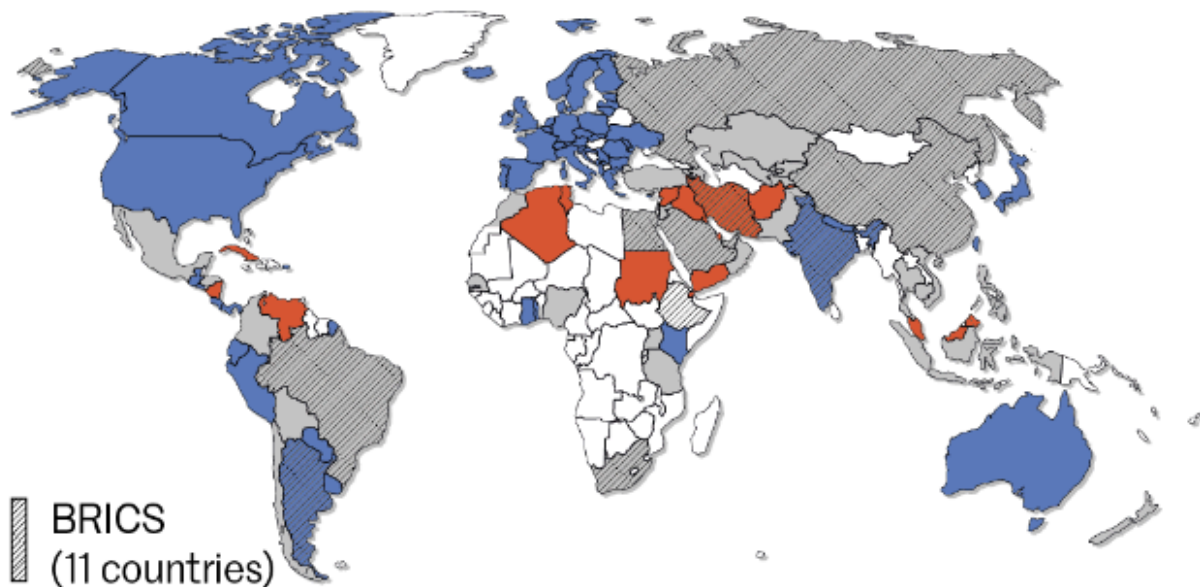
¹³⁶ Chris Dickert and others, 'Mapped: Which Countries Recognize Israel or Palestine, or Both?' (Visual Capitalist, 24 November 2023) <<https://www.visualcapitalist.com/recognition-of-israel-and-palestine-map/>> accessed 31 May 2024.

Figure 3

International reactions to the attack on Israel by Hamas on Saturday, October 7

Situation as of October 9

- Strong condemnation and support for Israel
- Call for de-escalation (with or without condemnation)
- Support for Hamas



Note. Gilles Paris.¹³⁷

¹³⁷ Gilles Paris, 'The West and areas of the Global South divided over Palestine' (Le Monde, 10 October 2023) <https://www.lemonde.fr/en/international/article/2023/10/10/the-west-and-areas-of-the-global-south-divided-over-palestine_6162359_4.html> accessed 31 May 2024.

In spite of the double standard in the validation process and the dataset's exclusion of casualties both before 2008 and after 7 October 2023—factors that collectively deflate Palestinian numbers and inflate Israeli numbers—there is a clear disparity of victims. Nonetheless, Israeli Zionists have widely maintained a narrative of collective victimhood as the country's foundational identity,¹³⁸ a perspective broadly corroborated by the West (see Figures 2 and 3). This is achieved through the efforts of Israeli military, government officials, security think tanks and liberal human rights NGOs to rationalise the deployment of sovereign violence against the civilians in occupied Palestinian territory.¹³⁹

In response to heightened public scrutiny of military actions, there has been a drastic increase in educational initiatives focusing on the philosophical and moral underpinnings of violence deployment, grounded in international human rights law.¹⁴⁰ Consequently, military training now emphasises the use of human rights as both an epistemic and moral framework for evaluating the ethical implications of lethal force in military contexts. This approach has given rise to a contemporary ethic of violence that doesn't view human rights and military professionalism as contradictory, but rather integrates them into a cohesive political ethos. This political ethos equips states with the legal jargon it needs to protect itself from accusations

¹³⁸ Tadek Markieqicz and Keren Sharvit, 'When Victimhood Goes to War? Israel and Victim Claims' (2021) 42 *Political Psychology* 111.

¹³⁹ Perugini and Gordon 73.

¹⁴⁰ Paul Robinson, *Ethics Education in the Military* (Ashgate 2013) 1.

that its way of killing violates international law. International human rights law, for example, has formulated the rules that legitimise violence, produced methods that increase the efficacy of violence, and shifted violence from something that 'outrages the conscience of mankind' into a sustainable practice that state officials can confidently endorse.¹⁴¹ Amidst this complex interplay of human rights and violence, one is left to wonder whether human rights regulate violence or violence dictates the parameters of human rights.

¹⁴¹ David Kennedy, *Of War and Law* (Princeton University Press 2009) 139.

Chapter 4: Conclusion

Over the last hundred years, an intense political conflict between Zionists and Palestinian nationalists has fuelled a historical rediscovery of the occupied Palestinian territory's past. Both Zionists and Palestinian nationalists have sought to establish their legitimacy through the retroactive construction of historical roots in the region, to find a historical 'nationalist charter.'¹⁴² Zionists have emphasised an ancient Jewish connection to the land of Israel, often invoking religious scripture and historical continuities, while Palestinian nationalists have highlighted a longstanding Arab presence and cultural heritage in Palestine. Although the Israeli-Palestinian conflict is often framed in ethnic and religious terms, its essence is indisputably territorial.

Following the First World War, Palestine came under British mandate, a period during which—and preceding which—the British administration exhibited unmistakable inclinations toward Zionist objectives. This predisposition was evident in the British administration's policies and actions, which facilitated the systematic relocation of Jewish Zionists to the Palestinian region over several decades. In response to the UN's 1947 non-binding partition plan—an attempt to mitigate the escalating violence stemming from the contradictory terms of the 1922 Mandate—Israel seized

¹⁴² Ilan Pappé, *The Israel/Palestine Question: A Reader* (Routledge 2007) 13.

the opportunity to unilaterally declare statehood. Israel consequently became a UN member in 1949, legitimising its sovereignty. In contrast, Palestine remained under foreign rule—initially under Egyptian control in Gaza and Jordanian administration in the West Bank, and later under Israeli occupation after the 1967 Six-Day War.¹⁴³

When the Palestine Liberation Organisation declared independence in 1988, the UN withheld its formal recognition, confining Palestine to non-member observer status.¹⁴⁴ This status, while granting certain privileges such as participation in debates, excludes Palestine from voting on draft resolutions and decisions across the UN's main organs and bodies, including the Security Council, the General Assembly, and its six main committees. The disparity in treatment between Israel and Palestine within the UN system can be attributed to two evident factors. First, the historical composition of the UN largely comprised members sympathetic to Zionism or with vested interests in supporting Israel's establishment. In comparison, advocates of Palestinian nationalism found themselves lacking comparable influence, as a significant number remained subject to United Nations Trusteeship Agreements or were classified by the General Assembly as Non-Self-Governing Territories.¹⁴⁵ Second, although a majority of

¹⁴³ United Nations, 'History of the Question of Palestine' (30 March 2020) <<https://www.un.org/unispal/history2/>> accessed 7 June 2024.

¹⁴⁴ United Nations, 'Palestine's status at the UN explained' (18 April 2024) <<https://news.un.org/en/story/2024/04/1148351>> accessed 7 June 2024.

¹⁴⁵ United Nations, 'List of former Trust and Non-Self-Governing Territories' <<https://www.United.un.org/dppa/decolonization/en/history/former-trust-and-nsgts>> accessed 7 June 2024.

contemporary UN members acknowledged Palestine as of 3 June 2024,¹⁴⁶ the United States has persistently employed its veto power to impede Palestine's full membership status.¹⁴⁷

Palestine's predicament is a poignant illustration of International Legal Subalternity, wherein the UN extends legal recourse solely to select nations while disregarding the plight of subaltern peoples. Despite the lofty ideals of universal protection, human dignity and the right to self-determination are often extended selectively, resulting in the genocide of Palestinian groups as we speak. Armed with the insights gleaned from this thesis, it becomes abundantly clear that the United Nations operates under the guise of rule *by* law, where legal mechanisms are manipulated based on political expediency rather than adhering to the principle of the rule *of* law, which envisages the systematic application of legal standards to all individuals without prejudice. As a consequence, Palestine's ongoing efforts to achieve statehood remain entangled within the complex political dynamics of UN membership; depriving it of the privileges and recognition typically afforded to sovereign states, and leaving its citizens devoid of the protection guaranteed *from, by, and of* the state.

¹⁴⁶ United Nations Office of the High Commissioner, 'UN experts urge all States to recognise State of Palestine' (3 June 2024)
<<https://www.ohchr.org/en/press-releases/2024/06/un-experts-urge-all-states-recognise-state-palestine>> accessed 7 June 2024.

¹⁴⁷ United Nations, 'Security Council Fails to Recommend Full United Nations Membership for State of Palestine, Owing to Veto Cast by United States' (18 April 2024)
<<https://press.un.org/en/2024/sc15670.doc.htm#:~:text=The%20Security%20Council%20today%20blocked,the%20granting%20of%20such%20status.>> accessed 7 June 2024.

Thesis & Reflection

Returning to our research question, we must consider: *What does the historical parallelism of post-World War II advancements in human rights and the establishment of a 'Jewish homeland' in occupied Palestinian territory reveal about the underlying presuppositions that lead to the exclusion of specific groups from effective human rights protection?*

The dominant understanding of Israel, a settler colonial state, as a humanitarian solution to protect the human rights of displaced Jewish populations after the World Wars, exposes the uncomfortable truth that human rights and domination can and do coincide. Furthermore, it evidences that human rights are utilised to normalise and even legitimise domination. Throughout this thesis, we have critically examined the Universal Declaration of Human Rights (UDHR), scrutinising how it elevates the state—the very entity often responsible for human rights violations—to the status of human rights protector, thereby granting it recognition, protection, and legitimacy. Whilst it is problematic that human rights require state enforcement, which is inherently non-universal, it would be reductive to abandon the UDHR entirely because it has been appropriated for purposes of domination. I contend that the UDHR did not create oppressive statehood; rather, human rights, the nation-state, and domination are entangled in a complex

relationship, akin to what authors Perugini and Gordon describe as a Gordian knot.¹⁴⁸

Since their emergence in 1948, human rights have entered the political decision-making process. However, confining the UDHR to legalism and professionalism has impoverished rights, rendering them non-threatening and conducive to hegemonic structures of domination. A pertinent example is Israel's response to the 2014 Gaza war, wherein the immediate course of action was to expand the Israeli Defense Force's international legal department. This move exemplifies how state actors have co-opted human rights discourse to monopolise the use of violence. Israel is not isolated in such practices. Despite the purported commitment of virtually all UN member states to the universality of the Declaration's rights, several international actors assert that rights are inherently relative, prioritising economic and political interests over human rights.¹⁴⁹ Provisions related to social and economic justice are frequently overlooked, and principles of family protection subjected to direct assault.¹⁵⁰

Yet, insofar as human rights are unstable signifiers, they undergo continuous reinterpretation and recontextualisation, fostering a perpetual cycle of reappropriation and resignification. In this process, human rights appear as promising tools capable of countering domination, and of

¹⁴⁸ Perugini and Gordon 34.

¹⁴⁹ Mary Ann Glendon, 'Knowing the Universal Declaration of Human Rights' (1999) 73 *Notre Dame Law Review* 1153, 1154.

¹⁵⁰ Glendon 1154.

producing the subjects of rights anew. In hindsight, it seems Jacques Maritain's recommendation to establish the UDHR on a common minimal core may have provided the substantial groundwork for the preservation of its value.

In closing, it is crucial to acknowledge that histories of dispossession demonstrate a recurring pattern: efforts to rectify or reform institutionalised domination typically reorganise structures of power rather than eradicate them. To disrupt the nexus between law and legitimacy, it is imperative to deprofessionalise human rights, reinstating their agency within the purview of individuals and peoples irrespective of their affiliation with the state. This paradigm shift finds concrete expression in the Boycott, Divestment, and Sanctions (BDS) movement, instigated by various Palestinian civil society groups in 2005. Drawing inspiration from the successful anti-apartheid movement in South Africa, BDS advocates for nonviolent measures against Israel until it complies with international legal standards.¹⁵¹

Diverging from traditional human rights frameworks, BDS rejects the mere symbolic gestures of 'naming and shaming,' and abandons the notion of resolving isolated legal disputes within colonial courts. Instead, BDS strategically pressures multinational corporations to sever ties with Israel, compelling adherence to international legal obligations. These obligations include the withdrawal from occupied territories, dismantling the West Bank

¹⁵¹ Palestinian BDS National Committee and Palestinian Campaign for the Academic and Cultural Boycott of Israel, 'What is BDS?' (*BDS Movement*) <<https://bdsmovement.net/what-is-bds>> accessed 8 June 2024.

separation barrier, ensuring equality for Arab-Palestinian citizens, and addressing the rights of Palestinian refugees.¹⁵² Through its unconventional tactics, BDS has effectively reshaped the discourse surrounding Israel/Palestine and garnered support from a wide array of political entities globally.¹⁵³ Evident in the multitude of pro-Palestine protests worldwide and the expansive network it has cultivated over the past two decades, it serves as a testament to the potential for creating new political communities founded on justice, as opposed to oiling an unrecoverable apparatus of injustice.

¹⁵² Palestinian BDS National Committee and Palestinian Campaign for the Academic and Cultural Boycott of Israel.

¹⁵³ Palestinian BDS National Committee, 'Indicators of the BDS movement's global impact: Q4 2023 & Q1 2024' (*BDS Movement*, 29 March 2024) <<https://bdsmovement.net/news/indicators-bds-movements-global-impact-q4-2023-q1-2024>> accessed 8 June 2024.

Bibliography

- Alston P, *Non-State Actors and Human Rights* (Oxford University Press 2005).
- Al Jazeera, 'Israel-Gaza war in maps and charts: Live tracker' <<https://www.aljazeera.com/news/longform/2023/10/9/israel-hamas-war-in-maps-and-charts-live-tracker>> accessed 31 May 2024.
- Arendt H, *The Origins of Totalitarianism [1951]* (Brace and Jovanovich 1979 edn.).
- Australian Human Rights Commission, 'Limitations on ICCPR rights' <<https://humanrights.gov.au/our-work/rights-and-freedoms/missible-limitations-rights>> accessed 1 April 2024.
- Balfour AJ, 'Balfour Declaration' (communication from the British Foreign Secretary to Zionist leader Lionel Walter Rothschild, 1917) <<https://palestina-komitee.nl/wp-content/uploads/2017/11/Balfour-Declaration-1917.pdf>> accessed 15 March 2024.
- Ben-Gurion D, 'The Declaration of the Establishment of the State of Israel' (14 May 1948).
- Berenbaum M, *The World Must Know: The History of the Holocaust as Told in the United States Holocaust Memorial Museum* (Johns Hopkins University Press 2005).
- Beylerveld D and Pattinson SD, 'The Concept of Human Rights in the UDHR and the Rule of Law for the World Today' in Dahlin M and others',

Equality of opportunities? The right to health in the Nordic welfare societies (Iustus förlag 2023).

Carozza PG, 'Human Dignity and the Foundations of Human Rights' (elaborated version; The Heritage Foundation 2020).

Cohen GD, 'The Holocaust and the "Human Rights Revolution": A Reassessment,' in Iriye A, Goedde P, and Hitchcock WI (ed), *The Human Rights Revolution: An International History* (Oxford University Press 2012).

Covenant of the League of Nations (The Peace Treaty of Versailles, 28 June 1919).

Danchin P, 'Drafting History' <https://ccnmtl.columbia.edu/projects/mmt/udhr/udhr_general/drafting_history_9.html> accessed 30 March 2024.

Dicke, 'The Founding Function of Human Dignity in the Universal Declaration of Human Rights' in Kretzmer D and Klein E (ed), *The Concept of Human Dignity in Human Rights Discourse* (Brill 2001).

Dickert C and others, 'Mapped: Which Countries Recognize Israel or Palestine, or Both?' (*Visual Capitalist*, 24 November 2023) <<https://www.visualcapitalist.com/recognition-of-israel-and-palestine-map/>> accessed 31 May 2024.

Don-Yehiya E, 'The Negation of Galut in Religious Zionism' (1992) 12 *Modern Judaism* 129.

Esmeir S, *Juridical Humanity: A Colonial History* (Stanford University Press 2012).

European Commission, 'fundamental rights'
<https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary/glossary/fundamental-rights_en> accessed 1 April 2024.

European Union Agency for Asylum, 'Is the act a violation of a non-derogable human right or a sufficiently severe violation of another basic human right?'
<<https://euaa.europa.eu/easo-practical-guide-qualification-international-protection/2-act-violation-non-derogable-human-right-or-sufficiently-severe-violation-another-basic-human-right>> accessed 1 April 2024.

Finegan T, 'Conceptual Foundations of the Universal Declaration of Human Rights: Human Rights, Human Dignity and Personhood' (2012) 37 *Australian Journal of Legal Philosophy* 182.

Gelvin JL, *The Israel-Palestine Conflict: One Hundred Years of War* (3rd edn, Cambridge University Press 2014).

Giubilini A, 'Conscience' (The Stanford Encyclopedia of Philosophy, published 14 March 2016 and revisioned 11 February 2021)

<<https://plato.stanford.edu/entries/conscience/>> accessed 11 May 2024.

Glendon MA, *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights* (Random House 2001).

Glendon MA, 'Knowing the Universal Declaration of Human Rights' (1999) 73 Notre Dame Law Review 1153.

Hannum H, 'The UDHR in National and International Law' (1998) 3 Health and Human Rights 144.

Harrison EG, 'Report of Earl G. Harrison: Mission to Europe to inquire into the condition and needs of those among the displaced persons in the liberated countries of Western Europe and the SHAEF area of Germany – with particular reference to the Jewish refugees – who may possibly be stateless or non-repatriable' (July 1945) <<https://www.eisenhowerlibrary.gov/sites/default/files/research/online-documents/holocaust/report-harrison.pdf>> accessed 30 May 2024.

Henkin L, 'International Law: Politics and Values' (1995) 18 *Developments in International Law* 1.

Human Rights Watch, '"Between a Drone and Al-Qaeda" The Civilian Cost of US Targeted Killings in Yemen' (Human Rights Watch, 22 October 2013) <<https://www.hrw.org/report/2013/10/22/between-drone-and-al-qaeda/civilian-cost-us-targeted-killings-yemen>> accessed 26 May.

Israel's government services and information website, 'The Declaration of the Establishment of the State of Israel (gov.il, 14 May 1948) <<https://www.gov.il/en/pages/declaration-of-establishment-state-of-israel>> accessed 20 May 2024.

Kennedy D, *Of War and Law* (Princeton University Press 2009).

Kleingeld, 'On Dealing with Kant's Sexism and Racism' (2019) 2 *Society for German Idealism & Romanticism* 3.

Krumbein F, 'P. C. Chang—The Chinese Father of Human Rights' (2015) 14:3 *Journal of Human Rights* 332.

League of Nations Council, 'Mandate for Palestine' (18 April 1947) UN Doc A/292.

Malik C, *Readings in Philosophy: Selection from the Great Masters* (American University of Beirut 1939).

Malik C, 'Human Rights and Christian Faith' (The Presbyterian Tribune 1950) <<https://charlesmalikinstitute.org/wp-content/uploads/Human-Rights-and-Christian-Faith.pdf>> accessed 8 May 2024.

Malik C, *The Challenge of Human Rights: Charles Malik and the Universal Declaration* (Charles Malik Foundation 2000).

Maritain J, *Human Rights: Comments and Interpretations* (Columbia University Press 1949).

Markieqicz T and Sharvit K, 'When Victimhood Goes to War? Israel and Victim Claims' (2021) 42 *Political Psychology* 111.

McCarthy N, 'The Human Cost Of The Israeli-Palestinian Conflict' (*statista*, 12 May 2021)

<<https://www.statista.com/chart/16516/israeli-palestinian-casualties-by-in-gaza-and-the-west-bank/>> accessed on 31 May 2024

McCrudden C, 'Human Dignity and Judicial Interpretation of Human Rights' (2008) 19 *European Journal of International Law* 655.

Michigan State University, 'Unit 3. The Rise of Apartheid' (*Overcoming Apartheid*)

<<https://overcomingapartheid.msu.edu/unit.php?kid=163-571-5&page=1>> accessed 30 March 2024.

Morsink J, *The Universal Declaration of Human Rights: Origins, Drafting, and Intent* (University of Pennsylvania Press 1999).

Morsink J, 'The Universal Declaration and the Conscience of Humanity' (Rights That Make Us Human Beings. Human Rights as an Answer to Historical and Current Injustice, Nuremberg, 20 November 2008) <<https://www.menschenrechte.org/wp-content/uploads/2013/05/The-Universal-Declaration-and-the-Conscience-of-Humanity.pdf>> accessed on 6 May 2024.

Motala Z, 'Human Rights in Africa: A Cultural, Ideological, and Legal Examination' (1989) 12 *Hastings International and Comparative Law Review* 373.

National Archives of Australia, 'Refugees displaced by World War II' <<https://www.naa.gov.au/explore-collection/immigration-and-citizenship/migrant-stories/refugees/refugees-displaced-world-war-ii>> accessed 30 May 2024.

Office of the United Nations High Commissioner for Human Rights, 'Complaints procedures under the human rights treaties' <<https://www.ohchr.org/en/treaty-bodies/human-rights-bodies-complaints-procedures/complaints-procedures-under-human-rights-treaties#overview>> accessed 1 April 2024.

Office of the United Nations High Commissioner for Human Rights, 'What are human rights?' <<https://www.ohchr.org/en/what-are-human-rights>> accessed 1 April 2024.

Palestinian BDS National Committee, 'Indicators of the BDS movement's global impact: Q4 2023 & Q1 2024' (BDS Movement, 29 March 2024) <<https://bdsmovement.net/news/indicators-bds-movements-global-impact-q4-2023-q1-2024>> accessed 8 June 2024.

Palestinian BDS National Committee and Palestinian Campaign for the Academic and Cultural Boycott of Israel, 'What is BDS?' (BDS Movement) <<https://bdsmovement.net/what-is-bds>> accessed 8 June 2024.

Pallares-Yabur P, 'Charles Malik, his idea of "reason" and the formula "being endowed with reason" from the Universal Declaration of Human Rights's Article 1' (2022) *Revista de Estudios Histórico-Jurídicos* 179.

Pappé I, *The Israel/Palestine Question: A Reader* (Routledge 2007).

Paris G, 'The West and areas of the Global South divided over Palestine' (*Le Monde*, 10 October 2023) <https://www.lemonde.fr/en/international/article/2023/10/10/the-west-and-areas-of-the-global-south-divided-over-palestine_6162359_4.html> accessed 31 May 2024.

Perugini N and Gordon N, *The Human Right to Dominate* (Oxford University Press 2015).

Ramcharan R, 'Chapter 2 - Crafting Universal Values: The UDHR Model, Context, and Process' in his and Ramcharan B (ed), *Asia and the Drafting of the Universal Declaration of Human Rights* (Palgrave Macmillan Singapore 2019), 28-29.

Reiter Y, 'Religion as a Barrier to Compromise in the Israeli-Palestinian Conflict' in Bar-siman-Tov Y (ed), *Barriers to Peace in the Israeli-Palestinian Conflict* (Jerusalem Institute for Israel Studies: Jerusalem 2010).

Rivera Juaristi FJ, 'Chapter 1: Article 1 - Dignity and Equality' in Rivera HC (ed), *The Universal Declaration of Human Rights: A Commentary* (Brill 2023).

Robinson, *Ethics Education in the Military* (Ashgate 2013).

Roth K, 'Defending Economic, Social and Cultural Rights: Practical Issues Faced by an International Human Rights Organisation' (2004) 26 Human Rights Quarterly 63.

Sabbagh K, 'A Partial History of Palestine' (2006) 1 Center for Macro Projects and Diplomacy Working Paper Series 23.

Schabas WA, *The Universal Declaration of Human Rights: The travaux préparatoires; Volume I; October 1946 to November 1947* (Cambridge University Press 2013).

Shultziner D, 'Human Dignity – Function and Meanings' 3 Global Jurist Topics (2003) 5.

United Nations, 'Annex X - International Refugee Organization (IRO) - to the Convention on the Privileges and Immunities of the Specialized Agencies' (United Nations Treaty Collections, 16 August 1949) <https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=III-2-10&chapter=3&clang=_en> accessed 30 May 2024.

United Nations, 'Charter of the United Nations' (24 October 1945) XV UNCIO 335.

United Nations, 'History of the Question of Palestine' (30 March 2020) <<https://www.un.org/unispal/history2/>> accessed 7 June 2024.

United Nations, 'Introduction' in *Origins and Evolution of the Palestine Problem: 1917-1947* (Part I)

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>> accessed 10 March 2024.

United Nations, 'Introduction' in *The Origins and Evolution of the Palestine Problem: Part II (1947-1977)*

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-ii-1947-1977/>> accessed 10 March 2024.

United Nations, 'List of former Trust and Non-Self-Governing Territories'

<<https://www.un.org/dppa/decolonization/en/history/former-trust-and-nsgts>> accessed 7 June 2024.

United Nations, 'Mandated Palestine: The "Jewish National Home"' in *Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)*

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>> accessed 10 March 2024.

United Nations, 'Mandated Palestine: The Partition Plans' in *Origins and Evolution of the Palestine Problem: 1917-1947 (Part I)* (United Nations)

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>> accessed 10 March 2024.

United Nations, 'Palestine's status at the UN explained' (18 April 2024)

<<https://news.un.org/en/story/2024/04/1148351>> accessed 7 June 2024.

United Nations, 'Remedies for Rights Violations'
<<https://www.un.org/esa/socdev/enable/comp103.htm>> accessed 1
April 2024.

United Nations, 'Security Council Fails to Recommend Full United Nations
Membership for State of Palestine, Owing to Veto Cast by United
States' (18 April 2024)
<<https://press.un.org/en/2024/sc15670.doc.htm#:~:text=The%20Security%20Council%20today%20blocked,the%20granting%20of%20such%20status.>> accessed 7 June 2024.

United Nations, 'Summary Record of the Eighth Meeting [of the Drafting
Committee of the Commission on Human Rights]' (17 June 1947)
E/CN.4/AC.1/SR.8.

United Nations, 'The Balfour Declaration' in *Origins and Evolution of the
Palestine Problem: 1917-1947 (Part I)*
<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>> accessed 10 March 2024.

United Nations, 'The Ending of the Mandate' in *Origins and Evolution of the
Palestine Problem: 1917-1947 (Part I)* (United Nations)
<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-palestine-problem/part-i-1917-1947/>> accessed 10 March 2024.

United Nations, 'United Nations General Assembly Special Session on
Palestine' in *The Origins and Evolution of the Palestine Problem: Part II*

(1947-1977)

<<https://www.un.org/unispal/history2/origins-and-evolution-of-the-pal-estine-problem/part-ii-1947-1977/>> accessed 10 March 2024.

United Nations, 'Universal Declaration of Human Rights (UDHR): History of the Declaration'

<<https://www.un.org/en/about-us/udhr/history-of-the-declaration>> accessed 18 March 2024.

United Nations, 'Universal Declaration of Human Rights (1948), Drafting History' <<https://research.un.org/en/undhr/draftingcommittee>> accessed on 30 March 2024.

United Nations Economic and Social Council, 'Consideration of Draft International Declaration on Human Rights, Submitted by the Drafting Committee' (21 May 1948) E/CN.4/95.

United Nations Economic and Social Council, 'Commission of Human Rights Third Session Summary Record of the Fiftieth Meeting' (27 May 1948) E/CN.4/SR.50.

United Nations General Assembly Res 181 (29 November 1947) UN Doc A/RES/181(II).

United Nations General Assembly, 'Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment' (10 December 1984) Res 39/46.

United Nations Human Rights, 'Universal Declaration of Human Rights' (YouTube, 15 May 2017) <<https://www.youtube.com/watch?v=5RR4VXNX3jA&t=79s>> accessed 16 February 2024.

United Nations Office at Geneva, 'Explainer: What is the Genocide Convention?' (ungeneva.org, 11 January 2024) <<https://www.ungeneva.org/en/news-media/news/2024/01/89297/explainer-what-genocide-convention>> accessed 20 May 2024.

United Nations Office for the Coordination of Humanitarian Affairs, 'Data on casualties' <<https://www.ochaopt.org/data/casualties>> accessed 31 May 2024.

United Nations Office of the High Commissioner, 'UN experts urge all States to recognise State of Palestine' (3 June 2024) <<https://www.ohchr.org/en/press-releases/2024/06/un-experts-urge-all-states-recognise-state-palestine>> accessed 7 June 2024.

United Nations Office on Drugs and Crime, 'Positive and negative obligations of the State' <<https://www.unodc.org/e4j/zh/tip-and-som/module-2/key-issues/positive-and-negative-obligations-of-the-state.html#:~:text=Positive%20obligations%20require%20national%20authorities,the%20rights%20of%20the%20individual.>>> accessed 1 April 2024.

United Nations Office on Drugs and Crime, 'Limitations permitted by human rights law'

<<https://www.unodc.org/e4j/en/terrorism/module-7/key-issues/limitations-permitted-by-human-rights-law.html>> accessed 1 April 2024.

United Nations Third Committee, 'Summary Record of the Ninety-Ninth Meeting' (11 October 1948) A/C.3/SR.99.

United States Department of State, 'The Universal Validity of Man's Right to Self-Determination' (8 December 8 1952) Bulletin 27, no. 702.

United States Holocaust Memorial Museum, 'Mosaic of Victims: In Depth' (Holocaust Encyclopedia, 22 August 2023)
<<https://encyclopedia.ushmm.org/content/en/article/mosaic-of-victims-in-depth?parent=en%2F2765>> accessed on 20 March 2024.

Universal Declaration on Human Rights (UDHR) (adopted 10 December 1948) 217 A(III) (UNGA).

Van Aggelen J, 'The Preamble of the United Nations Declaration of Human Rights' (2000) 28 Denver Journal of International Law & Policy 129.

Viljoen F, 'International Human Rights Law: A Short History' (*United Nations*)
<<https://www.un.org/en/chronicle/article/international-human-rights-law-short-history>> accessed 1 April 2024.

Waltz S, 'Reclaiming and rebuilding the history of the Universal Declaration of Human Rights' (2002) 23 Third World Quarterly 437.

Wettstein H, *Diasporas and Exiles: Varieties of Jewish Identity* (University of California 2002).

World Population Review, 'World War II Casualties by Country 2024' (2024)
<<https://worldpopulationreview.com/country-rankings/world-war-two-casualties-by-country>> accessed on 20 March 2024.