

WILIANDE SALOMÃO

# THE ISRAELI PALESTINIAN CONFLICT

THE ANALYSIS OF THE HISTORICAL  
FACTS WITH THE INTERNATIONAL LAW



**D'PLÁCIDO**  
EDITORA



# The Israeli-Palestinian conflict:

The analysis of the historical facts  
with the International Law

**Wiliander França Salomão**



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EDITORA

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**Chief Editor**  
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**Book Cover**  
*Tales Leon de Marco*

**Typesetting**  
*Letícia Robini de Souza*

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**Editora D'Plácido**  
Av. Brasil, 1843, Savassi  
Belo Horizonte - MG - Brazil  
Tel.: 3261 2801  
Zip code: 30140-007

Catálogo na Publicação (CIP)  
Cataloguing

SALOMÃO, Wiliander França.

The Israeli-Palestinian Conflict: The analysis of the historical facts with the International Law -- Belo Horizonte, Brazil: Editora D'Plácido, 2016.

Bibliography

ISBN: 978-85-8425-343-2

1. International Law 2. Middle East Conflicts 3. Israel 4. Palestine 1. Title  
II. Israeli-Palestinian Conflicts III. History

CDU347

CDD 342

I dedicate this work to my Family, my beloved parents, my dearest brothers, my lovely sister-in-law, my beloved nephews that are inexhaustible sources of affection and understanding. To my friends and family for all the support and encouragement that they offered me always.



# Special thanks

I thank, first of all, to my Arab Christian roots through my grandparents Elias and Martha and the fascinating history of Israel and Palestine that have attracted me towards the interest on this topic, added to my passion for International law.

I thank the Pontifical Catholic University of Minas Gerais - PUC Minas to offer me the opportunity to develop my studies in the LL.M (Master) program and the beginning of my PhD in Public International Law through valuable lessons along the way.

I also thank in a special way, to all my dear students, to my cousins, the beloved friends I made during the Masters and PhD by endless experiences and challenges shared throughout the course.

Finally, I thank God and Jesus for giving me the opportunity to develop a bold and rich project in human history that is intertwined with the very evolution of the world.





To the Palestinian and Israeli people: I hope that  
their wishes are crowned by peace.

“A man’s heart plans his course, but the Lord  
directs his steps” (Proverbs 16: 9).

“A man must travel. On his own, not through  
stories, images, books or TV. By his own, with  
his eyes and feet, to understand what is yours.  
For one, day plant his own trees and give them  
value. Knowing the cold to enjoy the heat. And  
the opposite. Feel the distance and homelessness  
to be well under his own roof. A man needs to  
travel to places that do not, to break this arro-  
gance that makes us see the world as we imagine,  
not simply as is or can be. That makes us teachers  
and doctors of what we saw when we should be  
students, and simply go see. (...)” (Amyr Klink,  
endless Sea: 360° around Antarctica Book).



# List of abbreviations and acronyms

PNA.....	Palestinian National Authority
UNGA.....	United Nations General Assembly
ICJ.....	International Court of Justice
PNC.....	Palestinian National Council
UNSC.....	United Nations Security Council
VCLT.....	Vienna Convention on the Law of Treaties
USA.....	United States of America
IAF.....	Israeli Air Force
UNEF.....	United Nations Emergency Force
PFLP.....	Popular Front for the Liberation of Palestine
GAA.....	General Armistice Agreement
IDF.....	Israel Defense Forces
PLO.....	Organization for the Liberation of Palestine
UN.....	United Nations
UNOPTM.....	Office for the Palestinian Truce Monitoring
OPEC.....	Organization of Petroleum Exporting Countries
ICC.....	International Criminal Court
UNRWA.....	United Nations Relief and Works Agency for Palestine Refugees
UNSCOP.....	United Nations Special Committee On Palestine



# Summary

<b>1. Introduction</b> .....	<b>19</b>
<b>2. Historic events in Palaestine</b> .....	<b>25</b>
2.1. Brief Introduction of historical and geographical aspects of the region where it is located Palestine and Israel.....	25
2.2. The History of Jerusalem – from the Canaanites to Abraham, the establishment of the Jews in Egypt and the return by Moses.....	27
2.3. The rule of the Romans and the Revolt of the Jews.....	32
2.4. The birth of Islam.....	34
2.5. Sunnis <i>versus</i> Shia.....	37
2.6. The expansion and decline of the Ottoman Empire.....	39
2.7. The Zionist movement and the return to Eretz Israel.....	39
<b>3. The World War I and its influence over the Middle East</b> .....	<b>45</b>
3.1. The efforts of England on the defeat of the Ottomans and support the struggle for Arab independence.....	45
3.2. The British promises to the Arab and Zionist leaders – The (secret) Sykes-Picot Agreements and the conquest of Jerusalem.....	47

3.3. The establishment of the Mandates System over Palaestine by the Supreme Council of the Allies and by the Treaty of Versailles.....	49
3.3.1. The implementation of the British Mandate in Palaestine.....	56
3.4. The results of the Jewish immigration in the Middle East.....	59
3.4.1. The Arab uprisings against the English Army and the Jewish population.....	60
3.4.2. The Peel Commission and the British Partition Plan for Palaestine.....	63
<b>4. The Zionist-Arab Cause in the United Nations and the Paleastine Partition Plan: Was the UN able to contain the conflict?.....</b>	<b>65</b>
4.1. The consequences of the World War II for the Jewish Cause and the Zionism in USA.....	65
4.2. The situation of Palaestine inserted at the UN.....	67
4.3. The objectives of UNSCOP and consequences for the Palestinians and the Zionist Cause.....	68
4.4. The Palaestine Partition Plan and the foundation of the State of Israel.....	70
Connection note.....	76
<b>5. The New Wars and the Palestine occupied territory: New legacy for Palaestine in the Twentieth Century.....</b>	<b>79</b>
5.1. The first Arab-Israeli War (1948-1949).....	79
5.1.1. The first Armistice Agreement between Israel and Arab countries.....	82
Connection note.....	85
5.2. The Suez Crisis (1956).....	86
Connection note.....	88
5.3. The birth of the Palestine Liberation Organization – PLO.....	88

5.4. The 1967 Six Day War and the preemptive self-defense of Israel.....	90
5.4.1. Background of a new war.....	90
5.4.2. The Security Council Resolution 242/67 and its (non) running.....	99
5.4.3. The political and legal consequences for the future of Israel after the Six Day War.....	101
Connection note.....	104
5.5. The Yom Kippur War (1973).....	104

## **6. The Peace Project and new turbulances:**

<b>International Law x International Policy.....</b>	<b>109</b>
6.1. The unprecedented alliance between Israel and Egypt by the Camp David Accords.....	109
6.2. The First Palestinian Intifada against Israel in 1987.....	111
6.3. The proclamation of the State of Palestine by the Palestine National Council in 1988.....	114
Connection note.....	115
6.4. The start of a peace project in the 90's: the violence gives way to a new political understanding.....	116
6.4.1. The Madrid Conference and the (secret) Oslo Agreements in 1993.....	116
6.4.2. The terms of the Oslo Agreement I – the creation of the Palestine Authority.....	118
6.4.3. The terms of the Oslo II Agreement – the West Bank administrative divisions .....	121
Connection note.....	124
6.4.4. New agreement at Wye River Plantation and Camp David: renegotiating Oslo II.....	125
6.5. A new millennium and a new Intifada: the collapse of Palestine (2000-2002).....	127
6.5.1. Analysis of the Intifada results: The failure of Oslo II, the construction of the dividing wall in Palestine and the siege of Yasser Arafat.....	130

Connection note.....	132
<b>7. The Palestine Question in the United Nations and the policymaking with the USA Government: The antagonism on the conflict.....</b>	<b>135</b>
7.1. The insertion of Palestine Question in the General Assembly.....	135
7.2. The legal analysis of the International Court of Justice.....	136
7.3. The US policy for Israel and the Middle East.....	144
7.3.1. The political alignment between Israel and the Bush Doctrine of self-defense against terrorism.....	149
<b>8. The legal status of Jerusalem under the International Law.....</b>	<b>153</b>
8.1. The rules of the British Mandate over the Holy City.....	153
8.2. The internationalization of the Holy City by the General Assembly of the United Nations under the 181 Resolution .....	160
8.3. The occupation and annexation of Jerusalem by Jordan and Israel after the War of 1948/49 and the Six Day War.....	162
8.4. The status of Jerusalem on the new UN project of a permanent international regime after the 1949 Armistice.....	168
<b>9. The brazilian foreign relations established between Israel and Palestine.....</b>	<b>175</b>
9.1. Bilateral relations between Brazil and Israel.....	175
9.2. Bilateral relations between Brazil and Palestine.....	177
<b>10. The analysis of the conflict under the United Nations resolutions and Israel Supreme Court about the territorial occupation, Israeli settlements and Palestinian refugees .....</b>	<b>181</b>



10.1. New panorama over Palestine after the military territorial occupation by the Six Day War .....	181
10.2. Brief comments on the origin of the Jewish communities during the British Mandate.....	190
10.3. The Israeli settlements analyzed under the International Law.....	192
10.4. The applicability of the Fourth Geneva Convention to the Palestinian Occupied territory.....	198
10.5. The precedents of the Supreme Court of Israel regarding the measures implemented by the Israeli Defense Force over Palestine.....	205
10.6. The Palestinian refugees and the international protection of the Individuals.....	216
10.7. The war in Gaza: Israel x Hamas.....	222
10.8. The Charters of Human Rights in Palaestine: the Basic Law of Human Dignity and Freedom in Israel and the Palestinian Basic Law.....	230
<b>11. New realities about self-determination of Palestine.....</b>	<b>235</b>
11.1. The change of Palestine status to a “non-member observer State” at the United Nations.....	235
11.2. The current position of Europe Union about the status of Palestine .....	243
<b>12. The elements for an effective mutual agreement between Israel and the Palestinian Authority.....</b>	<b>247</b>
12.1. Some proposed solutions.....	247
12.2. The political factor in Israel as an important role to achieve the peace talks with the Palestinian Authority.....	247
12.3. The necessary elements to provide the solution to the conflicts.....	253
<b>Final considerations.....</b>	<b>261</b>

<b>Bibliography</b> .....	<b>267</b>
<b>Appendix 01: Maps</b> .....	<b>279</b>
Israel.....	285
Palestine.....	285
Non-Governmental Organizations and associations for peace between Israel and Palestine.....	285
<b>Appendix 02: Websites</b> .....	<b>285</b>

# Introduction

# 1

Before starting this study, it is reasonable to ask the following questions: why the conflict between Israelis and Palestinians are there? What were the reasons that led to this and why they still linger in time?

This work was the result of my Master's thesis in Public International Law from PUC-MINAS in 2013, which got top marks of the Examination Board, headed by the Professor José Luiz Quadros de Magalhaes. This study was aimed to find a satisfactory and viable answer to elucidate this issue. For the edition of this book, other data were added.

To the extent that the reader is following the development of events recounted here, you can get a better understanding of events encountered in recent history, from the historical, political and legal point of view in Palaestine<sup>1</sup>.

Initially, it should be noted that in recent years since the Middle East was negotiated in Versailles in 1919 and the partition of Palaestine by the United Nations in 1947, the world has seen the incessant conflicts between Israelis and Palestinians without having a complete conception of the problem. For many, it's a simple struggle for land, for others a religious imperative.

Numerous studies and reflections have been produced in the social, political and legal order to establish greater understanding of

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<sup>1</sup> In this book, it will be used the term "Palaestine" to make a distinction between the State of Israel and the Palestine territories as a reference to the whole area where they are located, by using the name the romans gave, from the Egyptian border to the Syrian and Saudi Arabia Borders. This is so, because refering as "Palestine" it will indicate that the problems, the conflict, exists only there, but those issues involves both Israel and Palestine Authority, so, the reference of "Palaestine" it will indicate both Israel and Palestine territories, just to avoid any mistake about that.

the reasons why two people fight for a small land with no major natural resources in a desert area.

The extension of the conflict in the Middle East affects the international society that is always dealing in attempts to peaceful solutions of these events, having based the right to self-determination. Since the creation of Israel, four wars were fought with the Arab countries: the Independence of 1948/49, the Sinai Conflict in 1956, the Six Day War and the Yom Kippur War 1973.

And how those consequences were tutored by International Law, particularly with respect to military occupation in Palestine and the dispute over Jerusalem? This is a question that involves a multitude of explanations without producing a satisfactory understanding.

In very general terms, to get the answers you need to join the historical factor with the legal factor, so that events can have a linear logical basis since its inception in the twentieth century with analysis of the regulations made by the International Law on these facts.

The Jewish people, since their expulsion from Judea in times of the year 70 A.D. and 135 A.D. by the Roman Empire, already cherished the desire to return to the land that was given by God to his patriarch Abraham and restore its sovereignty in the region. For the Arabs who lived in Palaestine, centuries of domination and oppression by the Ottoman Empire gave rise to nationalism as a mean of effecting its independence through a national State. In both described longings, is the center of conflict in Palaestine.

Another contributing factor to the formation of the first hostilities was the administration of the Middle East by Western Powers awakening internal revolts against the imperialist invader from the WW I, in which England promised to help the Arabs to conquer its independence in Palaestine at the same time promised to the Jews a national home in the same location. Failure to carry out these commitments combined with the inability of the British government in dealing with these arrangements gave birth to the first hostilities between Arabs and the Jewish settlements in the first revolt in the 20s.

The United Nations sought to resolve the problem by adopting Resolution 181/47 who divided Palaestine into two sovereign States as a solution to conflicts and putting Jerusalem under international administration to ban its division and militarization. After the War of 1948/49, Israel occupied the western part of the city and Jordan occupied the eastern part.

The interference of the former Soviet Union who helped and militarily equipped the neighboring Arab countries against Israel contributed to the worsening of hostilities to lead the ideological struggle of the Cold War to the Middle East, and making it difficult for negotiations to Arab leaders with the Israeli government in the 50's and 60's which allowed the occurrence of more wars.

After the Six Day War , Israel occupied the Palestinian territories of Gaza and the West Bank, East Jerusalem, and occupied the Egyptian territory of Sinai and the Syrian territory of the Golan Heights, justifying the application of emergency measures for protection its population. As a result, millions of Palestinians have grown to be governed by Israeli military regulations.

Over time, it was realized that the core to the prolongation of conflicts from 1967 to the present is the Palestinian territorial occupation, even in small parts, comprising the West Bank and East Jerusalem, and the Gaza Strip, as analyzed by others even after the creation of the Palestinian Authority. It is very important the analysis of International Law on the main causes for the definitive worsening of hostilities and the focus of this study in respect of the legal status of Jerusalem drawn by the UN Partition Plan, the situation in the Palestinian territories reflects on the rise refugees, international politics, United Nations resolutions and other implications that still require solution, since it directly involves all international actors and represents a constant threat to peace and global security.

In this study, our goal is to narrate the main events that guide the entire history of the conflict. Knowing the origin of the conflict is the first step to begin the peace talks. It is very important to make a prior analysis of the major events leading up to the creation of the Zionist Movement, the Arab nationalism of the First War, the military occupation and its development until the 2000's.

The occupation of the territories violates the international legal provisions and UN resolutions, particularly the decisions of the International Court of Justice, the Hague Regulations 1907 which represents the provisions on land war and its limitations, and the Fourth Geneva Convention of 1949 on the protection of civilians during an occupation by virtue of armed conflict.

International law requires that any occupation of a State on a territory by virtue of armed conflict should be transitory, the hostile army must preserve the local public order, it is forbidden any physical

and legislative changes and its population transfer to these areas, noting that the settlement program in the territories are not authorized by international regulatory standards, representing a troubled factor which prevents any negotiation.

Another serious reason to feed the existence of these disagreements is the involvement of fundamentalist groups outside Palestinian government that does not support political agreements, such as Hamas whose main cause is the armed struggle against Israel and the foundation's claim of a single Islamic State in all of Palaestine, proving to be a dangerous antagonism to the ideals of the Palestinian Authority for the future of peaceful relations with the Israeli government, that has the right to defend itself.

The Jewish people could carry their right to self-determination, the Arab people do not, and this situation extends from the intervention of the British Mandate, giving rise to developments that fueled many other conflicts and situations difficult to solve in the present moment that allowed the arms race in Middle East, the collapse of the local economy, the worsening of social life, popular uprisings, terrorist attacks, among other situations.

International legal standards represent a trusteeship core to produce legal principles and rules capable of providing a direct understanding together with political solutions that have shown their efficiency in some decisive agreements in Palaestine, as seen on the peace treaties between Israel and Egypt that enabled military and territorial eviction of Sinai.

The political aspect seen in Israeli public life contributes to the development or interruption of conflicts, guiding domestic public opinion in accordance with existing ideologies on rapprochement with the Palestinian society. The most significant political agreements made by Israel existed under the leadership of the left-wing parties.

In order to facilitate the understandings of the historical aspects of the conflict in the first part of the book, it were inserted connecting notes to obtain a better conclusion about one event to the other.

Finally, it is important to know the facts to elucidate. International law and history are key parts in this task of weaving an overview of the facts, if only because the legal frames provided the establishment of several armistice agreements, peace treaties and the very creation of Israel. Similarly, it is clear the consequences that these disagreements

brought to Palaestine and its entire population, whether Arab or Israeli, and it involves the whole world society directly.

We hope to make some significant contributions able to produce an effective peace understanding about this unique situation that continues to exist for more than eighty years, since the end of World War I.

Why the conflict between Israelis and Palestinians are there? What were the reasons that led to this and why they still linger in time? Initially, it should be noted that in recent years since the Middle East was negotiated in Versailles in 1919 and the partition of Palaestine by the United Nations in 1947, the world has seen the incessant conflicts between Israelis and Palestinians without having a complete conception of the problem. For many, it's a simple struggle for land, for others a religious imperative.

Numerous studies and reflections have been produced in the social, political and legal order to establish greater understanding of the reasons why two people fight for a small land with no major natural resources in a desert area.

The extension of the conflict in the Middle East affects the international society that is always dealing in attempts to peaceful solutions of these events, having based the right to self-determination. Since the creation of Israel, four wars were fought with the Arab countries: the Independence of 1948/49, the Sinai Conflict in 1956, the Six Day War of 1967 and the Yom Kippur War 1973.

In very general terms, to get the answers you need to join the historical factor with the legal factor, so that events can have a linear logical basis since its inception in the twentieth century with analysis of the regulations made by the International Law on these facts.



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ISBN 978-85-8425-343-2



9 788584 253432

