

# Israel's "Right to Defend": By Definition, An Aggressor Cannot Act in Defense

By [Robert Barsocchini](#)

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*The statement that Israel has the right to defend itself against Palestine is similar to the statement that if, say, the US annexed, occupied, and started building illegal settlements in Cuba (the parts the US isn't already illegally occupying and using as a torture camp, Guantanamo), then the US would have the right to "defend" itself against Cubans acting in retaliation to US aggression.*

Everyone aside from blind fundamentalists and/or the hopelessly corrupt would laugh at the notion that in such a situation, US action against resistant Cubans would be "defense". Likewise, the world laughs at the idea that Israel can "defend" itself against the vastly more outgunned Palestinians resisting Israeli aggression.

International law reflects the common sense dynamics of this situation, which any child could easily understand and naturally grasp.

Georgetown International Law professor Noura Erakat [explains](#) the relevant rules:

...where an occupation already is in place, **the right to initiate militarized force in response to an armed attack**, as opposed to police force to restore order, is **not a remedy available to the occupying state**.

**...the right of self-defense in international law is, by definition since 1967, not available to Israel with respect to its dealings with real or perceived threats emanating from the West Bank and Gaza Strip population.**

An occupying power cannot justify military force as self-defense in territory for which it is responsible as the occupant.

However, people-groups exploiting weaker groups try to deny elementary common sense and rewrite rules to defend what they are doing, and/or make themselves feel better about their awful acts. For example, the Spanish inquisition made little rules for itself regarding its torture subjects, such as that they were not supposed to bleed. Thus, the Inquisition, instead of say using thumbscrews (a Euro favorite), would burn people alive, as this, they ludicrously argued, did not make people bleed and thus made the Inquisition perpetrators moral and law-abiding, at least in their warped and self-serving minds. (Also, they would make people bleed through various torture methods, anyway, and just ignore their own rules.)

Naturally, this is what Israel, the US, and all corrupt, nasty power-centers do. Erakat

explains how Israel plays these games with International Law:

**[Israel tries to get around International Law by saying it does] not occupy [the Palestinian territories] within the meaning of international law. The [UN Security Council](#), the [International Court of Justice](#), the [UN General Assembly](#), as well as the [Israeli High Court of Justice](#) have roundly rejected the Israeli government's position.**

In its 2012 session, the UN Committee on the Elimination of Racial Discrimination described current conditions following decades of occupation and attendant repression as tantamount to [Apartheid](#).

[The International Court of Justice rules that "Article 51 of the Charter [the right to self defense] has no relevance" to Israel's assaults and massacres against the territories it illegally occupies and colonizes.]

...Israel is distorting/reinterpreting international law to justify its use of militarized force in order to protect its colonial authority...

In doing this, Israel:

...forces the people of the Gaza Strip to face one of the most powerful militaries in the world without the benefit either of its own military, or of any realistic means to acquire the means to [defend itself](#).

If Israel were concerned about small matters like honor, it would help or allow Gazans to acquire guided weapons for self-defense. However, the Israeli state prefers to [use its civilian population as a human shield](#) (a tactic [constantly](#) used by Israel) to absorb the few unguided rockets that make it into populated Israeli areas, rather than have guided rockets hit designated Israeli military installations, which are enmeshed throughout Israeli civilian society.

Erakat concludes that, since the Israeli state's behavior is an **"affront to the international humanitarian legal order"**, **"the onus to resist this shift and to preserve protection for civilians rests upon the shoulders of citizens, organizations, and mass movements who can influence their governments enforce international law. There is no alternative to political mobilization to shape state behavior."**

...

The next question is whether the Palestinians have the right to use arms to resist illegal Israeli occupation, annexation, settlement, and aggression.

If we return to our US-occupying-Cuba metaphor, the common sense/fairness answer is obviously yes, of course. And again, the only reason many US citizens do not answer yes immediately to the question of whether Palestinians are allowed to use force to defend themselves against Israel's armed aggression is that US citizens utterly lack exposure to information representative of common sense and world opinion. What they are exposed to represents opinion and "reporting" heavily biased in favor of the US-backed aggressors, in ways that range from obvious to subtle and subconscious, from natural ethnocentrism to intentional insidiousness.

But again, international law, when we look at it, represents the common-sense interpretation of the situation at which any child would arrive.

Middle East scholars LeVine and Hajjar [explain](#) that Palestinians are **not** prohibited:

...from taking up arms to resist occupation.

**Additional Protocol I [established](#) people's right to use armed force to resist foreign occupation as well as colonial domination and to fight against racist regimes in the exercise of their right of self-determination. This Protocol was promulgated for the purpose of injecting IHL standards into asymmetric wars (between states and non-state groups).**

Israel has refused to sign this Protocol (as has the US) and does not recognise the right of non-state groups to fight for those specified causes, even if they were to abide by the laws of war. Nevertheless, **the lawfulness of the use of armed force is not contingent on the status of the adversaries** but rather on whether those who fight do so in accordance with the principles of IHL (International Humanitarian Law) enumerated above [and, as Dr. Norman Finkelstein and others note, on whether a group under attack has the option or [ability](#) to retaliate within the technical bounds of IHL - ie, do Palestinians have guided, and thus legal, projectiles to use as a deterrent? They do not. Do they therefore lack the right to retaliate in the most effective ways they can?].

Further, as I have [noted](#), the mostly symbolic and ineffective Palestinian projectile attacks - which have killed about 30 people in their entire history - are not only launched under illegal Israeli occupation, but also [mainly](#) **"in retaliation for prior indiscriminate Israeli killings of Gazan civilians"**, doubling both the illegality of Israeli action and the right to self defense of the Palestinians.

Examples of Israeli double-war crimes (occupation combined with further military assault/aggression) that have elicited defensive retaliation from Palestine include:

...the November 5 [\[2012\] killing of a 23-year-old mentally disabled man](#) who strayed too close to the border fence, and [at least one boy killed while playing football](#) five days later. Two other Palestinians who rushed to the latter scene to help the victims were themselves immediately killed by three more shells fired by Israeli forces [in 2012, and [similar attacks](#) by the Israeli occupier in 2014 that spurred retaliatory rocket firing, as Israel concedes.]

[In 2012, for example, Israeli] attacks prompted a retaliatory strike by the Popular Front for the Liberation of Palestine, which launched an anti-tank missile at an army jeep near the border, wounding four soldiers. That attack by a group not under the operational control of Hamas in turn triggered the targeting of Jabari and the all-out assault on Gaza by Israel.

The second factor that undercuts the self-defence rationale is that Jabari was involved in negotiating an Egyptian-brokered comprehensive, long-term cease-fire with Israel when he was assassinated. In a November 17 [New York Times op-ed](#), Israeli academic Gershon Baskin (who was a mediator in these negotiations) declared that Jabari had been given a near-final version of the agreement hours before he was killed.

**...the immediate causes of the most violent wave of rocket fire were precisely the indiscriminate killings of Palestinian civilians by Israeli**

**forces and the assassination of the official who was engaged in negotiations to permanently curtail such rocket attacks.** Moreover, Israeli officials had to know and anticipate that killing Jabari would precipitate a violent Palestinian response, raising serious questions about their moral and political responsibility for the ensuing violence.

The circumstances noted above are exactly similar to Israel's 2014 massacre in Israeli-occupied Gaza, which [began](#) with Israeli killings of Gazans, including killing children on video, [against the background](#) of an imminent agreement between Hamas and the West Bank leadership, with US and EU approval. This enraged Israel due to the prospect of another "Palestinian peace offensive", which might mitigate Israel's ability to continue illegally colonizing territory outside its legal and internationally recognized borders.

Indeed, Israel's assaults on occupied refugee camps such as Gaza, "must be judged against a **reality** which, although vehemently rejected by Israeli officials ... enjoys an **overwhelming [international consensus](#)**: Namely, that **the entirety of the territories captured by Israel in 1967 remain occupied according to international law.**"

The professors sum up:

Put simply, **an occupying state has no legal right to wage a full-scale military war against an occupied population.** Rather, the occupying state is legally obligated to protect the rights and prioritise the interests of this population, something Israel has manifestly not done in any part of the Occupied Territories.

**The occupying power has rights, too, including the right to maintain order and to take steps to ensure for its own security. But [in a context of occupation](#), these options are limited to police actions and at most use of small arms to address an immediate threat, not full-scale war.**

**Israel practices "continual deployment of large-scale, indiscriminate force** against people and space of Gaza – and, equally important, the West Bank as well..."

These acts constitute "not merely the context for war crimes but for crimes against humanity and, because of their clearly aggressive nature, a [crime against peace](#)."

Like all aggressive criminal actors, Israel would prefer to meet no resistance, and thus naturally insists that the Palestinians do not have "any right to use force, even in self-defence". Such desperate claims give "important insight into how Israel interprets the law to project the legality of policies and practices it wishes to pursue."

...

Recognized as the most important and authoritative moral voice on the issue of resistance to tyranny, Mahatma Gandhi [spoke](#) specifically on the issue of Israeli tyranny against Palestine, and said,

[Israelis] can settle in Palestine only by the goodwill of the Arabs ... **nothing can be said against the Arab resistance in the face of overwhelming odds.**

**Robert Barsocchini** focuses on international force dynamics and writes professionally for the film industry. [@\\_DirtyTruths](#)

Also [see](#): *The Hateful Likud [Israeli ruling organization] Charter Calls for the Destruction of Any Palestine State*

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