

## Written evidence submitted by the Balfour Project Charity (MENA0046)

*Question: What is the viability of a two-state solution for Israel and Palestine and how can the UK engage with all the parties involved to help bring about a peaceful resolution of the conflict?*

# The Balfour Project

The charity's aims are educational. It seeks to shed light on Britain's role and responsibilities from before the 1917 Balfour Declaration through the Mandate period up to 1948 and to the present day. It encourages Britain's civil society, Parliament, and Government to advance **equal rights for Palestinians and Israelis** now by acknowledging the right to national **self-determination** of both peoples as an integral part of Government policy. Just as the Government recognised the state of Israel in 1950, so now it should **recognise the state of Palestine**. This must be a precursor to negotiations – not a result of negotiations since the latter would hand Israel a veto over Palestinian statehood.

## Preface

1. The Balfour Project prepared most of this submission before the Hamas attack on southern Israel on 7 October 2023 sparked the latest round of violence in Israel and Palestine – events that could mark a paradigm shift for a conflict whose origins date back at least to the 1917 Declaration made by then British Foreign Secretary Arthur Balfour. As we prepared the final draft, the death toll was over 1,200 Israelis and a like number of Palestinians, in both cases most of the victims were civilians.

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Hamas was holding up to 150 Israelis hostage. Israel had launched hundreds of air strikes and cut off electricity, gas, water and food supplies to Gaza's population of 2.3 million. To our deep regret, the final death toll will be much higher.

2. There can never be any excuse for murderous attacks on civilians. The Balfour Project condemns unreservedly Hamas' actions in terrorising, killing and abducting civilians. At the same time, it notes that air strikes on densely populated residential areas using disproportionate means, as the Israeli Government is doing, are grave breaches of International Humanitarian Law. Cutting off essential supplies represents collective punishment of an entire population, which is also forbidden under international law. The fact that **the people of Gaza are legally entitled to protection by the occupying power, Israel, and by signatories of the Fourth Geneva Convention such as the United Kingdom**

serves only further to emphasise their plight. It is disturbing to note that, as on previous occasions, Israel may apply its so-called 'Dahiya Doctrine' to its assault on Gaza; this ignores the customary International Humanitarian Law rules of proportionality and distinction incumbent on the armed forces of all States. Already Israel's aerial bombardment of Gaza has exceeded the total materiel Israel expended in the 2008 Gaza War ("Operation Cast Lead"), with consequent risk of even higher civilian casualties.

3. This submission emphasises the Balfour Project's core belief that a commitment to uphold **international law and legal accountability, exercised without selectivity, must be at the centre of UK policy**. The latest events underline the importance of the investigation which the International Criminal Court (ICC) had already opened into alleged war crimes by Israel and Palestinian armed groups. The office of the ICC Prosecutor stated on 10 October that its mandate extended to the current conflict. **The Government should withdraw its opposition to that investigation** and other ongoing efforts to protect human rights and draw legal conclusions.
4. Even before the sequence of events that began on 7 October, this year had already seen sharply increased violence in Palestine and Israel. The United Nations has reported over 100 violent attacks each month on Palestinians by Israeli settlers in the occupied West Bank, with the highest death toll there on record. Over 1,000 Palestinians have been driven from their land in the West Bank since the start of 2022, while the **Government of Israel has authorised accelerated construction of illegal settlements on occupied land** and the retrospective "legalisation" of outposts. The current coalition Government led by Prime Minister Benjamin Netanyahu has declared that the entire land between the Mediterranean and the Jordan River belongs to the Jewish people of Israel and that only Jews are entitled to exercise their right to self-determination in this territory. For many international lawyers and NGOs, apartheid is being practised in the Occupied Palestinian Territory.
5. While doing all it can to bring an early end to the current violence, secure the release of the hostages, protect civilians, and prevent the conflict from spreading, the international community must not overlook the realities on the ground as well as the root causes of this enduring conflict. These are the context for current horrific events. Those realities need to change, and **Britain has a key part to play in bringing about real change**. This submission focuses on that context.

## Two states and a peaceful resolution

6. The viability of a two-state outcome is very much in jeopardy, then US Secretary of State John Kerry said in 2016. Since then, the situation has deteriorated still further. It remains PLO policy to seek Palestinian statehood on 22% of the territory of British Mandate Palestine (i.e. East Jerusalem, the rest of the West Bank and Gaza: the Occupied Palestinian Territory or OPT). The PLO recognised the state of Israel at Oslo, thirty years ago. But successive Israeli Governments have pursued a policy of **effective illegal annexation** in the West Bank. This is null and void under international law, both in the case of the arbitrarily expanded territory of East Jerusalem, post 1967, and the many West Bank settlements, all of which are illegal under international law. The current Israeli Government, however, has undertaken a qualitative policy shift, transferring control of the OPT from military to civilian hands without at the same time granting its Palestinian population their civil and political rights. It has also

accelerated the creation of settlements and “legalisation” of previously illegal outposts, displacing the Palestinian population in the process, with the avowed intention of **preventing** the creation of a viable Palestinian state. Taken together, these policies equal annexation.

7. It is the policy of the UK, the EU, the United Nations, and the Biden Administration to support the two-state outcome, in line with UN Security Council Resolution 2334 of 2016 and other Resolutions. This is partly because the alternative to two states appears to be either **unrealistic or unacceptable**, or both, to the parties directly concerned. Recent tragic events demonstrate the unsustainability of the status quo. Permanent Israeli occupation of the OPT is contrary to UNSCRs written or endorsed by the UK and would mean the perpetual subjugation of one people by another: cementing separation and inequality. A single state with equal rights for all - Jew and Arab - is anathema to the current Israeli Government, as it was for its predecessors and for most of Israel’s majority Jewish population.
8. To quote former US Secretary of State Kerry: *“It is vital that we all work to keep open the possibility of peace, that we do not lose hope in the two-state solution, no matter how difficult it may seem – because there really is no viable alternative”*.

## HM Government should recognise the state of Palestine now

9. The Balfour Project does not advocate any particular outcome to this continuing crisis so as not to pre-empt the decisions of the parties to it. But we advocate **British Government recognition of the state of Palestine now**, for the following reasons:

- Britain recognises states, not governments or factions; there is no question of recognising anything but the entity that is Palestine, as already recognised bilaterally by 139 of the 193 UN member states and by the UN General Assembly when it admitted Palestine as a non-Member Observer State in November 2012.
- Our Government has long held that the Palestinian people have the right to self-determination, including the option of statehood – and that this right cannot be subject to any veto (cf. Berlin European Council conclusions, 1999).
- Recognition of both states on the land of former British Mandate Palestine signifies **parity of esteem on the part of Britain** for both peoples.
- Recognition creates both **rights** and **responsibilities** on the part of the state recognised – e.g. the responsibility to adhere to signed treaties. (Palestine has already acceded to several international treaties, including the Rome Statute establishing the ICC, and been admitted to UN intergovernmental organisations as a full member.).
- **Validating** the second state in the two-state outcome confirms and increases the prospect of that outcome while taking nothing away from Israel that legally belongs to it.
- Given Britain’s unique historical role in the former Ottoman territory of Palestine and its status as a permanent member of the Security Council, UK recognition will encourage others in Europe and the Commonwealth to do likewise. It will also increase momentum towards **negotiations based on international law**.

To those who might argue that Palestine cannot be recognised as a state without first having defined, internationally recognised borders, it should be noted that Israel was recognised by the UK in 1950 at a time when none of Israel's borders had been defined.

10. The proposal for British Government recognition of the state of Palestine was advanced by the House of Lords Committee on International Relations and Defence in its 2<sup>nd</sup> report of Session 2016-17 "*The Middle East: Time for New Realism*" (para 270):

*"A negotiated two-state outcome remains the only way to achieve an enduring peace that meets Israeli security needs and Palestinian aspirations for statehood and sovereignty, ends the occupation that began in 1967, and resolves all permanent status issues. We condemn the continuing Israeli policy of the expansion of settlements as illegal and an impediment to peace. The Government should give serious consideration to now recognising Palestine as a state, as the best way to show its determined attachment to the two-state solution".*

We hope that the Foreign Affairs Committee will refer to and endorse the recommendation of its counterpart in the Lords.

## Upholding International Law: accountability

11. Britain prides itself as a state which upholds the law. That should mean strong support for the **International Court of Justice** and the **International Criminal Court**. State and non-state actors in this conflict habitually breach International Humanitarian Law and International Human Rights Law. A law is of use only if it is implemented, with consequences for whoever breaks it – not least to deter others from doing the same. That principle should be central to UK policy in relation to this conflict, as it is to other conflicts. It is for Government to determine what those consequences should be.
12. The UK voted for the landmark UN Security Council Resolution 2334 (2016), which instructs all states to **distinguish**, in their dealings, **between the state of Israel and the illegal Israeli settlement project** in East Jerusalem and the rest of the occupied West Bank. Israel is an internationally recognised state; but the **settlements cannot be viewed as part of Israel**.
13. The Economic Activities of Public Bodies (Overseas Matters) Bill currently before Parliament is defective in many regards. In this context, it **contradicts** established UK Government policy by conflating Israel with the territories it occupied militarily in 1967. Those territories are distinct, and that distinction must be maintained if the UK is to avoid justified accusations of inconsistency and double standards.
14. The British Government is currently negotiating a Free Trade Agreement with Israel. That agreement needs to stipulate explicitly that the OPT - specifically the illegal settlements - are **excluded** from its scope. According to the UK Government's scoping document, the UK territory to which the agreement will apply is closely defined while that of Israel is left to be determined by Israel and Israeli law. This will have the consequence that Israel will be able to apply the benefits of the agreement to its settlements, while the UK will breach UNSCR 2334. Please see [here](#) a briefing note on the draft Free Trade Agreement by Balfour Project Peace Advocacy Fellows.

## The UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA)

15. UNRWA is the agency created in 1949 to meet the needs of Palestinian refugees. It is essential to the well-being of over 6 million refugees in Jordan, Syria, Lebanon, the West Bank (including East Jerusalem) and the Gaza Strip. At a time when it faces an unprecedented financial crisis, which could lead to its collapse, its future needs to be safeguarded. Failure to do so will lead to a humanitarian catastrophe on a regional scale, with serious security implications for Israel as well as for the refugee host countries, notably Jordan and Lebanon. Unless and until there is a negotiated outcome to this conflict that includes addressing the refugee issue, UNRWA must be retained. The UK has the **locus and convening power** to bring host states and donors together to agree a way forward, consistent with longstanding UK policy in support of UNRWA. The additional financial support provided by the Government in recent weeks, to help forestall a collapse, is to be welcomed. The UK should encourage other states, especially its close allies in the Arabian Peninsula, to follow suit and contribute generously to a sustainable future for the refugees.

## The Gaza Strip

16. Gaza continues to be Palestinian territory under belligerent Israeli occupation, along with East Jerusalem and the rest of the West Bank. According to the UN's Legal Department, endorsed by FCDO Legal Advisers, the withdrawal of Israeli settlers in 2005 had no effect on its status as occupied land: Israel remains the occupying power. **Gaza must remain an integral part of the future state of Palestine** regardless of the outcome of the current war. After Hamas seized control of the territory by force in 2007, HM Government continues to regard the Palestinian Authority as the legitimate authority there. The recent horrendous violence in Israel, Gaza and the West Bank has set back the cause of peace. The deepening plight of the people of Gaza (2.3 million with over 50% unemployment), locked down since 2007 and unable to move even to the West Bank, demonstrates that collective imprisonment breeds **despair and, with it, radicalisation**. Mutual security for Israelis and Palestinians remains an essential element in any sustainable outcome to this conflict.

## Conclusion

16. This is a long haul, with no short cuts. But the UK has strong bilateral relations with Israel, the PLO, the United States and key European partners. It has extensive diplomatic expertise and deep experience of the root causes of this continuing crisis. The tragic current events highlight the risks inherent in seeking to "manage" the conflict instead of pressing for a just and equitable outcome based on the rule of law, upholding the **right to national self-determination of both peoples, with mutual security**. Recognition of both states **now** is the best way to reaffirm the prospect of an eventual **just** outcome, **to generate momentum with like-minded partners** and express the **parity of esteem** missing for too long.



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