

# Written evidence submitted to the Parliamentary Committee on Foreign Affairs’ for “The Israeli-Palestinian Conflict” inquiry (IPC0109)

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## Summary

1. In this parliamentary submission, I will discuss the question of Hamas’s proscription and its effects as part of a set of measures the UK government should take to contribute to creating the conditions for achieving a political solution to the conflict. There are other key steps the UK can and should make, some of which I will briefly touch upon. But I will focus on the effects of proscription and the importance of deproscription for achieving a political solution, as this falls within my academic expertise as one of the co-founders of the field of Critical Terrorism Studies and as a world-leading Hamas expert. For the reasons set out below, the UK should lead the way in de-proscribing Hamas so as to facilitate delivering effective humanitarian aid and carrying out reconstruction efforts in Gaza; counter the dehumanisation of Gaza’s population which has facilitated the extreme violence carried in Gaza over the years, but especially since 7 October; and facilitate a political solution to the conflict. The proscription of the entirety of Hamas – which the UK decided on in 2021 but which the US and the EU had already done decades ago (in 1997 and 2003 respectively)<sup>1</sup> – has hampered the delivery of humanitarian aid and is likely to hamper reconstruction in Gaza if Hamas continues to play a political role; it has contributed to dehumanising Gazans more broadly, facilitating the imposition and maintenance of Israel’s 18-year siege of Gaza as well as the extreme violence directed at Gaza, including plausible genocide; and it has added additional obstacles to achieving a political solution while encouraging a military solution. I will go through each of these effects individually, ending with some reflections on the relationship between (de)proscription, the two-state solution, the UK’s obligations under international law, violence and acceptance of Israel’s sovereignty.

## Author’s credentials

2. I have been a Professor of Middle East Politics and Conflict Studies in the Department of Political Economy, King’s College London, since 2015. Prior to that, I was Reader at the School of Government and International Affairs, Durham University (2010-2015), Lecturer at the Department of International Politics, Aberystwyth University (2002-2010), and British Academy Post-Doctoral Research Fellow at St Anthony’s College, University of Oxford (2000-2002). I received my PhD from the Institute of Middle Eastern and Islamic Studies at Durham University in 2000. I am Visiting Professor at the

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<sup>1</sup> “Foreign Terrorist Organizations,” *United States Department of State* (blog), accessed 19 December 2024, <https://www.state.gov/foreign-terrorist-organizations/>; Matthew Levitt notes that Hamas was first designated “terrorist” in 1995 but this was before the creation of the FTO list: Linda Gradstein, “Explainer: How Hamas Ended Up on US List of Terrorist Groups,” *Voice of America*, 7 February 2024, <https://www.voanews.com/a/explainer-how-hamas-ended-up-on-us-list-of-terrorist-groups/7478227.html>.

Middle East Centre at the London School of Economics and at the Department of Political Science at Aarhus University.

3. I am one of the world's leading experts on Hamas, having written extensively on the movement (see footnote 2), and, since 2000, I have advised, been consulted by, or invited to address the House of Commons; the Foreign, Commonwealth & Development Office (and the Foreign and Commonwealth Office and the Department for International Development separately before they were merged); members of the EU External Action Service; the EU Commission; the Dutch Ministry of Foreign Affairs; the Dutch Ministry of Justice and Security; the Belgian Ministry of Foreign Affairs; the US House Committee on Foreign Affairs; and the US National Intelligence Council.
4. I am one of the co-founders of the academic field of Critical Terrorism Studies, launched in 2006 as a more self-consciously critical approach to the study of terrorism and counter-terrorism and the social, political and security effects of the application of the terrorism label. My publications in this field have been widely cited, with over 3,200 citations listed on Google Scholar (see also footnote 2).
5. For this submission, besides drawing on the broader literatures on Israel/Palestine, Hamas, terrorism, and peace and conflict, I have drawn on nearly 30 years of studying Hamas and over 20 years of teaching and writing critically on the use and effects of the terrorism label. Key works of mine on these topics are listed in this footnote.<sup>2</sup>

### Preamble

6. One of the main obstacles to achieving a two-state solution in Israel/Palestine – which, for all its flaws and lack of justice for those forcefully displaced since 1948, is at the moment the only solution to have wide international backing, including that of the UK government – is the immense power imbalance between the settler occupier and the occupied. This can be seen, for instance, from the vast discrepancy in the number of people killed on both sides (see sections 17-18); from Israel's almost year-long refusal to agree to a ceasefire deal that was broadly similar to the one drafted in May 2024; and from the lack of leverage the Palestinians have over Israel to secure even basic human rights – particularly in Gaza which has been under a gruelling 18-year siege – let alone an end to occupation and full self-determination. Israel has been pursuing regional normalisation without a Palestinian state and ministers in the current government have been calling increasingly openly for annexation of the West Bank. The 7 October attacks

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<sup>2</sup> Jeroen Gunning, "Peace with Hamas? The Transforming Potential of Political Participation," *International Affairs* 80, no. 2 (2004): 233–55; Jeroen Gunning, *Hamas in Politics: Democracy, Religion, Violence* (London: Hurst, 2007); Jeroen Gunning, "Hamas: Socialization and the Logic of Compromise," in *Terror, Insurgency, and the State: Ending Protracted Conflicts*, ed. Marianne Heiberg, Brendan O'Leary, and John Tirman (Philadelphia: University of Pennsylvania Press, 2007), 123–54; Jeroen Gunning, "The Conflict and the Question of Engaging with Hamas," in *Examining European Involvement in the Arab-Israeli Conflict*, ed. Esra Bulut Aymat, Chaillot Papers 124 (Paris: European Union Institute for Security Studies, 2010); Jeroen Gunning, "Like Two Peas in a Pod or Two Roads Diverging? Comparing Hamas and Hizballah," *Mediterranean Politics* 26, no. 4 (2021): 484–90; Jeroen Gunning, "A Case for Critical Terrorism Studies?," *Government and Opposition* 42, no. 3 (2007): 363–93; Jeroen Gunning, "Babies and Bathwaters: Reflecting on the Pitfalls of Critical Terrorism Studies," *European Political Science* 6, no. 3 (2007): 236–43; *ibid.*; Jeroen Gunning, "Social Movement Theory and the Study of Terrorism," in *Critical Terrorism Studies: A New Research Agenda*, ed. Richard Jackson, Marie Breen Smyth, and Jeroen Gunning (London: Routledge, 2009), 156–77; Richard Jackson, Marie Breen Smyth, and Jeroen Gunning, eds., *Critical Terrorism Studies: A New Research Agenda* (London: Routledge, 2009); Harmonie Toros and Jeroen Gunning, "Exploring a Critical Theory Approach to Studying Terrorism," in *Critical Terrorism Studies: A New Research Agenda*, ed. Richard Jackson, Marie Breen Smyth, and Jeroen Gunning (London: Routledge, 2009), 87–108; Jeroen Gunning and Richard Jackson, "What's so 'Religious' about 'Religious Terrorism'?" *Critical Studies on Terrorism* 4, no. 3 (2011): 369–88; Richard Jackson et al., eds., *Terrorism: A Critical Introduction* (Houndmills: Palgrave Macmillan, 2011).

must be seen against this background as, in part, an attempt to stop the erasure of Palestinians and the very possibility of a Palestinian state. Other factors were at play, such as the internal power struggle between hardliners and pragmatists within Hamas, the struggle for dominance over the Palestinian national movement between Hamas and Fatah, and regional dynamics. However, the attacks have underlined the importance of establishing a meaningful, viable and sovereign Palestinian state and, for that to happen, the international community needs to do everything in its power to create a more even playing field and bring all sides to the table – including both Israel, which has been actively opposed to a Palestinian state, and Hamas, which has both called for the liberation of all of historic Palestine and stated willingness to accept a Palestinian state on the 1967 borders. As I will show below, pushing for a Palestinian state led by Fatah – as has been the practice till now – is unrealistic and unviable, given the popularity Hamas enjoys and the lack of popularity Fatah has. As one of the two key Palestinian political parties and the main armed resistance organisation, a political solution will need to find a way to engage Hamas. Moreover, given the increasingly overt plans by Israeli ministers to annex the West Bank,<sup>3</sup> delaying the establishment of a Palestinian state on the 1967 borders any further is not an option, as there might be no land left to build a viable state on.

7. There are numerous steps the UK can take to contribute to supporting the current ceasefire and bringing about a lasting peace which all revolve around creating a more even playing field. One way to do this is to strengthen the international rules-based order by supporting international legal bodies such as the International Criminal Court (ICC) and the International Court of Justice (ICJ) in their investigations into war crimes and crimes against humanity, plausibly committed by both Hamas and Israel, and into genocide, plausibly committed by Israel.<sup>4</sup> It would also mean accepting the legal obligations issuing from the ICJ's finding that Israel's occupation of Gaza and the West Bank is illegal and that all states should actively work to remove all impediments to ending the occupation. The UK should also make arms trade with Israel conditional on its observing the ceasefire, ending the siege of Gaza and agreeing to a Palestinian state on the 1967 borders. This is particularly acute if Israel is found to be guilty of genocide by the ICJ.
8. On the Palestinian side, proscription and a 19-year international boycott of Hamas have neither resulted in a cessation of violence nor achieving a political solution. On the contrary, as I will show below, it has had an adverse effect (fluctuating over time) on both. Therefore, an important step the UK should take to is to deproscribe Hamas with a view to remove the obstacles thrown up by proscription in delivering humanitarian aid and aiding reconstruction and working towards a viable political solution. Deproscription should be made conditional on a continued cessation of violence and participation in political negotiations towards a Palestinian state. Past violence should be investigated by the ICC and ICJ and the question of how to contain violence in future (on the part of the

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<sup>3</sup> Michael Sfar, "Israel Is Officially Annexing the West Bank," *Foreign Policy* (blog), 8 June 2023, <https://foreignpolicy.com/2023/06/08/israel-palestine-west-bank-annexation-netanyahu-smotrich-far-right/>; "Far-Right Israeli Minister Orders Preparations for West Bank Annexation," *Aljazeera*, 11 November 2024, <https://www.aljazeera.com/news/2024/11/11/far-right-israeli-minister-orders-preparations-for-west-bank-annexation>.

<sup>4</sup> Karim Khan, "Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine" (The Hague: International Criminal Court, 20 May 2024); International Court of Justice, "Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)" (26 January, 26 January 2024).

Palestinians but also, crucially, on the part of Israel which has carried out violence of far greater volume and effect) should be a key part of those negotiations. But, it is vital that Hamas is deproscribed for the reasons set out below and that the matter of violence is left to the negotiations towards statehood, and not made a precondition of engagement, as the Middle East Quartet (the UN, US, EU and Russia overseeing the peace process) has long insisted on.<sup>5</sup> This may sound counter-intuitive after the shocking attacks of 7 October – but, as I will argue below, 7 October was in part a product of the non-engagement of the international community with Hamas’s political overtures and this non-engagement was facilitated by the international regime of proscription of Hamas. Deproscription would have created conditions more conducive to engaging Hamas and strengthening the pragmatists within the movement. Continued proscription, conversely, has contributed to the dehumanisation of Gazans that has facilitated genocidal violence.<sup>6</sup> Thus, 7 October and the genocidal violence that followed it both make deproscription more, not less, urgent.

### **Impeding humanitarian aid**

9. Proscription hampers humanitarian aid as anything that can be broadly interpreted as supporting a proscribed group can constitute a legal offence under existing terrorism laws in the UK (but also more broadly). In the evidence submitted to the UK Parliament in November 2023, we wrote: “Under UK law, the proscription of Hamas in its entirety “[creates] a series of criminal offences under UK law punishable by imprisonment and fines”, including “arranging a private meeting with members of the groups” and providing any material benefit, even indirectly (which could include paying local taxes and utilities or carrying out humanitarian work if this is seen as indirectly benefiting Hamas). According to Dr Ben Saul, an advisor to the United Nations and the Challis Professor of International Law at the University of Sydney, commenting on the Australian proscription of all of Hamas, which is similar to the UK’s, “The Australian law is saying that anyone who provides support, funding, training or assistance to the Hamas public administration, even... to help civilians in Gaza, is breaking Australian counterterrorism laws.” Similarly, Alyn Smyth (SNP MP) noted in the UK parliamentary debate [on Hamas’s proscription] that “You cannot get anything done—you cannot get aid delivered, you cannot have a medical project, you cannot have a civil society dialogue—without Hamas’s active involvement one way or another”. [...] This is especially worrying, as approximately 80% of Gazans are dependent on humanitarian aid [this figure represents the situation prior to 7 October], much of which stems from UN bodies, such as the United Nations Relief Works Association for Palestinians in the Near East (UNRWA). The proscription unnecessarily complicates the UK’s relations with international organisations operating in Gaza such as UNRWA, but also the World Bank, UNOPS, and OCHA. Hamas’s affiliation with highly regarded NGOs, employment of Hamas members in UNRWA and other humanitarian organisations, and contributions of aid organisations such as the UNDP, the World Food Programme, USAID, Save the Children, Médecins sans Frontières, Medical Aid for Palestine, to Hamas-affiliated

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<sup>5</sup> “Middle East Quartet Urges Hamas to Renounce Violence,” Voice of America, 1 November 2009, <https://www.voanews.com/a/a-13-2006-01-27-voa2/330099.html>; Ben Smith, “Hamas, Fatah and the Middle East Quartet Principles - Standard Note,” International Affairs and Defence Section (London: House of Commons Library, 17 May 2011); Tamar Pileggi, “US Demands Hamas Renounce Violence, Disarm before Unity Deal,” The Times of Israel, 19 October 2017, <https://www.timesofisrael.com/us-demands-hamas-renounce-violence-disarm-before-unity-deal/>.

<sup>6</sup> I here follow the conclusion of numerous international bodies and genocide scholars that the violence Israel has carried out in Gaza since 7 October plausibly amounts genocide. See footnote 46.

charities or zakat committees makes the blanket terrorist designation of Hamas potentially deeply destructive for Gazan civil society and their dependents.”<sup>7</sup>

10. Illustrating the legal consequences of Hamas’s proscription for charities, in April 2023 the UK Treasury’s Office of Financial Sanctions Implementation asked Muslim charities operating in Gaza “to provide details of any payments such as local authority charges, taxes, utilities, and services including water supply, waste services, telephone or broadband payments”. The letter explicitly links this request to Hamas’s proscription, explaining that UK law prohibits anyone “from making available funds to or for the benefit of an organisation designated under the 2019 Regulations... This can include any payments to a designated organisation or entities owned or controlled by it, or to entities independent of that organisation but where payments will be for its benefit... As a charity with operations in the OPT, potentially in Gaza, it is your responsibility to ensure you are compliant with financial sanctions obligations”. The cost of carrying out humanitarian work in Gaza thus were increased because charities either had to seek “legal advice to ensure they properly fulfil their responsibilities” or “face sanctions under counter-terrorism regulations”.<sup>8</sup> If Hamas continues to play a political or governance role in Gaza after the ceasefire, proscription risks criminalising humanitarian aid and reconstruction in the future, making an already mammoth task more difficult.
11. The cost of legal cases against humanitarian NGOs working in Gaza as a result of proscription can be substantial. Norwegian People’s Aid had to pay \$2 million for supporting “a democratisation project for youth in Gaza from 2012-2016”, after a court ruling that this constituted a “relation... to countries, organisations or persons under embargo by U.S. government designations”. Oxfam had to pay \$160 million because court in New York judged that “an agriculture policy project in Gaza constituted “material support” to Hamas”.<sup>9</sup> The proscription of Hamas, coupled to its having been the de facto government of Gaza, has enabled prosecutors to argue that charities (and financial services providers) are providing material support for terrorism, even if they were exclusively engaged in humanitarian aid. Proscription is central to these cases being brought against charities. If Hamas were de-proscribed, such legal challenges against entities supporting Palestinians – a practice that has been labelled “lawfare”<sup>10</sup> – would be far more difficult and greatly help the delivery of humanitarian aid.

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<sup>7</sup> Jeroen Gunning et al., “Written Evidence Submitted by Professor Jeroen Gunning, Dr Tristan Dunning, Dr Anas Iqtait, Dr Tareq Baconi, Dr Martin Kear, Prof Hamish Maxwell-Stewart, Dr Shannon Brincat and Dr Adel Yousif (MENA0070)” (The UK’s engagement with the Middle East and North Africa, UK Parliament, 7 November 2023), 25–26.

<sup>8</sup> Léa Legraien, “UK Aid Charities Told to Provide Details of Payments Made in Gaza,” Civil Society Media, 11 April 2023, <https://www.civilsociety.co.uk/news/uk-aid-charities-told-to-provide-details-of-payments-made-in-gaza.html>.

<sup>9</sup> “Norwegian People’s Aid Reaches a Settlement with the U.S. Government,” Norwegian People’s Aid, 3 April 2018, <https://www.npaid.org/news/norwegian-peoples-aid-reaches-a-settlement-with-the-u-s-government>; Ben Parker, “NGO Accused of Supporting Terrorism in Gaza,” The New Humanitarian, 12 September 2019, <https://www.thenewhumanitarian.org/news/2019/09/12/NGO-counter-terrorism-Gaza-Palestine-oxfam-lawsuit>; “OECD Dismisses Lawfare Group UKLFI’s Complaint Against Auditors for Two Palestinian NGOs,” *Charity & Security Network* (blog), 14 October 2021, <https://charityandsecurity.org/news/oecd-dismisses-lawfare-group-uklfis-complaint-against-auditors-for-two-palestinian-ngos/>; Shapiro Dmitry and JNS, “Jewish Groups Pushing US Supreme Court to Review Terrorist Financing Case,” *Israel Hayom* (blog), 19 October 2021, <https://www.israelhayom.com/2021/10/19/jewish-groups-pushing-us-supreme-court-to-review-terrorist-financing-case/>.

<sup>10</sup> “Medical Aid for Palestinians’ Statement on Complaint by UK Lawyers for Israel and the Lawfare Project,” Medical Aid for Palestinians, 20 October 2018, <https://www.map.org.uk/news/archive/post/928-medical-aid-for-palestinians-statement-on-complaint-by-uk-lawyers-for-israel-and-the-lawfare-project>; “The Alarming Rise of Lawfare to Suppress Civil Society: The Case of Palestine and Israel,” *Charity & Security Network* (blog), 28 September 2021, <https://charityandsecurity.org/csn-reports/the-alarming-rise-of-lawfare-to-suppress-civil-society-the-case-of-palestine-and-israel/>.

12. Since 7 October 2023, Israel has used the terrorism label to criminalise and shutdown UNRWA, the primary UN agency supporting Palestinian refugees, accusing its staff of involvement in the 7 October attacks (a UN investigation only found evidence for nine of the 19 that had been accused and dismissed them; to put this in context, UNRWA employs a total of 30,000 staff).<sup>11</sup> More broadly, humanitarian organisations have accused Israel of ““systematic” attacks on civilians and NGOs working [in Gaza]”, with Jan Egeland, head of the Norwegian Refugee Council, highlighting that “Israel has now killed more aid workers in Gaza than all other armies, militias, and terrorists in all other wars combined”.<sup>12</sup> If Hamas remains proscribed by key international allies of Israel such as the UK and the US, much needed humanitarian aid to keep Gaza’s population alive and the enormous task of reconstruction to make Gaza inhabitable again will be hindered. Continued proscription, meanwhile, is likely to embolden Israel to continue its policy of only allowing sufficient food and goods into Gaza to stave off a humanitarian crisis, as it holds all Gazans responsible for Hamas’s actions (see section 14). This has been a longstanding policy, predating the most recent war on Gaza; but, during this war, Israel has been accused of going further to deliberately inflict starvation on Gaza’s population.<sup>13</sup> Deproscription is urgently needed to facilitate reversing the effects of this starvation and the longer policy of strangulation and de-development that Israel has deployed.

### **Dehumanising Gaza’s population**

13. Proscription of Hamas has had the effect of facilitating the dehumanisation of the Gazan population as a whole while supposedly justifying Israel’s extreme counter-violence. Within critical research on the practice of labelling groups terrorist, it is well-established that the terrorism label serves to dehumanise, denying those labelled their human rights, freedom, justice and self-government, and, through this, legitimising extreme and often illegal counter-violence – from collective punishment and targeting civilians to ethnic cleansing and genocidal violence.<sup>14</sup> There is a long tradition of states painting terrorism as barbarism and as an existential threat to civilisation.<sup>15</sup> At the League of Nations’ 1937 Convention for the Prevention and Punishment of Terrorism, terrorism was framed as “barbarism”, a “world crime” by “enemies of the human race” against “the whole civilised world”<sup>16</sup> – thereby ostensibly legitimising (and downplaying) the brutality of

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<sup>11</sup> Itamar Eichner, “Israeli Campaign Accusing UNRWA of Terrorism Appears in Times Square,” *Ynetnews*, 7 December 2024; “UNRWA: Claims Versus Facts,” UNRWA, December 2024, <https://www.unrwa.org/unrwa-claims-versus-facts-february-2024>.

<sup>12</sup> AFP and TOI STAFF, “Groups Accuse Israel of ‘Systematic’ Attacks on Aid Workers, but Won’t Leave Gaza,” *The Times of Israel*, 3 April 2024, <https://www.timesofisrael.com/groups-accuse-israel-of-systematic-attacks-on-aid-workers-but-wont-leave-gaza/>.

<sup>13</sup> Sara Roy, “The Long War on Gaza,” *The New York Review of Books*, 19 December 2023; Michael Fakhri, “Starvation and the Right to Food, with an Emphasis on the Palestinian People’s Food Sovereignty - Report of the Special Rapporteur on the Right to Food, Michael Fakhri (A/79/171),” *United Nations General Assembly* (blog), 17 July 2024, <https://www.un.org/unispal/document/right-to-food-report-17jul24/>.

<sup>14</sup> Richard Jackson, “Language, Policy and the Construction of a Torture Culture in the War on Terrorism,” *Review of International Studies* 33, no. 3 (2007): 353–71; Erin Steuter and Deborah Wills, “Discourses of Dehumanization: Enemy Construction and Canadian Media Complicity in the Framing of the War on Terror,” *Global Media Journal - Canadian Edition* 2, no. 2 (2009): 7–24; André Barrinha, “The Political Importance of Labelling: Terrorism and Turkey’s Discourse on the PKK,” *Critical Studies on Terrorism* 4, no. 2 (2011): 163–80; Michael Salzman, Daniel Christie, and Joám Evans Pim, “Dehumanization as a Prerequisite of Atrocity and Killing,” in *Nonkilling Psychology* (Honolulu: Center for Global Nonkilling, 2012), 107–24.

<sup>15</sup> Richard Jackson, “Knowledge, Power and Politics in the Study of Political Terrorism,” in *Critical Terrorism Studies: A New Research Agenda*, ed. Richard Jackson, Marie Breen Smyth, and Jeroen Gunning (London: Routledge, 2009), 66–83; Jessica Wolfendale, “The Narrative of Terrorism as an Existential Threat,” in *Routledge Handbook of Critical Terrorism Studies*, ed. Richard Jackson (London: Routledge, 2016), 114–23.

<sup>16</sup> Joseph McQuade, *A Genealogy of Terrorism: Colonial Law and the Origins of an Idea* (Cambridge: Cambridge University Press, 2021), 234–38.

state violence deployed against those labelled terrorist.<sup>17</sup> This dynamic was particularly acute under colonial rule of which Israel's occupation as a settler colonial power is a contemporary instance.<sup>18</sup> In India, Egypt and Kenya, for example, the British government used the label to delegitimise anti-colonial movements, dehumanise those who supported them, and legitimise its harsh responses to them.<sup>19</sup> Applying the terrorist label to groups fighting on behalf of communities distinguished by ethnicity or religion has been shown to have the effect of creating what has been called "suspect communities". This term was first used to describe the effect of the 1989 Prevention of Terrorism Act on the Irish living in Britain; after 9/11, scholars have used it to show how Muslims in Britain and elsewhere have come to be "suspect communities" as a result of the War on Terror.<sup>20</sup> The terrorism label has the effect of painting not just the group engaged in violence but those believed to be associated with it (often on very spurious grounds) as "demonic" and an "existential threat" to civilisation itself.<sup>21</sup>

14. In Israel's most recent war on Gaza, this dynamic was clearly visible in the discourse used by Israeli officials and politicians labelling all Gazans as culpable of the 7 October attacks and so seeking to legitimise the erasure of Gaza. Israel's President, Isaac Herzog, erased any distinction between civilians and armed fighters when he was quoted as saying: "*It is an entire nation out there that is responsible. It is not true this rhetoric about civilians not being aware, not involved. It's absolutely not true. They could've risen up, they could have fought against that evil regime.*"<sup>22</sup> Then Israeli Defense Minister Yoav Gallant was reported to have ordered "*a complete siege on the Gaza Strip. There will be no electricity, no food, no fuel,*" on the ground that "*we are fighting human animals and we act accordingly*" and thus "*Gaza won't return to what it was before. We will eliminate everything.*"<sup>23</sup> Prime Minister Benjamin Netanyahu painted the war on Gaza as "*a struggle between the children of light and the children of darkness, between*

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<sup>17</sup> Paul MacDonald, "Civilized Barbarism: What We Miss When We Ignore Colonial Violence," *International Organization* 77, no. 4 (2023): 721–53; for more references, see footnote 31.

<sup>18</sup> For historiography of the term settler colonialism as applied to Israel-Palestine, see Areej Sabbagh-Khoury, "Tracing Settler Colonialism: A Genealogy of a Paradigm in the Sociology of Knowledge Production in Israel," *Politics & Society* 50, no. 1 (2022): 44–83; examples of scholarship using this term: Ilan Pappé, "Zionism as Colonialism: A Comparative View of Diluted Colonialism in Asia and Africa," *South Atlantic Quarterly* 107, no. 4 (2008): 611–33; David Lloyd, "Settler Colonialism and the State of Exception: The Example of Palestine/Israel," *Settler Colonial Studies* 2, no. 1 (2012): 59–80; Lorenzo Veracini, "What Can Settler Colonial Studies Offer to an Interpretation of the Conflict in Israel–Palestine?," *Settler Colonial Studies* 5, no. 3 (2015): 268–71; Omar Jabary Salamanca, "Assembling the Fabric of Life: When Settler Colonialism Becomes Development," *Journal of Palestine Studies* 45, no. 4 (2016): 64–80; Ronit Lentin, *Traces of Racial Exception: Racializing Israeli Settler Colonialism*, Suspensions: Contemporary Middle Eastern and Islamic Thought (London: Bloomsbury Academic, 2018); Noura Erakat, *Justice for Some: Law and the Question of Palestine* (Stanford, CA: Stanford University Press, 2019); Rashid Khalidi, *The Hundred Years' War on Palestine: A History of Settler Colonialism and Resistance, 1917–2017* (New York: Henry Hold, 2022); Oren Yiftachel, "Deepening Apartheid: The Political Geography of Colonizing Israel/Palestine," *Frontiers in Political Science* 4 (2022): 1–15.

<sup>19</sup> Caroline Elkins, *Imperial Reckoning: The Untold Story of Britain's Gulag in Kenya* (New York: Henry Holt, 2005); McQuade, *A Genealogy of Terrorism*; Ahmed Abozaid, *Counterterrorism Strategies in Egypt: Permanent Exceptions in the War on Terror* (London: Routledge, 2022); Alice Finden and Sagnik Dutta, "Counterterrorism, Political Anxiety and Legitimacy in Postcolonial India and Egypt," *Critical Studies on Terrorism* 17, no. 2 (2024): 176–200.

<sup>20</sup> Marie Breen-Smyth, "Theorising the 'Suspect Community': Counterterrorism, Security Practices and the Public Imagination," *Critical Studies on Terrorism* 7, no. 2 (2014): 223–40; Mary Hickman et al., "Social Cohesion and the Notion of 'Suspect Communities': A Study of the Experiences and Impacts of Being 'Suspect' for Irish Communities and Muslim Communities in Britain," *Critical Studies on Terrorism* 5, no. 1 (2012): 89–106.

<sup>21</sup> Richard Jackson, "Constructing Enemies: 'Islamic Terrorism' in Political and Academic Discourse," *Government and Opposition* 42, no. 3 (2007): 394–426; Gunning and Jackson, "What's so 'Religious' about 'Religious Terrorism'?"; Rabea Khan, "Race, Coloniality and the Post 9/11 Counter-Discourse: Critical Terrorism Studies and the Reproduction of the Islam-Terrorism Discourse," *Critical Studies on Terrorism* 14, no. 4 (2021): 498–501.

<sup>22</sup> Chris McGreal, "The Language Being Used to Describe Palestinians Is Genocidal," *The Guardian*, 16 October 2023, sec. Opinion.

<sup>23</sup> Ibid.; "Public Statement: Scholars Warn of Potential Genocide in Gaza," *Opinio Juris* (blog), 18 October 2023, <https://opiniojuris.org/2023/10/18/public-statement-scholars-warn-of-potential-genocide-in-gaza/>.

*humanity and the law of the jungle*".<sup>24</sup> These words echoed his foreword to his 1984 book *Terrorism: How the West Can Win* – “the battle against terrorism was part of a much larger struggle, one between the forces of civilization and the forces of barbarism”<sup>25</sup> – which itself echoed the wording of the 1937 League of Nations’ Convention described above (section 13), thus clearly situating his dehumanisation of Gazans within his overall terrorism narrative. Israel’s Minister of Energy and Infrastructure Israel Katz reportedly proposed what appeared to be a combination of ethnic cleansing and genocide, with no distinction between Hamas and civilians: “All the civilian population in Gaza is ordered to leave immediately. We will win. They will not receive a drop of water or a single battery until they leave the world.” Head of the IDF’s Coordinator of Government Activities in the Territories, Major General Ghassan Alian, similarly told Gazans: “Human animals must be treated as such. There will be no electricity and no water, there will only be destruction. You wanted hell, you will get hell”.<sup>26</sup> The repeated references to animals and barbarism situate these statements within the broader terrorism narrative. More directly, Palestinian civilians found in areas that were declared war zones by the IDF were explicitly construed as terrorists, regardless of whether they were part of the Qassam Brigades. An IDF commander was quoted in a *Ha’aretz* article as saying: “Anyone crossing the line is a terrorist, no exceptions, no civilians” and “declaring anyone entering the kill zone a terrorist conducting reconnaissance”; IDF soldiers were reported to believe that “the kill zone extends as far as a sniper can see”, thus leading them to “killing civilians there who are then counted as terrorists”.<sup>27</sup>

15. Proscription does not cause dehumanisation in isolation. Palestinians have long been dehumanised with racism and Orientalist tropes playing a central role in Israeli officials likening Palestinians to “cockroaches”, “cancer”, “vermin”, etc. Dehumanisation is central to settler colonialism, which typically seeks to erase indigenous peoples.<sup>28</sup> Within this racialised, settler colonial context, Palestinian violence against Israelis has reinforced dehumanising racist stereotypes.<sup>29</sup> However, as notions of “moral disgust”, “taboo”, and anti-civilisational threats are central to the terrorism narrative, applying it facilitates such dehumanisation – particularly for a global audience outside of the immediate settler colonial context of Israel-Palestine.<sup>30</sup>

16. Dehumanisation and collective, disproportionate punishment against civilians have a long history in the settler colonial conflict in Israel-Palestine, echoing the disproportion

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<sup>24</sup> “Excerpt from PM Netanyahu’s Remarks at the Opening of the Winter Assembly of the 25th Knesset’s Second Session,” Ministry of Foreign Affairs, 10 2023, <https://www.gov.il/en/pages/excerpt-from-pm-netanyahu-s-remarks-at-the-opening-of-the-knesset-s-winter-assembly-16-oct-2023>.

<sup>25</sup> Quoted in Lisa Stampnitzky, *Disciplining Terror: How Experts Invented “Terrorism”* (Cambridge: Cambridge University Press, 2013), 114.

<sup>26</sup> All quotes after footnote 23, apart from Netanyahu’s foreword, from “Public Statement.”

<sup>27</sup> Yaniv Kubovich, “‘No Civilians. Everyone’s a Terrorist’: IDF Soldiers Expose Arbitrary Killings and Rampant Lawlessness in Gaz,” *Haaretz*, 18 December 2024.

<sup>28</sup> Patrick Wolfe, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8, no. 4 (2006): 387–409; Neve Gordon and Moriel Ram, “Ethnic Cleansing and the Formation of Settler Colonial Geographies,” *Political Geography* 53 (2016): 20–29; Pauline Wakeham, “The Slow Violence of Settler Colonialism: Genocide, Attrition, and the Long Emergency of Invasion,” *Journal of Genocide Research* 24, no. 3 (2022): 337–56.

<sup>29</sup> McGreal, “The Language Being Used to Describe Palestinians Is Genocidal”; Melissa Weiner, “Palestinian Erasure and Dehumanization in Introductory Sociology Texts,” *Critical Sociology* 49, no. 6 (2023): 991–1008; Ronit Lentini, “Palestine/Israel and State Criminality: Exception, Settler Colonialism and Racialization,” *State Crime Journal* 5, no. 1 (2016): 32–50; Somdeep Sen, “Violent Infrastructure, Nationalist Stigmatisation and Spatial Erasure,” *Politics* 44, no. 1 (2024): 102–18.

<sup>30</sup> Jeffrey Sluka, “Terrorism and Taboo: An Anthropological Perspective on Political Violence against Civilians,” *Critical Studies on Terrorism* 1, no. 2 (2008): 167–83; see also Joseba Zulaika and William Douglass, *Terror and Taboo: The Follies, Fables, and Faces of Terrorism* (New York: Routledge, 1996).



between the volume and effect of the violence perpetrated historically by colonial powers and the anti-colonial resistance organisations opposing them.<sup>31</sup> Under colonial rule, targeting civilians – typically dehumanised through racialised practices – to instil terror and deter them from supporting rebels was commonplace. As Professor Fabian Klose, Chair of International History and Historical Peace and Conflict Research, University of Cologne, concluded from his research, “war crimes were nothing less than an essential characteristic of... colonial warfare. [...] Grave breaches of the Geneva Conventions were an essential element of colonial warfare and had a strategic function in the military’s calculation. ... The indigenous population was to be intimidated by a “climate of counterterror” and deterred from offering the rebels any means of support.”<sup>32</sup>

17. In the settler colonial conflict in Israel-Palestine, similar dynamics can be seen at work – which is why applying the settler colonial lens to this conflict is so important.<sup>33</sup> Between September 2000 and October 2023, B’Tselem, a leading Israeli human rights organisation, recorded 11,201 Palestinians killed by Israelis against 1,352 Israelis killed by Palestinians – constituting a ratio of 8 Palestinians killed for every Israeli killed. Focusing just on civilians, B’Tselem recorded 4,918 Palestinians who were not part of hostilities yet were killed by Israeli forces (in a further 777 cases it is unknown whether they participated in hostilities) against 893 Israeli civilians killed by Palestinians – constituting a ratio of 6 Palestinian civilians killed for every Israeli civilian killed. From 2008 till 2023 (before 7 October), the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) recorded an even higher ratio of 21 Palestinian civilians killed for every Israeli civilian killed.<sup>34</sup>
18. Since 7 October 2023, the discrepancy in volume and effect of violence has increased dramatically. Following a detailed Human Rights Watch report, 1,195 Israelis were killed on 7 October, including 815 civilians and at least 282 women and 36 children; a further 251, including 39 children, were taken hostage. The International Criminal Court found that the Qassam Brigades plausibly committed war crimes and crimes against humanity on 7 October.<sup>35</sup> Estimates of the number of Palestinians killed in Gaza since 7 October 2023 range from 45,338 (OCHA, 8 January 2025) to a projected 186,000 in *The Lancet* (Khatib et al., 14 July 2024).<sup>36</sup> American medics who worked in Gaza after 7 October wrote in an open letter to President Biden that, as of May 2024, estimates suggested that

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<sup>31</sup> Frantz Fanon, *The Wretched of the Earth* [1961], trans. Richard Philcox, Revised 60th anniversary edition (New York: Grove Press, 2021); A. Dirk Moses, ed., *Genocide and Settler Society: Frontier Violence and Stolen Indigenous Children in Australian History* (New York: Berghahn Books, 2004); A. Dirk Moses, ed., *Empire, Colony, Genocide: Conquest, Occupation, and Subaltern Resistance in World History* (New York: Berghahn Books, 2008); Philip Dwyer and Amanda Nettelbeck, eds., *Violence, Colonialism and Empire in the Modern World* (Cham: Springer International Publishing, 2018); MacDonald, “Civilized Barbarism”; McQuade, *A Genealogy of Terrorism*; Somdeep Sen, “The Colonial Roots of Counter-Insurgencies in International Politics,” *International Affairs* 98, no. 1 (2022): 209–23; Finden and Dutta, “Counterterrorism, Political Anxiety and Legitimacy in Postcolonial India and Egypt.”

<sup>32</sup> Mann quoted in Fabian Klose, *Human Rights in the Shadow of Colonial Violence: The Wars of Independence in Kenya and Algeria*, trans. Dona Geyer (Philadelphia, PA: University of Pennsylvania Press, 2013), 92; *ibid.*, 139.

<sup>33</sup> See footnote 18.

<sup>34</sup> “Data on Casualties,” United Nations Office for the Coordination of Humanitarian Affairs - occupied Palestinian territory, n.d., <http://www.ochaopt.org/data/casualties>; for calculation of ratio before 7 October, see Gunning et al., “Written Evidence,” 12.

<sup>35</sup> Human Rights Watch, “*I Can’t Erase All the Blood from My Mind*”: *Palestinian Armed Group’s October 7 Assault on Israel* (New York, NY: Human Rights Watch, 2024); Khan, “Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine.”

<sup>36</sup> “Occupied Palestinian Territory,” United Nations Office for the Coordination of Humanitarian Affairs, n.d., <http://www.ochaopt.org/node/10572>; “Humanitarian Situation Update #247 | Gaza Strip,” United Nations Office for the Coordination of Humanitarian Affairs, 17 December 2024, <http://www.ochaopt.org/content/humanitarian-situation-update-247-gaza-strip>; Rasha Khatib, Martin McKee, and Salim Yusuf, “Counting the Dead in Gaza: Difficult but Essential,” *The Lancet* 404, no. 10449 (2024): 237–38.

at least a further 10,000 Gazans were buried under rubble and that, as of 30 September 2024, an additional 62,413 Gazans were at risk of dying of starvation, based on how many Gazans were living in famine-like conditions.<sup>37</sup> Professor Devi Sridhar, Chair of Global Public Health, University of Edinburgh, estimated in September 2024 that the total number of deaths “attributable to the current conflict” (including from war-related disease and starvation) could be as high as 335,500, following the method used in *The Lancet* article.<sup>38</sup> These figures do not differentiate between combatants and noncombatants. The UN’s Office of the High Commissioner for Human Rights (OHCHR) estimated that 70% of those killed were women (26%) and children (44%), while 94% had been killed “in residential buildings or similar housing”, the basis of the profile of the 8,119 Gazans killed that had been verified by OHCHR by 2 September 2024.<sup>39</sup> Oxfam similarly reported in September 2024 that “6,000 women and 11,000 children were killed in Gaza by the Israeli military over the last 12 months”, concluding that “more women and children have been killed in Gaza by the Israeli military over the past year than the equivalent period of any other conflict over the past two decades”.<sup>40</sup> While Israel has questioned the credibility of the numbers provided by the Hamas-run Health Ministry, the UN and other key humanitarian organisations have expressed confidence in the numbers, based on their own observations of deaths and on past conflicts.<sup>41</sup> Israel claims to take every precaution to limit civilian deaths. However, evidence is mounting that Israeli officers explicitly permitted targeting civilians and civilian infrastructure – a practice that is facilitated by the terrorism label.<sup>42</sup> According to intelligence sources, officers permitted the “collateral” killing of civilians when targeting Qassam Brigades’ members (20 for low-level, 100 for high-level targets) and that they were supported by a tracking system (“Where’s Daddy?”), which identified the homes of suspected members (identified by AI, reportedly with loose human oversight), thereby increasing the likelihood of civilian casualties. Some intelligence sources with first-hand experience went further and reported that high-rise buildings (“power targets”) were bombed with the specific intention “to harm Palestinian civil society: to “create a shock” that, among other things, will reverberate powerfully and “lead civilians to put pressure on Hamas”.<sup>43</sup> The fact that the

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<sup>37</sup> Feroze Sidhwa et al., “Open Letter From American Medical Professionals Who Served In Gaza - Appendix,” Gaza Healthcare Letters, 2 October 2024, <https://www.gazahealthcareletters.org/usa-letter-oct-2-2024>; on likely famine-related deaths and difficulty of predicting these, see also Jeremy Konyndyk and Jesse Marks, “Untangling the Reality of Famine in Gaza,” Refugees International, 12 September 2024, <https://www.refugeesinternational.org/reports-briefs/untangling-the-reality-of-famine-in-gaza/>; Alex De Waal, “How Many People Have Died of Starvation in Gaza?,” *World Peace Foundation* (blog), 17 December 2024, <https://worldpeacefoundation.org/blog/how-many-people-have-died-of-starvation-in-gaza/>.

<sup>38</sup> Devi Sridhar, “Scientists Are Closing in on the True, Horrifying Scale of Death and Disease in Gaza,” *The Guardian*, 5 September 2024.

<sup>39</sup> “Six-Month Update Report on the Human Rights Situation in Gaza: 1 November 2023 to 30 April 2024,” OHCHR, 8 November 2024, <https://www.ohchr.org/en/documents/reports/six-month-update-report-human-rights-situation-gaza-1-november-2023-30-april-2024>.

<sup>40</sup> “More Women and Children Killed in Gaza by Israeli Military than Any Other Recent Conflict in a Single Year – Oxfam,” Oxfam International, 30 September 2024, <https://www.oxfam.org/en/press-releases/more-women-and-children-killed-gaza-israeli-military-any-other-recent-conflict>.

<sup>41</sup> Benjamin Huynh, Elizabeth Chin, and Paul Spiegel, “No Evidence of Inflated Mortality Reporting from the Gaza Ministry of Health,” *The Lancet* 403, no. 10421 (2024): 23–24; Peter Beaumont and Julian Borger, “UN Denies Gaza Death Toll of Women and Children Has Been Revised Down,” *The Guardian*, 14 May 2024, sec. World news; Assma Maad, “Why the Gaza Health Ministry’s Death Count Is Considered Reliable,” *Le Monde*, 13 October 2024.

<sup>42</sup> Ben Reiff, “‘A Mass Assassination Factory’: Inside Israel’s Calculated Bombing of Gaza,” +972 Magazine, 30 November 2023, <https://www.972mag.com/mass-assassination-factory-israel-calculated-bombing-gaza/>; Yuval Abraham, “‘Lavender’: The AI Machine Directing Israel’s Bombing Spree in Gaza,” +972 Magazine, 3 April 2024, <https://www.972mag.com/lavender-ai-israeli-army-gaza/>; “Report of the Independent International Commission of Inquiry on the Occupied Palestinian Territory, Including East Jerusalem, and Israel – Human Rights Council Fifty-Sixth Session (A/HRC/56/26)” (New York: UN General Assembly), accessed 14 June 2024.

<sup>43</sup> PCATI, “No Second Thoughts: The Changes in the Israeli Defense Forces’ Combat Doctrine in Light of ‘Operation Cast Lead’” (Jerusalem: The Public Committee Against Torture in Israel, November 2009); Abraham, “‘Lavender’”; Bethan McKernan and Harry Davies, “‘The Machine Did It Coldly’: Israel Used AI to Identify 37,000 Hamas Targets,” *The*

IDF used 2000lb bombs in densely populated areas and close to hospitals, that limited time was given to people to evacuate their homes, and that evacuation routes and designated safe spaces were targeted, among other evidence, suggest that, at a minimum, the IDF was permitting the killing of civilians on an extensive scale.<sup>44</sup> Taken together with statements by Israeli officials blurring the distinction between unarmed civilians and combatants (see section 14), and Israel’s historic record of targeting civilians as part of military doctrine – most clearly expressed in the Dahiye Doctrine, which explicitly targeted civilians and civilian infrastructure to turn the population against Hizbullah in 2006, and guided the 2008-2009 and subsequent wars on Hamas and Gaza<sup>45</sup> – it is reasonable to conclude that Israel is targeting civilians to the point that numerous international bodies as well as high-profile genocide scholars have concluded that Israel’s violence in Gaza amounts to plausible genocide.<sup>46</sup> The terrorism label applied to Hamas, and its effect on (further) dehumanising the Gazan population, has arguably contributed to making this extreme violence possible, while obscuring the extreme asymmetry in the level and effect of violence carried out by Hamas and by Israel.

### Creating additional obstacles to a political solution

19. Application of the terrorism label further makes pursuing a political solution more difficult, while favouring a military approach. The label hampers engagement with

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*Guardian*, 3 April 2024, sec. World news.

<sup>44</sup> “UN Report: Israeli Use of Heavy Bombs in Gaza Raises Serious Concerns under the Laws of War,” OHCHR, 19 June 2024, <https://www.ohchr.org/en/press-releases/2024/06/un-report-israeli-use-heavy-bombs-gaza-raises-serious-concerns-under-laws>; Dennis Kunichoff et al., “Are Hospitals Collateral Damage? Assessing Geospatial Proximity of 2000 Lb Bomb Detonations to Hospital Facilities in the Gaza Strip from October 7 to November 17, 2023,” ed. Hani Mowafi, *PLOS Global Public Health* 4, no. 10 (2024): e0003178; Larry Lewis, “Israeli Civilian Harm Mitigation in Gaza: Gold Standard or Fool’s Gold?,” *Just Security*, 12 March 2024, <https://www.justsecurity.org/93105/israeli-civilian-harm-mitigation-in-gaza-gold-standard-or-fools-gold/>; Zeynep Tufekci Gulay, “So-Called ‘safe Zones’ in Gaza Turned into ‘Death Corridors,’” *Anadolu Ajansı*, 10 2024, <https://www.aa.com.tr/en/1-year-of-gaza-genocide/so-called-safe-zones-in-gaza-turned-into-death-corridors-/3351721>; “‘Pawns in a Board Game’: How Israel Is Shrinking Gaza’s ‘Safe Zones,’” *Aljazeera*, 25 July 2024, <https://www.aljazeera.com/news/2024/7/25/how-israel-is-shrinking-gazas-safe-zones>.

<sup>45</sup> Richard Falk, “Dahiya Doctrine: Justifying Disproportionate Warfare—A Prelude to Genocide,” *Global Justice in the 21st Century* (blog), 1 April 2024, <https://richardfalk.org/2024/04/01/dahiya-doctrine-justifying-disproportionate-warfare-a-prelude-to-genocide/>; Somdeep Sen, “‘Dahiye Doctrine’ Returns to Dahiye,” *Aljazeera*, 3 October 2024, <https://www.aljazeera.com/opinions/2024/10/3/dahiye-doctrine-returns-to-dahiye>.

<sup>46</sup> International Court of Justice, “Application of the Convention on the Prevention and Punishment of the Crime of Genocide in the Gaza Strip (South Africa v. Israel)”; “Gaza: UN Experts Call on International Community to Prevent Genocide against the Palestinian People,” OHCHR, 16 November 2023, <https://www.ohchr.org/en/press-releases/2023/11/gaza-un-experts-call-international-community-prevent-genocide-against>; Francesca Albanese, “Anatomy of a Genocide: Report of the Special Rapporteur on the Situation of Human Rights in the Palestinian Territories Occupied since 1967 - Advance Unedited Version (A/HRC/55/73),” Human Rights Situation in Palestine and Other Occupied Arab Territories (UN Human Rights Council, 25 March 2024); Ed Pilkington, “Top UN Official in New York Steps down Citing ‘Genocide’ of Palestinian Civilians,” *The Guardian*, 31 October 2023, sec. World news; Nina Lakhani, “Israel Is Deliberately Starving Palestinians, UN Rights Expert Says,” *The Guardian*, 27 February 2024, sec. World news; “Statement on Why We Call the Israeli Attack on Gaza Genocide,” Lemkin Institute, 29 December 2023, <https://www.lemkininstitute.com/statements-new-page/statement-on-why-we-call-the-israeli-attack-on-gaza-genocide>; “Genocide in Gaza: Analysis of International Law and Its Application to Israel’s Military Actions since October 7, 2023,” University Network for Human Rights, 15 May 2024, <https://www.humanrightsnetwork.org/publications/genocide-in-gaza>; “Euro-Med Monitor to UN: Recognise Israel’s Actions in Gaza as Genocide,” Euro-Med Human Rights Monitor, accessed 3 January 2025, <https://euromedmonitor.org/en/article/5970/Euro-Med-Monitor-to-UN:-Recognise-Israel>; “MESA Board Joint Statement with CAF Regarding the Ongoing Genocidal Violence against the Palestinian People and Their Cultural Heritage in Gaza,” Middle East Studies Association, 11 March 2024, <https://mesana.org/advocacy/letters-from-the-board/2024/03/11/mesa-board-joint-statement-with-caf-regarding-the-ongoing-genocidal-violence-against-the-palestinian-people-and-their-cultural-heritage-in-gaza>; Omer Bartov, “As a Former IDF Soldier and Historian of Genocide, I Was Deeply Disturbed by My Recent Visit to Israel,” *The Guardian*, 13 August 2024; Amos Goldberg, “Yes, It Is Genocide,” *The Palestine Project via Medium* (blog), 18 April 2024, <https://thepalestineproject.medium.com/yes-it-is-genocide-634a07ea27d4>; Raz Segal, “A Textbook Case of Genocide,” *Jewish Currents*, 13 October 2023, <https://jewishcurrents.org/a-textbook-case-of-genocide>; Martin Shaw, “Inescapably Genocidal,” *Journal of Genocide Research*, 2024, 1–5; Aryeh Neier, “Is Israel Committing Genocide?,” *The New York Review of Books*, 6 June 2024.

designated groups, cuts them out of political solutions and obscures the possibility of them changing goals and strategy, as “terrorists” – and the sub-category of “religious terrorists” in particular – are typically cast as inherently intransigent and incapable of change.<sup>47</sup> Peace studies scholars have long critiqued the terrorism approach for preventing engagement. “In the name of security policy and the ‘war on terror’”, Professor Robert Ricigliano, a leading peace studies scholar and practitioner, noted, “the preferred course of action for dealing with many armed groups is to proscribe and shun them in the hopes that they will somehow wither away or be eradicated by military force”.<sup>48</sup> Yet, as defence and security studies scholars Professors Seth Jones and Martin Libicki, found, only 7% of the 648 “terrorist groups” they studied, who were active between 1968-2006, ended through military force, while 43% ended through “a transition to the political process”.<sup>49</sup> This type of transition is complicated by the terrorism label. Proscription makes political negotiations difficult as talking with terrorists carries a taboo.<sup>50</sup> The government of the Philippines did not label the Moro Islamic Liberation Front terrorist because it wanted to pursue a political solution and believed that proscription would scupper that.<sup>51</sup> Liz Philipson, former director of Conciliation Resources, argued on the basis of her analysis and experience that “listing an organization as ‘terrorist’ potentially lengthens the path to non-violent politics for that group as negative perceptions of the group are encouraged, and the group’s own perceptions about whether they can or should have a place in non-violent politics may also be negatively affected”.<sup>52</sup> Dr Sophie Haspeslagh, a leading peace and security studies scholar, similarly found that the “consequences of proscription regimes appear to be making the achievement of successful peace processes that much harder”, in part by limiting the involvement of third parties which have historically contributed to armed groups agreeing to negotiations by “affect[ing] their strategic calculations and train[ing] them in conflict resolution”.

20. Turning to the conflict in Israel-Palestine, Alvaro de Soto, former UN Special Coordinator for the Middle East Peace Process, underlined the effects of proscription on a political solution, observing that “the global war on terror has dealt a set-back to conflict resolution as a whole. It has brought about issues that mediators never had to deal with before. (. . .) There is no agreed definition of what constitutes terrorism or terrorist acts, they use pre-existing lists. As a result, groups on those lists, which may have resorted to terrorist acts tactically or out of desperation, find themselves amalgamated with nihilist groups like Al Qaeda (. . .). A sort of stigma has been attached to dealing with the likes of Hamas, without which peace is difficult to imagine. With Hamas’s election under George W Bush nobody even dared mention the possibility of engagement. Until that time it had been unquestioned UN practice since Dag Hammarskjold to talk to whomever you need to talk to for peace. That could be people from Hamas just like from the other side. . . . Excluding such important interlocutors can result in prolonging conflict.”<sup>53</sup> Peace studies scholars Professor Oliver Richmond and Dr Jason Franks agree, arguing that an

<sup>47</sup> Gunning, “Peace with Hamas?”; Gunning and Jackson, “What’s so ‘Religious’ about ‘Religious Terrorism?’”

<sup>48</sup> Robert Ricigliano, “Introduction: Engaging Armed Groups in Peace Processes,” ed. Robert Ricigliano, *Accord*, no. 16 (2005): 6.

<sup>49</sup> Seth Jones and Martin Libicki, *How Terrorist Groups End: Lessons for Countering al Qaeda* (Santa Monica, CA: RAND Corporation, 2008), xiii–xiv; see also Audrey Kurth Cronin, *How Terrorism Ends: Understanding the Decline and Demise of Terrorist Campaigns* (Princeton, NJ: Princeton University Press, 2009).

<sup>50</sup> Carolin Görzig, *Talking to Terrorists: Concessions and the Renunciation of Violence* (London: Routledge, 2012).

<sup>51</sup> Harmonie Toros, “‘We Don’t Negotiate with Terrorists!’: Legitimacy and Complexity in Terrorist Conflicts,” *Security Dialogue* 39, no. 4 (2008): 407–26.

<sup>52</sup> Liz Philipson, “Engaging Armed Groups the Challenge of Asymmetries,” *Accord*, no. 16 (2005): 70.

<sup>53</sup> Quoted in Sophie Haspeslagh, “The Mediation Dilemma of (Not) Talking to Terrorists,” *Swiss Political Science Review* 26, no. 4 (2020): 506.

“orthodox terrorism approach has allowed successive Israeli governments to maintain the conflict rather than make difficult concessions (for example, over territory and settlements), reaffirm their national security discourse, allow the pursuit of terrorist actors in both a military context (as enemies) and legal context (as criminals), and legitimise extra-judicial, pre-emptive assassinations”.<sup>54</sup>

21. Hamas has made numerous political overtures over the years which have repeatedly been dismissed by Israel and its allies, in part because the terrorism label paints Hamas as an absolute spoiler, incapable of compromise or being a potential negotiating partner. While it continues to refuse to recognise Israel – a position that, while a significant red line for Israel, is not uncommon among anticolonial groups (see xx) – Hamas has gradually come to accept a Palestinian state on the 1967 borders as a national consensus, moving from a *de facto* acceptance in the lead-up to its 2006 landslide election victory and in subsequent attempts at forming national unity governments, to formal acceptance in its 2017 Manifesto.<sup>55</sup> For much of the period since its violent take-over of Gaza in 2007, temporary escalations of violence notwithstanding, Hamas has observed ceasefires with Israel, even at times imprisoning other resistance factions for launching rockets.<sup>56</sup> There are tensions within Hamas between those willing to accept a two-state solution and those who want to liberate all of historic British Mandate Palestine and the internal balance between those factions has shifted over time; but which faction dominates is partly influenced by the political opportunity structure facing Hamas. Proscription has contributed to creating a political opportunity structure that has made the pragmatists within Hamas weaker and prevented third parties (whether governments or INGOs) from influencing Hamas’s decision-making through engagement.<sup>57</sup> In evidence submitted with colleagues to the UK Parliament in November 2023, we argued that Israel’s refusal to take the political overtures of Hamas pragmatists seriously, coupled to its pursuit of regional normalisation and increasing calls for annexation of the West Bank threatening the possibility of a Palestinian state, created conditions conducive for the hardliners within Hamas and the Qassam Brigades to gain the upper hand, which eventually led to the violence of 7 October.<sup>58</sup> The terrorism label and international proscription regime around Hamas made it easier for Israel to dismiss these earlier political overtures.
22. Proscribing the entirety of Hamas has also made a two-state solution more difficult by excluding one of the two largest Palestinian political parties from negotiations and hindering the creation of a national unity government. Although other factors have played a role, including mutual hostility and intransigence on both Hamas’s and Fatah’s parts, attempts to establish a national unity government have been complicated by the terrorism label, as any level of integration of Hamas into the Palestinian Authority would result in the cessation of much of international funding because of Hamas’s terrorist designation.<sup>59</sup> Both parties see reconciliation as “a necessary step toward the realization of a two-state

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<sup>54</sup> Oliver Richmond and Jason Franks, “The Impact of Orthodox Terrorism Discourses on the Liberal Peace: Internalisation, Resistance, or Hybridisation?,” *Critical Studies on Terrorism* 2, no. 2 (2009): 207; see also Gunning, “Peace with Hamas?”

<sup>55</sup> Gunning, “Peace with Hamas?”; Gunning, *Hamas in Politics*; Tristan Dunning, *Hamas, Jihad and Popular Legitimacy: Reinterpreting Resistance in Palestine* (London: Routledge, 2016); Tareq Baconi, *Hamas Contained: The Rise and Pacification of Palestinian Resistance* (Stanford, CA: Stanford University Press, 2018); Martin Kear, *Hamas and Palestine: The Contested Road to Statehood* (Milton Park: Routledge, 2019); Gunning et al., “Written Evidence.”

<sup>56</sup> Baconi, *Hamas Contained*; Kear, *Hamas and Palestine*.

<sup>57</sup> Gunning, “The Conflict and the Question of Engaging with Hamas”; Haspeslagh, “The Mediation Dilemma of (Not) Talking to Terrorists.”

<sup>58</sup> Gunning et al., “Written Evidence.”

<sup>59</sup> Tamer Qarmout, “Predictable in Their Failure: An Analysis of Mediation Efforts to End the Palestinian Split,” *International Peacekeeping* 31, no. 3 (2024): 283–308.

resolution to the Israeli-Palestinian conflict”,<sup>60</sup> and the Palestinian Authority’s Mission to the UK explicitly warned that, with the UK’s proscription of Hamas in 2021, “the British government has complicated Palestinian unity efforts and undermined Palestinian democracy... It is a retrograde and one-sided step that will do nothing for efforts to secure a peaceful two-state outcome...”.<sup>61</sup> Since Hamas is one of the two key political parties in Palestine and the main armed Palestinian resistance group, it is difficult to see a political settlement work that does not include Hamas and bind it to the settlement. Excluding Hamas from political engagement is thus likely to prevent achievement of a political solution. Former UK Prime Minister Tony Blair, who played a key role in the international boycott against Hamas after its 2006 election victory, has since acknowledged that non-engagement was indeed a missed opportunity.<sup>62</sup>

### **Proscription and the UK’s support for a two-state solution**

23. Continued proscription of Hamas goes against the UK’s stated support for a two-state solution by preventing the emergence of a national unity government with sufficient grassroots support to deliver a political solution. Hamas has had widespread public support for decades. It won widely in student and professional union elections in the 1990s. It won by a landslide in the 2006 elections and fears of it winning again were one of the purported reasons for President Mahmoud Abbas postponing the 2021 elections.<sup>63</sup> In the year leading up to 7 October, Hamas polled broadly equal to Fatah when those surveyed were asked who they would vote for in parliamentary elections (see graph of “Voting Intention” below).<sup>64</sup> What is more, part of Hamas’s appeal is down to its being the main remaining armed resistance force. In the 1990s, its opposition to the flawed Oslo Accords won it public support. Its 2006 victory was in part due to the role it played in the Al-Aqsa Intifada and its public support usually increased after each subsequent war on Gaza.<sup>65</sup> Hamas’s longstanding argument that Fatah should not have given up violence before achieving a Palestinian state continues to resonate with many Palestinians, with large numbers supporting armed struggle as the best way to end occupation in polls.<sup>66</sup> In the wake of 7 October, the same occurred. In the most recent poll by the authoritative Palestinian Center for Policy and Survey Research (PSR 92, June 2024), support for Hamas was double that of Fatah, which lost much of its support following its repression of Gaza-solidarity protests in the West Bank, and five times that of third parties (40% vs. 20% vs. 8%; see figure 17 in graphs below – numbering from PSR report). Support for the 7 October attacks remained high (57% in Gaza, 73% in the West Bank; see figure 1 below) while 61% of respondents prefer Hamas to be “in control of the Gaza Strip” against 6% preferring the “Current PA under [President] Abbas” and 6% preferring the “Current PA under someone other than Abbas” (see figure 7 below).<sup>67</sup> Calls for a Palestinian state based on a Palestinian Authority led by Fatah to the exclusion of Hamas are therefore deeply unrealistic and counter-productive. As long as occupation continues,

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<sup>60</sup> “UK to Label Entirety of Hamas a Terrorist Organization,” *The Jerusalem Post*, 19 November 2021, <https://www.jpost.com/breaking-news/uk-to-label-entirety-of-hamas-as-a-terrorist-organization-685468>.

<sup>61</sup> *Ibid.*

<sup>62</sup> Donald Macintyre, “Tony Blair: ‘We Were Wrong to Boycott Hamas after Its Election Win,’” *The Observer*, 14 October 2017, sec. World news.

<sup>63</sup> Adnan Abu Amer, “Postponed Palestinian Elections: Causes and Repercussions,” *Carnegie Endowment for International Peace*, 11 May 2021, <https://carnegieendowment.org/sada/2021/05/postponed-palestinian-elections-causes-and-repercussions?lang=en>.

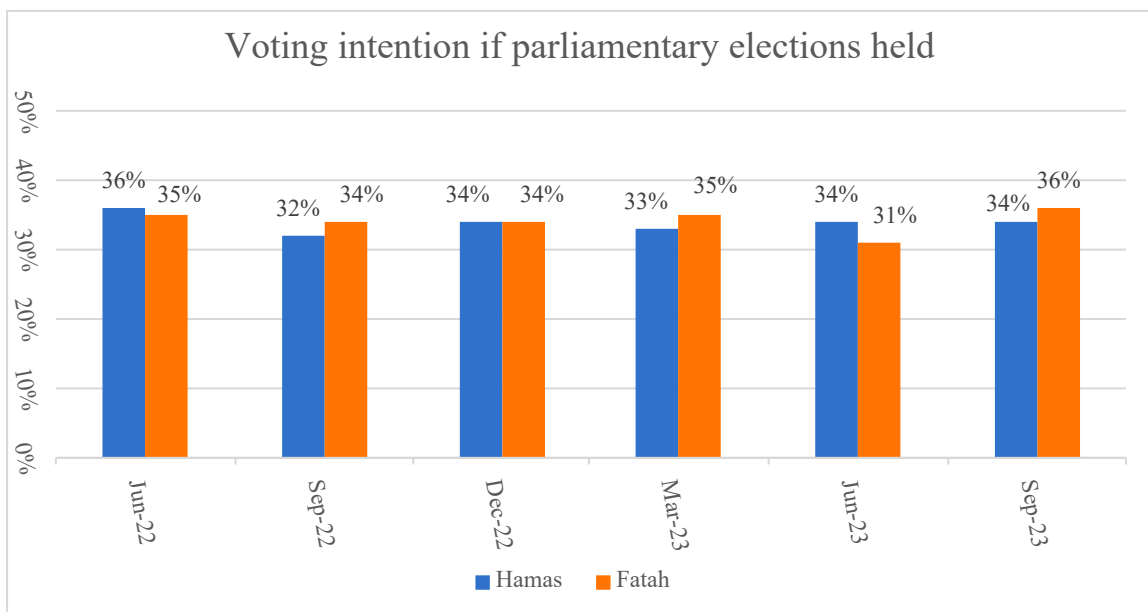
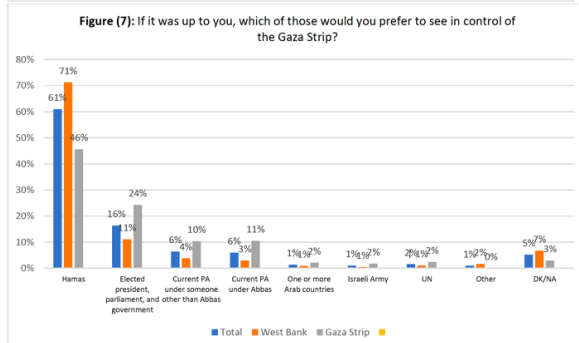
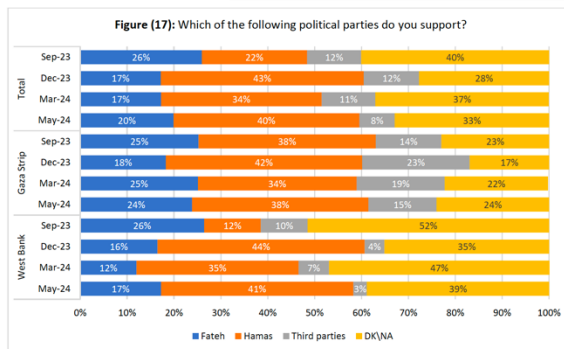
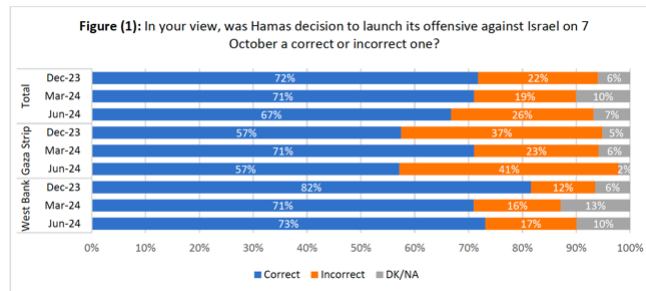
<sup>64</sup> See PSR polls (<http://pcpsr.org/en/node/154>).

<sup>65</sup> See PSR polls (<http://pcpsr.org/en/node/154>).

<sup>66</sup> E.g., “Public Opinion Poll No (92)” (Ramallah, Palestine: Palestinian Center for POLICY and SURVEY RESEARCH, 12 June 2024), covering September 2022-June 2024.

<sup>67</sup> *Ibid.*

a pliant PA which is seen by many as acting as Israel's police agent, will not have the popular support needed to negotiate for a viable Palestinian state while Hamas, seen by many as the last bastion against occupation, is likely to continue to have widespread popular support.



## Proscription and the UK's international obligations

24. Continued proscription could also be argued to go against the legal obligations the ICJ's July 2024 finding imposes on states to remove all impediments to bringing Israel's illegal occupation of Gaza and the West Bank to an end. The ICJ's July 2024 finding that Israel's occupation of Gaza and the West Bank is illegal stipulated that "all States... are also under an obligation not to render aid or assistance in maintaining the situation created by Israel's illegal presence in the Occupied Palestinian Territory. It is for all States, while respecting the Charter of the United Nations and international law, to ensure that any impediment resulting from the illegal presence of Israel in the Occupied Palestinian Territory to the exercise of the Palestinian people of its right to self-determination is brought to an end." For the reasons set out above, continued proscription of Hamas arguably constitutes an impediment to bringing Israel's occupation to an end – in particular its effect on the possibility of achieving a political solution, but also its dehumanising effect. Together with the UK's continued support for Israel and its failure to impose sanctions, despite the ICC's and ICJ's findings on plausible war crimes, crimes against humanity and genocide,<sup>68</sup> proscription could further be said to have contributed to facilitating and legitimising Israel's collective punishment of Gaza, including plausible genocide, as well as facilitated Israel's continued occupation of Gaza by giving legitimacy to its refusal to engage Hamas politically.

## Deproscription and violence

25. None of the above is to deny the violence against civilians carried out by the Qassam Brigades with Hamas's political approval or indeed the purported war crimes and crimes against humanity perpetrated on 7 October 2023.<sup>69</sup> Their perpetrators should be persecuted. However, these crimes can be persecuted under the existing international legal rubrics of war crimes and crimes against humanity. One does not need the terrorism label to do so, while dropping the label means that humanitarian aid and a political solution are made easier. Dropping the label also means that it becomes possible to distinguish between legitimate violent resistance against occupation that stays within the boundaries set by international humanitarian law – a right enshrined by numerous UN resolutions<sup>70</sup> – and illegal violence against civilians. Deproscription and engagement, furthermore, do not necessarily reward violence and undermine the rights-based international order, as is often argued.<sup>71</sup> If (meaningful) negotiations are based on the demand that violence is ceased, they can strengthen the norm of non-violence<sup>72</sup> – although it is important to highlight that this norm has already been significantly weakened by the unceasing support of Western allies for Israel's war on Gaza and ongoing occupation. Further, as peace studies scholars have noted, negotiations can help

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<sup>68</sup> For arguments and parliamentary support for sanctions, see "Impose Sanctions on Israel – 60+ MPs and Lords Demand End to UK Complicity," Labour Outlook, 28 November 2024, <https://labouroutlook.org/2024/11/28/impose-sanctions-on-israel-60-mps-and-lords-demand-end-to-uk-complicity/>.

<sup>69</sup> Khan, "Statement of ICC Prosecutor Karim A.A. Khan KC: Applications for Arrest Warrants in the Situation in the State of Palestine."

<sup>70</sup> Shahd Hammouri, "The Palestinian People Have the Right of Resistance by All Means Consistent with the Principles of the UN Charter," non-profit, *International Law and Palestine Blog* (blog), 8 October 2023, 14–18, <https://law4palestine.org/the-palestinian-people-have-the-right-to-resistance-by-all-means-available-at-their-disposal-dr-shahd-hammouri/>; UNGA Resolution 2787 (XXVI) (1971) specifically confirms this right with regards to the Palestinian struggle; UNGA Resolutions 35/35 (1980), 38/17 (1983), 43/21 (1988) and 44/235 (1989) further reaffirm this right with regards to the Palestinian struggle, either expressly or by expressing solidarity with the Palestinian Intifada which began in 1987.

<sup>71</sup> Toros, "We Don't Negotiate with Terrorists!"; Peter Neumann, "Negotiating with Terrorists," *Foreign Affairs* 86, no. 1 (2007): 128–38.

<sup>72</sup> Toros, "We Don't Negotiate with Terrorists!," 412.



to “eliminate one of the reasons why the insurgents may have engaged in violence in the first place (lack of a legal outlet to voice their grievances)”, while strengthening pragmatists within armed groups and showing “a path of change or transformation towards nonviolence” – but only if the reasons for violence (here occupation and lack of self-determination) are addressed.<sup>73</sup> In a significant precedent, the UK’s government eventually allowed the Provisional Irish Republican Army to take part in the negotiations leading up to the Northern Ireland Good Friday agreement without insisting that it disarm first, having come to the realisation that this should be discussed during the negotiations. Jonathan Powell, the British government’s chief negotiator in Northern Ireland, recounted that Sinn Fein’s chief negotiator Martin McGuinness told him privately that “there would never have been a ceasefire if decommissioning had been made an issue in advance” while publicly “Sinn Fein made it clear that the IRA would not surrender weapons before a political settlement, demanding the issue be dealt with in talks”.<sup>74</sup>

26. Constituting a domestic form of political engagement, the free and fair Palestinian elections of 2006, untethered from the Oslo Peace Process that had prevented Hamas from engaging in 1996, had the effect of strengthening the pragmatists within the movement which agreed to cease violence in the run-up to the elections.<sup>75</sup> The 2011 Cairo Agreement between Hamas and Fatah similarly expanded the pragmatists’ influence but this effect was weakened by lack of international engagement and persistent tensions with Fatah. Hamas nevertheless responded to the demand of the Quartet overseeing the peace process (the UN, US, EU and Russia) that it reject violence by saying that it would do so when occupation of the West Bank and Gaza ends – significantly, not linking this to the full liberation of British Mandate Palestine, a position it made formal in its 2017 Manifesto.<sup>76</sup> The 2014 and 2017 national unity government talks similarly created more room for Hamas’s pragmatists and their effects were similarly limited by lack of international engagement and continuing tensions with Fatah.<sup>77</sup>

27. Although there are those in Hamas who say that they want 7 October to be repeated until Israel is defeated,<sup>78</sup> members of Hamas’s Political Bureau have continued to talk about a two-state solution and even suggested that they would disband the Qassam Brigades if occupation ended, and a Palestinian state were established. In November 2023, the then Head of the Political Bureau Ismail Haniyeh (subsequently assassinated in July 2024, purportedly by Israel) stated that “we are ready for political negotiations for a two-state solution with Jerusalem as the capital of Palestine”, though “only if the ongoing fighting ceases, humanitarian corridors are opened, and aid is allowed to enter Gaza”.<sup>79</sup> A high-ranking Hamas leader involved in the Qatar-led negotiations with Israel followed this up by saying that Hamas would dissolve the Qassam Brigades and “lay down its weapons and convert into a political party if an independent Palestinian state is established along

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<sup>73</sup> Ibid., 413–14.

<sup>74</sup> Jonathan Powell, *Great Hatred, Little Room: Making Peace in Northern Ireland* (London: Vintage Books, 2009), 82; see also Peter Neumann, “Bringing in the Rogues: Political Violence, the British Government and Sinn Fein,” *Terrorism and Political Violence* 15, no. 3 (2003): 154–71.

<sup>75</sup> Gunning, *Hamas in Politics*.

<sup>76</sup> Smith, “Hamas, Fatah and the Middle East Quartet Principles - Standard Note.”

<sup>77</sup> Baconi, *Hamas Contained*; Kear, *Hamas and Palestine*.

<sup>78</sup> E.g., “Hamas Official Ghazi Hamad: We Will Repeat The October 7 Attack, Time And Again, Until Israel Is Annihilated; We Are Victims – Everything We Do Is Justified,” MEMRI, 1 November 2023, <https://www.memri.org/reports/hamas-official-ghazi-hamad-we-will-repeat-october-7-attack-time-and-again-until-israel>.

<sup>79</sup> “Haniyeh Says Hamas Ready for Negotiations on a Two-State Solution If Israel Stops War on Gaza,” *Ahram Online*, 1 November 2023, <https://english.ahram.org.eg/NewsParis/511435.aspx>; “Hamas Political Chief Ismail Haniyeh Assassinated in Iran,” *Aljazeera*, 31 July 2024, <https://www.aljazeera.com/news/2024/7/31/hamass-political-chief-ismail-haniyeh-assassinated-in-iran-state-media>.

pre-1967 borders”.<sup>80</sup> Hamas is unlikely to disarm without first seeing an end to the occupation and the establishment of a Palestinian state, particularly as Hamas has long blamed Fatah for having given up arms before achieving a state. But, going by its past behaviour, it may consider eventually disarming if engaged in negotiations that lead towards a viable, meaningful and sovereign Palestinian state. Continued proscription makes this process more difficult, if not impossible; deproscription, meanwhile, could send a signal of intent and reinforce the norm of non-violence if it links the ending of Israeli occupation and the establishment of a Palestinian state to disarmament – but as part of the process of negotiations, not as a precondition.

### **Deproscription and acceptance of Israel’s sovereignty**

28. One of the conditions of the Quartet was that Hamas recognise not just Israel’s sovereignty but its right to exist. Although Hamas has accepted the principle of a Palestinian state on the 1967 borders, it has refused to recognise the state of Israel – let alone its right to exist – and continues to insist on the Palestinians’ right of return to historic Palestine.<sup>81</sup> Non-recognition of the sovereignty of the coloniser over part of their homeland has been a feature of other anti-colonial movements. Ireland refused to recognise the Union of Northern Ireland and Great Britain (or more precisely, that this Union was “the present wish of a majority of the people of Northern Ireland, freely exercised and legitimate”) until 1998, when, as part of the Good Friday Agreement, it “drop[ped] its territorial claim on Northern Ireland and instead define the Irish nation in terms of people rather than land”. Even now, its recognition of British sovereignty over Northern Ireland is conditional, “for as long as that has the consent of a majority of its population”.<sup>82</sup> In Aotearoa/New Zealand, the signatories of the Māori version of the Treaty of Waitangi – te Tiriti o Waitangi – only granted “kawanatanga” (the right of governance) over tribal lands to the British Crown, *not* sovereignty; the Waitangi Tribunal was set up in 1975 to deal with claims of restitution concerning lands and resources taken illegally by the Crown, ruling that the Māori had indeed not ceded sovereignty. Some have discussed the Tribunal as a form of (re)granting Māori sovereignty.<sup>83</sup> Thus, recognition of a coloniser’s sovereignty over (part of) a people’s historic homeland is, and should be treated as, separate from the question of violence – a distinction which the terrorism label blurs. At this stage, policymakers should focus on whether Hamas is willing to disarm if a meaningful, viable and sovereign Palestinian state is established, not on whether Hamas will recognise Israel, however important this is to Israel. Similarly, insistence on the Palestinians’ right of return should be differentiated from the question of violence. Dahlia Scheindlin, an international political strategy consultant, highlighted in a Century Foundation report that “the notion that Palestinians

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<sup>80</sup> Abby Sewell, “Hamas Official Says Faction Would Disarm under Two-State Solution, Denies Leaders’ Move to Turkey,” *The Arab Weekly*, 25 April 2024, <https://the arabweekly.com/hamas-official-says-faction-would-disarm-under-two-state-solution-denies-leaders-move-turkey>.

<sup>81</sup> See for example Hamas’s 2017 Manifesto: “Hamas in 2017: The Document in Full,” *Middle East Eye*, 2 May 2017, <https://www.middleeasteye.net/news/hamas-2017-document-full>.

<sup>82</sup> “The Belfast Agreement: An Agreement Reached at the Multi-Party Talks on Northern Ireland” (Belfast: The Stationery Office, 1998), 2, 27; John Darby, “Northern Ireland: The Background to the Peace Process,” *CAIN*, 2003, “The Good Friday Agreement, April 1998,” <https://cain.ulster.ac.uk/events/peace/darby03.htm>; Andrew McCormick, “The Constitutional Status of Northern Ireland: Consent, Acquiescence, Subjugation, Indifference” (London: The Constitution Society, 2024), 22.

<sup>83</sup> “Meaning of the Treaty | Waitangi Tribunal,” *Waitangi Tribunal - justice.govt.nz*, 8 July 2016, <https://web.archive.org/web/20160708084042/http://www.waitangitribunal.govt.nz/treaty-of-waitangi/meaning-of-the-treaty/>; “Waitangi Tribunal Finds Treaty of Waitangi Signatories Did Not Cede Sovereignty in February 1840,” *Māori Law Review* November (2014); Richard Boast, “The Waitangi Tribunal: ‘Conscience of the Nation’, or Just Another Court?,” *UNSW Law Journal* 16, no. 1 (1993): 223–44.

demanding return automatically signal an intention to destroy Israel should be laid to rest. International law and convention have evolved, if unevenly, to support refugee rights, including the right of return, and thus contradict Israel's argument that Palestinians cannot claim the legal right. Further, refugee return has been incorporated into conflict resolution in practice. The cases examined in this report show that the Palestinian demand for return is not unique. Refugees elsewhere make similar claims in similar circumstances, and other conflict resolution processes have sought solutions, if imperfectly, rather than dismissing the claims."<sup>84</sup> The focus should thus again be on finding a resolution, not on conflating insistence on this right with violence. And here, again, the terrorism label encourages a blurring of this distinction.

*5<sup>th</sup> February 2025*

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<sup>84</sup> Dahlia Scheindlin, "Neither Intractable nor Unique: A Practical Solution for Palestinian Right of Return," The Century Foundation, 28 April 2020, <https://tcf.org/content/report/never-intractable-unique-practical-solution-palestinian-right-return/>.