

Jeff McMahan*

A Reply to Statman's Defense of Israel's War in Gaza

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Abstract: In ‘McMahan on the War Against Hamas,’ Daniel Statman systematically criticizes arguments advanced in the essay, ‘Proportionality and Necessity in Israel’s Invasion of Gaza, 2023–2024,’ which was published in this journal in 2024. The arguments in that essay assessed Israel’s war by reference to moral principles commonly recognized as governing the resort to war: in particular, principles of just cause, necessity, and proportionality. The present essay not only defends the arguments and claims of the earlier paper against Statman’s challenges, but also reinforces the earlier arguments with many new arguments intended to demonstrate that Israel’s war has been and continues to be an unjust war. It also includes further material comparing Israel’s war in Gaza with Russia’s war in Ukraine. The essay concludes with an appendix containing a short piece written in 2021 about the previous war in Gaza at that time. Its publication was censored then; hence it appears here for the first time.

Keywords: War in Gaza 2023–2025; just cause; requirement of necessity; proportionality; Hamas; Daniel Statman

1 Introduction

I begin with a lighthearted anecdote to introduce a discussion of a dark topic. Daniel Statman and I once endured a shared martyrdom. Many years ago, we both presented papers at a conference in Oxford. Statman spoke first. As soon as he completed his presentation, Victor Tadros’s hand shot up and he was allowed to offer the first comment or pose the first question. “I realize,” he said, “that it is customary to say something complimentary before advancing an objection.” Then, after

*Corresponding author: Jeff McMahan, Corpus Christi College, University of Oxford, Oxford, OX1 4JF, UK, E-mail: jeff.mcmahan@ccc.ox.ac.uk

a moment's pause for reflection, he continued: "I like your shoes," and went on from there. I spoke later. When I had finished speaking, Tadros's hand immediately shot up and he was again recognized first by the chair. Before he spoke, I reminded him that he should preface his criticisms with something complimentary. "But," he replied, "have you seen your shoes?"

Statman and I are thus both accustomed to criticism. On this occasion, each's criticisms are directed against the other. In what follows, I will reply point by point to Statman's objections to my arguments for the conclusion that Israel's war in Gaza has been unjust – indeed, horrifically so.

2 Just Cause

In Section 1 of his essay, Statman objects to my claim that the Palestinians have a just cause for war against Israel. He quotes me as having written that "the Palestinians have all along had just goals" and follows this immediately with a short (and incomplete) list of Palestinian goals that I do indeed believe together constitute a just cause: "to be freed from Israeli occupation, to have the lands stolen from them returned and to establish an independent Palestinian state." Three paragraphs later, however, he notes that "McMahan shifts constantly in the paper between talk of 'Hamas' and talk of 'Palestinians', lending the impression that all Hamas aims at is the protection of the legitimate interests of the Palestinians." He then devotes the remainder of the section to a detailed account of the goals that Hamas has explicitly acknowledged, which include killing many or most Israeli Jews and expelling most of the others from "the land of Palestine," thus wholly eradicating the state of Israel.

It was precisely to distinguish the Palestinians as a nation, with their just claims against Israel, from Hamas, with its unjust goals, that in my paper I sometimes referred to "the Palestinians" and sometimes to "Hamas." As I will indicate shortly, I believe that the Palestinians' just grievances against Israel together constitute a just cause for war, though not one that could be pursued by military means in a way that would be discriminate, necessary, and proportionate – hence my long-held belief that the Palestinians ought at every point to have engaged in nonviolent resistance in order to achieve their just aims.

In short, the *Palestinians* can have a just cause, or a variety of just causes, even if *Hamas* pursues goals that are highly unjust and immoral. That a state or nation can have a just cause for the use of military force even if its political leaders intend to use that force for unjust ends is the reason why traditional just war theory includes a requirement of 'right intention' among the conditions of the permissible resort to war. According to the principle of right intention, it is unjust for a state or

nation to use violence against another state or nation for reasons that are unjust or immoral even if it has a just cause for war and its use of force might achieve that just cause. It can thus be true – and in my view *is* true – that the Palestinians can have a just cause even if – as I also believe to be true – virtually every instance of the use of violence by Hamas violates a requirement of right intention, discrimination, necessity, or proportionality. (As I noted in my paper, I believe this applies even to Hamas's firing on IDF forces in Gaza, either in self-defense or in defense of other residents of Gaza – for Israeli forces would have killed far fewer Palestinian civilians if they had never met with violent resistance by Hamas.) Most of the just grievances, or just causes for action against Israel, that the Palestinians as a nation have now are ones they had for many decades before Hamas came to power in 2006, and indeed for many years even before Hamas was formed in 1987.

It is worth noting, however, that Hamas's unjust and immoral aims do encompass or subsume the 'just goals' that Statman rightly suggests that I believe the Palestinians as a nation have. For it is a necessary truth that if Hamas intends to achieve the unjust goals noted at the end of the first paragraph in this section, it also intends for Palestinians "to be freed from Israeli occupation, to have the lands stolen from them returned and to establish an independent Palestinian state," which are just goals. It is often true – indeed, it is usually true – that a belligerent fighting for a just cause is simultaneously fighting for one or more unjust causes as well. But, if military action in pursuit of a just cause does not contribute to the achievement of an unjust cause, it can be morally justified even if in other military action the same belligerent is wrongly pursuing an unjust cause. Virtually all violent action by Hamas, however, is intended to contribute, and does contribute, to the achievement of unjust goals. Indeed, to the extent that any violence by Hamas succeeds in causing harm, it *constitutes* the *partial* achievement of Hamas's goal of inflicting any harm it can on Israel or on Israeli Jews.

Statman and I do not, therefore, disagree about Hamas and its aims. But, again, what Hamas seeks to achieve is irrelevant to whether the Palestinians have claims of justice against Israel that might in principle be permissibly pursued by means of war. In various places in his essay, Statman cites certain types of event or act, the prevention of which would, he seems to think, be a just cause for war. They include.

- 1) the threat of "loss of political independence," (Statman 2025, 185)
- 2) "a violation of territorial integrity and of sovereignty," (192)
- 3) threats of "mass murder, enslavement, or other egregious violations of human rights," (192)
- 4) threats to "the most fundamental human rights, safety, and simply the lives, of" a people, (192)
- 5) "harm to life, limb and property," (194) and

- 6) “wide disruption of ordinary life, personal safety and basic human rights, mass expulsion... .” (198)

For many decades, Israel has deprived the Palestinians of political independence, territorial integrity, and sovereignty. It has subjected them to egregious violations of human rights, imperiled their safety and their lives, caused harm to life, liberty, and property, and widely disrupted their ordinary life. It has in the past subjected them to mass expulsion and now threatens to do so again. Israel has rendered the Palestinian people stateless, occupied the areas where they live, blockaded those areas, harassed people in their homes, subjected them to detention, bulldozed their houses, stolen and established settlements on land on which they have lived for many generations.

Statman is explicit in asserting that Israelis would be justified in using military force to defend themselves from being made stateless, to preserve their political independence and territorial integrity, to prevent the violation of their human rights, to resist mass expulsion, and so on. But if a people are permitted to use military force to *prevent* themselves from being subjected to these various forms of harm, it must also be true that a people can be justified in using military force to *free* themselves from these same conditions when they have been imposed on them by another people. It would be absurd, for example, to assert that a people have a right to go to war to prevent themselves from being enslaved in the way that Africans were once enslaved in what is now the eastern United States, but then to assert that, once a people are enslaved, they then have no right to initiate an insurrectionary war to free themselves. Similarly, if a people have a right to go to war to prevent themselves from being conquered and subjugated, they must also have a right to go to war after they have been conquered in order to free themselves – that is, to restore the conditions in which they lived before being conquered – particularly if they could do so by means that would cause less harm than they were permitted to cause to prevent themselves from being conquered in the first instance.¹ Statman is thus mistaken to assert that “What McMahan’s approach implies is that a country has a right to go to war only for the sake of undoing ongoing unjust attacks.” (185) (It is perhaps worth noting that, apart from his brief remarks about David Rodin’s view of “national defense,” Statman’s discussions of the morality of the resort to war refer only to “countries” and never to “peoples” or “nations,” thus implicitly ruling out the possibility of a just war by a stateless nation such as the Palestinians.)

In several places, Statman cites an essay I wrote about Russia’s unjust war of aggression against Ukraine, mainly to argue that the threat to Ukraine from Russia

¹ For a contrary view, see Ripstein 2021. For a rebuttal, see Section 2 in my 2021b, in the same book.

is far less serious than the threat to Israel from Hamas (an argument to which I will return). But he does not deny that Ukrainians have a just cause for war against Russia. I suspect, however – though this is of course speculative – that the wrongs done to and the harms inflicted on innocent Palestinian civilians by Israel in both Gaza and the West Bank for well over half a century have been worse – at least per capita – than those that Russia would inflict on Ukrainians if it were to defeat Ukraine in the current war.

The injustices to the Palestinians of which Israel has been guilty for more than half a century are now being vastly and increasingly magnified by Israel's continuing invasion of Gaza. The civilian infrastructure there has been utterly destroyed in what, to an impartial observer, has to be understood as an effort to expel the population. Israeli settlements in the West Bank have also been greatly expanded in recent years, so that there are now over half a million Israeli settlers there (and another 220,000 in East Jerusalem), and violence against the civilian population by settlers and by the Israeli army and police continues to increase. This all seems clearly intended to make it impossible for the Palestinians ever to be able to form a state in the West Bank. Israel's war in Gaza, and its related action in the West Bank, have, in short, made the Palestinians' just causes all the more urgent and vital. And the war has created a new and even more desperate just cause: the protection of the civilian population of Gaza from a massacre that has been both unnecessary and disproportionate in relation to Israel's just cause of protecting its own civilian population. And this new just cause is one that the Palestinians have been wholly unable to pursue, either physically or morally (since, as I observed earlier, violent resistance to the IDF by Hamas only exacerbates the slaughter of Palestinian civilians).

3 Necessity

In Section 2 of his essay, Statman defends Israel's war in Gaza from the charge that it has violated the *ad bellum* requirement of necessity. Here he seems to argue that Israel's war has satisfied this requirement, though at the end of Section 5 he seems to claim that states that have been attacked are not subject to such a requirement (just as he explicitly claims that states are not subject to a requirement of *ad bellum* proportionality). There he writes that both Israel and Ukraine “were exempt from the obligation to assess the overall harms and benefits of the war, as well as from the duty to delay their military response until all non-violent options were exhausted.” (203) I will assume, however, that he accepts a requirement of *ad bellum* necessity, in part because he argues that Israel's war has been in some sense necessary and in part because it is a mistake to suppose that the necessity condition requires what he claims it does – namely, that all nonviolent options be tried without success before

war can be justified. Just as it would be preposterous to suppose that a person under attack by a murderer with a knife must attempt every possible nonviolent response before defending himself, so it would be equally absurd to demand that a people under military attack should attempt every possible nonviolent response before finally using force to defend themselves. The requirement of necessity is satisfied if no option other than that chosen *would* be a *morally better means* of achieving a just cause.

Other assumptions about the requirement of necessity that Statman makes are also mistaken. He writes, for example, that “a war must be avoided if there are non-violent ways that could achieve more or less the same goal” and that necessity requires a comparison between the resort to war and “measures short of war.” (184 & 191) A course of action involving the use of military force satisfies the *ad bellum* requirement of necessity if it is morally the best means of achieving a just cause.² But much depends on how the just cause is specified. In the literature on the notion of a just cause for war, the relatively few goals that are discussed as possible just causes are usually specified in quite general terms, such as “national defense” or “defense against aggression.” But these phrases are quite vague. Defense of *what* against *what kinds* of threat? As Statman’s phrase “more or less the same goal” suggests, a goal can be specified with greater or lesser precision, or more or less narrowly or widely. In the case of Israel’s war in Gaza, for example, some insist on a very narrow understanding of Israel’s just cause as the eradication of Hamas by killing virtually all of its members. A very wide understanding might be the prevention of any serious harm to Israelis that might be inflicted by Palestinians. What would be necessary to achieve the first of these goals is different from what would be necessary to achieve the second.

I am unaware of anyone’s having proposed a criterion – much less an acceptable one – for determining the best and most precise specification of a collective’s just cause for war when it seems clear that it *does* have a justification for resorting to war. But what is required by the necessity condition depends crucially on the content of that best and more precise specification of the just cause. For the sake of argument, I will, in the discussion that follows, assume that Israel has a just cause that is neither excessively narrowly nor widely specified – namely, ensuring that Hamas does not inflict any further serious harm on Israeli civilians. This is what I will mean henceforth when I refer to Israel’s just cause.

One question – which Statman seems to think is *the* question – is whether war by Israel has been necessary to achieve this just cause. But Statman also writes as if ‘war’ were a single option that contrasts with ‘measures short of war.’ But Israel

2 For a defense of this understanding of the requirement of necessity, see McMahan 2021a. For a related view, see Lazar 2012.

had and has continued to have indefinitely many military options – or *types* of war – to choose among. This being the case, war in the broadest sense – action involving some use of military force in Gaza – might well have been necessary for the achievement of Israel's just cause in the aftermath of October 7. But that leaves it an open question whether the *type* of war that Israel has fought has been necessary. So we must also answer another question – that is, has the war, or type of war, that Israel has in fact fought been necessary in the sense of being morally the best means of achieving Israel's just cause? Although I regrettably failed to make this as explicit as I am trying to do here, this is in fact the question that I addressed in my initial essay on the war in Gaza – *not* the question whether war of some sort, rather than wholly nonviolent means, has been necessary, in the relevant sense, for the achievement of Israel's just cause.

Another highly important point here is that a goal that constitutes a just cause for war can be achieved to a greater or lesser degree. And the requirement of necessity does not imply that only a war that would achieve the just cause with the greatest degree of completeness could be necessary. Suppose, for example, that a war fought for a just cause could be fought in either of two different ways, or by means of two different wars or types of war. One way of fighting – or one war – would achieve the just cause with a greater degree of completeness but would cause more harm to innocent enemy civilians. The other would achieve the just cause less completely but would cause less harm to enemy civilians. Suppose that the harm that each war would inflict on enemy civilians would be proportionate. Even though the war that would achieve the just cause more fully would also be proportionate, it could be that the greater harm it would inflict on innocent people would make it a morally less good means of achieving the just cause, all things considered. In that case, only the war – or way of fighting – that would achieve the just cause *less* completely would satisfy the requirement of necessity. Similarly, a war that would cause more harm to enemy civilians than a different war or way of fighting may nevertheless satisfy the requirement of necessity because it would more fully achieve the just cause. It would be morally necessary even though it would *not* be, in Statman's words, "the least harmful option." (186) (These claims assume that the harms that an enemy fighting an unjust war would cause do not count among the harms that a war fought for a just cause would cause.).

Having made the foregoing considerations explicit, we can now address the question whether the type of war that Israel has chosen to fight has been necessary to ensure that Hamas will not inflict further serious harm on Israeli civilians. The claim in my earlier essay, which I think becomes more evidently true with each passing day, is that the war that Israel has fought has not been the morally best means of achieving Israel's just cause. The war that Israel has fought has, at the time of writing, killed more than 50,000 Palestinians and wounded another 116,000, most

of whom have been children and women (who, in an Islamic culture, do not pose a threat). More than 90 percent of the population of Gaza have been forced to flee their homes, many or most of which have since been destroyed by the relentless bombing of residences, hospitals, schools, refugee camps, and other shelters. This has not eliminated, and will not eliminate, the threat from Hamas.

Many Hamas militants have been killed or wounded, though how many is not known (the IDF has provided figures, but its lies have been too often exposed for it to be regarded as a reliable source of information). But even if, as seems unlikely, a majority of the members of Hamas have been killed, this will not eliminate the threat that this or some successor organization will continue to pose to Israel and Israeli civilians. The mass killing and dispossession of civilians in Gaza, along with the ever-increasing violence against and dispossession of civilians in the West Bank that has been facilitated by the war in Gaza, has inflamed, and will continue to inflame, the hatred for Israel and Israelis by Palestinians and other populations in the region. One has only to consider the vast number of boys in Gaza who have witnessed the killing or mutilation of one or both of their parents, or one or more of their siblings, by an Israeli bomb, or who have themselves been injured but survived. As I wrote for an article in the Israeli newspaper *Haaretz* in November 2023, “for every Hamas member Israel kills, it recruits at least two more from among the civilians it leaves submerged in grief and hatred, aflame with a desire for vengeance for the killing or maiming of their child, parent, spouse, sibling, or friend.”³

Hamas achieved power in Gaza in 2006 and has continuously sought to inflict harm on Israelis ever since. In this, however, it has been notably unsuccessful, as I observed in my essay. According to the United Nations Office for the Coordination of Humanitarian Affairs, in conflicts with Palestinians between 2008 and 2025, only 204 Israeli civilians, of whom 106 were settlers, have been killed, excluding any killed in incidents related to the current war in Gaza.⁴ As I also noted in my essay, the only reason that Hamas was able to kill so many people on October 7 is that the Israeli government had become so complacent about the threat from Hamas that Israel was wholly unprepared to contain the incursion, which it could easily have done if the government had taken the threat seriously. Once the invaders had fled or been killed, the situation in Israel reverted to the status quo ante, except that the government then began to enact some of the defensive measures that it ought to have taken before the incursion, thus making it even less likely than before October 7 that Hamas could inflict substantial harm on Israelis.

³ <https://www.haaretz.com/israel-news/2023-11-27/ty-article/premium/war-is-always-hell-moral-philosophers-on-the-ethics-of-israels-battle-with-hamas/0000018c-10b8-d2ae-afcf-35fabe230000>.

⁴ See <https://www.ochaopt.org/data/casualties>.

In my essay, I offered a list (which Statman rehearses early in his section on necessity) of some of the courses of action that Israel could have taken in the immediate aftermath of October 7 that would have reduced even further the ability of Hamas to harm Israelis. I also provided evidence of the lack of support for Hamas among Gazans before October 7. Statman disputes this evidence and notes that support for Hamas has significantly increased since it became possible to take polls in Gaza after October 7. His appeal to the elections in 2006 to demonstrate support among Gazans for Hamas prior to October 7 ignores changes in attitudes between a time when Gazans had little experience of Hamas and the later time, just prior to October 7, when they had had 17 years of experience of rule by Hamas and no opportunity in further elections to free themselves from that rule. (His citation of my claim that “*some* adult Gazans voted for Hamas in 2006” distorts my meaning, which was that *some* of the Gazans who were adults *in 2023* had voted for Hamas in 2006. This was intended to emphasize that in a society in which nearly half the people are children (as I had noted two sentences earlier), a great many of the people who were adults in 2023 had been too young to vote in 2006.) While I think it is irrational, it is perhaps not surprising that support for Hamas increased after the Israeli invasion began, as Palestinians tended to regard Hamas as their champion against the oppressor. I do not believe, as Statman suggests, that support for Hamas increased because ordinary Gazans admired Hamas for “its success in humiliating Israel on October 7.” (191) But I concede that the basis of my disbelief is not any empirical evidence but only my sense that it is unlikely that ordinary people who only a few days earlier told pollsters that they had little or no trust in a group that claimed to lead them would then suddenly come to admire that group just because some of its members had just slaughtered a large number of innocent people, including children – albeit innocent people in an oppressor state.

The main reason why the war that Israel has fought in Gaza has been morally unnecessary, and indeed ultimately counterproductive, is that the only way to eliminate the threat to Israel from the Palestinians and their supporters, other than simply killing them all, is to grant them justice, thereby eliminating their just causes against Israel. Statman repeatedly refers to the goals stated in the Hamas Charter. These are the goals of religious and ideological fanatics. They are not only thoroughly evil but also obviously unattainable. An ordinary Palestinian could endorse such goals and strive to achieve them only if provoked beyond endurance by persistent and unconstrained injustice and violence.

Imagine offering ordinary Palestinians the choice between two options:

- 1) The establishment in Gaza and the West Bank of an independent Palestinian state with security guarantees from international institutions for both Palestinians and Israelis (for example, UN peacekeeping forces stationed in various locations in both states).

- 2) Perpetual violent conflict between Palestinians and Israelis with the ultimate goal of eliminating the state of Israel by killing many or most Israeli Jews and expelling the remainder from the 'land of Palestine.'

It is hard to imagine many ordinary Palestinians preferring the second of these two options. And I believe – though I cannot argue for this here – that it has all along been Israel's moral *duty* to respect the rights of Palestinians as a nation to political independence, sovereignty, territorial integrity, and safety, as well as various other human rights – rights that, when threatened with violation, Statman accepts may give a nation or state a just cause for war. The only difference is that most other nations already have a sovereign state that protects their political independence, safety, and human rights, whereas the Palestinians have, from the founding of the state of Israel, been prevented from attaining in the first place what these rights are supposed to protect. Because of these considerations, it seems to me obvious that the morally best – and most effective – way of achieving Israel's just cause of ensuring that Hamas will not inflict further serious harm on Israelis is for Israel to fulfill the duties it owes to the Palestinians that it has been violating for many decades.

Statman argues that my claims about the requirement of necessity in its application to the war in Gaza are inconsistent with my claims about its application to the war in Ukraine. I believe, however, that Ukraine's war against Russia and Israel's war against Hamas have almost nothing in common. Here are just a few of the important differences. First, whereas Israel owes the Palestinians justice, and respect for their rights as a nation, Ukraine owes nothing to Russia, which has repeatedly attacked, starved, oppressed, and betrayed Ukraine for well over a century. If anything, the relation of Israel to the Palestinians is relevantly similar to Russia's relation to Ukraine. Second, Russia is more populous, wealthier, and more powerful than Ukraine, whereas Hamas is virtually powerless against Israel, which has vastly greater military and political power. Third, Israel's war is being fought in Gaza, whereas Ukraine's war is being fought mostly in Ukraine. Thus, while Israel has been inflicting a vast number of casualties on Palestinian civilians, Ukraine has caused relatively few casualties among Russian civilians. As Statman notes, the casualties in the Ukraine war have been more numerous than those in the Gaza war. But this is hardly surprising given how much larger the warring populations and their territories are in the war in Ukraine. And, more importantly, the victims in the war in Ukraine have been overwhelmingly either Russian unjust combatants, Ukrainian just combatants, or Ukrainian civilians. The deaths of Russian soldiers are to be regretted, but I believe that many or most of these unjust combatants are morally liable to be attacked and, if necessary, killed; hence killing them does not

have the same moral significance for the requirement of necessity as the killing of innocent civilians.

Statman later attempts to expose an inconsistency in my view by citing earlier work in which I acknowledge that a war can be impermissible solely because of the harm it would cause to unjust combatants. I still accept that that can in principle be the case, though normally only when unjust combatants have substantial excusing conditions and the just cause is *comparatively* insignificant. If, for example, the UK had had to kill far more Argentinian combatants than it in fact killed in order to retain its sovereignty over the Falkland Islands, the Falklands War might have violated the requirement of necessity because a political compromise would have been a morally better means of resolving the dispute about the ownership of the islands. But in the war of aggression by Russia in Ukraine, there is much more at stake than sovereignty over some tiny islands with only a few thousand inhabitants.

The deaths of the Ukrainians are being caused by Russia, not by Ukraine; and polls have shown that the actual and potential Ukrainian victims, especially the soldiers but most of the civilians as well, have preferred to continue the war of defense in the effort to prevent themselves and their descendants from being subject to Russian control and domination – to prevent the man who is responsible for murdering, mutilating, torturing, or kidnapping nearly half a million Ukrainians from becoming their dictatorial ruler.⁵ Their tacit consent to accept the risks of war reduces the weight that harms to them have in determining the necessity of their war of defense. By contrast, Palestinian civilians obviously in no way consent to the risks imposed on them by Israel.

Finally, Statman's remarks about necessity assume that Israel's just cause – for which the war has supposedly been necessary – includes the deterrence of not only Hamas but also of “other Palestinian organizations, ... Hezbollah and Iran.” (187) To show that the war as it has been fought has been effective as a deterrent, he cites a Hamas official's having “said that he would not have supported the attack on Israel had he known of the devastation it would wreak on Gaza.” (187) ‘Devastation’ here clearly does not refer only to the killing of Hamas militants but also, and indeed mainly, to the mass killing of Gazan civilians and the destruction of Gaza as a place where people can live. It seems highly likely that the devastation that Israel has wrought in Gaza will have a deterrent effect in the future not just on Hamas but also on Hezbollah, Iran, and other entities that might be tempted to attack Israel. But the pursuit of deterrence by means of war is subject to various constraints.

Deterrence of aggression can be a just cause for war, but only when those harmed are morally liable to be harmed specifically for the purpose of deterrence.

5 <https://kyivindependent.com/a-very-bloody-war-what-is-the-death-toll-of-russias-war-in-ukraine/> Casualty figures are of course disputed.

If, for example, the members of Collective A are threatened with wrongful harm by some of the members of Collective B, those members of B may be liable to be harmed both for the purpose of defense and for the purpose of deterring other members of B from continuing to threaten the members of A. The members of B who threaten A can also be liable to be harmed as a means of preserving deterrence not only against further threats from B now and in the future but also against potential threats from others, such as Collective C. This is because, if the threatening members of B are not effectively resisted, their successful aggression against A could weaken deterrence by A of other potential attackers. They are thus morally liable to be harmed by A as a means of maintaining the deterrence of others that may otherwise be weakened by their wrongful action (Farrell 1985).

None of this applies, however, to harms inflicted on members of Collective B who are not responsible for the threat to A. If A's harming nonliable members of B as a side effect helps preserve or strengthen A's deterrence of aggression by C, that good effect does seem to count in the assessment of whether this *unintended* harming of those nonliable members of B is proportionate in the wide sense. But if A uses the harming of nonliable – that is, innocent – members of B as a *means* of deterring *either* further harm by threatening members of B *or* harm by other potential threateners, then A is guilty of *terrorism*. For using the harming of innocent people as a means of influencing the action of the leaders of states or other political organizations is terrorism. In suggesting that the 'devastation' that Israel has inflicted on Gaza is justified by the deterrent effect it will have not only on Hamas but also on Hezbollah and Iran, Statman comes close to claiming that the mass killing of civilians and the destruction of their homes and living areas in Gaza has been justified as a means of deterring threats to Israel from people other than those civilians.

4 Proportionality

In Section 3, Statman makes six points about *ad bellum* proportionality. I will respond to each in turn.

(i) Like Michael Walzer, whose claims I quoted in my essay, Statman contends that there is no *ad bellum* proportionality requirement, except when the threat to "a country" is "very minor." (192) The first reason he gives to explain why there is no such requirement is that it is "unrealistic" to expect a country to surrender to an aggressor when effective defense is possible but would cause "disproportionate harm to its *enemy*." In short, *ad bellum* proportionality is too demanding to be a moral requirement. For the principle of *ad bellum* proportionality to be "action-guiding," he suggests, we must make up a new version, "formulating" it so that it does not demand of us more than we are willing to do. (This latter claim has, of

course, no force with those who, like me, believe that the truths of morality are unaffected by our preferences about them.)

One admittedly imperfect test of the plausibility of the claim that *ad bellum* proportionality is 'limited to minor threats only' is to consider the parallel claim about individual self-defense. Suppose that the only way one can prevent oneself from being killed by a culpable attacker would kill 50 children as a side effect. I do not think it is 'unrealistic' to accept that one is, in these circumstances, morally required to allow oneself to be killed – even if doing so would reduce the deterrence of other aspiring murderers who might be tempted to surround themselves with children. This is not, moreover, an unfair example. As I argued in my earlier essay, I think it is unreasonable to believe that Israel's war in Gaza will save the life of at least one Israeli civilian for every 50 Palestinian children who have been killed by the IDF.

It is possible, of course, that there is some explanation of why the case of collective defense is different morally from that of individual defense. But even if that were so, so that there are indeed instances in which people are permitted to cause as much harm to innocent people in an *enemy* population as is necessary to defend themselves from a serious threat, the threat to Israel from Hamas has not been of this sort. Statman writes at one point that if "Hamas had retained its military and political power after October 7, the threat to Israel from all directions would have been momentous." (191) Later he writes that "the threat to Israel by Hamas and its allies was much more severe than that posed to Ukraine by Russia," as "the threat Israel faced" in the aftermath of October 7 was "mass murder" and "mass expulsion." (198)

Understood in what seems a literal way, this comparison between the threats from Hamas and Russia may be true but is morally and otherwise irrelevant. What Statman seems to refer to here is what Hamas and Russia would have done if they had encountered no forceful resistance whatsoever. In that case, Hamas would indeed have murdered vastly more Israeli Jews than they were able to on October 7, but Russia would probably have only disarmed Ukraine's military, stationed Russian soldiers throughout the country, imprisoned Ukraine's political leaders and other officials, and installed a range of leaders subservient to Putin.

Statman cites the Hamas Charter and other documents as evidence of the magnitude of the threat that Hamas poses. But the measure of the gravity of a threat from an aggressor to either an individual or a society is not what that aggressor would do if wholly unconstrained and unresisted. Suppose there were a single Palestinian in Gaza armed with a toothpick who fully intends to use it to murder every Israeli Jew – and certainly would do that if he could, even if the killings had to take the form of 'death by a thousand cuts.' Such a person would not pose a threat of mass murder. What a threatener intends, or *would* do if unconstrained, matters to

the seriousness of a threat, but the capacity to fulfill an intention and the probability of being able to fulfill it also contribute to the magnitude of the threat.

There is no reason to believe that Hamas was exercising tremendous restraint on October 7 in killing only 736 Israeli civilians and taking another 250 civilians and soldiers hostage, when it could instead have engaged in far greater mass murder and mass expulsion of Israelis. It is more reasonable to believe that Hamas inflicted the maximum harm of which it was capable on that day – a maximum that greatly exceeded any it had been able to inflict previously only because the Israeli government simply did not take the threat from Hamas seriously.

Since, despite all its efforts, Hamas, along with a few other smaller Palestinian groups, was able to kill fewer than 1,000 Israeli civilians between 2008 and October 8, 2023, it is implausible to claim that it would have posed a serious threat of mass murder and mass expulsion to Israelis in the days, weeks, and months following October 7 if Israel had not pummeled Gaza into rubble. As I have conceded, it is possible that some forms of military action *in Gaza* were necessary in addition to strengthening defenses on the Israeli side of the fence to achieve Israel's just cause in the aftermath of October 7. But, as I argued earlier, there were indefinitely many types of war open to Israel, and all the evidence we have about Hamas's capabilities both before and after October 7 indicates that a war by Israel that would have been proportionate in the harm it caused to Palestinian civilians would have been sufficient to ensure Israel's security from threats from Hamas in the near future. I also believe, for reasons I gave in my earlier essay, that the measures I listed in Section 7.2 of that essay, including recognizing and respecting the rights of the Palestinian nation to self-determination and sovereignty, would have been *more effective* than Israel's war has been in ensuring Israel's long-term security from Hamas. This alternative course of action would, of course, have required the Israeli government's abandonment of its clear determination eventually to annex Gaza, the West Bank, and East Jerusalem. This is why a proportionate option was not pursued – not because effective defense against Hamas required the vastly disproportionate (and, I now believe, intentionally indiscriminate) war that Israel has fought instead.

A final comment. Given any understanding of the term 'threat' found in ordinary language, the fact that Russia has caused perhaps as many as half a million casualties in Ukraine while Hamas has been able to kill or injure only a tiny fraction of that number of Israeli soldiers and civilians since October 7 seems sufficient to refute the claim that "the threat to Israel by Hamas ... was much more severe than that posed to Ukraine by Russia."

(ii) The second justification Statman gives for the view that there is no *ad bellum* proportionality requirement except in the case of very minor threats is that, if there were such a requirement, it would be "morally unfair." (193) It would, he claims, be

unfair to require a “country” with a serious just cause to refrain from achieving it only because its achievement would require that the harm the country would have to inflict on innocent members of the “enemy population” would be far greater than the harm it would prevent – and would therefore be disproportionate. This is, he asserts near the end of his essay, even more emphatically true when enemies use their own civilians as human shields. Thus, he writes, “countries must be exempted from the requirement to consider the harm to enemy civilians that results from their enemies’ cynical use of human shields.” (202)

We can again test the plausibility of this claim by considering the case of a single individual. Suppose, first, that an innocent person is about to be murdered by a single culpable attacker who, entirely fortuitously, happens to be surrounded by 50 innocent children, and that the only effective defense available to the potential victim would unavoidably kill all 50. To me it is unimaginable that morality would ‘exempt’ the victim ‘from the requirement to consider the harm to’ the children. Knowingly to kill 50 children in the course of saving one’s own life would be *morally monstrous*. Nor would it make any difference whether the children were or were not of one’s own nationality. Their ‘collective identity’ is morally irrelevant. Finally, I believe that it makes no difference to the impermissibility of killing 50 children whether the murderer would be deliberately using the children as innocent shields. That consideration has no bearing on their right not to be killed, though if the murderer were using them as shields, that would of course greatly compound the heinousness of his action.

Next consider what Statman’s view implies about certain other cases involving peoples, or nations. Suppose there is a nation – that is, a large group of people united by shared ancestry, culture, language, religion, and so on – that has a sovereign state that coordinates the action of the citizens and protects their freedom and self-determination. Statman accepts that if the people of this nation are threatened militarily by another state that intends to conquer them, subjugate them, and occupy their territory indefinitely, they have not only a just cause for war but also a right to go to war unconstrained by considerations of what I refer to as ‘wide proportionality’ – that is, proportionality in harm caused to people who are innocent in the sense of not being morally liable to be harmed.

It is, however, as I argued earlier, arbitrary to suppose that only those nations that already have a state are entitled to use force to secure their rights to political independence, self-determination, and freedom from occupation, domination, economic blockade, groundless detention, confiscation of property, destruction of homes, and so on. It seems, therefore, that the Palestinians in Gaza and the West Bank have for many decades had a just cause for war against Israel – a war for national liberation and the establishment of a Palestinian state. They have been

forcibly kept by Israel in a condition that Statman believes Israel would be justified in using disproportionate force to avoid being placed in.

The double standard is glaringly evident in his comment about what would have happened “if Israel had refrained from going to war, instead focusing on improving its defensive systems and taking steps to advance the two-state solution.” Had Israel not gone to war in the way it has, “normal life in Israel – its economy, industry, culture, and tourism – would have been severely disrupted” (204) I think it is not unfair to observe that normal life for Palestinians – their economy, industry, culture, and tourism (such as they are) – have been catastrophically disrupted by decades of occupation, blockade, and systematic oppression and persecution. If Israel really wanted peace with the Palestinians, it would long ago have allowed them to have something approximating ‘normal life.’

Suppose that we reject the double standard. Precisely because the conditions of occupation and blockade imposed by Israel have prevented Palestinians from being able to develop any form of conventional military forces, they have been compelled to choose between nonviolent resistance and terrorism as their means of trying to achieve the conditions of life that Israel and other nations already enjoy, and would be entitled to go to war to preserve. The Palestinians have for the most part – in my view both wrongly and foolishly – chosen terrorism. There is, however, a challenge here to the consistency of Statman’s views.

Terrorism is the intentional harming of innocent people *as a means* of achieving a goal. It violates the just war requirement of discrimination. My contention has been that Israel’s war has been unjust primarily because it has harmed *too many* innocent people *as a side effect*. It has violated the just war requirement of wide proportionality. Statman believes that it would be morally unfair for Israel to be required to refrain from using disproportionate force to avoid being placed in conditions similar to those that the Palestinians have been in for decades. Yet he also believes that it is not morally unfair for the Palestinians to be required to refrain from using indiscriminate force to extricate themselves from these conditions. Indeed, his claim is that Israel is permitted to cause disproportionate harm to innocent people to prevent Palestinians from causing any indiscriminate harm to Israelis as a means of being able to have the rights and freedoms that Israelis enjoy. This is the case even though Israel’s use of disproportionate force has killed vastly more innocent people over many decades than the Palestinians’ use of indiscriminate force has killed over the same period.

I believe the combination of these views is indefensible. It is not true that the requirement of discrimination is inviolable while the requirement of proportionality has no application except in response to very minor threats. What discrimination forbids is the *intentional* killing of the innocent; what proportionality most commonly forbids is the foreseen but unintentional killing of an *excessive number*

of innocent people – a number too large to be justified as the lesser evil. There is no reason to suppose that the first of these just war requirements is morally more important than the other. There is, indeed, a case for believing that the reverse is true. I accept that it is morally worse if innocent people are killed intentionally than if they are killed foreseeably but unintentionally. But the *number* of innocent people who are killed matters at least as much as what is in the killer's mind or whether the deaths function causally as a means to a good end. (One might even think that if the deaths of innocent people serve as a means to a good end, that is *better* than if they serve no purpose at all but are merely foreseen side effects. I do not myself believe this but it takes some work to explain why it is mistaken.)

Nor, I think, is there any plausibility to the idea, to which I have twice referred earlier, that if a nation is free and self-determining, it has a right to use military force to prevent itself from being subjugated by another nation, but that once a nation has been subjugated by another, it has no right to use military force to restore its freedom and self-determination. There is, therefore, an inconsistency between Statman's view that it is *permissible* for Israel to kill and maim a *disproportionate* number of innocent Palestinians as a side effect of ensuring that Hamas does not harm any Israelis (while also ensuring that the Palestinians remain stateless and subjected to Israel's control), while it is *impermissible* for Palestinians to harm innocent Israelis *as a means* of trying to free themselves from Israel's control. (There is, I should mention, another reason why I believe the use of force by Palestinians against Israelis is nevertheless wrong, which is that any violence of which they are capable cannot be effective in forcing Israel to allow them to be free and self-determining and must therefore violate the requirement of necessity. In another context, however, Statman seems to reject this requirement as well. He argues that the Jews in the Warsaw ghetto uprising were justified in killing Germans even though more might have survived if they had tried to escape rather than fighting. "It was not," he writes, "their lives the rebels were fighting for but their honor (Statman 2008, 665)." Statman believes, in other words, that it can be permissible to kill people when it will do no good other than to defend the killer's honor. I believe a much better justification for the killings by the rebels was that they prevented the Germans they killed from harming *other* Jews in the future.)

(iii) Statman's third reason for rejecting an *ad bellum* proportionality requirement is that it could be exploited by an unscrupulous adversary to prevent a person or group of people from doing what they would otherwise be morally permitted or even required to do. Suppose, for example, that in the case I cited earlier, the potential murderer has deliberately surrounded himself with 50 children in order to make defensive action by his intended victim disproportionate. This is of course possible; but that the murderer has done this does not make it permissible to kill the 50 children. It would, more generally, be absurd to suppose that, if a requirement

could ever be used by a wrongdoer to facilitate wrongdoing by exploiting another person's moral scruples, then it cannot be a moral requirement.

(iv) Statman's next objection to *ad bellum* proportionality is that it is too demanding epistemically; and he is right that there are normally a great many uncertainties. But Israel's war in Gaza has been an exception: there have been very few significant uncertainties in this case.

There are two distinct proportionality requirements: narrow proportionality, which is proportionality in the harming of people who are liable to some degree of harm, and wide proportionality, which is proportionality in the harming of people who are not liable to the harm inflicted on them. Members of Hamas are liable to some degree of defensive harm. Any who might contribute to a massacre of the kind that Hamas carried out on October 7 are liable to be killed, so that killing them would be proportionate in the narrow sense. There may be some members of Hamas whose roles are sufficiently unimportant that killing them would not contribute to the safety of Israelis. These are not morally liable to be killed but, because they cannot normally be distinguished from the others, killing them is excusable on the ground that it is reasonable to believe that they do pose a serious threat. And, as members of a terrorist organization, they would have no legitimate complaint if they were to be killed in ignorance of their rank in the Hamas hierarchy.

Similarly, there are bound to be some civilians who are not members of Hamas but nevertheless contribute in various important ways to the threats that Hamas poses. They are liable to some defensive harm, though how much harm they are liable to depends on the extent of their contribution. Here too there are insuperable epistemic problems. But the norm is that, unless one has specific information about a civilian that shows that civilian is implicated in threats of wrongful harm, one must presume that any civilian is not liable to be harmed. This presumption is clearly correct in the case of children and also in the case of women in Gaza, who are mostly Islamic and therefore in general debarred from participation in war. And it was evident from very early in the war that the main victims of harm inflicted as a side effect by the IDF were children and women – hardly surprising given that in Gaza, 47.3 percent of civilians are children. As soon as it became clear that Israel was killing huge numbers of children and women, the IDF could have changed its mode of fighting to avoid causing disproportionate harm to the innocent; and I have argued that Israel's security would not have been imperiled had it done so. But it has been evident from very early in the war that the Israeli government has not sought to minimize Palestinian casualties but has instead welcomed them, provided it could plausibly deny that they were caused intentionally.

(v) One further epistemic complaint that Statman has about proportionality is that it requires us "to compare incommensurable values." (194) But the values that

must be compared in determining whether Israel's war in Gaza would be disproportionate in the wide sense are not incommensurable. Indeed, they are the same values. What must be weighed against one another are the deaths of and injuries to innocent Israelis that would otherwise be caused by Hamas and the deaths of and injuries to innocent Palestinians caused by the IDF in Gaza. And even the probabilities became clear very early in the war, in that it was obvious that there was little chance that Hamas could, in the relatively near future, inflict significant harms on innocent Israelis, but that Israel's mode of fighting was virtually certain to continue to kill and mutilate innocent Palestinians in huge numbers.

(vi) Statman next claims that "McMahan attempts to get around the above epistemic difficulties by relying on what he regards as robust intuitions about the trolley problem." (195) But my invocation of the trolley problem had nothing to do with the epistemic problems that Statman cites. I cited the trolley problem simply to establish a common-sense baseline for thinking about how many innocent people it can be permissible to kill as a side effect of saving the lives of a certain number of different innocent people. Statman does, however, state a challenge: "why assume that intuitions regarding the use of such force in non-war contexts would be a good guide for killing at war?" (196) Since I and others who have sometimes been referred to as 'reductive individualists' have argued at great length in many places that a state of war does not suspend ordinary principles that govern the morality of killing or bring into effect an entirely different set of principles, I will simply refer the reader to some of the vast literature on this matter.⁶

5 The Comparison Between Gaza and Ukraine

In Section 4, Statman seeks to identify inconsistencies between my claims about proportionality in Ukraine's just war against Russia and what I argue is Israel's unjust war in Gaza.

His first criticism is that I do not "factor into proportionality assessments" the harm to unjust combatants. As I indicated earlier, I am not in fact guilty of this omission. But Statman, in his criticisms, has omitted to take adequate account of the distinction between narrow and wide proportionality. As I noted in my original essay and again in this response, I believe that Hamas militants who pose a threat of serious harm to Israeli civilians are morally liable to be killed. That *entails* that killing them is proportionate in the narrow sense. Their deaths cannot therefore contribute to making Israel's war in Gaza disproportionate.

⁶ See, for example, McMahan 2009, esp. Section 2.5, and Frowe 2014, esp. ch. 5.

It is more difficult to assess the liability of IDF soldiers in Gaza. Some of their acts of war – though in my view a relatively low proportion – have been morally justified. But if, as I believe, most acts of war by the IDF have violated a requirement of necessity or proportionality, or perhaps even of discrimination, the IDF soldiers who have carried them out have been liable to be killed to prevent them from doing so. And even if an IDF soldier is not liable to be killed to prevent a justified act of war, that same soldier may nevertheless be liable to be killed if he would later be likely to engage in acts of war that would be unnecessary, disproportionate, or indiscriminate.

That a person is liable to be killed does not, however, entail that it is permissible to kill him. All it entails is that, if he is killed, he is himself *not wronged*. But, as I argued earlier, the net effect of violent resistance to IDF forces in Gaza has been to prompt the IDF to engage in “force protection,” which has greatly increased the IDF’s killing of Palestinian civilians. So, even if many IDF soldiers are liable to be killed to prevent them from killing Palestinian children, in most cases it has been wrong for Hamas militants to fire on them in Gaza.

Russian combatants in Ukraine are morally liable to be killed. They are engaged in a war of conquest and have no legitimate targets. All of the people they are attacking, including Ukrainian soldiers, are innocent in the relevant sense. Even those Russian combatants who have excuses of ignorance or duress remain liable. If either an aggressing Russian soldier or a Ukrainian soldier or civilian must die, it is more just that it be the Russian, even if he is fighting under duress. Killings of Russian unjust combatants by Ukrainian just combatants are therefore proportionate in the narrow sense, and thus do not, in the prevailing circumstances, threaten to make Ukraine’s war disproportionate in either sense.

Because Russia’s war lacks any just cause, it is not possible for it to be proportionate or disproportionate in either the narrow or the wide sense. Proportionality weighs unjust or bad effects against just or good effects. But Russia’s war is wholly unjust. It has no just effects in relation to which the harms it is causing could be judged to be either proportionate or disproportionate.

I made another point that Statman finds surprising – namely, that the harms inflicted on Ukrainian civilians by Russian combatants are unlikely to make Ukraine’s war, or the continuation of its war, disproportionate. This is not because the harms are being inflicted by Russians rather than by Ukrainians. If a country’s just war of defense had almost no chance of even partial success, and if the unjust aggressors were killing large numbers of civilians on the just side, and if, finally, the killing would stop if the just side were to surrender, then it might be disproportionate in the wide sense for the defenders to continue to fight – not because of the harms they would inflict on innocent enemy civilians but solely because of the harms that the enemy soldiers would inflict on civilians on the just side. So the

kind of phenomenon Statman cites is in principle possible. But given, as Statman quotes me as saying, that most Ukrainian civilians rightly believe that the likely benefits of the war *for them* exceed the risks, they are the *expected beneficiaries* of the war, which means that the harms they in fact suffer have *at least* significantly discounted weight in the assessment of whether their country's war is proportionate in the wide sense.

Similarly, when Ukrainian combatants fight voluntarily, harms inflicted on them by Russians cannot make the Ukrainian war disproportionate in either the narrow or the wide sense. To appreciate this claim, it may help again to consider a parallel case involving only a single individual. Suppose, for example, that an unthreatened third party voluntarily undertakes to try to prevent an innocent person from being very seriously, though not fatally, harmed by a culpable attacker. If the third party is killed by the attacker in the attempted defense, it would be absurd to suppose that the fact that the third party's intervention has resulted in harm greater than that which he sought to prevent makes the attempted defense disproportionate and therefore morally wrong.

6 Distortions

Statman begins his final section with shocking misrepresentations of my views. He cites two of my earlier essays, commenting that, in them,

he [McMahan] opts for a rule-based morality. He submits that soldiers are subject to a rule that categorically forbids the intentional targeting of civilians – even those who bear significant responsibility for the unjust war and whose killing might contribute to victory... (201)

In the first of the two essays in which Statman says that I make these claims, I argue, as I have always done, that the law of war must diverge from the morality of war. In the passage he cites from this first essay, I argue that there is a “need, in law, for neutral rules that can be satisfied by both just and unjust combatants – for example, a rule prohibiting intentional attacks on civilians.” Two sentences later, I say explicitly that “the justification for these neutral laws is pragmatic” – that is, that the justification is *not* that these laws coincide with the permissions and requirements of morality.⁷ In short, in the first of my earlier essays that he cites, the claims I make

⁷ McMahan 2006, 48. I was more baffled than impressed when I first saw that Statman had cited this and various other obscure and forgotten pieces that I had published long ago. I wondered whether I should be flattered that his knowledge of my work clearly surpassed my own. But when I reread his text more closely, all was explained. He has a research assistant.

that he says are about morality are instead *explicitly* about law *as contrasted with morality*.

In the passages from the second essay that he cites, I am indeed writing about morality. There I acknowledge that many noncombatants on the unjust side in a war may be morally liable to quite small harms – for example, as I argue in another essay he cites, some Russian civilians may be liable to suffer small economic harms inflicted by economic sanctions.⁸ I also make the obvious claim that many other civilians on the unjust side are not liable to any harm (for example, because they oppose their country's unjust war). Finally, I concede that “some small proportion of [civilians on the unjust side] may be liable to suffer more substantial harms by virtue of their responsibility for significant contributions to their side's unjust war.” I then cite, as examples, “hawkish civilian advisors to the government, scientists and engineers who devise more effective weapons for use against just combatants, and so on.”

The problem, of course, is that, in general, just combatants have no knowledge of which few civilians are liable to serious harms. Given that the vast majority of civilians are either not liable to be harmed or are liable to only small harms, moral caution suggests that in the usual conditions of uncertainty, just combatants should be guided by a “heuristic device” that treats “all foreseeable killings of civilians on the unjust side as killings of people who are not liable to any harm at all.” I conclude that “in general, unless one has specific information about such civilians, one should act on the assumption that the foreseeable killing of a civilian as a side effect of military action weighs negatively in the assessment of wide proportionality in roughly the way that killing a wholly nonliable person does.”⁹ There is not the slightest suggestion in any of this that I accept an absolute moral prohibition of the targeting of civilians, with the sole exception, Statman claims, of the intentional killing of Israeli settlers in the Occupied Territories by Palestinians – an astonishing claim, since I explicitly say in the passages to which he refers that some civilians on the unjust side “may be liable to suffer more substantial harms” and further acknowledge, by implication, that *if* “one has specific information about” a certain civilian, that information may reveal that the civilian is morally liable to be killed.

There are, in these passages in Statman's text, further, related misrepresentations of my previously expressed views, but they are not relevant here.¹⁰

⁸ McMahan 2024, esp. 60–3.

⁹ McMahan 2015, 700–1.

¹⁰ I am grateful for comments on this paper by Fiona Clarke, Anton Leist, and, especially, Elad Uzan.

Appendix

As everyone now knows, if one writes critically of Israel's action towards the Palestinians, one will be reflexively accused by many of being antisemitic, while if one writes critically of Palestinian action against Israel, one will be reflexively accused by others of being either Islamophobic or a Zionist. I have experienced both.

In 2014 I wrote an article in *Prospect* magazine that argued that Israel's war in Gaza during that year violated the requirement of proportionality.¹¹ One response was an article titled "The Philosophers' War On Israel," in which I and three other philosophers were criticized with scathing sarcasm, though without any arguments.¹² It is perhaps notable that the other three 'warriors' against Israel – Peter Singer, Frances Kamm, and Jason Stanley – are all Jews who had close family members who were murdered, imprisoned in concentration camps, or made refugees during the Holocaust.

In 2018, I was shouted down for 20 minutes by students at the American University of Beirut simply because I had an unpaid advisory affiliation with the Hebrew University in Jerusalem.¹³ More recently I have seen that my having been invited to speak there is still being referred to as a "clear act of fraternizing with Zionist academics."¹⁴ Later, in 2021, I was commissioned to write an article for the *New Statesman* on Israel's war in Gaza that year. I wrote the article and revised it in consultation with my editor. But it was then censored by a junior editor, on the ground that "there are some issues with the argument, to do with an unevenness of emphasis on Palestinian nationalism as an impediment to peace and on the capacity of Palestinians to resolve the conflict in a way that doesn't take into account the vast imbalance of power in the region." Revision was not an option. The problem was that it was simply impermissible in a journal on the political left to criticize Palestinians.

I am not only unrepentant; I am also reassured by having been assailed by partisans on both sides, as this suggests that I may be succeeding in being impartial in my thinking about the Israeli-Palestinian conflict.

The thoughts that I had articulated in the article that was censored by the *New Statesman* are ones that I have continued to believe to be highly important and

11 <https://www.prospectmagazine.co.uk/world/46579/gaza-is-israel-fighting-a-just-war>.

12 <https://buckleybeacon.com/2014/08/20/the-philosophers-war-on-israel/>.

13 "I Was No-Platformed. Here's Why It's Counterproductive," *New Statesman*, 4 January 2019. <https://www.newstatesman.com/politics/2019/01/i-was-no-platformed-heres-why-its-counterproductive>.

14 <https://english.almayadeen.net/news/politics/aub-hosts-zionist-sympathizer-to-discuss-war-ethics-in-gaza>.

I have deeply regretted that I was unable to publish them at the time. The editors of *Analyse & Kritik* have, however, very kindly permitted me to publish that censored material here, as an appendix to my response to Statman. For this I am profoundly grateful. Here, then, is what I wrote during Israel's previous war in Gaza.

How Strengthening Israeli and Palestinian Identities Hinders Peace

The war between Hamas and Israel was unnecessary for any legitimate purpose on either side.

By firing more than 4,000 missiles into civilian areas in Israel, Hamas achieved six notable results. It killed 12 Israelis; knowingly provoked retaliation that has killed 232 Palestinians, including at least 65 children; reinforced the view of many Israelis that Palestinians are incurably violent and can at most be deterred; helped to sustain itself in power; helped to sustain Netanyahu in power; and exacerbated the fear and hatred of each population by the other. According to just war theory, none of these accomplishments is a just cause for war or a necessary means of achieving a just cause.

Israeli leaders fired fewer missiles and were to some extent discriminating in their targeting – though they can afford to be and they know that killing civilians is poor public relations. Even so, their attacks killed far more civilians than Hamas managed to kill; prevented or at least deferred the formation of a Jewish-Arab coalition in Israel; entrenched Hamas – Netanyahu's greatest electoral asset – more deeply in Gaza; and further exacerbated the fears and hatreds of both populations. No just cause here either.

Now that Hamas has disarmed itself by sacrificing its store of missiles to Israel's US-sponsored anti-missile system, a ceasefire has been agreed and each group of leaders is noisily claiming a noble victory and presenting itself to the people under its control as their protector and saviour.

The initial missile attacks by Hamas were a response to recent provocations directed against Palestinians by leaders in Israel – the obstruction of prayers at the Al Aqsa Mosque, the prohibition of traditional gatherings at the Damascus Gate, the threatened expulsions in East Jerusalem. These events, together with the vast destruction in Gaza, have again galvanized Palestinian nationalism. One recent *New York Times* article refers to “a resurgent sense of national identity among young Palestinians,” and another describes Palestinian demonstrators ‘defiantly raising

their national flags' and observes that Palestinians everywhere "have reasserted that they are all Palestinians, with one flag and one struggle."¹⁵

This reinvigorated Palestinian nationalism is widely supported and celebrated by people on the political left. Like many others on the left, I believe that, from 1948 onwards, successive Israeli governments have consistently and pervasively oppressed, persecuted, and violated the moral and political rights of Palestinians, who ought to have had their own state many decades ago. Yet I am unable to believe that enhancing the sense of collective identity among Palestinians is a helpful means of securing justice. Each population's sense of collective identity is, instead, among the most formidable and unyielding of the obstacles to justice for Palestinians and peace between the two populations.

The notion of a group with a 'collective identity' is largely indistinguishable from the psychologist's notion of an 'ingroup.' We are all strongly inclined to conceive of ourselves in relation to others who are similar to or different from us. We identify ourselves with and are partial to those who are like us in almost any way, no matter how trivial or arbitrary the shared characteristics may be. We also discriminate against those who differ from us in these ways and thus constitute 'outgroups.' In general, the greater the degree of unity and solidarity among the members of a group, the stronger the barriers are between them and the members of other groups of the same kind.

Some of the most important contemporary collective identities may have originated as externally imposed outgroup identities. Africans who were abducted and sold as slaves in American states were from different areas and had different, presumably mostly tribal, senses of collective identity, which they inevitably lost after losing their freedom. If, after they were freed, they had been treated as equals by whites, their descendants might not have developed the strong sense of African-American identity they now share, which is partly the result of their categorization as an allegedly inferior outgroup by whites who continued to oppress them.

Within multinational states generally, national groups that are subordinate and discriminated against develop a cohesive sense of collective identity, while dominant groups do not. There are thus African-Americans, Mexican-Americans, and even Irish-Americans, but no English-Americans. African-American identity was forged by white racism.

The Palestinians' strong sense of national identity may have a similar origin. There is perhaps a small element of truth in former Prime Minister Golda Meir's

15 <https://www.nytimes.com/2021/05/15/world/middleeast/israel-palestinian-gaza-war.html?searchResultPosition=1>; and <https://www.nytimes.com/2021/05/19/opinion/israel-palestine.html?searchResultPosition=1>.

arrogant and self-serving claim that “It was not as if there was a Palestinian people in Palestine and we ... took their country away from them. They did not exist.”

By this Meir did not mean there were no people living in Palestine when Jews began to arrive and eventually formed a state there. Rather, she meant that Arabs who were living there did not then constitute a unified national group with a strong sense of collective identity. To the extent that there is truth in that claim, the present sense of Palestinian national identity is to that extent the product of the persistent exclusion, persecution, and oppression of the earlier occupants of Palestine and their descendants by the state of Israel.

It may be easier for Palestinians to extricate themselves from the grip of ingroup-outgroup bias if they come to appreciate that their own sense of national identity is partially the result of their being treated as a despised outgroup by Israeli Jews. There may seem less reason to embrace and celebrate a national identity that has to some extent been imposed by others.

In any case, the more strongly Palestinians feel and proclaim a sense of ingroup identity and pride, the greater their hostility to Israeli Jews will be – and vice versa. What is therefore necessary for the achievement of political justice and peace is precisely a weakening of national identity on both sides and a corresponding erosion of the barriers to sympathy and understanding that these identities interpose between individuals.

Those with the most profound wisdom on these matters are neither psychologists, political analysts, nor philosophers. They are, rather, the bereaved victims of this intractable conflict who, rather than seeking vengeance, have offered understanding, sympathy, forgiveness, and reconciliation. They are individual Palestinians and individual Israeli Jews who, having lost loved ones in the recurrent eruptions of violence between the two nations, have sought each other out to testify together that what individual Palestinians and Israelis have in common is infinitely greater and more important than the differences of ‘identity’ that divide them.¹⁶

One of them, an Israeli Jew whose young daughter was killed by a Palestinian suicide bomber, speaks on behalf of them all when he says, with moving eloquence, that “We, the bereaved families, together from the depth of our mutual pain, are saying to you today: Our blood is the same red colour, our suffering is identical, and all of us have the exact same bitter tears.”

These individuals have come to appreciate that the way to end this otherwise endless conflict is for Palestinians and Israeli Jews to understand each other’s histories, fears, and aspirations. When they do, they will discover that most of them

¹⁶ See <https://www.theparentscircle.org/en/homepage-en/>. I urge all readers to donate to this wonderful organization.

are very much alike – neither terrorists nor colonizers, but ordinary people who simply want to pursue their goals and raise their children in conditions of peace and prosperity.

But to make this discovery, they must talk to each other. Most Israelis know almost nothing about the lives of Palestinians, and Palestinians have little experience of Israelis other than the police and the military. It is difficult for them to get to know each other when the Palestinians are locked inside Gaza and the West Bank, separated from Israelis by high walls covered in barbed wire and policed by armed guards in watchtowers.

These barriers must be removed. But for that to happen, the Palestinians must convince the Israelis that they are not their implacable enemies but are, instead, the victims of historic and continuing injustice inflicted by the state of Israel.

The best way to do this is to resist the injustice (the blockade, the settlements, the denial of statehood...) through organized, large-scale, *wholly nonviolent* protest. If Israeli forces respond with violence, some Palestinians will be injured and some may be killed, but fewer than are killed when missiles are fired, and those killed will not be children in their homes but adults who chose to expose themselves to the risk. If the Israeli government did use violence against passive resisters, it would be shamed before the entire world, including its own citizens and its military suppliers in the US.

What all must understand is that neither population will disappear from the region, either voluntarily or through expulsion. Both must become reconciled to this stubborn reality, stop killing each other, and learn to live in peace and amity, either together or side by side. Perhaps eventually the unthinkable will happen: the two monolithic, adamant identities will, through intermarriage and mutual cultural assimilation, begin to overlap and merge.

In the meantime, all should put away their flags, Israeli and Palestinian alike.

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