



# JUSTICE AND PEACE IN THE ISRAELI-PALESTINIAN CONFLICT



YAACOV BAR-SIMAN-TOV  
Edited by Arie M. Kacowicz

ROUTLEDGE

# Justice and Peace in the Israeli–Palestinian Conflict

In this book, the late Prof. Yaacov Bar-Siman-Tov argues that the failure of the Israeli–Palestinian peace process so far has been mainly the result of the inability of both sides to reach an agreed formula for linking justice to peace.

The issues of justice and injustice are focused mainly on the outcomes of the 1947–49 first Arab–Israeli War and specifically in the creation of the Palestinian refugee problem. The conflicting historical narratives of the two sides regarding the question of responsibility for the injustice done to the Palestinians turn the Israeli–Palestinian conflict into a classic case of linking the issues of justice and peace. Yaacov Bar-Siman-Tov maintains that the narratives of justice and injustice in the Israeli–Palestinian conflict have proved to be formidable barriers to peace. Hence, he recommends that justice should be compromised for the sake of peace.

The link between justice and peace is an important issue requiring both sides' attention, but, given the wide and currently unbridgeable gap separating the two sides, it should be postponed to the phase of reconciliation rather than being included in the process of conflict resolution. The two-state solution is endorsed as the best and practical solution and as a first step for a “just peace” in this conflict, to be followed by reconciliation. Highly topical, this book is essential reading for scholars and researchers of International Relations, Peace Studies, and the Arab–Israeli conflict.

**Yaacov Bar-Siman-Tov** was Giancarlo Elia Valori Professor of International Relations for the Study of Peace and Regional Cooperation at the Hebrew University of Jerusalem and the Head of the Jerusalem Institute for Israel Studies. He was also the founding Director of the Swiss Center for Conflict Research, Management and Resolution at the Hebrew University. A noted expert in the fields of conflict management and resolution and the Arab–Israeli conflict, he was the author of several books, including *Israel and the Peace Process, 1977–1982: In Search of Legitimacy for Peace* (1994); *The Transition from War to Peace: The Complexity of Decisionmaking – The Israeli Case* (1996). He was also the editor and co-editor of several books, among them: *Stable Peace Among Nations* (2000); *From Conflict Resolution to Reconciliation* (2004); *The Israeli–Palestinian Conflict: From Conflict*

*Resolution to Conflict Management* (2007); and *Barriers to Peace in the Israeli–Palestinian Conflict* (2010).

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# **Justice and Peace in the Israeli–Palestinian Conflict**

**Yaacov Bar-Siman-Tov**

**Edited by  
Arie M. Kacowicz**

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**In memory of Yaacov Bar-Siman-Tov and Ronit Bar-Siman-Tov**

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# Preface

Professor Yaacov Bar-Siman-Tov completed a full draft of *Justice and Peace in the Israeli–Palestinian Conflict* about two years ago. Unfortunately, he died on 18 February 2013, several months after his beloved wife, Ronit Bar-Siman-Tov, passed away. Shortly before he died he sent a complete manuscript draft to his son, Ittai Bar-Siman-Tov. Upon Yaacov’s death, Ittai contacted Routledge, which had offered Yaacov an advanced contract for his research. After Routledge reaffirmed their interest in publishing the book, Ittai asked me to edit his father’s book and prepare it for production and publication.

I knew Yaacov Bar-Siman-Tov for over 30 years, first as his student in the Department of International Relations, and then as his colleague since 1993 at the Hebrew University of Jerusalem. We cooperated in editing *Stable Peace among Nations* in the late 1990s, and again in 2001–03 in an important oral history project that he coordinated at the Leonard Davis Institute for International Relations, tracing the causes for the failure of the Oslo peace process (or, in his own words, “what went wrong”) (see Kacowicz 2005).

Yaacov Bar-Siman-Tov was an expert on conflict resolution and spent several decades of his career researching and teaching about the Arab–Israeli conflict in general, and the Israeli–Palestinian conflict in particular. This book can be considered as the concluding part of a research trilogy: Yaacov began with the search for the possibilities of peace and stable peace (Kacowicz *et al.* 2000), moved to the question of reconciliation (Bar-Siman-Tov 2004), and ended trying to understand the difficult relationship between justice and peace. He perceived that link to be one of the major obstacles for conflict resolution in general, and for the resolution of the Israeli–Palestinian conflict in particular. This research stems from his previous important work of scholarship on barriers to peace in the Israeli–Palestinian conflict (see Bar-Siman-Tov 2010).

In the last several years, Yaacov discussed his work in progress with me. We had several conversations about whether the Israeli–Palestinian conflict was regressing from conflict resolution to conflict management, and the possibilities of resolving it against formidable barriers, such as the insistence on justice narratives on both sides. In this context, this book presents the narratives of Israelis and Palestinians about their conflict in an objective way, getting into the basic issues and offering a clear and convincing summary of them.

Yaacov Bar-Siman-Tov's book embodies a careful and sensible exercise in empathy. In the words of his former doctoral supervisor, Prof. Alan Dowty, "it represents a lifetime of wisdom and it is remarkable for its ability to encompass the narratives of both sides, which is the most useful approach." In this book, Prof. Bar-Siman-Tov also follows the footsteps of his second doctoral supervisor, Prof. Yeoshafat Harkabi (1972), by clearly discerning the Palestinian attitudes towards Israel, especially in the context of their narratives of justice and injustice with respect to the outcomes of the 1947–49 war and the creation of the Palestinian refugee problem.

The argument of the book is simple yet powerful. Yaacov Bar-Siman-Tov maintains that the narratives of justice and injustice in the Israeli–Palestinian conflict have proved to be formidable barriers to peace. Hence, he recommends to the practitioners on both sides (and to the general public) that *justice should be compromised for the sake of peace*. Moreover, Yaacov stresses the argument that the two-state solution for the Israeli–Palestinian conflict is the only solution that might be an imperfect approximation of a "just peace," though the Palestinians will have to give up their claims for a "right of return" of the Palestinian refugees to the State of Israel.

Still, throughout his book, Yaacov Bar-Siman-Tov expresses sound skepticism with regard to the possibility of the Palestinians compromising on their narratives of justice and injustice, and recognizing Israel as a Jewish state. My own reading of this difficult conundrum is slightly different from his. Up until today, I am not completely sure whether the Palestinian insistence on the "right of return" is a sacred and untouchable component of their identity (as he argues), or it might be their ultimate "bargaining chip" to be exchanged in the peace negotiations for the fulfillment of their other claims, such as the territorial borders of the Palestinian state and their access and sovereignty over East Jerusalem, including the *Haram* Temple Mount.

I cannot think of a more topical and relevant piece of scholarship for students and practitioners alike than this book. This is particularly the case against the background of the Herculean (but not Quixotic) attempts of US Secretary of State John Kerry to bring the parties together in what seems to be perhaps the last serious attempt for a negotiated solution of the intractable Israeli–Palestinian conflict. I wish that the negotiators on both sides, as well as the general public in both societies, will learn from the wisdom and common sense that are clearly articulated throughout the book. In that sense, the book represents Yaacov Bar-Siman-Tov's final contribution, and an important concluding statement of his long academic career.

The academic editing of the book included preparing and revising the manuscript for production and updating it with several endnotes to the events of 2014. At times the academic labor was painful in a personal sense, since it reminded me of the dialogue with Yaacov that we shared for the last 20 years. Despite our scholarly disagreements, I tried the utmost to maintain the language and spirit of his arguments, without adding my own views. For the completion of the book I would like to thank Galia Press-Bar-Nathan, Orly Kacowicz, and

Keren Sasson, who commented on this Preface; to Daniel Schwartz, a political philosopher, for his suggestions on the first chapter; to Shaul Shenav, a political scientist and expert on narratives, for his advice on Chapter 2; to Ittai Bar-Siman-Tov, for his contribution throughout the manuscript of his late father; and particularly to Lior Lehrs, a brilliant PhD student who worked closely with Yaacov at the Jerusalem Institute for Israeli Studies, for his substantial comments and advice on the entire book manuscript. I also thank Yaacov's children, Keren, Ittai, and Yonatan, for bringing me into this project. This is in a vivid sense the best living memory I can think of to perpetuate the scholarship of Prof. Bar-Siman-Tov and perhaps make a practical contribution to peace. Finally, I want to thank James "Joe" Whiting, Editor, as well as Kathryn Rylance, Steven Speigel, Elizabeth Matthews, Emma Hudson, and Sheila Garrard for their valuable help and assistance in the production of the book.

Time is running out for the peaceful resolution of the Israeli–Palestinian conflict in a negotiated form of a two-state solution. I sincerely hope that Israelis, Palestinians, Americans, Europeans, and other citizens of the world, students and practitioners, politicians, and the general informed public will read this book and learn from its wisdom. The excruciating dilemma of choosing between peace and justice, prioritizing the former over the latter, reminds me of Hedley Bull's brilliant analysis of preferring order over justice (see Bull 1977). In our imperfect world, there are no absolute solutions but just approximations to the good (not necessarily the best). There is a saying in Hebrew that "it is better to be wise than to be just." I share Yaacov's conclusion that we should prefer peace rather than justice if we want to reach conflict resolution, without completely forgetting about justice but relegating it to the later phase of reconciliation. The outcome of the current Israeli–Palestinian negotiations in the foreseeable future will be the ultimate litmus test for Prof. Bar-Siman-Tov's lasting contribution to the theory and practice of international relations.

Arie M. Kacowicz, Jerusalem, Israel  
February 2014

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# Abbreviations

AHC	Arab Higher Committee
DOP	Declaration of Principles
ICPR	International Commission for Palestinian Refugees
IM	International Mechanism (for Compensation of Palestinian Refugees)
NSU	Palestinian Negotiations Support Unit
PA	Palestinian Authority
PLO	Palestinian Liberation Organization
PN	Palestinian National Council
PPR	Permanent place of residence
UN	United Nations
UNGA	United Nations General Assembly
UNRWA	United Nations Relief and Works Agency for Palestine Refugees in the Near East
UNSC	United Nations Security Council

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# Introduction

The reasons for the failure of the Oslo process and the eruption of the Israeli–Palestinian violence in September 2000 have been explored in depth in the memoirs of participants in the peace process and in academic research. Several of these studies have characterized the Israeli–Palestinian conflict as intractable, uncontrollable, and insoluble. Others have attributed the failure of the talks to the parties' lack of readiness and ripeness to make the concessions necessary for resolving the conflict, and some have focused on psychological, cultural, and internal political barriers or the ineffectiveness of the US mediation.

In this book, I argue that the failure of the Israeli–Palestinian peace process so far has been mainly the result of the inability of both sides to reach an agreed formula for linking justice to peace. The relationship between peace and justice has been at the heart of the peace process. Actually, the peace process only exacerbated the wide gap between both sides' narratives and the difficulty if not the impossibility to bridge the gap between them. Both sides continue to be guided by their historical narratives, which became protected values; that is, sacred and mystical values intertwined with their national identities and therefore not subject to negotiation, bargaining, or compromise of any sort. Each side continues to invoke its perceived injustices committed by the other side, consumed by a high sense of justice and righteousness in its cause, while de-legitimizing the justice of the other side.

The peace process has only proved again the old and basic assumption that it is a clash between two narratives of justice. The issues of justice and injustice are embedded in the conflict and they have been reflected in their interactions. They probably will continue to remain for a long time if not permanently in the narratives of each side and in the current and future peace negotiations.

The basic conclusion of this political reality is that justice cannot be absolute, but relative at its best, and that it will be permanently incomplete. Any demand for linking justice to peace based on one's exclusive narrative is impossible and a formidable barrier to conflict resolution. The central problem in the case of two conflicting views of justice is that both sides are partly right, in terms of one or another aspect of their claims, and therefore it cannot be expected that a peace agreement will fully and satisfactorily address all of the

## 2 *Introduction*

problems related to justice. Therefore, justice has to be compromised if the parties have an interest to resolve the conflict in the first place.

The issues of justice and injustice are focused mainly on the outcomes of the 1947–49 first Arab–Israeli War and specifically in the creation of the Palestinian refugee problem. According to the Palestinian national narrative, throughout the 1947–49 war more than 700,000 Palestinians became refugees. Most of them (around two-thirds) became refugees in the West Bank and the Gaza Strip, while the rest fled to neighboring Arab states, including Jordan, Syria, and Lebanon. The Palestinians argue that the Palestinian flight was a deliberated “transfer” policy (i.e. ethnic cleansing) authorized by the Jewish–Israeli leadership in order to clean the Jewish state of its Arab local inhabitants. It was an active expulsion policy conducted by Jewish and later by Israeli troops. Throughout the years since the end of 1947 the Palestinian refugee population has massively grown, counting today (according to United Nations Relief and Works Agency for Palestine Refugees in the Near East – UNRWA) more than 5 million people. Moreover, the Palestinians claim that their demand for the right of return is recognized by various UN resolutions, first and foremost UN General Assembly Resolution 194.

The Israeli counter-narrative about the creation of the refugee problem is totally different. Although Israel recognizes the fact that hundreds of thousands of Palestinians (but less than 700,000) left during the war, this exodus was caused by a combination of several factors, including civilian flight from a war zone, orders from Arab leaders and commanders to leave temporarily until reaching a decisive victory, and increasing economic and social problems. The Palestinian refugee problem emerged as a natural consequence out of a war situation, which the Palestinians and the Arab states were responsible for initiating. No orders of expulsion were made and there was no deliberated “transfer” policy. Moreover, the war caused also the emergence of a parallel Jewish refugee problem. Hundreds of thousands of Jews who lived in neighboring Arab states were expelled or coerced to leave their homes and most of them were successfully absorbed in Israel. The findings of a group of Israeli historians, the so-called “New Historians,” at the end of the 1980s, that active expulsion by Jewish forces also played a significant role in the flight of the Palestinians, did not change substantially the Israeli official narrative regarding the creation of the Palestinian refugee problem.

The narrative differences between the two sides regarding the Palestinian exodus from Palestine in 1947–49 refer directly to the question of the responsibility for its creation. However, there is no one single explanation for the Palestinian exodus, probably because it happened in different stages during the war and because of various causes and different versions. Historians mention the following causes for the Arab exodus: fear, anarchy, robberies, and intimidation of the Arab militias and irregulars; disunited and ineffectual leadership; unclear leadership instructions about what to do or expect; unwillingness to be under Jewish control; erosion of morale; society disintegration; psychosis of flight; orders by Arab commanders and

the Arab Higher Committee (AHC) of evacuation in order to clear battle areas, while promising immediate return following a decisive victory; Jewish psychological warfare; Jewish retaliatory strategy against Arab military bases; reports on Jewish atrocities; Jewish direct and indirect attacks on Arab villages and cities; and direct expulsion by Jewish and Israeli forces. While there is no evidence that the AHC or Arab leaders outside of Palestine issued specific instructions to flee, there is also no evidence for a formal or official Jewish or Israeli decision or policy of expulsion of the Arab population.

In sum, both sides share part of the responsibility for the Palestinian exodus. However, the refugee problem cannot be separated from the broader context of the war that was initiated by the Palestinians and the Arab states, and was perceived by both sides as a total one, a zero-sum conflict, and an attempt at “politicide” by the Arab states and the Palestinians to undo the political creation of the State of Israel.<sup>1</sup>

The far-reaching outcomes of the 1947–49 war included not only the creation of the Palestinian refugee problem, but also the fact that an Arab state was never established alongside the State of Israel, as recommended by the UN Partition Plan of 29 November 1947. Instead, most of the territories allocated to an Arab state in Palestine were militarily occupied by Transjordan (the West Bank) and by Egypt (the Gaza Strip), whereas Israel extended its sovereign territory from 55 percent to 77 percent of the area west of the Jordan River (Western Palestine), following the Rhodes Armistices of 1949. The continuation of the conflict and its aggravation and the failure to conclude a comprehensive Arab–Israeli peace agreement prevented any prospect to resolve the Palestinian refugee problem. Following the 1967 war, between 200,000 and 300,000 Palestinians fled or were expelled from the West Bank and the Gaza Strip occupied now by Israel to Jordan, Syria, Egypt, and elsewhere, and they are nowadays considered displaced persons. Among them, 180,000 were first-time refugees, while the rest were 1947–49 refugees. However, the outcomes of the 1967 war, the occupation of the West Bank and the Gaza Strip by Israel, and the first *intifada* (1987–91) led to the Oslo peace process (1993–2001), which was the first Israeli–Palestinian attempt to resolve the conflict by peaceful means.

Palestinian negotiators and scholars claim that the conflict cannot be resolved unless Israel accepts the following Palestinian demands: recognition of its responsibility for the expulsion of Palestinians from the land of Palestine in the 1947–49 war and acceptance of the Palestinian demand for a just solution to the refugee problem through the implementation of Palestinians’ “right of return” to their homes in Palestine (within the territory of the State of Israel), following UN General Assembly Resolution 194 of December 1948. Hence, a just solution to the conflict – or, in their view, a “just peace” – depends on Israeli acquiescence to these demands.

The Palestinians deny any responsibility for the rejection of the UN Partition Plan of November 1947 and their attempt together with Arab states to