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Israel's Treatment of US Citizens: Case Studies and Policy Recommendations

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EXECUTIVE SUMMARY

For decades, Israel has mistreated US citizens, killing and severely injuring both human rights defenders and young Palestinian Americans spending time with their families in the Israeli-occupied West Bank. In addition, Israel has systematically discriminated against US citizens on the basis of ethnicity, religion, and political viewpoint by denying them entry to Israel and Occupied Palestinian Territory it controls. This discrimination has impacted Palestinian Americans most severely, denying them opportunities to visit, work, and live in their homeland, and interfering in their family life.

Instead of robustly defending the rights of US citizens and advocating on their behalf when their human rights are abused by Israel—the largest recipient of US military aid at \$3.8 billion per year—the Department of State and Congress have fallen woefully short, often deferring to flawed Israeli investigations and failing to hold Israel accountable for its violations of US laws designed to promote human rights.

Since 2003, Israeli forces have killed at least three US citizens. An Israeli soldier driving a Caterpillar D9 bulldozer repeatedly ran over and crushed to death Rachel Corrie as she stood to protect a Palestinian home from being demolished. Israeli naval commandos executed Furkan Doğan, shooting him at point blank range, aboard a ship in international waters whose passengers were attempting to deliver humanitarian aid to the Israeli-blockaded Gaza Strip. And teenager Mahmoud Shaalan was shot and killed while walking away from an Israeli checkpoint in the West Bank after trying unsuccessfully to visit his aunt's house.

Also since 2003, Israeli forces have gravely injured

at least four US citizens. Brian Avery, Tristan Anderson, and Emily Henochowicz were all shot in the face—the former with a bullet, the latter two with high-velocity tear gas canisters—and suffered life-altering injuries. Israeli police brutally beat teenager Tariq Abukhdeir after arresting and handcuffing him.

No member of Israel's security forces served jail time for killing or injuring US citizens and there were only two known cases of victims receiving compensation. Despite Israel's unwillingness to hold itself accountable, the United States did not conduct its own investi-

gation into any of these incidents, much less hold Israel accountable for killing and injuring US citizens.

US citizens who are denied entry by Israel fare no better. Palestinian Americans who are denied entry by Israel are often told by the US Embassy that there is nothing that can be done on their behalf despite Israeli treaty obligations guaranteeing US citizens freedom to travel.

This policy paper concludes by offering policy recommendations to the administration and Congress to

ensure that the United States defends and advocates for the human rights of its citizens when they are abused by Israel. These include holding Israel accountable for potential violations of the Foreign Assistance Act and the Arms Export Control Act, as well as holding accountable particular military units and individuals under the terms of the "Leahy Laws" and the Global Magnitsky Human Rights Accountability Act.

The United States should also conduct its own independent investigations into Israel's human rights abuses of US citizens rather than rely upon Israel's structurally flawed system of investigating itself.

The United States should ensure that Israel stops discriminating against US citizens by denying entry to people based on their ethnicity, religion, or political viewpoint as required by its treaty obligations, and continue to deny Israel entry into the Visa Waiver Program as long as this discrimination persists.

Israel's Killings of US Citizens

Since 2003, Israeli forces have killed at least three US citizens: Rachel Corrie, Furkan Doğan, and Mahmoud Shaalan. In none of these cases were the Israeli soldiers responsible for their killings held accountable domestically. Nor did the United States adequately press Israel to carry out credible investigations into their killings or hold accountable individuals, military units, or the state itself as required by various US laws. This lack of accountability has created a sense of impunity for Israel in which it can continue to kill US citizens without fearing any consequences in its bilateral relationship with the United States.



Rachel Corrie

On March 16, 2003, 23-year-old Rachel Corrie, a peace activist from Olympia, WA, was crushed to death by an armored Caterpillar D9 bulldozer after being repeatedly run over by an Israeli soldier who was driving it. At the time of her killing, Corrie was standing in front of the bulldozer in a bright orange vest and holding a megaphone in an attempt to prevent the Israeli military from demolishing the Nasrallah family's home in Rafah in the Gaza Strip. At the time, Israel was engaged in a large-scale campaign to demolish Palestinian homes in Rafah, an operation which Human Rights Watch concluded was in "violation of international law."¹

The Department of State called on Israel "to conduct [an] immediate and full investigation into the circumstances of this death."² The 2004 Country Reports on Human Rights Practices noted, however, that US officials who viewed the results of Israel's investigation "found inconsistencies among the statements of the people involved in the accident and other witnesses."³ Then-Secretary of State Colin Powell's chief of staff, Lawrence Wilkerson, wrote that "without equivocation" the Bush administration did not view the investigation as being "thorough, credible, and transparent," as was promised by then-Israeli Prime Minister Ariel Sharon.⁴

¹ "Razing Rafah: Mass Home Demolitions in the Gaza Strip", Human Rights Watch, October 17, 2004.

<https://www.hrw.org/report/2004/10/17/razing-rafah/mass-home-demolitions-gaza-strip>

² Department of State, Daily Press Briefing, Richard Boucher, Spokesman, Washington, DC, March 18, 2003,

<https://2001-2009.state.gov/r/pa/prs/dpb/2003/18809.htm>

³ Country Reports on Human Rights Practices-2004, "Israel and the occupied territories," Bureau of Democracy, Human Rights, and Labor, February 28, 2005,

<https://2001-2009.state.gov/g/drl/rls/hrrpt/2004/41723.htm>

⁴ "Separating fact from myth: Who was Rachel Corrie?" Rachel Corrie Foundation for Peace and Justice, July 18, 2007.

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In the absence of a credible domestic investigation, Rep. Brian Baird (D-WA) introduced H.Con.Res.111 in the 108th Congress (2003-2004), calling on the US “to undertake a full, fair, and expeditious investigation” into Corrie’s killing and encouraging the two countries “to work together to determine all the circumstances that led to this incident and to ensure that an incident of this kind never occurs again.” The resolution was cosponsored by 77 Representatives but did not advance out of committee and was not brought to a vote.⁵

In 2005, the Corrie family and four Palestinian families filed an unsuccessful lawsuit against Caterpillar, Inc. for “aiding and abetting war crimes and other serious human rights violations on the grounds that the company provided bulldozers to the Israeli military knowing they would be used unlawfully to demolish homes and endanger civilians in Palestine.”⁶ In this lawsuit, Caterpillar, Inc. affirmed that D9 bulldozers provided to Israel are funded by US taxpayers through Foreign Military Financing (FMF), making them subject to the restrictions of the Arms Export Control Act (AECA).⁷ The AECA strictly limits the use of US weapons to internal security, legitimate self-defense, and a few other categories, and makes a country ineligible to receive additional weapons if it violates these uses.

In a final effort to secure justice and accountability, the Corrie family filed a civil lawsuit in Israel. In 2012, the judge ruled that Israel bore no responsibility for Corrie’s death; instead he blamed the victim for her demise, stating that “she [Corrie] did not distance herself from the area, as any thinking person would have done.”⁸

Despite the fact that Corrie was killed by a foreign government with a weapon provided to it at US taxpayer expense; that the United States demanded that Israel conduct a credible investigation and later acknowledged that it did not do so; and that the Corrie family sought justice both in US and Israeli courts and failed to obtain it, the United States has failed to conduct its own investigation and to hold Israel accountable for its actions.

⁵ H.Con. Res. 111 - Expressing sympathy for the loss of Rachel Corrie in the Palestinian village of Rafah in the Gaza Strip on March 16, 2003, <https://www.congress.gov/bills/108/congress/house-concurrent-resolution/111/>

⁶ Corrie et al. v. Caterpillar, Center for Constitutional Rights, <https://ccrjustice.org/home/what-we-do/our-cases/corrie-et-al-v-caterpillar>

⁷ Declaration of Frank Weinberg in support of defendant’s motion requesting the court solicit the views of the United States Department of State regarding potential foreign policy implications raised by this action, October 6, 2005, https://ccrjustice.org/sites/default/files/assets/Corrie_WeinbergDeclaration_10_05.pdf

⁸ “Rachel Corrie: Court rules Israel not at fault for death,” BBC, August 28, 2012, <https://www.bbc.com/news/world-middle-east-19391814>

Israel's Killings of US Citizens



Furkan Doğan

On May 31, 2010, Israeli naval commandos attacked in international waters a flotilla comprising peace activists from around the world who were attempting to deliver humanitarian goods to the Gaza Strip, which was and remains under an illegal blockade by Israel. Israeli forces killed nine Turkish activists aboard the lead ship, the Mavi Marmara, among whom was 18-year-old Furkan Doğan, born a US citizen in Troy, New York.

According to a UN fact-finding report published in September 2010, “the circumstances of the killing of at least six of the passengers were in a manner consistent with an extra-legal, arbitrary and summary execution,” including Israel’s killing of Doğan. The report documented how Doğan was “filming with a small video camera when he was first hit with live fire.” In total, he was shot five times, including a shot to his face “delivered at point blank range.”⁹

Then-Secretary of State Hillary Clinton offered her “heartfelt condolences” and consular assistance to the Doğan family and demanded that Israel “conduct a prompt, impartial, credible, and transparent investigation that conforms to international standards and gets to all the facts surrounding this tragic event.”¹⁰ According to documents obtained by the Center for

⁹ Report of the international fact-finding mission to investigate violations of international law, including international humanitarian and human rights law, resulting from the Israeli attacks on the flotilla of ships carrying humanitarian assistance, UN General Assembly, Human Rights Council, Fifteenth Session, Agenda Item 1, September 27, 2010, p. 37, 29,

https://www2.ohchr.org/english/bodies/hrcouncil/docs/15session/A.HRC.15.21_en.pdf

¹⁰ Remarks With Indian Minister of External Affairs S.M. Krishna After Their Meeting, Hillary Rodham Clinton, Secretary of State, Washington, DC, June 3, 2010, <https://2009-2017.state.gov/secretary/20092013clinton/rm/2010/06/142642.htm>

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Constitutional Rights (CCR) through a Freedom of Information Act request and ensuing lawsuit, State Department officials met with the Israeli Foreign Ministry and were assured that Doğan's killing "would be thoroughly and transparently investigated" and "information from those investigations will be made available to the [US government] as soon as they are available."

However, from its review of subsequent documents, CCR concluded that "the Israeli government at every step of the way declined to provide the US government information regarding the investigation." Despite receiving no information from Israel about Doğan's killing, the Department of State downgraded the issue in its bilateral talks to one which should be addressed only "if time permitted."¹¹

Doğan's father, Ahmet, met with the Department of State in 2011 to receive an update on what the United States was doing to hold Israel accountable for its killing of his son, to no avail. On the first anniversary of his son's killing, Ahmet Doğan reported that still "no action has [been] taken by the US authorities."¹²

Eventually Israel released its investigation, but it did not include any information about Doğan's killing. The Obama administration never subsequently "conducted its own investigation into the killing," preferring instead to "defer" to Israel's inadequate investigation, according to CCR.¹³

In addition to the Obama administration not only failing to hold Israel accountable to its promise to share information about Doğan's killing and to conduct its own investigation, Congress similarly abdicated its responsibility to take action to protest Israel's extra-judicial execution of a US citizen.

The only Member of Congress to take up the matter in a cursory fashion was Rep. Paul Tonko (D-NY), whose district includes the city in which Doğan was born. He wrote the Department of State a letter expressing his surprise that it did not include Doğan by name in its 2010 Human Rights Country Report and urged it to do so in future reports.¹⁴ Archived copies of subsequent annual reports show that even this modest request was ignored.¹⁵

¹¹ Gaza Flotilla FOIA production guide: Furkan Doğan, Center for Constitutional Rights, February 2013, pp. 8-10, <https://ccrjustice.org/sites/default/files/assets/Production%20Guide%20Furkan%20Dogan.pdf>

¹² "Furkan Had a Huge Heart": Ahmet Doğan on His Son, Killed One Year Ago in Gaza Flotilla Raid," Democracy Now! May 31, 2011, https://www.democracynow.org/2011/5/31/fukan_had_a_huge_heart_ahmet_dogan_on_the_life_and_death_of_his_19

¹³ Gaza Flotilla FOIA production guide: Furkan Doğan, Center for Constitutional Rights, February 2013, pp. 13-14, <https://ccrjustice.org/sites/default/files/assets/Production%20Guide%20Furkan%20Dogan.pdf>

¹⁴ Letter is posted at: <https://ccrjustice.org/sites/default/files/attach/2017/01/2011.07.06%20-%20DOS%20-%20Furkan%20Dogan%20DRL.pdf>

¹⁵ Archived annual reports are posted at: <https://2009-2017.state.gov/j/drl/rls/hrrpt/>

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Mahmoud Shaalan

On February 26, 2016, an Israeli soldier at a checkpoint near the illegal Israeli settlement of Beit El shot and killed 16-year-old Florida-born US citizen Mahmoud Shaalan, who frequently crossed the checkpoint on foot to walk from his parents' house in the village of Deir Dibwan to his aunt's house in the village of Al-Bireh.

According to an eyewitness who provided testimony to journalists, human rights organizations, and Israeli military investigators, a soldier ordered Shaalan to stop and turn around. Shaalan lifted his shirt and hands to demonstrate to the soldier that he was not armed. He then turned around as ordered but was shot by the soldier from a distance of six to ten feet. "He was shot when his hands were up," the eyewitness stated. An ambulance driver who arrived at the scene stated that soldiers fired tear gas and stun grenades, preventing medical personnel from attending to Shaalan for three hours as he bled to death.¹⁶

The Department of State requested "further information from Israeli authorities regarding the circumstances of this incident."¹⁷ Representatives of the Shaalan family began meeting with consular officials the next month to provide them with requested information. They also called on their Member of Congress, then-Rep. Tom Rooney (R-FL), to push the Department

¹⁶ Alex Kane, "A family's long search for answers after Israel's killing of a Palestinian American teen," *The Intercept*, October 18, 2017, <https://theintercept.com/2017/10/18/Palestinian-American-killed-israel-mahmoud-shaalan/>

¹⁷ Daily Press Briefing, Department of State, John Kirby, Spokesperson, Washington, DC, February 29, 2016, <https://2009-2017.state.gov/r/pa/prs/dpb/2016/02/253784.htm>

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of State to ensure that Israel conducted a “transparent investigation.” The family did not receive a response; however, a spokesperson for Rooney said that he attempted to get more details from the US Embassy and “will continue to try to get answers for Mahmoud Shaalan’s family.”¹⁸

In September 2016, the Department of State acknowledged that Israel had informed the United States that it had completed its investigation and “did not find any criminal misconduct and do not plan to proceed with a criminal investigation.”¹⁹

Human rights advocates from the American Friends Service Committee, the Council on American-Islamic Relations, and the National Lawyers Guild held a series of meetings with the National Security Council (NSC) and Department of State following Israel’s self-exoneration. According to meeting participants, NSC officials “explained that the personal relationship between President Barack Obama and Israeli Prime Minister Benjamin Netanyahu was so poisoned that even bringing up Mahmoud’s death would make a bad situation worse.”

Department of State officials also acknowledged “that Israeli government officials had been reluctant to provide details for past human rights inquiries,” and that the US government would not open its own investigation into Shaalan’s killing, which could have resulted in the Israeli military unit responsible being sanctioned under the terms of the Leahy Law.²⁰

In December 2016, the Obama administration issued its only substantive and formal comments on Shaalan’s killing. Israel had closed the file without having provided information or evidence to back its findings, prompting the Department of State to note that “we continue to have concerns about the death of this American citizen and will remain engaged with the Government of Israel on this issue.”²¹ However, with the Obama administration refusing to engage with Israel at the highest level on this issue and with the Department of State unwilling to initiate its own investigation, it was unclear exactly how the United States was prepared to pursue the matter.

The Trump administration reportedly met with Israeli officials to discuss Shaalan’s killing in June 2017; however, no details of this meeting have emerged.²² As in Israel’s killing of US citizens Rachel Corrie and Furkan Doğan, three years after Shaalan’s killing, it appears that the United States is content to rely solely on Israel’s investigation, refuses to conduct its own investigation and sanction individuals and military units responsible for the killing as required by US law, and fail to hold Israel accountable for its killing of a US citizen.

¹⁸ Alex Kane, “A family’s long search for answers after Israel’s killing of a Palestinian American teen,” *The Intercept*, October 18, 2017, <https://theintercept.com/2017/10/18/Palestinian-American-killed-israel-mahmoud-shaalan/>

¹⁹ Nahal Toosi, “Israel clears soldiers involved in checkpoint killing of US teen,” *Politico*, September 3, 2016, <https://www.politico.com/story/2016/09/israel-probe-us-teen-killed-mahmoud-shaalan-227711>

²⁰ Alex Kane, “A family’s long search for answers after Israel’s killing of a Palestinian American teen,” *The Intercept*, October 18, 2017, <https://theintercept.com/2017/10/18/Palestinian-American-killed-israel-mahmoud-shaalan/>

²¹ Kristin McCarthy, “No Help from US in Death of Arab American Mahmoud Shaalan,” *Arab American Institute*, December 6, 2016, <https://www.aaiusa.org/no-help-from-us-in-death-of-arab-american-mahmoud-shaalan>

²² Alex Kane, “A family’s long search for answers after Israel’s killing of a Palestinian American teen,” *The Intercept*, October 18, 2017, <https://theintercept.com/2017/10/18/Palestinian-American-killed-israel-mahmoud-shaalan/>

Israel's Grave Injuring of US Citizens

On at least four occasions since 2003, Israel has gravely injured US citizens, often in life-altering ways. Just as the United States deferred to Israel's own flawed domestic investigations which inevitably held its soldiers blameless for their killings of US citizens, so too in the cases of US citizens gravely injured by Israel, the United States has taken a back seat, refusing to conduct its own investigations and failing to assist its citizens in seeking accountability and compensation.



Brian Avery

On April 5, 2003, Israeli soldiers shot 24-year-old US peace activist Brian Avery in the face, severely injuring him. Avery was shot in the West Bank Palestinian city of Jenin from a large-caliber gun mounted on an armored personnel carrier (APC).

The 2004 Department of State Country Report on Human Rights Practices for Israel and the Occupied Territories briefly mentioned Avery's case.²³ However, the Department of State did not publicly demand an investigation, nor did Members of Congress introduce a resolution calling for one.

Avery told Human Rights Watch that he was wearing a red nylon vest with a white stripe, designed to be visible at night. At approximately 6:30 that evening, Avery and another peace activist heard armored vehicles approaching them from behind. "We moved to the side to let [the IDF] pass and stuck out our hands showing we weren't holding anything. We weren't alarmed, it was an everyday occurrence. They were moving slowly, maybe about fifteen kilometers an hour, and when the APC was about thirty-five meters from us it seemed like it paused and just opened fire, twenty or thirty rounds," Avery stated.

²³ Department of State 2004 Country Report on Human Rights Practices, Israel and the occupied territories, released by the Bureau of Democracy, Human Rights, and Labor February 28, 2005, <https://2001-2009.state.gov/p/nea/ci/israel/79003.htm>

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Avery was shot in the left cheek with the bullet exiting on the right side of his face. He suffered severe injuries to his cheek, jaw, teeth and an eye. Another peace activist who witnessed the shooting stated in an affidavit that “when the ambulance arrived just a couple of minutes later it became clear in a gruesome way that Brian had been seriously injured. The lower part of his face was a complete mess and his left cheek and jaw were hanging by strips of flesh from his face.”

When Avery discussed his case with Human Rights Watch in March 2005, he had already “undergone six operations to rebuild the bone structure of his face, and required five or six additional operations for cosmetic purposes and to help his breathing.”

Then-US Ambassador to Israel Daniel Kurtzer privately requested the Israeli Defense Forces (IDF) to investigate Avery's shooting. Israel predictably whitewashed its complicity in Avery's injuries based on a field probe, reporting that “no findings indicate that Mr. Avery was injured by IDF fire.” The IDF blamed Avery and other international peace activists who “knowingly endanger themselves” and who are deliberately “seeking clashes and friction with IDF forces.”²⁴

Despite the Israeli military initially absolving itself of blame, it later opened up a military police investigation. Before the investigation ended, however, Israel agreed to an out-of-court settlement with Avery in 2008. “The sum does not reflect the injuries Avery suffered,” his lawyer told The Jerusalem Post. Avery's settlement was “one of the very few times the state has awarded damages to anyone hurt by the IDF during the Second Intifada,” he added.²⁵

²⁴ Promoting Impunity: The Israeli Military's Failure to Investigate Wrongdoing, Human Rights Watch, June 2005, <https://www.hrw.org/reports/2005/iopt0605/8.htm>

²⁵ Dan Izenberg, “State to compensate wounded ISM activist,” The Jerusalem Post, November 19, 2008, <https://www.jpost.com/Israel/State-to-compensate-wounded-ISM-activist>

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Tristan Anderson

On March 13, 2009, an Israeli soldier fired a high-velocity, extended-range tear gas canister at 38-year-old Oakland resident Tristan Anderson, who was taking photographs of a demonstration in the West Bank village of Ni'ilin at the time. The projectile struck Anderson in the forehead, opening a gaping wound and causing permanent brain damage, paralysis, and blindness in his right eye.

Gabrielle Silverman, who witnessed Anderson's shooting, stated that "I was very close to him when he was shot. I was only a few feet away. The demonstration had been going for several hours. It was wrapping up; it was almost over. Most people had already gone home. We were standing on some grass nearby a village mosque, and Tristan was taking pictures [when] he was shot."²⁶

The archives of the Obama administration's Department of State and White House websites indicate that the United States did not publicly comment on Anderson's case. However, a concurrent resolution introduced by Rep. Barbara Lee (D-CA) noted that the Department of State did request that Israel "provide a full, written, investigative report of

²⁶ "The anniversary of Tristan Anderson and the ongoing struggle," International Solidarity Movement, March 13, 2016, <https://palsolidarity.org/2016/03/the-anniversary-of-tristan-anderson-and-the-ongoing-struggle/>

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the incident to the United States Government and the Anderson family.” The resolution also noted that Anderson was participating in “peaceful protest activities” and called on the United States “to undertake a full, fair, and expeditious investigation of the circumstances that led to the injury of Tristan Anderson.” The resolution garnered only four cosponsors and was not brought to a vote.²⁷ It is unknown publicly if either Israel provided the requested report or the United States conducted its own investigation.

The tear gas projectile that severely injured Anderson was produced by Combined Systems, Inc. of Jamestown, PA.²⁸ In the decade prior to Israel's injuring of Anderson, the Department of State licensed to Israel the delivery of more than 595,000 tear gas canisters and other “riot control” equipment to the Israeli military, valued at more than \$20.5 million.²⁹ Not only did Israel misuse a US-provided weapon to catastrophically injure a US citizen who was taking photographs of a Palestinian protest; it is also likely that US taxpayers paid for that weapon.

Israeli police initially opened an investigation into Anderson's injury, but closed it without any explanation in 2009. Attorneys for Anderson's family, along with the Israeli human rights organization Yesh Din, successfully petitioned the Israeli High Court to reopen the investigation in 2013. Attorney Michael Sfard argued that “the astonishing negligence of this investigation and of the prosecutorial team that monitored its outcome is unacceptable, but it epitomizes Israel's culture of impunity.”³⁰ Anderson's family also filed civil suit in Israel. However, as of 2016, the latest date for which information is publicly available about Anderson's case, it remained unclear as to whether Anderson was able to secure justice through either legal route.³¹

²⁷H.Con.Res.270 - Calling on the United States Government to investigate the case of Tristan Anderson, a United States citizen from Oakland, California, who was critically injured in the West Bank village of Ni'lin on March 13, 2009, and expressing sympathy to Tristan Anderson and his family, friends, and loved ones during this trying time, 111th Congress (2009-2010),

<https://www.congress.gov/bill/111th-congress/house-concurrent-resolution/270/>

²⁸ “Combined Systems Inc., Stop Providing Equipment that Israel Misuses to Kill and Maim Unarmed Protesters,” Adalah-NY, January 4, 2011,

<https://adalahny.org/document/436/combined-systems-inc-stop-providing-equipment>

²⁹ Josh Ruebner, “US Military Aid to Israel: Policy Implications and Options,” US Campaign for Palestinian Rights, March 2012, p. 13,

<https://uscpr.org/campaign/government-affairs/resources/military-aid-policy-paper/>

³⁰ “Israeli court orders Tristan Anderson case reopened,” The Union, July 22, 2013,

<https://www.theunion.com/news/local-news/israeli-court-orders-tristan-anderson-case-reopened/>

³¹ “The anniversary of Tristan Anderson and the ongoing struggle,” International Solidarity Movement, March 13, 2016,

<https://palsolidarity.org/2016/03/the-anniversary-of-tristan-anderson-and-the-ongoing-struggle/>

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Emily Henochowicz

On May 31, 2010, 21-year-old dual US-Israeli citizen Emily Henochowicz, of Potomac, Maryland, was struck in the face with the same type of high-velocity, extended-range tear gas canister which injured Tristan Anderson. Henochowicz was participating in a Palestinian demonstration at the Qalandia checkpoint north of Jerusalem to protest Israel's attack earlier that day on the Gaza-bound humanitarian flotilla aboard which Israel killed US citizen Furkan Doğan and eight Turkish citizens. The tear gas canister blinded her in one eye, broke her jaw, and knocked out a tooth.

The Department of State acknowledged Henochowicz's injury the same day it confirmed the US citizenship of Doğan. "We are also mindful that our citizen, Emily Henochowicz, has sustained a serious injury. She was involved in a West Bank protest. She is still in the hospital receiving proper treatment," stated spokesperson Philip Crowley.³² However, the Department of State never publicly called for an investigation and Members of Congress did not introduce a resolution calling for a US investigation.

³² Daily Press Briefing, Department of State, Philip J. Crowley, Assistant Secretary, Washington, DC, June 3, 2010, <https://2009-2017.state.gov/r/pa/prs/dpb/2010/06/142651.htm>

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The US Consul General reportedly asked the Israeli government to investigate. However, the Israeli Foreign Ministry denied that the US Consul General submitted a formal request and only acknowledged that informal discussions took place.³³

As was the case in Anderson's injury, Israeli forces fired the tear gas canister directly at protestors, contravening regulations which specify that the canisters should be shot at 45 degree angles. According to peace activist Soren Johanssen, who was next to Henochowicz when she was struck, border police fired directly at protestors. "They fired many canisters at us in rapid succession," he stated. "One landed on either side of Emily, then the third one hit her in the face."³⁴

In a letter to Henochowicz's attorney, the Israeli Ministry of Defense absolved itself of responsibility to pay her compensation and for her hospital care, claiming the tear gas canister ricocheted off a concrete barrier and was not fired directly at her. This claim was also contradicted by Haaretz correspondent Avi Issacharoff, who witnessed the protest and expressed surprise at "the volley of grenade fire directly aimed directly at the demonstrators, not at the sky."³⁵

Her father, Stuart Henochowicz, who was born in Israel and emigrated to the United States, was outraged by the Israeli government's "basic lack of decency" in failing to communicate with the family. "Couldn't they even bother to ask, 'Gosh, how is she doing?' No one from the Israeli government would even talk to me. No one," he told The Village Voice.³⁶

Rather than conducting a proper investigation and holding accountable the person responsible for injuring Henochowicz, the Israeli government instead apparently focused its efforts on trying to squelch the story in the US media by intimidating outlets which reported on the story. According to a Twitter thread by Dr. Steven Thrasher, who wrote The Village Voice profile, "a couple days after we publish, the Israeli consulate called for & RECEIVED a meeting with the editor in chief of the Voice—at which the consulate suggested I was bad at my job (I wasn't), was wrong about what I'd written (I wasn't) that I should be fired...and that if I wasn't fired, anything I wrote should be run past the Israeli consulate in the future before publication."³⁷

³³ Saed Bannoura, "US Consul Asks Israeli Government To Look Into How American's Eye Was Shot Out In West Bank Protest," June 15, 2010, International Middle East Media Center, <https://imemc.org/article/58926/>

³⁴ Nathan Guttman, "American Jewish Student Loses Eye During West Bank Protest of Israel," Forward, June 9, 2010, <https://forward.com/news/128662/american-jewish-student-loses-eye-during-west-bank/>

³⁵ Isabel Kershner, "Student Injury at Protest Leads to Battle in Israel," New York Times, July 27, 2010, <https://www.nytimes.com/2010/07/28/world/middleeast/28israel.html>

³⁶ Steven Thrasher, "A Cooper Union Student Lost an Eye Protesting in Israel—But None of Her Vision," The Village Voice, July 27, 2010, <https://www.villagevoice.com/2010/07/27/a-cooper-union-student-lost-an-eye-protesting-in-israel-but-none-of-her-vision/>

³⁷ Dr. Steven W. Thrasher, Twitter, March 5, 2019, <https://twitter.com/thrasherxy/status/1102929714220548097>

Israel's Grave Injuring of US Citizens



Tariq Abukhdeir

On July 3, 2014, Israeli border police arrested and savagely beat 15-year-old Tampa, Florida high school student Tariq Abukhdeir in the Shuafat neighborhood of Israeli-occupied East Jerusalem. Videos surfaced of policemen repeatedly kicking and punching the teenager after he was handcuffed and on the ground unconscious.

The previous day, Abukhdeir's 16-year-old cousin and close friend Mohammed Abu Khdeir was kidnapped by Israeli settlers who lit him on fire and killed him. This brutal killing sparked protests the next day in Shuafat. At a Capitol Hill briefing in August 2014, Abukhdeir stated that he was watching the protests when Israeli border police started to fire tear gas. Abukhdeir hopped over a fence to get away but "the Israeli police grabbed me from behind, slammed my face into the floor, zip tied my hands behind my back and started to kick and punch me in my face and in the ribs." He regained consciousness while blindfolded in jail and was denied medical care for six hours despite severe bruises on his face.³⁸

³⁸ Dale Sprusansky, "American Teenager Beaten by Israeli Police Speaks on Capitol Hill," Washington Report on Middle East Affairs, October 2014, pp. 55-56, <https://www.wrmea.org/014-october/human-rights-american-teenager-beaten-by-israeli-police-speaks-on-capitol-hill.html>

Israel's Grave Injuring of US Citizens

Abukhdeir was visited in jail by an official from the US Consulate General in Jerusalem two days later and the Department of State stated that “we are profoundly troubled by reports that he was severely beaten while in police custody and strongly condemn any excessive use of force. We are calling for a speedy, transparent and credible investigation and full accountability for any excessive use of force.”³⁹

Abukhdeir's Member of Congress, Rep. Kathy Castor (D-FL), however, was less concerned with her constituent's case than was the Department of State. According to Abukhdeir's cousin, attorney Tamara Essayyad, Castor was “non-responsive during those first most urgent days...at the same time we desperately needed her to speak up on Tariq's behalf, she was tweeting about saving the manatees.” When Essayyad met with Castor's chief of staff, “within seconds of sitting down...I was verbally assaulted and berated. The newspaper I carried with a picture of Tariq on the cover was ripped out of my hands and thrown to the table.” She was then “aggressively ushered out and the door slammed in my face.”⁴⁰ Castor's office responded by claiming Essayyad's account was a “misrepresentation of events” that was “being used to enflame sentiments,” and that Castor was assisting the family and supported the Department of State's statement.⁴¹

In an effort to malign Abukhdeir and justify his beating and subsequent jailing, Israeli border police initially claimed that the teenager was masked, armed, and violently rioting against the police when he was arrested, a claim which Abukhdeir and his family denied. However, in January 2015, the Israeli police backtracked and cleared Abukhdeir of any wrongdoing.⁴²

Despite Israeli border police identifying the policemen who beat Abukhdeir and indicting one of them, the unnamed officer was leniently sentenced to 45 hours of community service and a short suspended prison sentence that kept the policeman from serving jail time.⁴³ The Department of State was “disappointed to learn that the Israeli police officer who severely beat American teenager Tariq Abu Khdeir in July of 2014 was spared prison time by an Israeli court yesterday. Given the clear evidence captured on videotape of the excessive use of force, it is difficult to see how this sentence would promote full accountability for the actions of the police officer in this case.”⁴⁴

However, despite the Obama administration acknowledging the lack of accountability in Abukhdeir's case, it did not take any subsequent public actions to initiate a US investigation or hold individuals and security force units accountable under the Leahy Law.

³⁹ “Detention of Tariq Khdeir,” Press Statement, Department of State, Jen Psaki, Department Spokesperson, Washington, DC, July 5, 2014, <https://2009-2017.state.gov/r/pa/prs/ps/2014/07/228774.htm>

⁴⁰ Tamara Essayyad, “Palestinian American gets short shrift from Congress member,” The Hill, July 15, 2014, <https://thehill.com/blogs/congress-blog/lawmaker-news/212186-Palestinian-American-gets-short-shrift-from-congress-member>

⁴¹ Marcia Mejia, “In response to Essayyad op-ed,” The Hill, July 15, 2014, <https://thehill.com/blogs/congress-blog/civil-rights/212281-in-response-to-essayyad-op-ed>

⁴² Daniel Eisenbud, “Tariq Abu Khdeir cleared of wrongdoing,” Jerusalem Post, January 28, 2015, <https://www.jpost.com/Arab-Israeli-Conflict/Tariq-Abu-Khdeir-cleared-of-wrongdoing-389198>

⁴³ Stuart Winer and Tamar Pillegi, “US ‘disappointed’ no jail time for Israeli cop who beat American teen,” The Times of Israel, November 19, 2015, <https://www.timesofisrael.com/us-disappointed-with-sentence-for-israeli-cop-who-beat-us-teen/>

⁴⁴ Daily Press Briefing, Department of State, John Kirby, Spokesperson, Washington, DC, November 19, 2015, <https://2009-2017.state.gov/r/pa/prs/dpb/2015/11/249796.htm>

Israel's denial of entry to and other indignities toward US Citizens



For decades, Israel has denied entry to US citizens of all races, ethnicities, religions, genders, and ages, often after subjecting them to extended interrogations, intrusive inspections of their personal email and social media accounts, strip searches, and other indignities. Some US citizens are targeted by Israel for their political opinions and activities; others are racially and religiously profiled based on their appearance and name. Although Israel may treat any US citizen in this fashion, its denials of entry disproportionately impact Palestinian Americans who are

often denied the opportunity to visit their homeland and families, or work and live there. Not only does this policy impact Palestinian Americans who have ancestral and current familial ties to people and places inside Israel; as the Occupying Power, Israel maintains control over the crossings into the West Bank and Gaza Strip, often denying US citizens the ability to enter these Palestinian territories.

The Arab American Institute has been collecting reports of US citizens being denied entry by Israel for more than 30

years and has posted dozens of first-hand accounts to its website.⁴⁵ According to the American-Arab Anti-Discrimination Committee, which has similarly tracked the issue and met regularly with the Department of State to discuss it, the US government “has indicated that it does not keep statistics of those who have been denied entry,” relying instead upon civil society “to obtain the information so that the Bureau of Consular Affairs can address the issue.”⁴⁶ Below are summaries of a few such cases highlighted to illustrate this disturbing policy.

Nour Joudah is a Palestinian American from Clarkesville, Tennessee, who graduated with a master’s degree from Georgetown University in 2012. After completing her studies, Joudah taught at the Ramallah Friends School, a US-owned Quaker educational institutional in the West Bank, which at the time was supported in part by the US Agency for International Development. Joudah spent her Christmas vacation in neighboring Jordan, but when she attempted to cross the Allenby Bridge to the West Bank on January 5, 2013, Israel denied her entry despite her holding a valid one-year multiple-entry visa.

Stranded in Jordan, Joudah enlisted the help of Members of Congress. Reps. Sheila Jackson Lee (D-TX) and Keith Ellison (D-MN) corresponded with the Israeli Embassy in Washington, DC and Joudah received assurances that she “can and should try to re-enter” and that the embassy would facilitate her entry. However, when she flew from Jordan to Israel’s Ben Gurion airport in February, she was again denied entry. Joudah said that Israel’s explanation for her denial of entry—that she refused to answer questions posed by interrogators—was a “complete lie.” She even received affirmation from her interrogator that all the questions posed to her were answered satisfactorily.⁴⁷

In an open letter to President Obama, Joudah described how she was “questioned for eight hours, held in a deten-

tion center overnight and deported to Jordan on the first flight out of Israel the next morning. This is the type of treatment law-abiding American citizens often receive at the Israeli border. Unfortunately, my experience is not unique.”⁴⁸

In May 2012, Sandra Tamari, a Palestinian American living in the St. Louis area, planned to participate in an interfaith delegation with Palestinians and Israelis committed to coexistence and peace. However, Tamari, was denied entry by Israel. “Upon arrival at Israel’s Ben Gurion airport, I was detained, questioned for eight hours, told to sign into my email account so Israeli officials could view its contents, and then deported back to the United States,” Tamari recounted. “Prior to being deported, Israeli officials accused me of being a terrorist and the US Embassy informed me there was nothing they could do to help because I was not Jewish. While receiving such treatment by Israel was deeply offensive, the response from my own government was even more disturbing.”⁴⁹

In October 2017, Raed Jarrar, a Palestinian American, who at the time directed Amnesty International USA’s Middle East and North Africa program, was denied entry by Israel to the occupied Palestinian West Bank. Jarrar was traveling in a personal capacity to attend his father’s memorial service in Jenin. Jarrar’s father fled the West Bank when Israel occupied it in 1967. “Being in the diaspora meant that I wasn’t given the opportunity to connect with the land and people. My only connection to my family history was through old stories and a few blurry pictures that my father took with him when he left as a teenager,” Jarrar wrote. After being informed that he was being denied entry, Jarrar called the US Consulate General in Jerusalem and was “told that there was nothing the officials there could do to help.” Based on the questions he was asked, Jarrar was convinced he was denied entry due solely to Amnesty International’s opposition to Israel’s illegal settlements.⁵⁰

⁴⁵ “Snapshots: American Citizens Discriminated Against at the Israeli Border,” Arab American Institute, September 23, 2015,

<https://www.aaiusa.org/snapshots-american-citizens-discriminated-against-at-israeli-border>

⁴⁶ “Take Action: Help ADC address discrimination by Israeli border authorities,” American-Arab Anti-Discrimination Committee, August 26, 2015,

<https://www.adc.org/take-action-help-adc-address-discrimination-by-israeli-border-authorities/>

⁴⁷ Maureen Clare Murphy, “‘They wanted me to list every young Palestinian that I knew,’ says Palestinian American deported by Israel,” Electronic Intifada, February 27, 2013, <https://electronicintifada.net/blogs/maureen-clare-murphy/they-wanted-me-list-every-young-palestinian-i-knew-says-palestinian>

⁴⁸ Nour Joudah, “American teacher denied entry to Palestine calls on Obama to address Israel’s Jim Crow policies,” Mondoweiss, March 19, 2013,

<https://mondoweiss.net/2013/03/american-palestine-policies/>

⁴⁹ Sandra Tamari, “Legalizing discrimination against US travelers,” St. Louis Post-Dispatch, May 1, 2013,

https://www.stltoday.com/opinion/columnists/legalizing-discrimination-against-u-s-travelers/article_c533ab26-5c8a-58f9-a811-93ec79e704e1.html

⁵⁰ Raed Jarrar, “Why Won’t Israel Let Me Mourn My Father?” The New York Times, November 23, 2017,

<https://www.nytimes.com/2017/11/23/opinion/why-wont-israel-let-me-mourn-my-father.html>



SANDRA TAMARI



NOUR JOUDAH



RAED JARRAR

Israel's denials of entry to US citizen is so brazen that even high-profile academics and congressional staff traveling on diplomatic passports can be subjected to this treatment. In May 2010, Prof. Noam Chomsky was prevented by Israel from crossing into the West Bank to deliver a speech at Bir Zeit University. Interrogators told Chomsky that the Israeli government did not like what he had written about Israel. The Association for Civil Rights in Israel blasted the government for "using detention and deportation to prevent a man from expressing his opinion," calling it "characteristic of a totalitarian regime."⁵¹

And in August 2002, six congressional staff participating in a joint Muslim-Jewish-sponsored delegation were initially denied entry to the West Bank and threatened with violence by an Israeli policeman. Only after three days of "high-level intervention from the US State Department and Embassy in Tel Aviv were the staffers finally allowed entry," but Israel refused entry to the Muslim-Americans escorting the delegation.⁵²

Even if US citizens are allowed entry by Israel, they nevertheless can still be subjected to harassment, intimidation, and racial profiling by Israeli authorities. This happened to former Clinton administration cabinet member and current Member of Congress Rep. Donna Shalala (D-FL) in July 2010. She was interrogated for three hours when attempting to leave Israel on a flight. Israel's interrogation of Shalala, who is Lebanese-American, was triggered by her Arabic last name, Israeli media reported.⁵³

In December 2015, Kristian Davis Bailey, a Detroit-based writer and Black Lives Matter activist, was arrested and thrown in jail by Israel after he attempted to cross into the West Bank to speak at a conference on Black-Palestinian solidarity at Bir Zeit University. Bailey was traveling with a clearly marked bottle of ibuprofen and was accused by Israeli border officials of smuggling drugs. He was subjected to a

full-body strip search, arrested, and placed in the "backseat of a police van, handcuffed and shackled and flanked on either side by Israelis with U.S.-made military-grade assault rifles." Bailey was not allowed to contact the US Embassy while under arrest and his passport was confiscated for eight days. He was eventually cleared of any wrongdoing, but was unable to attend the conference.⁵⁴

US spouses of Palestinians in the Israeli-occupied West Bank often face difficulties residing with their partners because Israel refuses to grant them permanent residency and has frozen applications for family reunification. Instead, these US citizens are forced to constantly renew tourist visas, which require costly trips abroad before they can be extended. This process often produces bureaucratic hurdles which impinge upon family life. For example, Sandra Elaine Lindower has been married for nearly 30 years to a Palestinian in Bethlehem. In April 2019, Israel denied her entry after she attempted to return to renew her travel visa, accusing her of overstaying her previous one. Lindower's deportation by Israel upended her family's planning for her son's wedding.⁵⁵

In January 2018, Israel's Ministry of Strategic Affairs publicly announced that members of organizations supporting nonviolent boycotts for Palestinian rights would be denied entry. Included on this list are six US-based organizations.⁵⁶ This was the first time that Israel explicitly acknowledged that it is denying entry to US citizens based on their political beliefs and actions. The Department of State, however, appears unconcerned that Israel is discriminating against US citizens based on their political opinions. "Countries are sovereign. They have a right to either admit or deny admittance to individuals at their border," then-spokesperson Heather Nauert said in response to a question about a US citizen being denied entry because of their support of boycotts for Palestinian rights.⁵⁷

The Department of State recognizes that Israel denies entry to US citizens on the basis of their ethnicity, religion, and/or political opinion. Its travel information page for Israel, the

⁵¹ Amira Hass, "Noam Chomsky Denied Entry Into Israel and West Bank," Haaretz, May 16, 2010, <https://www.haaretz.com/1.5121279>

⁵² Josh Ruebner, "What is Israel hiding?" Counterpunch, August 26, 2002, <https://www.counterpunch.org/2002/08/26/what-is-israel-hiding/>

⁵³ Kelly House, "UM President Donna Shalala detained at Israeli airport," Miami Herald, August 7, 2010,

<https://www.miamiherald.com/sports/college/acc/university-of-miami/article1936763.html>

⁵⁴ Kristian Davis Bailey, "Traveling While Black: I Was Racially Profiled and Locked Up in Israel," Colorlines, February 25, 2016,

<https://www.colorlines.com/articles/traveling-while-black-i-was-racially-profiled-and-locked-israel>

⁵⁵ Judith Sudilovsky, "Foreign spouses of West Bank residents in constant state of limbo," Catholic News Service, May 26, 2019,

<https://cruxnow.com/church-in-the-middle-east/2019/05/26/foreign-spouses-of-west-bank-residents-in-constant-state-of-limbo/>

⁵⁶ Noa Landau, "Israel Publishes BDS Blacklist: These Are the 20 Groups Whose Members Will Be Denied Entry," Haaretz, January 7, 2018,

<https://www.haaretz.com/israel-news/israel-publishes-bds-blacklist-these-20-groups-will-be-denied-entry-1.5729880>

⁵⁷ Daily Press Briefing, Department of State, Heather Nauert, Spokesperson, Washington, DC, July 3, 2018,

<https://www.state.gov/briefings/department-press-briefing-july-3-2018/>

West Bank and Gaza Strip notes that “some US citizens of Arab or Muslim heritage (including Palestinian Americans) have experienced significant difficulties and unequal and hostile treatment at Israel’s borders and checkpoints,” and that “US citizens have been denied entry to Israel and the West Bank for involvement in and/or expressing support on social media for the BDS movement.”⁵⁸

However, despite acknowledging this discrimination toward US citizens and sometimes providing, while at other times denying, consular services to those harmed, the United States has done little to publicly pressure Israel to end its discrimination.

Not only is Israel’s discriminatory treatment of US citizens abhorrent; it also violates treaty obligations signed by the United States and Israel. In 1951, the two countries signed a bilateral treaty of Friendship, Commerce and Navigation, which went into force in 1954. Article II, Section 2, of the treaty states that “nationals of either Party, within the territories of the other Party, shall be permitted...to travel therein freely, and to reside at places of their choice... to enjoy liberty of conscience...[and] to gather and to transmit material for dissemination to the public abroad,” among other provisions. This treaty provision should prevent Israel from denying entry to US citizens solely on the basis of their ethnicity, religion, or political opinions. According to the treaty, the United States shall take the matter to the International Court of Justice if a dispute arises “as to the interpretation or application of the present Treaty,” which is “not satisfactorily adjusted by diplomacy.”⁵⁹

Congress, aside from certain Members providing constituent services to those impacted by Israel’s denial of entry, has been, for the most part, also quiescent in Israel’s discriminatory treatment of US citizens, with one notable exception. In June 2013, 16 Representatives sent a letter to then-Israeli Ambassador Michael Oren deploring the fact that Israel is “disproportionately

singling out, detaining and denying entry to Arab and Muslim Americans,”⁶⁰ and urging Israel to “ensure that all American citizens are treated equally at Israeli ports of entry.”⁶¹

This “Dear Colleague” letter opposing Israel’s discriminatory treatment of US citizens came in the midst of a Congressional effort to admit Israel into the Visa Waiver Program, a reciprocal bilateral arrangement allowing nationals of one country visa-free entry to the other. One of the requirements of this program is for the foreign country to issue visas to US citizens for at least 97 percent of applicants.⁶²

In March 2013, then-Sen. Barbara Boxer (D-CA) introduced the United States-Israel Strategic Partnership Act, which would have admitted Israel to the Visa Waiver Program after it “has made every reasonable effort, without jeopardizing the security of the State of Israel, to ensure that reciprocal travel privileges are extended to all United States citizens.”⁶³ Since Israel often denies entry to US citizens in a discriminatory manner using alleged security concerns as a pretext, this bill was widely viewed as opening a loophole for Israel to continue discriminating against US citizens while enjoying the perquisites of the program.

The ensuing uproar forced a rewrite of the bill, which passed Congress and was signed into law by President Obama in December 2014. In this version, Israel can only be admitted to the Visa Waiver Program “when Israel satisfies, and as long as Israel continues to satisfy, the requirements for inclusion in such program.”⁶⁴ This language closed the loophole envisioned in the first version of this bill, ensuring that Israel would not get any special treatment to be eligible to join the program. Due in large part to its ongoing unwillingness to cease discriminating against US citizens in its entry policies, Israel remains shut out of this program, a rare example of Israel not getting what it and its advocates want from Congress.

⁵⁸ “Israel, the West Bank and Gaza,” Department of State, Bureau of Consular Affairs,

<https://travel.state.gov/content/travel/en/international-travel/International-Travel-Country-Information-Pages/IsraeltheWestBankandGaza.html>

⁵⁹ Israel Friendship, Commerce and Navigation Treaty, Department of Commerce, International Trade Administration, Office of Trade Agreements Negotiation and Compliance, https://tcc.export.gov/Trade_Agreements/All_Trade_Agreements/exp_005440.asp

⁶⁰ “Congress, Obama administration spar over Israeli visas,” Associated Press, July 15, 2013,

<https://www.foxnews.com/politics/congress-obama-administration-spar-over-israeli-visas>

⁶¹ “Israeli embassy, lawmakers wrangle over Muslim- and Arab-Americans’ entry to Israel,” Jewish Telegraphic Agency, July 16, 2013,

<https://www.jta.org/2013/07/16/politics/embassy-lawmakers-wrangle-over-muslim-arab-americans-entry-to-israel>

⁶² Visa Waiver Program, Department of State, Bureau of Consular Affairs,

<https://travel.state.gov/content/travel/en/us-visas/tourism-visit/visa-waiver-program.html>

⁶³ S.462 - United States-Israel Strategic Partnership Act of 2013, 113th Congress (2013-2014),

<https://www.congress.gov/bill/113th-congress/senate-bill/462/text>

⁶⁴ S.2673 - United States-Israel Strategic Partnership Act of 2014, 113th Congress (2013-2014),

<https://www.congress.gov/bill/113th-congress/senate-bill/2673/text/pl>

Policy Recommendations

1. Enforce existing laws designed to prevent foreign countries from misusing US assistance to commit human rights abuses.

Israel's killing and injuring of US citizens is part of a broader and systematic pattern of human rights abuses committed against Palestinians living under Israeli military occupation in the West Bank and Gaza Strip. Since 2000, Israel has killed at least 4,748 Palestinians who did not take part in hostilities, according to the Israeli human rights organization B'Tselem.⁶⁶ In addition, Israel has continued to colonize the West Bank, including East Jerusalem, in violation of international law. Israel also routinely demolishes Palestinian homes, uproots Palestinian agriculture, and prevents Palestinians from exercising freedom of religion, expression, and movement, among other violations of fundamental human rights.

Israel should be ineligible to receive any form of US assistance because of this pattern of gross violations of human rights, including the killing and injuring of US citizens. The administration and Congress should take steps to ensure that Israel is held accountable for its violations of the Foreign Assistance Act.

The Arms Export Control Act conditions and restricts the sale or leasing of US defense articles and services. Under this law, US weapons can be used "solely for internal security, for legitimate self-de-

fense," for preventing the proliferation of weapons of mass destruction, for participating in regional security arrangements, or for economic development. The law stipulates that no credits, guarantees, sales, or deliveries of weapons can be extended to a foreign country if it is "in substantial violation (either in terms of quantities or in terms of the gravity of the consequences regardless of the quantities involved)" of the narrowly limited uses of weapons permitted by the law.⁶⁷

Israel should be ineligible to receive US weapons because of its repeated misuse of US weapons outside the scope of permitted uses under this law. The administration and Congress should take steps to ensure that Israel is held accountable for its violations of the Arms Export Control Act and should take special care to hold Israel accountable for killing and injuring US citizens, especially when those weapons have been identified as having been provided by US taxpayer dollars, such as in the case of the Caterpillar D9 bulldozer that killed Rachel Corrie, and the Combined Systems, Inc. high-velocity tear gas canisters that critically injured Tristan Anderson and Emily Henochowic.

The Foreign Assistance Act, which regulates all US bilateral economic and military aid programs, states that "no security assistance may be provided to any country the government of which engages in a consistent pattern of gross violations of internationally recognized human rights."⁶⁵

⁶⁵ 22 USC §2304,

<https://www.govinfo.gov/content/pkg/USCODE-2011-title22/pdf/USCODE-2011-title22-chap32-subchapII-partI-sec2304.pdf>

⁶⁶ B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories,

<https://www.btselem.org/statistics>

⁶⁷ 22 USC §2754 and §2753,

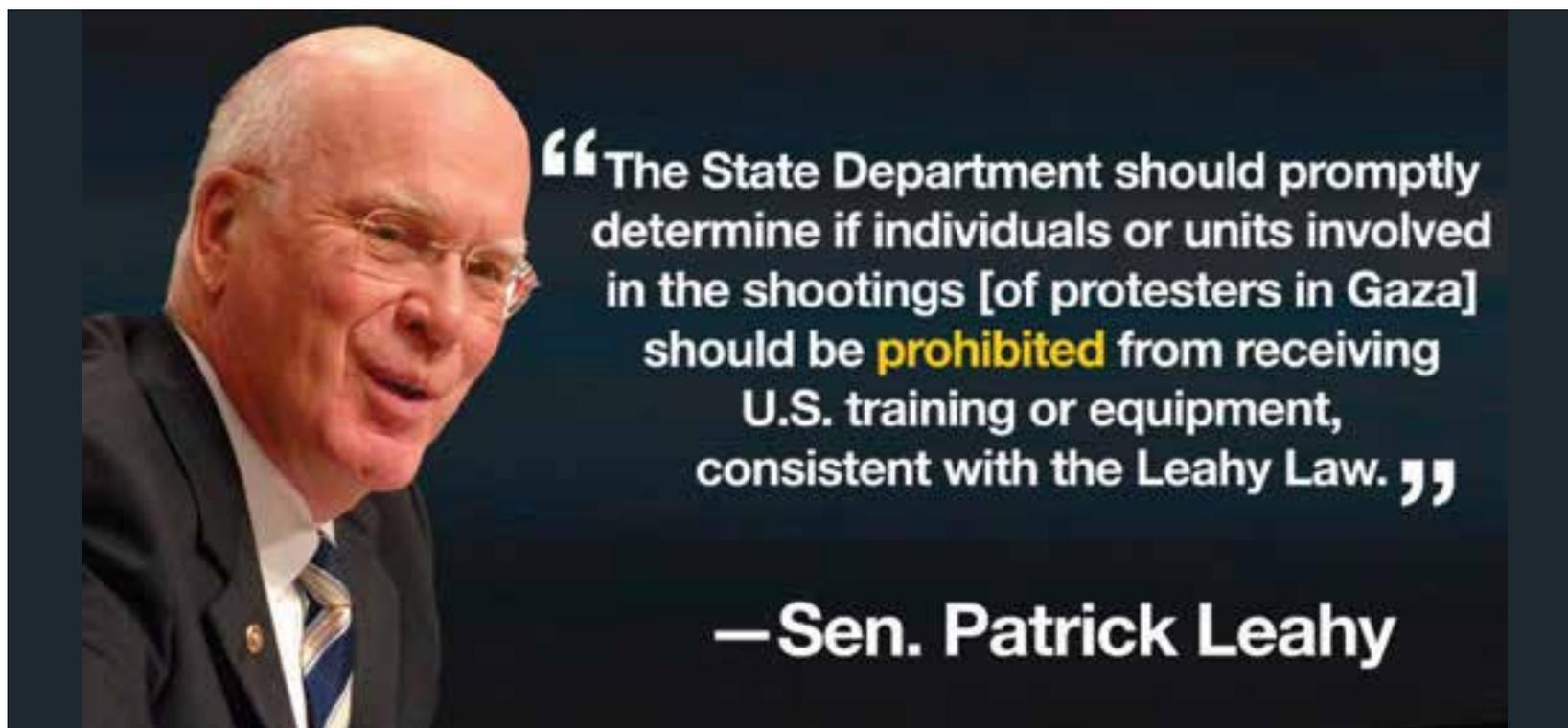
<https://www.govinfo.gov/content/pkg/USCODE-2011-title22/pdf/USCODE-2011-title22-chap39-subchapI-sec2753.pdf>

In addition, the “Leahy Laws” stipulate that both the Department of State and the Department of Defense have an obligation to prevent US assistance to a military unit that commits gross human rights violations. The Foreign Assistance Act states that “no assistance shall be furnished...to any unit of the security forces of a foreign country if the Secretary of State has credible evidence that such unit has committed gross violations of human rights.”⁶⁸ And the code of law regulating the armed forces states that “of the amounts made available to the Department of Defense, none may be used for any training, equipment, or other assistance for a unit of a foreign security force if the Secretary of Defense has credible information that the unit has committed a gross violation of human rights.”⁶⁹

Israeli military units and individuals in those units that have committed gross human rights violations, including against US citizens, should be ineligible to receive any form of US assistance. The administration and Congress should take steps to ensure that Israel is held accountable for its violations of the “Leahy Laws,” especially regarding its killing of US citizen Furkan Doğan, which the UN characterized as an extrajudicial execution, which is one category of gross human rights violations that is supposed to trigger “Leahy Law” enforcement.

The Global Magnitsky Human Rights Accountability Act was signed into law as part of the FY2017 National Defense Authorization Act (PL 114-328). This act enables the president to impose sanctions on an individual who “is responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights committed against individuals in any foreign country who seek...to obtain, exercise, defend, or promote internationally recognized human rights and freedoms, such as the freedoms of religion, expression, association, and assembly.” Sanctions include denying individuals US visas and freezing their US assets.⁷⁰

The administration and Congress should take steps to ensure that individuals who have committed grave human rights abuses against US citizens, often acting as human rights defenders when they were killed or injured by Israel, are sanctioned under the Global Magnitsky Human Rights Accountability Act.



⁶⁸ 22 USC §2378(d)

<https://www.govinfo.gov/content/pkg/USCODE-2015-title22/pdf/USCODE-2015-title22-chap32-subchapIII-partI-sec2378d.pdf>

⁶⁹ B10 USC §2249(e)

<https://www.govinfo.gov/content/pkg/USCODE-2015-title10/pdf/USCODE-2015-title10-subtitleA-partIV-chap134-subchapI-sec2249e.pdf>

⁷⁰ PL 114-328,

<https://www.govinfo.gov/content/pkg/PLAW-114publ328/pdf/PLAW-114publ328.pdf>

⁷¹ Tuvan Gumrukcu, “Turkey says Israel paid compensation to families of 2010 flotilla raid victims - media,” Reuters, June 23, 2017,

<https://www.reuters.com/article/us-turkey-israel-compensation/turkey-says-israel-paid-compensation-to-families-of-2010-flotilla-raid-victims-media-idUSKBN19E166>

2. Conduct US investigations of Israel's killing and injuring of US citizens

When Israel has killed or injured US citizens, the default position of the Department of State is to defer to an Israeli investigation even though Israel rarely conducts investigations that result in indictments of security forces who commit human rights abuses. And of the cases outlined in this policy paper, the only sentence handed out to a member of the security forces who killed or injured a US citizen was the policeman who beat Tariq Abukhdeir; however, the suspended sentence and community service he received made a mockery of the severity of the charges for which he was found guilty. In addition, US citizens or their families who availed themselves of Israel's civil court system failed to receive compensation for injuries or death with the exception of Brian Avery. The family of Furkan Doğan presumably also received compensation paid by Israel to Turkey in 2017 as part of a rapprochement between the countries after Israel's raid on the flotilla led Turkey to sever diplomatic relations.⁷¹

Israel's unwillingness to hold itself accountable for killing and injuring US citizens is no surprise given that the state acts similarly when the victims are Palestinians. In its May 2016 decision to no longer forward complaints of human rights abuses to the Israeli military court system, the Israeli human rights organization B'Tselem offered a stinging indictment of the total impunity that pervades the system and is worth quoting in detail:





Israel evades its responsibilities in matters concerning the actions of its security forces in the Occupied Territories, and has instead set up alternative systems that merely create a semblance of law enforcement - both in criminal law and civil law. As a result, those responsible for harming Palestinians go unpunished, and the victims receive no compensation for the harm they suffer. The few, isolated exceptions serve only to amplify the illusion that the law enforcement systems in place are functioning properly.

Israel's policy on accountability evinces its profound disregard for the lives, physical wellbeing and property of Palestinians. The state has also made it clear that, for its part, it bears no responsibility for the consequences of its control over the Palestinian population, neither as the occupying power in the West Bank nor an external entity exerting control over the Gaza Strip. Israel's powers as ruler, which it is quick to enforce when it serves its own purposes, vanish into thin air when it has to answer for its actions.

In this way, Israel manages to do as it pleases in the Occupied Territories without anyone holding it to account for its actions: the military law enforcement system whitewashes violations (in the sphere of criminal justice), and the state ensured for itself a nearly blanket exemption from paying compensatory damages for harm caused by its security personnel (in the sphere of civil justice). Without deterrence and oversight mechanisms, the road to serious human rights abuses lies wide open. This ongoing state of affairs is one of the cornerstones of the occupation and of Israel's control of the Palestinian population. Years of experience have shown that Palestinian victims stand a slim chance of seeing justice done and that the chance that Israelis be held to account for their actions is similarly slim.⁷²

Israel's systematic unwillingness to hold itself accountable should mean that the default position of the Department of State should be to initiate a US investigation when its citizens are killed or injured by Israel.

Congress has taken steps in the right direction by introducing resolutions calling for US investigations into the cases of Rachel Corrie and Tristan Anderson; however, neither resolution received a committee or floor vote and the resolutions died at the end of the congressional session in which they were introduced.

⁷² "No accountability," B'Tselem: The Israeli Information Center for Human Rights in the Occupied Territories, November 11, 2017, <https://www.btselem.org/accountability>



In addition, in a Senate report accompanying the 2011 Department of State, Foreign Operations, and Related Programs appropriations bill, the Appropriations Committee directed “the Secretary of State to submit a report not later than 45 days after enactment of this act and every 90 days thereafter until September 30, 2011, detailing actions being taken by the Government of Israel, the Palestinian Authority, and the Department of State to conduct thorough, credible, and transparent investigations of each case involving the death or serious injury of an American citizen in the West Bank and Gaza since 2001.”⁷³ However, Congress did not pass a separate Department of State appropriations bill for that fiscal year; instead it passed an omnibus bill which did not include that language.

The administration and Congress should take steps to ensure that any future incidents of US citizens being killed or injured by Israel are investigated by the United States.

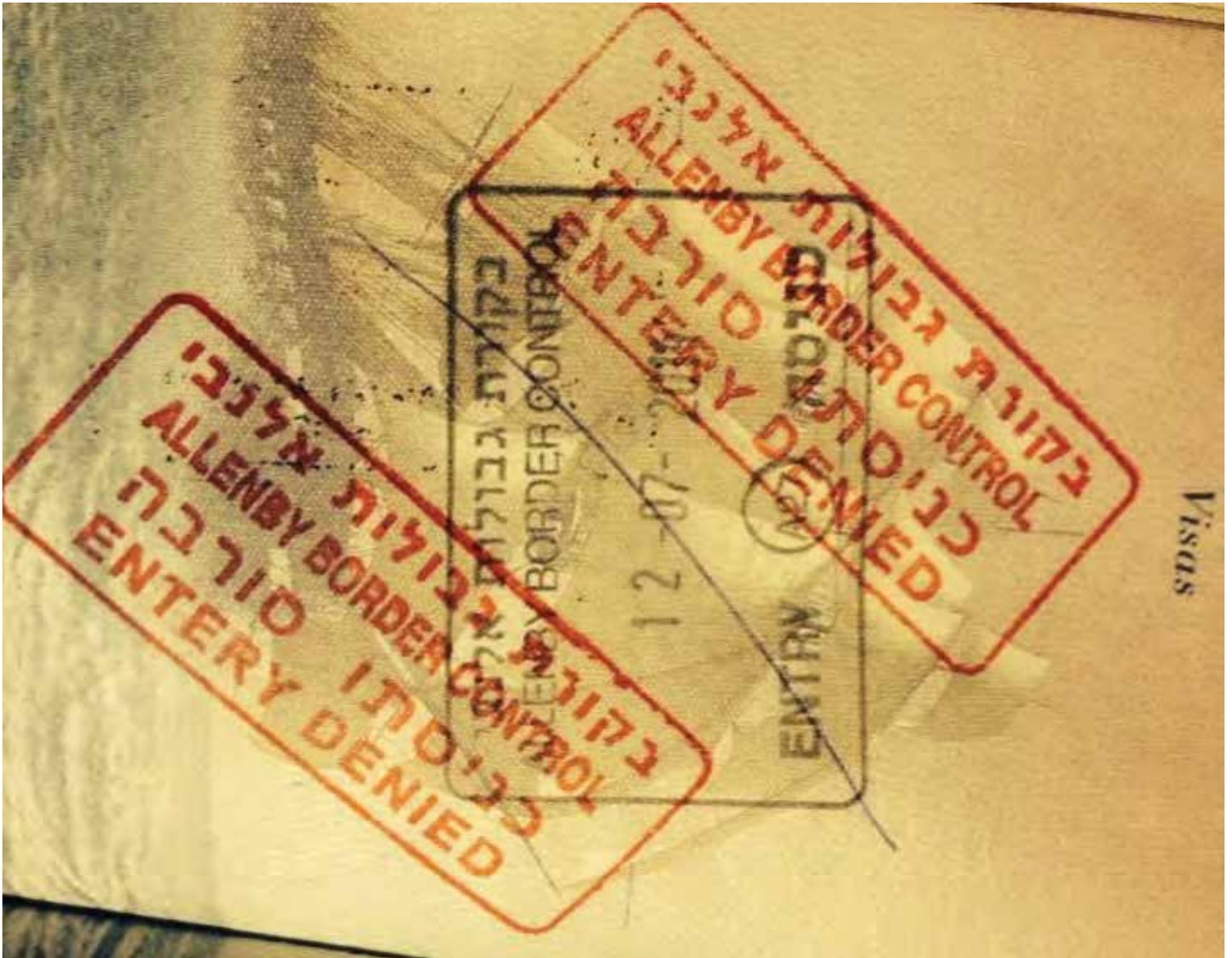
⁷³ Senate Report 111-237, Department of State, Foreign Operations, and Related Programs Appropriations Bill, 2011, 111th Congress (2009-2010), July 29, 2010, <https://www.congress.gov/congressional-report/111th-congress/senate-report/237>

3. Ensure that Israel honors its treaty obligation to allow all US citizens to travel freely

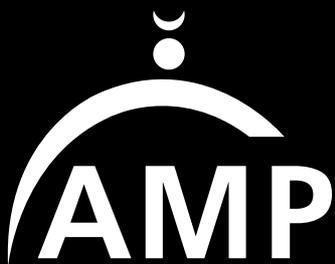
Rather than continue to passively acquiesce in Israel's discriminatory denial of entry of US citizens based on their ethnicity, religion, or political viewpoint, the United States—at the highest level possible—should raise this issue in bilateral discussions with Israel and demand that it respect its obligations under the 1951 Friendship, Commerce and Navigation Treaty to ensure that US citizens are able to travel freely to Israel and to Occupied Palestinian Territory. If Israel does not fulfill its treaty obligations, then the United States should avail itself of the remedy stipulated in the treaty and take the issue to the International Court of Justice.

However, Israel's denial of entry to US citizens is not just a matter for bilateral discussion. The US Embassy to Israel and the Department of State's Bureau of Consular Affairs need to explain why they are not more actively and vociferously advocating for US citizens who are denied entry by Israel. Even more concerning is the fact that US citizens who have been denied entry by Israel have been told by the US embassy that if they are not Jewish, then there is nothing that can be done on their behalf.





Finally, Congress and the Department of State should maintain their opposition to Israel's entry into the Visa Waiver Program as long it continues to discriminate against US citizens and deny entry to US citizens at unacceptable rates. No loophole or exemption should be made for Israel to join this program while it continues this unacceptable treatment of US citizens.



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6404 Seven Corners Place, Ste. N, Falls Church, VA 22044 | 703.534.3032 | info@ampalastine.org | www.ampalastine.org