

Myths & Facts: *Canada's Gaza Temporary Residence Program*



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Terrorism has
no Place in *Our*
Country

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TABLE OF CONTENTS



1.	Canada Oversees Humanitarian Programs	Page 003
2.	The Differences between the Ukraine and the Gaza Programs	Page 005
3.	The Differences between the Afghanistan and Gaza Programs	Page 015
4.	The Differences between the Syrian and the Gaza Programs	Page 019
5.	The Differences between the Syrian and the Gaza Programs	Page 022
6.	Hamas and Israel: What Is Hamas?	Page 028
7.	What is Israel?	Page 036
8.	Comparisons with other conflicts	Page 043
9.	The Rise of Antisemitism since 10/7	Page 044



Canada Oversees Humanitarian Crisis Programs



There have been concerns expressed that Palestinians in Gaza, under the Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza ("Gaza Program"), are not being treated equally or fairly because the number of Palestinian applications to be included in the current program of family reunification is significantly less than the numbers for other recent programs. The Palestinian program is set, at least for now, at 1,000 applications.¹

The Canada - Ukraine authorization for emergency travel (CUAET) program, announced after the Russian invasion of Ukraine, generated applications for 1,189,320 individuals. Of that number, 958,190 were approved. As of January 27, 2024, 221,231 had arrived.²

Canada ran five different programs for Afghanis. One was the Special Immigration Measures Program for those who assisted the Government of Canada. Under that program, 14,325 applications were approved and 13,655 had arrived in Canada as of January 25, 2024.

A second was a special humanitarian program focused on resettling vulnerable Afghanis. "Vulnerable" is term in the Immigration and Refugee Protection Regulations defined to mean that

"the person has a greater need of protection than other applicants for protection abroad because of the person's particular circumstances that give rise to a

¹<https://opencanada.org/1000-palestinian-refugees-surely-canada-can-do-better-than-that>

²<https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/ukraine-measures/key-figures.html>

heightened risk to their physical safety".³

As of January 25, 2024, 24,545 Afghans had arrived under this program. The third was the pathway for extended family members of former interpreters. As of January 25, 2024, 3,235 had arrived in Canada under that program. The number for the program is capped at 5,000.

The fourth was a special program to sponsor Afghan refugees without refugee status from the UNHCR or a foreign state. The number for this program was capped at 3,000 and is now full.

The fifth applied to extended family members of former language and cultural advisors who worked for the Canadian Department of National Defence. From all streams, the number of arrivals is 47,010 as of February 1, 2024.⁴ That means that about 2,575 have arrived under this program.

The Syrian resettlement initiative led to 44,620 Syrians arriving as of October 31, 2020.⁵ The numbers as of February 28, 2023 were Government assisted were 21,745, privately sponsored 18,955 and blended (Government and private) sponsorship 3,945.⁶

3. Regulation 138

4. <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/afghanistan/key-figures.html>

5. <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/welcome-syrian-refugees/key-figures.html>

6. <https://www.statista.com/statistics/555329/number-of-syrian-refugees-in-canada-as-of-by-entrance-category/>

There are valid reasons for the significant difference in numbers when one compares the Palestinian program and the other programs. Each of the other programs has features which differentiates it from the Palestinian program.

The Differences between the Ukraine and the Gaza Programs



There are significant differences between the current Gaza program and the Ukraine program, which must be properly reviewed:

One significant difference is that there was no terrorist organization ruling Ukraine which launched a genocidal attack on Russia before Russia invaded Ukraine. There is nothing in the Russia Ukraine conflict, generated by Ukraine, that equates to or approximates the October 7th Hamas attack on Israel.

There is no realistic possibility that Ukrainians fleeing the Russian invasion were and are genocidal killers. Some Palestinians seeking to flee the Israeli response to the attack of October 7th may well be genocidal killers. This possibility dictates enhanced screening. In the Canadian list of terrorist entities, the only one indicated as operating in Ukraine is the Russian Imperialist Movement. As well, some of those collaborating with the Russian invasion would be considered, or at least should be considered, inadmissible to Canada. Those collaborating in a significant way with the Russian invasion would not necessarily be inadmissible as members of a terrorist organization. They would, nonetheless, be inadmissible as being members of an organization that has engaged in either acts of subversion against the Government of Ukraine or instigating the subversion by force of that Government.

7. Immigration and Refugee Protection Act sections 34(1)(b)(b.1) and (f)



2. In addition to Hamas, there is a host of Canadian listed terrorist entities located in Gaza - Abu Nidal Organization, Al-Aqsa Martyrs' Brigade, Harakat al-Sabireen, Palestine Liberation Front, Palestinian Islamic Jihad, Popular Front for the Liberation of Palestine -General Command, and Popular Front for the Liberation of Palestine. Determining whether an applicant to Canada from Gaza is a member of a terrorist organization is accordingly significantly more complex than determining whether an applicant to Canada from Ukraine is a member of a terrorist organization or a significant collaborator in another way with the Russian invasion.

3. Insofar as members of the Russian Imperialist Movement or Ukrainian significant collaborators of the Russian invasion were at risk in Ukraine and wished to flee, they could easily retreat to Russia and, in light of their attachment to Russia, would have presumably done so. For Palestinians, leaving Gaza is not so easy. There is no neighbouring friendly country to which members of Hamas who wish to flee Gaza can go. Leaving Gaza means going to Egypt and the Government of Egypt is as hostile to Hamas and other terrorist organizations operating out of Gaza as Israel is. The Government of Egypt has as much reluctance to allow members of Hamas and other terrorist organizations operating out of Gaza to enter Egyptian territory as Canada in principle should have in allowing these terrorists into Canada. The result is that the pool of undesirable from Ukraine, lessened by flight to Russia, would be considerably smaller than the pool from Gaza.

4. The Russian invasion of Ukraine does not have widespread international support. A resolution of the United Nations General Assembly in October 2022 calling on Russia to "immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders" received only five opposing votes - from Belarus, Nicaragua, Russia, Syria and North Korea. In contrast, a United General Assembly Resolution supporting the position of Hamas and opposing the position of Israel calling for an immediate, "durable and sustained humanitarian truce leading to a cessation of hostilities" had 120 votes in favour, including Canada.

This difference signals to the members of the Russian Imperialist movement and other Ukrainian significant collaborators of the Russian invasion that they would not be welcome in Canada and, in contrast, to member of Hamas and other terrorist organizations operating in Gaza that they might well be welcome in Canada.

5. There is no indication that the Russian Imperialist Movement or the Russian invasion, more generally, has significant support within Ukraine. This is particularly so for those parts of Ukraine not occupied by Russia. In contrast, Hamas has widespread popular support in Gaza. The last time the Palestinian Authority held elections, in 2005, Hamas won the election. Membership in Hamas, as that term is understood in Canadian law, would be widespread. This difference indicates that an applicant to come to Canada from Gaza is far more likely to be a member of Hamas or other terrorist organization than an applicant to come to Canada from Ukraine is a member of the Russian Imperialist Movement or a significant collaborator with the Russian invasion.

6. Though there are no figures of Ukrainians actively fighting on the side of Russia, there is no reason to believe that the numbers are significant. Indeed, the absence of information about such a phenomenon is, in itself, information of absence. In contrast, according to Hamas sources, Hamas had, as of November 4, 2023, 40,000 fighters.⁸ That means that, if we take the number of fighters as a percentage of the Gaza population, if we assume that the 1,000 applications under the Gaza program would each include a household of average Gaza size, and if we further assume that there would be a number of Gaza fighters in the applications to Canada commensurate with their proportion of the overall Gaza population, there would be 131 Hamas fighters applying to come to Canada. ⁸

⁸ <https://www.reuters.com/world/middle-east/how-hamas-aims-trap-israel-gaza-quagmire-2023-11-03/>

That number is significant enough to warrant a much closer scrutiny of applications from Gaza than applications from Ukraine.

7. There is no indication of widespread support for the Russian Imperialist Movement or the Russian invasion more generally within Canada. Members of the Russian Imperialist Movement and other collaborators of the Russian invasion coming to Canada could reasonably expect an unfriendly environment, even if they could manage to get into Canada. The risk, accordingly, that those having sought to come to Canada under the Canadian special program for Ukraine were members of the Russian Imperialist Movement or otherwise collaborated in a significant way with the Russian invasion was small. In contrast, there is significant support for Hamas and other anti-Zionist terrorist organizations in Canada. One can see that support with chants, posters and graffiti, rallies, marches, and one-sided propaganda fora across Canada, hosted not least by universities, as well as in the content of the vast increase in antisemitic attacks in Canada since the events of October 7th. Members of Hamas and other anti-Zionist terrorist organizations operating out of Gaza could easily see Canada as a viable refuge and a friendly environment from which to operate. Because of this difference in anticipated welcome, the problematic applications are likely to be far greater from Gaza than they were from Ukraine.

8. An unrelated collaboration, working with the Russian invaders, is typically a visible activity. Ukrainian refugees often know who the collaborators are. The collaborators, as well, have reason to believe that the refugees would know. Needless to say, Ukrainian refugees have no sympathy for the collaborators and are unlikely to do anything to help them. On the contrary, the dynamic is the reverse. Ukrainian refugees may well be inclined to denounce to the Canadian authorities the collaborators for what they are. The collaborators have good reason to fear the denunciation, whether it in fact occurs or not. This fear would have been a disincentive for collaborators to apply to come to Canada under the Canada - Ukraine authorization for emergency travel (CUAET) program.

9. Because the likelihood of members of Hamas and other anti-Zionist terrorist organizations seeking entry under the Canadian temporary resident pathway for Palestinian extended family in Gaza is significantly greater than the Russian likelihood Imperialist that movement or collaborators in other ways with the Russian invasion would have sought entry under the Canada-Ukraine authorization for emergency travel program applicants under the Gaza Palestinian program require significantly require significantly greater scrutiny. The imperative of significantly greater scrutiny means significantly greater resources devoted to processing and significantly greater processing times. Funding, resources available are always a constraint on government operations.

10. The unusual feature of the Russian invasion of Ukraine and the Ukrainian plight is the Russian abduction of Ukrainian children, placed in foster homes in Russia and subjected to an education indoctrinating them in Russian imperialist propaganda. As of February 3, 2024, Russian forces had abducted 19,546 children.⁹

These abductions have led to arrest warrants issued by the International Criminal Court for Russian President Vladimir Putin and Maria Lvova-Belova, born on 25 October 1984, Russian Commissioner for Children's Rights. They are charged with the war crimes of unlawful deportation and unlawful transfer.¹⁰

Ukrainian families have justifiable reasons to flee to avoid abduction of their children. Canada has justifiable reason to provide them refuge to help them avoid those abductions.

There is nothing like this in Gaza. Israel is not abducting Palestinian children in Gaza.

9. <https://childrenofwar.gov.ua/en/>

10. <https://www.icc-cpi.int/news/situation-ukraine-icc-judges-issue-arrest-warrants-against-vladimir-vladimirovich-putin-and>

11. There has historically been active anti-Zionist hostility to relocation of Palestinians to Canada from the West Bank and Gaza. Prime Minister Jean Chrétien in April 2000 and Foreign Affairs Minister John Manley in January 2001 offered to resettle Palestinians in Canada. PLO spokesman Ahmed Abdel Rahman rejected the Prime Minister's offer. He said: "We reject any kind of settlement of refugees in Arab countries, or in Canada."¹¹

John Manley, in response to his offer, was burned in effigy near the West Bank city of Nablus.¹² Hussum Khader, head of the largest Palestinian Fatah militia in Nablus, "If Canada is serious about resettlement you could expect military attacks in Ottawa or Montreal".¹³

The numbers Canada has offered now may not be so large now as to raise that hostility. But if the numbers were to become much larger, that hostility would likely resurface.

The Ukrainian government does itself regret that Ukrainians are fleeing. But there is nothing like the hostility that the Palestinian leadership has shown in the past to resettlement.

The mere fact that there is a threat is not, of course, reason to succumb to it. Yet, if the Palestinian leadership is vehemently opposed to Palestinian resettlement, and that historically has been the case, that opposition is surely a relevant criterion in determining the extent of a Canadian offer of resettlement.

¹¹ Robert Fife, "Policy chaos as PM stumbles again", National Post, April 13, 2000

¹² Mike Trickey "Angry at a reported offer of a home, Palestinians burn Manley in effigy" Ottawa Citizen, January 19, 2001

¹³ "Canadians might understand now" Canadian Jewish News, February 22, 2001

questioning of the form request to list scars. Applicants are not, after all, inadmissible if they are scarred. This criticism ignores the reason for form questions. Simply asking an applicant to disclose grounds of inadmissibility may produce a self-serving answer. Questioning about scars potentially opens up an avenue of inquiry - about how the scar was obtained.

Because there must be preliminary processing and preliminary approval while applicants are still situated in Gaza, there are resource constraints in this Program not associated with a typical application in other contexts. This preliminary step, necessary in this case, because of the difficulties of Palestinians getting out of Gaza unless and until they complete this preliminary step, does not exist in other cases, including the Ukrainian case.

14. Ukraine borders seven countries - Poland, Slovakia, Hungary, Romania, Moldova, Russia, and Belarus. The countries other than Russia and Belarus are viable exit points. Fleeing to these other five countries is straightforward and does not require the intervention of Canada.

For Gaza, the only exit point is Egypt. Egypt has its own concerns about admitting members of Hamas and other terrorist organizations operating out of Gaza which are far greater than those of Canada.



Canada does not issue visas to Palestinians while in Gaza. Rather processing is finalized and visas are being issued only after Palestinians enter Egypt.

This sequence means that a Palestinian applicant can receive a first stage approval from Canada, enter Egypt on the basis of a Canadian request to Egypt to allow the applicant entry, but ultimately be refused a visa by Canada. Because of this potential, Egypt would have its own concerns about allowing Palestinians who have been given first stage approval by Canada to enter Egypt.

The Government of Egypt would be well aware that any Palestinian who is the object of a request from the Government of Canada to the Government of Egypt for entry may end up staying indefinitely in Egypt. Given that this is so, Egypt acceptance of a Canadian request for entry of a particular Palestinian would be neither necessarily automatic nor quick.

15. There is a substantial variation, in the Canada-Ukraine Authorization for Emergency Travel program, between approvals and arrivals. As noted 958,190 were approved. As of January 27, 2024, 221,231 had arrived. This discrepancy is so significant that it indicates that some of those approved had decided not to come to Canada. There are, in the Ukrainian context, good reason for this. Some may have been offered the opportunity to stay in the country where they had relocated and preferred that option, either because of ties to the local community or because the location is closer to Ukraine where they hope and plan to return. This sort of discrepancy is unlikely to manifest itself for the Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza. It is reasonable to expect that almost all, if not all, of those approved in Egypt under the program would come to Canada.

16. We have to consider not just absolute numbers but also proportionate numbers. Before the Russian invasion of Ukraine in February 2022, the Ukrainian population, including the population of Crimea, was 43.4 million. Before the October 7th attack of Hamas on Israel, the population of Gaza was 2.1 million. The population of Ukraine was, before the Russian invasion, 20.7 times the population of Gaza. If we scale up the Gaza numbers to the size of Ukraine, what we get, instead of 1,000 Gaza applications, is 20,700 Gaza applications.

17. One has to consider also how many people are included in each Gaza application. The Canadian program allows a person in Gaza related to a Canadian to include in their application their family members. Family members, according to the Immigration and Refugee Protection Act and Regulations, includes parents, partners, children and grandchildren. The average household size in Gaza is 6.9 persons.¹⁴

The statistics given above for Ukrainians who entered Canada under Canada - Ukraine authorization for emergency travel program are statistics for individuals, not family or households. If we assume that Gaza is the same size as Ukraine and if we further assume that all Gaza households consist of what are Canadian defined family members, we get a comparison figure of 143,000 individuals from Gaza potentially being allowed entry under the Temporary Resident Pathway for Palestinian Extended Family in Gaza. That is not much different from the 221,231 arrivals from Ukraine.

Similarly, if we assume that Ukraine has the same size as Gaza, then there would have been 1,818 applications approved for Ukrainians which generated arrivals to Canada. Again that is not much different from the 1,000 applications which under the Palestinian Gaza program could be approved.

While the comparison figures of 143,000 if Gaza were the same size as Ukraine and 1,818 if Ukraine were the same size as Gaza still favour the Ukrainians, the comparison overall, given all the other circumstances set out here, does not look unfair to Gazans. Suggestions that there is an unfairness in not treating Palestinians like Ukrainians fails to take into account the significant differences in the programs directed to the two populations.



The Differences between the Afghanistan and Gaza Programs

1. The Taliban control Afghanistan, but Hamas no longer controls Gaza. Members of the Taliban are, within the Afghani population, relatively unlikely to want to come to Canada, because it would mean, at least for those who left, abandoning the control they fought so long and hard for and finally achieved.

For Hamas the dynamic is the reverse. Rather than Hamas gaining control over Gaza, the Israeli response to the October 7th attack means that Hamas has been losing control over Gaza. The reasons for wanting to stay are correspondingly less.

2. Like the Russian Imperialist Movement and other Ukrainian collaborators with the Russian invasion, the Taliban does not have a lot of popular support in Canada. Members of the Taliban could not reasonably expect in Canada the chants, posters, graffiti, rallies, marches, and one-sided propaganda fora across Canada that one sees in support of Hamas. For members of the Taliban, Canada would be an unwelcome environment.

3. Like the Russian invasion of Ukraine, the Taliban regime of Afghanistan has limited international support. A United Nations General Assembly Resolution expressed "deep concern over the developments ... in Afghanistan since the takeover of the Taliban, and the dire economic, humanitarian and social conditions, persistent violence and the presence of terrorist groups, the absence of political inclusivity and representative decision-making, as well as abuse of human rights, including those of women, girls and persons belonging to minorities;" The resolution was adopted on 14 November 2022 by a vote of 116 in favour and none against. The UN does not recognize the Taliban as the Government of Afghanistan. Canada voted in favour of the resolution. This international hostility to the manner in which the

4. There are other Canadian listed terrorist entities operating in Afghanistan, opposed to the Taliban regime - Fatemiyoun Division, Gulbuddin Hekmatyar, Gulbuddin Hekmatyar's Faction of the Hezb-e Islami, Hezb-e Islami Gulbuddin, Haqqani Network, The Islamic State, and the Islamic State-Khorasan Province - who would not have the same inclination to stay in Afghanistan that members of the Taliban would. Yet these other organizations have no substantial support in Canada, certainly nothing like the support that Hamas has.

5. In order to qualify for the Canadian special program for Afghanistan, the Afghani applicant had to be outside of Afghanistan. There is no such requirement in the Gaza family reunification program for Palestinians. In this respect the Gaza program is more generous than the Afghanistan program. How is it that the Palestinian/ Gaza program, at least in terms of eligibility, is more generous than Afghani program, but the numbers in the Palestinian program are so much less than the numbers in the Afghani program? The answer, and this is a fifth difference between the programs, is that it is a lot easier to get out of Afghanistan than to get out of Gaza. There are many Afghanis in Pakistan, who provided they meet other eligibility criteria, could come to Canada. That is not so for Gazan Pakistanis.

6. Canada was actively involved in combat in Afghanistan. Between 2001 and 2014, there were more than 40,000 Canadian Armed Forces members Afghanistan removing successfully the Taliban from power and attempting, unsuccessfully, from preventing it to return to power.¹⁵ This ultimately doomed effort compromised a number of Afghanis assisting Canadians once the Taliban returned to power. Three of the five Canadian programs for Afghan resettlement were directed to this population - the program for extended family members of former language and cultural advisors who worked for the Canadian Department of National Defence, the program for extended family members of former interpreters and the program for those who assisted the Government of Canada.

¹⁵ <https://www.veterans.gc.ca/pdf/cr/pi-sheets/afghanistan-eng.pdf>

There is no counterpart in Gaza to this Canadian activity in Afghanistan. Canada did not send troops to remove Hamas from power and keep it out of power. There is accordingly no Palestinian population who assisted Canada in an unsuccessful combat operation in Gaza and whom Canada now needs to assist.

7. Canada, in light of its prolonged and substantial military presence, has had a direct impact on the country beyond those who were working directly with Canada and their families. That impact protected temporarily and allowed to flourish, a population at odds with the Taliban both in religious and ideological terms. Once the Taliban returned to power, that protection disappeared. Canada had a responsibility to assist this abandoned population which went beyond the responsibility to protect those who had assisted the military directly and their families. Again, there is nothing similar in Gaza. Canada in Gaza did not temporarily protect and then abandon Palestinians at odds with Hamas in religious and ideological terms. There is no obligation to assist in Gaza those it abandoned as there was in Afghanistan.

8. The differential role of Canada in Afghanistan and Gaza has had an impact on numbers. The three Afghan programs related to the Canadian military activity in Afghanistan have provided assistance to a total of 19,465 out of the 47,010. The number of arrivals not specifically linked to Canadian military activity is 27,545. The discrepancy, if one exists, is not properly that between 47,010 and 1,000 but between 27,545 and 1,000.

9. Two of the five Afghan programs, extended family members of former interpreters and Afghan refugees without refugee status from the UNHCR or a foreign state had hard caps. As noted, the first was capped at 5,000, the second at 3,000. The 3,000 cap was reached. After that happened, the Government stopped taking applications and stated that the program was full. The Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza is not like that. As noted above, the Government statement about "carefully monitoring program volumes" and "the evolving situation on the ground" in order to continue "to meet the needs of the population" bespeaks a flexibility about numbers different from a hard cap.

10. The population of Afghanistan at the time of the Taliban return to power was 40.1 million. That is 19.1 times the population of Gaza. If we multiply the Gaza number of 1,000 applications to get a figure that is commensurate per capita, we get 19,100 applications, not that far from the Afghani arrivals not specifically linked to military activity.

11. As noted, with Gaza we are dealing with applications not individuals. The Afghan figures are numbers of individual arrivals. If we multiply the Gaza application number of 1,000 by the household size of 6.9 persons and maintain a per capita perspective for comparison purposes, taking into the different population sizes of the two territories, the Gaza numbers would be almost 132,000 individuals for Gaza if Gaza had the same population as Afghanistan or 209 applications for Gaza, excluding the programs directed to those who assisted the Canadian military and their families, or 410 applications for Gaza including all programs if Gaza allocated to Gazans the same numbers proportionately as Canada had allocated to Gaza.

If we transport the Gaza program to a country the size of Afghanistan, the number of 132,000 of the Gaza program dwarfs the 27,545 Afghani arrivals not specifically linked to military activity. It even dwarfs the 47,010 of all Afghan arrivals.

If we transport the Afghan programs to a territory the size of Gaza, the number of 1,000 applications allowed under the Gaza program dwarfs the 209 applications that would be allowed under the Afghan programs if we exclude programs directed to those who assisted the Canadian military and their families. It even dwarfs the 410 applications that would be allowed under the Afghan programs all combined.

If we put aside all other differences between the two programs and look only at numbers, it is not Palestinians in Gaza who should complain about being treated worse than Afghanis. It is rather Afghanis who should complain about being treated worse than Palestinians in Gaza. The complaint that the numbers show unfair treatment to Palestinians from Gaza is inaccurate. In reality, the Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza is far more generous than all five Afghan programs combined.

The Differences between the Syrian and the Gaza Programs



1. A significant difference between the Syrian and Gaza programs is that Syrians, to qualify under the program have to be refugees as defined in the United Nations Convention on Refugees. There is no similar requirement for those applying under the Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza. In this respect, the Gaza program is more generous than the Syrian program.
2. Syrians, to apply under the Syrian resettlement initiative, had to be outside of Syria. Palestinians, to apply under the Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza do not, as the very name suggests, have to be outside of Gaza. They can apply under the program while in Gaza. This is a second way in which the Gaza program is more generous than the Syrian program.

3. Though the fact that applicants to the Gaza program can apply while still in Gaza is an advantage, the fact that would be applicants can not leave Gaza poses several problems. Because Syrians applying under the program are outside of Syria, processing for Canada is considerably easier. Canadian visa officers have access to applicants from the get go. Visa officers do not need to wait until Syrian applicants get out of Syria.

4. Refugees from Syria are located, for most part, in Jordan, Lebanon and Turkey. There are local on the ground resources which can help Syrian applicants and Canadian officers, in particular the Office of the United Nations High Commissioner for Refugees, which operates in all three countries. In Turkey, the Directorate General of Migration Management of the Government of Turkey, makes refugee determinations.¹⁶ There is nothing like that operating in Gaza. In Gaza, there is not the assistance available to the persons applying under Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza as there is for those in Jordan, Lebanon and Turkey applying under the Canada Syrian program. That is a problem for those applying from Gaza. It is also a problem for the Government of Canada in processing the applications received.

5. Visa office security determinations are, under the Syrian program as compared to the Gaza program, simplified. While Canadian security grounds for inadmissibility determinations are not the same as grounds of exclusion under the Refugee Convention, there is considerable overlap.

A person is excluded from refugee protection, under the Refugee Convention, if there are serious reasons for considering that the person:

(a) has committed a crime against peace, a war crime, or a crime against humanity,

16. <https://asylumineurope.org/reports/country/turkiye/introduction-asylum-context-turkiye/>

- (b) has committed a serious non-political crime, or
- (c) has been guilty of acts contrary to the purposes and principles of the United Nations.

Though Canadian visa officers are expected to make their own determinations and not just defer to UNHCR determinations, the fact that the UNHCR has determined a person not excluded does make visa office security determinations easier. This prior exclusion determination is available for applicants under the Syrian program, but is not available for applicants under the Gaza program.

6. The Syrian program had, when announced on November 24, 2015, a target of 25,000. Yet, the actual numbers accepted and arriving in Canada under the program as of October 31, 2020 was 44,620.¹⁷ The Gaza program is not identical to the Syrian program, with its target but no cut off. Yet the cutoff date and numbers of the Gaza program, with flexibility tacked on, look more like the Syrian program than the Ukrainian or Afghan programs.

7. There are per capita differences. The Syrian population in 2015 at the time the Canadian program was announced was 19.2 million. If we compare the Syrian target of 25,000 individuals with the Gaza target of 1,000 applications, and make allowance for population differences, that Gaza program in Syria would have targeted 63,086 individuals and the Syria program in Gaza would have targeted 396 applications. Like the Afghan program comparison, the Syrian program comparison favours the Gaza program. The complaint that the Gaza program is unfair because less generous than the Syrian or Afghan programs is numerically wrong, on a per capita basis. It is the Gaza program which is more generous than either the Syrian or Afghan programs.

¹⁷ <https://www.canada.ca/en/immigration-refugees-citizenship/services/refugees/welcome-syrian-refugees/how/processing.html>

8. Once Syrians are accepted under the Canadian program, they can leave where they are agencies of the United Nations protection or assistance".¹⁸ Palestinian refugees, because they receive assistance from UNRWA, fall within this exemption. For Gazans, the difference is stark. Getting out of Gaza is not so easy. Even if both Israel and Hamas would be content to have Palestinians who been provisionally accepted under the Canadian program leave Gaza, Egypt can present considerable difficulty in allowing these Palestinians to enter Egypt.

9. Though there are number of Canadian listed terrorist entities based in Syria - Abdallah Azzam Brigades, Ansar al-Islam, Fatemiyoun Division, Hay'at Tahrir al-Sham, Islamic State, and Jaysh Al-Muhajirin Wal-Ansar - none of them has the support in Canada that Hamas does. There are not, in Canada, the chants, posters and graffiti, rallies, marches, and one-sided propaganda fora across Canada in favour of Syrian terrorists and against the Syrian government that we see in favour of Hamas and against the Israeli government. Syrian terrorists can accordingly expect a less friendly welcome in Canada than Gazan terrorists and a correspondingly less inclination to show up in Canada.

The Differences between Palestinian and Other Refugees

Palestinian refugees are unlike any other. There are two different legal regimes, one for Palestinian refugees, another for all other refugees. Each regime has its own international administration. For Palestinian refugees, there is the United Nations Relief and Works Agency (UNRWA). For all other refugees, there is the Office of the United Nations High Commissioner for Refugees (UNHCR).

¹⁸Article 7(b)

¹⁹ UNHCR/IOM/8/68, UNHCR/BOM/10/68, Paragraph 2

²⁰ Pagraph 51, Handbook and Guidelines on Procedures and Criteria for determining Refugee Status under the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, Office of the United Nations High Commissioner for Refugees

²¹ <https://www.unrwa.org>

If, like the Syria program, the Gaza program required its applicants to be refugees as defined by the United Nations Convention on Refugees, the staff of the Office of the United Nations High Commissioner for Refugees would not be available to help. The Statute of the Office of the High Commissioner for Refugees states that the competence of the High Commissioner shall not extend to a person "who continues to receive from other organs or agencies

The Office of the High Commissioner for Refugees has made a specific determination to this effect. A memorandum of February 22, 1968 from A. Rörholt, Director of the Legal Division to all UNHCR representatives, correspondents and officers, stated "persons enjoying the assistance or protection extended by UNRWA are excluded from the UNHCR mandate".¹⁹

Most Palestinian under the mandate of UNRWA would not meet the United Nations Refugee Convention definition of refugees. The Convention definition limits refugees to those who have a well-founded fear of persecution for listed reasons, who are outside their country of nationality, or for those who have no nationality, are outside their country of habitual residence. Persecution is a serious violation of human rights.²⁰ Only a few of the 5.9 million persons UNRWA considers refugees would meet the United Nations Refugee Convention definition of refugees.

UNRWA refugees "are persons whose normal place of residence was Palestine during the period 1 June 1946 to 15 May 1948, and who lost both home and means of livelihood as a result of the 1948 conflict. Palestine Refugees, and descendants of Palestine refugeeThe UNRWA definition refers to "normal place or residence". As long as the person had Palestine as a normal place of residence during the requisite period, it does not matter if the person had nationality elsewhere.

one where a person lives more days of the year than any other.²⁵ A connection to a normal place of residence can be a lot more tenuous than a connection to a habitual place of residence.

A Convention refugee has to have been fleeing a well-founded fear of persecution. For an UNRWA refugee, there is no similar requirement. The loss of home and livelihood in the UNRWA definition considers what happened in the past rather than what would happen in the future. The loss of home and livelihood may, depending on the circumstances, amount to persecution. However, that is not going to be so in every case.

The UNRWA reference to Palestine is a reference to the territory of British Mandate Palestine. That is to say, it includes the West Bank and Gaza. The definition includes people who never lived or resided in Israel.

The UNRWA definition, as a consequence of not imposing a restriction of a well-founded fear of persecution, makes no reference to agents of persecution. Those who caused the loss of home and livelihood which led to UNRWA eligibility for registration could be the Arab states which invaded Israel, or local anti-Zionist terrorist organizations and not Israel.

Unlike other refugees, the status of Palestinian refugees is hereditary. The Office of the United Nations High Commissioner for Refugees recognizes derivative refugee status under the principle of family unity. A person who obtains that status as a child can maintain it after reaching the age of majority.²⁶

3021 (FCA), [1994] 1 FC 723, [1994] 1 F.C. 723

²⁵ <https://wikidiff.com/habitual/normal>

²⁶ Procedural Standards for Refugee Status Determination under UNHCR's Mandate, "Processing Claims based on the Right to Family Unity", section 5.1 "Derivative Refugee

However, unlike UNRWA refugees, that status is subject to individual determination of the person from whom status is derived. As well, derivative refugees under the mandate of the Office of the United Nations High Commissioner for Refugees are subject to the cessation and exclusion clauses of the Refugee Convention, when these clauses apply either to them or to the persons from whom their status is derived. Moreover, a person who has nationality of another country can not obtain derivative status even if the family member has status.

There are several countries with refugees whose descendants the UNHCR also recognizes as refugees. The difference between those descendant refugees and descendants of Palestinian refugees is that these descendant refugees are real refugees, without a durable solution outside their countries of origin and with a continuing well-founded fear of persecution in their county or origin.

Descendants of Palestinian refugees, almost without exception, have had durable solutions where they now are. That may not be true now in Gaza because of the armed conflict. However, it was true before Hamas precipitated the present conflict and could be true again once Hamas is eradicated.

As well, Palestinian refugees came from a territory, British Mandate Palestine, which no longer exists. Palestinian refugees and their descendants can not return to British Mandate Palestine not because they risk persecution there, but rather because there is no longer a British Mandate Palestine. Most of them are, in any case, living in components of the successor jurisdictions to British Mandate Palestine, the West Bank and Gaza. Persons claiming refugee status who are not Palestinian are excluded from

refugee status protection if they have the substantive rights of nationality of the country in which they have taken up residence, even if they are not nationals. That is not the case for UNRWA, which has no such exclusion clause.²⁷

Other refugees are considered to have local integration as a durable solution. According to the Office of the United Nations High Commissioner for Refugees, "there is no formal hierarchy among the durable solutions." Resettlement and local integration have the same status as durable solutions as does voluntary repatriation.²⁸

Palestinian refugees in the West Bank and Gaza, before October 7th, were locally integrated. In principle, then, because of that local integration, they should no longer have needed a durable solution elsewhere.

Other refugees have resettlement as a durable solution. Palestinian refugee advocates, as noted earlier, reject resettlement as a durable solution for this population.

Every other refugee, in order to be eligible to seek protection from the international community has to renounce armed activity. A determination has to be made of the genuineness of that renunciation.²⁹ That is not the case with UNRWA and Palestinian refugees. There is no ineligibility provision based on intent to use force, or actual use of force.

²⁷ Convention relating to the Status of Refugees, 189 United Nations Treaty Series 150, Article 1E

²⁸ UNHCR "Resettlement Handbook," chap. 1, "Resettlement within UNHCR's Mandate," sec. 1.3.2, "Complementarities of the three durable solutions."

²⁹ "Operational Guidelines on Maintaining the Civilian and Humanitarian Character of Asylum," United Nations High Commissioner for Refugees, September 2006

Non-Palestinian refugees cannot be complicit in acts of terrorism. The Refugee Convention excludes those about whom there are serious reasons for considering that the person has been guilty of acts contrary to the purposes and principles of the United Nations;³⁰ terrorism is such an act.³¹ That is not true, though, of Palestinian refugees. UNRWA has no exclusion or ineligibility clause based on complicity in terrorist acts.

That is not to say that no Palestinians registered with UNRWA are Convention refugees. It may well be possible for some Palestinians registered with UNRWA to meet the Convention refugee definition. The UNHCR can not, as noted, assist in a determination whether such a person is a Convention refugee. However, that limitation on the UNHCR does not prevent Canada from making its own determination.

Legally there is a difference between human rights law and humanitarian law, the laws of armed conflict. Persecution is a serious violation of human rights, but not necessarily a serious violation of the laws of armed conflict. There is an overlap between the laws of armed conflict and human rights. Yet they are not identical. Not every serious violation of the laws of armed conflict is a serious violation of human rights.

Palestinians wanting to flee Gaza are arguably attempting to escape violations by Hamas of the laws of armed conflict because Hamas is using them as human shields to hide behind when Israel responds to the October 7th attack. However, that situation does not necessarily put Palestinians into the Convention refugee category.

Nonetheless, because of the scope of the Gaza program, the potential ineligibility of Palestinians as Convention refugees does not matter. In that respect they are better off than those applying under the Canada Syrian program, who must be Convention refugees.

³⁰ Refugee Convention, Article 1F(c)

³¹ Pushpanathan v. M.C.I. (1998), 1 S.C.R. 982, paragraph 120

Hamas and Israel

In addition to comparing the Canadian program for Gaza with the Canadian programs for Ukraine, Afghanistan and Syria, it is useful to compare Hamas and Israel. The two are complete contrasts.

A. What is Hamas?

Hamas is an antisemitic, genocidal, fanatical religious movement. Hamas aims to destroy Israel through the killing of Jews in Israel and to expel and remove the Jewish people from Israel.



Islam is part of the name of Hamas. Hamas is an Arab language acronym for Islamic Resistance Movement.

Religious fervour is notable in the 1988 Hamas Covenant¹⁸ and the 2017 Document of General Principles and Policies.¹⁹ In the 1988 Hamas Covenant, the word "Islam" or its variations is repeated 136 times. The word "Allah" is repeated 92 times. The word "Moslem" is repeated 57 times. The word "Prophet" or "Prophets" is repeated twelve times. The word "Koran" is repeated five times.



The Hamas Document of General Principles and Policies mentions Islam 21 times and Allah six times. In the Hamas Document, Palestine is not just called an Arab land. It is called an Arab Islamic land. By claiming that Israel is Islamic land, Hamas is engaged in a form of advocacy or manifestation of religious hatred against Jews for living on that land.

The antisemitism of Hamas is evident. The 1988 Covenant of Hamas identified its stand as "our struggle against the Jews." In its 2017 Hamas Document of General Principles and Policies, Hamas wrote: "Hamas does not wage a struggle against the Jews because they are Jewish." Hamas is here making a distinction between Jewish identity and Jewish behaviour. However, the 2017 document rejects none of the antisemitic tropes railing against concocted Jewish behaviour set out in the 1988 Covenant. The 2017 Document does not repeal or reject the 1988 Covenant.

¹⁸ <https://irp.fas.org/world/para/docs/880818.htm>

¹⁹ Hamas: General Principles and Policies (2017)

<https://www.jewishvirtuallibrary.org/hamas-2017-document-of-general-principles-and-policies>

The antisemitism is explicit in the 1988 Hamas Covenant. The Covenant compares Jews to Nazis, writing, "In their Nazi treatment, the Jews made no exception for women or children." The Covenant also refers to "warmongering Jews."

The Covenant states "We should not forget to remind every Moslem that when the Jews conquered the Holy City in 1967, they stood on the threshold of the Aqsa Mosque and proclaimed that 'Mohammed is dead, and his descendants are all women.'" There is no historical record of this being said by anyone. It certainly was not said by every Jewish person worldwide nor by any person with authority to do so in the name of the State of Israel.

Zionism is the expression and realization in Israel of the right of self-determination of the Jewish people. For Hamas, though, Zionism means something completely different.



Hamas accuses Zionist organizations of infiltrating "Freemasons, Rotary Clubs, espionage groups and others" to educate women "far from Islam," thereby subverting and sabotaging the role of Islamic women in making Islamic men. The Hamas Covenant claims that,

"The [Zionist] enemies have been scheming for a long time, and they have consolidated their schemes, in order to achieve what they have achieved. They took advantage of key-elements in unfolding events, and accumulated a huge and influential material wealth which they put to the service of implementing their dream. This wealth [permitted them to] take over control of the world media such as news agencies, the press, publication houses, broadcasting and the like. [They also used this] wealth to stir revolutions in various parts of the globe in order to fulfil their interests and pick the fruits. They stood behind the French and the Communist Revolutions and behind most of the revolutions we hear about here and there. They also used the money to establish clandestine organizations which are spreading around the world, in order to destroy societies and carry out Zionist interests. Such organizations are: the Free Masons, Rotary Clubs, Lions Clubs, B'nai

B'rith and the like. All of them are destructive spying organizations. They also used the money to take over control of the Imperialist states and made them colonize many countries in order to exploit the wealth of those countries and spread their corruption therein. As regards local and world wars, it has come to pass and no one objects, that they stood behind World War I, so as to wipe out the Islamic Caliphate. They collected material gains and took control of many sources of wealth. They obtained the Balfour Declaration and established the League of Nations in order to rule the world by means of that organization. They also stood behind World War II, where they collected immense benefits from trading with war materials, and prepared for the establishment of their state. They inspired the establishment of the United Nations and the Security Council to replace the League of Nations, in order to rule the world by their intermediary. There was no war that broke out anywhere without their fingerprints on it."

The Hamas Covenant states that Zionists "aim at undermining societies, destroying values, corrupting consciences, deteriorating character and annihilating Islam." The Covenant adds that Zionism "is behind the drug trade and alcoholism in all its kinds so as to facilitate its control and expansion." The Covenant refers to "Zionist Nazi activities."

The Covenant continues "After Palestine, the Zionists aspire to expand from the Nile to the Euphrates ... Their plan is embodied in the 'Protocols of the Elders of Zion.'" The "Protocols of the Elders of Zion" is a 1905 Russian fabrication of minutes of a meeting of Jewish leaders which never took place. The concocted minutes document a plan for Jews to rule the world.

What is being demonized here are not just Jews in Israel or Jews since the creation of Israel. Freemasons were founded in June 1717. The French revolution was 1789. Hamas demonizes Jews worldwide castigating imagined Jewish behaviour from before 1717.



One quote in the 1988 Hamas Covenant is this: "Israel will exist and will continue to exist until Islam will obliterate it, just as it obliterated others before it" (The Martyr, Imam Hassan al-Banna, of blessed memory)." Hassan al-Banna was the founder of the Muslim Brotherhood. Hamas is an extension of the Brotherhood.

Al-Banna was an admirer of Hitler and Nazism. Al-Banna had Hitler's "Mein Kampf" translated into Arabic, changing the title to "My Jihad." He also had copies of Julius Streicher' Nazi journal Der Sturmer adapted to suit the Arab world, including its antisemitic cartoons.²⁰

Al-Banna did not just want to obliterate Israel as a state. He wanted to obliterate Jews. He stated: "If the Jewish state becomes a fact, and this is realized by the Arab peoples, they will drive the Jews who live in their midst into the sea."²¹

Al-Banna has written:

"Allah ... has placed upon their shoulders the highest of duties which is the guidance of humanity to the truth, leading mankind to good, and the illumination of the entire world with the light of Islam ... This means that the Noble Qur'an appoints the Muslims as guardians over humanity in its minority, and grants them the right of supervision and rule over the world in order to carry out this sublime command."²²

A quote set out in the 1988 Hamas Covenant is this:

"The Day of Judgement will not come about until Moslems fight the Jews (killing the

²⁰ "Analysis: The Nazi roots of Muslim Brotherhood" Alarabiya News
<https://english.alarabiya.net/features/2018/06/27/ANALYSIS-The-Nazi-roots-of-Muslim-Brotherhood>

²¹ "Muslim Brotherhood Threatens Jews Refuses to Accept Israel" Jewish Virtual Library
<https://www.jewishvirtuallibrary.org/muslim-brotherhood-threatens-jews-refuses-to-accept-israel>

²² "The Complete Works of Imam Hassan al-Banna 1906-1949"
<https://thequranblog.files.wordpress.com/2008/06/2-to-what-do-we-invite-humanity.pdf>

Jews), when the Jew will hide behind stones and trees. The stones and trees will say O Moslems, O Abdulla, there is a Jew behind me, come and kill him. Only the Gharkad tree, (evidently a certain kind of tree) would not do that because it is one of the trees of the Jews."

Hamas attributes the quote to "al-Bukhari and Moslem." Yet, that is not the source of the quote. The source is Abu Hurayra.²³ Hadiths by Abu Hurayra are widely regarded as fabrications, which may be the reason for the Hamas attribution of the quote to someone else.²⁴

The alleged quote is claimed to be a hadith, that is to say, a report by Abu Hurayra as a companion (for a brief period) of the Prophet Muhammad of something Muhammad supposedly had said. Whatever one can say about Abu Hurayra generally, this particular hadith has to be, as a report of something Muhammad said, wrong, because the hadith is contradicted by the Koran.²⁵

Al-Bukhari, the Hamas claimed source for the quote, is a source for a hadith that says, in substance, that the Jews will attack the Muslims and the Muslims will prevail and kill the attacking Jews. That hadith is quite different from the one quoted by Hamas which calls for

²³ "In the battle between the Jews and the Muslims at the end of time, the aggressors will be the Jews"

<https://islamqa.info/en/answers/223275/in-the-battle-between-the-jews-and-the-muslims-at-the-end-of-time-the-aggressors-will-be-the-jews>

²⁴ Yasin T. al-Jibouri, "Abu Hurayra and the Falsification of Traditions (Hadith)"

<https://www.al-islam.org/articles/abu-hurayra-and-falsification-taditions-hadith-yasin-t-al-jibouri>

²⁵ Mohammed Dajani, "On the Significance of Dialogue"

<https://www.washingtoninstitute.org/policy-analysis/significance-dialogue>

²⁶ Tuhin Das Mahapatra, "I killed 10 with my own hands," Hindustan Times, 25 October 2023
<https://www.hindustantimes.com/world-news/i-killed-10-with-my-own-hands-idf-reveals-how-a-hamas-terrorist-brags-about-killing-jews-to-parents-on-victim-s-phone-101698198333004.html>

²⁷ Katherine DeClerq, "'Walked the talk': Canadian peace activist killed in Hamas attack remembered", CP24, 14 November 2023,
<https://www.cp24.com/news/walked-the-talk-canadian-peace-activist-killed-in-hamas-attack-remembered-1.6644851>

Israel legally had every right to respond to that attack. That right of response exists even when Hamas hid behind Palestinian shields. The responsibility for the death and harm of the shields is that of Hamas, not Israel.²⁸

The harm and deaths which Hamas has inflicted are further aggravated by the abuse of humanitarian aid channels to smuggle in weaponry, the storing of weapons in homes, schools, hospitals and mosques, the shooting of rockets from or near those locations, the location of Hamas tunnels under these locations and the creation of entrances to the tunnels in these locations. Money given for humanitarian aid is diverted to these militaristic goals.

The guilt of Hamas is compounded by the fact that Hamas could have easily saved Palestinians from death and harm simply by allowing them access to the raft of Hamas tunnels, which could have been used as bomb shelters. Yet, Hamas denied Palestinians access to those shelters.

Israel has warned Palestinians in advance to leave intended target sites. Hamas has urged them to stay. If Palestinians do flee, Hamas flees with them, continuing to use them as shields.

Moreover all this Hamas activity is done with genocidal intent, the intent to destroy Palestinians in whole or in part. Hamas actively encourages martyrdom of Palestinians, that is to say the death of Palestinians in the Hamas anti-Zionist cause.

²⁸ Stephanie Bouchié de Belle, "Chained to Cannons or Wearing Targets on their T-Shirts: Human Shields in International Humanitarian Law," 90 Int'l Rev. of the Red Cross 883, 889 (2008), <https://www.icrc.org/eng/assets/files/other/irrc-872-bouchie-de-belle.pdf>

One Hamas leader, Khaled Mashal, stated: "We know very well the consequences of our operation on October 7 . . . No nation is liberated without sacrifices." Another Hamas leader stated: "We are called a nation of martyrs, and we are proud to sacrifice martyrs." Atallah Abu Al-Subh, former Hamas minister of culture, "Whoever is killed by a Jew receives the reward of two martyrs."²⁹

Hamas orchestrates the deaths and harm of Palestinians in order to blame Israel for what Hamas has done. Hamas demonizes and attempts to delegitimize Israel for their own travesties.

B. What is Israel?

Israel, in contrast, is secular and stands for equality of all religions. The 1948 Declaration of the Establishment of the State of Israel declared that Israel "will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex".³⁰ One can point to instances where Israel does not live up to that ideal. Yet, one can do so as well for every other state.



One of the Basic Laws of Israel is titled "The Nation State of the Jewish People." That Basic Law makes no references to God or Judaism. It refers to the Jewish religion only obliquely, stating

"The state of Israel is the nation-state of the Jewish people, in which it actualizes its natural, religious, and historical right for self-determination."³¹

²⁹ <https://www.adl.org/resources/news/hamas-their-own-words>

³⁰ <https://www.gov.il/en/departments/general/declaration-of-establishment-state-of-israel>

³¹ Israel's Basic Laws: Israel - The Nation State of the Jewish People (19 July 2018) Article 1(b)

<https://www.jewishvirtuallibrary.org/israel-s-basic-laws-the-israel-nation-state-law>,

The Basic Law provides for religious holidays of every religion. The Law states: "Saturday and the Jewish Holidays are the official days of rest in the state. Those who are not Jewish have the right to honour their days of rest and their holidays." The law actively contemplates a non-Jewish population in Israel. The law refers to Israel as "the historical homeland of the Jewish people" but does not refer to Israel as "Jewish land."

Israel has its own religious ultra-orthodox. Yet, they are the antithesis of Hamas. Hamas extols resistance and militancy. It is aggressive and terrorist. The Israeli ultra-orthodox are pacifist in the extreme.

Whether the ultra-orthodox should serve in the Israeli army has been an issue which has roiled Israel for decades. Before the Hamas attack, Israel was bitterly divided over proposed and enacted judicial reform. The only component of the proposed reform which was enacted was repeal in July 2023 of the Israeli specific standard of review of reasonableness for Government decisions.³²

While the merits of that legislation can be addressed in isolation, what lay behind it was several surrogate issues decided by the Courts using the Israel specific standard of review of reasonableness. Most notable of these issues was whether the ultra-Orthodox had to serve in the military.

Petitioners in 1990s had challenged in Court a practice of the Minister of Defence to grant deferrals of and exemptions from required military service to ultra-Orthodox Jewish Yeshiva male students who engage in full-time religious study. The Supreme Court, in December

³² Amichai Cohen "The Supreme Court Hearing on the Revocation of the Reasonableness Doctrine" September 07, 2023, The Israel Democracy Institute, <https://en.idi.org.il/articles/50753>

³³ Rubinstein v. The Minister of Defense, HCJ 3267/97 HCJ 715/98, HCJ 715/98
<https://versa.cardozo.yu.edu/opinions/rubinstein-v-minister-defense>

³⁴ "The Haredi Exemption" Israel Policy Forum, Understanding Critical Issues, July 11, 2023, page 3 <https://israelpolicyforum.org/wp-content/uploads/2023/07/Haredi-draft.pdf>

The Knesset enacted the legislation annulling of the Israeli specific standard of review of reasonableness eight days before the Court ordered continuation of the exemption of ultra-orthodox male youths was set to expire. The timing and scope of the legislation - specific to the Government, Ministers and the Prime Minister - may be related to that expiry date. One reason for the current legislation may well have been the determination of the present Government to extend, through a Ministerial order, the exemption of ultra-orthodox male youths from military service beyond the date of application of the Court ordered exemption. The Israel High Court Supreme Court overturned the legislation annulling of the Israeli specific standard of review of reasonableness in a decision announced January 1, 2024. Where that leaves the administrative exemptions to ultr-Orthodox youth from military service now remains to be seen. ³⁵

The ultra-orthodox at least to date got the exemption they wanted, through legislative change and Ministerial order. And the ultra-orthodox political parties were a significant component of the Government coalition before October 7th.

Hamas did not attack Israel because the ultra-orthodox were not in the Israeli military, did not want to be in the military and were a significant component of the Government. What the non-military stance of the Israeli ultra-orthodox does show is that there is no necessary connection between religiosity and militancy, that it is possible, indeed not uncommon to be both profoundly religious and pacifist, and that Israeli and Hamas religious orthodoxy are very different.

³⁵ "In Historic ruling, High Court strikes down key judicial overhaul legislation", Times of Israel, 1 January 2024

<https://www.timesofisrael.com/in-historic-ruling-high-court-strikes-down-key-judicial-overhaul-legislation/>

Fanatical, murderous religious hatred, the determination to kill en masse not only non-believers, but also to engineer the killing of believers in pursuit of religious goals is to a secular population and a religious population determined not to serve in the military so strange that they do not see it happening even when it is plainly in front of them. One of the greatest difficulties in combatting grave threats of human rights violations is the inability to appreciate the reality of the threat, even when it is in front of them.

Today the Holocaust is arguably the best documented and most widely known atrocity in history. Yet, while it was happening, it was met with incredulity. There was a disconnect between evidence and knowledge.

Efforts to react against genocides generally are met with denial, attempts at impunity, cover-up, obfuscation, counter-narratives and propaganda directed against the victim group. Compounding these difficulties is the phenomenon of disbelief even by those sympathetic to the plight of the victim community and by the victim community themselves, in the face of a wealth of information, particularly when the genocide takes a novelform. Knowledge combines evidence with belief. A person can be presented with irrefutable evidence that something is true. However, as long as the person does not believe the information is true, there is no knowledge.

This phenomenon of disbelief was a particular problem in attempts to mobilize efforts to escape or counter the Holocaust when it was occurring. Many did not believe the Holocaust was happening even when presented with eye-witness testimony, even when they themselves witnessed direct evidence.

U.S. Supreme Court Justice Felix Frankfurter in 1943 in reaction to being told by a Polish undercover agent Jan Karski about the Holocaust said: "I do not believe you". When a Polish diplomat told Frankfurter that Karski was telling the truth, Frankfurter responded:

"I did not say that this young man was lying. I said that I was unable to believe what

he told me. There is a difference. My mind and heart are made in such a way that I can not it accept it."³⁶

Rudolf Vrba and Alfred Wetzler, who escaped from Auschwitz in April 1944, wrote and circulated a detailed account of the mass killings there. Their report was consistently disregarded and disbelieved, even by those whose could have saved their own lives by believing it.³⁷

Georg Klein, then living in Budapest, recounts that he believed the report and escaped. Before he escaped, he showed the report to his uncle who said: "How could you believe such nonsense?"³⁸

Philosopher Hannah Arendt, when reading the initial reports of the Holocaust in the New York Times, stated that she did not believe them, because the killing of civilians did not make any military sense. ³⁹ French philosopher Raymond Aron said about the Holocaust: "I knew it, but I didn't believe it. And because I didn't believe it, I did not know".⁴⁰

36 "Jan Karski about his meeting with Supreme Court Justice Felix Frankfurter, 1943", 5 September 2012 https://www.youtube.com/watch?v=7YVTfG_qE2Y

37 "Vrba-Wetzler Report" http://www.fdrlibrary.marist.edu/_resources/images/hol/hol00522.pdf

38 Jonathan Freedland, "The Escape Artist: The Man Who Broke Out of Auschwitz to Warn the World", New York: HarperCollins, 2022 at page 306 [The Escape Artist]

39 Lucie Volquardsen, "Shoah et fiction littéraire au vingt-et-unième siècle: une littérature dangereuse?" 2019 Electronic Thesis and Dissertation Repository at page 197, Western University, <https://ir.lib.uwo.ca/cgi/viewcontent.cgi?article=8232&context=etd>

40 "The Escape Artist" at page 308

What is striking about this disbelief from Frankfurter, Arendt and Aron was that they were educated well informed people, who were also all Jewish and well familiar with antisemitism. The widespread disbelief in the Holocaust while it was happening, though not the only cause for the failure to react immediately to evidence of the Holocaust, was surely a contributing factor.

More than a year before it happened, Israeli intelligence personnel had obtained, in specific exact detail, the attack plan Hamas launched on October 7th, 2023.⁴¹ Shortly before the October 7th attack, military lookouts sounded the alarm that they had spotted unusual activity along the Gaza border, which they assessed to be consistent with planning for a major terrorist attack.⁴²

Despite this prolonged advance warning corroborated by more immediate observations, Israel engaged in virtually no preventive activity and its forces were taken by surprise. Those in charge did not believe either that Hamas would or that Hamas could execute the plan, even though they knew the plan and had reports of the execution of its preliminary steps. If anyone should have learned the lessons of the Holocaust, it should have been the Jewish community. In light of lived experience, the Jewish community should not discount any detailed, specific advance warning of their own intended destruction at the hands of rabid antisemites. The failure to do so for the October 7th attack reminds us yet once again of the powerful force of disbelief faced with a horror outside the boundaries of expectations.

⁴¹ Ronen Bergman & Adam Goldman, "Israel Knew Hamas's Attack Plan More Than a Year Ago", New York Times, 30 November 2023, <https://www.nytimes.com/2023/11/30/world/middleeast/israel-hamas-attack-intelligence.html>

⁴² <https://www.nytimes.com/2024/01/19/world/middleeast/israel-gaza-women-soldiers.html>

Many outsiders who express support for Hamas do not know who Hamas is and what they are doing. They accept at face value Hamas claims that Israel is responsible for the deaths of Palestinians in Gaza without any awareness that Hamas has engineered their deaths as a form of religious martyrdom to evoke the gullible sympathy that outsiders express. Even told that this is happening - and Hamas statements about what they are doing is public - many outsiders find that behaviour so outside their frame of reference, they react as if this martyrdom strategy of Hamas did not exist. Those focused on the Hamas attack on Israel are sometimes criticized for not showing equal concern for Palestinians. That criticism either fails to appreciate that the two concerns are the same - a concern about Hamas, or knowingly sides with the antisemitic, genocidal religious fanaticism of Hamas.

Comparisons with other Conflicts



The Canadian Gaza program is not just different in material ways from the programs Canada has devised for Ukraine, Afghanistan and Syria which explain the number differences. The Gaza program is different in a significant way from any other humanitarian resettlement program Canada has ever had.

The planet, since the Holocaust, has had a woeful history of armed conflicts and mass atrocities. Canada, for the most part, has often tried to help victim populations by offering refugee resettlement. Yet in none of these other armed conflicts and mass atrocities has Canada seen what we see with the Gaza conflict.

When there have been other mass atrocities or armed conflict abroad where one side was incontestably in the wrong, we did not see attacks of the community in Canada which shared the same ethnicity or religion as the side. For instance, in Rwanda, the Hutu government perpetrated a genocide against the Tutsis, there were not mass attacks on Hutus in Canada.

Hutu children in Canada were not harassed and beaten at their schools. Hutu businesses were not plastered with graffiti. Hutus walking down the street were not assaulted because they were Hutu. Hutus in Canada were not tormented through name calling, slanderous social media, or intimidating phone calls.

Similarly, when the Government of Russia invaded Ukraine, we did not see attacks on the Russian ethnic community in Canada. When the Government of China slaughtered innocent protestors at Tiananmen Square in 1989, we did not see attacks on the Chinese ethnic community in Canada. One can say the same for every other armed conflict and mass atrocity since the Holocaust, except for Israel Gaza conflict. For these other conflicts, the atrocity was there, but not here.

For the Israeli Hamas conflict, the situation is unique. Only for this conflict have Canadians been presumed, just because of their identity - Jewish, to be on one side of the conflict, Israel, and attacked because of that presumption. Since the Hamas October 7th onslaught on Israel, antisemitic hate crimes in Canada have increased astronomically.



The Rise of Antisemitism since 10/7

The Toronto police on December 19th stated that antisemitic hate crimes had increased by 211 per cent since October 7th compared to the same time period last year. Since October 7th, antisemitic incidents made up 53% of reported hate crimes, 56 of 105 total occurrences. There were as well 159 hate crime graffiti occurrences reported to the Toronto police since October 7, 111 of which or 70% were antisemitic occurrences.⁴³ The Jewish population of Toronto is 2.4% of the total population.⁴⁴

43. <https://www.cbc.ca/news/canada/toronto/hate-crimes-data-toronto-police-1.7064086>

44. <https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/hlt-fst/imm/Table.cfm?Lang=E&T=32&Geo=535&SO=4D>

What is going on here? Why is this happening, to the Jewish community and no other, despite all the many armed conflicts and mass atrocities ravaging the planet since the Holocaust?

The answer, it would seem, is pretty obvious - antisemitism. Whatever one thinks of the Israeli response to the Hamas October 7th attack, the Jewish population of Canada had and has nothing to do with it. The attacks on Jews in Canada are just straight bigotry.

Yet, why attack the Jews in Canada for what happens in Gaza and not other ethnic or religious communities in Canada for what happens in other countries abroad where members of these ethnic or religious communities abroad are wrongfully involved in armed conflict or perpetrate mass atrocities? The answer is that other conflicts have other dynamics besides racial prejudice. What drives the conflict in Gaza is straight antisemitism.

The Russian invasion of Ukraine, for instance, was driven by Russian imperialist ambitions. The Taliban takeover of Afghanistan was driven by religious fundamentalism. The Syrian civil war has different factions combatting from different perspectives - Kurds for their own homeland, religious fundamentalists, and Arab spring democrats.

In Gaza, in contrast, there is bigotry and nothing else. Anti-Zionism exists for only one reason - Israel is a Jewish state. If Israel were an Arab Muslim state, anti-Zionism would not exist.

What matters to anti-Zionists is not what Israel does; what matters to anti-Zionists is what Israel is - Jewish. Anti-Zionist criticism of Israeli behaviour is not uttered for the purpose of improving that behaviour. It is uttered for the purpose of demonization and delegitimization. Jews everywhere are demonized as presumed supporters of this supposedly demon state.

This reality impacts on an appreciation of the Canadian Temporary Resident Pathway for Palestinian Extended Family in Gaza. Palestinians in Gaza have been indoctrinated in antisemitism and anti-Zionism since childhood. How many of these Palestinians, when and if they come to Canada, would join the local antisemites attacking, harassing and intimidating Jews in Canada?



The Immigration and Refugee Protection Act provides that a foreign national is inadmissible on grounds of transborder criminality for committing, on entering Canada, a prescribed offence under an Act of Parliament.⁴⁵ All indictable Criminal Code offences are prescribed offences.⁴⁶ The facts that constitute inadmissibility under these provisions include facts for which there are reasonable grounds to believe that they may occur.⁴⁷

Advocating genocide is an indictable offence. So is promoting genocide.⁴⁸ Public incitement of hatred, willful promotion of hatred and willful promotion of antisemitism through downplaying, denying or condoning the Holocaust are hybrid indictable offences.⁴⁹

The offence of mischief in relation to religious property, educational institutions, buildings

⁴⁵ Section 36 (2.1)

⁴⁶ Immigration and Refugee Protection Regulation 19.1(a)

⁴⁷ Act section 33

⁴⁸ Criminal Code section 318

⁴⁹ Criminal Code section 319

39 used for cultural, administrative, sports or social events or residences for seniors if the commission of the mischief is motivated by bias, prejudice or hate based on, amongst other grounds, race, religion, national or ethnic origin, is a hybrid indictable offence.⁵⁰ The offences of indecent communications ⁵¹ , and harassing communications ⁵² are hybrid indictable offences.

The offence of intimidation ⁵³ , and intimidation of a journalist ⁵⁴ , or justice system participant⁵⁵ are indictable offences. The offence of intimidation of a health worker⁵⁶ and criminal harassment⁵⁷ are hybrid indictable offences.



Under the Immigration and Refugee Protection Act, a hybrid offence, an offence that may be prosecuted either summarily or by way of indictment, is deemed to be an indictable offence.⁵⁸ So, as long as there are reasonable grounds to believe that a person on entry to Canada would commit any of the offences set out above, the person is inadmissible.

It would be going too far to say that there are reasonable grounds to believe that every

⁵⁰ Section 430 (4.1)

⁵¹ Criminal Code section 372(1)

⁵² Criminal Code section 372(2)

⁵³ Criminal Code section 423

⁵⁴ Criminal Code section 423.1(c)

⁵⁵ Criminal Code sections 423.1(a) and (b)

⁵⁶ Criminal Code section 423.2

⁵⁷ Criminal Code section 264

⁵⁸ Section 36(3)(a)

stage screening in Egypt were not being allowed to enter Egypt.⁵⁹ Yet, given the history of the relationship of the Muslim Brotherhood with the Government of Egypt, this obstacle is hardly surprising.

Second, if the inadmissibility provisions about terrorism and criminality are rigorously applied to the Palestinian Gaza population, as they should be, it is not clear how many persons could survive the scrutiny. As well, if anyone included in an application is a person who is inadmissible on terrorism grounds so are all their family members.⁶⁰

Yet, even if the current announced program reaches its announced level and exceeds it, the program will do more or less nothing to resolve the situation in Gaza. Helping even one person is better than doing nothing. But what would be the effort which would help all?

The January 26th orders of the International Court of Justice in the genocide case South Africa brought against Israel gives a hint. The first order was that Israel should, "in relation to Palestinians in Gaza, take all measures within its power to prevent the commission" of all genocidal acts. The second order was that Israel should "ensure with immediate effect that its military does not commit any" genocidal acts.

For the Court, the basis of the second order was based on the fact that some Israeli political figures had made ambiguous statements that could, arguably, be interpreted as applying to Palestinians as a whole rather than to Hamas. Court Judge Nolte, in a concurring opinion explaining the majority decision, wrote:

⁵⁹

<https://www.ctvnews.ca/politics/canadians-families-blocked-from-leaving-gaza-immigration-minister-pissed-off-1.6759594#:~:text=Canada's%20immigration%20minister%20is%20%22pissed,extende d%20family%20members%20in%20Canada>

⁶⁰ Immigration and Refugee Protection Act section 42

“I am not persuaded that South Africa has plausibly shown that the military operation undertaken by Israel, as such, is being pursued with genocidal intent. .. certain statements by Israeli State officials ... However ... are at least highly ambiguous”.⁶¹

But what was the point of the first order in light of the second order? The only reason for the first order in light of the second order is that there is a plausible risk of acts of genocide against Palestinians in Gaza committed by those who are not members of the Israeli military. Yet, who would those others be? The only candidate is Hamas. In other words, Israel is being directed to take all measures within its powers in relation to Palestinians in Gaza to prevent acts of genocide by Hamas.

Conceptually that makes sense. The duty to prevent and punish genocide is not, after all, a duty that falls only on those accused of genocide. The duty falls on Israel to prevent and punish the genocide that Hamas is inflicting on the Palestinian people. The orders given by the Court are consistent with that duty.

Practically, all that Israel can do to stop this Hamas genocidal behaviour is defeat Hamas, as it is trying to do. The first International Court of Justice order, then, from the perspective that Hamas is committing genocide against the Palestinian people, is an order for Israel "to take all measures within its power" to defeat Hamas.

Canada can do its part by helping Israel defeat Hamas. Canada now exports arms to Israel. The anti-Zionist faction has called for an end to those exports. Yet, if the aim is helping Palestinians, as well as Israelis, rather than destroying Israel, those arms exports should remain and, if necessary, increase. Only when Hamas is gone, will Palestinians be free.

61

<https://www.icj-cij.org/sites/default/files/case-related/192/192-20240126-ord-01-04-en.pdf>

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