

## **The case against picking on Israel**

*US legal academic Alan Dershowitz takes on critics who undermine the country's right to defend itself*

I wrote a book called *The Case for Israel*. It's my least favourite book. I wish I didn't have to write it. Who has to write the case for Spain? Who has to write the case for Australia? Who even has to write the case for France? Maybe somebody should. But, unfortunately, I had to write *The Case for Israel*.

Why did I have to write it? Because the case against Israel is so filled with pernicious lies and it is so prevalent today on university campuses that a defence is needed.

In 2002, there was a debate going on at Harvard about divestment. People were trying to pressure Harvard to divest from companies that do business in Israel regardless of the nature of the business -- even if it was providing healthcare or medical technology. One of the Harvard housemasters signed that immoral petition and I challenged him to a debate in front of his students. He refused. He was a professor of Old Testament Christian studies and he said to me, through a student, "I can't debate you, my knowledge of the Middle East ended with the death of Moses." But he felt comfortable enough to sign the petition, so I decided that I was going to debate him whether he wanted to or not. He refused, but a lot of the students participated. At the end, after I made the case for Israel, many students came over to me and they had the same three words: "We didn't know." "We didn't know that the Palestinians were offered a large contiguous state in 1937 by the Peel Commission and turned it down. We didn't know that the Palestinians could have had a large contiguous state in 1947 and turned it down. We didn't know that in 1967 the Palestinians said no to UN resolution 242. We didn't know that in 2000-01 Israeli prime minister Ehud Barak and US president Bill Clinton offered the Palestinians a state and they turned it down and resorted to violence. We just didn't know." Nor did they know that the states offered the Jews in 1937 and 1947 were non-contiguous and tiny. Yet the Jews agreed to compromise in the interests of a two-state solution.

It was then I decided that the problem of college campuses was only partly hatred for Israel ... the main problem was ignorance. They didn't know anything about the Middle East crisis. And that's part of the reason I think Israel has become the most maligned country in the world. Some students believe that Israel is the worst offender of human rights. Many of them thought that Israel was a colonialist regime and an apartheid regime.

And it became clear to me that there was a well-organised campaign under way to delegitimise

and demonise Israel -- a campaign to create a generation of leaders 10 or 15 years from now, the present body of students, who would think of Israel in the negative way that many people in Europe, particularly France and other parts of western Europe, think of Israel.

More resolutions of the UN have condemned Israel than any other country, probably more than all the other countries combined. And there's something very wrong with that. In fact, the UN and the International Court of Justice before whom the fence case (Israel's building of a 150km security fence in the West Bank) is now pending remind me a little bit of the racist southern courts in the US, say in Mississippi in the 1930s.

Those courts could do justice in cases, say, involving two whites suing each other. Maybe even in cases involving two blacks suing each other. But it couldn't do justice in cases involving blacks and whites. The whites always won, the blacks always lost. People might say that must mean the blacks are terrible people and the whites are wonderful people in Mississippi. No, it meant the courts were bigoted institutions. They were not doing justice. And the same is true with the UN. Its resolutions against Israel don't reflect negatively on Israel, they reflect negatively on the UN.

The reality is that Israel has the best human rights record of any country confronting terrorism, and trying to balance human rights against terrorism. William Brennan, one of the great justices in US history, went to Israel in the late '80s to study terrorism and civil liberties, and he came back saying that if terrorism came to the US, Israel would be the model of how to balance civil liberties against terrorism.

And it has been the model. Its Supreme Court has intervened repeatedly to insist Israel comply with the rule of law, and Israel has complied with the rule of law. It has abolished rough forms of interrogation of the kind that the US has used. It has prohibited shooting at ambulances, even though we know that ambulances are used repeatedly to ferry terrorists. It has prevented other potential abuses and it has insisted that Israel operate within the rule of law. And Israel does.

Notwithstanding, British Foreign Secretary Jack Straw and Kofi Annan insist Israel's killing of Hamas leader Sheikh Ahmed Yassin was in violation of the rule of law. It was not. Yassin was a combatant. He was a terrorist leader. He was the man who approved and encouraged the decision to try to blow up the gas tanks at Ashdod that, if successful, perhaps would have killed hundreds of Israelis. It failed and killed "only" 10 Israelis. When Israeli intelligence came to the conclusion that Yassin turned on the on and off buttons, that was when the decision was made to treat him as a combatant. They couldn't arrest him, he was hiding among civilians. He was living in Gaza. An attempt to arrest him would have caused many more deaths. They waited until he was alone in an alley with his bodyguards and they pre-empted him, they stopped him from killing again.

If the Australian Government had found out days in advance that terrorists in Indonesia were planning the attack at Bali and the Indonesian Government was unwilling to do anything, let me assure you that any government in Australia would have done exactly the same thing. There is widespread agreement that any government -- Australian, US, Britain -- any democracy that failed to kill a terrorist who was planning to kill its civilians, alleging that to do so would be illegal or immoral, that government would fall and should fall. A democracy's first obligation is to protect its civilians from terrorism.

If it can do it without killing another, fine. If the only resort is kill or be killed, whether one goes back to the Torah, the Talmud, sharia (Islamic law), in every culture, in every religion (except perhaps Quakerism), in Catholicism, in Protestantism, in Judaism, in Islam: kill or be killed, the choice is to kill the killer and protect the innocent civilians.

When I speak to college students, the first thing I tell them is that I am pro-Palestinian. I want to see a two-state solution. In the end, the best guarantee of Israel's safety, if possible, is a democratic Palestine with a viable economy. With an incentive not to go to war. With good healthcare. With good schools, with real education. With real democracy, with real economic viability.

It was not me who turned down statehood for the Palestinians in 2000-01. That was Palestinian leader Yasser Arafat. It was not I who deflected and siphoned \$US3 billion (\$4.1 billion) that was earmarked for Palestinian healthcare and infrastructure to the bank account of Arafat's wife. That was Arafat. It was not me, or you or Israel, who relegated the Palestinian people to the kind of condition they are in.

If the Palestinian leadership had accepted the state offered in 2000-01, we would today be celebrating the third anniversary of Palestinian statehood. And Palestine would be the wealthiest per capita Arab state in the Middle East because it would have an influx of cash from the European Union, from the US, a Marshall Plan. Instead of a third anniversary of statehood, look what the Palestinian people are being subjected to.

The solution is to make everybody pro-Israel and pro-Palestine. One does not have to hate to make peace. One can support the dreams and the aspirations of both sides so long as Israel is secure in its land and its territory. That's what UN resolution 242 says, that Israel and all other countries in the area must be secure. That will require some territorial adjustment.

Thank god for the brave nation of Australia that joined only a small number of countries in demanding that the fence case not be presented to the International Court of Justice. And let me tell you that Israel appreciates Australia's votes in this matter. Israel appreciates when the Australian Prime Minister refuses to join the hypocritical chorus of condemnation surrounding

the killing of Yassin. Why? Because Israel knows it will never win numerically. What Israel wants is qualitative support. It wants support from the great countries of the world, the pluralistic democracies, such as Australia. When Australia votes for Israel, it is worth 100 votes from tyrannical states.

Everybody is worried about what might happen if there were terrorism before your election or our election in the US. Terrorists know that they can influence public opinion dramatically. They influence it by frightening people or causing a reaction and thereby getting condemnation of the country that reacts. Remember what happened just a couple of years ago, when many Israelis were sitting and having a wonderful Passover Seder dinner at the Park Hotel in Netanya. Terrorists blew up the hotel, killing 30 people and wounding many more. For a brief period, public opinion turned in the direction of Israel because of all the tragedy that it had suffered. And Israel responded as it had to do -- it went after the killers who were living in Jenin.

Then suddenly the whole focus of the world was on the Jenin "massacre". In fact 52 Palestinians were killed, 23 Israelis were killed and most of the Palestinians killed were combatants. World opinion focused away from Israel and away from Israel's tragedy towards the tragedy of the "massacre". There's a very simple message sent: kill Jews, Israel will respond and you get the benefit of condemnation of Israel in world opinion. Remember what happened months later: families were sitting in a restaurant on the coast near Haifa and terrorists blew up the restaurant, killing many people. Israel responds, whether you think it's wisely or foolishly. Suddenly public opinion, UN resolutions, are all condemning Israel.

All I want to do is change the debate about Israel from the demonisation of Israel to a nuanced discussion where people can be free to criticise all sides, but where Israel's right to exist and its right to defend itself is unchallenged. Because the greatest moral issue of the 21st century is going to be whether Israel's attempt to use proportional means to defend its citizens from terrorism provides the latest and most recent justification for international bigotry and anti-Semitism.

*This is an edited excerpt from a lecture by Alan Dershowitz at the Sydney Central Synagogue on March 31, on the 30th anniversary of the Australia/Israel & Jewish Affairs Council. Dershowitz is the Felix Frankfurter professor of law at Harvard University in the US. A longer version is in the May edition of the AIJAC journal, The Review.*