

Does the Paris Communique Impose the “Auschwitz Border” on Israel? – Part 2: An interview with Shoshana Bryen of the Jewish Policy Center



Israeli Jewish Youths at Damascus Gate, Jerusalem Day, May
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Source: AP



Jerry Gordon: Shoshana, given the attack on Sunday in Jerusalem, what is the status of Arabs living in East Jerusalem, and what can be done to provide security against attacks on Jews in Israel’s capital?



Shoshana Bryen: Arabs who came to live in Israel after 1967 with the reunification of Jerusalem, came under an Israel census in 1967. They were given permanent resident status, all of them. Now, permanent resident status means you can live here, you can vote in municipal elections, your kids can go to school, you can get healthcare. All those things are permitted to you as a permanent resident.

If you wish to become an Israeli citizen, you can apply for Israeli citizenship and that can happen for you too. Primarily they do not. Only about 5%, maybe a little more, have actually applied for Israeli citizenship. Their fear is that if they are returned to Palestinian Authority control or part of an independent Palestinian state, they will pay a price for having become Israeli citizens. On the other hand, if you ask them, about 60% of East Jerusalem Arabs say they would rather live under an Israeli government as Israeli citizens than become citizens of a Palestinian state.



Host Mike Bates: When I was in the West Bank about three years ago, I had numerous conversations with people. I'm not your typical tourist. I engage in political discussions with everyone I meet. Not just the taxi driver, but even the guy making the shwarma. I am just constantly talking politics with people. I had a conversation with a shopkeeper in the West Bank, it was in Bethlehem. I asked him about whether or not he wanted a Palestinian state. To my surprise, because he was an Arab Muslim Palestinian, and his answer was, "Hell no." He said, "The Israelis know how to run a country. The PA is clueless. They can't even pick up the trash properly." I asked him, "You have to be the only guy in the West Bank that believes that," and his answer was, "Actually no, I'm not. You'd be amazed how many don't want a Palestinian state." I asked "Well how come we don't hear that in the West?" He said, "Because we don't say it because our business will get blown up."

Shoshana Bryen: I had a similar conversation years ago with a shopkeeper in Bethlehem that I had visited year after year with groups that I was taking to Israel. Nice guy, who the last year I visited him, which was the year

before the Palestinians took over, moved to San Francisco where he had a cousin, for the same reason. He didn't feel that he was able to run his business and be successful if the Israelis left and the Palestinian Authority came in. He was probably right.

Jerry Gordon: Shoshana, why is Israel stripping the residency status of the relatives of the attacker in Jerusalem?

Shoshana Bryen: Because Israel's laws permit that. If you are associated closely with a terrorist, you will pay a price. If you listen to the attacker's sister who thought this was a great thing because Allah had chosen her brother to be a martyr, and wouldn't it be great if Allah chose everyone to be a martyr, and maybe we should all be martyrs. The Israelis believe that if someone comes out of a family and they are terroristically inclined, they need to go. By the way, it doesn't happen every single time. In cases where the Israelis believe that there is enough of an association to make the family part of the problem not part of the solution, then they go. By the way, this is the first time residency has been removed from a family.

Host Mike Bates: I realize your answer was a good one. Israel has different laws, but to Americans who understand that you can't have an attainder where you're punishing a group of people without trial for the crime of one of them. As an American, someone may look at that and say, "Well how can you punish the innocent family members for something that one of their relatives did?" Philosophically ... Legally, I get it, it's a different law. Philosophically,

how is that justified?

Shoshana Bryen: Philosophically, it's justified by the number of times that you see it happen and the number of times that you don't. It's not automatic, as I said, that the family loses their residency status. It's not automatic, as I said, that the family is punished – and home demolition is the normal price (we don't have a law about that either in the U.S., but Israel does). The Israelis look at who these people are and they look at whether they are a problem and they look at whether they were harboring the guy or helping him or arming him or providing information to him. It depends on who they are. Yes, it is always possible that mom and dad lose control of their offspring. When there were stabbings last year by very young people, 14, 15, 16 year old kids were taking knives and stabbing people in Jerusalem. Their families did not did not have their homes blown up because it was understood that these were not people who were helping their kids do it. These were people who had lost control of teenagers. However, the law in Israel allows for the family to be punished. US law doesn't allow for it here.

Host Mike Bates: What can be done in Israel in order to protect the citizens from attack? I understand they have the security wall, and that is a tremendous benefit. Although it is a terrible tool being used for propaganda against Israel.

Shoshana Bryen: Well, wait, wait, wait. Stop. Because I have to say to you it is not a wall except in 5% of the mileage. It's a fence, and it has had a salutary effect on two

things: first terrorism, and secondly, car thievery. You can't steal a car now west of the wall and move it to east of the wall. It's very difficult. But it's a fence. It does its job. It keeps people out and it makes it harder for them to get in.

In Jerusalem itself, the best you can do is really good intelligence and then create punishments that deter people. That is it. There were 320,000 Arab residents of Jerusalem in 2015. That is up, by the way, from 66,000 in 1967. Huge increase. You can't turn to them and say, "Look, you can't go out on the street between 8:00 and 5:00," or, "You have to stay in your home every single night or we're going to lock you down." You can't treat people that way. Israel would never treat people that way. You're worried about families that lose their residency permit? Israel has 320,000 Arab residents of Jerusalem and tries very hard not to separate them just because they're Arab.

Host Mike Bates: Israel also does allow Palestinians passage through that wall or fence where there is an opening. I've driven through it. It looks like it's about 30 feet tall and it's in the urban areas. I have no problem with the existence of the wall. It has served its purpose well. People are able to traverse back and forth, and I'm talking about Muslims, Palestinian Muslims.

Shoshana Bryen: Every day.

Host Mike Bates: That's right.

Shoshana Bryen: Tens of thousands of Palestinians who live east of the fence come west of the fence to work.

Host Mike Bates: Right.

Shoshana Bryen: Tens of thousands From Israel's point of view. There is always a possibility that some Arab will do a bad thing, a terrible thing. The best you can do is make people aware of their surroundings, make intelligence good enough to stop people. They have been very good about stopping people, and among the things they do is create incentives for Palestinian families to work with the security services. If they see a son or a brother or a husband or a neighbor moving in that direction, many people, though they'll never admit they do, will tell the Israeli security forces. They don't want to be living with terrorists; they don't want to be at risk of retaliation.

Jerry Gordon: Shoshana, Israel opinion is divided over the recent IDF trial and conviction of Sergeant Elor Azaria, who shot and killed a wounded Palestinian terrorist in Hebron. What is the ethics of the IDF in handling this case?

Shoshana Bryen: The Israelis have an ethical code, the most recent incarnation of which was written by a military ethicist named Asa Kasher. Israel's code for the IDF is really tough when it comes to how they are to behave. It has two main principles. First of all, the international right to self defense and the domestic duty to protect your citizens. However, second, they have a duty in the code for

respecting human dignity. You can't treat people as objects,; you can't restrict their liberty when there is not a compelling justification. This extends not only to citizens or Israeli Arabs or people who work in Israel. However, this is designed to cover Arabs in the West Bank and even Palestinians in Gaza who are not terrorists. It applies specifically, so there is a duty for respecting human dignity.

It also applies to wounded terrorists. However, and there is a caveat, that Israel has no obligation to risk its citizens for the safety of enemy civilians and certainly not for enemy combatants. The overriding obligation goes to defending Israeli citizens. If you take the two principles together, one is that you have to defend your people and the other is that you have to worry about the dignity of other people. The first one tells you the reason you have an IDF is to defend the people, and the second is the means. The means have to be congruent with what we would call universal principles of human rights, or what the Israelis say is an effort to "alleviate the calamities of war."

You put them together and you have a pretty damn moral army, which is why I said the International Criminal Court looks at Israel and its ethical code for the IDF and the way it's enforced, and says, inside the International Criminal Court, "We can't prosecute these people. They have laws. They have rules. They have jurisdiction." Soldiers come under the jurisdiction of the courts, and that os what happened to Azaria.

Host Mike Bates:

Had Sergeant Azaria

shot and killed that terrorist 60 seconds earlier, it probably would've been legal, right?

Shoshana Bryen: That is right. When the terrorist still posed a threat to Israelis around him. People often say about Israel and terrorists, "Well, why didn't they just wound him? Why didn't they just arrest him? Why did they have to kill him, particularly when it turns out that some of them are very young?" The answer to the question is if that person poses a threat to Israeli citizens, the first obligation is to protect the Israeli citizen. If that costs the terrorist his life, so be it, but the minute the terrorist becomes non-threatening or controllable threat, you can't kill him.

Host Mike Bates: I don't know the specific circumstances of this individual case, but it wouldn't have been the first time that a wounded terrorist has the dead man's switch with the explosive vest. You think he's wounded, you go to tend him, and he blows himself up and takes several IDF soldiers with him.

Shoshana Bryen: That is correct and there are people who said that. However, there was no evidence that anybody there, including his superior officers, saw or thought they saw or believed they understood that the guy had a vest on. That was part of the issue.

Host Mike Bates: The other thing that bothers me, Shoshana, is the double standard. Israel, as you just eloquently stated, goes out of their way to protect human life even if it is the lives of the terrorists, and they punish criminally Israelis who violate those

humanitarian goals. However, on the other side, when a terrorist kills individual innocent civilians, they get a park or a school named after them and they are celebrated as martyrs for the cause.

Shoshana Bryen: True.

Host Mike Bates: So is there any hope?

Shoshana Bryen: In Berlin this week, they put the Israeli flag across the Brandenburg Gate as they did in Belgium after the last large-scale terrorist incident in Brussels. The French lit the Eiffel Tower with the Israeli flag as they did in memory of other people who were killed in terrorist incidents. Their goal, their idea was to say to Israel, "Terrorism against you is not acceptable to us, so we fly your flag on the Brandenburg Gate, we fly your colors on the Eiffel Tower," which is fine. The problem here is that only works when the Jews are dead. When it's a question of how does Israel defend itself? How does Israel protect its people? Then you have the Europeans and all these other countries with their double standard. But if the Jews die, okay, fine. Now we can light the Brandenburg Gate with the Israeli flag. I have to tell you, I was not impressed.

Host Mike Bates: Is there any hope that Sergeant Azaria will be pardoned?

Shoshana Bryen: I don't think so and I don't expect so. I'm not sure he should be. He went through the judicial system which I believe, we in the West believe is a fair and equitable

judicial system. If it renders justice, then it rendered justice. If you want to say that the Israeli court system should have acquitted him, I can't say that. I have to go with the fact that it was their court system.

It doesn't make me happy. I feel terrible for the guy, but Lieutenant Calley was convicted of murder for you know what? For murder. He actually did it. He committed murder, and he was convicted.

Host Mike Bates: You are more objective than I am, Shoshana.

Shoshana Bryen: I don't want to be, Mike. I want to think that the Israelis always live up to 100% of the standard that Kasher wrote for them, but in fact people make mistakes, and if that mistake is deadly and you killed the wrong person or you killed someone you shouldn't have killed, the court system has to take over.

Jerry Gordon: Shoshana, January there will be a meeting in Paris that was convened by the lame duck president of France, Monsieur Hollande. Do we know anything at all about any draft proposals that may be launched?

Shoshana Bryen: The first thing we know is that these people could save a lot of money and greenhouse gases and global warming because they've already produced the ending communique, or at least what appears to be ending communique. That says the participants who

will meet in Paris on the 15th of January have on the 10th of January, this is clearly a proposal for the future.

It's not very long. It basically says two state solution, everybody needs peace, everyone needs security, we're so happy to offer ourselves through this. We have to hope the Palestinians learn to govern, which is interesting after 20 odd years of the Oslo Accords. What is of greatest concern is it reaffirms that they will "not recognize any changes to the June 4th, 1967 lines. Including with regard to Jerusalem other than those agreed by the parties." In other words, they will not accept that the entirety of Jerusalem can be in Israeli hands unless the Palestinians agree. That is of concern.

Now, it says that the findings of this group should be conveyed to the United Nations. It doesn't say that there should be a UN resolution. It doesn't ask the Security Council to do anything additional. I suspect because certain Security Council members said they wouldn't do it. It's no more harmful than the previous Security Council resolution. On the other hand, it's no better than it either.

Host Mike Bates: It is just affirming a desire for a two state solution, which I understand is the stated policy of Israel and the United States anyway.

Shoshana Bryen: It does that, but it claims to be based on UN Security Council Resolution 242 and 338, which it certainly is

not. Because it draws the lines already that says the two state solution will not accept any Israeli redrawing of the map that the Palestinians don't agree to. That precludes the possibility of a negotiation over territory.

Forget Jerusalem for a moment. US policy, including under John Kerry, is that major settlement blocks will be in Israel and there will be compensatory territory for the Palestinians. According to this draft, there will be no changes unless the Palestinians agree. If you are the Palestinians, all you have to say is, "No. No, those settlement blocks do not go to Israel. Forget it." Then it's over. Much as they claim to be favoring a two state solution, much as they claim that negotiations are important, much as they claim Israel should be legitimate and secure they pull the rug out from under a serious negotiation in which the Palestinians feel that they have to give something to get something. The starting point now is the '67 line.

Jerry Gordon: Shoshana, a revered Israeli foreign minister, a Cambridge don as I recall, Abba Eban, essentially said that the "pre-'67 border," which was the 1949 armistice line, is the equivalent of what he called "the Auschwitz line."

Shoshana Bryen: Yes he did.

Jerry Gordon: Why did he say that?

Shoshana Bryen: Because they are.

Because they are indefensible. Because you have an eight mile waist between what will be Palestinian artillery in the hills and the Israelis living underneath them. Ronald Reagan explicitly rejected the '67 borders.

Host Mike Bates: All right. Lots more questions, no more time. Shoshana Bryen and Jerry Gordon, thank you for joining us. Shoshana Bryen is senior director of the Jewish Policy Center in Washington. You can find her online at www.jewishpolicycenter.org,.