



[President Trump with Prime Minister Netanyahu at the Israel Museum, Jerusalem, 23 May 2017. Source: US Embassy Tel Aviv.]

How the United States and Israel Praise Each Other as National Security Exemplars to Validate Their Own Actions

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Last February, John Bolton, President Donald Trump's nominee to become the next US National Security Advisor, published [a piece](#) in the *Wall Street Journal* calling for a preemptive strike against North Korea. "Israel," Bolton wrote, "has already twice struck nuclear-weapons programs in hostile states." A week later, during their meeting at the White House, Trump and Israeli Prime Minister Benjamin Netanyahu [extolled](#) the close military ties and intelligence cooperation between the two countries. The following day, in his speech to the lobbying group the American Israel Public Affairs Committee (AIPAC), Netanyahu [boasted](#):

You know, in the last few years Israel's incredible intelligence services have foiled dozens, dozens of major terrorist attacks across the world in dozens of countries...You're boarding planes when you leave this place. You are safer because of Israeli intelligence... Israel has [also] become a world leader in cyber security... Because we have this tremendous capacity for security and intelligence...many countries are coming to Israel...to share with us these benefits.

These recent statements exemplify a broader process in which courts, government lawyers, military officials, and politicians in the US and Israel have invoked and praised the other country's national security laws and practices. Interestingly,

positioning one another as a national security role model has often offered these countries a means to legitimize their own controversial actions.

Borrowing Security Knowledge

Since the turn of the century, the United States, by adopting Israeli tactics and deploying them in Iraq and Afghanistan, has helped cast Israel as a global urban warfare model, whose expertise and policies are universally applicable and therefore mobile. Before and following the 2003 invasion of Iraq, the US military [sought advice](#) on urban warfare from its Israeli counterpart, [sent observers](#) to accompany Israeli soldiers in the West Bank, and [received briefings](#) from Israeli defense experts. Bulldozers [used by the US military](#) to demolish buildings that housed Iraqi guerrillas were reportedly [purchased from the Israeli military](#), which had previously used them to destroy Palestinian buildings in the Jenin refugee camp and elsewhere. The Deputy Chief of Staff for Doctrine and Strategy at the US Army Training and Doctrine Command [said](#), at the time, that Israel's experience "continues to teach us many lessons, and we continue to evaluate and address those lessons, embedding and incorporating them appropriately into our concepts, doctrine and training."

More recently, as part of its fight against the so-called Islamic State, the US military [adopted](#) Israel's controversial "[roof knocking](#)" method of firing low-impact "warning" rockets at civilian buildings, purportedly to evacuate Iraqi civilians before bombing buildings. The Deputy Commander for Operations and Intelligence for the US-led coalition in Iraq [acknowledged](#) Israel's influence: "That's exactly where we took the tactics and technique and procedure from." Thus, in the [words](#) of Israel's former Minister of Interior Security, Uzi Landau, "Israel is a laboratory for fighting terror." It is this "[laboratory](#)"—the West Bank and Gaza Strip—that has enabled Israel to develop, test and perfect combat-proven techniques and doctrines that later end up in the hands of US state authorities and others.

Israel's impact is not confined to US warfare and counterinsurgency overseas. US authorities handling domestic security—including the FBI, police officials, sheriffs, the Department of Justice's Bureau of Alcohol, Tobacco, Firearms and Explosives, and even university police chiefs—have all [received training from Israel's security forces](#). One US police chief [described](#) Israel as "the Harvard of antiterrorism," while a

former assistant FBI director [remarked](#): “Unfortunately for the Israelis, they have this down better than we do.”

Such borrowing of security knowledge is by no means a novelty. Nor does it operate only in one direction—from Israel to the United States. An illustrative [example](#) is the decision of Israeli politician and former Chief of General Staff Moshe Dayan to travel to Vietnam, in 1966, to “see and learn about the war in Vietnam and its possible consequences in our region.” In Vietnam, Dayan was issued a US uniform, joined a Marine company’s patrols and visited various units. Shortly after his return, he was appointed Defense Minister, a role he held during and after the 1967 war that ended in Israel’s control over the West Bank and Gaza Strip. When later discussing these territories, Dayan frequently spoke of the insights he had gained in Vietnam—insights which, according to top military officials who worked with him, heavily influenced his policy.

Sometimes, an appearance of borrowed security knowledge can be misleading. In his [memoir](#), a former US interrogator in Iraq recalls having witnessed a torture device called “the Palestinian chair,” which his colleagues said Israeli interrogators had taught them to build during a joint training exercise. But in an [interview](#), he explained: “I was never clear on the actual origin. The rumors...were that Army interrogators had learned to use this chair by Israeli interrogators...I certainly don’t know if that’s true.” Similarly, detainees in US custody in Iraq were [reportedly](#) held in a high-stress position known as a “Palestinian hanging.” This technique, however, [might not actually be Israeli](#) in origin. The adjective “Palestinian” could have simply been used to play on the fears evoked by mentioning Israeli torture. What matters, then, is not only the origin of such methods. The very conjuring up of Israel/Palestine demonstrates its centrality in the US national security imagination.

Mutual References and Self-Validation

Adopting or invoking each other’s tactics is not the only way the US and Israel shape and reinforce the position of one another as a counterinsurgency exemplar. They also do so by referring to and relying on each other’s “national security” laws and policies. In the process, no less importantly, they seek to legitimize their own conduct.

For example, the 2014 Senate Intelligence Committee [report on CIA](#) torture has revealed that CIA lawyers under President George W. Bush referred to Israeli law, time and again, in an attempt to justify the use of torture. Two months after 9/11, a draft memo from the CIA's Office of General Counsel cited the "Israeli example" as a basis for the claim that "torture was necessary to prevent imminent, significant, physical harm to persons, where there is no other available means to prevent the harm." In 2005 and 2007, in support of continued use of so-called "enhanced interrogation techniques," CIA attorneys cited an Israeli Supreme Court [judgment](#) that granted impunity, under the "necessity defense," to interrogators who use torture. Similarly, during the Obama administration, the Office of Legal Counsel in the Department of Justice authored [a memo](#) approving the extrajudicial drone killing of the American citizen Anwar al-Aulaqi in Yemen. The memo, which subsequently became the subject of [several lawsuits](#), cited an Israeli Supreme Court [decision](#) authorizing "targeted killings" under certain conditions.

Numerous references to Israel also appear in the latest version of the Department of Justice's [Law of War Manual](#)—a lengthy legal guidebook for "commanders, legal practitioners, and other military and civilian personnel." Among other things, the manual justifies its positions by quoting, sometimes at length, the same Israeli judgments on torture and targeted killing that were cited in the memos by the CIA and the Department of Justice. Also cited in the manual is Israel's 1981 [statement](#) to the UN Security Council about its right to self-defense. This latter reference is made in an attempt to substantiate the purported right of the US to initiate military action on foreign territory without that country's consent.

Like the adoption of warfare techniques and doctrines, such legal referencing is reciprocal. While the Law of War Manual cites Israeli judgments and statements, Israel's Supreme Court has, for decades, been citing the US manual. In addition, in a long series of cases concerning Israel's policies in West Bank and Gaza Strip, the Israeli Supreme Court has referred to US law more broadly. In 1972, for instance, the court unanimously upheld the Israeli military's decision to assign the provision of electricity in an area of the West Bank to Israel's national electricity provider. Chief Justice Moshe Landau conjured up a quote from "an opinion of the US Attorney General in 1898, following the Spanish-American War": "in the granting of ...

equitable rights, the succeeding sovereign is the absolute dictator. They [can only]...be exercised...by his grace.”

[Another case](#), in 1988, saw then-Chief Justice Meir Shamgar citing at length US rulings to support Israel’s denial of the applicability of the Fourth Geneva Convention to the West Bank and Gaza Strip. As Shamgar described it, “the federal courts have examined...whether the ...Convention takes effect in US law...even without legislation adopting it...and have explicitly replied in the negative.” A few years later, relying again on US law, the Israeli court [dismissed](#) a petition against Israel’s settlement policy on grounds of over-generality and thus injusticiability. More recently, a 2016 [ruling](#) that authorized the force-feeding of Palestinian prisoners cited, among other sources, US laws that permit this practice in certain circumstances. Other recent [Supreme Court judgments](#), which upheld “administrative detentions” (incarceration without charge or trial) of Palestinians likewise cited US rulings concerning the detention and adjudication of foreign national terrorist suspects.

Some cited documents do more than supposedly substantiate the policies of the other country that cites them. They also themselves cite, and thus reaffirm, that country’s own policies. The US Law of War Manual, for example, stipulates that countries do not normally prosecute their nationals for “war crimes as such,” only “for offenses under ordinary domestic law or military law.” In support of this assertion, it cites an Israeli source: the 2013 [report](#) of the government-appointed Turkel Commission. Headed by a former Supreme Court Justice, the Commission was entrusted with inquiring whether Israel’s investigation mechanisms complied with international law. Its report made numerous references to US law and policy, including the following reference—which is quoted in the Law of War Manual: “in the US, the charging practice...appears to be to prosecute violations of the law of armed conflict by members of the armed forces as general criminal law offenses or military offenses...rather than as specific offenses relating to the law of armed conflict.” In a circular manner, the Law of War Manual legitimizes unaccountability for US forces through an Israeli source that adopted the non-prosecution stance of the US. Rather than referring to Israeli law or policy per se, the US military’s legal manual harnesses Israel as a means of what is—indirectly but inevitably—self-referencing. Through this

self-referential process, the US builds on Israeli legal references to validate its own laws and policies.

The self-referential loop often cuts across a broad range of documents, with no easily identifiable origin or destination. Illustrating this is the legal debate over the terms “unlawful combatant” and “prisoner of war.” Under the international law of armed conflict, captives who meet the legal definition of “combatant” acquire prisoner-of-war status and thus become shielded from prosecution for legally sanctioned fighting tactics. However, in 1969, an Israeli military court [denied](#) members of the Popular Front for the Liberation of Palestine prisoners-of-war status and classified them as neither civilians nor combatants in the legal sense, but, rather, “unlawful combatants.” The Law of War Manual cites this case three times in support of the US military’s legal stance on prisoners of war. Also quoting the case, four times, is an [article](#) on the topic, whose co-author—John Yoo—was among the US government lawyers who wrote the “torture memos” (the infamous memos justifying the use of torture). Yoo’s article, in turn, was cited in a [judgment](#) of the Israeli Supreme Court that upheld Israel’s use of “targeted killings.” But the back-and-forth referencing does not end here: this Israeli Supreme Court judgment (which cites Yoo’s article, which in turn cites the Israeli military judgment) is the same one that was subsequently cited, as mentioned earlier, in the US memo that approved the killing of al-Aulaqi in Yemen.

Back to Trump and Netanyahu

In their recent meeting, Netanyahu repeatedly applauded Trump for his Middle East policies, [adding](#): “I, as a Prime Minister, see something that you, as President, see, but others can’t see—the extent of our intelligence and other cooperation in matters that are vital to the security of both our peoples.” However, Netanyahu and Trump embody more than this security cooperation.

In 2016, during his presidential campaign, Trump [said](#): “I think profiling is something that we’re going to have to start thinking about as a country...You look at Israel and you look at others, and they do it and they do it successfully.” The following year, Netanyahu cited another comment Trump had made, this time about Israel’s “wall.” While Trump did not specify which of Israel’s walls he had in mind, he [described](#) it as

a model for the barrier he had vowed to build along the Mexican border: “a wall protects. All you have to do is ask Israel. They were having a total disaster coming across, and they had a wall. It’s 99.9 percent stoppage.” Netanyahu quickly [responded](#) online, referencing Trump’s reference to Israel: “President Trump is right. I built a wall along Israel’s southern border...Great success. Great idea.”

Netanyahu is well versed in the art of self-validating references. It is through such references, among other things, that the US and Israel have endeavored to position themselves and one another as global security exemplars, while legitimizing their controversial conduct.

Author’s Note: This post is based on the entry “Export of Knowledge” from his co-authored [book](#) with Orna Ben-Naftali and Michael Sfard, *The ABC of the OPT: A Legal Lexicon of the Israeli Control over the Occupied Palestinian Territories*, which will be published by Cambridge University Press in May 2018.