

FLAME HOTLINE

Facts & Logic About the Middle East

October 23, 2018



Israel's "rule of judges" overrules law, permits BDS activist Alqasem to enter

Dear Friend of FLAME:

Is Israel a democracy where the rule of law rules? The recent *cause celebre* of BDS activist Lara Alqasem raises—and answers—the question. Unfortunately, the answer is most unsatisfactory.

After American-born Palestinian militant Lara Alqasem was barred at Ben Gurion Airport from entering Israel to attend Hebrew University, her lawyers appealed. Two lower courts affirmed the government decision, but Israel's Supreme Court last week overruled, permitting her to enter on a one-year visa.

The first question is, should the former Students for Justice in Palestine (SJP) chapter president have received a visa in the first place? Answer: No.

Israel, like most every other country has the right to bar from entry people it deems dangerous for whatever reason, and Israel has a law prohibiting entry to those who advocate for the Boycott, Divestment and Sanctions (BDS) movement.

No wonder. BDS is unquestionably an anti-Semitic movement in that it opposes the existence of the Jewish state. Indeed, Israel's Supreme Court has upheld the law, which characterizes BDS as "political terrorism" and supports Israel's desire to deny benefits to those seeking to undermine the State of Israel.

Despite attempts by supporters of BDS—and lawyers for Alqasem—to argue that it is merely "critiquing" Israel, both BDS and SJP members openly advocate for the destruction of the Jewish homeland in Israel.

Which raises the next question—should the Supreme Court have

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YOU DESERVE TO KNOW THE TRUTH...

Peace with Palestinian Dictators?

Governments of the Palestinians' two ruling dictatorships are in shambles—and at war with each other. How can Israel possibly achieve peace with them at this time?

Neither the Palestinian Authority in Judea Samaria (the West Bank) nor the Hamas group in Gaza has held elections since 2006, and the two factions are battling one another in a vicious power struggle. How will we recognize the Jewish state or accept Israeli offers of peace?

What are the facts?

While Israel, with the United States, made generous land-for-peace offers to the Palestinians in 2001 and 2008—and left the entire Gaza Strip to the Arabs in 2005—neither of the two major Palestinian groups has accepted Israeli offers—or even the right to exist. What's more, both the Palestinian Authority and Hamas governments are in chronic, spreading practice of recruiting a bitter terrorism war. Could these warring Arab factions reconcile—and accept Israel as their neighbor— if it's impossible to imagine a peace agreement among them?

International Palestinian Movement following Israel's rejection of five attacking Arab armies in 1967, Arab in Palestine formed the autonomous Palestine Liberation Organization, under Egyptian Yasser Arafat. Arafat launched the First Intifada, a terrorist guerrilla effort against Israel, which ended with the 1993 Oslo Peace Accords. Under these accords, the Palestinian Authority (PA) would rule over Arab parts of Gaza and Judea Samaria, while Israel would control the remaining parts until the Israeli-Arab conflict was resolved through peace negotiations. After Israel's complete withdrawal from Gaza, terror group Hamas was Palestinian legislative elections in 2006, then seized control of Gaza from the PA. Since 2007, Hamas has ruled Gaza as an Islamic Emirate, and the PA and Hamas remain tense enemies to this day.

The Palestinian Authority's Secular Dictatorship. While presented as Muslim values, the Palestinian Authority has always been secular. Following Arafat's death in 2004, Mahmoud Abbas was elected president of the PA for a five-year term, but he held the grip of power ever since. Today's Palestinian Authority is rife with corruption, its economy is effectively bankrupt, it suffers from unemployment of 20%, and without foreign subsidies it would collapse. Despite its charter under the Oslo Agreement to make peace with Israel, the PA has remained dedicated to wresting all of the Holy Land from Jewish control. It has never recognized Israel as a Jewish homeland and has demanded that all Arab refugees from Israel's War of Independence in 1948—as well as some five million non-Jewish of those refugees—be "returned" to Israel, thus destroying the Jewish state demographically. Israel—under the sponsorship of President Bill Clinton in 2001 and George W. Bush in 2008—offered the Palestinians about 98% of Judea Samaria, as well as a capital in eastern Jerusalem, in return

for peace. Yasser Arafat turned down the first offer, and Mahmoud Abbas rejected the second. Since 2014, Abbas has refused to negotiate with Israel.

Hamas' Islamist Dictatorship. An outgrowth of Egypt's Muslim Brotherhood—which also sponsored al-Qaeda in Gaza—is a fundamentalist Islamic organization. Its charter calls for the conquest of all Palestine—including present-day Israel—and the establishment of an Islamic state. Because of Hamas' brutal use of suicide bombings and rocket attacks on Jewish civilian populations, it has been declared a terrorist organization by the U.S. State Department and the European Union. While Hamas was power after Palestinian parliamentary elections in 2006, it has refused to reject violence, and in fact took violent Hamas rules Gaza heavily, according to international law. Hamas has launched three wars against Israel, most recently in 2014. Because of Hamas' inhumanity, Gaza is currently under occupation from Egypt, Israel and the Palestinian Authority. While the PA and Hamas have made some attempts at reconciliation, all have failed, and relations between them remain poisonous. The people of Gaza suffer an unemployment rate of 48%, just five hours of electricity daily and a dysfunctional economy. Hamas routinely invades Israel's territorial support from land and Turkey, much of which is used to sustain the terror group's war against Israel.

In order to bring an Israel-Palestinian peace, all parties must sincerely want it and be capable of carrying out a plan for reconciliation. It's clear that today's Palestinian dictatorships lack the ability to make peace among themselves. Humanity gives their people no chance to peace with Israel. [Donate now for peace. Palestinian leaders will pay for Israel's destruction.](#)

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Gloria Jaffe, Founder and President Emerita

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overruled Israel's law, its immigration authorities and two lower courts? According to the law itself and the court's previous interpretation, the answer would also clearly seem to be, "no."

But Israel's Supreme Court is supremely dysfunctional. Since Israel has no constitution, its highest court often interprets laws as it sees fit, often in contravention of the laws themselves.

In this case, the court held that since invalidating Alqasem's visa "was due to the political opinions she holds," as opposed to her actual actions, the government's barring her constitutes "an extreme and dangerous step, which could lead to the crumbling of the pillars upon which democracy in Israel stands."

On the other hand, professor Eugene Kontorovich of Northwestern University noted that "whatever one thinks of the dangers to democracy from denying entry to BDS activists, the dangers are much greater from a court—with no legal basis other than its view of what is right—micromanaging and essentially taking government decisions about border control."

In short, Israel is a democracy—hallelujah to that—but a deeply *flawed* one. In democratic Israel, a known subversive trying to enter the country can appeal to three courts and finally be admitted—in clear violation of the law. Such an outcome would be unthinkable in virtually any other country in the world.

Which brings us to this week's featured FLAME *Hotline* article (see below), an outspoken analysis by Ynet News columnist and author Ben-Dror Yemini. He argues not only that the Supreme Court decision was unreasonable, but that it is the court itself that threatens democracy.

Please pass this brief, but powerful piece to friends, family and fellow congregants to help them understand why despite incessant media complaints about Israel's "right-wing government," the Jewish state is still one of the most liberal and tolerant democracies in the world.

I hope you'll also join the fray at FLAME's lively [new Facebook page](#) and review the P.S. immediately below, which describes FLAME's recent *hasbarah* campaigns exposing another source of Palestinian failure—their dueling dictatorships in Gaza and the West Bank. I hope you agree with and will support this message.

Best regards,

Jim Sinkinson
President, Facts and Logic About the Middle East (FLAME)

editorial *hasbarah* messages placed in media nationwide every month: The dire threats from Iran, Hamas and Hizbollah, the injustice of BDS, Palestinian anti-Semitism and more. If you support a bold voice that tells the truth about Israel in American media, please donate now.

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P.S. You've probably read about the new peace plan expected from the Trump administration, possibly coming in the next few months. We at FLAME believe such a proposal—no matter what its tenets—will be a mistake, if for no other reason than that the autocratic governments of both Palestinian factions are currently unequipped and unsuited to be Israel's partners in peace. That's why FLAME has created a new editorial message—"[Peace with Palestinian Dictators?](#)"—which is running in mainstream magazines and newspapers, including college newspapers. In addition, it will be sent to every member of the U.S. Congress and President Trump. If you agree that this kind of public relations effort on Israel's behalf is critical, I urge you to support us. Remember: FLAME's powerful ability to influence public opinion—and U.S. support of Israel—comes from individuals like you, one by one. I hope you'll consider giving a donation now, as you're able—with \$500, \$250, \$100, or even \$18. (Remember, your donation to FLAME is tax deductible.) To donate online, just go to [donate now](#). Now, more than ever, we need your support to ensure that the American people, the U.S. Congress and President Trump stay focused on the true obstacle to peace, which is the lack of a credible Palestinian peace partner.

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An unreasonable ruling

The Supreme Court determined the decision to deny Lara Alqasem entry to Israel was 'unreasonable' after both government ministers and two lower courts found the decision reasonable. It seems there's confusion between the rule of law and the rule of judges.

Ben-Dror Yemini, Ynet News, October 19, 2018

It is possible, it is definitely possible, that the State of Israel should've allowed Lara Alqasem to enter the country from the outset. The damage that may have been done to Israel by denying her entry, as quite a few articles argued, sometimes exceeds the benefits of enforcing the law.

But with all due respect to the writers of these articles, article D(2)

of the Entry Into Israel Law clearly states that: An entry permit will not be granted to someone who is not an Israeli national "if he, the organization or the body he acts on behalf of knowingly issues a public call for boycotting Israel."

Alqasem headed a local chapter of the Students for Justice in Palestine, the body that leads the boycott against the State of Israel, and whose heads reject the very existence of the State of Israel.

There is no argument that the government's ministers acted in accordance with their authority. But the Supreme Court reversed the decision on Thursday because, in the opinion of the honorable justices, it is unreasonable: "Alqasem's desire to study in Israel is in contradiction with the idea of boycotting Israel." Excuse me?! Do these judges live in Israel?

After all, Israel's universities have both lecturers and students who support the boycott movement. And the boycott movement's most prominent leader, Omar Barghouti, was, and perhaps still is, a student at Tel Aviv University. He's travelling around the world and preaching for the eradication of Israel. Is his or Alqasem's insistence to study at an Israeli university an indication of anything?

I could go on with more and more arguments mentioned in the decision, but there is not enough space to cover all of them. Because the problem with the ruling was and remains in the determination that the decision to deny Alqasem entry was unreasonable.

The range of reasonable responses is supposed to be broad. Very broad. Otherwise, the executive branch's discretion should be revoked and transferred to the jurists. Some citizens would disapprove of the decisions made under the executive branch's discretion. But if everything citizens-mostly if they belong to the media and academic elite-disapprove of becomes unreasonable, we could declare democracy dead.

Furthermore, two lower courts have already ruled that the decision was reasonable. Meaning, common sense says that if both government ministers and two judges in two courts consider the decision reasonable, it necessarily falls within the range of reasonable responses. But not for the Supreme Court justices, that the more they minimize the range of reasonable responses, they minimize democracy. And in general, based on the rule created on Thursday, any BDS supporter could say he changed his mind and infiltrate Israel.

The absurd in the reasonability claim becomes far more disturbing when checking the list of those denied entry in other democratic countries. Britain denied entrance to American nationals

Michael Alan Weiner (Michael Savage) and Shirley Phelps-Roper, as well as Israeli politician Moshe Feiglin because of their views. The US denied entry to Swiss academic Ramadan Tariq, British teen Luke Angel and Liza Maza from the Philippines because of their views. And there are many others. They were not members of organizations that reject the right to exist of the countries that denied them entry. But in Israel, as late judge Menachem Elon once said, there's sometimes confusion between the rule of law and the rule of the judges. On Thursday we saw another example of that.s that are genuinely interested in the cause of peace to do the same.

The logo for FLAME, featuring the word "FLAME" in a bold, white, sans-serif font. The letter "A" is stylized with a flame icon integrated into its center.

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