

# Executive Council of Australian Jewry Inc.

הוועד הפועל של  
יהודי אוסטרליה

## The Representative Organisation of Australian Jewry

Level 2, 80 William Street  
Sydney NSW 2000

Address all correspondence to:  
PO Box 1114, Edgecliff NSW 2027

Tel (+61 2) 8353 8500  
Fax (+61 2) 9361 5888  
Web: [www.ecaj.org.au](http://www.ecaj.org.au)  
E-mail [info@ecaj.org.au](mailto:info@ecaj.org.au)

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29 November 2023

Simon Collins  
Federal President  
Media Entertainment and Arts Alliance (MEAA)  
245 Chalmers St  
Redfern NSW 2016

Email: [simon.collins@meaa.org](mailto:simon.collins@meaa.org); [erin.madeley@meaa.org](mailto:erin.madeley@meaa.org)

Dear Mr Collins

### **Re: Letter from journalists to Australian media outlets**

We write in relation to the open “[Letter from journalists to Australian media outlets](#)”, to which the National Media Section Committee of the MEAA is the lead subscriber, and which we understand the MEAA has endorsed without qualification.

The purpose of our letter is not to comment extensively on the issues of ethical reporting “on Israel and Palestine” for which the authors of the open letter state their support. We note that the reporting is on the war between Israel and Hamas, which we believe is an important distinction, which has been lost.

Rather, we wanted to focus on some key aspects of the open letter which we find particularly concerning.

The letter, which advocates truth in reporting, refers to the “bombardment” of Gaza following the October 7 “attack” on Israel by Hamas. Perhaps “massacre” or “mass killings, rapes and abductions” would have been more accurate, truthful and ethical descriptions of the latter.

The letter advocates the application of skepticism in reporting casualties but refers without qualification to Hamas’s claimed 12,000 Palestinian lives lost.

The open letter cites 1,200 Israeli lives lost, which is a figure revised down by the Israeli government of its own accord, from an earlier estimate of 1,400. The Israeli figures [distinguish between civilians and non-civilians](#) and, as at 22 November 2023, include 392 IDF soldiers and 59 police officers.

In contrast the sole source of casualty numbers in Gaza is the Health Ministry which is under the control of the Hamas regime. Hamas in its entirety is proscribed as a terrorist organisation by the Australian Government and many other Western nations. The casualty numbers Hamas has published fail to distinguish between combatants and civilians. Sadly Hamas also has a long and

well-documented record of using child soldiers as combatants. So even the emotive use of the number of 'children' who are said to have been killed in Gaza, elides the shocking question of how many of these were combatants. The open letter similarly makes no such distinction, rather it categorises all the dead in Gaza simply as "Palestinians".

The most egregiously objectionable aspect of the open letter however, is the injunction of the authors and the MEEAA by its endorsement, to "*Provide historical context when referencing the October 7 Hamas attacks on Israel.*"

That is, the authors and the MEAA are saying the barbarism of Hamas can't be judged for what it was, but can only be understood, and therefore given implied justification, in "context".

And then the open letter purports to provide that context, exclusively, as:

*a. the expulsion of hundreds of thousands of Palestinians from their native lands in 1948 to make way for the state of Israel*

*b. the illegal occupation of Palestinian territories by Israel since 1967, including that the UN deemed Gaza an Israeli-occupied territory even after Israel's withdrawal from the enclave in 2005*

*c. the roughly [5,000 Palestinians](#) held in Israeli jails, including around 150 children, thousands of whom are held without charge and [many of whom are tortured](#).*

That context is not only highly contestable and shockingly selective but we believe gives the lie to the professed purpose of promoting "truth in reporting" or "ethical reporting". On the contrary it demonstrates either appalling ignorance, or wilful distortion, to say nothing of seriously serving "advocacy journalism". Palestinian prisoners being held in jails, including those convicted of multiple murders and acts of terrorism after trial in a judicial system, are also not the "context" of the October 7 massacre. The former does not in any way justify the latter.

With respect, we do not need journalists to provide us with their carefully curated renderings of history on the spurious pretext that, in their opinion, it provides relevant context. We do not need such "context" to know that Hamas's butchery of Israeli children and the elderly, burning civilians alive and carrying off the survivors as hostages is pure evil. Nor do we need Hamas's apologists to censor or downplay its record of using Palestinian civilians as human shields and embedding its terrorist infrastructure under hospitals, schools and mosques. When it comes to treating the lives of Palestinian civilians as expendable, no-one is guiltier than Hamas.

The context for the Hamas genocide and other crimes perpetrated in Israel on October 7 including hostage taking, must include its express intention not only never to accept the state of Israel on any basis, but to "[obliterate](#)" it and its majority Jewish population. That foundational fact was omitted from the open letter.

These are some of the other incontestable facts omitted from the context in the open letter:

1. Jews have resided in the land as a distinct ethno-cultural and religious community since biblical times. They are indigenous to the land.
2. Jewish self-governing polities, including sovereign states, existed in the land for centuries up to and including the Christian era.
3. No Palestinian State or other polity of any kind consisting of the local Palestinian population ever existed until the Oslo Accords in the 1990s.
4. Arab enmity and violence towards the local Jewish population preceded the establishment of the State of Israel by several decades.
5. In 1947 the UN General Assembly voted to partition the former British mandate territory of Palestine into a Jewish state and an Arab state, with Jerusalem as a *corpus separatum* ("separate entity") to be governed by a special international regime.
6. The UN partition plan for the establishment of two States for two peoples was supported by more than a two-thirds majority of UN member States, including Australia. The Jewish side accepted the recommendation. The Arab League and the Palestinian leadership (then known as the Arab Higher Committee) not only rejected the UN resolution but also declared and initiated a war against the existing Jewish population of the country in order to prevent its implementation.
7. It is now largely forgotten that the UN partition plan itself did not require the displacement of anybody. Under the partition boundaries recommended by the UN, the Jewish State was to consist of roughly 14,245 km<sup>2</sup> and the population was to be 538,000 Jews (57.5%) and 397,000 Arabs (42.5%). The Arab State was to consist of 11,655 square km<sup>2</sup> with a population of 804,000 Arabs and 10,000 Jews. A further 730 km<sup>2</sup> would be under international administration, including Jerusalem. All residents would be able to remain *in situ*:  
<https://trove.nla.gov.au/newspaper/article/134238148>.
8. In May 1948, the State of Israel was established within the borders of the Jewish state under the partition plan.
9. Israel's Arab neighbours immediately acted upon their previous threats to use force to prevent the implementation of the UN partition plan. They launched a military invasion of the country avowedly aimed at destroying the new State.
10. It was in the context of that war that the refugee issue arose, as a result of a combination of the local Arabs being exhorted by the invading armies to flee and to return after victory or, when they joined in the hostilities against Israel, being defeated by the defending Israeli forces. Palestinians who did not flee or join in the hostilities remained in their homes and became citizens of Israel, as they remain to this day. Critically, if the Arab side had not launched a war to prevent the implementation of the UN partition plan, the partition would have been carried out without any Palestinians being displaced or becoming refugees.

11. At the same time more than 800,000 Jews were expelled from Arab lands and their property confiscated. Unlike any other refugee problem before or since, the Palestinian refugee problem remains unresolved in part as a result of the deliberate policies of the Arab states and the UNRWA, who automatically confer refugee status on all *descendants* of the original refugees. The notion of refugee status being inherited and passed down *automatically and in perpetuity* to remote descendants who have never fled from their homes is without parallel in international law. It is not applied to, nor is it claimed by, any other refugee group.
12. The war of independence ended in 1949 with set armistice lines (the green line). The special status of Jerusalem was never honoured by the Arab states and Jews were prevented from accessing, let alone worshipping at, their holiest shrine – the western wall of the ancient Jewish Temple.
13. In 1967, Egypt, Jordan and Syria again combined with the avowed aim of making a second military attempt to wipe Israel off the map. Israel defeated them. The territories occupied as a result of its defence in that war were always to be traded for peace. UNSC resolution 242 affirmed:

"... that the fulfillment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:

  - (i) Withdrawal of Israeli armed forces from territories occupied in the recent conflict;
  - (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force."
14. Israel accepted Resolution 242 in the UN on 1 May 1968. The Palestinian side rejected resolution 242 outright until 1988. Hamas still rejects it.
15. The territories captured by Israel in the 1967 war were never occupied illegally, because Israel was not the aggressor in the 1967 war. Indeed, immediately after the war, between June and November 1967, draft UN resolutions were put forward on six occasions by the Arab States and the Soviet bloc in both the Security Council and General Assembly seeking to condemn Israel as the aggressor in the 1967 war. Each of these resolutions was decisively defeated or withdrawn for lack of support. (See Draft resolutions in UN Docs A/L519, A/L52, A/L2524, A/L525, all rejected on 4 July 1967 by votes of 88 to 32, 98 to 22, 81 to 36 and 80 to 36 respectively). Draft resolutions demanding that Israel withdraw its forces unilaterally from territories it had captured in that war were defeated or withdrawn four times. The international community was therefore clearly not prepared to deny that Israel had acted out of self-defence. The legal consequence of this is that Israel became legally entitled to remain in control of those territories (although it did not acquire legal ownership of them) pending the conclusion of peace agreements with its neighbours, in which they will enter into arrangements that Israel will be able to enforce to ensure that these territories are never again used as a base from which to launch armed attacks against Israel (as had occurred in 1948 and 1967).

16. In 1973, Israel again fought an existential war commenced by its Arab neighbours, Egypt and Syria.
17. Unlike with Egypt, the conditions for withdrawal from the West Bank and Gaza, were never met and have still not been met despite a number of offers made by Israel post Oslo (including withdrawal from almost all of the occupied territories and land swaps for the remainder). The PA never accepted any basis for peace with Israel. Hamas has never been interested in peace of any kind with Israel, only its destruction.
18. Israel unilaterally withdrew its armed forces and citizens and abandoned its settlements in Gaza in 2005. Hamas came to power in Gaza by a combination of election (2006) and armed coup (2007) and thereupon stepped up its firing of rockets from Gaza into Israeli civilian population centres. It was only then, and in response, that Israel - and Egypt - began to impose a blockade in order to prevent the smuggling of weapons and munitions by Hamas and other groups into Gaza.
19. Despite the blockade, supplies including of food, water, fuel and electricity, have always been allowed into Gaza until the immediate aftermath of 7 October. Indeed, during most of the time from 2005 until 7 October Israel has provided employment for Gazans in Israel and access to Israel's hospitals and health care facilities.
20. The rocket attacks from Hamas and other fundamentalist Islamist groups have rarely ceased notwithstanding ceasefires, the most recent of which was broken by Hamas launching more than 5,000 rockets into and invading, Israel on 7 October.

The fact is that Palestinian leaders have time and again over the last century chosen rejectionism and eliminationism towards the Jewish population of the country, and that choice has been disastrous for the Palestinians themselves. It is the most significant reason they are now where they are.

Arab rejectionism towards any form of Jewish collective self-determination and political independence within any borders has also been central to the marginalisation of the peace camp in Israel. This rejectionism has never been merely passive. It translated into genocidal eliminationist behaviour towards the Jewish population in the Holy Land long before Israel was established. From the anti-Jewish pogroms in 1920, 1921 and 1929, the anti-Jewish and anti-British terror campaign in 1936-7, the WWII alliance between the Palestinian Grand Mufti and Hitler, the Arab declaration and commencement of a war of extermination against the Jewish population in October-November 1947, the PLO Charters of 1964 and 1968, the Hamas Covenant of 1988, and the overwhelming Palestinian support for the October 7 Hamas atrocity crimes: <https://www.i24news.tv/en/news/middle-east/palestinian-territories/1700158968-survey-finds-majority-in-the-west-bank-justify-the-oct-7-massacre>

We readily accept that Israel is neither perfect nor has handled all aspects of its administration of the territories as well as it should have. Serious mistakes and misjudgements have been made. But this pales in comparison to the series of catastrophic mistakes made by generations of Palestinian leaders. Indeed the real obstacle to peace and a 2 state solution is the absence of a partner with

Israel, for peace. The far-reaching offers made by Israeli Prime Minister Ehud Barak to Arafat at Camp David and again at Taba in 2000 and 2001 did not even elicit a counter offer, only a second intifada. The offer made by Prime Minister Ehud Olmert in 2008 also went unanswered.

Israel has the right and the duty to defend its citizens from the genocidal attacks of Hamas. In doing so Israel takes unprecedented precautions to minimise civilian casualties and otherwise acts in accordance with the Law of Armed Conflict including the proportionality of its response. This is made extremely difficult, inter alia by the well-recognised tactics of Hamas in operating without military uniforms to identify them amongst Gazan civilians and, as already noted, embedding weapons, command centres and other military resources in, around and under, civilian infrastructure effectively employing the citizens of Gaza as human shields.

In the result, most regrettably innocent civilians are killed and injured but that is a result largely if not exclusively of Hamas's own design.

Finally, we explicitly reject the allegations in the open letter that there are "credible allegations of (Israeli) war crimes, genocide, ethnic cleansing and apartheid," concerning Israel in Gaza or anywhere else. The facts, especially regarding the requisite mental element for criminality, have never been definitively determined, and aspects of the applicable law are also very much in dispute. Conclusive judgements about criminal guilt in such circumstances are meaningless. Unlike Hamas, which has no regard for international law whatsoever, Israel is highly conscious of the Law of Armed Conflict, seeks to comply with it, and is at least as conscientious as any other State in meeting its requirements:

<https://www.gov.il/en/departments/general/hamas-israel-conflict-2023-key-legal-aspects>.

Given their undoubted importance and in the interest of ethical reporting, we would appreciate an opportunity to discuss these matters with you in person and look forward to your early response.

Yours sincerely



**Daniel Aghion KC**  
**President**



**Peter Wertheim AM**  
**Co-CEO**



**Alex Ryvchin**  
**Co-CEO**