

TRANSCRIPT

"BOOK LAUNCH—THE WALL AND THE GATE: ISRAEL, PALESTINE, AND THE LEGAL BATTLE FOR HUMAN RIGHTS"

A conversation with Rabbi Jill Jacobs and Michael Sfard

Introduction: Stephen Hubbell

* * *TRANSCRIBER'S NOTE: SPEAKERS' ACCENTS DIFFICULT AT TIMES* * *

ANNOUNCER:

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STEPHEN HUBBELL:

Hello and welcome everybody to the offices of the Open Society Foundations. My name is Stephen Hubbell, I'm with the Open Society Fellowship Program and it's my pleasure to welcome you to this conversation between Michael Sfard, who was an Open Society Fellow a few years ago, and Rabbi Jill Jacobs in honor of the publication-- last month of Michael's new book *The Wall And The Gate: Israel, Palestine, And The Legal Battle for Human Rights*, which was published by-- Metropolitan Books.

(THROAT CLEARING) Now, the words-- legendary human rights litigator-- don't come tripping naturally off the tongue. The reasons for that are probably fairly obvious. Human rights litigation, as our colleagues here at the Open Society Justice Initiative can attest-- tends to be-- complex enough, context specific enough, sometimes tedious enough, and certainly protracted enough-- to make even the most dedicated-- lay person-- to make their eyes glaze over.

On top of which-- it is often the case that one might wait many years to achieve-- a victory in a court of law only to see victory rapidly unraveled in the court of public opinion or by

the caprices and whims of legislatures or authoritarian leaders. In addition to which-- human rights lawyers and litigators themselves often shun the limelight, preferring to focus instead on their clients and on the legal landscape before them.

Now, (THROAT CLEARING) the extent to which-- Michael Sfard-- who is actually deserving of the-- of the title-- human rights litigation legend-- will shun the limelight, came-- came-- clear to me a couple months ago in Sarajevo where we were both present for-- a conference. I got an urgent-- e-mail from his editor at Metropolitan Books, Reba Hockerman (PH) who is an old friend and sitting out there.

She said that the art director would really like another image for publicity and possibly for the author photo. Now, unlike Michael, I'm not one to shun the-- (THROAT CLEARING) the limelight and I was eager to be the author of the iconic image that would propel Michael into the public imagination here in the United States, in North America, and in Israel too. So he and I went out of the hotel and walked along a little bit and-- I was trying to get the river just right in the background and the-- the light just perfect. And it became clear pretty quickly that Michael was losing patience with all of this. And-- none of the-- none of the images that I finally came up with, I'm sorry to say-- made the cut. But that's-- that's a story for another day.

As time wore on, I-- I realized that, to Michael, what matters really is the words on the page, the ideas, and not the person who conveys them. And-- with that-- in mind, I-- I will say nothing more than-- I commend you to read this. And I will add that we are here at-- the Open Society Foundations are so very proud of this book and honored to be able to play a small role in its creation.

We're also so very proud of the life that Michael leads and the work that he does and his courage and honesty in committing that life and that work to these pages. I'd also like you to join me, please, in welcoming Rabbi Jill Jacobs to the Open Society Foundations. Jill is the executive director of Truah, the Rabbinic Call for Human Rights-- which mobilizes rabbis and can-- cantors and tens of thousands of American Jews to advocate and protect human rights in North America and in Israel. A leading voice on Jewish social justice, she is the author of *Where Justice Dwells: A Hands On Guide To Doing Social Justice In Your Jewish Community* and *There Shall Be No Needy: Pursuing Social Justice Through Jewish Law And Tradition*. So welcome Jill and thank you for presiding over today's conversation.

Two small pieces of housekeeping. First of all, this is being recorded for posterity, for a video podcast on the Open Society website. Secondly, there will be a Q&A afterwards and-- I invite you when that starts to line up behind that microphone-- identify yourselves, and in the spirit of the question and answer, please-- do try to come up with a question rather than-- than a protracted statement. So thank you all for being here and now over to you, Jill.

RABBI JILL JACOBS:

Thank you so much Stephen for hosting this and also for making it possible for Michael to write this amazing, important book. I wanna start with a little bit of an introduction to Michael, who-- as you've already heard, is one of Israel's leading human rights lawyer.

He's a former conscientious objector and a recipient of the Emil Grunzweig Human Rights Award as well as an Open Society Fellowship which, as you've heard, is how he was able to have the time to write this book. His writing on human rights has appeared in *New York Times* and *Haaretz*, the *Independent*, and *Foreign Policy*. And he lives in Tel Aviv.

And I'll just say that as somebody who works on human rights, both in the U.S. and also in Israel and the Occupied Territories, Michael is a person who I call when I have a question about a legal issue. And he is just so incredibly generous with his time, so incredibly knowledgeable about everything that is happening in Israel and the Occupied Territories. And it's just really a pleasure and an honor to be here with you. Thank you. (THROAT CLEARING)

I wanted to start by asking you to tell us a little bit about how you came to write this book. Certainly there are many things you could be doing with your time, many demands on your time. And what contribution were you hoping to make with this book?

MICHAEL SFARD:

(SIGH) Hello, everybody. Thank you Jill, thank you Steve. It's-- it's-- it's been a great two weeks when I-- I'm on a tour of different talking events and-- but it is especially exciting for me to be here. I see friends-- so many friends here and-- and being at the Open Society, which-- basically gave me the-- the opportunity to-- to write this book-- and the year here-- had a profound impact-- a defining impact on my career, on my life, on my family's life.

So thank you. I wanna thank the Open Society and-- and-- and specifically the fellowship program, which-- allowed me to do that. (THROAT CLEARING) When-- when I went to law school-- by the way, I did not know when I went to-- to the university that I eventually would-- would apply for the law school.

When I came back, my parents were quite amazed that this is what I chose. I'm not sure they were happy back then. But-- when I've decided to become a lawyer, it was clear to me that I wanna do human rights law. That I want to litigate human rights law and-- and I think it was a way to escape politics.

I wanted to-- to make an impact on my-- the community where I live in, I wanted to influence-- the normative framework of where I-- that-- that-- that governs the-- the place where I-- will have my kids living. And I thought that-- law is-- another avenue for doing that. And human rights law is the-- the field of law that could-- allow me to-- pursue the kind of-- values that I believe in.

And once I've decided that-- human rights law is-- is the field that I wanna practice-- as an Israeli it was immediately clear to me that-- (THROAT CLEARING) the struggle that I want to lend whatever talent I have is the struggle to end the occupation, the Israeli occupation over the Palestinian Territories.

I'm not sure-- I mean-- I know that all of you know-- quite a lot about the occupation. But let me frame-- the issue of-- of why-- I think-- the struggle against the occupation is so-- maybe the most important struggle for any Israeli. I'm-- I'll be 46 in April and-- I have friends in Ramallah and other places in the West Bank, Palestinians who are my age.

And they have not experienced one day of liberty in their lifetime. If they wanna go on-- on a summer vacation-- abroad to Paris or London or New York, they need a permit from the Israeli military commander. If they want to build a house, they need a building permit from the planning boards, which are part of the similar administration, an-- an Israeli military-- institution.

If they want to-- demonstrate, they need a permit from the military commander. They are governed by norms that they have not be involved in forming, they have no right to be-- elected or to vote to the-- corridors of power where their fate and future is being-- decided.

And that has been so for five decades and still counting. And that-- has affected millions of people who are stripped of their civil right. So for me, it was clear that as-- as an Israeli I have a responsibility to-- to engage in the movement to end the occupation. And I thought back then that-- by doing that decision-- of course, I get into a field where-- success is-- scarce and there are many, many hardships.

It's-- it's-- it's a walk up the hill, maybe up the mountain, maybe up the Everest. But at the same time at least, I know that at any given point, I know exactly which-- which path to take. It's very clear to me. I want to fight the-- for the good guys and-- and-- not allow the bad guys to get away with-- bad things.

And during my work as a human rights lawyer in this arena and in this-- topic-- it gradually dawned on me that-- that I was naive, that thinking it was very easy to decide what to do is-- ignores the complexities, the nuances-- and the paradoxes that human rights litigation brings when-- litigation is conducted and managed by cause lawyers.

(THROAT CLEARING) But by lawyers, by legal activists, who see themselves not only lawyers who pursue-- remedy-- pursue a case to secure remedy for their clients and relief for their suffering, but also want to contribute to-- an overall change, a policy, in this case to a regime change.

Because I consider myself part of the movement to end the Israeli occupation over the West Bank, to end the military rule there. And I'll give you one example-- I'm sorry for this long answer, but its-- a question that-- that-- merits long answer. I'll give you one example and just-- an example that-- that-- there are many like it. And-- and the-- and the example is the one that lend the name to my book-- the wall and the gate.

As you all know, Israel has embarked on a national project of erecting a separation barrier, a big project of-- of erecting a system of walls and fences in the-- inside the Occupied Territories. And it was-- it was a reaction to a popular Israeli demand to create a barrier in the face of-- of-- of waves of-- terrorist acts on its cities, towns-- buses, cafes, et cetera.

And the-- the demand-- the popular demand for-- for a barrier was understandable, but the government of Israel has decided to manipulate and to exploit that demand in order to build a barrier that would not be rooted on the-- internationally acknowledged-- border between Israel and Palestine, meaning the green line, the armistice lines of-- that were agreed on in 1949 between the state of Israel and the kingdom of Jordan.

But rather, to sketch-- a route that would invade the West Bank, to build the fence on the lawn of the neighbor, and thus-- fencing or walling out Palestinian-- thousands of Palestinians from their farmlands. And one-- and I was involved in-- in challenging several segments of this-- barrier, which I and my colleagues thought it was not only a grave violation of international law, but also a daylight robbery of lands.

That was the intention of the architects of the fence. And I was asked to meet two heads of villages in the Qalqilya area-- and-- these-- these two communities have lost more than 12-- 1,200 densely cultivated (UNINTEL) of-- of densely cultivated olive groves. And-- and the-- for two years already, when I-- back then when I met them, they have not had-- they were not-- they lost any access to their lands.

And they told me how-- huge-- like, 50% of the families in their communities lost more than 80% of their annual income because of-- of the stealing of the-- of the-- of their property, of their lands. And they asked me, "What can we do?" We were sitting in this gas station, overlooking the closed areas. And I looked at the area-- in photos and I looked at the-- at the scene, and I told them, "I think--" I told them back then that I thought there was a very-- good-- case that we have, a strong case.

Because the fence was so far away from the houses of the nearby settlement, which supposedly should-- it is supposed to protect. And according to the standards the army itself-- presents in court-- they need 400 meters of buffer zone, that is the effective range of light weapon, when in fact they build the barrier-- 2,000 meters, two kilometers away from the houses.

So I told them, "I think we have a good chance, I think we have a good case. Let's go to court, let's demand petition the court, demand to dismantle that-- that fence." So that-- these two gentleman-- ask me-- "So how long would it take to litigate such a case?" And I said, "Well, if it's really quickly, then it will take two years, (THROAT CLEARING) more likely three-- you should take into account four." They looked at each and then looked at me again and said, "Mr. Sfar, could you ask that a gate would be installed in the-- in the fence? And that way we could-- when they open the gate for us, we could-- cross and-- harvest our trees."

And I thought, "Wow, I definitely could get them a gate." Not only that I could get them a gate, the Army would be very happy to negotiate with me a gate. It were-- these were the days when-- the-- the pressure on Israel and the criticism on-- on Israel for erecting this-- fence/wall-- was mounting.

It was-- it was a photo journalistic disaster, the-- the-- the barrier project, with scenes of olive trees being uprooted and-- and farmland, open farmland being cut off by-- by concrete walls. And the Army, I thought to myself, "This is exactly what the Army wants me to do. It wants me to be the middle man that will help it better manage the wall."

So I could get-- some relief to my clients, but at the same time I will-- cooperate and-- cooperate with-- with-- with perpetuating this-- fence that I-- that I think is-- is-- daylight robbery. What should I do? Now, these kind of questions have been hou-- haunting me-- throughout the years. There were many other cases where I thought, "Am I a naive collaborator of the system?"

Am-- isn't-- isn't the work with the occupier in its courts, in its justice system-- make the whole human rights work a joint venture with the-- with the government? And do I shorten the life-- the shelf life of the occupation or do I contribute to its stability?" (COUGH)
And whenever I thought these question, I thought, "I need time to-- to really think it over and to learn from the-- from the experience of my predecessors. And-- fortunately, I got the Open Society Fellowship, which allowed me not only-- to have the time, but also to go away from the region, because you cannot be there and still-- do that. And-- and the product is-- is my book.

RABBI JILL JACOBS:

Wonderful. (THROAT CLEARING)

MICHAEL SFARD:

Sorry for this long, answer--

RABBI JILL JACOBS:

No, it was-- it was wonderful. It was also a good introduction to some of the challenges that you deal with in the book. I was really struck when I was reading your book at how Jewish it was. (LAUGH) You know-- you're being interviewed by a rabbi, you knew it was coming.

(LAUGHTER)

You talk in the beginning about the concept of (FOREIGN LANGUAGE) or the idea that human beings are created in the divine image. You quote Abraham Joshua Heschel, who is probably the greatest Jewish prophet of the 20th century. You reference-- at one point, you

talked about making an argument from Jewish law about collective punishment against collective punishment. (SIGH) There are a number of other instances. And I'm wondering if you could talk a little about what it means to you to be doing this work as a Jew and where Judaism fits in with your life's work. (THROAT CLEARING)

MICHAEL SFARD:

If there is one issue that really drives me crazy, (THROAT CLEARING) it's the fact that Judaism in my country was hijacked by-- by a certain stream. Judaism has many faces, 70 faces the Torah has?

RABBI JILL JACOBS:

Yeah.

MICHAEL SFARD:

Judaism has many faces. It's not-- it's not made of one skin, it has many streams. And today-- (THROAT CLEARING) the country that purports to be the homeland for the Jewish people is speaking on behalf of a very extreme-- nationalistic-- to the point of racist-- type of Judaism.

I was-- brought up on a different type of Judaism, not only that I was brought up on a different type of Judaism, but-- I read and I know the history or-- I hope to-- that-- that I know quite a bit about the history of-- the-- the Jewish people and I do not-- and I-- and I get really angry to think that-- that we in Israel have not learned the obvious lessons that should have been learned from our own-- collective-- biography.

And-- so not only that-- when I-- when I litigate my cases-- and when I write op-eds and when I wrote the book-- not only it is important for me to represent-- the universal values of-- you know, sanctity of human life-- the right of every-- you know, the-- the humanistic values which I definitely-- believe in and-- and am part of.

But also, it is important to me to try to-- to release-- Judaism as it is seen by those who look at Israel from the chains that it was-- that have been-- put on it. Because I think that-- Judaism has contributed to the international-- moral-- thinking, some of its most important values, humanistic-- universal values. And unfortunately today-- today it's not being seen. So this is-- if you ask what-- does-- me being Jewish or my Judaism-- has to do with this, this is-- another-- another-- seed that makes me tick. In parallel to my-- being a human being seeing other people in suffering, seeing other people-- subjugating by my brethren.

RABBI JILL JACOBS:

Thank you. I wanna ask you about another term that has sometimes-- that has gotten a bad rap and that's Zionism, that there is a lot of people who have a very specific definition of what Zionism, whether from the right, the left, somewhere else.

And you were recently quoted in-- in an interview in *Haaretz* saying, "If Zionism is a belief or a the desire that the Jewish people will have a place where they can exercise their right of self-determination as a nation and that place is here, than I'm a Zionist. If being a Zionist means thinking that this should come at the expense of other people who live here and they should become second class citizens, then I'm not a Zionist." And I'm wondering if you can expand on that a little bit and talk to us about whether you think that Zionism is something that can be saved, whether you do consider yourself a Zionist and what does that mean? (THROAT CLEARING)

MICHAEL SFARD:

The-- the-- the fact that we're asking this question means that some-- that there is a crisis in Zionism. Because I was born and raised as a Zionist, my parents have fled-- Poland-- after-- severe-- anti-Semitic-- policy by the government, by the Polish government-- has-- resulted in the-- exodus of-- whatever it was left-- of Jewish-- community in Poland after the-- after the Holocaust.

And-- they found refuge in Israel. And so the mere fact that we're asking the question, if I can relate to Zionism, means that there is a crisis with Zionism. As a human rights activist and as-- and as a person who believes in the hum-- humanistic values-- it is of utmost importance to me (COUGH) to ask, "What do people want?"

We can-- criticize-- the desires of-- of people to have a nation state. But if we-- take seriously-- the notion that-- human beings-- are sacred and their-- aspiration, their pursue of happiness, their-- pursue of realization of their-- being, their autonomy is something that we cherish and want and-- and-- we are-- obligated to advance.

And the fact that-- in-- that there are millions of-- people who want to have-- to exercise self-determination in-- in a way of having a state that would be-- homeland-- for their people is something that we have to take-- to-- to respect. By the way, between the Jordan River and the sea, there are two-- there are millions of people and almost all of them have these aspirations.

Those who want to have-- Israel as a Jewish-- as-- as a state of-- I want you to pay attention to the words that I chose. I don't believe Israel would be a Jewish state, I don't know what it means to be a Jewish state. I've been to Chicago a few days ago and someone came to me and gave me his card and said-- "I'm a from a Jewish law firm." (LAUGH)

And I ask, "What does it mean to be-- a Jewish law firm? Was it converted? Did it go to the synagogue?" What does it mean to-- I don't-- I don't understand what it means to be a Jewish state. I know what it means, that a state is a homeland (COUGH) for-- for certain people. But-- it-- it is not-- (COUGH) it shouldn't be exclusive.

Israel can be a homeland for the Jewish people and also a homeland for Palestinians who are-- who have Israeli national-- nationality. And many Palestinians, those who are in the-- live in the Occupied Territories and their diaspora want to have a nation state in the form of Palestine. So for me, it's not just-- a particular Jewish-- issue. It's-- it's their-- it's the collective group right of these people to-- exercise their culture, their religion, their history-- in-- in the form of a political entity.

RABBI JILL JACOBS:

So you-- you talk to-- as you were answering this question, about language. And specifically you talked about the difference between Jewish state and state of the Jews, the state of the Jewish people. And language comes up a lot in your book. And in particular, you deal with the question of, "Well, do we call what's happening in the West Bank an occupation?"

That's certainly-- a debate that is live and raging in many places. The-- Israel, of course, calls the-- that space disputed, the Disputed Territories as opposed to Occupied Territories. You also deal with the question of is it apartheid what's happening there. And I'm wondering if you can talk a little bit about the importance of language and why, in your opinion, it is important to get the-- the words right. So both why you-- do chose to use the word occupation and also why you're invested in-- in that language or in-- in any language.

MICHAEL SFARD:

Right, so you know, I'm not-- I'm not-- the philosopher of language. But-- I think it's quite-- basic stuff to say that language-- not only portrays reality, it also creates reality-- because people are-- when they have concepts, when they hear concepts, they relate to it and they-- and-- and language is many times-- not only a descriptive-- tool, but also a lens, glasses through which you see reality.

And so I'll give an example. In-- in the beginning of-- of-- of the-- of the first decade of the century, in the 2000s-- it was the first time that I heard the word apartheid being used in connection-- in relation to the Israeli-- occupation of the Palestinian. I think the first term that I heard was the apartheid wall.

And I remember saying to myself, "Well-- words are important. And-- words should not be taken lightly, not every murder is a genocide and not every discrimination is apartheid. And if we use the terms-- too lightly, then they lose their meaning."

And-- apartheid is-- is-- is a serious-- allegation. And I rejected the notion that there is anything to do-- anything-- anything characteristic of the Israeli regime in occupied

Palestinian territories that has anything to do with apartheid. But the doubt was still in me and what-- lawyers usually do when they are not sure about something, they open a new file. So I opened a new file in my office, I wrote on it, "Apartheid?" And whenever I had some-- documents or some-- articles or cases that I thought-- could shed some light on the question, I placed it in that file. And that file, it-- became very thick. And then I created-- a power point presentation out of it.

And unfortunately, I did reach the conclusion that-- that the-- the traits of the Israeli government in the Occupied Territories, given that we have-- colonized the territory, given that we have created the reality in which there are two-- communities in the West Bank, one is completely stripped of their rights and the other has all the rights, has all the political power, the connection, and the-- and the-- and ability to influence their fate.

The fact that-- that-- different laws, to a large extent, apply to each community, the fact that-- the government of the territory, the military government, is-- applying-- practices and policies to make sure that those two communities would be separated. By the way, Israel uses a lot of euphemisms-- to-- to clear and to-- whitewash-- its deeds. So we don't have extra-- judicial executions-- we have preventive killings. We don't have-- you know-- we don't have torture, we have enhanced-- this is also here in America--

RABBI JILL JACOBS:

Interrogation?

MICHAEL SFARD:

--enhanced interrogation techniques.

RABBI JILL JACOBS:

Yeah.

MICHAEL SFARD:

So-- but someone-- someone-- disregarded or-- or-- fell in-- in-- in-- while being on guard and-- separation state-- separation, which means that-- the philosophy of separation, which is governing the way-- the Army-- governs the-- the-- two communities under its rule-- is-- is being termed in the same way that in Afrikaner it's apartheid, apartness.

And so when I thought of all of this together and when I've-- I looked-- you know, directly at the-- at the reality, I got to conclusion that yes-- the reality in the West Bank does meet at least the legal-- definition of-- the crime of apartheid.

from these-- territories in order to allow the partition plan and the creation of a Palestinian state to be realized.

So as-- as-- as a lawyer that is-- that does-- exercises-- international law, I have no question about-- the legality of the establishment of the state of Israel and the illegality of the continued-- occupation of-- of-- of the West Bank, east Jerusalem, and the Gaza Strip, and the Golan Heights, which is a different story.

Illegality in the sense-- not that occupation itself is illegal. International law acknowledges that in times of war-- an army, let's take the passive-- term, an army can find itself-- effectively controlling-- areas that are beyond the sovereign borders of the state that sent it. So it's not illegal to-- to be occupying another territory. What is illegal is to-- engage in a policy towards that territory that would-- perpetuate the-- the control rather than-- lead to the end of occupation.

And of course, Israel has done anything it could, everything it could, including colonizing it, including changing its landscape, it's demography-- and-- and-- and robbing-- the inhabitants of the territory, the occupied people, who are termed under international law as protected persons, from their-- resources, from their rights, from their liberties, et cetera. So-- so for me it's very clear that there is-- a vast difference, a world difference between the legal-- framework that-- has to do with-- the establishment of Israel and-- and the legal framework that governs-- the occupied territory.

RABBI JILL JACOBS:

Thanks. I wanna go back to the story that you told about the wall and the gate that gave the book its name. You talk a lot about the concepts of winning and losing, success and failure, and suggest that sometimes winning and success aren't the same thing or you could lose but win or-- you mix up those terms a lot.

And you talk-- in particular, you say that there are three possible goals that one might have that you get a remedy for your client, that there's policy change, and there's regime change. I'm wondering if you can talk a little bit more about how you see winning, losing, success, failure, and particularly along those three goals.

MICHAEL SFARD:

Right. Well-- when you go to law school because you saw a lot of American court dramas, as I have-- you get-- the notion that-- law is about-- winning or losing, this American-- very American-- concept that there's-- it's a binaric (?)-- situation.

Either you've won or you lost. And-- and when-- when-- when-- and that's-- and that's true, by the way. It's true-- for regular litigation. When you go to court, many times the question is-- very simple. In order to assess the success of your-- litigation, the question is did-- you secure a remedy-- the remedy that was sought in this litigation, for your client?

If you did, that's a victory. If-- if you didn't, that's a fail-- that's-- that's a defeat. The problem gets-- the-- the issue get more complicated and more nuanced when you have more than one goal. Getting remedy for your client is just one level. But there are other dimension and in-- in the other dimensions, you aspire that litigation to contribute to a more-- wide-- to a wider-- change, to a policy change.

So I go to court on behalf of a client in order, let's say-- to make sure that he will not be tortured, (MIC NOISE) he or she will not be tortured. And I get a remedy, I get an injunction against the-- the-- whatever security force that-- that holds him or her. I got a remedy for this individual. But I hope to get a precedent that would say that no matter who is the client, no matter who is the interrogee or the suspect, is it not allowed to use physical measures in their interrogation, that's a policy change.

So there are-- so my function, which asks, "Is this a success story or not," has two variables. The question of the-- of getting a remedy of the client and also the question of what is the impact of this litigation on the-- on the overall policy?

Now, if that's not complicated enough, when you fight an evil regime, and I-- and I think that by today, there is no way to-- other to define the Israeli occupation over the West Bank of the colonization of the West Bank-- but an evil regime, you not only want to end torture, you-- it's not enough to say that-- to end-- let's say-- land expropriation-- for settlers.

We also want to end the occupation, we want a regime change. Now we have three levels of objectives to our litigation, a very, very mighty task. So not really that we believe or aspire that a certain litigation would bring about the end of the occupation, but we want our litigation to contribute to the movement-- for ending the occupation.

And now we have-- now it's even worse. We have-- a formula with three variables, you know, a formula with three variables means that the-- the-- the res-- the-- solving it is three dimensional, right? It's no longer just a parabola or whatever.

And-- and so in order to assess our work, we need to look at the different levels of the impact it has. And when we-- and-- and in this book, what I tried to do is to-- study-- four and a half decades of litigation, hundreds of cases-- dozens of-- of-- of legal struggles that were composed each of many, many cases and to see what-- what was their impact and how does it-- how did it work and what was the result of these-- cases?

And what I learned was that even though-- we have a tendency to believe that a victory in a case is a milestone towards a success, meaning-- an over-- contributing to the more far-reaching change and-- and-- and a defeat in court is a milestone towards a failure, that is not really always the case.

And sometimes the impact of-- of-- of a defeat can be a backlash that would-- actually ignite a political process that would lead to success, that would lead to changing perceptions and-- and-- and allowing-- a reexamination of the-- of the status quo and vice versa. Sometimes a

victory can lead us-- instead of-- to-- a success, it can lead to failure because of the backlash it will create or because of-- all kinds of facts.

For example, a victory can-- can silence-- many of-- of the-- of the-- progressives who-- who would otherwise go out to the street and say, "Okay, the court has-- ruled and-- the-- the people are protected, we don't need to invest too much in-- in-- in that thing." So the-- this very new-- this very-- erratic-- framework-- calls for lawyers, for litigators, and for movements for change to think very carefully and strategize their work to understand how the impact of their litigation, what kind of impact it has on the overall struggle.

RABBI JILL JACOBS:

Thanks. I've been thinking a lot about something that you said to me in your office in Tel Aviv a few weeks ago, that-- you said that it used to be that your work was primarily defending people who were the victims of human rights violations and now your work has moved much more to defending the defenders. And I'm wondering if you can talk a little bit about that work of defending the defenders and what the situation is for human rights defenders in Israel today.

MICHAEL SFARD:

(SIGH) I've been in this-- business-- not-- not such a good business, but-- this line of work for-- almost two decades now. And-- and in the first decade, it was-- a very pleasant moment in every meeting with-- foreign-- correspondents, with-- diplomats who came-- to-- to Israel and were stationed there.

It was always a very pleasant moment after criticizing my government for an hour (LAUGH) and saying, you know, harsh things about its policies and even-- questioning-- the-- their-- their-- intentions. But then there was always this point where I said, "You know, but there's one good thing I wanna say about the-- the-- the country I live in and the society I live in. I'm free to say what I want and I'm free to operate."

And the respect-- as human rights activists and lawyers for what we do and-- there is real pluralism in Israel and-- and-- a guarantee for freedom of speech. And I'm-- and-- and it's probably one of the most shameful thing and embarrassing things that I cannot say that anymore.

In the last decade, there has been-- the-- the whole concept of our liberal democracy-- whether it has-- whether it was really there or it was a mirage. But nevertheless, at least the-- the-- declaratory position of-- of the heads of our state was always that we are a liberal democracy, which entails several things, among them freedom of speech and so on.

It has changed-- it has shattered completely. There are many reasons why, that's for another book. But-- but basically, Israel is going through an illiberal wave where-- we no longer-- we no longer speak about-- ideas. Instead, the-- government is-- and it's-- I call it

(FOREIGN LANGUAGE), the-- the governmental non-governmental organizations that are the satellites, the right-wing satellites of the government, are targeting-- dissenting voices-- inciting against them, branding them as-- as traitors, as-- as agents of foreign powers, and-- initiating a tsunami of bills that are meant to-- restrict our speech, restrict our-- work-- close-- shut down the sources of our funding.

All in the-- in the service of-- perpetuating-- the Israeli control over the West Bank. And-- and then there was November 8th-- 2016. And whatever-- whatever-- restrictions, whatever-- curbing-- forces that were on-- on the Israeli right have been lifted.

And today, what we see is that-- Israel-- the government of Israel and it's-- right-wing allies and pro-settler lobby, which is the-- strongest lobby in Israel-- is ready to sacrifice-- every image of democracy in Israel in order to-- to completely annihilate-- a position. It's a very Putinistic type of-- thinking, it's-- and-- and-- and even the-- the way it is being done is-- takes a lot of-- examples from-- from Putin. I have to say that we have not seen a new-- it's-- it's not like-- the old-- reality was replaced by a new one. What we're seeing is-- is a war.

We're seeing a struggle between-- different sides of-- of-- of the Israeli society, different personalities. I usually term it as the-- the Israeli split personality, our-- our very nationalistic, very illiberal-- almost fascist-- part of our soul is-- is fighting to kill or to-- to-- annihilate the-- the other person-- person in our soul, which is-- a more liberal and-- one that-- is loyal to-- to liberal values. And this-- this is a way for the soul of the Israeli society. Now, what I told you in Tel Aviv in my office was that when I look at the portfolio of the work of my office, I can see that change because if I look at what I've been doing, what my time was being-- invested in-- ten years ago-- 100% of my time was investing in litigating on behalf of-- of-- of the direct victims of human rights violations-- in the context of the-- of the Israeli/Palestinian conflict, meaning Palestinians, individuals, and communities and-- and Palestinians in Israel, Bedouin tribes, et cetera.

Today, I would say that 30 to 40, maybe even more, percent of my work is to help activists secure the space allows them to be active. Both Israeli activists, who are targeted, but also internationals who are not even let into the country because of their political-- views.

RABBI JILL JACOBS:

Thanks. So now that you've told us about some of the unfortunate negative changes in Israeli society, I wanna bring us to a little bit of hope because I think that actually you've been-- a very strong voice of hope. And in particular, I'm thinking about an op-ed that you wrote that you also-- say some of the same things in-- in the book, where you say, "One day, the occupation will end."

And you say it really clearly. And I'm wondering if you can talk to us a little bit about how you hold onto that hope that one day the occupation will end and about resiliency. You've been doing this work for a long time and hopefully have many, many more years of--

(NOISE) of doing human rights-- law work. And I'm wondering what keeps you going, how do you maintain that sense of hope and that resiliency when things are as hard as they often are?

MICHAEL SFARD:

Well, I'll start with resiliency, 'cause it's the easy part to answer. I'm addicted. (LAUGH) It's not-- it's not like-- I have a choice. By now, it became an addiction. I cannot-- live in-- in Israel and feel responsible for what is being done in my name without doing this work. I believe that-- when-- it-- look, the occupation is not-- is-- is an Israeli project. It's not-- a project of-- only of those Israelis who support it. And-- even-- even though I do not-- man the checkpoints and I am not a settler and I actually-- oppose-- the occupation policy and try to-- to fight against it, I'm still an Israeli.

And-- as an Israeli citizen national, I-- contribute to my-- society. And I get a lot from being-- a citizen. And so I have a responsibility, collective responsibility, for-- for the occupation, even if-- and that's where the-- the-- the famous-- saying by Rabbi Joshua Heschel that in-- in a free society some are guilty but all are responsible for atrocities. So I'm not guilty, I have no (UNINTEL).

I have-- done a lot-- whatever I could to-- to stop the-- the crime, not to-- assist it. But I am responsible, as every-- every Israeli is. And-- and what means to be responsible? It means that I-- I have an obligation. The obligation to resist. And so-- the-- the-- resiliency sounds very-- it's a very noble thing. But I think of it as something that is-- we don't have much choice, this is what we have to do. And even if we don't think that it would-- that there is any hope, we still have to do it because there are people on the other side who ask for our solidarity.

And these bridges that are created by the human rights-- community in Israel and the Palestinians is one that has been-- maintained in the worst of days, when-- when violence has-- has plagued the land and it has-- and even when it seems like there is no-- theory of change, this has to be maintained. There is no-- there is no-- other way. As for-- why I think that occupation-- will end-- I have been branded as an optimist, which--

RABBI JILL JACOBS:

It's not a bad thing.

MICHAEL SFARD:

Well, some people think that-- basically what-- they say that I'm-- I'm an optimist in order not to say that I'm stupid. (LAUGHTER) Because-- because people think of-- of this kind of-- of optimism as one that is great-- is based on belief.

And belief doesn't have to be rational. It-- doesn't have to-- to-- to be-- to be based on-- on-- on some-- logics. It's a belief, I believe that. Well, I-- this is not-- my-- this is not why I say that I think that the occupation will end. I do think that there is-- a rational explanation, which leads to the inevitability of the ending of the occupation.

I'm-- I'm very smart though, I don't say which date it will happen. (LAUGHTER) And the reason is that I think that human history teaches us that subjugating millions of people-- a regime that strips people from their rights and-- and-- and holds them and oppresses them is a regime that, by definition, is unstable.

By definition. We-- I haven't come across yet any group of people that are very happy at being-- rightless, of not controlling their fate, their future. And Palestinians are no different. And this vicious cycle of-- of uprising and the need to-- to place-- oppression measures that are even more Draconian than the ones before and then the counter-violence that is even worse than before, this-- this is-- this is-- a part of oppressing people.

And so-- I believe that-- that-- that this kind of-- of-- regime could have lasted for decades, for-- for centuries in the past. But it doesn't-- it can't last forever in-- in our age. I also think that one of the reasons people do not believe in-- in-- in the possibility of ending the occupation is because they look at the situation and they say, "Well-- if such a monumental change is in the cards, we should its signs, right?"

When we-- when we travel somewhere-- we expect to see us advancing. We go to a certain city by car and we see a road sign saying, "You are 50 miles away." Then you see a road sign saying, "You are 40 miles away." You-- you are advancing. And we don't see that.

We look to the sideways, we look back and forth and-- and we don't see any signs for-- for the-- occupation to end. But the thing is about these kind of-- changes, historical changes that they not necessarily happen in a linear way. All the experts on the Soviet block, all of them have not anticipated the fall of the Berlin Wall even a month before it happened.

All the-- we have, I think, the most popular-- faculties in Israel are the ones that teach-- about Arabs. We have experts about Palestinians, about Arabs, you know, like sand on the sea. (LAUGH) None of them knew that the Arab Spring would erupt, none that the Intifada will-- will explode. None of them knew that second Intifada will-- will start. And what about the-- the-- the apartheid in South Africa, which-- which collapsed, again, without anyone anticipating from before-- before. And the reason is, for that, is because we are-- because the-- the changes are-- happen beneath the ground.

There are-- there are all kinds of cracks that are but being formed underneath the ground. And these cracks are not seen from-- for those-- who stand over ground. And-- and when there are enough cracks and when they are wide enough, then suddenly everything collapse like-- like a sinkhole and everybody's surprised. And as I said in that-- op-ed back then and when it happens, when the apartheid fell or when the occupation will end, suddenly we'll discover that everyone was against it. (LAUGHTER)

The academia and the arts and everyone was-- everyone was in-- in a fierce battle to end it. So I don't know when it will end and I'm not sure that it will end peacefully. But-- but I do believe that it-- I do think that it will end. And the implication of thinking that it will is the following, and this is where people usually really roll their eyes.

We have to think of the day after, 'cause there were so many regimes, evil regimes, that ended only to be replaced with worse regimes. And if we are not-- if we do not think of the day after the occupation, we-- are risking that-- the end of occupation will not bring the kind of-- of reality that-- respects human beings and-- and-- invests in their wellbeing, their happiness, and their-- autonomy. And-- and I think that-- one of our roles-- as-- as people who are engaging in-- in work for a social change is also to think that far.

RABBI JILL JACOBS:

Great, thank you. With that, I'm gonna open this up to questions. And-- the way to ask a question is-- thank you for demonstrating. You can get behind that mic or if you're not able to get up, just raise your hand and-- we will figure it out. And again, please keep your questions to a question. We're gonna take (LAUGH) three at once, is that okay?

MICHAEL SFARD:

Yeah.

RABBI JILL JACOBS:

Just say your name so we know how to refer back to you and (UNINTEL PHRASE)--

ABDEEN JUBAR:

My name is Abdeen Jubar (PH) and-- I-- the-- my question relates to BDS. I think BDS has been adopted by the international-- anti-occupation forces and that Israel today is spending tens of millions of dollars to combat it. And you say that your work today, now, is defending the defenders. What does this mean for the people in Israel?

They're-- I understand there's only three people in prison for conscientious-- objection. I just read this in *Harper Magazine*. And-- I would like to know what it is that-- you have-- are doing in terms of supporting the BDS movement-- among any Israelis that support it.

RABBI JILL JACOBS:

Thank you. Hi.

CATHERINE PORTER:

Yes-- my question is--

MICHAEL SFARD:

What-- what's your name?

RABBI JILL JACOBS:

What's your name, love?

KATALIN POTA:

Yes, my name is Dr. Katalin Pota and I'm--

MICHAEL SFARD:

Catherine?

KATALIN POTA:

--president-- Katalin, yeah. President of the Garibaldi Foundation. I would like to ask you about the Israeli human right activists. Are they negotiating with the U.S. government? Because it seems like the U.S. government treating Palestinians extremely unfairly and I think (LAUGH) it's getting worse now.

RABBI JILL JACOBS:

Thank you. Peter?

PETER WEISS:

My name is Peter Weiss (PH) and I work with the Center For Constitutional Rights and also with Americans For Peace Now. You said, Michael, that some words can be used so much that they lose their meaning. And in my view, that is also the case for the term Jewish values.

You talked about Jewish values eloquently and you have done unbelievable work for years for Jewish values. But I think these values are universal. So do they have to be Jewish? Is that a little arrogant versus other societies that may say, "Well, Jews believe in dignity but we don't?" Okay, that's one question. And if I may-- ask quickly another one, it is this, is the

two state solution dead or is it merely in a coma from which it may someday recover?
(COUGH)

RABBI JILL JACOBS:

Thank you.

MICHAEL SFARD:

I'll-- I'll answer these questions and then we'll get more. Thank you Mr. Jubar for the question about the BDS-- movement. BDS is a non-violent-- legitimate-- civil activism. It is one that-- that-- presents a very big challenge to many anti-occupation-- activists.

I have mixed feelings about the BDS. On the one hand, I do support-- an act which means that-- of-- of-- of boycotting-- economies and-- and-- individuals and entities who are responsible for human rights abuse. But the BDS is-- wider than that and it captures not only-- those who are and it-- it-- it provides sanctions not only on those who directly are involved in occupation-related contributions-- (THROAT CLEARING) but also those who are not.

I have-- some-- I have examples, I don't want-- so while I think it's legitimate, I myself practice a much more focused boycott in my household and-- and-- and my-- and I believe in-- in-- in that when we put sanctions over individuals or-- or companies, it has to be on those who are directly responsible for-- the wrong that we-- that we-- work against. At the same time as I said I think it's-- it's a legitimate-- way of protesting and way of trying to affect reality and politics, and-- yes, my office is representing activists who are being targeted because they have-- engaged in-- in-- BDS advocacy-- and I believe it's their right to do so.

And today Israel is investing a lot in-- targeting BDS activists and movements, much more than what-- well, let's-- put-- let's put it that way-- Israelis think of the BDS as a much more mightier and bigger thing than what it really is. And that is mainly because our prime minister is serving as the main-- presenter for the BDS. It-- it inflates the BDS by-- using it as a monster that wants to annihilate-- the state of Israel. And so Israel is investing so much in this, as for now, not huge phenomenon. And offices-- offices like mine do represent-- and try to help the activists both to enter the country and to have their say and not be sanctioned for it.

As for the-- the current-- U.S. administration's-- treatment of Palestinians, there is very little that I can say that is-- that you don't know. I'm not an expert on-- on-- on U.S.-Palestinian relations but I do follow it. And as you know, the recent-- the current administration has been-- extremely one-sided to the point where-- it lost-- America for the foreseeable future has lost its-- place around the table.

If and when negotiations will resume, the Palestinians-- understandably, would not have-- the United States as-- as-- as the host for these-- and the arbitrator for these-- talks. And also, it has-- in-- in the Trump-- declaration of-- acknowledgment of Jerusalem as the st-- as the capital of the state of Israel has-- gave a boost to-- a clear violation of international law.

Israel has annexed-- Jerusalem in clear violation of-- of-- of a prohibition that knows no exceptions under international law. And-- that way-- the Trump administration and Trump himself has-- aspired to-- take off the table one of main issues for negotiations between Israel and Palestine, the future of Jerusalem, something that cannot be done-- unilaterally. And that is very-- unfortunate. But Israeli human rights-- activists are not-- operating vis a vis the American administration, so we-- it's your-- it's your-- responsibility here to do that.

Peter, thank you for-- for both questions. Yes, I-- I-- I think-- I'm not sure-- what was the exact wording that I used. But I think that-- the main thrust of-- invoking Judaism-- is not because in Judaism there is-- a set of values that you can't find in other-- religions or cultures.

It's because our unique history. And our history has-- should have taught us something about what is being the different one, being persecuted, being-- branded as-- as-- as kinds of things, being-- being-- a victim of a genocidal-- conspiracy.

So-- so yes, in Judaism there are values which I cherish and they are universal. And Judaism is one of the cultures and one of the religions that-- that contributed it to the international-- to-- to the international-- to the-- to the world. And when I say Jewish values, I want to highlight that in Judaism, there are more than those values that are being invoked by-- by the settlers and by the-- the Jewish supremacists in my country. There are other values, older values that-- that are very much in line with compassionate-- humanistic values that-- other-- religions have. But what we have unique is 2,000 years of experience of being-- victims of abuse.

And as for your question about the two state solution, which is definitely in a critical condition, I do believe that the-- the-- the two state-- the two state model can be revived, but with some changes. I think one of the-- one of the biggest-- problems with the Oslo-- idea, as it was interpreted by-- by the masses, was-- that we'll have two states with a big wall between them and the Israelis would-- stand every day with their back to the wall and their-- face to the west.

And the Palestinians will stand with their backs to the wall and their face to the east and will never see each other and will never-- hear of each other again and good heavens, we've got rid of them, they got rid-- got rid of us and that's it.

This is definitely not going to work and we-- in order for a two state solution to be practical and moral, it has to have-- to understand, it has to acknowledge that these two people will always live together. So I'm, for my part, a member of a group that is called "One Homeland, Two States," which advocates an additional component to the two state solution-- a confederate development.

And advocates free open borders and-- and advocates the idea that every Israeli and every-- every Palestinian would be nationals and civilians of their nation state, but also residents of the one land between the Jordan River and the sea and could reside wherever they want.

And again, if you think that this is-- a fantasy-- and-- a science fiction, then I-- I remember that-- in only 60 years ago, if you would ask-- if you'd tell a Frenchman that-- in several years, every German could reside wherever they want in France and you'll-- and they'll have-- one currency and they could work-- and there would be open border between France and Germany, they would send you for an asylum. And-- and-- and the Germans and the French-- and the others in Europe have shed much more blood than we Palestinians and Israelis have. So this is possible-- and this is the type of two state generation two-- that I envisage.

RABBI JILL JACOBS:

If I can just add a word about-- the question of Jewish values, that I-- look, there are certain things that you don't actually need a legal or religious system to tell you. We could all figure out that it's wrong to murder people, right? You don't-- you don't really need anybody-- I mean, thank god we have those laws in every system, but you don't really need somebody to tell you that that's wrong.

But-- so there are certain Jewish values that are universal, whether they came from Judaism and came somewhere else, whether they're values that lots of people could figure out. But there's also a very deep and complex system of law. So it's not only about the surface level values, it's also about how those are constructed into a legal system.

And for me, a lot of my work has been about resurrecting that legal system and-- and looking at-- for example, Judaism as some pretty specific and progressive ideas about how you create a criminal justice system. It's not just about saying, "Dignity for everybody," it's really thinking about what that actually means, how do you protect both the victim or potential victim and also the dignity of the perpetrator?

And for every area of law, there is-- there is a lot that the Jewish law has to say and I think there's a value-- I mean, as you've done even just in that one example in book about referencing what Judaism says about collective punishment, there's-- there's a lot of-- I mean, just-- just like legal systems look not only in their own internal legal system but also to international law to come up with a richer perspective, Judaism has a lot to bring there as well. Thanks, okay. So-- please.

MALE VOICE (NOT IDENTIFIED):

After second war--

MICHAEL SFARD:

What-- what's-- what's your name, sir?

MALE VOICE (NOT IDENTIFIED):

--I'm Jew from Russia, that's enough. After second war, Germany lost a lot of territories, which went to France, to Poland, even (UNINTEL PHRASE) to Russia, because (UNINTEL PHRASE). It was 12 million refugees.

MICHAEL SFARD:

Right.

MALE VOICE (NOT IDENTIFIED):

Nobody came back, nobody expect any reparation, recognition of their rights, and that's probably not the most striking example. We talk right now in the country which exist without 5,000 years of history (UNINTEL PHRASE) land which belong to completely different (UNINTEL).

MICHAEL SFARD:

Uh-huh (AFFIRM).

MALE VOICE (NOT IDENTIFIED):

And nobody demand everything. Why is so different approach to Israel?

MICHAEL SFARD:

Okay.

MALE VOICE (NOT IDENTIFIED):

Israel did not initiate the war on '67 and it was a war intended to eliminate Israel. Right now, radical Islam would do everything what Hitler would do.

RABBI JILL JACOBS:

So the question is—

MALE VOICE (NOT IDENTIFIED):

You have children, I believe.

MICHAEL SFARD:

I do. (LAUGH)

MALE VOICE (NOT IDENTIFIED):

Do you believe that your children will survive physically under condition what you try to implement in Israel? Do you believe that neighbors who kill each other in millions and ready to eliminate Muslim and another Muslim would suddenly, with education, with help, change their attitude, change their mind? That's my question.

MICHAEL SFARD:

Okay--

BOTH:

Thank you.

TIM WILLIAMS:

Hi, my name is Tim Williams (PH). Formerly of the-- Office of the (UNINTEL) Representative in Jerusalem. So I'm-- an occupation addict in recovery. (LAUGHTER) My question comes to your very last point about what happens tomorrow and your friends in Ramallah and your friends, I guess, in Gaza too.

MICHAEL SFARD:

Yeah.

TIM WILLIAMS:

And I take everything that you say about the Israeli response-- responsible for the occupation, but your friends in Ramallah, if the occupation disappeared tomorrow, would have no freedom of speech. Right now, they're vulnerable to detention, illegal detention. There are many, many things about the present Palestinian regime in Gaza and the Palestinian regime in Ramallah where human rights-- are simply not part of the

conversation. You have an autocratic police state, effectively. I'd been interested in your comment on that as-- as a parallel to all that you're saying about the occupation.

RABBI JILL JACOBS:

Do you wanna do those two and then take the-- or you wanna take two more?

MICHAEL SFARD:

Yeah, and then--

RABBI JILL JACOBS:

Okay, we can take both of you.

MARGOT VISCUZZI:

My name is Margot Viscuzzi (PH) and-- I have two questions, they're not related. One is do you-- do you consider the judiciary in Israel to be independent? And the second one is several people who know Israel well have told me that many Israelis who don't want to speak up-- have left Israel to live abroad. I know you're not a demographer, but is that-- is that a significant trend? Thank you.

RABBI JILL JACOBS:

Thanks.

EMMA ALPERT:

Hi, my name is Emma Alpert (PH), I work with Just Vision. And-- I'm curious, you know, in my work with think a lot about narratives and media and we do work on uplifting these stories of the people who are creating the cracks that you're talking about.

And what really struck me is something you said about how nearly 30% to 40% of your work now is around defending the defender. And I'm curious, in your view, does it feel like that is-- what does that say about the broader field of activism in Israel right now?

And is that an intentional-- does it feel like that is an intentional strategy from above to sort of shift narrative away from focusing on defending those who are-- having their rights violated directly? And in relation to that, what's happened to those-- you know, if 30% to 40% of your work has shifted, what's happening with-- are there less cases being taken care of or what's happening with those who are-- having their rights violated directly? Thank you.

MICHAEL SFARD:

For the Jew from Russia-- and I thank you for the question, it's an important question and we should not-- (THROAT CLEARING) we should not evade it. Yes, there is a big proportion of Israelis who would say, "Tough, we won the war." That's our justification.

I would want to believe that humanity today, or as-- Justin Trudeau I saw called it-- person kind today-- (LAUGHTER) has passed-- has developed-- into a more-- higher stage in which the question of who has more-- force, who has more guns, who is more cruel-- will be the bearer of rights and-- and resources.

And international legal order is an attempt-- the af-- the post second world war legal order is an attempt to make-- to-- to have-- an order in which it's not about-- military might and military force. You could have, by the way, gone-- back-- even further in time and not-- just mentioned the second world war with it's 12th million-- refugees, you could go to biblical times where-- the occupier not only would control the area and-- and-- and have-- and pillage the resources there, but also-- have the-- the occupied as their slaves.

So we're not there. I-- I'm happy that we're not there. This is not the way we want to run this world today. I hope that you also don't want (COUGH) to run this-- the world today, because while you are happy that Israel won the-- the different wars that it-- was engaged in-- your-- moral attach-- the-- the morality that you attach to-- those-- victories could go the other way around too, you know.

So-- so the fact that we won and the fact that-- we have more force is not a justification for any-- permanent-- solution to the Israeli/Arab conflict. As for your other-- comment about what's going on in the Arab-- countries, I'm-- I'm not ignoring that and I'm not ignoring the security-- dangers that Israel faces and I do believe that Israel has to maintain what it needs to maintain in order to protect itself.

I-- would, though, encourage you not to think of security as-- a single dimensional-- concept which only asks-- what kind of-- physical protection we have. Because our security is-- can also and should also be measured on how much do we-- how-- what kind of-- promise we have to live up to-- the values we-- we believe in. And I think that-- Israel today, unlike-- several decades ago, does not face any serious existential threat.

I think all-- military experts would agree with me. Unlike in times where Syria or-- Egypt, where forces that could have-- invaded-- Israel, there is no army today that could invade Israel. What we do face, just like here-- to some extent is terrorism. And terrorism, with all its-- pain that it causes and the-- and the-- and the way it-- terrorizes the life of citizens is not an existential threat.

It is a threat to our moral backbone. The way we-- the way we react to terrorism can bring the downfall of our morality, of the values we believe in as a society. And so security is not just about-- our-- physical-- wellbeing, but also about our moral wellbeing. And in that

respect, I think I am-- a member in the army to defeat terrorism-- for its most painful, most-- damaging trait, and that is-- dissolving-- our values.

Tim Williams, I'm-- where are you? I-- I, of course-- share with you the concern for the record of the-- the human rights of the Palestinian authority and, even worse than that, the de-facto Hamas government in-- in Gaza. And I'm-- and I-- I believe that this-- a struggle that happens to be fought, but primarily by the Palestinians.

I'm an Israeli human rights lawyer, Palestinians the-- the Palestinian society has a wonderful network of human rights organizations, extremely professional and able and-- loyal to the-- to the ideals of human rights. I'll name several, Al-Haq, I think they're all partners of the Open Society Foundation.

Al-Haq and the Palestinian Center of Human Rights and Al Mezan and others. And-- and-- and they-- they should-- fight against-- the-- measures that are placed on them by the Palestinian authority. I have to say (THROAT CLEARING) that the-- the Palestinians believe that they are a nation in a war of liberation. And as such, they-- they are in a state of emergency. And this is why it is permissible to-- to-- quell some of the-- of the right.

And-- and-- and very humbly, I would-- suggest to the Palestinians to take-- to learn from the Israeli example. We had our war of independence, (MIC NOISE) we were in a state of (MIC NOISE) emergency and we never, never lifted that state of emergency.

For 70 years, Israel is in a state of emergency. And so you-- you can press that button, but it is difficult to unpress it. So yes, the Palestinians would have to-- to-- to fight for this. This is why I'm-- I think that the-- the-- the-- our obligation to think of the day after is to think together, with the Palestinians. (THROAT CLEARING) This-- this group that I-- that I-- this movement that I have mentioned-- one homeland, two states, is-- one movement made of two groups, Palestinian and Israeli.

And we are thinking of constitutional-- foundations for the two states and the one-- confederation that will-- come out of it that would be based on human rights, on the separation of powers, on rule of law and-- and on pluralism and-- and-- and freedom of speech. So thinking of it together is something that I hope would help later.

RABBI JILL JACOBS:

And Emma's question?

MICHAEL SFARD:

Oh, yeah. And-- and-- and the-- the question about-- is there a strategy from above to target the defenders? Absolutely, there is no question about it. I mean, if you-- I told-- I told you about my-- portfolio, but-- if you'll ask (UNINTEL) director of a human rights-- an executive director of a human rights organization-- about-- how he or she are managing their

time, they will tell you that they invest, not only-- working time to, you know, hun-- (COUGH) a lot of working time on-- on defending themselves, on-- on-- on maintaining their space to operate, but also a lot of resources are went to-- are going to that.

Because suddenly, you know-- legal proceedings are being-- invoked against-- activists and against-- organizations. Breaking The Silence, a group of veteran lawyers-- who are-- have the very-- benign mandate of telling Israeli society what they went through and how the occupation looks from their vantage point has been the target of unbelievable-- incitement by the prime minister himself, who thinks that-- they are important enough to discuss on prime time television.

And-- and the-- and-- and in recent-- in the-- the last two years, two-- legal proceedings were initiated by the government against Breaking The Silence. Once-- two-- compel Breaking The Silence by a court order to provide-- the identities of their sources. They lost, but-- but that's what the-- the government-- wanted.

RABBI JILL JACOBS:

The government lost?

MICHAEL SFARD:

Yeah.

RABBI JILL JACOBS:

Yeah.

MICHAEL SFARD:

It was a great case to-- to litigate. But-- but it's-- but it's a frightening idea. It's a frightening idea that the government goes after an NGO to get its sources to-- and-- and then another-- investigation that was launched against-- the-- spokesperson for Breaking The Silence for-- a testimony he gave-- publicly.

But what I'm trying to say is, yes, by doing that they shift not only the-- the-- focus, the attention from the occupation to the question of-- the Israeli democracy, but they also shift resources and time of those defenders from defending others to defending themselves. And it's definitely a strategy.

RABBI JILL JACOBS:

There was also a question about is the judiciary independent?

MICHAEL SFARD:

Right. The Israeli judiciary is independent. It does not-- that does not mean that-- the Israeli-- judiciary-- it's not only independent, but it is also professional. So we have judges that are professional judges that are-- legal expert in their fields and they are independent in the sense that they do not get any dictates from the government.

However-- the Israeli judiciary goes through a tremendous change in recent years. Because just like here in America, the Israeli right-- has identified the judiciary as a very important-- arm of government and-- is now-- changing the composition of the judiciary in a way that-- that-- in recent years, the Israeli supreme court has koshered some-- laws and policies that no other-- that-- that-- that quell-- freedoms that no other court in 70 years of our history would ever have-- has-- have-- koshered.

I'll give an example-- a law that-- that-- imposes sanctions on-- on people-- who call publicly for a boycott of settlement produce, for example. A clear-- you know, clear political speech, the core of being-- of political speech-- is being-- limited in-- by law in Israel. And that law has-- passed judicial review by majority vote of five to two.

Another law that-- that-- places-- sanctions on-- entities or individuals who-- commemorate-- the Israeli day of independence as the Nakba, as the day of the Palestinian disaster, again, political speech which-- whoever engages in it-- would be subject to all kinds of limitations.

For example, not being able to participate in governmental bids, not getting governmental-- support or grants, which are very important in the Israeli/Palestinian sector and those-- Palestinians who are nationals of Israel, who-- have all kinds of schools and-- and institutions that are, by law, to be-- be given-- a public-- funding and would not be able to do that if they commemorate the Nakba. And there are other-- examples-- of that kind. This is very disturbing because the Israeli judiciary was a guardian of some of the fundamental freedoms Israelis enjoy. And-- it seems that it goes-- to the far right now.

RABBI JILL JACOBS:

Thank you. Well, I know that the book is for sale outside, right? So if you haven't already bought it, you absolutely should buy it, you should read it, it's really an extraordinary achievement. And I just wanna say thank you so much both for writing this book and also for being here today. (APPLAUSE)

MICHAEL SFARD:

Thank you-- and thank you Jill for being-- thank you for being such a big friend and supporter, thank you.

* * *END OF TRANSCRIPT* * *