

## ***America Magazine's Omissions and Misrepresentations in the Israeli/Palestinian Conflict, Revisited***

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### **Executive Summary**

One year ago we reviewed *America Magazine's* coverage of the Israeli/Palestinian conflict, looking specifically for any material facts that had been either misrepresented or omitted. At that time (covering the period from September 2008 through October 2009) we found that there was a pattern of repeated misrepresentations and material omissions which when analyzed for their effect, revealed a clear bias against the Jewish state. This year we revisited this same matter, looking at editions of *America* from November 2009 through October 2010. We discovered that whatever coverage *America* had during this time period followed the same pattern of consistent, repeated omissions and misrepresentations which invariably resulted in Israel's actions being portrayed in an excessively harsh and negative light. The cumulative effect of this is incitement against the state of Israel.

This pattern of reporting about the Israeli/Palestinian conflict is in contravention of the Pontifical Council for Social Communications' instruction that:

**Communication must always be truthful, since truth is essential to individual liberty and to authentic community among persons . . .** (*Ethics in Communications*, IV 2000)

and the Council's caution to the media against:

**. . . fostering hostility and conflict, demonizing others and creating a mentality of "us" against "them" . . .** (*Ethics in Communications*, III(13))

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## **Introduction**

### **The Obligation to Truth in Journalism**

Reporting the truth is the foremost obligation of any journalist. Indeed, the first tenet of the Code of Ethics of the Society of Professional Journalists is to “seek truth and report it.”<sup>2</sup> Whatever perspective a journalist writes from, his or her writing is supposed to reflect the truth.

The principles underlying the obligation to truth in journalism are clear. The media is the public’s source of information regarding local, national and international events, thus it is indispensable and enormously powerful in a democratic society. Democracy depends on citizens having reliable, accurate facts set in a meaningful context. The public tends to believe what it sees and hears in the news and other forms of print and broadcast journalism and tends not to employ an overly critical eye or ear. Therefore, those who control the means of mass communication possess tremendous power to sway public opinion. Journalism is thus something of a sacred trust in which people accept the information they receive as true, and base the opinions they form on it.

### **The Catholic Press and the Obligation to Truthfulness**

Unlike news departments in the secular media the Catholic press does not and need not limit itself to strictly objective reporting. Catholic publications openly engage in both advocacy and apologetics out of a fundamental commitment to serving God, the Church, society and humanity. Thus, the Catholic press deals heavily in opinion and interpretation.

The obligation to truthfulness in reporting however, remains a fundamental principle guiding Catholic as well as secular journalists in spite of -- or perhaps especially in light of -- their advocacy efforts. It is when writing in the context of zealous advocacy that journalists might be most tempted to overlook facts supportive of another view or to overstate those which support their own. The Catholic journalist therefore, must be particularly scrupulous in his or her adherence to the ethical principle of truthful reporting.

The Pontifical Council for Social Communications has affirmed that the obligation to

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<sup>2</sup> The Society of Professional Journalists, established in 1909, is one of the oldest organizations representing professional journalists in the United States. Its Code of Ethics is voluntarily embraced by thousands of journalists and is widely used as a guide in newsrooms and classrooms.

truthfulness extends to Catholic journalists, stating that:

**Ethical principles and norms relevant in other fields also apply to social communication. . . . Communication must always be truthful, since truth is essential to individual liberty and to authentic community among persons . . .** (*Ethics in Communications*, IV 2000)

### **The Obligation to Use Catholic Journalism in the Service of Good**

Despite the immense power of mass communication its means remain ethically and morally neutral. They are merely tools which the journalist can use for either good or evil purposes. On the one hand the media has enormous power for good, to educate, enlighten and inspire. But the media can be used for bad purposes as well. As the Pontifical Council for Social Communications warned:

**The media also can be used to block community and injure the integral good of persons: by alienating people or marginalizing and isolating them; . . . fostering hostility and conflict, demonizing others and creating a mentality of “us” against “them” . . . .** (*Ethics in Communications*, III(13) )

Moreover, the Council admonished:

**while social communication rightly looks to the needs and interests of particular groups, it should not do so in a way that sets one group against another . . .** (*Ethics in Communications*, IV(22))

The Council also reaffirmed the journalist’s obligation to veracity and to avoid forms of dishonesty that would foster conflict amongst people:

**The presumption should always be in favor of freedom of expression. . . . Still, considered from an ethical perspective, this presumption is not an absolute, indefeasible norm. There are obvious instances—for example, libel and slander, messages that seek to foster hatred and conflict among individuals and groups, . . . —where no right to communicate exists. Plainly, too, free expression should always observe principles like truth, fairness, and respect for privacy.** (*Ethics in Communications*, IV(23))

With these dual and intertwining obligations to truth and advocacy for the common good, a Catholic journal should never provide a platform for positions that **“foster[ ] hostility and conflict, demoniz[e ] others and creat[e ] a mentality of ‘us’ against ‘them.’”** Moreover,

editors of Catholic publications must take special care that the opinions they adopt and the positions they advocate for are grounded in the truth.

## **The Catholic Church and the State of Israel**

The hierarchy of the Roman Catholic Church has consistently maintained a neutral and highly principled stance with regard to the Israeli/Palestinian conflict.

In addressing the issue of an appropriate Catholic perspective on the Jewish state, the Vatican Commission for Religious Relations with the Jews parsed out the issues of people, land and statehood, and concluded that Catholics: should no longer consider the Jewish people (the people of Israel) as punished and divinely separated from the land of Israel; should consider the continued existence of the Jewish people as God's will; and should respect and seek to understand the Jewish attachment to the land of Israel. The existence of a modern state of Israel however, should be interpreted not in theological terms, but in reference to common international legal principles. (See *Notes on the Correct Way to Present the Jews and Judaism in Preaching and Catechesis in the Roman Catholic Church*, VI(1) 1985).

The Holy See established formal diplomatic relations with the state of Israel on December 30, 1993, when they signed the "Fundamental Agreement" and in so doing the Vatican clearly recognized the right of the Jewish state to exist. The Holy See also recognizes the right of the Palestinian people to sovereignty and a state of their own. It holds a neutral position on the conflict that champions the freedom and well-being of all people in the region.

This highly principled neutrality however, is missing from the pages of *America Magazine*.

### ***America Magazine***

*America Magazine* is a Catholic weekly published by the Jesuits and currently edited by Rev. Drew Christiansen, S.J. With a circulation of about 45,000 including many Catholic bishops, priests, religious, theologians, academics and writers, *America* is a highly influential publication.

*America* is obligated by profession and by faith to embrace the standards of Catholic journalism we have noted above. For the most part *America* meets these sacred obligations. However, when it comes to its coverage of the Israeli/Palestinian conflict, or indeed the state of Israel generally, we find that *America* routinely falls short of these standards.

## **Significant Omissions and Misrepresentations Which Cast Israel in a Consistently Negative Light Appear Repeatedly in the Pages of *America Magazine***

The twin concepts of omission and misrepresentation each describe particular types of fundamental untruths. A misrepresentation, whether employed deliberately, negligently or inadvertently, is deceptive because it renders a false or misleading representation of facts. An omission, whether employed deliberately, negligently or inadvertently, is equally deceptive when it involves the failure to state material facts, knowledge of which are necessary to prevent other statements from being misleading.<sup>3</sup>

A careful review of the coverage of the Israeli/Palestinian conflict in *America Magazine* over the past twelve months ( November 2009 - October 2010) revealed repeated omissions and misrepresentations that, just like the previous year's material, resulted invariably in Israel's actions being portrayed in a particularly negative light, while the relative culpability of the Palestinian political leadership was downplayed. This pattern appeared with such consistency (virtually every time the Israeli/Palestinian conflict was featured), that it seemed not to be inadvertent. The cumulative effect of this is incitement against the state of Israel.

While some of *America's* reporting could be explained and even justified as rightly “look[ing] to the needs and interests of [the Palestinian people],” the regular and repeated pattern of casting Israel as an aggressive and immoral wrongdoer through the rhetorical use of selective factual omissions and misrepresentations clearly violates the mandates “not to do so in a way that sets one group against another” and not to “demoniz[e] others.” (*Ethics in Communications*, IV(22); III (13))

### **MISREPRESENTATIONS**

Articles about the Jewish state in *America* contained repeated misrepresentations which invariably highlighted and exaggerated Israeli wrongdoing while at the same time downplaying Palestinian and Arab wrongdoing.

#### **Misrepresenting Revised Israeli Military Orders**

This past spring *America Magazine* reported with seeming alarm that “[t]wo orders by the Israeli military relating to movement in the occupied Palestinian territory may breach the fourth Geneva Convention and violate the International Covenant on Civil and Political Rights . . .” The article quoted U.N. Special Rapporteur on Human Rights, Richard Falk stating that “[t]he

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<sup>3</sup> The word “material” here means that the subject matter of the statement (or concealment) would be important to a full understanding of the topic as distinguished from an insignificant, trivial or unimportant detail.

orders appear to enable Israel to detain, prosecute, imprison and/or deport any and all persons present in the West Bank . . .” (“Signs of the Times -- Israel Deportation Order Troubles U.N.” (May 3, 2010)).

This is a serious accusation and would have been alarming if true. Yet, in fact the orders did no such thing. The news brief was referring to Israeli Military Orders # 1649 and 1650 (the “Orders”), originally enacted after the six-day war for the purpose of preventing illegal infiltration into the West Bank and allowing for repatriation of persons who were in the Palestinian Territories illegally and without proper documentation. Some of these people would pose a clear military and/or terrorist threat to Israel. The Israeli military amended the Orders in spring 2010 following an Israeli High Court of Justice ruling which required additional layers of judicial or administrative oversight prior to deportation.<sup>4</sup>

The authors apparently wrote this article without bothering to conduct sufficient research on the nature and effect of the Orders. Had they done the basic research on the topic they would have discovered that rather than being some sort of draconian measure designed to deport “any and all persons present in the West Bank,” these Orders were actually designed to enhance the protections Palestinians received under the original Order (# 329 issued in 1969) by limiting the power of the Israeli military and requiring an additional level of review prior to deportation.

Specifically what the Orders do is establish a new oversight Committee before which any Palestinian detained pending repatriation must be brought within eight days.<sup>5</sup> Palestinians facing deportation from the West Bank already had the right to petition the Israeli High Court of Justice, and the establishment of the new Committee does not in any way prejudice that right. What it does is add on an additional layer of oversight and protection.

The stated concern in *America* that “any and all persons present in the West Bank” would thereafter be subject to detention, prosecution, imprisonment and/or deportation is incorrect. The amended Orders apply only to unlawful residents, defined as those who enter the West Bank unlawfully or who remain in the area without a lawful permit.

The brief in *America* cites Richard Falk bemoaning the fact that the meaning of the term “infiltrator” in the military orders had been expanded from the original meaning and the definition of a lawful “permit” was so vague that “[e]ven if this open-ended definition is not used to imprison or deport vast numbers of people, it causes unacceptable distress . . . [and that] a wide range of violations of international human rights and international humanitarian law could be linked to actions carried out by the Government of Israel under these orders.”

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<sup>4</sup> Israeli HCJ 2737/04 and Israeli HCJ 7607/05.

<sup>5</sup> The Orders also provide significant reductions in any applicable monetary sanctions.

Again, these accusations are untrue and the military orders were misrepresented. There is nothing vague or unclear in the use of the term “permit” in the Orders. Only those who are unfamiliar with the applicable existing law would not understand this term. People that live in the West Bank know what this term means and it is clearly defined in both the existing Israeli Military Administration Legislation and the Oslo Interim Agreements. A “permit” in this context is “a permit issued by the military commander or authorized by him pursuant to Israel’s military legislation or by the Israeli authorities pursuant to the Entry into Israel Law.”<sup>6</sup> Population registry documentation issued by the Palestinian Authority pursuant to the Israeli-Palestinian Interim Agreement 1995 also falls into the category of a lawful permit.<sup>7</sup> Accordingly, permanent residents of the West Bank (those who are registered as such in the population registry administered by the P.A. under the Oslo Interim Agreement) by definition can not be considered “infiltrators.” These West Bank residents are not required to seek any permit issued by the Israeli military commander – their Palestinian I.D., which states their place of residence, is their “permit,” under the Orders. Accordingly, any Palestinian who has an Israeli permit or is registered in the Population Registry of the West Bank is a lawful resident<sup>8</sup> and, contrary to the concerns highlighted in *America Magazine*, are not under any risk of deportation under these Orders.

With regard to the expansion of the definition of the term “infiltrator” the original (1969) order limited that term to mean persons illegally in the West Bank that came in from Jordan, Syria, Egypt or Lebanon. Israel redefined the term to account for the realities on the ground and the fact that they now have problems with terrorists gaining entry to the West Bank and Israel from other countries. Would *America* insist that Israel tolerate terrorists in the West Bank simply because they come from, say, Iran or United Arab Emirates? Or that to do otherwise constitutes a “violation[ ] of international human rights”?

It is noteworthy that while showing what appears to be undue concern about how amended Israeli military orders might affect the status of Palestinians on the West Bank, *America* has shown no similar concern for the fact that Jordan has been systematically and arbitrarily stripping thousands of Palestinian residents of their citizenship in recent years. According to

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<sup>6</sup> Israel Defense Forces, Order No. 1650, at para 5.

<sup>7</sup> In recent years, and in particular between 2006 and 2008, some 32,000 Palestinians and foreigners, who had previously been residing unlawfully in the West Bank, have been included in the population registry thanks to cooperative efforts between Israel and the Palestinian Authority.

<sup>8</sup> This corresponds to the applicable international norm, namely the common understanding of the term “Protected Persons,” as defined by Article 4 of the fourth Geneva Convention: “Protected Persons” are those who international humanitarian law forbids an Occupying Power to deport from the occupied territory.

a Human Rights Watch report released in the Jordanian capital of Amman, this policy has rendered the Palestinians “stateless,” depriving them of passports, voting rights, education, travel, health care and jobs.<sup>9</sup> Yet, in an article entitled “Remembering the Exiles,” (*America Magazine*, October 11, 2010) it is stated that “[Palestinian] [r]efugees of long standing live normal lives in . . . Jordan; Jordan grants passports to many.” Not one word about the systematic stripping of the citizenship of Palestinians by the Jordanian authorities. And while *America* did not voice concern over this Jordanian policy, Israeli military orders were grossly misrepresented under the guise of concern for Palestinian rights.

While people of good will should indeed have been concerned about and investigated the Israeli Orders to determine whether or not they were within the bounds of international and humanitarian law, there was no justification for a rush to judgment prior to responsible investigation. This rush to judgment led to the distortion of facts in *America* and the portrayal of orders intended to provide additional protection for West Bank Palestinians as a violation of their human rights by Israel. The publication of such inflammatory and hysterical claims without seeming to have consulted Israeli authorities for clarification or having done sufficient basic research on the nature and effect of these Orders strikes us a matter for serious concern and a violation of *Ethics in Communication*, IV(2000) and III(13).<sup>10</sup>

### **Misrepresenting the Facts of the Occupation and Peace Negotiations**

In an especially troubling feature, Fr. Drew Christiansen employed a (by now all too familiar) tactic of using Jewish voices in the service of characterizing Israel as a routine violator of international law whose critics “want to make Israel a standing exception to [the minimal demands of international law], so it can never be held accountable for the violence it does to others.” Citing a number of Jews who are well known for their persistently outspoken and virulent criticism of Israel, Fr. Christiansen faults “Israeli policies” for perpetuating the occupation and refusing to “establish[ ] peace with the Palestinians.” Fr. Christiansen then adopts a rather extreme position, accusing Israel of failing to take “responsible membership in the community of nations.” (“Of Many Things,” May 24, 2010).

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<sup>9</sup> “Stateless Again; Palestinian-Origin Jordanians Deprived of their Nationality,” Human Rights Watch (January 31, 2010).

<sup>10</sup> That this article was indeed inflammatory is verified by the responsive letters which *America* published on its website. One poster wrote: “This appears to bring the whole situation one major step closer to what some experts have long predicted . . . the ethnic cleansing of an entire area of anyone who isn’t an Israeli.”

<http://www.americamagazine.org/content/signs.cfm?signid=402&comments=1#readcomments>

What place does this sort of openly disdainful commentary on the Jewish state have in a responsible Catholic publication? And on what basis does Fr. Christiansen blame “Israeli policies” alone for perpetuating the occupation?

As an expert on the Middle East, Fr. Christiansen should be aware of the fact that while the Second Intifada raged, it was Israel, not the Palestinian leadership, that said yes to the Clinton Parameters. In December 2000 in Washington D.C., President Clinton verbally proposed that the Palestinians would get all of Gaza, about ninety-seven percent of contiguous West Bank territory, East Jerusalem as the capital of a State of Palestine, three out of four Quarters in the Old City, sovereignty over the Dome of the Rock and Al Aqsa mosque and a thirty billion dollar fund to compensate Palestinian refugees. In Jerusalem what was Arab would be part of a new Palestinian State, what was Jewish would remain part of Israel. Clinton presented this as a “take it or leave it” deal -- no negotiations allowed on what was specified within the Parameters. (Then) Israeli Prime Minister (“PM”) Ehud Barak accepted the offer and flew home to get cabinet approval (which he got). It was PLO Chairman Yasser Arafat who would not accept the Parameters. That is when peace negotiations broke down.<sup>11</sup>

(Former) Israeli PM Ehud Olmert says he offered Palestinian Authority (“PA”) President Mahmoud Abbas 93.5 to 93.7 percent of the West Bank, along with 5.8 percent in land swaps and a Gaza-West Bank safe passage corridor in September 2008, after the Annapolis peace talks. President Abbas recalls the offer as 97 percent. Both Abbas and Olmert agree that Israel offered to accept a small number of Palestinian refugees, with Olmert adding that he rejected a Palestinian “right of return” but was offering a limited return to Israel as a “humanitarian gesture.” The Holy Basin of Jerusalem would be administered by an international consortium of Saudis, Jordanians, Israelis, Palestinians and Americans.<sup>12</sup> Palestinian chief negotiator Saeb Erekat “confirmed in an interview that Olmert had made the offer. . . . [Olmert] was serious.”<sup>13</sup> It was again the Palestinian leadership -- this time PA President Mahmoud Abbas -- that walked away from peace and a two-state solution, making no counter-offer at the time and saying “the gaps were wide.”<sup>14</sup>

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<sup>11</sup> President Bill Clinton, *My Life*, (Vintage Books 2005) at pp. 936 -38 & 943-51; Ambassador Dennis Ross, *A Missing Peace: The Inside Story of the Fight for Middle-East Peace* (Farrar, Straus and Giroux June, 2005) at pp. 748 - 69 & 809- 13.

<sup>12</sup> (<http://www.washingtonpost.com/wp-dyn/content/article/2009/05/28/AR2009052803614.html>; <http://www.theaustralian.com.au/news/opinion/ehud-olmert-still-dreams-of-peace/story-e6frg76f-1225804745744>).

<sup>13</sup> <http://www.newsweek.com/2009/06/12/olmert-s-lament.html>.

<sup>14</sup> (<http://www.washingtonpost.com/wp-dyn/content/article/2009/05/28/AR2009052803614.html>).

Yet, *America* misrepresents the facts with the accusation that it is only Israel that “perpetuates [the] occupation . . .” It is Israel alone that the editors of *America* feel must be warned to “end [the] occupation . . . and [take] responsible membership in the community of nations.” (“Of Many Things,” May 24, 2010).

One theme in “Of Many Things” in the May 24, 2010 edition of *America* appears to be that “right wing Jews” and pro-Israel advocates tolerate no dissent and have an “aggressive public relations campaign to deal with critics.” This campaign apparently includes “vandalism . . . hate mail and death threats.”

First, a refusal to tolerate dissent is a uniquely odd characteristic to focus on when dealing with Jews and Israelis. Surely there are exceptions, but these are people known generally for extreme tolerance when it comes to divergence of opinion in general and self-criticism in particular.

Second, not far from the surface of this edition of “Of Many Things,” lurks the insinuation that protesting any criticism of Israel -- even something as wholly deserving of protest as the Goldstone Report -- is part of a conspiracy to silence dissent (“ . . . complaints . . . appear to have been orchestrated”). And while the only Jewish or Israeli voices which Fr. Christiansen deems reflective of those seeking peace and justice and worthy of “membership in the community of nations,” are those fringe voices which routinely and perversely accuse Israel of ethnic cleansing and “crimes against humanity,” he attempts to marginalize Jews and Israelis who defend the Jewish state with vague charges of that old anti-Semitic canard of conspiracy.

*America’s* use of Jewish voices to express disdain for Israel must be challenged. Only virulent critics of the Jewish state such as Mark Braverman are held up by *America* as voices on the side of justice with the courage to demand the “restor[ation] [of] the values of justice and compassion as fundamental to Israeli identity.” (“Of Many Things,” May 24, 2010). Fr. Christiansen casts a dark shadow over Israel as if it has indeed become an unsavory, outlaw nation which has abandoned any sign of humanity and somehow has to be saved by those few who dare identify its morally perverse character where he writes of the necessity of “examin[ing] the shadow side of Zionism.” While Fr. Christiansen claims to be a believer “in the dream of a Jewish homeland,” this appears to be little more than an attempt to sanitize and justify his relentless criticism by assuring his readers of his loyalty to the ideal.

We should not forget that the Israeli occupation of the Palestinian territories was not sought by Israel. Israel was forced into war in 1967 by a combination of belligerent Arab rhetoric (weeks of broadcasting threats like “[t]he existence of Israel is an error which must be rectified. This is our opportunity to wipe out the ignominy which has been with us since 1948. Our goal is clear -

to wipe Israel off the map”<sup>15</sup>), coupled with extremely aggressive and threatening behavior (combined troops from Egypt, Jordan, Syria, Kuwait, Iraq and Saudi Arabia lined up on Israel’s borders<sup>16</sup>) and ultimately an act of war (after ordering the U.N. buffer force which had been put in place after the 1956 war out of the entire “territory of the United Arab Republic and the Gaza Strip,”<sup>17</sup> Egyptian President Nasser closed the Straits of Tiran to Israeli shipping, blocking Israel’s only oil supply).<sup>18</sup> Israel was left with no real choice but to take pre-emptive action. This is how the occupation came about.

Moreover, we cannot overlook the efforts Israel has made to end the occupation, (see supra, at p. 9) although these efforts are routinely overlooked on the pages of *America*.

We do not claim that Israel is without fault in this conflict or that it has always taken every opportunity to end the occupation. And we have no doubt that there have been many abuses of power; given human nature this is what tends to happen when one people dominate another and it underscores the necessity of ending the occupation. But painting Israel as a moral outlaw, devoid of “justice and compassion,” as this feature does is so far from the truth as to be deceptive (whether deliberately, negligently or inadvertently) and misrepresents both the Israelis and the nature of the conflict.

Similarly, in an editorial entitled “Israel’s Choice,” the editors of *America* seized upon the expiration of Prime Minister Benjamin Netanyahu’s 10-month settlement freeze, designed to encourage Palestinians to come to the negotiating table, to accuse Israel of being “unwilling to budge on [the] crucial issue [of settlements] . . . [leaving] Mr. Abbas and his partners [to] now wonder whether a final peace is possible. . .” (October 11, 2010). The premise of this editorial is that because PM Netanyahu allowed the 10-month moratorium on settlement construction to expire (without immediate renewal) peace talks must now necessarily fail, and it is all Israel’s fault. “. . . [I]t is difficult to see how Abbas can move forward without any concessions from the Israelis,” say the editors.

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<sup>15</sup> President Aref of Iraq, May 31, 1967. Egypt openly announced that “[t]he battle has come in which we shall destroy Israel” (Cairo Radio).

<sup>16</sup> E.g., Michael Oren, *Six Days of War* (Ballantine Books 2002) at p 97.

<sup>17</sup> Cable from Egyptian Foreign Minister Riad to UN Gen. Secy U Thant, May 16 1967.

<sup>18</sup> See, e.g., Michael Oren, *Six Days of War* (Ballantine Books 2002) at p 84.

It is important to keep in mind that we are talking about peace talks here, not a final settlement. Why is it so “difficult to see” how President Abbas could engage in direct talks without prior unilateral concessions on core issues from the Israelis? Isn’t that the purpose of the direct talks in the first place -- for both sides to negotiate concessions so that a final peace agreement can be reached? When in the history of international peace talks has one side refused to engage in talks before being granted preliminary and unilateral concessions by the other?

Moreover, while the editorial states “Palestinian leaders did not agree to engage in negotiations until almost nine months into the moratorium,” that very crucial point is mentioned only in passing and then entirely ignored, as *America* rushes to judgment once again accusing Israel of being the intransigent party. Had President Abbas accepted PM Netanyahu’s offer of direct talks at the beginning of the 10-month moratorium, an agreement could have been reached by the time of the expiration. And this agreement, which would necessarily have included security arrangements and the placement of the border between the Palestinian state and the Jewish state, would have resolved the issue of settlements. Yet, *America* finds no fault on the Palestinian side for frittering away nine months of the moratorium and then refusing to continue negotiations. On the pages of *America*, the “missed opportunity” to “make peace with a longtime enemy” is entirely Israel’s fault. (“Israel’s Choice,” October 11, 2010)

While it is clear that it would have been far preferable for the Israelis to extend the settlement freeze, the decision to do otherwise in no way meant a necessary end to negotiations. Even the Egyptian Foreign Minister, Aboul Gheit, admitted this when he indicated that the settlement freeze should not be the priority. Rather, he said the real goal should be coming to an agreement on the border and then moving on to issues like security:

**[w]hoever offered the idea to freeze settlements as a main goal and priority didn’t see the real goal of the negotiations, which is to define borders. Everyone involved should be working hard to define borders. . . and then we can start looking at other items on the agenda.<sup>19</sup>**

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<sup>19</sup> “Deadlock as Israel Maintains Refusal to Extend Freeze on Construction,” in IrishTimes.com, October 2, 2010; see also *Khaleej TimesOnline*, 1 October 2010; *The Daily Star*, October 2, 2010; Boston.com October 1, 2010; Npr.org October 8, 2010. The English translation of the original Arabic language article in Al-Hayat quoting Mr. Gheit (October 1, 2010) is available at <http://translate.google.com/translate?hl=en&langpair=ar%7Cen&u=http://www.daralhayat.com/portalarticlendam/186700>.

But *America's* editors cast no blame upon the Palestinians for their decision to stall and resist peace talks throughout the first nine months of the moratorium on settlement building. Nor do they find any blame in the Palestinian decision to refuse to continue talks after the end of the 10-month moratorium. The only blame-worthy party here according to *America* is Israel, which alone is accused of “a system of Apartheid” and “needs to be reminded that the alternatives to a two-state solution are few and unattractive.” (“Israel’s Choice,” October 11, 2010).

If finding a peaceful solution to the conflict is *America's* goal, the editors should encourage both sides to go back to the table, rather than reinforce intransigence on either side, including the Palestinians, by characterizing the end of the Israeli moratorium as a death knell to negotiations. The selective critique exercised by the article serves instead to cast Israel as the sole spoiler of the direct talks and hence can only help to delay the continuation of peace negotiations.

### **Misrepresenting Facts Concerning East Jerusalem Evictions**

We were likewise disturbed to see *America* magazine continue the pattern of misrepresenting facts while reporting about evictions that took place in East Jerusalem in 2009. Fr. Drew Christiansen complained about the eviction of Sharihan Hannoun’s family from their home in Sheikh Jarrah in East Jerusalem where, according to Fr. Christiansen “Jewish settlers” have been “grabbing Palestinian land . . . with the support of [Israeli] authorities.” (“Of Many Things,” Nov. 16, 2009).

The eviction of a family from their home is a heart-wrenching story under any circumstances. But Fr. Christiansen’s claim of “Jewish settlers . . . *grabbing* Palestinian land” (emphasis added) was a misrepresentation of the situation. And once again, a misrepresentation that cast Israel in a negative light. Although it took some effort to uncover the facts regarding the Hannoun eviction, they were available in the public record and are as follows:

In 1948, after seizing East Jerusalem and the West Bank, Jordan passed an “Enemy Property” law that gave Jordan ownership of previously Jewish-owned properties in these areas. (Israel passed a similar law for the property of Palestinians who had been displaced from Jerusalem and other cities, including Haifa, where the Hannouns say their own home was seized).

The land controlled by Jordan after the war included a parcel in Sheikh Jarrah in East Jerusalem. In 1956 the Jordanians agreed to resettle twenty-eight Palestinian Arab families there in houses built by UNWRA with the proviso that they give up their refugee status and aid. However, the Jordanian Custodian of Enemy Property never transferred ownership into the families’ names as they were supposed to after the families paid a nominal rent to the Custody for three years.

As a practical matter though, ownership was irrelevant, because the families were left alone to live in the houses.

When Israel acquired the West Bank and East Jerusalem from Jordan in the '67 war, they allowed the Palestinian families in Sheikh Jarrah to stay in their homes and asked for no rent from them.

In 1972 however, two Jewish organizations (the Sephardic Community Committee and the Knesset Yisrael Committee) began to advance claims in Israeli courts that Jordan's Enemy Property law had been illegal and that ownership in the land, which originally belonged to a community of Sephardic Jews, should be restored. These two groups began notifying the residents that they owed rent, and initiated a process with the Israel Lands Administration to register the land in their names based on 19th-century Ottoman-era documents.

In 1982 the two committees brought a lawsuit against twenty-three families for rent delinquency. The Israeli court agreed with the committees on the issue of ownership. However, under a fairly liberal and equitable compromise and court-ordered settlement it was agreed that while title to the property was held by the Jewish group, the Palestinian residents would be considered "protected tenants." The Palestinians could stay in their homes into perpetuity in exchange for paying nominal annual fees to the Jewish owners and with some restrictions on renovations to the property.

Some of the families challenged the arrangement on principle and refused to pay rent. Additional legal wrangling ensued, with the Israeli group prevailing in July 2009. Still, only those families (including the Hannouns) that refused to pay the rental fee were evicted. The families paying the nominal rent remain living in their homes.

By leaving all of this background information out, Fr. Christiansen made the Israeli action seem far more harsh and unreasonable than it was. The Hannoun family could have stayed in their home for a nominal rental fee. While summary eviction of these families would clearly not be fair or humane (especially in light of the fact that there are Jews in Israel who now have title to land owned by Arabs prior to 1948), one can readily see that it would have been impossible for an Israeli Court to find the Jordanian Enemy Property law valid and thus confer ownership on the Palestinian families. And while we also see how emotionally difficult it might have been for the Hannouns to pay rent to Jewish owners, Israel cannot be blamed for this. The Court did seem to try to do its best to find a reasonable and humane compromise. By omitting the entire history of the dispute, Fr. Christiansen misrepresents the Sheikh Jarrah evictions as precipitous and legally unfounded Israeli land grabs.

In this same article in *America*, Fr. Christiansen appears to attempt to draw a connection between the deportation of a young Palestinian student from the West Bank and Israeli “ethnic cleansing.” (“Of Many Things” November 16, 2009). Immediately following a reference to Ilan Pappé’s “*The Ethnic Cleansing of Palestine*,” Fr. Christiansen complains about the “arbitrary treatment inflicted” on Berlanty Azzam who was arrested by the Israeli military authorities and deported back to Gaza. According to Fr. Christiansen, Ms. Azzam’s only “apparent offense” was that “[s]he was born in Gaza City.”

The fact is that Ms. Azzam’s offense was not that “[s]he was born in Gaza City.” Ms. Azzam left her home in Gaza in 2005 after receiving a travel permit from the Israeli government on humanitarian grounds to visit relatives in Jerusalem. She crossed from Jerusalem into Bethlehem and then remained in the West Bank for four years. She acknowledged that the Israeli government had only issued her a temporary permit but said she stayed on in the West Bank because it was the only way for her to attend school. In 2009 she was caught at a military checkpoint and immediately expelled after the incident. The Israeli military released a statement saying Ms. Azzam had overstayed a permit “allowing her to stay in Jerusalem for a few days in August 2005” and had been “residing illegally” in the West Bank. This was Ms. Azzam’s offense, not the fact that “[s]he was born in Gaza City,” as *America* reported.

We believe that while Israel does have a right to control movement into and out of Gaza and the West Bank for legitimate security purposes, the decision to deport Ms. Azzam was insensitive, unnecessary, unkind and foolish. We believe she should have been allowed to stay on humanitarian grounds. She is not a terrorist, but rather by all appearances a nice young woman who only wanted to finish her college education and raise herself up from the very difficult life in Gaza. But while Israel’s decision in this case could correctly be categorized as unnecessarily cold and without appropriate regard for humanitarian concerns, it was not “arbitrary” as Fr. Christiansen claims and it was certainly not part of a pattern of “ethnic cleansing.”

The use of phrases like “grabbing Palestinian land” and references to books entitled “*The Ethnic Cleansing of Palestine*,” in the middle of a discussion of Israeli policies and actions, are rhetorical devices that give Fr. Christiansen’s article a downright unsavory tone. This is especially the case as he skips over any and all facts that might tend to exonerate the Israelis to any degree, no matter how essential the facts are to understanding the situation upon which he is reporting. This sort of misrepresentation (which resulted in the usual spate of responses on *America*’s website filled with angry indignation at Israel and its “dreadful injustices”) calls his integrity as an editor into question as it unnecessarily “foster[ed] hostility and conflict, [and] demoniz[ed]”

Israel. (See *Ethics in Communications*, III(13)).<sup>20</sup>

### **Misrepresentations About Religious Freedom in Israel**

By any objective measure Israel has one of the best records, if not the best, with regard to religious freedom in the Middle East. For the most part, Israelis of any religion are allowed to practice their faith freely and without fear. On the other hand, Christians in Saudi Arabia for example, (numbering around half a million) are not even allowed to gather for prayer. Egyptian Copts are deprived of many rights and live lives subject to intolerance, inequality and injustice.

The editorial in *America* about Christians in the Middle East entitled “Truly Catholic” (October 4, 2010), ignored these facts. Referring to the violence and bias towards Christians in Iraq that has led to mass immigration as merely a consequence of “the disorder created by the U.S. invasion in 2003,” *America* chose to focus largely on Israel as the source of problems, citing the alleged “new impositions and restrictions that impede a normal life . . .” which Christians in Israel are supposedly “constantly fending off.” The editors failed to delineate specifically what these “new impositions and restrictions” are, but claim they come as a result of “the refusal of the State of Israel to bring into effect the 1993 Fundamental Agreement with the Holy See.”

Oddly, in this same edition, *America* extols Jordan as “a small oasis of relative calm for the Middle East’s Christian minority.” (“Signs of the Times,” October 4, 2010). The Hashemite Kingdom of Jordan is a constitutional monarchy. According to the 2009 U.S. Department of State Human Rights Report (the “Report”) the Jordanian “constitution provides for freedom to practice the rites of one’s religion, **provided that religious practices are consistent with ‘public order and morality,’** and it stipulates that there be no discrimination in the rights and duties of citizens based on religion. **The government continued to impose some restrictions on religious freedom in practice, and the constitution also requires that Islamic law, which forbids the conversion of Muslims to another religion, govern citizens’ personal status.**” (emphasis added). The Report also specifically stated that “legal and societal discrimination remained a problem [in Jordan] for women, religious minorities, converts from Islam, and some persons of Palestinian origin.”

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<sup>20</sup> Moreover, we fear that Fr. Christiansen’s final paragraph in this article may be revelatory of his underlying goal. By concluding that “[f]or now, hard pressure against settlements is a wiser, more realistic policy than Israeli-Palestinian negotiations without pre-conditions,” Fr. Christiansen appears to not be terribly interested in finding a negotiated political solution that will lead to the creation of a Palestinian state. The only just way to sovereignty for Palestinians and a final conclusion of this seemingly endless conflict is through negotiations between the parties. Merely applying “[h]ard pressure” against Israel will not lead to the creation of a Palestinian state. It will, on the other hand, lead very effectively to Israel’s “demoniz[ation].” If this is *America*’s ultimate goal, this should simply not be countenanced.

According to the State Department Report, the Israeli record on religious freedom is far more positive: “The [Israeli] law provides for freedom of religion, and the government generally respected this right in practice. The Basic Law and Declaration of Independence identify the country as a ‘Jewish and democratic state,’ while also providing for full social and political equality, regardless of religious affiliation.”

The State Department reported that in Jordan, “The state religion is Islam, which effectively restricted the religious freedom of members of other denominations, especially in terms of family law.” Moreover, “[t]he application of Shari’a law on personal status matters prohibits conversion from Islam to another religion. In apostasy cases decided by the Shari’a court, converts from Islam have lost their inheritance, children, spouse, and civil rights. Conversion to Islam is allowed. A few converts from Islam to Christianity reported the Jordanian General Intelligence Department questioned them after family members complained to authorities about the conversion. These converts reported that the GID withheld certificates of good behavior that are required for job applications or to open a business, or threatened to not allow their entry into or graduation from university.”

According to the State Department Report, there are many restrictions which impact the daily lives of Christians in Jordan. Christians can convert to Islam, but Muslims are not allowed to convert to Christianity. Some Christian churchgoers reported the presence of security police outside churches on several occasions during the year. Security officials did not state a reason for their presence but reportedly questioned some churchgoers. Christian students in private and public schools must learn verses from the Koran.

In Israel on the other hand, while only Orthodox Jewish religious authorities are recognized in personal and some civil status matters concerning *Jewish* persons, “[t]he law confers recognition on some religious communities, granting them some authority over their members in personal status matters. Recognized communities are: Eastern Orthodox, Latin (Roman Catholic), Gregorian-Armenian, Armenian-Catholic, Syrian (Catholic), Chaldean (Uniate), Greek Catholic Melkite, Maronite, Syrian Orthodox, the Evangelical Episcopal Church, Orthodox Jewish (both Ashkenazic and Sephardic rites), Muslim, Druze, and the Baha’i. The status of several Christian denominations is defined by arrangements with government agencies . . . [even] [u]nrecognized communities generally practiced their religion freely and maintained communal institutions but were ineligible to receive government funding for religious services.” (2009 U.S. Department of State Human Rights Report). Israelis are free to convert from Judaism to any religion they personally prefer.

Yet, in the pages of *America*, it is Jordan that is heralded as a religious “oasis” for Christians, while Israel is lambasted for its purported “impositions and restrictions.” While Jordan may

have a better record than some other Arab Muslim nations in the Middle East, by painting an overly rosy picture of religious freedom in Jordan, and at the same time vigorously complaining of Israel's alleged "impositions and restrictions," *America* distorts the reality on the ground beyond recognition. Once again *America*, appears to take any opportunity to make Israel look like an oppressive and discriminatory nation, even if that requires misrepresenting the policies and practices of countries in the region.

## **OMISSIONS**

The articles chosen for publication by the editors of *America* tend to leave out highly significant facts relevant to the Palestinian/Israeli conflict, by the omission of which, Israel repeatedly appears to be the guilty party while the Palestinians appear to be only innocent bystanders struggling to free themselves from Israeli aggression and oppression.

### **Omissions Regarding The Security Barrier**

A favorite theme of any critic of Israel is the security barrier and *America* is no exception here. *America* chose to highlight His Eminence John Cardinal Foley's "concerns" about the barrier and the "serious human rights issues [it raises] that [Israel] refuse[s] to acknowledge and address." ("Signs of the Times" (November 9, 2009)).

There are three rather glaring omissions in this brief article that underscore the unjust and biased nature of *America's* coverage of the barrier. First, while the problems for Palestinians created by the barrier are very real and Cardinal Foley is right to be concerned about them, completely absent is any accompanying concern for the more than one thousand Israelis who were killed in the suicide bombings which led to the construction of the barrier in the first place. The barrier is described by Cardinal Foley as "[t]he most tragic thing I have seen . . .," while absent is even a passing mention of the tragedy of terrorism visited upon Israeli civilians.

Second, on what basis does Cardinal Foley proclaim that "the Israeli government[] . . . refuse[s] to acknowledge and address" the human rights issues created by the barrier? Even if one thinks that the problems caused by the security barrier outweigh the innocent lives it has saved from injury and death and the impossible state of living with the constant threat of terror attacks, the complaint that Israel has refused to acknowledge and address the human rights issues it poses is simply not factual. The Second Intifada had been raging for eighteen months before the Israeli government even considered building the barrier. It was only after a particularly bloody month (March 2002) during which 139 Israelis were killed that they decided serious action had to be taken. The architects of the barrier spent months trying to find routes that would serve Israel's security needs while minimizing the harm (clearly not totally avoidable) done to

Palestinians. All church leaders in Jerusalem were consulted. Did Cardinal Foley or *America* magazine make any attempt to research the efforts that were made in this regard before accusing Israel of “refus[ing] to acknowledge and address . . . serious human rights issues . . .” raised by the barrier ?

Israel also gave free access to its Supreme Court to any Palestinian who was negatively impacted by the barrier. Well over one hundred petitions were filed. The Israeli High Court of Justice took up these grievances and ruled that Israel’s security requirements had to be balanced with humanitarian concerns. The Court issued a number of decisions, some favoring the existing route and others favoring the Palestinian petitioners. For example, in 2004 in the *Beit Sourik* case, the High Court of Justice decided in favor of Palestinian residents of several villages northwest of Jerusalem, ruling that for portions of the route to which the petition related the humanitarian concerns outweighed Israel’s security concerns.<sup>21</sup> In light of the judgment (then) Israeli Prime Minister Ariel Sharon directed the defense establishment to reroute the barrier. In another example, in June 2006 the Israeli High Court ordered the IDF to tear down a two-mile stretch of fence around a settlement near the West Bank town of Qalkilya called Zufin and reroute it to accommodate Palestinian needs in the area.<sup>22</sup> In July 2008, the government agreed to move part of the barrier that was on the land of the residents of the village of Bil’in in response to a court decision which insisted that the route of the barrier be dictated by security needs only.<sup>23</sup>

There is no question that Israel’s security barrier has created serious problems in the daily lives of Palestinians and that the IDF has not always done an adequate job of accommodating humanitarian concerns. For example, because of the barrier, hundreds of Palestinians have difficulty getting to their fields and marketing their produce in other areas of the West Bank. Farming is an important source of income in the Palestinian communities located along the barrier route, and the harm to the farming sector has been considerable. Israel built a system of gates along the completed sections of the barrier through which permit holders are allowed to pass to get to their farms. This is without question an imperfect system; the requests of some or many Palestinians for permits to enter their land have been rejected, either on grounds of security or on the contention that the applicant did not provide sufficient proof of ownership of the land or family relation to the landowner. Still, to contend that “the Israeli government[ ] . . . refuses to acknowledge and address . . . serious human rights issues . . .” raised by the barrier is to ignore or deny many of the actual facts.

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<sup>21</sup> HCJ 2056/04 (June 24, 2004).

<sup>22</sup> B’tselem, (January 15, 2006).

<sup>23</sup> Jerusalem Report, July 28, 2008.

Third, while the usual lip service is given to Israel's "right to protect its citizens," Cardinal Foley offers no alternative to the barrier. "' . . . [A]ppreciation [for] the Israeli government's concern for security,'" is not merely a phrase that *America Magazine* gets to utter to insulate itself from charges that it does not care about dead and maimed Israelis. A responsible expression of the expressed "appreciation [for] the Israeli government's concern for security" might include at least a record of the insecurity to which the barrier responds, if not some indication of an equally effective and pragmatic alternative to the barrier. That, however, is missing from the pages of *America*.

Perhaps after careful consideration of the success the barrier had in stopping suicide bombing and other terror attacks and the care and consideration Israel did give to try to find a balance between security and humanitarian needs, Cardinal Foley would still think that Israel's security barrier should be taken down. He would have a right to that opinion. But it seems to us that any fair reporting on this issue should not omit highly relevant facts which are necessary for readers to make their own reasoned assessment.

### **Omitting the History of the Gaza Blockade**

*America's* coverage of the Israeli Palestinian conflict is rife with severe criticism of Israel's war in Gaza in December 2008-January 2009 ("Operation Cast Lead") and the blockade which has been imposed since Hamas wrested control over the Gaza Strip in 2007. In "Signs of the Times" for example, the concern was expressed that "' . . . with Gaza all but cut off from the free flow of humanitarian supplies like food and medicine, hopes for peace between Israel and Gaza remain more tenuous than ever.'" (March 29, 2010).

The situation in Gaza is terrible. Israel's "Operation Cast Lead" resulted in very high numbers of human casualties and massive destruction to infrastructure. The blockade has created very severe economic problems with unemployment at a very high rate. There are however, glaring omissions in *America's* reports -- namely, the history of what led up to Operation Cast Lead, the difficulty of avoiding collateral damage in asymmetric warfare and Palestinian actions that preceded the blockade. Complaining about Israel's actions in Gaza without putting them in the context of the terrorism that both preceded and followed the Israeli disengagement is fundamentally untruthful because it constitutes a failure to state material facts knowledge of which is necessary for readers to come to an informed understanding of the situation and to prevent the reporting from being misleading. (See also "Of Many Things," May 24, 2010, referring to "[Israel's] attack on Gaza . . ." without any background on the situation which led up to the attack).

In September 2005, when Israel uprooted 8,500 settlers and withdrew from Gaza unilaterally without any concessions from the Palestinians, there seemed reason to be hopeful. (Then)

Israeli Prime Minister Ariel Sharon's plan was to make the Gaza Strip an autonomous area if everything was quiet and there was little or no terrorism. There were plans for a Seaport in Gaza to be financed by the Dutch and also for an airport. The Rafah border with Egypt was taken out of Israeli control and placed under Egyptian control. To show that they were serious about the disengagement ultimately leading to full Israeli withdrawal from the Territories, Israel also disengaged from four settlements in the northern West Bank.

While the wisdom of unilateral disengagement can be debated in hindsight, this could have been the beginning of Palestinian state building. But instead, Palestinian militants in Gaza opted for renewed attacks on Israel. They looted the greenhouses that Americans had purchased for them and almost immediately started digging infiltration tunnels into Israel and smuggling weapons in through the Rafah border. The firing of Qassam rockets into Israel, which had started in 2001, escalated markedly, rendering life in Sderot and the surrounding area nearly unlivable.

In early 2006 Hamas won 74 out of 132 Legislative Council seats in the parliamentary elections. The Hamas-Fatah unity government brokered by the Arab League lasted only a few months and was followed by an extremely bloody civil war in the summer of 2007, after which the Gaza Strip fell under the sole control of Hamas.

In the Israeli town of Sderot there were three blimps in the air seven days a week, twenty-four hours a day, to detect incoming bombs. Bomb shelters can be found every two blocks. When the sirens went off (as they did up to one hundred times a day) people had fifteen to thirty seconds to get into a shelter. People were seriously injured, children had their legs blown off, people were killed. This went on for seven years (2001- 2008). The entire town was traumatized. No human society should be expected to live for long with this sort of terror.<sup>24</sup>

As time went on the frequency and the range of Qassam rockets, mortars and grad missiles being fired into Israel from Gaza increased until just prior to the war in December 2008 there were up to eighty to one hundred rockets per day.

In the days just before Israel began Operation Cast Lead they gave clear warning to Hamas. (Then) Foreign Minister Tzipi Livni described the escalation in Qassam attacks as "unbearable," and said plainly that "Hamas needs to understand that our aspiration to live in peace doesn't

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<sup>24</sup> While some commentators have tried to underplay the impact of these Qassams by stressing their crude nature, lack of precision and the fact that most of them land in open fields without injuring anybody, the crudeness of the Qassam is in part why they are so effective as a weapon of terror. It is completely unpredictable where a Qassam will land and they are fired at every hour of the day and night.

mean that Israel is going to take this kind of situation any longer. Enough is enough.” In an interview with the Arab television station Al-Arabiya, (then) Prime Minister Ehud Olmert called on residents of Gaza to stop militants “firing on innocent civilians.” “I say to you in a last-minute call, stop it,” Mr Olmert said over broadcast media. “Don’t let Hamas, which is acting against the values of Islam, put you in danger. Stop them. Stop your enemies and ours.” Mr Olmert added: “I will not hesitate to use Israel’s might to strike Hamas and [Islamic] Jihad. How? I will not go into details now.”<sup>25</sup>

There was clear warning. If the Qassams had stopped, Israel would not have attacked Gaza.

The January war in Gaza was horrific with regard to the toll it took on the lives of Palestinians in Gaza. This is to a large degree an unavoidable outcome of asymmetric warfare where Israel’s conventional army was fighting Hamas terrorists embedded within the civilian population in Gaza and fighting without uniforms or frontiers.<sup>26</sup> Moreover, there is a history that explains what led up to this war. And this history was predictably omitted from *America’s* coverage of the conflict.

Also generally missing from *America’s* coverage of Gaza is the role that Egypt plays in the blockade. Israel does not control the Rafah border; the Egyptian border police do. Israel controlled the Rafah border crossing until September 11, 2005 when, as part of the disengagement plan, it became the mission of the European Union Border Assistance Mission Rafah (“EUBAM”) to monitor. Although Egypt has denied playing any role in the blockade, it has for the most part kept Rafah closed since Hamas took control in June 2007, blocking the movement of people and goods. During the Palestinian civil war in the summer of 2007, thousands of Palestinians ran for the Rafah border only to discover that Egypt had sealed it. These Palestinians were able to escape Gaza only through the Israeli border. It was the Israelis, not the Egyptians, who allowed Fatah loyalists to cross and then be transported to the West Bank, saving their lives. The EUBAM Supervisors at the Rafah border also fled at that point because it had become too dangerous.<sup>27</sup> They left after the Hamas civil war and never returned.

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[http://www.upi.com/Top\\_News/2008/12/25/UPI-NewsTrack-TopNews/UPI-14971230210484/](http://www.upi.com/Top_News/2008/12/25/UPI-NewsTrack-TopNews/UPI-14971230210484/)

<sup>26</sup> At every stage -- deployment, preparation, and design -- Qassam launchers were in such close proximity to residential populations that it was impossible for Israel, despite its relatively sophisticated and precise weapons, to wage this war without inflicting severe collateral damage upon schools, mosques, hospitals and homes within which Hamas was embedded. Moreover, Hamas reportedly made extensive use of civilians as human shields.

<sup>27</sup> The European Union Ambassador to Israel said that EUBAM monitors could not return to man the crossing because the legal basis for EUBAM (the November 2005 agreement on

But *America* reports none of this. Reference is made only to the “Israeli blockade” of Gaza, creating the misimpression that Gaza has only one border -- the one it shares with Israel -- and that Israel alone is responsible for the blockade. (“Signs of the Times,” March 29, 2010). Even in a news brief about Egypt’s construction of an underground barrier along its border with the Gaza Strip, *America* oddly refers only to “. . . Israel’s economic blockade of Gaza after Hamas assumed power.” (“Current Comment,” February 1-8, 2010).

The claim that as a result of the blockade Gaza is “all but cut off from the free flow of humanitarian supplies like food and medicine,” is also fundamentally untruthful in that *America* fails to state material facts necessary to have a full and accurate understanding of the situation. (“Signs of the Times,” March 29, 2010). While there is no question that Israel responded to the non-stop Qassam rockets with border closings and very significant decreases in humanitarian aid, even at its strictest the blockade allowed for passage of food, fuel and medicine necessary to prevent a full-blown humanitarian crisis. Israel continued to allow regular shipments of food, medical supplies, gasoline and fuel through the border crossing after Hamas took over and even during Operation Cast Lead.<sup>28</sup>

Operating the border crossings is a massive operation that costs Israel millions of dollars. Moreover, it is dangerous. The crossings have been attacked repeatedly by mortars and Israeli soldiers have been killed, injured and kidnaped at these locations.

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movement and access) specified that the terminal was to be manned by the Fatah-aligned Force 17, which was no longer there.

<sup>28</sup> During Operation Cast Lead, the IDF regularly suspended military activities for brief periods of time to allow for the transport of truckloads of food, medicines and other humanitarian necessities into the Gaza Strip. According to the Israeli government website, during the weeks of fighting, 37,159 tons of humanitarian aid on 1503 trucks were transferred via the Kerem Shalom and Karni crossings.

[http://www.mfa.gov.il/MFA/Government/Communiques/2009/Humanitarian\\_aid\\_to\\_Gaza\\_following\\_6\\_month\\_calm.htm](http://www.mfa.gov.il/MFA/Government/Communiques/2009/Humanitarian_aid_to_Gaza_following_6_month_calm.htm)

Currently (Fall 2010) the majority of the humanitarian supplies are brought into Gaza through the Kerem Shalom crossing. After the Gaza Flotilla incident in May, 2010, Israel switched from a system of a list of permitted items to a list of prohibited items. The new system has greatly increased the nature of the products getting into Gaza. Virtually all consumer items are now allowed across the border. Weapons and dual use materials likely to be used as weapons or to build rockets or missiles are not allowed. Construction materials are allowed into Gaza but only for Palestinian Authority-authorized projects implemented and monitored by the international community. (see, e.g., <http://www.cbsnews.com/stories/2010/07/06/world/main6649762.shtml>).

Reasonable and fair people concerned with the plight of the Palestinians may argue that Israel's policies with regard to Gaza not only fall short of humanitarian standards but are counterproductive. But reasonable and fair people do not ignore or deny any and all facts that would tend to exonerate Israel or help understand its actions. By routinely omitting these facts, America violates its obligation to be "truthful," and "looks to the needs and interests of [the Palestinians] . . . in a way that sets one group against another." (*Ethics in Communications*, IV(22))

### **Omitting Any Palestinian Liability For Failure of the Peace Process**

It was Yasser Arafat who refused to accept the "Clinton Parameters" in 2000 and Mahmoud Abbas who walked away from PM Ehud Olmert's peace offer in September 2008. (See *Misrepresenting the Facts of the Occupation and Peace Negotiations*, *supra* at p. 9). More recently, President Abbas spent months resisting U.S. pressure to take part in negotiations and then walked out as soon as Israel's ten-month moratorium on settlement building ended. While PM Netanyahu's initial refusal to extend the moratorium has been unwise in our opinion and without question unhelpful to the peace process, to his credit, Netanyahu has recently tried to find a way to extend the moratorium<sup>29</sup> and has repeatedly stated that he was ready to come to the negotiating table without any preconditions on either side.<sup>30</sup> Yet, in the fourth month of the moratorium, while President Abbas frittered away the opportunity to engage in direct talks, *America* published a feature citing only a litany of Israeli actions as impediments to "reviving what is left of the peace process." ("Signs of the Times, -- U.S.-Israel Relations Hit Low; Peace Process Derailed Again" March 29, 2010).

According to *America*, U.S. efforts to get the peace process back on track were derailed in the Spring of 2010 solely by Israeli plans to build 1600 housing units in a Jewish neighborhood in East Jerusalem. Yet, in an article previously published in the *Washington Post*, President Abbas had made clear that he was in no hurry to join Israel at the negotiating table. Taking the hardline position that Israel had to make far-reaching concessions before he would even begin talks, the Palestinian President pointed out that he considered time on his side because "[u]ntil then, in the West Bank we have a good reality . . . the people are living a normal life."<sup>31</sup>

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<sup>29</sup> <http://www.reuters.com/article/idUSTRE69B6FB20101012>

<sup>30</sup> <http://www.bbc.co.uk/news/world-middle-east-11042430>;  
[http://articles.cnn.com/2010-08-11/world/us.mideast.talks\\_1\\_proximity-talks-direct-talks-peace-talks?s=PM:WORLD](http://articles.cnn.com/2010-08-11/world/us.mideast.talks_1_proximity-talks-direct-talks-peace-talks?s=PM:WORLD);  
[http://www.huffingtonpost.com/2009/11/11/mahmoud-abbas-resists-us\\_n\\_353732.html](http://www.huffingtonpost.com/2009/11/11/mahmoud-abbas-resists-us_n_353732.html)

<sup>31</sup> ("Abbas's Waiting Game," *The Washington Post*, May 29, 2009).

No mention of any of this can be found in *America Magazine*. The editors saw fit to draw attention only to that which might tend to cast blame upon the Jewish state for the stalled peace process, and through omission of facts and selective reporting of attitudes, “foster[ ] hostility and conflict, demoniz[e] [Israel] and creat[e] a mentality of ‘us’ against ‘them’” in violation of ethical obligations cited by the Pontifical Council for Social Communications. (*Ethics in Communications* III(13), IV(22)).

### **Omissions Which Fan the Flames of the Israeli/Palestinian Conflict**

Through the use of inflammatory terms, *America* paints a picture of Israelis as a pernicious people whose every action has some nefarious intent under the guise of security or national expression. In a news brief, Israel’s designation of Rachel’s Tomb in Bethlehem and the Cave of the Patriarchs in Hebron as Jewish heritage sites is referred to in terms of a “land grab,” perceived as an attempt to “close off Muslim worshipers.” (“Signs of the Times -- Israeli Heritage Plans Provoke Palestinians” March 15, 2010).

The Heritage Site designation was indeed rightly perceived as provocative by Palestinians and in our opinion was completely ill-advised. It led to several days of violent protests. Palestinian negotiator Saeb Erekat described the designation as a “unilateral decision to make Palestinian sites in Hebron and Bethlehem part of Israel,” and Palestinian President Mahmoud Abbas warned that the move “could cause a holy war.”<sup>32</sup>

However, it is important to understand that the designation as a Jewish Heritage site has no legal impact on the issue of sovereignty and should not have any effect on the drawing of future, internationally recognized borders for a Palestinian state.

Here is an instance where a clear explanation of fact would have served the cause of quieting unnecessary discord between Israelis and Palestinians. However, *America Magazine* chose to omit this highly relevant fact and opt instead to mischaracterize the designation with the inflammatory phrase “land grab.” *America* chose to go the route of fanning the flames of discord, “. . . fostering hostility and conflict . . .” and “. . . set[ting] one group against another. . . ” by disseminating “messages that seek to foster . . . conflict among individuals and groups . . .” in direct contravention of *Ethics in Communications*, III(13), IV(22) & IV(23).

In this same news brief the *America* reader is warned that “[a]nother apparent seizure attempt [by Israel] threatens the Shepherds’ Fields in Beit Sahour near Bethlehem, where tradition says angels announced the birth of Jesus. Israeli settlers are now moving into the area, and Israeli

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<sup>32</sup> [http://www.prospect.org/cs/articles?article=imagined\\_israel](http://www.prospect.org/cs/articles?article=imagined_israel)

soldiers have reoccupied a hilltop position that had been returned to the Beit Sahour municipality.” (“Signs of the Times -- Israeli Heritage Plans Provoke Palestinians” March 15, 2010).

This warning has a ominous ring to it and creates an image of Israeli soldiers and settlers mobilizing in a coordinated attack to take over a Christian holy site near Bethlehem. However, the Shepherds’ Fields are in fact not under any threat of seizure by Israel, imminent or otherwise. The editors of *America* failed to inform their readers that the settlement they are referring to, Har Homa, is located in southeast Jerusalem and was built on vacant and undeveloped land (owned mostly by Jews, but about 25% by Palestinians) in 1997.<sup>33</sup> No homeowners were displaced by Har Homa and all land owners (Jewish and Palestinian) were offered compensation. Moreover, while there has been building within the existing settlement this year, the boundaries of Har Homa have not expanded. It is close to and can be seen from Beit Sahour, but how does the existence of Har Homa pose an imminent threat to the Shepherds’ Fields? It does not, in spite of *America*’s inauspicious warnings that “Israeli settlers now are moving into the area” to take over.

*America* couples its warning about settlers with a warning about the IDF also supposedly threatening the Shepherds’ Fields. The Kadima government had at one time spoken of the possibility that a portion of a small hilltop east of Beit Sahour near Jerusalem (an Israeli military position until April 2006) would be ceded to the Palestinian Authority. In February 2010 however, the IDF said they considered it a strategic security location and decided to erect a watchtower there.

But *America* omits all of these facts, and allows these omissions, coupled with vague and sketchy reporting, to create the impression that Israeli settlers and soldiers stand together, poised to take over a beloved Christian holy site in Bethlehem.

Ultimately issues like borders and allocation of land in areas like Har Homa will have to be determined at the negotiating table. And while we are generally strongly opposed to settlements, Palestinian negotiators have for years recognized that some of the major settlement blocs (especially those that are strategically necessary to widen the otherwise extremely narrow waist of Israel) will likely remain part of Israel with the new state of Palestine being compensated with

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<sup>33</sup> “Tense Standoff in Jerusalem Ends, but Nerves Are Taut,” *The New York Times* (March 1, 1997);

land swaps.<sup>34</sup> In any event, the Shepherds' Fields are not under any threat of "seizure" by the Israelis and suggestions of this nature in the pages of *America Magazine* violate the fundamental obligation to veracity in Catholic publications. (*Ethics in Communications*, IV 2000)

### **Omissions Regarding the Issue of Palestinian and Jewish Refugees**

In "Remember the Exiles," Joseph Cornelius Donnelly and Fr. Drew Christiansen discuss the trauma of refugees who were uprooted from their homes as a result of the 1948 war. (October 11, 2010).

No one knows the precise number, but probably somewhere between 600,000 and 900,000 Palestinians were indeed displaced. And although frequently overlooked, a large number of Jews (roughly equivalent in number to the Palestinians who lost their homes) also became refugees during and after the 1948 and 1956 wars. The majority were driven from their homes in the Arab world, a result of anti-Jewish sentiment amplified by the wars. Others lost their homes in British Mandate Palestine as a direct result of the fighting in 1948 -- they either fled or were captured by Arab troops as the armies of neighboring states overran and destroyed their villages.<sup>35</sup> The vast majority of the Jewish refugees were resettled in Israel at great expense, and without any compensation from the Arab governments who confiscated their possessions.

Yet, in "Remember the Exiles," it is only the Palestinian Arab refugees that are discussed. Any reference to even the fact that there were Jewish refugees is totally omitted.

While the displaced Jews do not constitute an on-going refugee problem, is their trauma at being displaced from homes their families lived in for generations not worth even a passing mention in a four page article on refugees in the Middle East in *America Magazine*? Is our compassion to be reserved only for the non-Jews who were displaced from their homes in the region by war?

Another omission in this article perpetuates the myth that all or the vast majority of Palestinians that became refugees in 1947 and 1948 were forcibly expelled by the Israeli military. "Palestinians forced from their homes . . ." are typified in a paragraph which profiles the

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<sup>34</sup> See, e.g., <http://www.ft.com/cms/s/0/0761075e-9a5c-11df-87fd-00144feab49a,s01=1.html>;  
<http://www.jpost.com/Home/Article.aspx?id=175731>;

<sup>35</sup> See, e.g., Benny Morris, 1948 (Yale University Press, 2008) at pp. 153, 167-171, 308, 409 & 412-415.

president of Caritas Jerusalem “who was evicted from her Jerusalem home during the 1948 Israeli war of Independence.” There is no discussion of Palestinians leaving voluntarily or at the urging of Arab leaders. Only references to “the homes in Israel from which they had been **driven**.” (“Remember the Exiles,” October 11, 2010) (emphasis added).

While there is no question forcible expulsions by Israelis did occur in the course of the fighting,<sup>36</sup> according to contemporaneous and Arab writing the majority of Palestinians fled their homes voluntarily, many at the behest of Arab leaders.<sup>37</sup> With the passing of the years, it has served the

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<sup>36</sup> This happened especially in Arab villages that were regarded by the Israeli military as enemy assembly points or bases of operation and/or that bordered on supply routes where there was heavy fighting.

<sup>37</sup> There are myriad examples. Here are but a few. The U.S. Consul General in Haifa, Aubrey Lippincott, wrote on April 22, 1948, that “local mufti dominated Arab leaders” were urging “all Arabs to leave the city, and large numbers did so.” The Economist, a frequent critic of the Zionists, reported on October 2, 1948: “Of the 62,000 Arabs who formerly lived in Haifa not more than 5,000 or 6,000 remained. Various factors influenced their decision to seek safety in flight. There is but little doubt that the most potent of the factors were the announcements made over the air by the Higher Arab Executive, urging the Arabs to quit....It was clearly intimated that those Arabs who remained in Haifa and accepted Jewish protection would be regarded as renegades.” Time’s report of the battle for Haifa (May 3, 1948) was similar: “The mass evacuation, prompted partly by fear, partly by orders of Arab leaders, left the Arab quarter of Haifa a ghost city....By withdrawing Arab workers their leaders hoped to paralyze Haifa.” Benny Morris, the historian who documented instances where Palestinians were expelled, also found that Arab leaders encouraged their brethren to leave. The Arab National Committee in Jerusalem, following the March 8, 1948, instructions of the Arab Higher Committee, ordered women, children and the elderly in various parts of Jerusalem to leave their homes: : “Any opposition to this order...is an obstacle to the holy war...and will hamper the operations of the fighters in these districts” (Middle Eastern Studies, January 1986).

Palestinian Authority television recently broadcast the story of a Palestinian resident of a refugee camp recounting the reason his family left Israel during the war and became refugees: “This picture was taken a week before we left Ein-Kerem [near Jerusalem] in June 1948, in front of our house. The radio stations of the Arab regimes kept repeating to us: “Get away from the battle lines. It’s a matter of ten days or two weeks at the most, and we’ll bring you back to Ein-Kerem.” And we said to ourselves, “That’s a very long time. What is this? Two weeks? That’s a lot! That’s what we thought [then]. And now 50 years have gone by.” (Palestinian TV (Fatah), July 7, ‘009).

And according to Jawad Al Bashiti, a Palestinian journalist in Jordan: “The reasons for the Palestinian Catastrophe [establishment of Israel and the refugee problem] are the same reasons that have produced and are still producing our catastrophes today... The first war between Arabs and Israel had started and the Arab Salvation Army told the Palestinians: ‘We have come to you in order to liquidate the Zionists and their state. Leave your houses and villages, you will return to them in a

Palestinian political agenda well to ignore this, but responsible U.S. journalists have the obligation to provide their readers with all of the facts. By omitting these facts and helping to perpetuate the myth that Israel caused the entire Palestinian refugee problem by driving innocent people out of their homes, *America Magazine* violates its obligation to “always be truthful,” to refrain from “. . . fostering hostility and conflict, [and] demonizing others . . .” and “set[ting] one group against another.” (*Ethics in Communications*, IV 2000; III(13); and IV(22))

Perpetuation of a yet another myth about Palestinian refugees is exacerbated when *America* prints statements such as “. . . under international law the refugees had a right to return to the homes in Israel from which they had been driven.” (“Remember the Exiles,” October 11, 2010). The actual law establishing this so-called “right” is omitted and for good reason -- it really does not exist. There is not and never has been an internationally recognized “right of return.”

Throughout history, war has inevitably produced refugees. But nowhere has a “right of return” been recognized for any of these refugees. The partition of the Indian subcontinent into India and Pakistan in 1947 resulted in the largest human movement in history with an exchange of eighteen million Hindus from Pakistan and Muslims from India. More than fifteen million ethnic Germans were expelled from Czechoslovakia and Poland at the end of World War II and force-marched to Germany by the Red Army. Historians estimate that two million died on the way. The international community has never recognized a “right of return” on their behalf or on behalf of countless other refugee populations.

In 1974, following a period of violence between Greek and Turkish Cypriots and an attempted Greek-sponsored coup, Turkey invaded and occupied one third of the island. This led to the establishment of a separate Turkish Cypriot regime to govern the invaded area in the north and the displacement of thousands of Cypriots.

It is instructive that in March 2010 the judges of the European Court of Human Rights (“ECHR”) ruled against property rights in their lost homes for the Greek refugees from Northern Cyprus stating that:

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few days safely. Leave them so we can fulfill our mission (liquidate Israel) in the best way and so you won't be hurt.’ It became clear already then, when it was too late, that the support of the Arab states (against Israel) was a big illusion.” (*Al-Ayyam*, May 13, 2008).

**Some 35 years have elapsed since the applicants lost possession of their property in Northern Cyprus in 1974. Generations have passed. The local population has not remained static. Turkish Cypriots who inhabited the north have migrated elsewhere; Turkish-Cypriot refugees from the south have settled in the north; Turkish settlers from Turkey have arrived in large numbers and established homes. Much Greek-Cypriot property has changed hands at least once, whether by sale, donation or inheritance.**

Thus, the ECHR ruled squarely against even property rights (much less a “right of return” to their original homes) for refugees after a period of thirty-five years. How then, can a claim for a “right of return” for Palestinians stand under international law after sixty-two years?<sup>38</sup>

The document routinely cited by supporters of a Palestinian “right of return” is U.N. General Assembly Resolution 194, passed towards the end of the 1948 war. In paragraph 11, it is suggested that:

**. . . refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.**

Interpreting this paragraph to confer a “right of return” on all Palestinian refugees and their descendants into perpetuity does not seem warranted. The paragraph does not recognize any “right,” but recommends that the refugees “should” have been “permitted” to return. Under the U.N. Charter the General Assembly is not authorized to adopt binding resolutions.<sup>39</sup> Therefore, Resolution 194 could only suggest or recommend, not direct or order.

Further, the suggestion that refugees be allowed to return seems clearly only meant to apply to some subset of the refugees in 1948 or the paragraph would have stated “*All* refugees wishing to return should be permitted to do so at the earliest practicable date.”

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<sup>38</sup> While it has no jurisdiction over Palestine and Israel, the ECHR is one of the world’s most respected international legal institutions on the matter of human rights and the European court’s precedents serve to inspire other courts worldwide.

<sup>39</sup> Except in budgetary matters and with regard to its own internal rules and regulations.

Permission to return was expressly made subject to two conditions: (i) that the refugee wishes to return; and (ii) that he or she wishes to live at peace with his or her neighbours. The endless wars and certainly the violence that erupted in September 2000 makes it difficult to make the claim that the Palestinian refugees as a whole “wish[ ] to . . . live at peace with [Israelis].” Moreover, this suggestion that refugees wishing to live in peace with their neighbors be allowed to return to their homes referred to refugees in 1948 in the immediate aftermath of the war. There is no language in the resolution indicating that the intent was to make the suggestion applicable to their descendants and/or unforeseen circumstances sixty-two years later. Significantly, that permission to return was not mandated under international law that existed when the resolution was drafted in 1948 is at least implied by the fact that the reference to principles of international law or equity applies only to compensation for property and does not seem to refer to the permission to return.

The authors of this article in *America* are free to try to develop a credible legal argument in support of a Palestinian “right of return.” But to print the statement “. . .under international law the [Palestinian] refugees had a right to return to the homes in Israel from which they had been driven,” while omitting any accurate, comprehensive or responsible discussion of the applicable international law strikes us as a violation of a journalist’s duty to educate and a violation of the Catholic journalist’s duty to “observe principles like truth [and] fairness” (*Ethics in Communications*, IV (23)), and to “not . . . set[] one group against another.” (*Ethics in Communications*, IV (22))

## **Conclusion**

Interestingly, and to *America*’s credit, the very sort of excessive criticism of Israel that *America* Magazine regularly engages in was taken head-on in a book review published in the August 16-23, 2010 edition. (“Worse Than You Think,” Peter Heinegg’s Review of the book *Trials of the Diaspora; A History of Anti-Semitism in England* by Anthony Julius). Peter Heinegg, an ex-Jesuit himself, stresses Julius’ point that “the barrage of criticism one hears [about Israel] especially in academe and in left-wing circles, is peculiarly one-sided and intemperate,” and notes that:

**Some anti-Zionists . . . look past the crimes of Arab and Muslim regimes while blasting the sins of Israel as unforgivable.**

If only this book review had raised the self-awareness of the editors of *America*, we might not be writing a second review of this sort.

What is the danger inherent in the practice of misrepresenting and omitting facts in a manner such that the Palestinians remain cloaked in a veil of innocence while any and every Israeli action

is portrayed as nefarious? We believe that the ultimate cost of this practice might be more dangerous than is immediately evident.

There is an exhibit in Yad Vashem in Jerusalem which illustrates the danger. This exhibit recalls a massacre of Jews early in the Nazi period. The Nazis rounded up a group of Jews. Then they invited their non-Jewish neighbors to first encircle and then shout and yell at the Jews about every misdeed, no matter how small, that they could recall each one ever committing. By doing this, ordinary wrong-doings were magnified and made to appear as grave sins and a sense of anger and outrage at the townspeople's Jewish neighbors was provoked. Perhaps this instilled in the hearts of the townspeople the belief that Jews were singularly bad people, deserving of the fate that was about to befall them.

There is something a little too reminiscent of this in the way *America Magazine* points its finger of blame endlessly in the direction of one and only one party in the Palestinian/Israeli conflict, even if it has to misrepresent and omit facts to make that blame credible.