Unstateable Palestine:
The Role of Emotions in Proving Political Worthiness through International Investigative Commissions

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Introduction

In 1919 on the eve of the Paris Peace Conference that would divvy up the post-Ottoman Middle East among European powers, US President Woodrow Wilson dispatched the King-Crane Commission to Syria (including Palestine) to assess “the state of opinion there with regard to [the post- Ottoman Middle East], and the social, racial, and economic conditions” that obtained, in order to guide the Peace Conference in assigning mandates. According to the Commission’s announcement about itself, this was “in order that President Wilson and the American people may act with full knowledge of the facts in any policy they may be called upon hereafter to adopt concerning the problems of the Near East—whether in the Peace Conference or in the League of Nations.”

The King-Crane commission was a first moment in an ongoing history of conflict in Palestine—a conflict in which the rules of debate and parameters of legitimacy have been repeatedly revealed to be shifting and undependable. Since the King-Crane Commission, various commissions have visited and investigated Palestine, including the Permanent Mandates Commission of the League of Nations, the Anglo-American Committee of Enquiry of 1945-1946, the United Nations Special Committee to Investigate Israeli Practices Affecting the Human Rights of the Population of the Occupied Territories from 1969 onwards, the Mitchell Commission in 2001, and the UN Goldstone Commissions of 2009. During these and many other fact-finding commissions, Palestinians have tried to explain both why they deserve an independent nation-state, and why their deprivation of that right is among the root causes of the violence in Palestine. The “political epistemologies” operating in these commissions, the social processes and categories by which proof and evidence are produced and mobilized in political claim-making, are undergirded by shifting standards, ideologies and stated values. But they are also heavily shaped by the ways in which different people express and interpret emotion.

This paper examines the ways in which emotion has been seen as a form of evidence in the King-Crane, Anglo-American, Mitchell and Goldstone commissions. Emotion, and specifically the various ways that emotions are read, has had different effects on the ways in which political representation is proved, calculated and judged in these investigations. The epistemological rules by which political evidence -- testimony that matters -- is identified and obfuscated are always unspoken. Unearthing these systems of thought and feeling, shows how influential the interpretation of emotion has been to the work and results of these commissions. This epistemological archeology also shows that over the last century, the framework of political appeals has shifted, from supposedly neutral reasoning and positivist forms of “data” collection and assertions about Arabs’ or Muslims’ “nature,” to more explicit recognition and publicity of the emotional or “affective” features of political conflict. Emotions and their interpretations have always been part of these processes of attempted conflict resolution, but specific kinds of emotions—those for and of the victim—became overtly demanded later on. In all cases, the commissions’ processes of investigation and reporting imparts to those being investigated an understanding that they must try to make their emotional presentations conform to the expectations of those judging them. Commissions are another arena in which “the regimentation of public affect” occurs. After all, commissions are usually convened at moments judged to be too violent, when too much emotion of the wrong kind has been released, or threatens to do so. For Palestinians to falter in calibrating their emotional expressions in front of these commissions, to step outside those regimented lines, is to lose political credibility.

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1 American Commission to Negotiate Peace, “Future Administration of Certain Portions of the Turkish Empire under the Mandatory System (Secret)” 25 March 1919. Oberlin College Archives, Group 2/6-Henry C. King, King-Crane Commission, Reports and Correspondence, Box # 128. Subsequently cited as “King-Crane Commission Archives.”

2 The King-Crane Commission Report, August 28, 1919. Available at: http://www.hri.org/docs/king-crane/syria.html#statement

The significance of emotion may be surprising, given that commissions are usually billed as objective, serious investigations into complex, high level political problems. Commissions that visited Palestine consisted of experts, including men and women of international renown and gravitas. These were academics, lawyers, and military men who were charged by a government or coalition of governments with investigating a specific set of circumstances related to conflict or violence. Expressions of empathy on the part of investigators is part of how their legitimacy to investigate, assess, pronounce, and recommend is demonstrated. Because their work and recommendations are never legally binding, what endows these groups of individuals with the right to gather evidence and opinions, the right to advise, is their presumption of objectivity. One of the ways they prove their objectivity is by performing balanced empathy for all sides in the dispute. That the performance and analysis of emotion has been such an important framework whereby investigators gather and evaluate “evidence” shows how ambiguous, uncertain, and subjective are the results of investigative commissions.

The form of Palestinian presentations to commissions, and specifically their emotional dimensions, has been as significant, if not more significant, than the substance of their argumentation in the cases they present. The specific practices by which Palestinians have submitted petitions and reports to commissions, in organized, professional, or legal and technically correct forms, has been one of the ways in which their political worthiness has been judged. Alongside these “rational forms,” however, it has been the emotional resonance of presentations and performances that has left an impact on commissioners and affected the conclusions and recommendations in their reports. In highlighting these subjective and affective dimensions of political investigations, this paper is intended as a contribution to the burgeoning anthropology of policy, which exposes “the political effects of allegedly neutral statements about reality,” and explores “the cultural and philosophical underpinnings of policy, its enabling discourses, mobilizing metaphors, and underlying ideologies and uses.”

Analyzing Commissions

Throughout the centuries of world history in which investigative commissions have been a tool of governance—some say the Domesday Book of 1086 was the first such commission—claims to the thoroughness, accuracy, and objectivity of these investigations, and the balanced and unbiased nature of their investigators, have usually been asserted. Most scholarship on investigative commissions tries to assess them on these grounds. In this stream of scholarship that is normative and evaluative, the distinction between kinds of commissions is noted as a key feature determining commissions’ effects or efficacy. Hugh Davis Graham, a historian and himself co-director of a United States Commission on the Causes and Prevention of Violence in 1968–69, has noted that reports of commissions investigating relatively minor policy issues are more likely to be heeded than those conducted in response to crises.\(^5\)

The political nature of commissions is something regularly remarked on across all national cases, with UN commissions coming under particularly sharp critique.\(^7\) Another typical observation is that commission recommendations are often “laboriously arrived at and then customarily ignored.”\(^8\) Despite the uncertain reach of their vague political effects, commissions are subject to popular evaluation and widespread criticism as well. An old study of British Royal Commissions remarked that the “worst that can be said about a commission is that it is a whitewashing body, appointed to shelve a given question until public attention is attracted elsewhere, and that its report is destined to go into a pigeonhole.”\(^9\) Such disparagement is not unusual.

Scholarly studies of commissions usually attempt to assess their political effects and unravel the political machinations that were taking place around and through their work. A study of investigative commissions to Palestine covering the period between 1937 and 1947, for example, accuses the British of trying to use such commissions “to give the Palestinian people the illusion that a solution was near.” The study also laments what the author saw as the Arab tendency to depend “on the justice of their case and the sincerity of their speech,” and their willingness to trust the British to fulfill their promises.\(^10\) In many cases these assessments are analyzed from the perspective of present political contests.

Somewhat more recently, anthropologists, critical historians and socio-legal scholars have taken a more Foucauldian approach, analyzing commissions beyond their own terms of reference and policy effects. They have considered commissions as fora in which forms and producers of knowledge are legitimated or discredited, providing a lens into “the discursive work of ruling orders.”\(^11\) Certain British Royal commissions have been judged “nonsystematic and ideologically driven” efforts to blame victims, to excuse government policy, and to legitimate the new science of political economy.\(^12\) Commissions focused on education in Africa have also received a great deal of scholarly attention that has shed light on debates over the ways in which kinds of knowledge were deemed significant, how different categories of people were ordained as the experts to produce it, and what social and

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political hierarchies were bolstered through investigative commissions. As Fleisch has shown, for example, the growing significance of social scientific research in commissions as a policy tool in South Africa went along with the entrenchment of the racial division of social and educational research.

Anthropologists Ann Stoler and Adam Ashforth have focused specifically on the discursive work that colonial and other commissions perform, arguing that their real political power lies in their ability to create or cement social categories, or “designate arbitrary social facts of the world as matters of security and concerns of state.” In Ashforth’s book on governmental commissions in South Africa he examined how these inquiries “have sought to fashion workable schemes of policy… sets of principles capable of explaining the problems faced by the state and justifying, by virtue of those explanations, the actions deemed necessary for the future of the state.” He explored commissions for how they illuminated “ruling orders of the South African state,” how they “understood the questions of sovereignty, citizenship, and territorial division,” and how they worked to support structures of domination and political exclusion. Such studies of commissions are akin to anthropological studies of policy generally, which seek to lay bare the fine grained workings of how “statecraft, which is invariably concerned with consolidating social order, inherently privileges some people over others without revealing the fact that it is producing an order of inequality.”

So it is safe to say that commissions do not always sort out what they have been charged with sorting out, and that they have many other kinds of effects distinct from their purported aims. The effects of commissions and their reports are multiple: they can be ideologically driven, or unintended, ignored, sometimes contradictory, often regarded with suspicion and becoming the object of cynicism. Because of their variegated form and effects, investigative commissions are useful windows onto the logics of political orders. Often, they come on the heels of moments of rupture in an ideological formation caused by violent crisis. They invite argument, which is conducted through multiple media, about the nature and bases of political relations. Not only do they illuminate “ruling orders” and provide insight into how the states that dispatch them “understand the questions of sovereignty, citizenship, and territorial division.” They also uncover the ways in which the ruled try to speak to the rulers, how their languages, their political idioms and their representative structures and performances, have changed over time. From the King-Crane to the Goldstone Commissions, Palestinians have been transformed from nationalist collectivity demanding sovereignty of the Great Powers, to a collective of suffering victims invited to partake in a kind of ritual lamentation in front of a world of spectators convened by the United Nations.
The King-Crane Commission

As part of the King-Crane Commission, the commissioners and staff spent ten of their 42-day tour in what was then considered "southern Syria," or Palestine. There the American commissioners heard the same demands that most of the Arabs would present to the investigators in the rest of the region (what is today Syria, Lebanon, Israel, Jordan); residents of Palestine wanted independence in a non-denominational, united nation of Greater Syria, under the constitutional rule of a monarch. Or, if they were forced to be governed by a mandatory state, they wished to be under its temporary tutelage. The monarch they chose was Emir Feisal, who had helped establish an Arab government under British protection after they conquered the Ottoman army. The majority did not want a mandate, because, as one commentator said, "our acceptance of foreign sponsorship would be an admission of our own inability to govern ourselves, and therefore deny us the opportunity at any point in the future to enjoy that right." But if they were forced to have a mandate power, the overwhelming preference was for the United States. The majority was also against the Zionist plan to establish a Jewish homeland in Palestine.

Arab spokespeople drew on Wilson's language of justice as a validating pillar for their own political demands. One of the Palestinian delegations to the King-Crane Commission asked that the Peace Conference meeting in Paris "defend the right of general humanity" in line with Wilson's liberal, principles, which were widely publicized after his "Fourteen Points" speech before Congress in 1918. In that speech he had advocated principles of the equality of nations, consent of the governed, and self-determination. Prince Feisal, who was one of the Arabs' emissaries to the Peace Conference, said that he could be "confident that the [Great] Powers will attach more importance to the bodies and souls of the Arabic-speaking peoples than to their own material interests." "Can the destiny of Palestine be determined before taking the opinion of people?" a columnist in an Arabic newspaper asked rhetorically. "We don't think so," was his rosy response.

Members of the King-Crane Commission billed themselves as taking an organized and rational approach to discovering the opinion of the Arab people. Albert Lybyer, one of the advisers on the commission, believed that they were expected to "carry on a really scientific investigation." And they used the language of science and math to prove that they did this. The Commission was to consist "of men with no previous contact with Syria." This would, Wilson believed "convince the world that the [Peace] Conference had tried to do all it could to find the most scientific basis possible for a settlement." Regardess of how organized and "scientific" the Commission actually was, the language and form of objectivity, science, and fair representation appears repeatedly throughout the report. They were clearly anxious to present themselves as impartial observers, and to produce a report that was performed as objective. In one instance, their actions were literally a performance, complete with costume. An Arabic language newspaper reporting on the investigators' visit "noticed that some of the members [of the King-Crane Commission] wore on their arms a piece of cloth with the [Arabic] word "meezan" [meaning scales, or balance] on it, pointing to the fact that justice" was a guiding principle of their work.

22 Al-Asima, 24 June 1919, #37, pg. 1. [Arabic]

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Evidence of their investment in the aesthetics of authoritative knowledge is the mass of documents assembled by the commissioners. What counted as data was that which could be counted: expressions of opinion by representatives from a representative number of groups. Despite this pretense to objectivity, questions about who counted as a group, and how many petitions and delegations were needed to be representative, were answered more through assertion and the scientific forms of statistics and tables, rather than through logical argument. Maps of racial and religious distributions were also integral to the report.

Part of establishing their own credibility as investigators was also acknowledging their limitations. Within the report they gave an assessment of “The Value of the Petitions as an Estimate of Public Opinion in Syria,” confessing that “1,863 petitions received by the Commission in Syria … cannot of course be regarded as a mathematically accurate analysis of the real desires of the peoples of Syria.” Nevertheless, they thought they did a fair job. They justified their lack of mathematical accuracy or proportional representation through assumptions about social and political categories in the region. They conceded that in Palestine they saw far more Christian groups, but this preponderance was, in their view, “balanced by the flood of Moslem appeals at Aleppo. … The petitions are certainly representative.” This, of course, assumed that Muslims were all of one opinion block regardless of geography, and ignored the special conditions in Palestine resulting from the opposition to Zionist incursions into the country. It also reflected the distinct Christian mission ties of the Commission, and their overwhelming concern with the Christian minorities in the former Ottoman Empire, a concern shared by Woodrow Wilson.

The commission members also affirmed the representative nature of their findings by showing how many different kinds of groups they met with. They categorized them according to political type, economic group, and religious affiliation. Muslims were subdivided into Sunni, Shiite, and, interestingly, “Moslem Ladies.”

It was not only the Commissioners who were concerned to represent their work as being objective and truly representative. The Arab leadership who helped organize the Commission’s visit also strived to present themselves in a way to enhance the credibility of their position. Emir Feisal, the main Arab leader in Syria, likewise spoke the language of impressive numbers: he declared to the Commission that he was “authorized to represent [the people] by official documents containing over three hundred thousand signatures.” The Commission tallied over 90,000 signatures on the 1,863 petitions submitted to them by political groups and the central Arab Government, which had organized a large petition campaign.

In addition to petitions, demonstrations were staged throughout Syria and Palestine. The situation of the Arab leadership posed unique challenges, however. They had to prove that their position was representative of the population as a whole, that this was a national population deserving of an independent nation, while at the same time, they had to prevent themselves and their people from coming across as riotous crowds and unrespectable mobs. Arabic news articles from the time reflect a population concerned with proving themselves “civilized,” “mature,” and “intelligent” in front of the commissioners, to prove that they deserved an independent state. As historian James Gelvin has shown, Feisal’s government staged “orderly demonstrations showing their national sentiments and desires.” What this amounted to, then, were quick quiet demonstrations. One description from the period emphasized the importance of regulated emotions in these political performances. An observer describing one of...
the demonstrations in a local newspaper wrote, that it was “perfect... quiet, without tumult, no speeches-yet through its silence the demonstration announced the advancement of the people.” These quiet demonstrations were a physical embodiment of the orderly modernity of the Arab nation, and their status, as deserving an independent nation-state. Presenting their unity in a unified form was required to convince the Commission. “It is imperative that we unite our voices in the call for complete autonomy,” a commentator urged in the pages of *Al-Asima* newspaper, continuing that “this will push the Commission and conference [of the western powers meeting to decide the fate of the former Ottoman Empire] to view our self-sufficiency and suitability for rule, as the nation that succumbs to slavery and humiliation will never earn respect.” Presentation of a unified voice was itself considered to be an index of political worthiness.

The political leadership and others felt themselves compelled to prove their worthiness in these ways partly to refute the well-publicized Article 22 of the League of Nations, which spelled out the League’s new form of colonial power in the shape of Mandatory “tutelage.” Many Arab commentators refused the League’s categorization of the Arabs as “peoples not yet able to stand by themselves under the strenuous conditions of the modern world.”

Khalil Sakakini, a Palestinian nationalist and educator, rejected the logic of the mandate entirely. He reasoned that it was better for the Arabs to organize themselves independently “even if we committed a hundred mistakes every day.” Even if the League insisted that a mandate is necessary to train them into independence, it would come to no good. “If we haven’t learned independence by ourselves then no one can teach us.” He observed presciently: “[Any] great teacher that enters our country will not leave without a fight.”

Emir Feisal thought that the European insistence on placing Greater Syria under a mandatory power was the result of Arabs being “misunderstood” by Europeans. Feisal’s sense of the nature of the western misunderstanding of the Arabs can be gleaned in the ways that information was presented to the Commission. They responded to the hierarchy of development that was institutionalized in the division of A, B, and C Mandates. Although the Arabs were designated “peoples not yet able to stand by themselves,” they (including Syria and Lebanon, Palestine and Transjordan, and Iraq) were at the top of the list in the “A” Mandates, which designated people who were “provisionally recognized as independent, but [would] receiv[e] the advice and assistance of a Mandatory in its administration until such time as it is able to stand alone.” The Palestinians asserted that their people were being educated in America and Europe; they had among them all the professions necessary for producing a functioning country, from farmer to pharmacist, mechanic to mathematician. One delegation to the Commission declared: “We have raised men who are ready with all the necessary tools for independence.”

But there was no convincing some. William Yale, one of the advisers who wrote a dissenting report from King and Crane, doubted the possibility of developing Syrian national spirit. He insisted that “this liberal movement [among the Arabs currently] was too feeble...to rally to their support the ignorant, fanatical masses which are swayed by

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38 Ibid., pg.264.
39 Ibid., pg.20.
40 *Al-Asima*, 24 June 1919, #37, pg. 1 “على أبواب الامتحان” [Signed S.H. [Arabic]]
41 “Thesis submitted in part requirement of Master’s degree by William Yale. 1928. An Analysis of the Syrian-Palestine Situation in 1919: The American Point of View,” pg.6. Yale Papers, Boston University, Box. 7, f.1
42 League of Nations Covenant, Article 22. Available at: http://avalon.law.yale.edu/20th_century/leagcov.asp#art22
43 Although for a critical reassessment of the category “nationalist” as it may, or may not, apply to Sakakini, see Nadim Bawalsa. “Sakakini Defrocked.” *Jerusalem Quarterly* 42 (Summer 2010). Available at: http://www.jerusalemquarterly.org/ViewArticle.aspx?id=343.
44 Khalil Sakakini, *Kadha ana ya dunya*, pg.175.
45 “Notes on a Conversation with Emir Feisal on Feb 13, 1919.” Yale Papers, Boston University, Box 4. F. 2.
46 League of Nations Covenant, Article 22.
47 http://unispal.un.org/UNISPAL.NSF/0/C61B138F4DBB08A0052565D00058EE1B
the Ulemas and the Young Arab Party” (an Arab nationalist group).
49 Those who rejected Article 22 were a “fanatical element” revealing their “profound anti-western feeling.”

Yale’s position ignored or rejected Feisal’s assurances that what the Arabs wanted was a non-sectarian nation-state. Yale did not believe the Arab delegations’ assurances to the Commissioners that minority rights—in this case Christian and Jewish—would be protected.

In interviews with the Commissioners, the Arabs made clear their distinction between interloper Zionists and the indigenous, Jewish residents of Palestine. They asserted that there was strong agreement between the Muslims and Christians in Palestine, in their “inclination” towards justice, and agreement on the fact that the Jews among the national citizens would have their rights as others. “What is incumbent upon them is incumbent upon us,” a delegation told the King-Crane group.

Their reassurances were based in a clear sense of romantic nationalism, common throughout the region.52 This concept of the nation, in which similarity of language, culture, history, and original unity in a defined territory constituted a rightful nation, and specifically their Arab presence since the twelfth century, was considered a most reasonable basis upon which to make their arguments.

The long presence of Arabs in Palestine and their demographic majority was, for these writers, argument enough against the Jewish claim to Palestine as a national home. Jewish demands for rights to the land “based on colonization of the area from a different century” was, in their view, unreasonable, given that “by that logic this would mean that Arabs could claim Spain—or the Romans or Greeks [could] claim anywhere they were.”

Judaism, moreover, was a religion, not a nation.55 They had no “doubt that the civilized world will not permit that which is not reasonable,” and what the Zionists were proposing was not reasonable. “It is impossible to turn the map to what it was before the Flood,” they asserted.

But William Yale, the technical adviser on Southern Syria, was skeptical that there was “any genuine sentiment of nationalism in Syria.” He felt “a distinct note of pan-Arabism and Pan-Islamism.” What stood out for him were the Christians who “were terrified and felt that under the Young Arab regime their lives were in danger. Their only anxiety was protection against their fanatically Moslem neighbors.”

He wrote: “By a clever, well organized and thorough propaganda the Moslems of Palestine and Syria have been united on a program which superficially has every sign of being Syrian nationalism, but which is basically Islamic.”

The emotional enthusiasm that Yale might have read as an index of credible nationalism was missing. In Yale’s view, the demonstrations were too orderly to be taken seriously as sincere expressions of nationalist unity. In a report about the Commission shortly after its conclusion Yale wrote: “the demands and wishes of the Syrians and the form of proclamations, declarations, petitions, etc. were cut and dried to the point of boredom.”

The organized uniformity of the Arabs’ political discourse and demonstrations did not provide enough evidence of true nationalist spirit amongst the people.

50 Yale 1928, pp.6, 7. Yale Papers, Boston University, Box.7, f.1
57 Yale 1928, pg.5.
58 Lybyer Papers: Captain William Yale, Strong National Feeling, about July 1, 1919, pg.114.
59 “Report in detail of Interviews in London.” (Sept. 27th 1919 to Oct. 14th 1919) Yale Papers, Boston University, Box.5, f.4
The fact that the petitions were so uniform, so clear in their requests for independence, indicated to Yale that the masses supported nationalism with no understanding of it. Yale believed nationalism to be “a psychological force.” It depended on people accepting group ideas “as a political philosophy” that “stirs their emotions so profoundly that loyalty to this philosophy becomes the dominant loyalty over-riding… all others.” The coherence of the Syrian petitions and demonstrations, as well as their orderly submission lacked a spontaneity that might have indexed a more convincing, emotion-bound spirit. So while the Arabs, responding to Woodrow Wilson’s statements and the language of the League of Nations, were concentrating on demonstrating their reasonable, civilized nature and organized unity, a more demonstrable display of emotion was being demanded of them to convince others.

It seems unlikely that the colonized could ever get the balance between nationalist enthusiasm and civilized behavior just right.

Although the final report of the King-Crane Commission did reflect what the historical documents indicate was the (at least literate) majority’s demands—recommending that Jewish immigration be limited and the United States accept responsibility for a League of Nations mandate for a single Syrian State under King Emir Feisal be established to include Palestine and Lebanon—Yale’s contrary recommendations followed from his belief that there was not enough Greater Syrian nationalism to sustain a liberal and tolerant state. He called, instead, for the separation of Palestine from Syria for a National Home for the Jewish People under the Mandate of Great Britain, and the separation of Lebanon under a French mandate. Yale’s vision for the Levant was ultimately made a reality, and the King-Crane Report did not influence Wilson nor guide the Great Powers.

The Anglo-American Committee of Inquiry

The concern with keeping emotional expressions in check is a consistent theme in the history of Palestinian political discourse directed to international governance institutions. Another instance appears in records about the Arab preparations for the Anglo-American Committee of Inquiry, which was established by the British and American governments in 1945 in order to review the issue of Jewish immigration to Palestine. In the memoirs of Yousef Sayigh, a Palestinian economist who contributed research for the Palestinian submission to this Commission, he talked about how his contribution was shaped. He had been asked to prepare a report assessing the extent and nature of Arab land holdings.

At the time that Sayigh wrote his paper for the Arab submission to the commission, he only had a BA degree—he later went on to get a PhD in political economics from Johns Hopkins and was a full professor at the American University of Beirut. But at the time, he noted in his memoirs, his English “wasn’t all that good,” so he had a friend edit his paper. Sayigh’s friend, John, “took away all the things that showed anger or emotionalism.” These strong feelings, which he said appeared in his writing, were prompted by his discoveries about the “awful things, about the injustice, the eviction of hundreds of families from the Esdraelon plain [also known as the Jezreel or Zir’een Valley]. Twenty-three villages were evicted.” Sayigh recounts that his friend told him “‘Calm down, calm down, you’re writing for Britishers and for Americans. If they see this you’ll lose the strength of your point.’ So he would go on talking to me until he persuaded me to tone things down here and there.”

In this instance, a Palestinian representative in the 1940s is being encouraged to maintain a rational tone, to make his information palatable and credible to the west. As Ann Stoler has observed in the context of her research on the

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60 Yale Papers, Boston University, Box 5 F.3 – 319 “Reflections on Syrian Nationalism” n.d.
61 Patrick 2011, pg.68.
62 Yusif Sayigh, memoirs forthcoming with American University in Cairo Press.
64 Yusif Sayigh, memoirs forthcoming with American University in Cairo Press.
colonial Dutch East Indies, how emotions of different sorts were expressed and to whom “provided both cultural and legal ‘proof’ of who one was, where one ranked in the colonial order of things.”

Despite Sayigh’s efforts to avoid any expression of anger that might suggest that his facts were not credible or were biased, members on the Anglo-American Committee of Inquiry were mostly unimpressed by the Arab’s case, and by the ways that it was presented. Evan Wilson, a secretary to the American members of the Committee and Palestine desk officer in the US Department of State, wrote that the Arabs’ testimony was badly organized and bespoke their lack of leadership. Echoing Yale’s complaint about the boring uniformity of the petitions submitted to the King-Crane Commission, Wilson dismissed the Arab presentations to the Anglo-American Committee as being “mostly a repetition of the standard Arab argument that Palestine was Arab and the Jews were interlopers.” The fact that the Arabs had based their argument on the principle of self-determination and rejected, as they long had, the validity of the Balfour Declaration and the Mandate was not interpreted as principled and consistent, but “rigid and unimaginative.”

Consistency of argument, again, was not the necessary ingredient of persuasive argument.

And again, what worked against the Palestinian case was their adherence to principle and an inappropriate display of emotion—or, as in Yale’s reactions during the King-Crane Commission, lack of emotion. Although the Commissioners—at least five of whom had pre-existing Zionist sympathies—were largely unmoved by the Arab case, as Evan Wilson admitted, Albert Hourani “did a brilliant job of presenting the Arab side, comparable to Weizmann’s for the Jewish.” But he fell short on sympathy. When one of the Commissioners questioned him on the Arabs’ demand that Jewish immigration to Palestine stop, “he would not agree to the admission of a single additional Jew to Palestine—not even the aged and infirm among the displaced persons.”

As Wilson’s text makes clear, what struck the Committee was “this completely intransigent stand,” rather than Hourani’s argument. Hourani tried to explain that sympathy and humanitarian concern for the displaced Jews of Europe could not be addressed as if they existed in a political vacuum: “it is unhappily impossible to consider the question of immigration simply on humanitarian grounds … The question of immigration into Palestine must be seen in its general political framework.”

But, for a variety of reasons, American President Truman was focused on the suffering of the Jews as a singular and prioritized problem. The report of Earl G. Harrison, who Truman had sent in 1945 to study the condition of displaced persons in Europe had “stirred Truman’s sympathy for the Jews and alerted him to an issue that would arouse the political as well as the humanitarian emotions of the American public.” Truman, who continually expressed compassion for refugees to his Jewish constituency, had urged the American chair of the Anglo-American Committee, Judge Joseph Hutcheson, to produce a report that would recommend “an affirmative program to relieve untold suffering and misery.” Here humanitarianism, usefully defined as “a structure of feeling, a cluster of moral principles, a basis for ethical claims and political strategies, and a call for action,” trumped the Palestinians’ reasoned argument.

65 Stoler 2009, pg.40.
67 Ibid., pg.76.
68 Ibid.
70 Wilson 1979, pg.76.
71 Ibid.
72 Ibid., pg.80.
Palestinians’ attempts to prove themselves credible and worthy of an independent state have continuously entailed the mobilization of a spectrum of forms of evidence, the rational and organized, as well as the emotional. The Mitchell and Goldstone Commissions, the final cases addressed in this paper, provide a telling example of the changing nature of the international community’s ways of understanding — and governing-- the Palestinian-Israeli conflict. These cases suggest that the question of whether Palestinians can meet the ever mutating and unspoken criteria of political judgment, when emotion and cold factual discourse are accepted as evidence in ambivalent, if not contradictory ways, remains an open one.

The Mitchell Commission, officially known as the Sharm El-Sheikh Fact-Finding Committee, released its report on April 30th, 2001, about six months after then US President Clinton called for it at the conclusion of the Middle East Peace Summit at Sharm el-Sheikh. Dispatched just about a month after the second Palestinian intifada began, the purpose of this investigation was to “end the violence, to prevent its recurrence, and to find a path back to the peace process.” It was not to be “a tribunal but [a committee] to find out what happened and prevent recurrence.”

The Goldstone Commission was launched in 2009 by the United Nations in the wake of Israel’s 23-day assault on the Gaza Strip (the so-called “Operation Cast Lead”). This UN Commission, formally known as the United Nations Fact Finding Mission on the Gaza Conflict, aimed to investigate the implications of the hostilities for the human rights of the population of Gaza, examining the actions of both sides. Both the Mitchell and Goldstone commissions involved the gathering of, on the one hand, technical and legal evidence, and on the other hand, hearing personal stories of violence and victimhood. In the case of the Mitchell Commission, this involved receiving multiple written submissions explaining the events of the second intifada and their causes—from both the Israeli government and the PLO. Their work also included multiple visits to Israel-Palestine, during which commission staff, and the commissioners themselves, were taken on field visits to hear from political representatives and victims of violence among both Palestinians and Israelis. This included people who the Israeli Ministry of Foreign Affairs described as “victims of terrorism,” as well as Palestinian families of those killed by Israeli forces, Palestinians whose businesses were destroyed by occupation measures, and farmers whose trees had been uprooted by settlers, among others.

Even in the descriptions of their work, some American staff of the Mitchell Commission themselves recognized the different effects and weight of the various forms of evidence, placing this evidence on a spectrum from “the rational to the emotional.” On each of these levels, it was the form of the presentation that left more of an impression than the substance of what was said and being argued, at least as they recounted the commission’s activities more than a decade later in conversations with me.

As one American on the Mitchell Commission investigative team told me: “It was fairly straightforward to receive, and listen, and acknowledge [the Palestinians’] pain and suffering, and thank them for their contribution without pouring through the evidence.” He said he “took [written] submissions with a grain of salt” since he “knew what could be expected out of both party submissions. [There were] no new arguments that we hadn’t already heard.” The painstaking legal submissions that the Negotiations Support Unit (NSU) of the PLO presented were considered in a pro-forma way. Even though what the Palestinians thought they were doing was making sure, as one of the NSU staff told me, that “all the evidence [was] on the table. With as much data, facts, and first hand evidence as possible,” they recognized it was a “problem that the Palestinian narrative has become so well known it becomes a drone, monotonous.” The commission staff likewise understood these reports, which the Palestinian staff approached as if they were part of presenting to “a criminal inquiry,” to be like legal briefs. The Palestinians rested their case heavily on the Fourth Geneva Convention, which Palestinian human rights activists have been consistently referring to in their arguments since Al-Haq, the first Palestinian human rights NGO, attempted to mobilize international human rights and humanitarian law to challenge Israel’s occupation using the purportedly non-emotional, universal language...
of law that they perceived could be a source of neutral authority transcending national and political boundaries. 77 That the NSU presented their case in an organized, professional way, “like a legal case” was deemed by the Mitchell commission staff to be effective. They appreciated the Palestinians’ professionalism, and noted that their efforts were more organized than those of the Israelis. This left a favorable impression with the group to the benefit of the Palestinian case.

But despite being impressed with the systematic nature of the Palestinian presentation, the submissions were also just “cold dry paper.” “We needed to understand,” one of the American staff told me. “We needed, to some extent, to walk in their shoes.” And the Palestinians organizing their field visits sought to allow the commissioners to do just this.

These visits could be, as a commission staffer told me, “interesting less for what they said” and “more for the atmospherics.” Visits to Palestinians elicited sympathetic reactions, such as one visit to a Palestinian farmer who described what had happened to his family’s olive grove. Israeli settlers had been chopping down hundreds of their trees. This struck the commission staffer as a “spiteful act.” He interpreted it as a message from the Israeli settlers that said “I’m not going to kill you but I’m going to hurt you. I’m not going to kill your family, but I’m going to make sure you regret being here.” The commission staffer remembered that this had a big effect because it was so spiteful. This visit, which the American recounted to me with a frown, helped him realize that “it wasn’t just Israeli forces against terrorist groups. It was Israeli citizens against Palestinian citizens.”

For the American staff on the Commission, the authentic testimony and emotional impact of non-professional, non-politicians convinced them the most. One of them said: “It didn’t seem like you were talking to a professional communicator who has an agenda. These are people who had families and shops and this is what they had experienced.” However, one staff member found it “unusual” when a Palestinian victim did seem like a professional communicator, when she went into a “lengthy rhetorical exposition about occupation,” which gave him the impression that her testimony was rehearsed. Although he said he did not find this off-putting, he read the lack of spontaneity and the political nature of her testimony, which was contrary to what he would have expected from a grieving parent, in a clearly somewhat negative way.

Relying on their “affective discernment,”78 the commission staff thought that it was the apolitical, personal stories that they could believe. What they recalled twelve years later when they spoke to me were these emotion-laden experiences in which affect did not seem too socialized:79 seeing the large bullet hole in a little girl’s bedroom, receiving a bag-full of shells from distressed parents. These were moments of emotional recognition and understanding, what Lauren Berlant calls “sentimentality – when emotions communicate authenticity that enables identification and solidarity among strangers.”80 It was not Hanan Ashrawi’s reasoned discourse about the history of the Israeli occupation, the populist street-leader’s recourse to democratic principles in justifying his right to resist the occupation, nor the requirements of international law presented in the PLO written submissions that impressed them. Even though the Palestinian lawyers surprised and impressed the commission staff with their systematic, organized, and professionally presented legal arguments, in the end, what persuaded the Americans most was the evidence gathered in another register. The empathy-inducing interactions with regular people persuaded them, as did the negative emotions of spite and “vindictiveness” displayed by the Israeli settlers, or the emotional manipulations, and therefore suspect testimony, of professional politicians.

80 Najai et. al. 2008.
The impact of these testimonies is reflected in the Mitchell Commission’s report, which observed that “[f]ear, hate, anger, and frustration have risen on both sides,” The report, which outlined steps to rebuild a “culture of peace,” including the freezing of settlement building, referred to the “emotions generated by the many recent deaths and funerals” that contributed to maintaining “the cycle of violence.” It also pointed to the “humiliation and frustration that Palestinians must endure” under occupation, and chastised the Palestinians for not comprehending “the extent to which terrorism creates fear among the Israeli people and undermines their belief in the possibility of co-existence.” From their outsider perspective they could see both sides of the story, sympathize with all victims, and cajole Palestinians and Israelis to sympathize with one another too. In one of the commission staff’s view, it was crucial to “understand as thoroughly as possible their respective narratives.” Not unlike a good anthropologist, he said he endeavored to “really listen carefully” and “put it in context of how people are understanding the meaning of these things” and understand “how people are processing these events” beyond the “sterile” facts. In the estimation of this staffer, it was only on this sympathetic basis that they could make recommendations and stop the violence.

The Mitchell Commission report could be read as an apparently even-handed account, as it summarized both the Palestinian and Israeli perspectives as they were presented. The report and staff appeared balanced in expressing sympathy for the victims of both sides. In focusing on the emotional problems of “anger, fear, and mistrust.” However, the report does not underscore the basic political injustice of the Israeli occupation, the illegality of Israeli settlements, or Israel’s violations of international human rights and humanitarian law. As political analyst Mouin Rabbani observed, “one thing the Mitchell Committee did not do was find facts... One searches the report in vain for relevant information on casualties, weaponry, the forces using them, the division of the territories in question, the applicable conventions or even the Israeli-Palestinian agreements that are in dispute. Absent such information, the report conveys the impression that the Committee was investigating a confrontation between equal forces, each equally responsible for the ‘violence.'” The report recognized the “humiliation and frustration” that the Palestinians experience under occupation, acknowledged and even sympathized with the sufferings of victims. But the fundamental problem of sovereignty and control, freedom and oppression, the nonexistent justifications for those currently in power—in this case the United States and Israel—are not questioned.

The Goldstone Commission

Justice Richard Goldstone said “No written words can by themselves convey human stories the way people can do it in their own voice and words.” Similar to the Mitchell Commission, an important dimension of the Goldstone Commission was the airing of public testimony by regular people—referred to as victims—who lived through Operation Cast Lead. But this Commission publicized these testimonies much more volubly, making them a predominant feature of the investigative process and circulation of the report. This was the first UN fact-finding commission to involve public hearings. In all, “the Mission heard close to 40 testimonies during the public hearings …, many from victims who had lost members of their families.” Goldstone, who said they were “fully aware of the pain to victims of coming here and recanting their sufferings” thanked the courageous women and men who had come forward to share their experiences. In response to their testimony Goldstone himself testified on behalf of the Commissioners: “As fellow human beings we would like to put on record how deeply moved we were by many of the accounts of profound suffering and grief we have heard in the last two days.” According to the Mission report, “The aim of holding these public hearings … was to show the human side of the suffering; to give a voice to the victims so that they are not lost among statistics.”

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82 The mission conducted 188 interviews and reviewed more than 300 reports, 10,000 pages of documents, 30 videos and 1,200 photographs.
83 http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/factfindingmission.htm
It is not clear what Goldstone and his team intended to achieve by recognizing that there is trauma and sympathizing with the victims’ plight, by giving a public voice to it, and putting a human face to the statistics. In the report they noted: "The Mission received expressions of gratitude from participants, as well as members of the affected communities, for having provided an opportunity to speak publicly of their experiences.\textsuperscript{85}\textsuperscript{85} And one of the other commissioners insisted that they had tried [their] best to, ‘portray the [victims’] plight from the stories that we have heard.’\textsuperscript{86}\textsuperscript{86} What was important, she said was that nothing ‘affect their right to be heard.’\textsuperscript{86}\textsuperscript{86}

As Noura Erekat has noted: “the [Goldstone] Report never had the potential to deliver on its promises of justice and accountability absent significant political will among states.”\textsuperscript{87}\textsuperscript{87} So what were those human stories of suffering meant to provide? In opening the first public session, Goldstone stated: “The aim is to allow victims and survivors on all sides to speak for themselves to the international community. In that way we hope that their concerns will be better understood by a worldwide audience.”\textsuperscript{88}\textsuperscript{88} Goldstone said: “The purpose of the public hearings in Gaza and Geneva is to show the faces and broadcast the voices of victims – all of the victims.”\textsuperscript{89}\textsuperscript{89} Palestinians could be heard not as political subjects with arguments about why the siege on the Gaza Strip is unlawful and inhumane. Their right was not that of a people deserving independence, but of a people who could be heard as victims.

Recognizing the unruly emotions that could be incited, Goldstone urged the Palestinian public in Gaza to observe decorum and maintain composure.\textsuperscript{90}\textsuperscript{90} This may have been nothing more than a pragmatic comment, akin to asking audiences to turn their cell phones off before a performance. Or perhaps Goldstone was concerned that the wrong kind of emotional display, disturbing outbursts, could disrupt the tight time schedule, or unsettle those who would otherwise sympathize with the victims being called to speak.

But this was also an effort to “manage the affective potentials of public performance”\textsuperscript{91}\textsuperscript{91}, and school the Palestinians into a political civilization of a certain sort, one in which the “moral force”\textsuperscript{92}\textsuperscript{92} of a collective does not spill beyond the bounds of orderly fact-finding and legal judgment. These efforts to avoid too much what Durkheim might call “collective effervescence” were bolstered by Goldstone’s positive reinforcement of Palestinians’ adherence to norms of public affect, when he praised “the dignity and composure of so many witnesses in very difficult circumstances.”\textsuperscript{93}\textsuperscript{93} Here Palestinians’ emotional calibrations finally fit with the requirements of the standard bearers, the commissioners sitting in judgment. As anthropological analysis of other contexts of ritualized wailing avers, it is in this correct, and correctly timed, expression of sorrow that the “acceptability of the social actor emerges.”\textsuperscript{94}\textsuperscript{94} Distinct from the purpose of ceremonial weeping, which Radcliffe-Brown believed was “to affirm the existence of a social bond between two or more persons,” the testimony of victims in Gaza is an affirmation of their subjection to the discipline of the United Nations. The process of “signaling who one is” as an appropriate member of the social order entails the performance of correctly controlled affect.\textsuperscript{96}\textsuperscript{96}

\textsuperscript{85} Available at: http://www2.ohchr.org/english/bodies/hrcouncil/specialsession/9/docs/UNFFMGC_Report.pdf
\textsuperscript{86} Unofficial transcript of 29 September 2009 press conference at the Palais des Nations in Geneva by members of the UN Fact Finding Mission on the Gaza Conflict - Justice Richard Goldstone, Hina Jilani, Professor Christine Chinkin, Colonel Desmond Travers
\textsuperscript{87} http://www.jadaliyya.com/pages/index/1569/review-roundtable-part-ii_goldstone-and-accountability
\textsuperscript{88} United Nations Fact Finding Mission on the Gaza Conflict; Public hearings – Gaza City, Morning Session of 28 June 2009, Unofficial Transcript.
\textsuperscript{90} Goldstone’s full statement: “We understand full well that many of the events about which we will be told are likely to cause emotion, frustration and even anger on the part of the public of Gaza who are watching and listening to the proceedings. We understand that. But taking that into account, we would earnestly and respectfully request that the public in the conference room observe decorum and maintain composure and not interrupt in any way the ability to watch the proceedings.”
\textsuperscript{95} Ibid. This critique of the Goldstone Commission does not discount, as legal scholar Richard Falk has observed, that the Goldstone Report achieved “remarkable salience” and has “touched the raw nerve of global moral and political consciousness.”Richard Falk, ‘The Goldstone Report: Ordinary Text, Extraordinary Event’, Global Governance 16 (2010): 173-190
Conclusion

Perhaps Richard Goldstone had no intention of giving anything more than Henry King—of the King-Crane Commission—thought his investigation provided at the end of their journey to Greater Syria: “I think our trip has been very worthwhile, and that we have gotten results that could not possibly have been gotten without such a commission.” He said, “The people will certainly feel that they have been consulted and cannot help having a somewhat different attitude on that account.” That the people feel that they have been consulted. A follow-up investigation to the Goldstone Commission insisted two years later that the governments involved must be more transparent in their own investigative procedures, in order to “help build the confidence of victims …[to] fost[er] a sense that credible and genuine investigations are taking place.” The performance of civic discourse, the performance of representation, that Palestinians were given the opportunity to represent themselves is justified as an end in itself.

For almost every commission that has summoned evidence from Palestinians, they have organised their arguments, corralled historical facts, collated statistics, presented photographic proof and offered eye-witness testimony. In these repeated efforts, they have tried to present their political demands for liberation in ways that those with final say over their fate might hear and understand their position. All of these commissions offered languages of political legitimacy and legitimization for Palestinians to appropriate, maneuver within, and through which to present arguments. There is a consistent modus operandi in the way that Palestinians have tried to do this. In the unified, and calm, nationalist collectivity presented to the King-Crane commission, Palestinians conformed to the reigning vision of the world as a League of Nations. And they continued to submit petitions to that body via the Permanent Mandates Commission using a “legal textualism” that invoked rights granted by a standing legal system. They manoeuvred through the reasonable, law-abiding and law-demanding language. Palestine’s occupiers had fastidiously underwritten their structure of colonial domination with an edifice of military rules and an entire legal system. And, practicing what would seem to be the requisite sensibilities toward political argument, through reasoned discourse and by inducing empathy, Palestinians presented their case in the legal language and sympathetic interactions convened by the Mitchell and Goldstone Commissions. There, emotions of carefully specified types—not melodramatic or apparently manipulative, only the unpractised, seemingly spontaneous testimony of victims—were invited. All were practices of proving political worthiness, demonstrating in the very form of commission interactions their political subjectivities: Nationally coherent, law abiding, sympathetically human. And yet they are farther away from having an independent state than ever.

96 Howard 1963, pg.154.
98 See Natasha Wheatley, 2013.