

NEW DELHI

BLINKEN URGES INDIA TO CO-OPERATE ON NIJJAR DEATH PROBE

TOM BLACKWELL

As a private citizen, Justice Ivan Rand was not the most prominent of people different than him.

The white, Anglo-Saxon Protestant refused for over 30 years to have anything to do with his sister's Catholic, Ascadian husband. While dean of the Western University law school, he rejected a candidate for the faculty because, he felt, London, Ont., didn't want "too many Jews."

As a judge on the newly minted Supreme Court of Canada, Rand, pictured, was something else.

His groundbreaking rulings in the 1940s and 50s defended the rights of Japanese-Canadians interned during the Second World War, refused a Quebec persecution of the Jehovah's Witnesses and bolstered the right of Communists to free speech.

But most striking in light of today's headlines is his legacy forgotten within the historic United Nations committee, tasked in 1947 with drafting a blueprint for the future of Palestine.

Led in large part by Rand, the 11-man group's majority called for the partition of the contested territory into Jewish and Arab states, an idea seen as a Zionist victory at the time but which is still the policy of numerous countries and even the Palestinian Authority. The UN General Assembly rejected the panel's advice, though what followed has been one of the world's most intractable, bloody conflicts.

"They spent less than 40 days on their mission, but their work radically changed the course of history for the Jewish nation and for the Jewish and Arab inhabitants of Palestine," wrote Israeli historian Elad Ben-Dror in a 2021 book on the topic.

Rand was by all accounts key to it all. "The one who tipped the scales was the Canadian representative," wrote Uri Milstein, another Israeli historian.

With a new war raging over the Gaza Strip, Israel's opponents are again questioning its right to exist — the central issue Rand and his 10 international colleagues wrestled with 76 years ago. While Hamas calls in its charter for the obliteration of the Jewish state, even some Canadian and other Western critics have recently championed Palestinian freedom "from the river to the sea," often viewed as a call for a single Palestinian state over all the territories now exist.

Academics, meanwhile, continue to debate whether Rand's UN Special Committee on Palestine (UNSCOP) was a pro-Zionist foregone conclusion, or a balanced examination of a turbulent, complex situation.

Ben-Dror suggests Rand himself had Zionist leanings. But lawyer William Kaplan, whose biography, *Canadian Maynard*, paints a certain portrait of the judge, says the evidence suggests he harboured no biases going into the assignment and indeed knew little about the situation at all.

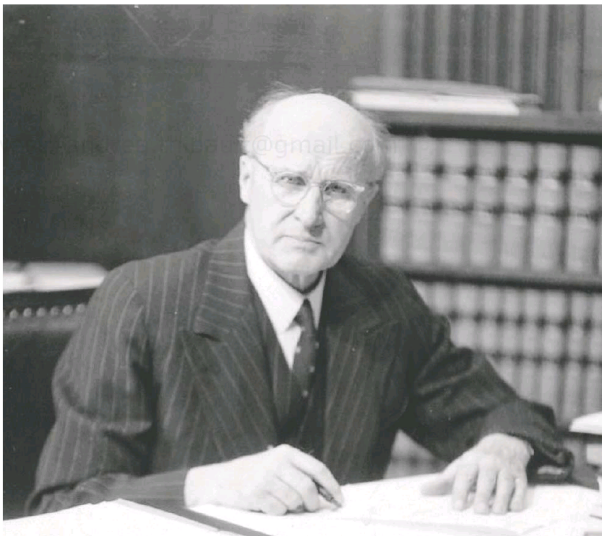
"He went there as a fiercely independent judge of the Supreme Court of Canada to find a solution to this intractable problem," Kaplan said in an interview.

Rand's journey to the heart of global politics was a somewhat circuitous one. The son of a New Brunswick railway mechanic, he eventually attended Harvard Law School, practised in small-town Alberta, later headed the CN rail legal department and had a short stint as New Brunswick attorney general. He was named in 1943 to the Supreme Court,

The U.S. Secretary of State urged India again Friday to assist Canada's investigation into the killing of Hardeep Singh Nijjar, something Prime Minister Justin Trudeau says his government has been calling for "from the very beginning." Antony Blinken wrapped up a nine-day trip with a final stop in New Delhi, where he sat down with senior Indian officials, including Prime Minister Narendra



Modi. He said he has raised the issue of Nijjar — a Sikh activist who was gunned down in June outside a gurdwara in Surrey, B.C. — with his Indian counterparts on multiple occasions, including on Friday. "These are two of our closest friends and partners, and of course we want to see them resolving any differences or disputes that they have as a friend of both," Blinken said. *The Canadian Press*



Judge Ivan C. Rand helped lead a UN committee in 1947 that recommended the partition of then-Palestine into two.

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The unlikely Canadian who helped create Israel

which had only just taken over as Canada's court of final resort from the U.K.'s Judicial Committee of the Privy Council.

Rand made his mark there, writing a string of civil liberties decisions decades before fundamental human rights were written into Canada's Constitution.

In arbitrating an end to a heated strike at the Ford plant in Windsor, Ont., he also introduced a key labour-law principle still known as the Rand formula, requiring employees in most unionized workplaces to pay union dues, but not necessarily join their union.

A man of great charisma Rand evidently was not. According to Kaplan's book, American Ralph Bunche, a top UN official, described the Canadian as "an elderly, crotchety gentleman." Rand "carried himself with an almost melancholy air, a bit stooped, as if always meditating an abstruse point of the law," wrote Jorge Garcia-Granados, Guatemala's UNSCOP representative.

Not uncommon for the time, Rand was an "intolerant bigot" about French-Canadians, Catholics, Jews and other non-Anglos, Kaplan wrote. But the author stresses the judge was a man of contradictions whose towering accomplishments easily outweighed the flaws.

His moment of international renown came when the British government worried of oversteering Palestine under the "mandate" it was awarded after the First World War, and asked the fledgling UN to come up with an alternate solution.

Britain's 1917 Balfour Declaration — promising Jews a "national home" in Palestine without impinging on the rights of its existing occu-

JUDGE "TIPPED THE SCALES" FOR PARTITION OF JEWISH, PALESTINIAN LANDS



Young Jews in Tel Aviv celebrate the proclamation of a new state of Israel on May 14, 1948.

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pants — had been endorsed by the League of Nations in 1922. Hundreds of thousands of Jews — many anxious to escape the persecution they'd faced for centuries in Europe — made their way to the region, part of the Zionist movement. But by the end of the Second World War, British forces were se-

verely limiting Jewish immigration, as the Arabs who had lived in Palestine for centuries angrily opposed any further influx.

The UN created the special committee to investigate a way out of the volatile situation, naming Canada as a member along with Australia, Czechoslovakia, Gua-

temala, Holland, India, Iran, Peru, Sweden, Uruguay and Yugoslavia. The great powers kept to the sidelines.

Their task was to weigh two discordant viewpoints. Jews considered Palestine to be their ancient homeland, needed especially to settle many of the Holocaust survivors living in miserable conditions in European displaced-persons camps.

Countries such as Canada and the U.S. — riven by antisemitism — refused to accept many of those refugees, even after the murder of six million Jews by the Nazis. The Arabs cited the fact they had lived in Palestine for hundreds of years and — after being ruled by the Ottoman Empire for centuries — had a right finally to their own sovereign state encompassing the whole area.

But the committee had a problem in balancing the duelling perspectives. Convinced the panel was predisposed to the Zionist side, Palestinian leaders and most Arab countries boycotted the committee and its investigation.

In the vacuum left by the absent Arab representatives, Jewish advocates worked vigorously to lobby the international group, while their intelligence operatives kept a covert eye on committee members.

Rand was briefed before heading overseas by Elizabeth MacCallum, a pro-Arab official of the then External Affairs Department, writes Kaplan in *Canadian Maverick*.

The Mackenzie King government publicly supported Zionism, but behind the scenes had no firm position, partly because of its eagerness to support Britain, which opposed partition, says University of Calgary historian David Bercuson, author of a book on Canada's

role in the Palestine question. To the extent ordinary Canadians cared about the conflict at all, he says, many soured on the Zionists after the Irgun, an extremist Jewish militant group, bombed the British mandate's headquarters in 1946, killing 91 people.

Regardless, Rand insisted on having free rein and appeared to take on the job with an open mind, said Bercuson.

As the committee made its way across Palestine, David Horowitz, one of the two Jewish liaison officers, focused his attention on Rand and by most accounts won him over. The Canadian grew to admire Jewish development of the arid land — a success often referred to as "making the desert bloom" — empathized with survivors of the Holocaust and was underwhelmed by the less-developed and less-progressive Arab communities the committee visited, experts suggest.

"He deeply felt the plight of the Jewish," says Israeli historian Ben-Dror. "Rand signed on to the entire Zionist narrative."

When the committee returned to Geneva, they had a month to come up with recommendations but struggled to reach a consensus. Iran, India and Yugoslavia issued a minority report proposing a single federal state with Arab and Jewish parts.

The majority report spearheaded by Rand and Sweden's Emil Sandström called for Palestine to be divided into two states, one Jewish and one Arab, with the Jews receiving the largest chunk of territory, and an economic union between the two countries. Jerusalem would fall under international control. Though the Jewish population was half that of the Arab community, the report reasoned the Jewish state needed room to accommodate more of the Holocaust survivors existing in DP camps.

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But Ben-Dror contends the committee arrived in Palestine evenly split between supporters of the Zionists and the Palestinians, giving each side "equal potential for tipping the committee in their direction."

If the goal of the whole exercise was to fashion a stable future for the Holy Land, of course, the opposite transpired.

When the British pulled out of Palestine in May 1948, Israel declared independence. A day later, Egypt, Jordan, Syria and Iraq attacked the new country, launching the first of three Arab-Israeli wars over the next 25 years.

As of 2021, tens of thousands of Arabs displaced by the 1948 fighting, Palestinians remember the episode as the Nakba — Arabic for catastro-

phic. The Palestinian Arab state proposed by Canada's Rand and his colleagues has never come to fruition.

Special to National Post