

**The Palestinian Experts Conference on  
Final Status Issues**

*Papers and Proceedings.*

**Palestine  
September 16-18, 1999**

**MIFTAH: The Palestinian Initiative for the Promotion  
of  
Global Dialogue and Democracy**

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الرقم  
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نتمتع بالثقة والاحترام من قبل المبادرة الفلسطينية لتفعيل الحوار العالمي والديمقراطي  
"مفتاح"، من قبل الخبراء والرسميين من خلال "مؤتمر الخبراء الفلسطينيين لعقباتنا  
الحل الأمثل". جهودنا صياغة الإجماع الوطني المطلوب والمشاركة الكاملة  
في مسار قضيتنا ولتقديم موقفاً واضحاً ونهضاً على منعطف صعب من عملية السلام.  
ونتمنى أن تتواصل مثل هذه المبادرات باتجاه حشد إمكانات وكفاءات  
في دعم شعبنا الفلسطيني في المربع الإنشائي من أجل دعم قضيتنا الوطنية العادلة.

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**Palestine Liberation Organization  
Palestine National Authority  
Office of the President**

We greatly appreciate the undertaking by The Palestinian Initiative for the Promotion of Global Dialogue and Democracy, "MIFTAH", to gather experts and officials to participate in The Palestinian Experts' Conference on the Issues of Permanent Status. This contribution towards achieving the required national consensus and full participation in our cause will strengthen our position as we embark on a critical juncture in the peace process. We hope that such initiatives continue to mobilize potential and expertise in supporting Palestinian rights in the negotiation process, and in the service of our just national cause.

Yasser Arafat  
March 9, 2000



## **Acknowledgment**

The Palestinian Initiative for the Promotion of Global Dialogue and Democracy - MIFTAH is honored to present this book, which is the outcome of several months of continuous effort in coordination with a group of experts, officials, and other parties. The Palestinian Experts' Conference on the Issues of Permanent Status, held on 16-18 September 1999, took place during a very sensitive, important and complex phase in the peace process as permanent status negotiations were launched. The key goal of the conference was, therefore, to achieve a national consensus on the fundamental issues under discussion.

The Conference also merited significant importance due to the interest of His Excellency President Yasser Arafat, the President of the State of Palestine, who generously sponsored the event.

To ensure that the Conference was successful, the organizers coordinated and liaised with several official and popular parties. Members of the PLO Executive Committee, the Cabinet, the Palestinian National Council, representatives of various political parties, Arab and foreign ambassadors, consuls general, and all invited guests actively participated in the Conference proceedings. The local, Arab and foreign media also played a critical role through their coverage of the Conference.

Diligent efforts by all MIFTAH employees and the valuable input of the Board of Trustees contributed significantly to the achievements of the Conference.

The conference was supported by the Swiss Peace Institute, the Swiss

Office for Cooperation, and the UNDP.

To all those referred to above, we extend our deepest gratitude and appreciation. We hope that this work will be of assistance to our negotiations delegation in the political struggle that is taking place under complex local, Arab, and regional conditions. We must all continue to work together towards the achievement of our full national goals.

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## **Introduction**

The issues outlined on the agenda of the final-status negotiations constitute the very core of the Palestinian cause and the embodiment of the Palestinian-Israeli conflict, and are the critical elements of the settlement process.

MIFTAH - The Palestinian Initiative for the Promotion of Global Dialogue and Democracy embarked on a project comprising several integrated components as a qualitative response to the importance of this phase and its related issues. This reflects our commitment to the principle of active participation in the formulation of a national consensus, and to our conviction of the need for thorough preparation for political negotiations on these issues.

MIFTAH formed a planning committee comprised of Palestinian experts from both the homeland and overseas. Nine specialist sub-committees worked for over five months to produce scientific and technical papers and studies, and to prepare information documents and speeches. These were presented in a Conference held on September 17-18, 1999 in al-Bireh, Ramallah, under the patronage of His Excellency President Yasser Arafat.

The Conference participants included a select group of experts, researchers, decision-makers and representatives from Palestinian civil society and popular institutions. MIFTAH adopted this formula on the principle that the decision-making process should be integrative and homogenous with the participation of different sectors, and that it should be subject to scrutiny, discussion, and public debate.

The papers prepared by the specialist committees were submitted at the Conference. Following the presentation of each paper, intensive

and comprehensive discussions were held on the issues raised, and the specific concepts were referred to the general framework and context. For quality assurance purposes, all speeches and papers were later reviewed. The committee coordinators re-drafted the papers to reflect deliberations and proposals occurring during the Conference, and to take into consideration the common factors and agreements that added intellectual, qualitative, and political dimensions to the proceedings.

MIFTAH is pleased to present the culmination of these efforts in this book in the hopes that it expresses the consensus of the Palestinian people and will therefore serve as leverage for the Palestinian delegation in the negotiation process.

MIFTAH wants this modest contribution to be a part of an integrative Palestinian approach evolved from the will of the people and culminating in scientific analysis and application to contribute to historic decision-making that maintains the rights and land of the Palestinian people and moves towards a better future.

Legitimacy, justice and honest rule cannot be achieved without hard work and the participation of relevant expertise, combined with an unlimited willingness to contribute.

MIFTAH would like to express its appreciation and gratitude to all those involved, whether in terms of effort, time, intellectual contribution, or support, as we believe that all these factors constitute part of formulating and defining the future.

Work is still underway to plan papers, meetings and future conferences as the challenge remains great and the efforts and results must equal the scope of our responsibility.

***The General Secretary***  
***Dr. Hanan Ashrawi***

# The Opening Speech

*Hanan Ashrawi*

On behalf of the Board of Trustees and employees of MIFTAH, The Palestinian Initiative for the Promotion of Global Dialogue and Democracy, I extend a warm welcome to you all at the Palestinian Experts' Conference on Permanent Status Issues and greatly appreciate your participation and attendance.

The human being creates history, and the collective will imposes a space in time, place and consciousness for a people and a land who possess the right to exist, survive, and prosper. As we are about to embark on the third millennium with all its concepts and universal and humanitarian relations, we carry with us an oppressive heritage that extends from the past, but we also retain a promise for a better future if we act effectively in formulating it.

The final-status negotiations may be considered both the means and the test at the same time; either we acquit history of a state of oppression and denial or we reinforce the ideologies and realities of the victims.

The issues at hand in the agenda of the final-status work constitute the critical future of the Palestinian cause in terms of people, land and rights; therefore, the manner in which those issues are dealt with must be equal to the level and nature of that challenge.

This Conference represents a platform for the various tasks and projects adopted by MIFTAH in the framework of the final status to contribute to achieving the highest possible Palestinian vision and performance in the final-status negotiations.

The Institute believed it necessary to mobilize the potential and expertise of civil society institutions to work within a comprehensive and homogenous context, in participation with official efforts and the decision-making process. Interaction with Palestinian public opinion is required to conduct an honest and responsible dialogue in which all sectors of our society are involved, with the aim of achieving national consensus and active participation in our cause as we embark on a critical juncture in the peace process.

A number of specialist committees of experts and researchers were created in the various fields. These committees began meetings from the beginning of last April and drafted the papers that will be presented during the next two days of deliberations, together with several specialized workshops. These committees had access to a database and reliable factual information; some of this has been published as briefing documents on the issues and will be used in the public and general dialogues accompanying the negotiation process. Following the discussions of the next two days, the papers will be redrafted in preparation for publication and the strategic papers will be submitted to the relevant parties in the forthcoming negotiations.

The specialist committees worked from a unified reference and integrative concept of conflict resolution based on justice, comprehensiveness and continuity in order to guarantee prosperity, stability, and security for all people in the region.

In line with the approved agenda of critical issues to be negotiated – Jerusalem, refugees, settlements, security arrangements, borders, relations with neighboring countries, and water – an integrative approach was adopted. Despite each issue being unique, any strategy for dealing

with one issue must be harmonious with the others and must be placed firmly within a general framework that unifies all within a common reference. In addition, we must actively avoid fragmentation or dealing with specifics. There must be no merger or transfer of any issues of the interim phase agreements with issues of the final status. We must also prohibit any attempts at concessions or disproportional bargaining between secondary matters and the core issues. We know that the Israeli government has stated its intent to use such an approach following the declaration of the launch of the final-status negotiations, as it wants to delay discussion on the issues of Jerusalem and Palestinian refugees.

The constant and binding reference remains the international legitimacy resolutions, international conventions, international humanitarian law and all other treaties and conventions that grant basic rights and freedoms to protect people, groups, individuals and their rights. We must therefore forcefully confront any U.S. and Israeli attempts to preempt the negotiations by taking unilateral initiatives through the abolishment or exclusion of any of the UN resolutions or international treaties of the Fourth Geneva Convention. We are fully aware that there are no legal grounds with which to annul any UN resolutions simply due to the passage of time.

MIFTAH, The Palestinian Initiative for the Promotion of Global Dialogue and Democracy, envisions the achievement of a qualitative Palestinian strategy for the final-status negotiations. This will be represented by an effective negotiating delegation capable of adhering to the national constants and to the protection of the historical rights of our people, with a group of experts providing the most accurate information, facts, and legal advice. This team can contribute towards the outline of options and submission of recommendations and will iden-

tify the ramifications of any decisions and agreements. We also stress the necessity to separate the implementation of the interim agreements and the negotiations on the final-status issues. These negotiations must be embarked on from the standard baseline of our historical national rights, and whatever public opinion accepts.

The final-status negotiations provide a historic opportunity to activate and upgrade the role of the PLO as a representative framework for all Palestinian people in the Diaspora and in Palestine. This framework could formulate a state of internal peace within an intellectual and political pluralism, and create a solid Palestinian front with Arab roots. This requires progress towards real national unity within a new context that goes beyond factionalism and the quota system, and the achievement of a democratic system based on pluralism and participation. With this in place, we can confront Barak's approach because the permanent status issues affect all Palestinian people wherever they may be located.

MIFTAH sees the issue of Arab coordination as being of the utmost importance in order to engage in final-status negotiations within a unified and coordinated strategy and position. This requires courageous initiatives to settle inter-Arab disputes and to move beyond the prioritizing of individual interests of a particular state over higher national interests in order to focus on the main challenge facing the Arab world. We must present a unified force that can contribute to moving the peace process forward and prevent Israeli exploitation of the various tracks. This obligates adherence to the decisions of the Arab summits and the context of the Arab League. We are all aware that the final-status issues include issues of an Arab dimension that necessitate the full coordination and mobilization of Arab potential to support the Palestinian negotiating position and ensure that no Arab agreements with Israel will impact on Palestinian rights, and vice versa.

The rhetoric required at the local and international levels regarding Arab issues, and particularly the Palestinian cause, must ensure broader participation in the supervision of the peace process.

The role of the United Nations and the international community and their active participation in the peace process, needs to be promoted, in addition to the development of a political role for the European Union in the negotiations. Also, mechanisms for monitoring, accountability and arbitration must be designed so that there can be intervention and sanctions on Israel for any violations.

Finally, I take this opportunity to extend our gratitude and appreciation to His Excellency President Yasser Arafat on his sponsorship of this Conference, based on his belief in integrative participation in this matter. I also thank Mahmoud Abbas (Abu Mazen) for his interaction with us during the conference preparations, as well as the officials, civilians and security staff who supported the concept of the Conference and who helped to prepare for it. I hold in high esteem the distinguished and productive efforts by the team of experts who worked continuously to prepare for this Conference. I also extend my thanks to the staff at MIFTAH who managed the project in terms of coordination and preparation, and who worked as one team with the goal of serving the higher national interest. I extend gratitude to the Swiss Agency for Development and Cooperation and to the United Nations Development Program for sponsoring the Conference. Special thanks also go to Jamil Rabah, the coordinator of the Conference's Committees. I thank Palestinian institutions that offered their services voluntarily, including Al-Ayyam for journalism and publishing, and the Arab media that covered the Conference.

I must affirm that all ideas, statements, and analyses expressed are the viewpoint of individual speakers and cannot be considered as official positions under any circumstances.

*Many thanks.*





# **Proposed Terms of Reference on Permanent Status Negotiations**

*Dr. Hanan Ashrawi*

## **Preamble**

The following framework document attempts to address the substance, conduct, and outcome of negotiations on the resolution of the Palestinian-Israeli conflict. It seeks to guide the process towards the objective of achieving a comprehensive and permanent peace that embodies the principles of justice and legality, and lays the foundations for prosperity, security, and stability for all people of the region.

## **Approach**

The relevant bilateral Palestinian-Israeli agreements stipulate that permanent status negotiations “shall cover remaining issues, including: Jerusalem, refugees, settlements, security arrangements, borders, relations and cooperation with other neighbors, and issues of common interest”. All these issues constitute the mechanisms for achieving a viable and legitimate resolution within an interdependent and integrated approach that maintains the integrity of the process and its objectives.

The outcome of negotiations must not in any way violate the legitimate rights and aspirations of the Palestine people or accommodate short-term expediency at the expense of long-term legitimacy and stability. While each area constitutes a specialized domain in an interdependent reality, it is imperative that the unifying framework be maintained at all times to prevent the irreparable damage of fragmentation and partial solutions at the expense of comprehensiveness and cohesion.

None of the interim phase issues must be carried over into final status talks. All unresolved issues must be settled and the Interim Agreement implemented prior to entering final status.

### **Foundations**

The whole process must be firmly embedded in international legality. The UN Charter provides the essential principles that must govern all stages of the negotiations and must define the outcome itself. All relevant UN resolutions must also form the undisputed body of laws that are uniformly and consistently applicable to all aspects of the peace process. No agreement or position must be adopted if it is inconsistent with the spirit and the letter of these resolutions. The same applies to all aspects of international humanitarian law as well as the charters and covenants pertaining to fundamental rights and liberties.

### **References**

While bearing in mind the Declaration of Principles on the Interim Self-Government Arrangements signed on 13 September 1993, and the subsequent Interim Agreement on the West Bank and the Gaza Strip of 28 September 1995, this document should be guided by the Principles of the United Nations Charter that affirms the inadmissibility of the acquisition of territory by force, and by all relevant Security Council Resolutions, particularly UN Resolutions 181, 194, 242, and 338 and other relevant UN resolutions. These include, in particular, the body of resolutions dealing with refugees, settlement, Jerusalem.

All relevant UN resolutions must be implemented and the “land for peace” equation must be manifested in order to end the Israeli occupation and restore Palestinian land

Furthermore, the de jure applicability of the Hague Convention of 1907 and the Fourth Geneva Convention of 12 August 1949 relative to the protection of persons in time of war must be unquestioned. In addition, all other international resolutions and conventions, including the Universal Declaration of Human Rights and the World Conference on Human Rights (Vienna, 1993) should be affirmed.

All relevant resolutions and declarations adopted by Arab summit meetings and the Arab League must form the binding framework for a comprehensive peace.

Reference should also be made to all European declarations, beginning with the Vienna Declaration up to the Berlin Declaration of March 1999.

The US Letter of Assurances of 1991 and President Clinton's letter of May 1999 form the minimal requirements that should govern the US position. All efforts must be exerted to bring the US to full and active recognition of the Palestinian right to self-determination and to the body of international law and UN resolutions referred to above.

Finally, the terms of reference should reflect the aspirations and legitimate inalienable rights of the Palestinian people, particularly to self-determination, the right of return of all refugees, and the establishment of a Palestinian state with Jerusalem as its capital as stipulated by various resolutions of the Palestinian National Council and by the Palestinian national consensus.

## **Format**

The permanent status format shall not address interim phase issues. The mandate of the final status negotiations should include all the requirements and components for a just and comprehensive peace.

- A separate body must be established to supervise the implementation of previously signed agreement and to resolve any disputes in that area.
- No outstanding issues can be carried over to (or merged with) final status talks.
- These tasks must be protracted to adopt the phased approach or to allow for further fragmentation and/or “tests”.

The objections of comprehensiveness and justice require that emphasis be placed on expanding participation and sponsorship to include all concerned parties. Whereas all permanent status negotiations involve third parties, particularly Arab countries, these parties must also participate officially in their relevant areas and appropriate capacities.

Third parties involved in peace building, sustaining development, stability, and prosperity, including the European Union, Japan, China, Norway, and Canada, must have a political role commensurate with their respective roles and responsibilities. Sponsorship must allow for full and effective sharing of responsibility by all international organizations, primarily the United Nations and the European Union.

## **Speech by PNA Presidential Secretary on behalf of the President**

*Tayyeb Abdul Rahim*

***Dr. Hanan Ashrawi, Ladies and Gentlemen,***

To begin, I would like to convey the greetings of President Yasser Arafat, who unfortunately could not attend due to urgent commitments. I would like to express my appreciation to Ashrawi and the members of the Board of Trustees of the Palestinian Initiative for the Promotion of Global Dialogue and Democracy, “Miftah”, on their initiative to organize this conference of Palestinian experts on the permanent status issues.

A few days ago, we officially embarked on the permanent status negotiations, which means that we need to achieve the broadest national consensus on the principles and constants of the Palestinian position. Also, more than ever, we need the efforts and contributions of our Palestinian experts in all fields and locations.

As the permanent status negotiations are launched, we engage in the critical web of negotiations, in a battle of wills and a war of nerves; we are about to open the most complicated and sensitive chapters that constitute the matrix of the Palestinian cause.

We engage in these negotiations fully aware that we are embarking on a difficult and lengthy confrontation, and realizing that the Israeli side will try to promote and market several ideas that aim to exhaust these negotiations of their core, substance and goal, for the sake of their own

goals and schemes against our people and land.

On this occasion, I would like to affirm that the Palestinian position regarding the permanent status negotiations hinges on the following principles:

1. The key words in our position are the resolutions of international legitimacy. The agreed goal of these negotiations is the implementation of UN Security Council Resolutions 242 and 338.

Those two resolutions do not accommodate two interpretations. In the same way that resolutions were implemented on the Egyptian front, resulting in a full Israeli withdrawal to the borders of June 4<sup>th</sup> 1967, Israel must also withdraw fully from all the Palestinian lands that were occupied in the June 1967 war. This means an end to the Israeli occupation of Jerusalem, the West Bank and Gaza Strip, based on the land for peace formula, so that the Palestinian people can have self-determination and achieve independence, and establish an independent state with Jerusalem as its capital. This also means working to solve the Palestinian refugee cause according to UN General Assembly Resolution 194.

The resolutions of international legitimacy are non-negotiable and irrevocable. The Declaration of Principles signed on September 13, 1993, stipulated that the goal of the peace process is to implement UN Security Council Resolutions 242 and 338, which means full Israeli withdrawal and the dismantling of the settlement infrastructure on Palestinian lands.

2. The conducting of negotiations over the final status issues coincides with implementation of the remaining commitments in the interim phase, as defined in the memo signed on the fourth of this month in Sharm Sheikh, together with the US letter of assurances.

Rejection of any attempt to merge the commitments of the interim

phase with the final-status negotiations must be reiterated. We refuse any transfer of any issue in the interim phase to the final phase, especially the phases of Israeli redeployment from our land and the third phase over which negotiations are soon to start.

We also stress that conducting final status negotiations requires an appropriate environment that cannot be achieved unless there is accurate and honest implementation and an immediate halt to Israeli settlement activities, land confiscation, and measures to Judaize Jerusalem. These measures that try to impose a status quo on the land and predetermine the outcome of the negotiations will destroy these negotiations and amplify the factors of tension and explosiveness in the region.

We understand and work under the inspiration that the final status negotiations are not conducted on the negotiating table alone. Therefore, we in the Palestine Liberation Organization and Palestinian National Authority work to support the negotiations process with all the various elements of power, and to mobilize these to provide the necessary support. We have called for reviving coordination among “countries engaged in the peace process” in order to provide improved forms of cooperation among the various Arab tracks with a common goal of implementation of resolutions of international legitimacy. We are still waiting to see if this call will receive a response. A few hours ago, President Arafat came back from a visit to Jordan as part of ongoing Palestinian efforts of coordination with Arab brothers, especially the countries engaged in the peace process.

Because the struggle does not rest on the negotiations alone, we always stressed the necessity to revive and reactivate the national dialogue and the PLO institution. Therefore we started a series of dialogues among the factions in the homeland and Cairo. We resumed meetings of national dialogue, and we will continue seriously to join all national and Islamic forces and factions at the table of national dialogue.

The final-status negotiations represent a huge historical responsibility in which everybody must participate. Any solution reached must fulfill legitimate Palestinian national rights and obtain the support and approval of the Palestinian people wherever they are located.

Following the return of President Arafat from the US at the end of this month, preparations are taking place to hold a new session for the Palestinian Central Council in order to reinforce the terms of reference and constants of the Palestinian position in the final-status talks, and to reactivate the role of the PLO institutions.

We are also keen to benefit from past experiences and to rectify any mistakes or pitfalls that were detrimental to our performance in the negotiations. We need to equip ourselves with all Palestinian experience, expertise and potential. The effort exerted by MIFTAH in this Conference is an opportunity and an example of the Palestinian experience that can serve in the next negotiations battle.

I must add here that we have a duty as a national authority to move quickly to implement the administrative reform and development needed to eliminate shortcomings in performance, or disorder and confusion wherever they are detected. We also set as a goal the building of a democratic structure that adopts pluralism and respects basic rights such as human rights, freedom of expression, the rule of law, equal opportunities, and the launching of creative initiatives by the forces of Palestinian civil society.

Our people's confidence in and satisfaction with the performance of the authority is a very important factor in our difficult negotiations process.

Once again, I extend to you the greetings and appreciation of President Arafat, and his wishes for the success of the Conference. He told me to convey to you that the recommendations of your conference will be studied and treated with care and attention.



## Speech by Palestinian Legislative Council Speaker

*Ahmad Qrei'*

**Dear Brothers and Sisters,**

I am delighted to start my speech with deep appreciation and gratitude to Dr. Hanan Ashrawi and the Palestinian Initiative for the Promotion of Global Dialogue and Democracy - "MIFTAH", for their initiative to hold this conference, which is devoted to discussing pivotal issues that constitute the major Palestinian burden at this critical phase in the course of the Palestinian cause. These are the issues of the permanent status of the Palestinian-Israeli conflict.

There is no doubt that this meeting, together with its outcomes in terms of scientific papers, and political and intellectual presentations and discussions, will contribute in broadening the data bank and strengthen the basis for an infrastructure for very difficult and complex negotiations. Such negotiations require patience, insight and knowledge, and adherence to national constants on the basis of the broadest popular participation in the forthcoming critical decisions, and the highest possible national consensus on these issues.

This meeting that gathers experts and political expertise must find a mechanism for sustainability in one way or another since the issues at hand are very complex and intertwined. This requires accuracy, and freedom from time, psychological, or various political pressures.

## **Brothers and Sisters,**

Before indulging in the core subject, allow me to record some preliminary comments that should be remembered at all times as we engage in the difficult task of negotiations, which we must fight with spirit armed with optimism in order to achieve maximum Palestinian rights and full rights in the core issues that were postponed to the final-status negotiations.

### **The first comment:**

The interim phase with all its achievements and shortcomings was the outcome of a general political context at all Arab, regional and international levels. It was a destiny imposed on us. We had to deal with the difficult conditions of such a fate under a balance of powers that has never been on our side since the start of the second Gulf War and the collapse of the eastern countries bloc in the last decade of the twentieth century.

The interim phase and its agreements would have proceeded on its natural course if it were not for the previous Likud government, headed by Benjamin Netanyahu, which refrained from implementing the agreements signed. That government showed complete negligence and denial regarding the agreements signed, and jeopardized the whole peace process.

There is no doubt that the first step towards re-launching the peace process lies in the Israeli side honoring its commitments in the interim phase agreements. This includes the Wye River Memorandum signed in the US at the end of last year, and then re-signed in an amended version in Sharm Sheikh.

**The second comment:**

The peace process cannot be achieved in isolation from the laws and provisions that support it and represent its basic political and legal reference. In the absence of these provisions, several problems will undoubtedly arise in the interpretation of the articles and their practical implementation on the ground.

On our side, we have always stressed that these laws and provisions must be based on principles of international legitimacy issued by the UN Commission. Such a position must represent one of the most important constants that we adhere to, and the agreed basis for our future negotiations.

**The third comment:**

The permanent-status negotiations that started a few days ago in relation to the document signed in Sharm Sheikh will be of the utmost importance, and therefore the most sensitive and dangerous. As such, decisions taken regarding the critical issues must be made with calmness, insight, and a sense of historic responsibility. There is no room for improvisation or spontaneity because grasping at any positive decision on an issue will represent a historic achievement for our Palestinian people. Any mistake that might be committed in the process of negotiations, God forbid, will constitute a sin and it will be difficult, if not impossible, to rectify such mistakes. In addition, this phase of negotiations will not allow for the possibility of delay on any of its issues. Courage is needed in taking decisions, but it is courage mixed with patience, insight, wisdom, knowledge, and the ability to rise up to this moment of history for which there will be no forgiveness.

#### **The fourth comment:**

The current disparity in the balance of powers on the ground, represented in the despicable occupation of our people, the contemptuous measures in violation of all agreements, the false and illegitimate fact of settlements, land confiscation, annexation and Judaization, and Jerusalem, must not frighten us or put pressure on us to accept any settlement of our national causes that violates the just national rights of our people, as reinforced and confirmed by the international legitimacy. The current balance of powers is not a destiny and a balance of interests is the most important principle in the settlement formula of the Palestinian-Israeli conflict.

#### **The fifth and final comment:**

We do not live in an island isolated from the world. We live in a world where distances are receding and the borders between countries and people are reducing. Therefore, we must also consider the potential global changes that may reflect on us either positively or negatively, including our own conditions and those of the entire region, but in a manner that does not deprive us of our basic rights.

Based on all of the above, there are several positions and principles that must be stressed and adhered to when conducting negotiations on the final and permanent status since they will have ramifications on the outcome:

- 1- We must adhere to the implementation of all commitments in the interim phase, especially the third redeployment and the return of displaced Palestinians as stipulated in the Oslo Accords.
- 2- We must adhere to the halt of settlement activities and the ongoing Israeli policies of Judaizing Jerusalem prior to embarking on the final-status talks.

- 3- We must reconsider the current approaches and methods of negotiations with all their details.
- 4- We must reinforce, develop and organize internal Palestinian conditions by broadening inter-Palestinian dialogue, and prepare the atmosphere for broadening national participation in decision making.
- 5- We must strengthen forms of coordination and consultation with Arab countries and benefit from their experience in the negotiations alongside adherence to the Palestinian national decision based on national constants.
- 6- We must seek the utmost levels of national consensus on the results of the negotiations. This requires the mobilization of all the potential of the Palestinian people in the negotiations process.

**Dear ladies and gentlemen,**

The issues of final status require several systematic tasks to be researched and studied. There are basic issues that need a firm stand, clear vision, and accurate definition and analysis to form the basis for future comprehensive and just negotiations that fulfill the aspirations of our people and all the people of the region to achieve a just and comprehensive peace. I cannot see the purpose of any permanent status that does not take into consideration these issues, which should be defined, analyzed and identified in a serious and detailed manner to ensure a just and comprehensive settlement acceptable and defensible by the parties to the conflict.

**The First Issue:** To abide by international legitimacy and all the rights it stipulates that reflect the general principles of the UN and the rights of people to self-determination. This is in addition to international resolutions relevant to the permanent and inalienable rights of the Palestinian people on their land, and their right to return to their homeland. The right to end the occupation and to build their independent state with Jerusalem as its capital – a state that enjoys sovereignty on its territories, crossings, air space and borders. This requires acknowledgment of the possibilities resulting from resolutions of international legitimacy pertaining to the Palestinian cause, the resolutions that could be used as the basis for the final status negotiations, especially Resolutions 181, 194, 242 and 338 and the other decisions pertaining to Jerusalem, settlements, and the occupation and its practices.

**The Second Issue:** Close study of current trends to determine shortcomings in the details of occupation law, which has imposed settlements as a status quo by force of occupation. The authorities of this occupation have violated signed agreements, forcing renegotiations over issues previously agreed upon, the latest of which was the signing of the Wye 2 agreements a few days ago in Sharm Sheikh. This is the sixth official signing on matters and details that could have been settled following the Oslo Accords. This situation required the outright rejection of all measures, practices and facts imposed by Israel by force of occupation, such settlements, annexation, Judaization of Jerusalem, control of water resources, and other issues. It also requires non-surrender to the current unequal balance of powers in favor of Israel, and to work as much as possible to strengthen and mobilize our forces to be invested in the negotiations.

**The Third Issue:** We should conduct serious discussion, research and

dialogue regarding the limits of the needed settlement. This must ensure the total elimination of the occupation from Palestinian territories in terms of the illegal settlements, and a definitive solution to the problem of Palestinian refugees based on the principle of their right to return to their homeland. Also, there should be compensation and the return of Jerusalem as the capital of the state of Palestine, since it constitutes the historical capital of the state.

**The Fourth Issue:** There must be total separation between the implementation of the issues of the interim phase and the final-status negotiations. We must pursue with determination the implementation of the commitments of the interim phase according to the concept and text of the basic agreements – the Declaration of Principles and the interim agreements – considering the West Bank and Gaza Strip as one political and geographical unit that must be under the Palestinian control except for the final-status issues. These issues must be defined in terms of area so as to transfer the rest of the land to Palestinian sovereignty.

**The Fifth Issue:** To adhere to the principle of halting settlements, settlement expansion, and the opening of bypass roads at the start of the final-status negotiations on all the Palestinian territories occupied in 1967, including Jerusalem. To prevent all Israeli measures and policies related to the demolition of homes and creation of new facts on the ground, including ongoing violations in Jerusalem, as a basis for creating an atmosphere appropriate for the talks.

**The Sixth Issue:** The agreement concluded must have a clear and accurate text with no ambiguities for interpretation or disagreement in the future. Past experience with the interim agreements has taught us to be aware of this issue.

The boundaries of the desired settlement require us to uphold clear Palestinian goals and fulfill all available potential to achieve a final settlement that can put an end to the bloody conflict witnessed in the region for more than half a century.

Since we are talking about the Palestinian cause with all its complexities from the beginning of this century, and regional and international issues of various political, religious and ideological dimensions, close attention, definition and understanding of these issues is the safest path to collective political, intellectual and creative participation. This is the means to attain a just solution that will be sustainable and can be defended by the parties, allowing future generations to build on what has been achieved by our generation in historic reconciliation and just peace in the region.

### **Ladies and Gentlemen,**

None of us can claim that we have ready-made solutions for the permanent-status issues, but each individual in their capacity as a politician or decision maker should submit ideas to formulate a collective vision that can end the Israeli occupation of Palestinian territories occupied in the June 1967 war.

Thus, the vision that we propose is our participation in presenting ideas to the public with guidelines on the basic issues of the negotiations, and that reflect the broad national goals of the Palestinian people that have been determined over the long years of struggle. All our discussions are only opinions and interpretations because we seek a common basis among the various ideas to achieve a clear political vision in the best interests of our people and the national cause.



The national goals of our people can be summarized in the following manner:

- 1- To end the Israeli occupation of Palestinian land for the past three decades and eliminate all forms of occupation, primarily the military presence and settlement colonies erected on Palestinian land, and all forms that conflict with national sovereignty of the land.
- 2- To establish an independent Palestinian state with sovereignty and full control over its natural resources, security, crossings, water and environment. This state is to be established on a democratic political system that believes in pluralism and the protection of human rights.
- 3- To reiterate that this state is an indispensable part of the Arab nation with full political, economic and security integration, and that the relationship between Palestine and the Arab world is one of historical, geographical and cultural dimensions that cannot be severed.
- 4- To reiterate that Arab Jerusalem is the eternal, political, spiritual and historic capital of the independent Palestinian state.
- 5- The return of all displaced and refugees to their homes and homeland, along with securing the right to compensation that does not annul or replace the right of return.
- 6- To set up national developmental programs and plans that include an end to all forms of economic subordination, and achieve economic prosperity for all sectors of Palestinian society.

Based on these goals, our vision has general guidelines on the three basic issues that were transferred to the final-status negotiations.

## **First: Jerusalem**

The political and spiritual status, as well as the historic Arab value of Jerusalem, does not require any further evidence. International law has reiterated the legal status of the city in a significant number of resolutions affirming the geographical and historic unity of both sectors of the Holy City. These resolutions also affirm the Arab identity of the city throughout various periods of history. The overwhelming majority of its residents are Palestinian Arabs and East Jerusalem is an indispensable part of the Palestinian territories occupied in the June 1967 war, thereby making it subject to international law on land under occupation.

Therefore, the city of Jerusalem, which has been declared as the historic, political, economic and spiritual capital of an independent Palestinian state, remains a red line that cannot be crossed and cannot be surrendered under any conditions. Peace cannot be achieved in isolation from achieving it in the first Palestinian city.

The Palestinian negotiator must start discussions on the Jerusalem issue from the fact that the Oslo Accords not only delayed discussions on East Jerusalem, but delayed discussion on the whole city of Jerusalem - both its eastern and western sectors. Moreover, Israeli measures to Judaize the city and alter the Arab features of both sectors, besieging it with settlements, do not constitute an obstacle to discussion of all the issues on the basis of resolutions of international legitimacy.

## **Second: Refugees**

If the Palestinian cause is the core and essence of the Middle East conflict, the problem of the refugees is the core of the Palestinian problem. Therefore, it will be impossible to find a convincing solution to the

Palestinian issue if the refugee issue is neglected or a solution fails to obtain the approval of those affected - the Palestinian refugees.

As negotiations on the return of displaced Palestinians were halted, and the Israelis have demonstrated denial and intransigence in a matter that was supposed to be concluded during the interim phase, the principle of the right of return, compensation and international legitimacy remains effective. Rejection of plans for re-settlement, marketed by Israel and other international parties, also remain effective.

Resolution 194 of the UN Commission represents the sole and basic framework that can be used to resolve the problem on the basis of the right of return for refugees to their cities, villages, homes and properties, and compensation for properties for those who do not desire to return. The UN based its decision on Article 13 of the International Declaration of Human Rights, which stipulates: "Every individual has the right to return to his country". The UN reaffirmed these statements in several decisions pertaining to the issue of Palestinian refugees and on numerous occasions.

Acceptance of Israel into the UN was on the condition that it accepted Resolution 194, which, along with partition Resolution 181, stipulates the establishment of two states, one Arab and one Jewish on the land of historic Palestine. This was the first and early international initiative towards seeking a solution for the Palestinian cause and the problem of Palestinian refugees.

The right of return is a sacred right that is supported by international legitimacy in the UN Charter and its consecutive resolutions, in addition to the International Declaration of Human Rights.

The Palestinian negotiator must emphasize the legal and international di-

mensions of the Palestinian right of return that goes beyond a humanitarian or ethical case. Of course, this should not stop Israel from fulfilling its full historic, political, humanitarian and ethical responsibility regarding the creation of the refugee problem in 1948, as expressed by one of the new Israeli historians. This also entails an apology and bearing the responsibility to overcome the problems and difficulties that will accompany this return.

Resolution 194 posed the issue of return and compensation at an early stage. Fifty years after that resolution was issued, during which the dispersed Palestinian people suffered the horrors of exile and difficult living conditions while the Israeli aggressor seized Palestinian homes and invested in land and real estate, Israel has also prevented Palestinians from enjoying a good life in their homeland. Therefore the issue of compensation is not an alternative to the issue of return, but a complementary aspect. The Palestinian demand must stress two interrelated rights: return and compensation together. We must stress that the right to compensation is an independent right that does not replace the right of return. It is based on what is described in international law as “every damage”. The material damages and losses inflicted on the Palestinian people due to the Nakba in 1949 fall within this context, and the use of their properties during the past five decades. This was also stressed in UN Resolution 52/644, issued on November 5, 1998, which affirmed the right of refugees to the return of their properties owned in 1948.

### **Third: Settlements**

There is a consensus at the international level that settlements erected by the Israeli occupation authorities on occupied Palestinian and Arab land since 1967 constitute an act of aggression lacking any legitimate grounds.

It is impossible for the settlements, which constitute an obstacle to the path of peace, to remain on Palestinian land as independent regions from the Palestinian entity. Granting them an exceptional sovereignty will affect the core of Palestinian sovereignty.

Settlements constitute a blatant violation of international law. The La-hay Treaty in 1907 and the Geneva Convention in 1949 state very clearly: "It is prohibited for an occupation state to gain sovereignty over the occupied territories". In fact, the law prohibits the erection of permanent settlement regions over occupied land since occupation can never enjoy international legitimacy and historical sustainability, no matter how long it lasts.

There is no doubt that Israel's aim behind building settlements, which escalated in number over the past three decades, is to create a new status quo on the land that can be invested in future negotiations over the final-status issues.

As we engage in the battle of negotiations over settlements, we must not fall into the trap of the Israeli distinction between security settlements and political settlements, and we must never accept the division that will transform the majority of these settlements into security settlements whenever Israel wants that.

It is important to gather accurate information and to set up detailed plans on the locations and dates of settlements. This includes those erected prior to the signing of the Declaration of Principles and those erected or expanded after the signing, whether during Likud or Labor rule, and the settlements erected after signing the Wye River Memorandum in 1998. Gathering this information will not erase the fact that those settlements remain an act of aggression and are illegitimate.

Thus, the Palestinian negotiator must cling with full force to the international resolutions pertaining to settlements: those resolutions that stress the illegal status of the settlements, how they conflict with international charters ratified by international law and call for Israel to dismantle these settlements.

Regarding the demographic problem caused by the settlers residing on Palestinian land, the solution could be to view them as foreigners, like all other foreigners living on Palestinian land and who are subject to the rules of the state where they reside. The issue of their residency can be solved through existing Palestinian laws and conditions for foreigners and their right to leave whenever they want.

### **Ladies and Gentlemen,**

We stand at a critical juncture in our history; the challenge imposed on us is that we must achieve, in a relatively short period of time, solutions acceptable to our people and by history itself. The issues at hand are very sensitive and critical. Moreover, there are other core issues pertaining to security that must be addressed to constitute a basis for any future development projects at the local, Arab, and regional levels. There is also the issue of water, with its Palestinian-Israeli-regional dimensions, and the issue of borders, which constitutes a basic element of sovereignty over the land and population within the independent entity.

This requires that we mobilize all our potential and monitor what we have accumulated so far in terms of experiences and analysis to put them at the disposal of our negotiating teams, which will engage in very

tough rounds of negotiations. They will engage in those negotiations, but they will not be isolated from the political and intellectual potential of their people, enabling them to contribute to building on strengths and reinforcing the performance of the Palestinian negotiators. The support of background information will contribute to achieving the best results.

Let this conference open up a political, scientific and intellectual debate in an open session devoted to the issues for a definitive solution that will achieve our people's goals in liberation, independence and the building of their democratic, free Palestinian state with Jerusalem as its capital.

**I wish you all the best and God's blessings**

# **Speech by Minister of Culture and Information**

*Yaser Abed Rabbo*

**Dr. Hanan Ashrawi**

**The Secretary General of MIFTAH Institute**

**Dear guests, ladies and gentlemen,**

To begin with, let me express my deepest appreciation for inviting me to participate in your conference. In fact, it is an invitation I received before I considered the possibility of being appointed as the head of the Palestinian team for the final-status negotiations.

The conference is held at a time when we are about to engage in those negotiations; I see in this conference a factor that reinforces our future role, activities and tasks.

It is true that we announced the names of a part of our delegation a few ago and we said that the formation is not final and will be open for political and technical reasons. However, we started immediately organizing ourselves in serious and effective preparation for probably the hardest task in our national history, namely the task of reaching a permanent status for the major issues in our historic conflict with Israel.

This does not mean that we have to start from point zero. We see in the experiences of negotiations, including those that followed the Madrid Conference and the signing of the Sharm Sheikh memorandum, impor-



tant ammunition that we can depend on - documents and visions that can support and reinforce our action, which is expected to start soon.

I can only promise at your conference that our work will not be isolated from Palestinian public opinion and monitoring, but it will not be completely open to the mass media apart from general guidelines that represent its basic approaches.

I would like to stress briefly the major approaches and their importance:

**First:** We consider Resolution 242 as a basis for the negotiations and not as a final ceiling for us. We do not believe that we negotiate in order to reach a compromise solution to this Resolution, which is in itself a compromise.

**Second:** We do not consider the issue of self-determination for the Palestinian people and the establishment of a Palestinian state with Jerusalem as its capital as negotiable issue. We believe that negotiations will only have to deal with the implementation of Resolution 242, including the withdrawal. As for the right to self-determination, it is a sacred right and the form in which it will be realized remains an absolute Palestinian affair.

**Third:** We cannot start the final-status negotiations under the continuation of the settlement policy and the devouring of Palestinian land. If such a scenario occurs, such negotiations will be unprecedented in history.

**Fourth:** We look at Jerusalem as part of the territories occupied in 1976. We cannot contemplate anything outside this context. The unique status of Jerusalem in terms of religious and historical dimensions does not alter this basic fact.

All the above confirm that we have a long and difficult agenda ahead, but we are confident that we can reach a real and actual peace if a number of factors exist, mainly the unity of the Palestinian people and public opinion. The Palestinian people should assume their role in supporting this struggle-negotiations process despite talk about disparity in the balance of the powers in favor of Israel. We believe we possess several strong factors; I can point here to the dramatic transformation witnessed all over the world regarding the understanding of our rights, especially at the level of the European position that supports these rights, and the change in positions of the US and Israel.

The rumors about prepared scenarios for the solution are groundless. We will not consider any preset scenario, including the paper that they claimed that Abu Mazen had prepared in a joint effort with Yosi Belin. Abu Mazen explained many times that such a document does not exist.

Finally, I would like to say that at the end of the interim agreement it will be impossible to enter into another interim agreement simply because the issues at hand in the final-status negotiations cannot be fragmented. For example, the Jerusalem issue cannot be separated from all the other issues; the settlements issue cannot be isolated from the issue of withdrawal from the rest of Palestinian land; the issue of withdrawal from the 1967 lands cannot be addressed without tackling the issue of the refugees and their right of return to their homeland.

# Legal Affairs

*Dr. Ahmad Mubarak al-Khalidi (1)<sup>1</sup>*

## **Palestinian rights are natural and not acquired**

The researcher tracing the roots of the Palestinian people is forced to go far back in history because the presence of this people is deeply rooted in history. The Old Testament includes texts admitting the prior existence of the Palestinians upon the arrival of Hebraic people to Palestine, and upon the migration of the follower of Moses. We do not intend here to discuss the connection between Hebraic people and the Jews because not all the followers of Moses were Hebraic.

The researcher dealing with the modern dilemma that resulted in the migration of large numbers of the followers of Judaism to Palestine during the era of international colonialism states the following facts. At the end of the First World War, there was an agreement among the victorious forces at the Sykes-Picot Treaty to divide the Arab Orient and place Palestine under an international Mandate. This was to achieve the project of establishing an entity in the service of international colonialism in Palestine by gathering the Jews in the form of a state. Thus, with Jewish illegal immigration, the number of Jews arriving in Palestine made up around 30% of the total population in Palestine in 1948. This was due to the authorities granted to the British Settlement Minister and the British High Commissioner over Palestine; he legislated the Law of Citizen-

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<sup>1</sup> Professor of Law, member of the PNC, member in the Legalists General Secretariat, legal adviser to Parliamentary Research Unit and the general coordinator of the Palestinian National Structure collation.

ship in 1925 to facilitate the migration of Jews. The easing of measures reached a point where Palestinian citizenship was granted to anyone applying for it who served in the government of Palestine (M7/5A) or who served in the force of His Majesty the King of Britain (M7/5B), under Article 19 of the relevant law issued by the High Commissioner.

This took place to enable the Mandate authority to grant Jewish immigrants Palestinian citizenship in preparation for the implementation of the (Balfour) British Minister's promise to establish a homeland for Jews in Palestine at the expense of part of the natural and original rights of the Palestinian people. In order to do this, the High Commissioner issued the Law for Jewish Immigration No.5 of 1941 to make their immigration legitimate. In spite of these acts and their impact on the demographic structure in Palestine, the status quo does not abolish the natural and historic rights of Palestinian in Palestine, nor does it affect the Palestinian political entity (the state).

In fact, the Mandate and the Jewish immigrants used citizenship of this entity to integrate Jewish immigrants into the Palestinian state by granting them this citizenship. This was recorded explicitly in the constitution of the State of Palestine in 1922, issued by the Mandate administration in the name of the King of Britain as follows:

“The principal allied countries accepted to transfer the administration of Palestine that was under the Ottoman Kingdom within the borders set by those countries to a mandated country to be chosen by the aforementioned countries in order to implement the text of Article (22) of the Covenant of the League of Nations.

The principal allied countries also accepted that the mandate state be responsible for implementing the statement issued originally by the gov-

ernment of the British King on the second day of November 1917 and ratified by the aforementioned countries to establish a national homeland for Jews and Palestine.

The principal allied countries chose His Majesty to mandate over Palestine, and since His Majesty enjoys the authority and jurisdiction in Palestine under explicit or implied treaties and habits and other legitimate means.”

This is not the time or place to discuss the legitimacy of these measures and actions executed by the High Commissioner in the name of the State of Palestine, which was placed under his supervision to take it to full independence. He also gave himself the right to make demographic changes in Palestine and to allow the immigration of Jews of various nationalities, granting them Palestinian citizenship in preparation for granting them part of the Palestinian state. Suffice to say that this blatantly violates the commitment of the Mandate state in Article 5 of the Mandate Charter that specified the responsibility of the Mandate state not to give up any part of Palestine to any foreign government because the right of Palestinians to their land is part of their natural, original and inalienable rights.

Modern international law is based on core principles, mainly that the rights of people in living on their land, determining their future and possessing their natural resources such as water and minerals, are the original rights of a people and cannot be annulled by the passage of time, and cannot be gained by force or coercion, whether by force of armed power or under pressure of occupation.

We must also stress that the texts in international law that ratify these original rights of a population are binding rules. This means that no

party can deny or violate them; the international charters give the people whose natural and original rights were violated the right to use all means to defend them and to regain them if they are stolen. The international community also has the right to intervene, even by force, to defend these natural rights.

Throughout the long years of Israel's occupation of Palestinian land in 1948 outside the context of the partition Resolution 181/47, several resolutions of international legitimacy were issued that ratified the natural and original rights of the Palestinian people. Since these resolutions talk about those rights partially, they were not totally approved by the Palestinians, but this does not mean partial concessions on those rights. It also means that when a people's right is supported by laws of international legitimacy, and when these people adhere to one of the legitimate foundation of these rights, even if they are partial, they can never give up the remaining pillars of legitimacy. For example, when the Palestinian people cling to the option of peace, this does not mean they will surrender their original rights, but that they seek peaceful coexistence on this land with the Jews who want to live in peace with them. This land must not become a gathering place for the followers of Judaism around the world whom, for aggressive and biblical purposes, try to uproot Palestinians from this land.

When then Palestinian people adhere to a declaration about their intention to exercise sovereignty over Palestinian land, they are implementing their natural and original right to choose their government and ruling system. This is supported by several instruments in international law, such as those that ratify the right of people to self-determination and liberation from colonialism, and other laws that are considered the core basis of modern international law, without which there is only the

law of might. Therefore, abiding by one of those binding laws does not mean giving up other laws. No party in the international community has the right to deny or violate those laws. The occupation's refusal to recognize those rights does not annul the natural rights of the people under the occupation. The binding nature of these international laws is applicable regardless of the party that uses them, either negatively or positively, meaning that their binding nature is separate from their enforcement on those who refuse to abide. The basis of international law is that persons abide voluntarily by their provisions and those who violate them are responsible before the international community, which has the ability to enforce international penalties on violators. They are binding rules in all cases that may or may not be implemented by the relevant state, thus creating the need for enforcement procedures similar to the internal legal bylaws of a state, which can be invoked by the addressees without the need for any mechanism to enforce their implementation. The internal legal bylaws of states are clearer and more organized.

We can conclude that the source of the rights of the Palestinian people is their natural and historic existence in Palestine. They are rights defined in the same manner as those that apply to all other people, and ratified by rulings, decisions and resolutions of international law. Therefore, the adherence of the Palestinian people to a right ratified by an international law does not mean that other rights not stipulated or ratified, and violated by others by force, are annulled. There is no separation between the source of the rules of international law and the resolutions of international legitimacy that affirm Palestinian rights: they all support this right.

## **The international ratification of the state of Palestine under the Mandate**

At the end of the First World War, the Charter of the National League was signed at the Versailles Conference in 1919. According to Article 22 of that Charter, the settlements and regions that were under Turkey were placed under the responsibility of the international victorious countries, to train them in independence. According to paragraph (d) of the Article, some of the groups previously under the Ottoman Empire had reached a level of modernization that would enable them to be classified as independent nations, provided that they had guidance and administrative assistance from a mandated country until becoming capable of standing alone. The wishes of those groups in choosing the mandated country would be a major consideration.

On March 28, 1920, the independence of Syria including Palestine was declared, but the higher council of the allied countries decided on April 25, 1920, to place Syria and Lebanon under a French Mandate and to place Palestine under a British Mandate. This was in order to implement the establishment of the Jewish state next to the Palestinian state as clarified in the Mandate Covenant: “The mandate country will be responsible for the conditions in the state in terms of political, administrative and economic conditions, to guarantee the establishment of a Jewish national homeland.” The Covenant also stipulated that the Palestine Mandate Administration must facilitate the immigration of Jews and cooperate with the Jewish Agency to resettle them on government land and regions not devoted for public benefit. It also stipulated legislating a law for Palestinian citizenship with provisions that facilitate Jews who reside in Palestine to acquire Palestinian citizenship.

Upon reading the fourth paragraph of Article 22 of the Covenant, one



finds that Palestine was considered independent and placed temporarily under category (A) as a country that needed guidance and assistance only. Thus, the Palestinian state was established under the Mandate with international recognition in the Mandate Covenant on the whole land of Palestine in its historical borders, with a status similar to that of Syria, Lebanon and Iraq and other countries that lacked complete sovereignty. Palestine as a state established with collective international recognition is not the sole example in the history of international relations. In addition, we note the following similar cases:

- Britain, France, Russia and Turkey internationally recognized the state of Greece in 1878 in the Berlin Peace Treaty.
- International recognition of Turkey in 1851 in the conference held by the superpower countries also ratified Turkey's right to enter the international group.
- The Berlin Conference in 1878 recognized Romania, Serbia, and Montenegro as states.
- The Versailles Peace Treaty in 1919 recognized Poland and Czechoslovakia as states.
- The recognition of Libya as a state by the United Nations in 1949 in Resolution 289 of 1949.

The Palestinian state exercised its sovereignty authorities under the Mandate. Its mandate government issued a constitution in 1922 that organized the institutions of the state and its public authorities. The King of Britain signed the constitution on behalf of the Mandate State over Palestine according to the international Mandate Covenant, which stipulated that the Palestinian state had the right to conduct and join

international treaties. Article 19 of the Mandate Covenant stated: “The state mandated on behalf of Palestine can join any of the general international charters previously conducted or to be conducted after getting the approval of the League of Nations.”

Based on these jurisdictions, the government of the state of Palestine, supervised by the British High Commissioner, conducted several treaties with international mandate, including:

- The Palestinian-Egyptian agreement in December 1922 concerning the extradition of criminals.
- The Palestinian-Egyptian agreement concerning the exchange of passenger cabins between the railway authorities of Egypt and Palestine in November 1946.
- In further confirmation of the above, the text of Partition Resolution 181 of 1947, chapter three under the title “Citizenship and International Agreements and Financial Commitments”.

## **International Agreements**

“A- After attaining its full independence from the Mandate, the Palestinian state is bound by all international general and private agreements and treaties in which Palestine becomes a party in them. This state has to respect those treaties and agreements throughout the period set in its term of contract without violating any right in termination as stipulated in those agreements.”

In confirmation of the international status of Palestine at the end of the Mandate, the text of paragraph B of item (2) in the aforementioned third chapter was clear about the jurisdiction over any dispute related to the implementation of the state of Palestine at the end of the Mandate at the International Justice Court. It is well known that the International Justice Court is private and only looks into disputes of international legal personalities.

“B- Any dispute regarding the possibility of implementing the international treaties and agreements that the Mandate government signed or joined on behalf of Palestine, or concerning the continuation of its validity, shall be submitted to the International Justice Court according to the provisions of the court.”

According to Article 7 of the Mandate Covenant, the Palestine Administration assumes the responsibility for legislating the Citizenship Law. Although this facilitated the immigration of Jews and granted them Palestinian citizenship, the Citizenship Law issued in 1925 also came to reflect the sovereignty of the Palestinian State and its distinction from the international personality of the Mandate state (Britain). This was confirmed by the British judiciary, which agreed with the decision of the High Court in Palestine and the decision of the Court of Appeals,

the criminal department in England, issued in 1940. This stressed the distinction between Palestinian citizenship and British citizenship, known the R. V. Ketter Case.

The existence of the Palestinian state cannot be affected by what occurred in the region when the General Assembly issued its decision on the partition of Palestine on November 29, 1947. When the task of the Mandate State ended, a new state for the Jews was declared on part of the lands in the region of the Palestinian State with its historical borders under the Mandate on May 14, 1948. This was based on the Partition Resolution as declared by Ben Gurion, and confirmed by the foreign minister in the cable sent to the US saying: “The State of Israel is declared an independent republic inside borders agreed on by the General Assembly in its resolution on November 29, 1947.”

Therefore, the Partition Resolution called for the establishment of a new state for the Jews in a region taken away from the Palestinian State under the Mandate. This partition is clear in the text of Resolution 181 of 1947. It requested from the mandate administration that assumed the responsibility for running the affairs of the government of the state of Palestine (Britain) to facilitate the establishment of the Jewish state, but did not request the same for the Arab Palestinian state. The Resolution was as follows: “..The Mandatory Power shall use its best endeavors to ensure that an area situated in the territory of the Jewish State, including a seaport and hinterland adequate to provide facilities for a substantial immigration, shall be evacuated at the earliest possible date and in any event, not later than 1 February 1948.”

The new Jewish State lay within a region determined by the Partition Resolution that took land away from the Palestinian land under the Mandate. Other than that, it remained unchanged, including the Jeru-

salem region whose final status was not agreed upon. The UN envoy, Count Bernadotte, made a recommendation to annex Jerusalem to its Arab context, which was a reason for his assassination by the Jews. In addition, any area outside the partition context annexed by the new state cannot be gained by force, and this complies with the principles of international law that do not recognize force as a legal ground to gain rights. A special text on this issue was mentioned in Security Council Resolution 56 on August 19, 1948, stipulating that no party can acquire a right due to violating the armistice.

All this happened at a time when the Jewish State was separated from Palestine under the Mandate that accompanied the declaration of the mandated authority on its intention to end its mandate in Palestine, and to grant the two states full independence (the Palestinian state that did not enjoy full sovereignty with what land was left, and the state of Israel with what it was granted by Partition Resolution 181). Palestinians tried to form a new government to succeed the mandate government in order to run the affairs of their state within the borders left outside the region of the Jewish State. Al-Husseini declared full independence and formed a Palestinian government, but failed to get Arab and international recognition. The government remained in the Gaza Strip for a short period of time, then was transformed into a government in exile in Cairo until the PLO assumed the task of regaining authority in Palestine.

Therefore, the problem facing the Palestinian Authority is recognition of the government and not the state that was established at the start of the Mandate; we will try to highlight this matter in the following paragraph to differentiate between recognition of the state and of the government.

## **Recognizing the state and recognizing the government**

The state is a political and legal system. It comprises people that live in a region of their own and who are subject to a higher authority that runs their internal and external affairs. This is mentioned in the Montevideo Treaty in 1933 signed by the American countries about the rights and duties of countries. The first article talks about the requirements for the establishment of the state: the provision of (1) people; (2) region; (3) government; (4) qualification to engage in international relations, mainly signing treaties.

These conditions are adequate for the establishment of the state; recognizing the state means recognizing the government that assumes higher authority in it. However, it might happen that this government changes, so some countries stop recognizing the new governments or relations, and dealings with the state are severed. Recognizing the government is different from recognizing the new state.

The ruling system, although an internal matter, is no less important than recognizing the state. But not recognizing the government does not touch the legal personality of that state: it only relates to depriving a state with an unrecognized government from normal diplomatic relations with the governments that severed ties with the new government.

Based on this, we can interpret what happened in the Palestinian case in 1948 as some kind of non-recognition of the government declared by al-Husseini to succeed the mandate government in the part designated for the Arab state. This was according to Resolution 181 of 1947 that founded a new Jewish state in 1948, separate from the Palestinian State and its mandate government. This was confirmed by UN Security Council Resolution 44 of 1948 that requested the General Assembly to hold a special session to look into the government of independent

Palestine. The text stipulates: “The Security Council, which received the General Assembly Resolution 181 on December 29, 1947. It was also informed about two monthly reports of the Palestine Committee, belonging to the United Nations, about the progress of their work and the special report on the security problem.”

“It was also informed about the reports issued concerning those consultations upon a request from the Secretary-General, according to Article 20 of the UN Charter, to call for holding a special session for the UN General Assembly to re-discuss the issue of the future government of Palestine.”

The new Hebrew State is the one that needs recognition. The Palestinian state was granted international recognition in the Mandate Charter and needs no further recognition from the Israelis, whose colonialist ambitions contradict the rights of the Palestinian state. It is a well-known fact in international law and treaties that non-recognition does not affect the existence of a state. The international personality of Palestine continued despite the Partition Resolution, as we will explain in the following paragraph.

### **The establishment of the international personality of Palestine under the Mandate and its continuity**

International law stipulates that the state is established upon the fulfillment of its basic pillars: the people, the region, and the ruling authority. Most scholars of international law advocate that recognition is not a precondition for the establishment of the state in the international arena. Even the minority of those scholars that define recognition as a precondition, say that precondition alone is not enough to create a state because recognition must be of an entity that comprises all the pillars of the state.

Concerning the State of Palestine, the state was established in the provision of its pillars at the start of the Mandate, and with international recognition. According to the international documents that placed Palestine under the Mandate, Palestine was considered as a state lacking sovereignty. The Mandate does not nullify its existence; the restrictions on sovereignty do not cancel it. For example, Japan was committed very explicitly in the constitution not to establish an army and not to use it to defend its rights, but no one can say that Japan lost its status as a state. Thus, the legal existence of the Palestinian State was achieved since the time of the Mandate and continues up to today in one form or another, based on the political and military occupation that prevailed in the region of the state of Palestine through Partition Resolution 181 in 1947. This includes the later events, passing from the stage of full occupation of the land of Palestine, and the partial return of sovereignty to the Palestine National Authority. We will attempt to affirm this by talking about the Palestinian state fulfilling the pillars of a state since the international mandate over it.

### **The establishment of the Palestinian State that was granted international recognition from the time of the Mandate**

It was mentioned earlier that international law believes that, in order for the state to be established according to international law, it must fulfill the three following pillars:

#### **1- The People as a Pillar**

The Palestinian people did not need to prove their existence to world countries; nobody denies their existence and even Israel cannot deny this fact. Previously, the ratification was in Mandatory and Israeli political and religious documents and laws; these included references to the Palestinian people, land and citizenship. The international docu-



ments admit the existence of the Palestinian people prior to the establishment of the Jewish State, especially in the documents of the British Mandate over Palestine. Statistics from the Mandate in 1922 show that the number of the Palestinian people was 757,182 persons. Even with the Mandatory facilitation of Jewish immigration, the number of Jews did not total more than 83,794 persons in that year. The report issued by the British Royal Bill Committee and the documents of the Jewish Agency reveal that, prior to the separation of Jews into the largest part of Palestine and the establishment of a Jewish state, Jews made up no more than 30% of the total population. Therefore, the Palestinian people were originally there and constituted the absolute majority in Palestine at the beginning of the British Mandate over Palestine. The Sykes-Picot Agreement and the Mandate Covenant considered the Palestinian people at the time as people of class "A" who qualified for full independence. The legal presence of the Palestinian people was confirmed through a group of Mandatory laws issued by the Palestine Mandate government. These include the Palestinian Citizenship Law issued by the British Royal Court in 1925 in implementation of the Mandate Charter, and the constitution of the state of Palestine issued in 1922. Legally speaking, citizenship is attached to the people of a state. The law of citizenship in each state defines the persons who enjoy the citizenship of that state; this is international recognition of the existence of the Palestinian people with a constitution and a law that organizes their citizenship. The citizenship is a legal relationship that connects the members of the people with their state. This is a proof of the Palestinian people ratified by the external international parties in the Mandate Charter, realized according to Resolution 181 of 1947 issued by the UN General Assembly, which amended its recognition of the Palestinian state within the partition borders stipulated in it.

One can see the importance of Resolution 181 of 1947 in the fact that recognition of Israel by the United Nations, and acceptance of it as a member according to UN General Assembly Resolution 273 of 1949, was conditional on the division of Palestine between the Palestinian people and the Jews, who were gathered under the international mandate over the land of Palestine. The Resolution was also conditional on Israel abiding by Resolution 194 of 1948 that stipulated the return of refugees, and their compensation according to principles of international law and justice. Many international resolutions followed, all stressing the legal existence of the Palestinian people and recognition of their inalienable rights as specified in the UN Charter and the International Declaration of Human Rights. The following are examples of international resolutions that recognize the rights of the Palestinian people:-

- The UN General Assembly Resolution 2535 of 1969, whose text is based on several international resolutions, mainly Resolution 194 on the right of return. The UN General Assembly affirmed that it is aware that the problem of Palestinian Arab refugees resulted from the denial of the inalienable rights defined in the UN Charter and international law. It also reiterated the inalienable rights of the people of Palestine.
- UN General Assembly Resolution 2649 of 1970 condemning governments that reject the right of self-determination of the Palestinian people.
- Several annual resolutions that affirmed that Palestine has a people and that this people has the right to existence, self-determination and return. They also stressed that denying those rights constitutes a serious threat to world peace and security: a case in point is UN General Assembly Resolution 37/43 of 1982.
- There are several grounds that affirm the existence of the Palestin-

ian people in the eyes of international law and resolutions. Added to the that is the fact that the occupiers of the Palestinian people admitted the existence of the Palestinian people in the Israeli-Palestinian interim agreements signed in Washington on September 28, 1995. The Israelis admitted that this agreement is one step towards achieving the legitimate rights of the Palestinian people, meaning that Israel admitted that the agreement is a step towards returning the legitimate rights of a people that originally existed.

## **2 - The region**

International documents confirm the reality of the Palestinian region in which the Palestinian people live. Among those documents is the Mandate Charter, whose fifth article stipulated that the mandatory state is responsible for making sure that no part of Palestine is yielded to any foreign government. Then, there is the Partition Resolution 181 of 1947 and all resolutions of international organizations that recognize the existence of a Palestinian region and the right of the Palestinian people to self-determination in that area. The fact that Palestinians did not accept to define the borders of the Palestinian state as those of 1947 and adhered to Palestine set borders of 1922 does not diminish the importance of that recognition. In general, the Palestinian people's acceptance of the peace process is based on resolutions of international legitimacy, primarily Resolution 181 of 1947 with the borders of the internationally recognized Palestinian State, and with a defined constitution taken from the text of the international resolution. Palestinian rejection of the 1947 Resolution was because it took away their regional rights, and gave more than half of the state of Palestine under the Mandate to the new Jewish state. This does not mean that Palestinians lost their rights that remained after the partition; nor does it mean deprivation of the ex-

istence of the remaining area. To demand full rights in any legal system and rejecting any partition of it does not equal concession of any of the full right if they owner of the right cannot acquire all of the right.

International law recognizes that if it is not possible for a state to exist without a region where a government can exercise its authority in a stable way, then it is sufficient in international law for the state to have a region regardless of its area of geographical connection. The region is a basic pillar of the establishment of a state, but it does not stipulate a specific area. Examples of this vary: the Vatican, Luxembourg, Monaco, San Marino, Salvador, Andorra and other regions have the status of states despite their small areas. There is one fact about many countries, especially in Africa, where the borders of regions are not well defined, but this does not annul their status as states.

The importance of the region is that it is the context in which the state exercises its full sovereign authorities, ratified by international law. The region distinguishes the state from other personalities of international law such as international organizations, We have pointed in brief to the developments that occurred in the region of the Palestinian state under the Mandate. However, this does not affect the pillar of the region for the continued establishment of the Palestinian state.

The history of nations includes many cases where the region of the state was under the actual authority of more than one state, such as the case in Palestine. An example of this is the case of Sudan, whose region was under Egypt and Britain. Cyprus, which was part of the Ottoman Empire, was under the rule of Britain between 1878 and 1914.

There were cases where countries leased or mortgaged parts of their regions to other states, e.g.:

- China leased Kiako Country to Germany in 1798; it also leased other parts to Britain, France and Russia.

- Sweden mortgaged Wesmar city in 1853.
- Britain leased lands to the US in 1941.

It is proven from these and other examples that leasing and mortgaging part of land of a region to another state did not abolish the right and sovereignty of the region's owner.

International law recognizes that the people of a region that is placed under mandate or custody according to international documents, possesses sovereignty over that region. The custodian or the mandatory authority has the temporary responsibility of exercising aspects of sovereignty, but the original sovereignty remains in the hands of the original people. Aspects of that sovereignty are divided between the mandate state or custodian or the international organization and the people possessing the sovereignty.

### **The Higher Sovereign Authority**

The higher sovereign authority, which is realized in a government with full control over the people and the region, is a core pillar for the establishment of a state. Sovereignty in modern reality does not mean absolute sovereignty because it is not realized in all countries, and not to the same degree. The sovereignty we are talking about is a relative sovereignty, which means that the ruling authorities exercise aspects of sovereignty over the region and the people, and it organizes internal and external relations. It has become a given in international law that the sovereignty of states is restricted internally by the principles of natural law, and bound externally by resolutions of international commissions and rules of international and other treaties signed with external and international parties.

Following the Palestinian case, one finds that the ruling authority enjoying sovereignty had been in existence since the start of the Mandate, and authority was exercised according to the constitution throughout Palestine and for all Palestinians. In addition to the constitution, the authority of legislation was exercised by issuing the Palestinian Citizenship Law in 1952, and a series of laws that organized all aspects of life in the Palestinian State under the Mandate government. This was until the Partition Resolution and the separation of the Jewish State on May 14, 1948. The remaining part stayed within the Palestinian State region.

At the end of the Mandate, Husseini tried to succeed the Mandate government by declaring a government for all Palestine in 1948. However, Jordan contested him over the West Bank and Jerusalem and later joined a confederation with the Kingdom of East Jordan, organizing its constitutional conditions according to the constitution of 1952. The Gaza Strip remained self-ruling (with Egyptian supervision), and organized its authorities according to Basic Law 255 of 1955, which was amended by the constitutional system in 1962.

International law decrees that the state continues to maintain its international legal status even if it loses control over part or its entire region, as long as it keeps working to regain it. This is provided that some kind of structure remains and continues to exercise aspects of authority on the people, which is what happened in the Palestinian case. The West Bank and Jerusalem joined in the government of the Jordanian Kingdom, while the Gaza Strip had an authority that managed the affairs of its people until 1967. The PLO abroad assumed the affairs of Palestinians outside, and of the Palestinians inside the region indirectly. Official recognition of the PLO role came in 1993 in letters of mutual recognition between the PLO and the government of Israel. There are similar

historical precedents where the international persona was maintained whilst it could not be said that this persona was ended by occupation or because it remained in exile. Examples of this include what happened during the First World War in the period between 1914 and 1918 in Belgium, when its government moved to France. Examples were repeated further during the Second World War when many of the governments moved outside their region, especially to London, because of war and occupation, such as France, Norway and Greece. The same thing happened to the government of the state of Palestine, which remained after the Mandate, with limited and specific jurisdictions in the Gaza Strip under Egyptian supervision, and in the West Bank and Jerusalem where participation was through the unity of the Jordanian Hashemite Kingdom from the period between 1950 and 1988. This also applies to the period when administrative ties were declared to be severed between the West Bank and the Jordanian Kingdom after the Palestinian Intifada demanding independence and liberation from the Israeli occupation.

### **The Continuation of the Legal Status of the Palestinian State**

Based on the above, it is clear that the legal status of the Palestinian state has continued since it was internationally recognized in the Mandate Charter. Thus, the Palestinian problem is one of recognition of the government and determining who represents it, and not the problem of recognition of the Palestinian State. The state remains despite an occupation that curtails its sovereignty, but does not annul it or transfer it to the occupier. No one contested recognition of the aforementioned states despite their occupation and their governments moving abroad – the conflict was over the legitimacy of those governments established under occupation, such as the case of France under the German occupation.

Changes, lack of clarity or disputes cannot alter the legal status of recognition of the Palestinian State over its borders. India and China have had a border dispute for a long time. The disputes between Algeria, Morocco, Mauritania and the Western Sahara, and between Ethiopia and Somali, are examples from the African continent. International law and the countries of the international community do not declare that recognition of those disputed countries has been terminated. Even with the full occupation of the land of Palestine in 1967, it is well known in international law that force is not a legal ground for acquiring rights. Since the era of international cooperation, the trend has moved towards prohibiting the use of force for expansion purposes. We cite in particular the following:

- The recommendation by the conference of American countries in 1899 that all cases of concession over regions during the arbitration treaty period are void if they took place under the threat of war or armed pressure.
- The project of the American countries no. 30 to systematize international law for 1925 that affirmed the nullification of any annexation, or acquisition of regions through war or threat of war, or during the existence of armed force, or as a result of seizure by force.
- Article 5 of the Bogota Convention of 1948 decrees that victory does not create rights. Article 17 decrees that regional conquests and special privileges gained thereafter by force or any other means of coercion are void.
- The Paris Convention of 1928 during the League of Nations Union, which rejected war as a means of acquiring sovereignty, thus bringing about the decision of the League Assembly of 1932 pertaining to Manchuria, considering that any treaty or agreement that violates the



League of Nations Union or the Paris Convention is void. Therefore, the League rejected recognition of the reality represented by the invasion of Italy of the land of Ethiopia.

- The position of the allied countries in the Second World War, stated by Roosevelt on the occasion of the German invasion of France. This stated that, in accordance with the principle of not recognizing the impact of the invasion executed by military aggression, the US did not recognize any attempt by force to violate the independence or regional unity of France.
- The Atlantic Convention of 1941, which was drafted by Roosevelt and Churchill, reiterated the inadmissibility of making regional changes that do not meet the real will expressed freely by the concerned nations.
- The introduction and several articles of the UN Charter affirmed conclusively the illegitimacy of war and its regional ramifications.

Thus, we can see the illegitimacy of the Israeli occupation of the Gaza Strip and the West Bank, including Jerusalem, and its annexation of land. Occupation does not grant Israel any rights to land, nor does it grant it sovereignty over the people. The land remains occupied and ruled by the law of military occupation and the provisions of international humanitarian law. Occupation will not affect the substance of the Palestinian State. The illegitimacy of war in the modern international framework and the defeat resulting from that war cannot, and should not, lead to the elimination of the sovereignty of the defeated state in the region controlled by the victorious state. Thus, annexation of the region to the victorious state is void.

Among the relevant examples in history is the situation in Germany after the end of the Second World War, when the four victorious countries

issued a statement in which Germany was divided between them. That division of the region of the defeated state by the victorious countries did not result in the elimination of the sovereignty or existence of the German state, but was considered a distribution of authority for administering that region. This was confirmed by the British government in 1946 through the continuation of the German State. We should note here that Germany fully surrendered after the defeat and lost any form of authority. As for Palestine, the state retained direct authorities in Gaza and the West Bank through the federation with the Kingdom. However, Germany remained as a state without exercising any authority over its territories until 1962, when an agreement was reached organizing its relations with the US, France and Britain; the agreement also returned full authority to Germany.

Therefore, sovereignty remains with the original people and cannot be transferred by force of occupation to the occupier, in accordance with the rules of the international law and the practices of the International Court of Justice. For example, in the case of the American citizens in Marrakech in 1952, the International Court of Justice decided the international personality of Marrakech was not eliminated by force of French occupation. The fact that Marrakech was under French protection according to a treaty in 1912 did not deprive it of its right to sovereignty, which belongs to Marrakech, although France exercised some aspects of that sovereignty on behalf of Marrakech according to a contract system established by the treaty. This was the same situation as the British Mandate over Palestine.

Thus, according to the rules of international law and resolutions of international legitimacy, Israeli occupation does not transfer sovereignty. The Israeli occupation in the Gaza Strip and the West Bank, including Jerusalem, does not grant Israel any right of sovereignty according to

the rules of international law. This was affirmed in several resolutions of the UN General Assembly, which stipulated that the rights of the Palestinian people are original and inalienable and cannot be seized at any time. Therefore, the outcome of occupation of territories in the region of the Palestinian State since 1948 and the occupation of all Palestinian land in 1967 are illegitimate and cannot transfer sovereignty. It does not grant Israel the original rights of the Palestinian people. International Resolution 181 of 1947, Resolution 194 of 1948, UN Security Council Resolution 242 of 1967, and UN Security Council Resolution 338 of 1973 must be understood in light of these international resolutions that affirm the inalienable rights of the Palestinian people and the inadmissibility of gaining land of others by force. This complies with the principle of the UN Charter.

The first article of the UN Charter evaluates the international order on the basis of developing relationships and respecting equality among people in terms of rights, and the right for self-determination. This was confirmed also by Article 55 of the Charter. It was reiterated by several international resolutions, including a UN General Assembly Resolution issued in 1958 pertaining to the self-determination of peoples and units that enjoy autonomy. Also, the Declaration of International Law of 1970 pertaining to friendly relations and cooperation among countries according to the Charter, and the UN General Assembly Resolution 3375 of 1975 that stressed that the achievement of the inalienable rights of the Palestinian people according to the goals of the UN Charter and its principles is a necessary condition for a just and permanent peace in the region. These rights, mainly the right to self-determination, sovereignty and independence, were reiterated by the two treaties on human and political rights and through the economic, social and cultural rights whose implementation started in 1976.

Based on these and other principles, international law rejects military occupation and stipulates that occupation does not grant legal rights to the occupying country in the occupied country. It affirms the rights of people struggling to be liberated from occupation to decide their future. In translating these principles that have become established in the international order, we note a set of international legal resolutions concerning Palestine. The following are examples of international resolutions issued after the 1967 occupation of all the land:

- Resolution 2253 and Resolution 2254 which stressed that annexation measures are void and illegal, demanding Israel cease annexation and its implications.
- Resolution 252 of 1971, which condemned the Judaization of Palestinian land and affirmed previous international resolutions that did not recognize the legitimacy of settlements and previous Israeli previous acts. With regard to measures in Jerusalem, it stressed the following: “All legislative and administrative measures executed by Israel to change the status of Jerusalem city, including the confiscation of land and properties, transfer of residents and legislation that aims to annex the occupied sector, are all void and cannot change that status.” It also called for the abolition of all previous acts and measures and not to take any further measures that might be understood as changing the status of the city, denying the rights of residents, or harming the interests of the international community or of a just and permanent peace in the region.
- UN Security Council Resolution 246 of 1979 reiterated the international illegitimacy of settlements on Palestinian territories, because the territories occupied in 1967 are occupied Palestinian territories subject to the Fourth Geneva Convention. UN Security Council Resolution 465 reiterated the same point in March 1, 1980.

- UN Security Council Resolution 476 issued on June 30, 1980 condemned the insistence of Israel to change the physical and demographic structure and the structures of legal centers in Jerusalem. It also condemned Israeli settlements and measures to move Israeli residents to the Palestinian territories, and adopted a decision about Israel continuing to reject discussion of practical means and methods stipulated in the UN Charter to secure their implementation.
- UN General Assembly Resolution on July 29, 1980: the second paragraph called on Israel to withdraw from the occupied Palestinian territories, including Jerusalem. The fourth paragraph stressed the constant rights of the Palestinians, including the right to self-determination without any external interference, to independence and national sovereignty, and the right to establish a sovereign independent state.
- UN Security Council Resolution 478 issued on August 20, 1980, in response to the Israeli Knesset ratifying a law that annexed occupied Jerusalem from 1948. This is in addition to areas occupied in 1967, and considers a unified Jerusalem as the capital of Israel. The Resolution affirmed the following:
  - 1- Denounced the Israeli annexation.
  - 2- The Israeli annexation law is a violation of international law.
  - 3- Israel is an occupation authority, even in Jerusalem.

This is the legal status of Palestinian rights, supported by international legitimacy. This situation has not been altered by the acceptance to conduct peace negotiations with Israel because the Declaration of Principles and the Interim Agreements do not affect the permanent rights of the people as ratified by international legitimacy. This is because this

is not a final determination of Palestinian rights; it does not mean that there is acceptance of military or settlement occupation of the Palestinian territories. Palestinians were very careful to highlight this and to obtain international assurances regarding Palestinian rights despite them existing in resolutions of international legitimacy. The fourth item in the US letter of assurances states that the US has opposed, and will keep on opposing, settlement activities in the territories occupied in 1967. The US position on this issue complies with international legitimacy. Even if the US retreats from this position, it does not annul Palestinian rights because the US is not the source of these rights, which are based on the constant and inalienable rights of people to total freedom and to exercise their sovereignty on the unity of their national soil.

Several resolutions of international legitimacy recognize the Palestinian people and their right to self-determination. Among these resolutions:

- 1- Partition Resolution 181 of 1947, which recognizes the Palestinian people and their right to a state.
- 2- UN General Assembly Resolution 2535 of 1969, which stressed the right of return and the inalienable rights.
- 3- Resolution 2649 issued on November 30, 1970 at the 25<sup>th</sup> session that condemned governments that reject the right to self-determination, especially the people in South Africa and Palestine.
- 4- Resolution 2787 of 1971, Resolution 2955 of 1972, Resolution 3070 of 1973, Resolution 3246 of 1974, Resolution 3382 of 1975, Resolution 31/34 of 1976, Resolution 32/14 of 1977, Resolution 33/24 of 1978, Resolution 35/35 of 1980 and others through which the Palestinian people have the right to demand the benefits of the international system of governed peoples to determine their future.

- 5- Since 1970, resolutions of international legitimacy affirm that the problem of Palestinian refugees resulted from Israel's denial of the rights of the Palestinian people. They also stress that the Palestinian people must enjoy equality in exercising their right to self-determination according to the UN Charter. They affirm that respect for the rights of the Palestinian people is an indispensable element in achieving a just and permanent peace in the Middle East.

An example of a resolution of international legitimacy is the UN General Assembly Resolution 3236 of 1974, which states:

“The General Assembly, having considered the question of Palestine, is deeply concerned that no just solution to the problem of Palestine has yet been achieved, and recognizing that the problem of Palestine continues to endanger international peace security, and recognizing that the Palestinian people are entitled to self-determination in accordance with the Charter of the United Nations, expresses its grave concern that the Palestinian people have been prevented from enjoying their inalienable rights, in particular its right to self-determination; and guided by the purposes and principles of the Charter, recalls its relevant resolutions which affirm the right of the Palestinian people to self-determination.

1. Reaffirms the inalienable rights of the Palestinian people in Palestine, including:
  - (a) The right to self-determination without external interference;
  - (b) The right to national independence and sovereignty;
1. Reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return;

2. Emphasizes that full respect for and the realization of these inalienable rights of the Palestinian people are indispensable for the solution of the question of Palestine;
3. Recognizes that the Palestinian people are a principal party in the establishment of a just and lasting peace in the Middle East;
4. Further recognizes the right of the Palestinian people to regain its rights by all means in accordance with the purposes and principles of the Charter of the United Nations;
5. Appeals to all States and international organizations to extend their support to the Palestinian people in its struggle to restore its rights, in accordance with the Charter..”



## **Reference for International Legitimacy of Palestinian Rights**

The reference for the international legitimacy of Palestinian inalienable rights is represented in the rules of international law, stipulated in international conventions and norms, and the resolutions of international organizations pertaining to Palestinian rights. This is an understanding of international law that is based on good intentions and equality of rights among peoples. This equality is the basis of the world order and the basis of the legitimacy of real world peace and stability. There is a close link between the international resolutions that confirm Palestinian rights as references for international legitimacy. There is a logical relationship between UN General Assembly Resolution 181 of 1947 on the partitioning of Palestine into two states and its Resolution 194 of 1948 on the return of refugees. There is also a relationship between those resolutions and Resolution 273 of 1949 accepting Israel as a member in the United Nations after its commitment to honor the two aforementioned resolutions. There is a clear relationship between Resolutions 181, 194 and 273, especially that Resolution 273 of 1949 stipulates: “The General Assembly notes furthermore the declaration by the State of Israel that it “unreservedly accepts the obligations of the United Nations Charter and undertakes to honor them from the day it becomes a member of the United Nations.”

Taking into consideration Resolution 181 of 1947 and Resolution 194 of 1948, there are also statements and clarifications issued by the representative of the government of Israel in front of the political committee on implementing the aforementioned resolutions. There is also a relationship

between those Resolutions and UN Security Council Resolution 242 of 1967 that was reiterated in Resolution 338 of 1973. Resolution 242 calls for “respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area, and their right to live in peace within secure and recognized boundaries free from threats or acts of force”. Resolution 242 calls for achieving a just solution to the refugee problem; the status of the refugees was determined by Resolution 194.

This link between resolutions of international legitimacy cannot be abolished by the fact that these resolutions were not explicitly referred to in all the decisions or the invitation to the Madrid Conference, or the Declaration of Principles or the Interim Agreement between the PLO and the government of Israel.

Resolution 181 of 1947 is the legal basis for the establishment of the state of Israel, which declared its adherence to this resolution through its officials, before the international community and world countries, when they committed themselves to honor it.

The condition for accepting Israel as a member in the UN was its voluntary approval to implement the resolution. Israel must respect international legitimacy and its commitment in the UN Charter and international resolutions. Otherwise, it loses the international basis of its legitimacy. For further demonstration of the binding power of Resolution 181 on Israel and the fact that it is one of the binding resolutions with guarantees by the UN and the Security Council, we recall the following important paragraphs:

- 1- The partition plan is divided into three sections: (A) Terminating the Mandate: partition and independence; (B) Steps preparatory to Independence; (C) Declaration.

- Resolutions 242 and 338 did not propose solutions for all issues in the Arab-Israeli conflict in general, or for the Israeli-Palestinian conflict in particular. We cannot say that any party has any claims outside the context of these two resolutions as they are just declaration of principles; this interpretation has priority over any interpretation of the two resolutions that might contradict with the binding rules of international law and natural and inalienable rights of the peoples. In further confirmation, we mention the following proof:
- Resolution 242 cannot be understood in isolation from Resolution 181. Paragraph B of the Resolution stipulates, “respect for and acknowledgement of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force.” This pertains to Israel, which was established on a part separated out in 1947 with features outlined by Resolution 181. Without Resolution 181, it is impossible to identify the borders, unless the claim is contrary to the binding rules of the international law, that new land was acquired by force of occupation. What Israel has seized outside the context of Resolution 181 is an occupation by force that we do not recognize; this is also not recognized by international law and resolutions of international legitimacy pertaining to the original and inalienable rights of the Palestinian people.
- Moreover, one cannot comprehend paragraph C of Resolution 242 pertaining to sovereignty, territorial integrity, and the political independence of every State in the area in relation to the borders with Egypt, Jordan, Syria and Lebanon, without referring to Resolution 181 of 1947 that specifies the southern borders with Egypt, the eastern borders with Jordan, and the northern borders with Syria and

Lebanon, unless Israel wants to amend those borders by force.

- One cannot understand paragraph B of Resolution 242 that talks about achieving a just solution to the refugee problem without going back to Resolution 194/47 and 194/48 – the first resolution divided Palestine and determined the area detached from its region to the new Jewish State. It also outlined the area of the Jerusalem region that was decided temporarily to be under the supervision of the UN, and to later return to its former status as part of the Palestinian State unless agreed otherwise. This region determined by Resolution 181 was amended by Resolution 194, which added a new area to it and expanded its borders. This shows the relationship between the two resolutions that worked jointly on organizing one case. There is also a relationship between those two resolutions, Resolution 242, and subsequent resolutions that recognize that Jerusalem is occupied and is subject to the law of military occupation and to international humanitarian law. An example of the interconnection between international resolutions and that failure to refer to them leads to their abolition, is UN Security Council Resolution 252 of 1968. This calls on Israel to abolish all its measures to change the status of Jerusalem; Resolution 252 stipulates: “The Security Council recalls UN General Assembly Resolution 2253 of 1967 and Resolution 2254 of 1967. The Council considered that all legislative and administrative measures and action taken by Israel, including expropriation of land and properties thereon, which tend to change the legal status of Jerusalem, are invalid and cannot change that status.” It urgently called upon Israel “to rescind all such measures already taken and to desist forthwith from taking any further action which tends to change the status of Jerusalem”.

Furthermore, many international resolutions depend on each other in

relation to Palestinian rights. Among those that exemplify this interconnectivity are Resolution 2535 of 1969, which depends explicitly on Resolution 194 of 1948, along with other international resolutions such as UN General Assembly Resolution 1725 of 1961, Resolution 3331 of 1974, Resolution 35/169 of 1980, Resolution 38/83 of 1983, Resolution 44/47 of 1989, and Resolution 46/46 of 1991.

It is nothing new to see Israel attempting to avoid the return of the original and inalienable rights of the Palestinian people and the implementation of resolutions of international legitimacy under the claim that they were not agreed upon in the Declaration of Principles, or that they are not valid. Israel is trying to deceive and circumvent the binding rules of international law to acquire by force the original rights of the Palestinian people; this violates legal logic. The spokesman to the Secretary-General Francois Juliani responded to Israeli claims that international resolutions such as Resolution 181 failed to exist. Juliani stated on November 15, 1988, that Resolution 181 of 1947 is still valid and in effect.

The substance of Resolution 181 of 1947 is further confirmed when we know that it classified the period between the termination of the Mandate and the partition and independence of the two (Arab and Jewish) states as an interim period without defining a time ceiling. The fourth item of the first part of the Partition Plan said: "The period between the adoption by the General Assembly of its recommendation on the question of Palestine and the establishment of the independence of the Arab and Jewish States shall be a transitional period."

Israel went even further in its evasion policy when it claimed that the Oslo Accord did not include any item on the Palestinian state, although it knows that this accord is only a transitional measure for an interim

period in preparation for returning the political rights of the Palestinian people and ending the occupation on their soil. It is not an agreement of a final solution. This is an interpretation that attempts to twist the logic of international law, which is being used by Israel only because it wants to keep the occupied rights captive. This trend still clings to the mentality of the old colonialism that ended in the middle of the 20th century. The norm in modern international law is that any people have the right to exercise their rights in their state without depending on the recognition of others to this right, and that others have no right to deny such a right. We have previously referred to UN General Assembly Resolution 2649 of 1970, which condemned governments that deny the right of self-determination, especially for the people of Palestine and South Africa. In 1936 the International Law Forum ratified in Brussels a basic principle to this effect when it decided that the existence of the state with all legal ramifications related to its establishment are not affected by denial of recognition to part of one or several states.

The trend approved in international law denies Israel seizing the rights of the Palestinian people as captive by use of force and that Palestinians have no right to a state unless Israel approves. This principle has been well-established in international law for some time; examples include the following:

- The text of Article 13 of the Montevideo agreement of 1933 between American countries, which decided: “The political existence of the State is independent of recognition by other States. Even before being recognized, the State has the right to defend its integrity and independence, to provide for its preservation and prosperity, and consequently to organize itself as it sees fit; to legislate concerning its interests, to administer its services, and to determine the jurisdiction and competence of its courts.”

- Article 9 of the Bogota Charter in 1948 reiterated the same tendency, that the original rights of an occupied people cannot be dependent on the will of the occupation state; this is was mentioned in the amended text in the Buenos Aires Charter in 1967.

These texts affirmed international precedents to this effect, as in the following examples:

- 1- The Supreme Court decision in the US in 1808 stipulating that sovereignty of the new state precedes the recognition treaty.
- 2- Commitment to this principle was repeated in 1918 on the occasion of the US recognizing Mexico.
- 3- The same rule was used in the Tenko case in 1923 between Britain and Costa Rica.
- 4- It was adopted by the provisions of mixed tribunal courts pertaining to (former) Czechoslovakia in 1919, and in the case of recognizing the Polish state in 1929, and in the decision of the Paris Court of Appeals in 1969, which decided that recognition is the revelation of the state and not the originator of the state. Therefore, Israeli recognition does not bring about Palestinian rights. Israeli will is not the source of these rights; Israeli will cannot decide on the extent of Palestinian rights. All agreements on restrictions to those rights are simply procedural measures in preparation for regaining full Palestinian rights, defined by international legitimacy and described by several resolutions as inalienable. Returning those rights to their owner, the Palestinian people, will achieve a just and everlasting peace.

Thus, all the issues in the final phase are constant and original rights of the Palestinian people, affirmed by the principles of international law, the UN Charter and the UN resolutions that constitute the reference

of international legitimacy for these inalienable rights, in addition to the natural and historical reference. Several international resolutions condemn Israel for occupying Palestinian land and consider occupation as a violation of the UN Charter, international law and resolutions of international legitimacy.

We can point to several resolutions of international legitimacy that constitute the international legal reference for the issues of the final phase in the following manner:

## **Borders**

The territories seized by Israel by force outside the context of Resolution 181 of 1947 are occupied territories subject to the law of occupation and the international humanitarian law. The natural order is that Israel withdraws from these territories and returns them to the Palestinian people because they are permanent rights of the Palestinian people. Thus, all UN resolutions affirm that Israeli actions in 1967 constitute the occupation of Arab and Palestinian territories.

Based on the principles of international law, UN and Security Council resolutions, including UN Security Council Resolution 242, all territories seized by Israel outside the context of Resolution 181/47 are Palestinian land occupied by force and must be withdrawn from in full. This was reiterated by several resolutions of international legitimacy such as UN General Assembly Resolution 38/58 of 1983, Resolution 39/146 of 1984, Resolution 42/209 of 1987, Resolution 45/83 of 1990, and Resolution 46/82 of 1991.



## **Jerusalem**

The international basis for recognizing Israel lies in Resolution 181/47 that gains its binding power from international legitimacy and Israel's unreserved acceptance of the resolution. In fact, Israel made a commitment to implement the resolution, along with Resolution 194-11/48, thus gaining international recognition. This basis was the result of explicit commitment to the two resolutions in the UN General Assembly Resolution 273 of 1949 accepting Israel as a full member in the United Nations. Israel cannot claim the annulment of those resolutions over the course of time. This means that there is no basis for its existence other than the force of occupation of Palestine in its historical Mandate borders, and that there is a basis for its acquisition of land in Palestine during the Mandate period, whether according to the Partition Resolution or outside that context, including Jerusalem. It also means that Israel's existence on those lands is considered an occupation according to the rules of international law, which does not give Israel any legal sovereignty over one inch of land. Its control over Palestinian land is merely physical control that does not constitute any legal status. Therefore, the occupation of Jerusalem and all the measures taken by Israel to change the legal nature or the geographical or demographic structure are void and constitute a violation of international law and legitimacy. The previous status prior to the occupation must be restored since Jerusalem did not enter into the borders of what was decided upon for the establishment of the new Jewish state; it remained within the borders of the mother state (Palestine under the Mandate), especially given that Palestinians did not accept any other status for Jerusalem.

Several resolutions of international legitimacy do not recognize any legal grounds for Israeli actions in Jerusalem, such as UN Security Coun-

cil Resolution 252 of 1968, Resolution 267 of 1969, Resolution 271 of 1969, and Resolution 298 of 1971. This is in addition to several UN General Assembly resolutions, such as Resolution 32/5 of 1977, Resolution 33/29 of 1978, Resolution 35/207 of 1980, and its Resolution in the emergency session on July 29, 1980.

This confirms what is known in law as a legal block to any Israeli demands in Jerusalem. Thus, since no international system was established in Jerusalem, the case remains as it was originally, which was part of the Palestinian state. This also means that rights to it are constant, belong to the Palestinians, and no one has the right to give these rights up on behalf of the Palestinian people. This was ratified from the start of the Mandate by the king of the Mandate state (Britain), who endorsed this in the Mandate Covenant that defined the jurisdictions of the Mandatory administration in maintaining the rights of the state under the Mandate, and that there is no right to make any concessions over any part of the land, as stipulated clearly in Article 5 of the International Mandate Covenant over Palestine.

Establishing settlements and transferring the residents of the occupying state to the occupied region violates all principles of the UN Charter and international law: this was stressed by several resolutions of international legitimacy, whether in the UN Security Council resolutions or the General Assembly. Therefore, creating a status quo by force cannot grant a right. This was followed by several resolutions of international legitimacy that confirmed this fact, denied any legal status to settlements or annexation, and demanded the dismantling of settlements, including settlements in Jerusalem. We cite the following examples from UN Security Council resolutions:

- Resolution 446 of 1979 which reiterated the importance of the fact that settlements and moving Israeli residents to Palestinian land is illegal.
- Resolution 452 of 1979 demanded a halt to settlement activities, including those in Jerusalem; it also called for non-recognition of annexation measures.
- Resolution 478 of 1980.
- Resolution 465 of 1980 that called for dismantling settlements.

Examples from UN General Assembly resolutions:

- Resolution 2851 of 1971.
- Resolution 42/160 of 1987.
- Resolution 44/48 of 1989.
- Resolution 45/74 of 1990.
- Resolution 46/47 of 1991.
- Resolution 46/199 of 1991.

In addition, there are several other resolutions that condemned settlements and annexation, affirming their illegitimacy.

### **Rights of Return for All**

The right of return is one of the basic human rights affirmed by the principles of the UN Charter, international law, human rights charters and resolutions of international legitimacy pertaining to refugees in general, and Palestinian refugees in particular. Resolution 194 of 1948 issued by the UN General Assembly was the first resolution to deal with this issue. An international committee was formed to follow up the implementation of this resolution, but Israel is preventing such efforts. All

international norms and precedents confirm the right of return to any person who is forced to leave his homeland because of war conditions, the use of force or occupation.

Palestinian refugees are dispersed in various locations: they are located on land where the Israeli state was established, in the West Bank and Gaza, and in Arab countries and several countries around the world. All Palestinian refugees have the right of return, whether all or some use the right or not. Each refugee has the right to return to their homeland and to receive compensation for the physical and moral damage inflicted on them or on their properties. This does not necessarily mean giving up their Palestinian citizenship and acquiring Israeli citizenship.

The United Nations affirmed that the problem of the refugees was the result of Israel denying the inalienable rights of refugees as determined by the UN Charter and international law. The Israeli denial of these rights prevents the self-determination of the Palestinian people and constitutes a serious threat to world peace and security. There are several resolutions of international legitimacy that affirm the right of return and self determination, including:

Resolution 2452 of 1968; Resolution 2535 of 1969, mentioned in Resolution 194/11, in which the General Assembly requested the resumption of efforts towards the implementation of the right of return; Resolution 2672 of 1970; Resolution 2792 of 1971; Resolution 34/52 of 1979; Resolution 37/43 of 1982; Resolution 42/69 of 1987; and Resolution 44/47 of 1989.

In addition, there is the right to compensation for the damage inflicted on the properties of all Palestinian refugees and non-refugees; the UN General Assembly affirmed this right and adopted a decision to set a

mechanism to implement Resolution 194/11 of 1948 on the right of return and compensation. This includes UN General Assembly Resolution 1725 of 1961, which requested determining and assessing the real estate of refugees in Palestine on May 15, 1948, and Resolution 2052 of 1965 that demanded the competent international committee submit its report on actions taken in that direction.

### **Sovereignty over natural resources and the right to compensation**

The rights of people to their natural resources, sovereignty over them, and benefiting from them are rights approved by international law. These were stressed in the Palestinian case through several resolutions of international legitimacy that reiterated that all actions and measures taken by Israel to exploit human and natural resources on occupied Palestinian land are illegal.

The resolutions also affirmed the right of Palestinians to full compensation for the damage inflicted on those resources and depletion, losses and damages.

- Resolution 3175 of 1973.
- Resolution 3336 of 1974.
- Resolution 3516 of 1975.
- Resolution 31/186 of 1976.
- Resolution 32/161 of 1977.
- Resolution 34/136 of 1979.
- Resolution 35/110 of 1980.
- Resolution 37/135 of 1982.
- Resolution 38/144 of 1983.

In addition to other resolutions.

## **The right to compensation for physical and moral damages**

Moreover, Palestinians have the right to demand compensation for the damage inflicted to their physical, material and psychological rights due to the Israeli occupation since 1948 and during occupation since 1967. Properties were damaged due to Israeli acts of war since 1948; Resolution 194/11 pointed to compensation. Following the occupation of additional Palestinian land by force and outside the context of Partition Resolution 181, and in the 1967 War, Palestinians suffered a lot of damage. This included Israeli depletion of Palestinian natural resources and damage inflicted on Palestinians due to Israeli violations of human rights and the principles of international humanitarian law in the occupied Palestinian land. Provocative Israeli acts were condemned by international resolutions in several UN General Assembly resolutions, including:

- 1 - Partition Resolution 181 of 1947 stipulated in its second chapter the protection of individuals' properties and the inadmissibility of taking them away unless for public purposes and under the supervision of the High Court. Paragraph 8 in the second chapter stipulated the following: "No expropriation of land owned by an Arab in the Jewish State (by a Jew in the Arab State) shall be allowed except for public purposes. In all cases of expropriation, full compensation as fixed by the Supreme Court, shall be paid previous to dispossession." The resolution also set a base for compensation for the rights of the group as whole, as part of the responsibility of the mandatory state of occupation. Regarding the responsibility of the mandatory state, the fourth chapter of Resolution 181 of 1947, under general provisions, stipulated the following:
- 2 - "During the period between the appointment of the United Nations Commission and the termination of the Mandate, the mandatory

power shall, except in respect of ordinary operations, consult with the Commission on any measure which it may contemplate involving the liquidation, disposal or encumbering of the assets of the Palestine Government, such as the accumulated treasury surplus, the proceeds of Government bond issues, State lands or any other asset.”

- The UN General Assembly Resolution 1725 of 1961 to determine and assess the real estate of Palestinians in Palestine on May 15, 1948.
- UN General Assembly Resolution 2052 of 1965.
- UN General Assembly Resolution 2252 of 1967.
- UN General Assembly Resolution 2341 of 1967.
- UN General Assembly Resolution 2546 of 1969.
- UN General Assembly Resolution 3005 of 1972.
- UN General Assembly Resolution 3526 of 1975.
- UN General Assembly Resolution 31/106 of 1976.
- UN General Assembly Resolution 33/113 of 1978.
- UN General Assembly Resolution 34/90 of 1979.
- UN General Assembly Resolution 43/58 of 1988.
- UN General Assembly Resolution 44/2 of 1989.

These are in addition to other resolutions that warned and called upon Israel to honor the provisions of the Geneva Conventions in the Palestinian lands, such as Resolution 2546 of 1969 and Resolution 3092 of 1973. Among the UN Security Council resolutions that stressed Israel’s responsibility regarding the violation of Palestinian human rights in the occupied territories are;

- Resolution 237 of 1967.
- Resolution 605 of 1987, and other resolutions that constitute the legal basis, along with the principles of the UN Charter and the rules of international responsibility in international law. These regard the rights of Palestinians as individuals and as an entity in demanding compensation for the physical and psychological damages incurred due to Israel's violations of the rules of international law and the UN Human Rights Charter, and the world order.



# Israeli Affairs

*Mohammed Abu Zeid*

## **Preliminary Review**

This paper, which is the outcome of an open-ended discussion among the individuals making up the group on Israeli Affairs, who have done most of the work in this field, aims to present a preliminary and brief preview of the Israeli “unified” position, which consists of a group of “No’s” that has become some kind of barrier or red lines. This position has been known for some time<sup>1</sup> but is waiting for the appropriate local, Israeli, Arab and international conditions in order to present itself as a package deal on the final-status negotiations table.

The Israeli position, or the Israeli national consensus, is summarized in the form of points or principles, or what is known as the four “No’s” that the Israeli PM repeats on every occasion. It is as if they constitute a character of the Israeli national anthem “Hatikva”, but the composer of “Hatikva” has left the “Promised Land”, while the Zionist project in Palestine is about to strip away local Palestinian and Arab legitimacy armed with those No’s.

We can only talk here about a unified Israeli position, especially when the former Israeli PM, Netanyahu, signed the Wye Agreement and proved that the Likud party has actually started to recognize the basic positions of the Oslo Accord, that the idea of the Palestinian state does not scare them any more. This also proves that the dispute between Labor and Likud is a disagreement over quantity and not quality.

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<sup>1</sup> See book: *Is there a solution for the Palestinian cause?* By Alof Harayfeen, Publications of Van Leer Institute – Jerusalem, English version. Issued in Arabic in the early eighties.

If we attempt to delve into the positions of the Israeli national consensus from the Labor party viewpoint, we have to highlight the following points:

1- The clear political<sup>1</sup> separation between the Palestinians and the Israelis<sup>2</sup>, and maybe because of security – personal reasons in the short term, whether at an everyday level or an economic level. Thus, there is a need to have a Palestinian entity with certain jurisdictions that can exercise authority on a set piece of land, which means having crossing borders that are nothing more than a policy of barriers that still carries the fingerprint of the Labor party.

2- No return to the 1967 borders.

Israel is considered the only state in the world that does not have specified international borders, at least in relation to the historical borders of Palestine. Since the establishment of the state of Israel in 1948, Israel considers the Green Line, which separates it from the West Bank and Gaza, as a ceasefire line<sup>3</sup> and not as an internationally recognized border. Moreover, the Jewish collective awareness as a basic component in Israeli identity, tends to consider “Judea and Samaria” as a *raison d’etre*. We all know how Peres was trying to convince Rabin to get rid of Gaza Strip and convince Arafat to establish the state in Gaza and to talk later about the rest of the West Bank. The Palestinian side rejected this. There

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1 The Intifada shook Israeli society deeply; the severing of administrative ties between the two banks in 1988 led to the exclusion of the Jordanian option from the programs and policies of the Labor party. Even the Likud party, which used to look at Jordan as the homeland of Palestinians, started moving closer towards the idea of humanitarian aspects in Palestinians. Furthermore, the Intifada highlighted the humanitarian aspects in the Palestinian issue.

See: Shlomeet Harayvin – A blind man in Gaza (in Hebrew) a series of articles – Zamora – Bitan, Publishers 1991.

2 In an undated televised interview, Shimon Peres, who was foreign minister then, talked about the existence of two models in the world. He said that one of them is a bad example, which is Serbia, and the other model is Israel, which is a good example, showing how Israel wants to separate from Palestinians. See also his book “A New Middle East”.

3 This was repeated by Israeli Foreign Minister David Levy in his press interviews during the annual meeting of the UN General Assembly in New York recently.

is also Israeli national consensus not to return to the 1967 borders. I recall here what Weizman said when he started talking about “Gaza and Jericho First”. He said that Ben Gurion had committed a historical mistake in not occupying the West Bank at that time.

### 3- Refugees

The return of refugees and right of return to the regions where Israel established its state in 1948<sup>1</sup> (in the true and full sense of meaning), is not posed for discussion. This explains the insistence of consecutive Israeli governments up to now to reject the return of the residents of Iqret and Birem villages to their homes and lands. So that this will not set a precedent.

There is an opportunity for a conditional return of those displaced after the war in 1967 in small numbers and under Israeli monitoring, and only to the regions under Palestinian control.

Regarding compensation, Israel will propose the principle of reciprocity pertaining to the Jews who left Arab countries, in addition to the establishment of an international fund and funds in order to resettle the refugees, and not to implement compensation of return.

- 4- The attempt to dismantle the spread of settlements and to gather the settlers in specific settlement concentrations similar to Gush Etzion, Ariel and the Jordan Valley, and then annex them to Israeli sovereignty. As for talk about settlement concentrations under Palestinian sovereignty, this is nothing more than some kind of a political illusion, while one can take the idea of Shulamit Aloni on the exchange of land in return for certain concessions in other regions into more serious consideration.

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<sup>1</sup> See book *The Birth of Israel “Myths and Realities”*, Simha Flapan, Pantheon Books, New York.

Moreover, Israel might be ready to give up settlements in Gaza Strip (or even all of the settlements) in exchange for concessions offered by the Palestinian side in another area. This same idea can be applied to the Jewish Quarter in Hebron.

5- No foreign armies to cross beyond the Jordan River.<sup>1</sup> This means having a real and direct role by Israel in monitoring the entry of individuals and weapons. They also want to set restrictions on the number of persons moving through crossings, at least to the west of the river, for topographical and economic reasons, in addition to other restrictions on water, job opportunities and religious extremism.

#### 6- Jerusalem

Israelis are trying with all means to affirm that Jerusalem has been and will always be the heart of the Jewish people in the city, not only from religious-spiritual point of view, but also stronger than the relationships of other religions with the city. This totally ignores the relationship between Palestinians and Jerusalem as an economic, social, spiritual and religious capital. There are still certain Israeli scenarios that are highlighted at certain times in an attempt to exclude Jerusalem, which was occupied like the rest of the West Bank in 1967, from the discussion currently going on regarding Israeli withdrawal or the regions that will be under Palestinian control.

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<sup>1</sup> See publications of Jaffa Center for Strategic Studies, and the Israeli-Jordanian Peace Treaty.

### **The question that poses itself is the following:**

Does the matter deal with a unified Jerusalem (and within what borders): The borders of the municipality (which moved to the west)?

Does this include Ma'ale Adumim and Giv'at Zeev? What will happen to the Arab quarters?

Or is it dealing with Greater Jerusalem: Abu Dis, Ezariyye, Al-Ram, Qalandia and Shu'fat?

Does this mean that West Jerusalem and the Jewish quarters are not part of the discussions, while discussion can continue on the remaining regions?

To answer these questions it is advisable to return to the paper presented by the Jerusalem Committee.

### **Barak's Strategy**

The strategy of Barak is not based on a new creation by Barak himself, but on the outcome of the ideas of the Israeli center, from the Likud, Labor, religious, seculars and leftists etc... This strategy is based on two pillars:

1. To find a final solution for the Palestinian cause once and for all according to total Israeli conditions in order to halt the accusations against the victims (Palestinians). The victims will stop considering themselves as victims and accept what is offered to them in the light of the absence of an Arab military option that can be seriously considered. There is also the collapse of the Arab-Islamic boycott on Israel that has been felt for some time, particularly as a result of the Jewish tragedy in Europe (the Holocaust). Israelis feel that the world cannot force them to accept anything they do not want to under any

conditions. (Israel's permanent rejection of the UN resolutions at a time when Israel succeeded in abolishing the UN resolution that equated Zionism with racism, which was even deleted from its files.)

The United States of America, which is the traditional ally of Israel, is preparing for major elections. Europe is maintaining negative neutrality due to the feeling of guilt deeply rooted within the Europeans. All this<sup>1</sup> will not help to push matters forward towards a just solution; besides, the era of international alliances and blocs has gone. In spite of this, Israel takes into consideration the Syrian-Iranian alliance, and probably the Pakistani one, in case its security relations with India accelerate quickly. This is the reason why Israel has a desire to look for a permanent solution in Syria and Lebanon as soon as possible.

- 2- To find some kind of reconciliation between the secular and the religious sector, and to move ahead with a stable Israel as soon as possible for the third millennium, away from the region with its problems.<sup>2</sup>

The unanswered question remains: To what extent will this strategy find support in Israeli society?

Even if this strategy succeeds in mobilizing adequate support in Israeli society, the Palestinian position seems to be the determining factor in whether Barak will succeed or fail in reaching a final solution to get rid of the "Palestinian burden". The harmony in the Palestinian position through re-arranging the internal front, using the card

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1 <sup>8</sup> One has to deal carefully with the resolution issued by the leaders of the European Union in Berlin, which was explained by some Palestinian observers as if it were a European Balfour Declaration to the Palestinians.

2 <sup>9</sup> Bank described Israel as a villa situated in the jungle (Arab Middle Eastern surrounding). Israel desires to transform Israel into a silicon valley similar to the Center of Scientific Research located in the California region, where there are the centers to develop software.

of normalization with the Arab and Islamic world and sticking to a rigid position regarding the issues of Jerusalem and the refugees, will reduce the room for Israeli maneuvers despite all the weak points in the Declaration of Principles of 1993. These left many matters open, such as the issue of sovereignty and borders. Israel will try to exploit these matters at certain points.

Finally, can the Palestinians have any impact on Israeli public opinion, and thus on Israeli positions, and how?<sup>1</sup>

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1 <sup>10</sup> See also: Azmi Bahara, *The Victorious and the Defeated in the Israeli Elections*, *Palestinian Studies Magazine*, vol. 39.

# **Borders and Security Arrangements**

*Khalil Shiqaqi*

## **Introduction**

### **Defining the issue of borders and the negotiations issue**

Palestinian independence within clear borders and regional sovereignty is the Palestinian's most important objective in the final-status negotiations. Nowadays, there is central Palestinian national consensus over the borders of the state, stipulating that it cannot be less than the current borders of the West Bank and Gaza Strip.

The issue of the borders deals with the following questions:

- Land-ground borders, including control over crossings, bridges, entry points and a land crossing that connects the West Bank and Gaza Strip.
- The Palestinian regional waters in the Mediterranean Sea and the Dead Sea, including control over seaports.
- Air space, including control over airports.

When determining the issue of negotiations over the borders, the belief of the Israeli party gains importance, as they believe that the establishment of the state is the Palestinian's most vital goal and interest, so that Palestinians will be ready to make core concessions on all issues of the negotiations in return for Israeli recognition of the Palestinian state. Since the establishment of the state is strongly connected to the



issue of borders (because the definition of the borders means implicitly recognizing an entity with sovereignty), it follows that, from an Israeli point of view, the borders will be the result of Palestinian concessions on four main issues in the negotiations: Jerusalem, settlements, security arrangements and water. Israel seeks in these negotiations to demand annexation or at least maintain its control over an important part of Palestinian land. This is clear from all the Israeli maps mentioned in Israeli circles since 1967, especially during the past few years, starting with the Allon Plan, to the Netanyahu maps (Allon +), and the third way and Alfer and Abu Mazen-Belin. This means that Israel wants to get the following in return for accepting and recognizing the Palestinian State:

- Ending the refugee issue by resettling them in the host countries.
- Solving the settlement issue by annexing most of the settlement areas to Israel.
- Solving the problem of security by annexing border regions on the Green Line and in the Jordan Valley to Israel.
- Solving the problem of water by annexing the regions under which there are water basins to Israel.
- Solving the problem of Jerusalem by getting Palestinian recognition of the legitimacy of the status quo.

As for the Palestinian position, the establishment of a Palestinian state is a natural right and part of a historical settlement, and an inevitable outcome of the Palestinian-Israeli negotiations. Therefore, any doubt on the inevitability of establishing the state puts the whole purpose of negotiations on serious reservation, making the Palestinian negotiator lose the qualification to negotiate.

The insistence on establishing an independent state presupposes that the Palestinian negotiator has a vision on the nature of trade-ins and exchanges that the Palestinian side is willing to consider in his efforts for the establishment of the state. Will the issue of the border be part of the bargaining process?

This paper aims to shed light on the concept of the borders in the Palestinian-Israeli conflict, and then determines the pillars and Palestinian negotiation requirements. The paper will also deal with determining the negotiation options, alternatives and strategies. In reviewing these issues, the paper will seek to answer specific questions that the Palestinian negotiator needs prior to engaging in serious negotiations with the Israelis.

- What is the starting point or the negotiations reference? Will it be the borders of the Partition of 1947 as mentioned in Resolution 181? Or will it be the borders of the truce of 1949 based on Resolution 242 of 1967?
- Is there room for considering regional trade-ins and exchanges to amend the borders, even if they are slight amendments? If this is possible, what are the Palestinian criteria and principles that control the process of amending the borders? What are the Palestinian regional basic needs that should be demanded from Israel in exchange for possible Palestinian regional concessions? What is the area of the ground crossing that the Palestinian side wants under its sovereignty, and what will the Palestinian side offer to the Israeli side in return?
- If the regional concessions are not allowed, what are the other concessions that the Palestinian side might be forced to make if they insist on maintaining the total regional unity of the West Bank and

Gaza Strip? What are the Palestinian basic requirements that must not be subject to any concession or bargaining?

- Does the Palestinian side deal with the borders of Jerusalem city in the same way that it deals with the rest of the West Bank borders? Or does it deal with those borders in a different manner within a separate negotiation framework as one of the final-status issues as stipulated in the interim agreement?
- Will the Palestinian side accept the concept of “security borders”? What are the specifications of the “security borders” that the Palestinian side is ready to discuss on the negotiations table? For example, does the Palestinian side show any readiness to negotiate over having an Israeli military presence in the Jordan Valley? Will the Palestinian side be ready to negotiate over keeping early-detection stations on the top of hills? And air defense sites? Will the Palestinian side accept to talk about Israeli security presence on the border crossing points? Or accept the operating of joint patrols along the borders between Palestine and Israel? Will the Palestinian side show readiness to talk about Israeli air security control over its space? And about disarming the state?

### **The concept of borders in the Palestinian-Israeli conflict**

The international borders of Palestine were set for the first time during British-French negotiations in the Sykes-Picot agreement. This agreement was followed by other talks between the parties, ending in 1923 with the signing of a map that demarcated the Palestinian borders with Lebanon and Syria, which were under French military control. Syria rejected the map then because it gave Palestine control over the major water resources in the region to appease the Zionist movement. Syria maintained its position until the 1948 War, when it occupied the regions

that were annexed by the 1923 map of Palestine, including the regions located to the east and south of al-Hola Lake and regions located to the east and south of Tiberias Lake, including several villages, especially the well-known Himme village. These regions are considered the source of the current conflict between the Syrian position calling for the return to the fourth of June 1967 borders and the Israeli position, which is ready to withdraw to the international borders. As for the borders with Jordan, Britain had set those borders because the two regions were under its military control.

The drawing of the international borders of Palestine did not end at that point. In 1947, the UN decided to divide Palestine into two independent states and set out a detailed map that took into consideration Jewish interests and Britain's promises to establish a Jewish state in Palestine. It gave Israel around 55% of Palestine and it gave around 45% to the Arab state (except for the Jerusalem region). These borders were not implemented on real grounds due to the eruption of the Palestine war, which ended in the Israeli military control over 78% of the total area of Palestine. The new borders were set in the Arab-Israeli armistice agreement. The armistice lines reflected the military position that allowed Israel to keep full control over its borders according to the partition, in addition to vast areas of land, especially in the north. The armistice agreements confirmed that the existing lines do not prejudice the rights of the two parties in the permanent solution of the Palestine conflict, and that drawing the borders was done for purely military considerations. However, these lines also reflected the interests of the victorious.

Due to the Arab countries' rejection of the partition plan line, these same countries did not seek to get a resolution from the UN on the return of Israel to the partition borders. Although the UN accepted Israel

as a member upon Israel respecting the UN resolutions, the UN has not taken any measure since then to monitor the extent of Israeli commitment to honor UN resolutions.

In time, the armistice lines gained acceptance by the international community as permanent lines. Israel defended the permanent status of these lines in its response to the Dallas Project in 1955. The US Secretary of State Dallas had described the issue of the Arab-Israeli borders as one of three basic problems in the tense relations between Arabs and Israel. Dallas saw that the armistice borders do not constitute permanent borders; the impression he made was that there is a need to amend these lines, taking into consideration Arab interests and not only Israeli ones. Israel responded by saying that it was ready to introduce mutual amendments to the borders, but would not accept concessions from one party. Israel affirmed in its responses that the armistice lines “is the only line agreed upon by the parties”. Therefore, regardless of any shortcomings, any attempt to amend the lines will raise unjustified major dilemmas.

However, the US position remains on the need to replace the armistice lines named by US President Lyndon Johnson in May 1967 as fragile lines. Johnson added that there is a need to set arrangements to make these borders “secure” from terrorism and destruction.

The concept of “secure borders” is part of the Arab-Israeli diplomacy language following the affirmation made in UN Security Council Resolution 242 in its English text on the necessity of Israeli withdrawal from “territories” occupied in the June 1967 borders, and the inadmissibility of seizing land through war, and on the right of each state to live in peace within secure and recognized borders. While the Arab interpreta-

tion of the concept of secure borders is limited to setting arrangements for security borders (as disarming) and on the establishment of peaceful relations, the Israeli interpretation of the concept goes beyond this to the need to re-demarcate the borders once again to make them “secure”.

The Israeli concept was confirmed when Israel rejected giving a description of the “secure” borders in 1969 in response to the request by the personal envoy of the UN Secretary-General, Gonaar Yareng. Israel explained in its response to the international envoy that secure borders are those reached through negotiations with the concerned Arab countries, stressing that the borders will be different from the 1967 borders.

The Israeli concept of “secure” borders was re-affirmed once again when the leaders of Israel used a new term in describing these borders as “defendable borders”. The plan of Yigal Allon, the strategist and former foreign minister, drew a plan with new “defendable” borders. Allon stressed that defendable borders give strategic depth (in the regional-topographic sense) to the Jewish State.

Allon’s map defined three regions in the West Bank that need to be annexed to Israel: a strip 15 km – 25 km wide along the Jordan River; the desert region extending between the Hebron mountains and the Dead Sea; and the regions overlooking Jerusalem north and south. It is worth noting that the Allon plan did not demand the annexation of regions along the Green Line in the same way that Israel demanded their annexation in later maps for proposed settlements. According to the Allon plan, Israel wanted to annex around 30% of the occupied regions in the West Bank and Gaza Strip.

The Camp David Agreement in 1978 pointed Palestinian-Israeli-Jordanian negotiations towards reaching a peace agreement based on Res-

olution 242, where border sites and security arrangements would be defined. The Reagan Initiative in 1982 talked about the principles of “land for peace”, and stressed that the items on withdrawal mentioned in Resolution 242 apply to the West Bank and Gaza, in the same way that they apply on the other fronts. The Reagan Initiative affirmed the US adoption of the Israeli concept of secure borders when it talked about “defendable” borders; it mixed the concept mentioned in Resolution 242 and the concept in the Allon Plan. This was a divergence from the concept that Johnson talked about in May 1967. However, Reagan reiterated that the extent of Israeli withdrawal from the West Bank and Gaza Strip would depend on the nature of peace, the degree of normalization and the agreed-upon security arrangements.

Although Israel did not give up its concept of secure borders, the concept was not mentioned in the Palestinian-Israeli Declaration of Principles or the consecutive agreements between the two parties. As a matter of fact, the Declaration of Principles and the Interim Agreement stressed that “the West Bank and Gaza Strip constitute a single territorial unit, the integrity and status of which will be preserved”. The agreements affirmed that the goal of the withdrawals and redeployments is the transfer of full authority over the West Bank and Gaza Strip to the Palestinian elected council, except for the regions pertaining to the final settlement: settlements and specified military sites.

Despite the text of the Declaration of Principles and the Interim Agreement, the Rabin government returned to using a new term when talking about the borders in the permanent settlement. It described the Jordan River as the “security borders” of the Jewish state. Although the intended meaning remained vague, the Israeli maps drawn by persons closely affiliated with the Labor party presupposed security arrange-

ments along the Jordan River and not necessarily annexing the whole area of the Jordan Valley. In other words, the point behind using the “security” borders was to distinguish it from the political borders so that the Jordan River can constitute the political borders of Palestine while at the same time it constitutes “security” borders for Israel.

Upon the transfer of authority in Israel to the right wing in 1966, the Allon Plan re-emerged in another form. The former Israeli PM Netanyahu adopted a map he called “Allon +” which demanded annexing all the regions demanded in the original plan, in addition to vast areas of land along the Green Line and in the depth of the West Bank. This would leave the Palestinian entity with an area ranging between 50% and 60% of the West Bank. When the Israeli left regained power in the government under the leadership of Barak, the Israeli concept of “security” borders might reappear once again, along with an Allon Plan. It seems that Barak wants to reconsider Netanyahu’s decision to implement re-deployment from 3% of the Hebron desert – Dead Sea as an Israeli indicator to return to former security concepts.

The basic Palestinian platforms and requirements on the issue of borders:

a- **The platforms:**

Based on the elements of Palestinian national consensus and in order to see the Palestinian negotiator maintaining Palestinian negotiating goals, priorities and requirements (see: A gateway for final-status negotiations), the following points must constitute the basic pillars on the issue of borders:

1. The solution must be based on UN Resolutions 242 and 242 and must be based at least on the map of the armistice borders.



2. Any border amendments must be mutual and very slight and they should grant Palestinian regional targets, such as the ground “crossing” that connects the West Bank and Gaza Strip.
3. Regional unity and integration must be ensured: there must not be any geographical discontinuity.
4. There should be Palestinian borders directly with the borders of the Arab neighboring countries.
5. There should be guarantees to have total Palestinian control over the borders, including the ground crossings and crossing points on bridges and regional waters, including seaports, and control over air space, including airports.
6. The solution must include opening a ground crossing (corridor) that connects the West Bank with Gaza Strip under Palestinian regional jurisdiction.
7. Any land leasing contracts must be temporary and include very small areas. The areas to be leased should not be populated; these arrangements must achieve Palestinian vital objectives such as renting parts of Ashdod sea port pending the construction of Gaza sea port, or the Lod airport to provide services not available at Gaza and Qalandia airports.
8. International arbitration must constitute an element of the solution formula towards reaching a solution to procedural problems, such as demarcating the borders, which might arise when implementing the agreement.

**b- The needs:**

In drawing up the map of Palestinian State borders, the following basic requirements must be met:

- 1- These borders must ensure maintenance of central national consensus and avoid any instability, conflict or internal polarization.
- 2- The borders must maintain Palestinian external security against limited attacks and border infiltration attempts.
- 3- The borders must guarantee Palestinian control over Palestinian land and water resources.
- 4- The borders must ensure protection to all Palestinian citizens in the West Bank and Gaza Strip. The borders must ensure that no Palestinians remain under Israeli control; guarantees must be made not to request Palestinians to become Israeli citizens and not to ask them to leave their homes, lands and properties.
- 5- These borders must ensure the sustainability of the emerging Palestinian state and guarantee its capacity to achieve its other vital objectives in the short and middle term, including the capacity to absorb displaced Palestinians and refugees.

## **The Israeli position in the negotiations**

Like the Palestinian negotiator, the Israeli negotiator seeks to pinpoint and define his launch point or reference, and then define his interests and vital needs, and finally to set his negotiation options in the form of one map or specific maps.

### **a- The pillars of the Israeli position regarding the issue of borders:**

- 1- The Israeli position is based on an interpretation that refers to borders in Resolution 242 as stipulated in its English text on the withdrawal from “territories” and not “the territories” or all territories. There is reinforcement of this position when referring elsewhere in the text that the withdrawal will be to “secured” borders.
- 2- The Israeli position is based on the fact that the 1967 borders are armistice borders, thus their value is not similar to international borders. If making changes to international borders is difficult, changes can be made to temporary borders such as the armistice lines that only reflect the real military situation at the moment of ceasefire. Therefore, the borders of the armistice must not be the launching points of the negotiations.
- 3- The Israeli position confirms that the permanent borders must provide a basis for protecting vital Israeli interests in security, water, historical rights and the rights of Israeli settlers in the West Bank and Gaza Strip. Therefore, a link must be made between the issue of the borders and other issues, so that eventually border amendments are made that can preserve the vital interests of Israel.

## **b- The Israeli definition of the vital interests pertaining to borders:**

The last point in the Israeli position is Israel's definition of its vital interests, which directs the future acceptable borders. Knowing these interests will contribute in defining the weak and strong points in the Israeli negotiating positions:

### **1- Maintaining Jewish identity:**

This presupposes that the change in borders will not lead to the inclusion of large numbers of Palestinian citizens inside the borders of the Jewish State; therefore, populated areas must not be annexed. This position may push Israel to talk about border amendments through which Arab residential regions inside Israel can be moved into the Palestinian state in exchange for annexing unpopulated Palestinian regions in the West Bank and Gaza to Israel. Israel will not accept making such a trade-off initiative to avoid the hostility of its Arab residents. Israel will wait for a Palestinian initiative along this line.

The basic Israeli weak point is the city of Jerusalem and its residents, totaling around 200,000 persons. This is why Israel agreed to the participation of the Arab residents in the Palestinian elections, aiming at keeping and eating the cake at the same time, which means annexing the city but not its residents. Israel may be ready to give up some Arab quarters in Jerusalem by redrawing the borders of the municipality. When demanding the annexation of settlement blocs or settlements to its borders, the Jewish State will work to avoid the demand to annex settlements located in Palestinian residential and populated regions.

## 2- Security:

It is likely that Israel will demand important regional amendments during the permanent status talks. Israel will claim that the UN Security Council Resolution 242 calls for ensuring Israel “secure” borders. Israel considers the West Bank as a vital region for its strategic and tactical security. Although the possibility of the launching of an Arab attack on Israel is unlikely following the Egyptian-Israeli peace agreement, and although the Jordan peace treaty with Israel has taken Jordan out of the confrontation, banning Jordan from opening its land to Arab troops, and although there is a possibility of signing a peace treaty with Syria in the near future, Israel is still captive to the mentality of Yigal Allon and his plan.

Among Israel’s several security needs identified by the Jewish State, are emerging demands for four border amendments as follows:

- Broadening the narrow center of Israel towards the east through annexing a “security zone” of a few kilometers width along the Green Line (except for the major Palestinian village and cities).
- Broadening the so-called “Jerusalem corridor” to the north, south and east.
- Fighting terrorism by making common borders between Israel and Palestine subject to monitoring and control, and defending them against infiltration as much as possible.
- Providing strategic security by making the Jordan Valley a security zone, or even annexing it or parts of it. Israel might demand to annex Palestinian regions along the Jordan River and the Dead Sea, reaching 10 km to 15 km towards the mountainous slope areas in the central region of the West Bank (a copy of the ideas in the Allon Plan). Israel might claim that this region is vital for its security, espe-

cially in facing challenges and threats from Iraq and Iran. In a more moderate scenario, Israel might only demand a narrow strip on the Dead Sea shore, and an even smaller strip in the north adjacent to the Jordan River near Mihola Settlement (to the south of Ein Bayda), whilst demanding the right to deploy tank units in the Jordan Valley.

### **3- Jerusalem:**

Israel considers Jerusalem as a vital interest as its political and spiritual capital. Since its occupation in 1967, the city has suffered a continuous Judaization process by consecutive Israeli governments. This process aims to impose physical facts on the ground that make the city, with its broadened borders, the capital of Israel.

Therefore, it is likely that Israel will demand full control over Jerusalem in its current municipal borders, in addition to annexing a strip of settlements surrounding the city, including Gush Etzion in the south, Ma'ale Adumim in the east, Giv'at Zeev in the north, which Israel considers part of "Greater Jerusalem" and a frontal defense line to Jerusalem. The map of Abu Mazen-Belin constituted an Israeli attempt to draw the Palestinian side to accept the requirements of Israeli vital interests.

### **4- Maintaining the historical rights and interests of settlers**

Because the Jewish settlements in the West Bank are connected to Jewish historical and religious symbols, these two interests (settlements and historical rights) express one Israeli vital consideration. After the 1967 War and the tightening of control on the West Bank and Gaza Strip, the settlement efforts were focused on the Jordan Valley, the eastern hilly areas of the West Bank, and around Jerusalem City and along the Green Line. The aim was to secure full Israeli control over the bor-

ders and sever any natural geographical continuity between Palestinian lands and the Arab neighboring countries. It also isolated Jerusalem from the rest of the West Bank cities and secured full control over the aquifer basins.

In the second half of the seventies, and because of the efforts and pressure from Gush Emunim and the support of the Likud government, settlement work moved towards the mountains and the heart of the West Bank. The aim was to disconnect the regional continuity of Palestinian lands, thus weakening the possibility of establishing a Palestinian entity, which meant a preemptive strike against the possibility of Palestinians realizing self-determination.

Although the right wing was the strongest party insisting on preserving Jewish historical and religious rights, the link between these interests and the settlements puts pressure on the Israeli left to support this demand for pragmatic considerations. All Israeli governments find difficulty in forcing thousands of settlers to leave their settlements by force, which leads to ramifications on the unity of Jewish society and the stability of the government coalition.

Furthermore, Israeli strategists consider the settlements as an important part of their security strategy. Settlements secure Israeli supervision of the borders and monitor any military moves towards them. These same settlements supervise the roads used by Palestinians when moving between their cities and villages.

Therefore, the easiest solution to this problem is to demand border amendments through which most of the settlers can be annexed to Israel. It is likely that the Israeli demands will include, in addition to annexing settlements in Jerusalem and the settlement strip around them, the

annexation of regions adjacent to the Green Line and towards the depth of the region west of Nablus and Salfeet, or what Israel calls western Samaria. Israel will also seek to annex settlements in the Jordan Valley. The aforementioned region includes around 75% of the total number of settlers in the West Bank.

#### **5- Water:**

Israel faces serious challenges in terms of water provision throughout the coming years in the face of population increase and the requirements of industrial and agricultural development. The water reserve in Israel is very limited and is subject to major weather fluctuations. The aquifer basins in the West Bank constitute an important water reserve for Israel, especially the Yarkon valley located in the north-west of the West Bank along the Green Line, and in the center region in the West Bank around Jerusalem city.

One of the reasons that pushed Israel to build settlements in the region to the west of Nablus was the desire to tighten control over water resources in that region. Israel used the lack of residents in that area to its advantage by increasing the number of Jewish residents and making them a majority, because it realizes that solving the water problem is possible without the need to annex those regions to Israel.

#### **c- The Israeli maps**

Since the start of the peace process, Israel has formulated four maps that draw borders between the Israeli and Palestinian entities. These maps reflect Israel's considerations pertaining to its vital interests: security, settlements, the future of Jerusalem, water, historical rights, the



need to separate the two peoples, and preserving the Jewish nature of the state. On the right-wing side, the map of Netanyahu, known as “Al-lon+”, was the best in representing Israeli ambitions to annex between 40% and 50% of the West Bank, so that Israel can annex security regions in the Jordan Valley and settlement regions in the heart of the West Bank. In spite of this, these maps place settlements like Ofra and Itimar inside the Palestinian entity, and allow the possibility of negotiating in the future over annexing additional regions to Palestinian control. There is also the map of the Third Way, which is very similar to Netanyahu’s map, although it gives the Palestinian state a bigger ratio of the West Bank because it concentrates mainly on annexing security regions such as the Jordan Valley, while the settlements in the heart of the West Bank receive less importance.

Both maps do not give a Palestinian state any real geographical continuity and do not allow the establishment of joint Palestinian-Jordanian borders.

On the left-wing side, there are also two main maps: the map of Alfer and the map of Abu Mazen-Belin. The Alfer Plan demands the annexation of 12% of the West Bank in order to push the Green Line five to eight km to the east, and to annex vast settlement regions around Jerusalem and to the west of Nablus. The map of Abu Mazen-Belin demands the annexation of 5% of the West Bank to Israel, while Palestinians will get a similar area from the land of Israel. Israel proposes that these areas be in the Negev near the Egyptian borders at a distant reaching a few kilometers to the south of the Gaza Strip.

Both maps allow regional continuity and joint borders with Jordan. The Abu Mazen-Belin Plan does include a very limited number of Palestinian regions populated with inhabitants (around 4,000 persons),

while the Alfer Plan includes more than 70,000 Palestinians to Israel. Through annexing vast areas around Jerusalem (Gush Etzion, Ma'ale Adumim, Giv'at Zeev), both maps cut off the sole Palestinian direct road connecting the north with the south. In addition, both maps, by allowing the annexation of settlement regions to the west of Nablus, including Ariel settlement, determine direct Israeli borders in the heart of the West Bank, and on the main artery that connects Nablus city with Ramallah at Za'tra juncture. Formulating such a situation constitutes a very serious tactical threat to the Palestinian state; any individual or group can disconnect the various part of the state by occupying the road or opening fire from a long range, thus making the defense of this road a daily security burden. According to these two maps, all cities of the West Bank without exception become border cities, including Hebron, Nablus, Jericho and Ramallah. Hebron will become a borderline city because of the annexation of Gush Etzion; Nablus becomes a borderline city because of the annexation of Ariel; Jericho because of the annexation of Ma'ale Adumim and Ramallah because of the annexation of Giv'at Zeev. In this way, the Palestinian state loses any depth. A Palestinian state with such specifications is not worth the sacrificing of more than 80% of Palestinians; the price to be paid by Palestinians will then become a very expensive and costly one.

# Relations with Neighboring Countries

*Ghassan Khatib*

## **Introduction:**

For us Palestinians, our relationship with our neighbors within the context of Palestinian–Israeli negotiations derives its importance from fundamental components, most importantly our earnest Arab national affiliation and our loyalty to common Arab national interests. Moreover, there are novel factors that increase the significance of coordination during this phase, in particular the imbalance of power between Palestinians and Israelis and henceforth our need for power drawn from our relations and coordination with neighboring Arab states. Also, there is Arab-Palestinian overlapping on several issues of final status talks such as borders, water, refugees and other issues.

From another aspect, there are difficulties and hindrances to benefiting from the relationship with Arab neighbors on the level of negotiations. These difficulties and hindrances are due to the difficulty in coordination and weakness or lack of confidence between Palestinian and Arab leaders. In addition, Israel's bilateral talks with some Arab states have come a long way in binding these countries in agreements which hinder Arab coordination in a way that could serve Palestinian interests in negotiations.

This paper aims at addressing concepts, strategies and mechanisms that help to serve our relationships with our neighbors on the one hand, and utilizing these relationships in a way that would further the achievement of Palestinian goals in the upcoming final status talks with Is-

rael. The paper will also address the plausible and ideal options for types of coordination and formulas for a negotiation relationship that ensures the best possible balance between the highest level of negotiating coordination and the utmost degree of independence for Palestinian decision-making in negotiations.

The starting point of reference will be the Palestinian interest of a nationalist nature. Forms of Palestinian-Arab bilateral and collective relationships will be addressed. We will adopt Arab legitimacy represented in the relevant resolutions of Arab summits and the Arab League, with some focus on the relationship with the Arab countries neighboring Palestine that are involved in the peace process and who are the most embroiled in issues of Palestinian–Israeli negotiations.

### **The reference:**

The basic reference, which should govern any study or discussion of relationships between neighbors, is the common national interest which binds us, as Palestinians, with the Arab countries. This interest was expressed in a number of Arab summit resolutions in addition to resolutions, charters and agreements that are sometimes bilateral, but are mostly on the level of the Arab League. One example is the resolutions of the Rabat Summit in 1974, which approved the principle of the establishment of a Palestinian state and considered the Palestine Liberation Organization, PLO, as the sole representative of the Palestinian people. In addition, many meetings were held, some at summits and some by Arab foreign ministers from countries neighboring Israel who participated in the Madrid Conference in 1991. In these meetings, resolutions were adopted and have become references for the relationship between the participant countries in negotiations. The most important of these

resolutions is that which stipulates the need to coordinate between negotiations tracks, giving priority to the relationship between Arab countries and centrality to the Palestinian cause in the Arab–Palestinian–Israeli conflict. In addition, there are joint defense treaties between several Arab countries and economic agreements for various degrees of economic integration that make the relationship between Arab states the top priority rather than the relationship between any Arab state with a non-Arab state such as Israel. This is the rule that should govern the priorities in relationships, whether they are political or economic.

Furthermore, there are bilateral agreements, the most relevant to the subject matter here being the Palestinian–Jordanian bilateral agreements, given that there are many such agreements covering various aspects: political, legal and economic. They are very important agreements because the relationship with Jordan is the most involved in issues of negotiations. These agreements constitute a reliable reference within the context of discussing the activation of neighbor relationships in a way that serves common Arab interests in addition to the Palestinian interest.

### **Difficulties and hindrances:**

It should be made clear that focusing the relationship with Arab neighbors for the purpose of serving Palestinian interests in negotiations with Israel is a very complicated issue which has the potential for raising many difficulties. This is not a cause for despair but should be an incentive to exert more efforts as soon as possible. Following are some examples of the difficulties and obstacles to developing this relationship in the intended approach:

- A. There is an accumulation of sensitive factors and a weakness or lack of confidence between the Palestinian leadership and a number of Arab governments, particularly those most concerned with the peace process and negotiations. Some aspects of this sensitivity have become very complicated and have even become personal. Other aspects are less complicated due to either misconduct or poor management by the PLO of this relationship or due to an objective reason because of a conflict of interests or Palestinian presence in that state.
- B. A discrepancy in opinions and sentiments between Arab governments on the one hand and the Arab masses on the other has resulted in a certain shortcomings. Consequently, the Palestinian leadership and people must deal with these two Arab dimensions at the same time despite their contradiction since each dimension weakens the other. In most cases, the Palestinian leadership has not succeeded in managing a balance between the two. Developing the relationship with regimes affects the confidence of the Arab masses in the PLO, while developing this relationship with the masses heightens sensitivity with governments and so on.
- C. It is a fact that, to a certain extent, it is almost too late in some cases in this regard. Some Arab states have already signed agreements or treaties with Israel that partially govern any prospects of Arab coordination. There are other states on the threshold of establishing economic relations with Israel. Consequently, emergent economic interests may impose themselves on political priorities, including Arab relationships. In this respect, matters may reach the point where Israel uses some of these countries either for convincing or imposing pressure on the Palestinians instead of vice versa.

- D. A number of Arab governments are extremely weak in facing the United States, which exploits its relationship with them in order to hinder Arab coordination. Sometimes the US succeeds in pushing for the improvement of Arab bilateral relations with Israel at the expense of collective Arab relations. For example, there have been efforts exerted by the United States on more than one occasion to frustrate any Arab intention to convene an Arab summit. The most recent example is the success of US efforts in frustrating the Palestinian attempt to convene an Arab summit before the end of the interim agreement to drum up support for the declaration of a Palestinian state.
- E. Sometimes, there are objective conflicts of interest between some Arab states and the Palestinians. Sometimes, there is competition in issues such as water. Also, some Arab states have interests in Palestinian potential or in the Palestinian masses. Sometimes, Arab governments try to use Palestinians living in their countries to gain credibility and legitimacy with them.

From another aspect, there is a gap between the stances of Arab governments and their people, who genuinely sympathize with the demands of the Palestinians. This can be attributed to the absence of democracy in these countries. Consequently, the narrow interests of these regimes become motives for policies and relationships

However, despite the difficulties and hindrances, there are other factors, some of which are old and others new, that work towards strengthening Arab coordination. In addition to the known traditional factors such as national affiliation, popular pressure, common interests and the accumulated treaties and agreements, there are also new factors generated by or which

came in tandem with the Arab-Israeli peace process. Some of these new factors have begun to surface and leave their impact on the political reality. Others are still unsettled and are expected to leave an illustrious impact.

Perhaps the most significant of these new factors generated by the peace process is the apprehension among some Arab states, particularly the larger ones such as Egypt, of Israeli domination of the region. This has revived and strengthened Arab solidarity in the face of Israeli attempts to engage in bilateral relations with a number of Arab states in a manner that would render Israel the dominant country in the region.

Another factor gradually surfacing is the overall feeling of weakness in terms of competitive abilities, especially from an economic aspect, in light of international agreements on an open economy and trade. This reality necessitates the need for solidarity, cooperation and integration, perhaps in order for shelter from Israel's advanced competitive potential in the region.

According to this and other factors that influence both ways, Palestinian policy should work towards being effective and influential in order to activate the factors needed for developing coordination, which would in turn weaken and frustrate the factors that hinder Arab coordination, solidarity and integration. From another aspect, Palestinian policy should take into consideration the new changes in respect to regional relationships, which were created as a result of the introduction of non-Arab countries to the formula of Arab relationships and consequently the Palestinian-Arab relationship. Such countries include Israel, Turkey and Iran.

Following are some useful points in the discussion aimed at reinforcing Arab relationships, namely those that serve Palestinian interests in negotiations:-



## **Requirements to support the Palestinian position**

1. It is extremely important to formulate a policy for Arab relationships and for successful balanced coordination within a relationship that guarantees the best possible coordination and independence in decision-making. Exaggeration in this relationship, which is sometimes the situation with Egypt, could be at the expense of independent decision-making. Also, exaggerating sensitivity, aversion and distancing from coordination could be at the expense of interests, as is sometimes the case with Jordan.

In this context, there is a need to enforce the Palestinian decision-makers' conviction of the significance of the Arab dimension. They should also account for the requirements to develop this Arab relationship, but not at the expense of independent decision-making since there is trend among some Palestinian leaders, even if they are a minority, to disregard the Arab dimension.

In order not to restrict the matter to generalities, there should be an emphasis on the need to activate the role of the Arab League and to bring about a qualitative change in its performance in order to deal with the recent changes in the region. Also, all Arab League resolutions should be implemented, particularly those related to the bolstering of Arab solidarity and cooperation and the establishment of a joint Arab market. Here, it should be stressed that any decision not implemented in this respect would be rendered ineffectual.

The most prominent example of this is the complications that have arisen in economic relations between Israel, Jordan and Palestine in light of the Paris Protocol, in addition to the Jordanian-Israeli economic relations. There have been accusations between Palestine and Jordan regarding responsibility for the agreements signed with

Israel that do not account for economic relations with other Arab components. The reality is the Palestine and Jordan did not coordinate with each other in signing agreements with Israel. It is important to take coordination in other aspects into account in the future. In other words, it is in the interest of the Palestinian cause to bolster confidence and understanding and to reinforce a policy based on the principle that any agreement with Israel should never counter agreements and treaties and the foundations of relations and common interests between Arab states. What is useful in bolstering coordination between Arab states and their service of the Palestinian position in negotiation issues is the fixed Palestinian positions and the presence of certain defined positions on other levels. Oscillation in the Palestinian position in regards to negotiation issues may, to a large extent, weaken Palestinian ability to obligate the other Arab states to certain positions pertaining to these issues

2. The aforementioned need for coordination on the essence of the position leads us to the urgent need a develop a mechanism for coordination and a mechanism for mutual action that ensures the greatest amount of benefits towards achieving negotiating goals, particularly those that are mutual and overlapping.

In this context, the necessity for a discussion of the best possible scenario regarding a mechanism for negotiations arises. In general, there are three different plausible forms for the structure of Arab relations in the context of negotiations. The first is mutual negotiations: the presence of a joint Arab delegation or delegations that negotiate with Israel over various issues after members of this joint delegation agree on fixed and defined positions. The second: separate multilateral delegations that do or do not coordinate on

a surface and minimal level. The third: negotiations according to multilateral delegations with a serious mechanism for coordination and which adopt joint or previously coordinated positions that are proposed separately by each delegation.

The first form is perhaps the most ideal for achieving common Arab interests. However, there are two problems: the first is that it could lead to the imposition of some Arab countries' positions or interests at the expense of the joint position. Consequently, this could be at the expense of the independence of the Palestinian position and at the expense of the Palestinian nature of issues that should be highlighted such as refugees, water and others. The second problem is that it is virtually impossible, primarily due to the difficulty in gaining Arab approval, in addition to the difficulty in convincing Israel and the United States to accept this formula.

We have experienced the second formula to a large extent in the multilateral negotiations that began in Washington after the Madrid conference. Despite consent over the need and mechanism for coordination, including meetings between coordinators from each delegation, heads of delegations, foreign ministers and, at times, presidents of states, in fact none of the delegations knew what was happening on the other tracks. A clear example of this is the Jordanian delegation, which took all the other delegations by surprise by reaching an agreement. The Palestinians surprised everyone as well, not only with the Oslo Accords, but also with a negotiation channel not known to the others.

Despite the fact that this formula gives and has given the Palestinian delegation the greatest possible independence, it has weakened all parties and has enabled Israel to strengthen its position at the

expense of all the other Arab participants in the bilateral talks. In the absence of any serious coordination, Israel has succeeded in creating a competitive atmosphere between the tracks to the effect that whichever is able to get ahead of the other will therefore achieve progress, even if it is at the expense of the others. In this way, the ability to move forward is necessitated by more “flexibility” or more concessions. One example is the tracks established by Israel between the Palestinian and Syrian tracks, and to a lesser degree between the Jordanian and Palestinian tracks.

The third scenario is negotiating on independent tracks with a higher level of coordination, and more importantly, a high level of seriousness and mechanisms for overlapping in negotiations at times. Perhaps this overlapping form of negotiations is the most appropriate to the nature of final status issues and to the overlapping nature such as refugees, borders and water. The particulars of this kind of negotiations includes first and foremost, Arab consensus on defined positions over subjects of negotiations that would be separately proposed to Israel by each party. These negotiation issues also sometimes require the inclusion of joint bilateral, trilateral, quadrilateral or multilateral committees. For example Palestinian–Israeli borders is a bilateral issue, however, it carries a tripartite dimension at times. Consequently, negotiations take on a bilateral or trilateral nature. In the case of Palestinian refugees, the issue is a bilateral Palestinian–Israeli issue. However, at certain stages or in certain aspects, work is conducted between the committees representing all the host countries. The overlapping of forms does not only guarantee greater coordination, but most importantly it is considered an urgent need since coordination requires the participation of more than one party in certain aspects or stages.

What is encouraging about this option is the fact that in contrast to the failure in Arab coordination in bilateral negotiations, there has been improvement in the field of coordination in multilateral negotiations. There are two reasons for this: the first is in a context related to the overlapping issues in negotiations, which may have necessitated more coordination. The second is related to structure, which is where multilateral talks take the form of collective committees and consequently push for the possibility of further coordination.

Therefore, it may be useful to benefit from some positive aspects of the experience of multilateral negotiations and to perhaps merge the structures and formulas of bilateral negotiations to ensure the required balance between independence and coordination.

3. Some characteristics of the new changes and developments at Arab level, which followed the aforementioned negotiation experiences – that is post-Madrid and Oslo- should be studied. Because of the novelty of these developments and the lack of clarity and completion of some of them, it is difficult to conclude a complete analysis of them or present any final recommendations. It is only possible to raise some questions and to draw attention to the need to expand on some of the developments and their impacts. One prominent inquiry is related to the maturity of Arab relations as a regional unit as opposed to other units that include parts of the Arab world, along with non-Arab countries in the Middle East such as Turkey or Iran. Another aspect is related to the expected impacts of the changes that took place and are expected to occur in the absence of historic leaders such as King Hussein of Jordan and King Hassan II of Morocco. What is to be the extent of changes in policy-making as a result of this change in leaders?

In regards to the PLO's position on the map of Arab relations, can we say that there has been a setback in the relationship with and status of the PLO, particularly after the Oslo peace process? Are there any indications of close Arab relations at the expense of the relationship with the Palestinians? For example, Jordan's relationship with the Gulf countries has improved, including with Kuwait, however, there has been no improvement in the relationship between these states and the PLO. Also, the Jordanian-Syrian relationship and the Jordanian-Lebanese relationship have witnessed developments not found in the Palestinian-Syrian or Palestinian-Lebanese relationship. Is this coincidence or developments in the nature of the PLO-Arab relationship?

Accordingly, it is important that the Palestinian leadership not maintain the same conventional foundations that govern its strategy in the region. Rather it should study the developments and changes and revise its methodology in a manner that guarantees that it is not isolated, and can maintain the widest circle of alliances and neighborly relations. We cannot ignore the tangible setback in the PLO's status and its relations with Arabs, which calls for an inquiry into the reasons behind it and remedy for this setback.

Here we should indicate the importance of formulating the best possible vision for the relationship that should be adopted by the PLO, not only with the Arab states, but also with other regional states and conglomerations. Here arises the importance of formulating a new vision for Arab national security that does not depend on the old concept, but which arises from a new concept and which deals with the various developments in the region and in the world. There is also an attempt to formulate new concepts and strategies for Arab national security within a comprehensive framework that guarantees achieving common Arab interests and re-focuses on the centrality of the Palestinian cause in Arab national security.

The new understanding of regional relations and the new concept of Arab national security includes, among other components:-

**First**, formulating the new structure of Palestine's relationship with its neighbors according to a realistic and objective study based on an appreciative understanding of the depth of Arab nationality, which connects the Palestinian people with their Arab brethren. Moreover, there is a need to construct Arab relationships with the world and with regional conglomerations with an emphasis on formulating the structure of future relations to connect Palestine with Israel. These relations should not affect Palestine's relationship with its Arab brethren, Islamic states or other friendly countries.

**Second**, the new concept of Arab national security necessitates a focus on development at regional level, taking into consideration that development and economic clout are the most important requirements for power at regional and international levels. The future cannot tolerate microeconomic units. Economic and political competition require regional economic integration on the basis of its Arab foundation in a way that guarantees entering the era of globalization with the appropriate strength, ability and status. Moreover, it should be ensured that development is sustainable and comprehensive and that all its components are integral, connected and concentrated on the human component.

This cannot be achieved in the absence of the third important consideration, which is the need to create democratic development in Arab societies. This in turn, would lead to strengthening the Palestinian people's relationships and its civil society institutions with Arab peoples and their civil society institutions.

Modern age standards do not offer a respectable place for nations and peoples who do not respect the bases of democracy and sound rule. Also, giving opportunity to liberties and democracy is one of the basic conditions for releasing potential, creativity and other conditions of power and progress, and occupying a respectable position among nations.

4. In order to achieve the relationship we desire with our neighbors, what we want should be clear and tangible and should be at the level of all issues of final status negotiations. We should also prove what we want in our relations and policies proposed to these countries. In a specific and simple manner, our demands from neighboring countries should be clear in regard to issues of refugees, Jerusalem, settlements, water, borders, and any other final status issues. On the issue of borders, we should clarify that what is intended by borders in final status talks is not a specification of their location since that was determined by Resolution 242, the term of reference for negotiations. Borders were also defined in the context of the Declaration of Principles in terms of the unity and safety of the West Bank and Gaza Strip, i.e. the Palestinian territories. It may be useful to designate the borders between Palestine and neighboring Arab countries. There should also be efforts towards pushing the neighboring Arab states to adopt a position based on the nature of borders between them and Palestine within the context of the final status solution, which is an Arab–Palestinian affair and not subject to negotiations with Israel.

However, for the refugee issue, it is important that the expectations of Arab host countries are clear and that the solution would be based on resolutions of international legitimacy and UN Resolution 194. Also, any solution based on the resettlement of refugees should be



rejected. It should also be clear that although negotiations over refugees concerns the Arab host countries, it is a Palestinian responsibility. In regard to Jordan, the fact that refugees carry citizenship there should not be at the expense of their right to return. Finally, prior coordination should be carried out with Arab host countries over the Palestinian position pertaining to compensation and its mechanisms of implementation.

This also applies to the issue of water in regard to reinforcing and specifying Palestinian rights and reaching agreements with concerned Arab countries before they reach agreement over water with Israel, provided it is not too late.

In terms of settlements, the stance required of the Arab states should be determined, first from the starting point of supporting the Palestinian position in an issue that is considered one of the most important in final status negotiations. Second, perhaps through a specific approach that could influence the neighboring Arab countries, Jordan in particular, regarding settlements. This approach is represented by the idea that maintaining and expanding settlements would push some Palestinians to leave their countries due to the hard living conditions, which would pose an economic, democratic and perhaps security threat to these countries. This would pressure them into demand a halt and dismantling of settlements. Perhaps it is useful here to link this issue with refugees.

The case of Jerusalem also requires clarity in our demands from the Arabs. First, at the level of overall political support for the Palestinian position, which should be based on the pretext that Jerusalem is part of the Palestinian territories occupied in 1967 on which

Resolution 242 applies, which calls for an end to the occupation of Jerusalem. Jerusalem should become the capital of Palestine as a condition for peace between Israel and the Arab in general. Second, in light of Jordanian legitimacy and its management of al-Awqaf, Jordan should support Palestinian rights within the final status solution of Jerusalem. Also, we must convince the Arabs of our position, which considers that we have rights to all of Jerusalem due to the many Palestinian properties in various parts of Jerusalem. This is taking into consideration Resolution 181, which deprives Israel of any legitimacy in their control over the western part of Jerusalem and maintains the rights of the original owners.

5. Agreements and treaties should be reached between the PLO as the representative of the Palestinian people and concerned Arab states. The most important are joint defense agreements for the purpose of guaranteeing independent relationships that connect Palestine with the Arab states and deter Israel and any other state that has greedy intentions. Moreover, it is important to establish security and economic relations to formulate the image of Palestine's relationship with the Arabs without any Israeli influence.

It is perhaps significant to note the importance of timing. Final status talks have recently begun. In this regard it is important that we impose certain facts in our Arab relationships before the commencement of final status negotiations because such facts strengthen our negotiating positions and contribute to determining the characteristics of these negotiations rather than vice versa. More specifically, such agreements should cover all aspects affected by final status negotiations with Israel. They should also account for future relationships, including the political, economic and security aspects of

these relationships in a manner that ensures giving priority to Arab relationships, particularly the Arab–Palestinian relationship, rather than the Arab-Israeli relationship. Perhaps the economic aspect is the most important since there is a need for Arab trade agreements that give preference to a trade relationship with the nascent Palestinian state in comparison to any future agreements with Israel.

For example, Jordan has shown interest in expressing its point of view and participating in final status talks in regard to certain issues, primarily borders, water, security, refugees, environment, economy and trade, labor, tourism and Jerusalem. In regard to Jerusalem, more than one statement has been made pertaining to Jordanian participation in or attendance of negotiations over Jerusalem. Such an example necessitates specific, binding and prior agreements between Palestine and Jordan regarding these issues.

#### 6. Relationships between peoples and non-governmental parties in the Arab world.

No doubt, there is the possibility that difficulties in the coordination between the PLO and Arab governments in regard to these issues may arise. For this and more important reasons related to mutual solidarity, sentiments and goals between Arab peoples and the Palestinian people, concentration on the relationship at non-governmental level is very important. It is one of the factors of strength in the Palestinian position in its relationships and disputes with Arab governments.

The last seven years of the peace process have given proof of the direct influence of Arab peoples, represented in non-governmental

organizations and masses, on Palestinian positions and interests, even when these positions and interests contradict with the declared positions and policies of the Arab governments. This could serve as a kind of credit for the Palestinian position whenever the need arises in Palestinian relationships with Arab countries. From another aspect, Arab popular support for the Palestinian position, policy and rights constitutes an important source of support to the Palestinian stance in negotiations with Israel. Arab, or sometimes non-Arab popular support, for the Arab identity of Jerusalem and the necessity of ending Israel's control over it is one of the strongest points in the Palestinian position in this regard. Perhaps the Walt Disney experience is one example.

However, it should always be noted that one of the fundamentals of this component is the constancy and principality of the Palestinian position, which is the basic means for gaining the respect and influence of the Arab peoples to the Palestinian cause.

Here arises the significance of non-governmental popular and national Palestinian factions and organizations, which better express the Palestinian popular position and which can participate strongly in the continuation of the relationship with and solidarity between the Palestinian and Arab peoples. This is particularly true because the positions of Palestinian non-governmental parties are more constant, principled and capable of addressing the Arab masses and institutions.

## **Conclusion**

The study and discussion of the issues in this paper by the committee on neighborly relationships have lead to some important conclusions such as:

1. There are apparent shortcomings in the Arab-Palestinian relationship that should be realized, whether legally as in signing agreements or in negotiations such as devising agreed-upon positions and negotiating mechanisms.
2. The Palestinian leadership is not cleared of these shortcomings, particularly since it has the most interest in furthering coordination and narrowing the gaps. Therefore, the Palestinian leadership must initiate, in a regular manner, the development of Arab relationships, including those with the Palestinians. This requires that the Palestinian leadership take this matter more seriously.
3. Speed is important in this regard since time is running out. Therefore, we should expedite reaching agreements, understandings and coordination regarding all issues and forms of cooperation and its mechanisms.
4. Focus should be given to strengthening the relationship at both official and popular levels, including the creation of strong, united and supportive Arab public opinion towards the Palestinian position in issues of final negotiations, particularly those with popular impetus such as Jerusalem, settlements and refugees.
5. It is important to work towards the application and implementation of Arab League resolutions, values and charters in a manner that guarantees the aspired goals.
6. It is important for the Palestinian leadership, in cooperation with

Arab countries, to develop a new concept of national security while accounting for new regional and international changes, including the new-found relations in the region and standards of contemporary competition and security. It should also account for the other components of existence and development in the era of globalization.

# Jerusalem and Final-Status Negotiations

*Mahdi Abdel Hadi*

## **Introduction:**

### **Historical Legacy**

On the threshold of the third millennium, the history of Jerusalem, stones and souls on an area in the heart of Palestine, pulses with the spirited legacy of Palestinian and Arab thought and mind. Muslims and Christians everywhere quote Jerusalem's history for inspiration or for pride or to escape from the oppression of time (the reality) in which they live. Or its history is used to search for resources and references to defend the legitimacy of their rights and to prove their Arab entity and Palestinian identity. These quotes could be summarized in ten points:

1. There are those who travel back in time to the seventh century and speak of Caliph Omar's entrance into Jerusalem, surrendering to its sanctity. Together with Patriarch Safronios this caliph delivered a historical document among the people, known as the Omar proclamation.
2. Others go back a thousand years to the era of the 'Francs wars', known as the Crusaders' wars, and to correspondence and negotiations between Salah El-Din Al Ayoubi with Franc kings, and his later liberation of Jerusalem on October 2, 1187, when the city was restored to Arab rule.
3. Still others may go back a hundred years to the beginning of the Zionist scheme in Basle, Switzerland in 1897, and from there to the first Zionist commission headed by Herzl in 1904. Arabs were aware of the dangers of this scheme and the maneuvers of its mas-

ters, so they called upon the Ottoman Empire to prohibit Jewish immigration to Palestine and to reject any Zionist propositions.

4. Some may refer back to World War II in 1914, and General Edmund Allenby's entrance into the city of Jerusalem in October 1917 when he announced 'the end of the Crusaders' war' and the beginnings of an administrative and political capital for the British Mandate government in Jerusalem.
5. Others concentrate on the role and legacy of Ronald Storez, the first British military governor in Jerusalem, the city planners and the beginning of construction in its quarters. They speak of the nature and uniqueness of the Islamic, Christian and Jewish sites, in addition to legal and actual conflicts, particularly over al-Buraq Wall (Wailing Wall), and the British decision to recognize Islamic ownership of the wall. They recommended to the governor to maintain the status quo of all of these sites as previously declared in the Ottoman decree.
6. Others only go back over the past 50 years, to Palestine's Nakba (Catastrophe) and the unfortunate birth of the Jewish state, and how the partition boundaries were demarcated for the two-state project, one Arab and another Jewish, in UN Resolution 181 on 29 November 1947. They refer to the desire or wisdom of the international will to extract itself from the circle of conflict by granting Jerusalem special status, *corpus separatum*, under international legitimacy. They speak of the Palestinian and Arab rejection, with the exception of Jordan, to partition and internationalization, and of the Zionist maneuver of announcing their temporary approval of the two projects at first until after they accomplished their goal of recognizing their state. They then revoked their approval and announced their rejection of the partition plan and international administration of Jerusalem.



7. Others may play the role of spectator, observing the relationships between military leaders, particularly the instructions of General Glub Pasha to the Arab military governor Abdallah al-Tal in regard to the city, in addition to plans by Ben Gurion and the Israeli military governor Moshe Dayan regarding the other sector of the city. They may also observe the hasty agreement between al-Tal and Dayan, who designated the boundaries in pencil as lines for a ceasefire between the two sectors of the city in 1949. Jerusalem has become known as being divided into two sectors, eastern and western, which are separated by a “no-man zone” where international forces were deployed. Since that time until the present, no one has granted legal or actual recognition to the city’s divided status or given its consent to control over it by either of the two parties, even if they “deal” with this “reality” until a “just solution” for the issues of the Palestinian–Israeli conflict, most importantly the issue of Jerusalem is achieved.
8. Some may resort to the 1967 War and the fall of the remainder of Palestine – the Gaza Strip and the West Bank, including East Jerusalem, to Israeli military rule. Hence began propositions to eliminate the affects of war, which the Arab summit called for since UN Security Council Resolutions 242 were issued in 1967. They may also delve into details, writing down and exposing Israeli measures and practices such as “annexation and settlements” in the eastern sector of the city and the remaining Palestinian territories! They may call for adhering to United Nations resolutions and to the just and literal implementation of UN Resolution 242!
9. There are others who will speak of the years of the Palestinian uprising, the Intifada, between 1987 and 1990, and how separation was restored to the two eastern and western sectors of the city, which Israel attempted to unite. They will speak of how the stones of the

Intifada re-demarcated the “Green Line” and the borders between Palestinians and Israelis in Jerusalem. Palestinian society was able to reaffirm its Arab identity and exercise its political, social and cultural entity independent of Israeli occupation institutions. This was a challenge to their clubs, rubber-coated metal bullets, and collective punishment such as closures and deportation, particularly in the eastern sector of the city.

10. Lastly, there are those who speak of the months of negotiations in Madrid, Washington and Moscow, and those that took place behind the scenes in Oslo, bringing about the Declaration of Principles (the formula of land for peace and implementation of Security Council Resolution 242). They propose the objective analysis that Jerusalem was excluded from other major issues of the interim phase, the legal framework of which is Resolution 242. The issue of Jerusalem was postponed until final status negotiations, given that the purpose of these negotiations is to discuss a solution to the case of Palestine, which is governed by resolutions of international legitimacy beginning with Resolution 181 of 1948.

This historical legacy is the political atmosphere in which the Palestinian and Arabs are living when discussing the issues of Jerusalem. It is difficult to overlook these matters. Consequently, proposing and discussing within a political atmosphere surrounding the issue of Jerusalem may give the opportunity to absorb the bitterness of “the reality.” This is not for the purpose of accepting or surrendering to it, but for arming public opinion and convincing decision-makers of the importance or reference of this historical legacy as we stand at the threshold of a political solution on Jerusalem.

## **Approach: Three issues**

### **First: Jerusalem, an integral and undivided case**

Jerusalem has a unique nature and entity; more than one major component in the lives and civilization of its people come together. Consequently, it is difficult to prefer one characteristic over the other, or to select or overlook any characteristic at the expense of the other. Therefore, it is a symbol that cannot be divided or dismantled.

The following are Jerusalem's five characteristics:

1. It is a historic city. This means it has heritage, civilization, construction, historical sites and landmarks that need care, maintenance and protection. There are resolutions and international recommendations, the most important of which is UNESCO's call to include Jerusalem in the list of historical cities whose heritage should be protected and features unaltered. The history and events of Jerusalem have become part of the history of the homeland, and Palestinian and Arab sentiment.
2. It is a holy city. This brings it to the heart of religious doctrine and conviction. Messages of prophets, the duty of worship and prayer, the city's sanctity, the people's right of freedom to practice their religion without interference or restrictions on access to holy sites of worship and without checkpoints or temporary permits.
3. It is a political city related to land, people, rights, Palestinian national rights to sovereignty, and political rights for its people since they are part of the Palestinian people and its political entity. They are also a part of its government, administration, social and political security and diplomatic relations since they have reached a consensus, by their own free will, that Jerusalem will be the capital of the Palestinian people and its future state.

4. It is a central city. It is the biggest Palestinian city and the most active and influential in social, cultural and other aspects of Palestinian life! It is considered the most central city for national educational, cultural, information, health tourism, professional and trade and diplomatic institutions.
5. It is a border city. It is located at the northern and southern axis of the West Bank at the center of Palestine. Over the years, there have been different and numerous municipal “zoning” borders for it. There are many interpretations pertaining to the borders of the city – are they according to municipal zoning plans, administrative planning, political decisions or according to population distribution and security reasons? Since it is a geographically central location, the continuation of geographic and demographic continuity between Palestinian cities and villages is impossible without Jerusalem. For example, citizens of Hebron are unable to reach Nablus without passing through Jerusalem, or citizens of Ramallah are unable to visit Bethlehem without passing through Jerusalem.

## **Second: The psychological factor- fear of the future!**

Over the years of the historical conflict, Jerusalem was subjected to a number of conditions, political situations and “imposed facts.” However, there was no compromise, agreement, acceptance or approval of any of these measures by any local, regional or international party as long as there was no “legal or legitimate” blessing from anyone of the events and measures imposed on the city.

The implementation of the section on Jerusalem in the UN Resolution in 1947 was suspended. It has not been implemented up to today. It stipulated that the city of Jerusalem should be dealt with as a separate

entity where an international system approved by the UN would supervise its administration. The Arab – Israeli war of 1948 imposed military armistice lines in 1949, which divided the city into an eastern sector under Arab sovereignty (Jordan) and a western sector under Israeli control. A no-mans zone under the supervision of the UN divided the two sectors. The Israeli – Jordanian truce stipulated that “this agreement may not affect, in any way, the rights, demands and positions of any of its parties in a final peace settlement on the issue of Palestine. The provisions of this agreement have been dictated by military considerations alone.” Jerusalem remained divided into its eastern and western sectors under emergency and temporary administration, with a continuous and uninterrupted presence of international peace-keeping forces, who are still waiting for a political solution to the future of the city until today.

Then came the June 1967 War and the Israeli occupation of the city. Israel quickly declared its “annexation” and imposed Israeli laws and regulations, thereby challenging international will, declared in UN Security Council Resolution 242, of the inadmissibility of acquisition of land by force and the necessity for an Israeli withdrawal from the occupied territories. Over the years of occupation, citizens of the city have declared their rejection and resistance to the Israeli occupation.

However, Israel forced the Arab population of the city to deal with its system. It conducted a census in 1967 and issued blue Israeli identity cards to citizens as a condition for registering and dealing with their residency affairs, work and Jerusalem citizenship under Israeli “law”. Now as we stand at the threshold of the final status talks, citizens of the city are gripped with fear and anxiety regarding a number of entangled issues. However, these negotiations will address the different aspects of their civil and political life and their future:

**A. Jerusalem Citizenship:** The question is whether every Palestinian will be able to maintain and enjoy citizenship rights in Jerusalem, in addition to residency, work and movement as is the case with Israelis, or will there be restrictions and conditions for those belonging to Jerusalem. For example, Israeli conditions and restrictions imposed on Jerusalem citizens today are restrictions on valid residency rights or travel documents and leaving and returning or residing in Jerusalem and connecting them to Israeli law. The law requires that a person may not be outside the city for more than one year. Also, there is a bundle of Israeli conditions that Arab citizens of Jerusalem must provide to prove that their center of life is within the city's municipal borders. If they are not proved, the citizen's "residency" rights in the city are nullified by an Israeli decision! The question is whether negotiations will lead to a draft Palestinian–Israeli law which would re-establish the lives of people in Jerusalem as citizens who enjoy the right of national and political belonging to their state, and which would preserve their acquired rights and ensure them justice and equality among others in the city [Israelis]. Or will they be left to the unknown in the absence of a Palestinian program and position, or is it their destiny to remain "hostage" to Israeli laws.

**B. Plans and programs for municipal planning.** The fears of Palestinian citizens in Jerusalem are growing in terms of the situation and future of their residential status in negotiations over city planning and distribution and classification of its quarters. They also have fears about negotiations over establishing two municipalities in its two sectors and about the bases on which the city would be planned and its quarters categorized. In addition, there are questions over what the municipal regulations for construction, permits and taxa-

tion would be, in addition to the methods of collecting these taxes regardless of the laws.

**C. Health and social services. Questions arise around the future of these services,** which have been provided throughout the years of the occupation and whether they will they be canceled or amended. There is also the question of whether there is an alternative for them since they are acquired rights for which dues have been paid, taking into consideration the high costs of health services today.

**D. Citizenship. Approximately 10,000 Palestinians have obtained an Israeli passport.** There are a number of reasons and justifications for this, including their claim that it is out of concern for their insurance of citizenship in the city. There is also the fear of not being able to provide proof of citizenship under the encumbering Israeli conditions in the absence of a national Palestinian alternative. Some also claim that they are not reassured about the future social and political Palestinian system, especially when taking into consideration the difficulties facing the Palestinian National Authority in the West Bank and Gaza in building a political, social and civilized system. Others claim that they are searching for commercial, financial and personal benefits and interests in Israeli institutions, especially after our own national values have fallen to avarice and collaboration. There are other reasons and justifications for living with the policy of “imposed facts” or preceding future events through “ensuring their interests” according to individual convictions in the absence of a national and collective position and in the absence of a higher political or national reference in the city.

**F. Negotiating scenarios.** There is fear and anxiety regarding the so-called “Abu Mazen-Belin Document” and a lack of confidence in the Palestinian negotiating approach. Moreover, the absence of an opposition program and its influence on developments justifies people’s fears regarding the possibility of Palestinian acceptance of an “imposed reality.” This is particularly true following Barak’s ability to “contain” the Palestinian position and program until February 2000 as stipulated in the Sharm al-Sheikh agreement dated April 4, 1999! Palestinian anxiety is also increasing in regard to the establishment and centrality of PNA apparatuses in Abu Dis, in addition to the numerous ineffective “commissions and committees” in the name of Jerusalem.

### **Third: The “other” in the case of Jerusalem**

Interests, concerns and needs in Jerusalem are not restricted to the two major parties in the Palestinian – Israeli conflict. There are regional and international parties that continuously declare their concern and positions towards Jerusalem. They also demand that their interests and needs in the Holy City be preserved. The Catholic Church, represented by the Pope in the Vatican, signed a document with Israel on December 30, 1993, which stipulates that each side recognizes the rights of the other in practicing its rights and authority. Both parties also pledged to respect this principle in mutual relations. The document stipulates the protection of holy Christian sites and the mutual interest of both parties in encouraging Christian pilgrimage to the Holy Land. Both parties exchanged full diplomatic relations and the Vatican promised not to interfere in times of conflict, particularly regarding disputes over land and borders.<sup>1</sup>

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1 <sup>1</sup>Documents on Jerusalem. PASSIA publication, Dec. 1996.



There are different interpretations of the Israel-Vatican agreements:

Is it an “Israeli victory and a historic document” as described by Shimon Peres or is the importance of the document restricted to the Vatican’s consent to turn a new leaf with the Israelis since they are the “authority that imposes realities” in Jerusalem in order to protect Christian holy sites, rights of worship in and access to Jerusalem without restrictions. This does mean, however disregarding the Palestinian right to or Israeli sovereignty over Jerusalem!

Can “religious jurisdiction” be divided among the followers of the three monotheistic religions and at the same time be isolated from political jurisdiction? Or is the Palestinian national identity the reference for preserving the continuous Islamic-Christian unity as a pillar of Palestinian sovereignty where there is no separation between religious and political jurisdiction.

Will the position and relationships of this “other” affect the atmosphere or context of Palestinian-Israeli negotiations over Jerusalem? Why?

In light of this document, a Palestinian delegation has been negotiating with the Vatican for almost a year to finalize an agreement that organizes relations between them. Signing a joint agreement with the Vatican could include political, religious and civil aspects of Vatican relations with the Palestinian state. It would also include the position of the Catholic Church in regard to the Palestinian cause, in particular the religious sites, negotiations over the final status, and developing Muslim and Christian relations in Jerusalem and in the remaining occupied lands.

Importance of the “other’s” positions and influence on the negotiations process could vary in one aspect or another. For example, there is the Washington agreement in 1994 between Jordan and Israel, which in-

cludes clauses of the peace agreement between the two states on October 26, 1994. It speaks of Israel's respect for Jordan's role in the Islamic holy sites in Jerusalem, and that at the start of final status negotiations, Israel would give first priority to the historic Jordanian role in these sites.<sup>1</sup>

There are contradictions in Jordanian political and media statements regarding these clauses, their contexts and interpretations and the various justifications, and the official position of the spokesperson in place and time on each occasion, particularly in statements regarding the official Jordanian willingness to transfer these authorities to the Palestinians when they are "qualified" to shoulder this responsibility. However, the matter has not been decided yet. The Israelis continue to use these clauses in times and places as they see appropriate. Meanwhile, the gap continues to grow between both the Palestinian and Jordanian sides in the absence of Arab coordination.

## **The first issue: Sovereignty**

The issue of sovereignty is considered one of the references and core issues in deciding the future of the Palestinian state, particularly the future of Jerusalem. It is important to briefly review the development of the concept and forms of sovereignty in theory, and its treatment by international law, in addition to experiences of practical implementation. The theory of sovereignty seeks to explain the word "sovereignty" and its context through reviewing the stages in which it was exercised. In the first stage, it used to mean the supreme omnipotence (God). There are people among us who have not surrendered their conviction that sovereignty over Jerusalem is for God.<sup>2</sup> In the second stage, the transfer

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1 Ibid.

2 Dr. Sari Nusseibi "Islam's Jerusalem" in Jerusalem Religious Aspects, PASSIA publication, Dec. 1995, 13-22.

of sovereignty was seen in connection with the king, the source of all authority and rights. He claimed that he represented God's will on earth. The third stage embodied the transfer of sources of authorities from the king to the people, since it was the people who possessed sovereignty and exercised it through the authority of their elected government. Hence began the inseparable relationship between the concept and exercise of sovereignty on one the hand, and self-determination for nations on the other. The right to self-determination is the foundation for rights and equality, and the exercise of these rights includes freedom and human rights, particularly the right to self-defense, which is considered the exercise of sovereignty. In international relations, sovereignty is still what governs the nature of these relationships between countries. The definition of sovereignty in international relations is, "a country that is capable and qualified to run its own affairs" and also, "the country that is capable of confining its abilities and authorities whenever it decides to do so. When the League of Nations, and later the United Nations, were established along with the international institutions that branched off of them, sovereignty became a part of international relations and international law. This was since the world's countries accepted, decided and agreed among themselves on a framework and covenant to follow and through an international public commission of which they are members. International law now organizes relations between sovereign states.

In terms of practical implementation, attempts to impose international law and restrict self-determination were doomed to failure, in both the city of Danzig in Germany in 1938, and Tristi in Italy in 1947. However, the third attempt succeeded in Tanja in 1923-1956, even though it was strictly restricted to economic aspects. Ultimately, the city was restored to Moroccan sovereignty.

In the case of Jerusalem, the attempt to implement a special system “under international sponsorship” (corpus separatum) failed. The attempt was part of the Partition Resolution of 1947, which stipulates the establishment of two states, the first Arab and the second Jewish. Also, the UN failed to establish and impose an authority (guardian council) in 1950 to oversee the city separately from the two Israeli and Arab (Jordan) states. Thus, the Palestinian-Israeli conflict continued.

There are several forms of sovereignty that could be mentioned:

**First: Exclusive Sovereignty** where one country enjoys total sovereignty and imposes its political and civil authority, in addition to its laws and regulations, on land and people.

**Second: International Sovereignty** where a country, represented by its government and the will of its people, accepts to delegate its sovereignty to an international commission, or accepts that international legitimacy transfers this sovereignty to its supervision and authority. The international party (a guardian council or special commission) exercises the political and civil authority on that land and people.

**Third: Shared Sovereignty** where two states share in separately exercising their political, legal, administrative and civil authorities over the city. This could be achieved through administrating and governing geographic divisions and residential quarters divided between them by mutual consent. There is also the possibility of joint administration in one or more quarters or the establishment of joint quarters.

**Fourth: Functional Sovereignty** where two states retract their claims and demands, or freeze or concede their political authority and agree not to propose the issue of sovereignty. Rather, they agree on utilities and other services in the city such as water, electricity, transport, edu-

cation, health, taxation, tourism, economy, planning, zoning, etc. They also agree on categorizing these services into two divisions: central services for which they share joint administration and individual services, which each side conducts separately and independently from the other.

**Fifth: Joint Sovereignty** in one city through an agreement on formulating a joint system to run the city. This could be achieved through joint institutions and systems on the foundations of equality and justice.

“The need for sovereignty and confirming its reference and importance in illustrating the relationship between both sides is not for the purpose of controlling the lives and future of the people. Rather it is to provide human and civilized development for the society and to ensure justice, equality and freedom for its citizens within a civilized legal framework.”<sup>1</sup>

The exclusive sovereignty of the Jewish state, in the issue of Jerusalem for example, is illogical, impractical, unjust and rejected by most governments and people and is unacceptable to Palestinians. Furthermore, it does not contribute to solving the issues of the Palestinian-Israeli conflict. It is worth mentioning that Palestinians do not claim and do not demand exclusive sovereignty over Jerusalem since such an approach in which one party demands everything does not indicate that there is a desire for a formula of coexistence between the two sides! Israel’s continuous claim that Jerusalem is the eternal capital of the Jewish state is a mockery and disrespect of the rights of others and a violation of international legitimacy represented in UN and Security Council resolutions and recommendations of international and regional conferences, institutions, and committees since the start of the Palestinian-Israeli conflict until today.

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1 Ibid.

Internationalization means that both the Palestinians and Israelis would accept and delegate to internationalize Jerusalem or to define a special international system to administer the city. Previous experiences in various parts of the world have proven the failure of this endeavor. The Palestinians and Israelis, the two parties from which an acceptable agreement to both their peoples and blessed by concerned parties is demanded, have both declared their rejection of the idea and principal of internationalization or international custodianship. This is in addition to each side making sure that they declare the city the capital of their respective people and country.

The components of functional and joint sovereignty could be addressed in the sense of sharing utility and living services in addition to a joint system for managing the city. I believe that their components could be combined in shared sovereignty. That is, Palestinians and Israelis would accept to practice shared and separate sovereignty over the city by considering it the capital of both states. Each would exercise its political, legal, administrative and civil authorities on part, section or group of parts and sections or quarters in the city after they agree on two issues. First, a special system for Jerusalem, which would provide justice and equality to the city's citizens and rectify the mistakes of previous Israeli practices. The second is to agree on a "map for Jerusalem" that specifies its area and city boundaries and demarcates its borders. The significance of this is that it would be the beginning of an agreement over the geographic borders of the city in 1947. A border would be drawn to the east, and another to the west, while a third would be drawn to the north and a fourth to the south. These lines would be considered the dividing lines between the Palestinian state and the Israeli state. Jerusalem would become the only joint city and the capital of the two states.

## **The second issue: religion**

Jerusalem's unique religious character and nature sets it apart from many other cities in the world. This religious affiliation with the city has constituted rights, interests, relations and benefits for believers of the three religions in Jerusalem.

Muslims call Jerusalem, Beit al-Maqdes,<sup>1</sup> which was honored in many clauses of the Holy Quran and in the Prophet's Sunnah. It is the sacred or holy city. In Islam, holiness (Al Quds) refers to all that is related to doctrine; the absolute constant legislation in the Book (Holy Quran) and Sunnah (al-Hadith al-Sharif); it is all that is related to God and his characteristics, all the messengers, prophets and places of worship. The Holy Quran trusts people of the Book (Jews and Christians) in their belief in God, realizing heavenly spirits, delegating the people and taking account for one's actions. (Surat al-Baqarah includes sixteen Ayat on affairs and matters experienced by people in their long history, as mentioned in the Old Testament and Bible). The Holy Quran mentions that "The Torah, Bible and Quran are God's verses".

Jerusalem is one of the basic locations that helped Arabs to develop their religious identity and to turn their backs on paganism and worshipping idols. It helped them to become part of monotheism. It also symbolizes Islam's connection with people of the Book; Jews and Christians, with consideration that Islam is the final message.

As for the holy sites, the Holy Quran puts the Noble Sanctuary (Al Aqsa Mosque and the Dome of the Rock) as the third sacred place in Islam after mecca and Medina. Jerusalem was also the first Qiblah (niche for prayer) during the first 12 years of Mohammed Ben Abdallah's mes-

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<sup>1</sup> Sheik Abdel Hamid al-Sa'eh: Importance of Jerusalem in Islam – a paper presented in the international symposium on Al Isra' and Mi'raj (-----) in Amman, 1979.

sage. The honorable prophet was careful to recall its holy status when he linked between it and Mecca and Medina, saying: “Travel should be directed to three mosques only: Al Haram Mosque, Al Aqsa Mosque and this mosque of mine.”

Jerusalem is evidence of the prophets and the honoring of prophets since Abraham, peace be upon him, and the sacrifice, which is still embraced by Moslems during the al-Adhah feast. Then, there was the journey of Prophet Muhammad Ben Abdallah “Al Isra”, which is his journey from Al Haram Mosque in Mecca to Al Aqsa Mosque. Al Mi’raj means the transport from Beit al-Maqdes to Heaven, where he realized the knowledge of God and where the heavenly revelation was completed and communication with the other prophets was carried out. The prophet received the obligations imposed on him and on all Moslems by God on that night, particularly the five prayers a day, the second pillar of Islam.

“From these events, it may seem as if the intention was to say that God reaches man wherever he may be on earth, but man’s way to God must pass through Jerusalem.”

From a Christian perspective,<sup>1</sup> Jerusalem is the mother of churches, since it witnessed the significant events in the life of Jesus. He was born to the Virgin Mary by a divine will. Jesus is the word of God and a spirit from God and he is blessed. Jesus spoke in his crib, cured the sick and brought the dead back to life. His resurrection (the Church of the Holy Sepulchre and Via Dolorosa) is the peak of Christian belief. Deep-rooted Christian rituals and traditions still exist among Christians in Jerusalem and elsewhere.

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1 Dr. Bernard Sabella: “Jerusalem: A Christian Perspective” In Jerusalem: Religious Aspects. PAS-SIA publication Dec. 1995, pp. 35-51.



Easter week is part of Jerusalem's uniqueness. Christians observe their fast and offer sacrifices while Easter pilgrims head to Jerusalem. Also the holy week that begins with Palm Sunday, the distribution of olive branches and the participation in the traditional march inside the city walls is to recall the day Jesus entered the Holy City. Also, there is participation in Good Friday and the march of pain and Via Dolorosa, which crosses fourteen stations, ending at the Golgotha. Then there are celebrations on the Saturday before Easter Sunday and the resurrection of Jesus in the Church of the Holy Sepulchre, where the "tomb of the holy Messiah" is located.

Jerusalem symbolizes the Church. It also symbolizes the human spirit since the place of worship is in the heart and spirit, (from the 1<sup>st</sup> letter of Paul the messenger 16:3-7). The holy site is where God is being worshipped in spirit and righteousness. It should be said that there is no place in Jerusalem that is not considered sacred for Muslims and Christians alike. There are around 199 landmarks of Islamic civilization; around 950 churches, monasteries and Christian schools and around 15 synagogues and Jewish schools.

Many Israelis consider Jerusalem as a symbol and expression of the transformation from the existence of a people to the formation of a nation or state following King David's success in uniting Israel's Tribes, occupying Jerusalem, establishing a kingdom and performing prayers in the temple. It is the synagogue established by King Solomon on Moriah Mountain which is considered, according to Jewish tradition, the place where Abraham wanted to sacrifice his own only and eldest son (Ismail) according to Islamic interpretation, or his favored son (Ishak) according to Jewish interpretation.

Jerusalem and Zion Mountain are connected to the religious consciousness of all Jewish Tribes. Prophets warned the Jews that God would lift

his protection from the city and its people if it became apparent that they were not loyal to him. Then the city was raided by the Babylonians and Solomon's Temple was destroyed, while the Jews were dispersed. They have continuously longed for the rebuilding of the Temple and regaining Jerusalem under Jewish rule.

It should be mentioned that there are three religious schools of thought concerned with the issue of "rebuilding the Temple" in Jerusalem.<sup>1</sup>

The first school maintains that the Temple of Solomon was built on what is known today as the courtyards of Al Haram Al Sharif, which includes Al Aqsa Mosque and the Dome of the Rock, Today Jews call this the Temple Mount.

There are two issues that must be considered. The first is the lack of accurate and specific knowledge of the location of the temple and the holiest part in it. The second issue is the conviction of this school's followers that the third temple cannot be destroyed by any human being or force since it will descend from heaven. Leaders of this school call and even order their followers not to enter the courtyard until the temple descends from heaven. Consequently, leaders of this Jewish school of religious thought wish to maintain the status quo and not change the place's features or impinge on the rights of Muslims to carry out their religious practices in it.

The second school asserts the longing and desire to rebuild the Temple of Solomon at the "Temple Mount" or the courtyards of Al Haram Al Sharif. However, since there are "others" presently at this site, leaders of this school do not wish to "return" to this holy site except with the consent and approval of the "other" and after they obtain their permission to share this place as in the past. Leaders of this religious thought advocate the methodology of "dialogue" between the religions, particularly in regard to Mus-

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<sup>1</sup> Religious Dialogue, PASSIA Documents, Jerusalem 1998.

lims and Jews in order to achieve an “understanding” pertaining to “sharing” this particular location.

The immediate Arab, Islamic and Palestinian response is that this is a “red line”, which basically means “over our dead bodies”. There will be no dialogue or negotiation over religion or its holy sites. Second, there is absolutely no confidence in accepting the Jewish proposal because the bitter experience in Al Ibrahimi Mosque in Hebron led to the complete takeover of the Haram by Jews and worship and entrance into the mosque was conditional upon Israeli permits! Also the features of Al Haram Al Ibrahimi have been altered to resemble a Jewish synagogue!

The third school: On August 9 of each year, which marks the anniversary of the destruction of the Temple of Solomon, the leaders of this school try to break into the courtyards of Al Haram Al Sharif in Jerusalem. They do not conceal their intention to take over the place with blood and fire.

The Arab Islamic and Palestinian position is not lacking in its continuous resistance of and confrontation to this aggression, expressing a readiness for “martyrdom” in defense of the religion and its holy sites.

The best preparation for cultural and civilized dialogue and understanding of the protection of interests to establish an atmosphere of justice, equality, peaceful coexistence, and stability among the population is achieved through the protection of the holy sites. It is also achieved through not making any changes in the status quo that regulates relations, caring for the interests and benefits of worshippers, uninterruptedly opening the city gates to all to practice freedom of belief, worship and access to the holy sites. In addition, there should be an “employment” of this relationship of faith between the population to respect their rights.

## **The third issue: International law and positions of countries and international institutions**

Since the beginning of the century until today, there has been no legal evidence in international law or international resolutions that permits the Jewish State to take over, or impose its sovereignty or authority over Jerusalem.

Jerusalem in both its eastern and western sectors, including the Old City, is one city. Israeli forces have imposed their military control (ceasefire) on its western sector since the 1948 war. No government, commission, official or non-governmental Palestinian, Arab, European, American or international party has agreed, realized or accepted Israeli sovereignty over the city. The Jordanian-Israeli military truce stipulates that, “This agreement shall not influence in any way, the rights, demands and positions of any of the parties in a final peace settlement for the Palestinian cause, since the provisions of this agreement are dictated by military considerations only.”

This was ratified by the two parties in the Hague Agreement of 1907, which prohibits the confiscation of public properties in occupied territories (Article 55). It also considers that municipal properties should be dealt with in the same way as private properties (Article 56). Also Article 49 of the Fourth Geneva Convention of 1949 prohibits any occupying force from deporting or transferring parts of its residents to occupied territories. As for the eastern sector of the city, it was occupied by Israeli forces during the 1967 War. It is part of the occupied West Bank, to which the inadmissibility of the acquisition of the land of others by force is applicable. International legitimacy is unanimous over demanding Israel to withdraw from these territories in UN Security Council Resolution 242 of 1967, followed by Resolution 252 of 1968, which demands Israel to halt all measures that alter the features of Jerusalem. It

also calls on the Jewish state to respect the Fourth Geneva Convention regarding the duties of an occupying military authority (UN Security Council Resolution 271 in 1969) as stipulated in international law.

UN Security Council Resolution 478 of August 1980 considers the Israeli announcement to impose its basic law on East Jerusalem as invalid. The UN renewed its call to this occupying country to respect the Fourth Geneva Convention. The international position towards Jerusalem has always continued to reject Israeli sovereignty over any part of the city, starting from the partition decision issued by the UN General Assembly on 29 November 1947 and its special session on Jerusalem regarding its municipal borders under the British Mandate. This rejection continued through to the military armistice agreement, which divided the city into two sectors in 1949, and then the Israeli occupation of the eastern sector in 1967. Resolutions and recommendations have remained suspended without implementation or finality. However, the fact that they have not been implemented does not absolutely mean their nullification or the possibility of referring back to them as a legal reference. In addition, Palestinians have declared in all of their meetings and recorded in their various political institutions that Jerusalem is the capital of the Palestinian state and that they rely on resolutions of international legitimacy and the free will of their people to self-determination.

One of the most supportive European positions to UN resolutions and institutions was the European group's statement in the Venice Declaration in 1980. The statement declared, "not accepting any unilateral initiative aimed at altering the situation in Jerusalem and the need for any agreement pertaining to Jerusalem to guarantee free access to its holy sites. It should also recognize the special significance of the issue of Jerusalem for all parties."

In addition, all the Arab states confirmed their adherence to international legitimacy. The letter sent by the late Egyptian President Anwar Sadat<sup>1</sup> to US President Jimmy Carter in 1987 during the Camp David talks reflected the essence of the Arab position when he said: "... And Arab Jerusalem is part of the occupied Palestinian territories and should be under Arab sovereignty; the Palestinian population in Jerusalem should enjoy the freedom to practice their national legitimate rights since they are part of the Palestinian people in the West Bank; the relevant UN Security Council Resolutions, particularly 242 and 267, should be applied in regard to Jerusalem." He added: "...all decisions adopted by Israel to change the status of Jerusalem are null and void and should be denied."

The Arab Summit in Fez in 1982 approved the document of Prince (King) Fahd, which demanded the "need for an Israeli withdrawal from the territories occupied in 1967, including Arab Jerusalem, and the establishment of a Palestinian state with Jerusalem as its capital in addition to the guarantee of freedom of worship and the practice of religious rituals for all religions."

However, the western sector of Jerusalem, which was conquered by Israel in the 1948 War, it is still subject to international legitimacy, namely UN Resolution 181 of 1947 and Resolution 194 pertaining to the right of return or compensation for Arab rights and properties.

Consequently, the nature and authority of legal, regional or local legislation governing Jerusalem remains without a final decision, despite the fact that Israel's practice of "imposed realities" since 1947 until present has not come to an end.

As a result of the mutual recognition between the government of Israel and the PLO in September 1993 and the signing of the Declaration of Prin-

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<sup>1</sup> William Quandt; Camp David, Peace Making and Politics, The Brookings Institution, Washington D.C. 1986.

ciples, the purpose of which was to put an end to the conflict and to agree on a framework for negotiations, the issue of Jerusalem was proposed as one of the major issues of final status talks. Arab, European, American and international statements and declarations have been issued stating that the future of Jerusalem should be decided according to an agreement between the Palestinian and Israelis. Here, we should stress that the interim agreement framework should not include the issue of Jerusalem since it is excluded from the interim agreement. This exclusion was by consent from both parties because it is considered the cornerstone of the final stage, which has been subject to the framework of international legitimacy for solving the case of Palestine ever since the Partition Resolution of 1947.

### **The fourth issue: Geography and Demography**

The area of Jerusalem in 1947 was approximately 59.5 square kilometers. The area of the western sector was 53 square kilometers, and the eastern sector was 6.5 square kilometers including the Old City, which is approximately one square kilometer. The city borders were Abu Dis to the east, Ein Karem to the west, Shu'afat to the north, and Bethlehem to the south.

Lands of the neighboring villages to Jerusalem, which are adjacent to the municipal borders, were considered part of the social and economic surroundings of Jerusalem and not part of the city's geography. The western side included the villages of Deir Yassin, Liftah, Ein Karem, Malhah, Romeima, Sheikh Bader, Khalet and Al Tarhah, while on the eastern side included Ezareya, Abu Dis, Shu'fat and Beit Haninah.<sup>1</sup> As a result of the Arab-Israeli war and the Palestinian Nakba in 1948, the first military borders were set followed by temporary truce lines

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1 Walid al-Khalidi, *Islam and the West and Jerusalem* – Magazine of Palestinian Studies (31) summer 1997 pp. 3-27.

(ceasefire) to separate the two sectors of the city and form a “no man’s zone” under UN supervision and international peace-keeping forces. The Arab party (Jordan) agreed on the passing of one convoy every two weeks through the eastern sector of the city, known as East Jerusalem, to the Hebrew University building on Mt. Scopus to provide it with the required equipment, resources and administrators.

As a result of the war in June 1967 and the consequent Israeli occupation of the West Bank and Gaza Strip, the Israeli government announced the confiscation of West Bank territories adjacent to the eastern borders of East Jerusalem. It also declared their “annexation” to the Jerusalem Municipality and imposed Israeli law on them.

This took place over the following six stages:<sup>1</sup>

1. June 1967 – 120 dunums inside the walls of the city (the Jewish quarter).
2. January 1968 – 4,000 dunums in Sheikh Jarrah, Shu’fat, Liftah and Essawieh.
3. January 1970 -14,000 dunums in Malhah, Sur Baher, Beit Jalah, Liftah, Shu’fat.
4. 1980 – 2,500 dunums in Beit Haninah and Hizmah.
5. 1991 – 2,000 dunums in Um Toubah, Sur Baher, Beit Safafah, Bethlehem, Beit Jalah.
6. 1996 – 6,000 dunums south of Jerusalem, Jabal Abu Ghneim, Bethlehem and Beit Jalah.

The total amount of land confiscated was 30,000 dunums, which equals 32.5% of the area of Jerusalem.

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<sup>1</sup> Allison B. Hodgkins: *The Judaization of Jerusalem; Israeli Policies since 1967*. PASSIA publication Dec. 1996 pp. 3,6,24



Despite the fact that the area of the eastern sector of the city grew to approximately 71 square kilometers, mainly due to the annexation of some West Bank land, the policy of “Judaizing” the city was embodied in a series of Israeli confiscation orders and municipal zoning plans, which restricted the reality and future of this area as follows:<sup>1</sup>

- 34% confiscated land.
- 40% green areas.
- 7% unused land.
- 6% infrastructure and roads.
- 3% frozen land.

This means that a total of 90% of East Jerusalem land (established between 1967-1997) are bound by an Israeli decision, and of the remaining land, only 10% is designated for Arab use, the area of which is estimated at approximately 9,400 dunums only. The population of Jerusalem before 1967 was 195,000 in the western sector and 75,000 in eastern sector of the divided city.

Israel was careful to maintain the ratio of 72% Jews to 28% Palestinians until the beginning of the seventies. The Jewish population at that time was 330,000 in the western sector. This was in addition to 160,000 settlers living in 28 settlements in the eastern sector, or a total of 490,000 Jews and 210,000 Palestinians in the eastern sector, in addition to 50,000 Palestinians living outside the current municipal borders, or a total of 260,000 persons. The standard percentage changed when the number of Palestinians increased in comparison to Jews at a rate of 67% Jews to 33% Palestinians. In the western sector of the city, approximately 80,000 Palestinians were forced to leave West Jerusalem in

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<sup>1</sup> <sup>21</sup> Ibid.

1948. The remaining properties (land and buildings) include 40% individual Palestinian properties and 34% properties for the Islamic Waqf, Christian churches and governmental buildings and 26% Jewish properties. Israeli policy continues to prohibit any Palestinian from residing in West Jerusalem since 1948 until today.<sup>1</sup>

## **Conclusion:**

Palestinian and Arab public opinion regarding Palestinian, Islamic and Christian rights and realities in Jerusalem is a necessity to provide the Palestinian negotiator with popular support in conveying his position and refuting the statements and claims of the Israeli side. The issue of Jerusalem in both its eastern and western sectors should be proposed in an integral manner in the context of land, people and rights and as an essential part of the Palestinian cause. It should not be confined by the negotiating ceiling agreed upon in Oslo since the Declaration of Principles and subsequent agreements were designed for issues of the interim phase, which should not influence or alter the overall reality and issues of the final solution. If the terms of reference of the Oslo Accords are Resolutions 242 and 338 of 1967, the reference for Jerusalem and the remaining issues of the final solution are based on international legitimacy and UN Partition Resolution 181 of 1947. The main guidelines in the negotiations stipulate not separating the religious and political jurisdictions in the city. They also stipulate defining Jerusalem's geographic area by the 1947 borders and not according to the municipal zoning and expansion plans imposed by one party and not recognized by anyone.

They also stipulate that Jerusalem residency should not be restricted or subjected to the laws of the occupier. Rather, this issue needs creative

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<sup>1</sup> Documents on Jerusalem. PASSIA publication, Dec. 1996.

thinking that would guarantee the rights and benefits of citizenship. Meanwhile, it should guarantee justice and equality with the other party, the continuation of belonging to the homeland and people, and the sovereignty of its political leadership over the land. The gates of “united Jerusalem” should not be closed to believers, worshippers or pilgrims. Holy sites should not be harmed and the status quo should not be violated inside the walls of the Holy City. The civilization and construction legacy of the city should also be preserved. Furthermore, its landmarks and artefacts should not be distorted. Israeli mistakes and measures in the eastern sector of Jerusalem should be rectified through nullifying confiscations, closures or freezing settlement Judaization procedures.

More than ever before, the Jerusalem community is in need of a higher national reference, which would form a collective position as part of the present and future of the homeland and the Palestinian people. It should reformulate the societal and service-oriented interests in an Arab municipal institution that would enable it to resist Israeli geographic scenarios justified by pragmatic and objective bases. Restoring a “Palestinian presence” in the Arab mind is of utmost importance for regaining the Arab and Islamic ally to bear responsibility towards the issue of Jerusalem and to urge the Arab decision maker to suspend all “measures” of normalization with the Jewish state as long as the issue of Jerusalem is restricted and closed according to the current Israeli balance of power!

Working for Jerusalem, its present and future, does not call for a Sultan decree or entry permit. It needs love, belonging and loyalty towards Jerusalem. It is the symbol of our national identity, the address of our political identity, the center of our Islamic and Christian faiths and the capital of our Palestinian state.



## Settlements and the Final Status

*Khalil Tufakji*

Since land was and still is the basic foundation for settlements and the main goal of the Zionist movement, Jewish institutions were created to seize and register land as public property for the Jewish people. After the first portion of Palestine fell under Israeli occupation in 1948, the second part of the tragedy began. After 1967 and the fall of the remainder of Palestine, Israeli authorities were quick to formulate the necessary plans for complete control over these lands. What is taking place today in terms of land is a reflection of political conflicts between two peoples with a long history of declared animosity. Each side aspires to maintain full control over the area. One source of these conflicts is land, since it is considered a source of living and life. Given that land constitutes an essential value, each side wants control over the largest possible area. Palestinians hold fast to their land since it was inherited from their fathers and ancestors and because it means sovereignty, life and the future. On their part, Israel imposes its authority on the land through settlements and through evicting Palestinians from their land as a practical means for the settlement process in the region for religious, ideological and security considerations.

We do not adhere to the land only because it is our inheritance, but because we fall back on international charters, which recognize the Palestinian people's right to sovereignty over their land. These include relevant UN resolutions beginning with the partition resolutions, Resolution 242 and 338. In addition, there are the UN General Assembly and Security Council resolutions, particularly those issued between 1980 and 1981, which consider settlements illegal and a violation of international law.

## **Stages of Israeli settlement in Palestinian lands**

### **Israeli settlement between 1967 and 1992**

Before the ceasefire, Israeli bulldozers began to evict the Palestinian population from the Arab villages of Yalo, Emwas and Beit Noba, which were later annihilated, in addition to destroying part of Qalqilya and Beit Awa. However, the ruin caused to the three villages was extensive. They were wiped off the face of the earth for the purpose of controlling over 58 square kilometers of no-mans land. A new settlement was established on these lands, which were also used for agriculture. Meanwhile, the process of demolishing Al Sharaf Quarter in Jerusalem paved the way for the establishment of the Jewish quarter. These steps came in light of the Israeli policies at that time, which aimed to amend borders by annexing lands to Israel (Jerusalem, Latroun, Gush Etzion area), in addition to its consideration of the Jordan Valley as a security zone.

### **Israeli settlement between 1967 and 1974**

At that time, the Labor-led government was headed by Levi Ashkol, followed by Golda Meir. Nine settlements were established in Gush Etzion and the Jordan Valley, thus constituting 82% of the 11 settlements that had been established up until then. These constituted 8% of the present day settlements. In addition, another settlement was established on the destroyed Arab villages of Yalo, Beit Noba and Latron. No settlement was established in the West Bank and Gaza Strip at that time.

### **Israeli settlement between 1974 and 1977**

In this period, the Labor government, headed by Yitzhak Rabin, invested the outcome of the October war in escalating its settlement policy.

The government established nine new settlements, which constituted 6.5% of the total number of current settlements. The number of settlers increased to 2,876 (0.3%) of the total population in the West Bank.<sup>1</sup> Settlement activities were concentrated in Gush Etzion and the Jordan Valley, where 6 settlements, approximately 66% were established. Also settlements were established in the area of Greater Jerusalem, in addition to another settlement in the West Bank area. We should not forget that in this period, settlement construction in Jerusalem was focused on establishing the Jewish Quarter, the French Hill settlement, Neve Ya'cov, the eastern Talpiot, Gilo, Ramot Eshkol and Ma'lot Dafna.

### **Israeli settlement between 1977 and 1981**

This stage witnessed a historical revolution since the most extremist Jewish government yet assumed power in Israel under Menachem Begin. He began the formulation of a new policy, particularly after Israeli's peace agreement with Egypt. In this period, 35 new settlements were established, constituting 35.5% of the total number of present day settlements. The number of settlers mounted to 13,234 and the rate of increase reached 241%, constituting 60% of these settlements, which were established near heavily populated Arab areas, particularly near Nablus and Ramallah. Twenty-one percent of these settlements were established in the Jordan Valley, (the expanded) Gush Etzion and Mt. Hebron, and for the first time, one settlement was established in the Gaza Strip. During this period, Jerusalem also witnessed the highest rate of land confiscation in the northeastern area, while construction and settler numbers continued to increase.

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<sup>1</sup> See end of table.

### **Israeli settlement between 1981 and 1986**

This period was characterized by a right-wing movement, led by extremist Likud party members such as Begin and Shamir. Thirty-four settlements were established, constituting 31% of the total number of current settlements. The number of settlers increased to 28,400, an increase of 115% (15,176 settlers). Settlers formed 2.2% of the entire Arab population at that time, which was 1,294,700. Fifty three percent of these settlements were established in populated Palestinian areas in Nablus and Ramallah. Also, 32.5% of these settlements were established in the Gaza Strip and Mt. Hebron and 14% in the Jordan Valley; one settlement was established in the expanded Gush Etzion.

### **Israeli settlement between 1986 and 1988**

In this period and due to the political crisis in Israel, a coalition government was established comprised of the two largest parties. At that time, 27 settlements were established, thus constituting 20% of the total number of current settlements. The number of settlers mounted to 69,500, an increase of 14% and constituted 4.4% of the total Arab population. The Jerusalem area witnessed the establishment of new settlements, the most significant being the northern and southern Pisgat Ze'ev. In the West Bank, 59% of the settlements were established in Nablus and Ramallah near heavily populated Arab areas, and 29.6% in the Gaza Strip and Mt. Hebron. The Jordan Valley and Gush Etzion maintained 11%.

### **Israeli settlement between 1988 and 1990**

The Israeli coalition government continued its settlement policy during this period. Five settlements constituting 3.6% of the total number of settlements were built. The number of settlers increased to 81,200 and



the percentage of settlers reached 2% of the total West Bank population. Settlement construction was as follows: three settlements in the Ramallah area, one in Mt. Hebron and one settlement in Gush Etzion.

### **Israeli settlement between 1990 and 1992**

In this period, settlement activity intensified under the government of Yitzhak Shamir, who embodied Zionist thought. Seven settlements were established, forming 5% of current settlements, while the number of settlers increased to 107,000. The number of settlers constituted 5.3% of the total population of the West Bank today<sup>1</sup> and settlement construction was carried out in all parts of the West Bank, with the exception of the Ramallah area and the Jordan Valley

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<sup>1</sup> Population of the West Bank is 2,717,000.

## **Future of Jewish settlements in final status talks**

### **Introduction**

Through various political and ideological approaches, Israel seeks to devise theories that would enable it to retain certain parts of the occupied territories. It benefits from the presence of Israeli settlements as a foundation for seizing these areas. In this respect, Israel is making a fatal mistake, which may lead to the disruption of the entire peace process. This is due to the fact that the idea of Israel maintaining control of land and settlements in the occupied territories completely contradicts the concept and principles of the ongoing peace process since Madrid. This process, which is based on a historical concession made by the Palestinian leadership and which conceded the political rights of the Palestinian people inside Israel in exchange for exercising Palestinian political rights in the territories occupied in 1967.

### **Negotiation terms of reference**

Until now, all the agreements signed with Israel were signed by the PLO, the sole and legitimate representative of the Palestinian people. It is necessary to adhere to this position in the future and to include official members of the PLO in any Palestinian negotiating team in the final status talks, particularly those still outside the homeland, in addition to experts in various fields. Negotiations should be conducted in places other than Israel and Palestine to avoid subjecting Palestinian negotiators to pressures and to logistics, which have been and still are used by the Israeli side. No doubt, the recent meetings initiated by the Palestinian leadership served to organize Palestinian internal issues in preparation for final status talks. As a major step in this respect, it is

necessary to establish official Palestinian terms of reference for the final status talks and to declare these terms before beginning negotiations, with consideration to their comprehensiveness for all Palestinian approaches and Palestinian national factions. Furthermore, a mechanism for democratic decision-making should be emphasized.

### **Terms of reference of the peace process**

The Declaration of Principles clearly and straightforwardly declares that the terms of reference of the peace process is the implementation of UN Resolutions 242 and 338 and the principle of land for peace, to be carried out without being detrimental to the legitimate rights of the Palestinians as expressed by the UN resolutions. It is necessary to reaffirm this position in all stages of final status negotiations since Israel is constantly attempting to disregard this principle by presenting settlement proposals far from these terms of reference.

It is also important to stress the signed agreements that consider the West Bank and Gaza Strip as one geographic and political entity. It is expected that numerous pressures will be exerted on the Palestinian side to force it to concede to these non-negotiable constants. However, it is very important to adhere to these constants and to have the support of the Arab peoples, which can strengthen the official Palestinian position on the basis of their conviction that the Palestinian cause is the essence of the Arab-Israeli conflict. Moreover, a just solution to the Palestinian cause must be based on international legitimacy, relevant UN Security Council and General Assembly resolutions and international charters. Furthermore, there should be a guarantee of the right to self-determination for the Palestinian people on their land and the establishment of their independent state with Jerusalem as its capital. These are the bases for a comprehensive and just peace in the region.

It is essential to constantly reaffirm that the Palestinian people have made many concessions and that they are not in a position to renegotiate over the remaining land after their historical concession of recognizing Israel.

### **Mechanism of arbitration for conflict resolution**

Just as we draw attention to the Fourth Geneva Convention, which prohibits the occupying power from making any alterations to the occupied territories, we should re-focus our concentration on Partition Resolution 181, which was approved by the UN. Moreover, there are further resolutions, particularly those issued in 1980 and 1981 regarding the Palestinian territories. The significance of adhering to international legitimacy and UN resolutions increases at a time when we are confronted with media reports on statements by Israeli officials who express their desire to marginalize any role from a third party in these negotiations. This position has been openly conveyed to the US President and to Egypt. Israel's intentions in this respect are not a secret, since it holds all the cards through its illegal occupation of Palestinian and Arab lands and its control over crossings, water and other issues. Based on this, Israel is trying to isolate the Palestinian side in final status talks to secure as many concessions as possible from the Palestinians, in addition to their approval of Israeli proposals. There is no doubt that Israel, as stated by former Prime Minister Benyamin Netanyahu, attempts to lower the Palestinian ceiling of expectations in final status talks and impose new realities. The Palestinian side must insist on finding a mechanism for intervention from a third party to solve disputes whenever they arise. Therefore, Palestinian-Arab coordination should be at the highest possible level and on all levels as well. They must also benefit from the media to make public the justifications for the Palestinian position. Over the past few weeks, this has become very apparent, particularly

when the Israeli government presented its views on implementing the Wye River Memorandum. No doubt the Arab and international media will play a decisive role in influencing the final solution, which the Palestinian side should use to the utmost.

It is important to remember that the area of the West Bank and Gaza Strip does not exceed 22% of the total area of historical Mandate Palestine.

### **Settlements and compensation**

Israel will attempt to raise the issue of compensation in discussions over vacating settlements because the Israeli government has invested tremendous amounts of money in their construction and infrastructure. The Israelis will also try to use compensation as a bargaining card in negotiating over Palestinian refugees and the right of return. However, any Palestinian negotiating position should reject these proposals on the following grounds:-

1. The establishment of settlements is an illegal act, as stipulated by international laws and charters. The occupier or aggressor should not be rewarded for acts carried out against the will of the occupied population and international legitimacy.
2. All settlements were built on confiscated Palestinian land, most of which were privately owned. This also resulted in economic losses due to the destruction of crops and the fact that Palestinians were not able to profit from these lands.
3. Throughout the years of the occupation, the infrastructure cost in these settlements depended on the budget of the so-called Civil Administration, which used to collect high taxes from Palestinians

without making their budgets or the mechanism for their disbursement publicly known.

4. Bypass roads were financed by the US government; their construction did not cost the Israeli government anything.
5. Settlements were built by Palestinian workers, who were exploited and paid minimum wages as a result of the deteriorating economic conditions caused by the occupation.
6. It is very important that the Palestinian side estimate the extent of losses and damages resulting from the establishment of settlements and demand compensation from Israel.

## **Settlements and race**

Israel will demand that Jewish settlements are partially or fully preserved based on the fact that many Palestinians live under Israeli rule. No doubt, any Palestinian rejection of this demand will be met with a wide media campaign on all levels.<sup>1r</sup>

Regarding this demand, Palestinians should tread cautiously and wisely; they should reaffirm the fact that the Palestinian state is not racist or sectarian, as stipulated in the Palestinian declaration of independence, declared in Algeria in 1988. Muslims, Christians and Samaritans live together equally. The Palestinian state will be democratic for all of its citizens. Palestinian law applies to all of its citizens and special privileges shall not be given to any sect. In this respect, the willingness and desire of the State of Palestine for Jews to live in it may be possible, according to the following conditions:

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1 <sup>3</sup> The closing of the Burger King in the settlement of Ma'ale Adumim due to Arab and Islamic media campaigns in the US.

1. Jews shall accept to be like any other citizen of the Palestinian state with equal obligations and rights.
2. Jews shall prove ownership of the land on which they want to live with the consent of the original owners of this land according to enacted Palestinian laws.
3. Jews shall respect and abide by Palestinian law.

It should be stressed that this ambition is in regard to individual cases and does not apply to settlements, which are considered as the foundations of colonialist policy and which run contradictory to the concept of peace.

### **Settlements and numbers**

The Israeli side will attempt to portray the settlement dimension as not being worth dispute. They will imply that Palestinian areas on which settlements are built do not exceed 3% and that many settlers will leave of their own free will if a final status agreement is reached.

Accepting such proposals is very dangerous. There are almost 400,000 settlers in Palestine, including Jerusalem. Also, these settlements have an enormous capacity to absorb an increasing number of settlers. In addition, Israel does not publish zoning plans for settlements. Nonetheless, all indicators point to the control of Israeli settlements over large areas of West Bank and Gaza Strip lands. Moreover, in recent years, the policy of settlement expansion has been aimed at the horizontal expansion of settlements towards populated Palestinian areas, where most areas within settlement borders have been left for future expansion.

On these bases, the Palestinian side should not engage in numbers and

percentages or in the attempt to separate between security and economic settlements. Neither should it discuss the difference between settlements in Jerusalem and in other areas, since the mere discussion of these details will entrap the Palestinian side in the pitfall of concessions and pressures that should be avoided. From the start, the Israeli side will no doubt attempt to convince the Palestinians to consider discussing some Israeli schemes. However, the Palestinian side should totally reject such a proposal and stress that the major issue in the negotiations over settlements is the mechanism and timetable for their nullification. Perhaps it is necessary to point out here the issue of settlements in Jerusalem and the mechanism for dealing with them since it is important that the Palestinian side demands that the borders of Jerusalem that are negotiated over should be defined. This should depend on the legitimate borders of Jerusalem drawn at any stage of its history and an outright rejection of the Jerusalem borders unilaterally defined by Israel to serve its expansionist goals.

- The Israeli side, whether official or unofficial, has presented several plans, programs and schemes which can be highlighted as below:



## **Vacating settlements**

There is no doubt that Israel will oppose the vacating of settlements and will launch a wide campaign against the Palestinian side if this matter is proposed. In this case, all the Palestinians need to do is point to Egypt's achievement in removing all the settlements in the Sinai in addition to the official Syrian position in this regard. Historical precedents, particularly in Algeria, Namibia and the former Rhodesia, should be recalled. Undoubtedly, the Palestinians hold a winning card in this respect, which is linked to the refugees' right of return guaranteed by international resolutions including UN Resolution 242. The Palestinian side could use this card in the impending phases of final status talks.

## **Consequences of not dealing with the settlement issue**

### **Impact of Zionist settlement on agriculture and the social situation in Palestine**

#### **a. Effect of settlement on agriculture**

Israeli settlement activities and land confiscation constitute the major component of Zionist philosophy since it affected the Palestinian agricultural sector in preparation for land confiscation and control over natural resources. Israeli authorities greatly harmed the Palestinian agricultural sector by lowering prices, taking control over water resources and destroying any home-grown types of produce, be it trees, vegetables or grains. This led to continuous and inestimable losses. Meanwhile, Israel flooded the Arab market with Israeli out-of-season agricultural produce at government-subsidized prices in order to eliminate the produce of Palestinian farmers. The agricultural infrastructure was also weakened, namely by the opening of ag-

gricultural roads and the access of Palestinian farmers to their lands. For the purpose of settlements, bypass roads and other reasons, vast areas of agricultural lands were confiscated and other areas were closed for security reasons. In this respect, we should not forget the Israeli policy of uprooting trees, which began immediately after 1967 and has continued until today. Almost half a million Palestinian trees have been uprooted, 70% of them olive trees. This was followed by long-term material losses in the agriculture sector.<sup>14</sup> From another aspect and based on a systematic and planned approach, settlements began to smuggle poisonous and internationally banned pesticides such as Felidol to Palestinian merchants. This led to serious ramifications on the quality of Palestinian agricultural produce and on the health of citizens.

#### **a. Impact of settlements on the social situation**

Israeli settlements noticeably affected the Palestinian social situation. The presence of an armed Israeli racist population in settlements in close proximity with populated Palestinian areas and the resulting friction between both sides led to the spread of extremism. Settlements were established on land belonging to Palestinian villages and cities and on confiscated agricultural land, which constitute the peoples' future and primary source of living. A foreign body came to live in these organized and highly developed settlements opposite Palestinian houses of desperation and poverty. Consequently, feelings of hatred and injustice rose between the two sides.

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1 Al Khader land in Gush Etzion near Efrat settlement, land in the village of Wadi al Beid, Harikat al Bassah, and Khalet al Louze and parts of lands of Wadi Rahhal (southeast Bethlehem). This also took place in land in Qalqilya and Hablah and in the villages of Gamzourah and Za'qouqah to the west of Hebron.

A field survey – Center for land research.

Sami Hidawi – Center for Palestinian Research 1970

Land confiscation also led to the round up and transfer of Bedouins by force from the Bedouin life to city life and the subsequent cultural shock. Consequently, this led to social gaps that affected the behavior and customs of the Bedouins and their family relations.

It also led to the shift of a large percentage of farmers from agricultural life to one of labor, which had ramifications on rural customs and the role of women in rural society. There were also people moving to the cities, which negatively impacted demographic development in Palestine.

## **Examples of Palestinian areas where settlement programs were implemented**

### **Settlements northwest of Jerusalem**

As part of the Israeli policy to surround the Holy City with settlements, a group of settlements was established outside the municipal borders of Jerusalem to establish the so-called Greater Jerusalem. This constituted one of the rings surrounding the city for the purpose of imposing new geographic and demographic realities. Moreover, it aimed at besieging and isolating Arab villages in this area to achieve yet another goal of removing the Green Line as part of the Sharon project, which calls for building on this line and pushing it towards the West Bank. It also aims at achieving the higher goal of annexing additional lands to Israel and preempting final status through demarcating the borders. Northwest of the city, a group of settlements was constructed, Giv'at Ze'ev and its industrial zones being the largest. It is noticeable that, according to the zoning plan, these settlements are extending from the public line, which connects Jerusalem and Tel Aviv to the Green Line over an area of 20 square kilometers. This settlement bloc includes the following:-

- One: Giv'at Ze'ev.
- Two: Giv'at Hadasha.
- Three: Nabi Shmuel.
- Four: East and west Giv'ot.
- Five: Nabi Shmuel.
- Six: Har Adar.

This is in addition to the industrial zone and the conversion of a large area into a nature reserve in Nabi Shmuel as declared after the Oslo Accords. At the same time that we see the expansion of Israeli settlements, we notice that Arab villages in the region are suffocating while standard plans are set for a population that increases year after year. In order to draw a comparison for this situation, the following table shows the areas and population of Israeli settlements and Arab villages.

Name of settlement	Area in dunums	Population
Giv'at Ze'ev	1300	7981
Givot Hadasha		820
Givon	50	100
Har Adar	1000	Under construction
Farm + industrial Zone	500	

### Zoning plan

Name of Arab village	Area/ zoning plan	*Population <sup>1</sup>	Area of village/ according to English survey
Biddo	644	2846	***53392 <sup>3:2</sup>

Qattannah	850	3279	9464
Qbeibeh	555	1298	3184
Beit Ijza	151	321	2550
Beit Sorik	434	2258	10105
Nabi Samuel	-----	-----	2150
Beit Dokko	397	494	9273

### Um al Rihan area

As part of the Israeli strategy to swallow up parts of the Green Line, a large group of settlements was established to the west of Jenin and to

the north of Ya'bad, adjacent to the Green Line. There is an Arab majority in these areas, which fell under Israeli occupation in 1948. The biggest of these cities is Um al Fahem and other Arab villages in the Triangle. In light of Israeli policies to create a dividing line between the Arab villages inside the Green Line and the areas occupied after 1967, Israel established a project within the Sharon stars project. It aimed at establishing a settlement on the Green Line by the name of Har Bra-chah, which would constitute, along with other settlements in the area, a dividing line in order to annex these lands to Israel:

<b>Population **</b>	<b>Area</b>	<b>Name of Settlement</b>
649	589	Shaq'ed
90	450	Rehan
100	400	Hinaneet

- Israeli Bureau of Statistics 1991

## **Project E1**

Israeli Defense Minister Moshe Arens approved the zoning plan entitled E1 to connect the settlement of Ma'ale Adumim and Jerusalem. Ma'ale Adumim was established in 1975 on land from the villages of Ezariyeh and Abu Dis. Its population is now 33,000 and its area is 35 square kilometers. By adding the E1 zoning plan, the area of Ma'ale Adumim will constitute approximately 67% of East Jerusalem.

E1, which bears the number 420/4, was announced on March 3, 1997. Its area is 12,443 dunums of land on which 1,5000 housing units will be established on an area of 30,000 square meters. Also, 3,000 hotel rooms will be built on an area of 40,000 square meters.

Palestinian owners of confiscated land located within the boundaries of the five Palestinian villages of Essawiyeh, Anata, al Tour and Ezariyeh have appealed against the zoning plans; however, their appeals were rejected.

By approving the E1 zoning plan, it is safe to say that it is more dangerous than the Abu Ghneim scheme since it creates geographic continuity between Ma'ale Adumim and the settlements in the northwest (Pisgat Ze'ev and Nevi Yacov). It also hinders any Palestinian geographic continuity or Palestinian housing development in this area. Also, approval for the tunnel road under the Mount of Olives and the belt road, which has already been approved, aims at connecting settlements in West Jerusalem, Mt. Abu Ghenim to the south and the Tel Aviv area by Road No. 45, which is currently under construction.

Establishing Israeli hotels in this area aims to harm the Palestinian tour-

ism sector, which constitutes one of the most important sources for the Palestinian economy.

However, the most dangerous goal that the Israeli government attempts to achieve is control over junctions that connect the north and south of the West Bank.

### **Settlement in the Hebron District**

In the Hebron district, there are 27 Israeli settlements distributed throughout various parts of the region. The first settlement, Kfar Etzion, was established in 1967 at the northern entrance of the district, thus severing the geographic continuity between the Bethlehem and Hebron districts.

### **Distribution of settlements in the district**

The settlement concentration and land confiscation in the Hebron district is based on vertical lines in the area, which is located near the Green Line. This is according to the proposed Allon plan for the final solution. Israel aims at seizing an area of between one to 8 square kilometers of West Bank lands for annexation and ethnic cleansing. These areas are concentrated around the settlements of Ashkelon, Tena, Shim'a, Shani, Suseya, Beit Yattir, M'aon and Karmel. This settlement belt is considered a danger and clearly threatens the presence of around 13 Palestinian populated regions in this area.



## **Bypass roads**

After the signing of the Declaration of Principles, Israel opened bypass roads to connect Israeli settlements, which were supposed to be far from populated Palestinian areas. However, this was not what happened. These roads actually aim at isolating Palestinian territories. Road 60, which passes through the Hebron district, clearly demonstrates this policy. Because of this road, the West Bank was divided into two sections and 20 houses were demolished

As for the remainder of existing or planned bypass roads, their intention is to redesign the borders of the district through plans to expand the Green Line

## Settlements in the West Bank

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
0	0			155	-----	-----	North of Jericho	Hirut Bitar	Labor	Marj Na'jeh	Moshav	1968	Arjman	1
				892	1300	242/2	East of Ramallah	Gush Emunim	Likud	Kufur Aqab	Civilian	1984	Kochave Y'acob	2
	5			212	-----	516	West of Hebron	Hirut Bitar	Likud	Tarqoumya	Societal	1983	Adora	3
26	0	4,465		44.2	2200	115	South-west of Qalqilya	Private	Likud	Azoun	Urban	1983	Alfei Menashe	4
11	3	352		335	-----	132	West of Ramallah	Hirut Bitar	Likud	Kufur al-Deek, Deir Ballout	Societal	1983	Eli Thahab	5
				1853	1000	405	South of Bethlehem	Gush Emunim	Labor	Nahalin	Regional center	1970	Allon Shevut	6
0	0			138		604	Jordan Valley south of Jericho	United Kibbutzim	Labor	Nabi Mousa	Kibbutz	1977	Almog	7
	15			552	833	226/2	East Jerusalem	Gush Emunim	Likud	Anata	Societal	1982	Alomon	8
200	300	15,034		14500		130	Southwest Nablus	-----	Likud	Salfest	Urban	1978	Ariel	9

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
0	0			-----	1000		East of Hebron	Boei Aghoudat Israel	Likud	Si'eer	Societal	1984	Meza'ed Asfer	10
20	33		253	226	130	204	West of Ramallah	Gush Emunim	Likud	Ajoul Atarah	Societal	1981	Ateeret	11
15	116		425	321	-----	158	East of Tulkarem	Private initiative	National unity	Kufr Allabad/Shufah	Urban	1987	Barkan/ (Beit (Abba	13
		2,571		163			North of Jericho	H a l h u d a Haglai	Labor	Majdal Bani Fasel	Moshav	1972	Bakout	14
5	5		365	547	176	114/1	South of Nablus	Gush Emunim	Likud	Nablus	Societal	1982	Brahka	15
18		3,594	1589	1568			North of Ramallah	Gush Emunim	Labor	Al-Bireh, Dora al-'Qare	Societal	1977	Beit El	16
281			1885	1840			North of Ramallah	-----	Likud	Bitin	Urban	1977	Beit El B	17
0	0			25	-----	602	Southeast of Jericho	-----	Likud	Nabi Mousa	Kibutz	1980	Beit Ha'rava	18
22	-----		-----	598	350	213	West of Ramallah	Gush Emunin	Labor	Tirah/ Beit Or al-Foukah, Bitonyah	Societal	1977	Beit Horon	19

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
520	0	10,507		7611	8000	426	Southwest of Bethlehem	Private initiative	National Unity	Hosan, Wadi Fokin, Nahalin	Urban	1990	Bitar Illit	20
2	27		-----	575	363	234/1	West of Ramallah	Gush Emunim	Likud	Al-Jamieh/Dier 'Ibzie	Societal	1983	Dolev	21
117		6,116	-----	5723	1150	410	South of Bethlehem	Private initiative	Likud	Al-Khader and Urtas	Urban	1980	Efrat	22
9	0			470	500	-----	South of Bethlehem	Moshav Ha-boel	Labor	Al-Khader	Societal	1975	A Azer	23
55	-----		-----	313	7220	202/2	West of Ramallah	Gush Emunim	National Unity	Aboud, al-Luban al-Gharbi	Urban	1989	Ofarim	24
50	-----	-----	1700	1953	-----	221/2	Northeast of Ramallah	Gush Emunim	Labor	Silwad	Moshav	1975	Ofrah	25
76	0	4,266		3899	-----	121/2	North of Qalqiya	Private initiative	Likud	Kufur Barrah	Urban	1984	Oranit	
	7		325	358		512	South of Hebron	Gush Emunim	Likud	Dora	Societal	1983	Otnael	26

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
1,092	0	9,114		5669	4000	210/6	West of Ramallah	Religious	National unity	Deir Qaddis, Bal'in, Kharabathah	Urban	1990	Qiryat Sefer	27
34	-----	-----	500	562	-----	160	Northwest of Ramallah	Hamoshav movement H a p o e l Hamizrahi	Likud	Kufir al-Deek	Societal	1984	Bidwael	28
2	26	-----	175	182	-----	509	East of Jerusalem	Gush Emunim	Likud	Bani Neim	Societal	1983	Beni Hefer	29
		-----	-----	921	-----	222/2	Ramallah	H a p o e l Hamizrahi	Likud	Al-Bireh	Regional Center	1981	Pesagot	30
	12	-----	-----	289	-----	315	North of Jericho	HaMoshav movement	Likud	Fasayel	Moshav	1985	Pitsael	31
0	0			263		608	South of Jericho	The Kibbutzim movement	Labor	Nabi Musa	Kibbutz	1968	Laliya	32
290			5100	5475		117	West of Nablus	-----	Likud	Deir Estyah, Kufur Laqef	Urban	1978	Karni Shamron	33
				253	150	421	East of Jerusalem	Hirut Bitar	Likud	Arab al-Sawahreh	Societal	1984	Kedar	34
100	0		2652	2387	-----	113	West of Nablus	Gush Emunim	Labor	Kufur Qadoun	Societal	1975	Kadummim	35

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
0	0		4900	2523	-----	510	Hebron	-----	Likud	Hebron	Urban	1972	Qiryat Arba	36
290				159	-----	-----	West of Nablus	M o s h a v m o v e m e n t Hapoel	Labor	Qarawat Bani Hassen	Societal	1982	Kiryat Netafim	37
	10			90		103/1	West of Jenin	The United Kibbutzim movement	Labor	Ya'bad	M o s h a v Shtovi	1977	Rehan	38
47				223	481	170/2	West of Nablus	Gush Emunim	Likud	Hares Sida al-Wadat	Urban	1990	Ravavah	39
7	24			440	247	224/2	Northeast of Ramallah	Movement of the Field	Labor	Ramoun, al-Taybeh	Societal	1977	Rimonim	40
8	10			144	-----	-----	North of Jericho	Movement of the Field	Labor	Tamoun	Moshav	1977	Ro'1	41
				-----	-----	-----	North of Jericho	-----	Likud	Toubas	Nahal	1984	Rotem	42
	4		20	28	-----	108	North of Nablus	Movement of the Field	Likud	Al-Funduqiya	Village	1982	Sanour	43
7				343	-----	112/1/2	South of Tulkarem	Hirout/ Bistar	Labor	Kufur sour	Societal	1977	Sal'it	44
32	61			2512		123	West of Nablus	Private initiative	Likud	Sineermya	Urban	1982	Sha'ar Tikfe	45
-----	-----			350	-----	-----	South of Hebron	Gush Emunim	Likud	Al-Sa'mou	Societal	1990	(Shani Levna	46

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
18	5	-----	-----	549	250	102	West of Jenin	Hirut/ Bitar	Likud	Ya'bad	Societal	1981	Shaq'ed	47
16	45	-----	-----	699	-----	-----	West of Nablus	Gush Emunim	Labor	Deir Sharaf al-nakourah	Societal	1977	Shave Shomron	48
-----	-----	-----	-----	-----	-----	-----	North of Jericho	-----	-----	Majdal Bani Fadel	Regional Center	-----	Shlomo Tsion	49
-----	-----	-----	1200	1142	-----	205/2	Northeast of Ramallah	Gush Emunim	Likud	Qaryout, Jaloud	Societal	1979	Shilo	50
-----	14	-----	-----	-----	-----	-----	East of Nablus	-----	Likud	Toubas	Nahal	1979	Bitronot Shella	51
120	31	-----	-----	1328	-----	227	East of Jerusalem	Gush Emunim	Likud	Anatah	Societal	1979	Kefar Adu-min	52
0	0	-----	-----	525	70	406/2	South of Bethlehem	Religious Kibbutz	Labor	Beit Om-mar, Sorif	Kibbutz	1967	Kifara Etzion	53
0	62	-----	-----	298	-----	131/1	South of Nablus	Gush Emunim	Likud	Yasouf	Societal	1978	Kefar Tapua	54
18	17	-----	-----	913	317	123/1	East of Ramallah	Gush Emunim	Labor	Deir Jrir, Kufur Malek		1977	Kochav Ha-shahar	55

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
460	88	22,060	-----	913	10000	420	East of Jerusalem	-----	Likud	Abu Dis, Al-Ezariyeh	Societal	1981	Ma'ale Amos	56
10	12	-----	-----	359	-----	413	Southeast of Bethlehem	Hirut Bitar	Likud	Arab al-Tamreh	Societal	1981	Ma'ale Amos	57
3	-----	1,608	-----	1651	-----	310	Southeast of Nablus	-----	Labor	Majdal Bani Fadel	Urban	1970	Ma'ale Efraim	58
0	60	-----	385	377	-----	229	Southeast of Nablus	Gush Emunim	Likud	Al-Iuban al-Sharqiyyah	Societal	1984	Ma'ale Mikhmas	60
50	-----	-----	472	462	-----	116	West of Nablus	Hirut/ Bitar	Likud	Kufur Thulth	Societal	1980	Ma'ale Shomron	61
-----	-----	-----	-----	-----	-----	-----	Southwest Ramallah with Givat Ze'ev	Jordanian military camp	Labor	Al-Ieep	Urban	1977	Givat Mahneh	62
0	5	-----	-----	185	-----	508	South of Hebron	Gush Emunim ((Amnah	Likud	Yatta	Moshav Shitovi	1981	Ma'aon	63
-----	-----	-----	-----	-----	-----	-----	Northeast of Nablus	-----	National unity	Toubas	Nahal	1987	Maskolat	64
0	6	-----	-----	166	-----	312/1	East of Nablus	Zionist movement	Labor	Al-Far'ah	Moshav	1970	Maso'a	65



Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
6	5	-----	-----	580	-----	210/5	West of Ramallah	Yael Bogdat Yisrael	Likud	Ne'lin Deir Qadis	Moshav Shitov	1981	Mattiyahu	66
1	6	-----	-----	297	-----	-----	East of Nablus	Moshav movement Hapoel Hamizrahi	Labor	Tubas	Moshav	1968	Mehola	67
0	16	-----	-----	297	-----	-----	East of Nablus	Hapoel Hamizrahi	Labor	Beit Forik	Moshav	1973	Mekhora	68
-----	-----	-----	278	331	425.6	-----	West of Nablus	Gush Emunim	Likud	Arabeih/Ya'bad	Societal	1978	Mofodetan	69
0	6	-----	-----	166	-----	312/1	East of Nablus	Zionist movement	Labor	Al-Far'ah	Moshav	1970	Maso'a	70
6	5	-----	-----	580	-----	210/5	West of Ramallah	Yoel Bougdad Israel	Likud	Ne'lin, Deir Qadis	Moshav Shtyouv	1981	Mattiyahu	71
1	6	-----	-----	297	-----	-----	East of Nablus	Hamoshav movement Hapoel Hamezrahi	Labor	Toubas	Moshav	1968	Mehola	72
0	16	-----	-----	133	-----	-----	East of Nablus	Hakud Halnim	Labor	Beit Forik	Moshav	1973	Mekhora	73

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
-----	-----	278	-----	331	425,6	-----	West of Nablus	Gush Emunim	Likud	Arabe'h/Ya'bad	Societal	1978	Mofodetan	74
-----	-----	-----	-----	331	-----	-----	West of Ramallah	Boel Aghodat	Labor	Beit Nuba/Emwas	Moshav Shniy-ouvi	1970	Mevo Horon	75
-----	-----	-----	-----	296	-----	506	South of Hebron	Gush Emunim	Likud	Al-Sa'mou	Moshav Shinyovi	1980	Meza'ed Yehuda	76
-----	-----	-----	-----	297	-----	-----	South of Bethlehem	Kibbutz aldini	Labor	Beit Omar	Kibbutz	1977	Migdal Oz	77
-----	-----	-----	-----	99	65	142	East of Nablus	Gush Emunim	Likud	Qasri	Housing	1984	Migdalim	78
-----	-----	-----	-----	-----	-----	-----	East of Jerusalem	Industrial Zone	Likud	Abu Dis	Regional Center	1975	Mishor Adumim	79
18	0	-----	-----	805	1911	228	East of Jerusalem	Gush Emunim	Likud	Nabi Musa	Societal	1978	Mizpe Yeriho	80
16	30	-----	397	272	2959	239/1	West of Ramallah	Boel Aghodat Yisrael	Likud	Deir Amar, Shibtin	Urban	1982	Na'ale	81
-----	-----	-----	-----	272	2959	239/1	West of Jerusalem	Boel Aghodat Yisrael	Likud	Kober, Beitillo, Mazra'a Qibliyeh	Societal	1984	Naha'il	82

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
		500			765	206	Ramallah	Gush Emunim	Likud	Deir Qadis Shibtin	Societal	1981	Nili	83
0	10	-----	-----	75	-----	-----	North of Jericho	United Kibbutzim movement	Labor	Ojah	Kibbutz	1977	Na'aran	84
5	25			135		321	North of Jericho	Kibbutzim movement	Likud		Moshav	1982	Na'ame	85
21			407	323		165	West of Nablus	Special initiated	National unity	al-Mrah)) Gimsafout	Urban	1986	Nofim	86
85	16			344		411/1	Southeast of Bethlehem	Gush Emunim	Likud	Al-Ta'amreh	Societal	1982	Noqedim ((Aldavid	87
-----	-----	-----	-----	-----	-----	-----	East of Jericho	-----	Likud	Jericho	Nahal	1983	Elisha	88
5	136	-----	-----	1044	-----	107/4	East of Nablus	Gush Emunim	Likud	Deir al-Hatab	Societal	1979	Alon Moreh	89
10	10	3,113	-----	2944	-----	125	West of Nablus	Private initiative	Labor	Mashah	Urban	1977	Elkana	90
20	24	-----	-----	422	-----	110	West of Nablus	Gush Emunim	Likud	Beit Lid, Ramlin, Kufri al-lubbad	Societal	1982	Einav	91
-----	-----	-----	-----	-----	-----	-----	West of Jericho	-----	Likud	Jericho	Nahal	1982	Moul Nevo	92

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
15	0	-----	-----	97	-----	5.5	Southwest of Hebron	Gush Emunim	Likud	A l - D a h - r i c h	Societal	1983	Eshkelot	93
15	16	-----	490	353	-----	126/1	East of Qa- lqilyah	Private Initiative	Likud	Mashah	Urban	1985	Ez Efrain	94
-----	-----	-----	135	134	1700	148	East of Jenin	H a ' o v e i d Haleumi	Likud	J e n i n , D i e r A b u D a ' i f , Q i b a , Tayeh	Societal	1983	Gannin	95
111	0			134	3121	240	Northeast of Jerusalem	Gush Emunim	Likud	Jaba	Societal	1983	Giv'at Benya- (min Adam)	96
							Southwest of Bethlehem	-----	Likud	Jab'ah	Nahal	1984	Gava'ot	97
				183			North of Jericho	U n i t e d Kibbutzim	Labor		Kibbutz	1970	Gilgal	98
				-----			West of Jenin	-----	Likud	Jenin	Nahal	1983	Ginnat	99
-----	-----	6,606		7981	-----	220	Northwest of Jerusalem	-----	Likud	A l - J e e p , Bitounya	Urban	1982	Givat Ze'ev	100

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
-----	-----	-----		Its population with Givat Ze'ev	-----	216/1	Northwest of Jerusalem	Gush Emunim	Likud	Jeep	Societal	1980	Givat Hadasa	101
-----	-----	235		237	-----	517	South of Hebron	Gush Emunim	Likud	Hebron	Societal	1984	Beit Haggal	102
40	5	875		912	-----	203	Northwest of Ramallah	Gush Emunim	Labor	Deir Nizam	Societal	1977	Halmish, Nevi Souf	103
8	29	-----	-----	176	-----	-----	East of Nabulus	Movement of the Field	Labor	Beit Dajan	Moshav	1971	Hamra	104
-----	-----	1,452	-----	353	1200	214/1	Northwest of Jerusalem	Private initiative	Likud	Biddo, Qattanah	Urban	1985	Har Adar	105
-----	-----	-----	-----	353	250	401/2/1	West of Bethlehem	Private initiative	Labor	Beit Jalal	Urban	1976	Har Gillo	106
-----	-----	-----	-----	1806	-----	232	West of Ramallah	Private initiative	Likud	Midyah, Nir'in	Urban	1985	Hashmona'im	107
-----	-----	-----	-----	-----	-----	-----	East of Nabulus	-----	Likud	Tubas	Nahal	1980	Hamadat	108
3	18	285		217	-----	144	West of Jenin	Hirut, Bitar	Likud	Frasin	Societal	1983	Harmeesh	109

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
-----	-----	-----	-----	312	-----	-----	Southwest of Nablus	The Moshav movement	Likud	Majdal Bani fadel, Aqraba	Societal	1981	Gitit	110
-----	62	-----	235	217	-----	274	North of Nablus	Unity movement/Hofeid Haleumi	Likud	Buraq	Societal	1980	Homesh	111
-----	-----	3100	3575	-----	-----	120	Southwest of Nablus	Private initiative	Likud	Deir Estyah, Jabal al-Dhib	Urban	1982	Emanuel	112
-----	-----	-----	-----	-----	-----	-----	Northeast of Nablus	-----	Likud	Toubas	Nahal	1982	Eirit	113
-----	-----	275	131	-----	-----	163/3	East of Nablus	Gush Emunim	Likud	Awarta, Roujib, Yanoun	Societal	1984	Itimar, Tel Hayim	114
-----	-----	100	146	-----	1700	168	East of Jenin	Ha'oved Haleumi	-----	Jenin, Qabatyah, Deir Abu Da'if	Societal	1984	Kaddim	115
33	0	-----	360	-----	139	416	North of Hebron	Hapel Hameztahi	Likud	Halhoul, Beit Omar	Societal	1984	Karne Tzur	116
-----	14	-----	360	-----	-----	509	South of Hebron	Gush Emunim	Likud	Yatta	Moshav Shitovi	1981	Karnel	117

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
21	8	-----	-----	203	145	514	South of Hebron	Gush Emunim	National Unity	Dhairyeh	Societal	1988	Shim'a	118
3	16	-----	-----	343	-----	523	South of Hebron	Gush Emunim	Likud	Yattaah	Societal	1983	Suseya	119
31	28	-----	950	751	-----	255	West of Ramallah	Gush Emunim	National Unity	G a n - yah, al-Mazra'ah al-Qibliyah	Societal	1981	Talmon	120
-----	11	-----	-----	70	-----	501	West of Hebron	Hirut/ Bitar	Likud	Tarqoumyah	Moshav Shitofi	1981	Telem	121
-----	-----	-----	-----	432	550	515	South of Hebron	Gush Emunim	Likud	Dhairyeh	Societal	1983	Tene	122
57	5	-----	-----	850	161	412/1	South of Bethlehem	Gush Emunim	Labor	Arab al-Ta'mreh	Societal	1977	Teqoa	123
1	20	-----	-----	281	-----	316	North of Jericho	The Moshav Movement	Likud	Al-Ojah	Moshav	1987	Tomer	124

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
-----	-----	-----	-----	187	-----	603	South of Jericho	Field Movement	Likud	Nabi Mousa	Village	1980	Vered Yeriho	125
0	13	-----	-----	146	-----	326/1	North of Jericho	Moshav Movement	Likud	Fasayel	Moshav	1980	Yafit	126
-----	-----	-----	-----	704	632	118	West of Nablus	Gush Emunim	Likud	Deir Estyah	Societal	1981	Yakir	127
0	0	-----	-----	83	-----	-----	North of Jericho	Kibbutzim Movement	Labor	Jericho	Kibbutz	1970	Yitav	128
-----	-----	-----	-----	-----	-----	-----	North of Jericho	-----	-----	Al-Ojah	Nahal	-----	Tzori	129
-----	-----	-----	-----	421	300	419	South of Bethlehem	Gush Emunim	National Unity	Nahalim, Jib'ah	Societal	1989	Bet Ein	130
-----	-----	-----	-----	291	-----	-----	Southwest of Bethlehem	The united Kibbutzim movement	Labor	Nahalim	Kibbutz	1969	Rosh Tzorim	131
-----	-----	-----	-----	649	600	402/1	Southwest of Bethlehem	Hapoel Hamezrahi	Likud	Al-Khader	Societal	1982	Neve Daniel	132
-----	-----	-----	-----	208	-----	-----	East of Bethlehem	The Kibbutzim movement	Likud	Arab al-Ta'amreh	Kibbutz	1980	Mitzpe Shalem	133



Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
-----	9	-----	-----	253	150	421	East of Jerusalem	Hirut Bitar	Likud	A l - Sawahreh	Societal	1984	Kedar	134
-----	-----	-----	-----	116	-----	227/1	East of Jerusalem	Gush Emunim	Likud	Anatah	Societal	1990	Alon	135
-----	-----	-----	-----	192	-----	318	The Jordan Valley, North of Jericho	M o s h a v Movement	Labor	Al-Ojah	Moshav	1975	Net HaGedud	136
-----	-----	-----	-----	-----	-----	-----	N o - m a n s land	-----	Likud	-----	Bei Serra	1982	M a k a b e a n A, B	137
-----	-----	-----	-----	-----	4000	240/1	N o - m a n s land	-----	Likud	Safah	Civil	1982	Menora, Givat Yehuda	138
1	-----	2,167	-----	2089	-----	-----	West of Ramallah	Hirut Bitar	-----	About	Societal	1982	Beit Arie	139
-----	-----	-----	-----	297	-----	302/2	The Jordan Valley, South of Ein al-Beidah	Hapoel Hamezrahi	-----	Tubas	Moshav	1979	Shadmot Mishul	140
-----	-----	-----	-----	606	-----	149/1	East of Qalqilyah	Private initiative	-----	Jayous	Civil	1990	Tsofim	141

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
-----	----	-----	-----	-----	2000	118	East of Tulkarem	Private initiative	-----	Ginsafout	Societal	1991	Neve Oranim (Neve Menahem)	142
-----	----	-----	-----	1130	-----	107/4	East of Nablus	Gush Enunim	-----	Deir al-Hatab	Societal	1980	Alon Moreh	143
-----	68	-----	-----	-----	600	169	South of Nablus	Gush Enunim	-----	Buein, Aseirat al-Qibliyah	Societal	1984	Yitshar	144
30	40	-----	-----	-----	-----	118	Southwest of Jerusalem	Gush Emunim	-----	Deir Estyah, Ruous 'al-Siba	Societal	1981	Yakir	145
-----	-----	-----	7 0 0 empty units	927/1125	7200	237/1	North of Ramallah	Gush Emunim	-----	Madama		1992	Rahilim	146
-----	-----	-----	-----	275	-----	-----	North of Ramallah	Gush Emunim		Qaryout	Civil	1991	Shavot Rahel	147
	cara- 15 vans									Jaloud		1996	Katsiv	148

Housing units under construction	Empty units	Population in 1998	Population in 1997	Population in 1996	Number of planned units	Plan number	Location	Founding organization	Government	Region	Type of settlement	Year of construction	Name of settlement	No.
	caravans 8									E i n Yabroud		1996	Har'amounah (K'hirbat al-Mazra	149
	caravans 15 vans									Burin		1997	Giv'ah	150
	1300 housing units									K u f u r Aqab		1998	Har Zion	151
	caravans 5									'Jadou		1996	Gadounim	152
	caravans 12 vans									Kufur Qad-doum		1997	Har Hamdah	153
	Under construction									Ni'lin		1998	Ortseimah	154
	caravans 10 vans									Taq'oua		1998	Kufur al-Dad	155
	caravans 4									Dahrieh		1998	Sinanah	156
Total	161181,06													



# Water Issues in the Final-Status Negotiations

*Abdel Rahman Tamimi*

## **Introduction:**

Water is one of the major issues in the Arab – Israeli conflict and is also a source of instability in the Middle East in general.

The Arab-Israeli conflict over water has taken several forms, the most important of which is the Israeli occupation itself, whether in South Lebanon, the Golan Heights or the West Bank, or their control over the Jordan River waters.

The political situation, which water is part of, underwent a swift change, particularly since 1990, with the transformation of the global situation following the collapse of the Soviet Union. In the region, the initiation of peace talks in the summer of 1992 led to a noticeable movement towards new approaches and ideas for solving the water problem (close ties between Jordanian – Syrian during the drought and Al Wihdah Dam) (the Turkish – Syrian – Iraqi conflict).

The area has always been characterized by changes and turbulence in regard to its renewable natural resources because demographic factors have led to increasing demands on water for household, industry and food production needs, which have doubled in the past 30 years.

For leaders to learn how to organize their water shares, design administrative policies, anticipate the future, and review the future international status, in particular in terms of the scarceness in the provision of water, which they cannot not afford to buy, are the basic foundations on which continuous political prediction depends.

## **A historic look at the Zionist movement in regard to water**

### Ideological connection between land and water

- The slogan that Zionism is the master of green [fertile] land.
- The cooperatives and kibbutzim and Zionist regional methodology.

### Consecutive Jewish immigration and its connection with water

- The architectural design of settlements.
- The geographic location of settlements.
- The link between settlements and the concept of adherence to land. In other words, the settler comes for the purpose of controlling the land and water, not because of other temptations. Thus, he is a good settler from a Zionist point of view, if he takes over more land and water.

### Zionist schemes and international projects for control over water

Maine, McDonald, Johnston and other projects (see project details).

## **Water in regional and universal economy**

Water is a very essential resource. Nonetheless, only a minority, in the region understand the relative importance of water in providing means of living. One approach puts water at the same level of importance as other sectors of the national economy.

The methods that specify water usage and the available amounts are very basic for the future of development in these countries.

(The World Bank 1991, 1993/1 Dublin Declaration 1992 ODA, 1993/ USAID, 1993). Scientists from outside the region also confirmed this (Feshelson 1994), Hadad Farid (1995), (Tamimi 1998).

There is nothing peculiar in seeking new legal bases to manage and share water resources. In order that the implementation of these bases is carried out with the least amount of damage, two basic points should be considered.

The first is addressing the water reality at present, and the second is the viewpoint of international law to this reality (international law is greatly lacking in regard to ground waters, case studies and other aspects).

## **The legal approach**

### **The international law and water committee**

On the 27 June 1991 in its 43<sup>rd</sup> session, the international law committee gave its preliminary ratification of the drafts of 12 items related to the non-navigational uses of international water channels.

One of the most prominent features of these drafts is their clear condition that they be adopted within a framework agreement. The agreement would be composed in accordance with Article 3/A of previous adaptable regulations; it would also be a subject for more specific agreements.

The real reason for adopting this approach (the framework agreement) may be due to the political reality more than that it is related to natural phenomena.

What concerns us here is one aspect of the draft articles related to the Middle East, which is the importance given to negotiations between coastal countries. Article 4 gives the right to water channel states to become a party in any agreement on a water channel. It also does not permit any state, which has been unsuitably affected due to the partial implementation of agreement, to become one of its parties.

**Article 3:** All agreements on water channels and draft agreements necessitate the protection of the rights of coastal states, which may be affected; they also necessitate that they be consulted and taken into consideration in any agreement over water channels. However, coastal states have the right, according to Article 3, to become a party in the water channel agreement, which is contradictory to the practices of the country. This right is lost with the freedom to choose partners in the treaty, an inappropriate concept for the Middle East.

This right, which has flexible foundations for criteria, may cause damage to countries with unsatisfactory economic and military perspectives at the negotiation table. This was expressed by Kweiten Rbouker (a New Zealander and committee member) who said,

“Negotiations are solutions that are not based on principles”.

The active role of international organizations in supporting coastal states to initiate the tasks related to joint management of water channels is also absent.

International organizations could play an important role through fact-finding and setting scenarios to solve suspended problems.

One issue disregarded by the draft articles is the benefit from ground waters. In the dry weather conditions of the Middle East, there is ample evidence of the increasing importance of water. Thus, water is a source of conflict in itself. This issue is now on the agenda of the international law committee.

After several discussions, the definition of ground waters includes the definition of water channel in the second article (water channel means the water course, surface water and ground water). Given the natural relationship between them, water constitutes one unity and flows to a common course.



## Recommendations

These articles should not be given notable importance; a certain set of standards should be adopted (land, needs, the weaker economic party).

Holding fast to the idea of absolute sovereignty.

Giving a role to international organizations.

### Current and future water demands

Statistics for 1998 show that the population of the West Bank and Gaza Strip reached 2.650 million, consuming 92 million cubic meters for household usage although their actual need was 116 million cubic meters. Their water consumption for agricultural use was 150 million cubic meters, while their actual need was 238 million cubic meters.

Predictions for 2010 show that Palestine is in need of 228 million cubic meters of drinking water and 220 million cubic meters for agricultural use; it also needs 25 million cubic meters for industry, totaling 473 million cubic meters needed.

### Positions behind the Israeli rationale

**First:** The use of power and imposing new realities, and using these at the negotiation table to portray the balance of power on the ground.

**Second:** Security issues – raising the problem of Israeli security when discussing water and other installations.

**Third:** Bilaterally dealing with issues of joint and international waters.

**Fourth:** Proposing regional projects.

- Canal of the two seas.
- Desalination.
- Importing.
- Turkish projects (transfer by balloons).

## **Concepts behind the Israel position**

Concepts behind the Israeli position on water may be summarized as follows:

1. Water resources are unequally distributed in the Middle East region. In other words, there are countries with abundant water resources such as Turkey, Lebanon, Egypt and Iraq, and there are poor countries such Israel, Jordan and Palestine.
2. Possible alternatives for countries that suffer severe water shortages include effectively reducing the water share for agriculture, buying water from neighboring countries, increasing efficiency of water usage, developing unconventional water resources such as desalination, recycling treated sewage water, and importing water.
3. The only options open to the Palestinians are desalination, reducing the water share for agriculture, recycling treated sewage water, and increasing efficiency of water usage.
4. There is not a sufficient amount of water and everybody should cooperate in looking for additional water sources.
5. All used water sources are depleted water sources, that is, Israel does not take their negotiation into account. "This is water that does not exist, so how could there be negotiations over something that is not there?"
6. No Israeli official can take one liter of water consumed by Israelis to give to the Palestinians.
7. Palestinians should know that the source of their drinking water is sea water and they have no other choice but to resort to the sea. Any other expectations are mere mirages.

8. In light of the current political situation, it is impossible for Israel alone to obtain water from Turkey, either through the proposed project of a peace route or by sea, for economic and political reasons. Israelis are waiting for a regional project with international funding, which is guaranteed politically and internationally, through which this could be implemented.
9. According to Israeli politicians and experts, the water crisis in the region is attributed to the depletion of water sources; additional sources from outside the region should be found. They are suggesting water from the Nile, the Litani River and buying water from Turkey.
10. Regionally, Israelis are waiting for financial and political support to implement the canal project, which will connect the Mediterranean and Dead Sea, or the Red Sea and the Dead Sea. Truth is, they would prefer the Red Sea and the Dead Sea as part of the Dream Valley project, or the complete basin starting from Tiberius and ending in the Red Sea, on condition that this would include developmental tourism, industrial, agricultural, housing and other projects. A complete package of Dream Valley projects was presented. This is a joint Israeli-Jordanian project presented at two conferences in Amman and Cairo within the context of a working group on economic issues.
11. It is impossible to achieve a regional peace settlement without finding a solution to the water issue. The Israeli position on arrangements in this respect is largely based on protecting the current resources, which are under its control. There may be some concessions if the external international gains are higher than the internal economic losses.
12. Ensuring the monitoring of groundwater usage in the West Bank, which are specified according to the Israeli position as follows:-

- The entire area located to the north of the Bardalah, Zababdeh, and Jenin perimeter to prohibit the use of the northeastern basin.
  - The entire area located to the west of the perimeter extending from Mei Ami, Deir Sharaf, Jinsafout, Beit Liqya, Sorif and Iznah to prohibit Palestinians from using the western basin.
  - The western perimeter, which is parallel to the Jordan River at a 12-kilometer distance, to guarantee that the Palestinians are kept away from the Jordan River.
  - The entire area around Jerusalem and Bethlehem to guarantee the provision of water to the Jerusalem area from the southeast basin.
13. To continue increasing control over the flow from the Yarmouk River and prohibiting Syria and Jordan from erecting a dam inside the Jordanian borders.
14. Israel has no major interest in supporting the demands of African countries to the Nile River basin, particularly Ethiopia, since it aspires to stretch the Nile River water to the north of the Negev desert.
15. Neither does Israel have any major interest in supporting the Turkish position regarding control over the Tigris and Euphrates; this would subject Syria to additional water needs and its consequent resort to the Yarmouk River water.
16. Following are excerpts from statements made by the Israeli water commissioner Maer Ben Maer regarding:-
- meeting the drinking water needs of the West Bank population: “we will not be stingy in providing them with drinking water; however, they will not get more than their needs for drinking water and this must be through Mekerot, i.e. they must buy water.”
  - Our rights to the Jordan River basin: “Palestinians are talking about their rights to the Jordan River. Where is the water they are talking

about? Let them go to the river and see with their own eyes if there is any water.”

- Sovereignty over water resources: “There is no discussion with the Palestinians over sovereignty rights to water resources. Discussion is only on the right to use these resources.”
- Palestinian water rights according to principles of international law: “These laws and regulations do not apply to them since they are not a state.”

### **Non-negotiable constants in the Palestinian position**

**First:** Water rights are linked to:

- 1.1 Land
- 1.2 Borders.
- 1.3 Refugees
- 1.4 Compensation for being denied development

**Second:** All water basins located inside the territories occupied in 1967 are Palestinian.

**Third:** All the following activities resulting from the occupation are null and void:

1. Settlements.
2. Military and civilian water installations.
3. Mekerot’s concession rights.
4. The infrastructure to and from the Green Line.
5. Water department in Beit El.

**Fourth:** The principle of equitable utilization.

**Fifth:** The right of access to the coast.

**Sixth:** The right to expeditious development and future needs.

**Seventh:** The Palestinian side is committed to refrain from causing harm to its neighboring countries.

**Eighth:** Rejecting all forms of alternative solutions to the principle of rights and sovereignty.

## **Palestinian water rights**

### **References:**

1. Annex 3 of the Declaration of Principles – 13 September 1993, which stipulates that water issues will be discussed and proposals and plans on water rights of each party, as well as on the equitable utilization of joint water resources.
2. Provision 1 of paragraph (40) of the Oslo Accord 2 stipulates that Israeli will recognize Palestinian water rights and negotiations will be conducted over these rights; a settlement will be achieved in this regard during the final status talks on the various water sources.
3. International resolutions issued by the Security Council and the General Assembly in regard to land and natural resources.
4. The terms of reference of the peace process, in their basic wording presented to the Madrid Conference, particularly Resolutions 242 and 338.
5. Everything issued by the European Economic Commission pertaining to the protection of water channels within mutual borders.
6. Terms of reference of international law for non-navigational water channels:

- In recent years, several important developments took place regarding systems of international water channels at the bilateral and regional levels. For example, India and Bangladesh signed an agreement over joint utilization of the Ganges River water; another agreement was signed with Nepal over integral development of the Mahalki River basin. This was conducted at bilateral level. In Europe, the Helsinki agreement on the protection of water channels that cross international borders and lakes has been put into effect. In Africa, several member states in the group for the development of South Africa signed the joint water channel systems protocol. At international level, the agreement of international water channels was adopted by the UN in May 1997. According to this agreement, the relationship between the principle of just and reasonable benefit and prohibiting harm was defined.
- According to Article 5 of the new agreement on benefit and equitable and reasonable sharing, the concerned countries and parties should use the international water channel in an equitable and reasonable manner in regard to other countries. The International Court of Justice issued a decision regarding the Gabichico case. The court stressed the need to put the project into operation in a proper and logical manner. The new agreement introduced a novel concept to Article 5, which is fair participation. This concept expresses that in order to achieve a system of just and reasonable usage, countries on the coast with an international water channel should cooperate and take positive steps towards fair allotment. This is the only solution for the conflict with Israel over ground water and aquifers, which would be through a joint monitoring committee that would supervise the implementation of any agreement reached on the bases of equitable division and not causing harm.

- The Helsinki principles, which were set by the International Law Association in 1966, did not include the issues of water borders and ground water. Later, these principles were completed with supplementary clauses on water environment and ground water. This was the most recent activity of the International Law Association (ILA) and International Law Committee (ILC).
- Article 4 of the Helsinki principles stipulates fair and reasonable allotment. Here, we would like to point to the spirit of the article, which confirms the need to preserve the lives of residents as a priority in any process of shared water distribution. Article 5 constitutes the major issues, which should be reviewed when allotting any joint waters. The most important of these issues are the geographic, hydrologic, atmospheric, historic, social, economic, and environmental aspects. The most important point in Article 6 and 7 is that no party for any reason has the unilateral right to control and benefit at the expense of other parties with rights to water resources. According to these two articles, the Israeli claim regarding their so-called historical rights is not acceptable, even if these rights are proven.
- Despite the fact that, from an official perspective, the terms of reference for the Helsinki principles are not binding, several bilateral and regional agreements are based on these principles; its
- articles do not only serve as a technical reference for existing martial principles, but as principles for binding international law.
- Partial agreements signed between Jordan and Israel over the Jordan River basin are considered a total violation of the Helsinki principles, since they harm the interests of other parties on the basin's coast, and negatively influence finding comprehensive solutions.



### **Palestinian rights in the western and northwestern basins:**

- 1.1 Considering Palestine as a source country and implementation of international law.
- 1.2 Considering this a joint basin; distribution will be carried out according to the area of the land.
- 1.3 The urgent need for water.
- 1.4 Sovereignty.

### **Compensation rights:**

- 2.1 Rights to compensation for the years of occupation.
- 2.2 Right to compensation for water exploited to Israel's advantage.
- 2.3 The right to compensation for environmental consequences.
- 2.4 The right of future generations.

### **Warnings and expected dangers:**

- Deception and lack of clarity over water rights (that mentioned in Oslo).
- Imposing the reality of water consumption through exaggerated water shares for settlements if the settlement issue is postponed.
- Connecting between Palestinian refugee rights and the rights of Jewish immigrants.
- Adopting the current consumption rates.
- Giving legitimacy to the current situation.
- Separation between resources and supply.
- Separation between the various geographic areas, particularly between the West Bank and Gaza Strip.
- Acting as if the Palestinian people are the only present population,

that is water shares on the basis of population rates.

- Considering the Oslo Accords arrangements as a good starting point.
- Exaggerating in regional cooperation.
- Not discussing the needs of the agricultural sector or falling into the trap of portraying agriculture as infeasible.

# Economic Negotiations for the Final Status

*Sameer Abdallah*

## The political ceiling

The general political goals to be achieved by the Palestinian side in final status negotiations may be summarized in the implementation of UN resolutions pertaining to the Palestinian cause. These resolutions constitute the reference from which the peace process was launched and which, if implemented would entail the following:

- First:** An Israeli withdrawal from all Palestinian lands occupied in 1967.
- Second:** Palestinian sovereignty over these areas, materializing the right to self-determination for the Palestinian people in an independent state and the freedom to establish relations in various fields with various Arab and foreign countries.
- Third:** Achieving Palestinian sovereignty and actual control over international borders, which would guarantee freedom of movement for individuals and goods between the West Bank and Gaza Strip, between the West Bank and Jordan, and between Gaza and Egypt and the world.
- Fourth:** Guaranteeing the right of return of displaced persons to the Palestinian state.
- Fifth:** Guaranteeing the right of return or compensation for Palestinian refugees and guaranteeing their right to the establishment of a Palestinian state and compensation for whoever chooses to remain.

The principal question that many have tried to find an answer to is the feasibility of economic negotiations at this phase. Two points of view have been formed in this regard: the first is that economic negotiations are not a subject for final status negotiations and could be conducted between the Palestinian state, following its establishment, and Israel. The second is that economic negotiations cannot be avoided given the overlap between political and economic issues. Another point of view called for utilizing economic negotiations to support the political negotiations that are aimed at achieving Palestinian independence and sovereignty.

In discussing the principles and premises from which economic negotiations are to be launched, there was a discussion of two strategies: The first is to initiate with economic negotiations on the assumption that all the aforementioned political goals will be achieved, thus restricting the negotiations to purely economic subjects. The second is that initiation with economic negotiations with Israel would give priority to the principal political goals, given their economic dimensions. The group chose the second option. Hence, the working group tried to find the appropriate linkage between economics and politics. It also gave the economic negotiations a larger and more comprehensive role in reaching agreements on economic cooperation and included them in the issue of liberating the Palestinian economy from its constraints as a primary condition for equal and mutual cooperation.

This presentation is based on the strong overlapping between political and economic issues in the Palestinian-Israel negotiations. We will attempt at a later point to shed light on the peculiarity of the Palestinian-Israeli economic negotiations that will explain the viewpoint of the group.

## **Economics and politics in economic negotiations**

The most prominent cases of economic negotiations between two parties, their conditions, and various goals in general are as follows:

- Countries with full sovereignty mutually concede some of their freedom (some aspects of sovereignty) of possessing independent policies and consent over these policies, to one another. For example: In a common market, two or more countries concede all or much of their independent economic policies and follow unified economic policies in order to have what is called a common market. In the customs union, two or more countries concede their independent customs policy and follow a unified customs policy. In the monetary union, two or more countries concede their currency and deal with a unified currency, etc.
- Countries with full sovereignty mutually grant one another certain privileges in their markets. For example, two or more countries agree on freedom of exchange of products in those countries free of customs (free trade system), or two or more countries mutually agree to the free crossing of a limited number of products between their markets (quota system). There are a number of other forms such as mutual tourist agreements or setting up joint projects or transit agreements, etc.
- Colonizing and colonized countries agree, or usually the stronger party dictates to the weaker, the preservation of its privileges in the economy of other countries for a limited period of time and under certain circumstances as part of the obligations of national independence in some instances. For example, the Suez Canal agreement, the Adan Port agreement, the military bases agreements in Libya and others.

The question at present is what are the circumstances for Israeli-Palestinian economic negotiations and what is the nature of the matters to be discussed in these negotiations?

To answer this question, we must take into consideration the following factors and circumstances:

**First:** Palestine is not yet an independent state. There are essential disputes with Israel over all or most of the components of the sovereignty of the Palestinian state (land, borders, natural resources, crossings, international communication, currency, customs, etc.)

**Second:** Over the past three decades Israel has created an obligatory and not integral overlapping between Palestine and Israel in the various aspects of economic activity. It has created a state of total Palestinian dependency on Israel. The most prominent feature of this overlapping, embodied in the relationship of subordination, is the current situation of water, electricity, communications, the labor market, foreign trade and public revenues.

**Third:** The developed and vast Israeli economy, whose size surpasses that of the Palestinian economy by 25 times, along with Israel's economic relations with the international market, could constitute an important source of growth for the Palestinian economy if the two reach suitable economic agreements that take into consideration the aforementioned political goals on the one hand and the fulfillment of Palestinian economic interests on the other.

The considerations and circumstances related to economic negotiations between countries in general and the circumstances of Palestinian-Israeli economic negotiations in particular, brings us to the following conclusions:

**First:** If we agree that economic negotiations must be conducted between two independent and sovereign countries able to concede to one another components of their sovereignty in order to reap economic benefits; or if the two parties are able to grant privileges in their markets in exchange for obtaining privileges in the market or markets of other countries; or if they are willing to allow conditional and time-limited privileges to the colonizing country as part of the dues for independence, then this logic leads us to conclude that it is premature to talk about any serious Palestinian-Israeli negotiations. Any economic negotiations with Israel before finalizing (or being on the verge of finalizing) the issue of sovereignty and independence means any economic agreements with it will remain in writing only. It would merely be a repetition of the Paris Economic Protocol, the implementation of which depends on the good intentions of the other party. We have all experienced the results of this agreement, much of which has remained ink on paper.

**Second:** Despite the above, the semi-total dependency on the one hand and the possible opportunities in the Israeli economy on the other, in addition to the desire or benefit from providing a better atmosphere for the growth of the Palestinian economy and solving the problems of economic backwardness, makes it difficult to justify not entering into economic negotiations. This position of refusing to enter into economic negotiations will not be understood by the negotiations' sponsors and international public opinion. This position will also be met with surprise from Palestinian circles, which want to put an end to the constraints on Palestinian economic activity. It is also not right to disregard the role of economics in influencing the

political stance, meaning that achieving economic gains may help in achieving political gains if these gains are not linked with major political concessions.

**Third:** In addition, economic negotiations may influence the public opinion of the other side. There are important Israeli circles, especially in the industry, installations and services sector, that have significant interests in the Palestinian market. In order to have equal presentation of economic negotiating issues on our part, we could recruit these groups to put pressure towards softening or changing the official position, especially if we properly connect between real peace and economic benefits and the opportunities that would be offered to Israel from this peace. In this regard, economic negotiations could progress greatly.

It is obvious that in light of the somewhat unique situation of these economic negotiations, the well-known patterns of economic negotiations between countries is inapplicable here in terms of mutual concessions on some components of political sovereignty to achieve mutual and balanced economic gains. There are also a number of pitfalls that should be avoided in these negotiations, just as there are opportunities that should be taken advantage of. The most serious pitfall is bartering over issues of sovereignty before achieving Palestinian sovereignty on the ground and before the Palestinians have control over their economy, or at least until they achieve a clear recognition or approval of this sovereignty from Israel. Wagering of this kind will lead to obstacles to achieving this sovereignty if concessions are made over it beforehand. The implementation of any economic agreement that does not include the securing



of key control areas in the Palestinian economy will be conditional on the whims of the Israeli system.

The opportunities that economic negotiations could provide lie in whatever improvements these negotiations achieve in the overall atmosphere for investment and growth. They also depend on how the negotiations are used to express our desire to establish a balanced economic relationship with Israel and on winning over the Israeli and international public opinion in our favor.

According to the above, it can be said that negotiations for determining the future of Palestinian-Israeli economic relations are inevitable and avoiding them will deprive us of a number of strong points and benefits previously mentioned. However, at the same time, we must be aware of the dangers that may result from mistakes and soundly phrase our goals and priorities in a manner that will serve our economic interests and coincide with our political goals through the following:

**First: Proper sequencing of economic negotiating goals for the final status:**

In this regard, we feel we must distinguish between groups of goals:

**(1<sup>st</sup>) First group of economic goals:** These are related to focusing on possessing the main key control areas in the Palestinian economy, without doing injustice to the other subjects of sovereignty. We can sum up the key control areas in the Palestinian economy as follows:

1. Palestinian control over natural, economic and tourist resources and riches.
2. Control over international crossings and the guarantee of international trade flow to and from Palestine.

3. Free flow of individuals and commodities in the internal market, including that between the West Bank and Gaza.
4. Finding a suitable mechanism for the Palestinian Authority to obtain public revenues in due time.

**(2<sup>nd</sup>) Second group of goals:** (included in the context of economic cooperation). This is related to providing a better atmosphere and environment for achieving social and economic growth. This can be achieved through reaching agreements of economic cooperation with Israel in various fields, including a trade exchange system. In this context, we can enumerate the main goals as follows:

- 1- Having an independent trade policy that takes into consideration our economic priorities, including the utmost benefit from the Israeli market and opening the door to economic cooperation with the Arab region and the world.
- 2- Having the right to our own currency, thus having the ability to utilize monetary policy as an important tool for the encouragement of investment and development. Also to prevent the dangers of fluctuating currency in Palestine on the Palestinian economy.
- 3- Agreement on employing the minimum number of Palestinian workers in Israel, given that responsibility falls on Israel for creating Palestine dependency on the Israeli labor market, in addition to there being a mutual economic benefit in this regard.

**(3<sup>rd</sup>) Third group of goals:** (falls under the heading of compensation) This is related to the need to compensate the Palestinians for the losses, delay and suffering resulting from the practices of the occupation authorities. In this regard, there is a long list of demands that can be stated

and demanded from Israel. Demanding compensation from Israel for these losses is important in gauging their desire to eliminate any hostile residue and to turn a new leaf in relations between the two peoples.

By closely looking at these goals, we see that most points of the first group of economic goals are not specified for economic negotiations alone. Rather, they are matters fundamentally related to the issue of Israeli withdrawal, borders and the geographical unity of Palestine. Therefore, placing it at the top of the economic negotiations agenda allows these negotiations to become a new context of pressure to achieve political goals.

### **Second: Choosing the most appropriate negotiating approach:**

If we agree that the goals of the Palestinian economic negotiations include the three previously mentioned groups, then the first group takes priority over the second and the second takes priority over the first. Hence, what is the best way in which to carry out successful economic negotiations?

In this situation, we can theoretically adopt one of the following agendas.

**Agenda (1):** The assumption that the political negotiations will directly or indirectly lead to achieving the goals of the first group. Hence formulation of the economic negotiations agenda would be on the assumption that these goals have been achieved, after which negotiations would be restricted to achieving the goals of groups one and two.

**Agenda (2):** Setting the appropriate agenda that aims to achieve all the goals of the three groups for discussion in economic negotiations and setting the suitable sequencing of the various subjects according to priority.

**Agenda (3):** Restricting the agenda to the goals in the first and third groups by considering that achieving these goals paves the way for setting a new agenda for the goals of the second group. This means entering into negotiations in order to be in possession of the key control areas in the Palestinian economy, then to move to negotiations over the third group on compensation while leaving negotiation over economic cooperation to the Palestinian state after its establishment.

The following is noteworthy in the three approaches:

- The first approach/ agenda (1) corresponds with the Israeli approach. The Israeli negotiating strategy is based on focusing economic negotiations on subjects of the second division and neglects discussion of most subjects of the first division (the keys) in economic negotiations. The Israelis believe that these subjects should be discussed in political negotiations. In this way, Israel wants to give the “security dimension” of these subjects more weight than the economic dimension, the goal of which is to make security a reference for the implementation of any economic agreements. On our part, we believe that the first approach, which benefits the negotiations in matters of cooperation leads us into a lengthy debate over the forms and fields of economic cooperation, the exchange system and the framework of cooperation. It also brings us to a similar formula called the EPS Model or an improved version of the Paris Economic Protocol. Agreement on the types of cooperation, whether union or custom-oriented, or a system of free trade or any other, will not have a means of implementation if there are any restrictions or obstacles to economic activity or if this agreement is given a security reference.

- As for Agenda (3), in addition to the impossibility of imposing it as an agenda for negotiations because of the other side's objection, it also does not give us the opportunity to address Israeli and international public opinion.
- Therefore, Agenda (2) is the most probable and appropriate approach, given that it constitutes a compromise that includes all issues. Israeli opposition is expected when subjects related to key control areas are discussed; however this opposition is not based on logic. This agenda will allow us to dismantle and eliminate the relationship of subordination, and free our economy of Israeli constraints on development, investment, trade and economic activity in general. We can then move to serious negotiations on the various forms of economic cooperation and pave the way for the negotiators to discuss compensation.

### **Third: Sound administration of economic negotiations:**

If we agree on this approach and take into consideration that the majority of matters concerning subordination and constraints on economic activity are not purely economic but rather organically and essentially overlap with political and “security” matters, – this of course applies to all other subjects in the negotiations – this urges us to reconsider the method of negotiations in different committees, as we did in the past. We should seek to conduct negotiations through one delegation and with two permanent negotiators and an ample number of other negotiators, experts and specialists who would be part of the delegation according to the subject matter.

### **The central link in economic relations with Israel – the system of trade exchange:**

In regard to the subjects proposed for negotiations, we would like to point to the central link, which is the most appropriate framework for economic relations, or the system of economic relations or economic exchange. It is the general framework for Israeli-Palestinian economic negotiations that goes hand in hand with the political goals and that provides an appropriate atmosphere for achieving Palestinian economic interests.

In order to specify the framework for economic relations between one country and the other, we must review the following main components:

1. Level of disparity in work productivity, trade competition and relative qualities.
2. Level of similarity or difference in development priorities that determine trade policy.
3. Level of similarity or difference of the network of foreign economic relations.
4. Level of similarity or difference in the structure of the economy.
5. Level of similarity or difference in the financial policy – taxes and assistance.

Countries formulate their relationships of cooperation on the basis of profit or loss, that is, on the basis of the final outcome or specific interests that the internal countries must achieve through any given form of cooperation. The most significant of these interests is an increase in trade or investment flow. The choice of the framework of cooperation for a specific time period is subject to the will of both parties as a result of mutual concessions or granted privileges, as previously mentioned at the beginning of this paper.

Upon examining these components in the Israeli and Palestinian economies at the current time, the following points are noteworthy:-

1. There is huge disparity in work productivity between the two economies to the benefit of the Israeli economy. Israel also has great competitive potential in comparison with the Palestinian economy. This means that Palestinian products cannot compete with comparable Israeli products. In case of a free exchange of goods, it will be difficult for the Palestinian industry to expand its production to include new products that would take the place of Israeli imports. The difference in levels of work productivity impacts the currency market and interest rates as well. This makes a united currency a heavy burden on the weaker economy since the interest rate is determined by the situation of the stronger market, thus weakening investment in the weaker market advantage in some industries, especially those that include local raw materials or hard labor. This has given and will give the opportunity for these industries to find a place in the Israeli market.
2. There is a huge discrepancy in development priorities between the two economies because of the difference in the structure of the two economies from the aspect and level of their development from one another. Differences in priorities require different trade, customs and financial policies. This means there is no benefit for the weaker and smaller economy in adopting policies similar to the economic policies of the stronger and larger economy. Therefore, the most appropriate framework of cooperation is one that allows different trade, customs and financial policies.
3. There is a big difference between the network of relationships in the two economies. The Israeli economy is largely integrated in the western European and American economy. At this stage, it is diffi-

cult for the Palestinian economy to export to these markets despite free trade agreements with them. The markets to which Palestinian exports are possible are those developing or second-world markets that do not have free trade exchange with Israel. There are also customs and non-custom obstacles to exchange with them. This justifies a policy of independent trade for Palestine that allows for the development of foreign trade with these countries.

4. The difference in the structure of the Palestinian and Israeli economies was cause for a relatively wide margin for trade exchange between them. Israel's concentration on developed military and technological industry and its halt in supporting conventional industries had a distinct impact on the development of conventional Palestinian industries from the mid-70s, especially those industries primarily work-related. This generated a tangible Israeli dependency on some Palestinian industries and cheap labor in installations, agriculture and services. This reality encourages maintaining free trade exchange between the two markets on the one hand and continuing the flow of Palestinian labor into the Israeli market on the other.
5. The imposition of a unified currency and customs framework by the occupation authorities on the Palestinian economy led to the unification of indirect taxes – value added tax (VAT), purchase taxes and customs fees, and to the unification of direct taxes on companies. The taxes on personal incomes were higher in the occupied territories than they were in Israel. Only recently did the interim agreement change this reality by slightly amending incoming taxes on companies and individuals. This congruency in tax levels facilitates the achievement of developed forms of cooperation between Palestine and Israel, the united customs framework in particular. However, since this congruency was not achieved by free



will between the two countries, and because the trade policy was designed to serve Israeli economic demands, especially in relation to the customs policy, and because it does not take into consideration Palestinian economic interests and priorities, the Palestinians would not benefit from maintaining it. Palestine is in urgent need of a trade policy, hence a different customs policy than the Israeli policy, which would answer to Palestinian economic priorities.

In light of these elements, Palestinian economic interests necessitate the fulfillment of the following conditions:

- Increasing the benefit from the large Israeli market.
- Having an exclusive trade policy.
- Having an exclusive currency policy.

**What is the system/ framework of cooperation that would achieve these interests?**

It is clear that the most appropriate framework to achieve these interests is a free trade system with Israel that would allow for the free flow of both countries' products between the two. Also each country would have total freedom in determining its trade policy with other countries. It would also be a framework that would open opportunities to Palestine for developing its economic relations with Jordan, Egypt and other Arab and Islamic countries. It would provide the possibility for Palestine to obtain production inputs and products from a wide range of countries, which would lead to weakening the monopoly of Israeli companies over the Palestinian market.

In addition to its economic significance, the free trade system could also support the Palestinian position in its aim to control international borders and crossings and to establish sovereign customs points at them. The "separation policy" adopted by the Israeli government and its im-

plementation on the ground would provide an appropriate platform for the implementation of this system. Issuance of a Palestinian currency on sound foundations is a principle condition for an effective monetary policy for encouraging investment.

In the case that there is an agreement for a free trade system as a framework for economic relations, complementary agreements would be required on the regulations for the place of manufacture, a transit agreement, an agreement on characteristics and standards, and the health conditions related to food industries. They must also address prohibiting smuggling, methods of collecting and exchanging taxes, purchase tax, and customs between the two and other countries.

In addition to the agreements regarding the implementation of a free trade system, there is a mutual interest in an agreement of cooperation in tourism, insurance, banking cooperation, work, investment, free trade zone for international investments, electrical connections, communications, and others.

If we succeed in reaching an agreement of cooperation that would bring forth a free trade system with Israel, and if the main key control areas for the Palestinian economy are restored to Palestinian hands, and if we obtain fair compensation for the damages we incurred from the occupation, we will be in the position to build a contemporary economy equipped to enter the next century with confidence and capability.

# Key Points to Consider in Final Status Talks on the Refugee Issue

*Elia Zureik*

This paper, which is the outcome of deliberations by the Refugee Committee<sup>1</sup> that was set up by Miftah to address final status issues, discusses possible topics of relevance for the future of Palestinian refugees. The paper is a think piece and is intended to raise more questions than provide answers. It is written in point form and consists of nine key areas: (A) Links between General Assembly Resolutions 194 and the two resolutions passed by the Security Council following the 1967 and 1973 wars, Security Council Resolutions 242 and 338; (B) Future status of UNRWA; (C) Modes of compensation; (D) Refugee attitudes; (E) Coordination with Arab governments; (F) PLO position; (G) Israeli position; (H) Western governments' positions; and (I) Thinking the unthinkable.

## **(A) Links between Security Council Resolutions 242 and 338, and General Assembly Resolution 194.**

As the final status talks draw near, the Palestinians must find ways to link General Assembly Resolution 194 to the preamble of the Oslo agreements, i.e., Resolutions 242 and 338, which also formed the basis for the Camp David accords.

1. The Oslo agreements are premised on Security Council Resolutions 242 and 338.

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<sup>1</sup> The Committee members consist of Salman Abu-Sitta, Manuel Hassasian, Bernard Sabella, Salim Tamari, and Elia Zureik.

2. The Palestinian refugee issue in its totality is premised on General Assembly Resolution 194, pertaining to the 1948 refugees, and the above two resolutions pertaining to the 1967 and the 1973 wars, which also refer to refugees in a general sense.
3. While many commentators present Resolution 242 as problematic in terms of accommodating the refugee issue in its entirety satisfactorily, it is important to recall that the Oslo agreements leave an opening for dealing with the 1948 refugees by means of Resolution 194. Thus, the text of the Declaration of Principles (Chapter 5, Article XXXI, clause 6) states: “Nothing in this agreement shall prejudice or preempt the outcome of the negotiations on the permanent status ... neither party shall be deemed by virtue of having entered into this agreement to have renounced or waived any of its existing rights, claims or positions.” Thus, General Assembly Resolution 194, not to mention other strong endorsements of Palestinian refugee rights, as for example the 1974 General Assembly Resolution 3236 (XXIX), which linked the right of return to self-determination, are deemed to correspond appropriately to “existing rights, claims, or positions” of the signatories to the Oslo agreements. What is significant about General Assembly Resolution 3236 is that it addresses the right of return for all refugees as one group, without distinguishing between the 1948 refugees and the persons displaced in the 1967 War. Resolution 3236 “reaffirms also the inalienable right of the Palestinians to return to their homes and property from which they have been displaced and uprooted, and calls for their return.”
4. Resolution 242 calls for a “just settlement of the refugee problem”, leaving open any precise definition of who the refugees are in terms of place, time, and even nationality. There are two possible problems raised here: first, since there is no specific reference to any particular

refugee in terms of nationality, it could be argued that in addition to Palestinian refugees, Jewish “refugees” from Arab countries ought to be considered as well. Israel and its friends will entertain this position. The second, reference to “just settlement” can also mean, according to Israel and its allies, resettlement of the refugees in third countries and compensation, but not outright repatriation. And if repatriation is entertained at all, it will not be considered a right, but as part of an overall settlement, which may involve a limited number of Palestinian returnees to Israel under family reunification. If there is going to be any repatriation under the right of return, it will have to be to the West Bank and Gaza, according to Israel, the US, and others. Even here, the modalities of return to the West Bank and Gaza will be defined largely by Israel, using its own criteria of state security and the West Bank’s and Gaza’s absorptive capacity. Moreover, Resolution 242 used the term “should” and not “must” in its language, thus prompting Israel and its supporters to point out that the final discretion in exercising the right of return [including the West Bank and Gaza] lies with Israel, whose security and economic well-being might be affected by the return of refugees.

5. The Palestinian position, of course, is that the reference to “refugees” in Resolution 242 does incorporate the 1948 refugees, as well as those displaced during the 1967 War, while Resolution 338 refers to the 1973 War. Moreover, by “refugee” the Palestinians mean those Palestinians expelled from their homeland throughout Israel’s history, including the *mub’adoon* in the post-1967 period. Finally, the issue of Jewish refugees must be de-coupled from the issue of Palestinian refugees. As was pointed out on numerous occasions by Palestinian delegates during meetings of the Refugee Working Group of the Multilateral track of the Middle East peace process,

Israeli claims should not be directed against the victims, in this case Palestinian refugees, but should be settled in bilateral discussions between Israel and the relevant Arab governments.

6. While Resolution 242 does not explain what is meant by “just settlement”, Resolution 194 does. In paragraph 11, Resolution 194 (1948) states that the General Assembly “resolves that the refugees wishing to return to their homes and live at peace with their neighbors 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 damages to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.” The Resolution draws its legal force from international law where, according to John Quigley, a professor in international law, “the right of repatriation is a personal right that exists apart from bilateral agreements between states” and “the property rights of a displaced person are a personal right that exists apart from bilateral agreement between states”. (Cited from a paper prepared by Professor Quigley for the Palestinian Refugee Department, p.9;11.)
7. In response to these and other objections, it is important to contextualize Resolution 194. As pointed out by Quigley, “In the UN discussions leading to the adoption of Resolution 194, repatriation of the Palestinian refugees was viewed as a right.” It was none other than the US delegate at the time who declared that “The United States Government believed that those who wished should be returned to their home”. The representative of France noted that “substantial aid must be given to those refugees to enable them to return home or, if they so preferred, to settle elsewhere”. Thus it is

abundantly clear from the discussion surrounding Resolution 194 that “should” implies right of return and that exercising this right is not contingent upon the Israeli government. In fact, as declared by the French delegate to the UN at the time, the refugees wishing to return “should be assisted” in this task.

8. Israel has made a practice of repeating its claim that even Resolution 194 does not call for the return of the refugees in an unqualified manner. After all, it claims that Resolution 194 refers to “willingness to live in peace”. While this historic Israeli objection is now blunted by the Oslo agreements, and the signing of mutual recognition between Israel and the Palestinians, it is worth pointing out, as does Quigley, quoting the American delegate to the United Nations at the time (1948): “These unfortunate people should not be made pawns in the negotiations for a final settlement”. The UK representative remarked similarly that “There were minorities in many countries which disputed the rights of their Governments or indeed of their State to exist.” Quigley goes on to further point out that “The 1995 Dayton agreement on Bosnia required repatriation even though inter-ethnic killings were continuing. Hutus were repatriated to Rwanda following the 1994 civil war, even though the rebel Tutsis had just taken power. Kosovar Albanians were repatriated to Kosovo in 1999, even as some of the early returnees carried out revenge killings of Serbians.” (p.5) It is worth pointing out that the Palestinian side should commission a thorough paper on the Dayton/ Kosovo agreements for they include relevant material in support of the Palestinian case.

## **(B) The United Nations Relief and Works Agency (UNRWA)**

- (1) In addition to being the major provider of basic services to the neediest segment of the refugee population, UNRWA remains the most concrete repository of the international legitimacy and location (i.e., the UN) of the Palestinian refugee cause. UNRWA's original mandate is linked to Resolution 194. We quote here: "... recognizing that without prejudice to the provisions of paragraph 11 of General Assembly Resolution 194, continuing assistance for the relief of Palestinian refugees is necessary..." While there is the possibility of benefiting from this link, particularly during negotiations, attempts will be made by Israel and other Western governments to abolish UNRWA, which can have serious consequences by weakening Resolution 194.
- (2) Unlike other refugees, Palestinian refugees were excluded from protection by both the United Nations High Commissioner for Refugees and the 1951 UN refugee law. It is important to keep this exclusion in mind during negotiations for it impacts directly upon the civil and human rights of Palestinian refugees. A way should be devised to safeguard the civil and political rights of Palestinian refugees, without compromising the status of UNRWA – unless and until a resolution to the conflict is finally reached.
- (3) It is generally agreed that the handover of UNRWA services before an equitable solution to the refugee problem is reached is unacceptable and will have serious implications for regional stability. However, any eventual handover of UNRWA services within a negotiated settlement presents serious risks to both refugees and host countries in terms of maintaining sustainable and acceptable quality service delivery. Serious preparation for this eventuality must be high on the negotiators' agenda.



### **(C) Compensation:**

Compensation must not be considered as either the only or even the most compelling solution to the refugee problem. Compensation must be considered in the context of giving Palestinian refugees the right to return to their homes. Both, those wishing to return and those not wishing to return, should be compensated accordingly.

- (1) The modalities of compensation are as follows: reparations, which refer to inter-state compensation resulting from war, indemnification, which means compensating individual suffering and non-material loss, and restitution, which refers to restoring material assets to the original owners. And compensation could be individually or collectively based.
- (2) Compensation could be claims-based, or paid lump sum to the injured party. The first is more advantageous to the Palestinian refugees. Here compensation is based on the current value of material and non-material losses. Each case is evaluated individually for each claimant. The other type of compensation refers to coming up with a lump sum to be distributed on a per capita basis to the refugees. The calculation of the lump sum will be based on priority according to needs, taking, as an example, UNRWA's expenses on refugees as reflected in its annual budget. The Palestinian side should think of using claims-based compensation for calculating losses, and at the same time devising a formula to prioritize the sequence of payment based on collective need.
- (3) When considering compensation, it is important to stress both material and non-material losses. With regard to non-material losses they should include social and psychological suffering which impacts negatively on peoples' expectations and life-chances. This is the reason why it is possible to translate non-material deprivations into economic terms.

- (4) Material losses refer to immovable property, which consists of public infrastructural property, privately and collectively owned land in urban as well as rural areas, and movable property, which covers items such as durable goods and means of production. Material losses also include the loss of income due to lost businesses, jobs, and educational opportunities.
- (5) In calculating compensation and losses, it is important to bear in mind that, in addition to the usual inflation factor, there are two central issues to be considered: (1) compensation should reflect the experiences and social structure of the community in question; and (2) whether or not the owned property is listed in the Land Registry (Tabu) in the first instance. With regard to the first point, this could be demonstrated by highlighting the relevance of individual versus collective compensation. In the Western experience, the emphasis is usually put on individual rather than collective compensation. The assumption here is that loss and ownership are primarily individual attributes. In the Palestinian case, this may pose serious problems for dealing with compensation. In those cases where individual ownership of property is clear, compensation should be paid according to individual ownership. However, because of collective ownership and usage of land in rural Palestine under the *mush'a* system, and the presence of *miri* (public) land holding systems dating back to Ottoman Palestine, it is difficult to determine appropriate compensation measures based on individual ownership. However, it should be possible to determine the type of ownership, whether individual or collective, assuming that an ownership record is available. Here it is important to consult the records of the United Nations Conciliation Commission for Palestine (UNCCP), which set out in the early 1950s to survey Arab and Jewish losses in Palestine.

- (6) Related to point (5), the other compensation issue pertaining to registration of property has two components to it. First, there is the fact that not all land/ property has been parceled out and individually registered in the Tabu. If it has been registered, then ownership can be established accordingly. If not, and there is no regular Tabu registration for it, ownership and compensation have to rely on tax records and consultation with the refugees themselves. Second, there is the question of peasant rights to ownership that are based on usage or usufruct. It is estimated that 25% of the coastal peasants tilled their land and passed it down from generation to generation without being necessarily the holders of ownership deeds to the land. In other words, they have right of usage but not ownership, a common practice in Ottoman Palestine. In any case, they too should be compensated for the loss of livelihood. The question which has to be faced in compensation discussions is how to document tenancy and usage rights. This could be done by resorting to village mukhtars' reports, landlord testimonies, records of hamulas, and the peasant themselves or their offspring.
- (7) Mention should also be made of Arab blocked bank accounts and other frozen assets in Israel, all of which should be estimated by factoring in inflation and compounded interest. The scheme adopted by Germany and now Switzerland in compensating World War II material and non-material losses should be consulted.
- (8) Furthermore, in calculating land loss incurred by Palestinians, it is important to underscore two points: first, that when Israel was declared a state, Jewish-owned land did not amount to more than 4%-7% of legally owned and registered land in Palestine. Now, in 1999, after confiscation of Arab property and seizure of refugee absentee property of all kinds

during the last half century, more than 90% of the land in Israel is declared off limits to the original Arab inhabitants. Thus, it is important to determine whether Israeli “ownership” is based on confiscation of land, outright seizure, or purchase according to normal procedures.

After 1948, Israel has followed the practice of assuming possession of state land by applying Israeli state laws, and by arguing that a similar procedure was followed during the Ottoman Empire with regard to state land. Notwithstanding Israeli claims, there are important differences here. As pointed out above, Ottoman state lands were tilled and passed from one generation to the next. Claims to usage were as strong as ownership. The situation is very different in the Israeli case. State land in Israel remains Jewish in perpetuity and its use, lease, or ownership by non-Jews is strictly prohibited. In other words. Israeli laws pertaining to state land are laws of dispossession, when it comes to the indigenous Palestinian.

While the record of the UNCCP contains the most comprehensive data on Palestinian property, it is important not to rely blindly on the loss estimates of the CCP. For example, Frank Lewis, a Canadian economist, discovered that the UNCCP undervalued Palestinian agricultural output, which, according to him, casts doubt on the UNCCP valuations. He questions the method of calculation, and not the actual records of the UNCCP.

It is invariably mentioned, when discussing the right of return for Palestinian refugees, that this is impractical to implement because of lack of space, and that Palestinian homes and property are in use by Jewish settlers. Second, that the return of the refugees poses a threat to the stability and character of Israeli society. In response to these claims, it is difficult for any refugee, or any rational person for that matter, to fathom why there is no room to return Palestinian refugees to their

homes, the original inhabitants of the country, when Israel reminds the world on a daily basis that it is committed to gathering in the rest of the Jewish “exiles” worldwide, whose number is more than double the number of stranded Palestinian refugees.

In response to Israeli claims that the sudden return of refugees would threaten its stability, a phased return over a number of years can be proposed, starting with those Palestinians who are in dire straits, like those who are in Lebanon and those who came originally from Gaza, but now lack residency rights and are to be found without proper travel documents in Jordan, the Gulf countries, and Egypt.

A compensation mechanism can be of different types: it could consist of giving money to the PLO, which administers the funds to affected refugees; it could consist of a joint international/ PLO committee which oversees the disbursement of funds; it could be a completely independent body consisting of refugees and their representatives and other interested parties (such as donor countries) which oversees and authenticates claims for compensation; or, the proposed compensation commission could include elements from all of the above. Moreover, as suggested by Abu-Sitta, a member of the Miftah Committee, in conjunction with compensation, a Palestine Land Commission should be established to safeguard against alienating Palestinian refugee property by selling it to non-Palestinians. This will be an independent, civilian commission which will represent those villages (530 in all) from where Palestinian refugees originated. The commission will act independently of the PLO.

Finally, discussions of compensation will undoubtedly acknowledge the need to compensate those Arab countries which hosted the refugees for over half a century.

### **(D) Attitudes of the Refugees**

- (1) There is a great deal of talk now that a survey should be carried out to reveal the attitudes of Palestinian refugees regarding compensation and return. A word of caution ought to be sounded here. Such a survey, if it were to be carried out, should not be considered a referendum on the right of return. The right of return is enshrined in international law and is not subject to a referendum. However, if such a survey were to be carried out, it should be an internal Palestinian affair, and should be considered as an administrative task designed to assist Palestinians in deciding about the most suitable modalities for implementing the right of return. Such formulation must present the refugees with realistic options concerning the modalities of return and compensation.
- (2) The refugees should be involved directly in the deliberation of their fate. This involvement can be based on having representatives of refugee camps and committees participate in discussions about the refugee issue. They should be present, not as token members, but as an integral component of any body deciding the fate of Palestinian refugees. This representation should be global, i.e., should include Palestinian refugees in camps, outside of camps, and those in the shitat.

### **(E) Coordination with Arab Governments**

1. One of the major mistakes committed by the Palestinian movement in terms of the Oslo agreements, is that it did not coordinate its prior move with Arab governments, particularly with Syria, Lebanon and Jordan, where there is a sizable Palestinian refugee population.
2. The position of Jordan, host to the largest single contingency of Palestinian refugees, is extremely important to consider. Issues per-

taining to the 1967-displaced Palestinians are part of the workings of the quadripartite committee comprised of Jordan, Palestine, Israel and Egypt. The Palestinians will have to continue to coordinate with Jordan and other Arab governments on this front. The same is true with regard to those Palestinians who are originally from the Gaza Strip and now live in Jordan (and a few in the Gulf), but who do not have legal status as residents. Finally, the issue of compensation will undoubtedly bring Jordan into the picture. Will Jordan be able to represent its Palestinian citizens of refugee origins in compensation claims vis-à-vis Israel? What are the ramifications of this for the refugees and the PLO? Will Palestinian refugees living in Jordan and elsewhere, including those living in the West, be able to seek compensation on an individual basis, and be represented by their own lawyers, thus by-passing the PLO and the host governments? At issue here is the following: since, according to the Oslo agreement, the PLO is the representative of the Palestinian people, what are the ramifications of this for compensation mechanisms?

3. While it is difficult to forecast with precision what the positions of Lebanon and Syria will be, it is clear that the Palestinians are left vulnerable in the case of a settlement between Syria and Lebanon, on the one hand, and Israel on the other.
4. There is no doubt that Israel will try to secure favorable conditions for itself by pressing that Palestinian refugees be resettled in those countries, or at least the majority of them. In as much as this may sound strange to some ears, Syria may turn out to be the easier of the two to sort out, from Israel's perspective. For all intents and purposes, the Palestinians in Syria enjoy all social and economic, but not political, rights as Syrians do. Should a deal between Israel and Syria take place in the months to come over the Golan Heights

(which is a likely possibility), any acceptable Israeli concessions on the Golan may be reciprocated by Syria by agreeing to Israel's demands, which would include among other things, that Palestinian refugees be settled in Syria and given Syrian citizenship. What should the position of the PLO be in this eventuality? Here it is important to forge a united Arab stand, with the aid of the Arab League.

5. Unlike Lebanon, the impact of a refugee presence (in terms of numbers) is negligible on the confessional and political landscape of Syria. Since Israel will not allow the refugees back to their homes (in the Galilee, where most of the refugees in Syria originated from, or anywhere else in Israel) in any appreciable numbers, will Syria, in return for a deal on the Golan, offer the Palestinians on "compassionate" grounds Syrian residency (with passports) if not citizenship? In the absence of any viable alternative that is likely to materialize in the near future, what will the position of most of the refugees in Syria be? Are they likely to go along with this scenario out of necessity? Is it good or bad, and for whom?
6. Should Israel decide to allow the return of a few thousand refugees from the Galilee to Israel proper under the family reunification scheme, it will probably include some from Syria for facing-saving purposes.
7. Lebanon presents a more difficult task. By any standard, the living conditions of the Palestinian refugees in Lebanon are worse than those of the remaining Palestinian refugees anywhere in the region. The ideal and just solution is to allow this group, about 360,000 people, to return to their original homes in Israel. This is unlikely to happen if Israel's wish is realized. At maximum, Israel may allow the return of 50-70 thousand Palestinian refugees, spread over a long period of time, say five to ten years. Although the history of



this proposal goes back to the 1950s when Ben-Gurion offered to take back 100,000 refugees, now Israel will link any return of such small number to a quid pro quo concerning the settlers. Thus Israel might ask for the right of the settlers to remain in a Palestinian state as a condition for allowing several thousand Palestinian refugees to return to Israel under the family reunification scheme. Will these settlers live under Palestinian law, or will Israel insist that they be incorporated extra-territorially and extra-legally under Israeli law?

8. Lebanon is adamant that it will not allow the Palestinian refugees, now into their fourth generation, to remain in Lebanon and become Lebanese citizens. Under pressure from the US and other European governments, plus economic incentives, Lebanon may allow some of those refugees to remain in Lebanon, but not to exercise any political rights, such as the right to vote and run for office. The rest will have the initial choice of going to the West Bank and Gaza.
9. From data that we have on Palestinian refugees in Lebanon, their first choice is to go back home to the Galilee, their second choice is to stay in Lebanon, the third choice is to go to the West, and at the bottom of the list many expressed the view to opt for the West Bank or Gaza. The reason for this is that they were fearful of the economic situation in the Palestinian territories, and very few of them have family connections either in the West Bank or Gaza.
10. There is no doubt that the West will offer to take some of the Palestinian refugees in Lebanon, as it has done in the case of Bosnia and Kosovo. All in all, unless the right of return is exercised, a tiny minority will remain in Lebanon, and the majority of the Palestinian refugees will leave Lebanon to various destinations, including the West Bank, Western countries, and very few to the Galilee.

**(F) PLO Position:**

1. The first item on the PLO agenda must be to set in motion detailed plans for refugee absorption in the West Bank and Gaza. These plans must include housing, infrastructure capabilities, educational facilities, job creation, etc. If it does not exist, a ministry for refugee absorption (distinguished from, or to be built upon, the existing Department of Refugee Affairs) should be created to draft and implement plans for absorption.
2. The PLO should not abandon the plight of internal Palestinian refugees within Israel itself, their number amounting to 250,000 people, i.e., 20% of the Palestinian population within Israel. These people have been living in limbo for half a century, with Israel refusing to allow their return to their original homes. As well, the PLO should be involved in devising ways to return Palestinian refugees to their homes inside Israel. A primary consideration should be given to a phased plan of refugee return whereby family members, relatives and other communities within Israel will assist in absorbing returning refugees.
3. Regardless of the final shape of the agreement on refugees, some will remain in the host societies – either voluntarily or involuntarily. The PLO must strive to secure protection for these individuals. First, there is the need to regularize their political, social and economic status. This is a pressing issue for those Palestinian refugees remaining in Lebanon, who are unable now to work, move about freely in the country, own property, attend Lebanese public schools, etc. Second, the PLO must strive to secure for those Palestinians remaining in the host countries the right to obtain a Palestinian passport, if they so desire, without losing their naturalization status. This suggestion comes up against the laws of Arab governments, sanctioned

by the Arab League, which prohibit the holding of multiple Arab citizenship. Hence, a way should be devised to rectify this situation through dialogue with Arab governments and at the level of the Arab League, without jeopardizing the human rights of refugees.

4. Overall, the modalities within which the PLO will ultimately have to work include repatriation (to Israel as well as to the West Bank and Gaza), naturalization in the host countries, and voluntary/ involuntary resettlement in third countries.

**(G) Israeli Position:**

- (1) More than any other aspect of the final status talks, the refugee issue is destined to occupy a central place in the negotiations, and much hangs on its resolution. From its vantage point, Israel would like to close the refugee case once and for all, and it would like to do so to its satisfaction along the following lines, over which there is Israeli consensus: (a) minimal or no financial cost to Israel; (b) no moral liability for the refugee problem in the first instance; (c) no return of the refugees to their original homes in Israel proper except on a symbolic basis; (d) the dismantling of UNRWA; (e) nullifying of General Assembly Resolution 194 and its purge from the annals of the United Nations; and (f) defining the refugee issue, compensation modalities, and economic aid as regional concerns contingent on resettlement of the refugees in neighboring states.
- (2) Israel will attempt to ignore or undermine any Palestinian claims to the right of return and compensation if they are cast in terms of international law. Thus, justifications of the right of return on the basis of General Assembly resolutions and other international instruments will fall on deaf ears. They would be referred to by Israel and its allies as “unworkable” and “unrealistic”.

- (3) While Israel is keen to resettle Palestinian refugees in their areas of dispersion, the compensation package which it will push for will not be claims-based, as argued above in the section on compensation, but will be based on distributing a lump sum of money to Palestinian refugees, to be divided on a per capita basis. It will use the UNRWA annual budget or any such figure to work with, and divide it over the number of refugees. It is not surprising to read about various estimates bandied about suggesting that on a per capita basis, the refugees should be compensated with between ten to twenty thousand dollars (US) per person. One probably should contrast this with the compensation package paid to Jewish settlers when they vacated Yamit in Northern Sinai, in the wake of the Camp David agreements. Each settler household was paid \$250,000 (US) in compensation.
- (4) While we hear much about the Israeli (negative) consensus when it comes to the right of return, it is worth exploring other specific modalities of return. These were hinted at earlier in this paper. First, it could be suggested that the return be phased in over a period of time. Second, that the return should involve the assistance of refugee relatives living in Israel. Third, that the return, in addition to being directed towards Israel proper, should also consider those areas which were not part of the 1967 Green line, as for example, the Jordan Valley, Latrun, (East) Jerusalem, etc.
- (5) It behooves the Palestinians to start thinking of an advocacy campaign to educate the Israeli public on the issue of refugees. It is clear that opposition to the right of return is based (a) on framing the issue in a binary fashion, i.e., either all are allowed to return or none, and (b) on ideological considerations of Zionism, as coined by East European political elite. It is ironic that the group which champions most the position of non-return are the political left in Israel within

Labour, Meretz, and the peace movement generally, as well as Eastern European politicians in the Likud and other right-wing political movements. We have no idea of how Middle Eastern Jews would react to a modulated concept of right of return. For example, what does Shas think of the right of return? Nor do we know the views of the average Israeli on the subject. What is called for here is a systematic study of such attitudes through a carefully designed survey. Equally important, we do not know the extent of knowledge and familiarity among the Israeli public of Palestinians refugees and the circumstances surrounding their exodus, other than what is fed to it by the Israeli establishment.

- (6) As quid pro quo, Israel is likely to endorse a Palestinian state (as long as it implements the constraints imposed on it by Israel), and as long as the Palestinians are willing to forego demands for the right of return of Palestinian refugees. No doubt Israel will strive to secure additional concessions connected with Jerusalem and the remaining final status issues.

**(H) Western Governments' Positions:**

1. One would be amiss not to realize that the West would like to see the Palestinian problem resolved, starting with the refugee problem as a central item on its agenda. It realizes that as long as the refugee problem is unresolved, the refugees will continue to present a factor of instability in the region, thus posing a threat to Western interests in the area.
2. Smarting from the Kosovo-Bosnia affair, the West, led by the United States and Britain, will try to project a new-found resolve to find a solution to the refugee problem. This is not to be construed as an even-handed approach by any means when it comes to the Palestinian

refugees. Aided by the United States, Israel has succeeded all along in marginalizing the European role in solving its problems with the Arab countries, including the Palestinian aspect of it. The close alliance between Britain and the United States in the Gulf War and in the Bosnia-Kosovo crises will diminish any independent role that Britain, as a member of the European Union, may play in the Middle East.

3. If the West is short on coming up with genuine and equitable solutions to the refugee problem, it will not be short on offering financial assistance to resettle the refugees, and even offer to take some of them to live in the West.
4. The West, as much as Israel, would like to see the UNRWA liquidated. It will cite costs and the need to move on and settle this issue once and for all by terminating the functions of UNRWA.
5. The dissolution of UNRWA without resolving the refugee issue equitably presents a real danger to the well-being of the refugees, and to the stability of the host countries. A well-thought out strategy of phasing out UNRWA ought to be developed at the appropriate time, according to which the West is presented with various scenarios of likely costs and benefits related to changes in UNRWA structure. This issue was covered in more detail above.

### **(I) Thinking the Unthinkable?**

- (1) Let us assume, for the sake of argument, that Israel will not budge in any meaningful fashion on the refugee issue in terms of the right of return, accepting the blame and moral responsibility for contributing to the refugee problem, for laying illegal claim to Palestinian property, and for preventing, over the years, the return of the refugees to their homes, what then?

- (2) If the Palestinians agree to Israeli dictates along the lines suggested above reflecting the Israeli position, a historical injustice would have been committed and sanctioned by this generation. Future generations will undoubtedly hold the present leadership responsible and in the long run, a new generation will carry the mantle of undoing past injustices.
- (3) Should the Palestinians reject Israeli pressure and keep the refugee case open? What are the costs and benefits of this option?
- (4) From an official Palestinian position, this means that there will be no state, and in all likelihood Western and other financial aid to the Palestinians will be reduced in size substantially. Israel will not agree to proceed with negotiations and further withdrawals as long as the refugee issue is not resolved to its satisfaction. Moreover, Israel will impose economic sanctions and curtail the movement of Palestinians in and out of the Palestinian-controlled areas, and between them.
- (5) Is keeping the status quo bad? Some claim that Israel's position of weakness on the ideological front has always been, and remains so for the near future, tied to population balance (imbalance). With two-thirds of world Jewry still residing outside Israel, the population balance, even in the absence of any Palestinian returnees, will in two decades slightly tip in the Palestinian favor. There is certainly merit to this position, but not without considering some qualifications to it as pointed out below in (7).
6. One has to remember that the current Israeli Labor-led government coalition is bent, more so than its predecessor the Likud, on maintaining complete separation between the two people. Unless Israel engages in outright population transfer, which is not easy to

carry out in an age where ethnic cleansing is not tolerated, even by Israel's allies, the status quo will not remain in its favor by the year 2020. Some demographers predict (see Yousef Courbage in the Summer issue of *Majallat al-Dirasat al-Filastiniyyah*) that between 55% and 57% of the 13-15 million people living in historical Palestine by the year 2020 will be Arab. An equal number of Palestinian refugees, whose status would have not been resolved, will continue to reside in neighboring countries. Altogether, this will prove to be unacceptable to Western governments as well as to the host Arab governments. On the face of it, a wait-and-see attitude may not be the worst policy alternative adopted by the Palestinians. It is a matter of how skillful the Palestinians are in terms of using this advantage to their benefit during the negotiations.

7. A word of caution ought to be sounded here. In as much as demography has been touted as the weapon of the weak, developments in Palestinian demography are uneven. For example, the Palestinians in Syria, Israel and the West Bank are beginning to experience a decline in fertility rates. Compare this to the stable, and slightly rising, fertility rate among Orthodox Jews. In other words, victory through fertility could cut both ways.
8. Finally, a wait-and-see policy may not work in the Palestinian favor if repatriation and statehood are the cornerstone of the Palestinian position. The non-solution approach, which some claim could lead to a de facto bi-national state, will, in the absence of a code of conduct prohibiting alterations in the status quo, leave the settlements intact, if not increase their numbers, and in the process hinder the return of the refugees. Hence, a somber analysis of the pros and cons of the solution/ no-solution approach ought to be developed carefully.



## The Concluding Session

*Saeb Erekat*

Dr. Saeb Erekat, Minister of Local Government, and Dr. Hanan Ashrawi, Secretary General of MIFTAH, and Dr. Ziad Abu Amro, vice secretary general of MIFTAH, spoke in the closing session.

Dr. Erekat talked about the major highlights of the Sharm Al Sheikh Agreement:

The concluding statement stated that both sides would reach a framework agreement prior to commencement in negotiations at committee level. The Israeli side insisted on this item because it seems they did not know that the same item was in the concluding statement issued at the start of the final-status negotiations in Taba on May 6, 1996.

We believe that engaging in negotiations through committees, such as those on Jerusalem, refugees and borders will not lead to any results. Thus, we need the Israelis to specify what they want from us and how they view the Palestinian people. We do not want them to look at us from a seventies or eighties viewpoint, or even a 1999 viewpoint, but rather we want to know how they envision us in 2010. We should also define what our concept and vision of Israel is and how we envision relations with it in various economic and political areas.

Today, and particularly after Kosovo, the traditional concept of security has failed, which started from the time man used any tool as a traditional weapon until the era of the most advanced artillery. The Kosovo war has ended the concept of traditional warfare since armies, tanks and planes belong to the past; nowadays, technology prevails. Modern

technology has made nonsense of the concept of geography-based security. What is the Israeli concept of peace? Why does Israel consider the Jordan valley a security environment for a distance of 10 kilometers? If the issue is one of security, it should be understood that the Palestinians are in real need of security. We know that the cost of one tank could build three schools, which we are in need of. Classrooms in the Gaza Strip average 60 students per class over three shifts each day. Who can guarantee our security in the Middle East? Is it possible that the UN can guarantee our security? This is a border issue and we demand our security from all the competent parties in the region; our security includes smuggling, infiltration, riots and other matters. What is the concept of security envisioned for the future relationship?

Jerusalem... who gave Ehud Olmert or Teddy Kollek authority to act as prophets by making regions, such as the Old City, Shu'fat, Essawiyye or al Thori part of the Old Testament? I do not know of any Old Testament map; I don't know of any authority granted to Kollek to expand the borders. Moreover, the place they claim is theirs in Jerusalem is under our control, so what is the problem they are talking about? Do they want 260,000 Palestinians?

When we talk about settlements, we feel that the experiences in Kosovo, Bosnia and South Africa have taught people much. We want a solution; we do not want 50 years down the road to witness civil wars similar to the wars in Europe 600 years later. Similar events also took place in other regions where language and religions were occupied; the traditional school of political science says that these components are the basis of any turmoil.

Political sorcery takes various forms. In our society there is the issue of

being a Moslem, Christian, Gazan, West Banker, farmer, city-dweller, refugee and non-refugee. For example, we hear much about not having negotiations on behalf of the refugees. Such undertones are found in a homogenous society so not doubt the situation is even worse when we have different customs, different religions, different races and different histories. We need to define the framework of what we want for each other in the coming years.

We do not prevent anyone from obtaining information from any Israeli official. What about the talk of merging the third phase with the final phase? We have said from the start that we divided our delegations in order not to accept this merging under any circumstances. The Committee of Displaced Palestinians was revived in the Sharm Al Sheikh Memorandum within a binding time framework; this committee was disregarded in the Wye River Agreement. There is the protocol for operating the southern and northern passages that must be concluded by September 30, and the northern passage by the end of this year. I do not want to delve into the debate whether they are safe passages or safe crossings. What we want is freedom of movement for people and goods. We are doing our utmost to be granted immunity so that Israel will not carry out any arrests on the safe passage. Here we go from one region to another by crossing a country; therefore, all our negotiations focus on the effectiveness of this immunity and the freedom of movement. This particular item obstructs the negotiations. Regarding the confusing surrounding the proposed framework, Article 1(c) stipulates that both sides should exert extensive efforts to reach a framework agreement within a period of five months. There is nothing binding here so the content is more important than the naming. However, Article 1(d) stipulates a binding formula for both sides, who should reach a comprehensive agreement on all issues of the final status within one

year of the date on which the negotiations were resumed. The Palestinian people should feel proud that after 52 years of denial, oppression, injustice and subordination, they were able to preserve their existence and all their rights, including Resolution 194. We have said from the start that settlements do not create a right. Everyone is well acquainted with the experience of De Gaulle in Algiers when he pulled out 1.5 million settlers. Moreover, contrary to the situation in Algiers, here there is UN Security Council Resolution 465. There is a difference between the Oslo Declaration of Principles, which includes 63 items, all lacking any mechanism of self-implementation. Thus, each phase needs negotiations to discuss mechanisms of implementing the items. Redeployment, refugees and the safe passage are points that need detailed discussions; therefore, Gaza-Jericho, the interim agreement, and the transfer of authorities and elections gave answers to these discussions.

I do not believe that there is a cause in the world similar to the Palestinian cause in its dependence on international legitimacy, particularly at present when we see such unprecedented world support. This is not a temporary current but the right of a people who have been subjected to 87 international plans and initiatives, all which had one thing in common: they all treated us as a minority or a community. All the plans and ideas proposed between the Balfour Declaration pertaining to religious and civil rights of non-Jewish minorities in Palestine up until the signing of the Oslo Accords, which recognized the Palestinian people, stipulate subordination and dependency. The countries of this region were established for this purpose. Do not underestimate the legendary steadfastness of the Palestinian people who created international legitimacy for their own cause. This means that the leadership is not distanced from the people; we are not a perfect society. There are officials in the Authority who abuse their civil and political authorities for

immediate material gains; these people will end up in the margins of history because of their ignorance. We make mistakes but we still have the ability to detect these mistakes. We can criticize ourselves and continue with a firm policy towards rectification and not disregarding our mistakes. The interim phase, alongside the crooked practices and the inability of the Authority to meet the needs of the people, in addition to many other matters, must be our focus of study inside and abroad. If we study the political history of any nation, we will find mistakes. But we have not reached the point of political slaughter, such as in France or Belgium when, after the Second World War, 27,000 people were killed because they collaborated. I am not saying we are perfect. Our foundation should be our ability to deal with our mistakes. Re-opening and re-discussing Resolution 194 after 52 years is a source of pride. The same applies to Jerusalem, whose Palestinian identity and presence Israel tried to conceal for 32 years. Who is closest to the position? Is it the person who accepts to hold negotiations over the city and accepts to place the issue on the negotiations agenda? Therefore, we must not be pessimistic. We understand our cause well. We also know that 10 years ago Israel used to say no to the PLO and the Palestinian people, but we see today that there are 60 other No's because, in the end, peace is not a moral act. Peace between two conflicting political entities is a need and interest. Through our steadfastness and persistence, we will impose on Israel its own need and interest to approve the Palestinian requirements for peace, which are the independent Palestinian state on the June 1967 borders with Al Quds as its capital, and the international legitimate rights of refugees and other issues. Peace is a need; there is nothing in international relations called ethics. I will present the concept that I concluded from my talks with the Israeli side, although it was not proposed to us. The scheme that Barak will present as a final solu-

tion is between 65% to 70%, that is a Palestinian state minus 30% for settlements, minus Jerusalem and minus refugees. We want our borders and our ports; we want to have the full right to grant Palestinian citizenship to any Palestinian abroad. We must not negotiate these matters. We must think of how to answer the world in regard to our demand for a Palestinian state when this is proposed to us; it is not necessary to convene the council and make threats. The negotiator does not make decisions but has clear instructions based on thorough studies. Do not give the negotiator responsibilities more than he can bear. He has a specific role embodied in his leadership, legality and reference; the negotiator does not make policy on the table. These people are efficient and we must support them; every nation must know how to protect their negotiators regardless of any considerations.

Dr. Hanan, regarding a referendum, I do not see any urgency for a referendum on a particular issue. What if we pose the idea of a referendum in January and President Clinton comes and says “present the case of declaring the state on 65% of the land without Jerusalem and refugees to your people?” In any decision we consider, we must not forget that we are being closely watched. They are good at holding us accountable for any statement made by any Palestinian. What if 30 Palestinians came and said, “We want a Palestinian state”, will they give them a state? What if President Clinton came one day and said, “your intellectuals, leaders and factions want a referendum; why don’t you pose the idea of a referendum” I am not talking about a formula but about a phase prior to the formula. If they propose a state with all authorities but without refugees, Jerusalem and settlements, if they dare you and say, “Why did you decide and reject on your own while Mr. X, Y and Z who are great leaders said they want it in a referendum”?

The issue of a referendum is an internal Palestinian issue. When we

reach a final solution, this requires that all Palestinian institutions at the highest levels, starting with the PNC, come together and present the solution to a referendum. We decide on these matters; I cannot watch and monitor what each negotiator is saying. We are not in absolute agreement regarding positions. Thank God that the final-status negotiations have not yet started. There was only a ceremonial conference.

Overall, we must expect that Barak's No's will continue and we must know how to shake their foundations; we have what it takes for this. We are at a point we have never been before. There is unprecedented international support for the Palestinian cause and the establishment of a Palestinian state with Al Quds as its capital, even in Israeli society. This is the result of Palestinian steadfastness and not because of a conscience in Israel. Peace has become an Israeli need; we must cling to the requirements of making peace, represented in the right of return, self-determination, the dismantling of settlements, the establishment of an independent state with All Quds Al Shareef as its capital, followed by a historical reconciliation.

In this conference important papers were prepared and presented by experts to support the Palestinian negotiator and decisions in the final-status negotiations.

The question that remains is, will this Palestinian expertise find its way into the process of decision making and negotiations? Thinking and decision making are two parallel processes: thinking guides decision-making. The relationship between these two processes must be positive, contrary to the current situation where few of the decisions have been made after close study, expertise and contemplation.

I hope that MIFTAH will continue in their efforts towards creating the required relationship between the thinking process and the decision-making process. Prior to engaging in negotiation over issues of the permanent status, we must study each case individually and formulate the relevant principles and strategies. We should then link them with each other. The final solution and its negotiations cannot be fragmented. We need to transform the papers presented in this conference into policy oriented papers.

This is the conference's closing session. The papers presented here covered all issues pertaining to the final-status negotiations. I do not want to repeat anything or go into much detail. Rather, I will make some general comments on the final solution. Allow me first to present some postulates upon which my comments are based:

**First:** I am concerned about the next phase; we have begun final-status negotiations with a lack of confidence because we did not stand by the positions and conditions declared at the start of final-status negotiations.



**Second:** Final status negotiations call for a separation from the frame of mind and method used in the interim phase issues.

**Third:** The process of decision-making needs review; the platform for decision-making must be broadened with the proper mechanisms.

**Fourth:** I do not see the possibility of reaching a permanent solution in the foreseeable future unless we surrender what we consider as national constants and accept the Israeli conditions.

**Fifth:** Therefore, we must now work to reinforce the internal front, including a speedy, serious and comprehensive process of reforming our internal situation.

Allow me to present the following comments on the final solution:

**First:** We will have to live indefinitely with the final solution that we accept: therefore, it must not entail any permanent defects. We must benefit from our experiences in the interim phase. The final solution is a national political solution that must enjoy Palestinian national consensus. It must be a solution that does not hinder any prospects for more sophisticated future solutions (such as the secular democratic state).

The permanent political solution is conceptually different from the solution of a historical reconciliation. Historical reconciliation can only be achieved if there is recognition of the historical injustice done to the Palestinian people, resulting in 51 years of dispersal, loss and suffering and 33 years of occupation, and until they are duly compensated.

**Second:** The permanent solution will not be permanent unless it is just and balanced; it should at least meet the minimum ceiling of Palestin-

ian consensus in terms of rights and needs. In order for the solution to endure, it must be in the best interests of all Palestinians so that they will not turn against it later on. This is the lesson that Israel must learn just as we did. Therefore, the decision on a solution must be a collective one so that the responsibilities and ramifications are shouldered by all. Some might say that the Oslo Accords were not fair and balanced, but nonetheless, it did not collapse. Oslo sustained because it gave promise for a final solution.

In order for the solution to be accepted by the vast majority of the Palestinian people and before signing the solution, it should be presented to the Palestinian people in a referendum.

From time to time, the Palestinian people should be presented with all the facts. Engaging in the final status requires strengthening the internal front, which in turn requires starting an immediate process of internal reform at all levels. This is necessary to win the people's support for the authority.

The sense of power that any given authority has is a false sense of power if there is frustration among the populace. While an authority that is isolated from its people feels strong in confronting these people, it will no doubt be weak before the adversary and will not be able to withstand pressure and extortion.

**Third:** The framework for the final status must enjoy a national consensus and must be in accordance with the PLO program and the agreements it signed, represented in the following:

1. Considering the Palestinian territories occupied in 1967 as occupied lands, including Jerusalem; annexing Jerusalem is illegal and illegitimate.

2. Considering settlements as illegal and illegitimate.
3. The terms of reference for solving the refugee case must be UN Resolution 194.
4. The final-status negotiations must culminate in the establishment of an independent Palestinian state, which should not be an issue for negotiation. An agreement on such a framework with the Israeli government is not possible at the present time; you are aware of Barak's No's and the national consensus in Israel. However, we must adhere to it and insist on refusing to enter negotiations without it. If negotiations are conducted within in a different framework that does not adhere to those principles, the solution will not be national, fair or balanced.

**Fourth:** The permanent political solution that Palestinians must adhere to should include the following:

- 1- The establishment of an independent and fully sovereign Palestinian state with Jerusalem as its capital within the borders of 1967; the state must have full control of its borders, crossings, air space, regional waters and resources. The state must enjoy its own freedom to choose its democratic political system and relations with other states free from Israeli dominance. The capital of the state must be the part of Jerusalem occupied in 1967. A Palestinian state without Jerusalem will lessen the value, status and importance of this state in the eyes of Palestinians, Arabs and Muslims. A Palestinian state without Jerusalem will lose its spiritual, ethical, moral, national and political significance. A Palestinian state without Jerusalem will be like an entity without a soul.
- 2- The solution to the Palestinian refugee cause must be on the basis of UN Resolution 194 that grants the right of return or compen-

sation for those who choose this option. Any permanent political solution must guarantee the freedom of any Palestinian to come to his homeland whenever he wishes. No permanent solution must be accepted if it changes the relationship between Palestinians inside the homeland and those abroad into a relationship of separation or animosity, or one by which the Palestinians outside Palestine would take a stand against their own state in Palestine.

- 3- Dismantling or evacuating Jewish settlements in the Palestinian territories since they are considered illegal and illegitimate. Insisting on regaining all lands occupied in 1967, including lands on which Jewish settlements are located, is not only for national, political or legal reasons, it is also for practical purposes. Palestinians need the land in order to absorb Palestinians and allow their lives to develop normally towards building a sustainable state. No one would dare accuse Palestinians of intransigency if they insist on establishing their state within the borders of 1967, which constitute only 20% of their historical homeland.
- 4- Any mutual amendments on the borders must be slight and achieved through negotiations and agreement in a manner that does not prejudice the unity of the Palestinian territories; they must also be based on the principle of reciprocity.
- 5- The permanent solution and the Palestinian state must not constitute a political, economic, security or strategic burden on the Arab dimension. Any security agreement between the Palestinian state and Israel must take into consideration the internal and external security of Palestinians and must not burden Arab national security. The Palestinian state must not be subject to any form of Israeli dominance or subordination; it should not be part of any alliance or bloc hostile to the Arab nation.

- 6- Most of the final status issues are not purely Palestinian-Israeli issues (security, borders, Jerusalem, refugees, water and neighborly relations). The issues concern other Arab parties and imply international intervention as well. Palestinians must first coordinate their positions with the concerned Arab countries so that the Israeli side will not create or play on Palestinian-Arab disagreements. Palestinians must prepare to resist pressures on them to make concessions.
- 7- Since we are at the beginning of the final solutions, we must address the state of confusion, indifference and frustration in the Palestinian street and restore the credibility of the official negotiating position. The mistakes of the past made during the interim phase negotiations must not be repeated, such as declaring a position and then rejecting it.
- 8- Conducting negotiations at any cost in order to reach a permanent solution will backfire. We must liberate ourselves from the need to achieve a quick solution to a complicated cause. We must be creative in bridging the gap in the balance of powers between us and the other side through making available our various sources of strength. We must always remember that if we do not sign a permanent solution, there will not be a permanent solution. What I mean by this is the negative power that we possess and that the other side realizes all too well.
- 9- After everything said, the question remains, what is really taking place on the ground? We are entering final status negotiations on the wrong foot and in a way that is a cause for concern on our national future. This is at a time when we are in the utmost need of confidence and strength.

Following Barak's victory in the elections, there was national consensus not to return to the negotiation table unless there was a clear Israeli

commitment to halt all settlement activities. Today, we are embarking on the final status negotiations in the absence of this Israeli commitment. What will happen if the final status negotiations stumble or drag on for several years? How many changes will take place on the ground and in Jerusalem? Based on our past experience, we halt negotiations for a while and then go back to them as if nothing happened (Jabal Abu Ghneim, Ras Al Amud and others).

Prior to the start of final status negotiations, we said that we would not enter these negotiations until the issues of the interim phase were concluded. We also said that we would reject any merge or transfer of issues from the interim phase to the final status negotiations. What actually happened? We entered the final status negotiations and in practice, we transferred or merged the third phase of redeployment into the final status negotiations (regardless of the various terms used). What happened to the issue of displaced Palestinians, which is an issue that belongs to the interim phase? In addition, there are no guarantees that Barak's government will not stall in implementing the third part of the second redeployment on its due date because Israel intends to connect this phase with reaching a framework agreement on the final status issues. I do not believe that any sane person really believes that a framework agreement is possible within this short period of time unless we accept Israel's conditions. Moreover, we are still in need of renegotiations with Israel over the northern safe passage and other issues. This is not a reassuring political negotiating approach. If we proceed in the final status talks in the same manner as the interim phase, there is cause to worry. We must take the final status negotiations with the seriousness they deserve, whether at the level of the political decision, which is the basis, or at the level of the negotiating performance or approach.

Finally, the people must be a part of deciding their present, future, and destiny, which will be determined by the permanent solution. The Palestinian people must continue their national, intellectual and political debate over this solution. They must struggle for their right to political participation and decision-making. The people's participation, along with their political, social and intellectual forces, will undoubtedly impact the decision on the solution.

## Expert Committees on the Issues of the Final Status:

Committee	Coordinator	Members
Legal Affairs	Ahmad Khalidi	Musa Deek Gassan Faramand
Israeli Affairs	Mohammed Abu Zeid	As'ad Ghanem Salem Jubran Jamal Zahalqah Raef Zureiq
Borders and Security	Khalil Shiqaqi	Nizar Ammar* Omar Ashour* Jad Ishaq Jamil Rabah Maj. Gen. Abdul Razeq Yahia Khalil Tufakji Maj. Gen. Nasr Yousef
Relations with neighboring countries	Ghassan Khatib	Mahdi Abdul Hadi Hanan Ashrawi
Jerusalem	Mahdi Abdul Hadi	Riyad Malki Ibrahim Daqqaq Manuel Hasasian Faisal Husseini* Hanan Ashrawi
Settlements (colonies)	Khalil Tufakji	Abdul Rahman Abu Arafah Terry Bullata Jad Ishaq Jamal Talab Violet Qumsiyye
Water and Environment	Abdul Rahman Tamimi	Fadia Deibes* Marwan Haddad Jad Ishaq
Economics	Samir Abdallah	Salah Abdul Shafi Hasan Abu Libdeh Faisal Awartani Jamil Hilal Mahmoud Ja'fari Mohammed Shtayye Hazem Shunnar
Refugees	Manuel Hasasian	Suleiman Abu Sitteh Bernard Sabella Salim Tamari Elia Zureiq

Committee Coordinator: Jamil Rabah

\* Observer