

# CHALLENGES

FACING  
PALESTINIAN  
SOCIETY  
IN THE INTERIM  
PERIOD

JERUSALEM MEDIA & COMMUNICATION CENTRE DECEMBER 1994

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## Thanks and Appreciation

The Preparatory Committee of this conference extends its thanks and gratitude to all the brothers and sisters who participated in making this conference a success, especially the brethren who accepted our invitation from outside the homeland. We also thank all the speakers who prepared papers and presented them to enrich the conference.

We send our special thanks to Amideast for its financial assistance in covering a large part of the costs of the conference.

This publication was made possible by the generous support of the Friedrich-Ebert Stiftung Foundation.

*The Preparatory Committee*

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## Preface

**A**t the initiative of the Jerusalem Media and Communication Center (JMCC), and under the supervision of the Preparatory Committee, a conference titled, "The Challenges Facing Palestinian Society During the Interim period - First Conference" was held at the Ambassador Hotel in Arab Jerusalem on Friday and Saturday, 4-5 February 1994.

As we promised, and as a way to complete the goals of the conference, we present to the Palestinian people and its leadership this book, which comprises the various papers submitted to the conference and a word-for-word transcript of all the discussions that took place in its six sessions. The aim is to expand the dialogue on the vital and decisive issues presented.

The conference indicated the ability of an intellectual group of Palestinians inside and outside the homeland to hold serious, responsible, deep and democratic dialogues founded in the principle of the common interests of all sectors of society, far from any political or ideological sensitivities.

We noticed a number of traits that permeated the conference: the need for Palestinian political activity to be widened for greater democratic participation; the need to fill the blatant gaps in current Palestinian political performance, whether at the level of the negotiations or at the level of preparedness to assume authorities; the prominence of Jerusalem and settlements, which were brought up in the majority of the conference's sessions, and the desire for these subjects to have a greater share in Palestinian political activity.

The success of this attempt and the suggestions of a great number of attendees encourages us to repeat the attempt on a regular basis in a deeper and more specialized way. The future conferences will come out with specific recommendations and practical mechanisms to push things toward fulfilling those recommendations.

Finally, we apologize for any shortcomings or mistakes that may have come about due to the need to publish this book at the necessary speed.

*The Preparatory Committee*



# Opening Speech

**Ghassan Khatib**

We inaugurate this conference with a minute of silence in mourning of our nation's martyrs.

In my name, the name of the Preparatory Conference of the conference and the name of the JMCC I welcome you all and thank you for attending.

I hope this conference will help in confronting the great and new challenges that will face Palestinian society in the future stage --the transitional phase-- on the political, developmental, social and security levels.

This conference aims to give an opportunity and mechanism for a group of chosen intellectuals and prominent figures inside and outside the homeland to deal --in a scientific, methodological and organized way-- with the challenges in a strategic way, without the pressure of making quick political decisions.

The conference also aims to create a free Palestinian public opinion based on democratic dialogue between diverse but responsible and well-studied opinions. This helps to make a positive impact and serves as a guide for the political decision makers in the Palestinian political leadership and our representative, the PLO.

As for the theoretical underpinnings of this conference, they are mainly a will to participate in the Palestinian effort to study how to turn this transitional phase an initial step toward our goals: ending occupation, achieving right of return, self-determination and establishing the independent Palestinian state with Jerusalem as its capital.

To this end, the conference comprises six sessions. It begins with a deep and scientific study of the Declaration of Principles, followed by the Israeli perception of this agreement. The second session is on the concept of a Palestinian authority during the transitional phase, the first such authority, and it includes a discussion of the draft Basic Law for the National Authority in the Transitional Phase. The fourth session is on persistent issues that weren't mentioned in the agreement. The fifth session is on developmental and economic strategies in the transitional phase. Finally, we end the

conference with a session entitled, National Unity in a Framework of Political and Ideological Pluralism.

The Preparatory Committee has provided you with the necessary documents, like the draft Basic Law of the National Authority, the text of the Declaration of Principles and its appendices, the letters of mutual recognition, and the most recent Palestinian-Jordanian (Economic) Agreement.

To conclude, I would like to thank the colleagues in the Preparatory Committee for their efforts and the employees of the Jerusalem Media and Communication Centre.

*Thank you.*

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**A political reading  
of the declaration  
of principles**

**Dr Haidar Abed Al-Shafi**

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member of the board of many Palestinian  
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**T**o be able to politically analyze the Declaration of Principles, it is vital that we start at the beginning. Israel waged an aggressive war in June 1967, although it claims that it was a defensive war.

There was a discussion on the subject at the Security Council immediately after the war to identify the (nature) of the war and the responsibilities of the parties involved. The truth has never been clarified. Israel has been able to obscure the truth by insisting that it was a defensive war.

The only party that knew the truth was the US government but it preferred to keep silent and not reveal the truth. Thus, the UN Security Council has become incapacitated to deal with Israel as an aggressor. UN Security Council Resolution 242 passed which emphasized the inadmissibility of the acquisition of territory by force and affirmed Israeli withdrawal from the Occupied Territories within a peace framework between the conflicting parties. However, it did not oblige Israel to respond or impose penalties if it did not respond. Consequently, Israel escaped from deterrence and punishment, and it did not implement the decision because of the protection it had and still has from the US. It is worth mentioning that Israel, in the words of its leaders, admitted later that it had never been exposed to any act of aggression in June 1967 and that it decided to seize the opportunity and wage a war to improve its security posture.

From the beginning, Israel did not admit that it was an occupying power. At some instances, it refers to the (Occupied) Territories as administrated territory. What is important is that Israel did not recognize it as occupied territory.

What that means is that Israel has a claim to the land, if not all, at least part of it. Although Israel never registered any official claim regarding this, except for Jerusalem which it annexed after expanding the city boundaries, Israel immediately after the occupation proceeded in erecting settlements around the West Bank, including Jerusalem, and the Gaza Strip. It also carried out measures that were in contravention to international law, (the 4th) Geneva Conventions, and UN resolutions. Among these were, for example, amending the laws that were in practice prior to occupation, introducing new laws, ravishing land, and restricting the freedom of the local residents in all aspects of life particularly in construction, economy, and in other aspects that reinforce its undeclared claim vis-a-vis the Occupied Territories.

Israel has relied on this in confronting international legitimacy and by creating facts on the ground. It also relied on the American protection and on the apathy and paralysis of the rest of the world.

The Security Council has renounced the annexation of Jerusalem as well as all other illegal Israeli practices in the Occupied Territories. All of world governments, including the USA, confirm that Israeli settlement activities constitute an obstacle on the path to peace but abstain from taking practical measures to halt these Israeli practices. Consequently, Israel continued with its aggression.

When the Gulf crisis started with the Iraqi occupation of Kuwait, the USA interfered to end this occupation. It also established a military alliance and was engaged in a devastating war on Iraq which superseded the objective of the liberation of Kuwait. The USA refused Iraq's demand to link the Gulf occupation and the occupation of Palestine as well as to treat both occupations equally. Although this was very embarrassing to the US, it refused the linkage proposal and insisted on waging a war on Iraq and maintained that it would deal with the Middle East at a later stage.

This is how the US, immediately following the Gulf War, confronted the Middle East problem, particularly the problem of peace between Israel and the Palestinians and between Israel and the Arab world. When Mr Baker came to deal with the peace situation in the area, I remember that I was in the delegation that met with him. I had only one question to ask him which I believed had direct relations with the issue of peace. My question was related to the Israeli persistence on its settlement activities in the Occupied Territories, and whether there are any contradictions between the continuance of settlement activities and the prospects for peace. Baker's answer was in the affirmative and that there is a clear relation, but he affirmed that the US Congress would not interfere to force Israel to halt its settlement activities. He also said that the only way is to participate in direct negotiations and that the negotiation process will lead to a dynamic process that will pave the way to reaching a just solution. What I was able to get out of this was that the USA, by sponsoring the peace negotiations, would work to make things happen in accordance with this understanding and to achieve what is required.

The Palestinian National Council, when it approved the participation in the peace process, did so on many conditions, in particular halting settlement building. Israel, however, rejected this condition and, instead, imposed conditions such as the need to form the delegation only from the inside, excluding Jerusalem. Then the PLO accepted such a condition, and

It was opposed by the opposition factions which later boycotted the meetings of the PLO.

When we went to the negotiations, we were not under any false pretensions, and we knew that the present balance of power was clearly in favor of Israel. This clearly influenced the negotiations. We also knew that our case was backed by the principles of law, human rights, and UN Resolutions. We believed that holding the negotiations immediately after the Gulf War would have an effect on the US position as well as on the rest of the world, in regard to law and justice. We did not, however, exaggerate our hope. I said to Abu Ammar (Yasser Arafat) during the first stages of the negotiations and during a meeting which comprised representatives from all the PLO's factions and a large number of the delegation members that the negotiations will reach a deadlock and we will need to make the decisions identifying what to do and where to go. The PLO is not in a position to take a decision that will be accepted by the entire Palestinian people, unless a unified Palestinian position could be achieved on democratic bases. (I also reiterated that) we are in urgent need for such preparations for the future. I emphasized this during the session and in other open and closed sessions. My determined view was that we could not endure the consequences of the failure of the peace process unless we were united.

The terms of reference for the peace process are UN Resolution 242 and 338. The Palestinian delegation requested from the beginning the need for the transitional government to have jurisdiction over the entire Occupied Territories and to have administrative jurisdiction over all the residents, because we refused to allow the settlements to be an independent entity or to be under the authority of any other party during the transitional period since this will influence the final outcome of the peace process. Israel, however, refused these demands very strongly and this was the essence of the predicament which persisted till the end of the tenth round of the negotiations.

There were also other problems which constituted additional complications such as elections, the number of the elected council and its jurisdiction. But the core of the predicament was the land issue, the rights over the land, and the problem with settlements particularly how this related to Jerusalem. The delegation had proposed to freeze the negotiations after the seventh round because Israel continued with its intransigence and in its lack of commitment to the terms of reference of the peace process, and it pursued (its policy) of numerous violations in the Occupied Territories. We also emphasized this request after the tenth round when it became evident

that the position of the new American administrations was biased toward the Israelis, and our hopes based on the support of the US and the world to the principles and connections of international law and UN Resolutions disappeared. We asked to freeze the negotiations rather than boycott them to allow ourselves time to think about what to do or where to go, especially after we found ourselves alone in the open.

I wrote in the local newspapers at the time that it is vital that we freeze the negotiations. We should take care of our internal problems - the Palestinian house - since we had nothing left before us except to rely on ourselves on our scattered skills, and to utilize these unexploited skills in favor of our cause after we train and deploy them. We have neglected this in the past, and instead we relied to no avail on external forces in the hope that they would assist us overcoming our problem. I did not mean to refrain from gaining allies, but that this should not be at the expense of neglecting our own internal resources. Identifying, organizing, and utilizing these skills for our cause will not materialize unless we work at a high level of professionalism. This requires the democratization of all sectors of Palestinian society.

With our thinking in this manner, we were shocked by the Declaration of Principles which our leadership secretly arrived at with the Israeli side and the assistance of the Norwegian government. The US, Europe, and the rest of the world glorified this agreement as one which paves the way to a just and peaceful settlement, which answers the expectations of both Palestinians and Israelis. This has led to large scale optimism among the Palestinian people. What are then the positive aspects of this agreement?

The preamble of this agreement mentions the Palestinian people and the legitimate and political rights of the Palestinian and Israeli people. At the core of this agreement was the affirmation of the unity of the West Bank and the Gaza Strip and the importance of preserving that unity. It also said that the transitional period leads to a final settlement and that it is not permissible for any other agreements to hinder the negotiations of the final settlement. It also states that the final objective is the implementation of UN Resolutions 242 and 338. Finally, and as a result of this agreement, mutual recognition has been achieved between Israel and the PLO, as the representative of the Palestinian people. According to those supporting the agreement, this recognition implies a preliminary approval of the PLO's objectives in regard to self determination and the independent state.

I believe the shortcomings of the agreement, are the following:

1. Secrecy: There is, in my opinion, no justification for secrecy except for

an agreement which would unequivocally grant the Palestinian people their national rights. Since the situation is not as such, secrecy has widened the rift among the Palestinian people. It was also a big blow to Arab coordination efforts and to the Arab dimensions of the Palestinian problem.

2. It does not confront the Israeli claim vis-a-vis the Occupied Palestinian Territories which Israel has presented through its occupation and its mechanisms, particularly those pertaining to the annexation of Jerusalem, land confiscation, and settlement activities.

3. It allows for implicit or perhaps explicit recognition of a separate entity for settlements to have their independent administrative and legal regulations of which the direct supervision will be by the Israeli government after the dissolution of the civil administration and the withdrawal of the military government. Regardless of the problems and complications that may arise from this situation during the transitional period, it would be impossible and impractical to call for a Palestinian state during the negotiations for a final settlement.

4. Many articles in the agreement are ambiguous and open to varying interpretations. This situation allows Israel wide opportunities to maneuver and to procrastinate especially given that time is not in our favor but in Israel's favor. The current debacle in the negotiations affirms this.

5. This issue becomes even clearer in regard to the importance of the immediate release of political detainees once the agreement is signed, in addition to the right of refugees since 1967 War to return to their homes. Whereas the agreement did not specify such issues, Israel is trying to refer them to arbitration, something which we cannot accept.

Finally, can we deal with this agreement? Perhaps this question is not valid since the agreement has become a fait accompli after it has been officially signed, and after it has been welcomed internationally and by the UN General Assembly. It is important to confront all attempts that may ruin the agreement. It is important to note here to deal with it as a Declaration of Principles and not a proposal for a peace agreement. What is more likely to clearing down this agreement is the neglect of the demands for a just peace:

1. Continuation of the settlement activity: The entire world declared its position that settlements constitute an obstacle on the road to peace. Accordingly, it is illogical, after an agreement has been signed and negotiations on interpreting and implementing it are underway, that such obstacles to peace continue. Although this issue has not been clearly tackled in the agreement, there is nothing in the agreement which permits Israel to continue with building more settlements. Hence, as long as we have to deal

with the agreement, it is vital that we discuss the issue of settlements very seriously and persistently.

2. Jerusalem: Since Israel must abide by international legitimacy and UN Resolutions and should recognize that East Jerusalem is an occupied territory, meaning whatever is applied to the rest of the Occupied Palestinian Territories must apply to Jerusalem. We should also take into account the special considerations regarding peaceful coexistence between the residents of Jerusalem and the rest of the Occupied Territories. What is important currently is to halt all settlement activities in Jerusalem immediately until the final negotiations, when Jerusalem is to be discussed. If this is not carried out, the agreement will not yield that which is required, and the Palestinians will not be responsible for what may come in the aftermath.

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# A legal reading of the declaration of principles

**Raja Shehadeh Attorney**

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*co-founder of Al-Haq human rights group in Ramallah, representative of the West Bank to the International Commission of Jurists (Geneva), author of many books, articles and studies dealing with the Palestinian issue, including Occupier's Law: Israel and the West Bank (1985), and former legal adviser to the Palestinian delegation to the Washington bilateral negotiations.*



## Abstract

First: The absence of negotiations between the Palestinian and Israeli sides on the legal aspect of the Declaration Of Principles (DOP).

Second: Legal analysis of the DOP signed between the two sides on 13 September 1993.

Third: Continuing the legal struggle within the context of the agreement.

## Introduction

When my colleagues and I started working at al-Haq in 1979, we agreed not to publish any condemnations of Israel's violations as did other national institutions in the occupied land. Instead we produced legal analysis as to why our institution protests these practices. Our work has helped in developing the Palestinian legal discourse which now contains two aspects: the first is responding to The Israeli legal allegations; and the second is pointing out to the Palestinian positions towards these allegations. Due to this continuous effort and the continuous legal analysis, we have been in a position to almost fully understand the methods Israel has used throughout its occupation to achieve its colonial goals in this area.

In Autumn 1991, I had the opportunity to give a talk, during the meetings held by the negotiating team in Amman to deliberate the issues of negotiations, before members of the Central Committee of the Palestine Liberation Organization. My presentation was about the Israeli legal methods and the response to such methods which I thought would constitute the essence of the Palestinian strategy during the peace negotiations. Once I finished my presentation, one of the Central Committee members asked why I had wasted the time of the participants when I could have summarized all that I have said in one sentence: that all Israeli practices in the Occupied Territories were illegal in that they violate the 4th Geneva Convention.

What this position represents is not a personal set-back but a public catastrophe, particularly on the level of the national leadership. This was proven when the Palestinian side fell into the trap of the Israeli plans which the Palestinian side failed to confront legally, and to temporarily cancel the legal arrangements pertaining to settlement activity in the Occupied Territories.

Since then, we have arrived in Oslo at an agreement on the Declaration of Principles. And today, I stand before you to present a legal

analysis of a Declaration of Principles which was signed after the opportunity was lost for the Palestinian side to refute the unilateral legal arrangements that Israel had imposed throughout the past quarter century. This, in my opinion, could have been used to muster international support for an agreement that would lead, through an interim settlement, to the cancellation of these arrangements.

I hope this conference will succeed in making us think together, not only about the symptoms of the problems facing us, but also the causes of these problems, particularly those related to the subject of law. These symptoms are embodied in the legal consequences of the Declaration of Principles, most of which are not acceptable. The causes, however, lie much deeper in the lack of support and enrichment of the political discourse by the legal discourse to confront an enemy who uses the legal means very effectively to realize its political objectives. In my presentation I shall deal with the following three aspects:

**First:** Why has there been no negotiations on the legal aspects between the Palestinian and Israeli sides?

The Palestinian side did not use any legal strategy to confront and refute the legal arrangements represented by the Israeli side. The Palestinian legal position was and still remains that Israel is an occupying state and that the Fourth Geneva Convention should apply, and that the legal remedy is withdrawal.

This was the position, although at the same time, the Palestinian side agreed to negotiate through phases. The first of which aims at arriving at an agreement on transitional arrangements for self-rule, which would last for a period not exceeding five years. Despite agreement on this restriction, which determines the legal possibilities open to the Palestinians during the first phase of the negotiations, there was no review of the legal position of the Palestinian side nor was there any strategy that could be used to ensure that the desired objective--which is withdrawal and the establishment of a state--could begin at the first phase. Nor was there an arrangement which would be agreed upon for the self-rule to constitute the real beginning on the path of withdrawal, ending settlement activity, and establishing the state.

This was the Palestinian failure. On the other hand, the Israelis were well-prepared from the beginning of the negotiations, with the details of its negotiation strategy. This strategy, used by the Israelis since the beginning of negotiations, was to consolidate the gains which it achieved during the

occupation; reaffirm the legal and administrative arrangements which facilitated the erection of Israeli settlements in the Occupied Territories and the application of the Israeli law over it; and to utilize the major portion of the natural resources of the Occupied Territories—including land and water.

The question that should be raised here is why is this failure? In my opinion, the answer to this question lies partially in the lack of ability of the Palestinian side to understand the Israeli use of law as a colonial tool, and the position of the Palestinian side behind static legal statements, perceiving law as holy and dogmatic principles and all that is required is to reiterate them and thus everyone will understand.

However, this is not the nature of law. International law, in particular, is open to interpretation. For example, the applicability of the Fourth Geneva Convention and the meaning of application is subject of numerous legal studies published during the past quarter century. Accordingly, it is not possible for the Palestinian side to win the legal battle simply by repeating this principle, but requires much more than that. Yet, the Palestinian leadership, inside and outside, was not ready to enrich and support its political argument by a legal discourse. Thus, it failed to confront, in an acceptable manner, the Israeli legal discourse and provided Israel with an empty court to introduce its arguments which were accepted by politicians all over the world. The negotiations gave Israel the opportunity to introduce legal amendments in the Occupied Territories, an opportunity which it has been waiting for in order to reinforce and gain political legitimacy.

Consequently, the Declaration of Principles prejudices Palestinian rights. I will show briefly here how this was achieved.

**Second: Legal analysis of the Declaration of Principles.**

The Declaration of Principles maintains Israeli gains, particularly regarding mandating settlements as outside the authority of the Palestinian self-rule. This has been achieved by the following means:

1. In the Agreed Upon Minutes which constitute part of the Declaration of Principles, an interpretation of Article Four concerning sovereignty says that "the West Bank and the Gaza Strip (constitute) a single territorial unit," and "jurisdiction of the council will cover West Bank and Gaza Strip territory, except for issues that will be negotiated in the permanent status negotiations," which are Jerusalem, settlements, and the Israelis...
2. The exclusion of the settlements was not only confined to jurisdiction but exceeded that to the subject of the practice of authority which was transferred

to the Palestinians in accordance with Article 6(2) and affirmed by Article 4(2) of the *Agreed Upon Minutes* which states that '(t)he Council's jurisdiction will apply with regard to the agreed powers, responsibilities, spheres and authorities transferred to it.'

3. The residual powers shall remain under the Israeli authority as specified in Article 7(5) and the *Agreed Upon Minutes*. The above mentioned article states that '(a)fter the inauguration of the council, the Civil Administration will be dissolved, and the Israeli military government will be withdrawn.'

It should be noted here that the Palestinian side did not emphasize using the concept, dissolving, in both conditions, and allowed the use of withdrawal in regard to the Israeli government. Even though when the Camp David Agreement was signed in 1978, the Israeli interpretation of the word withdrawal means withdrawal from one area into another within the boundaries of the occupied land, and does not necessarily mean the dissolving of this military government. In fact, the usage of this concept allowed the Israeli legal advisor, Ya' el Zinger, to claim that the source of authority that will be transferred to the Palestinian side will remain with the Israeli military government.

4. The Declaration of Principles produced fundamental changes in the relationship between the Israeli settlements and Israel in that it allows Israel to practice direct authority over the settlements which, until the signing of the Declaration of Principles, had remained under the jurisdiction of the military government. The *Agreed Upon Minutes* read the following: 'The withdrawal of the military government will not prevent Israel from exercising the powers and responsibilities not transferred to the Council.'

It should be noted here that what appears in Article 7(5) and the *Agreed Upon Minutes*, referred to above, contradicts with that which appeared in Article 5(4) in that '(t)he two parties agree that the outcome of the permanent status negotiations should not be prejudiced or preempted by agreements reached for the interim period.'

**Third:** What could be done in the context of the Declaration of Principles to pursue the legal struggle against the Israeli settlements during the transitional period?

1. The desired aim of the Declaration of Principles as specified in the preamble is:

- a. The two sides 'agree that it is time to... recognize their mutual legitimate and political rights.'

- b. To 'achieve a just, lasting and comprehensive peace settlement... through the agreed upon political process.'

2. To achieve the above, the two parties reached an agreement on the Declaration of Principles of which Article Two states: 'The agreed framework for the interim period is set forth in this Declaration of Principles.'

The agreed upon aims were specified in the form of direct and indirect aims. As for the direct aims, they are stated in Article One under the title 'Aims of the Negotiations' as the establishment of a Palestinian Interim Self-Government Authority. As for the indirect aims, they appear in Article One where it states that the aim of the negotiations is to achieve 'a permanent settlement based on Security Council Resolutions 242 and 338.' Article One, also, states that '(i) t is understood that the interim arrangements are an integral part of the whole peace process and that the negotiations on the permanent status will lead to the implementation of Security Council Resolutions 242 and 338.'

The question here is how could the agreed upon arrangements for the interim agreement lead to a permanent status based on the acquisition of territory by force while these arrangements reinforce the inadmissibility of acquisition of large areas of land from the Occupied Territories by the continuous construction of Israeli settlements on it? How could the permanent status be based on the principle of the recognition of the political rights of the Palestinian people when the Declaration of Principles, at least during the interim phase, affirms the continuation of the existence of Israeli settlements.

3. The absence of a definition for Israeli settlements within the Declaration of Principles implies that the Palestinian side is committed to admit that these settlements include, among the areas already built, the large areas of the local and district councils of these settlements and the land which has been zoned for these settlements.

Thus, it is legitimate for the Palestinian side to ask to conduct legal action during the interim period to refute the Israeli claim that the land upon which the settlements were built is public land, as Israel claims, and that land zoning specified for the settlements was in accordance with the local law, as Israel claims.

In my opinion, what was specified in the Declaration of Principles does not prevent the Palestinian side from demanding the establishment of an international body to follow-up these issues. This strategy could be used to make the Israelis implement their claims of restricting settlements in order to gradually do away with the current status quo, which allows Israeli settlements the largest share of the hydro and geographic natural resources.

All these activities could be legally justified in that they do not contradict the spirit of the Agreement and the desired objective as specified in the above mentioned Article One.

**Conclusion:**

In the beginning, I hinted at the lack, on the part of the Palestinian side, of a strategy that could legally challenge the Israeli position. This lack of strategy, however, is not restricted to the period before and during the negotiations but holds true in the present time.

Regardless of the political conditions or the international balance of power which persuaded the Palestinian side to approve the Declaration of Principles, ever since the agreement was signed, no Palestinian legal strategy has been formed to gain that which could be gained from the Declaration of Principles. This strategy could be to pursue the struggle of the Palestinian people to regain their rights, deprived from them as a result of the construction of settlements on his soil, and to establish their own state through political struggle based on legitimate legal principles and in accordance with international legitimacy as defined by the Declaration of Principles. I hope that this conference will contribute to the formation of a legal strategy to confront the challenges of the transitional period.

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# Discussion

**Question:** Most of the criticism voiced against the Oslo accords can also be said of Madrid Middle East Peace Conference. Dr Haidar said that we are living in the stage of Israeli hegemony and Israeli capability to impose decisions. The question is why did the PLO agree to this in the first place? And why did you agree to the Madrid formula?

Could it be said that there are people who tried to jump off the ship? Everybody knew when we entered the Madrid process that we had, in fact, entered a process of no return. Are there people who believe that the Madrid formula was an attempt to save what could be saved? Are there others who believed that, after the deadlock in the negotiations in Madrid and Washington, the Oslo accords were the only thing to save what could be saved?

What is that which could be saved? We have a problem that does not deal only with the Oslo accords, but rather the whole process of negotiations beginning with Madrid. What suddenly happened in Oslo to justify voicing the mistakes committed by the PLO leadership, when all it did was follow the process described as the realistic alternative to deal with the Israeli-Arab conflict to its natural end?

*Dr Haidar Abed Al-Shafi:* There is a big difference between getting involved in a peace and negotiations process under unfair conditions on the one hand, and signing an accord which clearly contains concessions to our basic rights.

We entered negotiations because the existing situation necessitated doing that. The US was able to obtain the agreement of the whole

world, including the Arab world, to participate in the peace process. The core of the peace process is the Palestinian-Israeli conflict. It was not logical at all that the Palestinian side stay out of the process, regardless of the unfair conditions. We were accused all the time of being against peace, and it was said that the best we can do is kill and shed blood.

So we were made an offer, through which we had to make it clear that we do not oppose participation in a peace process, if it leads us to achieve just peace, based on the principles of law and rights. No one could force us to cede our rights. Our participation in such a process, despite the unjust conditions, could not be taken as a concession. We always said that we will not join negotiations for bargaining, and that we refuse to cede our rights. This was the limit. There is a big difference between that and the Oslo accord. This accord ignored the central issues, and this is unjustifiable. We were asked by journalists if we could have achieved anything better had we continued negotiations in Washington. I replied that it was clear we could not get anything. But we resisted and did not make any concessions at all.

There is big a difference between the two situations. I also explained that the road was never closed in front of us. True, we were left in the open after US bias toward Israel became so blatant. The question was what should be done. We said that since everybody had abandoned us, we had to rely on ourselves, given that the situation necessitated that.

I see no parallel between participating in the negotiations and the Oslo accord.

**Question:** The question deals with the issue of putting the Palestinian house in order, which Dr Abed Al-Shafi said was the way out to end the divisions and disorder, and I dare add, backwardness. Can we put the Palestinian home in order before ending occupation? Take Gaza, for example; it is in bad need of order. Can we end the state of chaos in Gaza without having an authority on the ground? In Lebanon, the PLO tried to end the state of chaos and backwardness and to have authority. The result was that, between the Arab and Israeli positions, the PLO was crushed, and we were ousted from Lebanon. I think in your negotiation efforts you were trying to establish a kind of authority, in order to put the Palestinian house in order.

This is one point. The second is that putting the Palestinian house in order is an issue of a long civilizational conflict. Putting an end to Palestinian backwardness means putting an end to Arab backwardness, and this needs patience and concerted efforts. Bringing qualified Palestinians back home is part of what should be done.

My question is about the need to establish an authority on the ground, in order to put the Palestinian house in order.

*Dr Haidar Abed Al-Shafi:* When I talk about democracy as a basis for putting things in order, it is clear that real democracy cannot be realized except in an atmosphere of liberty and national independence. But we can also do things under the present situation. Why did the opposition within the PLO depart and boycott the PLO? I do not agree with this approach, nor do I support the boycott. It is better to remain within, oppose from within. The excuse voiced is that it is useless to stay within and lead opposition from within, because the PLO chairman acts individually no matter what is done, he will still do what he wants to do.

There is a situation here which can be overcome on the basis of democracy. We do not allege that full democracy can be achieved now, but measures could be taken to help rectify the situation, like widening the foundations of Palestinian decision-making, and exerting serious efforts to achieve the concept of collective leadership. This could be achieved with serious and persistent efforts on the part of all, including the chairman of the PLO and the opposition parties.

When that is achieved, we can reach a Palestinian position actually capable of positive action in all Palestinian arenas and of promoting our issues in an organized form. Even in the issue of fraternity in Gaza and the West Bank, much could be done in that regard. The issue is clear nothing can be done without exerting efforts, serious efforts.

**Question:** I feel that there are two different points of view in your speech, which appear contradictory somehow. You said that the terms of reference in Madrid and in the successive rounds of negotiations were Resolution 242, in content and approach. You also said that you know the US was the only state that knew the 67 war was not a defensive war (for Israel), but rather an offensive one, and that Security Council Resolution 242 was aimed to serve as a justification for the war. You said that the US had entered the Gulf war not to get Iraq out of Kuwait, but rather to destroy an Arab industrial, technological and scientific center. You said that you knew all this, but despite your knowledge, you decided to go to Madrid Middle East Peace Conference and then to Washington negotiations. This was your decision despite Baker's answer when you asked him what the US will do regarding settlements. His answer was clear and open: the US may have an ineffective role in the issue of settlements and that the negotiations may come up with a situation.

In brief, one point of view maintains that you knew the path was going to be a very difficult one due to previous experiences, including that of the 1967 war, Resolution 242, the Gulf war and the developments which followed. Despite your knowledge, you decided to go to Madrid and Washington.

The other point of view took into account the strong criticism of the Oslo Declaration of Principles, signed in Washington. Frankly speaking, I did not hear anything convincing regarding your decision to go to Madrid and Washington, and regarding your criticism of the Declaration of Principles. My question is, what motivates Palestinian leaders to take certain steps, despite their instincts, knowing that the path may be blocked?

*Dr Haidar Abed Al-Shafi:* Most of the points in the question were already answered previously. If what is meant was my personal position, then maybe I will speak personally with the person who asked the question, without wasting the time of the conference.

**Question:** In a public rally in the Bethlehem region, I heard Mr Na' im Ashhab say that Palestinian guns will not be aimed at any Palestinian, and we will think one thousand times before we do that. Reports from Gaza, however, say that Gaza is being flooded with arms, and that it is possible to buy a pistol on the sidewalks. Who is responsible for bringing arms into Gaza at this time. Are we heading towards a civil war in the transitional period?

*Dr Haidar Abed Al-Shafi:* That is right, in fact; weapons are being handled virtually out in the open in the Strip. This indicates that Israel has an interest in such a situation, as it is the party in power. It is the party that, if it desired, could stop the flow of weapons totally or partially, and could prevent the presence of weapons. Israel has an interest in creating a dangerous situation. On the other hand, the armed organizations also violate the people's dignity. This is all part of the bitter disorder within the Palestinian house. Facing such a situation, everybody seeks to secure protection. People have started to possess arms to defend themselves, while others want to achieve illegal gains, and Israel is happy about the internal Palestinian fighting. This is our situation, and I repeat that we cannot overcome this situation without exerting serious efforts and putting the Palestinian house in order.

**Question:** It was said in the course of the lecture that the accords provisions of the accord are vague and flexible. This gives the Israelis a chance for control

and hegemony. Do not you also consider this vagueness and flexibility of interpretation to be an opportunity for the Palestinians to achieve more gains in the transitional period?

*Dr Haidar Abed Al-Shafi:* Absolutely not. Vagueness will only give Israel a chance to achieve its goals.

**Question:** Mr Raja Shehadeh spoke on Article 15 and how disputes resulting from the Accord can be solved. You also referred to Article 10 and said that a committee must be formed to which disputes should be addressed. My question deals with the two articles, and whether there are people of law in the committee or not, and why there are not such legal experts represented in the bodies which are negotiating on various levels?

*Raja Shehadeh:* I am sorry I cannot answer the first and second questions. The reason is that I am involved in the negotiations and I do not think I am allowed to give my opinion on them. Regarding the non-existence of legal experts, that is correct, but I cannot say why.

**Remark:** (*By Dr Anis Al-Qasim*) The legal committee of the Palestine National Council, have for a long time and even before talking about an agreement and negotiations, called for indulging in a legal battle at the international court to obtain decisions supporting our rights. The answer we got repeatedly was that the Security Council has repeated that settlements are illegal. They could not differentiate between a decision taken by the Security Council and an administrative resolution issued by the international court.

The absence of a Palestinian legal advisor in the negotiations which led to the Declaration of Principles was sensitive and dangerous because the Israelis excluded the settlements from the jurisdiction of the Palestinian authority. There are endless legal problems in how to deal with this situation. If an Israeli commits a crime in the West Bank, will the Palestinian policeman be able to arrest him? And if arrested, can he be interrogated? Will he be subjected to the (Palestinian) law? The text in the Declaration of Principles is a very big dilemma, which requires legal treatment.

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# Israeli political understanding of the DOP

**Gen (Ret) Shlomo Gazit**

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I do not want to go into history, but the Declaration of Principles cannot be started as of August 1993 or 13 September 1993. The Declaration of Principles would not have been possible were it not for the political change of government in Israel following the 1992 elections. The Madrid Middle East Peace Conference, again as we all know quite well, started during the Shamir government, when the Likud was still in power in Jerusalem. The political position of the Likud was very different from the Labour government's position, and I cannot see any possibility of this Declaration of Principles, and probably any other declaration of principles, being agreed upon based on the Likud's policy.

What was the understanding, the intention of the Likud government for the interim phase and following the five years of the interim phase? Literally it was based on two major elements. The first was an Israeli claim after five years for the total annexation of Yesha , and I am using here the Israeli term because, for the Likud government the term means Judea-Samaria-Gaza . That was the first position. The Likud will negotiate an agreement based on the annexation to Israel of these territories. And the second part, was to grant a permanent but limited autonomy to the local Palestinian population and residents in the West Bank and in the Gaza Strip. This was very different from Labour's traditional position. Labour's position again was based on two main points. One is, we the government of Israel, we want to keep on holding the Occupied Territories as a bargaining chip, as a bargaining card, namely this is something we want to trade in for a permanent political settlement and solution. And two, we, the government of Israel, we shall hold the territories for as long as there is no peace and normalization between the two parties. Namely, we are not going to accept any solution unless it leads to a permanent political solution.

As to the future, the so-called final settlement, again according to the Labour government, Israel will insist on the following: First, Israel will insist on adequate security agreements answering both the outside strategic security threats to Israel as well as the security threats which are part of the internal threat, local security needs as well as possible damages, possible threats to Israel's water resources. And on the other hand, if we talk about modified borders, the Israeli position was that we want to include minimal additional Palestinian population into Israel. That was the initial position of Labour in negotiating the interim agreement once Labour came into power on July 1992, and was in a way a very similar continuation to the Likud position. One, to

negotiate exclusively with the local Palestinian leadership. Two, complete and total rejection of any negotiations with the PLO or with anyone who formally represents the PLO. Three, a refusal to deal with any aspect of the conflict which is dealing with the Palestinian diaspora. The negotiation should be concentrated only to the bilateral problems between Israel and the local population in the territories. And, four, the agreement should lead to an open-ended five year interim period, and I emphasize the word open-ended.

The change in the position of the Israeli government came as a result of several factors. First of all, we have very quickly seen the deadlock in the bilateral talks. You can go on and meet in Washington again and again and again but with no literal progress. Two, it wasn't a secret but it took some time for the new Israeli government to realize that the Palestinian delegation going to Washington took its directives from Tunis, and Tunis would not allow an agreement without its participation, without its direct involvement, without it having a share. Three, there was clearly a modified Israeli perception and attitude toward the PLO. As you all know about a year ago, Israel has changed its formal legislation which banned and prohibited any contact or meeting with official members of the Palestinian National Council. And four, for the very first time we saw some promising result which were the outcome of the informal backtrack Oslo meetings between Professor Herfeld, Dr Gundik, and Ahmad Qreia and whoever participated in those talk. So while in Washington things were deadlocked, all of a sudden some light from Oslo at the end of the tunnel could be observed.

What has the DOP literally achieved? I personally see as its most important achievement in putting an end to the ideological barrier of the conflict between the two parties. It was, if you want, a very clear statement as of today that it is no longer a zero-sum conflict. It is not any more a conflict in which either party says it is all mine. Both parties have accepted formally in writing and in public to its own constituency and to the world at large that the other side has political and security rights to live in peace.

From this point of view, if you want, again, as of September 1993, the Palestinian-Israeli conflict has become a normal political conflict, a conflict between two political sides, two political parties that have many problems to resolve, that have many issues of difference but they are normal issues that can be negotiated and where each party does not deny the very existence and right of existence of the other party.

If you want, from a Palestinian point of view, the Israeli-Palestinian conflict as of September 1993 is not basically different from the Israeli-Syrian conflict, from the Israeli-Jordanian conflict, from the Israeli-Lebanese conflict

or from the Israeli-Egyptian conflict that has already been resolved, as we all know, 15 years ago.

For internal domestic reasons, the Israeli government would not be as explicit as I am now. But there was a very clear understanding that the next phase following the 5 years of the interim phase will no doubt lead to the establishment of Palestinian sovereignty and independence. Furthermore, the linkage between the West Bank and the Gaza Strip, the so-called inclusion of the Jericho area in the package served as a very clear message. If you Palestinians have been worried for all that long that all of what Israel wants is to get rid of the Gaza Strip while maintaining, keeping, holding, and annexing the West Bank, the introduction of Jericho says: do not be worried. The West Bank is already included in the package.

Israel has accepted the Oslo DOP on the following assumption and terms. Here, first, in continuation of its formal position, the Israeli understanding was, and still is, that the interim phase has to be open-ended. There is no agreement whatsoever as to the final settlement. We do not mind for you Palestinians to say the next phase will, is going to be, an independent Palestinian sovereign state. But this has not been agreed at this moment. This is still to be negotiated. Theoretically, and I have to emphasize the word theoretically, there is nothing in the DOP that forbids Israel to demand that the next phase after the interim 5 years should be the complete annexation to Israel of all territories, that it should be, if you want, the greater Israel position. Nothing in the agreement, from an Israeli point of view, does not allow it. I do not expect it, and the Labour government never wanted it. But the open-enders say that while you have the right of saying we want a Palestinian sovereign state, Israel theoretically, or if you want, if in 3-years times following our next elections, or 2-year time, the Likud comes to power, they can say, yes we have nothing against the interim DOP but our position in the negotiations will be that we want to annex the territories. Two, an insistence on the Israeli point that the responsibility for security, both strategic and internal security, the overall responsibility will remain in Israeli hands.

Three, for the time being, all Israeli settlements and all settlers in the West Bank as well as in the Gaza Strip will remain in place. Four, all pending and difficult issues are being postponed, they are not discussed at this moment. They will be negotiated when we come to negotiate the final settlement. Furthermore, from an Israeli point of view, the interim phase and agreement is just an interim phase. It is not considered to be an inevitable transitory phase leading to the Palestinian statehood. This may be the result of the view that it is an open-ended interim phase and the future is, from an

Israeli point, still to be negotiated; it is not one-way traffic. From an Israeli point of view, the Gaza plus Jericho First Agreement is considered to be a crucial test. Can we Israelis, and you Palestinians live peacefully together? And I must say I do not have the answer.

This has to be tested, this has to be seen. The top criteria, at least for us, from the Israeli point of view, before we move to the next phase has to be to see a clear stoppage, a clear ending of the Palestinian struggle and violence against Israel and against Israelis. During the coming 5 years, and even more so before we begin negotiating the final settlement, this has to be the result. I cannot see the possibility that we should start negotiating the next phase and we will see in Gaza, in Nablus, in Ramallah and or in Hebron what has been going on for the time being. Under these circumstances, there is no chance that an agreement can be reached.

Although it is not on the agenda, I do expect the Israeli government, and it is not on the agenda because it was not needed, but I do expect the Israeli government to come up with some sort of a resolution very similar to the one which we have heard and seen two weeks ago dealing with a substantial withdrawal from the Golan Heights, together with the removal of settlements. I cannot see the Israeli government reaching an agreement on a final settlement with the Palestinians finalizing official Israeli withdrawal from the West Bank, or even from the Gaza Strip without calling for a general public referendum. And the significance of this is that if the Israeli side is BINDING its hand and says no agreement is possible unless Israeli public opinion supports the agreement, and an agreement signed with the nation means that the overall situation and conditions must lead, must convince a strong majority in Israel that it is a workable, good agreement.

We have not yet, as we all know reached an agreement on the first phase, on the Gaza-Jericho interim phase. I must say that I am optimistic and I do not believe that there should be very serious obstacles for this agreement to be signed in a few days, in few weeks, or at the most in a couple of months. This is already almost behind us. However, I must say, while I am optimistic about the first phase, I have very big doubts about the next two phases. In a similar conference which we held in Tel Aviv University, some four months ago immediately after the signing of the DOP, I said there that I do not give the chances of the successful implementation of the next phases more than 50%, and believe me, 50% is a lot. In order to see the 50% succeed, we have to see first of all the successful implementation of the coming phase of the interim agreement and then the successful resolving of all the difficulties in negotiating the final settlement.

My negative and pessimistic 50% was based on very clear, and I believe, timely analysis of what is the present gap between Israeli position and Palestinian position as to the outcome. And if we would have tried to negotiate the final settlement today, I see no chance, not only with the present Labour government, but even with a more flexible and compromising Israeli government, of reaching an agreement. And I do not see the chances that a more flexible, more moderate government will come to power. And again you are here, you follow the news, and you know what are the weaknesses--the political weakness-- of the present Israeli government. In order to reach an agreement we have to dedicate all our efforts, and I mean both sides, to use the coming five years for what the political jargon calls CBM's, the confidence building measures. If we will not strengthen these CBM's in the next five years, and if we are not going to move together in a direction that will make both parties more flexible, capable of accepting solutions that are totally unacceptable in February 1994; if this will not happen, then I see no chances that the next phase will be reached a 5-years time. This message, as far as I am concerned, is the most important message that I want to give you today. We are entering in a few days, in a few weeks, or in a few months the implementation phase, and it is for us to decide for us, to act that this implementation will lead us to a successful next phase. If we fail on that-- and we are all human beings and can all make all possible mistakes-- and believe me, as I am also a historian looking back into history, the list of mistakes, the ballot sheet of mistakes versus right acts, is very much in favor of the mistakes. We have enough mistakes on both sides. Let us work in the right direction if we want to reach an agreement.



# Discussion

**Question:** The interim period should be left open to what would happen as a final outcome. I very much agree with this. As a matter of fact this has been the common understanding since the peace process started, and here what we have been emphasizing all the time, is that Israel is right from the beginning engaged in activity that would prejudice the final outcome to the side of Israel. That is basically the continued establishment of facts on the ground. Now we ask this in all fairness and we challenge the Israeli position to be committed to the understanding that nothing should take place on the ground that can prejudice the outcome of the final negotiating process as to the final status of the occupied territories. This situation that is in violation of this understanding, continues with Israelis violation of this understanding. Contradiction of this understanding this is what is leading to a lack of optimism and this is the matter that obstructs the whole peace process.

*Shlomo Gazit:* I will be very brief. In my personal opinion, and as you know I am not a member of the Israeli delegation and I have no direct involvement in any way in the negotiations, we are wasting our time in Cairo, Taba, Oslo, Washington, Rome, Paris, and wherever it is-- Daros, on, I would say, technicalities of very minor importance-- on how, what kind of a sterile room shall we have on the Allenby bridge, if the mirror should be one or two ways, or the rencon camera will do this or that. Believe me it is a waste of time. I think, if I would have been negotiating on the Palestinian side, I would say Israel wants it to be an open-

ended agreement, very fine. Let us discuss whoever is responsible at this stage, it came to an end. Let us discuss clearly what are the Israeli obligations under these terms. Instead of dealing with the sterile room, you should say we accept Israel as of the days of signing the agreement that you will not do a, b, c, and d. You want us to undertake something, we want you to undertake another. Now as you all know the Israeli government has some very clear views on what should not be done. And I only have been watching during the last week or so when my two friends, two former friends in the military, have to run after settlers that wanted to put up illegal new settlements and we do not allow this. And this is part of Israeli government policy not to admit and not to allow facts that are contradictory to the government's position. On the other hand, there is a government position that you have all the right to object to, that says in areas that we would like to see after five years part of Israel, we go on putting up settlements, adding settlers, etc... It is your duty to say sorry, these will be negotiated for the time being, stop doing it.

**Question:** You may see that this may be a comment and not a question. But it is a question. I listened attentatively to your presentation and I would really like to believe that some of the aspects that you mentioned about the nature of the conflict, the change in it, are really things that did happen and we can deal with. For example, you talked about a change in the ideological nature of the conflict. At the same time you also talked about that Oslo culminated in the creation of a normal political situation. Thirdly you talked about this open-ended phenomenon and you repeated it and really emphasized it.

As I look at these three things here, I really find that there is a contradiction in them here. Because to me the process of negotiation is one of conciliation where the parties embark on a road the end of which is relatively well known. I look at the situation in South Africa, for example, and see that after decades of struggle the two protagonists agreed that the apartheid system will be dismantled and at the end of the road the majority rule will prevail with some provisions for minority rights. In this situation here there is nothing of that nature that would really make it normal, that would make me believe that the ideological nature has really been changed in any substantive way. On the contrary, we do have an accord that is really short on principle, as I look at the preamble, it does not have very much in it and what is sorely missing from- it is the acknowledgement by Israel that it occupies these territories. This is extremely crucial and unless this happens the Palestinians cannot possibly be assured that at the end of the road, in this open-end, that you have talked about, there will be an end to occupation.

I think you yourself admitted this because you said be prepared at the end of the five years for a claim of this nature. So my question here is this: Really, are we de-ideologizing the conflict at the time that we have all these restraints and limitations on the agreement?

*Shlomo Gazit:* Let me begin by saying when you have 20-25 minutes to give a presentation of this kind, obviously there is no possibility in going in depth too much. When I spoke about the end of the ideological aspect of this conflict I do believe in it, and I would say that all Israelis believe in it; some do not accept it, not that they do not believe it. They do not accept it because it is contrary to my religion, to my ideology, to all of what I am hoping and dreaming for. But the fact that there is no way for us, the Israelis, to come tomorrow and say well, for 26 years we have said there is no Palestinian people, there are residents in the West Bank and the Gaza Strip and they have their individual problems as human beings that have to be dealt with— but they are not a political entity. To say now following Oslo, following the handshake, etc., well, all of a sudden again we say there is no Palestinian political entity—forget about it. No Israeli can say it anymore.

Furthermore, once we have seen it, the very essence that the end will be, and I say the estimation of a Palestinian population entity is not anymore to be dealt with. What are the problems? What is the contradiction as we say? The contradiction is based on two sides, two points. One, and I mentioned the population weakness of the present Israeli government to go to the public and to say we have signed a Declaration of Principles, the end of which after five years will be an independent Palestinian sovereign state. The present Israeli government does not have the population strength of saying it.

As you all know we have a very big message coming from the boss, from Foreign Minister Shimon Peres. He heard personally from Mr Arafat that it is not going to be an independent Palestinian state, it is going to be a confederation. And everyone who has any minimum understanding of political science knows that confederation means an agreement between two separate states. But he has to say this because the Israeli ear is not yet geared to hear the harsh reality that the end is going to be an independent Palestinian state. Not being a politician, not being a member of the Israeli government, I see no difficulty of saying this for me, and for many others the message is very clear. But there is another problem, the other problem is, and I say it, we Israelis. It is not because of the population weakness of the government. It is because of the many questions that go together with the interim phase, we are not sure about the feasibility; how about how it is going to go about.

And if you think that Israel will grant you independence where the Katusha from Gaza to Ashkelon, or Katusha from I do not know where from Nablus, or from Jenin to Afula; forget about it. It cannot be so unless the five years will teach both sides that we can live together, and this has to be tested. I can only wish; I can only hope.

**Question:** If I may, Palestinians need to know during this period, this practice of Israel. If Israel says I am an occupant within the meaning of international law, then maybe the Katusha will not be working here and as long as 242 is not implemented, the right of self-determination is there.

*Shlomo Gazit:* You may be right but these are the facts of life, these are the weaknesses of both sides.

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**The proposed charter  
of the national authority  
in the transitional phase**

**Dr Anis Al-Qasem**

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*is a member of the Palestine National Council, member of the Palestine Central Council, head of the Legal Committee of the PNC, expert in international law, author of many Constitutions in recently independent states, and head of the committee that drafted the Basic Law of the Palestinian Authority, which is being reviewed by the PLO.*



**T**he draft constitution presented for discussion is still a proposal. It was read in a first reading in its first form as published by the PLO Executive Committee in its session held December 3, 1993. It was decided then that the proposed charter be presented for deliberations on the largest possible scale. Within the scope of these deliberations, the legal committee of the National Council held a meeting in Amman, in which other Palestinian legal experts participated. The committee discussed the proposed charter and initially endorsed it, after making some adjustments.

Deliberations continued after that. In light of the notes and suggestions received by the committee, and upon more careful examination of the text, the second draft of the proposed charter, which is presented now for more discussion and deliberation, was crystallized as one of the most important Palestinian documents at this stage.

The decision to prepare a charter to govern the transitional phase was one among a number of options: The first option: To refrain from issuing anything and merely name people to whom any transferrable authorities will be given in the transitional phase. They will be allowed to act as they deem proper. This option was ruled out because it would have allowed those people to practice authority of a constitutional vacuum. This is an unacceptable situation. The second option: To formulate a limited charter only for the government, namely for the executive authority, excluding others such as the legislative and judicial authorities, and to avoid the issues of basic rights, which govern the relation between the authority and the rest of the population. This option was also ruled out because it is insufficient to have a charter for the executive authority without identifying other authorities and without identifying the relation between the authority, the people and the individuals that make up the constituency. The third option: To formulate a full and permanent constitution. The option was ruled out because a permanent constitution should be formulated in an atmosphere of freedom, by a constituent assembly which will present it for general referendum in an atmosphere of liberty, so that the people will participate. It is obvious that such a measure is not possible under the circumstances. The fourth option: To organize authorities and institute measures that can be organized and are sufficient for the transitional phase. This will continue until a permanent constitution is formulated in a suitable atmosphere.

From the above-mentioned options, the fourth was chosen, and therefore the proposed charter was called a Basic Law and not a constitution.

As this charter is not a constitution, but rather a transitional measure to fill the constitutional vacuum in the transitional phase, it does not have a number of regulations which are normally found in permanent constitutions. It is restricted to the regulations necessary for the transitional phase. In addition to this transitional phase, the proposed charter includes many regulations which are fit to be part of a permanent constitution, particularly regarding basic rights and liberties and the sovereignty of law.

## **I. The Council of the National Authority**

The transitional phase is divided into two parts: The first part is the period preceding the general elections and the second part is the period following the elections. The proposed charter formulated regulations regarding these matters.

In the period preceding the elections, there is only one authority--the executive authority--because the legislative authority will be produced by the elections. Since it is necessary to have an authority which can legislate in this period preceding the elections, it was inevitable as is always done, to have the executive authority have both legislative and executive powers. Laws in this period are normally issued under the name of legislative decrees.

Out of necessity, the executive authority will continue to practice this dual sphere of authority until the elected council is formed. This is clearly stated in Article 5 of the proposed charter which says that the Council of National Authority formed in accordance with this charter shall assume legislative power during the transitional period, until a legislative council is elected. The legislative council will then assume legislative powers.

After the legislative council is elected the two powers will be separated, and each of them will assume their own authority. It is natural that the charter does not state what the domain of the legislative authority is, because its domain is indicated by its name. Its domain would have been stated had not its authority been a full one, or had there been other parties practicing legislation, which is not the case in this proposed charter.

Dividing the transitional period into two parts, before and after the elections, has also had its implications on the executive authority, which is the Council of National Authority.

Before the elections, there should be a body to appoint the Council of National Authority and to which it is accountable. Within Palestinian constitutional institutions, the highest party in this regard is the National Council. The National Council, in its resolution issued on November 1988, authorized the Central Council to formulate a basic charter and gave it the

authority to endorse the national authority, the members of which are chosen by the Executive Committee. Therefore, in accordance with Palestinian constitutionality, the Executive Committee is the one to appoint the Council of National Authority in the stage before the elections. The council will be accountable to the Executive Committee at this stage.

After the elections however, the situation will be different. The existence of the elected council will necessitate that it maintain a decisive role regarding the executive authority assumed by the Council of National Authority. Therefore, the first paragraph of the article stated that:

1. In accordance with this charter, a council called the Council of National Authority shall be formed. The council will be appointed by the Executive Committee, which will be its reference pertaining to the issues within its domain. This paragraph treats the period preceding the elections. The period following the elections however, is tackled by the second paragraph of the same article which stated that:

2. The Council shall continue its duties after the first elections, until the formation of a government in accordance to the prevailing conditions, which will take the decisions in this regard. This charter will be adjusted accordingly.

It is necessary that the council continues its duties for a limited period after the elections, until a new government is formed, otherwise there will be a vacuum of authority. It will be the duty of the elected council to decide how things will be run. It will be the one to decide how the government is to be formed, and to decide on the party to which the government will be accountable. This is the primary role of the elected council. The government will then comply with what the elected council decides in accordance with the theory of popular democracy. The only role the Executive Committee will have will be within the limits of what is decided by the elected council.

We should not impose decisions in advance to be taken by the elected council in this regard. This would be a violation against its authorities, since it was the party chosen by the people to handle legislative power.

This makes it clear that the proposed charter is a framework for elections and plays a decisive role regarding the Palestinian authorities.

## **II. The President**

The proposed charter addresses the president's role and authorities in the transitional phase. The charter does not try to tailor its provisions to fit a certain person. Rather, it treats the position of presidency at this stage in an objective manner based on the existence of a president for the State

of Palestine, and the necessity, therefore, to insert some provisions which govern this position due to the absence of related legislative texts.

In any state the president is the head of the authority. Since the president in the current Palestinian situation is the chairman of the Executive Committee, it is but natural then, and consistent with the constitutional conditions, to state in the beginning of Article 6 that the head of the executive committee is the head of the national authority.

The chairperson of the executive committee practices authority within the framework of the PLO and as the president of the State of Palestine, and the proposed charter maintains these authorities for the president since the basic charter cannot deprive the president of these authorities. Among these authorities is representing the State of Palestine in foreign and international spheres, particularly that the Council of National Authority does not enjoy such authority on the international arena, and it is not right to deprive the Palestinian entity from its international relations.

Article 6 of the charter states that the president shall practice the powers vested in him by the National Charter of the PLO and the resolutions of the National and Central councils and the Executive Committee. All these powers cannot be practiced by the council of the national authority, including conducting negotiations with Israel. The PLO is the negotiating party, being the second party in the agreement on the Declaration of Principles and in its capacity as the representative of the Palestinian people as recognized internationally.

The proposed charter tackles other matters pertaining to the presidency which were not tackled elsewhere, and which needed to be addressed. Article 8 confined the presidency period to five years and placed a very important restriction stating that the presidency cannot be held by the same person for more than two consecutive periods. With this, the charter made a decisive decision on a very important issue, and blocked the way of any one person becoming president for an indefinite period of time.

Regarding the first president however, Article 8 clearly states that the duration of his first term ends with the end of the transitional phase. His presidency does not continue unless he wins the elections as stated by the permanent constitution. The proposed charter also addresses, namely the vacuum resulting from a president's death. Article 9 of the draft charter states that when the president dies, the head of the National Council shall assume presidency until a new president is elected, on condition that this be accomplished in a period of 60 days after the death of the president. The president's powers pertaining to the national authority are identified in the

proposed charter as follows: The president is the higher commander of the Palestinian forces, (Article 10). This is common in all countries. The president will also issue laws endorsed by the legislative authority and signed by him (Article 11). This is also common in all countries, where the president takes over the job of issuing laws after they have been endorsed by the legislative authority.

Issuing laws in this context means that the president has no authority to modify the law endorsed previously by the legislative authority and cannot defy or obstruct it. His role is limited to signing it. Then, the law is published in the official gazette and put into practice. The issuance of laws does not give the president the authority of imposing laws. It is the legislative authority which imposes laws, not the president.

The president was given, as well, an authority which is known to all regimes, namely the right of issuing special amnesty and lessening sentences (Article 12). The reason why constitutions grant this right to the president is to treat situations which necessitate the issuance of amnesty for a certain person or lessening punishment. If after a sentence is issued and implemented for instance, it becomes clear that the defendant did not commit the crime he was convicted of, in this case the implementation of the sentence cannot continue, and a special amnesty is issued by the president in order to maintain justice.

Among the president's powers is the endorsement of death sentences, a power common in the regimes which implement death sentences. We would have preferred to have the death sentence abolished, and indeed it must be abolished. It cannot, however, be abolished in accordance with this charter, as long as it is stated in the penal codes implemented in the West Bank and Gaza Strip. Had it been abolished in the charter, the result would allow the existence of crimes without relevant penalties. This not permissible, and therefore it is necessary to reconsider the Palestinian penal codes.

What remains to be discussed is the mechanism with which the president practices his powers mentioned in Article 14 of the proposed charter. Attention must be drawn to the fact that this article does not give powers to the president, but rather identifies the mechanism to practice the powers he has. When it is necessary to issue a special amnesty for instance, the president would sign a decree. When the president appoints a commander of forces, he issues a decree to that effect. This mechanism is stated in the laws.

One last power was granted to the president in the period preceding

the elections. This power is stated in the third paragraph of Article 17 of the draft charter. It states that the president shall assume the duties of premier until a government is formed after the elections in accordance with Article 15(2) of this charter.

This text was put in place to avoid any confusion in the period preceding the elections, which will supposedly last a few months. For this short period, the proposed charter does not consider it necessary to appoint a premier or prime minister. The period of the whole council in office is no more than a few months, and things will change regarding the government in the aftermath of the elections. In this short period the president will assume the powers of the prime minister, and after the elections the position of the president will be separated from the position of the prime minister, if the elected council so decides.

These are the basic regulations in the proposed charter pertaining to the president and the Council of National Authority. All other articles in this chapter are common in administrating and running the affairs of the government. However, articles 34 and 35 should be examined.

Article 34 states that it should be considered when administrative services are extended that the people's rights are secured and that procedures are made easy and quick within the limits of law and public interest. Article 35 states that the executive authority shall provide the greatest possible opportunity for the participation of people, political parties, unions, societies, and other organizations in discussing its policies, through announcing those policies and conducting deliberations with those bodies.

As we were formulating a basic charter, according to which authorities will be transferred, it was necessary to insert regulations to regulate the transition and to protect the employees working in the West Bank and the Gaza Strip. Therefore, Article 44 states that Palestinian employees who get their salaries from the public treasury shall retain their positions. Regulations of civil service shall be applicable to them until modified or replaced, as necessary.

### **III. The Judicial Authority**

Care was taken in the proposed charter to secure needed guarantees for the judiciary authority to maintain its independence. The charter was not confined to what is normally found in Arab constitutions: A statement that judges are independent and are subjected to no one's authority except that of the law. The charter states the following:

First, judges cannot be deposed from office except for the reasons specified in the law (Article 53).

Second, a chief justice should be appointed to be the head of the judicial authority, in order to have someone who represents the judicial authority and defends it.

Third, a higher judicial council should be formed which does not include the minister of justice. The council is restricted to the judicial authority and law.

The council assumes the authority of issuing recommendations pertaining to the appointment of judges, their promotion and impeachment, as stated in the law. The appointment, promotion and deposition are done through presidential decrees to demonstrate respect to the judicial system. These decrees are issued only on recommendations made by the higher judicial council. The only person appointed by the president is the chief justice, because there is no department authorized to nominate this person in the first place. After being appointed, he is subjected to the authority of the higher judicial council like all other judges.

The proposed charter also stipulates the establishment of a supreme court, authorized among other things to look into the constitutionality of laws and to abolish those laws which violate the constitution. The court is also authorized to look into the appeals submitted against the administration, requesting the abolishment of administrative decisions which violate the law.

#### **IV. Basic rights and liberties**

Care was also taken in Articles 61-86 of the proposed charter to state the basic rights and liberties which are recognized by international covenants. It was assured in the beginning of the chapter that Palestine recognizes the basic human rights and liberties stated in the International Declaration of Human Rights, as well as other international accords. The proposed charter does not deal with only with a general text, but it also mentions in the rest of the articles these basic rights and liberties, in accordance with those international covenants.

The primary human rights is the right to live (Article 62). The charter removes any misunderstandings on the equality of men and women pertaining to basic rights and liberties. It stated openly in Article 63 that women and men are equal in basic rights and liberties. It is impermissible to discriminate between them in this regard.

It will take us a long time to tackle all basic rights and liberties mentioned in the charter. The charter does not just mention these basic rights and liberties, as texts are not sufficient alone. The charter includes certain texts to protect these rights. Article 87 states that 'anyone whose basic rights or liberties, as stated in this Chapter and Chapter VI, are violated, is entitled

to appeal in court to alleviate the harassment inflicted on them and to demand compensation when necessary'. This is a right that everyone can practice as an individual.

Article 88, which aims at providing protection, also states that an independent commission for human rights shall be formed by law to follow up the execution of regulations pertaining to human rights in Palestine and to secure these rights. The law identifies the duties of the committee, its mandate and formation, without violating what was considered by the charter as rights of individuals and the authorities of the attorney general as well as the judiciary system.

According to the proposed charter, protection of basic rights and liberties is outlined as follows:

1. The right of individuals to appeal to courts.
2. Follow-up by the human rights committee on the application of authorities to special regulations pertaining to basic rights and liberties.
3. Article 23 of the proposed charter states that a ministry headed by the attorney general is to be established. Among the duties of the attorney general is to follow up the constitutionality and legality of proposed laws and the measures taken by the executive authority. The role of the attorney general pertaining to this matter is different from the role of the attorney general in the other Arab legal systems. It was taken from the English and American systems.
4. Establishing a constitutional court and an administrative court as a guarantor for basic rights and liberties.

Texts alone, however, are not sufficient to guarantee rights and liberties. What makes texts effective in the society is awareness of any attempt to violate them and confrontation of such attempts. The proposed charter indicates various ways to do that. The danger is in reconciling a position out of hesitancy and fear of confrontation. Dictatorship is the fruit of the lack of collective determination to struggle for these rights when necessary.

### **Israeli military orders**

There is one last matter that should be referred to in order to avoid any misunderstanding. When constitutions or basic regulations are formulated there will be a reference in them stating that previous laws continue to be applicable until adjusted or replaced in order to secure the continuity of laws and to avoid creating a legal vacuum.

Therefore, Article 105 of the proposed charter states that laws, decrees, regulations and decisions which were enforced in the Gaza Strip and

West Bank before this charter went into effect shall continue to be effective if they do not contradict the provisions of the proposed charter, until they are adjusted or abolished. It may be understood that the Israeli military orders shall continue to be in effect. This is not the case. First, the orders which contradict the regulations of this charter are considered void. This includes all orders which comprise violations of basic rights and liberties. In addition, the Declaration of Principles entails reviewing all Israeli military orders. There is a Palestinian committee which is undertaking this project. Orders which the Palestinian committee decides to abolish should be abolished before the basic charter is put into effect. Therefore, the proposed charter does not set a date whereby it starts functioning.

It should not be put into effect until a decision is taken regarding the military orders which regulate many issues, not just the security issue, thus violating the principles of international law. It should not be forgotten that the military orders, which were in effect for 26 years, do not deal with only security issues, but rather many deal with economic issues. Other orders deal with the rights of citizens. Therefore, all orders should be carefully reviewed from a Palestinian perspective. If any of them are seen to make up organizational matters, like orders pertaining to regulating traffic on the roads for instance, then a Palestinian decree should replace it, and so on, in order to avoid harming some of the legal interests of the citizens through unplanned abolishment. This is a problem which all nations who were subjected to occupation faced, and this is the way to deal with it.



# **The new Palestinian charter: what kind of a constitution?**

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**A**lmost unnoticed in the debate surrounding the P.L.O.-Israeli accords, a new charter for Palestinian self-rule has been completed. It is a document for the transitional phase during which territories in Gaza and Jericho will be the first to achieve a measure of Palestinian self-rule. This is the charter which creates the Palestinian Interim Self-Government Authority, required by the Oslo Declaration of Principles, under which Israeli troops are expected to withdraw from Gaza and Jericho as the police function is transferred to Palestinians. Under the Oslo Declaration,<sup>1</sup> Palestinians will control education and culture, health, social welfare, and tourism, supported by their own taxing power.

### Limited Self Government

It is important to be clear at the outset. The Oslo Declaration will create a Palestinian local authority of severely limited powers. It is inaccurate to claim more for the Declaration than the transfer of a handful of concrete functions to local authority,<sup>2</sup> much as the American states rely on city, town and county governments to deliver basic services. While the Oslo Declaration is often ambiguous, Israel retains control over most policy areas, although in water, energy and trade, among others, cooperative arrangements are anticipated. The decision in Oslo maintains de facto Israeli sovereignty for the time being over Jericho and Gaza and the rest of the occupied territories leaving diplomacy, defense, and residual powers, i.e. those not explicitly granted to the Palestinians, in Israeli hands.<sup>3</sup> Furthermore, Article 97 of the proposed Palestinians charter confirms that Israeli military orders and subsidiary rules and regulations, as long as they do not conflict with the charter, shall remain in force until amended or abrogated. This provision legitimizes the occupation law of the past 26 years and makes it obligatory.<sup>4</sup>

### Constitutionalism

Anticipating the formation of a transitional government, the P.L.O. commissioned several Palestinian jurists to draft a constitutional document which was completed in December 1993. The document is entitled "Law Number... for the year... Concerning the National Authority during the Transitional Period." What is peculiar about this constitution is that it is both temporary and conditional. The Oslo Declaration makes it dependent on the successful conclusion of an interim agreement, which is not yet assured given the current impasse over the size of Jericho and control of crossing points

to Egypt and Jordan. Of necessity, then, the constitution is tentative, and its provisions must conform with the principles and dictates of the Oslo agreement.

As a practical matter, the new charter does not assume the character of a normal constitution because basic constitutional features, such as suffrage and elections and definitions of the policy competencies of the legislative and executive branches are either missing or deferred. A typical example is Article 53 which states that 'the appointment of judges, their promotion, immunity and other matter relating to judicial authority, shall be subject to special rules established by law.' Under normal conditions, the mode of appointment of judges is made specific in constitutions; the same applies to the organization and jurisdiction of the court system. Article 54 provides that these too shall be determined by law. The term 'law' in these articles refers to what will be deemed permissible under a Palestinian-Israeli agreement which is still being negotiated.

Constitutions are usually drafted following independence from foreign control or upon the inauguration of structural changes to signal a new era, new self-assertion, new identity or to embody redefined goals for the society. This is what happened after the French, American and Bolshevik revolutions; after the post-World War II de-colonization; and after the Cold War in Russia and eastern Europe. In all these cases, constitutional arrangements reflected the altered power realities and were sustained by a consensus of the political elite. By contrast, the Palestinian charter was designed for use while the Israeli occupation continues. Palestinian independence is not being proclaimed through this document, nor is it even anticipated at the conclusion of the final status negotiations, and Palestine's political elites are sharply divided.

Despite the limits imposed by the Oslo Declaration and the broader historic context, the charter for a new Palestinian government is an important document. Though the obstacles to success are staggering, the Oslo Declaration raises hopes that this is the first step in a transition toward a Palestinian state. In this sense the new charter is an aspirational document laying the groundwork for an independent future, albeit in the immediate context of limited, local self-government. As an attempt at a contemporary Palestinian constitution, the new charter carries the earmarks of a national constitution in its organization and content: 1. It is organized around articles on executive, legislative and judicial institutions; 2. it contains a declaration of rights; 3. its purpose is to indicate the general features of the government, creating institutions and defining jurisdictions where it can, but making no attempt to elaborate structures or rights with the specificity expected of a legal code.

The document is also important because should be the new arrangements take root, the interim charter is likely to be the basis for the definitive constitution which will subsequently emerge. This is a charter for the 'transitional phase', which the Oslo Declaration anticipates will last no longer than five years; whatever its life, the constitutional and political arrangements it creates will be most difficult to dislodge. What is created in this charter will be the concrete reality with which the authors of a definitive constitution must grapple: it will entrench interests, institutions, processes and expectations. The interests which are empowered by this document are likely to control the process by which a definitive document would be created, and are likely to duplicate many, if not most, of its arrangements.

### **Nation Building**

Of immediate concern is whether the charter will facilitate the creation of a workable Palestinian state. The fluid decision-making style of the Tunis-based leadership, marked by rounds of informal bargaining and interpersonal exchange, will not suffice for the conduct of a state, even one limited to the practical administration of police, schools and hospitals. The challenge to P.L.O. leaders is to transform themselves from revolutionaries to statesmen, and in so doing cultivate skills and attitudes appropriate to governance. At the top of their agenda should be the creation of stable institutions and the legal traditions to support them. These considerations point to the need for a charter which lays out clearly defined institutions, jurisdictions and processes, understood by the public and open to its scrutiny. In general, open and predictable processes are most likely to be viewed as legitimate, while secretive informal government excites opposition and resentment.

The institutionalization of regular, open processes will be crucial if the eventual transition from charismatic revolutionary leadership to secular authority is to succeed. On this score, Arafat's Tunis-based regime is under intense scrutiny within Palestinian ranks. The Oslo Declaration has accelerated a crisis of leadership within the Palestinian body politic, which is currently in great ferment. Never before, since the formation of the P.L.O., has the question of Arafat's leadership and his ability to govern been such a crucial issue. Misgivings, long suppressed in the interest of national unity, are now coming to the surface. Arafat's leadership is being questioned by the very coalition which helped him win approval for the Oslo Declaration the Peoples Party (formerly Communist party) and FIDA, a breakaway faction from the Democratic Front for the Liberation of Palestine.<sup>5</sup> Moreover, a number of high ranking politicians from Arafat's own group Fateh seem to be thoroughly

alienated, including Mahmoud Abbas, who signed the document at the White House ceremony.<sup>6</sup> Opposition is also being voiced by independent politicians, intellectuals, journalists, businessmen and most of the diplomats who participated in the eleven rounds in Washington.<sup>7</sup> In general, they are concerned about the future of nation building, and question Arafat's ability to translate the Oslo provisions into a democratic national authority capable of achieving independence in the next phase. In this regard, the draft constitution is a major indicator of Arafat's intentions and will be viewed as a measure of his competence to undertake the nation-building role.

### **The Frame of Government**

The new charter locates power in the Palestinian people, who are declared to be the 'source of authority' (Art. 2), a sentiment reinforced by the President's oath of office, which contains a pledge to serve the Palestinian people (Art. 5). Despite this commitment, there is considerable ambiguity in the charter about the nature of popular power and its relationship to constitutionalism. The charter fits neither the written-constitution nor parliamentary models of popular sovereignty, nor does it attempt a third path.

### **Popular Sovereignty and the Written Constitution**

The interim charter has the character of positive rather than popularly written higher law. This is a crucial and important distinction in constitutional theory. The charter is styled a 'Law ' promulgated 'in the name of the Palestinian people by the Chairman, Yasser Arafat,' under the authority of the PLO's Central Council. In effect, the charter becomes law through a process little different from any other law, in which the executive promulgates enactments in concert with the legislative authority. Constitutional theory requires, however, that law makers be controlled by constitutional law and that their law-making function conform to it. Popular sovereignty under a written constitution requires that the process of constitution writing be separated from the ordinary legislative process because it will control that process subsequently. In its most fully developed form, the people represented by delegates elected specifically for that purpose assemble in convention to write a constitution, which is then submitted to popular referendum. Because the convention is not a continuing body, there is no internal structure of rewards as in legislative institutions, and the delegates are not subject to the special interest pressures which constrain their decision when they must present themselves later for reelection. Under this constitution-making model, the constitution can be written with a relatively

broad view of the public interest in a context which reduces the influence of narrow or sectarian interests; the constitutional convention is seen as special, outside and superior to normal political processes. The document it produces, once ratified, can only be revised by extraordinary measures, for example, a constitutional majority of the legislature (two-thirds or three-quarters of the members) followed by popular ratification; or passage by the legislature sitting in sessions two years apart.

Under the theory of popular sovereignty, a primary purpose of a written constitution is to protect the rights of citizens: Free practice of religion, speech, the vote, regular process in the courts, security in their persons and homes. These rights are secured by placing the constitution out of the ordinary reach of the legislature and executive. Because these rights are secured through higher law, they cannot be abridged by simple legislative enactments, they are made safe, in effect, from those most likely to violate them: The political arms of the government. This is crucial because legislatures and elected executives by their nature react to events as they occur, and often to ephemeral events. Consequently, they are constantly tempted to manipulate or adjust the basic charter to meet immediate needs, compromising fundamental principles for expedient or short-range political goals.

Tyranny can also result from the concentration of power in an executive or legislature freed of constitutional restraint. Under these circumstances, decisions are likely to be taken in closed process, severely constricting information and the range of policy options considered. This is a recipe for faulty decision-making, and more dangerously, one which divorces the instruments of government from the people they are meant to serve. Popular sovereignty under a written constitution can slow this deterioration by requiring procedures and defining powers which constrain the rules. Deliberation, inter-institutional consultation and public debate can be built into the institutional structures, as well as formal opportunities for public participation through legislative, judicial and administrative hearings. The likelihood of maintaining constitutional integrity is particularly enhanced by an independent judiciary holding the power of judicial review, i.e., the power to nullify legislative and executive actions as inconsistent with constitutional principles.

This new charter is to promulgated as ordinary law without use of the mechanisms designed to create a constitutional democracy under popular sovereignty. In this sense, the charter is deficient, for while legislative elections are envisioned under Article III of the Oslo Declaration, the authors of this charter decided not to present the fundamental law for popular

ratification. Because the charter is promulgated as ordinary law it can be amended by ordinary enactment, which subjects not only the institutions of government to political manipulation, but also the rights which the charter takes great pains to secure in Articles 58 through 81. There is grave cause for concern here, because the frame of government envisions a concentrated, highly personal but informal organization of power in which institutional constraints are weak or lacking.

Equally disappointing is the failure to elaborate democratic mechanisms for the adoption of a permanent constitution at the completion of the interim period. There is no mention whatever of how that constitutional transition might be achieved, and how popular sovereignty might be secured. The total absence of any mechanism for the shift to a permanent government raises concerns that the transitional arrangements might continue and become institutionalized. Should this happen, the charter would assume a different function from the one it is expected to serve. Instead of facilitating the transition from revolutionary activity to established government, it would provide linkage between the past, present and future, assuring the continuation of institutional arrangements and styles of leadership ill-suited to nation building.

These reservations about the treatment of democratic and constitutional norms are reinforced by a stunning lacuna in this charter: The failure to provide for the franchise. There is no discussion of such basics as the definition of citizenship, qualifications to vote, and almost no definition of the offices controlled by democratic choice. Indeed, in 21 articles vigorously defining the rights of everyone, conspicuously absent is the right to vote. Article III of the Oslo Declaration provides for agreement to be worked out on elections for the Council, and Article 38 of the interim charter provides for a popular council elected directly in accordance with the law for local administrative units, which are as yet undefined. Otherwise, the charter is silent.

#### **Presidential, Parliamentary or Authoritarian Government?**

The provisions elaborating the scheme of government are highly ambiguous and fraught with problems. At the outset, it is not clear whether the charter envisions a presidential or parliamentary system, or some combination of both. Particularly in its definition of the legislative power, it is unclear that anybody within the new government has independent responsibilities, other than the President of the National Authority, as the Palestinian government is styled. At least some of this can be attributed to

careless draftsmanship, as the contradictory provisions covering the death penalty so graphically illustrate (Arts. 11 and 59).<sup>8</sup>

In general outline, the government consists of a powerful President, selected in an undefined manner, who is chair of an Executive Committee with undefined powers. A vaguely defined legislative authority is entrusted to a Council of the National Authority, which is appointed by the Executive Committee and whose powers are determined by it (Art. 13). The powers of this Council of the National Authority are to continue during the transitional phase, until a legislative council is elected, upon which the legislative council assumes legislative powers (Art. 3). Under the Oslo Declaration, elections are to take place within nine months of the agreement's implementation. These councils assume a parliamentary-type form in which a prime ministerial responsibilities for various policy areas. The new government will also have a Vice President, appointed by the President of the National Authority and with duties defined by him.

This design scrambles presidential and parliamentary models in a fashion which is difficult to untangle. The prime minister (President of the Council) has very limited authority, particularly when the powers of that office are juxtaposed to those of the President; and the legislative authority of the Council, if indeed that is what it actually is, is strictly circumscribed. In parliamentary systems, popular majorities express their will through elections, after which members of the parliament form a government with plenary powers. Popular sovereignty is achieved in this model through a sovereign parliament empowered by popular elections. In the Palestinian system, the Council is not supreme, it is the President who is, but the source of his power is undefined and he does not appear to be popularly elected. The implication that a President will emerge through undefined processes and that all other officials are responsible to him is positively regal.

The President of the National Authority is at the center of the system. He is the supreme head of the executive branch, he controls the legislative and administrative processes, as well as the security forces a formidable bundle of powers. In the judicial realm, the President may issue pardons, decrease sentences and appoint a secretariat for judicial interpretation (fatwa), to be headed by a legal expert he appoints. More remarkable is the fact that the charter itself guarantees the presidency to the current chairman of the P.L.O., Yasser Arafat. In addition to his action in issuing the charter, Article 4 names him, as President of the Executive Committee, to be the Supreme Head of the executive branch. Moreover, the P.L.O. Executive Committee, which is headed by Arafat is given broad powers, such as

establishing the Council and appointing its members, who are collectively responsible to Arafat as President.

Art. 9 provides that the President issues the laws after their approval by the Legislative authority. In contrast to the President's power to issue, the Council is authorized to debate, a prerogative that falls far short of parliamentary sovereignty, or even legislative authority as it is commonly understood in presidential government. In the zone between these provisions lies an enormous grey area of undefined power, especially in its implications for the President of the National Authority. The term *issue* can be read to imply that the President exercises independent judgement on legislative decisions of the Council, almost certainly with the power to veto without a legislative override. While it is unclear from the text of the charter, the term *issue* (rather than promulgated or implement or sign into law) may grant the President the lawmaking power, in effect limiting the Council to the power to recommend, and denying it recourse to an adverse Presidential decision. The term *issue* may also carry a more ominous implication: That the President has the power to revise without legislative consent, and perhaps to initiate and enact laws without legislative review, as implied by Article 12. Art. 12 allows the President to define the extent of his own powers, a dangerous provision for a people who value their liberties. It reads: "The President will exercise his power by virtue of the decisions issued by him in accordance with the Law and the accepted regulations." The language of this article is deceptive and circular. While he is limited by the law and the accepted regulations, he may have the power to create that law. Taken together, Article 9 and 12 hold authoritarian implications; one can only hope they were carelessly drafted. Whatever the reason, the drafting is imprecise and creates extraordinary ambiguities which will invite endless and unnecessary struggles for power, both legal and political, with the advantage weighed heavily in favor of the President. The Council, at first appointed by the Executive Committee under Arafat, later elected by mechanisms not yet specified, is charged in general with conducting the country's affairs (Art. 18), a charge made difficult by the concrete power it is granted and the context within which they will be exercised. The Council is to operate under its own president, or prime minister, by the charter does not specify how that person is to be chosen, whether appointed by the President of the National Authority (Arafat) or chosen by the Council itself. At the outset, the Council will be appointed by the Executive Committee, which all also determine its powers (Art. 13). The Council and its president are responsible collectively to the President of the National Authority concerning public policy insofar as it involves their

departments (Art. 18). It is likely that the legal impact of this provision will be to resolve jurisdictional disputes between the legislature and the Supreme Executive in favor of the latter. In addition to their mandate to debate public policy, the Council will undertake the ministerial duties of the Parliamentary system. Members of the Council will act as ministers within areas of their assigned jurisdictions which as yet are undefined. The Council will be expected to prepare the budget, supervise the bureaucracy, implement policy, and debate legislative proposals (Art. 23). There are, however, a number of obstacles which their legislature-cum-cabinet will have to overcome.

First, the center of authority within the regime, the President of the National Authority, must allow the Council sufficient independence to do its work. The President is the locus of power within the system and the Council must report to him, while all of its powers are limited by comparable or superior grants of authority to him. Furthermore, in the final resort it is the President rather than the ministers who controls the sanctioning arm, the security forces. This is a constitution written to empower the President not the Council, which will have few resources to command, other than a appeal to public opinion.

Second, the internal operation of the Council has been designed so as to splinter its power. Article 24 requires that every action of the Council must be signed by the President of the Council and the "members who will be then responsible for implementation within their respective spheres." This provision is sufficiently ambiguous to give it uncertain meaning, but there are only two possible interpretations, each of which is an invitation to deadlock: decisions of the Council may require the written agreement of every minister; or agreement of the President and the minister who will be charged with implementing the order. In either case, the obstacle is formidable: on the one hand, the cabinet must be unanimous to act with every member holding a veto; on the other, each minister will carry a veto within his or her own policy jurisdiction, which would create a set of semi-autonomous fiefdoms.

Third, The ministries will be expected to work through a bureaucracy which it does not control. Article 43 states that - "public employees who receive their salaries from the public treasury shall remain in their positions", - which guarantees Arafat's bureaucracy jobs in the new administration. The old civil service will be made a new existing Tunis-based political culture will be institutionalized. The reality will be that the already entrenched bureaucracy will retain its influence and act in the manner of sub-governments, out of the reach of the weakened ministries and under the protection of the President. The taxing authority (Arts. 44-51) is also

problematical. The constitution contains not a single phrase about who is authorized to levy taxes, or the relationship between the legislature and executive in this realm. Instead, it is left to future rules and special laws to fix the responsibility to prepare and approve the budget and to spend public revenues. The most significant provision in this section (Art. 49) establishes a secretariat to scrutinize the collection and spending off revenues, which while independent in form is "responsible to the President of the Council of the National Authority."

## The Declaration of Rights

### Comprehensive Guarantees

The Chapter on "Rights and General Liberties" is the strongest part of this charter and reflects in its enumerations the history of the Palestinian people. After centuries of foreign rule and military occupations, which began with the Ottoman conquest of the Fertile Crescent in the Sixteenth Century, it is natural for Palestinians to emphasize the inalienable rights which were always at the center off their struggle for self-determination. The charter devotes 24 articles to this subject, approximately one-fourth off the document.

The section is comprehensive, encompassing civil liberties, substantive and procedural, as well as economic, social and cultural rights. It begins by endorsing the various international covenants on human rights, including the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, the International Covenant on Civil and Political Rights, and the International Convention on the Elimination of All Forms of Racial Discrimination (Art. 58). Detailed reference to the rights which these international instruments protect is made throughout the section, including equality before the law, security of the person, freedom of thought, assembly and worship, political association, the rights to work, own property and petition the government, to marry and raise a family, to education. Safeguards are not only established against torture, treatment, cruel and inhumane punishments, and invasion off privacy, but also in relatively new areas: against "insult to one' s dignity" (Art. 60), against favoritism in the civil service (Art. 61), and against scientific and medical experiments on unwilling subjects (Art. 60). Freedom of expression is extended to specific areas, such as the dissemination of views in "speech, riting, audio-visual or any other form of expression" (Art. 64). Likewise, freedom of press prescribes the issuing of warnings, suspension orders and closure of publications (Art. 66). The

rights of the under-privileged and vulnerable are also affirmed in considerable detail, including those of the handicapped, the mentally retarded, children, teen-agers, minorities and mothers, although women are not otherwise mentioned.

The rights of minorities to establish private schools and academic freedom are protected by Article 74, under which universities and research centers are declared inviolable and independent. After decades of conflict preventing free movement because of cease-fire lines and states of war, the framers of the constitution deemed it necessary to protect the right to travel and to include an entire article (81) on the right of access to holy places for citizens and foreigners alike. The right of citizens to participate in public life at both the political and economic levels is guaranteed (Arts. 61, 70 and 73). Article 73 describes work as a 'right, a duty and a honor;' although forced labor is prohibited, an exception is made in circumstances in which it can be considered as 'part of the normal civil duties.' The intention of this provision is unclear and the article gives no hint as to how it would be applied.

Article 77 captures an important chapter of Palestinian history since 1984 expulsion: 'No one shall be expelled from his homeland, stripped of his citizenship, or prevented from leaving or returning to his country'. Expulsion has been a major issue in the struggle against occupation. The most recent expulsion of 396 Islamic activists on December 17, 1992 had two dimensions which disturbed Palestinians.

First, it was a mass expulsion for which Prime Minister Rabin took credit publicly. Responding to criticism by extreme right-wing members of the Knesset and cognizant of the fact that 78 percent of Israelis supported the expulsion, he said:

*We know we are making an unprecedented move. Which government in the past twenty years was prepared to expel or remove temporarily 25, not to mention 400 people? I felt at the time a need to level an immediate, tough blow against Hamas that went beyond anything done previously. I achieved that aim, whether it involves 300 or 400.<sup>9</sup>*

The second factor was the presumed U.S. acquiescence in the policy of expulsion when Rabin asserted that his agreement with the Clinton Administration preserved the principle of our ability to remove for a limited time hundreds of writers, leaders and organizers.<sup>10</sup> The attribution has never been disavowed by any U.S. official.

Given that the Oslo declaration makes not a single reference to human

rights, Palestinians should derive great benefit from the section on rights in the proposed charter. The need to guard against abuse may be most urgent during the transition when Palestinians would be subject to two administrations: the new Palestinian authority and the existing occupation regime. Dissidents are likely to be exceptionally vulnerable in view of the uncertain jurisdictions and accountability of the two authorities, each looking over the shoulder of the other. Nor is there any reference in the Oslo Declaration to the Geneva Convention Relative to the Protection of Civilians in times of War.

The inclinations of both authorities toward repression were expressed shortly before and after the signing of the historic Oslo Declaration on September 13, 1993. The P.L.O. security chief and Ambassador to Tunis, Hakam Balawi, told Israeli television 'We will crush the opposition.' For his part, Prime Minister Rabin told an Israeli newspaper:

*I prefer the Palestinians to cope with the problem of enforcing order in the Gaza Strip. The Palestinians will be better at it than we were because they will allow no appeals to the Supreme Court and will prevent the Israeli Association for Civil Rights from criticizing the conditions there by denying it access to the area. They will rule by their own methods, freeing, and this is most important, the Israeli army soldiers from having to do what they will do.<sup>11</sup>*

### Troubling Limitations

While the expansive language which defines basic rights is a welcome feature of the charter, in some cases the enumeration of these rights includes language which seriously weakens some protection. For example, Article 61 states that 'every citizen has the right to participate in public life and to be nominated to public office in accordance with the law'. Here the constitutional provision is made contingent on the provisions of ordinary law which can weaken or even nullify the rights. What appears at first reading to be a robust declaration of principle is in fact a right without substance.

Similarly, the safeguard against arbitrary arrest and the guarantee of security of the person can be suspended 'in circumstances prescribed by law' (Art. 62). Freedom of expression is made subject to legal restrictions in the interest of respecting the rights of others, their reputation, or protecting national security, the public rules, public health and public morals (Art. 64). Similar conditions justify curbing the rights of peaceful assembly (Art. 75) and political association (Art. 76). In all these cases, the state police power is

made superior to the right, which allows the state virtually complete discretion in its implementation. The difficulty with ensuring rights is always that they encounter competing interests, most often asserted as the need for internal security and public safety. While public safety is an important interest, the state is likely to assert public safety in marginal as well as critical circumstances and the right is soon eroded or negated. What is essential is that the right be made superior to ordinary law and that the presumption falls in favor of the right, not the state interest in regulation. In the provisions cited above that relationship has been reversed.

The Declaration of Rights is careful to extend only very limited protection to political rights. As we noted earlier, there is no general right to vote asserted in this charter, and the protection of speech and other political activities are equivocal. For example, there is a strong protection of reputation as an exception to the general rule on free expression (Arts. 64 and 67). Under this provision political leaders might resort to the laws of libel to harass the opposition press, particularly publishers who print charges of corruption, either moral or financial, against government officials. The legality of organizing and participating in political parties is conditioned on official approval of their objectives and activities (Art. 65). This is a potentially Draconian provision which could produce an intolerant, one-party state where the opposition is prevented from organizing.<sup>12</sup> The right to assembly is protected "except as defined by law" (Art. 75). Taken together, it is clear that the drafters of this charter were keen on the idea that political rights should be protected, but unenthusiastic about the consequences which might flow from that idea. In point of fact, rights carry risks to public safety, to the stability of the governing party, to the power exercised by individual leaders; political leaders committed to human rights must be prepared to assume some of those risks.

#### **Judicial Review?**

One of the potential strengths of this charter is the creation of an independent judiciary with what appears to be the power of judicial review, i.e., the power to declare the actions of public officials illegal or unconstitutional. Article 52 declare that judges shall be "independent (and) subject to no authority except to the law". Subsequently, the charter declares that the courts shall have jurisdiction in cases taken "against the Administrative authorities" (Art. 56). This idea is reiterated in Article 83 which proclaims that:

*All authorities and government units are subject to the law and will be held accountable for violations of the*

*law. The independence and immunity granted to the judicial branch as well as respect for its judicial acts... constitute basic guarantees for the protection of rights and liberties and enforcing the sovereignty of the law.*

These provisions seem sufficient for the courts to place limits on both the President of the National Authority and the Council should they attempt to legislate or act inconsistently with the provisions of the declaration of rights.<sup>13</sup> There are several considerations here. The first is whether those appointed to the judiciary will have the courage to stand up to the other branches should those branches exceed their authority. The likelihood of this occurring will depend on the character of those appointed and the conditions of their appointment and tenure. This is particularly true where rights are granted unequivocally, such as the right to worship and the protection against arbitrary searches. Second, in areas where rights are contingent on the legislative will, that is, where they are extended subject to "provisions of law", it is conceivable that the courts might follow the Indian model in developing doctrine which holds that some aspects of the Constitution are fundamental<sup>14</sup> and cannot be abrogated by unreasonable or arbitrary legislation, or without a strong and compelling interest.

Early decisions of the courts are likely to be crucial in setting the tone for its work within the broader frame of government. To a significant extent, the vitality of the rights provided in the new Palestinian charter will rest on the strength and quality of the judiciary.

#### **The Commission on Human Rights**

The high profile of human rights in the proposed Palestinian charter was provided with additional emphasis when Yasir Arafat agreed to create a National Commission on Human Rights. The proposed charter of the Palestinian Commission defines its mission as protecting human rights in the emerging legal and administrative structures- during the five-year interim period, and authorizes the Commission to "carry out inspection(s) of governmental and law enforcement authorities" operating under Palestinian jurisdiction. The Commission is beginning to take shape as an independent body with quasi-legislative-judicial powers, whose emphasis will be on the review of legislation, taking and investigating complaints and monitoring official actions in order to "safeguard civil liberties and insure compliance with international humanitarian law".

The Commission seems to be modeled on a Tunisian experiment in

which a similar body acts as an ombudsman and monitor. Despite the unusually high visibility of human rights in Tunisian public affairs, a recent Amnesty International report finds that the basic liberties defined by the Universal Declaration 'have been consistently violated'.<sup>15</sup> It can only be hoped that the Palestinian Commission, which is also government sponsored, will be more successful than its Tunisian forerunner.

## Conclusion

The proposed charter imposes the old regime on the new politics of the territories, despite the fact that the old politics is almost certain to prove counter-productive in the pending process of nation-building. The Executive Committee of the P.L.O., its Chairman, the Central Council and even the P.L.O. bureaucracy are being entrenched in the new system. A highly developed civil society which came to flourish during the intifadah inside the West Bank and Gaza stands in sharp contrast to, and in contradiction with the forms of autocracy and paternalism which have become the hallmark of the Tunis leadership in recent years, and which are continued in the proposed charter.

A rather new, dynamic and vibrant society has developed in the occupied territories. Where the challenge of facing a repressive occupier and right-wing vigilante settlers has fostered creative abilities to withstand these pressures. Residents of the occupied territories were left largely to fend for themselves, and they developed a progressive and pluralistic political culture and their own grassroots structures. The popular committees, the self-help projects, the independent health care system created by volunteers, and the legal assistance programs were all people's initiatives. Merging these institutions, which reflect voluntarism and associational values, with institutions that reflect inertia and bureaucratization will not be an easy task, particularly when the deficient culture is endowed with political and constitutional power. How can the dynamic and democratic segment passively accept a takeover by the patronage bosses with autocratic style? It is not a coincidence that much of the drive for reforms and pluralism comes from the occupied territories, and that the pro-democracy movement itself emerges in part from the clash between these conflicting political cultures.<sup>16</sup>

The absence of an agreed formula as a basis for reconstructing the political future of the Palestinians has been at the root of the ongoing struggle within the body politic. Transposing the old regime through constitutional means is likely to add fuel to the fire. There is a prevalent fear inside the occupied territories that the struggle against the Israeli occupation during the past 26 years may have to be redirected against the new Palestinian authority.

The reformist movement, which is based inside but has many adherents in the diaspora, is lobbying strenuously to broaden the base of political power. Their strategy seems to focus on the need to convince Arafat himself of the necessity for change. For example, a petition bearing the signatures of 120 prominent public figures, including many members of Palestinian National Council and the Central Council, was recently carried to Tunis by a delegation headed by Dr Haider Abed Al-Shafi, who acted as chief of negotiators in Madrid and Washington, but who was excluded from the Oslo Deliberations. The petitioners placed three demands before Arafat:

1. *Qualifications, not political loyalty, must be the basis for political appointments.*
2. *A guidance council representing leaders from inside and outside the territories must be established to share in decision-making with the P.L.O. Executive Committee.*
3. *A council to manage the day-to-day business of the negotiations with Israel should be created.*

After a three day meeting with Arafat and his Executive Committee, Dr Haider Abed Al-Shaf declared the mission a failure. Arafat, who was reported to have kept silent during the first two days, declared at the end of the meeting that the P.L.O. is already a democratic institution and all its agencies are elected. The demands of the loyal opposition, thus, fell on deaf ears. We believe that the opposition would be wise to look beyond informal, ad hoc agreements for consultation. Instead they should stress the adoption of principles that would permanently entrench power-sharing and participatory norms in the emerging constitutional and governmental framework. Ad hoc arrangements are notoriously ephemeral, and agreements for the inclusion of this or that dissident, consultation with this or that committee, will last as long as convenience dictates. The stakes at this juncture of Palestinian history are too great to rest on such make-shift arrangements. Principles of accountability, consent of the governed, checks and balances, all of which are compatible with the political culture of the West Bank and Gaza, should have a central position in the platform of the opposition, who should work to incorporate them into the new constitutional order. The goal would be to clearly and unequivocally embrace these principles in an amended or redrafted charter so that a) the responsibilities of the new government to its citizens are clarified, b) power is carefully defined and limited within democratic institutions, and c) the openness of the political system is assured. In this way, the Palestinian people might finally secure the liberties for which they have long struggled.

## Notes

- <1> Declaration of Principles on Interim Self-Government Arrangement, Washington, D.C., September 13, 1993. Called the Oslo Declaration after the principle venue of negotiations.
- <2> See Article VI of the Declaration which defines the powers to be transferred.
- <3> Agreed Minute VII(5), Declaration of Principles: The withdrawal of the military government will not prevent Israel from exercising the powers and responsibilities not transferred to the Council .
- <4> We disagree here with Anis M. Al-Qasem, who chaired the Palestinian National Authority's High legal Commission which drafted the charter. He was quoted as saying When the withdrawal begins, I do not think that a legal vacuum will be created.... In our case, the main burden is the military orders that restrict freedom and act in arbitrariness. Once you remove that, you will be left with laws to take care of a situation not adequately at first, but at least the basic things can be attended to. In Gary A. Hengstler, First Steps Toward Justice, ABA Journal, February, 1994, p. 58. In point of fact, Article 97 of the draft constitution reads: Laws, regulations, orders and decisions currently in effect in the Gaza Strip and the West Bank shall remain in effect prior to the enactment of this law, as long as they are not inconsistent with it, and until amended or abrogated, in accordance with law. (Emphasis added.) In our view, this language clearly provides for the continuation of Israeli military law until amended or abrogated.
- <5> Lamis Andoni, Arafat Tactics Fuel Discontent Among Proponents of Accord, Jordan Times, November 14, 1993.
- <6> al-Dustour, Amman, November 25, 1993.
- <7> Naseer Aruri, Oslo and the Crisis in Palestinian Politics, Middle East International, January 21, 1994, pp. 16-17. For discussion of the memorandum submitted by businessmen see al-Hayat, London, England, December 5, 1993.
- <8> Article 11 provides in part that Capital punishment will be carried out only after ratification by the President. Article 59 reads Every person is entitled to life, and the capital punishment is prohibited.
- <9> BBC, February 8, 1993.
- <10> Agence France Presse, February 7, 1993.
- <11> Yediot Aharonat, September 7, 1993.
- <12> Again we take issue with Anis M. Al-Qasem who stated in his ABA interview that I have also a first draft of a political party's rights to make it clear we will have a proper, political democratic system where citizens can establish their own political parties, and for that they do not need the consent of the government as is the case in many other countries. In fact, his Article 65 reads: Freedom to establish political parties is protected, on the condition that their objectives and activities are not at variance with the basic principles established by law and providing such activities are carried out in a peaceable manner. The law shall establish special rules governing the establishment of political parties . (Emphasis added).
- <13> Mr. Al-Qasem told the ABA Journal reporter that his intent is to establish judicial review, We have in English law... mandamus, etc., but we want to give it a wider scope so that any administration

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is not beyond judicial review. If you want to challenge an act of the administration, you won't need (its) approval .

<14> Golak Nath v. State of Punjab, AIR 1967 SC 1643; Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1561; Indira Nehru Gandhi v. Raj Narain, AIR 1975 SC 2299; and Minerva Mills Ltd. v. Union of India AIR 1981 SC 271.

<15> Amnesty International, Tunisia, Rhetoric Versus Reality: the Failure of a Human Rights Bureaucracy. January 30, 1994.

<16> For an elaboration of this, see Naseer Aruri, Oslo and the Crisis, op. cit.

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**The concept of  
authority and  
democracy**

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One of the people attending the conference said a moment ago that he did not hear anything new today. I do not know if that is a compliment or a protest. Should it be a protest, then this has added a new burden to what I wanted to say, and if it was a compliment then let me say thank you.

There is a complete consensus today, at least among those who practice writing and speaking of democracy, whether or not they practice it, that the idea of democracy has taken a religious and theological dimension which makes it impossible to make any critical discussion as to what it means or does not mean. The holy is indiscussable. T.S. Eliot made a remark in this respect without being aware of the vast popularity which words would enjoy in the post-Cold War era, and the emergence of the capitalist system under the leadership of the United States. It has become the sole power capable of granting positive meaning to words and concepts, in addition to having the ability and willingness to finance this understanding, and the one power capable of teaching this progressive language to illiterates like us. We, post-Gulf war Palestinians, are the best example of those.

Back to T.S. Eliot, who once wrote that when a word possesses such a holy and comprehensive characteristic as the word democracy in our times, one starts wondering if giving it this all-encompassing meaning really leaves it with any meaning at all. There is also an increasing interest in so-called civil society, but not in the radical original concept which Gramsci presented. Gramsci describes namely, the hegemony which the bourgeois class attempts to and succeeds in imposing on other classes and groups in society by establishing societal groups and institutions through which it seeks to circumvent and destroy revolutionary trends and opposition without using violent and terrorist means which, ultimately, remain the last resort for the existing authority. Rather, this surge of interest in what is called civil society is based in the superficial definition that is much dealt with in the newspapers<sup>1</sup>. It is based on the allegation that establishing these institutions and groups is in itself an expression of the interests and aspirations of all classes in the nation. It also assumes that the state authority should share authority over these institutions. This sharing is allegedly a realization of democracy.

In this short introduction, I want to provide a critical point of view. Perhaps we can find a modest and specific understanding of democracy, which everybody demands (and which some people allege already exists, in excess of what is needed. Too sweet, was how the President of the

Palestinian state responded when asked about Palestinian democracy in an interview with British TV during a visit to London). What I want to focus on is what is needed from this democracy, and what are its tools.

There is almost a total consensus among writers that a civil society already exists in the West Bank and Gaza Strip. This argument contends that social groups with different natural interests already exist, and public opinion already exists. They say that Palestinian civil society just needs laws to govern the relation among the rulers themselves and between the rulers and ruled. These writers conclude by saying, that the new approach of political action should take into consideration the structure of Palestinian society in the homeland, not the conditions of the Palestinians dispersed in various Arab countries. This, however, needs institutional, not individual, political performance.

This argument poses many questions, mainly because it restricts the description of the Palestinian people to that part which exists on Palestinian soil, and excludes the majority that exists in exile. The biggest deficiency of the argument, however, is its negligence of the most important basis of a civil society (examining it in the non-academic meaning that it is being dealt with); it is being discussed in the absence of a national consensus and common conception regarding the aspired for political and economic system to be established. Also absent is any agreement on the relations which should prevail among various social groups and classes.

Consensus which exists in societies successful in wielding the political process to their benefit through elections and various representative institutions which allow for a degree of participation in political decision-making is based on the following presumption: The social groups in power are willing and ready to find a degree of economic luxury which allows for the coherence of the society. There is a continuous reciprocal process going on. The political body running the society's affairs is given a mandate on the condition that it successfully administers the economic process. When economic conditions collapse, social conflict takes a clearer form, appearing on the surface. Opposition takes forms outside the normal frameworks of the parliament, the press, or the previous relations between unions and employers, etc. Civil society does not exist where there is no common concept or understanding of the quality and quantity of life needed. Nor can it exist when the prevailing relation among the various social classes is one of conflict and antagonism, when the economic elite is not ready to share with the poor majority some of its economic privileges, and when there are different concepts of the nature of the possible and desired authority.

In the absence of a common concept what exists is no more than a multitude of associations, institutions and parties which represent the interests of narrow societal groups, whose aspirations are to ascend to power, to achieve their narrow self-interests and to try to implement their own program. Claims made by representatives of these societal groups that they represent all the society's groups enjoy the same authenticity of the allegations of the representatives of a one party system or by a sole leader.

The various demands for democracy could be summarized in one demand which is, for the Palestinians, improving bureaucratic performance and allowing political factions excluded from the decision-making process to participate in that process. This means establishing a collective leadership which presumably resorts to the principle of minority and majority. A recurrent theme in many writings on the concerns and grievances of many parts of the society particularly businessmen, investors, and, according to some people, professionals, the intelligentsia, and politically concerned people is the performance and unpreparedness of existing bureaucratic PLO departments as a result of individuality in decision making.

Any calamities which have occurred were the result of not choosing people according to their qualifications and of the absence of a collective political review process. Of course, people deem the calamities as having started at different times according to their (political) out-look some say it began in Oslo, or Taba, or in Madrid, while some others think they were the result of Haj Amin Al-Husseini (who led the resistance before the establishment of Israel).

There are many whose position on democracy is illustrated by the statement: Our opinion should be taken into consideration and then democracy will be achieved. But I think the main issue differs slightly.

Participating in the negotiations, beginning with (US Secretary of State James) Baker's shuttle diplomacy until the post-Oslo meetings ended a stage of Palestinian national action and started another the gravity of which is not clear. The PLO attained legitimacy due to three issues which formed the base of the old national alliance. I call it old because I think it has ended already. The first issue was our dependence on the Palestinian National Covenant, which comprised the common ground for the convergence of various groups. The second issue was the alliance of the armed struggle organizations, and the third was the Palestinian-Arab convergence.

That alliance has come to an end, and there is a need to form a new alliance. Actually, a new alliance is in the making right now expressing itself in many ways, one of which is probably the convention of this conference.

The slogan raised is democracy, but the content points to a new leadership alliance for a new agenda and for a new work program which takes into consideration the challenges of the coming era, and the interests of those societal groups which want the coming entity be it autonomy, or an independent state to be the sphere to realize themselves economically and politically.

The Oslo agreement is an affirmation of this reading in the chapter of relations between the PLO leadership and the majority of the Palestinian people in exile. There is one Palestinian societal entity existing in the West Bank and Gaza Strip, and this necessitates an alliance among its forces, and between these societal forces and the leadership of the PLO in exile. These societal forces businessmen, the cultured elite, family dignitaries, militants, Intifada activists, and a long list of similar people all want decisions to be taken after consultations with them, after acknowledging that they are partners in opinion, discussion, decision making, implementation, acceptance and refusal.

The issue now is not individuality, impromptu decisions, or the absence of institutions. All these were absent yesterday, the day before, last year, the year before last, in 1982, in 1970, during the Lebanese Civil War, and at many other junctions.

Their existence was fallacious, although they were always bragging about Palestinian democracy. Palestinian discourse is full of self-admiration. What changed was the position of the PLO leadership itself. The PLO got rid of the restrictions it imposed on itself when it committed itself to a defined political program. The new arrangement needs a national alliance of a different kind, in light of the emerging relations between the people outside of the Occupied Territories and those within the Occupied Territories.

The question imposed albeit less clearly abroad, if not inside the Occupied Territories is whether the PLO is the right framework to express the interests of this part of the Palestinian people who will move from direct occupational authority to the authority of an imported autonomy. Is there a need for a new institution? If the answer is yes, it will be easier and more beneficial if discussion is redirected to tackle this issue, instead of being confined to vague concepts like authority and democracy.

## Notes:

1 There is a raging Palestinian discussion outside the Occupied Territories. The ideas expressed in this short presentation are inspired by that discussion. See for example, Bilal Hassan, "The old alliance has collapsed and the new alliance is not born yet", Published in Al-Sharq Al-Awsat Newspaper, November 22, 1993.

Naseer Aruri, "Oslo and the Palestinian political crisis," Published in Al-Hayat Newspaper, January 8, 1994.

Ghassan Khatib, "The Third Path", Published in Al-Hayat, November 25, 1993.



# Discussion

**Question:** What we heard of the constitution and basic charter, of which you presented a number of articles, is not considered a charter nor related to a constitutional charter by any means. The constitution is the ceiling from which stems all the laws in the state. Unnecessary articles were introduced in the charter, which did not identify the homeland, but identified the flag.

What is required? Is it to say that the flag consists of three colors with such a diameter and so on... This is not part of the constitution. In 1946, a constitution of 10 articles was imposed on us, 10 articles only with which France ruled. The constitution is always the ceiling from which stems all other laws which stipulate the type of the state, jurisdiction, public rights, etc...

There is even a provision which says that when a youth is arrested he is given a chance to defend himself and appoint a lawyer. I am astonished. We may call this an arrangement for our situation in the transitional period, but not a constitution or a basic charter.

*Dr Anis Al-Qasem:* I tried to explain that it is not a constitution. I mentioned that it does not include articles which normally are included in constitutions, and that it aims to deal with the transitional phase. I mentioned specifically that after being elected and formed, the council will have to take over many matters left for it to deal with, like the government, procedures to form it and accountability structure. Inserting such matters as those which Dr Yusef Subuh protested for being

absent in the proposed charter would have been a violation of the legitimate jurisdiction of the elected council.

The basic charter aims mainly at regulating a limited period of time, by formulating certain bases and principles. These bases are mentioned in this charter. If there are other matters to be added, let them be added. However, it would be unfair to say that the charter does not state the foundations of government in this transitional phase.

**Question:** First of all I would like to thank those who organized this first legislative attempt. I do thank them even though I agree with the remarks pertaining to sovereignty made by Dr Naseer Aruri. In the Oslo-Washington-Taba accord, there is nothing mentioned about Palestinian sovereignty and therefore we do not enjoy the right to legislate. I would like to mention briefly the following four points:

1. A positive point, Article 61, which says that Palestine recognizes basic human rights and liberties as stated in the International Declaration of Human Rights. I think this is the best thing mentioned in the proposed charter. It guarantees an international presence for the Palestinian people and enables the people to have a sovereign character in the international arena. This is a positive point, which none of the speakers mentioned.
2. The second point is a negative one from the political point of view. Article 105 says that laws, charts, regulations and resolutions implemented in the Gaza Strip and the West Bank shall continue to be applicable. What I am seriously afraid of is to treat the Israeli military orders as legislation that should be respected. This is a danger that threatens the national sovereignty of the Palestinian people. It is impermissible to bestow any legal or legislative nature on the Israeli military orders because they contradict international laws and accords, no matter how long the occupation lasted.
3. The third point is Article 13, which stipulates the possibility of legislating the death sentence. Article 13 states that "(t)he death sentence cannot be executed until..." meaning that the primary legislation allows for resorting to the death sentence. This, in my modest opinion, is a dark point in the Palestinian charter, because the death sentence must be absolutely abolished.
4. The last point deals with the executive branch. I differ with Dr Naseer Aruri regarding Article 54, as he hastily indicated that there is legal supervision. I am sorry to say that legal supervision is still in the hands of the executive authority and its head, since the chief justice is appointed by the president. Clearly, this is an exploitation of the executive authority! The proposed charter should give constitutional guarantees, not executive guarantees for the appointment of the judicial system.

*Dr Anis Al-Qasem:* I would like to thank you for your valuable remarks. Regarding the first point, we placed it in the charter. I think this right should be insisted on, and we should start practicing it regardless of anything else. This is a right that we should not capitulate in any way. About Article 105, regarding the applicability of laws: This charter should not be implemented until all the Israeli military orders are reviewed in accordance with the Declaration of Principles and a decision is taken pertaining to them, in order that all those orders which should be abolished are abolished and only legislation which is pertinent remains. There is a committee mandated to study the Israeli military orders and decide which legislation should be studied, to see if they should be abolished or replaced by Palestinian laws. This point is very correct. This is why the article was left open-ended and should not be implemented until after completing all of these measures.

As for Article 13, pertaining to the permissibility of resorting to the death penalty. Those who followed the first proposed charter must have noticed my opposition to the death penalty. What happened was that we noticed that the death penalty exists in the West Bank, and abolishing it will create a legal vacuum, because there will be certain crimes with no penalty. So we had to decide either abolish the death penalty and stipulate an alternative penalty for the crimes where the penalty is applicable, or to leave the whole matter to be reviewed when the penal laws in the West Bank and the Gaza Strip are reviewed. I do support and seek to abolish the death penalty.

Regarding the issue of appointing a chief justice, there should be a mechanism of appointment. There should be a body to appoint the chief justice. I would welcome any alternative, but there should be a body to do the appointing. As you may remember in the Arab states, the higher judicial council is headed normally by the minister of justice. Therefore an outsider is not needed to direct it, that is to secure the independence and sovereignty of the judicial authority. We do not object to being creative in this respect. If there is another proposal and another approach that would lead us to a way to appoint the chief justice, I and the committee would welcome that and would study it. Please submit any suggestions you have. The point is that there must be a body that appoints the chief justice. The head of the judicial authority cannot be left without a party to appoint.

*Dr Naseer Aruri:* There were four articles mentioned. One of them gives me an idea and a chance to say what I could not say previously. Article 61 is in fact important. You said that we did not tackle Article 61. The written material I have on the charter is a summary of nine pages.

The summary says that the chapter on public liberties is one of the strongest parts in the proposed constitution. I however have reservations. If we look carefully in this chapter, which gives ample guarantees and liberties, we find that some of these liberties are conditional and restricted by what is called necessary measures to protect national security, public safety, public order, public health or public manners. I know that this exists in other places, but the issue is that the necessary constitutional rights are subjected to just legal considerations which might allow for the abolition of those rights.

The same thing applies to the right of people against arbitrary detention and arrest, in Article 61, the freedom of expression, and others. In all these situations, civil rights are linked to the basic constitutional rights, and this consolidates state control over individuals. It is clear to us that among the most important provisions of democracy is to put the constitutional rights in a superior position to that of common law. This is all good. My reservations, however, are about other articles by which I see a possibility for danger.

In Article 70, for instance, we see that protecting the reputation is among the restrictions on freedom of expression. It also allows the political authorities to resort to the laws of defamation to punish the opposition press.

The legality of establishing political parties is also subjected to official approval of those parties goals and activities, in accordance with Article 68. This is also dangerous.

*Dr Anis Al-Qasem:* Provisions regarding rights and liberties are provisions present in international covenants. Even those restrictions which Dr Naseer Aruri referred to also exist in these international covenants endorsed by the UN, to which all states are committed.

Regarding these provisions, you cannot recognize an absolute freedom. You live in a society in which there are mutual rights among the individuals of the society. A newspaper can defame me for instance, and I am left with no means to defend my name or myself.... This is one of my rights. At the same time, when you examine Article 75, you find that the text was very careful when addressing the freedom of thought and conscience. It states, taking into consideration the restrictions imposed by the law. Why not absolute? Because there must be limits for defined goals, such as respecting the rights of others. You practice your right while respecting the rights of others, to protect their reputation or national rights, public order, public health or public manners. These are matters which all societies seek to protect.

When you, Dr Naseer Aruri, review the Arab constitutions, you will find

a large gap between this charter and those constitutions. There, the law removes public freedom, while we have restrictions which are internationally recognized.

*Dr Naseer Aruri:* The constitutional right, however, should always be superior to the civil right. The freedom of forming parties is secured on condition that the goals and activity do not contradict with the basic principles.

**Remark:**

1. On the first page, it is said that this is a draft charter. What we have in our hands cannot be called a draft charter, because there are specific laws that should not be found in a constitution. He who formulates the law of the land is like a goldsmith. He is given the raw materials, and is asked to make things with them. He who formulates the law must be given the raw material by another person who asks him to formulate the laws for him. I would like to ask Dr Anis Al-Qasem who gave him the raw materials and asked him to tailor them into the president's authorities.

I see a great contradiction between this document and the basic charter of the PLO Executive Committee. The basic charter of the PLO Executive Committee does not set a certain period of time for the term of chairman, which can be for two, three or four consecutive periods. Another point which made Dr Naseer Aruri happy made me sad on the issue of the judicial authority. In fact the authority is given to the president and not to the judicial council. The president decides on the distribution of jobs (in the judicial council) and who will be the head. This puts everything upside down, because it is the judicial council which should decide who is to be a judge, and then the president endorses the decision. What we have however is a judicial council appointed by the president.

There are many vague points. Other points are put in brief while they should have been elaborated. The chapter on the judicial branch includes one article only, while the chapter on the executive branch includes many articles. Despite Dr Anis Al-Qasem allegations that this is not a constitutional document, this is a constitutional document because it refers to the law in more than one place.

There are many points but I will conclude by commenting on the issues of personal status (traditional laws regarding marriage and divorce). We all say that we want international covenants to be implemented, but there is a contradiction between certain articles in the international covenants and matters of personal status.

**Another remark:** I wonder whether the negotiations process whether bilateral or multilateral have bypassed the red lines of the Palestinian national rights, at a time when the administration of the negotiations has been problematic. Economic development, meanwhile, cannot be achieved without having a suitable apparatus, a democratic one. In light of the need for a legal framework to practice control over the society, the essential matter in my opinion will be identifying democracy vis-a-vis the society.

I agree with what my colleagues have mentioned, and emphasize that there are four probabilities: To have elections, or not to, or to have municipal elections as an alternative for the general elections, or to have a consensus that there is no progress in the negotiations so that elections will be avoided. Are not we in need of concentrating on the issue of elections, since we are in needs of term of reference?

**Question:** Dr Haidar Abed Al-Sahafi spoke on putting the Palestinian house in order. I do not really know how the Palestinian house can be put in order at a time when we do not know if we are entering the stage where we can lay down the foundations yet. There is skepticism surrounding everything going on now.

The successful state is the one whose policies lend to the rule of law, which in turn is endorsed by an elected authority. I understand that these papers are meant for the transitional phase. I agree with Dr Naseer Aruri that this proposed charter will be a cornerstone of the future. Therefore, we must be aware that this charter will have to prevent rulers from misbehaving. This charter will be, in reality, the restriction on the ruling forces and the opposition forces. Regarding democracy, we do not need a regime to be an extension of those regimes in the countries of our Arab brethren where the rulers are worshipped. We have learned that hypocrisy leads only to dictatorship. I hope we can overcome the way of thinking which we followed in the past and change into a democratic society with a real opposition.

We do not have a constitution of our own. It is the first time that we formulate a constitution to govern ourselves. Why did we have to take from the British and the American laws? Did we take Islam as a term of reference? Palestinian society, in fact, is a Moslem one in majority? We hope to have a distinguished Palestinian charter. We have suffered a lot. Scores of years under occupation, from one occupation to another. We want to govern ourselves by ourselves.

*Dr Raja Shehadeh:* In my opinion, what is more important than the

constitution or any charter is the way in which the document is reached. That is why I appreciate Dr Anis Al-Qasem's effort to dig into the issue, and I know that a serious study in the provisions of the document is taking place. However, I cannot take this document seriously, because the same party which took the decision to formulate it, signed an accord which includes issues that contradict the document.

There are many examples of these conditions in the document. For example, it states that the people are the source of authority, while in the accord the source of authority is the (Israeli) military government. Also, the Oslo accord left any adjustments to the laws and military orders conditional upon the agreement of Israel, which can veto. So if Israel refuses to abolish or adjust these laws and orders, what will then happen to the provisions of the constitution? In the countries around us, there are very nice constitutions, but they do not fulfill any of the people's liberties. I am afraid this will be the case with us. The source of my fears is the way the issue is handled, the lack of efforts to synchronize the political with the legal situation on the ground, and the lack of any real dialogue before reaching such a constitution.

**Remark:** The proposed charter is formulated to advance the Palestinian people on the judicial, political, social and economic levels on the basis of international laws and constitutions. However, Article 78, which deals with education, contradicts with this, because it commits the government to just elementary level education. In other words, the government commits itself only to literacy programs. I cannot see how Palestinian society can be advanced if the government commits itself to only the elementary stage of education.

I would like also to thank you for including Article 63 in the charter. It equates men with women in rights and basic liberties. Some colleagues however raised the point of basic liberties. If this is true, then please take it into consideration.

**Question:** I would like to discuss the articles pertaining to the press: Articles 67 and 69. What I noticed here and also heard from people in a TV interview is that many of the provisions give rights and others restrict rights. Article 69 states that everyone should enjoy the right of freedom of thought and opinion, but taking into account the restrictions imposed by the law to respect the rights of and reputations of others, to protect national security, public order, public health and public manners this means that there will be one million things to restrict the freedoms.

My question is who is going to be the one who decides what exactly damages the reputations of others, the requisites of national security, and public order and public health? Here, an opportunity is given to the authority to mishandle or restrict liberties.

My other point is regarding Article 69, which deals with the freedom of the press, publishing and printing, but does not state anything about radio and television, which are among the most important and powerful information media. The importance of radio and television should dictate special adjustments on the text of the provisions.

**Question:** Regarding Article 2, which states that the regime is a parliamentary democratic one, it is necessary that the article state that the parliament is formed through elections, thus ensuring that elections are held.

The second point deals with Article 61. This article ignores endorsing the Agreement on Abolishing all Forms of Discrimination Against Women. This is an international document. It is not acceptable to say that this agreement is included in other laws, because in them the other documents are mentioned by name.

The third issue deals with Article 63. The equality of men and women pertaining to rights and basic liberties is good. I wanted to ask why this did not exist in the first draft of the charter. Also, all pronouns are made in the masculine. In many cases some people would say that if there were 100 women and just one man then the male pronouns should be used. Therefore it should be mentioned in the beginning that all terms refer to men and women.

In Article 80, I think a difference should be made between associations and unions, because I deem the role of unions as larger than that of associations.

Regarding Article 78, I want to emphasize that it is not sufficient that education be obligatory only to the elementary stage. It should be extended to the 10th grade, at least.

**Question:** Let's go back to Article 6 of the charter which states that the chair of the PLO Executive Committee is the head of the National Authority and shall practice his responsibilities as stated in the Basic Charter of the PLO, the resolutions of both the Palestine National and Central councils, and the Executive Committee, in addition to the responsibilities stated in this charter. The question is what will happen if these resolutions contradict each other, and how will the judicial authority be able to supervise, criticize or oppose

resolutions issued by the National or Central councils or the Executive Committee?

**Question:** I think there is a mistake in calling this a basic charter. A mistake in translation may occur by calling it the basic law. This may cause some misunderstandings. A second point to add to the many points raised. It seems to me that one of the problems in the draft charter is that it does not try to abolish the duality of authority. In this new stage, the draft charter should have contributed to clarifying the relations between the PLO and the National Authority and should have abolished any duality of authority.

Another point: what is the relation between the elected body in the homeland and the Palestine National Council outside the homeland? A final remark should also be made, on whether it is realistic to keep silent on the settlers, and how to deal with them from a Palestinian perspective?

**Remark:** I have waited to hear in any of the comments, questions or lectures an essential issue that was totally ignored in the basic charter. I think that ignoring it is a serious neglect of the rights of the people. If you look carefully into the general principles, you will find that there is something mentioned on the symbols of the regime, a flag for instance, while there is a total neglect of the centrality of the national authority, the centrality of the government and of the capital of the State of Palestine: The city of Jerusalem. The only place which Jerusalem was mentioned is Article 84, in the chapter on liberties. We talk about the role of the National Authority in preserving co-existence of religions, while ignoring the authority of the people whose capital and center is Jerusalem.

I think ignoring this, whether legally or constitutionally, is a serious matter. I had hoped that all those who commented would not fall into discussing matters like who was and who will be; all people are doomed to vanish and what remains is the land. If we do not preserve geographical jurisdiction and its centrality in the capital, Jerusalem, we will remain lost in the maze of generalisms, be it democratic terms or terms of authority pertaining to individuals, councils, or the transitional phase.

*Dr Anis Al-Qasem:* I am very happy. This type of discussion is the goal behind raising these issues. In the past we did not know what was happening. Now we have initiated serious thought on some of the matters raised. The aim of discussion and deliberation is to form Palestinian public opinion on certain principles. For the first time, with the exception of Lebanon, the period of

presidency is limited in an Arab constitution. There is a real problem of what the situation will be, since the term of the chair of the Executive Committee is unspecified.

A point was raised on the obligation of elementary education. This is a primary commitment, which does not at all prevent the education law to promote the commitment to surpass the elementary stage. At this transitional stage, we should be careful to have the resources available to meet the commitments. Can the National Authority, in the transitional stage, guarantee free education for more than the elementary stage?

Another matter was raised regarding the right of voting. The charter stated clearly the right of citizens to take part in public life and to stand for public positions and posts in accordance with the provisions of the law.

Regarding identifying the jurisdiction of the legislative council (or authority), this should be given to the parliament, as it is the master of legislation. Otherwise, we will enter complicated mazes and get lost.

The issue of women was also raised, about not referring to the document on non-discrimination against women. I am well aware of this document. We will find that some of its provisions need long discussion because they deal with matters not related to public rights and liberties, and deal with matters that should be agreed upon at the Palestinian level. In the field of liberties and public rights, women enjoy full equality with men.

I do agree that there should be reference to Jerusalem as the capital. This will be looked into.

The issue of settlers and settlements; I do not think there is a place for discussing that in this basic charter. The charter said that the courts have their full responsibility for all those who are present on the land. If there is an exception, then it should be issued in a law.

The choice we have is either for us to have at this stage a kind of charter which governs our authorities and identifies our liberties and rights, or to leave matters until an elected council is in office, and then the procedures of formulating a temporary constitution start. I support the idea that it is not permissible to leave matters in a vacuum.

Dr Naseer Aruri and others commented on the president's authority to issue endorsed laws. I want to say that legislation passes through three stages. The first is called endorsing the law, when it is studied and endorsed by the legislative council. The second stage is called the stage of issuance, which means that the president declares that the council has endorsed the law. And the third stage is the stage of publishing the law.

In the second stage, the president cannot make adjustments on a law

that was passed by the legislative council, unless it was clearly stated that he has the right to adjust, oppose or send the law back to the legislative body. But as it is now, the president can only sign the law declaring that it has been issued. This is an important point.

Regarding the issue of the president's decisions becoming decrees, this is a normal procedure, which is included in the authorities given to the president. The appointments which the president makes, however, should be in accordance with the law; otherwise, they could be appealed. Such a practice is found in Britain and France. Therefore, the issue is not what it is called but rather a judicial system which in the presence of a supervising administrative system plays a very big role.

We did not quote from the British or the French systems; we tried to formulate something Palestinian. Many of the articles are purely Palestinian.

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**Jerusalem**  
**the forgotten**  
**issue**

**Ibrahim Dakkak**

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**W**hat distinguishes the current stage, in my opinion, is the startling acceleration of the normalization of relations with Israel, both on the Arab and Palestinian levels. Relations between the Gulf countries, and those of North Africa, including Libya, with Israel are developing quietly and firmly. On the other hand, the political solution of the Arab-Israeli conflict is still stumbling in its various tracks. It is not progressing as speedily as the normalization between the Arabs and Israelis.

The variation between the two speeds that of normalization and of the political solution was not a result of coincidence, nor of miscalculation, but rather the result of careful and accurate planning by the US, in which Israel took part and implemented on the bilateral and multilateral tracks. The plan entailed creating a gap between the two speeds. This gap is to expand so widely that it becomes difficult to be bridged by any dissenters.

Signing the Declaration of Principles in Washington, or what is known as the Oslo accord, has added an additional dimension to the present stage, and the results of the accord are difficult to foresee. The agreement, its timing and obscurity, and its various dynamics be they in harmony or in contrast with each other have added an additional complication to the situation.

The signing of the agreement between the Holy See and the State of Israel in Jerusalem on December 30, 1993, for instance, added to the complications among the Palestinians themselves, and raised questions on the future relations between the various Christian communities and the Vatican. Needless to say, the Vatican-Israeli accord was concluded in the aftermath of the Oslo accord, which did not address the issue of Jerusalem which means that it endorses the existing situation in the holy city.

The Oslo accord, as well as the Vatican-Israeli accord, are the fruit of the gap between the process of normalization and the negotiations process. What affirms this conclusion is the willingness of the US to maintain this situation and to reinforce adherence to it. The US is introducing development of the Occupied Palestinian Territories through international participation under the auspices of the World Bank.

The US is seeking to provide incentives the importance of which cannot be minimized to attract various countries to enlarge the scope of development to include cooperation among Middle East states, and to enhance the degree of normalization with Israel. Using this formula, it weakens the coherence of the opposition to the peace process and eradicates resistance to the new map which is carefully being drawn for the Middle East.

Now that I have defined the political grounds on which I base my elaboration of the circumstances that engulf the issue of Jerusalem, I feel cautious as I make this speech because the issue is a multifaceted one which needs expert study. I believe that neglecting any of these facts weakens and distorts the actual situation, which in turn shakes the picture and makes it lose some of its reality. To avoid such a result, and to take a calculated risk, I will not tackle the reasons why the issue of Jerusalem was negated from the agenda of the bilateral negotiations, from the activities of the negotiators in the multilateral negotiations, and from the provisions of the Oslo accord, because all of these do not fall within the goals of this speech. But I will concentrate on the results of the current developments regarding Jerusalem. Therefore, I will discuss the results of the absence of the issue of Jerusalem from the bilateral and multilateral talks, and the impact of the accord signed by the Holy See and the State of Israel, as well as the impact of the declared Jordanian position regarding sovereignty over the holy places.

The Palestinian leadership found itself facing a number of choices, all of them bitter, before agreeing to participate in the Madrid conference. Going to Madrid would have its consequences and results, and not going would also have its negative aspects which cannot be ignored. The leadership opted to go, hoping to raise the issue of Jerusalem and other issues which were forcibly kept off the agenda before through bilateral and multilateral negotiations. It accepted the conditions of the invitation which jeopardized the rights of the Palestinian people in general and the issue of Jerusalem in particular. In order to get Jerusalem on the agenda, the Palestinian delegations which participated in the bilateral and multilateral negotiations tried to raise this important issue, but did not find any interest in the topic, nor did they meet any agreement from the Israeli party, nor was there any welcome from the American side. Consequently, the issue of Jerusalem was kept out of the official negotiations. Nevertheless, it remained a topic addressed by various non-Palestinian parties with utmost seriousness, each according to its interest, thus creating new realities which affected and are still affecting the future of the city, its character, and sovereignty over it.

Today the Palestinians are the only party prevented from officially discussing the issue of Jerusalem with the other parties, especially Israel. On the other hand, despite all the favorable circumstances at a certain stage that preceded the Madrid conference and Gulf War, the Palestinian leadership did not develop a clear position towards the developments that took place in Jerusalem since 1967, nor did the leadership come up with political positions that would stop Israel from continuing its violations in Jerusalem. Such

violation included the removal of its boundaries, forcing a new demographic formation, and following a planning and construction approach detrimental to the rights of the Palestinians in the city. Israel also did not stop its concentration of Jewish settlement in the city, stretching its limits and separating the northern West Bank from the south.

The Vatican used the Oslo accord as a justification to conclude an agreement with Israel, the content of which solidifies the position of Israel towards Jerusalem and weakens the Palestinian position. It is noteworthy that signing the accord in Jerusalem contradicts the resolutions of UN Security Council resolutions 465 (particularly Article 7), issued on the 1st of March 1980; Resolution 476, issued in June 1980; and Resolution 478, issued on August 20, 1980.

Article 13(c) of the Vatican-Israeli accord recognizes the State of Israel without linking this recognition to UN Resolution 181, issued in 1947, nor to Security Council Resolution 242. Therefore the recognition was unconditional, one which permits the Israeli authorities to interpret the expression of "....in accordance with the law" stated in this article to mean the "Basic Law" which was issued by the Israeli Knesset allowing the alteration of the situation in the Holy City and giving Israel a free hand in it.

In addition, the accord does not refer in any of its provisions to the above mentioned Security Council Resolution 478, which states in its second article that the Basic Law issued by the Israeli Knesset is null and void because it contradicts international law. The Vatican's haughty attitude towards dealing with mundane affairs adds another problem, because it deals with conflicts of borders (Article 11(b)) knowing very well that the Palestinian-Israeli conflict is not a conflict of borders but rather a conflict of existence. It knows that this position contradicts UN resolutions which assert that the Israeli presence in the West Bank and Gaza Strip is no more than a military occupation, subject to international law.

Simultaneously, we have Jordan's proposal and adoption of the principle of "Sovereignty of God" over the holy places in Jerusalem. By presenting this opinion, Jordan takes a big risk, for it ignores the Palestinian demand of sovereignty over the eastern part of the city, including the holy places. This position divides this eastern part into two: One under the sovereignty of God, as it says, and another which is disputed between the Palestinians and the Israelis. This is just one interpretation among many. The Jordanian position remains vague, in the absence of sufficient data. Therefore I refrain from making a full opinion on the issue in the absence of an official text of the Jordanian project.

In spite of this, I question the coincidence of announcing the Jordanian project and the signing of the accord concluded between the Holy See and State of Israel. If what King Hussein was quoted to have said is true, then the complement between the positions of Jordan and Vatican does not need proof. Each of the two parties is concerned for the walled Old City of Jerusalem, but both seem to be less concerned for the destiny of its extensions outside the walls. Should there be a justification for the Vatican position, what justification could there be for Jordan, which did not exclude the Old City when it ceded sovereignty to the Palestinians in 1988? The Palestinians seem to be facing three positions which may be complementary.

1. The Israeli position which seeks to separate the north of the West Bank from the south under the name of Greater Jerusalem.
2. The Vatican official position towards Jerusalem as stated in the accord between the two parties.
3. The Jordanian position towards the issue of sovereignty over the Old City.

The position of the Vatican has at least two elements in common with the Jordanian position regarding the issue of Jerusalem. They are:

1. Concentrating concern on the Old City and holy sites.
2. Leaving the parts of the city outside the Old City walls up for negotiations on the final stage; ie, they are a Palestinian-Israeli matter.

There is no need to suppose that the harmony of the Vatican and the Jordanian position incite the Israeli fears of the two parties. Israel refuses the internationalization of the city, including the Old City, and declares that it will keep it under its sovereignty forever. I find no contradiction between the sovereignty over the holy places which Jordan and the Vatican call for, and Israeli sovereignty over them. The Vatican example is the best evidence, as it is a precedent that may be followed in the case of Jerusalem.

I conclude by saying that acquiescence to the terms preventing the Palestinian party from dealing with the issue of Jerusalem is very grave at this time when Israel is establishing new realities by expanding the city limits and concentrating Jewish settlement in it. Furthermore, it is unjust to the rights of the Palestinian people as stated in UN resolutions.

The main problem, in my opinion, is the lack of a distinguished and flexible position toward the issue of Jerusalem by the Palestinian leadership. The activity of the leadership over the past years has not exceeded mentioning Security Council resolutions and the legitimate Palestinian demand of achieving an Israeli withdrawal from East Jerusalem in accordance with UN Security Council Resolution 242. Although I support this activity and believe

in it, I acknowledge that it falls short of confronting the challenges which have started to become clear. Despite its importance, this position remains the position of one who appeals for aid more than the position of one who takes the initiative. Implementing UN resolutions, at the foremost of which are those of the Security Council, cannot be achieved this way.

The pressing question is: What to do now? In my opinion there are five positions and steps that should be taken right now to regain part of the initiative:

1. Quiet dialogue with the Vatican as soon as possible to reach an agreement at the same level with its agreement with Israel. This is to consolidate an important fact about to be lost amidst the current political changes. It is the fact that the conflict is a Palestinian-Israeli conflict, something which should be asserted and brought to the mind of everybody.
2. High-level coordination with Jordan, and an inquiry into its Sovereignty of God over the holy places principle. Jordan should be demanded to issue a clear and frank statement on its position over Palestinian sovereignty on the eastern part of the city, including the Old City.
3. Insist on bringing the issue of Jerusalem up for discussion in all the coming talks, including the bilateral talks between Israel and the Arab delegations. A final agreement between the two sides must be reached, asserting the Palestinian identity of Jerusalem, and insisting on Israeli withdrawal from it in accordance with UN Security Council Resolution 242.
4. Insist on stopping Jewish settlement in Jerusalem and its strategic surroundings, which extend from the southern Nablus region to the northern Hebron region.
5. Exploit all possibilities to reconstruct the Old City in a civilian form, reinforce its Arab population in it, and protect the holy sites and ancient constructions in them.

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# Displaced Palestinians

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**T**he main junctures of the Palestinian issue, including the defeat of the Arab states, were denoted by a variety of names. the defeat of 1948, for example, was called the calamity or disaster (an-nakba), as if it were a natural disaster not related to human actions and occurred by coincidence or merely by fate or divine decree. When the defeat of 1967 occurred, the Arab official media called it a set-back (an-naksa). The Arab intelligencia and the Arab political street, however, were keen to call things by their real names, so they used the term defeat.

There is a clear consensus that considers what happened in 1948 a kind of calamity, regarding the refugees. I like to call these refugees as the displace of 1948, because displacement implies using force and not taking refuge in a normal and ordinary way. However, all international bodies, including the UN, UNRWA and Department of Palestinian Affairs at the Jordanian Ministry of Foreign Affairs as well as others differentiate between refugees and displaced people. The term displaced is only used for those of 1967. Therefore displacement and all that is implied by that term only used for those victims of 1967.

Based on the figures I have, the process of displacement is still going on until this day. In 1967, displacement took place from most of the Arab lands which came under occupation, including what remained of Palestine at the time, namely the West Bank and Gaza Strip. But rather than talking about the Syrian and Jordanian displaced people, I will just tackle the issue of the displaced Palestinians of 1967.

This issue is almost as dangerous as the issue of the refugees of 1948 and 1949. The issue of displaced people, for one reason or another, however, was kept absent from the media for few months after the defeat of 1967. There are several reasons related to the Israeli control of the Zionist media apparatus, and the focus of attention on the suffering of the people who remained in the Occupied Territories, rather than reporting on those who found some kind of stability in the Arab neighboring countries.

Just as the terms used are varied and different, so are the figures about the displaced people. Figures issued by UNRWA, for instance, provide two figures: One puts the number at 400,000 and the other at 600,000. Professor Walid Al-Khalidi, one of those who follows up and verifies such figures, mentioned in his lecture analyzing the Oslo accord that the number of the displaced Palestinians at the beginning was within the range of 350,000, then the number went up due to natural increase, to 700,000. PLO figures,

as stated more than once by officials like Dr Nabil Sha'ath and others, are about 800,000. This figure was linked to the marketing of the Oslo accord, as much talk was made on the immanent return of 800,000 displaced Palestinians.

The Jordanian Crown Prince, who also follows this issue closely, often talks about what he calls the one million lost people. In fact, the real figure is about one million or a little more. This figure includes not just those who were displaced in 67 and 68, although a few thousand of them returned in 1967, but also the gradual emigration, the slow process of pushing people to leave as a result of problems that are considered justified to some people and unjustified to others.

It is necessarily to understand the pressure to which families are subjected. There is no chance of getting higher and better education for the children, no chance for better medical treatment. There is no chance for economic opportunities, particularly in the first years of the intifada, as pressure on the people increased due to escalating Israeli suppression and the reoccupation of the West Bank and the Gaza Strip several times after they had been liberated one way or another by the people and the uprising.

In addition, there are at least 100,000 people from the Gaza Strip who were granted limited residence in Jordan. According to the official Jordanian terms as the delayed or late-comers, referring to those who got permits to leave to the East Bank of Jordan or to other countries, but were late and bypassed the date of their return. As a result of Israeli complications and bureaucracy they were prevented from returning to Gaza. The number of those is about 70,000. This is an average I took, since numbers vary from 60,000 to 80,000.

There are also those who, as I said, emigrated in different ways. The many factors explain the variety of figures. When the world was faced with the tragedy of the displaced people in 1967, it started to offer aid, and I will discuss this issue later. However, the rights of the displaced people should be based on the legal and international position, which will serve as a term of reference when a solution is sought. The rights of those people rest in what was endorsed by international law, represented in the legislative bodies of the UN, including the Security Council, the General Assembly, and the recommendations of those bodies granting the right of those people to unconditional return to their homes and land, as well as by treating them like the residents of the Occupied Territories in accordance with the Geneva Accord.

Should there be any ambiguity in the resolutions of international law

pertaining to the refugees of 1948, the resolutions were clearer and more decisive regarding the issue of displaced people. On June 14, 1967, Resolution 237 was issued, then followed on the 4th of July 1967, by General Assembly Resolution 2252, which stated clearly the inalienable right of those displaced to return. This is still the basic term of reference in the issue of displaced people. I want to point to the fact that there are about 100,000-150,000 refugees who were turned into refugees, or were displaced, for the second time in 1967. These people were clearly referred to in the resolution of the Security Council, which stipulates the necessity of their return and that they are covered by this resolution as well as Resolution 191 and other well-known resolutions.

Our issue this morning, however, is not the issue of the displaced, but rather the aid which was given to the displaced, which varied in nature at the beginning. The first to initiate the aid was the UN. Six emergency camps were established, all were mentioned in Appendix 1. There are three other camps which are an issue of difference between the Jordanian government and UNRWA (United Nations Relief Works Agency) as to who should provide them with services. We should however state that Jordan, which was subjected more than once to the affects of anything the Zionist movement wanted to inflict upon the Palestinians, always had the lion's share in the process of giving aid.

Jordan offered obvious emergency aid in the beginning and which later took on a more stable nature, particularly the provision of the necessary services, including to the other three camps which are an issue of difference with the UN.

In the multilateral negotiations which took place in the aftermath of the Madrid Conference, there were discussions in more than one meeting on the need to grant humanitarian aid to the displaced people, that should clearly not infringe on the basic political rights of the displaced Palestinians. A special concern was made in the details of the solution not to treat the Palestinian people as something outside the solution process. The international community and Israel should heed first of all a fact known to the international community and to Israel; namely, that the sparks and wood of the Uprising are of the same kind of those which kindle any revolution. In the refugee and displacement camps, inside and outside the Occupied Territories, those Palestinians have nothing to lose except their tents and misery. This partly explains why the Uprising, or rather the revolution, is stronger in the Gaza Strip and that has been shown clearly in the media.

There is no chance for any settlement to be implemented without

taking the rights of those people into consideration. They, more than any others, are subjected to the results of the consecutive defeats in the ongoing confrontation with Israel. There is a big gap between a decisive solution and the one presented. There can be no decisive solution even under the present balance of forces, without sticking to the political program which represents the minimum goals as endorsed by the Palestine National Council in 1988. It calls for the establishment of two states. Of course this is no exemplary solution, but it was the solution which PNC members adopted. It is clear that there is large popular support for this program, in addition to official Arab and international support, and even international popular support, I dare say. When such a state exists, then, there are some steps which I believe we should start taking to serve the reformation of the current demography which was effected by continued emigration from the West Bank and Gaza Strip. We should use the tools of international law, for it is the term of reference and the thing to cling to. We must cling not just to Resolution 242, which has garnered so much celebrity, but also to Security Council Resolution 237, General Assembly Resolution 2252, and the clear resolution issued on December 14, 1992 under the name of 'The Return of Resident Refugees Displaced Since 1967'. The name means that the resolution differentiates between refugees and displaced people in a clear, unambiguous form.

All resolutions pertaining to displaced people were unfortunately much stronger and clearer than what was stated in the Oslo accord. I am not trying to blame anyone, but it is a fact that should be stated. We do not disagree, I believe, that the accord or the offer was the worst in the history of the Palestinian problem. If we consider the period from 1939 to September 13, 1993, we find that the Oslo accord was the worst.

I should add, however, that despite my reservations on the accord, I am afraid there is no guarantee, had we not accepted this bad accord, that we would have not accepted a worse accord three or five years later under the current negative international and Arab situation. That is why I said alongside others who are present here now, that we should deal with this accord not in a way of surrendering to it, but rather in a way aiming to develop it by taking steps to improve our performance by introducing the issue of international law.

Everytime I read the accord, I become more convinced that it is the worst. When I concentrated on the issue of the displaced people I was surprised to find something missing I did not see clearly before. The accord states that a committee is to be set up in order to decide 'by agreement' the entry of persons (once again we face an issue like Resolution 242,

territories or the territories) who were displaced by force, and not the return of all persons. This will create a problem similar to the problem in 242. We will have to battle to try to consolidate the resolutions of international law 242, 338, 2252, and the resolution issued at the end of 1992.

It is natural that Israel has started from now to prepare its political presentation for this subject. It started to claim that we did not agree on immediate return, we did not state in the Oslo accord the return of everyone, and then it says that we have to meet as a committee of four because the issue has its own dimensions. The committee meets no more because Jordan, who felt that the accord was achieved behind its back, does not want to indulge in this subject.

A third point which talks about the real Israeli position is revealed in the material. I think that the matter will be an issue for discussion, which means that the rosy dreams that spread out in the aftermath of the Oslo accord on the return of 800,000 as if they were returning today before tomorrow, are not going to materialize at all.

Since most of the displaced Palestinians are located in Jordan, it is inevitable that we reach common denominators with Jordan on the issue, just as with the issue of Jerusalem, and the issue of coordination between the two (central) banks. We had a point of view regarding the issue of Jerusalem for instance, and Jordan had another, but it is not logical that each of us would go and discuss with Israel his own point of view. We have to reach common denominators.

We must try to reach agreements on the three basic issues because the situation is urgent. Since we have signed the accord in Oslo and the text is clear, then we have to set an agenda of priorities. I suggest that it start with the issue of the people who were late in returning and thus lost their residency rights. Those are about 70,000. They had permits and the Israelis do not deny their right to return. The period of their permits have expired already. The issue here is a mere bureaucratic one, like the issue of detainees.

These are issues which Israel is clinging to, although they are clear to us. While working on that issue, we discuss the issue of displaced people who do not have Jordanian citizenship. Jordan has a special interest in having them leave, especially in light of the economic situation, and due to some political fears. We must coordinate with our Jordanian brethren the return of the refugees who do not have Jordanian citizenship. Then we can concentrate on the issue of our people from Gaza in Jordan (about 100,000) who carry temporary passports

The struggle will then continue for the return of the rest, who found

some kind of livelihood in Jordan. All this, however, is strongly linked to the existence of an umbrella. This is my final point.

There must be a political and economic umbrella in the West Bank and the Gaza Strip before we ensure the right of those to return or even force them to return. Otherwise, they will be a problem for the interim authority. There are three-quarters of a million left and those quite frankly are not ready to return given the stability available in Jordan, even with unemployment and economic hunger, should there be fighting, or a dictatorship, or a lack of security in the occupied territories.

The economic aspect of the issue must be considered, not for the one-quarter of a million who we can arrange with Jordanians to force them to return, but for the other three-quarters of a million who will not return voluntarily and have Jordanian citizenship. Jordan does not deny their Jordanian nationality, but it tries to get rid of the displaced people for the sake of an interest related to Palestine and Jordan. These people, however, will not return if they are not provided with stability, first of all, and if they will find themselves unemployed after they had work in Jordan. True, their work in Jordan did not provide them with sufficient income, but to have something is better than nothing. In this sense, the economic process is very important.

The other issue, which I hope you will not marginalize although there are people who consider it a luxury, is the fact that Jordan has been passing since 1988 through a stage of liberalization, a stage of democratic change. We may agree or differ on its breadth, importance, and authenticity, but we do not differ on the fact that this political situation, the democratic change, and some of the incomplete liberties which do not meet the full aspirations of the Arabs, including the Jordanians still form, relatively, a step forward in comparison to 90 percent of the Arab countries, if not all of them.

In Palestine, an undemocratic, repressive regime is yet another factor which will prevent people, especially from the middle class, which is essential for development, from coming back, as well as preventing some other classes from returning. These classes have struggled, fought, and sacrificed over the past 40 years to return to their occupied homeland. Freedom and the suppression of the Israeli occupation is one thing, but God forbid, should there be Palestinian suppression, that is quite another matter. In certain times, however, the gap between them decreases.

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# Discussion

*Dr Haider Abed Al-Shafi:* What is dismal and shameful about the Oslo agreement is that it implies to the world that it answers all the demands of both fighting parties. Actually this is not true, but the universal impression is that it created the beginning of Palestinian authority, which we saw in the celebrations, flag hoisting, etc. The negative aspect of such celebrations is that they actually opened many ways for Israel to benefit from this impression of the agreement. Several countries that avoided forging diplomatic relations with Israel have rushed to establish diplomatic ties. This would not have happened otherwise. The worst aspect is the new diplomatic relations between Israel and the Vatican.

One cannot talk realistically on any issue, Jerusalem or any other, except in the framework of the actual developments in the political arena.

We must distinguish between two topics: The issue of settlements that were previously established and current settlement activity in its various forms either in establishing new settlements, adding to already existing ones, building the infrastructure, or bringing in new settlers. All this must stop immediately if the peace process is to have credibility. I believe that Shlomo Gazit emphasized the importance of this issue as an essential point in the political cause, much more important than the current issues being dealt with on the negotiations table.

The issue of already existing settlements reminded Dr Su'ad 'Amiri that we have postponed discussions on them until the second

stage of negotiations. I have no objections to the second stage of negotiations, but current settlement activity must stop. As we have said before, the opinion of most is that settlements are obstacles on the road to peace, and it is not logical while we are busy in the peace negotiations that we create new obstacles. This is a logical issue which was agreed upon in the peace framework and as the ground rules. The understanding was that there should be no new events or anything new on the ground that could effect the negotiations in the final stage.

It is very important for this to be clear now. We cannot talk about the future of Jerusalem. Will it be an open or closed city? Two municipalities? Its area expanded or restricted? We do not want to confuse matters.

Now what is the task? We should stop the bleeding, stop the descent into levels from which we cannot escape. Let us focus on the basic issue. Here is the question: After this agreement, which has become a reality, is there a way? I say yes, it is a bad agreement, but in reality when we talk about the issue of settlements being left for the final stage, who gave Israel the permission to construct new settlements? There is nothing in the agreement that allows Israel to proceed in the settlement process or the infrastructure. In other words, (we can argue that) we have signed this agreement, and now we have to make sure it lasts. The agreement is a basic political issue that cannot be surpassed and settlement activity should be stopped if it was meant for these negotiations to have credibility. This is the question. I am saying what should be done. There is no need to talk about the size of Jericho or control over border points and all this. Let us focus on certain things. Should we, in this situation, accept less than necessary, since we are in a hurry? (The process of) peace on the account of an independent state must be stopped. We will not enter into negotiations in order to concede our basic rights. There are other issues, like the Arab dimension Jordan, and other issues. I say many of the obstacles that we face result from mistreating the Arab parties. We Palestinians are responsible for the bad situation (of the Arab side) because we dealt in an irresponsible, disorderly and immoral way. The time has not come to face all the obstacles that we face, but is there a way to solve them? I say there is a way because the agreement is there. But the settlement process, whether we are talking about the already existing ones or the new ones, the door is open. Now the emphasis should be for it to stop.

**Remarks:** The most dangerous link in the chain is the continuation of settlements. It is sad that we do not take advantage of the opportunities available to us, although from my understanding, this agreement is possible

and the policy is possible. But we must remember that even the Americans under the administration of Bush had to stipulate that Israel, stop settlements in order to allow the \$10 billion loan guarantees. We realize from the Americans that this was a major step, but unfortunately we forgot how to use this card and remind the Americans that Israelis say this and therefore delay the process as a whole in addition to the series of strategical mistakes and errors in the Palestinian performance that were not in the interest of our cause.

I heard a comment by Dr Haider Abed Al-Shafi. Also Shlomo Gazit presented certain facts that led to pushing forth the political process. Dr Haider Abed Al-Shafi pointed to the fact that after the Gulf war, Americans acted as the champions of international law. Contradictions soon began to surface when they claimed that they believe in the legitimacy of the Palestinian cause in the Middle East. This led them to start lobbying to start a peace process.

Shlomo Gazit, in one form or another, pointed out that when the Labor Party came into power, this opened the way. There is some truth to this, but in my opinion, after the end of the Cold War and the result of the Gulf war, Americans tightened their grasp on the Middle East. The United States for the first time started a Cold War. In 1994, there is a need for stability in the region, which is no longer the battlefield for the two powers. Unfortunately, the Palestinian cause and the Israeli-Arab conflict became one of the instruments of the Cold War. As we said, the Americans developed the need for a quiet and stable situation in the region for their interests. They pushed the Israelis into the direction of a resolution.

Americans told them that beginning from 1996, American support for Israel will decrease, and therefore, Israel began to search for other sources. The only possibility is to enter the Arab markets and forge relations. Unfortunately, we did not take advantage of the needs of America and the needs of the Israelis.

Since the beginning of the peace process we have neglected our basic struggle, the Intifada. We did not preserve it from eradication. We know that the Vietnamese and the Algerians entered the negotiations for many years but during these negotiations they were careful to keep their weapons on the battlefield. Our basic weapon was the Intifada, which is dying without anyone showing any concern to keep it going.

Unfortunately, even in the Arab context, instead of learning a lesson from the Gulf war that has caused us many disasters, we find ourselves anew in the politics of Arab polarization. Now we have the Saudi-Egyptian axis, to

which we are aligned. What good is this? This is kind of antagonizing to the Jordanian position. The relations with the Jordanians, regardless of the bitterness, should be perceived from the angle of interests, not emotions. Unfortunately, we also made a grave error. These are some of the elements that have made our position in negotiations weak and disintegrating. We cannot apply real pressure on Israel nor the United States in order to stop the settlement process which is the most grave matter in this large tragedy. Concerning Jerusalem, in brief, I think that in addition to the intractable Palestinian position concerning Jerusalem, there is also an Arab struggle. We all support King Hussein's proposal in November, which came in the aftermath of a proposal for settling the problem of Jerusalem published in an Israeli newspaper. He talks about putting the holy places or the Old City under the supervision of the three religions.

But if we also recall, there is strong competition between Saudis, or The Servant of the Two Holy Places, (title of Saudi King Fahd) and the Jordanians for control of the Dome of the Rock and the restoration of the mosque. Jordanians want to have a role in this operation; i.e. supervision of the religious places in Jerusalem. King Hussien indicated this is a right of the Hashemites. Another important problem is if our Palestinian leadership is able to rise above these differences and to recruit as much as possible support from the Arabs. In my opinion this is enough. I point to another matter concerning what Dr Haider Abed Al-Shafi said concerning the refugees. We would like to point to forgotten villages near Latroun. The villagers from these places are neither refugees nor residents. We should grant this matter more concern.

*Dr Muhammed Hallaj:* I would like to comment on the topic addressed by Dr As'ad Abdul Rahman in his lecture. In fact it is an important subject, and according to my knowledge, we have not given it the proper attention. It is in the mutual interests and sometimes contradicting interests between us and some other Arab parties in the negotiating process. Our position is constantly based on emotions and ideology. The Palestinian cause is a national cause in addition to being a pan-Arab cause. Therefore our Arab brethren support us in our demands. We must remind them, as Dr As'ad Abdul Rahman mentioned, about the question of the 70,000 and the role of Jordan in their return. I will give an example.

When I was a member of the Palestinian delegation in the multilateral negotiations on the refugee committee, the question of the 70,000 was brought up within the discussions on family reunification. Dr Jawad 'Anani

was the head of the Jordanian delegation, and I was head of the Palestinian delegation. What Dr As'ad Abdul Rahman said actually happened. Dr. Jawad 'Anani was defending the right of the 70,000 to return before I could, not because he is more enthusiastic about the matter than myself, but because, as a Palestinian, I was reluctant to bring up the 70,000 and forget about the three million.

I had to perform two tasks as the head of the Palestinian delegation to the refugees committee, in talking about the right of return. Therefore, when I would bring up a smaller issue like the question of the 70,000, I was a little hesitant. But Dr Jawad 'Anani was confronting the Israeli delegation as we talked to them on the same topic.

I have mentioned this example to emphasize the point brought up by Dr As'ad Abdul Rahman the lack of (PLO) interest in coordinating with the other Arab delegations. Palestinian demands have the support of the Arab countries because their interests lie in these demands as well. Tell me if there are any issues that we have to concentrate 100 percent on because the Arabs have no interest in them. Tell me what's the difference between brotherhood, solidarity, and his defense of his interests while fighting for our demands. Unfortunately, we have ignored the issue of coordination with the Arab delegates. I hope we will take interest in this in the future.

**Question:** Dr As'ad Abdul Rahman you talked in the beginning about Jordan and the effect of the Palestinian arrival, the losses to the Jordanian economy, and the fact that Jordan has given consistent emergency aid. Do not you think that Jordan has received compensation if you take into account that the Jordanian economy has been built by Palestinians?

Another question: We have heard on the radio and television that Prince Hassan and the Ministry of Information have demanded compensation for hosting those refugees. Does Jordan have the right to make such a demand? Will this compensation be on the account of the Palestinians? Thank you.

**Dr. As'ad Abdul Rahman:** There was a brief note on the Americans and settlements. The position of the Bush/Baker administration on the topic was clearer. The problem now with the Oslo agreement is in mediating with America. Of course, they say virtuous things at times, and also, when they want to they say evil things like, we have nothing to do with this. Even in the issue of borders, if you noticed when (Israeli Foreign Minister) Shimon Peres met with (US Secretary of State Warren) Christopher, the latter declared, We

have nothing to do with this. This agreement happened without our knowledge, therefore we have nothing to do with it.

Therefore we were totally left alone after the sponsors of the peace process left along with quite a few of the Arab countries. Practically, we became at the mercy of the balance of power. I just say this so I do not have to say at the mercy of the Israelis.

As for the two questions, has Jordan been paid or not? The demands for compensation? etc. If you want to talk in the language of emotions and national ties, typical Arabic political rhetoric aimed to disgrace one another, then the answer is clear. When a person hosts another person according to our Arab traditions, and this is a phrase that is repeated much in Jordan, we must admit that Jordan played the role of host, and we appreciate that.

But if the subject is whether Jordan has received payment or not, and its demand for compensation, (I say): If Jordan is asking us for compensation, this demand is rejected, because of nationalist force and sheer economic calculations. The Palestinians who are now in the process of building their state cannot be denied as having participated in the building of Lebanon, Jordan, the Gulf, and several other places.

But, I think Jordan has all the right to make these demands elsewhere and not necessarily at our expense. The issue is not allocating a sum of money for Arabs or pan-Arabism or Palestinians for them to get a share. I am always with the Jordanian proposition, politically and economically... the burden of the Gulf war and the issue of getting compensations from the United Nations. Three quarter of a million passed through Jordan, and we absorbed them and provided basic services, and this is true during the Gulf War. Let it to demand from the Arab world and to take Arab money that they plan to spend, even if it is Arab money under the pretext of compensations. Everyone is demanding compensations, including Israel, so why not Jordan also demand compensations from the Gulf crisis, and why should it not demand compensation for all the repercussions after the war?

I think we must distinguish between our conflicting interests, which are sometimes what is stronger in this period, or with that Arab country, and our contradictions with Israel. It does not hurt at all, but rather always benefits us to coordinate. And if I am calling for Arab solidarity in the face of this tragedy and drowning in the swamp in which we swim, the least that can exist is Arab solidarity. Of course, before there should be a united Palestinian front, but Arab solidarity is important. Working with the international community is an essential condition, and that is our strength. What strength do we have after the Intifada calmed down?. We only have these matters, and we must

focus on them or we will become politically warped. We focus on our battle with Jordan and we focus on our battle with Egypt and with Saudi Arabia while our biggest battle is here.

It is not bleeding as Dr Haider Abed Al-Shafi mentioned on the subject of settlements, but a daily continuous gushing of blood. Until when will God issue an ultimatum on the topic of refugees? what about immigration? God forbid if chaos occurred here, and there is great fear in Jordan concerning this. If you notice what the newspapers publish and what has been said by high-ranking officials, that the Oslo agreement might in the end lead to internal Palestinian fighting which in turn will lead to more immigration and more refugees in Jordan. They have taken several procedures, some of which are ridiculous and some unfair, true, but the essence of the process is that movement should be in the opposite direction instead of from here to there, and I helped lay down some of those guidelines.

**Remarks:** I want to say that it is not only the international balance of power that dominates. There are other factors that control the international negotiations. The element of time is very important. The element of time is forgotten by many thinkers and that is what the one who has the most power elements usually plays with. The time factor plays in his interest. The element of time forces the other side unless the other side can find a card and new elements to play with. Both have very well indicated this.

In reality the Vietnamese held negotiations for 10 to 15 years with the French and then with the British and the Americans. They negotiated for many years with the Americans. The negotiations were long, secret and public in Paris and elsewhere.

There were also negotiations for the Blacks in South Africa. The Blacks negotiated under a power balance not to their advantage, but their geographical acumen, their mastering the skill of private negotiations and international pressure and the isolation of white South Africa has all helped in using time in their favor. We must have elements of power. We must have many cards to play with in negotiations, or the result will be well known: Much worse than what we see now. We cannot rely at all on the Americans and their desire to end the conflict.

In the last period after the election of Clinton, the Zionist lobby has become effectively in control of the White House. And as or Naseer Aruri said in an article of his a year ago, they were plotting and planning and now have actually become in control. And actually we have one or two power elements: The first is internal, Palestinian, and the second is Arab.

I want also to point out something, on the matter of Jerusalem. There is a strong link between settlements, Jerusalem and immigration. The matter is debatable in terms of land and the continuation of settlements and jurisdiction over Jerusalem and the continuation of immigration.

The number of residents of Jerusalem in particular Greater Jerusalem residents, I mean Jerusalem as defined by Israel declines and does not increase, especially in the Old City of Jerusalem. This requires for us to truly change our position. We must be dynamic. We must form a Higher Committee for the Concerns of Jerusalem that will include planners, politicians, lawyers, engineers, etc. There should be more activity in this regard.

I wrote an article a month ago on the Vatican titled, From the Vatican to the Greek Orthodox Patriarchate, in response to Bishop Dominus, when he said to (UN delegate) Arap Moi, Welcome to Israel, at the entrance of the Holy Sepulchre. This is very dangerous and no one paid any attention. I wrote a detailed article of seven pages to a prominent daily newspaper and it was not published. Why, I do not know.

By the way I am not a fundamentalist, I am orthodox, so no one rush to accuse me of being a fundamentalist.

**Question:** The issue of Jerusalem and refugees was not mentioned in the oslo agreement. As long as these are delayed matters, refugees and the right of return, I wish that Dr. As'ad Abdul Rahman would have talked about the right of return as an inalienable right of the Palestinian people. There must be an agreement on the issue of Jerusalem and the right of return for refugees since they have not been mentioned in the Oslo agreement.

The second issue: I would like to point to an important question concerning the condition of Palestinian refugees in various Arab countries during the coming interim period, in particular, the Palestinian refugees in Lebanon. At present, they are blatantly ignored and neglected due to the poor social and economic conditions in which they live. In Jordan, for instance, they do not face major problems. The refugees in Syria can work in public departments. But in Lebanon they do not have the right of asylum and are not even considered political refugees. They do not have the right of movement, work, or ownership of property. So there should be discussions on their legal status in the coming interim period when there will be Palestinian authority in the occupied territories.

*Dr. As'ad Abdul Rahman:* I share these hopes with you. But when I am asked to go to Jerusalem, I do not like to go to Nablus or Hebron. I was asked to

deal with a specific topic, which is displaced persons, and your question should be directed to the conference's Preparatory Committee. Actually on the issue of refugees, I had to postpone three annexes not referred to, although they contain important issues.

**Remarks:** I would like to talk about three subjects with a common theme. Of course we can continue to cast blame and rightfully so for why the agreement did not deal with these issues in a complete way. This is true, but in my opinion what is required now is that we work and what has happened, happened. I think there are two matters that should be taken into consideration: First, how to deal with the matters not included in the agreement, and second, the issues left up for negotiation.

From a practical point of view, these matters are in the context of Israeli policies: The demographic reality through direct and indirect influence; the settlement factor and creating facts through building settlements and confiscating land; and the basic changes legal, construction, demographic in the city of Jerusalem.

In my opinion, the Palestinian side can use the coming period in order for experts and investors, among others, to put forth the structural and developmental policies in favor of the Palestinians. They must also put forth a structural policy to expand construction that would create new facts on the ground in the opposite direction. Also, steps must be taken to obstruct the Israeli measures.

The second matter is that the Palestinian leadership must take a firm position in the negotiations that should put a stop to the possibility of Israel having the cake and eating it too. They must decide between two things: Either the future of the Occupied Territories being decided in negotiations or by force by one of the two sides. If they want to continue in negotiations, they must stop all measures that will prejudice the negotiations in the final stage. Therefore, they cannot continue to change the features of Jerusalem. They should not be able to continue in the negotiations. In my opinion this is not only in accordance with what is right and just, which one cannot ask for these days, but is also in agreement with the terms of reference of the negotiations and can be accepted and understood by the public opinion in the world.

**Remarks:** I see the problem is as to how can we move these suggestions and recommendations to the Palestinian negotiator? Are there organizations? It is said that when the Palestinian reform delegation under the leadership of Dr Halder Abed Al-Shafi went to Yasser Arafat and suggested the topics of

democracy and institutions, or to form specialized committees, it was told we have these.

The problem with the Palestinian side is how it makes decisions. When Israel knows for sure it is one person who makes the decisions and this person has a certain style and characteristics, they can deal with him accordingly. The Palestinian side is aware of why the Oslo negotiations were done in private. They can be done away from public scrutiny on condition that the head of the negotiating team knows in detail what is happening. And many issues can be violated.

On the question of Jerusalem, there are many things we actually ignored. We used to demand that there should be no return to negotiations without the return of the (Marj Al-Zuhur) deportees. We returned to the negotiation tables with the deportees still in Marj Al-Zuhur, and in the end Israel allowed them back according to its own terms and conditions.

I think the weakness we have is in the absence of a firm position. What is constant today is variable tomorrow. Two or three days ago Abbas Zaki talked about the Palestinian red lines: border points and the size of Jericho. Now these have been by-passed since what is asked for cannot be had. We have a problem in the nature of negotiations with Israel.

**Question:** There are those who see in this agreement something that has to be dealt with realistically, based on the idea that we are engaged in a national struggle to improve this document to benefit from its positive aspects, if there are any.

After the long road of negotiations, we find that matters are moving from bad to worse. Where is the talk on a mechanism for negotiations and terms of reference for negotiations?

In this bad situation, the leadership is ready to sign within days or weeks. What good is all this talk? After signing on the details of the details, what can the role of a new negotiating mechanism be? What can be done? There must be a crisis so that other parties will intervene, as happened in the deadlock with the Washington negotiations when other parties interfered, and the leadership proposed an agreement much worse than we expected. I guess if there is someone who is convinced of the necessity of a serious mechanism, they should create a crisis in the negotiations so other than Israel and European countries will be obliged to interfere.

Is this possible? And the leadership does not hear us. After Dr Haider Abed Al-Shafi began to talk about terms of reference and democratic reforms, they ignored him. What is needed? If there was a leadership now at the

negotiating table hearing all this, we might say there will be some benefit. What is needed in the coming period? After the signing on the details has taken place, what will the agreement be like? There are challenges and a base for developing our internal national struggle. I, unfortunately, am hard on you and the listeners and myself with these bitter words but the question is: We are now at the crossroads after the signing of the agreement. What is needed is calling upon President Arafat and his companions to stop the farce of negotiations that is going on to this day and take a stand. They should create a crisis in the negotiations, and I think all the people, even the opposition, will gather around the Palestinian position to find a sound, united mechanism.

*Dr. As'ad Abdul Rahman:* Questions of this kind are always asked in intellectual conferences. Those invited today are researchers, thinkers and politicians outside the circle of decision-making. Their mission, as I have understood from the sponsors of this conference, is to create some kind of intellectual accumulation of practical ideas.

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# **The strategy of economic development in the transitional phase**

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**I** will not be able to define a developmental strategy in this speech. Not only is the issue complicated and thorny, but also most of the factors that determine the formulation of this strategy are engulfed in ambiguity. I am afraid this session will again discuss the issue that was the center of discussion and dialogue, namely, the issue of negotiations. It is not my desire to return to the issue, but I am forced to because the negotiations will define to a great extent the general framework of economic activity. Therefore they will define the scope of options for our economic policies, while the economic issues take on less importance. The economic matters being presented in the negotiations are important in defining the future and in defining the great goals which we seek to achieve.

The subjects which will have a significant effect on the formulation of the developmental strategy during the transitional phase and which will be defined in the negotiations can be summarized in the following:

### **The bulk of resources which will be available to the citizens and the Palestinian authorities:**

Although Palestinian rights are clear, and there is no doubt about the Palestinian desire to obtain them, the nature of the negotiations on the transitional phase do not reveal clearly the resources which will be made available to the Palestinians and the Palestinian authorities. No one can now define the natural and economic resources which will be allowed to be under Palestinian jurisdiction, in terms of basic resources: Land, water, fishing space on the Gazan coast, the resources of the Dead Sea, and tourism sites, particularly in Jerusalem.

The other issue, also related to the negotiations, is the ability to make decisions in administering and using these resources. This is also another very important issue, since there may be more resources available to us but our ability to plan for using them will be restricted in a way that prevents us from using them the way we want.

Another matter which will be defined in the negotiations is the nature of economic relations with Israel during the transitional phase. Intricate economic relations were imposed from the Israeli side during the 27 years of occupation. These relations are defined and characterized by hegemony and inequality. They were formed to serve Israeli interests, while the Palestinian interests were quite often neglected.

Will the negotiations result in a reformulation of these relations on

a new basis of mutual benefit, equality and the right to similar treatment? This is a very important matter, and may be the most essential one regarding its effect on the Palestinian economy in the short run.

Based on the ambiguity which engulfs the afore-mentioned elements, formulating a strategy for development is a matter of extreme difficulty. It may entail examining probable scenarios of strategic options and not defining one particular strategy. In addition to the element of resources, the degree of freedom of economic decision-making and the future economic relations with Israel and the outside world (which will all be decided in the negotiations), there are other important factors which should be mentioned when thinking of formulating a developmental strategy.

Some of these factors and features are comparatively more stable, and they form the framework on which the basis of a developmental strategy is built. The factors, which I will summarize in the following paragraphs, are not absolute ones. These factors are the following:

### **First: Limited natural resources**

Even if we get all the resources in an independent Palestine, the developmental strategy should still be treated as one that does not have the natural resources and raw material capable of providing local industry and agriculture with input. This means the inability to get foreign hard currency through exporting these resources. There will be great dependence on the external markets to provide our productive sectors with input. This is important, as it sheds light on the importance of external trade and the importance of free access to other markets.

### **Second: Small local market**

Palestine has a very small market by any criteria. This means that product expansion, or expanding the production of consumer goods, depends to a large extent on our ability to reach new markets abroad. This in turn sheds light on the importance of the commercial system on which we negotiate with Israel, as well as on the degree of importance of this system in defining our developmental strategy.

The small size of the local market means that the development of the Palestinian economy will depend to a great extent on our ability to provide our economy with production input and other necessities from the external markets, and on our success in marketing our products in those markets. It is clear that the continuation of the closure imposed on us, or remaining within the sphere of Israeli customs, will prolong the restrictions on the

development of our commodities in particular, and economic development in general.

### **Third: The current structure of the economy**

The current economic structure will not be easy to change. It is greatly dependent on agriculture, which forms 25-30 percent of the local GDP. We have a weak industrial sector which forms no more than 10 percent of the GDP. The construction sector follows with 10-12 percent. The remaining sectors are the service and commercial sectors.

An examination of the structure of the sectors reveals that they have been formed under the effect of various factors, most importantly the force of Israeli demand which has become since the beginning of the occupation an essential element in influencing economic activity. This is very important when considering the formulation of a developmental strategy and when considering reformulation of our economic relations with the neighboring countries and the outside world.

### **Fourth: The level of economic development of the Palestinian economy**

Another important factor which should not be neglected when formulating a strategy for development is the current level of development of the Palestinian economy. In order for our ambitions to be realistic, they should be linked to the level of existing development. We cannot plan for unrealities, like for instance saying that we will concentrate on high-tech industries.

When studying the general structure of the economy, it is necessary to diagnose the distortion inflicted up on the economy. The most important symptom of these elements is the immense weakness of the infrastructure, both materially and socially, the immense weakness of existing institutions, and the shortages of institutions, particularly those which will shoulder the task of wielding economic development.

The Israelis spent, during the last 27 years, no more than \$15 per Palestinian individual annually in the field of infrastructure, while the Israeli expenditure on the Israeli infrastructure reached \$1,000 per Israeli individual annually. In Jordan the figure exceeds \$100 per person, practically seven fold of what is spent here.

According to the estimates of the World Bank, which had experts conduct a thorough study of the economic and social conditions in the Occupied Territories, it is clear that the Palestinian people possess less than

one-third of the infrastructure found in an economy with the same average per capita income. It is believed that the condition of the infrastructure is even worse than these estimates.

The deficiency and weakness of institutions is one of the most important and critical features which face our economy. The most deficiency and weakness is found in the economic institutions which will shoulder the molding of the development process. Most of these institutions do not exist yet.

In addition, the role of the institutions tied to development, like the institutions of local authority and the municipalities, was marginalized and weakened in the past. They need a major campaign to strengthen them in order to be able to play a tangible role in the development process. Regarding the official apparatus, or the Civil Administration Institutions which the Palestinian authority will inherit, they have limited capabilities except in certain areas where they have the qualifications needed to be able to play a leading role in the development process.

Despite these factors of negative impact on the future of development, we should notice some factors of positive impact on the future of development. They are as follows:

### **The first factor:**

The Palestinian economy has available to it a comparatively high level of human resources. When we talk about human resources, we should not forget that it is possible to double our capabilities should we be able to attract Palestinian professionals from abroad. This is very important and means placing the pertinent policies to motivate Palestinian professionals abroad to come here and contribute to economic development.

### **The second factor:**

We do possess a relatively distinctive agricultural sector, which has its own limits. I can say, however, that it will play an essential role in financing other sectors. The relative distinction of our Palestinian economy includes work productivity, the quality of production, and the technical ability to adapt with the market. This may be counted on in the transitional phase to secure hard currency to finance development.

### **The third factor:**

There is the potential for tourism and the possibility of the Palestinian economy to make tourism an essential financier and an essential sector

among the sectors which finance the Palestinian economy. This change would require a great deal of work and interest, and it depends on an infrastructure which may be very costly in the first stages. I therefore do not expect the Palestinian authority to be able to allot sufficient finances for this sector. It, however, can create a suitable structure and sufficient incentive for private Palestinian, Arab and foreign parties.

### **The fourth factor:**

Something which may not be of great importance but should be taken into consideration is the fact that the Israelis have turned the Palestinian lands into their own free-trade zone for Israel. This strengthened, in one way or another, some of our industries. These industries were facing very fierce competition but were able to develop under these conditions, which forced them to consider raising their productivity and improving their quality. Those industries will have a large competitive capacity abroad, thus improving the chances of finding markets for Palestinian exports in the future.

All these factors form the general framework which is the foundation for formulating a development strategy. The essential question, however, is how to define the common denominator in these elements. This is the essential question which should be focused on at the present. I believe, although I may be wrong, that the nature of the commercial system which we negotiate with Israel, is the most critical of matters which will define the fate of development in Palestine during the coming phase.

In this context, there are two contradicting positions in the negotiations:

1. The Israeli position which seeks to consolidate the de facto situation with few improvements, that is, to keep the customs union as a framework for the commercial exchange between Israel and Palestine. The Israeli customs table will be the one to decide our economic policies towards the outside world, and therefore we will have no ability to reach markets abroad freely, and we will have no freedom to formulate our foreign commercial policies.

This framework may provide the possibility to benefit from the accords between Israel and the EEC, and those of AFTA and the US. It will be easy for the Palestinians to get concessions from the markets of these groups, but we will be prevented from independent economic relations in some markets, including the Arab markets.

The Israeli framework creates a big problem for our economy because our external markets at this stage are not the markets of the developed industrial countries, where it is difficult to market our products. Our probable

markets during the transitional phase are not the EU or America. If we are to succeed in this stage in finding markets abroad, they will be the markets of Eastern Europe, the former Soviet Union, Africa and the Arab countries. These are the markets where we can find large opportunities to sell our agricultural and industrial surplus. At the same time, these will be the markets from which we can get the raw materials and production inputs for reasonable prices, because the production costs there are cheaper.

2. The Palestinian position, on the other hand, seeks to replace the customs union with a free-trade agreement. This agreement means the continuation of benefitting from the Israeli market, but at the same time liberating our commercial policies with the outside world from the restrictions of the Israeli customs union.

Our economy depends on the Israeli market as the main exporter of our imports and the main importer of our exports. It will be difficult, in the short run, to find an alternative for this market, even if some people wanted. A free-trade agreement will enable us to reach the Israeli market as before, but naturally there will be restrictions on re-exporting products which we import. This is the main difference, which enables us to have an independent economic policy with foreign countries, pertinent to the priorities and necessities of our economy and the level of its development, while enabling us to benefit from the relations existing with the Israeli market now.

Based on this definition of the problems and shortcomings facing the Palestinian economy, I believe that any strategy for development will have to tackle the following challenges:

**First:** Establishing the institutions and creating the administrative and organizational structure for the developmental process. I believe it will be impossible to count on the present structure. The structure of the Civil Administration is fragile and incapable of facing the process of development. At the same time, the structure of the local authority and municipalities is also in need of serious efforts to be able to play an effective and essential role in development.

**Second:** Creating the pertinent legal and organizational atmosphere to establish the development process. This will involve the issue of military orders and replacing them with modern laws to provide a suitable structure for the activity of the private sector and to encourage the influx of investments from abroad.

**Third:** Reconstructing the infrastructure. Utmost attention is being given to developing the infrastructure. Without a suitable infrastructure, it is not possible to offer appropriate services to the citizens, and it will not be possible

to facilitate and encourage the investments of the private sector.

**Fourth:** Reforming education. This should start from the basic education up through intermediate education, and including university education. The reformation of education is an essential matter which deserves the attention of those who formulate the developmental strategy.

**Fifth:** Accelerating the establishment and development of a banking system. Without a modern banking system which the investors can use, it will be difficult to accelerate development and bridge the large gap which separates us from the economies of the region.

I hope I have succeeded with this presentation in defining the features of the developmental strategy, and not just the strategy itself. I emphasize that the strategy should be based, as is normal, on identified political goals. The political goals so far are clear to a great extent. Our goal is to establish an independent Palestinian state and return the refugees. This goal does not give sufficient information to formulate developmental strategy for the coming stage. We have defined the transitional phase, in general, to be a step toward establishing an independent Palestinian state. This definition does not allow us to formulate a developmental strategy before the features of the political settlement become sufficiently clear.

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# Horizons of Palestinian investment

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**C**hanges and transformations of the 90s. Some radical changes started to take place in the 90s which had repercussions, and continue to do so, around the world. Among these transformations were the collapse of the Soviet Union, the unity of the two Germanies, the Gulf War, the peace processes in the Middle East, and economic transformation towards making conglomerations, among which is the American alliances, the declaration of unity of EEC countries, and blocs comprising Mexico and Japan, along with the rapid growth of the Far East countries known as the Four Tigers.

There are transformations towards modern administration, as the world now recognizes a new administrative revolution based on the following:

1. technology;
2. communications; and
3. information.

Modern administration has imposed enormous unprecedented opportunities and challenges. In order to face this new reality, we must ask where are we in terms of these transformations and political, economic, and administrative upheavals, and does the Arab environment encourage change and development?

What do we see when we look at the Arab administration?

1. Seniority
2. Centrality and hegemony
3. The personal nature and courtesy
4. Duality
5. Complicated routine.
6. Exaggeration in the centrality of decision-making.
7. The non-availability of census and other information
8. The lack of development of Arab technology and the use of unsuitable technology.
9. Weakness in administration of the applied training institutions.
10. Social and cultural restrictions.

These are the characteristics and features of the Arab administration. If we compare it with the expertise and features of modern administration, we find the following:

1. Speed in the procedures.
2. Technical information
3. Organization that could challenge the hierarchical pattern.
4. Deep insight of matters

5. Patience
6. Group administration
7. Anticipation of change, sometimes forcing change.
8. Technical expertise
9. Evaluation and follow-up

These are some of the characteristics of modern administration. It has greatly affected the progress of some peoples like the Japanese, as Japan is a distinguished example of administration combined with the Japanese mentality, personality and culture.

The following is a summary of some of the factors behind the progress of Japan after the World War II:

1. Its main resource is the human resource; it does not have natural resources of value.
2. It is not armed and refuses armaments upon it. And believes in peace. Recently there has been pressure to impose armament on it.
3. It started with reproducing new inventions, then it developed those inventions until it reached pure Japanese technology.
4. It believes in economic freedom.
5. It takes a long time to make decisions, believing that when a decision is made it becomes like a rule that is difficult to retreat from.
6. It believes in moral values: honesty, cooperation, social solidarity, sincerity, perfection of work, respect of the younger to the older, modesty, sympathy of the older with the younger.
7. It has a unique wage system. If we look at the level of wages in Japan we find that the difference between the wage of the manager and the worker is almost the smallest in the whole world. The highest wage of a Japanese manager is five times as much as the lowest wage of a Japanese beginning worker.
8. It has a policy of employment for life. Many deem the policy of employment for life as one of the main reasons behind the enormous leap of Japanese institutions in the field of industry. It should be noted, however, that this policy is no more than a general principle which only the big Japanese institutions follow, considering it a phenomenon which extends to the workers the feeling of security and stability.
9. It has a unique method of decision-making. Decisions in Japanese institutions are taken from down to up. This system contributes to raising the spirits of the workers, as it makes them feel their importance in the institutions and gives an opportunity for the worker to make decisions. Any workers may be innovative with a certain point of view or a certain idea and can persuade

the other workers of the decisions when made.

10. There is a distinguished and special approach in education and curricula which is one of the most important elements in the progress of Japan.

**Lessons taught:**

1. Material wealth is not the basis of development.
2. The human being is the basis of development. Since the human being is the basis of development, and the Palestinians were able to be steadfast and to succeed in most economic projects despite the occupation and its hindrances, this indicates that if the natural conditions are provided to the Palestinians, they will be able to succeed in the process of development.

Based on the elements and possibilities available in Palestine, including capital, raw material, labor force, qualifications, modest expertise, archeological and religious places, the features of the current and expected political and economic conditions during the transitional phase, and the economic legislation, plans and studies which were prepared, I would like to assert some of the aspects of investment. Then I will elaborate on the possibilities of expected Palestinian investment.

**The aspects of investment:**

1. Concentration on one of the economic sectors. The concentration should be made within a studied economic plan. This should not mean, however, the neglect of other sectors. Investment and development should be implemented in all the economic sectors, as they complement each other.
2. Concentration on improving quality, whether in industrial or agricultural products or tourist services.
3. Attempts to reduce the costs of production, in order to guarantee marketing locally and abroad and protecting the product from expected competition in the local market and from exports in the local market.
4. Encouraging the investments of Palestinian businessmen in exile in large and pioneering projects in cooperation with investors in the homeland, in order to raise the economic level to meet international economic clusters and reduce the bulk of foreign investments.
5. Studies done by governmental and non-governmental organizations on the possibilities of creating a joint Middle Eastern market with Palestine as the heart of such a market. Therefore the role of the Palestinian economy, its characteristics and importance, should be highlighted.

The possibilities for Palestinian investment in the various economic sectors are as follows:

**First:** The industrial sector: Most of the industries in Palestine are small or

medium-sized. They are successful and achieve good profits. Most of them are of good quality that meets international standards, while some of them already export abroad despite the obstacles placed by occupation.

Palestinian industries are considered transformational industries, while some are primary industries. Therefore, changes are necessary in this sector in the coming years in the fields of pioneering industries related to technology, like producing refrigerators, gas ovens, telephones, communication apparatus, radios, and machines utilizing solar energy.

It is also important to establish projects to extract local raw materials like limestone, exploit stone and marble, use the chemicals of the Dead Sea, concentrate on the production of acids and adhesive materials, and develop fish production and marketing of Gaza fish. It is also possible to head towards manufacturing small and medium machines, like packing and mixing machines, and some devices for factories. Turkey has started in that direction. Large sums have also been allotted to housing and construction. All industries relating to building will be successful. The percentage of cement, for instance, in construction is no more than 10 percent of cost. Thus the other 90 percent includes iron, aluminum, wood, electrical devices, cables, tiles, bath tubs... All are among the successful projects which will be in great demand.

With these changes, we can guarantee success for this sector in the long run and avoid expected strong competition by producers in the neighboring countries. The role of the Palestinian industrial sector is complementary to other existing industries in the neighboring countries, and does not duplicate it which would add to the burdens of the state in the process of openness.

**Second:** The tourism sector: The second half of this century has witnessed an accelerating growth in the international tourist movement. Figures issued by the International Tourism Organization (ITO) indicate that the number of tourists has gone up from 25.3 million tourists in 1950 to 335 million in 1987. This means that international tourism has increased 14 times during this period. Regarding Israeli tourism, it increased by 43 times during the same period, as it leaped from 35,600 tourists in 1951 to 1.5 half million in 1987. The gross income of tourism has gone up from \$2.1 billion in 1950 to \$150 billion in 1987. This gives us an indication that by the end of the century the tourism industry will be the no. 1 exporting industry in the world, and therefore most of the countries will try hard to increase their share in this industry to strengthen their economies and balance of trade through the foreign currency which this industry can bring. They will invest the income

There is no other spot on the international political map that contains so many various tourist attractions as is the case here in Palestine, whether in the field of history, civilization, archeology, spirituality, or in the field of nature, its charm and distinctive possibilities.

The question is whether the situation of our tourist structure in the West Bank and Gaza Strip fits the elements of attraction available to us? To answer this question, we will list the bulk of basic tourist data.

Regarding hotel capacity, we find that the number of Arab hotels does not exceed 38, in comparison to 267 Israeli hotels. The number of hotel rooms on the Arab side is no more than 2,366 rooms, in comparison with 30,251 rooms in the Israeli hotels. This means that our hotel accommodation capacity is no more than 7.8 percent of the Israeli hotel accommodation capacity.

Regarding tourist and travel offices, the registered number we have is no more than 32 offices, in comparison with 340 Israeli offices and companies. We have no more than 10 percent of what the Israelis have. The number of Arab tourist guides decreased from 200 to 88 guides; and no more than two thirds of them are working. There are, on the other hand, more than 3,000 licensed Israeli guides.

In the field of tourist transportation, we have eight such companies. The number of buses they owned before the Gulf War did not exceed 100 big buses and 30 small ones. After the war, the number decreased to 80 big buses. On the Israeli side however, the number exceeds 1,000 buses. Regarding Arab tourist restaurants, the number is 32, half of which stopped functioning in the aftermath of the Intifada and Gulf War.

From these numbers, we can assure that investment in the various tourist facilities, whether hotels, restaurants, resorts, tourist villages, tourist and travel offices, or tourist transportation will be beneficial taking into consideration that a large number of investors are currently working on studies and plans for this important sector particularly if there should be stability, security, and comprehensive and just peace.

The importance of concentration on the tourist sector in Palestine lies in the material profit of hard currency, and the moral reward which opens the way for the peoples of the world to know Palestine and the Palestinian people, their history, daily life, and the resulting international moral support to our problems and rights.

**Third:** the agricultural sector Despite the limited possibilities and difficult conditions of Palestinian farming, it has been able to achieve relatively

remarkable rates of production. This is attributed to expertise in adapting to modern technological development.

The viability of the whole agricultural process suffers from the weakness of the post-harvesting marketing. The non-existence of a central marketing system still burdens the farmers' problem. The natural task of the farmer is production, and the central government's task is marketing due to the possibilities and capabilities possessed by government departments which enable them to deal with the market. The horizons of Palestinian investment in this sector are dependent on establishing central markets and refrigerating and packing warehouses.

One positive aspect of Palestinian agriculture is the manufacture of surplus agricultural products in a way that equates supply with demand and contributes to self-dependence in the food sector. Also important is land reclamation, particularly in the remote areas; investment in rain-fed agriculture; and investing in the improvement of livestock hybrids.

Sector of commerce, services, agencies, communications, and contracting: The sector of services is considered an essential link organizing the various economic data of numerous activities. It directly affects the level of success and the feasibility of projects and economic facilities pertaining to the kind of required service.

The level of professionalism of this sector is very important. If qualifications and expertise are available, there will be large investment opportunities in the services sector. The larger the bulk of projects in the industrial, agricultural and tourist sectors becomes, the more demand is made on service institutions, particularly in the field of import/export/marketing companies, packing projects, insurance, clearance, and finance, particularly banks.

The stock market: Contracting companies will have much work to do in the field of roads, schools, hospitals, housing and other reconstruction works.

Foreign companies in the Palestinian market will also be available for Palestinians and is a field through which good commissions and profits can be made without investing big capital or taking certain risks.

The private Palestinian sector will also be able to invest in communications (regular and cellular telephones), which is considered at present among the most beneficial projects with great profits. This sector uses modern communication technology.

These are some of the expected fields of investment, but it will not be successful if the following essential conditions are not available:

1. Security and stability.
2. Freedom of thought.
3. A distinctive constitution and law which regulate the political, economic, and social relations for the Palestinians.
4. Regulations which protect investments and investors.
5. Agreements and protocols regulating relations with neighboring countries.
6. Investing the available Palestinian qualifications and expertise.
7. Democratic dialogue.
8. National unity.

These are the essential conditions necessary for the success of any process, and there will be no future or civilized progress without them.

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# Discussion

**Question:** There is something I would like to mention, and it is a type of investment. We have highly qualified universities. Why do not we recruit students from around the world to our universities? This is a kind of investment. As for trade, I believe we should have a port in Gaza and I think Holland would fund this project. As for industry, perhaps the best thing for us is to have high-tech industries that do not need much factory space. There are vast energies that can be used, and I think Israel is keen on capturing them because the challenge is a challenge of civilizations before anything else. As for administrative forces, I think we have a large deficit in this regard and we must give great attention to this aspect in all fields of general service and industry. We must give attention to quality control. This is a very important issue to achieve quality products and thank you.

**Question:** I see that one of the basic plans that will face the coming authority, as Dr Samir Abdullah mentioned, is the issue of military orders dealing with economic issues since they restrict work in the Palestinian economy. The first question is, have there been any practical steps taken to conducting a study in this field to find solutions?

Second, we have noticed recently a huge onslaught of foreign businessmen and agents in the occupied territories. Is this being planned or not?

Third, there is a phenomenon in the Gaza Strip of building large, 10-story apartment buildings next to one another. I am not an expert in

economics nor infrastructure, but in my estimation these kind of buildings will be an additional burden on the already worn infrastructure in the Gaza Strip. Is what is going on being planned or not?

Fourth, there is a phenomena in Gaza that has been going on for a while the conversion of agricultural land into residential sites. Is this danger being considered or not?

*Dr Samir Abdullah:* With reference to the military orders dealing with the economy, I think there is something being done on this issue. I do not know if the work is of the required quality or not, but I do think there is something being done in this field.

As for the onslaught of foreign businessmen and companies, we very much welcome Palestinian and Arab companies. But this thing is not being planned and the aim is to find places where these companies can be active and generate a profit. This is the only motivation that will bring all these companies to the private sector. Of course, we see the commotion that exists and this onslaught might be, in one form or another contributing to the increase in the price of real estate, land, and rents and will undoubtedly have negative consequences, but it cannot be controlled.

As for housing in Gaza, I have heard about it, and we in the Economic Council do not have any relation with the issue since it is being planned by the Housing Council. I hope someone from the council is here today to answer these inquires. I do agree with you that it will place an additional strain on the infrastructure, and there must be some kind of planning.

As for destroying agricultural land and building houses, I do believe that this situation does exist. Unfortunately, when there is a situation where we have no control over land and land management, there will be misuse. Sometimes it is needed, because one of the main elements of steadfastness on the land is building and constructing on the land. Our freedom is limited in planning land use. No doubt in light of the settlement onslaught and confiscation, it is very likely that local organizations and individuals are not able to plan land use well. We hope this situation will end in the future.

**Question:** As for the stock market proposed by Kamal Hassuneh, it is a very dangerous matter. I think that the a stock market is unfeasible given our Palestinian economic capabilities, where the GNP does not exceed \$3 billion. Even Israel, with a GNP of \$60 billion, has problems in the stock market. Moving in the direction of a stock market means moving in the direction of unproductive projects and this will pose a risk on investment in the

production sector. In addition to establishing a stock market there are basic conditions not available, such as the fact that there is not one shareholding company in the West Bank and Gaza Strip, except the bus company.

Another matter concerns services, the service sector and increasing the amount of support for this sector. The service sector is a basic problem in economics and always a burden on expenditure budgets. We must stay away from this sector, as the experience of neighboring countries teaches us.

It has been agreed that tourism will be the cornerstone of the Palestinian economy, but the problem of Jerusalem is a basic obstacle in the issue of tourism.

**Question:** Dr Samir Abdullah talked about the dependence of the Palestinian market on the market of Eastern European countries. Dependence on this market is like playing the lottery, for the markets of these countries face problems. Even in Israel, which has a strong infrastructure, Israeli companies lose when they invest in these countries. Dependence on the markets of Eastern Europe will generate additional problems since these countries are unable to pay what they say they will. Arab countries have problems with high production costs and wages, and competition will be difficult.

As for the Palestinians making use of the relations Israel has with European countries and external markets, I do not see us as China. China tried to make use of this relation through manufacturing prepared goods in Israel, sending raw materials and marketing products through the Israelis. We all know the limitations of the agricultural sector and the need for water and the role of agriculture in funding the various sectors. The water problem is essential and so far we have no control over our resources. In addition, only 5 percent of Gaza workers invest in agricultural land. How can we benefit from the private agricultural sector, especially if it is heading towards automation and we can use labor in this sector?

Another topic talked about by Dr Samir Abdullah is intensive industry. If we want to be realistic we must not only depend on intensive industry and high technology. What is meant here by intensive industries-- that which depend on manual or technological labor?

A last point, or inquiry (to Dr Samir Abdullah). Since you are head of the counterpart committee to the World Bank, you have talked much in this lecture on development organizations. We have heard that part of the money presented by the World Bank is earmarked partly for local organizations and the other part to non-local organizations inside the Green Line. Is this true?

*Kamal Hassuneh:* As for the stock market, I did not encourage it, but said that a businessman from Bethlehem obtained a permit to establish one. I am aware that a stock market has a specific system and should be under the supervision of the government, etc. But the question is who will start such a process in a way that encourages financial investment or buying and selling shares as the first step. The matter requires supervision and organization. As for services there is no substitute, Nothing more can be done for industry, tourism or agriculture without service organizations, be it insurance, banking or financial consultation services.

*Dr Samir Abdullah:* I did not mention the market of Eastern Europe, but the markets of the remaining countries as potential markets for us to consider not as investment opportunities but markets to sell our products. Our products are difficult to sell in advanced markets because they have not reached a high standard of quality like the standards of the EEC, EFTA and America. There are problems since these countries cannot pay cash, but there are other ways to pay. What is important is to get raw materials and input needs from these countries, and this is an important matter.

I would like to give a simple example. If we were now to import one cubic meter of wood from the Soviet Union, it might cost us \$80-100, but if we were to import it (through Israel) now it would cost us \$400 - 500, just as if we were to import it from Canada and the EC. The reason is the customs and tariffs imposed by Israel since there is no free trade agreement between it and Russia or other countries. What is meant here is getting cheap raw materials for production. Since the cost of production is low this is the basic key for our ability to compete and sell in Arab and other markets.

Concerning the role of agriculture, I agree that there are limits to the role of agriculture, but I say these limits have not yet been reached. There is a slight possibility for expansion, but I said the element of specialization is relative for many reasons. The effects of accumulative skills and improving production allows us to make use of this sector in the coming years.

As for industry, I did not mean intensive industry. What is needed is that we chose the right technology for our industries, considering quality, productivity, and solving the unemployment problem. Therefore, perhaps it is necessary to sacrifice quality in order to employ the largest number of workers. At the same time, if we get high quality but labor intensive work, meaning in the level of employing workers, it will be very appropriate. This is the case; i.e., choosing between the different types of technology while taking into consideration the existing realities.

We agree that the World Bank should give existing organizations or local capabilities, especially NGOs, a very important role, similar to the role they have played. It must support these organizations, and it is very likely that these organizations will become part of the public sector. It is possible and vital to strengthen the public sector which, in this case, will be part of the national sector. In the past the (government) sector was in conflict with the NGOs (under the military governance) but now, when Palestinians have a national government, I think the Inclusiveness or nexus between the government and private sector must be in the form of a comprehensive and cooperative relationship.

**Question:** I have four very short questions. The first is for Dr Nabil Kassis in his capacity as a member on the board of trustees of the Palestinian Economic Council for Development and Reconstruction. In development planning for the interim period, is there an attempt to include certain aspects of economic life in Jerusalem as a complementary part with the development process in the rest of the Occupied Territories, since comprehensive economics are the basis of the connection in the rest of the levels and aspects? I am aware, of course, that it is not possible for this to occur completely due to the restrictions imposed by the agreement, but at least certain aspects of economic life can be included.

The second question is for Kamal Hassuneh, since you belong to the private economic sector. Is the private sector in the Occupied Territories feeling threatened from the possibility of the advent of large Palestinian, or other investors, but basically Palestinian, from outside the territories, especially since Palestinians outside have economic institutions and vast possibilities compared with the private investment institutions in the Occupied Territories? Are there any suggestions or ideas for setting regulations or guidelines that on the one hand guarantee luring the Palestinian investor from the outside but on the other hand make sure this will not be done on the account of the small investor in the Occupied territories?

The third question is for Dr Samir Abdullah, concerning military orders? Is there concern in the economic bodies, or is a study being conducted, and what are the alterations in legislation or existing military orders that will be urgently needed to remove the current restrictions? Is there any work in this direction, and are there specific committees preparing for this?

The last question is also for Dr Samir Abdullah. Third World countries that have gained independence eventually faced threats in the form of foreign

debt. We will begin our economy dependent on foreign aid. Does development planning include using this aid in order to create an economy capable of self-reliance in development aspects?

*Dr. Nabil Kassls:* You have specifically directed your questions. Is it possible for me to take the third questions and leave the first for Dr Samir Abdullah? As for the first question the answer is yes. But since Dr Samir Abdullah is responsible for planning I think he should answer.

As for military orders the question has been raised at PEC DAR. As far as I know as a member in the board of trustees, the answer is no, there is nothing of the sort being done. But in other parts of the technical committees a review of the military orders is being conducted, and this is something stated in the agreement. The question that you have asked Dr Samir Abdullah is very important because there are some military orders that do not encourage investment and will be obstacles for economic development and it is necessary to deal with these orders individually. I believe the group in the technical committees reviewing the orders are considering the matter from all aspects, but it is too early to talk about details

*Kamal Hassuneh:* As for the Palestinians from outside investing in the occupied territories, I think there was some kind of apprehension by some of the local businessmen, but in my opinion the matter was not clear to them. For a while we have been hoping that our brothers in the diaspora will come and invest. There might, however, be certain restrictions for us and them in order for the investment processes to succeed. We request from our brothers not to imitate any existing project or activity already in existence in the West Bank and Gaza Strip, but come up with new, innovative projects which are greatly needed. These businessmen from the outside will form partnerships with local businessmen and establish share holding companies whose shares will be sold to the public and benefit all. There are certain grand projects beyond the capabilities of local businessmen even if they all cooperated. We have conducted studies, and we found out that any shareholding company will not get more than \$6-10 million from the public. By comparison, a cement company needs \$150 million. A telephone project needs \$100 million. We cannot succeed without our brothers from the outside.

The important thing is that if we are assisted by our businessmen brothers in the diaspora, other businessmen, perhaps even Israelis, will enter the process after there is peace and an agreement which will allow them to enter bids and projects in the West Bank. Hence it is necessary for our

*Dr Samir Abdullah:* As for development including Jerusalem, this is one of the basic issues that were under discussion. I frankly say that we would not have been able to agree on an investment program nor a technical assistance program placed in cooperation with the World Bank if it did not include specifically and clearly all the institutions in Jerusalem. It is a basic part of the plan, and will have a share if not more than what other places get in education, health, public services and everything.

As for foreign debt, there are many countries that have depended on foreign aid and misused it. The problem was that economic life got greatly complicated and the surplus was not enough to service the interest that accumulated on the debts. We have examples from Mexico to Argentina, including several Arab countries, but we also have examples of countries that benefitted from foreign aid and managed to repay their debts in a short time. It all depends on the way the aid is used. The basis is development and political administration of the economy. Debts can become an evil after several years but can be a consistent good in which a country can depend on itself.

In my opinion, we cannot say we are facing a choice of whether to take the foreign assistance, even if loans are part of the package, or not. We have to take it. We have an investment program for 1994 for millions of dollars, hundreds of millions even, and we do not have one penny to fund it except from foreign assistance. We have a deficit in the budget estimated to reach \$160 million which cannot be covered without foreign aid. The deficit will be covered with grants, but there is assistance for the investment program, part of which are loans. But they are, for instance from the World Bank, for 40 years with a 10-year grace period at 0.75 percent interest; i.e., for each dollar we pay back 15 cents extra. In economic terms this is a very easy loan. Most of the other loans are of a similar nature. Thank you.

**Question:** Actually, most people realize the importance of economy as the backbone of the peace process and they realize the importance of explaining the development process strategy. I have a question and some remarks that might be taken into consideration concerning economic agreements with neighboring countries: Is this the right time to have such agreements? The question is directed to Dr Samir Abdullah and Kamal Hassounieh. Are we in a good position to make these agreements? What is the importance of these agreements in the future?

Second: The matter has to do with the dignity of the Palestinian people. Mr Rabin and Peres go to the United States and Europe, and even

to Jewish people, trying to get support for the economy of the West Bank and Gaza Strip. Is this acceptable to us when putting forth a strategy for economic development? What about the Israeli companies that are now working behind the scenes with Palestinian institutions and individuals to forge economic agreements as though the political problems have all been resolved? I think certain recommendations must come out of this conference.

Another matter: We hear in the newspaper about Filistia company talking about building 150,000 housing units. I would like the lecturers to talk about this in making people more aware about the benefits and guarantees in the future and the economic plan.

Dr Samir Abdullallah mentioned the infrastructure and the importance of developing its technical and administrative staff as well as human resources. We notice today that most foreign institutions try to lure away these resources with financial incentives, and this has happened in Cambodia. Most of the human resources ended up in foreign organizations, and I think this conference could allude to this.

*Dr Kamal Hassuneh:* As for agreements with neighboring countries I think we live in the worst time: The present. We are hoping that through financial agreements the situation will improve.

As for Peres and (Israeli) businessmen contacting Palestinian businessmen in the inside and outside (of the OPT) and talking on the telephone with Jordan, Saudi Arabia, Paris and London, they want to show that the peace process is ongoing, and they are trying to impose normalization on us quickly, as well as forcing the economic process to beat the political process. This is their policy.

**Question:** I would have wished that a conference on the Challenges Facing Palestinian Society During the Interim Period would have mentioned the role of education, and coordination at least between economic development and education and the need for training. There has been much talk on quality and improving quality. Is it possible, when investing economically in five star hotels, to also invest in five star universities? The university quality reflects the whole picture and is tied to improving quality in general.

Another issue, specifically in planning for the economy. To what extent is there a relationship between economic planning and development and education, university work and universities, knowing that all receive aid? There might be a huge need for this kind of planning, but despite my being in the Higher Council of Education, I do not know of such planning. Another

thought in the past was a planning council that coordinates between the different sectors, but as far as I know until now there has been no such thing.

*Dr Nabil Kassis:* To a certain extent, I can give some idea. The budget for higher education in general has entered in the budget of general education, in the recurrent budget for the coming period. Lately, we have tried to get support for the recurrent budget and there were ok results. Of course, we will continue to hear about the EC from now and until years to come. They will say yes, they have given for this, and this is all they will give for the recurrent budget. They stress that the aid is one-time only, and we must find other sources. We cannot exaggerate in estimating the importance of education in the coming period and we must work together to lay down the broad lines for our activities under this item as Palestinians. Inside PECNDAR itself there is a division concerned with technical assistance and training. A mechanism must be found for coordination between this system and Palestinian educational institutes, universities especially. I think this is a suggestion we can take with us when talking with concerned individuals and work at finding an implementation mechanism.

**Question:** It might be important to be cautious in the topic of development strategies or in placing a suitable development strategy for the coming period. Optimism is good, but it must be based on reality.

For example, the talk on Singapore and Taiwan must be based on clear foundations. In addition, can the study on socioeconomic development in Singapore be applied to the Gaza Strip or the West Bank? Therefore, I urge caution in putting forth a strategy. In my opinion, we are at a trial and error stage, and we really cannot talk about a clear and suitable strategy for the Palestinian people yet. As Dr Samir Abdullah said, we are talking about choices or studying our priorities and needs carefully before talking about a ready-made strategy.

Another issue: We might have a beautiful plan for the coming economic situation, but what I am wondering about is the extent of the capabilities and the executive system. In my opinion, the problem is not in putting forth the plan but whether we have a qualified and equipped staff to execute this plan. This makes me want to ask Dr. Qassis about PECNDAR. What are the preparations of PECNDAR to accomplish a feasible economic plan, in term of both the professional and democratic aspects, because democracy is related to administrating our work seriously?

My second question is, how do you see PECNDAR's relations with

Palestinian NGOs? There was a declaration by Dr Nabil Kassis on this relationship a while ago in the newspaper. It is important to hear directly how PECNDAR'S sees the role of Palestinian NGOs during the interim period. In the case that the strategies for economic development are implemented, what will the relationship of economic growth be to social, political and cultural aspects? Where will be the role of the poor in economic growth? And how does the private sector see its role in achieving full economic, social and cultural growth?

My final question is for Mr Kamal Hassouneh: How does the private sector see the coming period? Are there fears of anything specific, such as restrictions on the role of the private sector in economic growth? Is there a trend towards centralization and lack of economic freedom for the private sector? Has it begun to establish social organizations in the private sector, such as economic clubs for businessmen, to try to prevent the establishment of centralization. Fear is not only from investors from the outside but also from the coming authority and democracy.

*Dr Nabil Kassis:* As for the preparedness of PECNDAR, I would like to answer as a Lebanese once answered the question of what does one plus one equal? He said, Are you buying or selling ?. In other words, if I were asked by the funding countries, I would say, We are reasonably ready. Among ourselves, I would say, We are reasonably ready.

In reality there is work, but it is not bad thing concerning the current situation. We do what we can, each one with his expectations. But before I enter into this complex issue, one person said to me not to forget the physics equation  $E=MC^2$ , and to use  $H=R$ , Happiness equals Results. If your expectations are high, this means you are a very miserable person.  $E=Expectations$ . There is no reason for you to be happy if your expectations are high. This is briefly put. As for our preparedness, it could have been better and we must work for it to be better. Other than this we are kidding ourself.

Concerning the relationship with NGOs, the press speculates a lot. I usually do not know what they write. I am one of those people who does not read the press because they publish inaccurate statements. In general, the position on this matter is that since there is no government, many of the Palestinian organizations were established to fill this gap. Now, in light of establishment of state organizations some of these organizations must reconsider their programs. This does not mean they will be canceled or their role abolished, but there is a need to reconsider their role as long as there are changes taking place.

It is clear that the main concern is preserving the services offered. You cannot deny the existence of an organization and establish a substitute. This will be the thing taken into consideration and it will happen by continuing to support NGOs. There are allocations for NGOs and no attempt to reduce their roles, but there is a request to redefine their roles in light of semi-governmental or governmental organizations being established.

*Dr Samir Abdullah:* There is a very important question about economic and social development. In my estimation, we must learn from the experience of other countries and must not reach a level where we start again; i.e., we begin with social development and find ourselves after several years overloaded and unable to achieve economic growth or development. Therefore, we must preserve the delicate balance between economic and social development and realize that social development must be funded by economic development. Education is very important, and his request is that there be five star universities. This will not be achieved if we do not take a new direction in higher education. Higher education must gradually be changed to be paid for by those who receive the service. We can award the first 10, 15, 20 percent of the returnees by giving them scholarships, but I do not want to graduate waves of unemployed. There must be dozens of choices in industry, tourism, trade and all aspects. There must be the ability to find a job right after high school and for the university to be a choice among choices, not the only choice as it is now.

*Dr Kamal Hassuneh:* As for institutions in the private sector, you know that there are Chambers of Commerce, and in some cities, industrial committees. In addition, there are some businessmen who are thinking of making a system to establish an organization for businessmen, but so far, there is nothing. As for the authority and its cooperation with the private sector, I imagine it is very necessary and important for the authority to give the private sector the freedom to work within the framework of an approved economic plan because all of the world encourages the private sector to invest and provides many incentives concerning citizenship, taxes and other things. We hope that the authority will encourage the private sector, because the future of Palestine economy depends on it. Thank you.

**Question:** Mr Kamal Hassuneh has mentioned that in the case of open trade with neighboring countries, specifically Jordan and Egypt, we will be in a weak competitive position. The question is how does the private sector see the

freedom of external trade? Do you see interest in opening to the Israeli market and other markets?

Another matter: Dr Samir Abdullah has mentioned that in case there is an agreement on customs union between us and Israel, we might benefit from the agreements made by Israel with some countries or groups, but we might lose other markets. I assume the reason is the high cost of productivity. If this assumption is not true I hope Dr Samir Abdullah will explain the reasons that led him to say this.

*Dr Kamal Hassuneh:* As for the future of products, be they agricultural or industrial, I think the authority will make agreements with neighboring countries. The authority, if it can protect us for a certain period and set a tariff to protect local Palestinian products, that would be great. But for imports from Arab countries that come to Palestine, if the authority is unable to clamp tariffs on them, the other countries will demand to treat us the same. So there will be pressure on the authority and it might not be able to give great protection. The only protection is to improve quality and reduce cost at the same time changing products during five or six or 10 years. We must think about changes in industry, such as the ideas I mentioned about raw materials, technology and building machines. This is the summary answer.

*Dr Samir Abdullah:* As for the custom union, because Israel has free-trade agreements with the EC, EFTA and the United States, it will be very easy for us as a Palestinian economy to get free-trade agreements with these countries. We will benefit and apply the free-trade agreement to the occupied Palestinian land. The EC insisted that the free-trade agreement apply to the Occupied Territories before the signing of the agreement with Israel. What remains is the custom union, which will be easy to apply to the occupied Palestinian territories. The Americans, for unknown reasons, do not deal with the territories as such and have not answered our demands to apply the free-trade agreement signed between them and Israel since 1984. This is the benefit of a custom trade agreement if it continues.

On the other hand, we cannot deal freely with the other countries including the Arab world, since we would have to put a tariff similar to the one Israel places on products from other countries. Therefore, the price of buying any product from the other countries will be similar to the price of products bought in the EFTA, EEC and United States. Meaning production cost will remain the same and we will be unable to compete in the Arab markets and other markets.

Israel has its own economy and infrastructure all geared towards Europe, EC, EFTA and the United States, which are its market. We do not have the possibility, capability, or abilities to benefit from these markets as Israel does.

I see a possibility of benefit in dealing with the other countries.

A custom union agreement places a barrier preventing economic relations with other countries. Hence, the free-trade agreement which we are trying to substitute for the customs union allows us to benefit from the Israeli market, and we can export all Palestinian products to Israel. This will require a certificate of origin for each product going to Israel. And vice versa Israel can sell us all her products with no customs. But we cannot export products that have been imported from the outside. The same holds for Israel.

The importance of a free-trade agreement is that it allows for obtaining cheap raw materials for cheap production to reduce costs in order to increase competition. This is the essence of the matter. If we have the costs of the Israeli economy we will not have the opportunity to sell anything abroad. I give here the example of Jordan. I do not agree with Kamal Hassuneh that production costs in Jordan are equal to production costs here. I propose that we begin complementing the Arab world, replacing Israel with the Arab world as the place to sell our products. But we must do this gradually and according to a planned time-frame, or else we will destroy Palestinian agriculture and industry. We must pay attention to this issue and keep away from quaint political slogans.

**Question:** For the second time in this conference I would like to express my admiration for the quality of the studies and interjections presented in a professional and academic manner. These two papers are clear indications that Palestinian society can be a civilized and modern society regardless of all the obstacles, whether local, regional or international. These indicators make it possible for us to have Jerusalem as the true capital of Palestine, and for Palestine to be the capital of the world.

With that said, I would like to add the following: An economic analysis of any society requires an analyst to go beyond local elements to arrive at conclusions on the economic possibilities of this society. This applies to the Palestinian economy, which undoubtedly affects and is affected. Before the collapse of the Soviet Union in the late 80s, the concept of power and national security were limited to military capabilities, especially nuclear weapons. Some say a fundamental change has happened in the concept of power and national security after the collapse of the Soviet Union. Now the term means economic capabilities.

Certainly there are several theories serving the motives that led the Israelis and the Palestinians in the current political process. The first group of motives deals with the psychological aspects of both parties; ie, the effects of the Palestinian Intifada forced the Israeli side to deal with the Palestinian side in a new and more serious way.

The second group of motives deals with the military aspect - the Israeli side feels it has the conventional and non-conventional military capabilities in the region for total control. But due to the decline in importance of the geographical element during the Gulf War when Iraqi missiles fell on Israeli population centers, the Israeli side saw the importance of entering the current political process in order to achieve strategic goals with its military power. The third group of motives deals with the political aspects - due to the Israeli isolation caused by the Intifada, the Israeli side felt that its mission was to break this isolation by giving the international community a good impression about its willingness to find a political solution for the Palestinian problem. The last group of motives that I would like to mention deals with the economic aspect. Some say due to the new concept of power and national security, the Israeli side saw it could use the Palestinians as a bridge to achieve its economic role by marketing its products in the Arab world. Hence, the Israeli side entered the current political process. Does the Palestinian side have any specific arrangement for such a possibility and what are they?

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# The future of the islamic movement's relation with the transitional authority

**Sheikh Bassam Jarrar**

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*leading Islamic thinker in the occupied territories, Professor of Islamic Education at the UNRWA Teachers College in Ramallah, member of the board of the Palestinian Theologians Society, and a former Marj a-Zuhour expellee.*

*Because the Israeli authorities refused to give Sheikh Jarrar a permit to enter Jerusalem to participate in the conference, his paper was read by Sheikh Jamil Hammami. Sheikh Jarrar remained in contact with the conference hall by telephone, and was able to participate in the discussion and answer questions.*

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**T**he Arab and Islamic nation has lived under a condition of backwardness just as have other nations. This condition is not apt to continue. On the other hand, it will not disappear in the near future. In general, the obstacles for resurgence are internal, although there are also external factors that will remain in every generation.

If we were to conduct a quick analysis of the nation's experience over the past half century, we find that the nation's performance was weak. The minor resurgence we have witnessed was less than what was hoped for and less than what was possible, falling short of a real cultural resurgence. This is due to many factors, and this is not the time to go further on this.

However, I would like to refer to the role of the political and intellectual leadership in postponing and obstructing the developmental process. The political leadership has worked for fictitious development and engaged itself in a conflict with the nation and its heritage. We have been unable to find a leader who proceeds from the reality and heritage of the nation to explode the potentials. On the contrary, what we have witnessed were childish attempts to impose ideas and views that contradict the nation's value system and heritage. This has led to a waste of energy and time and to the hindering of the anticipated resurgence.

The Islamic awakening has come as a logical conclusion to the development of the nation's consciousness during its turbulent path. It is a result of ending the state of backwardness. Links back to Islamic culture are an expression of this civilized and conscious progression.

Today, has the leadership of the nation benefitted from this harsh experience, which has cost us tremendously? Or does it still insist on its destructive course? We hope that the Palestinian leadership has grasped the meaning of such a course, benefitted from the lessons to be learnt, and realized that today is different from yesterday.

As an introduction to the prospects for the future expected relations between the Islamic movement and the transitional self-governing authority, it is important that we discuss first some issues that form the opposition of the Islamic movement in both its organized and not organized form.

1. The Muslim lives for principles and admires justice. Therefore, he refuses any reality which does not entail justice. It goes without saying that the agreement for the transitional self-governing was imposed by a balance of power that is void of justice.
2. In the Islamic movement's view, the present conflict is a conflict between

civilizations. It sees the Israeli presence in Palestine as a scheme for penetration and domination. We believe that the position of the Islamic movement is characterized by a realistic evaluation of the conflict imposed on the nation.

3. The Islamic awakening means the return to a conscious linkage with Islam. It also means the will to develop and achieve using Islam and its value system as a base. It can also be considered a proclamation of the failure of all other concepts that contradict the Islamic heritage. From this vantage point, the Islamic movement perceives the awakening as a detachment from past conditions which were characterized by their hostility to the Islamic ideology.

4. The case of Jerusalem constitutes a real test and shall remain a source of innovative incentives producing action and interaction with the Islamic movement, which possesses a strong feeling of ideological superiority (on this issue).

5. The Islamic dimension gives the Islamic movement immunity from despair and from the feeling of infidelity, unlike the factions that come out of the imposed *fait accompli*.

6. The supernatural and mystical dimension endows strength and power to the Islamic movement's principles. This makes all brutal measures against it come up with contradictory results. There is no need to mention that Israel bets heavily on different methods of oppression to achieve its objectives. I believe that acquiescing to such measures implies a cultural downfall and is an indicator of the loss of dignity of the recipient. I believe that Israel could have gained much in the long run had it utilized civilized methods in dealing with the Palestinian cause. Instead, it followed a dangerous path and from which, ultimately, will suffer its repercussions.

7. The Islamic movement attempts to achieve a comprehensive revival. We cannot look at it as only a political movement. It is also an ideological and revivalist movement motivated by a great past, and which looks to the future. It approaches the Palestinian cause in a large and comprehensive framework. It also considers political activism as one of the methods to achieve its positive objectives.

## THE ISLAMIC MOVEMENT AND THE TRANSITIONAL AUTHORITY

It is not easy to analyze a relationship from one side. Therefore, we will try to put forward our view of the future based on our understanding of the goals of the Islamic movement and its modes of thinking. According to our perception of the nature of the anticipated transitional authority, which

is mainly secularist, it seems to be governed by a reality which will impose on it certain positions and directions.

**First:** It is not expected that the Islamic movement will participate in the transitional authority. Accordingly, it will be in the opposition. In case elections for the transitional authority are held, it is expected that the Islamic movement will boycott the elections, for many reasons, including:

1. The elections will be to implement the agreement and give it legitimacy.
2. The participation of the Islamists will allow people to participate effectively, consequently giving legitimacy to those elections.
3. In the present circumstances and in light of many indicators, we can estimate that the elections will not be authentic and will not be held unless the results are known beforehand.
4. Elections in democratic countries are held in appropriate conditions where the people decide by themselves. The election for the transitional self-government shall be held under very difficult conditions and under occupation. It will be a situation where the options before the people are non-existent; consequently, the people will find themselves taking a road which will ease part of the hardship imposed on them.
5. In the event where the Islamists win, they cannot follow a path which they reject (i.e., implementation of the peace agreement). Furthermore, they will not be able to come up with options in the context of the present Palestinian, Arab, and international conditions.
6. The principles that determine the negotiations, which were declared in Madrid and Oslo, were not ratified by the Palestinian people. Why should we ask the people's opinion when they have already been forced to enter the tunnel?

**Second:** It is expected that the Islamic movement will participate in elections for universities, municipalities, chambers of commerce and other services' elections. This is because the Islamic movement has comprehensive goals which make it concerned about its presence in all possible places, as long as the objective conditions allow.

**Third:** Any researcher of the goals of the Islamic movement and its conduct in many Arab and Muslim states can imagine that it will be very cautious not to be engaged in a military conflict with the transitional authority. This caution, however, will be determined by the conduct of the transitional self-governing authority. So far, the Islamists doubt the intentions of this authority toward the Islamic movement and Islamic values. These doubts could even lead some to perceive that the transitional self-governing authority will fight and try to subdue the Islamic awakening. It may even attempt to emulate the Tunisian

regime in its uncivilized manner. On the other hand, some say that these fears are exaggerated. All (in the Islamic movement), however, are convinced that the highest national interest of the Palestinian people requires that everyone exert all possible efforts to prevent another Algerian experience. In my evaluation the issue depends initially on the wisdom of the transitional self-governing authority and its ability to end all doubts and prove its good intentions.

**Fourth:** It is expected that the Islamic movement will form the main opposition. This will lead to interaction with the transitional authority. I can see many areas that may lead to confrontations. At the same time these areas could be the bridges for communication and confidence building. Some of these areas are outlined below:

1. It is not beyond the authority to take a dictatorial stance that may lead to an escalation between the two sides, especially in municipalities, chambers of commerce, etc. Civilized conduct may take away the possibility of escalation.
2. School curricula. Whereas the Islamic movement looks suspiciously at the formation of new school curricula and will keep its eyes on them, there is no doubt that there will be an Israeli veto in regard to the curriculum. This is very dangerous in as far as the Islamic movement is concerned.
3. Laws, particularly the Law of Personal Status (secular laws concerning marriage, divorce and inheritance, as opposed to the religious laws): At a time when the authority is incapacitated to implement major achievements, it may attempt to distract the people by provoking superficial issues. The law, particularly the Law of Personal Status, may be imposed, to allow for such superficial issues to pass. This will increase the suspicion of the Islamic movement towards the transitional authority and will lead to a widening of the gap between the two sides.
4. The Islamic voice may be curbed, particularly at the mosques. If the Islamic movement ever finds itself unable to reach the people, it will be forced to cross all obstacles to arrive at its objectives; otherwise it will lose its raison d'être.
5. The transitional self-governing authority may adopt a culture contradicting that of the nation. This course will lead to a diversion between it and the people, which will be at the expense of any chances to reach a real renaissance.

**Fifth:** Although the Islamic movement rejects the agreement, I believe that it will find itself uninterested in fighting it by force. It will, nonetheless, try to convince everyone that it has shortcomings, that it is incomplete and

unjust. It shall find itself occupied with dealing with the negative aspects of the agreement, on both the Arab and Islamic levels. It will feel that confrontation with the transitional authority is not its main concern, nor will such a confrontation promote the Islamic movement's objectives in the long run.

In conclusion, I believe that conciliation and harmony are very prevalent in the Palestinian society. The factors leading to divergence and conflict are peripheral. However, an unwise authority may create conditions that will reverse this formula. I nonetheless believe that the willingness of the transitional authority to succeed will make it more wise.

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# The future of the PLO and its role during the transitional period

**Muhammad Hallaj**

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**T**he developments that the Palestinian problem is currently witnessing are different from those of the past in that they come in an entirely different framework. What I mean by this is that these events occur in the context of a process to end the conflict with Israel, whereas the events of the past occurred during the conflict with Israel.

I believe that this is one of the reasons that our national movement suffers from confusion. The latest events specifically the direct negotiations that have been taking place since October 1991 and the Declaration of Principles that was signed on 13 September 1993 in Washington between the Israeli government and the PLO confront our national movement with unfamiliar conditions and requirements.

At the same time, it also presents us with new problems, challenges and opportunities. At higher degree of responsibility is required of us because we face challenges that have much wider implications for our national future. I say this because past challenges required that we bring down the will of our opponent whereas the current challenges require that we impose our will upon it.

What this means is that our national movement must play a dual role: the role of the revolution that struggles for national liberation (the negotiations have not led to an agreement yet, and the Declaration of Principles is not a peace agreement), and at the same time, the role of the national authority that builds and manages the infrastructure of civil society. The national movement is also requested to carry out this mission at a time when our land is still suffering from occupation. This experience seems to be unique among the experiences of nations.

Under such conditions, there is no way but to wonder about the future of the PLO and its appropriate role in the transitional period. It is evident that the functions of the national movement require its development to cope with the new conditions surrounding our lives. Otherwise, we will lose the ability to influence events and become victims on the table of the vicious. And how numerous the vicious are!

Before moving from this introduction to the subject I am here to present, I would like to make some clarifying remarks.

**First:** My mission here does not include commenting on the peace process in its entirety nor on the Declaration of Principles. You have, nonetheless, the right to know some of my political ideas on the subject matter with which I am dealing. I was among a few in the Palestine National Council who

abstained during the voting on approving the conditions that were imposed on us to go to Madrid.

I did not support approval because I had many reservations, the most important of which was my belief that the negotiations, as they were organized, were not based on the principle of land for peace. I warned the Palestinian National Council in a short speech prior to the vote. My suspicion was confirmed when President George Bush refrained from using land for peace during his speech in Madrid and instead used territorial compromise.

After the Madrid conference, I sent a detailed report to the Palestinian leadership to caution them of this American position. At the same time, I did not vote against going to Madrid, because of the unavailability of a better option or better conditions to confront the Israeli hegemony over our people and our land. I participated in the negotiations as a member of the multilateral negotiations on refugees until I resigned a year ago in the aftermath of the collective expulsion and after we failed to convince the American government to reverse its decision in regard to the understanding that it had with Israel regarding the expellers.

Also, I have reached a conclusion, confirmed by my short experience, that Israel did not arrive at a political decision to reconcile with the Palestinian people or to co-exist with them, not even within the context of the narrow definition of Palestinian national rights.

**Second:** As for the Declaration of Principles, I tolerate it for two reasons. First, it is a specified interim agreement that does not achieve our demands nor denies us from pursuing them. Second, the agreement places in our hands an opportunity which was monopolized by Israel, the opportunity to change the reality on the ground. It is an opportunity which, if utilized effectively, could take from others the ability to control the Palestinian people. I agree in general with Abu Mazen (Mahmoud Abbas), when he said that the agreement carries in its belly the Palestinian state and also the continuation of the occupation. Our future shall be defined more by the manner we deal with the agreement than with its articles and paragraphs. This is where the question of the future of our national movement comes into play.

**Third:** My third and last remark is that the views I will share with you in regard to the future of the Palestine Liberation Organization and its role in the transitional period stem from my perception as to what our national priorities should be during the transitional period.

### **National Priorities During the Transitional Period:**

I have a well-defined reason as to why I am addressing the priorities

during the transitional period to avoid emotionalism in addressing the future and role of the Palestine Liberation Organization. To defend my speech from any personal, partisan, or other effects that frequently force us to mix between our own interests and the public interest, I believe that agreeing on the national priorities is the best course to take in order to understand in a more objective way what our national interest requires from the national movement and the national leadership.

I believe the most important priorities during the transitional period are the following, in no order of preference:

1. Improving and consolidating the Palestinian negotiating position: whether we like it or not, our national future will be governed, to a large extent and for a long period, by the consequences of the negotiations. Accordingly, the PLO's structure and its performance shall be dictated by its ability to achieve, as much as possible, gains from the negotiation process.
2. National unity and mobilization: I do not mean here, nor do I find it feasible or favorable, to work for a one-party or one-coalition society. I nonetheless emphasize that our national goals should reduce competition to a level that allows for national cohesion. They should distance us from internal fighting, no matter how large the political conflict. We have to commit ourselves to a national charter whose essence is to prevent violence in the political discourse not merely by the authority, but most importantly, by the society.
3. Democracy and public liberties: I would like to concentrate here on one of the many dimensions of this subject. Democracy and the liberties associated with it have a conceptual and cultural characteristic as well as a mechanism for governance. This is a commitment to the governed as well as to the governor. Democratic rule and democratic opposition are two faces to one coin. We should not ignore this reality when we struggle for Palestine democracy.
4. Political and administrative qualification: I am not a lover of technocratic society, although I understand and appreciate the importance of science and technology. However, I am a follower of Ghandi, who pointed to knowledge without character and science without humanity as one of the greatest vices. However, the importance of employing the most qualified political, administrative, and scientific talents in national construction cannot be ignored. This requires building popular confidence because without it, the Palestine Liberation Organization will be unable to mobilize the resources and skills of our people. Our thoughts about the future and role of the PLO in this period should proceed from the necessity to coordinate between the national movement and these priorities. The worst thing that can happen is to submit the national

priorities to considerations other than these, such as internal and factional fighting or superficial political rhetoric.

The priorities that this period will produce should be the standard we should use to differentiate the good from the bad, particularly when we are in the process of dealing with the future of the national movement. From this vantage point, I submit the following points, which I confess are preliminary, and whose objective, in principle, is to be a starting point. It is not a comprehensive plan for use as a guideline. I have not reached that level of arrogance, and hope never to do so.

### **The Role and Future of the PLO**

Now I shall share with you some thoughts and ideas about the role and future of the Palestine Liberation Organization during the transitional period. I shall present them in points so as to stress that this speech is merely to provoke discussion and nothing else.

We all know the transitional period is in fact many stages: 1. up until the election of the self-governing council next summer (sic); 2. after the council starts its limited authorities; and 3. when there is an agreement on the points postponed by the Declaration of Principles until the final phase, which will end with the end of occupation. I believe that the appropriate frame for the national movement will be different during each of these three stages. The first stage, the period prior to the election of the council, should be a period of salvaging the Palestine Liberation Organization. The second period should be the period of participation in authority, and the third should be the dissolution of the PLO in the independent state.

In the preliminary period, that is until the council is elected and assumes authority, the Palestine Liberation Organization should be the sole authority that supervises the negotiation process and the provisional governing sectors and its administration on any Palestinian land under the control of the Palestinian rule since there is no agreed-upon alternative in this period that enjoys national legitimacy.

Because the PLO shall have a monopoly over authority during the early stage prior to the election of the council, the responsibility of the Palestine Liberation Organization will increase regarding the necessity to develop itself so as to guarantee its ability to deal with the priorities of this period. What this means is that during the period when the PLO will have monopoly over the official authority, it should reflect public opinion in a better way and should represent the political arena more accurately. It should also take into consideration, while establishing the institutions of the self-governing

authority, new factors in Palestinian political life. In other words, it should provide the people in the occupied land more opportunity to participate publicly and widely in the national movement including organizations, leadership, and decisions.

Even if the circumstances nowadays dictate the monopoly of the PLO in ruling prior to the council elections and perhaps because of this necessity it is vital that it speed up reform of corrupt elements and which we all know and suffer from, whether it is individualism or disfunction of the Palestine National Council and the lack of proper representation of the people, or the absence of supervision and accountability in all issues and at all levels or the other vices which are so much entrenched in the national movement. Transformations in the structure of the PLO and in its methods are required in principle as well as for our national interests. Whether we accept it or not, this is the period that will be the basis for the friend and the foe to judge our credibility and qualification for independence. Accordingly, the biggest mistake which the PLO leadership can commit is to argue that this period is transitional and that reorganization is not yet due.

Time will not wait for us, neither will it wait until the election of the council. We are negotiating today on withdrawal and re-deployment, election mechanisms, the jurisdiction of the council, the formation of the judicial and security systems, finance, economy, health, cultural authorities, and on other issues that shall impose a lifestyle on our people. We are also asking the world to support us as we move toward reconstructing our national life.

The capabilities of our national movement (and I mean by that its legitimacy, credibility, and honesty) will influence all of these issues. Therefore I say it is high time to reform the movement and develop it today and not tomorrow. In the second period, following the elections of the self-governing authority, scheduled for not later than mid-July, there shall emerge new conditions which require other transformations in the structure and methodology of national activity. In this period, mass participation shall take over the place of individualism. This is a transformation dictated by the emergence of a new political body that enjoys popular legitimacy and which should not have a superficial nature out of principle as well as for practical reasons. In principle, it is not permissible to reduce the dignity of the elected council or its scope of jurisdiction in a way that violates the basic principle of democracy, which says that the people are the source of authority.

It is not permissible to restrict the elected council for practical reasons as well. Throughout the transitional period, the council shall be in conflict with the Israeli authority in order to maintain, and perhaps increase, its

authority, as the Declaration of Principles allows for that. I believe that the national interest dictates that the Palestine Liberation Organization should support the council through its international relations and financial resources in order to provide the council with further dynamics and legitimacy and not to compete with it.

At the same time, the Palestine Liberation Organization will remain the largest framework of the national movement. This is because the Palestine Liberation Organization's role will not end with the emergence of the council. The Declaration of Principles does not deal with national rights and the council will not prevent us from pursuing our struggle to achieve our rights to Jerusalem, the right of the refugees to return, or the right of self-determination. The Palestinian cause is much larger than autonomy in the West Bank and the Gaza Strip. It shall remain after the elections and after the establishment of the council. It is not possible to think that the council will substitute for the PLO before independence. The relations between the council and the PLO shall be as a partnership and compliment the two sides of one liberation movement.

I see the relation between the council and the PLO as a dynamic one with the PLO being the largest partner due to the limitations on the authority of the council in the beginning and due to the volume of the Palestinian demands that were delayed. The PLO should accept to feed the Council from its own body, accompanying the development of the national governing authority because the PLO's objective should be to gradually absorb itself in the body of the national governing authority on Palestinian soil, in accordance with the end of the peace process, which will lead to national liberation.

I should emphasize here that any obstacles in the negotiating process or diversions from the objective of ending occupation will nullify such an option and call for reorganizing the PLO and the national movement to be a national movement as it began and to pursue other means of struggle.

In conclusion, I would like to remind our leadership, who may be disturbed by what is hiding in the horizons, that the destiny of national liberation movements has always been and will always be to disappear with the victory of people. There shall come a day when the PLO will disappear and dissolve. It is our hope that this shall be similar to the disappearance of a star in the sunrise.

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**Elections as a  
framework and mechanism  
of pluralism,  
national unity and democracy**

**Dr Manuel Hassasian**

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**I**ntroduction to the democratic ideology in the modern age Democracy is a framework and a means for solving the problems of human society in a practical and rational form. Democracy is a means of government which is close to human nature. It aspires to construct a civil society governed by equality in the eyes of God and the law. It is also a rational system, because it does not stem from metaphysical foundations, but from the inspiration of experience, the human mind, and the outcome of social experiences. Democracy is considered human nature because it realizes the potential of the human being and his natural liberty, and develops with the development of man's thinking and desires through quiet dialogue, not through violence. Democracy is also an intermediary because it balances between two matters: **First:** Absorbing various trends of thought, preserving the rights of minorities, and recognizing the principle of pluralism. **Second:** Aspiring to achieve equality through dispense of justice.

It is undeniable that the historical development of mankind, with its social and economic formations, enhanced the awareness of man and his development through social relations in the capitalist and technical age of human societies. It is also undeniable that this development has strengthened and consolidated social classes and the characteristics of their classes based on the pluralism of thought and the philosophy of their approaches in life. This led to differences of political perspective and thought within each society and consequently to an escalation of their philosophical, economic, social and ideological contradictions, in order to identify the concept of dispensing of justice. To lay the foundations of social justice, democracy has tried seriously to shape the nature of this concept, which is based on the following elements:

1. Equal opportunities for the people of a given society.
2. Dispensation of justice.
3. Social solidarity.

Based on this approach, social scientist Sa'ad Al-Deen Ibrahim praises social justice as a concept and practice. He says, It is not based on the values of sympathy, pity and charity as sole moral values, but rather on practical considerations, most important of which is deeming social justice as a guarantee for stability and peace in society, and a necessity to enhance the participation of the society's members in public affairs and political rights. It also provides the society with opportunities to develop and grow without violent shocks and setbacks in the medium-long-run. One of the most essential pillars of democratic thought is elections. The ballot, which people

resort to in order to elect representatives and leaders, is in fact a peaceful revolution which preserves the movement and vitality of the society while authority is transferred from one group to another, and from one approach to another without resorting to physical violence. The basic issue is the interest of the group, and this cannot be achieved but through intertwining stability with change and development. Stability can only be reached through legitimacy, and legitimacy does not become a fact of life if not accompanied by progression. Democracy is also based on the institutionalization of society, through consolidating the constitutional and legal foundations which restrict the power of the executive authority and identify the rights and duties of the people. Therefore, democracy is based on the rules of rationality and on certain trends, not on individual personalities. Discussing the issue of democracy is in fact a discussion on the nature of the state. The political society in essence is divided into the governors and the governed. What is needed is a balance between authority and freedom, rights and obligations, relations between the state and civil society, and the degree to which the state, as a legal and institutional entity, represents the structures and forces in the society. In other words, discussing the issue of democracy is in fact discussing the legitimacy of the state and the legitimacy of the political and social systems. Political democracy therefore, is a national necessity, because there are only two ways to achieve national unity: either by force or through free administration which is practiced through institutions in a constitutional way. Democracies flourish when nurtured by citizens who are ready to practice their freedom by participating in public debate, by electing their representatives who are accountable for their actions, and by accepting the need for tolerance and harmony in a free life. Democracies can be divided into two essential types:

1. Direct democracy: The participation of citizens in public decision-making, so that decision-making isn't limited to a small group of people.
2. Representative democracy: People elect officials for political decision-making, enacting laws and administering programs and projects which serve the people's interests. In order to safeguard democracy, basic elements of constitutional rule should be provided, namely the rule of the majority coupled with guarantees protecting the rights of minorities and individuals and the rule of law.

#### **Foundations of democracy:**

1. The principle of the people's sovereignty.
2. The rule of the majority and the rights of the minorities.

3. A government on the land of those governed.
4. Free and honest elections.
5. Security of basic human rights.
6. Equality before the law.
7. Following of normal legal procedures.
8. Constitutional restrictions imposed on the government.
9. Participation of various social, economic, and political trends.
10. Values of tolerance, realism, cooperation, consistency and mutual consent.

**Among the inalienable rights of individuals in the politically democratic society are the following:**

1. Freedom of speech and expression.
2. Freedom of religion and belief.
3. Freedom of assembly and the right to enjoy equal protection before the law.

**Among the basic human rights:**

1. Freedom of speech, expression and press.
2. Freedom of assembly and membership in societies and organizations.
3. The right of equal protection by law.
4. The right of legal procedures and just trials.

Democracy is a group of rules and constitutional procedures which define the way government should function in the politically democratic system. The government in such a democratic framework is merely an element which interacts with other elements within the social fiber, which is composed of various institutions, parties, societies and organizations. This variety is known as pluralism, based on the principle that these organized groups and institutions in a democratic society do not depend on the government for their existence, legitimacy and authority. These groups represent, in fact, the interests of their members in various ways and various methods, by supporting candidates for the elections, discussing certain issues, and trying to affect political decisions. Through these organizations, individuals can find ways of participation and effective and practical contribution to the performance of the government and the affairs of their society.

**The most important elements of democracy:**

Elections are considered the most important elements necessary to establish a central framework for a democratic and representative government

that can garner the satisfaction of the people under its rule. In order to conduct these elections in a way that secures the acceptance of the masses to the results, the following should be considered: elections should be competitive, comprehensive, and decisive, to choose official decision-makers. The government should also be accountable to the people's representatives and should respect the criticism of all citizens from various political trends.

Democracy also necessitates that opposing groups and parties and their candidates enjoy freedom of speech and assembly to express their open criticism to the government and their right to use all media venues to present their election platform. True democracy also necessitates that ethnic, religious, women and other groups enjoy full rights as citizens. This includes the right to be nominated for elections, to vote and take public positions. The goal of the elections are to come up with real leaders, not just figures to fill in important and public positions in a superficial, symbolic or show fashions.

The elections process, which aims at choosing representatives, may also be coupled with a referendum on important, decisive and essential matters which are in direct need of the public's say. Elections can not be considered as merely a battle of existence, but rather a competitive battle for public service. Therefore, the spirit of the constitution and the elections should interpret the values of the society united in solidarity. The opportunity is given to the minority in this society to become a majority through struggle and convincing the masses with its program, and getting their support. If this equation is shaken, then the society and its unity are lost, and this will motivate groups of individuals to launch conflicts and class struggles, thus creating a gap which allows chauvinistic and destructive elements to prevail. This, in turn, tears the country and society apart, destroys unity and aspirations, and deepens contradictions between classes. This is generally the theoretical part of the concept of democracy and its practice.

The concept of democracy and plurality in the Palestinian arena should, however, be analyzed within the context of the general picture of current Arab policies. One of the most important characteristics distinguishing contemporary Arab society is the terrible and dangerous gap that exists between fantasy and reality. While the ruling circles voice the necessity to lay the foundations of a broad Arab unity, and while overwhelming emotions are touched among the Arab masses, our Arab society remains disunited. The structure of society is divergent and suffers from many diseases, most important of which are the racism of each state, strong and influential traditional relations including religious, ethnic, and family relations, as well

as differentiations between the city and countryside. It also suffers from suppressive economic, political, and social conditions. The main reason behind the divisions and weakness of the Arab world has to do with the separation of the ruling political power and the Arab civil society. In light of such a break of ties between the political power and civil society, the political leadership is behaving without any accountability and without any supervision, a thing which moved the people to diminish their aspirations and future goals and care only for their very existence.

There is another problem the Arab world suffers from, a result of the existing gap between the political power and the society; namely, a crisis of political legitimacy. The lack of a political source characterizes authorities with political inconsistency and swift changes of positions and general totalitarian rule. The above-mentioned fact raises many questions on the possibility of giving answers and formulating solutions pertaining to political structure and practice, particularly in the Arab world. The picture seems to be very complicated, and questions seem to outnumber solutions and recommendations. Among these questions are the following:

1. What is more important for the political structure, political reform, and the identification of new patterns for political practice: plurality, or democracy? This moves us to see democracy as the larger framework for practicing plurality. Therefore, we have to prepare the democratic atmosphere first in our countries, then we create plurality and party participation in policy planning, among other democratic practices.
2. The lack of Arab and Palestinian literature pertaining to concepts and practices of democracy, and the constructive experiences of international democratic thought. There has also been an absence of varying degrees of the real practice of democracy for a long period of time which makes it difficult to differentiate between what is suitable and what is possible. Without democracy, free democratic expression through a free press, multi-party system, elections and constitutional institutions, it is impossible to defuse the sectarian problem, religious fanaticism, and the problem of minorities in a safe and sound manner.

The concept of political plurality is evaluated through the way it functions. The objective of political plurality is political and democratic participation, consultation, advising for good and advising against evil, according to Islamic concepts. Unfortunately the kind of plurality prevailing in the Arab world is a superficial framework that decorates the structures of the political regime, without making any affect on the ideology of the regime, and on practices. It is no more than makeup which the government uses to

beautify itself in the eyes of the outside world by imitating democratic concepts without scratching the surface and touching the content.

The regime also seeks to beautify its face in the eyes of its own people to garner an imagined, unreal legitimacy. Political plurality is a concept aimed at establishing rules according to which those who are in power will manage the political process in a way that guarantees the exchange of roles between the ruling echelons and the opposing one, to fulfill most of the national agenda, not merely to create an illusion that can be used to preoccupy the nation and waste its energy. The ideological capacities, human resources, material possibilities, and the time factor are in fact basic dimensions for solidarity and national Arab and Islamic security. On the Palestinian level however, the question posed is whether there is real democracy or a kind of illusion. The word democracy, which we reiterate constantly, is something. Dictatorship and the dictations of the political structures is something else. The most dangerous thing facing the emergence of a liberal democracy on the Palestinian arena is the surrender of the Palestinian people to the fake illusion of democracy.

In order to have a Palestinian democracy, it is necessary to establish its foundations in order to guarantee a certain way of life for Palestinian society and then a governing regime. The most important features which should be available to achieve that is the following:

1. Having a Palestinian constitution for the imminent state. Its provisions should recognize the rights, political and civil liberties of the Palestinian individual and protect the state institutions from any aggression or hostility on the part of the ruling authority.
2. Managing the authority through periodic elections.
3. The existence of three authorities: legislative, executive, and judicial, which should be independent.
4. The rule of law must prevail, and all must be equal before the law.
5. The minority must be protected from the tyranny of the majority, and the opposition must be protected from the ruling authorities.
6. Popular participation in decision-making through consolidation of the democratic culture.
7. Most important is the existence of independent economic organizational structures in order to consolidate democratic thinking.

The political plurality existing in Palestine appears among individuals, but is not mature on the social and cultural levels. There are contradictions among the doctrines of secular, national, political factional, tribal, and sectarian forces all of which are in control of Palestinian society to different

degrees, and still we claim that there is democracy. We have no knowledge-based position; such a position is lacking. How can we match ideology with democratic practices in light of such a deficiency? There are claims that the Palestinian democracy in the Occupied Territories is an exemplary one. We all know that fundamentalists oppose it, and the socialist ideology also opposes it, as well as the mainstream.

How can we brag about the existence of Palestinian democracy when we all know that democracy is in need of political organization as well as social organization and institutions to protect it. Traditional fundamentalists believe in shura (consultation) and not in democracy. Marxists call for the principle of the dictatorship of the proletariat. Nasirite nationalists link it to the political movement and social freedom. Secular nationalists deem it in unity and socialism. Legacy nationalists deem it in a combination of Islam and nationalism, considering Islam as a national religion before being non-racial. Syrian nationalists deem it in the social ties. Christian liberals deem it in secularism. One Muslim trend believes in the concept of the just tyrant. The standard Muslim reformers call for reconciling democracy with shura so that their ideas fit the spirit of the age. The past streams of thought gave the impression that the problem is in the Arab mentality, including the Palestinian mentality. In our society, these streams formed ready-made ideological concepts of very dangerous dimensions. How can the building-blocks of democracy achieve the values of democracy in a society the mentality of which is either confiscated or restrained?

A Palestinian democracy with the existence of the patriarchal mentality is a big lie. The political discourse of the opposition is being suppressed in various ways. Therefore, we Palestinians should improve the political structure, through democratic reform in Palestinian society and its institutions, and thus linking the democratic issue fully to the issue of national unity. We should work hard to establish firm socio-political institutions, the natural products of respecting various social interests of all factions that are participating in the socio-political structure of the Palestinian homeland. We have to continuously link political democracy with social democracy like equality and social solidarity, by following the principle of political democracy which means recognizing the right to political and social affiliation. All these steps lead to the effective participation of the masses in the practice of politics in order to make the decisions which represent the real will of those who make them.

This change means democratic practice during the transitional phase, which is governed by the situation in the aftermath of the Cold War and the

acceptance of transitional solutions by the Palestinian party. The approach that suited the armed struggle in the past is not consistent with the current stage of state-building. This has necessitated the implementation of the democratic approach since the acceptance of a peaceful solution on a political basis. The first step to be taken is reconsidering the PLO structure and abolishing the quota system which has been historically adopted in the PLO, reducing the unilateral decision-making in decisive matters, and producing a collective leadership to restore national unity because it is the essential element, at this stage at least, to restore unified grassroots action.

In conclusion, with the availability of a new opportunity to achieve peace and establish a national authority on Palestinian land, the peace accord puts us in the face of big challenges to establish and develop the administration of the Palestinian state. The transitional phase gives the Palestinian people, for the first time, the opportunity to directly organize governmental affairs in accordance with democratic methods and to freely conduct public elections. Elections are a decisive step towards asserting the rights of the masses in electing their representatives and to choose the form of the political regime they want, and this will affect the region and the whole democratic process.

The Palestinian people and their leadership are facing tremendous obstacles and difficulties in the first stage of establishing their new entity and their free and just supervision of elections. Election regulations includes identification of the concept of democracy in accordance with the culture, religion, and traditions of the Palestinian people. Preparing for elections needs knowledge of the needs and desires of the people. It also states the rights and duties of the Palestinian people vis-a-vis the elections process and the higher interests of the Palestinian people. The elections require certain technicalities, and training for those involved and the observers in the elections.

The question is what kind of electoral system should be implemented? A primary decision should be taken to identify the kind of electoral system in order to be able to establish the legal grounds for the elections. Making this decision does not include choosing between the system of proportional representation or the principle of the majority only, but other specific varieties.

### **In brief:**

1. The majority system tends to produce a government which is more stable and effective, based on delegation and the feeling of responsibility among the

electorates and their representatives. It consolidates and deepens the relation of the citizens with the elected government and its programs. The success of the election campaigns are directly linked to the candidate more than being linked to the party. The principle which allocates all seats to the winner is an obstacle for the small parties except in their geographical locations.

2. The proportional representation system tends toward comprehensive participation and gives the priority of parliamentary representation to the small and scattered forces. The success of the election campaign depends on party strength rather than the personality and capability of each candidate. It is less probable to give a clear delegation to the government and enjoys less feeling of responsibility towards the citizens in the electoral regions.

3. Mixed systems are those which can combine the characteristics of the two previous systems.

The political question posed in the Palestinian arena is whether the PLO leadership headed by President Yasser Arafat is concerned with free and just Palestinian elections? Unfortunately, there are slogans and attitudes at the leadership level concerning holding elections, but in fact this process is not tangible on the ground. The big challenge will be in the transitional phase. Maybe the answer is latent at this stage. As Noble Prize laureate Russian poet Joseph Raskin said: "The free man does not blame others when he fails". In brief, we will get the kind of government that we deserve.

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# Discussion

**Question:** In my opinion, based on what you have mentioned in this discussion panel and the previous one, we cannot direct the discussion to the main topic that is on the mind of all: the subject of political leadership. On the subject of development, we entered into details without clearly depicting the general picture. The general picture should be to define where execution begins and how basic decisions are made and by whom? For instance, in the topic of housing, there is no relationship between PEC DAR and the Housing Council. If at this level there is no coordination, who makes the decisions?

We cannot reach true development without a system of national priorities we can agree upon and without a measure of credibility and setting up an accountability system.

Hence, the main challenge we face is how can an authority and a center of decision-making be formed without professional credibility. I ask: Can such a Palestinian authority center be formed now without elections?

The second point: Dr Hallaj brought forth an important matter, and in my opinion he has succeeded in putting his finger on the wound. We will face a situation in which the nucleus of the Palestinian authority exists along with the continuation of the occupation.

Hence, this authority, in order to preserve its national energy, requires a new front under the leadership of the resistance so we can confront the Israelis. The only possible way is to criticize the existing bitter reality. In my opinion, this will not be achieved without voluntary participation. This also will not happen if there are no fundamental reforms in the political

occupation, then our thinking is between the two. This kind of thinking might lead to schizophrenia, either in the mechanism for resisting occupation or in a thinking mechanism for independence.

I recommend that development and educational programs or political programs emphasize ending occupation by all means within the capabilities of this people. This is first.

The second challenge is how can we overcome the fear of the coming authority and gather around a central national authority. Without the existence of a central national authority that we create in a suitable fashion, it is unlikely that the people alone have a program dealing with plurality. I fear from and warn against the continuity in criticism of the Palestinian leadership, which might lead to placing the Palestinian individual in a poor psychological state. Among the criticisms are that the authority is oppressive and it is unable to realize the future goals. The major Palestinian accomplishment is the PLO, and even if it has made mistakes, we can gather around it and tell it our thoughts. We must continue with patience and help the PLO to succeed, because I fear the aim of the peace process is to destroy the national movement, leading to the emigration of many people. This is what Israel wants to empty the land from the people. I hope my recommendation is taken into consideration. National unity will be achieved only through activities offering services for this community without exaggerating the fears of the future.

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# Closing Speech

## of Preparatory Committee

Raja Shehadeh

This conference was conceived by a group of educated Palestinians in the West Bank and Gaza Strip to study the new situation in light of the Oslo agreement. It was also to create a forum for creative group thinking on the question of the day: How do we deal with the new situation to proceed in the struggle to achieve the national goals?

To answer this question, the committee chose the subjects that can participate in clarifying the main aspects of this new situation. It also tried to pay most attention not to the symptoms of the problems alone, but to their causes as well.

From many of the papers and discussions we find that the absence of democracy is one of the main reasons for the degeneration of various vital aspects of Palestinian political and public life.

It was also clear from the papers presented that the absence of democratic methods is a general headline and there are other issues that fall under it. The conference tried to mention all of them, including the need for any Basic Law or laws of the future National Authority to reflect the prerequisites of democratic life.

But what many participants felt here was that this is just a beginning. Analyzing the current situation precedes any attempt to affect it. Translating the ideas that were presented here to action plans requires great additional efforts. For this, the Preparatory Committee will publish the papers presented here in a book and will follow up with a series of conferences touching upon the various subjects that came up here. We will discuss these subjects in this democratic forum to reach practical and specific recommendations. We are in dire need of such a forum.

To achieve this, the Preparatory Committee welcomes the ideas of all participants, whether in evaluating this first conference or for ideas for future

activities. Please contact the JMCC or any of the Preparatory Committee members.

Finally the committee would like to thank the staff of the JMCC for their great efforts, which we all agree were at a high level of professionalism and precision, making our jobs easier. We also thank the staff of the Ambassador Hotel for their excellent service during our stay. And thank you all for your attendance and active participation.

The papers presented in this report were delivered at the first conference-- 'Challenges Facing Palestinian Society in the Interim Period/First conference'-- sponsored by the Jerusalem Media and Communication Centre (JMCC) and held on February 4-5, 1994 in Jerusalem.

The views expressed in this report are those of the authors. They do not necessarily reflect the views of the Jerusalem Media and Communication Centre.

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