Two States in One Space

A New Proposed Framework for Resolving the Israeli – Palestinian Conflict

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Executive Summary

There are several fundamental determinations this research project relies on. First, Jews and Arabs are both deeply connected to the entire geographical space that lies between the Mediterranean Sea and the Jordan River. Jews call it *Eretz Israel* (Israel); Arabs call it *Falasteen* (Palestine)*.* In addition, Jews and Arabs live side by side or mixed in this land: 1.7 million Palestinian-Arabs in sovereign Israel; 300,000 Palestinians in Israeli controlled Jerusalem; 350,000 Jews in the occupied West Bank. Furthermore, over 90% of the holiest sites to the Jews, including the Cave of the Patriarchs in Hebron and Rachel's tomb in Bethlehem, are in the West Bank. What Jews call Judea and Samaria. Thus, an agreement which will not respect this deep attachment comprising the right to access or even to reside in these areas is difficult, if not impossible for Jews to accept and therefore a nearly insurmountable obstacle to an agreement. On the other hand, 100% of the original Palestinian refugees, evicted during Israel's war of Independence, come from over 400 towns and villages that were evacuated and destroyed. Palestinians call this the *Nakba* (the Catastrophe). An agreement which does not respect Palestinian attachment to the whole land, comprising the refugees' right to access and even to reside in all of historical Palestine is very difficult, if not impossible for Palestinians to accept and thus a nearly insurmountable obstacle to an agreement.

And then there is the issue of Jerusalem. Jerusalem is one urban entity which cannot support a clear-cut partition. The proximity of holy sites for the three monotheistic religions makes such a separation even more difficult. Moreover, most of the Jewish holy sites are in occupied East Jerusalem and are supposed to become part of the future Palestinian state.

Therefore, we argue that a paradigm of separation, partitioning the land into two sovereign and enclosed states, does

not answer the needs and attachment of the people on both sides of the conflict as it requires too great a sacrifice. Hence Israelis and Palestinians have failed, time and again, to reach an agreement. At the same time, both peoples clearly want and need their own independent state in which they can fulfill their right to self-determination - free of occupation or foreign intervention in their lives.

The new framework presented in the "Two States in One Space" project proposes the creation of two independent states that enter into a voluntary union with greater flexibility and cooperation than the separation paradigm. This offers a more realistic response to the history and the present, and allows for a resolution that includes less sacrifice and trauma than other models. In such a vision, Israel and Palestine would exist as two sovereign nation states. Israel on 78% of the land and Palestine on 22%. Jerusalem would remain one urban space and a capital for two countries. Evacuation of over a hundred thousand Jews would be prevented. A real answer to the Palestinian refugee issue would be given. A guaranteed Jewish state with a Jewish majority would also be ensured.

We do not propose that this happens overnight. We do, however, propose that as a first step, Israel and Palestine immediately agree that they are entering a process that leads to a union between them. This research highlights some of the key issues that have to be taken into account in doing so.

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INTRODUCTION

For the past 21 years there has been only one real plan for solving the Israeli Palestinian conflict. It is the classic Two State Solution (TSS). Argued by many to have been launched in the Oslo process it can actually be traced back to the Palestinian Liberation Organization's historic decision to endorse the Two State Solution and accept a State of Palestine side-by-side with Israel instead of one replacing Israel. The decision was further amended in 1996, after the signing of the Oslo Accord, when it nullified articles in the PLO charter which called for the destruction of the State of Israel and armed resistance.

However, the foundation for dividing the space between the Mediterranean and the Jordan River between Jews and Arabs, receives formal recognition as early as 1947, with the UN Partition Plan for Palestine. The name of this plan is a misnomer as it speaks of partition with economic union and, in fact, six geographical regions, three for the Arab State and three for the Jewish state and an international regime for Jerusalem – a *Corpus Separatum*.

Back to Oslo. Based on reports of various officials involved in the Oslo negotiations, it is quite clear that the two parties had very different ideas as to where the Oslo process should lead. From the Palestinian perspective, there was no question that the end goal was an independent state on 22% of the land, with its capital in East Jerusalem and the right of return for Palestinian refugees based on UN resolution 194. The Israeli perspective was quite different. In any event, nowhere in the Oslo documents, in the Accords themselves or in the letters of Mutual recognition, is there talk of an independent Palestinian State.

What quickly transpired was that at least from the Israeli perspective, separation was what was planned. Israelis here,

Palestinians there, and, eventually, a wall or a fence separating between them. Thus, from a situation where, notwithstanding the occupation, the entire space between the Mediterranean Sea and the Jordan River, including the Gaza Strip, was open for Palestinians without any physical limitations or barriers, things started changing quickly. With the onset of the violence that erupted after the signing of the accords, an ever-growing number of roadblocks, checkpoints and barriers were erected blocking the ability of Palestinians to travel freely in the region. The goal of separation has been voiced by several Israeli politicians including former Prime Minister Ehud Barak, a strong proponent of parting from the Palestinians, who coined and used the slogan "us here and them there." More recently, Israel's current minister of Finance and chairman of the Yesh Atid party, Yair Lapid, has been quoted as saying that "…we [Israel] want to divorce from the Palestinians…".

And yet, over the years and moreover in recent months, it is becoming increasingly clear that the Two State Solution based on separation is all but a thing of the past. The number of attempts, and most recently that of US Secretary of State John Kerry, to retry the same formula; and the repeated failures beg, at the very least, a renewed, fresh and deep look into the conflict, its reasons, its stakeholders, the formulae used to try and solve it, the reasons for the failures.

However, we argue that the "vision" of separation failed not only because of "facts on the ground", i.e., Israel's continued expansion of the settlements, made implementation very difficult. It failed and will continue to do so also because it ignores the basic and fundamental fact that the land between the Jordan River and the Mediterranean Sea is one geographical unit, that both peoples, Palestinians and Israelis, see as their homeland, on which Jews and Arabs are intertwined. It failed because it was based solely on a

balance of power, not on a balance of human rights, human dreams and human lives.

It is very important to take a close look at what separation means to both peoples. For Palestinians, separation requires an almost complete relinquishing of the Right of Return. Palestinians would be required, thus, not only to ignore the humanitarian suffering of hundreds of thousands of refugees and their descendants around the world, but, in fact, they would have to give up and even turn their back on their historic attachment to Haifa, Jaffa and more than 400 villages and towns that will remain under Israeli rule, out of their reach, even as tourists. Israelis, on the other hand, would be forced to evacuate at the very least 130,000 settlers who live outside the settlement blocks. That is more than 15 times the number of Jews evacuated during the disengagement from Gaza in 2005, and would cause, without a doubt, a devastating trauma to Israeli society. They too would have to forget their historic attachment to some of the holiest and central sites of Jewish heritage such as the Cave of the Patriarchs in Hebron, Rachel's tomb, Josef's tomb and more. And Jerusalem would be doomed to be a city of bridges, tunnels, enclaves, fences and walls; a city of separation, not a living one.

And separation continues to fail. Attempt after attempt over the years. Thus, we must take an example from the business world where strategies that fail must be re-examined and changed if the business is to survive and re-think, re-examine and propose new ideas as giving up is not an option and carries with it a horrific and bloody price, signs of which we were all witnessing as this paper was being concluded.

Providing a range of excuses for the failure is understandable, particularly by those who have invested so much in the strategy, all full of good intentions, but as Albert Einstein put it, insanity is doing

the same thing over and over again and expecting a different outcome.

During the past three years IPCRI - Israel Palestine Creative Regional Initiatives (formerly Israel Palestine Center for Research and Information) has revisited the conflict and the attempts at the solution. This stems from IPCRI's continued commitment and mission to seek a just and sustainable resolution of the conflict. This is based on IPCRI's strong belief recently put in words by Israel's newly elected President Reuven (Ruvi) Rivlin, who says that "Jews and Arabs are not doomed to live together in this region, but actually destined to do so."

There are five fundamental principles, which we believe are agreed by all sides of the conflict:

a. Israelis and Palestinians are both deeply emotionally connected to all of historical Palestine or Eretz Israel.
b. Jews and Arabs live side by side or mixed in this land: 1.5 million Palestinians in sovereign Israel, 300,000 Palestinians in Israeli controlled Jerusalem, 350,000 Jews in the occupied West Bank.
c. Arabs and Jews, Israelis and Palestinians have been involved in what was a national struggle for over a century. This struggle has had in the past and is currently gaining religious characteristics.
d. Over 90% of the holiest sites to the Jewish people are located in the West Bank, what Jews call Judea and Samaria. From the cave of the Patriarchs in Hebron in the south, through Rachel's tomb in Bethlehem, the Old City of Jerusalem, Shilo, Beit El, up to Joseph's tomb in Nablus.
e. 100% of the original Palestinian refugees come from cities, towns and villages that are today within what is internationally recognized Israel within the 1967 border.

We sought a new vision. A vision that will recognize the unity of the land, the attachment of the people to all the land, and yet a vision that would also give Israelis and Palestinians the ability to master their own destiny and their self-determination. A vision that is not based on fear and a ghetto mentality, but on openness and partnership. This is not a utopian dream. We believe this is a very realistic and just plan to achieve a sustainable peace and a true reconciliation.

The five principles coupled with the evident and continued failure of the parties to reach a mutually agreed upon formula for separation, leads to the conclusion that the separation plan fails to cope with realities which the two peoples face, nor is it able to fulfill Israelis' and Palestinians' deepest ambitions, namely, self-determination and freedom of movement and access. That having being said, contrary to some of the public sentiment on both sides of the conflict, particularly on the far left, we believe that a One State Solution does not take into account the nationalistic nature of the conflict, which is over a century old. An Israeli version of a One State Solution would, in our opinion mean the entrenchment of Jewish hegemony throughout the land; the Palestinian version would mean taking apart the State of Israel. Neither option could be accepted by the public on both sides of the conflict.

The principle of the Two State Solution holds within it an expression of the collective and legitimate will of both peoples for self-determination. It enjoys an overwhelming international consensus. But though this solution has, for the past twenty years, meant separation or exclusivity, we argue this is not inevitable. Actually, we have already seen what the results of separation are in the case of the Gaza Strip: more hatred, more misery for both sides. Anything but peace or end of conflict.

Geography, history and demography dictate that Palestinians and Jews need to live in this land together and separately. Together, because both people share the same homeland, separately because each of them needs their own independent national home. In a nutshell: two states, one space, one homeland. An Israeli-Palestinian union.

The idea of a union of sovereign states is not new or experimental. This is the underlying principle of the European Union today: sovereign and independent states, members of an economic and political union, guaranteeing freedoms of movement and residency, from Estonia to Spain, from Malta to Norway. This was also the underlying principle of the 1947 Partition plan: a Jewish state, an Arab state, and an economic union between them.

The vision may be summed up in four key points:

1. Two independent, sovereign and democratic states – Israel and Palestine – will be established between the Jordan River and Sea. Israel on 78% of the land and Palestine on 22% based on the 4th June 1967 borders.
2. The two states will enter a political and economic union, with common economic and social institutions, and a High Court for Human Rights.
3. The borders between the two states will be open, and all citizens will enjoy freedom of movement in the shared homeland. Eventually, reciprocally and gradually, this would be extended to freedom of residency.
4. Jerusalem will remain one city, shared, under a special regime, a capital of both states.

This vision addresses the three critical issues mentioned above. Jerusalem would remain open, shared and undivided, with a

Palestinian parliament in East Jerusalem and the Knesset in the West. Refugees could return, become citizens of the state of Palestine and will be able to move all over the shared homeland, the Israeli-Palestinian Union. Gradually and according to mutual consent, they will be able to reside also within the borders of the State of Israel, citizens of Palestine living in Israel, like French citizens in Germany. Jewish settlers would remain in Palestine as residents of Palestine and citizens of Israel. All Jews would be able to travel freely to Palestine and gradually, according to mutual consent, will be able to reside there: Israeli citizens, living under Palestinian sovereignty as law abiding permanent residents of Palestine. Both states will retain their independence, their sovereignty, but will share the common space.

This vision is grounded in current realities, as it represents the demographic mixture already existing in the region: 20% of the citizens of Israel are Palestinians, 10% of the population of the West Bank is Jewish, Jerusalem is two-thirds Jewish, one third Palestinian.

And yet, we seek to look forward, not backwards. Like the Oslo model, it is based on the international support for two independent states. Unlike the Oslo model, it is not held hostage to intensifying settlement in the West Bank, though a freeze on the expansion of settlements beyond the current existing built up external perimeter would have to be in place until a full agreement between the parties is reached.

We believe that this vision offers hope at a time of despair, an opportunity to tear down barriers between Jews and Arabs. For the first time, it would allow Israel to become a real and integral part of the Middle East. It would hold tremendous economic promise of growth and prosperity, first for the Palestinians but for Israelis and the region at large. It would allow for a strengthening of a very much needed coalition of moderate states in the region which could

cooperate in the fields of trade, industry, military and intelligence. It would provide Israel with security, a regional peace with all its neighbors and a continued guaranteed vibrant and thriving existence as part of the region.

The Two States in One Space Project

As of January 2014, IPCRI has been leading a research project titled "Two States in One Space - A new framework for resolving the Israeli-Palestinian conflict". The objective of the project was:

> "To put forward and examine new ideas for the most central and contentious issues surrounding the Israeli Palestinian conflict. Aiming at a detailed and creative alternative framework for resolving the conflict based on two states, side by side but working within a framework, it would answer the current realities and the needs of both peoples. The ideas and concepts developed in this project should be used to stir a public debate in both societies at the grassroots level as well as at the level of the decision makers with a hope of creating the foundation and the opportunity to break the current deadlock."

The project involved setting up a steering committee and five working groups as follows:

1. Governance and Common Institutions

Responsible for examining how both states and the joint political structure can be governed. What bodies and institutions need to be established? What will be governed separately and what jointly? What are the overseeing mechanisms needed? What are the conflict resolution mechanisms need to avert spoilers? What will be the role

of municipal governance structures? What will be the legal mechanisms and rule of law?

2. Residence, Citizenship, Collective Rights and Freedom of Movement

Responsible for examining the rights of Palestinians and Jews in Palestine and the rights of Jews and Palestinians in Israel. How will citizenship and residence rights be determined? What rights will refugees and settlers have? Which laws will people live under? What collective rights are relevant to each national group and how do we guarantee collective rights to minorities in both states? A specific focus was given in this group also to the Palestinian/Arab citizens of Israel.

3. Return and Immigration

Responsible for examining the issue of how the Palestinian right of return could be realized. To where would or should the return be permitted? Who will be allowed to return, how many and to where? How will the returnees who are allowed to settle in Israel be dealt with and cared for? Who will finance the return? What restitution and/or compensation of property will be necessary? How will returning to the homeland by Jews and by Palestinians be dealt with in the longer run? How can Israel remain as a safe haven for persecuted Jews?

4. Jerusalem and Holy Sites

This group was responsible for examining the questions of how Jerusalem would be governed. What would be its municipal boundaries? Would it be a joint municipality? Would it include two capitals? How will the holy basin and the old city be governed? How

will all the holy sites be governed? How will freedom of access to all holy sites be guaranteed and protected?

5. Security

This group was asked to look into the issues such as who will be in charge of security. What are the implications of an open space with freedom of movement on security? How can they be dealt with? How will the confederation cover internal and external security threats?

The working groups started working in February 2014. The working group leaders, Israelis and Palestinians, were chosen by the steering committee and were given directions. The underlying research questions was "if and how would it be possible to reconcile two sovereign nation states that allow for full freedom of movement between them" and it was agreed that the work should apply research with implementable policies or, at the very least, developed ideas. The first step of the process included a detailed research proposal by each of the working groups that were approved by the steering committee.

The Steering Committee asked the working groups to include in their final papers the following:

1. A mapping of the general (international) knowledge on the specific topic
2. A local mapping of the players, narratives, obstacles in relation to the topic
3. Answers to the following issues:
    a. What is the vision?
    b. What are the responses to the obstacles
    c. How to get from the current situation to the vision. What process is needed?

The working groups were provided with a list of experts compiled by the Steering Committee that were deemed relevant for each of the fields and consulted with them in meetings arranged by the groups during the past year.

The working groups were given the freedom to choose their methodology. Moreover, they could work a joint, bi-national, Palestinian – Israeli team; a separation but coordinated team; or two separate teams altogether.

One team was unique in this context. The Institute for National Security Studies (INSS), an Israeli research institute and think tank affiliated with Tel Aviv University dealing in areas of national security matters such as military and strategic affairs, terrorism and low intensity conflict, military balance in the Middle East, and cyber warfare. INSS was contracted to address the issue of security as an exclusive Israeli project. It produced an important and innovative paper that pushes the envelope in its approach.

Conclusion

The papers we present to you in this book are the product of political deliberation, scholarly research and fact- based soul-searching of Israelis and Palestinians working to ignite political imagination, their own, and that of their national collectives. In their research and deliberations, the groups found sustainable political frameworks that open up the horizon, and offer possibilities to get over the current impasse. While the political structures, concepts, mechanisms and programs offered in these papers are hopeful and encouraging, each group identified significant obstacles that must not only be acknowledged directly, but also demand further research and deliberation into their possible solutions. Overall, research is necessary to develop mechanisms and institutions that will replace the less inclusive and more repressive ones that exist today in every

field of governance, as well as further understanding of the social and economic gaps that exist and possibilities to mediate them. We briefly outline the obstacles encountered by the research groups, mostly linked to the existing asymmetry between the two groups and indicate the type of research needed to promote the suggested models and solutions.

The Citizenship group concludes that the model they offer introduces multiple categories of political membership, which entails both political promise and internal obstacles. Citizenship becomes exclusionary for the resident minority, as it privileges the political agency of citizens. The citizens can participate in political decision-making that shapes the society s/he lives in at the national level, including distribution of resources, while the resident is prevented from influencing political decisions at the national level that impact his/her life in many aspects. Moreover, the model currently does not include a mechanism of becoming citizens for future generations born to residents, which has raised grave concern particularly among constitutional lawyers.

These obstacles lead us to an internal conundrum of the proposed model: on the one hand, granting the basic political rights to vote and be elected is critical to a resident whose permanent life center is in the other state. On the other, granting these political rights will blur the distinction between the territorial sovereignty of the two states and give rise to fears that the demographic population changes will threaten the core values of each state.

The right of Return group stressed the importance of regulating the distribution of new or returning resident populations, which demands further research and development of administrative mechanisms. The group recommends considering not only population quotas for residency, but cautiously determining geographic distribution of new resident populations. The regulation

of returning population, particularly of Palestinian refugees exercising their right of return, will be a demanding task. Studies show that ethnic population after conflicts attempt to return to areas in which they will be an ethnic majority or significant minority, which is precisely a major fear of the existing majority, which must be addressed and managed.

Members of the security research group focused on the pre-existing gap in capabilities between the Israeli and Palestinians. Indeed, the existing asymmetry in the Israeli and Palestinian security sectors would simultaneously contribute to reinforce the Israeli reluctance to relinquish control and consider the security partnership with Palestine under terms of equality, while also encouraging— at best — a state of dependence and, at worst, undermining the process of state-building on the Palestinian side. In this sense, future research on the topic needs to delve further in processes and mechanisms to address the present gap in capabilities while still preserving the equality and sovereignty of both parties.

The research group on governance sees the a-symmetrical power relations between the two countries, as well as deep social and economic gaps, pose a significant challenge. While joint governance institution might be a key toward transcending and transforming these very structures, a more detailed mapping of the existing gaps is needed. In addition, this challenge would necessitate the careful design of relevant institutions and processes, from economic agreements; through state intervention to strengthen the Palestinian social protection net; to bi-national or regional development cooperation and international investments in Palestine.

Second, processes of decentralization and strengthening of local authorities proposed in our paper, including the establishment of metropolitan or regional-local governance, would require research into the political and geographical demarcation of these institutions.

This is particularly crucial in regards to the Israeli settlement in Palestine, where issues of local governance are particularly complex. Lastly, the socio-psychological infrastructure of the conflict and deep mistrust among the two societies might hinder the possibility to develop, establish and maintain any joint governance institutions. Further research is required into possible national policies and processes aimed at addressing this underlying structure.

The research group on Holy Sites and Jerusalem see the main obstacle that needs further research and deliberation is the question of restorative action in the urban scale, particularly issues of housing and infrastructure that will address the current a-symmetry. Finally, a major gap that demands resources is reaching a consensus regarding policing arrangements in the holy sites

In retrospect, we now can say that task that we have taken upon ourselves was more than a project of this scope and funding could handle. The project builds extensively off of so much work that has been done already but reflects the realities on the ground, which pose the greatest obstacles to realizing the original vision. Instead of attempting to erase such obstacles, we envision and put forward creative suggestions for adapting to them while preserving the vital components of the still-necessary aspect of separation. Therefore, this vision still includes the most vital component of most plans, which are two sovereign nation states, each on the pre-agreed 78%/22% of the land. However, the implication of freedom of movement and what we see as a first step of agreeing to go towards a union, required significant changes and adaptations. An Israeli - Palestinian union raised new premises, issues, challenges and, perhaps most importantly, advantages that have to be taken into account. A union, which will naturally require a high degree of ongoing and lasting cooperation, also requires us to consider a vast number of relationships, interactions, influences, and multi-faceted issues which will have to be undertaken if this plan is to be adopted.

I - Joint Governance

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Abstract

A Joint Governance model for an Israeli – Palestinian union should satisfy key 'basic needs' associated with promoting justice, fairness, security, identity and mutual recognition for both parties. Within the framework of joint governance institutions and mechanisms, the recent repeated inability to reach an agreement and the resulting tensions demonstrate the inadequacy is a good indication and opportunity to explore alternatives for reaching a just and sustainable peaceful resolution for Israel and Palestine while addressing and mitigating their possible challenges and constraints.

Any solution aimed at creating a sustainable peace will necessarily address the legacy of violence and gross human rights violations. To attain this aim, the manner in which the Israeli-Palestinian conflict has deeply influenced and shaped cognitions, beliefs and emotions of the majority of members of both Israeli and

Palestinian has to be studied and addressed. The Israeli-Palestinian conflict is an *intractable conflict*. Societies involved in intractable conflicts gradually develop a socio-psychological infrastructure that includes collective memory, ethos of the conflict and collective emotional orientation. This aspect is detrimental to the success of the joint governance institutions – first, as understanding of the low levels of trust and extensive animosity felt by the majority of each society in relation to the other side would minimize support for an ambitious governance proposal and second, as joint governance will be required to take a leading role in generating trust throughout an incremental, slow process.

First, **both societies will need to foster and reconstruct separate social identities** in order to move away from a legacy of conflict, given the malignant nature of the co-dependence of social identities during the violent stage of the conflict. This might necessitate national reforms and greater attention to local identities within each state and local governance issues. Second, ***joint governance institutions must be created and developed gradually*** in order to enable both societies and state stakeholders to foster mutual trust and address the legacy of conflict. Third, as socio-psychological infrastructures of conflict might hinder the possibility of joint governance, ***transforming socio-psychological structures is necessary***, thus requiring adequate preliminary mechanisms to foster reconciliation.

These general principles yield a practical vision, one of gradually expanding cooperation between Palestine and Israel; a 'thin' confederation between the two sovereign states with greater autonomy of local governance.

As a first stage, we propose that the two states establish a limited cooperation through *executive commissions*, having decision-making powers in selected fields, operating alongside joint

coordination mechanisms, collaborative forum and *dispute resolution mechanisms*. Again, the establishment of such structures must be gradual and begin with ad-hoc and limited mechanisms coupled with nation-building efforts and internal reconciliation processes in each society, as well as decentralization processes and strengthening of local authorities.

As a second stage, after several ad-hoc joint governance institutions operate for a significant period, establishing trust between the parties and fostering positive emotions and cognitions, the two states could gradually develop 'thicker' confederative structures. Such structures might further entail parliamentary bodies and voting rights directly to the region's citizens.

As a third stage, and on a further temporal horizon, broader regional options of cooperation could be presented and negotiated with additional neighboring countries and regional stakeholders. A broader regional umbrella, beyond Palestine and Israel, might further contribute to stabilizing relations in the region, despite the limited prospect of pursuing such an avenue in the foreseeable future.

In order to clearly present the architecture of the suggested governance structure, three layers of governance will be addressed: *a supra-national confederation* between Israel and Palestine; *national states in both Israel and Palestine*, with full competencies, while identifying important national institutions and reforms; and *stronger emphasis on local governance* in each of the countries.

As a precondition to formulation of any joint institution, a *mutually agreed upon legal framework* must be forged between the two countries. This accord will outline the legal basis for the cooperation, reflect joint understanding and express the aspirations

behind them. However, statements and initiatives by one of the parties can contribute to its formulation.

While the management of an open space in Israel-Palestine would require joint governance, we proposed to start with ad-hoc and limited cooperation. As noted before, emphasizing sovereignty and powers of the two member states is crucial for establishing trust at these initial stages. Therefore, the decision-making authorities of joint institutions should be limited to fields of indivisible nature and spatial effect, necessitating joint implementation.

As a first stage of joint governance, an administrative array of *executive commissions* are suggested to be granted with decision-making powers in fields such as trade, international development, environmental resource management or border control and immigration. Alongside these mechanisms, *coordination mechanisms* will be required to discuss issues remaining under the sovereign rule of the two states (such as internal security arrangements, education or health). Furthermore, *collaborative forums* will make it possible to deepen and strengthen bi-national collaboration and increasing harmonization (in diverse fields, from legal approximation to educational post-conflict curriculum reforms or cultural initiatives). Only at later stages of implementation, could a joint union parliament be established. The establishment of joint human right protection mechanisms should further be considered, as national human rights instruments will not necessarily suffice, particularly for those residing outside their state of citizenship.

The representation of the two states within any joint mechanisms would be crucial to their operation. In this regards, pre-agreed formulae based each country's population size would yield Israeli dominance. More complex and nuanced power sharing mechanisms are needed for each joint institution, depending on its exact authorities and operation mode.

Sharing a single space between the two states would necessitate local governance reforms subjected to national consideration and decision-making of each of the states: there is a clear need for political decentralization, constitutional decentralization (or bottom-up decision making) and financial decentralization. Lastly, local governance reform must reflect the broader need to strive towards the democratizing of the Israel-Palestine space. In Israel, the degree of commitment to core democratic values remains a challenge to the possibility of establishing joint governance mechanisms.

The a-symmetrical power relations and deep political, social and economic power disparities between the two countries must be integrated into the design of joint governance mechanisms and mitigated by these bodies. Therefore, one of the pre-conditions to the proposed cooperation is a sufficient time period for Palestine to establish its sovereignty, before implementing full cooperation. Furthermore, Israeli-Palestinian cooperation must primarily be aimed at eliminating the social and economic gaps between the two states and within each society. In addition, Israel's excessive power might call for foreign involvement in order to counterbalance its impact on political compromises and joint policies.

Notwithstanding the controversial legal base concerning the settlements or their adherence to principles of international law and the challenges they pose, the confederation model, coupled with local governance reforms, could accommodate the project's framework concerning the presence of settlements under Palestinian authorities, insofar as guarantees are provided by the Palestinian government to ensure the security of settlers. The settlers could therefore express their religious and national identity within the framework of the municipal authority. However, the continued presence of small and isolated settlements, characterized by an

increased tendency to localized conflicts and violence, do present an ever more significant challenge to make the possibility of joint governance a reality.

Introduction

The recent surge of violence in the region brought many, in both the Israeli and Palestinian society, to despair. However, these are also times of change allowing for imaginative, out-of- the-box solutions, and demanding an ability to sketch out innovative solutions to the conflict. They call into question the current paradigms of strict separation between Israel and Palestine, and enable us to explore the ways in which two states can share and flourish in a single space. A model is therefore required which can satisfy key 'basic needs' associated with promoting justice, fairness, security, identity and mutual recognition for both parties.[1]

Given that there is an endless variety of forms that the state can now take,[2] the following sets out to examine how porous, discontinuous spatial and temporal practice which is Sovereignty[3] can become an aid rather obstacle on the road to achieving a stable and lasting peace. Within the framework of joint governance institutions and mechanisms, these difficult times are an undeniable evidence of the deadlock of current paradigms. They force us to explore the diverse alternatives to sustaining peaceful relations between the two states, while addressing and mitigating their possible challenges and constraints. We hope to offer a practical vision of governance, and link it to a set of solutions, mechanisms and processes.

Our exploration of possible mechanisms would start by better understanding the underlying structure of conflict and its psychological and social constraints. These characters of conflict will be then translated into basic building-blocks relating to governance.

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[1] Spears, I. S. (2014). Evaluating 'two-state condominialism': a new approach to resolving the Israeli–Palestinian conflict? Global Change, Peace & Security, 1-16.
[2] Ibid.
[3] Shenhav, Y. (2012). Beyond the Two State Solution: A Jewish Political Essay, Cambridge: Polity, p. 150.

An architecture of governance will be constructed from them, outlining mechanisms and processes in three layer – supranational, national and local. Finally, some of arising challenges will be briefly discussed.

A. **The Legacy of the Conflict**

First, the legacy of conflict and impact of the current social and psychological constraints should guide the creation of joint governance institutions in order to formulate viable solutions which will be recognized as legitimate by both the Palestinian and Israeli societies. Any solutions aimed at creating a sustainable peace will necessarily address the legacy of violence and gross human rights violations. To attain this aim, the manner in which the Israeli-Palestinian conflict has deeply influenced and shaped cognitions, beliefs and emotions of the majority of members of both Israeli and Palestinian has to be studied and addressed. Past peace negotiations, including the Oslo peace process, did not attend to these issues which were, and still are, at the core of the conflict's intractable nature, such as the meaning of justice, shared truth, mutual regard, and mutual security.

The Israeli-Palestinian conflict is an *intractable conflict*. Intractable conflicts are defined as being total in nature, violent and of zero sum nature, perceived as irreconcilable by the members of the societies involved in the conflict, lasting at least a generation, involving all society members and requiring great investment from the majority of society members on a personal level.[4] Intractable conflicts are perceived by the overwhelming majority of members

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[4] Bar-Tal, D. (1998). Intractable Conflicts. In E. Weiner (Ed.), The Handbook of Interethnic Coexistence, New York: Continuum, 332-342; Kriesberg, L. (1998). Intractable Conflicts. In E. Weiner (Ed.), The Handbook of Interethnic Coexistence, New York: Continuum, 332-342.

the society as resulting from contradictory goals and interests which are considered essential for society's survival.[5]

Social narratives of societies involved in intractable conflict justify involvement in the conflict and the course of its development while at the same time discrediting the goals of the other side as unjustified and unreasonable. Furthermore, these narratives delegitimize the opponent and delineate the dangers that the conflict constitutes to the society: threats to the physical existence of the in-group and to its cherished values, identity and territory.[6]

Societies involved in intractable conflicts gradually develop a socio-psychological infrastructure that includes collective memory, ethos of the conflict and collective emotional orientation.[7] Societies locked in such conflicts also develop a collective memory regarding the past. While collective memory does not represent an accurate historical account of the past, but rather a distorted version of the past, it promotes society's capacity to function as a group which is a side to a prolonged and violent conflict. This narrative will inevitably omit many key facts, creating simulated, artificial, "facts", making purposeful interpretation of the major events that have occurred during the conflict, befitting the positive self-image of each side to the conflict.**[8]**

[5] Azar, E. E., Jureidini, P., & McLaurin, R. (1978). Protracted Social Conflict: Theory and Practice in the Middle East. Journal of Palestine Studies, 8 (1), 41-60.
Azar, E.E. (1990). The Management of Protracted Social Conflict. Hampshire, UK; Goertz, G., & Diehl, P. F. (1993). Enduring Rivalries: Theoretical Constructs and Empirical Patterns, International Studies Quarterly, 37, 147-171; Kriesberg, L. (1993). Intractable Conflict. Peace Review, 5, 417-421; Bar-Tal, D. (1998). Intractable Conflicts. In E. Weiner (Ed.), The Handbook of Interethnic Coexistence, New York: Continuum, 332-342.
[6] Oren, N., Nets-Zehngut, R., & Bar-Tal, D. (In press).Construction of the Israeli-Jewish conflict-supportive narrative and the struggle over its dominance. Political Psychology.
[7] Bar-Tal, D. (2007). Living with the Conflict, Socio-Psychological Analysis of the Jewish Society in Israel, Jerusalem: Carmel (in Hebrew).
[8] Bar-Tal, D., & Salomon, G. (2006).Israeli-Jewish Narratives of the Israeli-Palestinian. Conflict: Evolvement, Contents, Functions and Consequences,

A Culture of Conflict develops when societies saliently integrate into their culture tangible and intangible symbols of conflict which are created to communicate a particular meaning about the prolonged and continuous experiences of living in the context of conflict.[9] These symbols of conflict become hegemonic elements in the culture of societies involved in intractable conflict: They provide a dominant meaning about the present reality, about the past, and about future goals, and serve as guides for practice- all as a reflection of the conflict. Moreover, with time, the beliefs of collective memory and ethos of conflict serve as content basis for the formation of social identity of both societies.[10]

Both Israeli and Palestinian societies have had to gradually create widely accepted beliefs within their societies regarding the justness of the conflict, delegitimization and victimization. These societal beliefs are in direct confrontation with the other. The societal beliefs regarding justness refer to the affirmation of one's own goals and negation of the other side to the conflict. Societal beliefs of delegitimization and victimhood of each society involved in the conflict serve as a mirror image in their content. Often the rivaling groups use similar labels for delegitimization, but each views itself as the ultimate victim of the conflict while the other is the ultimate and singular victimizer.[11] These central societal beliefs of ethos of conflict provide the prism through which society members view their world and relate to it. This prism not only organizes society's cognitive outlook or directs intentional forms of actions, but

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[9] Geertz, C. (1973). The interpretation of cultures: Selected essays. New York: Basic Books.
[10] Bar-Tal, D. (2011). Introduction: Conflicts and Social Psychology, in Intergroup Conflicts and Their Resolution: A Social Psychological Perspective, Bar-Tal, ed., Psychology Press, Taylor and Francis Group, 1-38.
[11] Oren, N., Bar-Tal, D, & David, O. (2004). Conflict, Identity and Ethos; The Israeli-Palestinian Case. In Y-T, Lee, C. R. McCauley, F.M. Moghaddam, & S. Worchel (Ed.), Psychology of ethnic and cultural conflict, Westport, CT: Greenwood, pp.133-154.

also sets its collective emotional orientation.[12] Research has provided ample evidence of the extensive influence of the ethos on Israeli society. For example, Jewish members of Israeli society have developed beliefs that deny Arab humaneness: Arabs are perceived as primitive, bloodthirsty, murderous, cruel, and vicious. While during the period of the Oslo agreements, the delegitimization of the Arabs somewhat decreased, the Al-Aqsa Intifada brought back the patterns of delegitimization observed in previous studies.[13]

The Israeli-Palestinian conflict consists of two societies divided by language, religion, conflicting historical accounts, as well as social narratives.[14] Israeli society presents signs of social regression by creating a sharp 'us' and 'them' division, or Jewish as opposed to Arabs, severely limiting the chances of reaching a peaceful resolution of the Israeli-Palestinian conflict.[15] Furthermore, Israeli society manifests a zero sum game perception with regard to the Palestinians in which an issue which is considered a Palestinian goal must therefore be an Israeli loss.[16]

Hence, an insistence on pervasive use of joint governance mechanisms will limit each society's ability to develop an individual identity removed of the binary, zero sum game identities of both societies today. This conclusion is supported by empirical research

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[12] Bar-Tal, D. (2013). Intractable Conflicts: Socio-Psychological Foundations and Dynamics, Cambridge University Press.
[13] Bar- Tal, D. & Sharvit, K. (2008)."The Influence of the Threatening Transitional Context on Israeli Jews' Reactions to Al Aqsa Intifada." In V. M. Esses & R. A. Vernon (eds.), Explaining the Breakdown of Ethnic Relations: Why Neighbors Kill. Oxford: Blackwell, pp. 147-170; Bar-Tal, D., Raviv, A., Raviv, A. & Dgani-Hirsch, A. (2009). "The Influence of the Ethos of Conflict on the Israeli Jews' Interpretation of Jewish-Palestinian Encounters." Journal of Conflict Resolution, 53, 94-118.
[14] Adwan, S. & Bar-On, D. (2004). Shared History Project: A PRIME Example of Peace-Building under Fire, 17 International Journal of Politics, Culture & Society 513.
[15] Weinberg, H, & Nuttman-Shwartz, O. (2006). Group Work and Therapy in Israel: Mirroring a Regressed–Traumatized Society. Organisational & Social Dynamics 6, 99.
[16] Oren, N., Bar-Tal, D, & David, O. (2004). Conflict, Identity and Ethos; The Israeli-Palestinian Case. In Y-T, Lee, C. R. McCauley, F.M. Moghaddam, & S. Worchel (Ed.), Psychology of ethnic and cultural conflict, Westport, CT: Greenwood, pp.133-154.

conducted regarding groups of Palestinians and Israelis, suggesting that the psycho-social needs of the two groups differ considerably with regard to reconciliation,[17] as well as other issues relating to peace.[18] Moreover, both Israeli and Palestinian societies demonstrate a societal belief in the justness of each society's goals. Therefore, an attempt to agree upon what is 'just' is difficult and can impede efforts to resolve the conflict or to attain a stable peace.[19]

In addition, the Israeli society presents signs of social regression by creating a sharp 'us' and 'them' division, or Jewish as opposed to Arabs, severely limiting chances to reach a peaceful resolution of the Israeli-Palestinian conflict. These dimensions of the conflict have direct implications on any possibility of fostering cooperation and establishing joint government institutions (JGI). They must be integrated into the discussion and mitigated throughout the examination of adequate mechanisms and processes.

The diverse manners in which the intractable nature of the Israeli-Palestinian conflict shapes collective cognitions and emotions of both Israeli and Palestinians is detrimental to the success of the JGI: the need to build trust between both sides to the conflict suggests an incremental, slow process, given the low levels of trust and extensive animosity felt by the majority of members of society in relation to the other side to the conflict.

B. <u>Governance and Joint Institutions</u>

"Act, manner, office or power of governing". Behind this definition of governance, offered by the *New Webster international*

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[17] Nadler, A. & Liviatan, I. (2006). Intergroup Reconciliation: Effects of Adversary's Expressions of Empathy, Responsibility, and Recipients' Trust, Personality and Social Psychology Bulletin, 32, 459.

[18] Bar-On, D. (2005). The "Others" Within Us, Ben Gurion University Press (Hebrew).

[19] Bar-Siman-Tov, Y. (2001). Dialectics between Stable Peace and Reconciliation. Paper presented at the Leonard Davis Institute, Hebrew University, Jerusalem.

Dictionary, lies an arena shaping and being shaped by identities and relations. Governance encompasses the interaction of formal and informal institution, from government authorities to civil society and community-based organizations, at a supranational, national and local level. It refers to highly political processes in which societies, groups and individuals gain and harness power and influence.[20]

Governance is a key issue in conflict-affected societies. Government institutions and processes bear risks of replicating power structures that led to conflict, but also hold the potential to serve as a transformative platform, reconfigure these underlying factors and pave new ways forward.

In the context of the Israeli-Palestinian conflict, various forms of governance or institutional arrangements were proposed in order to move forward. Rather than a dichotomous debate between entirely separate two states to entirely shared single state, the discussion was far richer. From diverse possibilities of federal structures,[21] through options based on two parallel states[22] to joint governance between Israel and Palestine, in a union or confederation of different degrees,[23] or with broader geographical scope;[24] the

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[20] Weiss, T.G. (2000). Governance, good governance and global governance: conceptual and actual challenges. *Third world quarterly* 21(5), 795.

[21] For early suggestions: Elazar, David Judah. *Federal/confederal Solutions to the Israeli-Palestinian--Jordanian Conflict: Concepts and Feasibility*. Hebrew University of Jerusalem, Harry S. Truman

Research Institute for the Advancement of Peace (1991); the article identifies 11 alternatives of di--fferent federal solutions.

[22] Mossberg, M.(2010).One Land, Two States? Parallel States as an Example of" Out of the Box Thinking on Israel/Palestine, *Journal of Palestine Studies* Vol. XXXIX, No. 239.

[23] Yiftachel, O. (2006). *Ethnocracy: Land and identity politics in Israel/Palestine*. University of Pennsylvania Press;

Further suggestions included a subdivision into provinces belonging to one of the two nation-states – See, Grinberg, L.(2010. The Israeli-Palestinian Union: The" 1-2-7 States" Vision of the Future. *Journal of Palestine Studies* Vol. XXXIX, No. 2, 46

[24] Halper, J. (2002). A middle Eastern Confederation: A Regional "Two-stage" Approach to the Israeli–Palestinian Conflict. *Arabic Media Internet Network 15*.

discussion gave way to imagining a new and third political sphere, combining separate and shared Israeli-Palestinian institutions.

Within this new political space, we intend to explore what joint governance institutions are needed to sustain a long-term solution to the Israel-Palestinian conflict based on open-borders and free movement. Rather than a finite set of solutions, a practical vision of governance will be offered and together with a set of solutions, mechanisms and processes.

C. __Leading Principles and Practical Vision__

Implementation of peace accords throughout the world has proven their fragility and demonstrated the constant risk of collapsing, even after extensive negotiations. [25] Post-conflict governance structure must be adequately designed to sustain a long-term transition from conflict to a stable peace. In order to do so, this chapter presented the unique character and underlying socio-psychological structure of the Israeli Palestinian conflict. In light of these factors, three general principles will frame our spectrum of joint governance structures.

First, **both societies will need to foster and reconstruct separate social identities** in order to move away from a legacy of conflict, given the malignant nature of the co-dependence of social identities during the violent stage of the conflict.

Therefore, self-governance and nation-building are keys to ensuring a successful resolution of the conflict. Within the context of joint governance, solutions relying on two separate states are preferable over arrangements relying on a single national unit. For

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[25] Rothchild, D. (2005), Assessing Africa's two-phase Peace Implementation Process: Power-sharing and Democratization in Ulf Engel, Annamaria Gentili, & Patrick Chabal (Eds.). *Is Violence Inevitable in Africa?: theories of conflict and approaches to conflict prevention* (Vol. 1). Brill Academic Pub.

this reason, confederative solutions should be regarded as an ultimate goal rather than solutions of federations. Confederations are based upon separate states and enable its member states to develop and maintain a sense of autonomy, while also providing a platform for joint decision-making around pre-determined issues which will be delegated to the confederate government. The two states could further reserve an option of secession, thus introducing into the arrangement more limited risks (for further elaboration, please see attached **annex: Federations, Confederations, Leagues & Unions**).[26]

Joint governance institutions would have to function as a site to recognize and reaffirm the separate identities of the two societies, from their linguistic aspects to its decision-making processes.

In light of the importance of constructing separate societal identities, the role and responsibilities of each state and their national bodies should be emphasized. This might further necessitate national reforms as well as greater attention to local identities within each state and local governance issues.

Second, *joint governance institutions must be created and developed gradually* in order to enable both societies and state stakeholders to foster mutual trust and address the legacy of conflict. Rather than immediate formation of a full-fledged confederation or

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[26] In addition, this aspect reveals some of the difficulties in Israel-Palestine condominial arrangements or parallel state structures. Granting each state with extra-territorial authorities vis-à-vis their citizen in the neighboring country (in condominial arrangements) or with authorities in regards to the Israel-Palestine space (in parallel state structures) might not provide long-lasting solutions; in the sensitive period immediately after forging a political agreement, before trust was established between the two states and power imbalances were mitigated, such arrangements could easily hamper nation-building efforts or reflect previous' power structure, particularly in regards to exercising Israel's authority in the settlements. See: Nieli, R. (2008). Toward a Permanent Palestinian/Israeli Peace—The Case for Two-State Condominialism (2008),
available at http://www.tikkun.org/fmd/files/Nieli_full_transcript_for_Web.pdf.

other intense forms of cooperation and robust institutional arrangements, a gradual transition process is necessary in order to break away from previous oppressive power structures and deep-rooted animosity and mistrust.[27] Establishing two viable states existing side by side, each fully capable of exercising its own authorities is a precondition to bilateral cooperation. Joint governance processes would thus be established through limited *ad-hoc* joint institutions, expending their role and authorities over time. The design and development of joint institutions should be gradual and responsive to changing societal needs and concern.[28] However, states' structuring and confederative solutions should be decided upon collectively by the two states throughout peace-negotiations and integrated into the peace accord itself. Decision-making at later stages might hinder or prevent the creation of confederative arrangements altogether.[29]

Third, the socio-psychological infrastructure of the conflict and deep mistrust among the two societies might hinder the possibility to develop, establish and maintain joint governance institutions.

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[27] In Bosnia-Herzegovina, solutions of a confederational nature were quickly established throughout a complex internationally-brokered compromise, the Dayton agreement. However, these agreement rested on previous consociational structures, in Yugoslavia during 1970s and 1980s (See: Sumantra B. (2005) The Bosnian State a decade after Dayton, International Peacekeeping, 12:3, 322). While demonstrating the possibility of sustaining such structures as a long term solution, the example of B-osnia-Herzegovina might further highlight the need for a gradual and slow establishment processes of Israeli-Palestinian confederation, in the absent of a similar legacy in the region.

[28] As only one example, Belgium evolved into a more efficient federal structure between 1970 and 1993. This occurred through five state reforms (in 1970, 1980, 1988-89, 1993 and 2001). Belgium is therefore an example that joint governance in a numbers of layers, however complex, can become stable and sustainable over time if allowed to develop gradually and respond with sufficient flexibility to social concerns.

[29] Belgium, for example, is 'centrally decentralized', meaning, that the country's decentralization processes were centrally decided upon and managed by a national government. In the context of the Israeli-Palestinian conflict, international experts highlighted the importance of 'centralized' and collective decision-making between the two states and with all relevant groups and stakeholders.

Transforming socio-psychological underlying structures is necessary in order to attain joint governance and would require adequate preliminary mechanisms. Reconciliation processes would have to take place in each society separately, as well as on a joint platform.

These general principles yield a practical vision, one of gradually expanding cooperation between Palestine and Israel; a 'thin' confederation between the two sovereign states with greater autonomy of local governance. This arrangement will transform the underlying structure of conflict over time and pave the way towards a 'fuller' form of confederation and extended cooperation between the two countries. In order to prevent the new structure from reflecting previous and unequal power relations between Israel and Palestine, 'fuller' confederation can only be attained following a sufficient period for Palestine to establish itself as an independent state and alongside nation-building processes. This cooperation will aim at gradually expanding geographically, enabling discussion of cooperation possibilities in the broader regions, beyond Israel and Palestine alone. However, the creation and effective function of joint governance structures depend on the political will and public support of both societies, from elite-level endorsement to social wide legitimacy.

As a first stage, the two states will establish a limited cooperation through *executive -commissions*, granted with decision-making powers in selected fields. Comprised of representatives selected by each government, these commissions will function alongside joint *coordination mechanisms, collaborative forum* and *dispute resolution mechanisms*. Again, the establishment of such structure must be gradual and begin with *ad-hoc* and limited mechanisms coupled with nation-building efforts and internal reconciliation processes in each society, as well as decentralization processes and strengthening of local authorities.

As a second stage, after several *ad-hoc* joint governance institutions operate for a significant period, establishing trust between the parties and fostering positive emotions and cognitions, the two states could gradually develop 'thicker' confederative structures. Such structure might further entail parliamentary bodies and voting rights directly to the region's citizens.

At a third stage, and on a further temporal horizon, broader regional options of cooperation could be presented and negotiated with additional neighboring counties and regional stakeholders. A broader regional umbrella, beyond Palestine and Israel, might further contribute to stabilizing relations in the region, despite the limited prospect to pursue such avenue in the foreseeable future.

In the next part, the institutions comprising the first stage will be further elaborated upon.

D. <u>Focus on the First Stage – Establishing Joint Governance</u>

Translating these general recommendations into a more concrete picture of governance institutions will present a complex and wide array of joint mechanisms, processes and bodies.

While this array of supra-national mechanisms is in fact a 'thin' confederation, its framing as such might change according to the needs and concerns of both sides at the time of signing the peace accord. In this regards, consultation with local and international stakeholders of various joint governance institution reveal the hybrid nature of these arrangement, and the varying degrees of sovereignty granted to the entities members of the arrangement. In some countries, the legal framework of joint governance structure as

federal or confederative arrangement had proven to be controversial and to create additional tensions.

While Belgium, for example, is considered a federation, its unique structure hints at the limited ability to create a clear distinction between federations and confederations. In the context of the joint governance between Israel and Palestine, legal definitions should not limit the ability of both sides to create a solution fitting their own unique needs; further research is required in order to assess whether the immediate framing of initial joint governance initiatives as a confederation might hinder their acceptance by both societies.

Another important insight drawn from consultation and comparative research is that tension and disagreement are an integral part of the work of joint mechanisms, thus requiring adequate channels and forums to mitigate them. Furthermore, the fact that joint governance will be comprised of two parties, after a persistent and violence conflict, is likely to increase these tensions and conflicts and might yield results of zero-sum nature. In various contexts, the existence of an overreaching multi-national umbrella and the political participation avenues it offers might ease some of these tensions (as the EU in regards to tensions in Belgium or Northern Ireland, for example). In the absence of such umbrella in the Middle East, one must try and identify alternative options to broker compromises. In this regards, local level political representation and participation would be particularly important. Therefore, relevant processes surrounding the reconfiguration of local governance within this new governance paradigm will be discussed.

In order to clearly present the architecture of suggested governance structure, three layers of governance will be addressed: *a supra-national confederation* between Israel and Palestine;

national states in both Israel and Palestine, with full competencies, while identifying important national institutions and reforms; and **stronger emphasis on local governance** in each of the countries.

Supra-National Institutions

As a precondition to formulation of any joint institution, a *mutually agreed legal framework* must be forged between the two countries. This accord will outline the legal basis for the cooperation, reflect joint understanding and express the aspirations behind them. However, statements and initiatives by one of the parties can contribute to its formulation.[30]

While the management of an open space in Israel-Palestine would require joint governance, we propose starting with *ad-hoc* and limited cooperation. As noted before, emphasizing sovereignty and powers of the two member states is crucial for establishing trust at these initial stages. Therefore, the decision-making authorities of joint institution should be limited to fields of indivisible nature and spatial effect, necessitating joint implementation.

As a first stage of joint governance, administrative array of *executive commissions* are suggested to be granted with decision-making powers in fields such as trade, international development, environmental resource management or border control and immigration. Alongside these mechanisms, *coordination mechanisms* will be required to discuss issues remaining under the sovereign rule of the two states (such as internal security arrangements, education or health). Furthermore, *collaborative forums* will make it possible to deepen and strengthen bi-national collaboration and increase

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[30] In consultation with international experts, it was suggested to draw inspiration from The Schuman Declaration of 1950, presented by the French foreign minister. The document proposed the creation of a European Coal and Steel Community and served as a base to initiate European integration processes while expressing a federal future vision in Europe and calling for reconciliation and solidarity.

harmonization (in diverse fields, from legal approximation to educational post-conflict curriculum reforms or cultural initiatives).These will be headed by a secretariat. Only at later stages of implementation will a joint parliament be established.

In this regards, the EU's history could offer important insights. First, its early integration started with strategic and war-related industries, with the formation of the European Coal and Steel Community, which aimed at making war "not only unthinkable but materially impossible".[31] The European Coal and Steel Community was the first structural step in the progression of the European Union, and was based on the principle of Supranational Community, a new development in world history, aimed at countering European potential for violence which reached its zenith during Second World War. The foundation of the European Economic Community in 1957 six years after the European Coal and Steel Community was established was a midway solution set between confederalism and federalism.[32] Consultation with international experts suggested a water and energy sector might be equivalent to coal and steel in the context of the Israeli-Palestinian conflict, thus requiring careful attention and adequate design of appropriate mechanisms.

Second, the EU utilizes the principle of Subsidiarity, governing the relations between the EU bodies and its member states. According to this general principle of European Union law, the EU may make laws only where action of individual countries is insufficient. The principle was established in the 1992 Treaty of Maastricht. The present formulation notes that under the principle of subsidiarity, in areas which do not fall within its exclusive competence, the Union shall act only if and in so far as the objectives of the proposed action cannot be sufficiently achieved by the Member States, either at the central level or at the regional and local

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[31] The Schuman Declaration - 9 May 1950.
[32] Reuter, P. (1953). La Communaute du Charbonet de l'Acier, Paris p. 7.

level, but can rather, by reason of the scale or effects of the proposed action, be better achieved at Union level. The Court of Justice of the European Union is authorized to decide whether a regulation falls within the exclusive competence of the Union.

Implementation of a similar principle should be considered as a successful and flexible balance between national and supra-national authorities.

In addition to these institutions, an *ad hoc* dispute resolution forum (whether a tribunal or a commission) will be necessary to address disagreements and prevent tensions from escalating.

The establishment of joint human right protection mechanisms should be further considered. As noted earlier, an emphasis must be placed on nation-building measures, and these must also include the strengthening of national human right institutions. However, national human rights instruments will not necessarily suffice, particularly for those residing outside their state of citizenship. Questions in this regard arise concerning the normative content of such mechanisms; will the two countries be willing and able to jointly agree on the normative body guiding the work of such institution?[33] Nonetheless, a gradual process and limited scope of initial mechanisms are both keys to addressing the issue; the creation of regional human right protection mechanisms in Europe, Latin America and Africa was long and began with the relevant commission.[34] The Inter-American Court of Human Rights, to name

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[33] This question remains even if joint human right protection institutions will be merely mandated to uphold rights outlined in international conventions both countries have ratified before, owing to the deep disagreement between the two states regarding to the Interpretation and implementation of many international conventions.

[34] Sarkin, J. (2011). The African Commission on Human and Peoples' Rights and the Future African Court of Justice and Human Rights: Comparative Lessons from the European Court of Human Rights, *South African Journal of International Affairs*, 18, 3; Udombana, N. J. (2000). *Toward the African Court of Human and Peoples' Rights:*

but one example, was established twenty years after the creation of The Inter-American Commission on Human Rights.[35]

The representation of the two states within joint mechanisms would be crucial to their operation. In this regards, pre-agreed formula based on each country's population size might yield Israeli dominance in all joint institutions; lead to their perception as a new form of previous oppressive power structure; and fuel the demographic fears of both sides and their fears of future displacement. Granting each country equal decision-making powers in joint institutions is therefore necessary, but offers limited incentives for Israel to join such mechanism. Nonetheless, parity might turn decision-making into a zero sum dynamic between the two parties, thus quickly leading to deadlocks and paralysis in the operation of joint mechanisms. More complex and nuanced power sharing mechanisms are needed for each joint institution, depending on its exact authorities and operation mode. In this regards, representation of local government bodies from both countries can contribute to brokering compromises. Other possible arrangement will include periodic rotations of chairing positions of each institution, mutual veto rights and limitation on their exercise.

Furthermore, the state will have to decide whether member of joint government bodies will be appointed by the national governments of both states or directly elected by Palestinian or Israeli citizens. While appointing members might reflect current

Better Late than Never, Yale Human Rights and Development Law Journal, Vol. 3:45; Sarkin, J. (2008). Role of Regional Systems in Enforcing State Human Rights Compliance: Evaluating the African Commission on Human and People's Rights and the New African Court of Justice and Human Rights with Comparative Lessons. *Inter-America& Europe Human Rights Journal* 1

[35] Brewer, S. E. & Cavallero, J. L. (2008). *Reevaluating Regional Human Rights Litigation In the Twenty-First Century: The Case of the Inter-American Court, 102* The American Journal of International Law, ; Harrington, A. R. (2012). *Internalizing Human Rights in Latin America: The Role of the Inter-American Court of Human Rights System*, 26 Temple International & Comparative Law Journal.

inner-societal patterns of marginalization, it can also play a positive role, facilitating stronger relations between national governments and supporting their initial and continued operation. Thus, one might consider the appointment of a temporary and transitional governance within joint governance mechanisms.

National Reconciliation and Confidence-Building Measures

Beyond the establishment of Supra-national institutions and platforms, their practical work would require an enabling and conducive political environment. Against a background of mistrust and mutual fears (see section B above), fostering such an atmosphere requires mitigation of the underlying structures and root causes of conflict.

How would the two countries transition from conflict towards a sustainable peace, or how would they address their complex past? How would their societies, shattered by unspeakable and enduring violence, bring justice to victims and reduce the risk of future escalation and conflict? The field of Transitional Justice is dedicated to the inquiry of these questions could provide us with valuable tools and practices, emphasizing the right to truth, justice and reparation.[36]

In order to address the pervasive structure of conflict and support long-term transformation, various measures can be implemented. Among these mechanisms are **truth seeking** processes, to foster recognition and acknowledgement of past human right violations; **vetting** in the civil service and military, aimed at moving away from the conflict's legacy by removing those involved in conflict-related human right violations from their public positions;

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[36] Teitel, R.G. (2003).Transitional Justice Genealogy, *Harvard Human Rights Journal* 16, 69; Roht-Arriaza, N., & Mariezcurrena, J. (Eds.). (2006). *Transitional justice in the twenty-first century: beyond truth versus justice*. Cambridge: Cambridge University Press.

reparation schemes for individual, groups and communities affected by conflict, aimed at restoring their lives; and ***disarmament, demobilization and reintegration (DDR)*** of former combatants, to reinforce the agreed ceasefire and promote long-term stability.

As previous agreements neglected to address the conflict's narrative and history,[37] truth-seeking initiatives are perhaps the most immediately called for. Truth seeking processes, implemented in over forty countries, report, document, as well as acknowledge, legacies of past wrong-doing and identify future policy reforms, with the hope of denouncing past human rights violations and paving a path towards a different future. The most widely known example such process is South Africa's Truth and Reconciliation Commission.[38] Similar bodies or processes can be separately implemented by both Israel and Palestine, foster both recognition and nation building, while opening a space to a new political discourse. This could lead to a future bi-national and joint process of truth seeking.

Others mentioned the fear of recognition which surrounded these accords and which were articulated in the Israeli public and Media. Civil society would therefore have a crucial rule in mobilizing support to acts of recognition (from statement of recognition of responsibility to past human rights violations to public apology or memorialization initiatives, many routes can be taken), in order to

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[37] Pappé, I. (Ed.). (2010). *Across the Wall: Narratives of Israeli-Palestinian History* (Vol. 88). IB Tauris.
[38] Audrey Chapman and Patrick Ball (2001), The Truth of Truth Commissions: Comparative Lessons from Haiti, South Africa and Guatemala, *The Human Right Quarterly* 23, 1; Office of the United Nations High Commissioner for Human Rights, 'Rule of Law - Tools for Post-Conflict States: Truth commissions', 2006 (Link); UN Women, 'A Window of Opportunity: Making Transitional Justice Work for Women', 2010 (Link)

create a more productive environment for joint mechanisms to function.[39]

Local Governance Reforms

Sharing a single space between the two states - Israeli and Palestinian – would necessitate not only creation of new supranational institution and national reforms, but also re-configuration of the local governance. Given a return of Palestinian refugees to Israel and continued presence of Israeli settlers in Palestine, many will find themselves residing outside their country of citizenship. Residency rights will become an issue of utmost importance, and consequently local governance might become more significant to one's daily life than central or supranational government. Attention to the merits of local governance is thus called for.

While local governance is often perceived as a body for implementing the policies of the central governance and ensure effective service delivery, it can also be seen as an arena for expressing spatial and political identities of various groups and communities, and as a realization of the right to self-determination.[40]

One of the most interesting democratic countries which utilized local governance in innovative ways to counter social tensions is Belgium. Belgium has been described as a state which has regionalized to the extent that it has become a weak federation.[41] Decision-making powers in Belgium are not centralized, but divided between the federal state, three communities and three regions.

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[39] Both Israeli recognition of the *Nakba* and Palestinian acceptance of a 'Jewish-Hebrew' collective in the Middle East are significant; some emphasize the importance of "Mutual Recognition of the Common Homeland" of the two people.
[40] Rosen Zvi, I. (2004). Place of Justice: Local Government Law and Social Injustice, *TEL AVIV U.LAW Review*28, 417 (In Hebrew).
[41] 'Only Bosnia and Irak are more disjointed than Belgium' interview with Prof. Donald L. Horowitz, De Morgen ; Wed, 25 May 2011.

Belgium is divided into three regions which are territorial entities: Flemish Region, Brussels-Capital Region and the Walloon Region. Hence, while three communities and three regions exist, they are not similar and the German-speaking minority does not have a region but rather a community. The Brussels region is neither Flemish nor Walloon, and perhaps its heterogeneity stabilizes international relations in Belgium.[42]

Belgium arrangements of local governance are important as they provide a glimpse into the capacities of local government to reduce tensions. Belgium includes division between regional governments to communities.

Local Governance is the most immediate experience of democracy and political rights. It further offers individuals and communities an important venue of political participation, owing to its size, accessibility and low costs of participation. Therefore, the deepening cooperation between the two countries and efforts to foster renewed social identities will be supported by reforming local governance in order to expand their authorities and capacities.

Local governance is a form of decentralization, which can bring decisions closer to the community, allow for policy flexibility, innovation, and experimentation, and ensure government responsiveness to local needs.[43] If political boundaries for sub-

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[42] McGarry, J & Leary, B. O. (2005).Federation as a Method of Ethnic Conflict Regulation. In From Power Sharing to Democracy, ed. Sid Noel. Montreal: McGill-Queen's University Press.

[43] De Vries. M. S. (2000). 'The rise and fall of decentralization: a comparative analysis ofarguments and practices in European Countries.' European Journal of Political Research 38,193–224; Norris, P. (2008). Driving Democracy: Do Power-Sharing Institutions Work? Cambridge University Press, p. 159. According to Norris, "transfer of central decision-making to democratically elected local and regional bodies gives citizens multiple points of access, thereby enhancing opportunities for public participation, increasing the accountability and responsiveness of elected officials to local citizens, and hence providing incentives for more responsive democratic government." (p. 160).

national governments reflect social boundaries, diverse plural societies can become homogeneous within their regions, thereby reducing communal violence, promoting political stability, and facilitating the accommodation of diverse interests within the boundaries of a single state.[44] Decentralization processes involve redistributing or dispersing authorities and powers from the central government. Research has indicated that these processes positively contribute to stabilization of deeply divided and post-conflict societies and reduce ethnic tension.[45] The allocation of governance responsibilities, from central bodies to local government enables diverse groups and national/ethnic minorities to express their political, social and cultural identities; gain greater control of shaping these identities; [46] encourages creation of partnership; and in countries as Canada and Malaysia, helped manage persistent conflicts.[47] The argument for decentralization in ethnically diverse societies is that by ensuring minority group representation, it provides political channels through which differences can be reconciled.[48]

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[44] Lijphart, A. (1999). Patterns of Democracy. New Haven: Yale University Press. p.196.

[45] Alongside the positive effect of decentralization processes, they might also give rise to regional political forces (i.e, parties gaining support in a specific area only). Regional parties might undermine this positive effect of decentralization, if these forces will promote decision negatively affecting the group that constitute a minority in the region, strongly advocate against national identities or mobilize support to radical organization. This affect could be mitigated and reduced through adequate design of local institution (in term of the sequence between national and regional elections, institutional incentive for regional alliance and partnership or other measures). Brancati, D. (2006). Decentralization: Fueling the fire or dampening the flames of ethnic conflict and secessionism?. *International Organization*, *60*(03), 651-685.

[46] Ibid.

[47] Yiftachel, O. (2006). *Ethnocracy: Land and identity politics in Israel/Palestine*. University of Pennsylvania Press.

[48] Siegle, J. & O'Mahony, P. (2006).Assessing the Merits of Decentralization as a Conflict Mitigation Strategy. Office of Democracy and Governance, USAID, Washington, D.C.

Decentralization in ethnically diverse societies can also raise concern given that it may encourage ethnic identification, accentuate inter-group differences, and foster discrimination against local minorities. Decentralization and weak central governments encourages inter-ethnic competition and collapsed states. [49] Decentralization in post-conflict situations is also complicated by the fact that certain regions may be armed,[50] which is a crucial issue with regard to the Israeli settlements.

As noted above, local governance reforms are subjected to national consideration and decision-making of each of the states. However, we cannot ignore the importance of this aspect, particularly in light of governmental and social characteristics of each of the societies (in particular, ethnic rifts in Israeli society and the ongoing difficulties of the Palestinian local government).

In Israel, local government was established as a necessity under a colonial regime. Due to the legacy of British colonialism coupled with Zionist ideology, a centralized governance structure was established in Israel, with local authorities operating as an implementing branch. As a result, the local governance in Israel is weak in many aspects, for example the extensive supervisory arrangements of the central government on the limited control over government budgeting. Surprisingly, at the same time, local governance in Israel was vested with excessive power to exclude individuals and communities. The landscape of local governance reveals metropolitan fragmentation into small units; segregation and homogeneous communities; and jurisdiction map that grant control over the majority of lands in Israel to a small group of municipal authorities, and thus to a small minority of Israel's citizens, while

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[49] Idid; Posen, B. 1993. The security dilemma and ethnic conflict. Survival 35:27-47.
[50] See Siegle & O'Mahony, note 24.

systematically marginalizing Arab citizens and residents of development towns, who arrived in the fifties from Arab countries.[51]

In light of the importance of decentralization and local identities, and taking into consideration the present structure of local governance, several recommendations can be offered.

Decentralization might entail different dimensions. First, there is a clear need to ***political decentralization***, in which decision-making capacities in various fields will be transferred from the central government and reallocated to local authorities. In this regards, cultural rights, religious practices and even education or community policing can be considered to be transferred or exercised jointly by local governance.

Second and more importantly, there is a strong need for ***constitutional decentralization (or bottom-up decision-making)***, namely, providing a significant voice and say to local government in national and even supra-national decision-making processes. This aspect was indicated to mitigate and reduce conflicts and tensions; decentralization processes will be productive insofar they would foster also national affiliation and emphasis common interests, through the active role of local institution and delegates in national and supra-national policies.[52] Various measures can be offered in this regards, as mandatory local consultation and hearing on particular issues.

Third, ***financial decentralization*** could be further considered (the issue will be elaborated upon later in this chapter, in relation to dealing with economic gaps and power misbalances)

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[51] Rosen Zvi, I. (2004). Place of Justice: Local Government Law and Social Injustice, *TEL AVIV U.LAW Review* 28, 417 (In Hebrew).

[52] Brown, G.K. (2009). Regional autonomy, spatial disparity and ethnoregional protest in contemporary democracies: A panel data analysis, 1985–2003. *Ethnopolitics*, *8*(1), 47.

Moreover, high levels of urbanization in both Israel and Palestine might offer new ways to configure local management.[53] In this regard, some proposed to create an additional tier – regional or metropolitan government – composed of municipal authorities in a certain area. In the context of Israel-Palestine space, a subdivision of seven provinces was suggested.[54] Others have proposed, with respect to Israel, the establishment of four metropolitan spaces, functioning as 'supra' municipal councils.[55] Regional Government could be granted with authority to address and formulate policies in issues affecting the metropolitan area as such. While municipal bodies will serve as a platform to express ethnic, religious and cultural identities and handle related issues, the regional government will promote broader interests and foster new partnerships, alliances and consequently allow for a new regional identity to emerge, one that is not dependent on negation of the other side to the conflict.

Lastly, local governance reform must reflect the broader need to strive towards the democratizing of the Israel-Palestine space. The current map of municipalities in Israel, reflecting structured marginalizing and systematic discrimination, will undermine the positive contribution of the suggested reforms and hinder the work of joint Israeli-Palestinian institutions. Therefore, local governance reform would not be completed in Israel without mitigating aspects; Israel will be obliged to redraw the borders of the municipal government jurisdictions in a manner reflecting distributive justice in relation to all of its citizens, including Arab citizens and residents of development towns.

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[53] Yiftahel, O.(2011), Between one and two: The One State Solution vs. the Idea of a Confederation to Israel/Pakestine – Lecture Manuscript, *The Public Space*, 156 [In Hebrew].

[54] Grinberg, L.(2010. The Israeli-Palestinian Union: The" 1-2-7 States" Vision of the Future. *Journal of Palestine Studies* Vol. XXXIX, No. 2, 46

[55] Rosen-Zvi, I. (2005). Localism to Regionalism: Towards A New Agenda for Local Government Law. *HAIFA LAW REVIEW* 2, 159 [In Hebrew].

E. Challenges and Dilemmas

A major challenge to the advancement of joint governance is the a-*symmetrical power relations between Israel and Palestine*, shaped throughout decades of occupation and hostilities. The deep political, economic and social power disparities between Israel and Palestine cast doubts on the possibility of creating truly joint governance structures or maintaining inclusive decision-making. Even more so, this power imbalance might bring Palestinian stakeholders to perceive these institutions as yet another expression of Israeli dominance, a mere façade, behind which previous power-based relations will replicate and continue to operate. Similarly, others might continue associating these institutions with past wrong-doing – a tainted legacy of displacement, occupation and oppression.

At the same time, power relations - both political and economic - are neither permanent nor unchangeable; joint governance structure might be a key toward transcending and transforming these very dynamics.

Politically, one of the pre-conditions we have mentioned before to the proposed cooperation is a sufficient time period for Palestine to establish its sovereignty, before implementing a 'full' cooperation. Palestine should enter a cooperative arrangement from a stronger position and as an uncontested, independent state. Within the framework of joint institutions, power sharing mechanisms and inclusive decision-making processes must be carefully outlined to address this challenge, as mentioned above in regards to representation.

In addition, Israel's excessive power would require systematic channels and processes of foreign intervention in order to counterbalance its impact on political compromises and joint

policies. In the context of asymmetrical power relations and unequal parties, external pressure would be necessary to bring Israel to compromise.[56] Previous negotiation between Israel and Palestine required constant international pressure rather than relied on reciprocity and self-interest. Nonetheless, the inability of the international community to clearly agree and enforce the relevant norms of international law brought the parties to try and quickly create facts on the ground; future efforts will be assisted by clearer normative frameworks. [57]

Economically, Israeli-Palestinian cooperation must primarily be aimed at eliminating the social and economic gaps between the two states and within each society, an effort which will further contribute to gradually diffusing conflict-related tensions, in a similar manner to the EU's slow evolution. Various measures must be implemented to attain this target, from adequate economic agreements; through carefully designed state intervention to strengthen the Palestinian social protection net; to bi-national or regional development cooperation[58] and international investments in Palestine. [59]

In addition to questions of power relations, challenges surrounding democratic governance arise, due to pre-existing

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[56] Bose, S. (2007).*Contested Lands: Israel-Palestine, Kashmir, Bosnia, Cyprus, and Sri Lanka*.Harvard University Press, 270.

[57] Similarly to Bosnia-Hertzgovina and unlike Northern Ireland or South Africa; see: Bell, C. (2000). *Peace agreements and human rights* (p. 297320). Oxford: Oxford University Press, 116.

[58] IGAD - Intergovernmental Authority on Development in Eastern Africa - is an interesting model for regional development institutions created among unequal member states, which had later played an important role in facilitating conflicts, notably in newly-established South Sudan.

[59] While the current dominance of Israel's financial institutions and industry must be counterbalanced, it would also require the joint government to identify and highlight financial incentives for Israeli elite groups to support these policies (incentives as the financial advantages of free trade zones or "custom unions, for example). See: Grinberg, L. (2010. The Israeli-Palestinian Union: The" 1-2-7 States" Vision of the Future. *Journal of Palestine Studies* Vol. XXXIX, No. 2, 46

difficulties and tension in each one of the countries. Deep concerns arise particularly with regard to ***Israel's degree of commitment to core democratic principles***, in light of structural and systematic marginalization and discrimination on ethnic and national grounds. Addressing the issue is also in Israel's interest, as these factors were found to increase the risk to political instabilities and violence.[60]

In order to enable the formulation and establishment of a democratic joint supranational institution, a democratization of the Israel-Palestine space is necessary. The two states would have to undertake internal governmental reforms to address systematic discrimination and marginalization and promote political and social rights, political participation and equality. In Israel, such processes should include promoting distributive justice, equal access to state resources and land reforms, while amending past injustices by returning confiscated land or recognizing Bedouin settlements.

These processes might seem difficult to achieve while also attempting to promote historical peace initiatives. However, as noted throughout the document, the approach offered is gradual and would require slow transformation. Moreover, the issues are interwoven. Unequal resource distribution and economic marginalization fueled the conflict.[61]

Lastly, the ***Israeli settlements*** present a major challenge to the possibility of promoting joint governance institutions. Solutions which do not include the complete withdraw of the settlement are perceived by many as unjust and apologetic.

As the project premise included a continued presence of Israeli settlers in Palestine, rather than a complete withdrawal, joint

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[60] As demonstrated in many countries, among which are Sri Lanka, Ireland, Spain, Cyprus, Sudan or India; See:
[61] Grinberg, L. (2007). Economic Envelopment: Three Turning Points in Forty Years of Economic and Military Domination, Theory and Criticism 31 (in Hebrew).

governance should be designed to enable such a possibility. Notwithstanding the controversial legal base concerning the settlements or their adherence to principles of international law, the Palestine authority state could agree to their continued presence.[62] Naturally, such an agreement is likely to entail demands for adequate compensations and redistribution of natural resources in the occupied Palestinian Territories, including those currently used by the settlements.

The confederation model, coupled with local governance reforms, could accommodate the presence of settlements under Palestinian authority, insofar as guarantees will be provided to by the Palestinian government to ensure the security of settlers. The settlers could therefore express their religious and national identity within the framework of the municipal authority.[63] At the same time, management of regional issues and infrastructure (roads, electricity, communication and water management facilities, including infrastructure that previously served the settlements only) will be transferred to regional/metropolitan governance bodies and will be utilized to the benefit of all resident of the metropolitan. This solution could lead to increased migration from settlement back to Israel, requiring adequate preparation by the Israeli authorities to prevent tension and triggers to ignite conflicts.

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[62] The Palestinian authorities can agree to the settlements' presence under Palestine on in enclave of Israeli sovereignty. However, creating enclaves is a highly problematic option: such arrangement are replicating past mistakes and fragment the spatial continuity of the Palestinian territory and authorities, while preserving an Israeli control over them. Moreover, international experience reveal such enclaves were created throughout centuries of complex compromises, as in Belgium, or presented difficulties ensuring access and providing basic services without igniting bi-national tensions and conflicts (as in India/Bangladesh).

[63] One might draw inspiration from municipal arrangements in Belgium. Belgium is divided into territorial region entities (Flemish Region, Walloon Region and Brussels-Capital Region), each of which compromising a majority group. However, Belgium include municipalities with unique facilities for linguistic minority groups; municipalities with language facilities for French speakers which are located in the Flemish Region, and facilities for Dutch speakers in French-speaking Wallonia.

At the same time, the continued presence of small and isolated settlement, characterized by an increased tendency to localized conflicts and violence, is presenting irreconcilable difficulties regarding the possibility of joint governance, even under the project's premise.

Annex

Federations, Confederations, Leagues & Unions

To provide a better understanding of possible paths for reconciliation, a limited introduction to four main governmental arrangements will be provided. Federations, confederations, unions, and leagues are essential to the frameworks of joint-governance.

Federations are characterized by having partially self-governing states or regions under a central government. Deriving from latin word '*foedus*' which means treaty, these politically entities are usually constitutionally grounded, unaltered by unilateral decisions by parties, or the federal body itself. They are federal governments formed by separate entities, in such a way that each government within the whole government has its own legal independence and area of powers within its own sphere (Wheare, 1947). Independent sovereignties associate in a partnership, to foster social, political and economic development, based on 'the presumed integrity and mutual respect of the participating entities' (Burgess, 2012; 8). The balance is such that neither level of government is dominant on the other, but each can have influence, bargaining power or persuasion. According to Kant's notion of federation, the mere purpose of such form of association is to bring permanent end to war thanks to a system of political organization, while relying on each member state to voluntary follow the conditions of the contractual agreement and consent to the regulations of the membership, in order to bring 'peaceful coexistence and mutual security' through unity dedication and the sharing of power among the different entities (Brown, 2005; 496). Those entities can be self-policing and keep power to themselves for some purposes, while others are pooled with the centralized authority. To Wheare, it is 'the delimited and co-ordinate division of government functions (1947; 453), that brings together different nationalities with the common and simultaneous desire of living

together as one people but who want to remain independent and culturally autonomous. A federation 'combine(s) unity in diversity' (Watts, 1966).

Confederations are political unions that have banded together and can vary in structure and fluidity. Generally founded under a central government, confederations differ from federations in their approach to strict rules and regulations. By consolidating authority, confederations are able to provide member states with support in regards to issues such as common currency, defense, and singular foreign policy, while still maintaining a developed sense of state autonomy. Under a confederation, the confederate government operates upon the people through its member states, bargaining, negotiation and veto power, while the central institutions behave and act through it and can only do what the confederate government allows them to do (Josselin, Marciano, 2006). In that framework, the member states are the principals and a small amount of tasks is delegated to the central government. Confederations throughout history have been seen to uphold a semi-permanent nature.

Leagues

In order to resist against military or economic threat, states combine their forces in a league, which is considered as one of the commonest forms of supranational organization in history.

One of the first combinations can be find in the city leagues of Archaean and Aetolian in ancient Greece as well as the Hanseativ and Swabian leagues in Europe. One of the greater examples was the idea of Woodrow Wilson, President of the United States, establishing an 'international collective security organization' including all the states of the world as a League of Nations in 1919 following the Peace Conference after World War I (Schild, 1995; 27). Within the League the member countries were represented through agents of their government in an Assembly. A council represented the great powers of the League to which the other member powers were elected for

three-year terms by the Assembly. Furthermore the League consisted of different agencies which were responsible for economic and humanitarian sectors. The United States failed to participate in the League and it was unable to prevent the crisis which led to the Second World War. Nevertheless it served in many aspects as an important predecessor for the creation of the United Nations. Concerning other common characteristics of leagues, it includes an assembly of representatives of the constituent members of the league, an executive for the implementation of the decisions of the assembly of representatives, and an arbitral or judicial body for adjudicating disputes (Encyclopedia Britannica).

Unions

The term 'union' refers to a unification or association between several persons, organizations, parties, regions or states (Klaus Schubert, 2011). At the political level a political union is a consolidated group of nations and states of which a government and central authority is maintained and is internationally acknowledged (Business dictionary, 2014). The unification results of the common interests of different nations such as mutual compatibility of main values, expectation of stronger economic ties and gains and to face a deeper integration (David McKay, 1997; 282). While the reason of creating a political union is for some academics to be found in motivations as advancing freedom and democracy, encouraging larger markets and enhancing economic growth others argue the motivation of unification lays in the fear of external military threat (1997; 285). Nevertheless as an example of a political union is what is toady known as the European Union. Following the Maastricht Treaty in 1992 the countries of the European Community formed a genuine political union in order to gain political stability and 'to cede authority over monetary policy to a supranational authority' (1997; 279). A political union is thereby also characterized by decentralization of power among subnational governments comparable to federal arrangements (Encyclopedia Britannica).

Whereas a monetary union is more clearly to be defined, as a union between countries with the same currency managed by a central bank, a political union has many dimensions which can be distinguished between the transfer of national sovereignty in a functional and institutional way. For instance, the European Union consist of different institutions of legislative and executive branch which represents part of the national sovereignty of the member states (De Grauwe, 2006).

II - Citizenship, Residency and Freedom of Movement

II. 1 – Israeli Jewish Research Group

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Abstract

The "Two states in One State initiative" ("the initiative") builds upon elements that Israelis and Palestinians have agreed to during the past decades, while addressing issues perceived by each national collective as imperative to resolving the conflict. Inspired by political possibilities of supra-national citizenship offered in an era of globalization, yet deeply aware that the Israeli and Palestinian publics are not interested in post-national solutions, the initiative offers a relatively simple formula, but one that is a game-changer in the political and socioeconomic horizons it offers both national collectives.

The initiative offers significant change in political, economic and social power mechanisms between Israelis and Palestinians by opening the territorial space to free movement of population, while

guaranteeing territorial and political sovereignty to two states, and safeguarding the imperative interests of stability, security and national identity of the two publics within a confederation or union.

The political membership of the population (including citizenship, residency and rights) in each state, as well as the relationship between that political membership in each state and freedom of movement are the nexus of the initiative. Political status, and the lack of it, has turned Israel and the Occupied Palestinian territories into a tricky spatial chessboard of identity, one that has deeply impacted the daily life of the population. The area is a place where identity documents have been key elements to freedom of where identity documents have been key elements to freedom of movement, and national belonging has determined access to political participation or the denial of it.

We propose an analytical model of political membership that will create an operable and sustainable political framework, grant sufficient rights and access to participation in decision-making to both publics, while attempting to address the most prominent fears of the Jewish population, since this research group focused on the Jewish-Israeli perspective.

We base the model on our study of comparative cases (EU, Former Yugoslavia, Kosovo and Cyprus) and offer an interpretation of political membership that builds upon previous agreements, and yet introduces new meanings and institutional frameworks for stale and unhelpful understandings of concepts such as citizenship and sovereignty. This simple analytical framework relies on multiple levels of change: 1) three-tiered institutional change from government to governance that shifts power from national administrative bodies to local government and union/confederation institutions; 2) emphasis on social citizenship - the creation of a universal safety net of social benefits across both states and 3)

cooperation and coordination of laws defining status and rights of citizens and residents between both states.

Political membership will be divided into citizenship and residency. All residents of Israel and Palestine will have citizenship in one of the states (or a third state if they are temporary migrants), and will gradually enjoy the possibility for residency in the other state. We argue that there must be relative equality between the status of citizen and resident within each country, and relative equality between the rights of residents in both states. The equality between the political status **in each state** and **within each state** is critical for the stability of the states and the prevention of demographic imbalance due to a gap in rights and access to political participation. Relative equality is necessary for the union of two sovereign states of Israel and Palestine in order to provide a sustainable framework of political membership and grant freedom of movement, freedom to work, and freedom from discrimination based on national identity.

Citizenship will be based on *Jus Solis* and *Jus Domicilis* at the inception of the plan and will offer citizens an exclusive right to vote and be elected to national institutions. This will create a gap in political rights between citizens and residents that will be mediated by the wide number of rights of residency, perceived as social citizenship that will guarantee political, civil and social rights as well as access to significant political participation in local, regional and confederate representative and administrative institutions. If we use the European Union (EU) as an example, which first formed an economic union and only later formed a political union that created European citizenship, the confederation will have a reverse trajectory –first a political union that will allow for freedom of movement, and later an economic union that will enable relative socioeconomic equality and provide a guarantee of an economic safety net for all citizens of the confederation.

In the paper, we explain the proposed model and significance of social citizenship, address some of the obstacles created by our proposed analytical model of political membership and use some comparative empirical research on citizenship regime and majority minority relations from the EU, the former Yugoslavia, Kosovo and Cyprus to illustrate the obstacles and possible solutions of the proposed model. In the first chapter, we introduce the model we propose for political membership; in the second, we explore various existing models of citizenship and elaborate on the promise of "social citizenship" and in the third chapter we examine legal and political obstacles created by the rights gap and resident minority populations, and explore possible solutions. In conclusion we address the shift to three-tiered governance at the level of the confederation, nation and municipality as a solution to the gap between citizenship and residency in the confederation.

Scope Conditions for the Model of Political Membership

1) Universal citizenship of all residents from the Jordan River to the Mediterranean Sea in one of the states and in the Confederation;

2) The proposed model of political membership addresses the end result of the initiative, and does not consider the temporal increments or stages of implementation, such as decided quotas of residents, closures on freedom of movement due to security concerns and other issues that will be negotiated.

Prerequisite 1: Universal Citizenship

Traditionally, citizenship is the apex of political membership that grants rights, while statelessness is at the bottom of the scale in which a person does not have rights as a result of not belonging to a

state. Following Hannah Arendt's analysis of the relationship between rights and belonging to a nation-state [64], we view statelessness as lack of a right to have rights.[65] For this reason, we contend that a primary condition for the political feasibility of the model is that all residents in the territory between the Jordan River and the Mediterranean Sea are citizens of a state, as well as citizens of the union. We regard citizenship status as the baseline of political membership and all other forms of political status as inherently lacking in rights. Any population that will not have citizenship within the union will threaten the stability of the arrangements.

Historically, a large portion of the Palestinian population of the territory of the proposed union has not enjoyed political status and rights for it was under different types of military government[66], nor did it have effective decision-making capabilities on its political future, including the Palestinian citizens of Israel[67]. Moreover, because of social and economic discrimination, disempowered Jewish communities have suffered from lack of effective access to political participation and decision-making, particularly in what is called "the periphery"[68]. In a new political arrangement, it is critical

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[64] Arendt, Hannah. The origins of totalitarianism. Houghton Mifflin Harcourt, 1973.

[65] Arendt, Hannah. "We refugees." Menorah Journal 31.1 (1943): 69-77.

[66] Berda, Yael, Forthcoming 2015. Managing Dangerous Populations: The Permit Regime in the West Bank. Stanford University Press.

[67] Rouhana, Nadim, and Assad Ghanem. "The crisis of minorities in ethnic states: The case of Palestinian citizens in Israel." International Journal of Middle East Studies 30.03 (1998): 321-346.

[68] Israel's periphery is not only a geographic one, but encompasses the plight of disempowered communities, even within urban settings lacking access to social and economic rights and access to meaningful political participation. The reference includes Mizrahi communities, Ethiopian and certain Russian-speaking communities, as well as Palestinian citizens of Israel and the Bedouin population. See Cohen, Nir, and Meirav Aharon-Gutman. "Citizenship at work in the Israeli periphery: the case of Peri Ha'Galil." Environment and Planning D: Society and Space 32.4 (2014): 589-605; Yiftachel, Oren. "Social Control, Urban Planning and Ethno-

that every person within the territory of the confederation have citizenship that is potentially equal in scope and facilitates effective participation in decisions that govern their life.

Prerequisite 2: Model of Political Membership Pertains to Final Arrangements

The initiative includes several benchmarks of implementation, including an incremental rise in residents of one state that are citizens in the other state (Israeli citizens residents of Palestine and vice versa), although in our research group we did not examine the temporal aspects of the program. The relationship we propose between political membership and freedom of movement does not address benchmarks of quotas for residents. We confront issues of demographic changes and the possible impact of the initiative on majority-minority relations on the assumption that the initiative has completed its goal of establishing a union.

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class Relations: Mizrahi Jews in Israel's 'Development Towns'." International Journal of Urban and Regional Research 24.2 (2000): 418-438.

A. The Model and Its Impact on Political and Civil Rights

In the proposed union, all persons within the territory will be citizens, and citizenship within the territory of the confederation will guarantee two central rights: freedom of movement and freedom of residency. These rights will establish a dynamic political status, where a person will have citizenship from their country of origin (Israel or Palestine), and some will have residency in the other state. If there will be full freedom of movement and a certain degree of freedom to become a resident, we assume that people will exercise their right and may transfer their life center to the other state. Therefore over time, there will be multiple types of political membership that will create different status for certain groups in each of the states within the territory.

Citizenship is a complex concept defined as a legal and political framework though which one achieves full membership in society and can impact decision-making processes. Citizenship has been a centerpiece of political theory in the Occident, considered a vehicle through which the nation-state shaped its relationship to society. Yet, it is an amorphous concept that has multiple meanings depending on the ideologies and national histories that shape it in a particular locale.[69] The concept of citizenship encompasses two functions: first it is the legal status of permanent residency in a state that includes rights and duties and second, it is a framework for political membership in the state as a community.

We address citizenship as political membership that includes a number of rights both of the individual, and as part of a national

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[69] Shafir, Gershon, and Yoav Peled. Being Israeli: The dynamics of multiple citizenship. Vol. 16. Cambridge University Press, 2002.

collective. Therefore, a lack of citizenship for a resident of the other state in the confederation (for example a Palestinian citizen that resides in Israel) has effects of exclusion that can impact the inequality of the distribution of public resources, and ability to influence political decision-making. Contrary to the trajectory of the EU, which first formed an economic union, and only later a political union[70] that established European citizenship,[71] this union will create a political union from the outset, and gradually form the economic union needed to see to the stark inequality between Israeli and Palestinian societies reflected in the GDP per capita in the West Bank for 2011. The numbers for that year were $2900 in the West Bank, which was 8.5% of the GDP per capita in Israel for that year, $34,000.[72] While both are critical to the stability and sustainability of the confederation, political union will establish the institutional framework for political membership, (including a shift to three - tiered governance which we will discuss later) that is necessary for a gradual economic union in order to prevent competition and population imbalance.

The Argument – Relative Equality Between Citizen and Resident

We argue that the status of citizen and the status of resident within each state, and the status of resident between the states,

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[70] Article 8 of the Maastricht convention introduced the concept of citizenship in the union in conjunction with the four freedoms: freedom of movement of goods, persons, services and capital that until that time were considered freedoms related to the economic union, while citizenship was possible only through member nation states.

[71] Hansen, Randall. "A European citizenship or a Europe of citizens? Third country nationals in the EU." *Journal of Ethnic and Migration Studies* 24.4 (1998): 751-768.

[72] CIA World Fact book. Numbers do not include the GDP in Gaza, which decrease the overall GDP of the Palestinian Territories.

should be as equal or similar as possible for the sustainability of the union.

In the model we propose, all Israelis and Palestinians[73] would be citizens of one of the two states, where they could vote and be elected to a national institution. They would be residents of one of the two states and that residency would be characterized as social citizenship. They would also be citizens of the union, which would grant them access to political institutions of the union. Inspired by the Maastricht agreement of 1992, (which established European Citizenship and the EU as a political union beyond and economic one), a major component of the model is freedom of movement and the right to work for all citizens of the union, and the right of residency to certain populations, that will be mutually decided by both states (i.e. Jewish settler population and returning Palestinian refugees are target populations that will be initially be granted the status of resident).

The goal is to achieve effective freedom of movement comparable to the Schengen area rules[74] for the population of the confederation, but this would be a gradual process depending on security arrangements of the outer perimeter of the union, as suggested by the research group on security.

The closer the balance of benefits and duties between citizens and residents within the state, and the closer the benefits of residents in Israel and Palestine, the more sustainable the suggested

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[73] Palestinian citizens of Israel would remain Israeli citizens

[74] The Schengen Agreement provided for harmonization of visa policies, allowing of residents in border areas freedom to cross borders away from fixed checkpoints and the replacement of passport checks with visual surveillance of vehicles at reduced speed vehicle checks that allowed vehicles to cross borders without stopping. In 1990, the Agreement was supplemented by the Schengen Convention, which proposed the abolition of internal border controls and a common visa policy. It was this Convention that created the Schengen Area through the complete abolition of border controls between Schengen states, common rules on visas and police and judicial cooperation.

political framework will be. The relative equality between the status of citizens and residents we propose, while necessary for promoting stability in the union as well as for adhering to elementary democratic principles, it is most problematic from the point of view of both publics, the Israeli and the Palestinian, and gives rise to legal and political obstacles. Yet this very distinction between citizens and residents is important symbolically and politically, because the two publics are interested in the boundaries of the nation-state in terms of sovereignty, belonging and political control

For the Israelis, the gaps between types of political status are a remedy for what is perceived as the Palestinian "demographic threat" to the Jewish majority. This perceived threat has been politically mobilized as an existential threat to personal and collective security, as well as to the national Zionist project and the nature of the state as "Jewish and Democratic".

For Palestinians, the equality of status of resident settlers to Palestinian citizens is perpetuation of the injustice of the settlement project in the West Bank, and for some, an immortalization of the *Nakba*.

One innovation of supranational citizenship we discuss in the next chapter is social citizenship. We argue that mitigating the gaps between political statuses is possible by ensuring that residents enjoy a rich type of social citizenship that grants a safety net of social and economic rights, access to services, freedom from discrimination based on nationality and possibilities for social mobility. Social citizenship will guarantee residents their rights and effective access to political participation and institutional power at the local and regional levels. This construction mitigates the formal legal gaps of political rights between citizens and residents. Conversely, the stability of the union relies on the ability to create a socioeconomic safety net for all persons residing between the Jordan River and the Mediterranean Sea.

Union

Israel   Palestine

Resident
Social
Citizenship
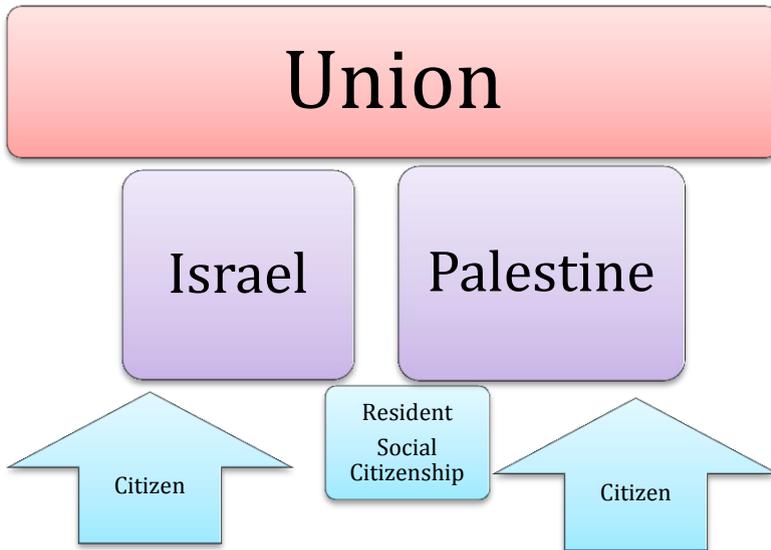
Citizen   Citizen

B. Comparative Models and Sources of Citizenship

In this chapter we briefly explain: 1) The different sources of legitimacy and various models of citizenship and which element we suggest for the model and 2) how constructing residency as social citizenship serves as a substitute for formal citizenship.

Models of Citizenship

Scholars and policy makers have outlined different models of citizenship, particularly in conflicted areas in which political solutions demanded thoughtful construction and articulation of the concept. In order to ignite political imagination of members of the group, we discuss various aspects of citizenship. We focused not only on rights, but also on duties of citizens. We considered the historical development of citizenship, particularly the relationship between war, taxation and political rights. Sociologist Charles Tilly's classic theory of state-building points to the need of rulers to engage population in war, through drafting into armies and taxation to fund

armies and bureaucratic institutions of the state. The early state negotiated with the population to grant civil and political rights in return for serving in armies and paying taxes.[75] Despite the economic origins of citizenship, contemporary models of citizenship have focused on the political aspects of the relation between individual and state. The union aspires to establish a supranational form of citizenship, so economic issues and social benefits become once more a centerpiece of political membership. A brief introduction of possible models of citizenship is in order, as we explain the elements of political membership we propose.

Liberal individual citizenship

Liberal citizenship has been a dominant feature of the modern state, focused on granting individual rights and protection of the individual from the state. It assumes a more functional and instrumental relationship between individuals that share territory and institutions than political belonging in nation-states, and its most elementary equation is demand for representation in return for taxation. The source of such citizenship is *Jus Solis*, granted to all persons born in the state, or *Jus Domicilis*, granted to persons that reside in the state. The citizenship model we propose guarantees liberal citizenship rights to political members (yet encompasses the republican sense of citizenship of the nation state).

Republican citizenship

Republican citizenship exists in most nation-states, where citizens are considered part of the political community and share national affinities and affiliations. Ethnicity and diversity is allowed,

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[75] Tilly, Charles. Coercion, capital, and European states, AD 990-1992. Oxford: Blackwell, 1992.

but less than encouraged. Republican citizenship calls for a shared set of core values, language and cultural symbols.

Consociational Citizenship

Consociational citizenship is a type of power sharing between ethnic groups in a democracy, to which the state formally grants collective rights. The framework is based on equality and partnership in institutions, and includes relative representation, autonomy and attempt at reaching political consensus. The confederacy will follow some elements of consociational democracy, as it will grant cultural autonomy for some ethnic/religious groups, attempt proportionality in political representation and civil service appointments in the union, and maintain a minority veto with regard to vital minority rights. One possible model for these elements is India,[76] although it is not a classic consociational democracy but a federation of states.

Supra-national citizenship

Globalization and the proliferation of regional bodies have widened the possibilities of citizenship to supranational and subnational political membership.

Supranational citizenship offers an array of concepts of political belonging that is more inclusive than only members of the nation-state. It provides the possibility of multiple political memberships at different levels (not only dual citizenship, but rather political membership on local, cultural and national levels). The inherent inequality and multiplicity of legal status and access to rights brought about by globalization and movement of population for labor purposes, also offers new possibilities to disengage

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[76] Lijphart, Arend. "The puzzle of Indian democracy: a consociational interpretation." *American political science review* (1996): 258-268.

citizenship from territory. Sociologist Yasemin Soysal argues that beyond freedom from territorial boundaries, supranational citizenship gives rise to multiple loyalties.[77]

Since the Maastricht convention of 1992, citizenship in the EU is one of these types and provides inspiration for the residency model that we propose. However, we are well aware that the Palestinian-Israeli conflict is not at a post-national stage. Moreover, freedom of movement and shared institutions in the union suggested by the initiative reinforces the need for clear boundaries of two nation-states with distinct publics that are defined as citizens or residents. We contend that because this distinction between citizens and residents is important symbolically and politically, despite the structural inequality it creates in political rights, the supranational establishment of social citizenship that grants social rights, political participation and institutional representation on multiple levels of government is the solution to the formal legal gap between citizenship and residency in the initiative.

Social Citizenship

The four freedoms of the European Economic Community (freedom of movement of persons, goods, services and capital) originated from the formation of the EU as an economic community. The turn toward political union and European citizenship was established by the Maastricht convention 1992 that declared that all citizens of member states would be considered citizens of the EU and were granted the right to work and reside anywhere in the union; the freedom from discrimination based on nationality; the right to appeal to European parliament; social rights; and the right to vote and be elected to European institutions and local institutions. Yet the

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[77] Soysal, Yasemin Nuhoglu. *Limits of citizenship: Migrants and postnational membership in Europe.* University of Chicago Press, 1994.

rights granted by the EU are entirely dependent on one's belonging to a member nation-state[78]. Supranational citizenship depends on national interests so citizenship in the EU is an addition and not a replacement for national citizenship.

Social citizenship consists of a number of social rights that are granted as part as one's citizenship. It links the fundamental principles of the welfare state, to provide a social and economic safety net for it citizens with political membership. Social citizenship is territorial in the sense that it includes all people residing in the territory, regardless of their legal political status. Social citizenship also acknowledges the importance of social and economic rights to guaranteeing civil and political rights, and addresses inequality that prevents access to political participation.

In the model we propose, all Israelis and Palestinians would be citizens of one of the two states, where they could vote and be elected to national institutions. They would also be residents of one of the two states and that residency would be characterized as social citizenship. They would also be citizens of the union, which would grant them access to political institutions of the union.

Local and Urban Citizenship

While ethnic and national identities have solidified and intensified with violent cycles of the conflict, the boundaries of citizenship drawn exclusively by nation states have also been challenged in the last decades by cross-border identities and

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[78] There is general agreement among scholars and policy makers on this issue. For an alternative view on the exclusive power of the EU regarding taxation see Genschel, Philipp, and Markus Jachtenfuchs. "How the European Union constrains the state: Multilevel governance of taxation." *European Journal of Political Research* 50.3 (2011): 293-314.

solidarities. Partially a result of retreating state policies and neoliberal structuring, there is also an increasing emphasis on active citizenship, practices of political participation that are treated as the desirable goal of urban social cohesion. For example, claims for the "right to the city" and rights derived from residence have become the possible focus of political belonging that overcomes the limits of nation-based citizenship, shifting power to local government.[79]

An important question regarding the shift in power to local government is how to govern new borders of citizenship that at the same time enhances social cohesion. It is important not to overlook the diverse societal interests in order not to increase ethnic and national identities, which can in turn, promote violence. Urban and regional citizenship analysis stresses governance as an arena in which local and regional governments play a key role in the production of substantial rights and specific obligations with a person's place of residence, where they have their life center.[80]

In the proposed model, residents will have full social and political rights at the local level, social citizenship understood as welfare redistribution allowing inclusion in the standards of life for all the members of the society. The challenge for multilevel governance is how citizenship entitlements at subnational levels could be reflected in a multilevel public sphere of the nation and the confederation.

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[79] For various views on supranational citizenship based on domicile and urban belonging see Bauböck, Rainer. "Towards a political theory of migrant transnationalism." International migration review 37.3 (2003): 700-723; James Holston, ed. Cities and citizenship. Duke University Press, 1999; Isin, Engin F., ed. Democracy, citizenship and the global city. Routledge, 2013; García, Marisol. "Citizenship practices and urban governance in European cities." Urban Studies 43.4 (2006): 745-765.

[80] Desforges, Luke, Rhys Jones, and Mike Woods. "New geographies of citizenship." Citizenship studies 9.5 (2005): 439-451.

C. **Potential Obstacles and Possible Solutions**

The proposed relationship between citizenship, residency and freedom of movement give rise to obstacles that threaten the ability to achieve a sustainable political order, both at the level of the state and the union. In this chapter we use comparative cases of other ethno-national conflicts that drew upon new constructions of political membership for their resolution and some of the obstacles encountered.

Identity and Belonging – Exclusion and Inclusion of the minority.

The model and the ethno-national nature of identity in each of the two states in the union will necessarily create an excluded minority of residents that will not have a collective expression of identity and belonging at the level of state, because each resident minority will not have the right to vote and be elected to national institutions. The resident minority, citizens of the other state, will have their life center in their state of residence, and will wish to exercise their collective identity at least on the local and regional level.

On the one hand, the resident will have difficulty expressing his ethno-national identity as a minority at the state level; on the other, the majority and state institutions may be threatened by expressions of ethno-national sentiment by the resident minority at the local and regional levels, particularly in relation to the expressions bearing on historical and material claims that are consequences of the conflict.

Political perspective – Access to Political Participation

The model introduces multiple categories of political membership. Citizenship becomes exclusionary for the resident minority, as it privileges the political agency of citizens. The citizens can participate in political decision-making that shapes the society s/he lives in at the national level, including distribution of resources, while the resident is prevented from influencing political decisions at the national level that impact his/her life in many aspects. From a

formal perspective, one can argue that every individual will have political agency in his/her sphere of citizenship in the shared land. Yet, the influence one needs on political processes is setting the agenda about the issues that affect his/her life as it is experienced, and not as a theoretical right to impact political issues in one's state of citizenship.

These obstacles lead us to an internal conundrum of the proposed model: on the one hand, granting the basic political rights to vote and be elected is critical to a resident whose permanent life center is in the other state. On the other, granting these political rights will blur the distinction between the territorial sovereignty of the two states and give rise to fears that the demographic population changes will threaten the core values of each state. In the model we offer, citizenship is a very thin layer of exclusive political rights to vote for the national parliament and be elected to it. Residency is a wider and thicker concept of social citizenship that encompasses civil, political and social rights. While the model creates a structural inequality in terms of political rights, the shift toward local institutions that we suggest attenuates that inequality, by creating a strong and powerful political membership for residents that includes all aspects of social citizenship. Constituting residency as social citizenship will also ease the phenomenon of ghettoized citizenship[81], as Yiftachel called the status of Palestinian citizens of Israel who enjoy formal rights, but are not socially and spatially integrated.

Impossibility of Naturalization for Residents

The model currently does not include a mechanism for naturalization of future generations born to residents of becoming citizens, which has raised grave concern particularly among

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[81] Yiftachel, Oren. "Ghetto Citizenship: Palestinian Arabs in Israel." Israel and the Palestinians–Key Terms, Haifa, Mada Center for Applied Research (2009).

constitutional lawyers. The research group did not find a possible solution to this issue that would not destabilize the model, which is based on a structural inequality between citizens and residents in order to preserve the boundaries of belonging to each of the two nation states.

Residency, Return and Demographic Impact

How does the proposed model of political membership realize the Palestinian right of return *de facto*? This chapter attempts to outline how residency as implementation of the right of return can impact ethno-national identity, demographic (im) balance and majority/minority relations. Using comparative cases, we will briefly look into how residency will affect the demographic balance and the fears that such changes breed.

The issue of residency is a major obstacle of the proposed plan. Resident populations will have a significant demographic impact on the states, and we briefly address this aspect of the proposal, as we refer to demographic changes as a result of post-conflict arrangements in Bosnia, Kosovo and proposed arrangements in Cyprus.

Studies of ethno-national conflicts show that population changes create susceptibility for ethnic conflict.[82] Demographic changes of ethnic populations breed conflict when there is a competition over resources, particularly jobs, land and government licenses. In Israel, an influx of Palestinian residents will raise concerns on the part of the Jewish population, that they will join Palestinian citizens of Israel who comprise one fifth of the state's population to form a larger national minority.

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[82] Goldstone, Jack. "Population and security: how demographic change can lead to violent conflict." Journal of international affairs 56.1 (2002): 3-21.

In Bosnia and Herzegovina,[83] ethnic competition perceived through population numbers was a strong stimulus to interethnic hatred and in turn, civil war. Bosnian Serbs perceived Muslim population growth as a "demographic bomb",[84] while the threat was conceived as linked to birthrate, population movements and shifts are viewed as instigators of conflict.

In other conflicts as well, scholars have suggested that redrawing the ethnic boundaries of nation-states reignite fears related to population changes. While mobilization of ethnic identity occur at the national level[85], the actual competition over jobs, resources and access to decision-making happen at the local levels. Studies have shown that competition actually occurs only if the location of the populations of competing groups tends to be concurrent.

For this point on population changes and local majorities, the Croatian example is instructive. Following the declaration of Croatian independence, Serbs in Croatia seized control of several areas throughout Croatia and declared a Serb state (Republika Srpka Krajina). A study in 1992 indicates that the average populations in 1991 within these municipalities was 50% Serbs and 32% Croat while the Serb component in all of Croatia was about 12% in 11 of the 21 areas where the Serbs were an absolute majority.[86]

In Bosnia, maps of the distribution of Serb Muslim-Croat populations for 1991 show that demographic changes in population exacerbated when placed against the Yugoslavian ethnic "key

[83] Slack, J. Andrew, and Roy R. Doyon. "Population dynamics and susceptibility for ethnic conflict: The case of Bosnia and Herzegovina." Journal of Peace Research 38.2 (2001): 139-161.

[84] O'Ballance, Edgar. Civil War in Bosnia, 1992-94. St. Martin's Press, 1995.

[85] Olzak, Susan. The dynamics of ethnic competition and conflict. Stanford University Press, 1992.

[86] See footnote 83, Slack and Doyon. P. 148-149.

policy".[87] This policy allocated political power and jobs, based on the percentage of each ethnic group, are counted by the census at all levels of government but most particularly at the municipal level.[88]

This obstacle leads us to support the suggestion of the research group on Return and Immigration reform, to consider not only population quotas for residency, but cautiously determine geographic distribution of new resident populations. The regulation of returning population, particularly of Palestinian refugees exercising their right of return, will be a demanding task. Studies show that ethnic population after conflicts attempt to return to areas in which they will be an ethnic majority or significant minority. For instance, statistics on population movement and displacement in Kosovo after 1999 show that the 40% of the Bosnians that fled to Western Europe returned to Bosnia after the Dayton accords (1995) to areas where their ethnic group had a majority.

Methods of distribution of population and reduction of ethnic competition over jobs and resources, include regulation by "soft mechanisms"[89] of affirmative action and flexible quotas that correct inequalities and increase minority mobility, but do not create new rigid boundaries for the majority population, as some failed constitutions, like that of Cyprus attempted to do.[90] The reduction of

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[87] Dyker, David A., and Ivan Vejvoda, eds. Yugoslavia and after: a study in fragmentation, despair and rebirth. London: Longman, 1996.

[88] Somer, Murat. "Cascades of ethnic polarization: Lessons from Yugoslavia." The Annals of the American Academy of Political and Social Science 573.1 (2001): 127-151.

[89] Gomez, Edmund Terence, and Ralph Premdas, eds. *Affirmative Action, Ethnicity and Conflict*. Routledge, 2012.

[90] One of the lessons of the collapse of the Cypriot constitution in 1963 was a rigid quota for government jobs and representation decided according to the ratio of 70:30 Greek Cypriots to Turkish Cypriots. See Evriviades, Marios L. "Legal Dimension of the Cyprus Conflict, The." Tex. Int'l Law Journal 10 (1975): 227; Trimikliniotis, Nicos. "Migration and Freedom of Movement of Workers: EU Law, Crisis and the Cypriot States of Exception." Laws 2.4 (2013): 440-468.

ethnic competition over jobs and resources must be part of a redistribution of land and public resources to Israeli disempowered communities in the periphery. Only if these communities stand to gain social mobility, political participation and greater share of public resources, will they accept the resident population.

Conclusion: Social Citizenship and Three-Tiered Representative Institutions

The model we proposed establishes citizenship as granting a thin layer of exclusive political rights and residency as a political status that provides social citizenship and fulfills social and economic rights as well as a full range of political participation in local, regional and union institutions.

We argue that the core solution is based on relating the number of rights associated with each layer of political membership with a different dimension of governance. Citizenship rights are granted at the national level, while residency rights are granted and exercised at the local/regional level. At the supranational level, all persons will have the capacity to influence the political process at the level of the union.

At the national level, the political platform will provide national self-determination, foreign policy, primary legislation and a fiscal structure. At the local/ regional level, the political platform for participation and governance will be of a much wider scope than it is today. Representation at the municipal level will include expression of ethnic and cultural identity, access to political participation in all aspects of governance through local legislation, including taxation and significant power to decide over budget distribution.

It is out of the scope of our study to explore the legal hierarchy between legislation at the level of state, the local government and the union, but we contend that creating a clear

hierarchy of regulation with particular attention to minority rights and limits set upon legislation intended to curb these rights, is critical to the success of the framework.

The shift from government to governance aims to synthesize the deep transformations of the state and the economy, a series of changes in statehood based on the emergence of complex multilevel decision-making processes. Fierce debates between scholars and policy makers have focused on how these new forms of governance substitute Keynesian centralized decision-making, in which the main relevant actor was the central government.[91] These structural changes are part of a larger process of reshaping of the states that is taking place globally, involving a diffusion of governmental functions into different spatial scales, not only sub-nationally but also supra-nationally.[92]

The institutional and administrative changes towards governance will need to focus on shifting decisions on social and economic issues from the national to the local and regional levels, with supervision and coordination at the level of the union. In order to grant the socioeconomic safety net, the administration of social rights at the local level will be coordinated and regulated by the institutions of the union.[93]

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II.2 Palestinian Research Group

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Abstract

This paper examines the expected attitudes, preferences, and needs of the Palestinian populations with regards to belonging, citizenship, residency and freedom of movement under the model of "Two States in one space". We examine how the two contracts of "citizenship" and "residency" are reconciled and which elements of nationalism, citizenship and residency are absent or present under the proposed formula. Since there will be two kinds of possible citizenships, Israeli and Palestinian, the research will also test the readiness on the part of each of the populations to absorb residents of the "other nationality" under this model. What rights, needs and arrangements have to be met in order to guarantee a minimum conflict as well as a maximum quality of life for both populations?

Lessons learnt are derived from the case of East Jerusalem as to how residency can operate within a system of government that does not coincide with the national identity of the individual. Expressions of culture and other collective rights are identified according to the institutions that would answer those needs. Different competences could then be divided amongst national governments, local governments, and other community-based institutions and structures.

Introduction

The proposed model of "Two States in One Space" attempts to simultaneously merge at least two perceptions as to how sovereignty can be implemented in the Land of Israel/ Palestine. One aspect of the debate with regards to the inhabitants of Israel/ Palestine is mythical and cultural, and relates to the collective identity of a group. The second is more practical, operational, and functional. The former relates to "who I am," and assumes that the "who I am." ought to correspond to "where I live", while the latter is more of a post-modern understanding, and therefore perceives the relationship between the individual and the governing institution as a "political contract" and is determined in terms of "obligations and rights". Stephan and Linz built on Anderson's socially constructed theory of nationalism, who asserts that "political identities" are not fixed or primordial", but that they are rather "highly changeable and socially constructed". Stephan and Linz go beyond this to state the "human capacity for multiple identities is what makes democracy in multi-national states possible." (Stephan 195-196). Stephan and Linz show that "multiple and complimentary identities can be socially constructed in a nurturing and highly interactive way (Stephan p.196). In the case of Israel/Palestine, the primordial sense of identity remains present and is what makes up "the imagined community" or the common sense that each member of the nation shares. Therefore, as the issue of the "limited territoriality" has not yet been solved for either Palestinians or Israelis, the issue of governance and sovereignty becomes much more complex.

In the scope of this research and in the spirit of attempting to organize the relationship between territoriality, community, citizenship and residency, the proposed model takes into account both the primordial as well as the more practical requirements pertaining to a nation state. The "Two states" element of this model recognizes the need for "the demarcation of borders", while the "One

Space" recognizes the primordial "roots" of both populations who equally see their attachment to all of the Land of Israel/ Palestine.

Both groups tend to refuse to accept that identity is constructed and tend to continuously emphasize the roots and the historical narrative to obtain legitimacy for their presence. The "Two States in One Space" allows for the attachment to the roots and simultaneously uses the more pragmatic tools of governance and institutional frameworks to accommodate for a dynamic relationship between citizenship and residency.

A. <u>**Organizing Citizenship and Residency**</u>

For the purpose of this paper, and in the context of Israel and Palestine, residency, citizenship, freedom of movement and rights are the four elements that are being investigated. There are four categories/ possibilities for organizing the relationship amongst those four elements. The framework that we are investigating operates under the assumption that an inhabitant within the Land of Israel/Palestine will either have a Palestinian citizenship or an Israeli citizenship. We rule out the possibility of dual citizenship in this regard (of having Israeli and Palestinian citizenship simultaneously). Hence, the four scenarios for division of citizenship versus residency are the following:
   a. s/he is a Palestinian citizen & resident in Palestine
   b. s/he is an Israeli citizen & resident in Israel
   c. s/he is a Palestinian citizen & resident in Israel
   d. s/he is an Israeli citizen and resident in Palestine

In two of the scenarios " a" and "b" the "who I am" corresponds to" where I live" and "my rights" corresponds to one system of government that I identify with. The larger state entity and local governance institutions correspond with each other under similar rules and regulations from the point of view of the individual.

Scenarios "c" and "d" however divide the "who I am" and "where I live", and "rights" and hence the three are distributed between the two "contracts". In other words, there is a "contract" for citizenship and another for "residency". However, in case "c" and "d" this "other" contract for "residency" has to accommodate for "collective and minority rights". It will not be the same as for those who are in category "a" and "b". Though not the same, it will have to provide equally distributed benefits and the provisions will be incorporated so as to take into account "collective and minority rights" issues. The case of East Jerusalem as a case study is such that residency is granted with many benefits attached to it without citizenship being granted in most cases. In a future scenario, citizenship for East Jerusalem residents would be granted in one of the two countries.

Palestinians in East Jerusalem: Lessons Learnt: Is it possible to have two contracts one "national" relating to citizenship and another more "practical & pragmatic" relating to "residency"?

Palestinians in East Jerusalem have demonstrated their capacity to be "nationalistic" as well as "pragmatic". They demonstrate their Palestinian identity while having residency status within an Israeli system of local governance. They are granted public services such as health and other social benefits and services. Israeli labor laws apply equally to East Jerusalem residents as to all Israeli citizens. There remains to be a gap, however, mostly in educational services, schools, roads and infrastructure. In those sectors, the discrepancy and the lack of proper distribution of municipal resources becomes apparent. However another more serious issue becomes apparent and that is the lack of collective representation for East Jerusalemites. Cultural activities are very limited in scope and there is general ignorance on the part of the Palestinian population regarding regulations and laws as well as their rights and obligations.

In the past few years, there has been an attempt by the municipality to add the Arabic language to the website of the Ministry of Interior or other public services. However, the quality and quantity of the available resources in Arabic remains mediocre and is not sufficient to familiarize the average resident with his rights and obligations. Overall what we learn from the East Jerusalem case is that the system can work and can be satisfactory to many of the residents, however serious efforts must be made in order to accommodate the population and make them aware of their collective rights. Taking the example of East Jerusalem, overall Palestinians of East Jerusalem prefer remaining under Israeli governance though they are not fully satisfied at a number of different levels. If a "Two States in One Space Model" is implemented, the scenario for East Jerusalem residents would require upgrading. For other implementations of a residency versus citizenship scenario, the lessons from this case should need to be seriously considered.

In a survey conducted in 2011 titled **"The Palestinians of East Jerusalem: What do they really want?",** one of the interesting findings is that although there are high percentages that identify themselves as "Palestinian" "Arab" or " Jerusalemites," when it comes to their identification with Palestinian political parties, percentages are very low. It is quite clear that Palestinians in East Jerusalem feel "Palestinian and Arab" in their identity but they are capable as well of incorporating an identity that is more pragmatic and that can comply with a political contract of "rights" and "obligations". Freedom of Movement and access are increasingly high priorities for East Jerusalem as well as preferences for better services. There is a high percentage of East Jerusalem residents that prefers to remain under Israeli law should a Palestinian State be established. Palestinians in East Jerusalem have become closely acquainted with Israeli products and services. We ought not to take the last war, "Protective Edge", as the predominant attitude of increased boycott

etc., and we are not to judge trends according to a temporary political situation or mood. The general trend is that East Jerusalem residents in many cases, though identifying themselves as "Palestinian" have accepted the rules and norms of the system of governance that they live under, i.e., Israel.

As mentioned earlier, if we are looking to learn from this case study, discrimination is one factor that needs to be removed from the formula that is operating under the current municipal and Israeli authority practices. The services at the Ministry of Interior or social services office still remains very humiliating in the system of long lines and waiting etc.

The case of East Jerusalem residents is one in which social rights are provided and where obligations/ duties are demanded. There exists some kind of political contract between those residents and the Israeli state. This is not the optimal, most efficient and fully satisfactory model. Language is still a key issue for many Palestinian residents. Operation Protective Edge in the summer of 2014 has also increasingly demonstrated discrimination and a sense of alienation in the attitudes towards East Jerusalem residents working in Israel. For many, it felt more comfortable being in Palestinian neighborhoods, speaking Arabic. There is often though a discrepancy in labor laws in Palestine and Israel. This is where it is important to emphasize the importance of Reconciliation and Trust Building measures and actions in order to deal with the discrimination that is practiced by the communities.

Another matter is that as the case of East Jerusalem stands, it is almost totally isolated culturally from the Jewish community in West Jerusalem. There are not enough visitors coming from West Jerusalem and contributing to the livelihood of East Jerusalem. Certainly this is not the scenario that we envision within a framework of Two States in One Space. Hence more work needs to be

done to establish secure and friendly relations once a peace agreement is reached. Mechanisms for providing touristic police or a similar force should be in place that will allow residents of the two different parts of the city to visit each other and enjoy the culture and ambience of the other culture.

The case of East Jerusalem residents will be used to derive lessons learnt answering to the questions as to what degree East Jerusalem residents have adapted or not under a system where Israeli laws govern the daily affairs of the residents. There are both negative and positive aspects to be emphasized. Some of the more cultural aspects of their life, such as educational and religious institutions function quite independently from the Israeli system though they still have some link. The lessons and questions that will be derived shall serve as criteria to be considered when checking the needs of the wider Palestinian populations. Specific questions will be addressed with regards to the rights, needs and means of accommodations of refugees who would be accepted as residents of the other country.

In the case of East Jerusalem, this is a case where residency under the Israeli government's laws and regulation exists, but in this case, the Palestinians in East Jerusalem do not have a defined citizenship, neither in Israel nor Palestine. The idea of this model is that residents of East Jerusalem could become citizens of Palestine but retain their rights to reside and work in Jerusalem. For this model to become optimally functional, it would require institutional measures that would bridge the gap, in services, rights, and collective and minority rights, such as education, freedom of religion and expression, which already exists.

To conclude this part of the paper, one can say that the case of East Jerusalem shows that scenarios "c" and "d" can work provided that collective rights are granted and is discrimination eliminated.

Hence the capacity of the populations to comply and interact with a "political contract" under a different system of governance is possible. The "who I am", "where I live" and "what rights and obligations" can be distributed according to two different contracts.

B. <u>The Palestinian Populations as Residents and/or Citizens:</u>

The Palestinian populations and their projected attitudes towards the model of the two states in one space is evaluated according to several criteria. The official position of the Palestinian government operates partially under an Andersonian understanding of the nation state in their understanding of their state to be "limited" and "sovereign". That states ought to be limited and that nations must have "finite, if elastic boundaries, beyond which lie other nations" is the premise that the Palestinian leadership adopts in order to realize the right for self-determination. The idea of Anderson is that nations are sovereign since no dynastic monarchy can claim authority over them. This is the model that the Palestinian official leadership aspires to today, whereby there ought to be a clearly defined territory and where citizens would reside, work and exercise their rights in this defined space.

The problematic aspect with regards to the Israeli-Palestinian conflict is that the Palestinian "imagined community", to use Anderson's term, goes beyond the 1967 borders. Many of the Palestinians holding Israeli citizenship, often referred to as Israeli Arabs, identify as "Palestinian" in their culture, identity, and language, but identify as Israeli when it comes to their rights and obligations and the political contract that they are part of. In the case of the Palestinians, but also to some extent Israelis, nationhood also has a primordial element or in other words the constructed or "imagined" community bases its commonality on historical roots, be they religious in the Israeli case or historically rooted as in the Palestinian case. In both cases the common and emotional wish is

that all of the land ought to be in this limited, sovereign territoriality. The problem in this case lies precisely in this, that for both Israeli and Palestinian "the imagined community" goes beyond the green-line on both sides. This is where our model of "two states in one space" is useful. Each can have their own state and can territorially be determined according to the "1967 borders" (give or take"), and yet the "primordial" "emotional" connection is given expression through the option of residency. The option of residency can also be not only a primordial gratification but also a practical one, in the case that individuals see economical or livelihood opportunities in one country as opposed to the other. This is why freedom of movement for all residents and citizens of Israel and Palestine should be granted.

C. **Why the Two States for Palestinians?**

Since President Mahmoud Abbas's presidency in 2005, there is a rising sense of statehood which has not yet officially realized itself by being recognized internationally and by Israel especially. Yet the constituents for this state have gradually been put into place, and a "sense of a place" that we call our own has been fostered. Government institutions, ministries, banks, investments in the private sector, national products, and sentiments of national pride have been increasingly emerging and thriving. Palestinian cities and towns have also come to create a Middle Eastern character. Evidence shows that Palestinian citizens of Israel frequent the West Bank during weekends, enjoy the atmosphere of a Palestinian/ Arab city that can give them a Middle Eastern flavor and ambience. Many like to shop in Palestine, may buy second homes in Palestine or choose to open businesses there. The reverse is true for many Palestinians who hold West Bank IDs, and who enjoy the fruits of modernity and Western culture that can be experienced in Israel. For two consecutive years Palestinians from the West Bank were flooding into Jerusalem and into Israel to shop etc. Prior to "Operation Protective Edge", Israelis wishing to visit the West Bank though

dominated by fear, were still very curious to experience Arab/Palestinian culture, food, music. Permeable borders is the model that we aspire to, where the two countries can maintain their distinct characteristics and identities to make each place worthwhile for the other to visit, experience, enjoy and possibly be a place of business livelihood opportunities.

From the point of view of both the Palestinian government and the Palestinian private sector, the position is very evident: that a viable, independent Palestinian State is an indispensable right that must be achieved. From the point of view of the Palestinian public, there is still that primordial connection that cannot be compromised and therefore freedom of movement becomes essential for all populations. Populations desire to be able to move across borders, visit the seashore and fulfill this primordial element of their national identity.

From the point of view of the general public, though there is a rising sense of collective and national identity and a sense of a place that we call our own, practical issues related to the daily livelihood of people often determine more temporary preferences. Often individual decisions take over the collective agenda, priorities and preferences. Overall, an attitude of "I am happy where I belong" prevails in the mind set of many people. East Jerusalemites also live in this mindset, though many work in the West Bank. This situation of being in limbo is also a window of opportunity to prosper, where the laws that apply in one place do not apply in the other.

It has become increasingly evident in the last few years, since Mahmoud Abbas has become President that the character of the Palestinian state is in the process of being shaped. The various government institutions have to a large extent strengthened the sense of a collective cultural identity in Palestine. To a large extent, the separation of the West Bank and Gaza from Israel has created

this effect. Palestinian products, celebration of culture and achievement have largely contributed to creating something for Palestinians that they can call their own. However, there is a discrepancy or disconnect between the emotional, community identity that this "Palestine" creates and its "ability" to deliver jobs, security, and a good life for the majority of its citizens. One cannot deny that many Palestinian Jerusalemites, Palestinian citizens of Israel visit the Palestinian cities like Bethlehem, Ramallah and Nablus to enjoy this taste of Palestinian culture and identity, music festivals and other cultural activities that make them proud. There is a definite sense of identification. The Palestinian private sector has also shown significant will and effort in investment in Palestine in all areas of public service, establishing all institutions necessary for citizens to experience the fruits of being in a state.

In times of war, such as the events of the last Gaza war have shown, the sense of patriotism and collective identity has been magnified, as sentiments as well as actions of boycott have gained ground.

Conclusion

Citizenship, referred to at the beginning of the paper, has proven to be a very strong priority for inhabitants of Israel and Palestine. *Residency* allows through a dynamic political contract within a governing institution "Local government" to live in territories that each of the populations feel emotionally connected to and are complying with rules and regulations that are amenable to their collective and minority rights. What remains to be researched is whether the Palestinian governing structures will be able to accommodate Israeli residents like the Israeli government has done with Palestinian residents in East Jerusalem. To be fair one has to acknowledge that the Palestinian democratic system and institutions are still in a process of development and there needs to be an assessment of how Palestinian institutions can succeed in providing

residency rights in Palestine for Israeli citizens. This is something that perhaps can be coordinated with the Joint Governance working group.

III- *Jerusalem: Towards a Shared Metropolin Authority*

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Abstract

This paper will draw a future plan for the Jerusalem\al Quds Metropolin Authority (JAMA). We suggest a model for Jerusalem/Al Quds which may obviate the need for divided sovereignty; we propose that a bi-national, shared city is a better option for the whole city and for both parties on social, economic, and political grounds. At the core of our vision, we suggest the establishment of an autonomous and decentralized "Capital Region".

JAMA will be a distinct political unit *under shared Israeli and Palestinian sovereignty*. Geographically, it will stretch between al-Birrya in the north, Ma'aleh Adumim in the east, Beit Jala in the south, and Mevaseret in the west, an area which is home to approximately 800,000 people equally divided among Jews Palestinians. The area will be placed under joint Israeli and Palestinian sovereignty and managed by an authority *headed by both a Palestinian and an Israeli*.

JAMA is envisaged as a *"thin" political institution*. Its Assembly will consist of representatives from the region's local governments and from the Israeli and Palestinian ministries. Its main staff will be

professionals in the fields of planning, transportation, environment and the like.

The urban region will include *two capital compounds*, which will host the Palestinian and Israeli government quarters. The Israeli government area will remain in its place (Kiryat HaLeom), while the Palestinian people will choose the location of their government area.

The city as a whole will be mutually recognized as the state capital by both Israel and Palestine. This will guarantee the rights of both peoples in the city and slow the disastrous demographic and geographic competition between Israelis and Palestinians that has gone on since 1967.

The name chosen to describe the metropolitan area incorporates "Jerusalem" and "Al Quds" in order *to respect the symbolic sentiments* of both parties to the region.

The creation of JAMA will involve cross-border cooperation in different areas (such as planning, infrastructure, economic development). A central issue of cooperation will be security and the establishment of *a shared policing system* that will take place within the new political framework, which will serve both parties.

JAMA will have a security cordon running round the city irrespective of the location of the political borders of Israel and Palestine. This will be a demilitarized area; only authorized police, security and army will be permitted to bear arms. Both Palestinian and Israeli governments will draw up two conventions: a legal convention and a policing convention that will apply to the JAMA security zone.

As mentioned above, we propose to demarcate an area, including the Old City and its immediate surroundings, as "Holy Jerusalem/Al Quds." Under our proposal this area will be declared as existing under "Divine ownership" and be managed by an

international, interreligious council with equal Christian, Muslim, and Jewish representation. The responsibility for security and infrastructure, and the official sovereignty, will *remain with JAMA*, but this will have little impact on the actual management of holy places, interreligious affairs, and tourism, which will be controlled by the Holy City Council.

Palestinian and Israeli courts will be responsible for personal jurisdiction. Crimes committed by third party nationals will be the jurisdiction of the law of the country through which they entered into JAMA. Israeli neighborhoods in East Jerusalem will be subject to Israeli law

A cornerstone of our proposal is the tier of districts, where most urban governance will take place. This part of the urban governance structure will form the core of the region's communal, local, and planning management. Whereas the umbrella authority will be, as noted above, made up mainly of professional experts and the Holy City Council of religious figures, the local municipalities will perform the full range of urban governance functions, including local planning, education, housing, economic development, environmental control, and other daily procedures of urban democracy.

The city's Palestinian and Israeli residents will be *full members of their respective national political communities*. As such, they will vote for their own parliaments and be subject to the Palestinian and Israeli legal systems, respectively.

JAMA will be open to both Israelis and Palestinian Jerusalemites for work, residency, and leisure activities. All controls appropriate to national borders will be exercised at the exits of the open city zone. In the event that border controls are required by either of the two states, these will be placed at exit points from the city. This arrangement will ensure that the Israeli and Palestinian

states are able to control movements into their sovereign areas.

The special status of JAMA will be further expressed in its autonomy in areas such as infrastructure, metropolitan transport, and environment. In order to diffuse potential tensions between the Israeli and Palestinian states and the city's municipalities, JAMA will concentrate on professional matters. It will have its own set of offices for environment, planning, transport, infrastructure, and the like, as well a police force.

JAMA will not draw on local taxes but will be funded equally by the Israeli and Palestinian states. A special long-term fund will be established for the purpose of affirmative development and reconciliation, that is, development which aims at reducing inequalities and past hostilities and resentment.

Introduction

Jerusalem is the object of two competing national aspirations - Israeli and Palestinian - and the religious claims of the three monotheistic religions of Islam, Judaism, and Christianity. In the wake of the hostilities between Israel and its Arab neighbors in the 1940s, the international community attempted to give Jerusalem the status of an international city in 1947 but those attempts failed due to the ongoing Arab-Jewish clashes and the outbreak of the 1948 war after Israel's declaration of independence (Shlay and Rosen 2010:364). Jerusalem was divided between Israel (the western part) and Jordan (the eastern part) and the armistice line was called the "Green Line" in the Rhodes agreement of 1949. In the 1967 war between Israel and its Arab neighbors, Israel occupied East Jerusalem and "adopted a multifaceted strategic plan to expand and control Jerusalem, and with amendments to existing legislation and administrative orders, applied its law to an area three times the size of prewar Jerusalem. The state executed an 'occupation through municipal expansion' (Lustick, 2004:202), vowing that Jerusalem will never be divided again.

In 1980, Israel annexed East Jerusalem, stressing the role of Jerusalem as the "eternal capital of the Jewish people, a city reunified so as never again to be divided" (Yacobi 2012:55). While the international community has never recognized Israel's claim to the eastern part of Jerusalem and has rejected it in the UN Security Council Resolution 478 in 1980 declaring it a violation of international law[94], the Israeli authorities set out to strengthen the physical and discursive control over the whole city, "the aim being to create 'urban facts' which would make any future division of the city practically impossible" (Chiodelli 2012:6).

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[94] The exact statement of the UN resolution 478 can be read here: http://unispal.un.org/UNISPAL.NSF/0/DDE590C6FF232007852560DF0065FDDB (last accessed on April 28th 2014).

Despite being claimed the political, cultural and religious capital by the Palestinian population of Jerusalem, Israel annexed the eastern part of the city and enacted this claim as part of the Israeli Basic law[95], making the eastern and hence Palestinian part of Jerusalem legally an inseparable part of Jewish-Israeli Jerusalem (Klein 2005:66) under the administration of the Greater Jerusalem Municipality. While claiming the land as part of "united Jerusalem, a fixed urban space, a given subject of Israeli sovereignty and ethno-national aspirations" (Yacobi 2012:55) the Jerusalem Municipality embraced the expansion of territory while constantly working towards containing the expansion of its Arab population by means of planning and restructuring the city.

This fact is especially obvious in the way the Palestinian population of East Jerusalem was treated after Jerusalem's supposed reunification: While the territory of East Jerusalem became officially part of unified Jerusalem, most of its Palestinian inhabitants, despite having being born in the city, are neither citizens of the State of Israel[96], nor part of the city's constructed image as a Jewish city (Chiodelli 2013:417). Since Israel's illegal annexation of East Jerusalem in the 1967, "most Palestinian Jerusalemites are 'permanent residents' under Israeli law, permitted to exercise a limited set of rights: they may live and work in Israel, travel to and from the West Bank, collect some social benefits and vote in municipal elections." (Jefferis 2012:95).

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[95] The state of Israel does not have a written constitution but rather eleven so-called fundamental laws that "are endorsed with a special position when compared to regular legislation, but since they are simple decisions of a majority of those present and voting, they can, in principle, be modified or done away with by a simple majority" (Mahler 2011:103).

[96] This is due to two factors: firstly, Palestinians in Jerusalem were offered Israeli citizenship in 1967, but most of them refused to accept it because they considered it an acknowledgement to the Israeli claim to Jerusalem. Secondly, the Israeli authorities continue to employ certain practices that work towards a de-Palestinization of the city. For details, see: Cheshin, Amir; Hutman, Bill; Melamed, Avi 1999: Separate and Unequal: The Inside Story of Israeli Rule in East Jerusalem. Harvard University Press.

As residents, they can lose their residency status at any time if they are not able to prove that Jerusalem is the "center of their life".[97] While claiming that Jerusalem is an "open city" that is a place of harmony where Jews, Muslims and Christians can live peacefully side-by-side under Israeli sovereignty, the Israeli authorities also consider it to be their national capital, and do not acknowledge the claims of any others to Jerusalem (Klein 2005:54). Furthermore, the Jerusalem Municipality, which is based in West Jerusalem and governs the whole city, is constantly working towards Judaization of the city, i.e. promotion of both Jewish urban and demographic expansion in the eastern part of the city and de-Palestinization, i.e. the containment of Arab expansion of Jerusalem (Chiodelli 2013:417; Safier 2010:141).

In 2004, Israeli authorities launched a Master Plan outlining the idea and development of a unified metropolis of Jerusalem until the year 2020. The plan aimed to retain a demographic balance of 40% Palestinian and 60% Jewish population (Chiodelli 2012:10; Jabareen, 2010). Many authors have pointed to the political and ethno-national bias underlying the objectives of the Jerusalem Master Plan in which the Jewish population is favored over the Arab-Palestinian population in Jerusalem (Chiodelli 2013:54; Chiodelli 2012:8). The sixty-forty population ratio was to be achieved through the containment of Palestinian population growth and through continuing Jewish expansion in and around East Jerusalem. While Jewish settlements constantly grow[98] in and around the city, the Municipality has rendered the establishment of a Palestinian social,

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[97] This phrase was first used by Justice Aharon Barak in the year 1988 when Palestinian resident Mubarak Awad had lost his Jerusalem residency because he was not able to prove to the Israeli authorities that his center of life had been Jerusalem, although he had been born there. Since this ruling in 1988, the "center of life"-policy was applied thousands of times to force Palestinians to leave Jerusalem either to the West Bank or Gaza. It effectively renders Palestinians, who were born and raised in Jerusalem, stateless. This policy contradicts the International Covenant on Civil and Political Rights. See: Jefferis 2012.

[98] Nowadays, more than 200,000 Jews, about 40% of the Jewish inhabitants of Jerusalem, live in these neighborhoods (Chiodelli 2013:51)

cultural and economic center impossible through constant segregation and fragmentation of the Palestinian neighborhoods, making it "a mosaic of enclaves within enclaves resulting in a non-homogenous urban fabric" (Thawaba; Al-Rimmawi 2012:70).

Meanwhile, Israeli settlements, even to the east and north-east of East Jerusalem are provided with every kind of socio-economic service, "if not within the settlement itself then along the bypass roads and railroad to facilitate getting these services" (Thawaba; Al-Rimmawi 2012:71). Through a sophisticated network of roads, built since the 1970s and especially after the first Oslo Accords in 1993, (Pullan et al; 2007:176) connecting the heart of West Jerusalem with the Jewish settlements in the periphery to the east and north-east of Jerusalem, the Israeli authorities have created infrastructural facts that are characterized by an almost complete territorial continuity, therefore blurring the boundary between the west and east sides of the Green Line. Beyond this, they also attributed "a sense of normality to the settlements, which suggests that they are not at the frontier, but a natural expansion of suburbia" (Pullan et al.: 2007:182).

With reference to the above, the main question that this report aims to answer is whether Jerusalem can be re-divided as part of a future solution? In other words, can we think of "two Capitals for two states?" *or have the last few decades created a new geopolitical, demographic and economic reality that demands a different vision for the city?*

Following these questions, this paper will draw a future plan for Jerusalem\al Quds as a Shared Metropolis Authority based on the following assumptions:

(i)   Peace between Israelis and Palestinians will involve *the establishment of a Palestinian state* that shall include the

territories conquered by Israel in 1967, *including East Jerusalem*;

(ii)   The Jerusalem/Al Quds area should be seen as an *urban territory that presents a challenge to the separation paradigm*. We acknowledge the characteristics of urban areas, the economic, demographic and political dynamics stemming from the occupation and colonization. In other words, we see Jerusalem\al Quds as an *inter-dependent space.*

(iii)   The proposal is based on the idea of enabling the Jerusalem/Al Quds metropolis area to function as one regional entity, while *respecting both parties' identities, national* sentiments and cultural affiliations.

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Our assumptions are based on several case studies. Though we are aware of the significant difference between the cases (historically, politically etc.) we would suggest that some principles are applicable to Jerusalem.

One example, Brussels[99], traditionally a Flemish-speaking city, now comprises a population the majority of which are French-speaking, the minority Dutch-speaking, in addition to a 'migrant' population. The Brussels conflict is founded on linguistic differences, which have been institutionalized. The city has been defined as an autonomous bi-national province as part of a Belgian constitutional modification undertaken during the last three decades. Brussels has a separate constitutional status and is governed by both parties according to the principles of power-sharing and accommodation. The city's urban affairs are governed in a decentralized manner where local planning, development, and educational issues are decided by local communities.[100] In more detail, with a structure of

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[99] This section is based on: http://www.conflictincities.org/Brussels.html
[100] For a detailed discussion see: M. De-Ridder, "The Brussels Issue in Belgian Politics," *Western European Politics* 9 (1996) 376–92; A. Murphy, *The Regional*

four local parliaments, six police districts, several administrations with various responsibilities and authority for policy implementation and 19 communes, "Brussels is an example of the greatest degrees of federal autonomy in the world" (http://www.conflictincities.org/Brussels.html). Brussels is also the seat of Parliament for the Walloon and Flanders regions, national parliament, national senate and national government along with the supranational EU institutions and NATO. With great import to our proposal, the responsibilities of governing Brussels are not only vertical (municipal, regional and federal level), but also horizontal (at each level, there exists both a community government with responsibility for health, education and culture and a civic administration with responsibility for services such as the police, fire protection, employment and the economy (http://www.conflictincities.org/Brussels.html).

Another example is Chandigarh, India. Prime Minster Nehru promoted the establishment of this city during the early 1950s. It was to be the capital of the state of Punjab, and was planned as a modern, open government center. But during the early 1960s ethno-national pressure by the Sikhs caused the partition of Punjab into two states, Haryana to the south and Punjab to the north. Yet the peoples of both states wished to maintain their capital in the internationally acclaimed city of Chandigarh, which was geographically close to the new border. As a result, an autonomous region was carved out around the city, officially controlled by the Indian Federal Government in New Delhi but in practice self-governed by its multiethnic residents, who periodically elect representatives to City Hall. Chandigarh functions sharing the same boundaries as the capital of two states, and even some of the government buildings, such as the Supreme Court and parliament

House, are shared, with different wings of these buildings designated for Punjab and Haryana use.[101]

An additional well-known example is Belfast which at the local level of government sectarian bias was most evident, affecting the unequal distribution of resources and urban goods. The locally elected 51 member Belfast city council thus had severely constrained policymaking power in planning and urban services (Bollens, 2008). Yet, a significant change of Northern Ireland governing institutions and constitutional status separated the rule of the province from Britain into a new directly selected Northern Ireland Assembly, in which both Protestants (Unionists/Loyalists) and Catholics (Nationalists/ Republicans) share power; this reconstituted Northern Ireland Assembly began to function in early 2007.

The Belfast Agreement called for a comprehensive review of local governments in Northern Ireland; a "Review of Public Administration", initiated in 2002, called for the existing 26 local councils in Northern Ireland to be reduced to seven in such a way that would reduce fragmentation in local government and equalize populations and tax bases across local bodies (Bollens, 2008). Important functions such as planning, infrastructure and transportation would be entrusted to these reconstituted local units. The delegation of power to city government introduced a more proactive and progressive ethnic agenda, enabling the city to move this urban society forward. This has encouraged forms of co-operative politics on the Belfast City Council, even if it currently has very limited powers. The Belfast City Council actively promotes 'good community relations' and the aim of developing a 'Shared City' (http://www.conflictincities.org/Belfast.html).

Despite the differences between the cases mentions, it is important to highlight the decentralized internal structure approach

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[101] For a wider discussion see: . G. Singh, ed., *Punjab: Past, Present and Future* (Delhi, India: Ajanta, 1994); R. Kalia, C*handigarh: The Making of an Indian City* (New Delhi, India: Oxford India Paperback, 1999).

with most urban affairs being determined on a "sector" (quarter) level. These cases as well as others illustrate the ability of two overlapping ethnic groups to share a capital city with a reasonable degree of stability and prosperity.

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In this proposal we illustrate *a* future *bi-national shared city by Israelis and Palestinians*, based on *equal terms* administered by a decentralized, urban federal-type, democratic regime. This will be based on the three principals:

(i) The demarcation of a *shared metropolis* under joint Israeli and Palestinian sovereignty, and the formation of institutions that will enable the Jerusalem\AlQudes Metropolitan Authority (JAMA) to function

(ii) The creation of a decentralized *system of sub-municipalities* to manage the daily urban life in the neighborhoods which make up JAMA

(iii) The definition of a small area around the *Old City to be managed by a shared* council (to be also responsible on the holy sites within JAMA) to be composed of both local and international religious representatives.

A. <u>Background: the separation paradigm</u>

Since 1916, more than 50 different proposals concerning the future of Jerusalem have been presented (Hirsch and Couriel, 1994). Private, national and international parties have initiated plans in order to solve the problematic conflict over the city. The proposals have focused on three subjects: (a) the national ambitions of the Arab and the Jewish sides, (b) the status of the holy places and (c) the form of municipal administration (Hirsch and Couriel, 1994; Benvenisti, 1981). However, despite the different approaches, many similarities exist between the proposals, which are based on what we would define as the "separation paradigm".

In order to understand the disputes between the different approaches, Hirsch and Couriel (1994) propose to focus on three historical circumstances. First, the occupation of Jerusalem by the British in 1917 and the Mandatory rule over Palestine in 1922. Second, the U.N. resolution dividing Palestine between Jewish and Arab states and the 1948 war, which followed. Thirdly, the war of 1967 and the unification of East and West Jerusalem by the state of Israel. In this section we will first describe these three "historical junctions" (Hirsh and Couriel, 1994) and the sources of the conflict over Jerusalem. Then, some proposals will be presented focusing mainly on the national motivations and the status of the holy sites. Finally, the model of a "de-centralized municipality" or the "quarters plan" (Benvenisti, 1981) in its different variations will be discussed.

Ottoman rule over Jerusalem ended on December 1917, when the British army took over occupying it. On July 22, 1922, the Nations Committee confirmed the British Mandate conditions over Palestine, which lasted until May 14th, 1948. The United Nation resolution of November 29th 1947 recommended that Jerusalem be defined as a separate entity, (*corpus seperatum*) demilitarized and neutral. On May 15th, 1948, the last British soldier left Palestine and the state of Israel was established. This was the beginning of the complex legal question concerning the status of Jerusalem (Hirsch and Couriel 1994): at the end of the British Mandate, to who was the sovereignty over Jerusalem handed?

At the end of the 1948 war, East Jerusalem was under Jordanian rule and the Western part of the city under Israeli sovereignty. In the first few years of the Israeli State, West Jerusalem was declared as the official capital of the Jewish State, and most national institutions were moved to the city. Nevertheless, the question raised by Hirsch and Couriel (1994) is whether the actions performed by both sides gave them any legal rights over the different parts of the city. The answers to this question are obviously one of

the main points of dispute between both sides as well as among researchers.

In the war of 1967, East Jerusalem was occupied by Israel. Following this event, the Israeli government initiated some legislative acts in order to apply Israeli law on East Jerusalem. The legal implications of this step were discussed in several verdicts given by Israeli courts, which concluded that East Jerusalem is considered as part of the state of Israel. Indeed, the main question to be asked is whether such a unilateral act gives Israel the right to rule East Jerusalem, and if the answer is negative, it is important to ask to whom does this territory belong today? Moreover, it is argued by Hirsch and Couriel (1994) that the 1978 Camp-David agreements and the Autonomy negotiations that followed them, and even the law of Jerusalem as the Capital of Israel (1980), did not change the problematic legal status of the city.

As described above, these events have led to contradictory positions concerning the legal status of Jerusalem. The Israeli government claims sovereignty over both parts of the city, maintaining that control over West Jerusalem is justified as a result of a defensive war of '48. According to this line of argument, the occupation of East Jerusalem is legally justified since it was the result of another defensive war in '67. On the other hand, the Arab side argues that although Israel rules West Jerusalem, Jordan has the legal right to rule the eastern part of the city. The reason behind this argument is that Israel confirmed the rule of Jordan on this territory in the armistice of 1949. The Jordanian legislative process for unifying both sides of the river is explained as a realization of the right to self-determination of the Palestinian people in the Judea and Samaria region. Hence, although Israel occupied East Jerusalem in 1967 as a reaction to the Jordanian attack, it does not have the right of sovereignty. Furthermore, according to this assumption, Israel is occupying this territory until a peace agreement is signed with

Jordan. In addition, the Palestinian claim to self-determination includes the right to establish a Palestinian state with East Jerusalem as its capital.

The essence of the conflict concerning the future of Jerusalem lies in the national motivations of the different sides involved. The question of sovereignty over the city is charged with historical, religious and national symbols of Arab, Jewish and Christian communities all over the world. Furthermore, there is a pragmatic importance to the fact that ruling Jerusalem means dealing with a variety of ethnic groups that have some opposing interests. The different parties in this conflict have declared that if their sovereignty over the city is recognized, they will be flexible in other aspects such as the holy places and the municipal management.

As mentioned, a variety of proposals concerning Jerusalem's status have been proposed. Some confirm the existing situation, i.e. recognize the sovereignty of the Israeli state on both parts of the city of Jerusalem (Lauterpect plan in 1968), while others that were formulated after 1949 confirm Israeli rule on West Jerusalem only. Other proposals argue that the solution of the Israeli-Arab conflict demands a return to the situation before the war of 1967; namely, the division of the city between Israel and the Jordanian or Palestinian state (Lord Caradon, 1980).

The complexity of the conflict has led to another approach that advocated "stretching" the borders of Jerusalem to include other areas. The idea behind this approach is that Israel rule most of the territories that are part of the city today, while control on the other parts be given to the Arab state (Benvenisti, 1968). Such a solution, it is believed, will satisfy both sides.

Different perspectives, which aim at preventing the escalation of the conflict, are to transfer the rule over the city to an

external party. According to these proposals, Jerusalem will be under international rule, which is subject neither to the Arab nor Israeli sides. Such models have been initiated by the U.N and by inter-religious committees. These approaches are supported by external parties (such as the Catholic Church) interested in eliminating the possibility of Jewish or Muslim control over the Christians holy places. Such suggestions formed part of an approach supporting internationalization of the city by neutralizing or demilitarizing it. Following this concept, a more radical plan suggested establishing an independent state, such as the Vatican, in Jerusalem.

Indeed, there is general agreement in relation to the right for rituals which has lead different proposals to emphasize the need to expropriate the holy places from the sides involved in the conflict. It is suggested to transfer control over the holy places to an organization or an inter-religious committee. These proposals are based on the expectation that an international representative will better keep the interests of all sides. Less radical plans, which aimed at protecting the holy places, suggested a limited internationalization of the holy places, rather than transferring sovereignty to an international association (Littke 1988). In 1969, the State of Israel suggested giving diplomatic status to the holy sites and diplomatic rights to the religious representative. A more radical plan suggested giving the holy places an ex-territorial status (Khalidi, 1988).

While focusing on the question of municipal administration, it seems that most proposals in the past have ignored this aspect. This issue has only been dealt with in the past 20 years. Hirsh and Couriel (1994) suggest that the key for a practical arrangement that might avoid the problematic issue of sovereignty is to be found at this level.

The main idea focuses on the transformation of influence to the municipal administration, and on empowering its independence in relation to the national authorities. In such a way, it is assumed

that the issue of sovereignty will gradually become less relevant. Some proposals emphasized the importance of giving major responsibilities to the representative units of the different parts of the city (usually the different quarters). The transformation from central control to a municipal system may lead, on one hand, to the creation of municipal autonomy in relation to the state, and on the other to inter-municipal autonomy of the different quarters in relation to the central municipality. This concept aims at keeping the municipal unity of the city, even when dividing the territorial sovereignty between two states.

In 1968, Meron Benvenisti presented one of the pioneering proposals in this spirit. At the time, he was the advisor of the Mayor on East Jerusalem issues. Three goals are mentioned in his plan. The first is to create a unified municipal area of the metropolis of Jerusalem as a basis for the city's development. Secondly, this plan aimed at creating independent municipal units within the metropolis, representing the wishes and interests of the different minorities within this territory. The third goal was to satisfy the Arab demand of controlling part of Jerusalem, while keeping Israeli sovereignty on the city in its present borders. In order to implement such a plan, it was suggested that a municipal borderline be drawn around the Israeli and Jordanian territory, i.e. to create a city which with double sovereignty but a single municipality. Also, it was recommended to establish a wide city council including representatives from Arab Jerusalem, Jewish Jerusalem, and the surrounding villages. Creating limited autonomy to Arab Jerusalem and the villages around it (while part of them would be under Jordanian rule) was also recommended.

In 1970, Teddy Koleck devised a similar plan. He suggested dividing the city into sub-municipalities with representative committees. The Israeli government ministers rejected this idea since they saw it as an option for a re-division of Jerusalem

(Benvenisti, 1973). One can recognize such an approach on the Arab side as well. Nusseiba and some other Arab leaders announced that every solution to the problem of Jerusalem must be based on the establishment of separate municipalities for Arabs and Jews. It would be possible, according to this point of view, to combine these two municipalities under a "general municipality".

Some more recent solutions, such as in the framework of the Oslo Accord, stressed that a permanent agreement preserve the unity of Jerusalem. But in practice, as part of the secret negotiations in Oslo, the PLO agreed to postpone the discussion of the question of Jerusalem to negotiate the final status, and the Declaration of Principles Israeli-Palestinian determined that Palestinian self-government arrangements for the interim period not apply to Jerusalem.

The Beilin-Abu Mazen Agreement was based on the understandings of UN resolutions 242 and 338 and the proposed route of a new border between Israel and a Palestinian state based on the '67 borders with land swaps. Concerning Jerusalem, the agreement was also based on the separation paradigm, suggesting the establishment of an administrative division in the city. Divided sovereignty over Jerusalem would occur only with the determination of a permanent solution, but it was determined that Jerusalem remain united with the Palestinian flag raised over the Temple Mount and Abu Dis as the capital of the Palestinian state called Al-Quds.

Indeed, the essence of such plans is to neutralize the political conflict while focusing on municipal issues. However, such neutralization is problematic since it is impossible to separate the municipal independence from the wider territorial and national aspects. The goal of the different quarters' plan is to solve the ethnic and political tension on urban-geographical basis. But, the question

is whether it is possible since we are witnessing an intensive and continuous political process of Judaizing in the Metropolis of Jerusalem. Moreover, while we consider the multi-layered conflict that involves historical, religious and national symbols, it is necessary to question the relevance of such a technical division between municipal and national issues.

B. <u>**Towards a bi-national shared city**</u>

The suggested model for Jerusalem/Al Quds may obviate the need for a divided sovereignty; we propose that a bi-national, shared city is a better option for the whole city and for both parties on social, economic, and political grounds. At the core of our vision we suggest the establishment of an autonomous and decentralized "Capital Region". Our proposal will enable JAMA (the name for Jerusalem/Al Quds Metropolis Authority) to function as one metropolis while reflecting the national identities of its two peoples. The institutional and geographical arrangements will create a federal-like metropolis, suiting the current wisdom in metropolitan governance and planning, which emphasizes the advantages of decentralized urban management.

We are aware of the unavoidable difficulties and risks associated with any period of profound transition, and despite the ongoing tensions between Israelis and Palestinians. Yet, our approach is preferable to partition on several grounds. First, both states will benefit from the new arrangement; they will each have the entire Jerusalem/Al Quds region, with its enormous symbolic and economic resources, *as an official part of their sovereignty*. Under such an arrangement, both states' domestic and international position on the question of Jerusalem is likely to improve. Second, a shared city will enhance chances for economic development. Given the momentum of economic globalization and the flexibility of state borders, JAMA is likely to attract both local and international

investment. Additionally, as an integrated urban region, JAMA would receive an increase in tourist flow, a driving force of the city's economy. Third, collective and personal security is also likely to be enhanced. On a collective level, the mutual recognition of Palestine and Israel in the capital city of its neighboring nation will ease both Israeli-Palestinian and Middle Eastern tensions, thus alleviating security threats deriving from the city's contested status. Personal security will also be improved, mainly because both states will have a strong interest in maintaining law and order in their political capitals.

There are four key principles[102] towards this transformation of an autonomous authority *under joint Palestinian and Israeli sovereignty*; this authority will serve as the democratic capital of *both* Israel and Palestine.

(i)   Establishment of an *umbrella entity*, JAMA, to oversee the development and planning of the region to be administered by a decentralized, federal-type urban regime, and governed openly and democratically.

(ii)   Creation of a *system of local municipalities* to manage most urban matters in the different quarters, neighborhoods and villages which are included in the JAMA territory; this will create a bi-national, shared city based on equal terms by Israelis and Palestinians while allowing the many communities and localities comprising the area to express and enhance their identity and priorities.

(iii)   Demarcation of a defined area around the Old City to be administered by an Interreligious Council as well as by an international third party. A special policing unit for the holy sites, headed by a third international party will be established; this body will ensure the security in the holy

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[102] These priciples have already been introduced by Yiftachel and Yacobi, 2002

sites, especially during religious holidays and events (see also Dumper, 2014).

C. <u>Territory and sovereignty</u>

JAMA will be a distinct political unit *under shared Israeli and Palestinian sovereignty*. Geographically, it will stretch between al-Birrya in the north, Ma'aleh Adumim in the east, Beit Jalla in the south, and Mevaseret in the west, an area home to around 800,000 (half of whom are Jews and half Palestinians). The area will be placed under joint Israeli and Palestinian sovereignty and managed by an authority *headed by both a Palestinian and an Israeli*.

JAMA is envisaged as a *"thin" political institution*. Its Assembly will consist of representatives from the region's local governments and from the Israeli and Palestinian ministries. Its main staff will be professionals in the fields of planning, transportation, environment and the like.

The urban region will include *two capital compounds*, which will host the Palestinian and Israeli government quarters. The Israeli government area will remain in its place (Kiryat HaLeom) while the location of the Palestinian government area will be chosen by the Palestinian people.[103]

The city as a whole will be mutually recognized as a state capital by both Israel and Palestine. This will guarantee the rights of both peoples in the city and slow the disastrous demographic and geographic competition between Israelis and Palestinians that has gone on since 1967.

The name chosen to describe the metropolitan area (JAMA)

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[103] Some possibilities include the Sheich Jarrach, Wadi Joz or Jabel Mukabber areas.

takes into account names "Jerusalem" and "Al Quds". This is done in order *to respect the symbolic sentiments* of both parties to the region. We hope to create an entity which is mainly administrative and professional that will govern the city's everyday affairs and future development without constant reference to national narratives or to sacred religious and historical sites.

The creation of JAMA will involve cross-border cooperation in different areas (such as planning, infrastructure, economic development). A central issue of cooperation will be security and the establishment of *a shared policing system* (Dumper, 2014:24) that will take place within the new political framework that serves both parties.

Based on Dumper's proposal (2014) we propose that JAMA have a security cordon running round the city irrespective of the location of the political borders. This will be a weapon-free area; only authorized police, security and army will be permitted to bear arms. Both Palestinian and Israeli governments would draw up two conventions: a legal convention and a policing convention that would apply to the JAMA security zone. "A final feature of the zone would be that the governments of Palestine and Israel would agree on a mandate for third party assistance in liaison, coordination, and oversight activities" (Dumper: 2014:225).

As mentioned above, we propose to demarcate an area, including the Old City and its immediate surroundings, as "Holy Jerusalem/Al Quds." Under our proposal this area will be declared as existing under "Divine ownership" and be managed by an international, interreligious council consisting equally of Christian, Muslim, and Jewish representation. It is expected that the area be largely preserved and hence face relatively little redevelopment pressure. The responsibility for security and infrastructure, and the official sovereignty, will *remain with JAMA*, but this will have little

impact on the actual management of holy places, interreligious affairs, and tourism, which will be controlled by the Holy City Council. We assume that this arrangement will allow both parties' symbols of sovereignty (such as flags or signs) to be hoisted over key points, such as the Haram al-Sharif or the Wailing Wall, while the actual running of the Old City will be managed by a body independent of the Israeli and Palestinian states.

As proposed by Dumper (2014), Palestinian and Israeli courts would be responsible for personal jurisdiction; i.e., Palestinian law would apply to Palestinian nationals and Israeli law to Israeli nationals, but subject to the legal and policing conventions applying to JAMA. Crimes committed by third party nationals would be the under the jurisdiction of the law of the country through which they entered into JAMA.

D. Urban government and administration

A cornerstone in our proposal is the tier of local municipalities, where most urban governance will take place. This part of the urban governance structure will form the core of the region's communal, local, and planning management. Whereas the umbrella authority will be, as noted above, made up mainly of professional experts and the Holy City Council of religious figures, the local municipalities will perform the full range of urban governance functions, including local planning, education, housing, economic development, environmental control, and other daily procedures of urban democracy. Each Local Council will govern a population of between 30,000–50,000 residents. An effort will be made to arrange the metropolis into zones that will reflect the diverse religious, denominational, historical, local, and ethnic characters of the multitude of communities in the region.

Drawing the boundaries of Local Council regions will merely

involve the recognition of long-standing or geographically distinct communities, villages, or towns as self-governing localities. Such localities may include, for example, Beit Hanina, al-Azariyya, Beit Safafa, Gilo, or Ramot. In other places, however, several neighborhoods of similar complexions will need to be amalgamated and new local councils created as centers of urban government. This redesign of municipal entities will attempt to create blocks of neighborhoods in such a way as to reduce the current frictions between radically different populations (such as secular and ultra-orthodox Jews) over the shaping of public spaces.

E. JAMA and the two states

The city's Palestinian and Israeli residents will be *full members of their respective national political communities*. As such, they will vote for their own parliaments and be subject, respectively, to the Palestinian and Israeli legal systems.

JAMA will be open to both Israelis and Palestinian Jerusalemites for work, residency, and leisure. As previously discussed by Dumper (2014), all controls appropriate to national borders will be exercised at the exits of the open city zone. \ In order to oversee this zone, a set of institutions and agencies will be developed to coordinate functions and activities on the two sides of JAMA.

In case border controls are required by either of the two states, these will be placed at exit points from the city. This arrangement will ensure that the Israeli and Palestinian states are able to control movements into their sovereign areas without compromising free entry from either state into its capital city.

The special status of JAMA will be further expressed in its autonomy in areas such as infrastructure, metropolitan transport,

and environment. In order to diffuse potential tensions between the Israeli and Palestinian states and the city's municipalities, JAMA will concentrate on professional matters, overseeing the smooth functioning of the region's urban systems. It will have its own set of offices for environment, planning, transport, infrastructure, and the like, as well a police force.

JAMA will not collect local taxes but will be funded equally by the Israeli and Palestinian states. A special long-term fund should be established for the purpose of affirmative development and reconciliation that is, development which aims to reduce inequalities and past hostilities and resentment. The affirmative development and reconciliation fund, which may be drawn from international sources, is imperative for the improvement of Arab-Jewish relations.

IV- Refugees

(Al-Awda) Work Group

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Abstract

This paper will try to introduce a new framework for the issue of the refugee status and its long-term impact on the possibility of an Israeli – Palestinian union. It will introduce a comprehensive analysis of the issue using a human needs and identity framework.

Since 1948, the international community has responded to the Palestinian refugee by providing humanitarian aid, including some basic education and health services. However, there is little evidence that any aid was allocated to address the traumatic experience of displacement and loss of social status, property, and dignity. Furthermore, there has been very little documentation as to how the "host countries and communities," including the 1967 part of Palestine, received and treated the traumatized and humiliated refugee population.

These refugees survived by working in rough, inconsiderate, and unorganized environments. By day, they would ignore their own psychological needs in order to meet their challenging physical needs. For inspiration, at night they would tell stories about the "home" they had left behind in Palestine. They appreciated the few meaningful items that they brought with them to help keep "home" very much alive in their memory and for the next generation. This

was their way of responding to the deep sense of loss, which continues to this day.

In addition to the physical and moral loss, the refugee community has had to explain to the host communities and the subsequent generation of refugees the reasons why they left their homes. Some were accused of being weak and were humiliated for having left their home. They heard people of the host countries tell them they did not fight as they should have and chose the easy way out by leaving. Others told them they did not deserve to be considered national Palestinians since they had officially left their "land". It was not enough that they were forced to leave; they also had to deal with the feelings of shame and blame directed at them both from within the refugee community and from the host communities. Adding to all of this, the refugee community also had to address their sense of guilt and powerlessness related to their inability to provide for their own families.

In short, the refugee communities were left alone and with no support to deal with issues related to the loss of identity and issues of human needs, other than physical ones. They responded to this traumatic experience by holding onto narratives and memories of strength, dignity and competent human beings, who had once owned homes and lands and who had had a social status connected to the ownership. This narrative of what life was before 1948 and 1967 are still very alive and passed on from one generation to the next. Psychologically speaking, the refugee community is still living the life they were living before 1948. What they have been living since then, in refugee camps, is a short-term, temporary, life that will change the minute they "Return Home".

Currently, if all stakeholders in the Israeli Palestinian conflict are still considering the Palestinian refugee issue as one of the major blocks in the way for a peaceful solution, then they must change the

way they present it. One of the main failures in the negotiating process, and any agreement signed so far, is the lack of full and comprehensive refugee representation. The Palestinian negotiators did not take the initiative of talking to Palestinian refugees directly. They completely ignored the fact that there is now a third generation of Palestinian refugees still holding the "Key" to the homes of the first generation, who think the same way as the first generation in terms of restoring their dignity and claiming their rights. Very few attempts so far have been made to discuss any creative or possible alternative solutions. If there are such alternatives, they have not come from the refugees themselves.

On the other hand, the different Israeli governments have never acknowledged their responsibility for the plight of the refugees. Making things even worse is the fact that the Palestinian refugee communities hear countless Israeli narratives denying the mere existence of a refugee issue. The Israeli narrative rarely confirms that almost 800,000 people were forced out of their land and some of these narratives even deny the existence of these original inhabitants in the historic land of Palestine in the first place, with some Zionist narratives calling pre-1948 Israel "a land without a people."

The international community, including the UN bodies, work directly with refugees, but the United Nations Relief and Works Agency (UNRWA) in particular has not done much to help these communities restore their human dignity. The idea of "humanitarian" aid in itself, though needed, is a constant reminder of the plight of the refugees. What is not known, or simply ignored, by these international bodies is the culture that these refugees come from: the culture of the competent, for example, the owner, the giver, and the leader. This form of aid contributes further to the sense of powerlessness, shame, and the sense of loss which the refugees are

experiencing. For example, every time refugees stand in line to get food, they are reminded of their powerlessness and humiliation.

To engage the Palestinian refugee communities scattered all over the world in a conversation about any solution, this work group strongly believes that issues of human dignity, human needs, and identity must first be addressed. A comprehensive collective trauma-healing program is critical before the refugee communities can even enter negotiations. Programs built on restoring human dignity, through acknowledgment of pain and rights, could help the refugees consider alternatives to their temporary status. Financial compensation accompanied by well-designed physical return trips "home" may empower the refugees to engage in searching for creative solutions to their refugee status.

Introduction

According to a number of sources including UNARWA, Palestinian refugees are defined as the indigenous people of Palestine before 1948: the majority of whom were forced to leave when Israel was created the same year. The second largest wave of Palestinian refugees was forced to leave yet again during the 1967 war. The Palestinian refugees are considered as the largest and longest standing group of refugees in the world; Two in five refugees worldwide are Palestinians.

Palestinian refugees commonly fall into three main groups: Palestinian refugees displaced in 1948, internally displaced Palestinians who remained within the areas that became the state of Israel, and Palestinian refugees displaced in 1967 from the West Bank and the Gaza Strip.

There are about 7.2 million Palestinian refugees worldwide. Almost 5.3 million of the 1948 Palestinian refugees and their descendants are registered to receive humanitarian assistance with the United Nations Relief and Works Agency (UNRWA). An estimate of 1.7 million Palestinian refugees and their descendants are not registered or documented with the UN. About 450,000 Palestinians and their descendants are internally displaced inside present-day Israel.

In 1967 when the West Bank and Gaza Strip were occupied by Israel, the UN reported that approximately 200,000 Palestinians fled their homes. The number of the 1967 Palestinian refugees and their descendants today is about 834,000 people. Since then, another category of refugees has emerged as a result of a number of unilateral Israeli occupation policies such as house demolition, revocation of residency rights and construction of illegal settlements on confiscated Palestinian-owned land. These illegal policies have led to another form of displacement for more than 57,000 Palestinians

who became internally displaced in the occupied West Bank. This number includes 15,000 people displaced to date by the construction of the Separation Wall.

Currently, the majority of Palestinian refugees live in the occupied West bank and Gaza and in the neighboring countries of Jordan, Lebanon and Syria. Approximately 37.7% live in the West Bank and Gaza Strip, comprising about 50% of the population in those areas. More than 50% live in Jordan. About 15% live in almost equal numbers in Syria and Lebanon. About 355,000 internally displaced Palestinians reside in present-day Israel. The remaining refugee population lives throughout the world, including the rest of the Arab world. Of the 5.3 million refugees registered with the United Nations Relief and Works Agency (UNRWA), 34% live in UNRWA's 59 refugee camps dispersed throughout the West Bank and Gaza Strip, Jordan, Syria and Lebanon.

A Palestinian refugee camp is a plot of land allocated to UNRWA by the host government to accommodate Palestine refugees, with facilities to provide for their basic needs. UNRWA not only runs schools, health centers and distribution centers in the recognized camps but also in areas outside of them, where Palestinian refugees reside, such as the Yarmouk camp near Damascus.

The lands on which the recognized camps were set up are either state owned or leased plots of land from local landowners with the host government's supervision. This means that the refugees in camps do not "own" the land on which their shelters were built but have the right to "use" it as a residence. A mere look at these camps and one can easily notice the extremely poor socioeconomic conditions of those living there, with high population density, cramped living conditions and inadequate basic infrastructure, such as roads and sewers. Living conditions can be unbearable.

This having been said, not all the Palestinian refugees live in such camps. Records show that thousands of refugees went to other Arab states, such as Egypt, Iraq, Libya, Kuwait, and other Gulf countries. Refugees who fled to other Arab countries, particularly to the Gulf States, played a crucial role in building those modern states. They were widely represented in banking, journalism, the oil industry (as technical workers, and in schools (as educators). However, in 1991, following the US led Gulf war, the number of Palestinian refugees in the Gulf region declined drastically.

There is surprisingly little solid information available about the Palestinian communities in the West and other countries. About 450,000 Palestinians are scattered as far as Australia, Brazil, Denmark, and Canada with the largest community outside the Middle East is in the U.S.

However, exact numbers are hard to obtain: reports on census data are not based on nationality or religion in some countries. For example, Arabs are reported as white or Caucasian in the United States census.

A. Living conditions in camps - How they affect the determination on the Right to Return - Analysis

It is important to understand how the Palestinian refugees who still live in refugee camps experience living in dire conditions. The context has a lot to do with their strict views of the Right to Return. This section will present an analysis of such conditions taken from personal testaments and a number of studies done on the topic. If people have a glimpse of such living conditions, we may understand the extent of the calamity of the issue and transfer the need to resolve it from its political framework to a human needs framework.

Psychologically speaking, almost all Palestinian refugees and their descendants are reminded daily of their plight, their sense of loss and their statelessness. In this part of the paper, we will try to draw a picture of the physical and psychological contexts concerning the life of a Palestinian refugee. The case of the Palestinian refugee camps in Lebanon is the most extreme example of all refugee camps in host countries. According to Human Rights Watch World Report published in 2011, Palestinian refugees in Lebanon are banned from practicing more than 25 professions including law, medicine and engineering and they are barred from owning, building, registering or buying property. Before 2010, they were banned from practicing more than 70 professions, they still cannot buy or own any kind of property and they cannot receive any government services. These facts directly affect the physical living conditions of the Palestinian refugees in Lebanon and consequently affects their psychological well-being. Most of them live under the poverty line; they cannot travel outside Lebanon unless they migrate to other countries, which means losing their refugee status. The percentage of Palestinian refugees choosing to leave Lebanon is the highest among the refugee communities anywhere.

The Palestinian refugees in Lebanon are originally from the northern parts of Palestine. Some 70 percent come from the Safad and Akka regions and another 25 percent from the regions of Nazereth, Haifa, and Bisan. These places are known for their physical beauty, richness of resources and middle class cultures. These facts and memories are still vivid in the collective memory of the Palestinian refugees all over the world and particularly for those who are in Lebanon. With this context, one can capture the depth of the sense of loss and trauma that Palestinian refugees constantly feel. It also reflects their strong and unnegotiable attachment to the Right of Return (Al-Awda) as the only solution to regaining all that they lost in 1948 and as compensation for the horrific catastrophic conditions that they have been living in since 1948.

In 2002, about twelve percent of refugees were first-generation refugees born in Mandatory Palestine. In 2010, only seven percent were first generation refugees, and in 2020, three percent of the refugee population will be first generation. Despite the fact that the first generation of the Palestinian refugees is dying out, the second and the third generations are still holding steadfastly to the first generation's narratives of loss and determination of returning home. In some cases, the second and third generations are more militant about this goal of return; they will not even consider discussing any other alternatives to the full Right to Return. In our analysis, we think that this position of the Palestinian refugees in Lebanon and their descendants is due to the physical, political, social, economic and psychological contexts in which they live.

Compared to what they had when they lived in Palestine before 1948, the current living situations are unbearable and will not end unless they go back home and regain their sense of ownership and dignity. If we compare the case of the Palestinian refugees in Lebanon to the case of the Palestinian refugees living in Jordan, the difference is striking. After the 1967 war and the annexation of the West Bank, almost all of the Palestine refugees were granted Jordanian citizenship. Most of the Palestinian refugees living in Jordan are settled outside the camps. According to UNRWA, the number of Palestinian refugees living in camps in Jordan is by far the lowest number of all of UNRWA's field operations. This means that the living conditions of the Palestinian refugees in Jordan are much better than the ones in Lebanon, as they have access to all government services and enjoy most of the privileges that native Jordanians enjoy. This explains the less extreme attitude towards the Right of Return (Al-Awda) in this context. . They are more inclined to accepting compensation and a symbolic return and they are generally more willing to participate in any process that would lead to creative alternatives to changing their status as refugees.

B. <u>Summary of interviews with refugees on the Right of Return (Al-Awda)</u>

Most of the refugees whom our work group met with spoke about their living conditions, their identity as refugees, and their hopes, dreams and fears. They preferred to remain anonymous. In our interviews, many things were said that confirmed the dominant narrative of suffering, victimhood and humiliation. The interviewees also affirmed their commitment to the Right of Return (Al-Awda). They told stories of pain, loss and dignity. They also shared their opinions on Israel, the host countries, the Palestinian Authority and Hamas that they would not otherwise share in a public sphere. For all of these reasons, we decided to summarize these testaments and keep their information confidential.

"Peace! What peace? There is no such thing called peace, it is just an empty word they fool us with so to forget our *Nakba*. If there is justice in this world, the Palestinians will be given their rights without a blink. If there is such kind of justice, I would be the first one to shake hands with Jews even if I cannot go back to my original home!" a Palestinian refugee in Lebanon.

"I will not accept anything less than going back to the house my great grandfather built in Jerusalem. The family living in it now must leave and I must live in it again." a Palestinian refugee in Lebanon.

"I wish I could go back and smell the essence of home, then die!" a Palestinian refugee in Lebanon.

"Home is where the heart is, I love Palestine, it is my homeland but I will not go back and start over again, I have a life here, I can vote and even run for the legislative council, I can travel and work in the gulf. Why would I go back to live as a second class

citizen in Israel or as a nobody in what will be called Palestine with a corrupted PA?" a Palestinian Refugee in Jordan.

"My grandfather gave the key to my father, my father gave me the key and I will hold on to it, I will keep telling the story of "once upon a time a house was mine and I lived as a free dignified human being". I will never give up my right to return, but I am willing to listen to ideas that guarantee me this right, acknowledges the suffering of my family, compensates me both on my morale and material losses and recognizes me as a free human being entitled to equal rights and equal opportunities" a refugee in the West Bank.

"Everyone has to pay for what happened to us, Britain, America, Israel and the Arabs, yes the Arabs…. they abandoned us, lied to us about victorious wars and support, but the worst is they dehumanized us and still do!!! I will not live with no dignity, I must prove to those who shamed me for leaving Palestine that I am going back home soon!" a Palestinian refugee in Lebanon.

"We live in a ghetto, we have no rights, we are not recognized as humans and we know who did this to us! We will continue to fight to go back home. Resistance is the only answer for our plight, Israel understands one language and that is of military power, it will never look at us as human beings fully entitled to equal rights, so peace is impossible without us returning home and making Israel pay for our losses as they made Germany pay for the Holocaust." a Palestinian Refugee in Gaza.

C. The Right of Return (Al-Awda)- Overview

International Recognition of Palestinian Refugee Rights is solid and yet ineffective in realistically bringing a sustainable solution to the refugee plight. For the past 65 years, the international community has constantly called for a resolution. UN resolution 194 is the most important of the resolutions and expresses the most

explicit support for the rights of Palestinian refugees. It was adopted in 1948, six months before Israel became a member of the United Nations (GA Resolution 273, 11 May 1949). To be a member in the UN, Israel agreed to fulfill its obligations under the UN charter and United Nation resolutions, including Resolution 194. Article 11 of UN resolution 194 explicitly demands three things from Israel and the international community:

1.   Refugees who wish to return to their homes should be permitted to do so at the earliest practical date.
2.   Compensation should be paid for property of those choosing not to return and for loss of or damage to, property which under principles of international law or in equity, should be made good by the governments or authorities responsible.
3.   A Conciliation Commission must facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation.

Al-Awda or the "Right to Return" is an "inalienable right" and since 1949, UN Resolution 194 has been reaffirmed more than 110 times by the General Assembly. The rights outlined in this resolution are firmly grounded in international humanitarian, human rights, and refugee law.

D. <u>Analysis of the problem from a social identity theory point of view</u>

The Social Identity Theory asserts that group membership creates in-group/ self-categorization and enhancement in ways that favor the in-group at the expense of the out-group. In the Social Identity Theory, a person has not one "personal self" but, rather, several selves that correspond to widening circles of group membership. Social identity is the individual's self-concept derived from perceived membership of social groups. Conflicts between

groups are caused by their understanding of their communal social identity and its superiority/inferiority in comparison to other social groups in the same contexts. This theory explains how "refugee" became the new social identity of the Palestinians of 1948 and of 1967. It is like an exclusive club for exclusive members who identify themselves as Palestinian and as refugees. This sense of exclusiveness created a new set of social identities and social behaviors where the Palestinian refugee community is the "in-group" and every other group is the "out-group". The out -group includes the non-refugee Palestinians, the Israelis, the host countries' natives and, in some cases, Palestinian refugees who are not residents of refugee camps.

Each individual in this group has more than one personal identity: he or she is a 1948 or 1967 refugee or descendant of a refugee, who, prior to the Nakba and the Naksa (the great setback, the 1967 expulsion), enjoyed a social status gained by ownership of cattle and property, education and location of living in Palestine, city or village. One can see this in how the refugees identify themselves based on the place that they came from and the extended family(s) that they belong to. We noticed how the names of alleys in refugee camps are the same as the cities, towns and villages that many refugees hail from.

Post 1948 and 1967 identity is formed by the collective trauma of uprooting, loss of lives and loss of property and the state of being a survivor; each individual of the Palestinian emerging refugee group living in a survivor state needed to deal with daily challenges in a very harsh physical environment. This survivor state identity was maintained by the firm belief that the process of going home is ever near and that this situation of separation can end soon, that it is a temporary situation, "we will be back home soon after the Arab troops free our towns and cities from the European Zionists colonizers".

A third identity came into being by the fact that refugees are now recipients of aid, living on donations in the shadow of their previous roles as the main providers for their family's needs. This sense of powerlessness and loss of dignity, combined with feelings of shame, shaped the refugees' worldview at the time and led to the emergence of the "victim" identity.

During the 66 years of displacement, more identities emerged depending on the changing environments surrounding the refugees. Political, social, cultural and economic changes introduced other forms of refugee, displacement, and a heightened sense of victimhood. In violent conflicts in countries like Lebanon, not only were Palestinian refugees, and victims of heinous crimes against humanity but they were also portrayed as part of the problem and originators of the violence. In reality, the Palestinian refugees were only trying to protect themselves in an extremely chaotic political and social environment. Their lack of representation, due to their statelessness, left them with no protection and pushed them to find ways of surviving. This combined state of affairs in host countries contributed to the refugees developing a sense of inferiority bringing them closer to each other and intensifying their in-group inferior identity.

The Palestinian refugees believe that they were/still are abandoned by the whole world. Recently, after the creation of the Palestinian Authority and the failure of the negotiation process, they felt mainly abandoned in the realization of their Right of Return (Al-Awda) by the body of power supposedly negotiating for this right. The combination of such feelings of abandonment and lack of trust in a peaceful process ignited strong feelings of injustice and hopelessness. Consequently, these feelings have continually led to more violence, which make any attempt to bring about just solutions to the refugee issue almost impossible, as is the case today.

E. **Challenges to the implementation of the Right of Return (Al-Awda) in a union scenario - Analysis.**

Since its birth as an "inalienable right", the Right of Return has remained on paper alone. A number of reasons can explain the lack of any executive will to execute such a strongly affirmed right. However, considering a union like solution has merit on the ground. Recent studies show that only 15% of the land of present-day Israel is inhabited by 80% of the present-day Israel population. The lands where Palestinian villages were destroyed in 1948 remain empty, uninhabited by Israel's current population. As for the concern of Palestinian refugees returning home threatening Israel's security, Palestinian refugees largely accept that exercising their right to return would not be based on the eviction and displacement of the Jewish population of Israel but instead on the principles of equality and human rights. The demographic growth of Palestinian communities is seen as a major concern that jeopardizes the Jewish majority of the present state of Israel. The intense focus on the natural demographic growth of one community over another needs to be considered. A system whereby rights are divided between residency and citizenship could help alleviate these concerns. However, we have to admit that extensive growth of Palestinian communities can be and will be of concern to the people who see themselves as part of a larger Jewish nation, who still suffer from a collective trauma connected to existential concern after the Holocaust. Therefore, Israel should invest resources in healing this trauma and engaging its citizens, all of them, including the returned refugees in a collective reconciliation process. Israel must learn that investing in weapons and building a stronger army arsenal is not enough to guarantee its viability in the rapidly changing political environment of today. Israel should invest in Justice and peace to guarantee all Israel's citizens a sustainable developed uncompromised presence in the Middle East.

The second set of challenges to a sustainable solution to the refugee plight is about the state of Palestine's existence and viability. In this scenario, the refugees will have to accept the fact that in any event an immediate response to their needs will not be able to take place. Both Israel and even more so Palestine will need to prepare for the absorption of large numbers of Palestinian refugees. Thus the return that will be recognized and accepted will have to be done in a gradual way so as to enable the economies of all countries involved to benefit rather than collapse from an influx of many Palestinian refugees. The issue of a strong economy to support rehabilitation and integration of such a number of refugees is beyond the capacity of a small state with few resources. The geographical changes that Israel created by means of the wall, the extensive building of settlements, and the constant confiscation of the land of 1967 Palestine has made it almost impossible to consider such a scenario as an alternative to the right of return. Almost 500,000 Jewish settlers live in the West Bank, including East Jerusalem, would have to face difficult choices such as leaving or living in a Palestinian state. The land swap proposed in different negotiations can adhere to the physical space issue but not the resources question. The fact that the West Bank will remain fragmented as one geographical body due to the extensive settlement network is a huge concern to any Palestinian state scenario.

The issue of financial compensation can be easier to deal with if the issue of place and integration in Israel and future Palestine are resolved. Estimates made by experts on the issue of compensation for the loss of property as a result of the *Nakba* shows tens of billions of dollars are at stake. The international community along with Israel will have to raise the money. An environment of peace and an end to all hostilities from all parties will be enough to provide the reason for these entities to commit to such a responsibility. The question of what claim-based system would work best in such a scenario is worth discussing here. In our interviews with refugees, we heard them, more often than not, talking about compensation

with little understanding of how it will bring them justice. They did not have an issue with the principle of compensation as much as with concerns about the mechanism of estimating and distributing it. A study carried out by the Palestinian Refugee Research Net suggests adopting per capita payments as a system for acknowledging the injustice done to all Palestinians because it will bring constructive socio-economics to their new lives either in the state of Israel, the state of Palestine or in the refugees' host countries. In addition, it is potentially easier to manage. There are various ways to pay the refugees. Cash payments and/or payment packages that include vouchers and soft loans are two feasible options. Immediate or periodical payments can also work. One advantage of any of the suggested systems is that it would put economic resources into the hands of individual Palestinians and, thus, create an immediate capital injection into the economy of their home countries. Finally, the issue of compensation for Mizrahi Jews who were forced to leave the Arab world after the establishment of Israel in 1948 should not be used as bargaining chips when negotiating the Right of Return. These claims should be addressed to the Arab league once the two-state solution is realized.

F. __Proposed framework for a just solution to the Refugee Issue in a Two State Solution Scenario__

We as a work group want to confirm our support of the Right to Return as the basis for a just solution to the refugee issue. This right is strongly affirmed in the UN resolution 194 and other international bodies. The Right of Return should not be compromised, ignored or used as a bargaining tool. This support comes from our commitment to social justice and human rights principles. Thus, our paper will focus on these principles as the backdrop of our proposed framework.

Recognizing this right, acknowledging the *Nakba* as the fundamental narrative of millions of Palestinians and working on

ending the suffering of more than 5.3 million displaced human beings would immensely help in pushing forward a sustainable resolution to the Palestinian refugees' plight. However, we also believe that there is room for creative thinking when it comes to realizing the Right of Return without compromising Israel's security and demographic concerns. Realizing this right in a way to also meet the human needs and aspirations of three generations of refugees will be to the benefit of a stable and prosperous two-state in one space solution.

The Palestinians, who were forced out of their homes, cities, towns and villages, were terrorized, so extensively that they left everything behind to save their lives and honor. They were uprooted, displaced and relocated to places where they lost the last shred of their rights, dignity and status. The three generations of refugees must be acknowledged for their suffering and their hopes and aspirations must be duly fulfilled. They must restore their dignity, their honor and their self-actualization. Only then, will the seemingly intractable Palestinian Israeli conflict reach an end that is satisfying to all those involved.

We based our proposed framework on a number of conflict transformation theories. The one we believe that will lay the ground for a different approach to resolving the human suffering is the Human Needs Theory. This theory states that deep-rooted conflicts are generally caused by unmet or frustrated basic human needs. It explains that conflicts occur when values linked to specific human need of a group of people are violated, compromised or unfulfilled. Such human needs include physical, psychological and social needs. The need for security, safety, connectedness, belongingness, love, self-identity, self-esteem, self-actualization, recognition, stimulation, distributive justice, meaning in life, control of surroundings, autonomy, freedom, respect, participation are all human needs for individuals and communities who seek equality, justice and freedom to reach their potential.

For any solution to work the refugees needs must be met. This can be done in a number of ways: host states as well as third party states can accept integration of refugees into them, thus becoming citizens of recognized countries. Within the context of Israel – Palestine, where democracy must be the central principle of governing, most of the needs of the refugees will be met, needs such as safety, security, freedom of movement, freedom of speech, participation in a democratic political system and transparent judicial system. A gradual sense of belonging will develop once the refugees start practicing their rights as citizens within a state. A new social identity will emerge with a set of practices and cultures supporting the emerging just peaceful environment surrounding them. In this framework, a creative and just solution to the Right of Return is possible; a recognized, strong and viable state of Palestine must come to being and must function in a way so as to absorb, integrate and rehabilitate the returnees.

When and if the two-state in one space solution is established under this model, the refugees can return to the countries of their choice (Palestine, Israel, hosts countries or USA and Europe). The integration and compensation processes goes hand in hand with comprehensive social, political and economic developments in future Palestine and host countries. At this time, it would be appropriate to use the identity theory framework to prevent any future internal or external violence. The identity theory states that conflicts are rooted in feelings of threatened identity associated with unresolved past loss, suffering and collective traumas. In our analysis of somewhat similar post-conflict cases, we observed that people who had previously suffered from violent oppression helped others in order to make them active participants in the peace processes that followed. This framework strongly suggests investing in a collective trauma healing process focused on building new personal and social identities in a changing context, resolving their sense of loss and healing their collective and individual traumas. Therefore, in a two-state in one space scenario , a cross border dialogue must take place

on a larger scale to exchange acknowledgement of pain with closure of open wounds by visiting destroyed villages and homes, public apology on historical atrocities and reconciliation. This kind of dialogue will advance a greater sense of equality and shared destiny. It will prevent feelings of inferiority or superiority in the two state solution context. The integration of this framework in the educational systems in both countries will help in forming a collective sense of belonging to the one place shared between two different ethnic groups.

G. **Proposed plan for implementing this framework in a two states solution.**

A human needs and social identity framework is different from other frameworks on the table now because it provides a comprehensive approach for resolving the issue of refugees in a two-state scenario. It acknowledges the human suffering, and recognizes refugees for their potential to survive, along with their steadfastness and resiliency. It also acknowledges the challenges facing them when giving up parts of their right to return to a more sustainable solution to the status quo. It proposes creative alternatives to such challenges. Moreover, it acknowledges the fears and concerns of Israel as a Jewish entity and provides a space for reconciliation and collective trauma healing. It appreciates the formation of the social identity of the in-group but also respects the individual identity in a group united by mutual destiny and traumatic experiences.

This framework functions as a comprehensive action plan. In its first phase, it engages the refugees in a participatory process of examining alternatives to the complete return to present-day Israel. A number of such alternatives are already out there and more can come out as a result of this process of engagement. We would call this process a "search for possible alternatives". This phase is at the heart of people-to-people work and should be supported by it. This phase will produce a number of alternatives to present to the

involved stakeholders. Once these alternatives are available, the second phase will focus on getting all of those involved behind them through a democratic process such as a national referendum. The result of such a referendum would help in choosing the most agreed upon alternative. The third phase is a round table negotiations process, which will decide on mechanisms of execution of the chosen alternative along with a time framework, monitored by international players. Each country involved in the round table negotiations will create its own action plan to fulfill its due responsibilities including Palestine and Israel.

The fourth phase will be the longest and most important one, for it is focused on the actual implementation of the items included in the chosen alternative. A careful and timely execution of this phase will guarantee a smooth transition throughout these phases. In this phase, the refugees will experience major changes to their physical and psychological contexts. They will have to make hard decisions of leaving a refugee camp life to town and city life. Some of them will give up on returning to their original hometowns and villages in present day Israel and replace it with a symbolic return and short visits for closure. Some will stay where they are simply because they are "home" as they presently know it but will have to learn how to practice their rights and fulfill their duties as responsible valued citizens. This phase should be followed up with a comprehensive support mechanism for all the refugees. Such support comes in different forms: technical to help them integrate within the new contexts, psychological to help them face the challenges of their new realities and heal the wounds of the unresolved losses they have experienced. This support should be followed by empowerment programs to enhance their political, social and cultural participation in their new community.

H. Challenges facing the implementation of the new framework

Israel's consistent denial of the issue of refugees and sidelining all the legal responsibility for it remains the main challenge to any political negotiated resolution to the Right of Return. This political position is neither incidental nor unstructured: it is carefully designed to avoid any viable solution to any 1948 issue. This deliberate attitude is supported and protected by the creation of new physical and demographic realities. The political position that Israel takes regarding the Right of Return issue contributes to greater determination on the Palestinian side not to give it up or even consider alternatives, even in the face of continuing life under unbearable living conditions in refugee camps. The two positions feed each other and, thus, the stalemate continues.

If and when such a plan takes place, one of the main challenges is funding. The funding must be enough to compensate the refugees for their losses using an efficient payment system while additionally covering payment for the personnel working on executing all these phases. An even greater challenge to such an ambitious plan is the factor of time. This process of relocation and financial allotment and distribution to millions of people is a system that will take time. [104]

V- Return and Immigration

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Abstract

The motivation behind this research was to offer a sustainable and just plan for the realization of the return of the Palestinian refugees. At the same time, the writers acknowledge that this question cannot be discussed apart from the broader context of immigration policy. The reason for this, first and foremost, is that the return of refugees constitutes a form of immigration, and therefore constitutes a change in immigration policy in and of itself. A correct way of thinking about it will not throw it into the air in a manner that leaves the amalgam of extant immigration policy in place, adding to it as a disproportionate burden that does not fit in with what is already there. The State of Israel's existing immigration policy is not particularly rational, and is constructed from disconnected fragments which indicate that they have never been considered as a whole. Adding a widespread return mechanism for the Palestinian refugee population without renewed thinking of the whole would be a mistake which could exact a heavy price from the future state.

This document attempts to offer guidelines for a return and immigration policy which takes into consideration all the groups

impacted by it. The Palestinian refugees, the migrant workers and the asylum seekers are all included in these impacted groups, of course, but likewise are the marginalized residents of the South Tel Aviv neighborhoods where most asylum seekers dwell, the internally displaced refugees (Palestinians who were driven from their lands in 1948 but were not exiled outside of the boundaries of the new state and have become citizens thereof), the general Jewish and Arab populations in the state and the diaspora Jewry. To this end, the

document unifies the discussion of several issues usually considered separately: The Palestinian refugees' right of return, Jewish immigration to Israel ('aliyah'), the labor status of the immigrants and the problem of asylum seekers.

Another reason for tying the return of Palestinian refugees and the immigration policy regarding migrant workers and asylum seekers is that both issues touch deep into the difficult question at the very heart of Zionism. The arrival of thousands of non-Jews to Israel, whether Palestinian or others, impacts the demographic balance in Israel and [threatens to] annul the Jewish majority. Obviously, without a Jewish majority, the Jewish character of the state is also null and void, or conversely becomes even more clearly anti-democratic. This is apparently why the current immigration policy in Israel does not really allow for naturalization of non-Jews (the possibility of naturalization for spouses of Israelis is severely limited, and is denied by provisional measure to Palestinians from the occupied territories who marry Palestinian citizens). Therefore, these different problems, the problem of Palestinian refugees and the problem of migrant workers and asylum-seekers, merge not only categorically, but in essence as well.

The first chapter will contain thoughts and data on the condition of the Palestinian refugees. The second chapter will deal with migrant workers and asylum-seekers, and will present the existing immigration policy in Israel. The third chapter will deal in different ways with the rights of Jews in the region. First, we shall present the clash between the migrant workers and asylum-seekers on one hand and the marginalized residents of South Tel Aviv on the other as an example of conflict between the needs of the extant population and the reality of waves of migrants and refugees. Afterward, we shall present questions regarding the rights of diaspora Jews. The fourth chapter will deal with the proposed models for the realization of the return of the refugees, and the fifth will present models and challenges regarding the policy towards migrant workers and asylum-seekers. The sixth chapter will present the conclusions of the research, and will try to formulate their main points in the form of practical proposals for the future state.

The research is based upon varied and wide-ranging materials: Official reports of international institutions, data originating from the researches of research institutions and human rights organizations, anthropological and sociological papers, interviews with leading activists and experts, and an ongoing study group that included both researchers and activists. The task of gathering this broad canvas into a concrete and limited proposal is nigh-on impossible, and we do the best we can while recognizing that additional and other conclusion may be drawn from our research, and we remain open to critique and suggestions for further research from any and all readers.

A. **The Palestinian Refugees**

According to estimates, some 750,000 Palestinians were forcibly driven from their lands in 1948, and today estimates speak of some 5 million Palestinian refugees. The refugees are dispersed in various host countries, mostly in refugee camps in the Occupied Territories and in Arab countries, and a smaller part in the West. Jordan is the country with the largest refugee population according to UNRWA, with some 2 million Palestinian refugees. The second largest population is that of refugees in Gaza, numbering some 1.2 million people (out of a total population of approximately 1.8 million people. In the West Bank there are some 750,000 refugees, in Syria prior to the civil war (now of course it is impossible to obtain reliable estimates) there lived about half a million Palestinians, and in Lebanon some 400,000. Within the borders of Israel there are some 360,000 "internally displaced" refugees, who were driven from their former places of living and lost their homes and lands. About one third of the Palestinian refugees around the world, some 1.5 million, live in 58 refugee camps administered by UNRWA – The United Nations Relief and Works Agency for Palestinian refugees in the Near East[105].

We shall present a short review of UN resolutions regarding the Palestinian refugees, which form a necessary background to any discussion of the matter. Immediately following the end of the 1948 war the UN assembly passed a number of resolutions regarding the Palestinian refugees. Resolution No. 194 states for the first time in section No. 11 therein, that those refugees who wish to return to their homes and live peacefully with their neighbors shall be allowed to do so at the nearest possible time, and those who relinquish that right will be compensated for the loss of their property. Resolution

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[105]

http://www.Unrwa.org (accessed: 2014–10–13)

212 added to and elaborated upon the stipulations of resolution 194, section 11, and set a budget and a modus operandi by the UN in aid and support for the Palestinian refugees. Resolution 302 (IV) replaced the agency established pursuant to resolution 212 with a new agency named UNRWA, which serves as a temporary relief agency for Palestinian refugee matters on behalf of the UN, whose mandate is renewed every three months, from December 1949 to this day.

The general definition of a refugee under international law is to be found in the International Convention Relating to the Status of Refugees of 1951,which states that a refugee is a person who "As a result of events occurring before 1 January 1951 and owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it." In addition, the Convention states that anyone who has been naturalized in another country is no longer considered a refugee, and likewise one who receives protection or aid from UN institutions or organizations is also exempted from the boundaries of the Convention.

On the international level, this is the accepted and valid definition for refugee status. Israel has ratified the Convention in 1954 and is therefore obligated to implement all the arrangements set forth within it, but to this day the Convention has not been received within Israel's internal law, although a legislation-interpreting court would prefer an interpretation that upholds its stipulation due to the presumption of consistency[106].

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[106]The reception of an arrangement from international law into local law in Israel requires a dual phase. First, representatives of the State at the international level

Therefore, the Palestinians have never been included in the definition of the Convention on the Status of Refugees, and their rights do not derive from it. The Convention excludes from its protection those whom the events causing their becoming refugees occurred after 1951 and those with whom another agency or organization of the UN already deal – an exception that seems to have been designed especially for the Palestinian refugees, who are the only example in the world of a group of refugees cared for by a special UN agency. Having been exempted from the Convention, the refugees are defined only by UNRWA itself: **Palestinian refugees are people whose habitual residence, from June 1946 to May 1948, was in Palestine, and who have lost both their homes and their livelihoods as a result of the 1948 Israeli-Arab conflict.**

This definition is unique in several aspects: First, the definition speaks of a double element, that of losing one's home and one's livelihood as well. Second, according to UNRWA the descendants of Palestinian refugees are also automatically considered refugees. Third, unlike the definition of refugees in general international law, receiving citizenship in another country does not affect the status of the Palestinian refugee according to UNRWA.

Due to these differences, the group included in the definition of Palestinian refugees is very large and keeps growing, but it also excludes people who have no other definition – Palestinians who were displaced after May 1948 and in 1967. The refugees of 1967 are not included in the UNRWA definition of a refugee, but following a

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must ratify the treaty or convention, thereby accepting its terms on the State's behalf. Then a second phase is required of adopting the treaty into the internal law through legislation. The status of a treaty that has been signed but has not passed as a law in Knesset is not the status of a binding law in internal jurisprudence, but the courts try to apply an interpretation that upholds the provisions of ratified treaties. Their assumption that the legislator intended for the law to be consistent with the ratified treaties constitutes what is known in legal terms as a ,presumption, and is sometimes called "The presumption of consistency"

resolution by the UN General Assembly those of them who have arrived at the refugee camps also receive services from UNRWA. According to data provided by UNRWA, 10 refugee camps have been established in order to settle the 1967 refugees, whose numbers reach one million[107].

UNRWA is currently at the heart of a controversy and criticism concerning its performance is heard from every corner. The debate reached a climax due to a crisis in refugee camp management, when the budget allocated for their management by UNRWA remained the same, but the number of refugees living in them grew significantly. The budgetary problem leads to a collapse in services and a constant demand by the agency to increase its budget on one hand, and to widespread strikes and protests in the refugee camps themselves on the other.

The general criticisms of UNRWA are very wide-ranging and address both the broad definition of Palestinian refugees, and the fact that the agency provides services well beyond urgent humanitarian aid – in fact it operates the education, health, and welfare services, social services, basic economic services and in fact almost all public services which a state is supposed to provide to refugees in any other case around the world. The security services alone remain in the hands of the host country. In addition, the mandate given to UNRWA, unlike the mandate of the UN High Commission on Refugees, does not include dealing with returning the Palestinians to where they came from.

The socio-economic conditions in the refugee camps are generally poor, and the camps are characterized by high population

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[107]   BADIL (2012): Survey of Palestinian Refugees and Internally Displaced Persons.
        http://www.badil.org/phocadownload/Badil_docs/publications/Survey20 12.pdf
        (13.06.2014 11:28 accessed:)

density, poor living conditions and lacking or inappropriate infrastructures. The condition of the refugees varies by state in accordance with the policy of the government, and following is a short review of the situation of refugees in the main host countries.

Jordan

The Hashemite Kingdom, which, as mentioned above, hosts the largest refugee population, maintains a complex relationship with the Palestinians living within it. Only four of the ten refugee camps in the country are populated by refugees from 1948, and the remaining six are populated by refugees evicted in 1967.

In terms of their legal status, the 1948 refugees were awarded full Jordanian citizenship, making Jordan the only host country to allow the Palestinian refugees to be naturalized. The '67 refugees were not awarded citizenship, but only temporary residency which is renewed every five years, and which precludes them from being employed in the public sector.

Socio-economically, the condition of the refugees in Jordan varies. Some of them have integrated into society and the state and some, particularly those who are still in the refugee camps, still live in very harsh conditions; for instance, in a third of the households there are three or more people to a room in each house. The Palestinian refugees in the Jordanian refugee camps have always been considered a security threat to the royal family, since the events of Black September to this day. It is probably for this reason, mostly, that the presence of politics, parties and movements within the camps is negligible and covert[108].

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[108]   UNRWA (2014): Factsheet.
http://www.unrwa.org/sites/default/files/2014_01_uif_-_english.pdf (Accessed: 16.06.2014 6:15 PM
        UNRWA   (2014):   Map.
http://www.unrwa.org/sites/default/files/map_2014_english.pdf

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Gaza

Even before the *Nakba*, during the British mandate, the Gaza Strip was classified as a continuous humanitarian crisis area, and time after time religious charity groups were sent there to aid the local population in meeting its basic needs.

In 1948 the waves of displaced persons arriving in Gaza turned its original inhabitants into a minority within the Strip, with the refugees constituting the majority of the population. Following the *Nakba*, the Egyptian administration described the situation in the Gaza Strip as an economic, humanitarian, moral and religious crisis. Services were provided to the residents of Gaza as an act of charity, as humanitarian aid, and thus the Egyptian administration was rid of the onus to recognize any sort of obligation by the government towards the Palestinians that had become its subjects. Placing all services, from food through clothing to housing and the construction of refugee camps in the hands of emergency and humanitarian aid services left the question of the government's policy out of the picture and prevented a discussion of its legitimacy[109].

If above we cite the Israeli and international criticisms towards UNRWA, this is the place to show that UNRWA's policies were problematic in the eyes of the refugees themselves as well, and countless demonstrations and protests were held against it. The prevailing opinion among the refugees was that although the refugee camps were indeed constructed because they had no means to find housing solutions on their own, the very same camps ensure the perpetuation of this situation in the future as well[110].

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[109] Accessed: 12.06.2014 4:15 PM

Feldman, I. "Difficult distinctions: Refugee law, humanitarian practice, and political identification in Gaza", 2007.

[110] International Crisis Group, Middle East Report N°156, "Bringing back the

After the Sinai War in 1956, during which Israel temporarily captured the Sinai Peninsula and the Gaza Strip, the Egyptian administration began to display trappings of sovereignty and to change its policy towards the Palestinian refugees in Gaza. This was expressed in a shift towards a discourse of rights rather than charity, more and more regular supply of food and goods to the camps, and attempts at "rationalizing" the food distribution system. Until then, Gazans never really knew if and when food would arrive, nor where and to whom it would be disbursed, and therefore the refugee families lived, in fact, in a constant fear of hunger and in a total lack of certainty[111].

In 1967 Israel conquered the Gaza Strip, and after four years during which Gaza was a closed military zone, as of 1972 the condition of the refugees in Gaza improved somewhat upon opening the borders between the West Bank and the Gaza Strip. This of course changed with the first Intifada and the beginning of diplomatic negotiations between Israel and the PLO. The Intifada was the security cause and the diplomatic negotiations the official political cause for Israel erecting barriers that separated the Gaza Strip and the West Bank from one another and from Israel. Since then and to this day the Gaza Strip has been under various degrees of blockade. In January 1989 entry into Israel became dependent upon permits issued by the Civil Administration, and as of '91 a general blockade was placed over the Gaza Strip and the West Bank, under which any entry into Israel, passage between the Strip and the West bank or change of address require a personal, individual Israeli approval[112]. The harsh economic and human consequences of the blockade are understood and to be expected as the residents of the Gaza Strip have been living under a continuous humanitarian crisis

Palestinian Refugee Question", 2014.

[111]   See footnote No 3

[112]   Report by B'tselem and the Center for the Defence of the Individual, "Gaza Prison", March 2005.

even if only in this regard alone. The past decade, during which three wars have taken place in the Gaza Strip, have turned the crisis into an acute one with the demolition of tens of thousands of homes, the wiping out of entire neighborhoods, and rendering between 100,000 and 400,000 residents homeless, therefore turning them into refugees for a second time.

Lebanon

Approximately half a million Palestinian refugees live in Lebanon, a country whose total population numbers 4.5 million. The refugees in Lebanon live under the worst conditions in the Arab world. The Lebanese state does not recognize them at all; the refugee camps are under military law, and the Palestinians do not have the right to freedom of movement; they are discriminated against and excluded from the labor market and from the economy at large.

The explanation for this apparently lies in the political structure of the regime in Lebanon. The regime in Lebanon is based upon sharing and cooperation between the various religious groups, based on a constant confessional allotment. The allotment was determined based on the last census held in the country, according to which the Christians are the majority population, and therefore both the president and the head of the military are Christians, whereas the Prime Minister is a Sunni Muslim. The problem is that the last census was conducted in 1932. Since then the Christians have not consented to hold a new census and risk losing their nominal majority status.

The Palestinian refugees are mostly Sunni Muslims, and therefore the fear is that granting them rights in Lebanon would constitute a step towards including them in the country's population. Nonetheless, one day a new census will be held, this the country's Christians know, and this is the root of their objection to any integration of the refugee population. The Christian Palestinian refugees, on the other hand, have been given citizenship and rights.

The poverty indexes show a particularly harsh economic situation within the camps, with over 10,000 a year unable to fund their basic needs. Since the state provides no services whatsoever, the refugees are completely dependent on UNRWA, whose budget, as mentioned above, does not increase commensurately with the growth of the population. According to estimates, half of the Palestinian youth drop out of school, with a lack of schools and classrooms being one of the leading causes[113]. The ability of a Palestinian refugee to receive an education has been further reduced, as since 2002 special financial levies are imposed upon Palestinians wishing to study at universities.

Unlike the refugee camps in Jordan, the refugee camps in Lebanon are run to a large degree by the Palestinian political parties and movements. Although the military encloses the camps from without and hinders free movement, it interferes far less in affairs within the camps themselves, and many camps are divided into areas controlled by the various political groups[114].

Anthropological studies conducted on the refugee population in Lebanon indicate a change in political attitudes over across generations. The visibility and public nature of Palestinian politics in Lebanon enabled the researchers to follow the changes in the people's politics, in addition to the Palestinian leadership (which once resided in Lebanon).

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[113]
Socio-Economic Survey of Palestinian Refugees in Lebanon,
http://www.unrwa.org/userfiles/2011012074253.pdf
(Accessed18.06.201402:11PM);
ANERA (2012): Palestinian Refugees in Lebanon. Volume 3
http://www.anera.org/wp-content/uploads/2013/03/LEBRefugeeReport.pdf (Accessed: 18.06.2014 03:04PM)
[114] From an interview held on October 1 2014 with Gudrun Kramer, Director of the Palestinian Refugee Development Plan on behalf of German governmental organization GIZ.

Allan shows how life in the refugee camps in Lebanon consists of repeated injustices erased by the national historical narrative. The difficult political reality of Palestinians in Lebanon oppresses them politically, socially, and economically, but at the political level raising justifications of the current state of the refugee experience is considered a forfeiture of the national narrative[115].

It is apparent that there has been a change in political atmosphere regarding the departure of the leadership from Lebanon, and of course regarding the beginning of the diplomatic process between the PLO and Israel. Until then, the PLO leadership identified the Palestinian struggle with the right of return, and dealt with it as a concrete demand in armed struggle. The political atmosphere since the 1960's was one of revolution and renewal, not of remembrance and nostalgia. In the 90's, following the departure of the leadership and in particular following the beginning of the diplomatic negotiations, the refugees in Lebanon, like their compatriots around the world, were left with a feeling that the PLO is about to give up on them in return for independence in the territory under its control. As a result of this change, a certain disconnect began to take place between the refugees of the West Bank and the Gaza Strip and those of the diaspora. This disconnect forced the refugees in Lebanon, who no longer were at the heart of the national struggle, to reinforce the discussion of memory and the *Nakba*. The politics of the younger generations had changed, becoming less party-oriented and less dependent on leadership, more committed to the memory of the *Nakba* and the life before the *Nakba* as a surety of the implacable nature of the right of return.

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[115]   Allan, D. (2007). "The Politics of Witness. Remembering and Forgetting 1948 in Shatila Camp" in Nakba: Palestine, 1948, and the Claims of Memory. Ahmad H. Sa'di and Lila Abu Lughod, (eds.). Pp. 253– 282. New York: Columbia University Press.

Unlike previous generations for whom return and national identity were one and the same, and for whom there was no special need to prove the strong connection to the Palestinian reality before the *Nakba*, the younger generations in the camps in Lebanon are characterized by a development of the memory of reality in historical Palestine, the collection of details on the villages from which their families were uprooted, the use of memory as an implement of struggle. Anthropologist Laleh Khalili shows this in her field study on the use of the Internet by youths in the camps. She shows that the youngsters invest hours on end in connecting with groups of Palestinians from other areas in the world, both for political discourse and in order to know and strengthen their communal identity. In these virtual wanderings, Khalili says, they introduce themselves by names referring to the villages they come from or by symbols of historical Palestine and the national struggle. The virtual space enables the refugee communities in the diaspora to connect and regenerate their unified national identity across many different countries, to consolidate a common narrative, common politics, and demonstrate their ties to the homeland[116].

Concurrently, politics had changed with the introduction of non-governmental organizations into the political life of Palestinian refugees. Allan shows how the refugees themselves feel that the memory of the *Nakba* is a tool in the hands of the non-governmental organizations, who conduct a politics of pressure upon the leadership, re-structuring of the national identity, and promotion of international awareness of the 1948 disaster. The non-governmental organizations also rely on support from international bodies, and some of their activities are geared towards the international community as well, but of course is also dictated by it. As part of this process, there began in 1998 a wave of documentation and creativity

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[116]   Khalili, L. (2005). "Virtual Nation: Palestinian Cyberculture in Lebanese Camps" in Palestine, Israel, and the Politics of Popular Culture. Rebecca Stein and Ted Swedenburg (eds). Duke University Press. Pp. 126-149.

centered around 1948 which distributes the image of the refugees as uprooted people around the world, thus maintaining the question of the responsibility for the problem of the refugees. Again, nostalgic memory serves as an implement of struggle to protect the national identity and the historical rights of the Palestinians.

Anthropologist Julie Peteet directs our attention to the subtleties and complexities in this narrative[117]. She shows that between 1994-96, probably in the wake of Oslo, there were several waves of naturalization and the awarding of civil rights to Palestinian refugees. These moves were made in direct concert with the interests of certain groups, and were therefore limited geographically and religiously, but were no longer limited to Christians alone, but had expanded and now reached Shia and Sunni Muslims. She shows that although the political discourse rejected it, anyone who could obtain civil rights, indeed did so[118].

The problem pointed out by Peteet and Davis is that the practice of institutionalized remembrance brings about the erasure of identity that is anchored in the present. The refugees' depth of connection to Palestine is their great strength in the face of Zionist dictation of reality, and therefore any other thought about the present in the camp poses an ethical problem. Despite the very bad conditions of life in the present, struggles to improve the refugees' current lives are considered to be treason. Prevention of political discussion of the history following '48 makes the current politics of the refugees completely detached from the reality of their lives, and prevents them from developing varied narratives of their lives, their identities and their histories. In an act of fantasmatic annulment of

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[117]   Peteet, J. "Socio Political Integration and Conflict Resolution in the Palestinian Camps in Lebanon", Journal of Palestine Studies, Vol. 16, No. 2 (Winter, 1987), pp. 29-44
          Peteet J. "From Refugees to Minority: Palestinians in Post-War Lebanon" Middle East Report, No. 200 (Jul. - Sep., 1996), pp. 27-30
[118]   Ibid.

recent history, the memory is enlisted to the interest of international recognition of the refugees' rights.

Syria

Approximately half a million Palestinian refugees lived in Syria prior to the outbreak of the current civil war. Major refugee camps such as Yarmouk on the outskirts of Damascus, and Homs have been completely destroyed. Many people have been murdered and lives have been unrecognizably altered. The refugee camps in Syria were constructed in 1948. While the Syrian policy towards the Palestinian refugees within its territory did not allow them to achieve the status of citizens, it did not impose significant limitations in areas where other host countries did encumber their refugee populations. The freedoms of movement, occupation and property of Palestinians were not harmed in Syria, apart from the ban on their purchasing land and houses, and even that was not strictly enforced. Marriages between refugees and Syrian citizens are commonplace, and the integration of the Palestinian refugees into Syrian society was relatively easy. Economically, life in the refugee camps is not easy. Over 70% of the population lives in homes with three or more people to a room.

In the management of the camps themselves, Syria is far more strict and controlling than Lebanon, with the state interfering deeply in the management of the camp through a special government agency established for the purpose. The refugees in the camps have only partial political rights, but receive support from the regime on many issues. The dealing with memory as a means of consolidation a national struggle, described above regarding the Palestinian communities in Lebanon, is very prevalent in the Syrian refugee camps as well, in which the village books project was launched. In this project each community originating from the same village prior to 1948 prepared a "village book" of its own through which it

engaged in the recreation, collection and writing of its history, thus proving once again its ties to the homeland.

The refugees in Syria were considered supporters of the Assad regime, and therefore at first it seemed that the war would pass over them, leaving them unharmed. But as time passed the war reached every location in Syria, and the refugee camps also turned into battlegrounds between Assad's army and the Islamic guerrilla factions and the insurgents. The battles caused destruction and devastation, mass killing, and also economic collapse and severe famine in part of the refugee camps. The result is mass flight of Palestinian refugees from Syria. An interesting phenomenon is that many of the refugees are now hosted by Palestinian refugee camps in Lebanon. The Palestinian refugees being turned into hosts for other refugees brings about both displays of brutality of course, as well as displays of unprecedented solidarity. The Syrian refugees now speak much of their need to "go back home" to the refugee camps in Syria, thus adding another layer of confusion to their general refugee status[119].

West Bank

Some one million Palestinian refugees live in the West Bank, spread throughout 19 official refugee camps. Each camp holds approximately 25,000 refugees[120]. In terms of legal status, all the residents of the West Bank are considered stateless persons, who are habitually deprived of freedom of movement, and are subject to daily oppression by the Israeli military administration. The status of the residents of the refugee camps in this regard is no different, and both

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[119]   From an interview held on October 1 2014 with Gudrun Kramer, Director of the Palestinian Refugee Development Plan on behalf of German governmental organization GIZ.
[120]   UNRWA (2014): Factsheet.
http://www.unrwa.org/sites/default/files/2014_01_uif_-_english.pdf (Accessed: 16.06.2014 6:15 PM)

Israel and the Palestinian Authority treat them officially as any other Palestinian resident of the West Bank. On a social and cultural level, however, the status of the refugees is always lower than that of the original inhabitants of the West Bank, who are often property and land owners.

Even though the refugee camps in the West Bank are in Area A, officially under Palestinian Authority control, the populace of the refugee camps lives under severe political oppression. Incursion by the Israeli military, house demolitions, arrests of minors and adults alike are all daily occurrences in the refugee camps, and the Palestinian Authority forces are often accused of being no more than another oppressive factor collaborating with the Israeli military forces. According to estimates every third male adult has been a prisoner. When you walk around the refugee camps in the West Bank, you see a house that was demolished by the IDF on every corner, and every family has former or current prisoners. Anthropological studies show that the persecution of political activists in the camps is so intense, that prison becomes the main socialization site for activists and their family members. The intra-organizational support networks for prisoners' families are the alternative social structure in the camp, connecting the refugees with residents of other camps and with the outside world at large.

B. <u>Migrant Workers and Asylum Seekers – Israel's Immigration Policy</u>

Assaf Weitzen, one of the attorneys responsible for filing the High Court of Justice petition to overturn the Infiltration Law and a member of our research group, presented Israel's immigration policy to us. In recent years immigration has become a burning issue throughout the West. More and more restrictions are placed upon people wishing to immigrate from developing countries to developed ones. One can see restrictions on matters of family reunification,

migration in search of work, recognition of people as refugees – and the trend toward restriction has not passed over Israel. One of the key phrases of the state is that Israel is not a migration state but a state of return. The Law of Return, the Citizenship Law and the Entry to Israel Law are the legal expressions of this policy.

The immigration legislation in Israel sets very clear rules regarding one group – Jews. It has defined immigration rules for Jews from the moment it was established. Jews fall clearly under the Law of Return or the Citizenship Law. Non-Jews, on the other hand are dealt with through the Entry to Israel Law which on one hand set forth very detailed arrangements of detention and deportation, and on the other hand determines status arrangements such as residency and return permits in a very general manner, leaving very broad discretion in the hands of the Minister of the Interior.

The law creates three legal statuses a person may have in Israel: A citizen, a permit holder and a residency license holder. A permit differs from a residency license in that the former allows only entrance into the country, whereas the latter allows work and longer-term stays (usually up to a year.) Legal migrant workers receive a residency license, tourists receive a permit.

The meaning of the legislation pursuant to the statement that Israel is not a migration state, but rather a return state, is that the possibility for a non-Jew to become a citizen is remote. Even a person residing in Israel for many years cannot enter a formal process of naturalization, unless he or she has married an Israeli, and even then naturalization is a long and tortuous process regarding which the Minister of the Interior has full discretion, which means that the spouse of an Israeli has no inherent right to become a citizen of Israel. For Palestinians, of course, there exists the Provisional Measure to the Citizenship Law, which prevents naturalization and

even entry into to country for a Palestinian spouse from the Occupied Territories who has married their Israeli citizen beloved.

According to the annual report by the Worker's Hotline we can see that as of 2013 there are some 54,000 refugees and asylum seekers in Israel, of whom 56% are from Eritrea and 26% are citizens of Sudan. Some 22,000 migrant workers who are employed in the agriculture sector (35% of the total workforce of the agriculture sector in Israel). According to the Population and Immigration Authority there are 48,212 "infiltrators" and only 13,468 illegal workers. The numbers obviously aren't reconcilable. There is no precise number of migrant workers currently in Israel[121].

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[121]   Workers Hotline Activity Report 2013 http://www.kavlaoved.org.il/wp-content/uploads/2014/07/cover.jpg

From the Population Authority's quarterly report (2014)[122]

Migrant Workers

Table Migrant workers currently in Israel, by sector:

Date Updated	Legal							
	Nursing	Construction	Agriculture	Seasonal Agriculture	Restaurants	Industry and Service	Expert	Total
June 30 2014	43,342	5,898	21,299	22	0	0	2,814	73,375
	Illegal								
	Nursing	Construction	Agriculture	Seasonal Agriculture	Restaurants	Industry and Service	Expert	Other	Total
	10,219	1,021	209	21	33	165	720	1,180	13,568

[122]   "Data on Foreigners in Israel", a 2014 report by the Population and Immigration Authority
http://www.piba.gov.il/PublicationAndTender/ForeignWorkersStat/Documents/%D7%A8%D7%91%D7%A2%D7%95%D7%9F%201%202014.pdf

The Revolving Door Policy

Contrary to the "Closed Skies" policy adopted by the government in 2002, the State continues to bring migrant workers to Israel even when there are enough migrant workers in Israel without valid permits or without an employer – thus found State Comptroller Micha Lindenstrauss in 2010.

The Comptrollers audit found that that in November 2008 the Population Authority gave permission to bring 1,400 foreign workers for the agriculture sector, even though he Authority's computerized system showed that at the time there were 1,700 migrant workers in Israel who had previously been brought to Israel to work in the agriculture sector, and were at the time without a valid permit and permit and without a legal employer. "It would have been appropriate to locate them and put them to work before bringing in more migrant workers," the Comptroller stated in his report. "In practice, no use was made of this data in order to locate the migrant workers and find them placement, this despite the Closed Skies policy. In the view of the State Comptroller's Office, this is to be deemed a "grave situation", the Comptroller added.

Lindenstrauss's criticism in fact supports the main argument of human rights organizations in Israel, which holds that while the State is engaged in a campaign to deport migrant workers, it continues to grant licenses to bring in more migrant workers. Thus, rather than a Closed Skies policy, the State is implementing a "Revolving Door" approach.

The "Revolving door" policy is a central interest of the major human resources firms in the market, who profit handsomely from each new permit to bring in a worker from abroad, and who make no profit from placing that worker in a new job in the country. For this reason, the decision by politicians, who profess to be concerned with increasing the number of migrant workers in the country, to

continue granting permits to bring in new workers, is under constant suspicion of a confluence of interests with those who profit from the "Revolving Door."

Back in 2005, the government had decided to bring in migrant workers only through organizations supervised by the UN International Immigration Organization, and subject to the signing of agreements with the workers' countries of origin, this in order to prevent exploitation of the workers. Despite this decision, the State Comptroller has found that since then no agreement on this matter has been signed, and that migrant workers arriving in the country are forced to pay between 7,000-20,000 USD to human resources companies for the privilege of working in Israel. These sums are split, according to the Comptroller, between mediators abroad and human resources companies in Israel. Due to the commission earned by these companies increased pressure is placed upon the authorities in Israel to deport allegedly "illegal" workers, and bring in new migrant workers in their stead. In other words, the migrant worker employment policy pursued in practice by the State of Israel, particularly through the "Revolving Door" policy, highly benefits a number of human resources firms in Israel. Incidentally, in September of 2009, the government decided to postpone the implementation of the bilateral agreements to June 2010.

According to the Comptroller's report, the government of Israel decided in September 2006 that the direct employer of migrant workers in the agriculture sector would be the Israeli farmer. This, despite the fact that the Andoran Committee, appointed by the Finance Ministry in 2004, recommended that the workers be employed by corporations – just as migrant workers in the construction sector are employed. The Comptroller states that a government decision made in contradiction to the recommendation of a committee it itself appointed requires clear justification. He also states that in such a process, various alternatives must be proffered,

whereas no such alternatives were presented to the government. "The justification requirement is all the more important because the proposed resolution was contrary to the recommendations of the Andoran Committee, and there was concern that the decision would be influenced by interest groups and opposing market forces. The government, for its part, did not demand that alternatives be presented to it, and in the opinion of the State Comptroller's Office, has made a decision without proper basis," states the Comptroller.

The Binding Arrangement

Until 2006, the foreign worker policy was even crueler towards the migrant worker, and more profitable to the employer. The license to work and to reside in Israel was conditioned upon the worker working only for the employer who invited him. For this reason, the name of the employer was stamped in the worker's passport, and he or she could not maintain their legal status without working for that particular employer, nor were they allowed to work anywhere else concurrently. Were they to stop working for that employer, or found to be working somewhere else as well, they would be stripped of their legal status and required to leave the country. Failure to do so would lead to arrest and deportation by the Foreigners Enforcement Unit and the immigration police. Therefore this arrangement binds the worker to the employer who brought him or her to the country. Binding arrangements are not unique to Israel, and in the 1990's similar arrangements were to be found in other countries around the world as well[123].

The High Court of Justice ruling in Worker's Hotline vs State of Israel, handed down on March 30, 2006 found that the arrangement illegal, and that no linkage should be made between the legality of the worker's residing in Israel and him or her working with the

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[123]   Nicos Trimikliniotis, EUDO Citizenship Observatory, COUNTRY REPORT: CYPRUS, April 2010,

employer that invited them. It was ruled that the arrangement harms a fundamental right of the workers – their freedom to choose whom to contract to work for, and that it harms their ability to negotiate the terms of their work, their wages and their rights and benefits. Justice Edmond Levy severely criticized the arrangement, calling it among other things, in keeping with the plaintiff's arguments, "a sort of slavery in modern form" under the auspices of the State.

Asylum Seekers

In order to understand the problematic nature of the currently existing policy towards asylum seekers, it is necessary to comprehend the refugee recognition system in Israel. According to data compiled by the Hotline for Refugees and Migrants, the possibility for a refugee to obtain recognition was narrow to begin with, but has since undergone processes that have blocked it completely.

Until 2001, UN High Commission for Refugees interviewed the asylum seekers, cases were examined at UN Headquarters in Geneva, and recommendations were submitted to the Minister of the Interior. Another intermediate stage was added to the system in 2001, with the establishment in Israel of an inter-ministerial committee charged with examine the requests approved by the HCR experts, and to recommend cases found worthy of refugee status to the Minister of the Interior. In July 2009, after several years of growth in the number of asylum seekers, the Ministry of the Interior decided to take charge of the asylum process, while removing the UNHCR stage. Two units were established at the Immigration Authority, the Infiltrator Identification and Classification Unit and the RSD Unit which is in charge of determining refugee status. The members of these units interview the asylum seekers, form recommendations and submit them to the inter-ministerial committee which in turn submits recommendations to the Minister of the Interior.

Save for one case, all asylum seekers who have been recognized as refugees to this day by the inter-ministerial committee advising the Minister of the Interior have received this status only due to a recommendation by the UNHCR which examined their case **before July 2009.** That is to say, only one single case has been examined since then by the Israeli asylum system and received the recommendation of this committee.

The process run by the Minister of the Interior is in fact a refugee non-recognition process, and not a recognition process. 75% of requests are rejected outright, after a completely preliminary interview conducted in the manner of a police interrogation, with active attempts to break down the seeker's credibility, assailing him or her over and over with accusation of being a liar, often shouting at him or her, using rude language, and without proper translation. Only after this initial interview is the request handed over to a real interview by the advisory committee. Whole groups of asylum-seekers were prevented from filing individual asylum requests at all, including all asylum-seekers from Eritrea.

The Infiltration Law and the Holot Facility

The Infiltration Prevention Law is a law passed by the Second Knesset, on August 16 1954, to deal with Palestinian [re-]entry into Israel. Two amendments to this law have been passed to deal with entry of African refugees into Israel. The effect of the entire Law has been linked to the effect of the Declaration of State of Emergency, while was issued by the provisional State Assembly upon the establishment of the State – and which is still in effect to this day. The Law was dormant for many years, and was revived to deal with the entry of myriad migrants and asylum-seekers from Africa with the passage of the first amendment to the Infiltration Prevention Law, in January 2012.

Three major corrections were passed as a provisional measure. The first changed the definition of an infiltrator, so that it would no longer apply solely to infiltrators who were citizens or residents of certain Arab countries, or had visited such. This amendment stated than an infiltrator is "whoever isn't a resident pursuant to Section 1 of the Population Registry Law, who entered Israel other than through a border crossing set by the Minister of the Interior pursuant to Section 7 of the Entry into Israel Law." The second amendment abolished the military infiltration courts, which had not been active anyway for dozens of years. The criminal aspects of the Law are argued, therefore, before the regular civilian court system. The third amendment unlinked the Law from the Declaration of State of Emergency. This means that the Law will stand even if the Knesset repeals the State of Emergency or does not renew it for another period.

The import of the law was that anyone who had entered the country without permission could be detained until deported from the country. The problem is that deportation is only relevant for those who can be deported – international law forbids the returning ("refoulement") of refugees to the country where they are being persecuted, and so refugees from Sudan, Eritrea, Ivory Coast and other country are, in fact, incarcerated under it indefinitely. To provide detention solutions for this large population, a large detention facility was built in the middle of the desert, allowing for the detention of families with children as well. This is the 'Saharonim Prison'. Large-scale deportation actions were repeated in the Central Bus Station area in Tel Aviv, and thousands of asylum-seekers were sent to the detention facility without trial or known date of release. In October 2012 five such "infiltrators" and five aid organizations petitioned the court to repeal the provisional measure. The petition was joined by the UNHCR as amicus. In March 2013 the High Court of Justice began hearing the petition, and issued an order to the State to show its reasoning for not repealing the provisional measure. On

September 30 2013 a panel headed by Supreme Court Chief Asher Grunis unanimously found that Section 30a to the Law, which allows for the detention for three years of an infiltrator against whom an order of deportation has been issued, is unconstitutional, and repealed it.

Amendment No. 4 and Provisional Measure (2013)

On December 10 2013, by a 30-15 majority, the Knesset passed a proposed bill by the government which constitutes a softened version of Amendment No. 3. Under this amendment, infiltrators can be held in custody for up to a year, and this possibility applies only to infiltrators who have entered Israel since the amendment went into effect. The amendment further stipulated that an infiltrator for whom a problem exists in deporting (mostly citizens of Sudan and Eritrea) can be held in an "open containment" facility, featuring basic living necessities (such as food, welfare services and health), and in such case he or she will not be allowed to work. This possibility also extended to older "infiltrators" in Israel. Pursuant to this amendment the 'Holot' facility in the Negev was constructed[124].

The 'Holot' facility called itself an open containment facility, since those staying in it were allowed to leave its gates. But the terms of that "stay" turned the term "open" into a sort of parody: The asylum-seekers were required to be in the camp from sundown till dawn, and during the day they were required to sign for their presence three times a day, at intervals that did not allow them to go from the facility to any other place – given that the facility was built deep in the desert.

On September 16 2013 the High Court of Justice repealed the previous Infiltration Law by ruling it unconstitutional, for among

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[124]   Passed on final call: "The Infiltration Prevention Law", Knesset Website, Dec. 10 2013

other reasons ruling that asylum-seekers and those who cannot be deported may not be held in long-term custody, and that custody may not be used to deter other asylum-seekers from coming to Israel. The court upheld that the asylum-seekers from Sudan and Eritrea cannot be deported, due to the situation in the countries they have fled. "Infiltration Law 2", which the state hurriedly passed after the High Court's ruling and makes provisions for the detention of the asylum-seekers at the 'Holot' facility, which is dubbed by the state an "open containment" facility and was constructed nearby the 'Saharonim' prison in the south-west of the Negev.

On Dec. 15 2013 human rights organizations filed an urgent petition with the High Court of Justice demanding that the new amendment (Amendment No. 4) to the Infiltration Prevention Law ("Infiltration Law 2") be repealed. The petition was also filed in the name of two asylum-seekers, nationals of Eritrea, who were until recently held at the 'Saharonim' incarceration facility pursuant to the previous "Infiltration Law", and after passage of the new "Infiltration Law" were transferred pursuant to it to the nearby 'Holot' facility.

Amendment No. 4 to the Infiltration Prevention Law was passed after the High Court of Justice ruling (HCJ 7146/12) which rejected the previous amendment to the Law (Amendment No. 3) and ordered it repealed. In the petition the organizations argue that the new amendment does not meet the guidelines which the Justices outlined in their ruling, and in facts constitutes a more severe arrangement than the previous amendment that was repealed[125].

The High Court of Justice heard the case on April 1 2014. In a ruling handed down on Sept. 22 2014 the HCJ Justices ruled that the 'Holot' facility was to be shut down within 3 months[126].

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[125]   Published on the website of the Association for Civil Rights in Israel in March 2014.
[126]   Also published on the ACRI website, in the fall of 2014

C. **The rights of the Jews in the Region**

Orly Noy, Feminist Mizrachi activist and Editor of news site "Local Call":

"The land struggle taking place now is a quintessential example of the continued injustice. It goes without saying that the kibbutzim receive more and more options and more lands for free, while [mostly Mizrachi-populated] Kfar Shalem and Givat Amal are fighting for the very right to a home. Understanding that this is where the injustice begins is crucial. It infuriates me that people who are quick to understand the injustice regarding the Palestinian refugees don't understand that at this very moment refugees are being created on a clearly ethnic basis. Enlisting in the struggle for Givat Amal is totally a brick paving out war to a political solution with the Palestinians. That's where the road begins as far as I'm concerned. It is totally one and the same struggle to me (…) the line is the same. It's the same system sitting on privileges obtained through dispossession and exploitation and it continues to this day[127]."

As we attempt to outline a policy for a return and immigration policy, we adopt the principle that a fair immigration policy always addresses the rights and needs of the absorbing community. We looked at the community infrastructure – social, political, cultural and religious to understand the foundation upon which the changes proposed herein would take place. Treating the receiving population as part of the target of the immigration policy is a preliminary and necessary step for any future return and immigration plan. In order to ensure that the existing injustices are not repeated or deepened, and in order to prevent the creation of new injustices on the basis of the changes that shall be determined. Then we will turn to questions

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[127]   From a conversation held on Sept. 14 2014

regarding the Jewish communities in the diaspora and the question of the Law of Return. We will ask to bring to the surface various tensions we have identified during the research group's deliberations. We will end with conclusions regarding the place of Jews in the region.

Necessary Condition | Addressing the social-political-cultural texture of the receiving population: The neighbourhoods of South Tel Aviv as a test case.

In order to illustrate the importance of knowing the needs of the receiving population, we shall briefly examine the condition of the South Tel Aviv neighborhoods as it stands today. Over the past 20 years waves of migrant workers and asylum-seekers have reached Israel, settling mostly in South Tel Aviv, in the Central Bus Station area, the Shapira Neighborhood and the Neve Sha'anan neighborhood. These neighborhoods serve as a clear example of the devastating consequences of avoiding the finding of a just and responsible solution to the arrival of a massive influx of new population into their boundaries. The receiving population is among the weakest in the country. The residents of the South Tel Aviv neighborhoods are mostly Mizrachis Jews [Jews of Eastern/Arab origin] who have suffered ethnic and class-based discrimination since the establishment of the State of Israel. The State distributes its resources, from land to culture and education resources, in an inequitable manner, and the collective injustice attendant to the absorption of the Arab-speaking Jews has not been recognized or amended to this day.

The migrants and asylum-seekers have arrived in Israel for different reasons: From poverty, through political persecution, through mortal danger as a result of homicidal regimes or civil war. Their arrival in the Central Bus Station area stems from several reasons: from the obvious commuting access to any area requiring workers, through the fact that the area was poor and dilapidated to

begin with, making it easier for the migrants and the asylum-seekers to enter and fit in, through the fact that the earliest migrant workers settled in the area, and created the first contact and infrastructure networks for the migrant community. These all contributed to this development.

The settling of the migrant and asylum-seeking population in an area already neglected by the State created an impossible situation for the original residents of the neighborhood.

Shula Keshet, Director of the "Achoti" ("My Sister") movement, said of this: "When you talk about Tel Aviv, all the infrastructure goes to midtown and the north side. What we have here is the second largest bus station in the world, air pollution and horrible density this has really become a refugee camp and this is the government's policy (...) really a human rights violation[128]."

The crushing density that characterizes the neighborhoods of South Tel Aviv since the arrival of the migrant worker and asylum-seeking populations heavily burdens what little infrastructure the area has. Social mobility, previously miniscule, now approaches zero. As a result, the stronger residents in these neighborhoods have gradually left them, and the remaining residents have had to deal with a multitude of refugees in their neighborhoods. When the refugees arrive, they do not yet have living accommodations, and the parks and gardens of the neighborhood are always full of those just recently arrived, who sleep and perform their bodily functions, for lack of a better choice, in the park. While this cannot be blamed only on the refugees, these neighborhoods are also full of hard drug users, prostitutes and pimps, theft and sexual harassment.

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[128] From an interview with Shula Keshet at the "Achoti House" in Jerusalem on Sept. 9 2014

The deterioration in personal safety has bred much anger among the original inhabitants of the neighborhood towards their newer neighbors. Hate marches, rise of nationalist and racist forces and even wanton destruction of shops were some the harsher reactions of the old residents towards the new. The pressures by this population on policy makers call to lock the asylum-seekers and illegal immigrants up, and many politicians angle for the heart of the marginalized classes by joining the incitement against the migrants.

According to Shula Keshet, dispersing the new population in stronger neighborhoods could have created cultural and communal variety that would afford all the populations social mobility. Instead, the State of Israel nurtures closed racial and class-based ghettos which breeds severe friction created between the two marginalized populations. She argues that if we correct the injustice caused to the Palestinian refugees without addressing the full failings and injustices caused by the State, we shall only replicate the harm.

In her view: "There is a white Jewish minority in In Israel that receives all the budgets and privileges. Let us learn from the model of treatment by the state of the Ashkenazi minority community and say, this is the model that should apply to everyone. Educations systems that enable one to reach higher learning institutions, land for everyone and not just for the kibbutzim. Distributive justice in everything – in all state resources, in culture, in education, in land, in infrastructure. Right now most of the budgets are going for the privileges of the white Jewish minority. When you want to live together you have to give something up, privileges, territories, budgets."

Shula Keshet was involved in an initiative called "Power for the Community" which brought long-term residents of the neighborhood together with asylum-seekers living in it, in an attempt to hear each other, and understand what the problems of each community are,

and whether they can be improved by cooperation. We tried to learn from the experience and ask ourselves how we can alleviate the hostility between the veteran residents and the refugees and immigrants arriving in the future state. Here Shula Keshet responded flatly that steps to correct the injustice of the present must come first. "Our experience shows that everybody who comes here is put in ghettos in the marginalized areas," and that if one wants to obtain the trust of the veteran residents community, trust-building steps must lead the effort.

This brief review of the condition of the neighborhoods surrounding the Central Bus Station demonstrates why as we come to compose return and immigration policy documents, **we must first take care of the existing community**, the one supposed to receive the new populations. Addressing the needs of the receiving community will ensure the realization of both populations' interests. Therefore, in a fundamental way, it is a common interest of both. This example has taught us a double lesson: First, that we should be wary of concentrating the immigrants and returnees in areas that are marginalized as it is, and second, that the population that has absorbed the current wave of asylum-seekers, without the protection of a fair immigration policy, must receive concrete steps to correct the injustice before they can reconcile to the arrival of further refugees of any kind.

Assuring non-recurrence of the injustice and preventing the occurrence of new injustices

The discipline known as transitional justice deals in the various ways by which various states and societies deal with past injustices in order to ensure their peoples a future of respect for human rights and the rule of law. These means may be legal or non-legal according to the existing international involvement. This spectrum includes the option of criminal charges, reparations, the right to truth, institutional corrections or a combination of these means.

As part of the justice correction approach in the field of transitional justice, several central practices are customarily included, amongst them return, reparations, rehabilitation, satisfaction and assurances of the non-recurrence of the injustice. Assurance of the non-recurrence of the injustice is a category referring mostly to institutional reforms aimed at overcoming the structural and institutional problems that cause a certain set of rights violations.

In the case of the prolonged injustice committed against the veteran resident Mizrachi population in the immigrant areas, there would need to be mechanisms established to ensure a more equitable distribution of resources in society. But before the move to realize the right of return enters into action, it requires a trust-building step, an assurance that the patterns of conduct of the State of Israel till now, in which one privileged group enjoys the overall majority of resources, will not repeat themselves.

Since up until now the burden of waves of migrants and refugees has been placed solely upon the Mizrachi neighborhood residents, a first step towards an alternative policy would be the dispersal of the existing ghettos. If a planning board is to be established to examine the possibility of settling refugees returning to their country, the existing ghettos and the amassed African refugees concentrated around the Central Bus Station as a sort of pilot: Their geographical dispersal will ease the condition of the residents of the neighborhoods, and will show that the new institution that has been established is not blind to the needs of the Mizrachi residents like the ones before it, and will therefore constitute an assurance against recurrence of the injustice.

The dispersal of the refugees (both returnees and asylum-seekers) and migrants should not be done on a geographical level alone. Part of the heavy impact of the migrants and asylum-seekers

currently in the southern neighborhoods stems from the fact that most of them are young men who arrive without families. The migrant families, we have learned from Shula Keshet, do not get into conflicts with the locals.

"From my experience, when families settle amongst a receiving community, they want a calm and normative environment as well. Workers who come alone, young and male, bring crime, delinquency and create a threat against women living in the area. The refugees who arrive without employment turn the neighborhood into a drug dealing and human trafficking center."

In this regard, the quiet coexistence of the older and returning residents will require addressing the nature of the community. In central Tel Aviv perhaps lonely young men might fit in better than families, whereas in an area where most of the veteran population is families, it should be ensured that the returning/settling population is similar, or at least varied in terms of the life stage of its components.

Other trust-building steps that can be applied widely in a return and immigration model are the creations of structured frameworks for discourse and dialogue between the communities. These frameworks, says Keshet, must be created in partnership with organizations, groups or movements representing each community separately, in order for each community to have a voice in the process, and that they not become a high institution that flattens them into interests that pose as common when they're not.

In contrast to Shula Keshet, Orly Noy places the main emphasis on the required change in the arena of land. The unfair division of land is the root of all evil, with the ownership of land being a resource that exceeds its price anywhere else in the world, and the portability of land ownership being very slow and cumbersome, so

that the unfair land allocation between Ashkenazi and Mizrachi at the founding of the state replicates itself and perpetuates the gaps to this day. Only when a process of redistribution of land actively begins, will it be possible to speak of the absorption of refugees and migrants without creating new injustice.

The Need for an Alternative Economic Model

But the problem of relations between the marginalized populations and those immigrating to it is not simply the product of racist animus, and not just about the neglect and indifference shown by the government[s] towards the residents of South Tel Aviv. There is a structural problem that can be observed the world over around the question of immigration, with the prevailing sentiment being that the immigrants take away jobs from the older residents, and destroy the existing fabric of society.

Matan Kaminer, a doctoral student of anthropology at the University of Michigan who focuses on issues of work migration, argued at one of our meetings that "as long as there is a political unit where some are taken into account and some are not, the arrival of more people to compete with them for jobs will be threatening. It is possible to prevent a situation in which excess population burden the receiving community, through the realization of the fact that in order to provide for people nowadays, less manpower is required. Although work is less and less necessary to support people, in a capitalist economy anyone who doesn't work can't support themselves. This is the reason that jobs are becoming a scarce resource, with many locked outside the gates of gainful employment. Therefore, absorbing new citizens who will compete for jobs is threatening. I think it is critical to unlink or weaken as much as possible the connection between the ability to make a living and work. We need to do this in order to enable a more humane policy towards refugees and migrant workers."

Indeed, in today's society people work more and more, even though technology causes there to be less and less need for working hands. It is a sort of market failure, if you want to speak of it in economic terms. But the problem is precisely the economic terms. According to marketplace logic, the employer is supposed to do everything possible to maximize profits, and there is nothing wrong with doing so as long of course as one stays within the boundaries of the law. But increasing profits requires a constant reduction of expenses on labor. Even though technology keeps reducing the expenditure on labor in and of itself, competition in the marketplace compels the employer to reduce it even further, and so we find ourselves working more and more hours for the same wage. In truth, it would be possible at this point to move to an alternative economic model which divides the smaller number of hours required to do the work between more people, so that each would work less but none would be unemployed.

The Status of the Diaspora Jews

A separate and important question regarding the rights of Jews in the region refers to the rights of Jews not currently residing in the region. Do diaspora Jews have a connection to the country that justifies special reference within the immigration policy of the future state? Should the right of return, under which any Jew can gain citizenship immediately, stand as is?

Professor Amnon Raz Krakotzkin answered this question negatively. In his opinion, the American Jew is unrelated to the question at hand. Of course he or she has a connection to the country, but this connection existed through two thousand years of exile, and there is no reason why it should not continue to exist under exile status. The Jewish people in Israel are the ones who have evolved to true nationality, which produces rights in the country. On the other hand, Israelis living abroad – these we can discuss in terms of the right to citizenship upon return, whereas upon Jews who have never

lived here there is no justification to confer citizenship. In his view, our object should be to solve the conflict that exists before us, fight the fight before us, and not invent theoretical problems regarding Jews elsewhere in the world. The Jewish connection to the land exists, but it does not and never has amounted to a justification of settlement.

Like Krakotzkin, our position is that the inherent and long-term discrimination in the State of Israel's immigration causes the continuation of the Jewish right of return to be a continuation of injustice and discrimination. The Law of Return seems like an almost demographic mechanism, intended to strengthen the Jews in the local balance versus their Arab neighbors. Proposals on how to change it already exist and there is no need to reinvent them. If the proposal stems from recognition that for many Jews around the world the idea of being able to live in this country is a "two thousand year-old dream", then the repeal of the Law of Return can be postponed for a period of seven years, during which Jews who wish to realize their connection to the land may come, settle, and after a few years of residence, commence naturalization proceedings.

A contrasting view was presented to us by Orly Noy:
"Jews have been praying to Zion for thousands of years. This is not a Zionist invention. Of course the exclusivity factor must be removed, and then the fact that there are collective Jewish rights to this place needs to be taken into account, there is no doubt about that (…) The Jewish claim to this place exists, it is real. But today it is indeed very heavy-handed, [yet] I do not think it needs to be annulled in order to establish some kind of justice."

In other words, she points out the Jewish People's historical connection to the Land of Israel, and sees it as a sufficient reason to establish an immigration state that prioritizes Jews. The distortion in Zionist policy towards diaspora Jewry involves not a Jew's option to

come to Israel and become a citizen. According to Noy's analysis, Israeli motivation to bring diaspora Jews here is to turn them into good lobbyists in the United States.

"If we neutralize the obvious privileges that being Jewish confers on a citizen, then the Jewish connection to Israel is blessed and important and natural. It's not normal, in my opinion, for a Jew to take no interest at all in Israel. But not in the context of a racist culture (...) I assume that the collective Jewish component, no matter what the constellation, will always retain the right to offer shelter to Jews in danger[129]."

Noy is particularly close to the Jewish community still living in Iran. She says that these communities still live in exile and are content to do so, but the danger that someday they will have to flee for their lives always exists. Like the rest of the Jews living in Arab and Muslim countries, these communities do not experience Israel as a place of shelter, but first and foremost as the reason shelter is needed, since in its actions and policies in the Middle East it has aroused persecution against them. These communities have suffered greatly due to the Israel's conduct and Zionism's appropriation of Judaism.

"If anything threatens the Jewish community in Iran, it will undoubtedly be an Israeli provocation, so I think it's only right that it provide the solution as well."

These words indicate that in order to create a fair constellation desiring to correct the State's past and present injustices, it would be appropriate to leave the door open to Jewish communities abroad, as part of the correction.

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[129]   From a conversation held on Sept. 14 2014

A combination of the two lines of thought offered by Noy brings us to the first formulation of an important principle upon which the policy regarding the rights of Jews in the region will be founded. This principle requires a relinquishing of exclusivity and a recognition of both Jewish and Palestinian connection to the land.

Jewish Nationality and Palestinian Nationality

The main populations in the State of Israel today are the Jewish population and the Palestinian population. When counting the two dominant populations in the region, we see that the Jewish connection as well as the Palestinian connection are both of a national character in the sense that they are based on historical and cultural connections to the land. Therefore, in terms of principles, one can say that these two claims to rights on the land are equal to one another.

Krakotzkin adds: "As far as I'm concerned, we are facing two models: Exile in the Land of Israel, and the Zionist model of an imaginary return and redemption through the political sovereignty of a state." Krakotzkin offers the concept of exile as the fundamental concept that defines Judaism. Judaism in its essence is exile, and therefore it must exist here as well, like anywhere else in the world, as a distinct group with its own rights within the states. The attempt to take control of the state overstepped the exile essence of Judaism, and therefore constituted Zionism's betrayal of Judaism.

Many groups of different characteristics live in Israel. The insight shared by the various factors involved in this research is that the attempt to create a unified nation-stated necessarily involved the ascendancy of one minority group over the others, and the declaration that its own culture is the general culture of the state. The alternative passes through a mechanism that will see to it that community autonomies do not become separate cultural and social ghettos, so defined by law.

The prevalent argument that the privileged position of Jews in Israel derives from the right to self-determination should be re-examined. The right to self-determination, that served as the fundamental principle for the territorial partition of Europe following the fall of the empires, has become a problematic principle for partition since the fall of the communist bloc and the domino effect of demands by minorities to secede from states. In the wake of these developments an analysis has begun to take shape among political thinkers and international jurists, which refers to the right to self-determination in the sub-state model – that is, when the minority cannot or does not wish to secede from the parent-country. Under the sub-state interpretation, the right to self-determination is but an aggregate of other group rights, and in each case another part thereof becomes relevant.

We shall refer below to four clusters of rights, based on the writings of Kymlicka and Ganz on the subject. The three types of rights distinguished by Kymlicka are: (a) Self-rule; (b) Representation rights; (c) poly-ethnic rights. Gans adds to these the right to cultural preservation[130].

1. Self-rule is the control by the national group over certain matters and issues of its members, or over a territory in which they reside (for instance, self-control over the education of the members of the group).

2. In democratic countries, majority rule may lead to an extinction of the minority's voice from centers of decision-making. Representation rights place the obligation to reserve quotas for the minority group in the decision-making centers of the state, as well as to guarantee its share of the state's symbols.

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Will Kymlicka, MulticulturalCitizenship,26-33.
Chaim Gans, 'Individuals' Interest in the Preservation of their Culture', Journal of Law and Ethics of Human Rights   (2007), 4-16.

3. Poly-ethnic rights are rights that aid individuals from the minority group to express their unique cultural identity and to take pride in it, without this hindering their success in the political and economic institutions of the dominant society (for example, permission for a soldier in uniform to wear a fez on his head). Poly-ethnic rights provide an incentive for the minority group to move into the majority group, rather than maintain self-rule or the existence of a distinct cultural group

4. Cultural preservation rights – the reverse parallel to poly-ethnic rights. Their goal is to allow members of the group to maintain their cultural way of life over generations without mixing with the other groups.

The right to self-determination under the sub-state interpretation means that each national group and those belonging to it are guaranteed certain privileges by the state in which they live. The package of rights may vary from case to case, but it will refer to the types of rights mentioned above: Self-rule, representation rights, poly-ethnic rights and cultural preservation rights. These are rights more than one group alone may enjoy within a given state, and therefore they offer a real solution to the prevalent situation of ethnically and nationally heterogeneous states[131].

The meaning of this for Jews is that they are entitled to a package of rights protecting and maintaining their national identity. From the moment the regime changes, the state is no longer Jewish in symbols and laws, and therefore special protections and rights are required to preserve the Jewish culture. Representation rights may also be required in the event that Jews cease to be the majority. The symbols of the state will change, becoming ones that represent both peoples. The Arabs will receive self-rule in the field of education and

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Haim Gans, The Limits of Nationalism, Cambridge Press, 2003. P. 84

perhaps in other fields as well, such as planning. In the existing Zionist regime, the planning field is solely in the hands of Jews, and as a result most Arab towns and villages have no zoning plans, and consequently no possibility of legal construction whatsoever. The regional and super-regional planning committees operate on the basis of a demographic logic, of an attempt to reduce the space controlled of Arabs and maximize the areas designated for Jewish settlement. The Arabic language will have to become an official language in practice – for instance, on all documents produced by the state as in all public systems and courts.

The precise balance of rights between the two sides requires specific arrangements to be reached in negotiations between the affected communities, since the needs of the ultra-religious are different than those of the secular, and the needs of the Bedouins are different than those of the urban Arabs.

D. <u>A Proposed Model for the Return of the Refugees</u>

When one speaks of the return of refugees, it is not precisely clear what this entails. Even within the Palestinian public, which has been waving the Right of Return flag consistently since '48 to this day, there has never been a real discussion about what exactly the longed-for return of refugees means. A comprehensive discussion on planning an actual return, with all the attendant complexities, has never been published. In the Palestinian public the return is seen as a nostalgic and impossible return to the past, with every refugee having the choice of whether to realize it or not, meaning that the right is seen as an individual one which the leadership has no right to relinquish.

The return is portrayed as a return to the same place under the same conditions, an act of "undo" to history. Countless interviews with various factors within the Palestinian public have shown that the prevalent opinion is that no leader can pass a decision to

relinquish the right of return among the public. For even Yasser Arafat, the most beloved and widely-accepted leader the Palestinian public has had, couldn't have brought an agreement compromising the right of return to his public without losing power[132].

PLO leadership has always maintained that there is no contradiction between the refugees' right of return and the two-state solution, which they worked to promote. The positions stated by PLO leaders throughout the diplomatic process are always unclear. It seemed that they were willing to move forward with the negotiations when a symbolic return of several thousands of refugees was discussed. Under Palestinian leadership in the '60s and '70s the return was presented as the essence of the Palestinian struggle, and as a revolutionary agenda of renewal and resistance. From the 1990's onward more and more Palestinian leaders speak of understanding that a full return will not be realized.

The Capetown Papers

Eitan Bronstein, founder of the Zochrot NGO, presented us with the Capetown Papers. These documents were composed by a joint group of Israelis and Palestinians from the Occupied Territories, from Israel and from around the world, which raise the most detailed and in-depth proposal for the realization if the Right of Return to date. The papers do not try to create a compromise between the interests of both sides, but to present a maximal return model that would still be fair to the Jews. The logic behind creating a maximal model is two-fold: First, for the Palestinians, the maximum demand must also be seen with realistic eyes. A maximum demand is one you begin negotiations with, but it must also be a demand not mired in phantasmal nostalgia of returning to the days before 1948. Second, for the Jews, it must be seen and accepted that even the maximum

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[132]   International Crisis Group, "Bringing Back the Palestinian Refugee Question", Middle East Report N°156 | 9 October 2014

demand of the Right of Return does not entail pushing us Jews out to the sea.

The Capetown return model serves a similar purpose as the two states, one country model. The concept behind the models is that political imagination is a powerful weapon. Without imagining an alternative reality, people cannot be motivated to change. As long as the Right of Return remains a slogan on a banner, it cannot provide inspiration for change, nor enable true negotiations.

A fundamental principle in the model indicates that return contains a dual element, and should be treated accordingly. This dual element is the material level and the symbolic level. The material level is the need of hundreds of thousands of refugees for a fair solution for life. 65 years of life in refugee camps cannot be considered years of fair solution, and their residence in host countries that do not want them as citizens also constitutes an ongoing injustice that requires a practical solution. The symbolic level is the one on which Palestinian nationality is comprehended as a function of return to the homeland. We have addressed the degree of imagination inherent in this fantasy of return, but we have also mentioned that imagination is a powerful weapon. Therefore the solution model phase must also address both the material and the symbolic dimensions.

Another insight was that we cannot accept the return and reparations principle commonly accepted in liberal injustice correction circles. In this local case that would create a new injustice – feudal families would gain vast tracts of valuable land, whereas families that have been living on their land for 65 years would become homeless. The division of resources and land before '48 was so inequitable that to return to it would create too big an injustice.

Possible Tracks of Return

The four tracks we shall discuss were laid out in the Capetown Papers, based on a research trip by the Zochrot organization. The aspiration that guided the specification of these return tracks was that no person remains homeless. In order to be able to tackle the myriad issues that could arise, we distinguished between two classes. A class of possession to use and a class of ownership.

One possible track of return is **direct return to a house that still stands** – we suggest that when there is no agreement between the sides, the party currently in possession can remain in their home without paying rent for the rest of their lives, but will not be able to pass it on to their heirs. The house shall be registered immediately under the refugee's name and he or she will be able to do with it as they wish when the tenant passes away. On the other hand, if the tenant or tenants leave the house, they will receive property of equal value which they will be free to leave to their heirs. This right shall be offered for a limited time[133].

A second possible return track is a **fast and personal track without restitution of property**, but only monetary reparation and conferral of citizenship. During the discussion we stressed the dangers of this track. Who might choose it? Are they more well-to-do refugees who do not wish to change their place of residence? Or poor refugees who will prefer to receive the money at once, than wait to receive a home or land and enter into a long bureaucratic process.

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[133]   Here several concerns rose. The first being that the possible boundaries depend on the existing budgetary and economic framework. What would that be? Is it correct and practically possible to determine that the administration, which is incharge of nationalizing the lands and homes, will be responsible for the reparations?

A third possible track would be **a refugee camp wishing to continue living together after immigration**. In this case there will be no need to show linkage. However the common denominator is the linkage to the village or refugee camp[134].

The fourth track is the **Public Housing Track**, This track allows resettlement in homes build according to needs to be defined by the state with the public's cooperation. It requires a determination as to which places are priority areas for the realization of return that does not require membership in an existing community.

These tracks deal both the material aspect – especially the fourth return track, which offers housing and residence solutions for large numbers of refugees – and the symbolic aspect, be it the community track, preserving the awareness of the village or pre-1948 community, or the track of return to the home still standing.

The issue of the house still standing became the issue on which the parties in Capetown failed to reach an agreement. Despite the basic principle that a person should not be evicted from their home in order to rectify the injustice done to another, in the case of the house still standing the Palestinians felt that the concession was too great. The symbolic value of the home of which they had dreamed throughout the years of exile was too large. Therefore our suggestion of a solution for this marginal situation stems from a desire to offer a mutually-agreed solution even for the symbolic end case. Through immediately transferring the record of ownership to the refugee, even if possession in practice won't be handed for many more years.

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[134]   Matan Kaminer made an important comment about the fact that communal return can solvve many problems that individual return cannot and therefore it should be encouraged and expanded.

The problem: Such a return would be fair to the refugees, but not to the other affected populations. Therefore the model should be weighed with the conclusions of the chapter on rights of Jews in the region, in order to find proper protections for the receiving population, and models of immigration in general should be examined as well.

The conclusion we drew in the chapter above regarding the rights of the receiving populace flows well into one of the better known practices of the transitional justice paradigm, which is the assurance of non-recurrence of the injustice. The assurance of non-recurrence suggested by Shula Keshet was preliminary steps to disperse the existing refugee and immigrant population throughout the city and the country. Dismantling the ghettoization, she suggested, would constitute a trust-building act towards the possibility of the arrival of new populations not taking place at the expense of the marginalized sectors of society. Orly Noy offers a more radical proposal- full agrarian reform, redistribution of the land in a way that would correct the historical injustice done to Mizrachi Jews and perhaps to other groups in society. The problem, as mentioned above, is that an agrarian reform taking place right before the return of the refugees will ensure that the property injustice done to them cannot be corrected.

Perhaps the desirable solution is a combination of the two proposals into a thinking centered on an assurance of institutional nature. Such an assurance would be more consistent with the principles of transitional justice, where assurances of non-recurrence of the injustice usually revolve around institutional reform or the creation of new institutions, and not just a one-time action. Perhaps an overall agrarian reform should be considered, a redistribution of land in a way that would make historical justice, and take into various account the needs of the different communities, and also the desire to maintain the existing fabric of life. But this reform will take

time and will require prolonged consideration, and prior to that the existing institutions must be reformed completely, starting with the Israel Land Administration Agency.

The proposed combination of the two proposals and the logic of the transitional justice paradigm calls for the immediate and overall reform of the structure of the Israel Land Administration Agency, so that its directors are replaced with a directorship reflective of all groups in Israel, with a special place reserved in it for Palestinian refugees as well. Plans and proposals for redistribution of lands will be examined and studied by the new directors along with a team of experts and planners, and the first test for the new institution will be to attempt to rectify the injustice done to South Tel Aviv by dismantling the ghettos and to settle the refugee communities in a more dispersed manner, in groups and communities that will live in stronger areas as well.

We can learn from a similar step taken in South Africa that if the reform rules out any recourse to seizure by eminent domain, the purchase of lands from their owners at market value is expensive and impossible for the authorities, and this turns the redistribution into a slow and difficult negotiation with land owners who understand that the state needs their land and therefore their negotiating power is very high. What the proper ratio is between purchase and seizure, and what compensation is given in the latter case, is a topic for another research paper.

E. __Immigration and Asylum Policy__

Immigration policy is a complex issue, upon which we were only able to touch briefly. We examined the immigration policies of various countries, and found many sensitivities. The era of the end of the last century and the beginning of the current one was often portrayed as the age of globalization. This was the period in which travel distance were shortened, the capitalist market penetrated the

furthest reaches of the supposedly undeveloped countries, communications went global and immigration turned massive.

The immigration policies of the 1990s saw cheap migrant labor as an interest of the state, but saw leaving the migrants as part of the population of the state as harmful. Therefore an attempt was made to create a short-term immigration policy, by issuing only temporary work permits and raising obstacles on the road to their extension, by binding arrangements allowing the migrant to remain in the country only subject to remaining employed by the same employer for whom the migrant was originally brought over. The advantage of course is that if the worker leaves his or her employer they become illegal, and the employer is expected to report this in order to receive a new worker in their stead.

We have searched for comparative theories to help us examine what are the relevant criteria to a successful immigration policy, and we have found an interesting research by Stephan Castles about the question of what causes an immigration policy to fail[135]. In his research he points out the fact that immigration processes depend on a wide variety of factors that have to do with the country of origin, the target country and the relations between them. Full understanding of an immigration process requires specific knowledge of the societies involved. The problem with this determination is that when an immigration policy is made, it is made in general, whereas at one point in time the majority of migrants may come from China, and at another from Eastern Europe.

Despite this problem Castles specifies three general types of factors that impact immigration: (1) factors influenced by the social

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Castels, Stephen Why Migration Policies Fail? *Ethnic and Racial Studies*, 27(2), (2003) pp. 205-227. Castles, Stephen, The Factors that Make and Unmake Migration Policies, **International Migration Review**, Volume 38, Issue 3 (2006).

dynamics of immigration processes (2) factors connected to globalization and North-South relationships; (3) factors related to the political system. We will not explain each type in detail or how they each relate to our discussion, but we would like to specifically address certain factors that any policy that ignores them will fail.

Policy makers often describe the immigration process according to the perspective of the science of economics. Immigration occurs because in a cost-benefit analysis, it is more profitable for a migrant to migrate at a given moment from his or her own country to the host country. The benefit is described as equal to income. According to this calculation, the immigrants will cease to flow, and those already here will leave, if the cost-benefit ratio is changed. This assumption does not stem from an empirical examination of immigration patterns, nor is their solution examined in this manner. Castles argues that their assumption, that the bureaucratic categorization of the immigrants into different groups (for the state to treat differently) will effectively create an aggregate behavior, does not pass the empirical test.

First, on the global level, the main cause for the waves of migrants and asylum-seekers is rooted in the structural economic gaps between north and south, but also in varying social conditions, personal security and human rights. Therefore, it appears that the most salient means to reduce the waves of migrants and asylum-seekers are not directly related to immigration at all. The Oxfam organization, for instance, has recommended an examination on the European Union's trade restrictions, which economically harm the countries of the global south, as an indirect way to strengthen them and reduce immigration [from them]. The UNHCR has recommended an examination of the arms trade restrictions as a way to reduce the number of asylum-seekers. It seems that such a profound, in-depth treatment of the causes that lead to immigration has not even been considered, as trade policy and immigration policy are always

considered separately. The short-term economic interests of the forces involved in trade clash with the wider interest in reducing immigration, and states choose again and again to implement a narrow policy of classifying immigrants into different types, attempting to enforce the restrictions and prevent long-term settlement. But the attempt to overcome the problem of immigration through categorization and enforcement, which focuses on removing those migrants who stay beyond a certain period of time, has proved itself a failure. Castle once again recommends looking into the root causes of the matter.

Immigration researchers emphasize the importance or migrant communication networks to the understanding of migration dynamics. Work migration generally begins with the departure of young individuals for temporary work. Following the young work migrants who come without families, ostensibly for a short period only, come others of their families and communities. Migrant communication networks aid new migrants in finding housing, work and other needs, and form a sort of social capital. This model of migration is also relevant to asylum-seeker communities[136].

We can compare this to the well-known Facebook group "Israelis in Berlin," which holds some 10,000 members who share details about housing options, work suited for Israeli migrants, and also information about medical services, places to buy furniture and the correct way to operate with the bureaucracy and the immigration authorities.

In addition to the migrant communities' communications networks, which on their own act to enlarge a migrant community from a specific origin and make it more settled and stable, the

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[136]   Khalid Koser, Social Networks and the Asylum Cycle: The Case of Iranians in the Netherlands, International   Migration Review, Vol. 31, No. 3 (Autumn, 1997), pp. 591-611.

immigration industry is another factor that works to expand immigration. The human resource companies that bring them in, the attorneys who provide them with services, and especially the employers who have become dependent on work migration, all repeatedly demand the expansion of the work permit circle, and apply heavy pressure upon the government whenever it considers measures to reduce it.

Therefore, the policy that attempts to allow only young work migrants to be brought for short periods only ignores the fact that this is precisely how migration waves work – with the larger community coming after the lone young migrants. Since migration exists through family and community networks, categorization and classification systems attempting to choose who will migrate, at what point in their lives and which occupations they can find a place in, fail in structural manner.

Castles suggests that in determining immigration policy, policy makers take into account an amalgam of factors that impact immigration and examine them in relation to the specific case, not in general. First, it must be taken into account that the migrants are active agents and not merely obedient temporary drones. Other factors that must be considered are the self-advancing nature of immigration processes once they begin, and the dependency developed by the host country upon its migrants. Second, the gap between the global north and south must be taken into consideration, and thought must be given to the option of an integrated approach to trade, aid, and immigration policies. Of course thinking on such a scale requires addressing issues beyond the level of the nation state, and requires real coordination, not just officially as is in the case in the European Union[137].

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Since the establishment of the European Union until the mid-1980s, there was no coordination at all between the various states regarding their immigration policies, despite there being complete freedom of movement and labor within the union. As a result, migrants could enter the union through a state with a more permissive immigration policy, and pass with

The uselessness of an immigration policy which presumes to make it harder for illegal immigrants to enter and settle in the country has been proved many times. The insistence by policy makers around the world to utilize it anyway indicates that there is a basic conflict of interest guiding them. The public message by the politician is one of a strong hand and care for the permanent population of the state, whereas in practice the policy brings about the entry of those same migrants through back and side doors. The result is often that the work migrants become a more marginalized population with fewer rights and more ways to be exploited. A tough immigration policy is in fact a good way to create a weakened working class, to the benefit of the employers.

The problem is of course that the alternative of referring to root causes of immigration functions at a trans-national level rather than a national one. One country alone cannot challenge the global north-south relationship, unless it is an empire of the order of the United States. On the national level, the consolidation of immigration policy should begin with an evaluation of the causes to the entry of immigrants – in terms of the labor market, family unification and in terms of the needs of asylum-seekers. Then the consolidation of policy deals with how these necessary population movements can be managed while preventing harm to specific groups in the population.

The options that remain open to a fair country wishing to conduct a fair immigration policy are few. Obviously the deportation

relative ease into all other members of the union. In the mid-80s the Amsterdam Treaty signaled the beginning of coordination regarding immigration targets in the European Union. The process continued with a succession of committees throughout the 90's and the first decade of the 21st century. When a series of discussions took place aimed at setting joint principles regarding the management of the work migration waves and the creation of a join European asylum system. In practice the discussion have resulted in a regard for the fact that there are deep causes that need to be treated in order to stop the deluge of asylum-seekers and work migrants, but not in the promotion of a pan-European policy at that level. The Union delcares an intent to create a more comprehensive immigration policy, but in practice it remains in the realm of placing restrictions that are not backed by in-depth analysis of the immigration patterns and the causes for it. Accordingly, resources are spent on chasing after those who violate the restrictions, the illegal immigrants.

of an asylum-seeker to a country in which his or her life would be at danger is not a legitimate option, both under international law and on the most basic human level. Opening one's gates to asylum-seeker from any crisis zone in the world is an unrealistic option on the other end of the spectrum, since a single state rarely has the capacity to do so.

The balanced solutions between these extremes include the absorption of a controlled amount of asylum-seekers, determined by the internal considerations of the receiving country, with the inclusion of naturalization and permanent absorption mechanisms. Insights gleaned from migration and asylum patterns indicate that attempts to limit the phenomenon – whether by adjusting and categorizing those permitted to enter or by repeated expulsion waves of the "revolving door" type are doomed to fail. An immigration and asylum policy must recognize that the community nature of the migrant society is part of the nature and inner structure of the immigration. Migration will not feature only young males, as though they were plough horses to be imported and thrown out. Young migrants will always bring families behind them, and short-term migrants will become long-term ones. A fair policy should offer a very limited naturalization track to those already here, with a possible limit on the arrival of new immigrants.

The State of Israel continues to attempt to manage the migration waves through human resource companies that are widely criticized for involvement in the underworld, and that at times the amounts charged from a migrant's family in return for bringing him or her over here in essence turn them into slaves for years. An immigration policy that is run openly, with clear and transparent criteria, would enable individuals to request visas independently and not become prisoners to the human resource companies. From the public's point of view as well, the human resources companies are an interested party that regularly pushes for the issuance of more

permits to import new work migrants. This is due to the monetary profit to be made by the company importing the workers with each such permit. This interest overlooks the fact that at any given moment there are enough work migrants and asylum-seekers already in the country willing to do the same work – because these will not have to pay the human resource companies to do so.

An immediate solution to the problem should begin with a registration and examination of all asylum-seekers and migrants living in Israel, toward the end of providing most of them with some legal status. A fair criteria to distinguish those that will not be granted such status may be length of stay in the country, with migrants already living here 6 or 10 years will be exempt from deportation, whereas those who have only been here a short time may still leave without significantly damaging the fabric of their lives. To follow, and as mentioned above, state cooperation with the companies that import workers. Legitimizing the existing migrant and asylum-seeking population will obviate the issuing of new permits anyway, and therefore will turn the worker community into a population integrating and accepted in its environment, less disruptive of those around it, and since no longer illegal, potentially more beneficial to the economy and to society. Steps of social integration should be taken regarding this community, from language acquisition to economic integration in the market and in the community.

F. **Planning Return**

The last element that is important to include in an informed discussion of immigration and return, so that the proposal may be anchored in reality and applicable in hypothetical-practical level, is urban and regional planning. It is for this reason that our research includes the opinion of Dania Vaknin, a planner at the Union of Local Authorities in Israel, and the founder of the young planners' forum.

Vaknin has presented a few points and background facts that are relevant to the applicability of the return and immigration plan.

We shall start by realizing that the scarcest resource in Israel, even more so than oil, is land. Land is a rare resource elsewhere as well, but here there are features of natural growth that is rather massive compared to developed countries around the world. Many planners are concerned that the current land policy in Israel is not taking future generations into consideration in terms of land reserves; nor is this such a long-term forecast, as the problem is expected to start making itself felt as early as 2020.

In addition, when looking at land reserves, one must take into account that for environmental reasons, open spaces are too essential to lose, both at the level of need for bio-diversity and that of human need for open and natural spaces. The open spaces should remain open. Nowadays this question rises constantly at state and regional planning levels, causing the lion's share of planning efforts to be focused at attempts to optimize the use of land.

This is particularly relevant to our proposal regarding a policy of immigration and return. Since the plan must deal with the settlement of a returning and migrating population, and the question begs itself how do so while optimizing the use of land. For instance, the Palestinian fantasy of returning to original pre-'48 village will have to contend with the planning constraint of the need to maintain open spaces. In this regard there is much to be learned from the history of planning and land policy in Israel.

The first important planning project in Israel is one that saw to the dispersal of the population to the extent possible. Zionism acted on a world-view of controlling the land through settling it, a view still promoted to one degree or another in the settlements of

the West Bank. The most famous project is the "Sharon Plan"[138]. The effort to disperse the settlement effort and create new settlements in remote locations created a great planning injustice, a grave disparity between center and periphery, and an infrastructure and social marginalization problem. Newcomers from Arabic-speaking countries, who were merely immigrants, were settled in "development towns", without proper material and social infrastructures, without access to centers of employment, education and culture. In this manner the periphery trapped certain populations outside the sphere that allowed basic social mobility, and set the discrimination in stone.

In the 1980s the planning revolution in Israel began, aiming to reverse the trend of multiple small urban centers and maximum dispersal of the population in Israel. Today it is clear to all that metropolitan areas are the fair and efficient solution from a planning standpoint, and planning has shifted to condensing the populations in existing towns, building houses right next to existing ones. The national outline plan in Israel even specifically forbids the establishment of new municipalities, with an opposite decision to establish a new municipality requiring a specific government decision[139].

The new trend has made it cheaper to build infrastructures as well, since it is easier and cheaper to provide infrastructures to a concentrated residential area than to transport them to remote locations. Each settlement requires the planning of roads, intersections, public utilities; even water and electricity cost more to transport and deliver to a small, remote settlement. Infrastructures require not only construction but also maintenance, and then budgetary constraints leave the social and geographical periphery

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[138]   Sharon, Aryeh, "Physical Planning in Israel (The Sharon Plan), Jerusalem, Government Printer's Press, 1961"

[139]   N.O.P 35 – The Integrated National Plan for Construction, Development and Preservation. See here:

www.moin.gov.il/Subjects/GeneralPlaning/Pages/default.aspx   (Last accessed on Nov. 9, 2014)

without adequate infrastructures. Estimates among planners are that infrastructures per home in the periphery cost four times as much as in big cities.

Land policy should be distinguished from urban and regional planning. Although to outside eyes land policy and the question of what to build on the land cannot really be considered separately, in practice in the existing institutional-professional structure, these are completely separate questions. Planning does not deal, for instance, with the question of who owns the land, but only with what may and may not be built on a given piece of land, what the designated use of the land is, whether high-rise construction is permitted, to what density a given area may be populated and so on. The question of allocation of land itself rests in the hands of institutions such as the Israel Land Administration Agency, an institution that markets land and conducts itself like a for-profit entity run according to economic interests, even though it is a public resource that is supposed to work for the benefit of the majority of residents. This conduct, and the obvious lack of democracy in its conduct as the institution that forms most of the state's land policy, creates an anomaly that has been the subject of much discussion and research.

Vaknin has proposed in fact to dismantle the Israel Land Administration Agency, and to find another, more democratic and balanced institutional entity for both the land policy and the field of urban and regional planning. This proposal dovetails with that of Orly Noy, who has suggested that the first step required to correct the state's past injustices towards its citizen is a redistribution of land[140]. Likewise, anthropologist Matan Kaminer says that without a basic change in the structure of the economy no just future state is possible. Combining the words of all three shows that out proposal may require what every reform-minded 19th century Czar knew he

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[140]

From a conversation with Orly Noy on September 14 2014 in Jerusalem

had to do – agrarian reform, redistribution of the land, elimination of class gaps backed by real estate.

Another important planning insight involves the prioritizing of mixed construction over homogenous construction. The first subsequence to this insight is to build in a format of **mixing land uses** within the city. Mixing land uses means planning that does not designate a certain area to only one use of the land, but attempts to create diverse areas in which different people live and use in different ways. For instance, instead of building one huge compound for offices, which at night will turn in its emptiness to a center of crime and prostitution, a building will be built which includes offices, residences, a kindergarten etc. This constitutes a counterweight to the suburbanization trend, the creation of bedroom communities. These phenomena encourage an increased use of transportation and create gridlock, render certain areas "dead" at certain hours, alienated areas with no permanent population, and residential areas with no places of employment, entertainment, culture and services.

The other meaning is that it is better to build in **residential mixtures**. Residential mixture means that rather than constructing buildings that are uniform in the type of apartments they have, aimed at only a certain type of population, it is better for buildings to include large and small apartments, to combine young people, young families, older people, rich and student populations. A neighborhood not designed like that may find itself emptying out within a generation, growing old all at once and so on. The residential mixture carries weight in terms of social mobility as well, with populations of varying socio-economic standing meeting, rather than the formation of ghettos populated by the marginalized, whose children will not know other options.

This insight supports our proposal to disperse the migrant population in other parts of the city, and our thoughts on how the

returning refugees will be dispersed throughout the metropolis – most likely not just in one place, since the mixture of land uses and residential variety will aid in their absorption and in the creation of a safer urban fabric. On the other hand, the issue of settling the returnees and the migrants spread throughout the city, or in neighborhoods maintaining their communities, echoes the question of integration vs. ghettoization on the one hand, and cultural preservation on the other. Integration requires the dispersal of the population in different areas on one hand, and on the other to maintain the ability for cultural preservation for that community. Such preservation becomes impossible if the dispersal is such that it does not leave a strong enough seed for community life in any one place. Building entire neighborhoods for the former residents of given refugee camps would create urban enclaves, which drag their residents down and prevent social mobility. Maximal dispersal precludes the ability to maintain existing community fabrics. The balance will likely require open community solutions that are not in complete segregation from their surroundings.

Another well-known planning constraint is the lack of sufficient housing for the existing population in Israel. There is a dispute among professionals in the field as to whether the current problem stems from the lack of a sufficient planning reserve, and therefore such should be planned in massive scope, or whether the problems comes from the private market and lack of investment by the state. According to Vaknin, there are many places in which there are plans to build residential buildings, but infrastructures are lacking. The plans, for instance, often state that they are not to be built before the creation of a highway interchange. Without an exit to the highway the residents would be marginalized and lacking good access. But the interchange is supposed to be built by the government, and this delays the realization of the existing plans for residential construction. Another problem is that in many places there are plans, but private entrepreneurs, who own the rights to the

land, find that the market is not yet ripe for investment in the construction of the apartments, and they prefer to first wait for housing prices to rise, and therefore in effect they have an interest in the continuation of the housing crisis.

The importance of this insight is two-fold. First, it brings us back to the realization that the refugees cannot be settled when there are thousands of people waiting for housing solutions in Israel; therefore construction projects focused on the return must include those lacking housing currently in Israel. Second, it stresses the importance of the active involvement of the state in investment, planning, and infrastructures, and reminds us that a complete mobilization of relevant state authorities will be needed.

Following the above insights, regarding the difficulty in building new settlements, the importance increases of using adjacent construction (in which two structures share a wall), maintaining open spaces and designing neighborhoods so that they do not serve only one function. It grows increasingly evident that massive housing solutions are to be found only in the cities.

A first problem with this statement is that it creates and deepens discrimination in favor of those who have already received a farming or rural settlement. In a situation of returning refugees, restricting them to solely urban solutions, whereas the kibbutzim and community settlements continue to stand, would cause a blatant injustice. We must recall that the populations in these places are already among what is known as the old elites of the state, and giving them the land to use in the first place discriminated against Jews from Arab-speaking countries. On the other hand, expanding the existing rural settlements means expanding low-density construction, which is incorrect planning. In summary, there is need for a rural population in Israel, but leaving such as it exists constitutes an injustice towards different populations, from the

Palestinians refugees, through Jewish migration waves from the past and the current Mizrachi population.

A very partial solution to communities wishing to remain in the social structure from exile (or preceding it) and whom there is no practical way to settle in their original village, can be found in housing solutions that treat the community as a unit within the metropolis close to the village's area. Concurrently, the homes still remaining the original village can become a focal point of preservation and a memorial for the community, to which they can come often and commune with the origins of their family. The original village will serve as a symbolic site of connection and commemoration, with the metropolis enabling residence, employment and livelihood for all parts of the families. This thinking is consistent with the logic of the return plan, which tries to give an answer to the Palestinian refugee problem both at the material and the symbolic levels.

A metropolis is a city around which are satellite cities and a rural area living in a reciprocal relationship. The metropolises in which the refugees will be able to live cannot of course be invented separately from the existing reality in the country, and therefore the current situation and the future development possibilities need to be examined. There are four metropolises in Israel currently categorized as such: Tel Aviv, Jerusalem, Haifa and Be'er Sheba, with Be'er Sheba considered a place that could be far more developed than it is now. A city considered as clear potential to become a metropolis (and is doing so partially) is Nazareth. Nazareth is situated in the middle of the Galilee, close to many uprooted Palestinian villages, and already provides services to many villages and urban areas around it. Its development with view of making it into a real metropolis could be a desirable solution to many of the returning population. Also taking into account that the Palestinian

refugees are likely to want to live close to their families, and not in a high-rise in the city of Modi'in.

The problem in meeting this desire is that the fabric in the existing Arab villages in the country is not properly planned, and generally one can say that a collapse is already taking place in terms of land and planning in Arab villages. There are no developed industrial parks and therefore no jobs, no roads fit for the number and needs of the residents, and no infrastructures for high rise construction. In addition, there is a problem with correcting these failings because there is a problem of private land ownership. The rural settlements are divided up to the last inch, and include no public spaces at all, or surplus spaces that can be developed. The paving of every road meets fierce resistance from those whose lands the road cuts. Fixing the property division situation may raise much resistance among an already marginalized population, and cause a certain rejection of the refugee population.

Activist and refugee-descended Najmi Ali, who took part in the planning discussion on refugee return, presented to us the historical narrative which continues to this day of the absorption of the refugees in villages and towns within the Green Line. According to her, the poor conditions of the Palestinians in the Arab towns and villages stems in large part from the overloading of the landless refugee population on settlements that were agricultural in nature, and were never suited for the settlement and advancement of the refugees.

Certain villages had become de-facto refugee camps within Israel, and these localities lead the unemployment lists in Israel to this day. The disparity and separation between the '48 refugee population and the populations that had absorbed them in the cities and villages is still in effect. Mixed families, combining refugees with those who were not uprooted is rare and unconventional. Her

conclusion is that first, the planning may not burden the existing Arab localities with the returning community without significant development, and second, that if Palestine is not strengthened economically, it will not be able to contain the refugees or serve as a mediating agent to them.

This note brings us once again to the insight about the need to correct other injustices as a precondition to the fair solution to return and immigration problems. The internal refugees living in Israel also deserve compensation in the course of the project, which can further them economically. The role of mediator in the refugees' integration process, which includes language acquisition (hopefully in both directions, with Jews needing to learn Arabic as it becomes a more prominent language in the future state, and the refugees needing to learn Hebrew to merge into the existing fabric.), guidance and education, familiarity with employment options and so on, could provide many employment opportunities for the Arab Palestinian population in Israel, and thus ease a little the challenge in absorbing the refugees. In addition, if we mentioned the thought of dismantling the Israel Land Administration Agency and the creation of a new body to deal with land policy and planning at once, while also performing some measure of land reform, then we must think of fairly allocating land in the course of all this to existing Arab localities. Such an allocation is needed both to correct past injustices, and to further develop areas expected to be filled with new refugees.

Conclusion

Our research has dealt with the creation of a fair and sustainable model for return and immigration policy to be implemented in the future state. The research work has included meetings by a research team that included activists from various causes and populations and experts and professionals in relevant fields, interviews with activists and external experts and the collection of materials and data from various sources, from

periodicals to publications by various international organizations. This is a preliminary research, and many other arrangements and issues may be suggested that have yet to be taken into consideration. But in the summary below we wish to collect the conclusion that were of a more definitive nature, which can be adopted as initial outlines for an immigration and return policy.

Our proposal is divided along three axes, according to the three populations impacted by it. The first consists of the Palestinian refugee populations, the second consists of the refugee and work migrant communities (in many case the distinction between them is impossible), and the third consists of the communities existing here which will be affected by this policy. The combining of these three populations stems from the idea that any planning of return policy cannot be discussed unattached to the wider context of immigration policy. The return of refugees constitutes a sort of immigration, and therefore constitutes a change in immigration policy itself.

In order to ensure a fair immigration and return, we must take care of the existing community, the one supposed to absorb the new populations. Addressing the needs of the absorbing community will ensure the realization of the interests of all populations, and therefore on a fundamental level it is a common interest to them all. Therefore the mechanisms of return and immigration presented here will take place concurrent to mechanisms of strengthening the communities living in Israel today, Jews, Palestinians and work migrants already within the country. In order to describe our conclusions we must open first with issues of immigration.

Our model proposes a moratorium on the issuing of new entry and work permits. The number of immigrants and asylum-seekers already in the country is sufficient to meet the need for working hands, and the mechanism of deportation and import of new workers is morally improper and practically inefficient. In addition,

we propose that human resource companies be banned from involvement in the status awarding process. The attempt to set harsh criteria that will prevent the immigration from settling permanently has been proven a failure both in the Israeli and international experience. Classification by age and marital status, meant to import people as though they were plough horses, negates the humanity of the migrants and the proven patterns of migration all over the world. Migrants who come for a short time tend to bring families and stay for longer than planned by the permit provider.

Therefore the policy proposed by us treats migrants as full human beings who live full lives in the country alongside their work, with families, education, healthcare and a multi-age varied community. From the experience of activists in the neighborhoods of south Tel Aviv it was learned that a migrant community with families clashes less with the local community, whereas a community of young men who come without families only to work tend to pose more of a disturbance to the neighborhood fabric of life.

In order to actualize this conclusion, we propose to accept the right of the future state to ban the entry of new migrants into its territory, so that the number of immigrants in the country does not exceed the number possible to contain in the community. Concurrently, we propose to establish a gradual absorption and naturalization mechanism for those already in the country. The object is for the process to bring about that anyone present becomes known and holds some status, with the temporary status leading to citizenship and fully equal rights after some years. We believe that the state has the right to determine the number of immigrants it can hold, inasmuch as possible based on the number of migrants already living in it today. Priority in the status process will be given on the basis of length of life in Israel, and on the basis of persecution in country of origin. In addition the state shall honor the international

treaties that regulate basic laws regarding refugees and asylum-seekers.

These conclusions lead us to discuss the second population in question, which is the existing resident population. This population often clashes in its needs with the migrant population. This clash leads to waves of racism, hostility and violence. For this reason, the proffered model wishes to disperse the immigrants and the asylum-seekers in different areas and not allow the free market to concentrate them all in the weakest neighborhoods, such as South Tel Aviv. On the other hand, planner Vaknin taught us that total dispersal of a population is devastating to its social fabric. A community that does not belong to the surrounding fabric needs an initial mass in order to hold primary community life, religious institutions, cultural and community ones as well. Therefore the planning suggests the consideration of a few stronger areas in which to disperse the migrants and asylum-seekers in an organized and concentrated manner, with regard to their communities. The regard for the community should come through meetings held with representatives of communities and their internal organizations.

The empowering of the community leadership is essential also to steps of mediation and conciliation between the migrant population and the original one. The most innovative trend in immigration policy in the world now is to stop treating immigration only in terms of negation, restriction, prohibition and categorization, and start talking about minimizing the harm to the absorbing population through encouraging the social integration of the migrant population. The integration process we have chosen is based on organizing meetings between migrants and veteran residents through their political leadership, organizations or committees, in order to hold discussions about the needs and problems of the communities at their points of intersection and in general. This way

the connection can be one of joint struggles and not just through street hostility and alienation.

The move to disperse the migrants and asylum-seekers from their existing ghettos is proposed by us as, among other things, a means of assurance of non-recurrence of the injustice, which is an accepted practice in the field of transitional justice. The idea is that the currently existing injustice stems from non-regulation of the existing immigration. Therefore this injustice must be treated in such a way that will convince its victims that the new policy is not a continuation of the same conduct. Such a trust-building step can be an initial act to disperse the clusters of migrants and asylum-seekers in the manner mentioned above, after which we will be able to speak of granting permanent status and citizenship without this being interpreted as coming at the expense of the residents of the weaker neighborhoods. The veteran resident community cannot become a victim of the new policy. This requires that the infrastructure currently existing for them must be strengthened even before work migrants and asylum-seekers settle in their midst and before actual return takes place.

The actual return of the Palestinian refugees begins with the recognition in principle by all participants in the study that every Palestinian refugee has a right to return to their homeland. As mentioned above, the integration of the refugees will require a particularly large effort and rely to a great extent on strengthening the infrastructures of the returning populations. In this case of return the model will aim for the Palestinians currently living in Israel would be mediators in the integration process. To this end they must be made stronger in terms of infrastructure, economically and socially. For the integration process, teams need to be created under the leadership of current Palestinian citizens of Israel, who can become mobilization agents: teach languages, teach the way around the terrain, aid in finding employment. In this way, the flow of new

jobs will aid this population as well, and keep it from being left behind.

The planning of the implementation seeks to distinguish between several groups of varying needs among the refugees. First, refugees with citizenship, status, livelihoods or relative capital in their host countries, can enter a fast track of granting free entry and work permission in Israel, with those of them choosing to settle here being able to enter a gradual path to citizenship. The refugees living in the refugee camps are the majority of all refugees, and they are the ones whose needs are most urgent in our view.

For the refugees living in refugee camps we have suggested a process based on including the leaderships of the refugee camps, towards community and individual solutions for the mass of returnees. To this end, a first required step would be a coordinated effort by planning experts with UNRWA and the refugee camp representatives themselves, in order to understand the population that lives in each camp, which villages it came from, what are its size, age distribution and so on. Based on this data, the planners will offer several planning options for each community, whether one that formed in the refugee camp or one based on a community that emerged together from one pre-'48 village. This decision will be made by the will of the communities as relayed through their representatives. In any case where the land of the original village is still vacant, the planners will have to examine whether the land can be used within the return project, where it is possible a symbolic act of commemoration will have to do. In some places a small village can be created, and in others perhaps villages can contain the population uprooted from them. These matters will be determined by the will of the communities and the planning ability to provide infrastructures and access to employment, education and other social services.

The second return track, then, is a community track in which the community of a pre-'48 village or a refugee camp choosing in consultation with planners how to realize its right of return, to the land of the original village or to new neighborhoods built for the community according to its needs. The third track is the housing projects track. This project seeks, like the *aliyah* housing projects of the early State of Israel, to provide quick housing solutions to a large number of migrants, returnees and veteran residents lacking housing. In order not to repeat the mistakes of early Zionism, which did not include sufficient planning thought, we have noted here that there is a preference to first condense living spaces in the cities and only then to construct new residential neighborhoods in the natural growth areas of existing cities. We have marked Nazareth, Haifa and Yaffo as central metropolitan centers for this purpose. In planning terms, the lowest preference is for building remote neighborhoods and settlements, since the cost of creating infrastructures for these areas is higher, and geographical periphery tends to breed social peripheral-ness and difficulties in socio-economic mobility. Beyond this there is a need to preserve open spaces, and therefore we are required to improve existing areas before building new settlements.

The fourth return track involves the symbolic houses that still exist as they did prior to '48 and tend to create heavy symbolical attachment with those holding their keys. Despite the general principle of non-return in direct ratio to loss of private property in '48, the symbolism of these homes drove us to offer a specific solution for them. This solution seeks to separate the *Tabu*, that is realty ownership of the property – the deed of title - and the possession of it. The deed of title will pass to the refugee family, whereas the right of possession remain with the later tenants, with each side receiving monetary compensation at the value of the house should they agree to relinquish it. Mediation mechanisms can aid the sides in reaching interim agreements that will minimize the harm to both sides. The later tenants will, for instance, to be allowed to

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remain in the house a few more years until the children leave the home, and then clear the house and hand possession to the refugee family. Should the later tenants refuse to leave the house under any condition, they will not be able to leave their rights to the house to their children, and upon their death possession will devolve to the holders of the deed of title.

Another proposal that rose in our research, but which probably requires a new research to detail and study in-depth, is land reform. Various activists and experts who gave their opinion on the return project repeatedly addressed this point. First, since the land allocation policy in the past has been unfair even internally, between different groups in the Jewish population, and the correction of the injustice requires giving this renewed thought.

Second, since the Israeli citizen Palestinians have consistently remained outside the land allocation circle, which has caused overload and collapse in the existing towns and villages. Both to reduce the resentment and difficulty among the Israeli Palestinian population in regards to the returning population, and in order to open a practical path to the possibility of settling more refugees in existing Arab localities, an allocation of land to existing Palestinian localities is needed, and therefore a renewed allocation of land is needed.

Third, the Israel Land Administration Agency is a public authority that is run like a private for-profit enterprise, and this has created and continues to create much anomaly in the land policy of Israel. The establishment of a new authority in this field can be an opportunity for change in the existing allocation of land.

Fourth, it makes sense to tie the return of the refugees to a reallocation of lands, since the refugee population will need those lands, and also because much of the land belonged to the refugees to

begin with. In dealing with the correction of historical injustices such as this the world knows three ways to respond: Return, redistribution and reparations. Since according to all research we have read, the Palestinian narrative will not live in peace with the option of relinquishing the return in practice, reparations are not a real alternative.

We have also learned that attempts to solve injustices by actual return tend to fail where they have been tried around the world, since uprooting or seizing from a certain single landowner is difficult both to do and to justify. In contrast, solutions based on redistribution of land are considered an act of justice, and the main question to examine is the proper and possible scope of this renewed allocation.[141]

VI- Security Arrangements

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Abstract

The issue of finding stable and mutually beneficial security arrangements is a crucial one in order to sustain and enable a long-term successful resolution of the Israeli-Palestinian conflict. Often seen as a one of the central issues and a stumbling block in inter-party negotiations, the matter of security needs to be tackled effectively to achieve the stability needed to implement the vision of 'two states in one space.' To do so, an effort is required to simultaneously "de-conflict" the interests of the parties and to move from a zero-sum view of security to a joint and integrative notion that recognizes and addresses in equal although not symmetrical measure the concerns of both Israel and Palestine. Indeed, while Israel will not agree to any long-term agreement that could deteriorate its security or put its citizens at heightened risk, particularly after the protracted instability of the region and its growing security challenges and threats; while a future Palestinian state can also not function, let alone thrive, unless both its security and its sovereignty are respected and ensured.

General Principles for Post-Conflict Security:

The study looks into the post-conflict security arrangements that will follow a peace agreement that recognizes the existence of two independent and sovereign nation states with independent governments (Israel and Palestine) with clear and definite borders based on 1967 lines (with mutually agreed land swaps). On the basis of these recognized borders, the Israeli and Palestinian

governments will set up specific arrangements to guarantee the freedom of movement of goods and people as well as to regulate of issues of residency and citizenship status. In both cases, the arrangements need to both promote the 'two states in one space' vision ensuring that each party's security is protected. The agreement must designate Jerusalem as the shared capital of Israel and Palestine. It should also clearly define the commitments and responsibilities that both parties undertake to observe in good faith. First and foremost, each party is responsible for its own internal security, including law and order, counter-terrorism, combating incitement and disabling spoilers. Finally, the peace agreement must establish Palestine as a de-militarized state with a functioning and developed internal Palestinian security sector.

All arrangements need to be mutually agreed upon and aimed at ensuring that the security needs of both parties are met and not undermined (and take into consideration the recent security and strategic developments in the region). The different capabilities and needs will have to be kept in mind when translating the de jure equality of rights and obligations principle into de facto corresponding tasks, roles and responsibilities.

Pragmatism and gradualism need to be used in pursuing common security approaches and in seeking to maximize cooperation. All agreed arrangements need to be practical and realistic, and the parties ought to be committed, ready, and capable of implementing them. In practice, this means that the security model should to be implemented in a series of distinct, gradual and incremental phases, during which the assignment of roles and tasks should necessarily reflect the gap in capabilities on the ground, while actively working to close such gaps. In this sense, another pillar of the model is the existence of a performance-based evaluation process carried out through a mutually agreed upon

third party with clearly defined criteria and intervening mechanisms.

Finally, mindful of the mistakes made in the past on this topic, the post-conflict security arrangements will devise and maintain permanent monitoring and intervening mechanisms to work on crisis prevention and crisis management and to deal with violations of the terms of agreement.

Making it Work: Tackling Security Issues the 'Day after the Agreement':

The list of security issues that need to be successfully tackled for the 'two states in one space' model is lengthy and weighty as virtually all the issues discussed at the negotiating tables have serious potential security implications. Here, the study begins this process by addressing some of the most urgent and important of these issues.

Border Security and Freedom of Movement: The model foresees the establishment of a two-tier system: an external 'hard-border' to be jointly managed by Israel and Palestine and an internal 'softer border.' The principle is that in order to maximize the freedom of movement of goods and people between Israel and Palestine, it will be necessary to invest in the creation of an effective external border. The criteria for the patrolling and monitoring of the external border need to conform to both Israeli as well as Palestinian security demands. Practically speaking, the overall responsibility for the external border will be Israeli and Palestinian, with Israel exercising an overall function of control and coordination in the immediate future (due to the gap in capabilities between the parties).

Israelis in Palestine, Palestinians in Israel: Freedom of movement, travel and residency between Israel and Palestine will be regulated by reciprocal agreements. Israelis who choose to remain in Palestine can do so, after having obtained the appropriate

residency permits (and vice-versa for Palestinians residing in Israel). Israeli outposts would however not be secured or protected by the Israeli Army, and would be under the responsibility and authority of the Palestinian security sector. Yet in cases of a direct and high security threat to Israeli outposts in Palestine, Israel would reserve its right to intervene, as a last resort.

The Status of Jerusalem: Jerusalem will be the capital of both the Israeli and the Palestinian state. In terms of jurisdiction, the city will effectively be divided into three spheres: Jewish neighborhoods in Jerusalem the capital of Israel, Arab neighborhoods in Al-Quds Capital of Palestine, and the Holy Basin under special regime - joint Israeli-Palestinian and international mission. Security in the Israeli and Palestinian parts of Jerusalem will be provided by Israeli and Palestinian police forces, respectively. The Holy Basis will have a different security arrangement, through a special ad hoc police force with exclusive territorial authority on the Holy Basin area.

Security Arrangements and Cooperation Mechanisms: Security cooperation between Israel and Palestine will be based on a defense appendix that will regulate security relations between Israel and Palestine. The agreement will contain a mutual defense clause, foreseeing one side coming to the other side's aid in the event of external threats. Under this general umbrella, the parties will also invest on developing mechanisms to facilitate cooperation and, when possible, coordination (including through Palestinian and Israeli security cooperation offices as well as with permanent and thematic joint security committees to coordinate specific security issues between Israel and Palestine.)

In this context, another especially crucial issue in facilitating security cooperation is how to deal with the outstanding capability gaps between the parties, which create a situation of asymmetry. In

this sense, reciprocity of rights, obligations, and tasks can be enhanced as the asymmetry in capabilities is effectively addressed. In the short-term, effective security cooperation can be seen as s a means to deal with gaps in capabilities; and, in the long term it can help closing such gaps. Ultimately, Palestine needs to be able to perform all the security functions autonomously and independently.

A final key element in this model will be the reliance, at least in the initial stages of the post- conflict transition, on external international forces to assist the Palestinian security sector. These forces need to be cohesive in their internal force structure and composition as well as effectiveness. The initial mandate of the international mission would be robust and hybrid, including both classic peacekeeping as well as peace-enforcement.

Making it Last: Dealing with Spoilers, Violations, and Crisis Management:

Both sides need to substantially invest in both crisis prevention as well as crisis management mechanisms. To this end, both sides commit in principle to work towards ensuring a monopoly on force and a progressive disarmament of armed groups. Secondly, a permanent joint crisis prevention committee will be set up and tasked with keeping the pulse on the security situation, monitor, and alert the relevant department and authorities with respect to potential threats to the status quo (assisted by the international mission).

What is more, a mutually agreed upon external commission appointed by the Quartet will conduct reviews every 5-years to assess the progress of each side and to recommend the future course of action and changes in the existing arrangements (example: whether Palestine should take over completely the monitoring of the Jordan Valley). Such recommendations will not be binding, but each side commits to strongly consider them.

In addition to crisis prevention, the post-agreement security arrangements will also focus on crisis management, response and recovery. In responding to imminent threats, joint mechanisms for intelligence and law-enforcement coordination will play a key role. If either side possesses credible information regarding a threat to its national security emanating from the other state, it must share such information and demand that the other state to take action. The other state will then have a responsibility to act and counter that threat. That state can decide to do so unilaterally, or it can request assistance. Failure to act swiftly and convincingly will initiate a complaint to the joint security committee that deals with violations. Then the committee can decide how to solve the situation or, if a deadlock prevents progress, the affected states can demand the international force to step in. If all these steps fail, as a last resort each state will have a right to resort to act unilaterally.

If these measures fail and an individual or group does manage to successfully perpetrate a politically-motivated violent act against the national security of the other state (such as kidnappings of civilians of the other states for political purposes, terrorist acts. etc.), the joint crisis operation room will immediately work together to deal with the crisis. During impending crises, for a pre-established period of time, the internal borders between Israel and Palestine can be closed or highly monitored.

Introduction

The issue of finding stable and mutually beneficial security arrangements is a crucial one to sustain and enable a long-term successful resolution of the Israeli-Palestinian conflict. Often seen as a hard-issue and a stumbling block in inter-party negotiations, the issue of security needs to be tackled effectively to achieve the stability needed to implement the vision of 'two states in one space.' To do so, an effort must be made to simultaneously de-conflict the interests of the parties and to move from a zero-sum view of security to a joint and integrative notion that recognizes and addresses in equal measure the concerns of both Israel and Palestine. Indeed, while Israel will not agree to any long-term agreement that could put its security in danger or put its citizens at heightened risk, a future Palestinian state can also not function, let alone thrive, unless both its security and its sovereignty are respected and ensured.

The study moves beyond the notion that the different security needs and capabilities of Israel and Palestine are inherently irreconcilable, and instead puts forward a detailed and realistic assessment that recognizes the distinct operational environments of both parties yet works to present mutually beneficial and sustainable solutions that allow to meet common threats while protecting each side's specific security needs and concerns. The study firstly examines the main assumptions, principles and commitments needed by all parties in order to develop and support a shared security model in the context of the "two states in one space" vision. Building on this framework, the research discusses the principal security issues that need to be tackled in a "Two-State" reality scenario, offering concrete policy solutions. In addition, the chapter defines the main principles for a future Israeli-Palestinian security cooperation and for a common and coordinated security approach. Finally, the study discusses mechanisms to deal with violations of the peace agreement and to effectively respond to emergencies and

crises. The result is a concrete and policy-oriented assessment of what "Two-State" reality security arrangements could look like in Israel and Palestine.

While the study is only preliminary and limited in scope, and thus does not address all possible security scenarios and assessments, it is still incredibly useful in challenging the assumption that the reconciliation of Israel's security interests and Palestine's political aspirations is inherently impossible. This is just one model for Israel-Palestine after a peace agreement, and in fact it is the most optimistic model (one that prevents most people from being relocated away from their homes and lands, potentially helps solving the "Palestinian refugees" issue, and finally enables both countries to forge a relationship and a more lasting peace).

A. <u>**The Security Threat**</u>

A "Two States" reality, even one characterized by "Two States - One Space" cannot be separated from the geopolitical and regional reality. Years of upheaval in the Arab world have changed the architecture of the region's security, into a multiplicity of failed states, expanded zones of non-governance, non-state and semi-state actors in the form of radical jihadist terrorist organizations and militants. Some of these organizations share a common agenda or common, though un-identical, interests, and a shared hostility to the West and the free world, to which in their eyes Israel belongs. Seeing Israel in this way, it is a country which is therefore foreign to the region and which must be destroyed.

Above all these trends looms the most serious threat, the Iranian nuclear threat. Iran operates several proxies against Israel, from the Palestinian Authority's territories, from Lebanon and the Golan Heights and has made ongoing efforts to erect such infrastructures in Jordan. The explicit Iranian threat to destroy Israel is compounded by their efforts to gain nuclear capacity and their

attempts to undermine the regional stability and harm Israel by means of terror, including through rocket and missile attacks. These actions are made possible with the help of terrorist networks, which Iran has developed on all of Israel's borders, and by taking advantage of the weakness of Arab governments which have disintegrated or been drastically weakened during years of upheaval in the Arab world.

With regard to the security dimension and security arrangements in a "Two States - One Space" reality, we must understand the threats and accept that the independent Palestinian state will most likely not have the ability to thwart these threats on its own. Moreover, the Palestinian State would have to contend with nearby terrorist and radical Islamist groups, such as IS and El-Qaeda elements that operate from southern Syria, with the weakness of neighboring Jordan and Egypt, in Jordan's case a weakness that is highlighted by the precarious state of its economy and social fabric, and the predicted influx of poor Palestinian refugees from Syria and Lebanon. These spoilers could turn the Palestinian territory into a platform from which hostile activities and terror attacks against Israel would be launched.

B. <u>Guiding Principle</u>

The bottom line: as a guiding principle for compiling the security arrangements in a "Two States - One Space" reality, **we recommend that Israel maintain effective control of the external perimeter of the Palestinian state**. This would enable:

1. Meet the threats emanating from radical jihadist elements, terrorist groups, Iranians Proxies and other spoilers and rogue actors who try to shatter the peace agreement, destabilize and attack Israel and its daily life and prevent their infiltration.

2. Allow the Palestinian state to focus on building an independent, stable, responsible, economically thriving and effectively functioning state.

3. Facilitate the movement of people and the flow of goods between the two countries and explore the possibility of peaceful coexistence through high level cooperation and mutual trust.

4. Minimize the need to evacuate civilians from their homes and move populations between the two countries.

C. **The Challenges**

Setting the Stage: General Principles for Security in Israel-Palestine after a Peace Agreement

The creation of a successful security arrangement in a "Two-State" reality needs to be based on the notion of 'two states in one space,' as a reference to Israel and Palestine as to two sovereign and independent nation states, Israel for the Jewish people and Palestine for the Palestinian people. In this sense, the first principle in building long term security cooperation is that the sovereignty and autonomy of both states should be recognized and protected.

Secondly, all arrangements need to be mutually agreed upon and aimed at ensuring that the security needs of both parties are met and not undermined (and take into consideration the recent security and strategic developments in the region). Of course the different capabilities and needs will have to be taken into consideration when translating the de jure equality of rights and obligations principle into de facto corresponding tasks, roles and responsibilities.

Thirdly, it is important to recognize that strong and stable security arrangements are a necessary condition for stability and viable peace and as a result, finding operationally effective tools to

successfully meet current and future security threats should be seen as an absolute priority in the post-agreement period.

In turn, this highlights the fourth main principle in the need for all agreed arrangements to be practical and realistic, and for the parties to be committed, ready, and capable of implementing them. In practice, this means that the security model should to be implemented in a series of distinct, gradual and incremental phases, during which the assignment of roles and tasks should close the gap in capabilities on the ground. As this happens, the model should be revised accordingly to adjust to the shifts in reality.

Another basic pillar of the model is the existence of a performance-based evaluation process carried out by the parties and a agreed third party with clearly defined criteria and problem-solving mechanisms.

Finally, "Two-State" reality security arrangements will devise and maintain permanent monitoring and intervening mechanisms to work on crisis prevention and crisis management and to deal with violations of the terms of agreement.

The main principles or pillars that need to be in place to establish the shared security arrangement model have to be analyzed together with a number of working assumptions that detail which specific provisions ought to be in the final status agreement between Israel and Palestine to later build an integrated vision or security. These include:

• A solid peace agreement that recognizes the existence of two independent and sovereign nation states with independent governments (Israel and Palestine);

- The peace agreement must establish Palestine as a de-militarized state with a functioning and developed internal Palestinian security sector.

- Just as importantly, the peace agreement needs to establish definite and recognized borders based on 1967 lines with agreed land swaps. On the basis of these recognized borders, the Israeli and Palestinian governments will set up specific arrangements to guarantee the freedom of movement of goods and people as well as to regulate of issues of residency and citizenship status. In both cases the arrangements need to both promote the 'two states in one space' vision ensuring each party's security is protected.

- The agreement must designate two capitals in Jerusalem area and recognizing it as a special case with two municipalities - Israeli and Palestinian - plus a 'special regime' for the Holy Basin, to be managed with the assistance of the third party.

- The agreement should also clearly define the commitments and responsibilities that both parties undertake to observe in good faith. First and foremost, each party is responsible for its own internal security, including law and order, counter-terrorism, combating incitement and disabling spoilers. In addition, each party has a responsibility to act to mitigate security risks emanating from its state to the other country and a responsibility to cooperate to tackle any of such emerging threats. Indeed, each country will undertake to seek to maximize cooperation at the law-enforcement and counter-terrorism, with a special focus on cooperation against potential acts of violence between Israelis and Palestinians and against incitement to violence.

- Each party's performance will be periodically reviewed by a common and external body. Additionally, an effective peace agreement between Israel and Palestine should create mutually

agreed mechanisms for addressing violations and preventing misunderstandings and diffusing crises.

D. **Making it Work: Tackling Security Issues the 'Day after the Agreement'**

The list of security issues that need to be successfully tackled for the 'two states in one space' model is lengthy and weighty as virtually all the issues discussed at the negotiating tables have serious potential security implications that need to be both taken into consideration and resolved in order for the peace between Israelis and Palestinians to be sustainable. Here, the study addresses some of the most urgent and important of these issues.

Border Security

The model foresees the establishment of a two-tier system: an external 'hard-border' to be jointly managed by Israel and Palestine and an internal 'soft border.' In order to maximize the freedom of movement of goods and people between Israel and Palestine, it will be vital to invest on the creation of an effective defensible external border. The expectation that extreme jihadist elements will try to sabotage the agreement, and to penetrate the Palestinian state requires external borders with barrier, surveillance capabilities and combat patrols in order to intercept any type of threat. The rising regional instability and insecurity only adds to the necessity of this trade-off between easing internal restrictions on the flows of goods and people and preserving Israel's and Palestine's security by creating an effective external security perimeter.

Needless to say the criteria for the patrolling and monitoring of the external border need to conform to both Israeli as well as Palestinian security demands. Practically speaking, the overall responsibility for the external border will be Israeli and Palestinian,

with Israel exercising an overall function of control defense and coordination in the immediate future (due to the gap in capabilities between the parties).

Defense and security of the external perimeter between the Palestinian state and Jordan will be carried out by overriding IDF troops, with coordination with the Palestinian security forces and cooperation with the Jordanian security apparatuses. The Palestinian security forces, will secure the border between Gaza and Egypt, with assistance of a mutually agreed upon international mission.

At the external borders crossings; Israel would be able to monitor the external crossings through a system of electronic surveillance, but without any physical presence on the ground. The Allenby Bridge crossing with Jordan would be manned by Palestinian security forces and administered in cooperation with Jordanian forces. Rafah would similarly be under Palestinian security forces' control, acting in close cooperation with Egypt.

In addition, there would be an international monitoring mechanism (similar to EUBAM in its mission and force structure) in charge of monitoring, evaluation and compliance. The parties should also undertake a study and consider relying on private security companies for assisting with some of the functions related to border-security and monitoring of the flow of goods.

These arrangements along the external borders would need to be periodically reviewed every 5 years by a mutually agreed upon external commission. The reviewing body would make sure both parties are complying with their commitments as well as put forward recommendations for the future. As gaps in capabilities close and the level of performance of the Palestinian forces will be proven, the aim would be for both parties to agree to shift the responsibility for patrolling of the Jordan Valley entirely to Palestine, firstly with

international assistance, and eventually to the Palestinian security sector alone.

Israel and Palestine will also agree to a unified airspace and joint electromagnetic spectrum, under Israel's overriding responsibility. Similarly, the parties will also closely examine that status and functioning of all existing external crossing points, including airports and ports. For civil aviation, Israel will continue to rely on Ben Gurion International as its main airport, whether Palestine's main airport will be located in the Jordan Valley and monitored by Palestinian security forces, with the assistance of a mutually agreed international border-security-support mission and employing a private security company to assist with civil aviation security. A second airport, bound by the same rules, will also operate in the Gaza Strip. When it comes to ports, Palestine will be able to have independent piers in Haifa and/or Ashdod, to be monitored by a private maritime and port security company. In addition, a floating port will operate off of the Gaza shore, monitored by third party naval security. The bulk of security will be done in a main transit port in Israel or in a nearby foreign country (Egypt, Cyprus), and final security checks will be conducted in the Gaza floating port.

The internal border between Israel and Palestine will be a "soft-border": movements of goods and people will be easier and faster. In an initial stage there will be a number of open crossings between Israel and Palestine with the possibility of passport checks and electronic surveillance. These controls can be progressively relaxed.

There will be no Israeli presence or check-points in Palestine. The current security fence will also be modified to correspond to the recognized and agreed upon borders between the two sovereign states.

Finally, a (preferably subterranean) link will be constructed between the Gaza Strip and the West-Bank, for the free movements of people, goods and infrastructure (electricity, water, etc.) between the West-Bank and Gaza. The link will be constructed in the Southern part of the West-Bank (nearest point to the Gaza Strip) and will not pass under Israeli settlements for security reasons.

Israelis in Palestine, Palestinians in Israel

In the context of a post-agreement scenario, freedom of movement, travel and residency between Israel and Palestine will be regulated by reciprocal agreements.

All Israeli and Palestinian citizens should have the right to apply for a travel/work/residency visa. Both visas and residency permits can be denied on the ground of security of either state. The security assessment will be based on individual profiling, eliminating group or racial profiling criteria.

Needless to say, Israel and Palestine are not obliged to follow the same security criteria in deciding whether to approve or deny a visa application, but the two sides should communicate their policies, coordinate when possible, and overall commit to act in good faith and trying to simplify and ease, rather than restrict, movements of people. Applicants whose visas are denied will have the option of appealing to an ad-hoc joint Israeli-Palestinian committee that will serve to review the cases of those who have been turned down.

Once a work or residency visa has been granted, Israelis living in Palestine and Palestinians living in Israel must commit to be law-abiding citizens. Otherwise, visas can be revoked, for example in the event of the visa holder committing a felony, in which case deportation to the native country can ensue. In general, territorial jurisdiction will apply with extradition treaties in place.

A different set of provisions need to be made for Israelis who have been living in Palestine or Palestinians who have been living in Israel before the peace agreement. Here, the general principle would be that Israelis or Palestinians who have been living in the other state for more than three years prior to the peace agreement would be allowed to obtain a residency permit through a simplified procedure (pending they do not pose a security threat). Anybody who has been living in Israel or Palestine for less than three years before the peace agreement would not be able to benefit from this provision, and would thus have to go through the regular channels if choosing to remain in the other country as a permanent resident. In this context, all permits and visas could of course be revoked or outright denied if the applicant is deemed a threat to peace and security.

Israelis who choose to remain in Palestine and live in Israeli settlements can do so, after having obtained the appropriate residency permits. Such outposts would however not be secured or protected by the Israeli Army, and would be under the responsibility and authority of the Palestinian security sector. Similarly, Israeli citizens choosing to reside in Palestine will have to comply with Palestinian laws if they wished to remain in the Palestinian state. In this context, questions related to settlements built on private lands would be deal through the local judiciary apparatus, which should then decide on questions of contested property as well establish appropriate judicial remedies (including compensation or relocation).

Israeli security forces will thus no longer be present in Palestinian territory, which is not the Jordan Valley. Yet in cases of direct and high security threat to Israeli outposts in Palestine, Israel would reserve its right to intervene. This would be done after communicating and coordinating with the Palestinian government. Israel however retains the right to act unilaterally, as a last resort and in cases of the outmost urgency and gravity.

The Status of Jerusalem

Two capitals in the Jerusalem area – one Israeli and one Palestinian. In terms of jurisdiction, the city will effectively be divided into three spheres: Jewish neighborhoods in Jerusalem the capital of Israel, Arab neighborhoods in Al-Quds the Capital of Palestine, and the Holy Basin under special regime - joint Israeli-Palestinian and international mission. Security in the Israeli and Palestinian capitals will be provided by Israeli and Palestinian police forces, respectively. Both will have territorial jurisdiction. Cooperation between Israeli and Palestinian security forces in Jerusalem area will be required in order to successfully manage the city.

The Holy Basin will have a different security arrangement, through a special ad hoc police force with exclusive territorial authority on the Holy Basin area. Such police force will be initially staffed by a coherent third party force with liaisons officers from Palestine and Israel, who will also be in charge of keeping open communication and, when desirable, coordinate with the local Israeli and Palestinian security sectors.

In later stages, the vision for the Holy Basin is to a have a performance-based, gradual delegation of authority to local forces, with an ad-hoc Holy Basin police force to be staffed with Israeli and Palestinian officers and led by a Palestinian and an Israeli commander. The commanders will then report to an internationally staffed and locally supervised mission that will exercise administrative and supervising tasks. The mission itself will report to a joint Israeli-Palestinian governmental committee which will both define the functions of the mission and delegate authority.

The purpose of the Holy Basin police force will be to guarantee safety in the Holy Basin area and to ensure freedom of

movement and access and worship to the Holy Sites and the safety of the inhabitants of the area.

In order to allow Israeli and Palestinian right of access and worship the Holy Basin area, the perimeter of the Old City will be patrolled by the Holy Basin police, which will also be monitoring all the entry Gates. Israelis will enter and exit through the gates located in the Israeli part of Jerusalem and Palestinians will enter and exit through gates located in the Palestinian areas of the city. Upon entering, each visitor will be handed a ticket that specifies from which gate he/she entered. Such ticket will need to be presented upon exiting the Old City at the same point from which one entered. All visitors will have to show an identity document to gain access. The same procedure will also apply to foreign visitors.

The Holy Basin Police would be the sole authority with authority to apprehend and detain those suspected of engaging in illicit activities in the Holy Basin area. The suspects would then be handed over and prosecuted by the Israeli or Palestinian justice system according to the residency status of the suspect.

Laying the Foundation for a Common Security Paradigm: Security Arrangements and Cooperation Mechanism

The security cooperation mechanisms between Israel and Palestine will be regulated by a set of specific underlining principles. Firstly, the parties need to recognize that committing to and protecting the security of both sides is a key element in achieving a long-lasting and sustainable peace. To that end, strong and effective security arrangements are pivotal.

All security mechanisms will be aimed at maximizing chances for coordination and mutual exchanges between Israel and Palestine while safeguarding each side's sovereignty and preserving its internal security and national interests.

Security cooperation between Israel and Palestine will be based on a security appendix that will regulate security relations between Israel and Palestine. The agreement will contain a mutual defense clause, foreseeing each side coming to the other one's aid in the event of external threats. There would thus be a common security response and responsibility against external threats.

Under this general umbrella of mutual defense against external threats and a shared commitment to the stability and security of Israel and Palestine, the parties will also invest in developing mechanisms to facilitate cooperation and coordination.

Accordingly, there will be three different types of security cooperation mechanisms: bilateral (Israel-Palestine); trilateral (Israel-Palestine-Jordan, Israel-Palestine-Egypt and Israel-Palestine-international force) and regional (initially with the immediate neighbors of Israel and Palestine). In this sense, integrating and involving external players in general—and regional actors more specifically—is especially important for the long term success of the model.

To facilitate such exchanges and cooperation, each side needs to create a Joint security post to deal with security on a real time cooperation basis. The Palestinian and Israeli security cooperation offices will be tasked with overseeing all aspects of security cooperation and will include ad hoc liaisons offices to deal with all general coordination issues at the bilateral, trilateral and regional level. These mechanisms will allow maximizing and facilitating security cooperation in key areas, while recognizing and preserving each side's autonomy and sovereignty.

In addition, there will be permanent and thematic joint security committees to plan and coordinate specific security issues between Israel and Palestine. Including:

a) A joint intelligence committee to deal with all aspects of intelligence sharing and cooperation;
b) A joint border security committee;
c) A joint crime and law-enforcement committee; both of which will serve to maximize communication and coordination in dealing with shared threats, from human trafficking, to drug trafficking to counterfeiting and weapons smuggling.
d) A joint committee will deal specifically with radicalization and incitement prevention, counter-radicalization and de-radicalization, focusing not just on the security dimension of the threat of 'spoilers' but also offering long-term integrated political approaches focused on prevention and de-radicalization.

A central element in the shared security committee will be the joint Israeli-Palestinian permanent crisis prevention and crisis Operations Room as well as the special joint committee tasked with dealing with violations of the terms of the agreement will also be in place.

Israeli security cooperation office	Palestinian security cooperation office

Bilateral liaison	Tri-later liaison	Regional liaison	Bilateral liaison	Tril-later liaison	Regional Liaison

Joint Crisis Operation Room
Crisis Response and Prevention

Joint Security Committees

Intelligence	Border security	Monitoring/Compliance	Law-enforcement	Radicalization-Prevention/Counter

These mechanisms will allow maximizing and facilitating security cooperation in key areas, while recognizing and preserving each side's autonomy and sovereignty.

In this context, another particularly crucial issue in facilitating security cooperation is how to deal with the outstanding capability gaps between the parties, which create a situation of asymmetry. In the short-term, effective security cooperation can be seen as a means to deal with gaps in capabilities. In the long term it can help closing such gaps. For example, in the short-term, Israel has a notable military advantage and should use it to defend Palestine, while Palestine can play an especially key role on issues of intelligence and counter terrorism.

At the same time, each party needs to take a number of unilateral steps aimed at maximizing the chances for successful security cooperation. Each side needs to commit to work towards establishing state monopoly on force and to deal with potential spoilers.

It is crucial for Palestine to substantially invest in its security sector and to continue in its own internal Security Sector Reform (SSR), with the assistance of the international community. The clear aim of these efforts ought to be the creation of a solid, professional, transparent, accountable and effective security sector that can guarantee law and order in Palestine, as well as respond to crises, complex emergencies, and effectively tackle terrorism and weapons proliferation. Ultimately, Palestine needs to be able to perform all these functions autonomously and independently.

Within this framework, Palestine will also invest on creating ad-hoc community policing programs aimed at crime-prevention and law-enforcement (learning from some best-practices from across the world) and under the general framework of the Palestinian Civilian

Police (PCP). In this context, Israeli settlers' communities will be encouraged to participate in the community-policing program, with Israeli citizens with Palestinian residency status allowed to apply and work in the Palestinian security sector, operating in their own communities as local police force. These police forces (which can also be lightly armed like the PCP) will be under the exclusive authority of the PCP, entirely bound to follow its orders, and designed to adhere to a community-based law enforcement and crime-prevention mandate and protecting the community from attacks and infiltrations by hostile elements.

The International Mission

The initial mandate of the international mission would be robust and hybrid, including both classic peacekeeping as well as stabilization Force, such as:

- Assisting with the training and the SSR program;
- Taking on a role to monitor, inspect and make sure that each side complies with its obligations;
- Report to the joint security committee on violations and generally coordinate with the joint Israeli-Palestinian security office;
- Escort PANSF in high-risk operations and participate in crisis-management;
- Staffing the joint crisis operation room;
- Have a rapid reaction team to assist in high-risk and high-security profile situations (including kidnappings or violations of the Holy Sites).

E. <u>**Making it Last: Dealing with Spoilers, Violations, Crisis**</u>

In order to ensure the sustainability of the shared security vision and approach, both Israelis and Palestinians ought to hope for the best but prepare for the worst. Specifically, both sides need to invest substantially on both crisis prevention as well as crisis management mechanisms. This will allow minimizing the chances for spoilers to be able to wreck the process through violence.

Preventive mechanisms, both at the unilateral and at the bilateral level, must begin with the parties' strong commitment to address the issue of spoilers including incitement. To this end, both sides commit in principle to work towards ensuring a monopoly on force and a progressive disarmament of armed groups. Each side will decide how to conduct this process, while keeping open channel of communications. Similarly, the joint committee on radicalization prevention, counter-radicalization and de-radicalization will have permanent monitoring and tracking of potential spoilers (both at the individual as well as on the group level), while also investing in de-radicalization and prevention programs that offer economic, political, and ideational incentives to shift both militants and potential militants away from violence. At the law-enforcement level, intelligence sharing and cooperation in all phases of investigations should highly facilitate the process and thus should be encouraged.

What is more, a mutually agreed external commission appointed by Palestine and Israel will conduct reviews every 5 years to assess the progress of each side and to recommend a future course of action and changes in the existing arrangements (example; on whether Palestine should completely take over the monitoring of the Jordan Valley). Such recommendations will not be binding, but each side commits to strongly consider them. This review will also list all violations of both sides to the agreement and indicate the

appropriate steps that need to be undertaken in order to redress them.

Finally, and outside the scope of the security sector, effective crisis prevention will also have to deal with issues connected to reconciliation or transitional justice.

Cases and Responses

If either side possesses credible information regarding a threat to its national security emanating from the other state, it must share such information and demand the other state to take action. The other state will then have a responsibility to act and counter that threat. That state can decide to do so unilaterally, or it can request assistance.

Failure to act swiftly and convincingly will initiate a complaint to the joint security committee that deal with violations. The committee can then decide how to solve the situation or, if a deadlock prevents progress, the affected states can demand the international force to step in. If all these steps fail, each state will have a right to resort to acting unilaterally, as a last resort.

If these measures fail and an individual or group does manage to successfully perpetrate a politically-motivated violent act against the national security of the other state (such as kidnappings of civilians of the other states, terrorist acts etc.), the joint crisis operation room will then immediately work together to deal with the crisis. During impending crises, for a pre-established period of time, the internal borders between Israel and Palestine can be closed or highly monitored.

A different type of crisis can emerge in cases of willful or negligent violations of the terms of peace agreement with direct security implications. In this case, there will be pre-established

procedure to deal with such perceived violations. Firstly, each state has the right to report alleged violations to the joint security committee, which will then examine the situation and, if a violation has occurred, it will ask the each state to take action to redress the situation. The international mission will also report violations to the security committee and will have an active role in assisting the committing to investigate reported violations and assist in deciding measures to remedy them.

Conclusion: Building a Sustainable Peace through Security

The study aims to reframe the discourse on security from being seen as a zero-sum factor and an insurmountable obstacle to progress in the peace negotiations, to being rightly perceived as a pillar of sustainable peace. Indeed only by recognizing and protecting the security concerns and needs of both Israel and Palestine, will it be possible to lay the foundations for immediate stability and peace and long term reconciliation. In additional, tackling the security dimension of the post-agreement period allows stressing not only the evident gaps in capabilities and assessments, but also the numerous areas where cooperation is both possible and desirable.

Accordingly, the study aims at emphasizing such possible areas for cooperation and for adopting common security approaches, while emphasizing the needs to recognize and protect each side's sovereignty and autonomy. The result is a policy-oriented analysis that reconciles Israel's security needs and Palestine's political aspirations, bridging what is often thought as 'unbridgeable.'

This work enhances the fact that only with strong governance and effective and professional Palestinian security forces without corruption, the Palestinians will be able to realize the strategic goal of an independent and viable Palestinians state.

It is crucial that the Palestinians accept the concept of Israeli security control along the external perimeter, thus allowing them to focus on state building and establishing an independent, stable, responsible and effectively functioning Palestinian state, as well as promoting the benefits of streaming traffic and close cooperation with Israel, on the notion of one space and of two states.

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