

# **The Holy Land Confederation as a Facilitator for the Two-State Solution**



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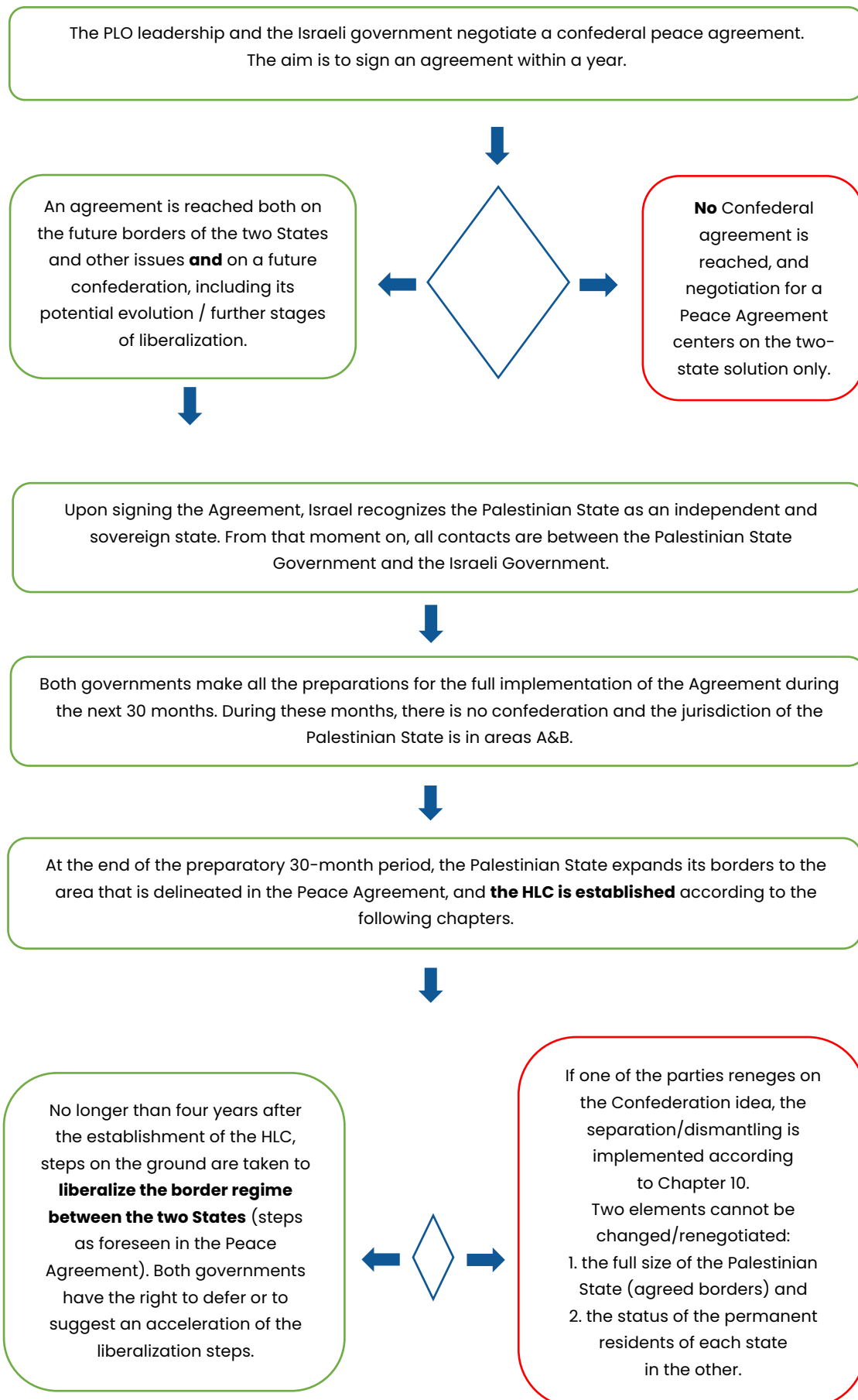
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## The Holy Land Confederation (HLC) Process – A Flow Chart



## Foreword

This short book contains the written contributions of Palestinian and Israeli researchers, Middle East policy analysts, and former peace negotiators who believe that the Palestinian-Israeli conflict is not the Greek tragedy's *Moirai* (fate) but a soluble one. All of them believe that the best solution for Palestinians and Israelis is the establishment of two states west of the Jordan River, with clear and agreed upon borders.

The partition idea was first suggested in the Peel Commission report of July 7, 1937, which constituted the essence of United Nations General Assembly Resolution 181, adopted on November 29, 1947, and became the basis of subsequent peace negotiations. Most of the contributors hold that a confederal framework, the Holy Land Confederation (HLC), may enable both Palestinians and Israelis to break through the current deadlock in the peace process.

The HLC can have a consequential impact on the culture of peace and on closer cooperation in Israel/Palestine for the good of both peoples. But even if it has a short life expectancy, like most of the confederations in history (see Appendix I), it will have a historic role in leading to the promised (divided) land.

The following chapters present different aspects of the HLC as a facilitator for the two-state solution. Each of the contributors is responsible for her/his part, not necessarily for the whole project. Heartfelt thanks are extended to all of them for their valuable work.

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## Executive Summary

This short book addresses various aspects of a possible Palestinian-Israeli confederation: the Holy Land Confederation (HLC). This is proposed as a means of facilitating a two-state solution, providing a new framework for the negotiation of a permanent solution between the two sovereign states of Israel and Palestine, and not as a substitute for it. Indeed, the HLC would be formed only *after* the creation of the Palestinian state.

While many proponents of the two-state solution emphasize the need to separate the two peoples living in the Holy Land, often framing this as a “divorce,” the HLC idea calls for the “cohabitation” of the two sovereign states. This cohabitation would be reflected in a range of confederal agreements and committees.

The proposed HLC would allow for greater cooperation between the two states, facilitate movement between them, and make Jerusalem a partially open city, to be extended later (see below). An important feature of the proposal is a reciprocal idea that an agreed upon number of citizens from both states will be allowed to live in the other state as permanent residents, provided they commit themselves to respect the laws of their host countries. This would eliminate a major obstacle to reaching a peace agreement: the need to forcibly evacuate tens of thousands of Israelis. Though the Israeli settlers would then be residents in a Palestinian state, they would remain rooted in the Biblical homeland. As a quid pro quo, a comparable number of Palestinian citizens would be offered permanent residency status in Israel. For the Palestinian residents in Israel, it will be an opportunity to increase the number of Palestinians living in Israel on top of the quota for Palestinians who will become citizens in Israel (see Chapter 5).

In this scenario, the official leadership of Palestine and of Israel would sign a peace agreement that resolves all the final status issues; the Palestinian State would be immediately created on areas A and B. The HLC would be established at the end of a 30-month implementation period and the Palestinian State would then encompass 22.5 percent of historic Palestine (6,205 km<sup>2</sup> or 2,395.764 mi<sup>2</sup>, as illustrated in the Geneva Accords map in Chapter 3). Both states would agree that potential future disputes would be solved through bilateral negotiations, third-party mediation, or third-party arbitration.



The peace agreement will include a clear timetable referring to additional liberalization steps intended to further open up the HLC. This includes turning Jerusalem (the two capitals of Al-Quds and Yerushalayim) into a fully open city, that is, beyond the Old City, to allow for the free movement of people, goods, and capital. Both parties will have the right to defer such steps for reasons of their national interest.

The two states would maintain their own governmental institutions and independent judicial systems. (In time, they might decide to form joint institutions.) Any transfer of governmental authority to the other state in a confederal arrangement would require constitutional legislation. Chapter 7 discusses the special legal arrangements that would be needed to support the HLC, including questions pertaining to the status of permanent residents (i.e., Israeli settlers in Palestine and Palestinians in Israel).

In the proposed HLC, a joint committee in Jerusalem would tackle issues such as municipal planning, supervision of the holy places, the use of natural resources, and more. Upon the formation of the HLC, the open area in the space of the two capitals, Al-Quds and Yerushalayim, will be limited to the Old City. The peace agreement timetable will determine when the whole area of the two capitals is to be fully open.

The book outlines a phased process of close economic cooperation between Israel and Palestine. It suggests that the two states replace the economic regime based on the Paris Protocol by a new economic agreement, including a phased shift toward a free trade agreement. A proposed Confederal Economic and Social Committee would deal with a range of economic issues, from energy and infrastructure to agriculture and consumer protection.

Each chapter refers to further work needed to address questions raised during the preparation of this book. We intend to continue working on them.

The HLC is not meant to be a closed club. The hope is that if it is considered a success, other parties in the region, like Jordan, will join its different aspects on a mutually agreed upon basis.

## Chapter 1

# The Logic and the Vision of a Confederation as a Facilitator for the Two-State Solution

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A confederation may be defined as a joint governmental arrangement or authority structure with procedures and processes established by two or more independent sovereign states to facilitate cooperation between them in practical and technical areas. Many definitions of "confederation" emphasize that it is a setup between states rather than citizens; that is, the citizens belong to their respective state and are not direct members of the confederation.

The confederation idea was already expressed in United Nations General Assembly Resolution 181, adopted on November 29, 1947. In addition to calling for a partition of Mandatory Palestine and the creation of two separate states, the resolution recommended the formation of a specific type of confederation – an "economic union." The logic is clear: The entire area is very small (about 26,000 km<sup>2</sup> or 10,038.656 mi<sup>2</sup>), the partition borders are largely artificial, and a permeable border would be beneficial to both states. Indeed, the two states share a vital interest in addressing a variety of common issues, including the use of natural resources, sewage treatment, internal security and border defense, planning and zoning, public health, animal and agricultural diseases, ecological challenges, global warming, tourism, and criminal matters. These are just a few examples of a long list of joint needs that could be better served in a confederal context.

The confederation framework may facilitate closer security coordination between Israel and Palestine. This would involve both states in joint strategic defense through close coordination and would focus them on maintaining internal law and order. The Old City of Jerusalem could host some of the joint authorities, paving the way toward dual sovereignty or other creative solutions over that sensitive area of less than 1 km<sup>2</sup> or 0.39 mi<sup>2</sup>.

Palestinians and Israelis have deep attachments to the entire area west of the Jordan River. However, considering the approximate parity in the number of Jews and Arabs (Christian and Muslim) in this land, and since both peoples have the universal right to self-determination, neither side can fully or exclusively exercise its national aspirations in all Palestine/the Land of Israel. A confederal solution may mitigate the unavoidable price of partition and reduce ethnocentric tendencies. Partition accompanied by a commitment to cooperation and coordination may help to allay fears that relinquishing sovereignty or direct rule over a certain part of land will make it inaccessible.

Both parties have come a long way since 1967. The Israeli government strongly opposed the creation of a Palestinian State, and many Israelis were enamored with the idea of "Greater Israel," while the Palestine Liberation Organization (PLO) advocated for a secular democratic state that would replace Israel. The chasm between the two parties became bridgeable in June 1988 after King Hussein relinquished Jordan's claim to the West Bank, and the PLO declared its readiness to accept UN Security Council resolutions 242 and 338. The confederation option can serve as a flexible bridge – wider in times of calm and narrower in times of tension.

The vision outlined in this book describes how peace might look in the context of a confederation and how this might differ from the "classic" two-state prescription. In some respects, the solutions look similar, but salient differences emerge on some of the major issues – for example, vis-à-vis Israeli settlements. **It is suggested that negotiating a confederal two-state solution in the spirit of "cohabitation" would lead to a different trajectory than negotiations driven by a desire for "divorce."**

The proposed Holy Land Confederation (HLC) is not a substitute for two sovereign states – just as the EU is not an alternative to the independent states of Europe. If either party decides that the confederation idea is an impediment rather than a facilitator, nothing will prevent it from dropping it and from rewriting the terms of relationship with the other state (see Chapter 10).

### **Differing Visions of Confederation**

The relevant literature contains various proposals of confederations as related to Israel and Palestine. Oren Yiftachel envisions an Israeli-Palestinian

confederation as a bridge between conflict and conciliation.<sup>1</sup> In his view, it would serve as a framework for the fulfillment of the right of self-determination for both peoples, assuring the rights of the minorities in both states. He also recommends examining the possibility of inviting Jordan to join the confederation further down the road.

Dalia Scheindlin proposes a Palestinian-Israeli confederation that “would diverge from the traditional two-state model by creating an agreement to share certain aspects of their sovereignty. The border would be porous, designed to facilitate rather than limit crossings. Freedom of movement ... would be the default.” In short, “the confederation model is predicated on open access.” She notes that the traditional two-state solution would also require coordination on environmental and other issues, “but the confederation model favors [cooperation] in spirit and structure, facilitating both civil society and government coordination instead of making such cooperation the exception.” Scheindlin also underlines an important distinction between a federation and a confederation: “In a federation, secession can lead to war. A confederation approach allows each side the legal right to leave ... the liaison is ultimately voluntary.”<sup>2</sup>

Bernard Avishai describes a confederation as “the one possible Israeli-Palestinian solution,” while acknowledging that he harbors no “false hope” for “affectionate” confederal relations. At the same time, he notes, “the joining of Upper and Lower Canada in 1867, Germany and France in the Steel and Coal Community in 1951, Belgian Flemings and Walloons in various arrangements — all of these began with populations that had emerged from vicious conflict.”<sup>3</sup> He makes the case for cooperation in the fields of banking, labor immigration, tourism, electricity, health, and more.

Eran Etzion observes that several prominent Jewish thinkers, like Judah Magnes and Hannah Arendt, advocated for a Jewish-Arab confederation in the early 1940s, and that Ze’ev Jabotinsky’s political thinking encompassed

<sup>1</sup> Oren Yiftachel outlined his vision of a future Israeli-Palestinian confederation in a lecture at Tel Aviv University on May 17, 2011.

<sup>2</sup> Dalia Scheindlin, “An Israeli-Palestinian Confederation Can Work.” *Foreign Policy* (June 29, 2018), <https://foreignpolicy.com/2018/06/29/an-israeli-palestinian-confederation-can-work/>

<sup>3</sup> Bernard Avishai, “Confederation: The One Possible Israel-Palestine Solution.” *The New York Review* (February 2, 2018), <https://www.nybooks.com/daily/2018/02/02/confederation-the-one-possible-israel-palestine-solution/>

"confederative ideas."<sup>4</sup> The importance of the confederation approach, in Etzion's view, is that it legitimizes both parties' claim to the whole area west of the Jordan River. The Palestinian-Israeli confederation would be established only after founding the Palestinian state and would include institutions that assure equality between the two states. Etzion also suggests establishing truth and reconciliation committees to address historical events and defuse animosity.

Sari Nusseibeh, a former representative of the PLO in Jerusalem, has repeatedly expressed support for an Israeli-Palestinian confederation as a means of ending the Israeli occupation and enabling self-determination for the Palestinian people.<sup>5</sup> While Nusseibeh is also open to other alternatives ("as long as the basic principles of equality and freedom are upheld"<sup>6</sup>), he notes a number of areas in which the Palestinians could benefit by entering into a confederation with Israel: the use of Israeli seaports, intensive development of infrastructure and tourism, joint projects such as the Red Sea-Dead Sea Canal, agriculture in the Jordan Valley, energy projects, and Palestinian use of natural gas from the territorial waters of Israel, Lebanon, and Cyprus.

### Steps Toward Establishing the Confederation

There are fears on the part of both parties that a confederation may serve the other's hidden agendas,<sup>7</sup> and a greater level of trust between Palestinians and Israelis may be needed to fully attain this idea. Considering the current atmosphere of distrust, **the first step would be to negotiate a permanent agreement and establish an independent Palestinian state, without the confederal umbrella. An implementation period of up to 30 months would follow. Palestine and Israel would live side by side as sovereign States and only at the end of the implementation period, they would establish the HLC if**

<sup>4</sup> Eran Etzion, "An Israeli-Palestinian Confederation: A Viable Alternative for the 'Two States Solution'?" (September 2016), <https://din-online.info/pdf/dn9.pdf>

<sup>5</sup> See, for example, Sari Nusseibeh, "Palestine: History Runs Faster Than Ideas" in *Politique Étrangère* (Automne 2013): 1-10.

<sup>6</sup> Interview with Sari Nusseibeh, "The Pursuit of a Two-State Solution is a Fantasy." *Spiegel International* (February 21, 2012), <https://www.spiegel.de/international/world/a-palestinian-take-on-the-mideast-conflict-the-pursuit-of-a-two-state-solution-is-a-fantasy-a-816491.html#ref=rss>

<sup>7</sup> For the Palestinians, the main fear is that this model would in fact lead to Palestinians only having some form of autonomy inside an Israeli-dominated confederation (because of asymmetry). For Israelis, the main fear is that disguised under the term of confederation is the proposal of a one-state where Jews would become a minority.

**they want it.** (See Figure 1.1 for the flow chart of the Holy Land Confederation process.)

Upon the signing of the permanent agreement, Israel will officially recognize the Palestinian State and the government of the new State will become Israel's partner for all the arrangements toward the full implementation of the agreement. **If during the period of implementation, there is a decision by one or both States to give up on the confederation idea, then the two states will (re)negotiate parts of the agreement, which stem from the idea of a confederation.** These may include some of the security arrangements, economic issues and matters that concern Al Quds/Jerusalem, but it will not include border issues, nor the question of citizens of one state who will be given permanent residency in the other state..

The fact that no confederation in the world has survived should not necessarily deter an effort to establish an Israeli-Palestinian confederation. (The European Union actually operates as a confederation, though it does not call itself one.) Furthermore, an Israeli-Palestinian confederation does not need to last forever. If it can provide the scaffolding for implementing a two-state solution, that would be good enough.

As for whether the concept is realistic or not, this book argues that the confederal proposal is no less realistic than a two-state solution involving the evacuation of over 100,000 settlers, or a one-state solution, or the continuation of the status quo. And, unlike the one-state solution and the status quo, the confederation idea offers a horizon for the long-term realization of both the mainstream Zionist vision and ethos and Palestinian mainstream aspirations for national self-determination in an independent and sovereign nation-state.

The proposed Confederation would allow for greater cooperation between the two parties, facilitate movements between the two states, and establish Jerusalem as a partially open city, to be extended later.

While both parties may have different visions for the HLC in the future, most of them are conducive to the general characteristics of the EU. That means quite a humble beginning, and a long process of trial and error, toward structures that benefit all members, while preserving their clear sovereignty. What makes it possible, among other reasons, is the common nature of the European members' regimes.

**The aim is not to have a Palestinian-Israeli peace treaty that will prevent the two parties from changes, but the other way around: to institutionalize the way to change it, and mainly to add components to the confederal structure.** This process should be inscribed in the peace agreement, so that both governments will meet, especially for that purpose, at least, every five years, assess the experience of the past period, and suggest new ideas for the future. It is expected that such new ideas will be thoroughly examined by a joint body and will be brought back to the highest joint forum. Such a structural process will not prevent the parties from discussing structural changes much more often, once one of the parties suggests it.

None of this will happen immediately. In the foreseeable horizon, the hope is that the HLC will have permeable borders, that there will be freedom of movement for people and goods, that there will be joint political institutions, parallel to the separate states' institutions, that bilingual school will be established in both states, and that the residents of the HLC will feel that they live in one framework.

In the coming chapters, reference will be made to different aspects of the future confederation upon its establishment. What is presented is a flexible model: If the parties decide to step back, it will not become irreversible, and if they decide to proceed quickly toward more proximity between them, no article in the peace agreement will restrain them.

## Chapter 2

# Palestinian-Israeli Relations: Narrative and Path to Reconciliation

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Arabs and Jews have lived in historic Palestine for centuries. Both hold that they are descendants of indigenous peoples who have made the Eastern Mediterranean their home millennia ago. Both reference Abraham's journey from Ur to Canaan in ca. 1900 BCE, and the Jews speak of Moses leading the Israelites' exodus from Egypt in ca. 1200 BCE.

Arabs and Jews were attracted by the land's historical and religious roots. Their shared experiences often written in blood and fire, saw successive regimes – Jebusites, Canaanites, Hittites, Hyksos, Philistines, Israelites, Assyrians, Babylonians, Persians, Greeks, Romans, Byzantines, Arabs, Tartars, Crusaders, Ayyubids, Mamluks, Mongols – with the Ottomans (1516–1917) and the British (1920–1948) being among recent examples. Israel's creation in 1948, the Arab-Israeli War of 1948 and the resultant Palestinian Nakba (Arabic for "catastrophe"), and the June 1967 War transformed historic Palestine forever.

What follows consists of two parts: a narrative and a path to reconciliation. While the narrative highlights important junctures in the lives of the inhabitants of historic Palestine, the path to reconciliation discusses the need to create an actual shift in Israel and Palestine from a culture of conflict and war to a culture of peace.



## **Narrative**

### ***Introduction***

The ancient and more recent history of 'Israel/Palestine' has certainly not escaped the controversies and disagreements that mark contemporary Israeli-Palestinian relations. Political claims in the present-day are often predicated on a particular view of history. But as any good academic historian or classicist knows, and E. H. Carr most popularly argued, interpretations of the past – even simple 'timelines' – are subjectively formed. Juxtaposed narratives form a central part of both Israeli and Palestinian social, cultural, and political identities.

The narrative attempts to highlight the basic key moments in Israel/Palestine's history, in three sections: from ancient times to the end of Ottoman rule; the British Mandate; and after 1948. Each section is sensitive to the views of both Palestinians and Israelis, and the emphasis is on the latter two sections.

### ***From Ancient Times to the End of Ottoman Rule***

When Israel/Palestine was conquered by the Neo-Assyrian empire in 722 BCE, a variety of groups existed in the region. Many of these, including the Israelites, developed out of the broad grouping known as the Canaanites, who dominated the region in the Bronze Age. Also present were the Hittites, Hyksos, Philistines, and the mercantile Phoenicians. Before the arrival of the Canaanites, the Jebusites and Amorites had been present during the fifth millennium BCE. Tracing the origins and distinctions of each of these groups is difficult; key is that there was a wide variety of people living and working in the region at different times during ancient history.

Furthermore, Jerusalem, and Israel/Palestine more widely, has always been very important to the three faiths of Judaism, Christianity, and Islam, both respectively and collectively. They each associate certain key historical-religious events with the city and the region, and several of these are noted here:

ca. 1900 BCE: Abraham's journey from Ur to Canaan.

1000 BCE: David united the twelve tribes of Israel, and his son Solomon built the First Temple in Jerusalem.

586 BCE: Judah was conquered by Babylon, the First Temple was destroyed, and the inhabitants were exiled to the conquering empire. When Persia conquered Babylon, Jews were allowed to return to Palestine, but many of them preferred to stay in exile.

4 BCE: Jesus is born in Bethlehem and Christianity evolved following his death and resurrection.

70 CE: The Romans destroyed the Second Temple, leaving only a part of the Western Wall, and deported part of the Jewish people from historic Palestine.

ca. 570: Muhammad is born in Mecca and, in 620, he went on a nocturnal journey (Isra') [Holy Qur'an, 17:1] from Mecca to the farthest ("Aqsa") mosque and third holiest masjid (mosque), i.e., "Al-Aqsa Mosque" and Haram esh-Sharif, i.e., "holy sanctuary", in Jerusalem, where he led other prophets in prayer and tied up his winged steed, *Buraq*, at the 'Buraq Wall,' or 'Western Wall.' He then ascended to heaven (Mi'raj) where he spoke with God before returning.

During the seventh century, Arab armies who fought under the banner of Islam took historic Palestine from the Eastern Roman Empire. The region was then ruled by a series of Islamic rulers, including the Umayyad and Abbasid caliphates. From 1099 to 1187, Europe's Christian crusaders held Jerusalem, before they were defeated by Saladin.

1516–1917: The Ottoman Empire ruled most of the region known today as the Middle East, including what is today Israel/Palestine, albeit with disruptions. This rule had a mixed record, intermittently tough as Palestine did not enjoy significant progress – administratively, economically, and educationally. It was initially insulated from external connections but in later years opened to European influences in the form of consulates, educational institutions, missionary work, trade, and colonies – French, German, and Russian. Whatever common and relatively pleasant existence Arabs and Jews enjoyed began to change in the late 19<sup>th</sup> century. The chasm between both national communities developed after the budding and competing Palestinian nationalism and modern political, as opposed to classical

religious, Zionism or Jewish nationalism began to lay claim to the same land and assert itself on the local populations to think of themselves as radically different and separate from each other.

End of the 18<sup>th</sup> century: Jews in Europe were part of a general secularization wave. They studied in prestigious universities, and became lawyers, physicians, politicians, lecturers, journalists, artists, and researchers. If the hatred toward Jews, historically, stemmed from religious animosity, at that point, it mainly resulted from competition and a feeling that the Jews were pushing out the loyal citizens of their countries, and were taking all the important positions.

1800: The number of Arabs in historic Palestine was 200,000; the number of Jews was 7000.

1858: An Ottoman land reform passed. Arabs who had owned their lands for generations, had to register them and pay real estate taxes. Many poor peasants could not pay the taxes, had to sell their lands, and became land-tenants on their own lands. That opened a possibility to purchase land in Palestine from the new landlords. In 1890, the Ottomans allowed Jewish immigration to Palestine. Later, they reneged on their policy, but they were too weak to prevent it.

1881: Alexander II, the Russian Tzar, who was considered a liberal and far from being anti-Jewish, was murdered. His assassination was followed by a violent anti-Jewish tide that triggered a huge emigration wave. Between 1881 and 1914, about 2.5 million Jews left Eastern Europe: most of them fled to the United States and a small number to historic Palestine. These were the years in which the Zionist Movement was born in Europe.

The Ottoman land laws enabled the immigrants to purchase land in Palestine, but they bought it from the landlords (many of whom lived in Lebanon), while the poor tenants were evacuated, and given very humble compensations. That point played an important role in the animosity between Arabs and Jews, although the purchased land, until 1948, was not more than 7 percent of the area to the west of the Jordan River. For Jews and Arabs, the two main issues for the next generation became immigration and land purchase. While the Jews could not understand why anyone would deprive them of their ancient homeland, to which they used to pray and

yearn for almost 2000 years, especially as they were being persecuted in the Diaspora; the Arabs could not understand why people who claimed that the land had been theirs 2000 years ago were allowed to banish them from their homes, and why they should pay for the suffering of the Jews in Europe.

1882: Indigenous Jews, living mostly in the four cities of Jerusalem, Hebron, Tiberias, and Safed, were joined by Jewish immigrants from Russia and Eastern Europe who were escaping persecution and an undignified life. The increased Jewish population and the new Jewish agricultural settlements created concern among the Arabs. During the 19<sup>th</sup> century, there was a significant increase in the number of Arabs in historic Palestine because of natural growth and immigration from Egypt.

1891: Several Palestinian A'ayan (Arabic for Notables) sent a telegram to the Ottoman authorities in Istanbul urging them to halt Russian immigration and Jewish acquisition of Arab land.

1896: Theodor Herzl (an assimilated Jewish journalist in Paris, who was worried by the anti-Semitism that was conducive to the Dreyfus case) published his pamphlet, "The Jewish State," in which he suggested that the European Jews should leave Europe in a planned and organized way, and save themselves by having their own national home, either in their motherland, Palestine, or in Argentina. His motivation was not a wish to fulfil Jewish national determination, but to save Jews from the tide of violence against them. One of the options that he considered was a conversion of all European Jews to Christianity, but he quickly gave up on this idea, because he understood that the Jewish problem was racial and not religious.

August 1897: Herzl became a popular Jewish leader and convened the First Zionist Congress in Basel, Switzerland. The Congress adopted a program that stated: "Zionism aims at establishing for the Jewish people a publicly and legally assured home in Palestine." The means to acquire such a 'home' were diplomatic, with the help of the world powers. Herzl was convinced that the Arab inhabitants of Palestine would welcome the Jewish immigration because of its supposed ability to modernize the land. He envisioned good neighborly relations between Jews and Arabs. He died in 1904, at the age of 44.

March 1899: The Palestinian Arabs became increasingly concerned about the Zionist program. This concern intensified as the Zionist program that was set in the First Zionist Congress in Basel, Switzerland in 1897 began to be felt. In March 1899, for example, Yusuf Diya'addin Pasha Al-Khalidi, the former Muslim mayor of Jerusalem, wrote a letter to Zadok Kahn, the Chief Rabbi of France, stating that a Jewish state was not possible in Palestine due to opposition from the Turks and the indigenous Arab population, and hence Jews would be better off elsewhere. "But in the name of God," he stated, "let Palestine be left in peace." Herzl, who received the letter from Rabbi Kahn, responded to Al-Khalidi by assuring him about Jewish immigration into Palestine: "[T]he Jews have no belligerent Power behind them, neither are they themselves of a warlike nature. They are a completely peaceful element, and very content if they are left in peace. Therefore, there is absolutely nothing to fear from their immigration." Albert Antebi, a leading Jewish Ottoman citizen who appreciated more cultural and economic than ideological and political Zionism, feared that the Zionist insistence in hiring Jewish laborers only and the huge Jewish purchases of Arab lands by immigrant Zionists like Arthur Ruppin, mainly from absentee owners, would destabilize the balance in Arab-Jewish relations.

August 1907: A young teacher, Yitzhak Epstein, who had immigrated to Palestine from Belarus, published a prophetic article, titled "The Hidden Question." He wrote: "The loyal Zionists have not yet dealt with the issue of what our attitude to the Arabs should be when we come to buy land from them in Palestine, to found settlements and, in general, to settle the country. The Zionists' lack of attention to an issue so basic to the settlement is not intentional ... since the emergence of the national movement, Zionist leaders have continuously studied the arrangements and the laws of the land, but the question of people who are settled there, its workers, and its true owners, has not arisen...there exists an entire people who have held it for centuries, and to whom it would never occur to leave. Therefore, when we come to take over the land, the question immediately arises: what will the Arab peasants do when we buy their lands from them?... At a time when we are feeling the love of the homeland with our might, the land of our forefathers, we are forgetting that the people who live there now, also have a sensitive heart and a loving soul.... The fellah, in anguish from the burden of heavy taxes, may decide in a moment of despair, and sometimes, with the encouragement of

the village elders, who receive a hefty sum of money for this, to sell the field; but the sale leaves him with a festering wound, that reminds him of the cursed day that his land fell into the hands of strangers.... We must not uproot people from land to which they and their forefathers dedicated their best efforts and toil ... will those who are dispossessed remain silent, and accept what is being done to them?" His main recommendation was to buy uncultivated land, but his idea was never considered seriously.

Prior to the 1910s, most Arabs who lived in Palestine were not nationalist. They saw themselves as part of "Greater Syria." The growing tension between them and the Jewish immigrants did not stem from national feelings, but from a fear that the newcomers would take their lands, homes, and livelihood. But, as Rashid Khalidi has argued, this Palestinian peasant dispossession piqued the interest and passion of Palestinian urban intellectuals, who began to develop a new national consciousness and propagate this in newly established newspapers.

The majority of the Jewish emigrants in the 19<sup>th</sup> century were not Zionists. Most of them left for the United States whose gates had been open before World War I, and many among those who immigrated to Palestine in the first four decades of the 20<sup>th</sup> century did so because America increased its restrictions on immigration.

1914: At the start of World War I, Palestine's population numbered 798,389, with 657,377 being Muslim, 81,012 Christian, and 60,000 Jewish. Around the same period, the number of Zionist colonies, mostly subsidized by the French philanthropist Baron Edmond de Rothschild and later by the World Zionist Congress, rose from 19 in 1900 to 47 in 1918. Arab opposition to Zionism increased and was expressed in a variety of forums, such as Arabic newspapers and in statements by Palestinian representatives to the Ottoman Parliament.

1915–1916: The outbreak of World War I in 1914 witnessed intense Western penetration of the Middle East. Sir Henry McMahon, British High Commissioner in Cairo, corresponded with Sharif Hussein ibn Ali Al-Hashimi of Mecca regarding Hussein's assistance to the British war effort against the Ottoman Empire in exchange for British support of Hussein's restoration of the Caliphate and Arab independence within set boundaries.

May 15–16, 1916: The British and the French, as represented by the British Mark Sykes and the French Charles Georges–Picot, prepared a draft agreement that divided parts of the Middle East into direct British control and influence (mainly in most of Iraq, the land of the Persian Gulf, and around the Jordan River), French control and influence (mainly Syria, Lebanon, and parts of Anatolia), and an international zone encompassing the area extending from Haifa to the south of Jerusalem in historic Palestine.

November 2, 1917: Arthur James Balfour, the British Secretary of State for Foreign Affairs, sent a letter to Lord Lionel Walter Rothschild, the British banker, politician, scion of the Rothschild family, and a leading Zionist, which expressed British favour toward, “the establishment in Palestine of a national home for the Jewish people....” The very short letter was written at a time when the British neither had jurisdiction over Palestine nor had consulted with the overwhelming Arab majority.

*Dear Lord Rothschild,*

*I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following Sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet.*

*His Majesty's Government view with favour the establishment in Palestine of a national home for the Jewish People and will use their best endeavours to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country.*

*I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.*

*Yours Sincerely,*

*Arthur James Balfour*

The Zionist Movement was, for the first time, recognized, and for many in the Jewish world it was received as the fulfilment of Herzl's vision of an international charter to the exodus of Jews from Europe and their settlement

in historic Palestine. Other Jews saw the Balfour Declaration as a setback that could be used against Jews from all over the world by local citizens who could blame them for dual loyalty and urge them to leave their homes and move to Palestine. The only member of cabinet who opposed the declaration was Edwin Montagu, the British Secretary of State for India, who was Jewish.

The Arabs were shocked by the British declaration. They could not understand how “a national home” (whatever it exactly meant) could be offered by a superpower, which was not occupying Palestine, to people who were not living in Palestine. (This sense of betrayal was exacerbated by the Hussein-McMahon correspondence of 1915-16, between the British and the Hashemite ruler Sharif Hussein of Mecca and his sons, which many argued had contained a promise for an independent Arab state that included Palestine.) The Arabs were, in 1917, 90 percent of Palestine’s inhabitants, and they were not even mentioned by name in the declaration, which referred only to “non-Jewish communities.” Their political rights were ignored and overridden. The Balfour Declaration has been celebrated by Zionists as a consequential turning point in the history of Zionism, and as the first brick in the international readiness to allow Jews to return to their ancient homeland. For the Palestinians, the declaration is perceived as a symbol for the world’s discrimination against Arabs who have lived in historic Palestine for many generations. On the 100<sup>th</sup> anniversary of the declaration, there were celebrations in Israel, while, on the Palestinian side, President Mahmoud Abbas demanded that Britain apologize for the declaration. The Palestinian national movement was born out of the rage against the declaration that ignored its people.

1918: The tension between the two parties increased after the end of World War I and became a tough dialogue of victims: the Jewish persecuted side could not understand why they were rejected from what many saw as their motherland, despite their ongoing suffering and persecution (especially the pogroms in Ukraine in the early twenties, in which about 100,000 Jews were murdered there). They believed that they were not doing any harm to the local Arabs. The fact that they insisted not to employ Arabs, stemmed from the desire of the Jewish newcomers to cultivate the land by themselves, even though the Arab workers were much more efficient.



The Arabs saw the Jewish waves of immigration as an attempt to oust them, take their homes, and replace them. They could not understand why the Jews decided to live in such a poor and difficult place, and how refusing to employ Arabs could be portrayed as a benevolent policy.

January 3, 1919: Chaim Weizmann, on behalf of the Zionist Organization, and Amir Faisal al-Hussein, on behalf of the Arab Kingdom of Hejaz, signed a cordial agreement on the eve of the Paris Peace Conference. The agreement included a joint commitment to the Balfour Declaration. No Palestinian was involved in the negotiations. Since the agreement was conditioned by the fulfilment of the British commitments to Sharif Hussein, this agreement was not implemented.

January 18, 1919 – January 21, 1920: The Allied Powers convened the Paris Peace Conference. They invited the defeated countries to sign peace treaties with them. A Jewish delegation, led by Weizmann, invited to participate and discuss the future of Palestine, presented a map that included both sides of the Jordan River. The British government did not allow delegations from Egypt and Palestine to participate in the conference.

### ***The British Mandate***

April 19–26, 1920: The San Remo Conference distributed mandates (rather than full colonial authorities) to the Allied Powers on different parts of the defeated Ottoman Empire. Britain was given a mandate on Palestine on both sides of the Jordan River. The mandate letter included an adoption of the Balfour Declaration and an instruction to Britain to fulfil it. The Palestinians protested the resolution. For the Zionists, it was another big achievement: the simply British declaration became an international one.

The disintegration of the Ottoman Empire at the end of World War I and the contradictory Allied promises led to an uneasy British Mandate over Palestine (1920–1948). This was formally confirmed by the Council of the League of Nations on July 24, 1922 and entered into effect on September 29, 1923. In time, a “vicious” triangle evolved with the British at the top vertex and the Palestinian Arabs and Jews on either side of the base. The Palestinian Arabs blamed the British for being pro-Jewish; the Jews blamed the British for being unduly influenced by the Palestinian Arabs; the Palestinian Arabs

and the Jews fought each other; and the British sometimes on the defensive but other times on the offensive, tried to keep law and order.

The Jews, led by the World Zionist Organization and the Jewish Agency, engaged in nation-building to implement the Zionist project. In addition to settling Jewish immigrants and purchasing more land, they built separate educational, political, religious, and social institutions. In 1920, they organized the Haganah, an underground defense force, and in 1931, a split led to the establishment of the Irgun, a much smaller and much more radical paramilitary organization.

Similarly, the Palestinian Arabs organized themselves during the 1920s into national, religious, and social groupings. Their goal was to withstand what they saw as the Zionist onslaught and influence British mandatory policy in their favor. In the 1930s, the Palestine Arab Congress was replaced by the Arab Higher Committee and several organizations began to form, including the militant Istiqlal (Independence) Party and underground religious groups that fought the Zionists and the British. During this time, the Palestinian Arabs believed that they had a right to a State, and that it would naturally evolve.

February 1920: A series of Palestinian demonstrations against the San Remo resolution took place, demanding that Palestine would be part of the South Syrian mandate that was given to France. During that year, the demonstrations turned into violent confrontations with Jewish inhabitants in the Galilee and in Jaffa. Lethal clashes erupted in 1921, 1929, and 1936, with a high death toll for Jews, Arabs, and British. The British Mandatory authorities found it difficult to settle their contradictory commitments to both parties and put limitations on the Jewish emigration to Palestine and on the Jewish right to purchase lands. For the Palestinians, these restrictions were far from enough. The Jews in Palestine perceived them as a British treason in the Balfour Declaration.

A pattern was established: The Palestinians, understanding that they were, almost, on their own, concluded that only violence may change the situation. Weak as they were, they believed that irritation and attrition could work, and they were not totally wrong. After every round of riots, the British Government would nominate an investigation committee, and decide to tighten the restriction on Jewish immigration and on land purchasing.

In September 1929, the British dispatched the Shaw Commission. Its report, issued in March 1930, cited Arab fears of persistent Jewish immigration and land purchases as the main cause. This was followed by the creation of the Hope Simpson Enquiry in May 1930, which focused on the issues of immigration, land settlement, and development. Its report, dated October 1, 1930, recommended limiting Jewish immigration based on the economic absorptive capacity of Palestine. The same day, the Passfield White Paper was also issued and recommended restricting Jewish immigration.

1936–1939: Incessant Jewish immigration, extremism, and local militia actions resulted in rivers of blood and tears in the 1930s, with the fully fledged Arab Revolt of 1936–1939 being the most disastrous to Arab–Jewish relations and peacebuilding up until that time. The British established the Peel Commission to examine the reasons for the strife, which it did in November 1936. In July 1937, the commission presented, for the first time in the history of the conflict, partition as the solution to the Arab–Jewish conflict. The Arab leadership, as represented by both the Arab Higher Committee and the National Defense Party, opposed the recommendation on the grounds that it violated the rights of the Arab population.

The Zionists were divided between the David Ben Gurion mainstream that preferred to have sovereignty even over a very small part of Palestine, and those who wished to wait a few years, until there would be a Jewish majority in the whole of Palestine. The mainstream could not understand why the Palestinians should reject Jewish readiness to compromise so significantly on their original map to the Paris Peace Conference. The Arabs' unambiguous rejection of the first offer ever to a two-state solution was not an opening position but a principle one, and no compromise could cater to it. Eventually, the British Government reneged on its offer. The Woodhead Commission in 1938 considered the Peel Commission proposal and found it to be impractical given the administrative, financial, and political obstacles in the way of partition.

May 17, 1939: The British issued a White Paper that rejected partition and the establishment of a Jewish state. The latter could only happen with Arab support. It opted instead for the creation of a Jewish national home in an independent Palestinian state within 10 years. It also restricted Jewish immigration into Palestine and the Jewish ability to buy Arab land. The

Zionists saw it as a betrayal of the Balfour Declaration. Nevertheless, Ben Gurion declared that the Zionists would fight against the Nazis as if there was no White Paper, and against the White Paper as if there was no war with the Nazis. The Palestinians demanded tougher restrictions.

1939–1945: Toward and during World War II, around 12,000 Palestinians and 30,000 Jews, including women on both sides, volunteered to serve in the British Army against the Nazis. Generally, the war marked a pause in disputes between the British, Jews, and Arabs, but there were exceptions. For example, Haj Amin Al Husseini, the Grand Mufti of Jerusalem, and a symbol of resistance for some Palestinians, aligned with Germany against the British.

Furthermore, World War II saw the Jewish Holocaust, in which more than one third of the Jewish people was systematically exterminated. This was a vindication of the Jewish claims that the Jewish people had been under a terrible threat, and the pro-Jewish-state sentiments in the world increased. Even those on the Arab side who were alarmed by the Holocaust claimed that it happened in Europe and was thus for the Europeans to address. As such, Palestinians argued they should not pay the price of giving up their land, or part of it, because of the wrongdoings of others.

1945–1948: After the end of World War II, the British were increasingly losing control of the daily affairs of Palestine. After a series of reports and commissions, and amid escalating violence both between Arabs and Jews (and by both on British forces), the British requested that the future of Palestine be entrusted to the United Nations. Events such as the Irgun's bombing of the British administration's headquarters at the King David Hotel in July 1946, which killed over ninety people, had weakened the British commitment to its Mandate responsibilities.

November 29, 1947: The United Nations' General Assembly passed Resolution 181 on partition, which gave its support to the two-state solution: an Arab State on 45 percent of the land to the west of the Jordan River, and a Jewish State on 55 percent. The area of Jerusalem was planned to be a "separate body" under the UN control. The Zionist leadership was thrilled to have this solution, although it was far from its territorial claim in the twenties, while the Arab states, like the Palestinian leadership, rejected it, insisting that no partition of the land was justified or feasible. By 1947, the number of

Palestinians in historic Palestine was 1.2 million, and the number of Jews was 630,000.

December 1947–May 1948: Amid growing intercommunal and anti-British tensions and fighting, the Palestinian leadership launched a campaign against the Jewish forces to prevent the establishment of the Jewish State. Palestinian armed groups attacked Jews in the big cities and on the main transport arteries, and the “Haganah,” the main Jewish underground military organization, responded in kind. This was a civil war that took place under the British Mandate authorities, during their last months in Palestine, and before their final evacuation. Their officials struggled in vain to retain control of the situation. At the beginning of the confrontation, the Palestinian groups managed to disconnect certain Jewish towns, establish Arab-controlled enclaves, and isolate Jewish areas of Jerusalem.

March 1948: The “Haganah” prepared “Plan Dalet,” with the intention to conquer areas beyond the territory that UNGA Resolution 181 had assigned to the Jewish State, to assure territorial contiguity for the future Jewish State. It also included fortifying Jewish villages and taking over Arab villages, and – in case their inhabitants resisted the occupation – to banish them from the country. Ultimately, some 530 villages were destroyed, and more than 726,000 Palestinians left out of fear or were expelled and not allowed to return home.

April 9, 1948: A turning point in the months of the civil war was the occupation and the cruel killings of Palestinians in the Arab village of Deir Yassin. It was an operation by the “Irgun” and “Lehi” (far-right wing Zionist paramilitary organization), with assistance by the “Haganah,” as part of efforts to open the way to Jerusalem, which was under blockade. There are many versions of what really happened on this day, but at least 107 Palestinians, many women and children, were killed, displaced by force, others fled with horror, and stories about the Jewish cruelty spread very quickly. The events in Deir Yassin caused the flight of many Palestinians from other villages. Moreover, there was a revenge attack on a Jewish student and medical convoy a few days later, which killed 78 people.

The Zionist side did not deny that the civil war, which began in the aftermath of the adoption of UNGA Resolution 181, became an opportunity to banish

many Palestinians from the areas that became, later, the Jewish State. It argued that had the Palestinians accepted the UN Partition Plan, or had they not launched a war to prevent it, no Palestinians would have been expelled. It also stated that the Arab leaders called upon the Palestinians to leave their homes, to allow the Arab armies to occupy Israel, and then to return to their homes victoriously. In some places, such as Haifa, Jews made efforts to convince the Palestinians not to leave, but most of the frightened Palestinians were not ready to trust the promises of their Jewish neighbors.

May 14, 1948: The Zionist movement declared the establishment of the Jewish State, named Israel, parallel to the British Mandatory forces' evacuation of Palestine.

May 15, 1948 – July 20, 1949: During this period, the war-making capabilities of the Palestinians diminished, and the heavy confrontations instead took place between the newly declared State of Israel and the invading armies of Egypt, Syria, Transjordan, and Iraq, assisted by smaller military forces from Lebanon and Saudi Arabia. Israel won the war and used it to expel more Palestinians from their homes. By the end of the war, around 156,000 Palestinian Arabs remained in the extended borders of Israel (and became Israeli citizens), while the others found refuge in the parts of Palestine that were not occupied by Israel (the West Bank and the Gaza Strip) and in the neighboring Arab countries of Jordan, Lebanon, Syria, Egypt, and Iraq.

June 16, 1948: The Government of Israel decided that the Palestinian refugees would not return to their homes. Although no government resolutions referred to deportation of Palestinians, the common view is that the "no return" resolution was interpreted by many commanders in the field as a call for deportation. For example, the future Israeli Prime Minister, David Ben-Gurion, referring to the Arab inhabitants of Lydda and Ramle, told the Israeli commander to, simply, "Remove them."

September 1948: The All-Palestine Government was formed prior to the end of the Arab-Israeli war. The government, under the leadership of Haj Amin al Husseini, declared the independence of the Palestinian state, with Jerusalem as its capital. The All-Palestine Government was recognized by Egypt, Syria, Lebanon, Iraq, Saudi Arabia, and Yemen, but not by Jordan and the other Arab states. Egypt supervised the government of Palestine in Gaza

as a trustee on behalf of the Arab League. An Egyptian Ministerial order dated June 1, 1948, declared that all laws in force during the Mandate would continue to be in force in the Gaza Strip. Another order issued on August 8, 1948, vested an Egyptian Administrator-General with the powers of the High Commissioner. The All-Palestine Government had very limited power, however, as Egypt maintained control over Gaza's administration. But its importance gradually declined, especially with the relocation of the government seat from Gaza to Cairo in December 1948.

In the same year, the Jericho Conference named King Abdullah I of Transjordan, "King of Arab Palestine." The Congress called for the union of Arab Palestine and Transjordan, and Abdullah announced his intention to annex the West Bank. The other Arab League member states opposed Abdullah's plan. The U.S. advised the Arab states that the U.S. attitude regarding Israel had been clearly stated at the UN in November 1949. The U.S. supported Israeli claims to the boundaries set forth in the UN General Assembly resolution. However, the U.S. believed that if Israel sought to retain additional territory in Palestine, it should give the Arabs other territory as compensation. The Israelis agreed that the boundaries were negotiable but did not accept the principle of compensation as a precondition. Israeli diplomat Abba Eban, who later became Israel's Minister of Foreign Affairs, stressed that it was undesirable to undermine what had already been accomplished by the armistice agreements, and maintained that Israel held no territory wrongfully, since its occupation of the areas had been sanctioned by the armistice agreements, as had the occupation of the territory in Palestine held by the Arab states.

December 11, 1948: UNGA Resolution 194 was adopted, aiming to end the Arab-Israeli conflict. In its eleventh article, it called for the following solution to the Palestinian refugee problem:

*(The UNGA) resolves that the refugees wishing to return to their homes, and live at peace with their neighbors, should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return, and for the loss of damage to property....*

For Israel, it was quite convenient that the Arab members of the UNGA voted against the resolution, as it implied recognition of Israel, while Palestinians initially opposed it as they considered Israel to have no right to block the return of the Palestinian refugees.

### ***After 1948***

April 3, 1949: The West Bank and East Jerusalem came under the rule of Transjordan and were annexed a year later. Transjordan was renamed the Hashemite Kingdom of Jordan on June 2, 1949.

April 27, 1949: The Lausanne Conference was convened under the UN Conciliation Commission for Palestine to achieve peace between Israel and its neighbors. Some Palestinian refugee groups participated in the conference, making the refugee issue more salient. Israel insisted that the issue of the absorption of Palestinian refugees should be addressed only in the context of a peace treaty and expressed its readiness to absorb 100,000 refugees as its contribution to solve the problem. The Arab participants said that this number was far too low. No resolution was reached.

The 1950s: Some of the refugees tried to return to their homes or cultivate their fields. In some cases, they came in small groups and killed Israeli farmers. The Israelis referred to all of them as “infiltrators,” and sometimes responded to their attempts to return with deadly fire, but others saw them as innocent refugees who had lost their homes and means of subsistence.

The Palestinians insisted on maintaining their refugee status, while the Israelis expected them to recover and to rebuild themselves. The Israelis – both refugees from Europe and from Iraq, Yemen, and parts of North Africa – saw themselves as an example for people who went through awful experiences, became refugees, and did whatever they could to be integrated in Israel. They could not understand why the Palestinian refugees stuck to that status, and preferred to live in poor refugee camps, rather than build new homes and find reasonable work.

June 5–10, 1967: In a pre-emptive war, Israel quadrupled its size by taking over the Sinai Peninsula and Gaza Strip from Egypt, the West Bank and East Jerusalem from Jordan, and the Golan Heights from Syria. In November of that year, UN Security Council Resolution 242 was passed, which confirmed



the inadmissibility of the acquisition of land by force and called for Israel's withdrawal from (the) occupied territories, the right of all states in the region to live in peace within secure and recognized borders, and a just solution to the refugee problem.

The late 1960s: Under the leadership of Yasser Arafat, the Palestine Liberation Organization (PLO), established in 1964 and seeing that the refugee problem remained unsolved, moved to the use of violence against Israel. While the Israelis saw the killing of uninvolved citizens as terrorism, the Palestinians saw it as a last resort, and themselves as freedom fighters. Their endgame was a democratic-secular state in the former British Mandatory Palestine, but official Israel was not ready to talk to them. That period came to an end with the PLO resolution in 1988, in which partition became the preferred option.

October 1973 War: Egyptian and Syrian forces fought Israeli forces in the Sinai and Golan Heights, respectively. Sixteen days later, the UN Security Council passed Resolution 338, affirming Resolution 242, and calling for negotiations with the goal of establishing a just and durable peace in the Middle East.

October 1974: A unanimous resolution was passed at the Arab League summit in Rabat Morocco, which declared the PLO, for the first time, to be the "sole legitimate representative of the Palestinian people."

1978: The Camp David Accords were signed by Egypt and Israel on September 17. One framework provided for peace in the Middle East, which confirmed Israel's compliance with UN Resolution 242, withdrawal of political and military forces from the West Bank, and full autonomy for Palestinians. The other framework called for the conclusion of a Peace Treaty between Egypt and Israel. The Egypt-Israel Peace Treaty followed and was signed on March 26, 1979.

1982: Israeli forces invaded Southern Lebanon after frequent attacks and counterattacks between the PLO and Israeli forces. Then, the PLO was moved out from Lebanon to Tunisia.

July 31, 1988: King Hussein of Jordan officially announced Jordan's disengagement from the West Bank and East Jerusalem. Yasser Arafat, head of the PLO, recognized Israel's right to exist and renounced violence.

August 3, 1988: The PLO announced it will uphold its responsibilities as the Palestinian people's sole legitimate representative.

November 15, 1988: The Palestinian Declaration of Independence, previously adopted by the Palestinian National Council, is proclaimed in Algiers.

1987-1990: The First Palestinian Intifada (uprising) took place in the West Bank, the Gaza Strip, and within Israel. Israel responded to the protests and riots with tough countermeasures. More than 1,162 Palestinians were killed by Israeli forces and tens of thousands were wounded. In contrast, around 150 Israelis were killed by Palestinians, including approximately 100 civilians.

October 30-November 1, 1991: The Madrid Conference attempted to stimulate the Israeli-Palestinian peace process through negotiations between Israel and the Palestinians as well as Arab countries. The conference was followed by a series of bilateral and multilateral negotiations.

September 13, 1993: the PLO and Israel recognized each other in the Declaration of Principles Agreement building on relationships and trust established during the Madrid Conference. After signing the Oslo Agreement, the refugee issue came back to the front stage in the formal and informal negotiations that have happened since. It became clear that the Palestinian leadership did not demand an unlimited fulfilment of the "right of return," and that the Israeli negotiators were ready to absorb a limited, symbolic number of refugees (beside compensation). Now, in its eighth decade, the refugee issue is still a sensitive one, but the different suggestions to solve it (in the Beilin-Abu Mazen Agreement of 1995, the Clinton Parameters of 2000, the Geneva Initiative of 2003, the Taba Talks in 2001, and the Mahmoud Abbas-Ehud Olmert negotiations in 2008) prove that a solution to this difficult problem is possible if the leaders on both parties are committed to peace.

October 26, 1994: The Jordan-Israel Peace Treaty was signed at Wadi 'Araba.

1999: Then Israeli Prime Minister Benjamin Netanyahu decided to close Orient House, the PLO headquarters in East Jerusalem under the leadership of the late Faisal Husseini. Effective shut down was undertaken by the then Israeli Prime Minister Ariel Sharon in August 2001. Subsequently, all other Palestinian institutions were also shut down.

July 11-25, 2000: Peace negotiations between Israel and the PLO were mediated by the U.S. at Camp David, Maryland, but did not produce any breakthroughs.

December 23, 2000. President Clinton offered his parameters for an Israeli-Palestinian peace agreement. The Israeli cabinet endorsed the parameters with some reservations, while the PLO leadership declined to endorse them.

2000-2005: The Second Palestinian Intifada erupted after Ariel Sharon's visit to the Haram esh-Sharif / Temple Mount. It proved to be more violent than the First Intifada, with more than 4,100 people killed: 3,223 Palestinians and 950 Israelis. The injured numbered 8,611 Palestinians and 8,000 Israelis.

In 2002, Israeli Prime Minister Ariel Sharon approved the construction of a physical barrier that would separate Israel from the West Bank. For Sharon, it was impossible for Israel to annex the entirety of the West Bank and the Gaza Strip while simultaneously remaining a Jewish State. This security barrier is called the separation or apartheid wall by the Palestinians, as it divides their communities and blocks their travel routes. This name is, decisively, rejected by Israel.

March 28, 2002: Arab leaders meeting at the Arab League summit meeting in Beirut endorsed the Arab Peace Initiative. It called for full Israeli withdrawal from all the Arab territories occupied since June 1967, in accordance with UN Security Council Resolutions 242 and 338, reaffirmed by the Madrid Conference of 1991 and the land-for-peace principle, and Israel's acceptance of an independent Palestinian state with East Jerusalem as its capital, in return for the establishment of normal relations in the context of a comprehensive peace with Israel. In reference to the refugee problem, it called for "Achieving a just solution to the Palestinian refugee problem, to be agreed upon in accordance with UN General Assembly Resolution 194."

June 2002: U.S. President George W. Bush called for an independent Palestinian state living peacefully alongside Israel. His speech became the basis of the Roadmap for Peace a year later, which consisted of ending the violence, halting settlement activity, reforming Palestinian institutions, accepting Israel's right to exist, establishing a viable, sovereign Palestinian state, and reaching agreement on all contending issues by 2005. A joint committee, consisting of the U.S., Russia, European Union, and U.N. ("the

Quartet”), would provide supervision. An unofficial Israeli-Palestinian peace agreement, known as the Geneva Initiative, was launched in December 2003. It aroused a ray of hope, but while the Palestinian leadership welcomed it (without subscribing to it), the Sharon Government rejected it upfront.

November 2004: With the death of Palestinian leader Yasser Arafat in November 2004, his succession by Mahmoud Abbas on a peace-seeking platform, Ariel Sharon’s plan to move Jewish settlers out of the Gaza Strip, and, eventually, a ceasefire agreed at the Sharm el-Sheikh summit of February 2005, the Second Intifada slowed and ended. But, in subsequent elections in Palestine in January 2006, orderly and peaceful, according to international observers, the Islamist Hamas surprised Abbas’ secular Fatah, Israel, and the Quartet by winning 74 of the 132 seats in the Palestinian Legislative Council. The fallout from the 2006 elections in Palestine, including the Quartet’s refusal to deal with Hamas or give financial aid to the PA, soon led to a violent rift between Hamas and Mahmoud Abbas’ Fatah. In June 2007, Hamas took control of Gaza and killed or ejected Fatah officials, and vice versa in the West Bank.

November 2007: The U.S.-led peace process continued at the Annapolis Conference, but little progress was achieved other than the establishment of a subsequent round of talks between Ehud Olmert, the Israeli prime minister, and Mahmoud Abbas, the Palestinian president. The Conference saw greater mutual understanding between the two parties and agreement on some smaller issues but led to no overall agreement. This period of enthusiasm and vigor regarding the peace process declined after the stalling of the Abbas-Olmert talks in mid-2008.

December 2008: Israel launched Operation Cast Lead, a surprise invasion of Gaza, which broke a reasonably robust six-month long ceasefire with Hamas. Israel claimed it was responding to rocket attacks and tunnelling from Gaza, whereas Hamas and many in the international community saw it as a relatively unprovoked aggression. Overall, the operation led to the deaths of around 1,400 Palestinians and 13 Israelis, and much destruction in Gaza.

September 2011: Palestinian President Mahmoud Abbas petitioned the UN for the acceptance of Palestine as a member state. A year later, it was voted in as an observer or with a non-Member State status.

March 31, 2013: Palestinian President Mahmoud Abbas and King Abdullah II of Jordan signed the Agreement on the Jerusalem Holy Sites. The agreement recalled the importance of Jerusalem to Islam in general and of Al-Haram esh-Sharif (Temple Mount) in particular, as well as the historical role of Jordan and the Hashemite family as custodians of the holy sites, and Palestinian territorial rights over the area.

~~2014:~~ October 2015–January 2016: An outbreak of violence by Palestinians against Israelis occurred in Jerusalem, which has been labelled variously as the “Third Intifada” “Intifada of the Individuals,” or “Knife Intifada.” The violence was partly a reaction to the stalled peace process and continued Israeli occupation.

December 6, 2017: U.S. President Donald Trump announced the U.S. recognition of Jerusalem as the capital of Israel and ordered the relocation of the U.S. Embassy from Tel Aviv to West Jerusalem. While applauded by most Jewish Israelis and Jews around the world, Palestinians were deeply angered, arguing that this decision disqualified the U.S. as an honest broker and from peace negotiations. On May 14, 2018, the embassy opened its doors, essentially affirming Israeli sovereignty over Jerusalem. The embassy was built in West Jerusalem, and Trump clarified that the final border in Jerusalem will be determined through negotiations between Israel and Palestine, the Palestinians saw it as serious blow to their demand that East Jerusalem should be their capital.

January 2020: Donald Trump and Benjamin Netanyahu launched a peace plan for the Israel-Palestine conflict, and the Israeli Prime Minister subsequently announced his plan to annex large parts of the occupied West Bank. (In the same year, Israel signed deals with both the United Arab Emirates and Bahrain to normalize diplomatic relations.) However, Trump’s plan had been formed without Palestinian involvement and was met with widespread international condemnation. The unrealistic plan was, practically, taken off the table by the Biden Administration.

May 2021: An Israeli-Palestinian confrontation took place in Sheikh Jarrah in East Jerusalem over a plan to evict Palestinian families. This led to subsequent bombardments by Hamas and the Israeli military from and on Gaza, respectively. Overall, this violent episode and related events in the West Bank and in Israel caused the death of more than 365 Palestinians and 15 Israelis, and much destruction in Gaza.

2021 also saw several other important developments, including the end of Benjamin Netanyahu's long tenure as Prime Minister and his replacement by the strongly right-wing Naftali Bennett, in coalition with parties including the Arab-Israeli party Ra'am. Moreover, Palestinian elections were announced and then delayed by Mahmoud Abbas, and there was a crackdown by the Palestinian Authority on civil society figures in the West Bank.

### **The Path to Reconciliation Between the Two Parties of the HLC**

To create a confederation and a permanent state of peace between Israel and Palestine, Israelis and Palestinians will need to address important issues that have occurred during the years of conflict. Both parties see themselves as victims of a prolonged and bloody feud, which involved many third parties. It is hoped that once these issues are tackled, and certain mechanisms are put in place to handle them, a lasting peace will prevail between the two parties. Genuine peace can be achieved if both societies undergo a fundamental transformation that will allow them to overcome their fears, alter their mutual perceptions, and free themselves from the wrongdoings of the past. The following aims to create an actual shift in both countries, from a culture of conflict and war to a culture of peace.

During the hundred years of the conflict, both parties have paid a heavy toll in death and destruction. Many have been left with deep scars on their bodies and souls. Attacks on innocent people have left them all bleeding and living in a constant state of suspicion. The approach proposed here addresses the right to know, acknowledgment of the past, justice, and the building of sustainable peace.

A joint Historical Memory Commission should be established to review, evaluate, and document key events, which had a significant influence on the conflict. The commission will create its own historical account, make general recommendations about the public policy of both parties, and encourage

initiatives related to historical memory. It will oversee the commemoration of significant places in the two states: villages, neighborhoods, places of prayer, cemeteries, and so forth, and will ensure that the words on the signs will not be offensive or provocative.

Both parties should acknowledge that both national communities have a long attachment to the same land; recognize the enduring religious ties of the three monotheistic faiths to the same land; agree to recognize the right of the Jewish People and the Palestinian People to statehood, without prejudice to the equal rights of their respective citizens; and recognize Palestine and Israel as the homelands of their respective peoples.

As a result of the conflict, both national communities have gone through a process that dehumanized the other, bred hatred, and led them to commit acts of violence. Both should commit to engage in reconciliatory actions and commemorative programs for the victims. Each government should offer public apologies to the other side. Acts designed to ensure that there is no recurrence of violence should affect the civil society and the public.

Schools will play an important role in the efforts toward reconciliation. Hebrew and Arabic should be obligatory studies in Palestine and in Israel. Arab history and Jewish history will be studied in both states after intensive teacher training on both parties. People-to-people projects will be renewed on all levels and ages, but especially for pupils, encouraged and financed by the two parties and – if possible – by third parties. A joint committee will be established to scan all the schoolbooks on both parties and will suggest omitting any inciting material. Historical museums should be established, in which life before 1948 will be memorized. They will include artifacts that have been kept since then – pictures, books, and more – and will be available for Israeli and Palestinian pupils.

## Chapter 3

# The Holy Land Confederation: Territorial Aspects

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This chapter discusses the territorial aspects of the resolution of the Israeli-Palestinian conflict through a confederal framework. It focuses on basic statistics related to Israel and Palestine as well as four working assumptions.

### Statistics

1. Israel has a population of 9.291 million people (as of December 31, 2020), dispersed in 1,255 locales (including East Jerusalem). 73 percent Israel's population are Jews and 21.1 percent are Arab Palestinians. 440,609 Israelis live in 126 locales in the West Bank. This figure does not include 208,000 Jewish residents of East Jerusalem, who live in 12 main neighborhoods. The total area of the State of Israel (including East Jerusalem and the Golan Heights) is 22,072 km<sup>2</sup> or 8,522.0468 mi<sup>2</sup>. The per capita GDP is \$43,610 (2020).
2. There are 4.8 million Palestinians living in the West Bank, Gaza Strip and East Jerusalem. This population is dispersed in some 500 locales, in an area of 6,205 km<sup>2</sup> or 2,395.764 mi<sup>2</sup>, corresponding to 22.5 percent of historic Palestine. The per capita GDP is approximately \$3,294 (2020).

### Four Working Assumptions

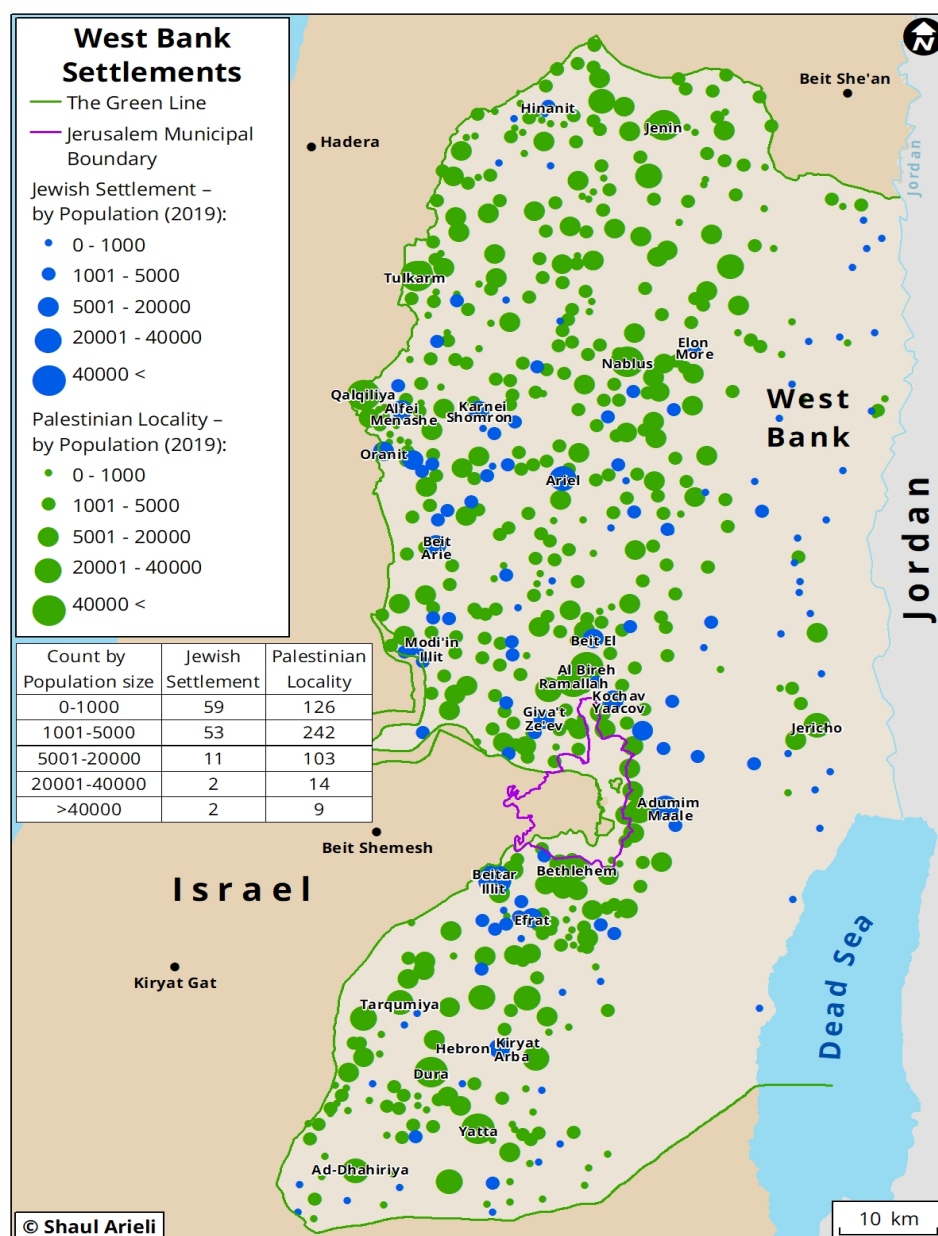
1. Two sovereign, independent states would be established in the territory of Mandatory Palestine – Israel and Palestine; the latter would consist of the West Bank, including parts of East Jerusalem, and the Gaza Strip. The capitals of both states would be in Jerusalem (West and East, respectively): Yerushalayim (Israel) and Al-Quds (Palestine).
2. The border between the confederation's constituent states – that is, the permanent border between Israel and Palestine – would be based on the Green Line (1967 lines) with land swaps on a 1:1 basis of first-line Israeli settlements only (namely settlements with no Palestinian communities or vital infrastructure



situated between them and the Green Line), as agreed upon in the 2003 Geneva Accord (see Map 3.1 and Map 3.2 below). The remaining Israeli settlements would be under Palestinian sovereignty.



Map 3.1: Geneva Accords 2003



Map 3.2: Settlements and Localities by Population Size

- Israel would annex 21 Jewish settlements in the West Bank, populated by 247,044 Israelis, and 8 Jewish neighborhoods in East-Jerusalem, populated by 200,979 Israelis. 105 West Bank settlements, with a population of 193,565 Israelis, would remain under Palestinian sovereignty. **The Israeli settlers would have the choice of remaining in their homes as permanent residents of the Palestinian state or relocating to Israel.**

4. In the land swap, Israel would transfer territory in three regions: the area around the Gaza Strip (the “Gaza Envelope”), land in the southwest Judean Desert, and the Valley of Springs. A corridor under Palestinian administration would be built between the West Bank and Gaza Strip to enable Palestinian contiguity.

The confederal solution seeks to overcome the current political unfeasibility of evacuating all Israelis from the West Bank and envisions a situation in which both peoples, when circumstances allow, would be able to fulfill their basic right to freedom of movement throughout Palestine/the Land of Israel. It would not require the evacuation of any Israeli communities, though some small settlements may be coalesced into larger ones. Furthermore, it does not guarantee that entire evacuated settlements would be left for the absorption of Palestinians. However, it is safe to assume that some settlers would choose to relocate to Israel.

## Chapter 4

# The Holy Land Confederation: Security Considerations

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This chapter examines whether the flexible framework of a confederal structure potentially offers a better approach to manage external and internal security in Israel/Palestine than a two-state solution in which the two states are completely separated. It investigates security coordination and cooperation as well as the option of an international presence.

### General Guiding Principles

- Israelis and Palestinians deserve equal levels of security, freedom, opportunity, and dignity.
- Ensuring the security of Israelis and Palestinians in the HLC will require close partnership in many spheres and multiple levels. Basically, **a confederal structure can facilitate a higher level of partnership.**
- Although Israeli-Palestinian security relations are presently characterized by marked asymmetries in power and capacity that will not disappear immediately, security partnership in the HLC will be premised on sovereign equality, consent, and reciprocity.
- While Israel and Palestine may have different powers and responsibilities in the security arena, both states will exercise their respective roles for the mutual benefit of Israelis and Palestinians.
- There are differences in the priorities of the two parties. For most Israelis, security is the overriding consideration; for the Palestinians, it is sovereignty. None of them can be absolute and the two parties will have to make mutual concessions to enable a working solution when these two priorities clash.
- The confederal structure will develop the way other confederations have done. The European Union started with limited cooperation among its member states but evolved into the intricate and multi-level structure of cooperation that exists presently.

- At the start, the HLC will have only limited institutions and joint organs. Mutual trust will have to be cultivated to enable the widening of security jointness. Cooperation will be based on the commitments and close coordination of the two parties in the area of security as well as the division of labor and responsibilities between them.

### **Responding to External Security Threats**

Several arrangements and provisions are needed to tackle threats. Among them are those projected from outside the territory of the HLC.

#### ***Division of Labor and Responsibilities Between the Two Parties***

The HLC will not have its own military force. Each country will retain its own security forces like the current situation in the EU. The alignment of Israel and Palestine as strategic security partners in a confederation could help mitigate external security threats to both, as well as provide robust means of responding to such threats.

In view of its much greater experience and capacity in this realm, Israel could, at least at the first stage, play the lead role within the HLC in responding to external security threats, with a defined measure of Palestinian and international participation. This will also save Palestine at the critical stage of state building most of the costs associated with maintaining a military. Should Palestine seek in the future to acquire weapons and/or to alter its force structure to strengthen its external defense capabilities, it would do it within the framework of the HLC and with the consent of both parties. Therefore, initially there will be limitations on the weapon systems Palestine can acquire or produce and operate.

All that would not limit Palestine's capacity to maintain internal security forces capable of monitoring, surveillance activities, and dealing successfully with terror groups and individual perpetrators, since each of the HLC would be fully responsible and enjoy full powers in the field of domestic security in its territory.

There will also be guarantees provided by international bodies and the stationing of international forces in the territory of Palestine. The mandate of these forces, together with the integration of limited Israeli forces within their

structure, should provide an adequate response and facilitate cooperation among the three elements – Israel, Palestine, and the international presence.

### ***Management of the Outer Limits of the Palestinian State***

The borders of Palestine will be controlled by Palestine. However, the confederal framework more easily allows for joint action by the security forces of both countries – Israel and Palestine. In addition, the outer limits of the Palestinian state could be defined as part of the external border of the confederation, within which these joint forces would operate – to monitor and control the border, including remote monitoring of the border crossings, and to defend against the threat from the Eastern Front, insofar as this exists. This would allow Israeli forces to maintain a limited presence in cooperation with the Palestinian border force on Palestine's border with Jordan, as well as with Egypt once the agreement is also implemented in the Gaza Strip. It is also recommended to include in the agreement the deployment of a third-party force in Palestinian territory, which would help compensate the Palestinians for their weakness vis-à-vis Israel. The Israeli limited force could be also considered as part of this international force.

The border crossings of Palestine with Jordan and Egypt will be managed by Palestine and monitored for security purposes by the international presence and Israel. The Israeli monitoring will be done remotely without a presence of Israeli security personnel in the crossings.

### ***Preventing Negative Military Contacts Among Israel, Palestine, and Third Parties***

A confederation would both require and help cooperation in the sphere of international diplomacy and security. Accordingly, the two parties would need to coordinate their foreign relations. The confederal structure could facilitate arrangements that allow both Israel and Palestine to veto such relations if they have a negative security impact from their standpoint. This requires mutual updates to enable each side to express objections and obliges each side to refrain from military cooperation with states and non-state entities hostile to the other side.

***Early Warning Facilities in the Territory of Palestine***

The Israeli demand to continue to operate early warning facilities aimed at external threats in the territory of Palestine may also find a solution more easily in the HLC framework that induces greater cooperation between the two parties. The Palestinian side will share information obtained through these facilities. Sharing will be done without exposing the sources.

***The Maritime Border***

The sovereign water of Palestine in the Mediterranean Sea, according to international law, will be controlled by Palestine's security forces. The HLC framework will enhance close cooperation in detecting maritime threats and interdicting them by the two parties.

***Air Threats***

The Israeli Air Force will have the responsibility to protect the HLC against air threats and will be allowed to use all the air space of the HLC to intercept hostile airborne platforms. Palestine will have the authority to use its air space for all civilian uses, including operation of airports with the necessary mutual coordination of air safety measures, according to the international standards.

A single joint center for controlling civilian air traffic in the HLC air space, which has a relatively small size, will be established. Manned by joint teams, it will be used also for authorizing Israeli use of Palestinian airspace for air force training – without disrupting routine Palestinian life – and notification of emergency operations. By mandating a joint control center and close coordination between the two parties, a confederation would offer easier solutions in these areas in comparison to other solutions.

***Internal Security in the HLC***

Each of the two states will have full authority and responsibility to handle internal security within its territory. It will be allowed to develop the full capabilities needed for this purpose, including control over the border with the other state and the building of security barriers on its own territory.

***Border Arrangements***

The border will be usually open to the movement of passengers and goods through regulated passages, but each side will have the authority to close the

border or allow only limited passage for a limited time in case of emergency. The continuing presence of many Israeli residents in Palestine (settlers who became permanent residents) and the much larger traffic expected between the two states make these arrangements essential.

### ***Security Commitments***

The two parties will commit to preventing the formation of terrorist infrastructures in their respective territory, terrorist attacks against the other side, and cross-border penetrations of terrorists. That entails close cooperation in fighting terrorism, including the sharing of relevant intelligence.

### ***Joint Operations***

Close cooperation between the security forces of both states will allow joint actions and operations against terrorist elements.

In the initial years of the HLC when confidence in the stability of the agreement and its compliance by the two parties is still developing, Israel will have the ability to operate in the Palestinian territory in a narrow set of emergency situations with notification to the Palestinian side and allowing a Palestinian liaison officer to escort the force. After five years, this arrangement will cease to exist unless the security situation causes Israel to defer it.

### ***Protection of Israeli Citizens in Palestine and Palestinian Citizens in Israel***

The HLC agreement will leave large numbers of Israeli citizens in Palestine and large numbers of Palestinian citizens in Israel. That might create security threats of two kinds – threats emanating from these citizens against their respective host countries, and threats against these citizens by different elements in the host countries.

Each of the two states having full sovereign security authority in its territory will have full responsibility for the security of these citizens residing on its territory. Complaints about their treatment by the security forces will be addressed by the security cooperation mechanism and by the respective consulates.

The international presence will monitor the security treatment of the settlements. This setup will continue as long as the parties agree to keep it.

The feasibility of a confederal model depends on the Israeli government's commitment to clarify to the settlers that the Palestinian state will be



responsible for their security, and that they will not be guarded by Israeli forces. Israeli involvement would consist of coordination mechanisms with the Palestinians, which will handle complaints raised by Israeli residents of Palestine, as well as communication with the international forces.

### **Security Coordination and Cooperation**

A confederal framework would enable close and ongoing security cooperation between the two states. Over time, they could improve their coordination mechanisms and joint operations against terrorism. It is further safe to assume that reaching a permanent agreement that fulfills the interests of both parties would reduce the motivation for terrorism and prevent the cross-border terrorism, notwithstanding terrorist attempts by players opposed to the agreement.

### ***Mechanisms for Security Coordination and Cooperation***

Any permanent solution based on a two-state model will require an institutionalized and binding mechanism for coordination and cooperation in the security sphere. This mechanism must be more consistent and dedicated than the current informal mechanism, which is not binding and – since the collapse of the mechanism established in the Oslo II Interim Agreement – relies solely on potential communication between the parties, the presence of common interests, and good will. No substantial differences need apply between different versions of the two-state solution regarding this mechanism. It may be presumed that the cooperation would be smoother within the confederal framework, which encourages cooperation in general, as distinct from the mindset of “we’re here and you’re over there, with a big wall between us.” In any solution, it will also be necessary to define the role of a third party as an arbitrator, though the aspiration should be that the arbitrator would not be involved in practice in most instances as the two parties would be capable of solving most of the problems themselves.

In several specific areas, cooperation could be implemented through special joint mechanisms. As mentioned above, civilian air traffic will be controlled by a joint air traffic control center, and problems in the electromagnetic sphere will be managed by a joint committee that will have the authority to divide frequencies among the different needs in the two states.

***Safe Passage***

The solutions and ramifications vis-à-vis the issue of safe passage would likely be the same in both confederal and non-confederal versions of a two-state denouement. It will include a road and/or a railway at the service of Palestinians, which will be managed by the State of Palestine but not in a sovereign area of Palestine.

***Passage of Israelis through Palestine***

A confederal solution would facilitate the adoption of arrangements for easier crossing of Israelis through some roads in Palestine while they drive from one part of Israel to the other. Examples include the use of Route 443 to access Jerusalem or the use of Route 90 through the Jordan Valley for travel between northern and southern Israel and between Jerusalem and the north. These arrangements would ensure the security of Israelis using these roads and would involve also third-party forces. The same principles would apply to the protection of Israelis visiting Jewish holy places in Palestine. In emergency situations, Palestine would retain the authority to restrict movement, and even to close the border and prevent use of these roads by Israelis.

***Managing Security in Jerusalem***

An Israeli-Palestinian agreement will require special arrangements in Jerusalem concerning joint management and the level of freedom of movement between the two parts of the city. It can be assumed that the HLC would make it easier to introduce and operate such special arrangements, including their security provisions.

The envisaged solution is a gradual one. Upon establishment of the HLC, there will be a clear border between the two parts of Jerusalem except for the Old City, which will be under joint management, including joint security control. The passage from one part of the city to the other will be through regulated crossings. Thus, illegal passage of Palestinians and Israelis to the opposite sides of the city will be prevented.

At a later stage when cooperation and joint institutions will be more elaborate (as per the peace agreement timetable, with planned discussion for liberalization steps, including full opening of Jerusalem), the whole city would come under joint management with free flow of people, goods, and capital.

Some arrangements will however be needed to allow security control of passage of foreign citizens from the city to the rest of the territory of each of the two states.

### **Presence of International Forces**

The presence of third-party forces could help resolve various security problems that would arise in any two-state permanent solution format, including a confederal setup. The Palestinians have always supported a third-party presence due to the asymmetry between their power and that of Israel; they assume that a third party could provide a measure of equality.

Accordingly, an international force on a significant scale stationed in the Jordan Valley could help the Palestinians to defend the border and the border crossings with Jordan in coordination with Israel, thereby bridging some of the mistrust that would continue to cloud Israeli-Palestinian relations – at least in the early years of the agreement. The force could also help secure Jewish holy places and the movement of Israelis on certain roads in the Palestinian state.

The third-party force could also provide a component of international guarantees for the territorial integrity of the Palestinian state. Such guarantees would be essential in a reality in which Palestine lacks the military power to confront other countries. Israel would also guarantee the integrity of the Palestinian state in a confederal framework, but it can be assumed that Israel may still be regarded as a potential threat to the Palestinian state. Thus, a third-party presence is essential.

A third-party force would also be needed as part of the mechanism for coordination on security matters between the two parties. It would play a central role in mediation and arbitration, as well as in monitoring the border crossing in coordination with Israel and Palestine.

### **Conclusion**

The confederal framework would make it easier, at least in some of the security issues, to establish the arrangements and cooperation that would be required in any permanent agreement between Israel and Palestine as a substitute to the current situation in which the Israeli security forces can operate freely in Palestinian areas. However, it would also complicate the task of maintaining security and engender new security problems by encouraging the ongoing

presence of mixed populations and encouraging some flow of people and goods between the two states. In any case, security solutions to these problems are available. **They are based on greater security cooperation between the two parties, which a confederal structure facilitates.**

## Chapter 5

# The Holy Land Confederation and the Status of the People: Refugees and Permanent Residents

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This chapter examines two separate issues. The first is that of Palestinian refugees, a moderate number of whom, in the context of the HLC, would settle in Israel as permanent residents. The second relates to other Palestinians, not necessarily refugees, who would be given the right to reside permanently in Israel in exchange for the same number of Jewish settlers opting to remain in Palestine, also as permanent residents. These two issues are distinct and independent of each other.

### **Palestinian refugees**

Between 1947 and 1949, some 726,000 Palestinians fled or were expelled from what became the State of Israel. Denied the opportunity to return to their homes, they became refugees. In the ensuing generations, the population of Palestinian refugees has grown to about 5.5 million people, living in Jordan, the Gaza Strip, the West Bank, Lebanon, and Syria. The United Nations Relief and Works Association (UNRWA), established in 1949 to assist Palestinian refugees, concentrates on providing welfare, health, and education services, but is hesitant to undertake its other major mandate of resolving the problem.

The Palestinian refugee issue is considered one of the core issues to be resolved between Israel and the Palestinians and has indeed been discussed in all permanent status negotiations. The Geneva Accord offers a solution to this issue. It offers a detailed solution on the issue of permanent residence and compensation, including key principles for absorbing refugees in the Palestinian state and compensation for both property loss and refugeehood.

### ***Permanent Place of Residence***

According to this solution, each refugee would be entitled to choose from among several Permanent Place of Residence. This includes a limited option of resettling in Israel, commensurate with the average number of refugees absorbed by other countries. Additional options for exercising the refugees' choice of Permanent Place of Residence comprise the Palestinian state, areas in Israel transferred to the Palestinian state in land swaps, third countries, and the refugees' present host countries. Host countries would be remunerated for hosting the refugees since 1948.

The HLC framework builds upon "Article 7 – Refugees" in the Geneva Accord,<sup>8</sup> but is not intended to replace the Geneva plan for resolving the refugee problem. A central assumption is that the two-state framework facilitated by the HLC would be the main setting for absorbing Palestinian refugees within the borders of what was once Mandatory Palestine. All refugees would be entitled to settle in the Palestinian state, in accordance with the laws of the newly established state.

Decisions regarding the individual refugees who settle in Israel would be made by the Palestinian state, subject to the sovereign discretion of Israel vis-à-vis each refugee. As a rule, Palestinian refugees should be part of the decision-making process when determining their Permanent Place of Residency. Among those wishing to settle in Israel, the surviving refugees from 1948 and their immediate families should be given priority. Palestinian refugees settling in Israel as permanent residents could retain their citizenship in their host countries if they hold such citizenship. Israel would be responsible for preparing a comprehensive plan for their absorption and rehabilitation.

The Palestinian government would have sole discretion to determine the number and pace of refugees settling in its sovereign territory. Refugees who do not settle in the HLC (that is, in Palestine or Israel) would either remain in their host countries or relocate to third countries. Host countries should be remunerated for hosting the refugees and the International Fund would have to address this issue. UNRWA's role in assisting the Palestinian refugees would be transferred to the governments of the countries in which they permanently

<sup>8</sup> See Geneva Accords, Article 7, "Refugees."  
<https://heskem.org.il/wp-content/uploads/2015/03/English.pdf>

settle. Consequently, the formal definition of Palestinian refugees would become identical to the general UNHCR definition of refugees.

### ***Compensation***

The Geneva Accord's compensation proposals for Palestinian refugees could also be adopted in the context of a confederation. Under the Geneva plan, the refugees' right to compensation would not prejudice, or be prejudiced, by their choice of Permanent Place of Residence. In addition to individual compensation for loss of property and refugeehood, the plan calls for communal allocations for development and commemoration.

The proposed confederation's economic arrangements (see Chapter 8) and new infrastructure development projects in Palestine should be connected to refugee rehabilitation programs and include international oversight. International and local developers participating in these projects should be asked to include a "refugee tax" as part of the requirements for participating.

### **Exchange of Permanent Residents on Both Sides (Quota)**

The confederal model assumes that some of the residents of the 105 Jewish settlements that would remain outside of Israel's permanent borders would choose to remain in Palestine, if offered that option. In this scenario, they would be entitled to retain their Israeli citizenship while becoming permanent residents of the Palestinian state. In return, the same number of Palestinians would be entitled to settle in Israel as permanent residents. The Palestinians would retain the right to fill this "quota" in the future if parity is not achieved in the short term.

## Chapter 6

# Jerusalem: Two Capitals and Coordination Between Them

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Jerusalem is significant to the three faiths of Judaism, Christianity, and Islam and to many others. All of Jerusalem's inhabitants deserve to live a dignified life, with the ability to freely pursue and develop their daily lives, including access to adequate housing, jobs, education, medical care, municipal services, religious sites, and cultural activities. Demographically, geographically, and religiously, Jerusalem is the biggest and most important city in Israel/Palestine. However, since 1967, there has been mutual dependency of unequal sides: Israel has kept East Jerusalem fully dependent on resources from West Jerusalem, which in turn depends on East Jerusalem Palestinian labor force. This chapter presents the view of Jerusalem, as developed by the Holy Land Confederation (HLC): **Al-Quds and Yerushalayim, the respective capitals of the two fully independent, sovereign states of Palestine and Israel.** After listing general principles, it discusses relevant issues related to the two capitals in Jerusalem.

### General Principles

- Upon formation of the HLC, free movement is established within the Old City of Jerusalem, as foreseen in the Geneva Accords. Further liberalization steps, according to a clear timetable, including turning Jerusalem into a fully open city with free movement of people, goods, and capital between the two capitals of Al-Quds and Yerushalayim, are an integral part of the peace agreement. No longer than four years after the establishment of HLC, steps will be taken to liberalize the border regime between the two States, including in Jerusalem. Both parties will work to iron out the issues for the liberalization of the border on continuous basis.
- Since East Jerusalem suffers from a lack of big investment in infrastructure and services – including paved roads, pavements, water, environmental and sewage systems, education systems, hospitals, and cultural institutions – it is



difficult to move directly from over two generations of annexation to two disparate yet connected capitals. All the final parameters are clearly defined from the outset in the peace agreement, which is then followed by a period of gradual implementation. In Jerusalem, this includes creating Al-Quds municipal units, enabling free access between Al-Quds and the West Bank, capacity building of municipal and civil society, and removing the separation barrier.

- In the first stage, Al-Quds severs itself from Yerushalayim, yet still maintains some linkage. The principle of minimal joint institutions guides the parties to avoid recreating colonial relations between the strong side and the developing side. Gradually, based on maximum equality and partnership, the areas of cooperation can expand.
- Given that states have different perspectives and concerns than those of cities, the differences between Yerushalayim and Al-Quds must be bridged. The two parts of the city would not only function as urban entities, but also serve as the capital city of their respective states. Therefore, each state would play an essential and unique role in city affairs.
- **Immediate coordination** is developed on both the state and municipal levels. For example, the two states would need to coordinate visa policies, as well as security and economic arrangements. On the municipal level, systematic cooperation is cultivated in areas such as emergency and health services, higher education, transportation systems, environmental protection, tourist attractions and festivals, holy and archeological sites, energy, and water systems.<sup>9</sup> Work can begin in areas that are politically less sensitive and offer great potential benefit to a maximum number of citizens, or that focus on critical areas where lack of agreement would make it impossible to achieve peace.
- A joint binational committee is established to monitor implementation of the Jerusalem chapter of the peace agreement and resolve disagreements that arise at the municipal level. The role of a third party in matters pertaining to the Old City is considered, based on the model proposed in the Geneva Accords.

<sup>9</sup> See Geneva Accords, Article 6.11, "Municipal Coordination."  
<https://heskem.org.il/wp-content/uploads/2015/03/English.pdf>.

Over time, ad hoc coordination and cooperation arrangements may lead toward an efficient local joint framework.

- An interreligious council consisting of Jewish, Christian, and Muslim representatives is established to facilitate coordination in matters of access to holy sites, religious holidays, festivals, and so forth. The council can also be a catalyst for understanding, reconciliation, and coexistence.
- Short-term infrastructure development is required to facilitate the longer-term vision of a fully open Jerusalem, beyond the Old City.

## **Issues of Mutual Concern**

### ***Economy***

A special international fund is established to support the needs of the two capitals: Al-Quds and Yerushalayim. The fund focuses on building the institutions of Al-Quds and upgrading its underdeveloped infrastructure and services. In addition, Al-Quds Israeli citizens continue to enjoy Israeli social insurance benefits from the years they paid into the system.

Israel and Palestine would also coordinate fiscal policy, including the value-added tax (VAT) and income tax. The Palestinian economy can only develop if there is an uninterrupted flow of goods, people, and funds right from the start.

### ***Infrastructure***

There is currently only one supplier (Israel) of electricity for both parts of the city, but there are two administrative systems. Moreover, an Israeli agency supplies approximately 80 percent of East Jerusalem's water needs, while a Ramallah-based company supplies the other 20 percent. The water comes from sources in both the West Bank and Israel. Around 80 percent of East Jerusalem's water infrastructure (and 100 percent of West Jerusalem's) is connected to the Israeli national water system. Any separation of water infrastructure would require time and entail considerable costs. The only feasible solution is a water agreement that separates the management systems but gives Palestinians ownership over the infrastructure in Al-Quds. This should be developed during the implementation period, based on the pending creation of a separate system.

Under the proposal for infrastructure development, the existing infrastructure networks remain intact during a period of 10 to 15 years, as agreed upon by both parties. During this period, the residents of Al-Quds and Yerushalayim continue to use their current network, even if based in the other city. Citizens of each side pay their own state providers for infrastructure services, and the provider settles accounts with the other side's provider. Each municipality builds its own infrastructure with the goal of operating separate networks at the end of the period. The two parties can also mutually agree to share infrastructure beyond the agreement period.

### ***Cross-Border Transportation***

A complementary and integrated cross-border transportation system boosts the economies of Al-Quds and Yerushalayim. It is difficult to imagine tourists having to switch to a different transportation network when travelling from one part of Jerusalem to the other. Special arrangements should be formulated to facilitate cross-border transportation and movement – for instance, a light rail and/or a designated shuttle bus for movement between the two areas.

### ***Policing***

It is essential for the two separate police authorities to cooperate on combating crime. A joint police forum is created to implement safety measures, share data on crime and safety, and implement an integrated approach to protecting and improving the lives of residents on both sides.

### ***Security***

Security is a broader concept than policing. It includes controlling and authorizing border crossings, combating threats, and providing a sense of security for both sides while maintaining law and order. Security arrangements for Jerusalem in the context of a final two-state peace agreement should reflect the new reality of peacetime, allowing citizens to enjoy the benefits while ensuring their safety is not compromised. This process will be a gradual one, according to the ongoing security situation.

### ***Environment***

Neighboring cities face the same environmental challenges. Thus, neither Yerushalayim nor Al-Quds would be able to address environmental problems

on its own. It is in the interest of both parties to establish a joint committee to formulate and implement shared environmental policies.

### ***Sewage***

A large amount of West Jerusalem sewage flows toward East Jerusalem and then to the West Bank, while a very small amount of East Jerusalem sewage flows toward West Jerusalem and then to Israel. The sewage flowing to the east is untreated, causing substantial pollution. Separating the sewage systems of al-Quds and Yerushalayim is possible but would be costly and create additional environmental problems. A better solution is to formulate an Israeli-Palestinian agreement that includes systematic sewage treatment and the reuse of treated water for agriculture or energy production. Procedures for drainage and solid waste management should also be implemented.

### ***Cultural Heritage***

Jerusalem and its surroundings have many archaeological sites, holy places, heritage monuments, and artifacts of local and international importance. In the two-state solution, some cultural heritage sites of special importance to Israelis would be under Palestinian jurisdiction, and vice versa. In the HLC, **reciprocity is the guiding principle** in protecting the heritage sites of the other side. The status quo vis-à-vis the Temple Mount/Haram esh-Sharif should also be respected.

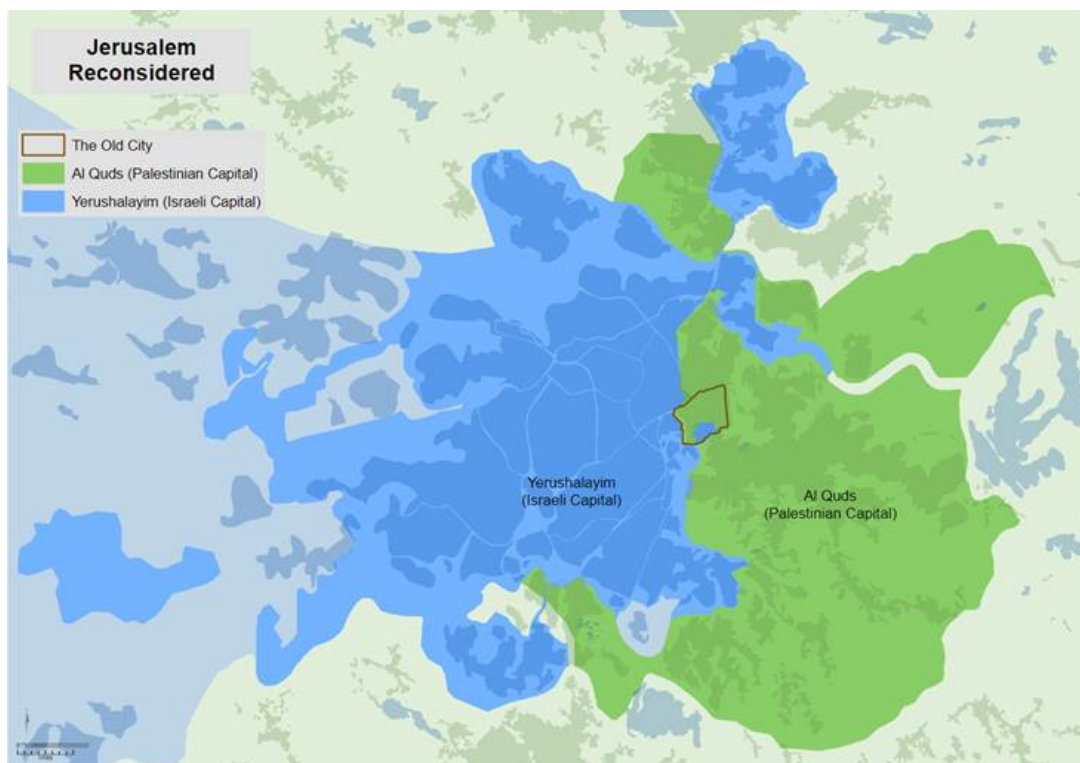
In addition, other recommendations are:

- Expanding the bounds of the UNESCO World Heritage Site beyond the Old City, and implementing the internationally accepted regulations and bylaws pursuant to this classification.
- Establishing a joint cultural heritage council, with UNESCO participation, to enhance bylaws and jointly compile a list of sensitive cultural sites. The joint committee would pay close attention to the national and religious importance of cultural heritage sites to both Palestinians and Israelis, in addition to their international dimension. Since a major component of culture in Jerusalem is living heritage, special arrangements would be required, including fair and free access in accordance with accepted regulations (e.g., capacity, security, religious practices, decorum, and so forth).

- Drafting and implementing a cultural heritage management plan, in accordance with international practices, for the two capitals.
- Ensuring maximum respect for heritage sites and involving UNESCO in implementing the Jerusalem agreement and delegating arbitration powers to it.
- Excavating and removing all artifacts from the other side's territory and returning them to their place of origin.
- Giving each side legitimate space to express its collective memory and past, without stirring animosity or delegitimization. A peaceful resolution of the Jerusalem issue would not eliminate the two separate ethnic identities or erase painful collective memories.

### **Borders**

Since 1967, Israel has unilaterally decided on Jerusalem's municipal borders. In a confederal framework, both parties have a say in determining these borders. If Israel keeps all the Jewish neighborhoods/settlements within Jerusalem's current municipal boundaries, Al-Quds would be able to expand alongside the municipal boundaries of Yerushalayim, as shown in Map 6.1.



*Map 6.1: Extrapolation of Jerusalem boundaries based on the Geneva Accords*

The areas adjacent to the municipal borders must be treated with sensitivity; neither party would have absolute liberty to develop its side without consulting the other party. Both parties would need to agree on land use along the borders.

### ***Institutional Structure***

Jerusalem and its environs comprise a complex geopolitical region. Considering this unique situation, and the experience in similar cities, we recommend allocating most of the administrative authority to the separate municipalities of Yerushalayim and Al-Quds, which would be primarily responsible for providing services to their respective residents.

The Geneva Accords proposes forming a Jerusalem Coordination and Development Committee (JCDC) “to oversee the cooperation and coordination between the Palestinian Jerusalem municipality and the Israeli Jerusalem municipality.”<sup>10</sup> The JCDC’s mandate would be to “ensure that the coordination of infrastructure and services best serve the residents of Jerusalem and promote the economic development of the city to the benefit of all.” The JCDC would also “act to encourage cross-community dialogue and reconciliation.”

The Geneva Accords recommend the formation of subcommittees to tackle the issues of planning and zoning, hydro infrastructure, transportation, the environment, economic development and tourism, police and emergency services, holy sites, and maintaining the border zone.<sup>11</sup> Other areas of coordination might include gas and electricity use, archaeological digs and assigning the locations of government buildings and foreign embassies. Fruitful cooperation on specific topics can lead to wider cooperation in other spheres of contestation.

Several issues must be resolved when examining the possible structure and responsibilities of the municipal institutions, including the desired level of coordination (i.e., minimum intervention) or cooperation (i.e., a greater degree of intervention), procedures for settling disputes, timetables and stages, and guidelines for electing representatives for shared institutions.

<sup>10</sup> See Geneva Accords, Article 6.11. <https://heskem.org.il/wp-content/uploads/2015/03/English.pdf>.

<sup>11</sup> Ibid.

***Rights of Permanent Residents in Jerusalem Who Will Become Palestinian Citizens***

Palestinian residents of Jerusalem who are entitled to Israeli services as up to the day that the peace agreement is fully implemented will continue to enjoy those services for the period for which they already paid.

## Chapter 7

# The HLC's Legal System

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The legal system is a major pillar of the Holy Land Confederation (HLC). This chapter examines first the legal status of Israeli permanent residents in the Palestinian State and of Palestinian permanent residents in Israel, and second several other issues and principles, ranging from equality and legitimacy to public services and taxation.

Two models should be distinguished:

- In the first model, confederation is expressed through coordination arrangements between the two parties, as well as different forms of cooperation and joint action, but without crossing the line of transferring governmental powers to the other side. From Israel's perspective, this would mean transferring powers to a Palestinian governing authority, which would exercise these powers, either directly or indirectly, within the sovereign territory of Israel.
- In the second model, the above-mentioned line is crossed: Israel would transfer governing powers to the Palestinian state and the Palestinian State would transfer governing powers to Israel. It seems that this line should not be crossed: it will be difficult, perhaps impossible, for the two peoples to swallow a violation of their respective sovereignty and it may also become a source of troubles.
- The way to avoid crossing this line is to adopt a principle whereby any action taken in Israel's sovereign territory or in Palestine's sovereign territory is conducted by a governmental body of the respective state. The general method proposed here may not be sufficient to meet the needs in Jerusalem, where the political sensitivity is particularly high. In this case, a special legal arrangement dedicated to Jerusalem may be required.

If the confederal two-state agreement provides for third-party involvement in the event of disputes between the parties, the line would not be crossed if the third party's authority is defined as an advisory and mediating authority rather



than a decisive power. The final decision would remain with both parties to the agreement.

The fact that each party keeps its full sovereignty as suggested in the first and preferred model does not preclude extensive and profound cooperation between Israel and Palestine. On the contrary, both states would pledge that when deliberating on a proposed policy, they will consider its potential impact on the relationship between the parties. If such impact is expected, the other party would be consulted.

## **The Legal Status of Israeli Permanent Residents in the Palestinian State and of Palestinian Permanent Residents in Israel**

### ***A. Legal Status - General***

The starting point is that both groups – Israeli permanent residents in Palestine and Palestinian permanent residents in Israel – would enjoy the status and rights of citizenship in their country of affiliation. However, they would have no such status in their country of residence, but rather a status of permanent residency. A child born to a permanent resident would automatically become a permanent resident, and the same would apply to the spouse of a permanent resident (subject to evaluating the sincerity of the relationship and subject to security considerations). Pursuant to the Israeli Citizenship Act, permanent residents may apply for Israeli citizenship if they meet various conditions, including residence in Israel for three of the five years prior to filing their application. The applicant will then be granted citizenship – if the Minister of Interior Affairs “deems it appropriate.” To stabilize the peace agreement, prevent concerns of “taking over from within,” and rule out potential risks related to dual citizenship, it may be prudent to withhold this path to citizenship (at least in the near term) from those awarded permanent residency in the framework of the accord (see the “Naturalization” section below.) While this applies to Israelis pursuant to the Israeli Citizenship Act, a similar treatment under Palestinian law would be needed once Palestine adopts a citizenship law.

It may likewise be prudent to stipulate an initial trial period of temporary residency before granting the status of permanent residents to Israeli settlers who may jeopardize the peace settlement or, alternatively, allow for the denial of residency status to those identified as jeopardizing the arrangement based on their past behavior.

It should be clarified that the civil status of both groups of permanent residents allows (or should allow) them to change their status at any time by relocating to their country of citizenship. Upon such relocation, their status as permanent residents in Palestine (for Israelis) or Israel (for Palestinians) would expire. The foregoing does not prevent such individuals from temporarily residing in their country of citizenship. That is, such temporary residence would not terminate their status as permanent residents in the other country.

Is it appropriate to give both non-citizen groups a trial period in their country of residence and assign them the status of **temporary residents** during that period?

There are three reasons to answer this question in the negative. First, the status of temporary resident may generate instability, create a negative incentive for integration in the country of residence, and jeopardize the agreement. Second, the decision to stay in the West Bank or settle in Israel should not be made casually. It should follow serious and thorough deliberation, after obtaining full and detailed information. However, this decision is revocable. Third, an agreement between the parties is in any case complex and complicated without adding another layer of complexity.

Theoretically, there are three possible models vis-à-vis the legal status of both groups:

1. The laws and jurisdiction of the country of residence are the only laws that apply to them, except in relation to their civil status (such as participation in national elections, departure from and entry into their country [except for security]).
2. The laws and jurisdiction of the country of citizenship are the only laws that apply to them.
3. A mixed model (apart from the issue of citizenship) that reflects their unique dual status, similarly to the Ottoman millet system that applied personal law in the area of family law to citizens of other countries who were residents of the Ottoman Empire.

In principle, the normal situation is where each state applies its laws and jurisdiction to anyone within its territory – citizens, permanent residents, temporary residents, and tourists. A person's choice to enter the territory of a country and, even more so, their choice to make it their permanent place of

residence (the center of their life) indicates their consent to respect the laws of that state. (This is an old concept dating back to the time of Socrates.) Under civil law, if there is a foreign party to a legal dispute, the private international choice-of-law rules apply. Under criminal law, the state (as is the case of Israel) may apply its laws in a residual way to its citizens (subject to local law) even when they are outside the state's territory, as well as to any person who randomly harms a citizen of the state. If the harm caused to a citizen is intentional (that is, because of the person's citizenship), the state may extensively apply its laws. Israel also extensively applies its laws to any person who offends a Jew outside of Israel, merely for being a Jew.

Practically and largely, Israeli law and jurisdiction apply to the Israeli residents of the West Bank. At the same time, the laws promulgated by the military commander of the area apply to these residents, along with, theoretically, the local law applicable to the occupied territories. Presumably, Israel would find it difficult to relinquish the affiliation of the Israeli residents of West Bank to Israeli law and jurisdiction. The settlers themselves, regardless of the symbolic aspect of their affiliation, have an interest in Israeli jurisdiction, but not necessarily an interest in subordination to all Israeli legal norms. However, it seems unlikely that Israel would agree to relinquish the application of its laws and jurisdiction to all its residents, including the Palestinians who become permanent residents. It is not clear whether Israel would agree to apply to them, in addition to Israeli law, a set of foreign laws (that is, Palestinian laws), *inter alia*, because, as noted earlier, the content of those laws is still unknown. If we ignore this, Israel has no actual grounds for objecting to the imposition of this normative burden (which arises from applying two sets of laws to this population). Israel may even have a short-term interest in differentiating this group from other residents and citizens, because of its suspicion toward it, on the one hand, and because of the need to provide special care to ensure its integration into the country, on the other hand.

Palestinian law at present does not address the potential of any such arrangements, as such, Palestine would have to adopt laws dealing with Israeli permanent residents.

Since the arrangements to be agreed upon by the two parties will not be affected solely by substantive considerations, we propose several mitigating arrangements:

- One option is to apply local Palestinian law to the Israeli settlers, in addition to Israeli law that would continue to apply to them. What makes it difficult to adopt this solution is the uncertainty as to the nature of the Palestinian regime and legal system, and to what extent they will be consistent with Israeli public policy. Today, the Palestinian legal system is secular with independent religious laws applying to family and personal status matters (marriage, divorce, inheritance and adoption), and special Christian and Moslem courts to adjudicate these matters. Regarding foreign ownership of land, today, the existing laws require having a permit from the Council of Ministers. Some questions arise: will there be a prohibition on selling land to Jews, in particular? Will there be restrictions on the freedom of speech, e.g., criticism of the government or the freedom of sexual speech? Will Palestine maintain the death penalty? If this solution is acceptable to the Palestinian side, it is an appropriate arrangement that needs to be perfected by means of a procedure to address inconsistencies between Israeli and Palestinian laws, and between law and public policy.
- As for the application of Palestinian law to Palestinian permanent residents in Israel, the Palestinian state would, in a symmetrical way, be entitled to apply its penal law in a residual manner to offenses committed randomly by and against such residents. It may extensively apply its laws if the offense is committed against a Palestinian citizen as such. It is possible, as noted, that Israel would give its consent to the application of Palestinian law to this group, in addition to Israeli law, and even beyond that.
- In principle, extradition and legal assistance arrangements should be in place. At this stage, in the absence of information about the future set of laws and legal system in Palestine, it is difficult to address in detail the nature and content of such arrangements. (See the discussion of “optimistic assumptions” below.)
- The proposed confederal two-state solution would require a supporting mechanism in the form of human rights commissions to be established in both states (and, if possible, or if conditions mature, a joint citizens’ human rights commission that could also include foreign experts). The commissions would be authorized to hear and decide complaints of unjustified violations of human rights by the authorities, cases of conflict between different sets of laws, claims of conflict between law and public policy, and claims of biased or unfair judgments.

## **B. Additional Mitigating Proposals**

When dealing with *intra-ethnic civil disputes*, autonomous communal jurisdiction or relevant state law and jurisdiction would apply. That is, Israeli law and jurisdiction would apply to disputes between Jewish Israelis and between Israeli Arab Muslims and Christians as well as Palestinian law and jurisdiction would apply to disputes between Palestinians. (It should be decided whether state enforcement would occur or only social enforcement.)

In the case of *inter-ethnic disputes* (between a Jew and a Palestinian), where there is no prior consent regarding the applicable law and jurisdiction (and such prior consent should be encouraged in all contexts), the parties could determine by mutual agreement the applicable law and jurisdiction. In the absence of mutual agreement, the applicable law and jurisdiction could be decided according to private international rules of law, while respecting the principles of international reciprocity and cooperation. In any event, clear priority would be given to resolving the conflict by means of compromise, mediation, or arbitration.

When addressing *issues of personal status and family law* (and perhaps even inheritance), autonomous communal jurisdiction or religious law recognized by the state would apply. If civil marriage, marriage alliance, or similar arrangements are recognized in the country of citizenship or the country or residence, such arrangements would also apply to the permanent residents who receive their status in the framework of the confederal two-state solution.

### ***Under Optimistic Assumptions Regarding Palestinian Government and Law:***

- In the event of corresponding criminal residual jurisdiction, priority would be given to the country where the offense was committed.
- An international agreement on extradition and cooperation in criminal matters would be concluded between the two states.
- Each state would be entitled to apply its own law (both criminal and civil) and jurisdiction in matters of vicarious liability at the request, and for the benefit, of the other state, based on reciprocity.
- Each state would agree to enforce civil judgments issued by the other state, subject to exceptions by law.

- A sentence of imprisonment would be served in the prisoner's country of citizenship.

## **Other Issues and Principles**

### ***Equality and Legitimacy***

The (future) constitutions of both states would include the principle of equality between permanent residents and citizens in every possible respect, except for participation in national elections.

Strong legitimacy would be given to the differential status of citizenship and permanent residence. (See also the "Education and Language" section below.)

### ***Participation in National Elections***

Arrangements would be made to allow participation in national elections at the citizens' place of residence – that is, in their country of residence. The elections would be supervised by the competent authority in the country of citizenship.

Political activity and participation in elections of political parties that incite racism or endanger the security of one or both two states would be prohibited.

### ***Exiting and Re-entering the Country of Residence***

Citizens should be allowed to leave their country of residence, enter their country of citizenship, and return to their country of residence, subject to security considerations of both parties. The arrangements that apply to citizens regarding departure from and return to the country of residence would apply to both Israeli settlers in Palestine and Palestinian permanent residents in Israel, subject to security considerations.

### ***Revocation of Citizenship or Permanent Residency***

Revocation of citizenship by the country of citizenship would not be of concern to the other state. However, in line with international law, both states should determine that citizenship would not be denied to any person who has no other citizenship. The situation is different with respect to permanent residency. Presumably, both states would like to have the power to deny permanent residency, under certain circumstances, to people who belong to the groups in question and reside in their territories. However, they would not want the other state to wield such power. Therefore, efforts should be made to reach an

understanding about the grounds for revocation of residency and the procedure required for such revocation.

### ***Naturalization***

Should there be a path to naturalization in the country of residence? Generally, permanent residents can become citizens under certain conditions. However, an exception should be made in this case. The need to regulate the relationship and foster stability between the two states would require denying such permanent residents (Israeli settlers in Palestine and new Palestinian permanent residents in Israel) the right of naturalization in their country of residence, except for unique cases.

### ***Military Service***

Soldiers could be assigned missions that serve a shared interest – for example, defending the northern and eastern borders of the Palestinian state. A symmetrical arrangement could be applied to the Palestinians who settle in Israel; they could serve in Palestinian security units tasked with the same missions. The question of military service by Arab citizens of Israel would then arise. Voluntary national service as a substitute for compulsory military service may mitigate the problem, but not solve it.

### ***Local Government and Local Elections***

Local law would allow both local government and local elections to be held, under state supervision. The nature of local government should be determined in advance, including the power to collect taxes and fees. Different types of cooperation should be encouraged between Jewish and Palestinian settlements to strengthen the relations between the two populations. As stated, it is unclear whether Palestinians settling in Israel would be placed in designated areas or otherwise.

### ***Localities Based on Ethnic Classification***

The Israeli localities in the Palestinian state and the Palestinian localities in Israel will not be ethnically exclusive.

### ***Planning, Building, and Resources***

The powers in this context are vested in the authorities of the state where the localities are located. Experience teaches that the population and its development may be severely hampered by withholding approval of

development and building plans and unjust distribution of resources. Therefore, clear understandings should be reached on the long-term planning of areas where Jewish localities are located and the distribution of resources in those areas. The same would apply to localities of Palestinians in Israel, if such exist. Israel would have to consider the implications of such policy on veteran Arab citizens.

### ***Property Rights and Land Ownership Conflicts***

Disputes regarding ownership or legal possession of land could undermine the relationship between the two populations in the Palestinian state. Therefore, these issues should be addressed while negotiating the agreements. Possible solutions include removing a Jewish locality, paying monetary damages, and allocating alternative land for the Palestinians. If agreements cannot be reached, the parties should make a contractual commitment to settle the dispute with the assistance of a third party or parties, and this commitment should be anchored in legislation.

Corresponding arrangements should be established for refugee land rights in Israel. Such arrangements may include alternative land equivalent to the original, alternative land and damages to approximate the land value, or a return to the original land in those cases where no use has been made of the land and there are no competing rights, subject to security needs. Attention should be drawn to the fact that in Israel, the issue of land ownership is moderated by the vast amount of land directly or indirectly owned by the state. Tackling this issue would also require addressing problems pertaining to the lands of Arab citizens, particularly the “present absentees.” The Absentee Law of 1951 was adopted by the State of Israel to confiscate land belonging to Palestinians inside the Green Line and its application was then extended to East Jerusalem in 1967. The law is discriminatory and should be revoked outright, and the properties held by the Custodian should be released. A list of all the properties disposed of or confiscated and registered in the name of Jewish settler organizations should be drawn and an appropriate compensation fund established, according to Article 7 in the Geneva Initiative and its annex.



***Public Services and Taxation***

The country of residence would be responsible for providing public services to its residents, including health services, welfare, and social security, and would be entitled to collect taxes on a universal basis.

Clearly, the social security rights of the Israeli settlers and the health services they receive in Israel should not be violated or impaired. These arrangements should be maintained in the future as well, to avoid the claim that the agreement adversely affects the Israeli settlers. Evidently, the country of residence is obliged to provide emergency health services to anyone who needs such services (apart from citizens and permanent residents). The settlers should also be allowed to join a national social security scheme based on accumulation if such is established in the Palestinian state. The same applies to the Palestinians who settle as permanent residents in Israel. It is desirable to reach agreement whereby the country of citizenship would also be entitled to collect taxes at a certain level (that is not high), mainly as a symbolic expression of the meaning of citizenship and the relationship between taxation and democratic representation.

***Employment***

Employment would be allowed in Israel for the Israeli residents of the Palestinian state. Presumably, the agreement between the two states would allow for employment of Palestinian citizens in the State of Israel. If there is no economic impediment, the Palestinian state should allow employment of Palestinians who are Israeli residents. Employees would be subject to the labor law applicable in the country where the employment is exercised. The negotiations for a settlement should ensure that labor laws of both states are fair.

***Freedom of Religion***

Freedom of conscience and religion would be protected, as well as the holy places for believers.

Both states would participate in financing religious and cultural services. Agreement may be reached whereby these services are financed by the country of citizenship.

***Education and Language***

There should be autonomy in culture and education, from kindergarten to higher education, provided that the curricula suppress racism and hate and promote human dignity (including the different and the other), tolerance and pluralism, and is adapted to the residents' split status. Immediately upon signing the peace agreement, the two governments will begin to prepare the education systems and train their teachers for obligatory studies of both Arabic and Hebrew. A joint supervisory council should be established to evaluate the functioning of both special and general education systems in these regards.

***Criminal and Civil Jurisdiction and Commercial Disputes***

Issues pertaining to criminal and civil jurisdiction, as well as all other related legal administration matters, will be jointly agreed upon and addressed.

## Chapter 8

# The Holy Land Confederation: Economic Cooperation

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Economic cooperation is important to ensure the achievement of common economic interests between or among parties. This chapter discusses the economic arrangements of the Holy Land Confederation (HLC) and argues that such arrangement must be based on the principle of independence, signifying equality and mutual advantage for Palestine and Israel and their peoples. It should also seek to reduce the income, growth, and fiscal gaps between the two parties. Economic cooperation should lead to an improvement in effectiveness, efficiency, and prosperity in the different economic sectors within each of the HLC's member states, and in the HLC overall.

In the proposed confederal economic structure, a voluntary association of the two independent states, each country agrees to certain limitations on its freedom of action to establish joint mechanisms of consultation and deliberation. At first, both parties commit to consult each other before taking any independent action. At a later stage, a more binding mechanism that would require the consent of the other member of the confederation can be envisaged. Economic cooperation within the HLC should be advanced gradually.

The recommended model is tailored to fit the specific situation and needs of Palestine and Israel, using aspects and lessons learned from both the European Union (EU) model (particularly the principle of advancing gradually as the EU did in the 1950s to the 1970s) and the Gulf Cooperation Council (GCC) model, together with aspects of the Upper Rhine Conference and ASEZ models in certain regions (recommended for consideration).

Immediately upon formation of the HLC, a joint mechanism is created, the Confederal Economic and Social Committee (CESC), whose aims are to ensure that the policies of the confederation are interpreted and implemented in line

with the economic conditions on the ground, while encouraging dialogue to ease the implementation process; to make recommendations according to developments on the ground in order to enhance the economic performance of the HLC and of both member states; to participate in various events within each of the HLC's member states; and to maintain close contact between decision makers, the private sector, and civil society representatives. The CESC consists of three members: one from Palestine, one from Israel, and one from an international organization, preferably the EU. These members are highly qualified professionals, capable of providing solid and clear support for their decisions and choices.

### **Joint Specialized Units**

In parallel to the CESC, seven units are created to address a range of economic issues, each having an equal number of Palestinian and Israeli officials: the Economic and Monetary Unit; the Economic and Social Cohesion Unit; the Confederal Market, Production, and Consumption Unit; the Transport, Energy, Infrastructure, and Information Unit; the Employment, Social Affairs, and Citizenship Unit; the Agriculture, Rural Development, and Environment Unit; and the External Relations Unit.

#### **1. *The Economic and Monetary Unit (EMU)***

This unit offers policy recommendations to the CESC at the confederal level, reflecting the views of civil society and the private sector. It monitors the coordination of economic and fiscal policies within the HLC, as well as other issues relating to economic governance, with a view toward ensuring stability, growth, and employment. The remit task of the EMU covers the financial perspectives, own resources, and budget of the HLC, in addition to statistical questions. The EMU is also responsible for resolving problems related to tax harmonization and the approximation of laws within the confederation.

During the initial stage of the HLC, this unit will study the effectiveness of introducing a Palestinian currency versus adapting the Israeli shekel to the confederal framework. Given the current economic conditions in the Palestinian areas, a Palestinian currency is not introduced at first. The HLC's currency is rather a modified version of the shekel, adapted to meet the requirements of the Palestinian economy (while the value of the Israeli shekel currently only reflects Israel's monetary policies, the modified Israeli shekel used in the HLC will

also incorporate the fluctuations within the Palestinian economy). This requires close coordination with the Bank of Israel and the Palestinian Monetary Authority.

## **2. *The Economic and Social Cohesion Unit (ESCU)***

The ESCU addresses issues relating to the stability, operation, and integration of the financial and capital markets. This unit's purview includes regional and urban policy matters aimed at reducing economic, social, and territorial disparities in the HLC, and at promoting growth and employment.

The ESCU organizes the credit relations between the two states and their citizens. The Central Banks in the two states would provide credit to one another when the macroeconomic need arises. (The commercial banks in each member state would provide credit to the citizens of the other member state.) The ESCU is also responsible for organizing and managing the social compensation and arrangements of the citizens whether living or working in their state, in the other member state, or outside the two-state confederation.

## **3. *The Confederal Market, Production, and Consumption Unit (MPU)***

This unit examines the standard of living in the HLC, with the purpose of reducing income inequalities over time, poverty, and unemployment in the Palestinian entity as well as realigning the two economic growth trajectories toward convergence.

The MPU considers policies related to competition, production, industries and services, small and medium-sized enterprises (SMEs), and social economy enterprises and joint infrastructure projects. It debates and adopts opinions on research and innovation, consumer protection, emerging economic trends (such as the collaborative economy), and the HLC's market policies in general.

This unit holds public discussions on issues of particular importance to the HLC market and conducts surveys to elicit views from the broadest possible range of civil society organizations and communities. The MPU is responsible for several agencies assigned to monitor developments in the HLC market and propose joint ways to eliminate obstacles and improve efficiency. It also develops criteria and recommendations for regulating business relationships in cases of disputes.

#### **4. *The Transport, Energy, Infrastructure, and Information Unit (TEU)***

This unit examines the functioning of the HLC market, mobility, trans-confederation networks, and financial aspects of developing the information society, energy, and services. It offers recommendations based on close collaboration with relevant HLC institutions, stakeholders, and representatives of civil society organizations involved with these issues.

#### **5. *The Employment, Social Affairs, and Citizenship Unit (ESOU)***

The main objective of the ESOU is to prepare the groundwork for policies pertaining to employment and working conditions, education and training, migration and asylum, civil rights, and other issues such as social policy and poverty, gender equality, disability issues, inclusion of minorities, health, and justice.

#### **6. *The Agriculture, Rural Development, and Environment Unit (ARDE)***

This unit is responsible for financial policies related to agricultural production and food sustainability, water and resource management, environmental protection, and the circular economy. It focuses on practical topics such as balanced territorial development, sustainable food systems, implementation of the relevant international agreements on climate change, and the shift to a more sustainable future. The ARDE's mandate also includes responsibility for enhancing and monitoring the implementation of economic policies designed to improve air quality, biodiversity, waste management, fisheries, organic farming, food safety, animal welfare, civil protection, and any other related issues.

#### **7. *The External Relations Unit (ERU)***

The ERU monitors the HLC's economic-related external activities by conducting dialogue with civil society organizations in other countries that have formal ties with both member states, with a particular focus on the Middle East region. Each state is still to be free to cooperate with other states independently.

### **Phased Implementation of the Confederal Economic Model**

The proposed economic model is implemented in three phases, over 10 to 15 years, as follows:

- **Phase 1** – Economic independence in each country, with cooperation in certain agreed fields: international backing and regional economic support and

planning. At the start of this phase, the present economic regime, based on the Paris Protocol, is replaced by a new transitional economic agreement, which is negotiated as part of the envisioned confederal agreement. The new economic regime includes, inter alia, a phased shift toward a new free trade agreement, which replaces the present customs union. It also includes a detailed plan for phased changes in all other aspects of Israeli-Palestinian economic relations, aimed at enhancing Palestinian economic independence, while enhancing close economic cooperation between Palestine and Israel and reducing income disparities.

- **Phase 2** – Gradual widening and deepening of economic integration on a sustainable long-term basis. Economic relations are managed, and phased changes implemented, by the CESC and other joint units and committees. Economic milestones defined in the detailed plan need to be met before advancing from one phase to the next.
- **Phase 3** – A stable long-term economic agreement based on a free trade agreement with deep cooperation in various fields (transportation and so forth), on external economic relations with key partners, particularly Arab markets, the EU and the U.S. and on the extension of the validity of bilateral and other Israeli and Palestinian trade agreements with third parties to the confederation level. This long-term economic agreement enters into force upon meeting the agreed-upon economic milestones (in terms of reducing the economic gap between Palestine and Israel, GDP per capita, and a few other economic parameters).

### **Freedom of Movement**

Freedom of movement in the confederal framework is a complex issue that is addressed in several categories: goods, workers, people, and capital. A gradual implementation process is expected in each category. This includes several stages of discussions between different stakeholders within each country, as well as bilateral discussions between Palestine and Israel.

#### **1. *Freedom of Movement of Goods – Introducing Harmonizing Criteria by Sector (for Production and Import)***

Products are valid for sale in both Palestine and Israel. This requires agreement on defined health, environmental, and other standards. (This includes, for example, standard criteria for certifying kosher/halal products.) Therefore, a monitoring agency is established to assess and control the criteria for

harmonizing products. This, in turn, requires a clear listing of products, their inputs and production process, and information on where and how they are produced.

Following is an outline of the benefits and costs of harmonizing products to facilitate the free movement of goods within the HLC. Benefits for businesses include a larger “home market” of well over 12 million consumers for their products, easier access to a wide range of suppliers and consumers, lower unit costs and greater commercial opportunities, while having to adjust their supply to meet the criteria for standards of various products.

Benefits for the citizens of Palestine and Israel include lower prices, more innovation and faster technological development, and higher standards of safety and environmental protection. Costs for the citizens of Palestine and Israel include those related to the development of the harmonization standards, including legislation and technical aspects, and those related to the monitoring processes, such as the training of personnel.

## **2. *Freedom of Movement of Workers***

Workers in Palestine and Israel should be treated equally in terms of taxation, rights, and benefits, regardless of their citizenship within the HLC. This requires gradually lifting the existing control criteria (e.g., work permits and control gates) for the entrance of laborers, until some level of equilibrium is reached; putting in place a system for taxes to be paid according to the location of the employer (justified considering the geographic proximity of the HLC’s constituent states); and basing social security systems on the location of the employer, with a strong coordination system for the transparent and fair allocation of social security benefits. Though the labor market should be able to adjust the skills required for working in the HLC’s two parts, an assessment of academic and vocational education is necessary for the development of labor. This, in turn, requires harmonization of mutually recognized qualifications, standards of education, and the right to practice any profession in both states.

Benefits for businesses include lower costs for skilled labor, lower production costs, and a reduction in the number of foreign laborers. Benefits for citizens would include less expensive products and improved economic conditions.



### **3. *Freedom of Movement of People (Other Than Laborers, including Investors and Tourists)***

The citizens of Palestine and Israel should have the right to freely visit, invest, and establish themselves in either part of the HLC, as long as they respect the local laws and regulations. In this case, too, full implementation of this right is gradual and will not happen immediately upon formation of the HLC. A clear, phased implementation of freedom of movement and family reunification will be set out with time specific benchmarks; the borders are first permeable, and hopefully eventually become free and open, as part of a long-term vision.

### **4. *Freedom of movements of capital (investment)***

The restriction on the movement of capital is eliminated. The establishment of investment and businesses is encouraged to accelerate economic development in the poorer parts of the HLC. A strong administrative system is created to fiercely combat illegal financial transactions.

## **Financial Issues**

A Confederation Development Fund (CDF) is created. International donors, Israel, and private sector entities, particularly banks, contribute to this fund; the Palestinian state also contributes, but only at a later stage.<sup>12</sup> The CDF aims to narrow the economic gap between the HLC's two member states and enhance the capacity/skills the Palestinian side needs in order to fully benefit from the HLC. The fund boosts investment in Palestinian economic infrastructure (with international and regional support), bringing it to a level close or equivalent to that of Israel. (This requires an estimated annual investment of \$3–5 billion over a decade.) The CDF is instrumental in stabilizing the Palestinian budget, mainly focusing on achieving fiscal sustainability in the Gaza Strip and the West Bank. The CDF also helps develop vital infrastructure projects in both Palestine and Israel. As a guiding principle, the division of investment would favor the Palestinian economy to gradually bridge the gap in the capital stock of the two economies at the time of the HLC's formation.

With regards to currency and monetary systems, and as the Israeli shekel is currently used by both parties, the introduction of a Palestinian currency is not

<sup>12</sup> A clear benchmark is set, within a reasonable timeframe, for the Palestinians to contribute to the CDF. Positive and negative incentives for the Palestinians are provided to encourage reaching the benchmark. Adequate administrative capacity is put in place, on both parties to ensure correct calculation, payment, and control of own resources.

recommended in an early stage. This reduces the transaction costs within the HLC. In any case, the independence of the central bank in both Palestine and Israel is maintained. The establishment of a confederal central bank, which would unify the two states' monetary authorities, is recommended for a later stage. The exact roles of this confederal central bank, and its relations with the Bank of Israel and the Palestinian Monetary Authority, are to be decided as part of the detailed plan mentioned above.

As per taxes related to VAT and excise taxes, taxation that hinders business development are eliminated, in parallel to the establishment of an effective enforcement system to counter any tax fraud between the two parties of the HLC. Banks are transparent and expected to strongly contribute to the development of the communities and the economic links between the populations of Palestine and Israel. They seek to finance productive initiatives, particularly in the weaker partner in the HLC. Financial control of public funds: a unified monitoring system for monitoring the spending of public funds is particularly important for the transparency and effectiveness of the CDF's allocations. Custom taxes within the HLC are gradually eliminated, while maintaining a clear and enforced mechanism of custom taxes when trading with third parties outside of the confederation. Effective measures of market surveillance and enforcement are taken to safeguard consumers and financial transactions within each part of the confederation. Transparency is mandated by law to avoid all types of corruption.

### **Addressing the Economic Gap between the Israeli and Palestinian Parts of the HLC**

The economic situation in Palestine (West Bank and Gaza Strip) is expected to improve significantly following an agreement on the phased implementation of the HLC. The agreement is expected to trigger optimism and to greatly improve the business environment, putting the Palestinian economy back on a track of rapid expansion, as in the initial years of the Palestinian Authority (1994-1999), when the export of goods and services sharply increased. The surge in exports during that period, together with higher income from work in Israel, injected a large amount of liquidity into the Palestinian income stream, fueling consumer spending, housing construction, and investment in plant and equipment. Palestinian investment rates reached a very high level of 22-26 percent of GDP

during that period, which translated into similarly high levels of real economic growth (yearly average GDP growth of 9 percent).

Multiple in-depth quantitative analyses indicate that double-digit real GDP growth could be achieved and sustained by shifting from the status quo of the last two decades to a situation of long-term political stability and a new economic regime, as envisioned under the HLC. This improved performance would reflect the combined effect of the following enablers and growth engines, which are expected to be at work under the new political and economic environment:

- Political stability and the new economic regime would unleash the latent growth potential of the Palestinian economy, which has been suppressed over the last two decades. Given the great untapped potential of the young, educated, and talented Palestinian workforce, increased investment in the productive sectors of the Palestinian economy would generate significant growth in labor productivity.
- This trend would be especially strong in the Gaza Strip, where the revival of productive sectors of the economy is projected to jumpstart the GDP, as Gaza closes the huge gap in GDP per capita in comparison to the West Bank.
- Under this scenario, the Palestinian government is also projected to reduce its budgetary deficit, moving toward a balanced budget in 3 to 5 years. This would enable the Palestinian government to shift external aid from current budget support to: (a) investment in economic and social infrastructure and (b) building advanced national social security and other social safety net mechanisms, as per the Israeli model.

### **Required Investments and Financing in the Palestinian Economy**

Considering the projected rate of GDP growth and the revival of Gaza's economy, regional and international aid of \$5 billion a year over 10 years would be sufficient – about \$3 billion a year for infrastructure and \$2 billion a year for building the new, advanced social security network. Aid-funded investment in economic infrastructure (e.g., transportation, water, and energy) would be accompanied by large business sector investments. Similarly, the funds allocated to building the social security network would be invested through the new Palestinian social security funds in social infrastructure such as hospitals.

Business sector investment would more than double the total investment in Palestinian economic and social infrastructure, bringing it to over \$10 billion a year during the first decade of the new confederal arrangement. This magnitude of investment would enable transformation of the Palestinian economic infrastructure and social services to a level close to that of Israel. The disparities in economic infrastructure and social services between Israel and Palestine would be significantly narrowed under this scenario without burdening the Israeli state budget.

## Chapter 9

# The Holy Land Confederation: Suggested Joint Authorities

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Actualizing the Holy Land Confederation necessitates much coordination. This chapter presents important authorities that address different issues, resources, and services.

### **"The Summit"**

The two leaders would meet on a regular basis (at least once a month), and when one of them requests a special meeting. If the meetings include more participants, the chairmanship would be rotated between both. All the Authorities would operate under the "Summit," and their budgets would be allocated according to agreements between the two parties. The decisions of all the Authorities would be brought to the respective institutions of the two states and would turn effective only if they are agreed upon by both parties.

### **Authorities**

#### ***Infrastructure, Energy, Minerals, and Physical Planning***

The Authority would coordinate the long-term planning for energy policy and would monitor the implementation of the agreement on water allocation. It would coordinate issues concerned with drilling of gas and oil and would offer ways and means to cooperate on sewage challenges.

#### ***Health***

A confederation would help in exchanging information on and managing infectious diseases and outbreaks without delay. It would also facilitate efficient communication of results concerning efforts to conserve water sources and carry out on-going monitoring of water quality in the water sources, which in turn would help prevent water pollution. A confederation would make easier the

harmonization of professional standards with regards to the import and export of food products, as well as the monitoring of import of medicines, medical supplies and accessories, and medical equipment. Moreover, confederation would facilitate the formulation of detailed arrangements on hospitalization and rehabilitation services.

### ***Education, Culture, and Sports***

A confederation would help in the quest to create an atmosphere of peace and good neighborliness, including through work on the education, culture, and sports systems; coordinate and implement frameworks for cooperation with content of mutual respect between the two nations; ensure the removal of materials that express perceptions of hatred, racism, or prejudice toward the other; and encourage academic openness.

### ***Communications***

The Authority would coordinate the usage of the electro-magnetic space, according to the peace agreement. It would try to standardize major regulations between the two states. It would coordinate the construction of antennas in locations close to the borders.

### ***Agriculture***

The Authority would be engaged in crisis management and preparation for emergencies. It would coordinate between inspection services as well as between veterinary services.

### ***Security***

The Authority would coordinate the implementation of the security chapter in the peace agreement, including the functions of the emergency services in times of crisis. It would also establish a joint situation room to fight terrorism.

### ***Legal Affairs***

The Authority would facilitate the provision of legal assistance and the cooperation in combating crime and preventing the production of and the trafficking in illicit drugs as well as violence and terrorism.

***Environment Protection***

The Authority would coordinate the treatment of air quality as well as the treatment of sea water pollution, river pollution, and the efforts against pests.

***Economy and Labor***

The Authority would coordinate a variety of issues, including workers' flow between the two states and the rules of origin, export, and import, as well as the standardization of products.

***Tourism***

This Authority would coordinate services extended to tourists in both countries. It would offer package deals to tourists who visit the two countries and enable their smooth movement from one side to the other. Furthermore, it would coordinate the information for tourists and assure that information about tourist services in one state is available in the other. This includes ensuring that each state receives full information about holidays and changes because of unexpected issues, such as traffic problems, construction work, and area closures on the other side.

***Civil Aviation and Seaports***

The Authority would be responsible for coordinating between Palestinian and Israeli airports and seaports, the safety assessment of the aircrafts of third parties, drone usage, the registration of small vessels, and sailing certification.

***Cyber Defense***

The Authority would coordinate the organizational preparedness for a cyber crisis and the reduction of cyber risks for industrial control systems.

***Road Safety***

A joint committee on traffic laws and regulations would be established. It would monitor the coordination between the two traffic police forces and would coordinate the training of professional drivers.

***Religious Affairs***

The Authority on Religious Affairs would coordinate the mass gathering events of different worshippers, to ensure orderly and safe gatherings, and would make

efforts for believers of different faiths to be afforded the freedom to worship in peace. It would also facilitate the mutual understanding and respect among the faithful in a manner that reduces potential tensions among them and positively contributes to understanding and respect among the younger generations.



## Chapter 10

# Exiting from and Dismantling the Holy Land Confederation

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The central focus of this book is the Holy Land Confederation (HLC) as a facilitator for the two-state solution. But what happens if one or both parties no longer think they are served by the HLC and wish to withdraw from it? This chapter highlights and elaborates on three general principles that relate to exiting from and dismantling the HLC.

### Three General Principles

- The HLC will be a voluntary union. Its member states – Israel and Palestine<sup>13</sup> – will have the explicit right to withdraw from and dismantle the HLC.
- Because the establishment of the HLC is crucial to the resolution of several issues that have long impeded the achievement of a negotiated settlement of the Israeli-Palestinian conflict, each state's right of exit will be subject to a set of procedural requirements. These requirements are intended to ensure that a decision to withdraw from and dismantle the HLC is not taken with undue haste or insufficiently broad popular participation and that it is implemented in a peaceful, orderly, and equitable manner.
- While many aspects of exit and of the future relationship between Israel and Palestine would be negotiated only if and when one of them opts to dismantle the union, a set of core substantive principles will be agreed upon the formation of the HLC. These principles will govern how certain issues central to the resolution of the conflict (such as Jerusalem, external security, and the rights and status of permanent residents in each state) will be handled in the event of the HLC's dismantlement. Providing clarity in advance about the disposition of these issues is intended to illuminate public expectations, prevent brinkmanship, and incentivize cooperation.

<sup>13</sup> The potential future participation of Jordan and other States in the HLC presents a somewhat different set of issues, which are not addressed here.

These principles are elaborated further below.

### ***Explicit Mutual Right to Withdraw from and Dismantle the HLC***

A right of exit is a characteristic, but not uniform, feature of confederations, which are “contractual union[s] of states.”<sup>14</sup> For example, Article 50 of the Treaty on the European Union explicitly affirms the right of any member state to withdraw from the Union, in accordance with its own constitutional requirements. Similarly, Article 60 of the (now defunct) Constitutional Charter of the State Union of Serbia and Montenegro provides that member states have the right to initiate proceedings to break away from the confederation by means of a popular referendum. However, Article 13 of the United States’ Articles of Confederation, which established the confederation in existence between 1781 and 1788, provides that the union is to be “perpetual.” To cite a more recent example, the Constitution of Bosnia and Herzegovina, a hybrid system with both confederal and federal features, repeatedly reaffirms the territorial integrity of Bosnia and Herzegovina, implicitly disallowing the exit of its units. Thus, while confederations, as unions between sovereign entities, typically permit the withdrawal of member states, exit may be allowed or disallowed.

Whether withdrawal from a confederation is allowed or disallowed, the choice should be made explicit in the confederation’s founding instrument. In one recent study focused on the analogous situation of secession from a federation, Tom Ginsburg and Mila Versteeg conclude that silence regarding secession is “the worst option,” finding that ambiguity about whether it is permitted bolsters the ability of secessionist movements to mobilize public support, often leading to violence.<sup>15</sup> Addressing withdrawal/dismantlement explicitly also makes sense in light of the fact that confederations tend not to be durable configurations – usually evolving toward either greater integration among member states (for instance by becoming a federation) or toward lesser integration (by becoming fully independent).

<sup>14</sup> Alex Warleigh, “History Repeating? Framework Theory and Europe’s Multi-level Confederation,” *Journal of European Integration*, 22, 2 (2007): 173–200, at 184.

<sup>15</sup> Tom Ginsburg and Mila Versteeg, “From Catalonia to California: Secession in Constitutional Law,” *Alabama Law Review*, 70 (2019): 923–985.

There is an argument for disallowing exit from the HLC. Confederation, after all, is not only a means of facilitating deeper cooperation between Israelis and Palestinians, but also of solving some of the most divisive issues on their negotiating agenda. Dismantling the confederation would necessitate agreeing on the terms of separation, which has eluded Israeli and Palestinian leaders for decades. Moreover, because the HLC would have only two members (at least initially), withdrawal of either state would be tantamount to dismantling the confederation.

Even so, the better approach for several reasons is to allow exit, but through a carefully designed process. First, as a legal matter, both states in the confederation would be sovereigns, so exiting the HLC would not violate the international norm against secession (even if it would constitute a breach of a treaty commitment disallowing withdrawal). Accordingly, the international community may be less able or inclined to impose costs on the exiting state than it would in circumstances of secession (where recognition of the new state could be withheld). Second, devising a coherent and agreed process for withdrawal can also help to compensate for the marked power asymmetry between Israel and Palestine, which affords Israel greater latitude to take unilateral actions. Third, considering the substantial support among both Israelis and Palestinians for separation, and the widespread skepticism about the prospects for peace, the HLC may be more saleable if both publics understand that the confederation may be dismantled if it is not functioning as expected.

### ***Procedural Requirements for Exit***

A clear process for withdrawing from and dismantling the HLC will be defined in its founding instrument. The process should be designed to ensure that exit is the product of careful and broad-based deliberation, to maximize opportunities for resolving any disputes animating the desire for exit in Israel or Palestine, and to lay the foundation for peaceful cooperation between the two states even after the confederation's termination.

As a threshold matter, a critical means of avoiding conflict regarding exit – and of enhancing the durability of the HLC in general – is to establish mechanisms for (a) revising/adjusting arrangements that are not working optimally and (b)

resolving disputes about the interpretation and implementation of each side's commitments. Indeed, the parties may agree that undertaking to resolve disputes between them through defined mechanisms is a pre-requisite for an attempt by either side to initiate exit.

The process of withdrawing from and dismantling the HLC may be triggered by a decision taken by a competent authority within either state, pursuant to necessary constitutional requirements. To ensure that a step with such far-reaching consequences is perceived to be legitimate, the parties may commit to take the necessary action to align their respective constitutional processes so that exit is triggered in similar ways on each side and only following a procedurally sound deliberative process. For example, they could agree that the process would be activated only if a majority in the state seeking exit expresses support for the move in a referendum conducted in accordance with international standards.

The pacing of the process can also help to ensure that decisions are not taken precipitously. The parties may agree, for instance, that at least two years must elapse between the date one member state notifies the other of an intention to commence the exit process and the date a referendum is held. The parties may also afford themselves a specified period (say three years) to negotiate the terms of the confederation's dismantlement following a referendum. It should be made clear, moreover, what will occur in the event the parties fail to reach agreement on the terms of their separation during this period. For example, a set of default terms may be agreed in advance and come into effect after a given period unless the parties agree otherwise.

An additional means of avoiding an ill-considered and destabilizing decision to exit the confederation might be to require consultation with and/or mediation by a set of trusted third parties.

### ***Substantive Principles Governing Agreement to Withdraw or Dismantle the HLC***

Because the establishment of the HLC – and, particularly, freedom of movement and residence within it, if that eventually becomes the reality as a result of peaceful relations between the two parts – is central to the resolution of several issues, its dismantlement presents more formidable challenges than are

present in other contexts (such as Brexit or the breakup of the State Union of Serbia and Montenegro).

The issues of security, Jerusalem, economic cooperation, and joint institutions, which appear in our book, may be negotiated if and when one of the member states opts to initiate exit proceedings. However, to minimize destabilizing conflict – and perhaps also to discourage exit – the parties should undertake to reach agreement on a set of principles governing the disposition of these issues in the event the HLC is terminated. As noted above, such principles can offer a “default” if the parties are unable to agree on modifying them. Defining these principles in advance could also offer both the Israeli and Palestinian publics a clear sense of the costs of dismantling the HLC, preventing a scenario in which advocates of exit paint an unrealistically rosy picture of its benefits.

## Appendix

# A Short History of Confederations

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The confederation is a historical phenomenon that dates back thousands of years. In this very special structure, the ultimate decisions are still made by the sovereign states that create the joint framework, and none of the confederation's decisions are directly imposed on the citizens.

Confederations are formed for a variety of reasons. In most cases, the impetus is to mount a joint defense against a common enemy that is stronger than any of them on their own, but weaker than their combined forces. In other cases, confederations are formed to loosen the internal ties in a federation without severing them altogether; to create a weak buffer zone between rivals without posing any threat; to exploit natural resources more efficiently; or to create economic interdependency that serves as a disincentive to war.

No formal confederations exist today, and the few states that call themselves a "confederation" are in fact federations. However, the European Union, which does not call itself a confederation, is the most successful and consequential confederation ever.

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The Three Crowned Kings alliance is considered the first confederation in known history. It was established in 1050 BCE in the Tamil area in southeast India by three legendary kings: the king of the sun, the king of fire and the king of water. The three monarchs ruled the countries of Chola, Chera and Pandya, and formed an alliance to defeat their common nemesis, Shalivahana.

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In 987, the League of Mayapan was established in the Yucatan peninsula to defend against the Toltecs, who had expelled the locals to the forests. The founder of the confederation and its first ruler was Ah Mekat Tutul Xia. The five constituent units in the confederation maintained their independence

throughout its 500 years of existence. (The leader of one of the units, Hunac Ceel Cauich, launched a war against another unit in 1194.) A series of wars weakened the League of Mayapan until it finally dissolved in 1461, and the peninsula broke up into 17 states.

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In 1300, the Old Swiss Confederacy was created to defend the valley of the central Alps and to facilitate commerce by securing the trails through the mountains. The alliance was formed under special authorization from the Holy Roman Empire to create a political union of towns and villages that had belonged to the cantons of Zurich, Berne, and Lucerne. Additional cantons joined the confederation after it defeated the Hapsburg armies in several battles.

The Federal Charter of 1291 among the communes of Uri, Schwyz, and Unterwalden is considered the founding document of the confederacy, whose structural development gradually evolved to meet the changing reality. An agreement among the cantons, signed in 1388, prohibited them from launching a war against any third party without the consent of all the other cantons. During the 15<sup>th</sup> century, the Federal Diet was created, consisting of two delegates from each canton. The Federal Diet met several times annually, mediated and adjudicated in conflicts between cantons, and used its power to impose sanctions when needed.

The confederacy survived a very serious religious crisis in the 17<sup>th</sup> century when Protestants and Catholics waged war against each other. During these confrontations, some of the cantons fought each other, which prevented the Old Swiss Confederacy from taking a stand in the Thirty Years' War. The default was neutrality, which subsequently became the official and recognized foreign policy of the confederation.

Nonetheless, the religious confrontations continued. The Protestant communities flourished economically, while the Catholic ones remained poor, and social tensions threatened the future of the confederation. The French Revolution ultimately took its toll on the Swiss confederation: the French community of Vaud invited the French army to invade the confederacy, leading to its collapse in 1798.

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The Kalmar Union was established in Scandinavia in 1397. It existed for a little over 150 years and was the only period in history in which all the Scandinavian states were under a common roof. The confederation was formed to counter the common German threat after numerous attacks. Queen Margaret I of Denmark suggested a joint political framework, which she would lead, with the participation of the Kingdom of Norway and the Kingdom of Sweden (which then included Finland).

The initiative of the young and energetic queen was accepted by all the parties, and the Union of Kalmar was proclaimed – named for the city where the treaty was signed. Each kingdom remained fully independent. The confederation eventually collapsed in 1523 due to animosity between the Danish monarchy and the Swedish aristocracy.

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A confederation of Aragon and Castile was formed in 1479 by a married couple, King Ferdinand of Aragon and Queen Isabella of Castile. The confederation lasted for over two centuries, with each of the two kingdoms maintaining its own government, legal system, and legislature. The unification was mainly at the highest echelon. The War of the Spanish Succession ended the loose confederation between Aragon and Castile, and King Philip announced the birth of the Spanish kingdom in 1715.

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The thirteen American colonies that revolted against the British crown sought to establish a confederal framework of independent entities. The Articles of Confederation establishing the “United States of America” were adopted by the Second Continental Congress on November 5, 1777 and ratified three and a half years later.

The colonies needed a structure to represent their common interests in Europe, and to enable European countries to mediate between them and Britain. It was also important to reassure those countries that they could do business with the new American partner, and one of the ways to prove this was through a reliable alliance of all thirteen colonies.



The confederation proved to be a weak alliance, hampered by ongoing tension between centrifugal and centripetal forces. The only central institution was the Confederation Congress. Each state was considered independent and was entitled to act in any area that had not been explicitly assigned to the confederation – such as decisions on war and peace, diplomatic negotiations, and trade agreements. But even in such areas, the central government needed the approval of the states. In order to assure the weakness of Congress, the authors of the Articles of Confederation stipulated that its president would rotate every year, and that members would serve no more than three years.

The loose confederal U.S. structure is clearly reflected in Article III of the Articles of Confederation: “The said states hereby severally enter into a firm league of friendship with each other, for their common defense, the security of their liberties, and their mutual and general welfare, binding themselves to assist each other, against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretense whatever.”

The Confederation Congress lacked the power to compel the states to pay taxes that were vital for financing the war effort against the British, and some complained that the states were only approving military operations when adjacent to their lands. With no judicial or executive authority, and weak legislative authority, the confederation was on the brink of insolvency. Congress used its very limited power and printed money, but the money was worthless. When the U.S. confederacy decided to collect customs, Rhode Island vetoed the decision. The states also refused to approve international trade agreements drafted by Congress.

Amidst a growing atmosphere of dissolution and considering the powerlessness of the Confederation Congress, a call for new political structures began to arise. Alexander Hamilton, then serving as an advisor to George Washington, promoted the idea of transforming the confederation into a federation. In February 1787, Congress issued a call for a convention of state delegates to discuss revising the Articles of Confederation. This ultimately led to the drafting and approval of a new document, the U.S. Constitution, which laid the foundations for a new form of federal government. In April 1789, George Washington was inaugurated as the first president in accordance with the newly ratified Constitution.

The historian Forrest McDonald describes this innovation: “The constitutional reallocation of powers created a new form of government, unprecedented under the sun. Every previous national authority either had been centralized or else had been a confederation of sovereign states. The new American system was neither one nor the other; it was a mixture of both.”<sup>16</sup>

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The German Confederation was established by the Congress of Vienna in 1815, which aimed to restore the old order in Europe. The Holy Roman Empire had dissolved in 1806 and the European monarchies sought to replace it with a new system of 39 German-speaking sovereignties. They wanted to create a confederation that would serve as an economic address for its partners, assure a non-revolutionary atmosphere in the large area of Germany, and function as a buffer zone between the Austrian Empire and the Kingdom of Prussia.

Austrian and Prussia were the two largest members of the confederation, though some of their territory was not included (the areas that had not been part of the Holy Roman Empire). The other members of the confederation included an assortment of kingdoms, duchies, cities and principalities. Each member of the confederation was allowed to maintain its own army but was expected to send soldiers to defend a common goal. The legislature (Diet) oversaw the army but found it difficult to recruit soldiers.

The real leader of the German Confederation, until 1848, was the Austrian Chancellor Klemens von Metternich. His most important success was the creation of a common market. Metternich also promoted the development of the steel industry, which made Germany economically independent and created a middle class that was unwilling to comply with the conservative leadership. This new middle class rallied behind the revolutions of 1848–1849 that called for the unification of German-speaking states. This unification finally occurred in 1871 under Otto von Bismarck, who successfully integrated reformism, conservatism, and nationalism.

<sup>16</sup> Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (Lawrence, KS: University Press of Kansas, 1985), 276.

Though the German Confederation was dissolved in 1866 following Prussia's victory over Austria, it had provided the scaffolding for the new German Empire that emerged in 1871.

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The Federal Republic of Yugoslavia was a union of Serbia and Montenegro formed in 1992 after the breakup of the Socialist Federal Republic of Yugoslavia. Both Serbia and Montenegro claimed to be the legitimate heirs of the late Marshal Josip Broz Tito's federation, but neither the UN nor the other members of the former Yugoslavia recognized them as such.

Over the years, Montenegro distanced itself from Slobodan Milosevic's Serbia. Finally, after functioning for 11 years as a single state, the two parties loosened their ties and became a confederation in 2003: State Union of Serbia and Montenegro. Their main area of collaboration was defense; in all other areas, the two members of the confederation operated as two separate states. The union was short-lived. Following a referendum, Montenegro declared its independence on June 3, 2006, and Serbia followed suit two days later.

The separation between the two states was written on the wall. The demise of the original Yugoslavia, the artificial efforts to remain one federal state while the others declared their independence, and three years of an artificial confederation – all pointed toward a two-state denouement.

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The State Union of Serbia and Montenegro was perhaps the last confederation in the world to define itself as such. However, the most successful and vibrant confederation in the last century is undoubtedly the European Union (though it does not call itself a confederation).

The EU has developed from very humble beginnings into a huge framework, which includes almost half a billion people. The EU's 27-member states are fully sovereign; they may choose to transfer some authorities to the common institutions and are free to leave the union (though the UK's departure proves that it is a cumbersome process).

The EU began, in 1951, with a decision by France, Germany, Belgium, Italy, the Netherlands and Luxemburg to establish a European Steel and Coal Community (ECSC) to jointly manage these two important commodities in the most

efficient way. Six years later, the ECSC established the European Economic Community and the European Atomic Agency. In 1967, all these frameworks became the European Community (EC); a year later, all internal customs were canceled. In 1973, three new member states joined the EC: the UK, Ireland, and Denmark. The revolutionary Schengen Agreement was signed in 1985. It now includes 27 countries that have practically erased the borders between them and have strengthened coordination vis-à-vis immigration. In Maastricht, in 1992, a historic decision was made to form an economic union and establish the euro as the European currency. After the end of the Cold War, many of the countries from the former Soviet bloc joined the EU, after demonstrating their economic stability and democratic character.

The EU institutions have grown stronger over the years but are much weaker than those of sovereign states. For example, the European Parliament is stronger than it was decades ago but is less powerful and prestigious than the national parliaments considering its limited jurisdiction.

The budget of the EU is substantial. Besides financing the bureaucracy in Brussels, it invests in R&D and infrastructure in the newest member states, with the goal of narrowing the economic gaps between the members.

In many areas, the EU tendency is to centralize activities and functions, prompting complaints about the "dictatorship" of Brussels. The British support for Brexit is telling and may slow the pace of centralization, such as the attempt to establish a joint European fiscal body.

The EU, which has changed Europe and fostered a continent of peace after centuries of endless wars, is a miracle in the eyes of many. It includes aspects of a federation (freedom of movement, currency, trade, and agriculture) and aspects of a confederation (no common language, separate education systems, no joint army, and relatively weak central institutions), as well as aspects of sovereign states. In many ways, the EU is *sui generis*, but its structure is very close to that of a confederation and may serve as a model for the HLC.

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