

THE OCCUPATION IS THE PROBLEM:

Palestinian history, politics and the prospect for peace

Hanlie Booysen

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THE OCCUPATION IS THE PROBLEM: Palestinian history, politics and the prospect for peace

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Executive Summary

The United Nations Alliance of Civilizations November 2006 report states that the partition of Palestine by the United Nations (UN) in 1947 started a chain of events that continues to torment relations between Western and Muslim societies to this day.¹ It further notes, "...the perception of double standards in the application of international law and the protection of human rights is particularly acute".² Israeli conduct, *inter alia*, its disregard for numerous UN resolutions dealing with the Israel-Palestine conflict; its 240 settlements and outposts in the West Bank in violation of the Fourth Geneva Convention; its ongoing construction of the Wall³ in violation of the advisory opinion of the International Court of Justice (ICJ) (2004); and its collective punishment of Palestinians as is currently evident in the socio-economic strangulation of the Gaza Strip, strengthens the "perception of double standards" referred to in the UN Alliance of Civilizations report. It also stands as an indictment against the international community's inability to find a just and long lasting solution to the Palestinian issue. The Hamas election victory in January 2006 and the subsequent sanctions regime imposed against Palestine further underscores the apparent lack of honesty with which democracy is being pursued by the major Western powers in the Middle East.

The Al-Qaeda attack on the United States (US) on 11 September 2001 allowed the Bush administration to impose a new ideological framework, i.e. the "war on terror", on the international community. This led to an international climate where unilateralism and militarism could triumph over multilateral diplomacy, as was evident in, *inter alia*, the invasion of Iraq and the Israeli unilateral withdrawal from the Gaza Strip.

At the regional level the Middle East is threatened by various contestations - including direct conflict between the US and Iran - that complicate the political environment. The state of domestic politics in both Palestine and Israel is such that neither leadership can guarantee the implementation of a peace agreement. The political climate is, therefore, not conducive to peace making, notwithstanding the revival of the Middle East Peace Process (MEPP) by President Bush in November 2007. This means that a solution before the end of the year, as articulated by President Bush during his visit to the Middle East in January 2008, is overly optimistic.

A just and lasting solution to the Israel-Palestine conflict should be sought based on the legal framework provided by relevant UN resolutions and international legislation. An end to the occupation of Palestinian territory should be the point of departure for Israel and only then could a sustainable solution be found through a legitimate process of negotiations. The power of identity renders rapprochement between Western and Muslim societies flawed until the Israeli

¹ United Nations Alliance of Civilizations, Report of the High-level Group, New York, 13 November 2006, p. 12.

² United Nations Alliance of Civilizations, Report of the High-level Group, New York, 13 November 2006, p. 13.

³ The Wall, consisting of a combination of an 8-meter high concrete wall, trenches, fences and razor wire, and supported by military only roads and watch towers, is a barrier that Israel is constructing between the West Bank and Israel proper. Large portions of the Wall are, however, being built on confiscated land inside the West Bank, rather than on the 1949 Armistice line or Green Line.

military occupation of Palestine is brought to an end. Only then would it be possible to marginalise those state and non-state actors who benefit politically from the mutual suspicion and fear that derive from the occupation.

About the Author

Hanlie Booysen is a South African diplomat, currently on special leave in New Zealand. She has worked and lived in the Middle East for eight years, most recently in Palestine. Her accreditation to the Palestinian National Authority (PNA) in April 2001, shortly after the start of the second Intifadah, exposed her to historic developments in Palestine, up until the death of President Arafat in November 2004. Academic specialization on the Middle East started with a MA thesis on the domestic and foreign policy options of South Africa and Israel as isolated states, at the University of Johannesburg (1990). This was followed by a BA Honors in Islamic Studies (UJ) (1992) and a second MA in Middle Eastern Studies at Durham University (1999). Ms Booysen remains engaged with the Palestinian issue based on her ongoing academic interest in the Middle East, but also due to her personal conviction that justice will prevail, as evident in the South African example. The opinions expressed in the working paper are finally those of the author and cannot be attributed to any other authority.

Comment from the Director, CSS:NZ

There is no doubt that resolution of the ongoing imbroglio in the Holy Lands will lead to a reduction in tensions in the Middle East and by extension to the world beyond. The benefits that could accrue are obvious. In this respect it is the responsibility of those of good will wherever they may be to encourage and utilise the many echelons of statecraft to find a just and durable solution. This Discussion Paper seeks the promotion of understanding and fruitful dialogue about the contemporary situation in Palestine. Comments and advice during the preparation of this paper from Professor Robert Patman of the University of Otago and from Dr Nigel Parsons from Massey University are acknowledged and deeply appreciated. Because the subject is coloured by strongly held convictions, dispassionate discourse is difficult, sometimes judgemental and easily misconstrued. However, Hanlie Booysens' considered opinions reflect an open and honest approach to an equitable and honourable solution for both the Palestinian and Israeli people to co-exist together safely and securely in the future. In this regard the author's commitment and expertise in writing this paper merits favourable consideration of her passion of how to bring peace to Palestine.

*Peter Cozens,
Director
Centre for Strategic Studies: New Zealand*

Introduction

The purpose of this paper is to provide an overview of recent political developments in Palestine and to consider the prospect for peace in the Middle East region given the current regional and international dynamics. It also includes recommendations for New Zealand's role in the region.

The Palestine Question was submitted to the United Nations as a "problem" in 1947. In so doing the United Kingdom (UK) expressed the hope that the UN "...can succeed where we have not".⁴ The origin of the so-called problem can be found in the legacy of World War I, *inter alia*, the Balfour declaration of 1917 that committed the UK to "establish a Jewish home in Palestine"⁵ and the subsequent British occupation of Palestine. The League of Nations legalised the British occupation through its ratification of the British mandate over Palestine in July 1922 (Annex A). Palestinians were naturally in opposition to both the Balfour declaration as well as the British mandate. However, it was Nazi Germany's persecution of millions of Jewish people and the subsequent increase in Jewish immigration to Palestine that seriously challenged the British Mandate Authority. The horror of the Holocaust increased empathy amongst the Allied powers for Zionist objectives, such as the large-scale immigration of European Jewry post 1945 to Palestine. British attempts to contain the influx earned the Mandate Authority the scorn of the United States (US). Closer to home the Mandate Authority, already facing Palestinian protest and Palestinian-Jewish clashes, now also became the target of terrorist attacks by Jewish groups, namely the Irgun Zvai Leumi and Lehi (Stern) organisation.⁶

The UN addressed the situation through UN General Assembly Resolution 181 passed in November 1947 (Annex B). UNGA Res. 181, also known as the Partition Plan, ended the British mandate over Palestine and divided Palestine into a Jewish state (56.47% of mandate Palestine) and an Arab state (43.53% of mandate Palestine), with Jerusalem as a *corpus separatum*.⁷

UNGA Resolution 181, however, did not solve the problem. Palestinian leaders rejected signing away their right to sovereignty over more than half the country. The conflict between Israelis and Palestinians actually increased as the British scaled down their military presence in anticipation of the end of the mandate on 15 May 1948. The subsequent war between military contingents from Egypt, Jordan, Iraq, Syria and Lebanon and the newly declared State of Israel left Israel in control of 78% of mandate Palestine (Annex B).⁸ 75% of the Arab population of Palestine (226,000) fled or were expelled from the area that became the State of Israel as a result of the war.⁹ Thus the refugee problem, central to the conflict and an eventual solution, was born. UNGA Resolution 194 of 11 December 1948 states:

"The refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practical date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments of authorities responsible".

⁴ Hadawi, S. cited in The Palestine Question in Maps 1878 – 2002, Jerusalem: PASSIA, 2002, p. 24.

⁵ Abdul Hadi, Mahdi, Ed., Documents on Palestine Volume 1, Jerusalem: PASSIA, 1997, p. 21.

⁶ Sayigh, Yezid. Armed struggle and the Search for State – The Palestinian National Movement, 1949 – 1993, Oxford: Clarendon Press, 1997, p.1-3.

⁷ *Corpus separatum* is Latin for separate body. The city of Jerusalem and its surrounding area was to be internationalised under a UN trusteeship with free access to the holy places as one of its main objectives. The plan was, however, overtaken by events in 1948/9, which means that the legal status of Jerusalem remains to be settled during final status negotiations.

⁸ Sayigh, Yezid. Armed struggle and the Search for State – The Palestinian National Movement, 1949 – 1993, Oxford: Clarendon Press, 1997, p.3.

⁹ PLO Negotiations Affairs Department, "Fact Sheet on Palestinian Refugees", May 2003.

Although three further wars compounded the Palestinian problem, it was Israel's occupation of the West Bank and Gaza Strip in the course of the war in 1967 that set the stage for the events that unfolded over the next forty years (Annex C). Neither the numerous UN resolutions, nor the Madrid negotiations, the Oslo peace process, the Quartet Road Map¹⁰ and the most recent Annapolis Conference, have changed this reality, i.e. the military occupation of the Palestinian people and their land.

Palestinians, today, are politically weak and divided; economically desperately poor and can in theory only claim partial autonomy over less than 22%¹¹ of Mandate Palestine (Annex D). The Israeli Defence Force (IDF), in practice, enters the West Bank at will since operation 'Defensive Shield' in 2002, which renders even the partial autonomy received in Oslo obsolete. However, the moral strength of Palestinians' right to an independent sovereign state and the ability of the Arab masses, also known as the Arab street,¹² to identify with the Palestinian plight turns this weak entity into a powerful force in a strategically important, but volatile region.

Internal Palestinian Politics

The death of the late President Yasser Arafat in November 2004 brought an era in Palestinian politics to an end. This, however, led to a new beginning with the election of President Mahmoud Abbas in 2005 and the election victory of Hamas in January 2006. These parliamentary elections, pronounced by all international observers as free and fair, soon came to haunt Palestinians.

Israel, the US and the European Union (EU), primarily, imposed sanctions against Palestine shortly after Hamas formed a new government in 2006.¹³ The sanctions placed severe restrictions on the ability of the new government to govern, further impoverished an already poor and traumatised population and probably contributed to the violent clashes between Fatah and Hamas in June 2007. Israel deprived the new government of two thirds of its monthly tax revenue by withholding taxes that Israel, under the Paris Protocol (Oslo), collects on behalf of the Palestinian government.¹⁴ This caused the suspension of salary payments by the Palestinian National Authority (PNA) to its 161,000 employees, 30% of them women. Although the EU set up a Temporary International Mechanism (TIM) in June 2006, endorsed by the Quartet (US, EU, Russia & UN), to address the humanitarian crisis and in the process disbursed US\$865 million in Palestine in the next six months, civil servants only received 60% – 65% of their wages.¹⁵ The TIM was also devised to disburse financial and other assistance directly to the Palestinian people, further undermining the elected Hamas-controlled government. These measures opened the door for external actors, such as Iran, to increase its influence in Gaza. Iranian financial aid to Hamas is reported to have been between US\$120 million to US\$200 million in 2007.¹⁶ The psychological

¹⁰ The Road Map, issued in April 2003, is a plan devised by the Quartet (US, EU, Russia & UN) to bring the Israel-Palestine conflict to an end by 2005.

¹¹ The Oslo Agreements provided for the division of the West Bank into three parts, namely Areas A, B and C. In Area A the Palestinian National Authority (PNA) has full autonomy. In Area B the PNA has administrative jurisdiction, but shares jurisdiction over security matters with Israel. Israel maintains full administrative and security jurisdiction over Area C.

¹² The term "Arab street" is generally used to reflect public opinion.

¹³ The sanctions were based on the three conditions demanded by the Quartet (US, EU, Russia & UN) of the Hamas-led government, namely: non-violence, recognition of Israel and acceptance of previous agreements and obligations, including the Road Map.

¹⁴ In July 2007 Israel started to repay the tax revenue that it withheld from the Hamas-controlled PNA (February 2006 – July 2007) and resumed the release of revenue collected on behalf of the PNA.

¹⁵ Dugard, John. "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", A/HRC/4/17, 29 January 2007, p.20, and The World Bank, "Two Years after London: Restarting Palestinian Economic Recovery", 24 September 2007, p.13.

¹⁶ Rose, David. "The Gaza Bombshell", *Vanity Fair*, April 2008, p. 7.

impact of the sanctions, over and above the mentioned political impact, is expected to have long-lasting implications. The UN Special Rapporteur on Human Rights in the Occupied Territories, John Dugard, notes with due concern that this is the first time that an occupied people has been subjected to economic sanctions.¹⁷

The Palestinian public, on the one hand punished with sanctions for their democratic choice, had to cope, at the same time, with increasing internal conflict. Fatah did not accept the Hamas victory in January 2006 any more than Israel or the US. The relationship between the two parties deteriorated to such an extent in the first half of 2006 that observers feared for a Palestinian civil war by the middle of the year. It was this threat that led to the so-called Prisoners Document, an attempt from prison by prominent members of the various factions, Marwan Barghouti (Fatah) amongst others, to forge unity and stem the infighting. A commitment to unity by the various parties based on fear of either a civil war and/or an Israeli attack,¹⁸ rather than a true commitment to national reconciliation, was not to last. The document quickly got caught in the power struggle between President Mahmoud Abbas (Abu Mazen) and then Prime Minister Ismail Haniyeh (Hamas), which led to its undoing and a continuation of the fighting between their supporters in the various security structures and militant groups.

Another attempt at unity was sponsored by Saudi Arabia through an agreement signed in Mecca on 8 February 2007. Hamas and Fatah were to form a coalition government with a commitment to security reform and reform of the Palestinian Liberation Organisation (PLO).¹⁹ Prime Minister Haniyeh retained his position as head of the government, while the majority of cabinet posts, including finance and foreign affairs, went to other political movements, including Fatah, and independents.

The coalition government was, however, severely challenged. The 12 months of animosity between Fatah and Hamas had changed the national environment, perhaps irrevocably so, while outside forces directly undermined unity. A decision by the EU and the US to limit diplomatic contact with the coalition government to non-Hamas Ministers was clearly in line with the decision by the Quartet to isolate and undermine Hamas. The US Congress voted in support of a US\$86.3 million aid and assistance package to strengthen the National Security Forces and Presidential Guard, both loyal to President Abbas, in January 2007.²⁰ However, more disturbing is a report published in April 2008 that details a plan, approved by President Bush and implemented by Secretary of State Condoleezza Rice and Deputy National Security Advisor Elliott Abrams, to covertly arm Fatah to overthrow the democratically elected Hamas government. This plan was, reportedly, implemented in parallel to the overt program taken to Congress.²¹ The actions by the US and the EU at the very least enhanced the competition for political and military power between Hamas and Fatah, while the US covert action created a

¹⁷ Dugard, John. "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", A/HRC/4/17, 29 January 2007, p.21.

¹⁸ The agreement between the two parties cannot be divorced from a sense of crisis that was created by the Israeli military build-up on Israel's border with the Gaza Strip in reaction to an attack by Palestinian militants on an Israeli military base near the Israeli Egyptian border on 25 June 2006.

¹⁹ Palestinian politics house two different centres of power based on the PLO, established in Jerusalem in 1964, and the PNA, born out of the Oslo Accords (started in 1993). The PNA is a transitional institution with a restricted mandate and powers determined by the Oslo Accords, compared to the PLO, which is the sole legitimate representative of the Palestinian people and the responsible institution to negotiate with Israel. The PLO, however, faces a number of constraints that prevent it from playing an effective role, such as the lack of leadership, the fact that Hamas has never been and is still not a member of the PLO, and the inability of the Palestinian National Council (PNC) to convene on a regular basis.

²⁰ International Crisis Group, "After Gaza", *Middle East Report No 68*, 2 August 2007, p. 9.

²¹ Rose, David. "The Gaza Bombshell", *Vanity Fair*, April 2008, p. 15.

situation in which Hamas had to cease control of Gaza in order to prevent a US funded and supported military coup by Fatah.

The coalition government, therefore, was only able to delay the threat of public violence that was already in evidence a year earlier. Factional fighting continued during this period, but came to a head in June 2007 when more than a 100 Palestinians died in the five days of infighting that saw the end of the coalition government and Hamas and Fatah's respective control over the Gaza Strip and West Bank.²² Neither party can claim innocence or the moral high ground based on the events that took place in the period 10 – 14 June 2007. Militants on both sides of the conflict are guilty of a general disregard for civilian life, of assassinating rivals, and the execution of adversaries who have surrendered.²³ Both leaderships are by implication guilty of losing control over the various armed groups and security organisations loyal to them.

The Palestinian public's response to these events was predictably one of displeasure and distrust. Hamas, which came to power in reaction to the public's discontent with years of mismanagement by Fatah, did not succeed in easing Palestinians' daily plight, but contributed to their misery and insecurity through the events that occurred in June 2007. A public opinion poll conducted shortly after the June fighting found that the majority (59%) believed Fatah and Hamas were equally responsible for the infighting. Distrust in the Palestinian leadership was further reflected in the public's willingness (40%) to consider radical alternatives to the *status quo*, such as the dissolution of the PNA and its replacement with an international trusteeship or a return to full Israeli occupation.²⁴ A subsequent poll in September 2007 confirmed that Hamas had lost public support (6 percentage points since mid March 2007) due to the events that occurred in June as well as the subsequent difficulties that Gaza residents faced and are still facing.²⁵ Both Fatah and President Abbas had, however, increased their popularity and although 38% would not participate in presidential elections if they were held at the time of the poll, 59% would vote for Abbas, compared to 36% for Haniyeh.²⁶ If parliamentary elections were held in September 2007, 48% would vote for Fatah compared to 31% for Hamas. The Fatah increase in popularity is significant if compared to the 42% that supported Fatah when it lost to Hamas in the January 2006 parliamentary elections.²⁷

After dissolving the government of national unity President Abbas appointed a widely respected former Minister of Finance, Salam Fayyad, as Prime Minister. Prime Minister Fayyad developed a very good rapport with the Quartet as well as the donor community during his term as Minister for Finance from 2002 - 2005. He formed an emergency Cabinet on 17 June 2007 consisting of independents but for himself and one other member.

The financial benefits that came to the West Bank with the emergency Cabinet, later the interim government, and the internal order and security that resulted from Fatah and Hamas taking political control of the West Bank and Gaza Strip, respectively, does not outweigh what Palestinians have lost in terms of their negotiating power with Israel. The international support lavished on President Abbas and the interim government, *inter alia*, the US\$7.4 billion pledged at

²² MIFTAH Fact Sheets, "Infighting between Fatah and Hamas in the Gaza Strip: Timeline", 7 July 2007.

²³ International Crisis Group, "After Gaza", *Middle East Report No 68*, 2 August 2007, p. 12.

²⁴ PSR: Public Opinion Poll No. 24, 14-20 June 2007 (<http://www.pcpsr.org/survey/polls/2007/p24el.html>).

²⁵ PSR: Public Opinion Poll No. 25, 6 – 8 September 2007 (<http://www.pcpsr.org/survey/polls/2007/p25el.html>).

²⁶ PSR: Public Opinion Poll No. 25, 6 – 8 September 2007 (<http://www.pcpsr.org/survey/polls/2007/p25el.html>).

²⁷ PSR: Public Opinion Poll No. 25, 6 – 8 September 2007 (<http://www.pcpsr.org/survey/polls/2007/p25el.html>).

the Paris donor conference in December 2007, will not buy legitimacy for President Abbas in Gaza, nor will it repair the donor community's image tarnished by the sanctions of 2006. Foreign development aid has a role to play in Palestine, but the international community should not be allowed to substitute political commitment with lavish financial contributions or to bankroll the occupation indirectly with emergency humanitarian relief, rather than using political pressure for a situation in which foreign direct investment would become a realistic option. It is, therefore, important that the international community remains engaged with the Palestinian problem with an effective balance between political and economic assistance. However, to do so with only one sector of a politically weak and divided Palestinian polity will spell disaster for Palestinian national aspirations – as Palestinians are well aware.

Israeli Occupation Policies

John Dugard states in his January 2007 report on human rights in the occupied territories to the UNGA: "The international community has identified three regimes as inimical to human rights – colonialism, apartheid and foreign occupation".²⁸ Palestinians in the West Bank have been living under military occupation for 41 years, this year. The correlation between the occupation, the ongoing deterioration of the humanitarian situation in the West Bank and Gaza Strip and Israeli violations of international law has been well documented.²⁹

Israel's unilateral disengagement from Gaza in August 2005 did not end the occupation of the Gaza Strip, but turned the densely populated³⁰ coastal strip – 45km long and 5-12km in width (365km²) - into an open-air prison³¹ with Israeli control over all entry and exit points, the coast and airspace, plus a buffer zone along the entire eastern frontier that gobbles up 17% of Gaza or 35% of its agricultural land;³² a typically controlled ghetto in other words (Annex E). The firing of crudely built Qassam and longer-range Katyusha rockets into Israel by Palestinian militants in Gaza or military operations such as the capture of Corporal Gilad Shalit in June 2006 or the 6 March 2008 attack on students at a religious seminary in Jerusalem,³³ i.e. inside Israel, present the Israeli Defence Force (IDF) with justification for military incursions as well as air and land attacks that inevitably result in high civilian casualties and the destruction of civilian infrastructure. An Israeli military operation in Gaza at the end of February 2008 that resulted in 106 Palestinian deaths, including 54 civilians of whom 25 were minors, is a case in point. Three Israelis, including one civilian, were killed in the five days of fighting.³⁴ These statistics are representative of both

²⁸ Dugard, John. "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", A/HRC/4/17, 29 January 2007, p.3.

²⁹ Note: The reports of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, United Nations Department of Public Information.

³⁰ Gaza, with a population of 1.5 million, is one of the most densely populated areas in the world with 3,823 persons per km².

³¹ The term "prison" is generally used in reference to the Gaza Strip in order to reflect the continual incarceration of Palestinians living in Gaza subsequent to Israel's unilateral withdrawal. See http://www.btselem.org/English/Publications/Summaries/200503_Gaza_Prison.asp; <http://www.ynetnews.com/articles/0,7340,L-3308494,00.html>; <http://www.independent.co.uk/news/world/middle-east/gaza-is-a-jail-nobody-is-allowed-to-leave-we-are-all-starving-now-415101.html>. See also: "In a prison, only five things are available: air, water, light, food and medicine. That is all Egypt and Israel make available to us" (International Crisis Group, "Ruling Palestine I: Gaza under Hamas", *Middle East Report No 73*, 19 March 2008, p.4).

³² International Crisis Group, "Ruling Palestine I: Gaza under Hamas", *Middle East Report No 73*, 19 March 2008, p.2.

³³ International Crisis Group, "Ruling Palestine I: Gaza under Hamas", *Middle East Report No 73*, 19 March 2008, p.28.

³⁴ International Crisis Group, "Ruling Palestine I: Gaza under Hamas", *Middle East Report No 73*, 19 March 2008, p.6.

the retaliatory cycle of violence between Palestinian militants in Gaza and the IDF as well as the substantial higher ratio of Palestinian to Israeli deaths in the ongoing Israel-Palestine conflict.

The 1.5 million Palestinians living in Gaza, already desperately poor, insecure and isolated, have now also been demonized due to the Hamas takeover in June 2007. The Israeli government has declared Gaza and the Hamas leadership a “hostile entity” that accordingly allows even stricter controls on the movement of people and goods to and from the Gaza Strip as well as fuel and electricity sanctions. This has resulted, *inter alia*, in an increase in unemployment (75,000 workers out of approximately 110,000 employed by the private sector have been temporarily laid off); the inability of cancer patients to get medical treatment outside of Gaza; and the loss of production in both the agricultural and industrial sectors.³⁵ Of particular concern is Israel’s decision in October 2007 to limit its supply of fuel (diesel, cooking gas and benzene) to Gaza and the threat of a reduction in the supply of energy.³⁶

While these Israeli sanctions entail collective punishment, Israeli military incursions, attacks and targeted assassinations are in violation, *inter alia*, of the right to life, article 6 of the International Covenant on Civil and Political Rights. Direct attacks against civilians and civilian objects and the IDF’s failure to distinguish between military and civilian targets; the excessive use of force used in attacks on civilians and civilian objects; the spreading of terror amongst the civilian population; and collective punishment, are all in violation of the Fourth Geneva Convention, to which Israel is a signatory.³⁷ In so doing Israel has, according to John Dugard, made itself guilty of perpetrating war crimes in terms of article 147 of the Fourth Geneva Convention and article 85 of the Protocol Additional to the Geneva Conventions.³⁸

The Palestinian population’s vulnerability is further increased by abject poverty, as mentioned in relation to the Gaza Strip. Over 90% of those living in Gaza and 56% of those in the West Bank live below the official poverty line of US\$2.10 per day.³⁹ The World Bank has on numerous occasions since September 2000 identified movement control as a major impediment to economic recovery in the occupied territories. A complex regime of concrete walls, concrete blocks, fences, Israeli military permanent and temporary checkpoints as well as permits and often the whim of the individual soldier on the ground, control and restrict the movement of people and goods in the West Bank and to and from the West Bank and Gaza Strip. Over 80 military checkpoints and 470 unmanned locked gates, earth mounds, concrete walls and ditches currently violate the freedom of movement of people and goods in the West Bank alone.⁴⁰

The Separation Wall - partly being built on the 1949 West Bank Armistice line (Green Line), but mostly inside the occupied West Bank – adds to this regime of movement control, but goes

³⁵ OCHA Special Focus occupied Palestinian territory, “The Closure of the Gaza Strip: The Economic and Humanitarian Consequences”, December 2007.

³⁶ OCHA Special Focus occupied Palestinian territory, “The Closure of the Gaza Strip: The Economic and Humanitarian Consequences”, December 2007.

³⁷ The Fourth Geneva Convention Relative to the Protection of Civilian Persons in Time of War of 1949 (the Fourth Geneva Convention) was adopted in 1949 with the aim to protect a population under foreign occupation.

³⁸ Dugard, John. “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967”, A/HRC/4/17, 29 January 2007, p.11.

³⁹ Dugard, John. “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967”, A/HRC/4/17, 29 January 2007, p.20 and Dugard, John. “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967”, A/62/275, 17 August 2007, p.17.

⁴⁰ Dugard, John. “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967”, A/62/275, 17 August 2007, p.12.

further in its abuse of Palestinian rights through the expropriation of Palestinian land. The International Court of Justice (ICJ) issued an advisory opinion on 9 July 2004 to the effect that Israel should discontinue construction of the Wall, return seized property and compensate Palestinian landowners whose interests have been damaged by its construction. The Court's decision emphatically challenged the Israeli rationale for locating most of the Wall in the West Bank instead of in its own territory. The majority of UNGA members, including New Zealand, called on Israel to comply with the ICJ opinion with UNGA Resolution A/RES/ES-10/15 of 2 August 2004.⁴¹

The length of the Wall upon completion will be 721km, twice the length of the Green Line (Annex F & Annex G). 408km or 56.6% of the Wall has been completed in direct contravention of the ICJ's ruling. Since the Wall snakes into the West Bank some 22km to include the Ariel settlement, 10.17% of the West Bank is now located between the Wall and the Green Line. Palestinians living in this area are, therefore, physically separated from the West Bank and legally separated from Israel proper, i.e. Israel inside the Green Line. It is estimated that 60,500 Palestinians from 42 villages will be stuck between the Wall and the Green Line upon its completion.⁴² The area between the Wall and the Green Line in the northern West Bank was further declared closed by the Israeli military in October 2003, which means that the residents have to obtain "long term" or "permanent resident" permits to remain in their houses and on their land.⁴³

The Wall, upon completion, will not only divide Palestinians from Israelis and in some places Palestinians from Palestinians, but will fragment the Palestinian population even further in separating East Jerusalem from the rest of the West Bank and Bethlehem from Jerusalem, severing the last route between these two historically important cities.⁴⁴ The 75km Wall that is currently being built in East Jerusalem is, according to Dugard, an instrument of social engineering in that its objective is to limit the number of Palestinians in the city in support of the Judaization of Jerusalem. He further notes that the Wall in Jerusalem is being built in such a way that it separates Palestinians from Palestinians; clearly unrelated to the issue of security.⁴⁵

The Wall and movement restrictions, however, form part of a broader policy that includes Israeli settlements. The presence of the settlements in the West Bank, with their accompanying military infrastructure, system of by-pass roads, restrictions on and isolation of Palestinian population centres, and depletion of the natural resources, strongly argue against a viable Palestinian state. More than 38% of the West Bank consists of Israeli infrastructure, i.e. settlements, military bases, closed military areas, etc.⁴⁶ Settlements are in violation of international law, in particular article 49, paragraph 6 of the Fourth Geneva Convention.⁴⁷ Today there are 140 Israeli settlements and 100 outposts in the West Bank, including East Jerusalem. The Jerusalem Municipality Planning

⁴¹ OCHA Special Focus occupied Palestinian territory, "Three Years Later: The Humanitarian Impact of the Barrier Since the International Court of Justice Opinion", 9 July 2007.

⁴² Dugard, John "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", A/HRC/4/17, 29 January 2007, p.12.

⁴³ OCHA Special Focus occupied Palestinian territory, "Three Years Later: The Humanitarian Impact of the Barrier Since the International Court of Justice Opinion", 9 July 2007.

⁴⁴ OCHA Special Focus occupied Palestinian territory, "Three Years Later: The Humanitarian Impact of the Barrier Since the International Court of Justice Opinion", 9 July 2007.

⁴⁵ Dugard, John "Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967", A/HRC/4/17, 29 January 2007, p.13.

⁴⁶ "The humanitarian impact on Palestinians of Israeli settlements and other infrastructure in the West Bank, July 2007", Office for the Coordination of Humanitarian Affairs (OCHA), 30 August 2007, p.1.

⁴⁷ Article 49 (6) of the Fourth Geneva Convention explicitly prohibits an Occupying Power from transferring part of its civilian population into occupied territory. Israeli settlements are clearly in violation of this prohibition.

Committee approved plans in 2007 to build three new settlements in East Jerusalem, one south of Ramallah and two northwest of Bethlehem.⁴⁸ The Israeli Housing Ministry announced on 9 March 2008 that a further 750 new apartments would be built in the Pisgat Zeev settlement in East Jerusalem.⁴⁹ The US commented that the Pisgat Zeev decision is “unhelpful”.⁵⁰ Peace Now, an Israeli pro-peace movement, noted on 7 November 2007 that construction is ongoing in 88 settlements in the West Bank, and that new outposts are currently being created.⁵¹ Israel further decided, after the Annapolis conference and whilst negotiations between Prime Minister Olmert and President Abbas are taking place, to build 300 new apartments in the settlement of Har Homa/Jabal Abu Ghneim that is situated in the occupied West Bank just north of Bethlehem.⁵² Israel justifies its decision by arguing that Har Homa is a neighbourhood of Jerusalem, annexed in 1967 as its capital, and not a settlement. The disputed status of Jerusalem undermines this argument and on the contrary reflects Israel’s inability to honour negotiated agreements.

The Israeli Government supports the 460,000 settlers in the West Bank (including East Jerusalem) through subsidies, tax breaks, favourable legislation, military protection and a road network (bypass roads) for the primary, if not exclusive use of settlers.⁵³ The so-called settler outposts, settlements that are not recognised as such by the Israeli Interior Ministry, are used as a negotiating tool and some of the newer and smaller ones are evacuated from time to time.⁵⁴ However, Israel has made it clear that it has no intention to evacuate the main settlements of Gush Etzion, Ma’aleh Adumim and Ariel, but has rather devised the route of the Wall in order to incorporate these settlements into Israel proper.

Settlements represent a particular insult to Palestinians, since they are not only built on occupied land, but 40% of the land expropriated by them is private Palestinian land.⁵⁵ Settlements with their green lawns and swimming pools further stand in stark contrast to their semi-desert environment and underscore the fact that settlers use six times more water per capita than Palestinians.⁵⁶ Settlements further restrict the expansion of Palestinian cities, while so-called natural growth in settlements allows for the ongoing expansion of existing settlements. Settlements, finally, divide the West Bank into three isolated cantons, namely Jenin and Nablus in the north, Ramallah in the middle and Bethlehem and Hebron in the south (Annex H) (Jerusalem is being completely cut-off from the rest of the West Bank by the Wall). This clearly enhances a broader Israeli strategy of divide and rule.

Israel has legitimate security concerns, but limits must be placed on the violation of human rights in the name of counter-terrorism. The expropriation of Palestinian land in the West Bank, including East Jerusalem, to build the Wall and establish settlements, has clearly more to do with

⁴⁸ Dugard, John. “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967”, A/62/275, 17 August 2007, p. 11.

⁴⁹ MIFTAH “Attacks resume after brief calm”, 15 March 2008.

⁵⁰ MIFTAH “Attacks resume after brief calm”, 15 March 2008.

⁵¹ MIFTAH “Settlements Expand before Annapolis Summit”, 10 November 2007.

⁵² BBC News, “Storm grows over Jerusalem settlement”, 7 January 2008.

(http://news.bbc.co.uk/2/hi/middle_east/7172253.stm).

⁵³ See Avishai Margalit, “A Moral Witness to the ‘Intricate Machine’” in *The New York Review of Books*, Volume 54, No. 19, 6 December 2007, for a discussion on how the bypass roads between and safety zones around settlements aid the Israeli expropriation and control of the West Bank.

⁵⁴ All settlements are against international legislation and no distinction should be made between so-called outposts and settlements. Yonatan Mendel explains in the *London Review of Books*, 6 March 2008, how in the words of David Grossman “...a new language emerges whose words....no longer describe reality, but attempt, instead, to conceal it”.

⁵⁵ Dugard, John. “Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967”, A/62/275, 17 August 2007, p. 11.

⁵⁶ Diabes, Fadia. *Water in Palestine: Problems – Politics – Prospects*, Jerusalem: PASSIA, 2003, p. 13.

expansion and the consolidation of Israeli hegemony, than with safeguarding Israeli citizens. Israel's disproportionate use of force, when responding to Palestinian violence, is also counterproductive in that it fuels a culture of violence based on revenge and honour versus humiliation.

Regional Dynamics

US/Israel Hegemony in the Middle East and the Shi'a Revival

The Bush administration failed dismally in reaching its second-term foreign policy objectives as articulated by President Bush in his inaugural address on 20 January 2005: "It is the policy of the United States to seek and support the growth of democratic movements and institutions in every nation and culture, with the ultimate goal of ending tyranny in our world".⁵⁷ The same theme, i.e. promoting democracy and security, was repeated in the President's State of the Union address of 31 January 2006, US Secretary of State Condoleezza Rice's address on Transformational Diplomacy to the Senate Foreign Relations Committee of 15 February 2006 and "The National Security Strategy of the United States of America", dated March 2006. The United States' actions in fuelling the violent conflict between Fatah and Hamas last year as well as its role in the ongoing carnage in Iraq have in contrast discredited democracy in the Middle East and increased in size the playing field for terrorist organisations.

The Israeli defeat by Hezbollah in the Israel-Lebanon war in July-August 2006 based on the Israeli government's stated objectives, i.e. to free the two captured Israeli soldiers and to terminate Hezbollah as a military force, has undermined Israeli deterrence and by implication American influence in the region. The US overthrow of Saddam Hussein and current protracted conflict in Iraq has destroyed Iraq's ability to act as a counter-weight to Iranian influence in the Middle East. The collapse of the Ba'ath regime in Iraq has further brought Sunni/Shi'a divisions in the region to the fore. Iran's increased assertiveness and the popularity of Hezbollah subsequent to the Israel-Lebanon war give credence to the notion of a Shi'a revival. The latter has put the Sunni allies of the US – Jordan and Egypt – on the defensive and moved another US ally, Saudi Arabia, to mediate between Fatah and Hamas in support of a government of national unity and a more prominent role for (Sunni) Saudi Arabia – the Protector of Islam's Holy Places – in the Middle East Peace Process (MEPP).⁵⁸ This mediation by Saudi Arabia in Palestinian affairs is a step towards shifting the balance of forces away from the historic Egyptian role to what may emerge as Saudi Arabian leadership in the MEPP. However, the main contestation is not between Saudi Arabia and Egypt, but between Saudi Arabia and Iran, fuelled by the Iranian backed Shi'a revival and American dissatisfaction with the increase in Iranian influence in the region.⁵⁹

US Allies in the Gulf

The Gulf Cooperation Council (GCC)-states – Saudi Arabia, Kuwait, Oman, UAE, Qatar, and Bahrain – are characterised by small populations with limited defence capacities, but enormous wealth due to their energy resources. The GCC-states fall within the American sphere of influence with US military bases in Bahrain,⁶⁰ Qatar, the UAE, Oman and Kuwait. Pockets of discontent in the GCC states are mostly found amongst the Shi'a populations – in Bahrain (70%),

⁵⁷ <http://www.whitehouse.gov/inaugural/index.html>

⁵⁸ International Crisis Group, "After Mecca: Engaging Hamas", *Middle East Report No 62*, 28 February 2007, p. 19.

⁵⁹ For further reading on the Shi'a revival see Nasr, V. *The Shia Revival - How conflicts within Islam will shape the future*. W.W Norton & Company, New York, 2006; and Norton, Augustus Richard. "The Shiite "Threat" Revisited", *Current History*, December 2007.

⁶⁰ The headquarters of the US Navy's Fifth Fleet is in Bahrain.

Kuwait (25%) the UAE (16%), and Saudi Arabia (8%).⁶¹ The large number of so-called militants arrested in Saudi Arabia in recent months, however, reflects a broader spectrum of discontent than just amongst the Shi'a sector of society. The images and stories of the suffering of Palestinians under the Israeli occupation present a challenge to these oil-rich Gulf citizens who depend on Israel's biggest ally for their own security. Any catalyst, whether it is another war in the region, an Israeli invasion of Gaza, or internal discontent strengthened by the Shi'a revival, could render the rulers of these Sheikdoms vulnerable. Though they have proved their ability to survive regional instability in recent years, internal instability rooted in the Sunni-Shi'a contestation and/or identification with the Palestinian plight might prove to be a bigger challenge to these monarchies in the framework of a growing anti-American sentiment, than in the past.

Unstable Lebanon

Lebanon's weak political system and confessionalism make it vulnerable to regional conflict. Its inability to overcome its sectarianism, comprising as many as 18 different confessional⁶² groups, renders it inherently unstable.⁶³ The fact that some of these groups act as proxies for outside powers, such as the US, Iran and Syria, enhances the potential for internal conflict.

The formation of the State of Israel in 1948 and the subsequent flow of Palestinian refugees into Lebanon further complicated the confessional makeup of society. The relocation of the PLO to Lebanon after their eviction from Jordan in 1970 moved the conflict closer to the Lebanese people with frequent clashes between Palestinians and Israelis across the Israel-Lebanese border. The killing of 27 Palestinians in April 1975 provided the catalyst for the civil war that lasted until 1990 and included the massacre of 2,400 Palestinians in the Sabra and Chatila refugee camps. As if the historic legacy does not provide enough reason for volatility, unresolved issues between Lebanon and Israel, i.e. the Shebaa Farms, Israeli detention of Lebanese prisoners and Hezbollah's holding of Israeli prisoners, and Israeli infringement of Lebanese sovereignty, could spark renewed conflict between the two countries. Hezbollah demonstrated its willingness to come to the Palestinian aid and to resist Israeli and American hegemony in the Middle East in July 2006 and could be expected to do so again in future. Iran, Syria and Hamas are Hezbollah's natural partners in resisting Israeli/US hegemony in the region.

Unpredictable Syria

Syria and Israel are in a state of war. However, Syria's current biggest challenge is political instability in neighbouring Lebanon. Saudi Arabia, Egypt, Jordan and Yemen sent low-level delegations to the Arab League Summit in Damascus in March 2008 in opposition to so-called Syrian involvement in the Lebanese presidential crisis.⁶⁴

Syria's participation in the Annapolis Conference was a reminder of the outstanding Israeli-Syrian track in the MEPP, i.e. Israel's occupation of the Golan Heights. Syria does not have the military capacity to oppose Israeli and American dominance with the same amount of confidence as Iran. However, Syria remains an important sponsor to Hezbollah in its resistance to Israeli hegemony and provides hospitality to Palestinian dissident groups such as the Popular Front for the Liberation of Palestine – General Command (PFLP-GC) and the Democratic Front for the Liberation of Palestine (DFLP), over and above approximately 500,000 Palestinian refugees.

⁶¹ Norton, Augustus Richard. "The Shiite "Threat" Revisited", *Current History*, December 2007, p.435.

⁶² Confessionalism is mainly used in a Lebanese context to refer to political identity, loyalty and privileges, based on different denominational affiliations.

⁶³ "Conference debates creation of citizens - Confessionalism is a major obstacle", Lebanonwire, 19 December 2003 (<http://www.lebanonwire.com>).

⁶⁴ Lebanon has been unsuccessful for the past four months in electing a new president, i.e. since Emile Lahoud's term came to an end in November 2007.

The Al-Assad family of Syria are Alawis, which is an offshoot of Shi'a Islam, represented by only 11% in Syria, the majority being Sunni.⁶⁵ The Assad government had in the past faced challenges to its legitimacy from the Muslim Brotherhood in Syria, but any such dissent has been contained by military means. A more serious threat to the Syrian government in the event of increased regional instability would, therefore, be external, i.e. from Israel, rather than internal.

Discontent in the Arab Street

The vulnerability of the Jordanian and Egyptian governments, both in the American sphere of influence, is directly linked to the Israel-Palestine conflict. Although both governments have peace agreements with Israel, the Arab street, in both countries, remains fiercely anti-Israel and opposed to American influence in the region. This sentiment in the Jordanian street is easily explained by the fact that its vast majority is of Palestinian origin (approximately 75%). The same sentiment was, however, reflected in Egypt by an opinion poll conducted by the Ibn Khaldoun Centre in August 2006. Hezbollah leader Nasrallah (82%) was voted the most popular leader, Iranian President Ahmadinejad (73%) came second, Hamas's Khaled Mashal (60%) third, and Osama Bin Laden (52%) fourth.⁶⁶ It is noteworthy that Egyptians, the majority being Sunni (90%), were indifferent to both religious and national differences in their expression of an anti-Israel/American sentiment.

Populist Politics in Iran

The Palestinian issue is an important element in Iranian populist politics, similar to that in the Arab world. President Ahmadinejad has utilised the Israel-Palestine conflict in the past to enhance his populist appeal, though not his international standing.

During a visit to Israel in January 2008 President Bush stated that Iran continues to be a threat to world peace, notwithstanding the US National Intelligence Estimate release in December 2007 that found Iran not to have a nuclear weapons programme. One can, therefore, assume that the US pressure on Iran, overtly and covertly, will continue. The emphasis placed on Iran during Bush's meeting with Prime Minister Olmert reflects the uniformity in US and Israeli policy in this regard. In repeating his threat perception of Iran during the rest of his tour to Bahrain, the UAE, Kuwait and Saudi Arabia, President Bush confirmed that US policy vis-à-vis Iran has not changed and that the visit was as much about mobilising support against Iran as demonstrating support for the MEPP.

The reassertion of Iran in the Middle East, backed by a Shi'a revival, will therefore see further Iranian-US confrontations, whether through direct engagement or through their proxies.⁶⁷

Regional Contestations and the Palestinian Problem

The absence of a solution to the Palestinian issue in the longer term, or a calamity in the short to medium term, such as the IDF's attack against Jenin in 2002, would strengthen the momentum of forces already present in the region. The GCC six plus Jordan, Egypt and the pro-Western Bloc in Lebanon, would be expected to remain in the US sphere of influence and therefore support American interests in the region, while Iran, Syria, the Arab street, Hezbollah and Hamas would

⁶⁵ Nasr, V. *The Shia Revival - How conflicts within Islam will shape the future*. W.W Norton & Company, New York, 2006, p. 61.

⁶⁶ Amidror, Y. "The Hizballah-Syria-Iran Triangle" *MERIA*, Volume 11, No.1, 7 March 2007.

⁶⁷ Comments by Senator Obama in November 2007 indicate that this scenario might change should he be the Democratic Party's presidential candidate and be elected as the next American President. See in this regard: <http://www.nytimes.com/2007/11/02/us/politics/02obama.html>.

oppose and even resist Israeli/American hegemony. Countries already politically unstable, such as Iraq and Lebanon, would see an increase in violence, while the Gulf monarchies, Jordan and Egypt are bound to be challenged by internal forces, whether they are driven by Sunni-Shi'a contestations or the Arab street's abhorrence of the Israeli occupation.

The ongoing humiliation of Palestinians, including the hypocrisy of the major powers in this regard, invokes a deep-seated resentment amongst people of the Middle East region. Recent foreign policy disasters such as the US-led invasion of Iraq have heightened the level of volatility in the region. However, the Israel-Palestine conflict remains a constant source of Arab (and Persian) antagonism and therefore a potential catalyst for conflict.

The Prospect for Peace

The limited scope and outcome of the Annapolis Conference (27 November 2007) was written in the reality of Israeli and Palestinian politics – an occupying power on the one hand that prefers the *status quo* to final status negotiations that would oblige it to compromise on Jerusalem, settlements, refugees, water and borders, and on the other hand a bitterly divided Palestinian people who cannot hope to achieve the ultimate goal of an independent Palestinian state with East Jerusalem as its capital before national reconciliation and unity.

The political contact established between Prime Minister Olmert of Israel and President Abbas is limited by their respective weaknesses. President Abbas does not have Yasser Arafat's charisma, he does not have a strong support base, and his political party, Fatah, is internally divided and seen by the Palestinian public as corrupt and ineffective. Most important, however, is that President Abbas no longer has a clear mandate to negotiate on behalf of all Palestinians. Although the Palestinian negotiating team to Annapolis included veteran negotiators from Madrid and Oslo, such as Saeb Erekat and Ahmed Qurei'a (Abu Ala), and although the Hamas-led government of 2006 agreed that Mahmoud Abbas as Chairman of the PLO has the responsibility for negotiations with Israel, Hamas made it clear that that mandate no longer stands while Palestine is politically divided.⁶⁸

Prime Minister Olmert, with ratings as low as 3% in 2007 and an ongoing corruption investigation against him, is in no better position to guarantee the implementation of an agreement on Israel's behalf. His lack of credibility is mainly due to: a) the perceived failure of his convergence plan (also known as realignment) that would have entailed the unilateral disengagement from most of the West Bank, including some smaller settlements, whilst consolidating the bigger settlements closer to the 1967 border; and b) his handling of the war with Lebanon in July-August 2006 for which he was criticised by a government-appointed commission of inquiry.

Most detrimental to negotiations, however, is Israel's tendency to subject the peace process to domestic political interests. Two of Prime Minister Olmert's then coalition partners, the far-right Yisrael Beiteinu and the ultra-Orthodox Shas party, warned him in September 2007 that they would bring down his government should he make any concessions to the Palestinians at Annapolis, or thereafter.⁶⁹ The Strategic Affairs Minister and leader of Yisrael Beiteinu acted on his earlier threat and resigned from the Olmert government in January 2008 in reaction to the post-Annapolis negotiations, while Shas is maintaining its threat to resign linked to discussions on core issues such as Jerusalem, borders and refugees. Prime Minister Olmert's decision in

⁶⁸ See an address by the Head of Hamas's Politburo, Khaled Meshal, in International Crisis Group, "The Israeli-Palestinian Conflict: Annapolis and After", *Middle East Briefing No 22*, 20 November 2007, p. 10.

⁶⁹ Haaretz.com, 15 September 2007. (<http://www.haaretz.com/hasen/spages/903153.html>).

March 2008 to allow the construction of 750 new homes in an existing East Jerusalem settlement is, reportedly, motivated by his desire to keep Shas in the government.

The Yisrael Beiteinu party's resignation still leaves Prime Minister Olmert's coalition government – Khadima (29), Labour (19), Shas (12) and Gil (7) – with 67 out of a total of 120 Knesset seats, a majority of 14. However, the political vulnerability of coalition politics determine that Prime Minister Olmert could be expected to negotiate with one eye on Shas and the other on the next Israeli elections, rather than with a true commitment to peace. Israel's style of coalition politics has led many a Prime Minister to sacrifice the peace process in favour of their own political survival at home.

America's current active engagement with the peace process is in a similar fashion ruined by the hypocrisy demonstrated in the US reaction to the Hamas election victory and its ever deteriorating standing in the Middle East based on the invasion of Iraq and unquestionable support for Israel, despite Israel's disregard for UN resolutions and dismal human rights record in the occupied territories. The Bush administration's rather late engagement with the peace process vis-à-vis President Bush's departure from office at the end of 2008 is further viewed with scepticism, especially in relation to the possibility of a US attack on Iran. A highly discredited administration would need something to balance further military objectives in the Middle East. Delivering the resumption of the Israel-Palestine peace process might be viewed by the hawks in the Bush administration as a way to buy regional compliance, if not support, for these objectives.

The formula for peace, with its origin in UNSC Resolution 242 of 22 November 1967 that calls on Israel to withdraw its armed forces from territories occupied during the war of 1967, however, does exist. Other building blocks of the peace formula are UNSC Resolution 338 of 22 October 1973 (calls for the immediate implementation of UNSC Res. 242); UNSC Resolution 1397 of 12 March 2002 (affirming a vision of Israel and Palestine living side-by-side within secure and recognised borders); UNSC Resolution 1515 of 19 November 2003 (endorsing the Quartet Road Map to a Permanent Two-State Solution); the Oslo frame of reference (land-for-peace); the Arab Initiative of Saudi (then) Crown Prince Abdullah endorsed by the Arab League of States on 28 March 2002 (regional recognition of Israel and peace in exchange for an Israeli withdrawal to 1967 borders); and the 2003 Geneva Accord (second-track diplomacy that resulted in a peace initiative drafted by Israeli and Palestinian politicians and peace activists).

The golden thread that runs through these resolutions and peace initiatives is the land-for-peace principle. This principle became popular because of the Oslo Process, but in fact represents the basis of UNSC Resolution 242 that called on the relevant parties to withdraw from territories occupied during the war and to end all belligerent behaviour as well as confirming the right of all states to live in peace with secure and recognised borders, i.e. the two-state solution.

The majority of Palestinians and Israelis support the land-for-peace principle as well as the path to reach the two-state solution, namely through negotiations.⁷⁰ Other options such as unilateral disengagement (convergence plan) or military confrontation have proved to be unsustainable if not outright failures. Individuals, often outside of Palestine and Israel, have in recent years

⁷⁰ Nearly 500 000 Palestinians and Israelis have united to demand negotiations until a comprehensive two-state agreement has been achieved. See www.onemillionvoices.org in this regard. Although joint declarations of this nature and joint Israeli-Palestinian opinion polls are scarce, Palestinian support for a negotiated two-state solution is well documented based on a number of Palestinian opinion polls. Israeli support for the two-state solution is less well known through opinion polls, however, it is widely accepted based on an often stated Israeli fear that the alternative, i.e. the South African option of one-person-one-vote in a unitary state, would bring about Palestinian majority rule.

proposed a so-called one-state solution. Although scarce resources and geographic restrictions might argue for a unitary state in future, it is clear that the majority in Palestine and Israel, mostly for different reasons, supports the land-for-peace formula towards two independent states living side by side within secure borders. This is, however, where the clear consensus ends. Although political will – clearly absent from one or more of the concerned parties at different times - would go a long way in bringing about peace, real conflict of interests exist regarding the final status issues, i.e. those issues on which finality was not reached during the Oslo negotiations. They are Jerusalem, refugees, settlements, borders and water.

The final status issues have been complicated by “facts on the ground”, i.e. the expropriation of Palestinian land for Israeli expansion in the West Bank through settlements, military infrastructure, by-pass roads and the Wall. Other complicating elements to the conflict include Israeli detention of Palestinian political prisoners (11 000); the categorisation of Hamas as a terrorist organisation by the US, Israel and the EU; the internal division of the Palestinian polity; the firing of Qassam rockets by Palestinian militants; the Quartet⁷¹ demands of Hamas; and the humanitarian crisis in Gaza due to its isolation. Most, if not all these elements can, however, be turned around to create goodwill for the resumption of negotiations if, *inter alia*, (a) Palestinians, as a matter of urgency, pursue reconciliation and national unity; (b) the current interim Palestinian government commits itself to parliamentary and presidential elections as soon as internal conditions are stable enough to allow free and fair elections; (c) the international community supports Palestinian unity and an inclusive process, rather than fuel internal divisions and demonise Hamas; (d) all parties to the conflict commit to a cease-fire; (e) Israel freezes all settlement construction and expansion; and (f) Israel releases all political prisoners irrespective of their party affiliation.

The Palestinian and Israeli undertaking at the Annapolis Conference to address final status issues in an attempt to reach an agreement before the end of 2008 is a positive development. However, a large measure of scepticism is in order given the complexity of these issues.

The city of Jerusalem has religious, historic and symbolic value to both Palestinians and Israelis. The presence, in close geographic proximity, of the Al-Aqsa Mosque, the Wailing Wall and the Church of the Holy Sepulchre emphasizes the importance of Jerusalem for followers, globally, of the three major monotheistic religions.

Other issues that will have to be addressed, apart from free access to places of worship, are the political boundaries of Jerusalem, the settlements in East Jerusalem, the Judaization of the city, the presence of the Wall and municipal inequalities that have developed over the past 41 years.

Another very emotional issue is the plight of Palestinian refugees, estimated at 5.5 million of which more than 4.3 million are registered with the United Nations Relief and Works Agency (UNRWA).

⁷¹ The UN Special Rapporteur on the situation of human rights in the Palestinian territories, John Dugard, noted in his latest report to the General Assembly that the Quartet has shown little regard for the promotion of human rights or international humanitarian law in the occupied territories. He further refers the reader to the former Special Coordinator for the Middle East Peace Process and Envoy to the Quartet, Alvaro de Soto, who declared in May 2007 that the Quartet, under the influence of the United States, had failed the Palestinian people and called upon the Secretary-General to seriously reconsider membership of the United Nations in the Quartet. He concludes that if the UN cannot influence the Quartet to be guided by human rights law, international humanitarian law, the advisory opinion of the International Court of Justice and considerations of fairness and even-handedness in its dealing with the Occupied Palestinian Territory it should withdraw from the Quartet (Report of the Special Rapporteur on the situation of human rights in the Palestinian territories occupied since 1967, A/62/275, 17 August 2007).

Israeli rejection of the Palestinian refugees' right of return is based on the fear that upon their return to Israel proper, Palestinians would outnumber Jewish Israelis. In addressing this issue the Israeli fear of a loss of identity, if not political power, will have to be addressed. Palestinians need first and foremost acknowledgement of the wrong done to them by Israel. Their right of return, according to UNGA Res. 194, needs to be respected and alternatives, including compensation, will have to be investigated should the right of return not be desired or be feasible.

Settlements in the West Bank, which are illegal according to international legislation, should be evacuated like the evacuation of settlements in Gaza in 2005. The distinction between settlements and so-called settler outposts is not relevant in this context. Some analysts have made suggestions that would see settlers obtaining Palestinians citizenship, should they choose to remain in the West Bank. It is, however, believed that Israeli settlers and the Israeli government would not seriously consider this option.

As to water, Israel to this day has control over the flow and volume of water being used by Palestinians. The Israeli government's control over Palestinian water is unjust and will have to be corrected with fair compensation to Palestinians.

It is not only admirable, but hugely encouraging that after 41 years of occupation that has seen Palestinians lose their land, their livelihoods and in many cases their lives, a clear majority (67.9%) of Palestinians remains committed to a negotiated solution with Israel.⁷² It should also be noted that the majority of Israelis support negotiations with Palestinians in aid of peace.⁷³ It is finally the Palestinian steadfastness, their commitment to a negotiated solution and the moral strength of the Palestinian struggle that will defeat the current obstacles to bring about a peaceful solution to the Israel-Palestine conflict.

Recommendations for New Zealand

New Zealand's engagement with the Middle East is based on multilateralism in support of a rules based international order. Although the Middle East is not a foreign policy priority, New Zealand is making valuable contributions to the region through the deployment of peacekeepers, disbursement of targeted aid assistance and rendering diplomatic support for international negotiations. The following recommendations, however, are offered in support of a stronger political role for the Government in its engagement with the Middle East:

- 1) The Government should maintain and enhance its participation in fora dealing with inter-faith issues. Related initiatives that promote knowledge and understanding across religious and cultural divides, such as the visit by Professor Tariq Ramadan at the end of February 2008 - partially sponsored by the Ministry of Trade and Foreign Affairs - should be continued and increased. New Zealand's role in the promotion of inter-faith dialogue and cooperation supports a stronger political role in the Middle East.
- 2) The Government should maintain and enhance its involvement in peacekeeping and in targeted aid assistance in the Middle East in line with foreign policy objectives.⁷⁴

⁷² Public Opinion Poll conducted by Jerusalem Media & Communications Center, Poll No 63, 12 November 2007, (<http://www.miftah.org/PrinterF.dfm?DocId=15307>).

⁷³ See "Majority of Israelis want to negotiate with Hamas" (<http://www.salon.com/opinion/greenwald/2008/02/27/hamas/>) and "Poll: 67% of Israelis want talks with PA gov't including Hamas" (<http://www.haaretz.com/hasen/spages/767519.html>).

⁷⁴ Approximately 200 New Zealand Defence personnel in the Middle East are currently serving with the United Nations Treaty Supervisory Organisation (UNTSO) in Jerusalem, Damascus and Beirut; the

- 3) The Government should consider allocating more resources to diplomatic representation in the Middle East in order to enhance New Zealand's understanding of the region and develop a broader skills base. Current Embassies in Egypt, Saudi Arabia, Turkey and Iran, with a Consulate-General in Dubai, reflects New Zealand's economic interests in the Middle East. However, a stronger political role would necessitate the opening of new missions and/or the strengthening of existing missions. Any political role in the MEPP would necessitate residential representation in both Palestine and Israel. The Embassy in Tehran might also have a bigger role to play in future given Iran's increasingly important political role in the Middle East.
- 4) The Government might consider increasing its political engagement with the Middle East Peace Process through interaction and cooperation with like-minded countries such as South Africa, Norway and Sweden (all three countries were at different times involved in second-track diplomacy).
- 5) The Government might consider hosting second-track negotiations for Palestinians and Israelis to address final status issues. The refugee issue comes to mind, given New Zealand's experience with land claims based on the Treaty of Waitangi.
- 6) The Government might consider hosting a Palestinian delegation, in cooperation with one or more like-minded state(s), to assist Palestinians in obtaining national reconciliation and internal unity. The credibility of the EU was damaged by its support for sanctions after the Hamas election victory in 2006. The same happened to major donors who suspended development support to Gaza subsequent to Hamas' takeover in June 2007.⁷⁵ This leaves New Zealand as one of a small number of countries with both the capability and legitimacy to host Fatah and Hamas for unity talks.
- 7) The Government might consider rendering political support to UNRWA, over and above the current financial support.⁷⁶ Although UNRWA is dependent on financial support to maintain its work in Palestine, it regularly experiences political pressure, due to the politically sensitive environment in which it functions. Political support would have to be considered on a case-by-case basis, but a decision in principle would empower New Zealand diplomats to take timely action in this regard.

The above recommendations are supported by the general respect with which citizens of New Zealand are regarded in the Middle East region.⁷⁷ It is further underscored by the fact that New Zealand, a tolerant and multi-ethnic society, does not have a direct interest in the Israel-Palestine conflict and is, therefore, in a good position to engage the 'Palestinian problem' justly and fairly.

Multinational Force and Observers (MFO) in Sinai; and a number of multinational initiatives in Afghanistan, inter alia, the provincial reconstruction team (PRT) in Bamyán Province. Developmental assistance in the past five years has been primarily allocated to Afghanistan, Iraq and UN agencies functional in Palestine. (<http://www.mfat.govt.nz/Foreign-Relations/Middle-East/0-overview.php>)

⁷⁵ International Crisis Group, "Ruling Palestine I: Gaza Under Hamas, Middle East Report No 73, 19 March 2008, p. 4.

⁷⁶ New Zealand responded to UNRWA's emergency appeal in September/October 2007 with NZ\$1 million. This is in addition to New Zealand's annual contribution of NZ\$1 million to UNRWA.

⁷⁷ The Secretary General of UNRWA, Ms Karen Abu Zayd, acknowledged in a public forum on 8 October 2007 the respect with which Palestinians in the occupied territories regard Mr David Shearer. Mr Shearer was the head of the UN Office for the Coordination of Humanitarian Affairs (OCHA) in Jerusalem from February 2003 until 2007. He was appointed as the Deputy Special Representative (Humanitarian, Reconstruction and Development) for Iraq upon completion of his term with OCHA.

Conclusion

The Israel-Palestine conflict is about the Israeli military occupation of Palestinian land and people. Stating the obvious has become necessary in order to address the crux of the problem amidst all the side issues created by 41 years of occupation, such as land expropriation, political prisoners, suicide bombers, settlements, refugees, human rights abuse and emergency humanitarian relief.

A peace process would only be successful if Israel enters negotiations to achieve an absolute and final end to the occupation. The South African negotiating process where the apartheid regime negotiated itself out of minority rule comes to mind. Israel has not, as yet, demonstrated the will to negotiate an end to the occupation. The ongoing construction of the Wall and settlement expansion argue against the viability of a future Palestinian state, while frequent military incursions into the West Bank and military operations against Gaza annul the Oslo Accords, radicalise the Palestinian population, and expose the PNA as impotent.

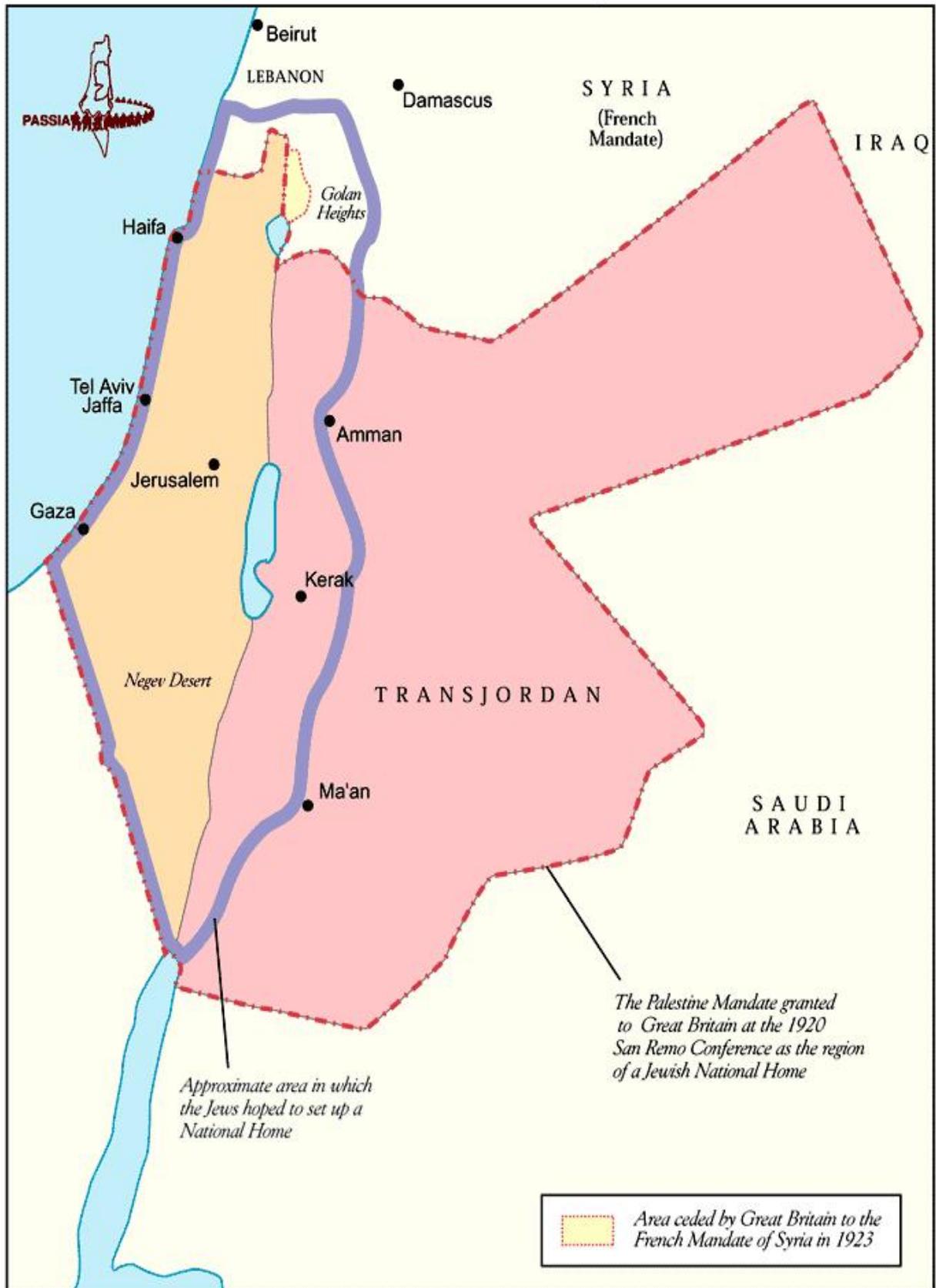
The conduct of the Quartet, as representative of the international community, thought not accountable to it, has not been conducive to peace in the Middle East. Its conduct, on the contrary, has fuelled Arab perceptions of injustice and discrimination. These perceptions are strengthened by the “war on terror” that has created an environment in which differences between people are emphasized, rather than similarities. The Arab street, Iranians, and Muslims in the Asia Pacific, amongst others, identify strongly with the Palestinian plight. This pro-Palestinian sentiment is easily manipulated and abused for personal gain by terrorist organisations that thrive on superpower hypocrisy and global inequalities.

Neither the international climate, nor Israeli and Palestinian domestic politics, are conducive to peacemaking. The humanitarian crisis in the Gaza Strip will feed despair and radicalism if not addressed as a matter of urgency. Further, Palestinian reconciliation and unity is necessary in order for the Palestinian leadership to engage in a credible peace process. The PLO could only reclaim its historical role as legitimate representative of the Palestinian people and hope to play an effective role if it convenes the Palestinian Legislative Council (PLC) and find ways to extend membership to Palestinian political actors who are currently excluded from the PLO. The pro-peace elements in Israeli society should be supported and a culture of reconciliation should be cultivated, rather than a culture of fear. The Israeli government should further be held responsible for both its human rights abuse and its disregard for UN resolutions.

Various events between the Taba negotiations in January 2001 and the relaunching of peace negotiations at Annapolis in November 2007 have pushed the two parties further apart. This can be addressed through specific actions, on both sides, to create goodwill, but also to demonstrate leadership in aid of making peace.

The legal framework for peace, based on the relevant UN resolutions, should ultimately be respected. Israel and Palestine are not two equal partners in this process. The biggest responsibility is on Israel to make the necessary concessions and to demonstrate its commitment to end the occupation in line with the legal framework and relevant international legislation. Only one country can hold Israel to this responsibility. The umbilical cord that binds Israel and the US also ties Washington to the Israel-Palestine conflict. A fair and just solution that brings about the end of occupation will ultimately not only offer a sustainable peace to Israel, but an opportunity for the US to assist reconciliation between different civilisations.

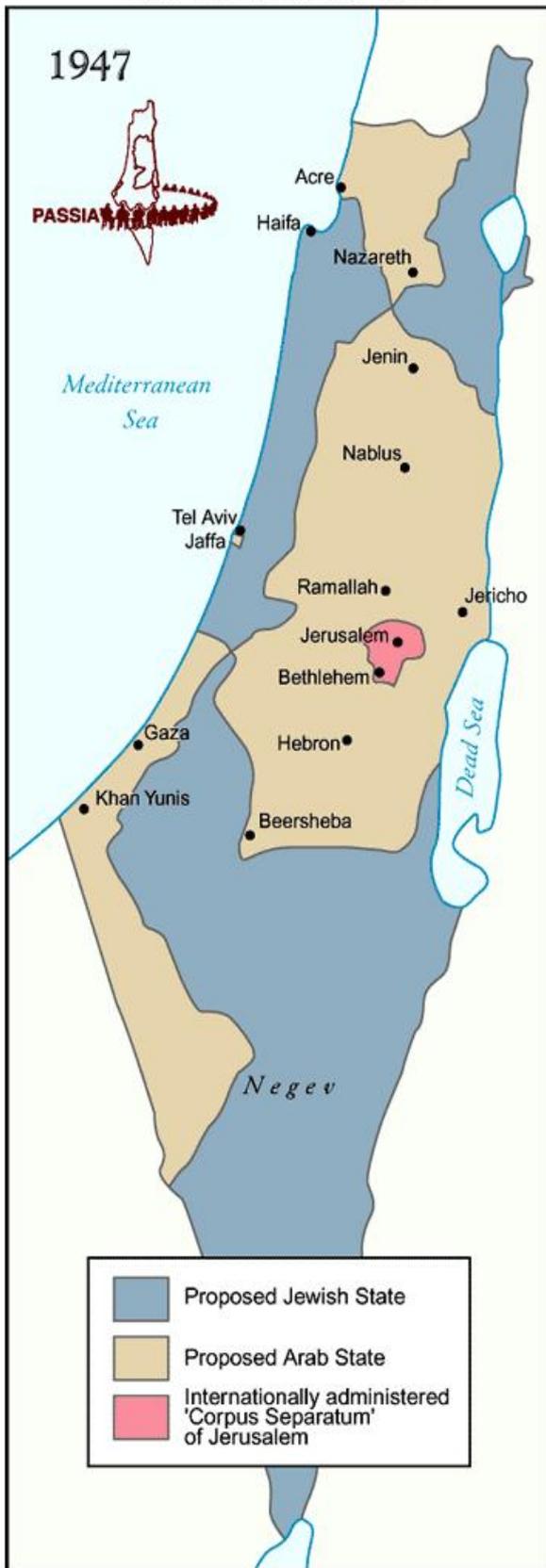
Palestine under the British Mandate, 1923-1948



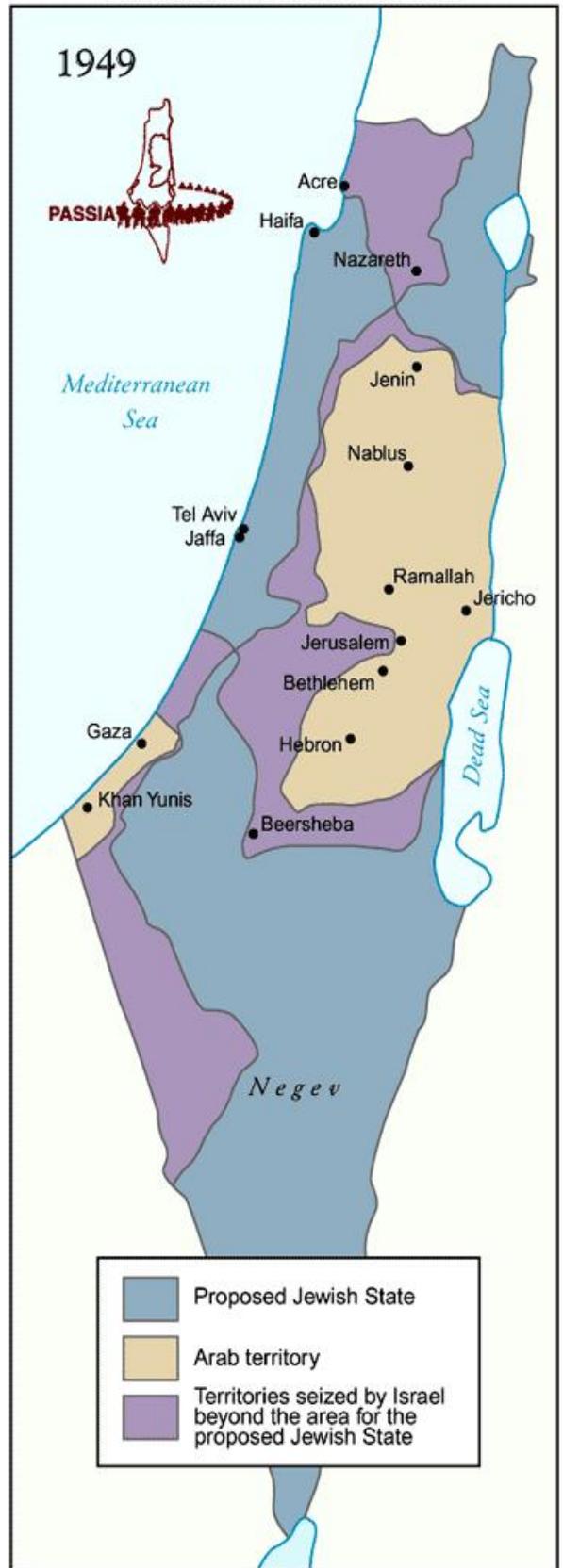
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United Nations Partition Plan
UN Resolution 181

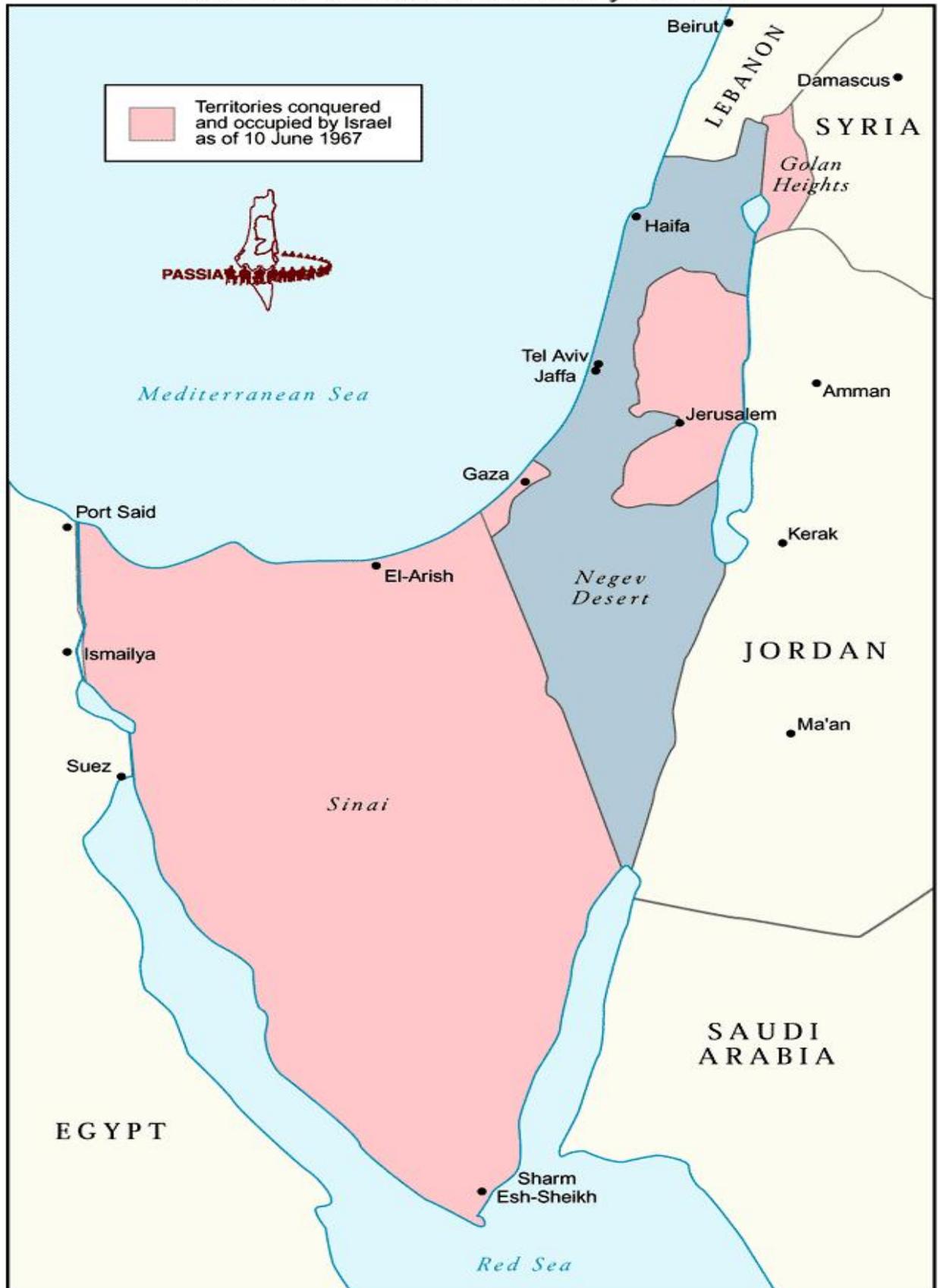


Rhodes Armistice Line



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The Near East after the 1967 June War



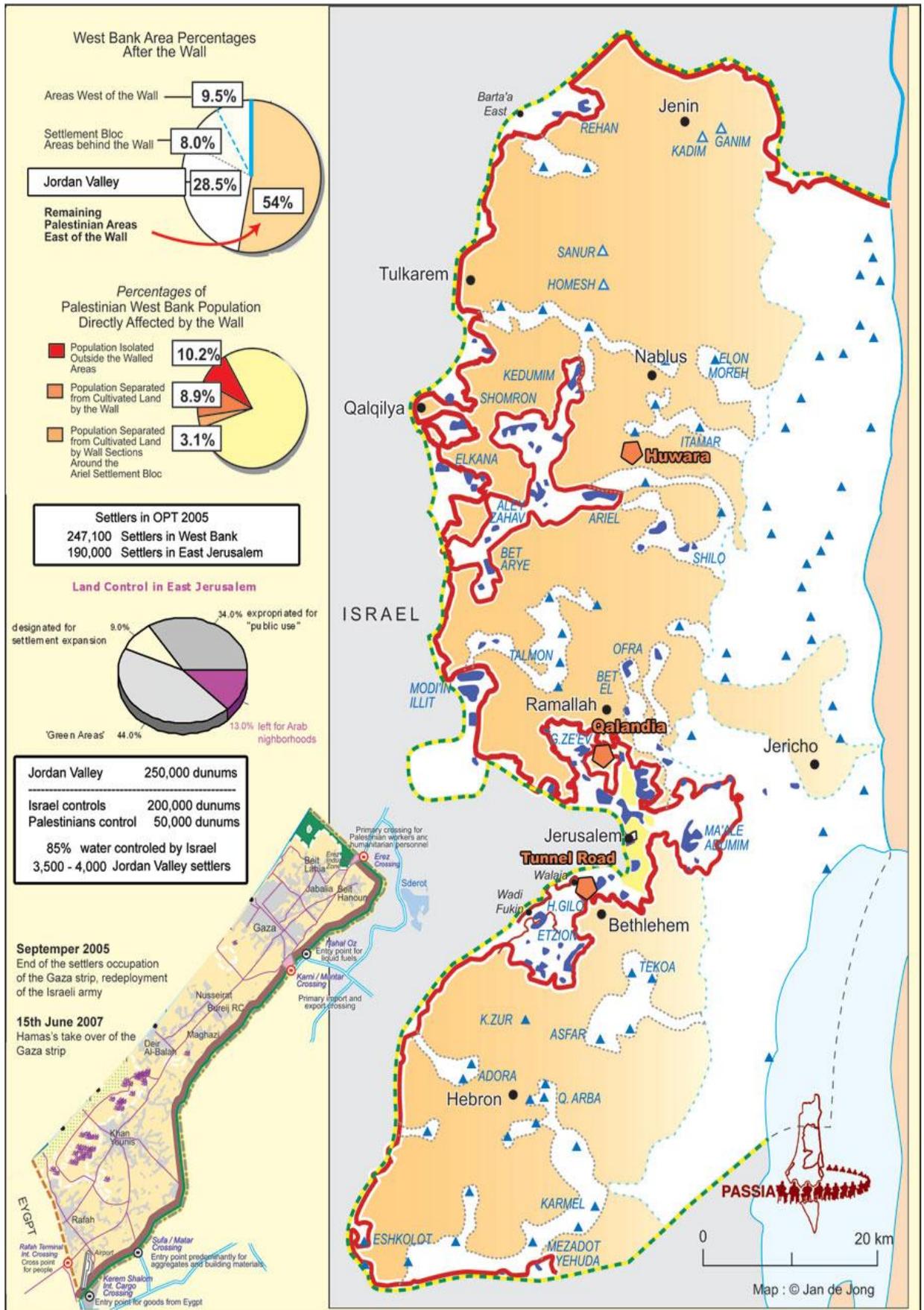
Palestinian Academic Society for the Study of International Affairs (PASSIA)

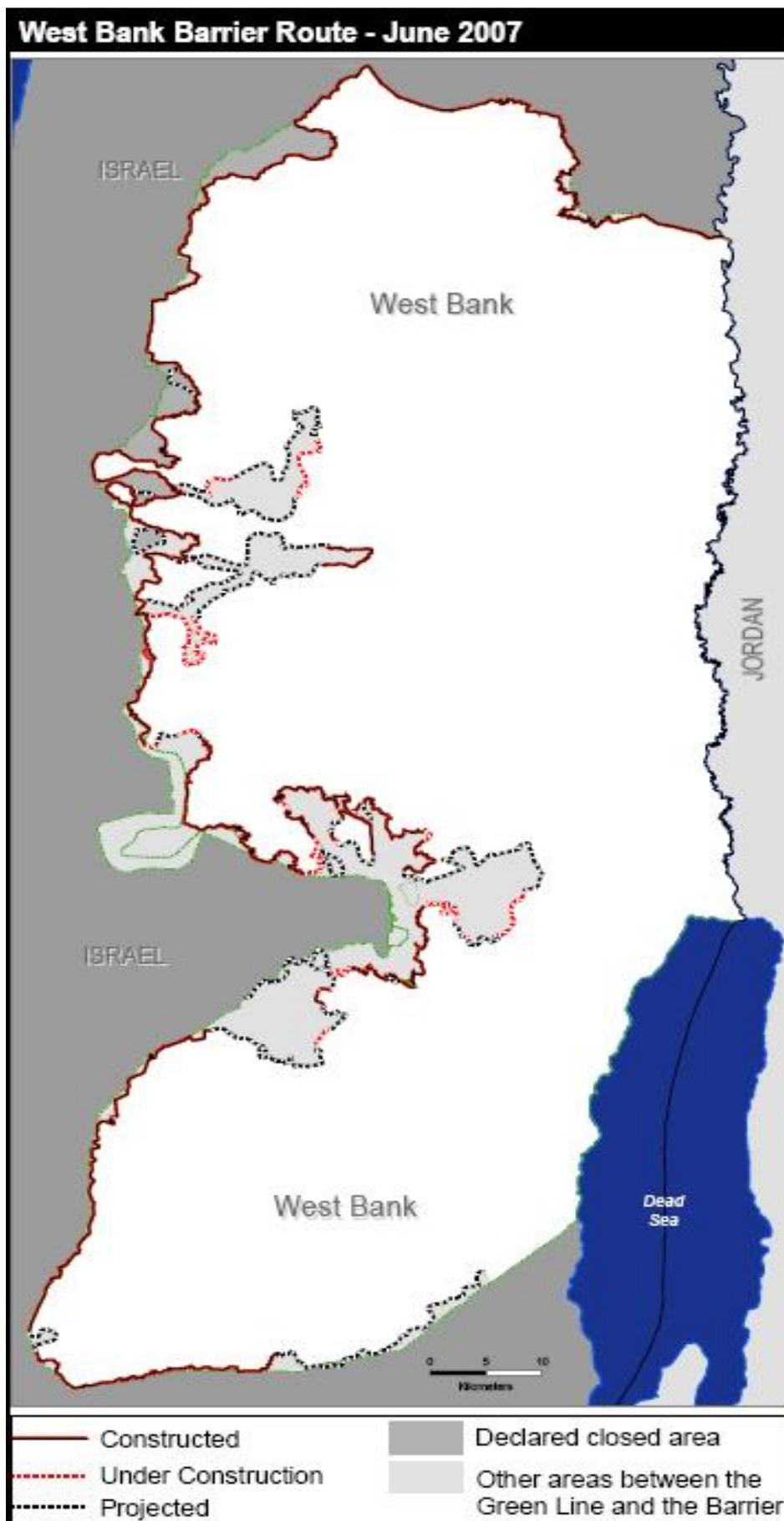
Oslo II, 1995



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West Bank Wall - Map 2006





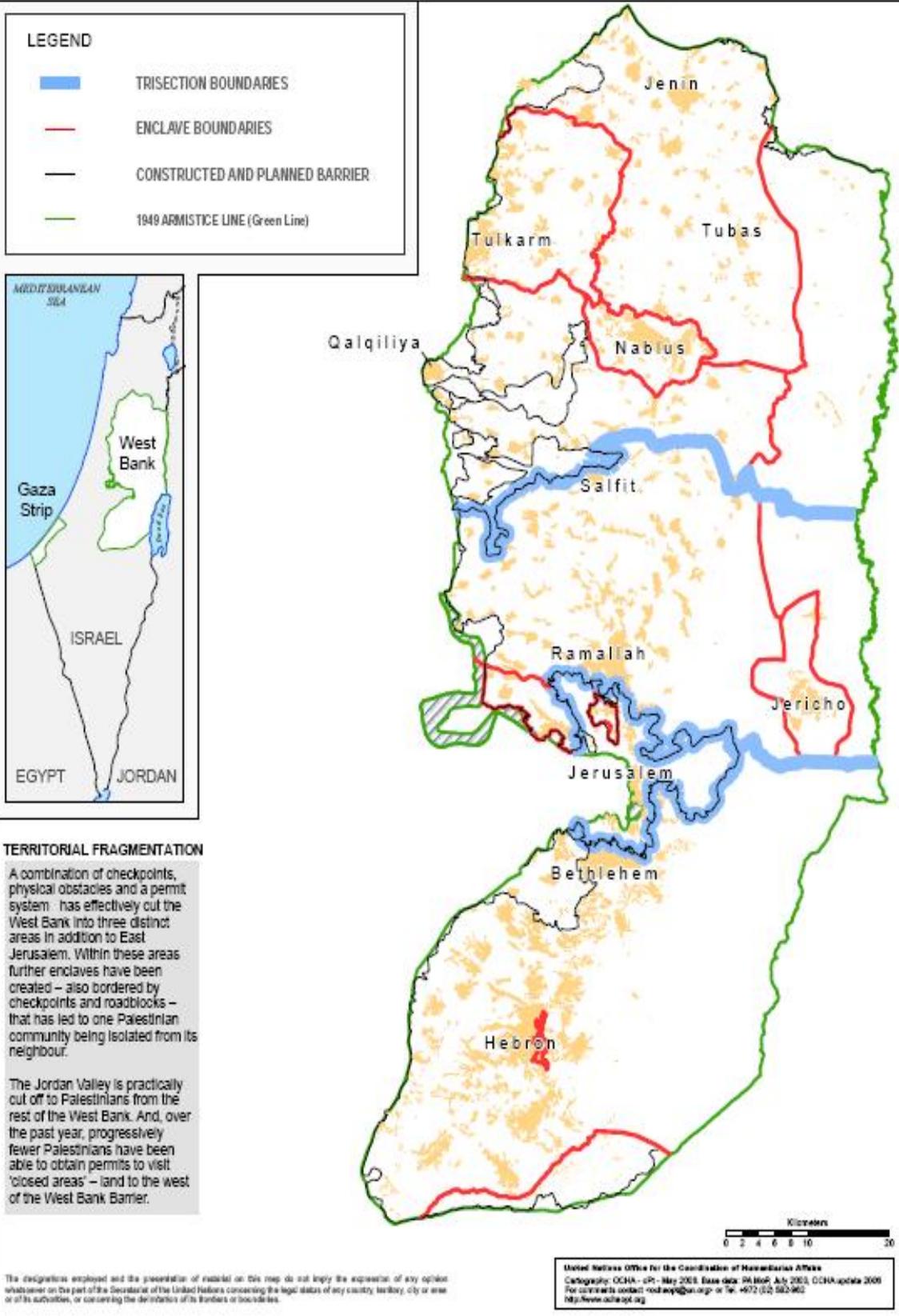


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