



EQUAL RIGHTS FOR ALL: A NEW PATH FOR ISRAEL-PALESTINE?

Proceedings of the two-day conference held at
Birkbeck, University of London 14 – 16 March, 2015

Hosted by Independent
Jewish Voices in
collaboration with the
Bruno Kreisky Forum for
International Dialogue

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Foreword

One of the first things that will, I'm sure, strike anyone reading these edited proceedings of the conference "Equal Rights for All: A New Path for Israel-Palestine?", which took place in London from 14 to 16 March 2015, is the truly international character of the event and the wide range of highly qualified speakers. Not only did participants hail from across the Middle East, Europe and North America, among them were ambassadors, leading political figures, world experts in international law and human rights, think tank professionals, prominent activists, respected academics from a variety of disciplines, and journalists.

Yet the group that conceived of and planned the conference, Independent Jewish Voices (IJV), is a UK-based organization without professional staff and no steady income, which was seeking to renew its own mission by putting itself in the vanguard of new thinking at a time when internationally-sponsored peace negotiations based on what's commonly known as the "two-state solution" had collapsed and widespread loss of faith in ever achieving a just solution to the Israel-Palestine conflict prevailed. The IJV Declaration states: "We declare our support for a properly negotiated peace . . . and oppose any attempt by the Israeli government to impose its own solutions on the Palestinians". Yet in our regular discussions we had more or less concluded, along with many other observers, that we had to come to terms with a new reality: that in effect a de facto one-state already exists: a repressive, unequal, undemocratic structure imposed and controlled by Israel, which, to all intents and purposes, is impervious to any outside pressure to get it to change course. "Negotiations" under such conditions can be nothing more than a charade.

It's all very well for a small group of activists to have large ambitions, but we were, from the start, realistic enough to know that mounting a successful international conference to explore this new reality and think about new ways of working to realise a core IJV principle, that "Palestinians and Israelis alike have the right to peaceful and secure lives", required collaboration with others. This meant, first, Palestinians and Israelis directly engaged in the struggle for justice and peace, and second, with an organisation having had recent experience of exploring a post-state-based paradigm approach to resolving the conflict.

For the former we were able to draw on the many personal and professional contacts of member of the IJV steering group and for the latter, we were immensely fortunate in that some of us had been working on European issues and Arab-Jewish relations with the Bruno Kreisky Forum for International Dialogue in Vienna and were acquainted with the Forum's Alternatives to Partition dialogue group, made up of Israeli Jews and Palestinians, that in March 2014 had, after three years of deliberations, issued "a set of guiding principles that transcend the binary predicament of 'one state/two states' or any hitherto theoretical institutional arrangement as the preordaining principle or parameter of a political solution; as it has been, time and again, factually and empirically rendered obsolete."

At the very heart of these principles is the granting of equal rights to "each person residing (or holding residency status) between the Jordan river and the Mediterranean sea" and the guaranteeing of the "collective rights of Israeli Jews and Palestinians in any political framework". When we suggested to the Forum's secretary general,

Gertraud Auer Borea d'Olmo, that we collaborate on a conference that would consider whether prioritising equal rights for all in Palestine-Israel offered a useful pathway to going beyond the failed "two-state" paradigm. Gertraud agreed immediately and with great enthusiasm, and so work began to turn an ambitious idea into an actual conference. (The Kreisky Forum's Alternatives to Partition project also produced and published in 2014 a book of essays, *Rethinking the Politics of Israel/Palestine: Partition and its Alternatives*, edited by Bashir Bashir and Azar Dakwar.)

With funding and resources provided by the Kreisky Forum, Birkbeck University of London Institute of the Humanities, the Andrew Wainright Reform Trust, the Barry Amiel and Norman Melburn Trust, the conference organizing committee -- Adam Fagan, Ann Jungman, Merav Pinchasoff, Jacqueline Rose and Nadia Valman, with additional help from Tamar Steinitz -- worked tirelessly to pull together the programme and the roster of speakers (this task made all the harder by the travel restrictions imposed on Palestinians in Gaza and the West Bank). And the results are all there for you to read in the text that follows.

If anyone thought that the mantra of "Equal Rights For All" would in and of itself produce unanimous approbation as a viable way of framing the struggle for justice, they would have been deeply disappointed. Though I doubt that anyone -- and certainly not the IJV organisers -- felt that way. As Jacqueline Rose said in her opening remarks, the conference was an example of "how to think differently". It was not the first planning session of an already agreed political campaign. And think differently -- often from each other -- was precisely what a very focused and always thoughtful group of speakers did.

There was unanimity that Palestinians deserve nothing less than full human, civil, political and national rights, and that there is no justification for any delay in that coming about. But however well-meaning the expression of such a sentiment might be, Palestinians could be more than just forgiven for responding by feeling a deep sense of despair and anger. They've heard it all before from the international community, but have never been within touching distance of such a scenario. Indeed, they've been driven further away from it than ever. And perhaps some Palestinians at the conference had such feelings.

Nevertheless, the evidence from the proceedings demonstrates not Palestinian resignation to an awful fate, but a serious and determined effort to question, examine and probe the various ways being proposed as to how they could obtain the rights to which they are entitled. In this engaged but constructively critical atmosphere there were, understandably, strong disagreements over such issues as: whether that could be achieved through anything other than a fully independent and contiguous Palestinian nation state; accepting the one-state reality and demanding that Israel live up to its claims of being a democratic state and grant equal rights to all; overcoming the negative consequences of conflicting nationalisms by embracing binationalism as an ethical value; relying on using the instruments of international law; determining what equal rights would mean in practice; whether the occupation would have to end before any real progress could be made to achieve equal rights; and is there anything other than a state-based constitutional structure that could fully enshrine and protect equal rights for all.

There's no doubt that the conference raised more questions than it supplied definitive answers. But this showed there is a lot to be explored, that perhaps confronting the new

reality demands a back to basics approach that makes the rights-based agenda central to the struggle—as it was in the early days of the development of the Palestinian national liberation movement.

These proceedings, edited by Merav Pinchasoff and Jacqueline Rose (with additional editing by Katy Fox-Hoddes), certainly convey something of the passion, energy and thoughtful commitment of the speakers. But beyond that, they make for immensely rich and rewarding reading, proving, in my view, that applying good minds to the problem, minds that truly “think outside of the box”, should be of far greater significance and value than the cliché-ridden droning of the high profile politicians and diplomats paying lip service to a Middle East peace process that, even back in August 2007, Henry Siegman, former head of the American Jewish Congress-turned forthright critic of Israel, said “may well be the most spectacular deception in modern diplomatic history”.

Among the many things I found particularly insightful, I will mention just two. First, the SOAS public law lecturer Nimer Sultany concluded his detailed and sobering analysis of the obstacles standing in the way of realising the idea that constitutional rights can provide a path towards a just peace by strongly emphasising “the importance of analysing power structures that produce subordination and building a movement to challenge these structures; to disrupt the systemic production of relations of domination; maybe what we need is not a top-down vision but a bottom-up empowerment in order to change power structures and maybe, maybe create optimal conditions for humans to flourish.” Which sounds to me awfully like a call to create a civil rights movement that would achieve this. No wonder then -- and this is the second insightful comment -- that the outspoken “radical” Church of England priest Giles Fraser asked these two beautiful and so appropriate questions: “Where is the poetry? Where are the songs that you’ll sing?” Because notwithstanding all the reasons to be gloomy, everyone who might embark on this journey needs hope.

Today the question of rights is even more pertinent since Israel’s Justice Minister Ayelet Shaked, addressing the Israel Bar Association conference in Tel Aviv at the end of August, stated that “Zionism should not -- and I’m saying here that it will not -- continue to bow its head to a system of individual rights interpreted in a universal manner”. Her saying this so clearly, effectively declaring that equal rights for all is a challenge to Zionism that will not be tolerated, shows just how far the active pursuit of the equal rights agenda has the potential to undermine the indefensible status quo.

At this point in time when, if truth be told, the most powerful states and international institutions have put bringing a just and peaceful end to the Palestine-Israel conflict on the backburner, there is an opening for the development and propagation of new thinking. Equal rights for all is not a new idea, but as these proceedings show, there is much new thinking around as to the problems and possibilities of achieving its realisation. The moment then to put this discussion on the front burner. This is precisely what these proceedings should be used for. The opportunity should not be wasted.

Antony Lerman

September 2017

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Conference Rationale

The failure of the Kerry peace plan, the devastating bombardment of Gaza in July and August 2014, and the annexation by Israel of more land in the West Bank have delivered another setback to both the prospect of Palestinian statehood and an end to the Israel-Palestine conflict. More broadly, 47 years of military occupation have denied the Palestinians inhabiting these territories almost every basic civil and human right. It is time therefore for an objective appraisal of the reality of life for Palestinians, a thorough understanding of the nature of the Israeli-controlled military and civil regime that prevails in the entire Israel-Palestine area, and a recognition that there will be no solution that can secure the viability of a peaceful life for Israelis and Palestinians unless it is grounded in the principles of universal human rights and international law. Shifting attention from discussions focused solely on a one- or two-state agreement, the fundamental question this Conference seeks to address is how to achieve equal rights for all who live in Palestine-Israel. In pursuit of these objectives, the conference will also aim to highlight the real impact of occupation and ask how it may be brought to an end; seek to facilitate co-operation between Palestinians and like-minded Israeli Jews; and issue a rallying call for the international community.

Aims

The aims of the conference are:

- To help shift the debate from externally imposed or brokered state-centric solutions to the building of a new campaign in Palestine-Israel and internationally to achieve full civil and political rights.
- To provide a forum for like-minded Israeli Jews and Palestinians in Israel and the occupied territories, as well as their diasporic supporters, to engage in discussion of this new approach, with the participation of sympathetic politicians, policy-makers, think tank experts, activists and media.
- To provide a new focus of activity for activists outside of Palestine-Israel, which would lead to building new and more powerful and united coalitions within the activist communities and especially among concerned groups and individuals in the Jewish and Palestinian diasporas.

* The full audio recordings of the conference are available for [download here](#).

Opening Session, Saturday, 14 March

Why Now Is the Time for Rights: Avraham Burg and Sam Bahour in Conversation

Welcome

Costas Douzinas, Director, Birkbeck Institute for the Humanities

I think this college and this Institute is the right place for a debate like this. The college was set up in the 19th century by George Birkbeck -- that's where the name comes from -- as a mechanics institute, promoting education for the working people of London and promoting the ideas of equality and social justice. In the 20th century, it became one of the constituent elements of the University of London.

The late Eric Hobsbawm set up the School of History here at Birkbeck and was the president of the college until his death, so the ideas of equality, justice and social and political rights are absolutely central to the very identity of our college. The Institute for the Humanities is perhaps one of the best known -- if not *the* best known place in London -- for public intellectual debate on issues of great importance, both nationally and internationally. And again, it seems to me, having this debate, and having people from all over the world and from Israel and Palestine come here is, I think, the right time and the right place. So welcome all and we're looking forward to a great debate and to perhaps moving forward on this issue of great importance for the whole world.

I have one final thought. When I was telling people about the conference, they would say, "Nothing can happen, miracles do not happen." I've just gotten back from my city of birth, Athens, in Greece. Miracles do happen! Greece elected the first radical left government in Europe. It is facing a huge attack by the European elites. But it is standing firm and I think it gives us hope that things can change in other parts of the world so, welcome, and I wish you great success with your work.

Introduction to the Conference

Jacqueline Rose, Birkbeck Institute for the Humanities

Likewise, I would like to welcome you all. It's really very important for all of us to see you here and to welcome our speakers and to welcome our participants. This conference emerged at least partly out of what was felt to be a radical deterioration in the situation in Israel-Palestine. Certainly, we've seen a deterioration in the lives of the Palestinians and their political prospects, but also the collapse of the Kerry Peace Talks -- not that, if I'm honest, many of us invested that much hope in those talks. But also, last summer's war against Gaza was kind of, though not exactly, a turning point -- since it is also a repetition -- but a central moment for us to think about what could be the future. And it is into this context that we introduce the concept of Equal Rights, not as an alternative to political process or possibility, but as its radical undertow.

Rights is now more of an issue than ever. Just to take a couple of examples: B'Tselem has been accused of treason for listing the Palestinian deaths in Gaza -- something they've been doing since their founding in 1987. But this time, their ads listing the names and ages of twenty Palestinian children killed in Gaza were banned by the Israeli national broadcasting authority, even as B'Tselem was awarded the Stockholm Human Rights award in 2014. Some of you will have read the extensive feature about this in the *Guardian* this week -- very timely!

We are living in a time when merely to raise the issue of rights is being defined as “the cancellation of the Jewish state” in response to a hardening of attitudes and arteries around the time of the Gaza war, a hardening which began with the Second Intifada.

Ayman Odeh, leader of the New Joint List/Arab Alliance -- set, we hope, to make unprecedented gains on Tuesday in the Israeli 2015 elections -- has made it clear that his agenda will be the rights of his people. Some have argued, Sam Bahour being one of them, that in the absence of a negotiated settlement, Israel should be called to account either to end the occupation or to accord equal rights to all its citizens both inside Israel and in the occupied territories. To this, I want to add the idea of rights as an ethical stance, and here I'm quoting Hagai El-Ad, Director of B'Tselem saying, “to be Jewish is to treat people with dignity.” That notion of a relationship between Jewish history, equal rights and international law was one of the founding principles of Independent Jewish Voices, which was set up eight years ago now in order to create a space within the UK for dissent, discussion and speaking out and saying things in relation to Israel-Palestine that could not be spoken in other contexts.

Rights for us are not an alternative politics but a way of exposing the reality on the ground and an act of sabotage, since the apparently neutral demand for rights would have -- should have -- such dramatic and far reaching consequences. To explore what that reality is, what those consequences might be, is the purpose of this conference.

Let me also say that this is an unprecedented gathering. We are here very much to talk to each other. We are so delighted at the speakers who have agreed to come to this event from the Middle East and also from Europe and America, to have this conversation. It is for us in the UK to learn from you. It is also for you to tell us -- especially our visitors from Israel-Palestine -- to tell us what you would like, what you need, us to do.

It is also important to state outright that this conference is not an act of normalization but an example of “how to think differently,” in the words of Daniel Barenboim, speaking at the Royal Albert Hall after one of the concerts of the West-Eastern Divan Orchestra founded with Edward Said to bring musicians from Palestine and Arab countries and musicians from Israel together, when he addressed the charge of normalisation by describing the Orchestra as another way of thinking.

Finally, the conference is intended to be an ongoing conversation, so to those of you who are just here for tonight's opening debate, we truly urge you to reconsider -- not just because we would like you to be part of the dialogue, but because these are conversations that we really will not have the chance to listen to and participate in again. Many of our speakers talk to each other, but all talking to each other together I don't think is something that happens very often anywhere else than here, tonight, and over the following days.

I want to thank the Birkbeck Institute for the Humanities, Julia Eisner and Costas Douzinas who has taken time out of the revolution in Greece to be here and support us. I want to thank the Bruno Kreisky Forum, and notably, Gertraud Auer Borea d'Olmo, its inspired Secretary General, whose support has been generous, unwavering and indispensable. I want to thank the Amiel-Melburn Trust and the Andrew Wainwright Reform Trust.

Sam Bahour

I also want to thank the organizers, specifically for the timing of the conference, because it comes at a very sensitive time in the conflict, so the topic at hand is not only a topic for intellectual discussion, but it's a topic on the ground that requires urgency.

When I came through passport control early this morning, the first thing I noticed was that the name of your Customs people is "Border Force". If they were in the Middle East, that would be considered "terrorism" -- it's a very aggressive name.

And she asked me, "Why are you here?" a very pleasant woman.

I said, "I'm here for a conference".

"First time you have come?"

"No".

"What's the conference all about?"

I smile, "How much time do you have?"

She didn't think that was funny, so I told her, "Peace in the Middle East", and she believed me.

What I wanted to start with -- as we only have ten minutes to make opening remarks -- and I'm sure there'll be more discussion as we go forward -- are a few notes I put down which I thought were important to set the tone. The first, if you'll allow me, is that I'd like to make a correction to the title of the entire conference, because it talks of equal rights for all as a new path forward. I would like to claim that for the Palestinians, this is not a new path forward; it's actually reverting to exactly where we started!

When the Palestinian liberation, the national liberation, movement was first launched, there was no call for a separate state; there was a call for equal rights in the single state of the historic British Mandate in Palestine. As I wrote several years back, the younger generation, my daughters, nineteen and sixteen years old, are actually contemplating how to return to that starting point by taking the experience of the last fifty or sixty years and putting it back into a renewed political platform. I don't believe it's such a new path, at least for the Palestinian side.

The timing is also important, not only because we're coming up to Israeli elections, but because of the last twenty years of the failure of a bilateral negotiations process, where the Palestinians, rightfully or wrongfully -- wrongfully if you ask me -- placed their entire set of concessions up front, hoping that the signature of the United States and USSR, at the time, would safeguard the implementation of an agreement to reach statehood. They ended up finding themselves brought to the negotiation table only to be told that negotiation is hard work and that we must make more concessions, with no more cards left to give.

I believe that now is a time when Israel has come to the point where it must face the facts of history. It's time to show how an "enlightened" people can be worthy of that name. I say that after facing eight years, almost, of a Netanyahu regime that has brought to the forefront all of the ugliness of the reality that we have been screaming to the world about for forty years. We have now no better spokesperson than the Netanyahu administration itself. As we saw with the latest bound to the United States, he even gets away with ticking off his most important strategic ally, let alone the rest of the world and, most specifically, the European Union.

When looking at the facts, I think we must be honest in how we frame them, as well as the framing of the conference, which I would like to come back to. The conference organisers put out a statement. In that statement, it talks about the Palestinian inhabitants

of the West Bank and Gaza. This is in 2015, March. I would like to be honest about the framing here and ask that we re-evaluate the way we speak of the Palestinians, and maybe use instead the phrase "Palestinian natives". That's the word Jabotinsky used; he had no fear of using the word "natives" to describe the people who the Zionist Movement found when they arrived in Palestine. Also in 2015, whether the United States likes it or not, Palestine is Palestine today, which makes the "West Bank" and "Gaza" a kind of antiquated terminology -- given that 138 countries have accepted Palestine as an observer state in the United Nations, upgrading our status and conceding all or most of the state toolbox that other states possess in order to implement their rights. If we use the word "natives", and look at it through that perspective, then the words West Bank and Gaza, or the geographic designation of West Bank and Gaza, are not sufficient.

I use the word very precisely. I don't use it in historic argument of who's right and who's wrong in the conflict, but as a descriptive factor of the people who were there when the conflict began. This includes those Palestinians, like myself and my family, who are from the West Bank and/or the Gaza Strip and/or East Jerusalem, all internationally acclaimed as occupied territory. It also includes the natives inside Israel, Palestinians who are Israeli citizens, which make up about 20% of the Israeli population, both Christian and Muslim, and, within that same population inside Israel, there are those who are classified by the Orwellian term "present absentees", meaning Palestinians inside Israel, who are not able to move back to their villages *inside* Israel. Then there is the largest cluster of Palestinians, those Palestinian refugees who now number over five million. If we are speaking about the Palestinian natives and how all of them have a role for us in trying to define a way forward, it would therefore be dishonest of us not to incorporate all of them in our thinking.

As we move forward, I also think it's time for the State of Israel to exit from the childhood myth of the innocence of its creation, which would involve finding a wisdom worthy of Judaism, which is so close to its heart. Given my limited understanding of Judaism, one thing I know for sure is that it has a pillar, which is unmovable, called social justice. But for some reason, the credentials of social justice get checked in at Tel Aviv Airport. And I want to work to be able to retrieve them and put them back into reality. Equal rights for all can come in many political packages, not only with the obsession that we currently hear and feel and discuss these days of one state or two states. Who says only one state or two states? There is one state; there are two states; there is federation; there is confederation; there is condominium agreement; there is parallel sovereignty. There are many political configurations to the point where I'm not exactly sure why they call it political science. I think it should be called political art!

However, within that political art, we as Palestinians, and likewise, Israeli Jews, must be able to define which of these can work for a future that is sustainable, and which of these cannot. For the Palestinian leadership, the only Palestinians that really matter are those operating in the political arena, whereas, especially as I speak from London, I can speak about the Palestinians as part of a vibrant discussion, although internal amongst themselves. For the international community who recognizes the official Palestinian leadership -- which, by the way, even Hamas recognizes -- then we can speak of a specific political programme that has come to fruition. That political programme revolves around statehood as a mechanism to be able to secure our rights. And as we said, equal rights can come in many political forms. Two states -- two truly independent state -- have the full potential to be able to offer their citizens equal rights, all rights. As Afif Safieh, our ex-ambassador to the UK, once said, "We have been unreasonably reasonable in trying to ascertain two states through international law."

I was born in Ohio in the United States and I can guarantee you that if 25% of what happened to the Palestinians were to happen to Ohioans, sixty-six years later, they wouldn't be calling for international law. They would be invoking the second amendment

to the constitution, which allows us to bear arms. Yet Palestinians wake up in 2015, almost seventy years after the start of this conflict, if not more, and beg the international community to allow it to realize statehood. For Palestine, to be able to realize statehood on the new borders of the 1967 or 1949 armistice lines, and accepting international law, means swallowing a very, very large pill. The pill is stuck right about here (points to throat) right now. If the international community cannot realize two states on the ground, translating what has happened already at the United Nations and already what has happened in over 130 countries bilaterally across the world; if the powers that be cannot translate that into freedom and independence for Palestinians; then no one should be surprised if my daughter's generation -- or even I -- drop our bid for statehood in the future. As the sitting Prime Minister and the sitting Defence Minister in Israel have both acknowledged, the day the Palestinians make that declaration of self-determination as a bid for one secular democratic Palestine, the game is over. The game may take another 100 years to fight, but it will be called a civil rights struggle and not a struggle for statehood.

Thus, I come to this conference with the full intention of promoting statehood, not because I believe it is the most sustainable or the most feasible way out. I believe it's the next step to allow the two communities to rehabilitate in order for us to move forward. I'm convinced that there'll be two generations of Palestinians and Israelis smart enough to find ways to live together without building walls between them. Thank you.

Avraham Burg

Thank you very much, Sam. Since we almost 100% agree with each other, let me use the 1% of disagreement and allocate ten minutes for it. Thank you very much for having us, both the place and the people, Jacqueline and the Bruno Kreisky Forum and everybody who made it possible and who have come to listen to us.

I'd like to begin with something very un-Israeli. Sam started by redefining the title of the conference -- that's a very Israeli thing to do. I like to do something very not-Israeli and try to answer the question of this panel, which is why is now the time for rights? Apologies for actually addressing the topic. I have thought a lot about it. Why is now the time? Is it too early? Is it too late? Who is responsible for this arising at this moment? And the more I thought about it, eventually I found an answer.

Now is the time because -- of all the people in the world -- of Amos Oz. I'll tell you why. I take it that most of us have heard the name of this famous, fantastic, talented author. He wrote an article this weekend which says we have to vote, this way, that way, whichever, so long as we vote for a two-state solution, because if there is not to be two states, there will be one state, and if there will be one state it means it will be an Arab state (you can take it from there). So, I say to myself: this is the prophet of the left. I mean he is actually the twenty-fifth book of the bible. He has been the moral voice of the peace camp in Israel for more than a generation. And actually, what he's saying works out like this: let the Jews be left alone and preserve in reality all the privileges they have; as for the Arabs, as you know, you cannot trust them. So, Sam is ISIS, I mean, look at his size! Oz's statement is awful. If the rhetoric has been contaminated to such depths by Oz, then we urgently need to restart the conversation. The time is right, because a new beginning is needed. But restart what? History does not begin here in London, here and now. Let's just pick a point in history, or a couple of points in history, in order to give a logical frame to our discussion.

I'd like to frame this discussion in terms of three decades: the 90s, the 2000s and today. In the end, the 1990s were, to sum it all up, a fantastic decade. The Wall came down in Berlin; Ireland was resolved; South Africa took off; Oslo was signed; Rabin as Prime

Minister -- for the first time in the history of the conflict -- tried to upgrade both sides of the Palestinian equation, i.e., a political solution and improving the situation of the internal Palestinians, the Israeli-Palestinians; Aharon Barak at the Supreme Court. One after the other, presidents actually changed the whole landscape. The discourse of rights, human rights and individual rights, in Israel and civil society, actually prospered like never before. Fantastic decade.

And then came the 2000s. I don't know where to begin with the 2000s. Is it the Second bloody Intifada? Is it Barak, the smartest Prime Minister Israel ever had, who came back and said there is no partner and actually shaped the strategy for a whole decade. Is it Ariel Sharon, going to the Temple Mount? Is it the Twin Towers in New York that, eventually, allowed Sharon to argue that if the champion of human and civil rights -- the Constitution of the United States of America -- if its basic foundations can be compromised, that is, the basic principles of human and civil rights, for the sake of security, why not us? Or is it just the rise of the right in Israel and the beginning of a very intensive process of exclusion -- not just exclusion of women from certain places, not just exclusion of the Palestinians, but exclusion of the entire opposition camp in Israel.

So we have the shiny 1990s, the awful, dreadful 2000s and then here we are. There are new conversations; there are new discourses; there are new voices; there are people who say, we are fed up with it. Where does it go? One more round and another round and another round, beating the conflict, beating politics, round and round. Where does it go? What's the vision, what's the high call, where's your compass pointed?

I'll just give you a flavour of three recent conversations I had. Last year, I interviewed one of the most famous Israeli former lawyers, Shawki Khatib, who is also the leader of the Palestinian community in Israel. We were interviewing people for an institution we are building in Israel. So along came this young woman, a lawyer, her name is Nasrine. We interviewed her about this and that and put to her all the questions you ask people when you want to hire them and then asked her, "If you had the opportunity to become a Palestinian citizen tomorrow, regardless of where you live, if there were a Palestinian state, and you could live there, would you go for it?" She said, "I'm not sure". So, we asked why. She said, "I would check very carefully which of the options, the Israeli one or the Palestinian one, will guarantee my rights as a secular woman". That's a discourse, this is a new syntax, this is a new voice, and she's not the only one.

Second, my nephew, his name is Hillel, some of you know him round here as a brilliant young boy, a fantastic philosopher, a good friend of mine and the editor of my books, he told me, "Avraham, I want to be a political activist, I want to be a member of the Knesset." I said, "For Moses's sake, why? I mean your grandfather was, your uncle was, your father was, why you of all people? You know it's not good for you." He said, "Listen: you failed. It's our turn now. People are ready to recommit themselves after years of disengagement from political responsibility; civil society and political activists are ready to get engaged anew."

And, last but not least, is an individual I met here in London this week. We spoke about many things. She is very active in various human rights and civil rights organizations and I said, "Why do you do it?" And she said, "Listen, when I graduated from school, a Jewish school, and I met real life in college, I never realized that there is life beyond Israel, Palestinians, Bibi Netanyahu, the Holocaust, conflict and antisemitism. I didn't know there is a world out there."

Now take these three young people -- Diaspora Jew, Israeli-Palestinian and Israeli Jew -- who are all saying, "We are fed up with the old syntax." What is the old syntax? The old syntax, at the end of the day, tries to impose a solution which stems from a reality that does not exist anymore.

Borders and nations and states were born in the 19th century, were crystalized during the first half of the 20th century, and were frozen in the Middle East in 1948 by the beginning of the Cold War. But the Cold War is not there anymore. States are eroded. Nations are not what they used to be. So why should a solution that didn't work for so many years still be applicable and seen as the key to solving everything? When you ask yourself -- and this is an answer to Prime Minister Netanyahu, though he never asked the question -- "Where are Jews more secure? In Israel, with its hysterical Prime Minister, day in and day out, who comes with, invokes, the possibility of a second Holocaust, third Holocaust, fifth Holocaust?" I mean it's like Harry Potter! Every couple of weeks we have a different volume of a new Holocaust. Are Jews secure in Israel with all the 200 denied bombs we have, and the airplanes we have and paratroopers we have and the heroes we have? Or are Jews in Great Britain or the United States of America or in the Republic of France more protected because there is an essential safety net of constitutional defence, a system of human and civil rights? So, when we expand the question -- not, where are Jews more secure, but where are people more secure? -- then the answer must be that the more human rights and civil rights you have, where accepting the other is enshrined in the constitution, the more defended, the more safe and the better regarded the individuals and the citizens are.

Take the question back to the Middle East and ask: what eventually will solve the problem? What will pacify the partly justified Israeli obsession with safety and the Palestinians' need for their own safety? Will it be power? Will it be another round of bloodshed? Will it be a war? Will it be terror activity? Or will it be rights for all? At that point, you introduce something which a group of us, including Sam and myself and a few others who are sitting here in this room, have been working on over the last four-and-a-half years at the Bruno Kreisky Forum in Vienna, trying to develop a different approach to the whole issue. What should a new paradigm be? What should be a new principle as an alternative to the principle of privileges and partition, segregation and discrimination, a principle that brings you to something so basic: that it's okay for every individual between the Jordan and the Mediterranean to have the same rights? When you say in London, I am for human rights, I am for civil rights, I am for equality between genders, I am for separation between church and state -- or, I mean, at least secularity -- I am for fairly sharing public resources or general resources, then they tell you are a mainstream Brit. When you say it in Israel, you are a traitor, you are a Trojan horse, you are a well-poisoner, you are Avraham Burg. Whereas, in fact, when you go deeper and wider into the basic universal value, rights for all, you can find a universal solution which is good for Israelis and Jews and Palestinians and whomever else forms part of this federation of rights.

What will be exactly the manifestation of it? One state, two states, five states, federation, confederation, is less relevant now. But first we have to listen to the voices and to the demands of the next generation for a new discourse, a new syntax and a new conversation. Once we go for it and we begin this conversation, I do believe that the old world order will collapse. It will collapse and there will be something very positive to replace it: rights. Thank you very much.

Conversation

Jacqueline Rose:

Thank you very much. That's a wonderful beginning. For a literature professor, it is a thrill to hear Sam talk about the art of politics and Avraham talk about the need for new syntax. I've always thought that language is the key to political life, so I want to welcome that on behalf of both of them. But I also wanted to pick out a couple of things

that I've heard and play them back to you and to them, and to see what conversation we can now both have and listen to between the two of them.

Just to welcome Sam's demand, as I see it, for the expansion and redrafting of our concept of what constitutes, or what is, a Palestinian, I thought it was very important that he talked about "Palestinian natives", in Jabotinsky's term, as the people who were there when the conflict began. But he also talked about "present absentees", and I was thinking of Mahmoud Darwish, perhaps the most famous of the present absentees, and also the five million Palestinians in exile, and the need to constitute a new entity of what those Palestinians could be if they were in some way constituted together as people or as a nation. That is indeed the question.

I welcome your demand for a critique of the Israeli myth of innocence; this is something which the two of you hugely share. In Shulamith Hareven's words, if you are always innocent, if you're always the victim, it gives you the license to commit any atrocity. But I was very struck that you were talking about the innocence and the founding of the State of Israel -- what Avi Shlaim, who we welcome as one of our speakers at this conference, has referred to as "the immaculate conception" idea of the birth of Israel as a state. I am very struck that both of you are saying: something has to change in the vocabulary and in the reality.

Avraham, you gave three examples of the young Israeli, the diaspora Jew and the Israeli Palestinian, who are each asking for something new. The example that really struck me was the woman who was saying, before I decide to go to the new Palestinian state, I need to know which state will guarantee my rights as a secular woman, because it brings in secularity, it brings in gender, it brings in nationality, it brings in rights. So we could take her statement, I almost feel, as our formula for what we are looking for here in this Conference. You both have mentioned the key question of gender.

Nonetheless, I think perhaps where we should begin is the difference, maybe no more than 1%, but, nonetheless, the difference between you. Because Sam, if I listened to you properly, I think you were saying that if the situation continues as it does, the only way to secure revival, or a viable future, is through the bearing of arms, that "we the Palestinians" have been "unreasonably reasonable" too long, that the recourse to international law or international negotiations has been something of a dead end and impasse. I heard something like a desperate, but also a powerful, play for a militant affirmation of what the Palestinians should be asking for. Whereas, what I hear from Avraham is much more a generalized concept: an expansion of the rights beyond any one distinct group, beyond, as he put it, privilege, partition, discrimination, segregation -- i.e., constitutive rights would transcend the notion of the nation which, as you put it, you see as an anachronistic throwback to the nationalism of the 20th century of which, of course, the Jews more than anybody else should know the destructive potential. So therefore, if I'm right and I have picked up this difference between the two of you, perhaps you could start by talking about that.

Sam Bahour:

You almost got it right! I am by no means proposing that the Palestinians are any time soon about to become any more reasonable than they've been unreasonable for the last sixty years. Our unreasonable ability has a lot of gas left in it. I'll tell you why. Avraham has heard me say this a little bit before. It's a small story I'd like to use to make the case, and it actually fits exactly into the same frame of the younger generation.

I have two daughters and my older daughter was about to finish high school and head to Cambridge. I write frequently and the whole peace process was collapsing, so I asked her to bring some schoolmates home. I wanted to interview them so I could write an article about where the younger generation is going, given that we had failed again. She did that and the first question I asked my daughter was: do you know that you are militarily occupied? She's a pretty smart girl and, as any sixteen year old, she barked back at me and basically said: "of course, do you think we're stupid? We live in Ramallah, the most beautiful sea, the Mediterranean Sea, is 45 minutes away from our house and we can't get there. Jerusalem is the centre of the world and we can't get there. Remember, Dad, that I was born at the beginning of Oslo so all I know is walls, bombs, wars and checkpoints. You don't have to tell me that we're militarily occupied."

Now why did I ask that question? Because, maybe like your kids, when I look at my daughter, I find her with her headphones and her iPhone playing Angry Birds, watching TV, doing her homework and talking to me all at the same time. I'm an old-timer; I don't know how that happens all at the same time. But she went on, and this was the important thing she taught me. She goes, "But Dad, we read our history differently. In 1948 what happened to the Palestinians was the equivalent to a hundred 9/11s striking on the same day" -- not saying who's right and who's wrong, just a sheer matter of fact that more than half of the population was displaced. And she said, "If that were to happen to any country today, let alone in 1948, the natural reaction is to fight back." And that's what we did. We picked up arms and we called for a secular, democratic state for Jews, Christians and Muslims. You will be surprised, maybe, to know that no Palestinian in history has ever spoken of throwing the Jews into the sea -- that statement has never come out of a Palestinian mouth. In fact, it came out of an Egyptian mouth. The Palestinians started off by calling for one state for all. And she said that you know we proved beyond a reasonable doubt that we don't know how to fight. We basically were an agricultural community with this entire conflict laid on our shoulders. She said, after about twenty years of trying to fight, we shifted gears. We redefined our self-determination, from being one state to accepting the international parameter of two states. It happened around 1974. It was the beginning of a long process of fully adopting the two-state solution. And she said, when we did that, we went to the UN. Where did we go? We went to the plumbing of the UN. We memorized the Fourth Geneva Convention. We memorized UN resolutions. Ten-year-olds in the street in Palestine today can rattle off more UN resolutions than you ever want to hear.

And then she said, "You know what, Dad? It doesn't matter, because we're still occupied." And after trying to do that for about 15 years, the Palestinians under occupation in the occupied territories of the West Bank, Gaza and East Jerusalem basically got fed up and they said, we are going to shake off this occupation with our own actions. The word Intifada, the root of that word, means to shake off. And she goes, "You know what the Intifada got us, Dad, the First Intifada back in 1987? It got us international attention and broken bones. And then international attention turned a blind eye. So," she says, "even an Intifada didn't end the occupation. What happens next, Dad?"

Here is where she becomes a little sober with me, because she looks at me and says, "You had better remember, this is the one that you bought into. At the end of the first Intifada, the Palestinian leadership accepted the US dictate, that the only way to resolve this conflict was through bilateral negotiations". And she said (she was born in the States), "When you brought me here, I was one year old. If you recall, there were 100,000 settlers on the ground. After twenty years of bilaterally negotiating with Israel under international auspices, hi-jacked by the US, there are now 500,000 plus settlers on the ground. So you want to convince me that if we keep talking, as long as the international community turns a blind eye, that we have a chance?" And she continues: "After all of that, what happened?"

What she really wants to say -- but she's too polite -- is, "Dad, you were pretty stupid! You and the Palestinian leadership were pretty stupid for negotiating for 24 years when the Israelis didn't stop settlement building for one day." And she continues, "We went back to the UN then. But we didn't go to the plumbing of the UN, we went all the way to the top. We went to the most bilateral body in the world. We took the two-state solution with our own hands and placed it on the podium of the UN and we said: 'World, you decide; is Palestine worthy of statehood or not?'" 138 countries said yes, as we noted. Nine said no: the US, Canada, Israel, the Czech Republic, the superpower of Micronesia, the superpower of Palau, and the superpower of the Marshall Islands. So she says, "Dad, even if the majority of the world says yes, if the superpower says no, we're still under occupation."

And then she looks at me in a very, very calm tone and she says, "Dad, maybe it's time for us to do something different. Maybe our generation should look the Israelis in the eye and say, 'you win'. We're in a conflict -- God knows that we tried every way that we know how and even the world mobilized around us -- but it didn't work, so you win. You get West Jerusalem, you get East Jerusalem, you get Israel, you get the West Bank, you get all the water, you get all the frequencies. And you know what else you get? Us! Now, we heard you have free healthcare in Israel. Where do we pick up our medical cards?"

I have told you that because I want to just correct the part of the story which you summarized by showing that my children and today's generation are much smarter. They have a whole world in front of them on their iPhone. They know where mistakes were made and they know what we're up against. I believe they will not pick up arms to strike Israel, just the opposite. They will do boycott, divestment, sanctions, diplomatic action, bilateral action. They will do all the things that we have a chance to win at -- not picking up arms to fight a nuclear power supported by the entire world. They've learned -- like we've learned -- that that's a losing battle. And the initial reactions that Israel has given us to those uses of those other tools, is very promising: that we are in a playground where we have a chance to win.

So, I don't think that it's going to revert to militarism. It's going to revert to reframing the conflict. I don't believe what Avraham said. I have that one disagreement with you. I don't think that the near future is going to release the world from the state status, the state formation. What my daughters are saying is not that they're going to forfeit statehood. It's that they're going to demand rights within the state that controls their lives today. And that state happens to be Israel. I can only hope that in the future, we can forget about states completely, but I don't think that's on a near horizon. I think proposing that as a short-term way to mobilize is a way to keep the conflict proceeding in its current formation, which could explode if we don't see the urgency of changing the reality on the ground.

Avraham Burg:

I'm quite envious. I mean if your daughter's 16 years old and knows all of the above, she could be a Prime Minister of Israel at least. Amazing daughter, that's the first one, imagine what happens with the next one.

The question of difference begins with something that is invisible, Jacqueline. The first difference is that putting us on the same level is not allowed. We are not equal. We're having a conversation, as if it's a conversation of 50/50, as if we are partners, as if we are equal. We are not. I, unfortunately, was born privileged. I'm an Ashkenazi male who belongs to the Jewish occupying force between the Jordan and the Mediterranean. I belong to the majority, regardless of whether my political position is with or against, but I belong to the power that has absolute privileges of rights, absolute monopolies over rights, geography, resources, identities and power. We are not on the same page. I

mean, he is stronger than me, but I'm more powerful than him. I'm the occupier and he's the occupied. And we should not be on the same page. He should have the table for himself. So that's the difference that we always have to remember -- there is no parity between the sides.

The second thing is -- I don't want to argue it here -- but I didn't mean that tomorrow morning we have to dismantle this state or the other state. But there is no doubt that Sam and the Palestinians are at a pre-state situation and the Israelis are at some place towards a post-state reality. I don't know where, I don't know when, I don't know how, but at least a post-1948 state. And the pre- and post- are not the same thing. He should rightly tell me, Avraham, give me seventy years to have the privilege -- and enjoy the screw-ups -- of my system, and then I'll talk to you as an equal. But as long as he doesn't have that privilege, it's not the same conversation. They are not yet at the first state chapter and we are into the third one.

What was the first one? The first one was 1948 to 1977. Israel was established as an alleged democratic secular socialist state, and the organizing idea was statehood. That was Ben Gurion's big word: *mamlachtiyut*. This energy expired in 1977. A new power took over, the right-wing of Israel, which transformed the country into the second chapter, the second Republic of Israel, which is not socialist, but really neo-con and harshly capitalist, not secular, very religious and nationalistic, and the organizing idea is not statehood anymore but land-hood.

Listening in the streets today to anybody but Netanyahu indicates the fact that the second chapter is exhausted as well and that Israel is moving towards the third chapter. From the organizing idea from state to land, the next organizing idea of the mainstream, or the right of centre and the right of Israel, is the Temple Mount. The progressive, liberal democratic camp in Israel has not yet come up with a comprehensive school of thought to answer this challenge. We are still in shock about losing the government in 1977. The next thing is that they had a very good question that we have no answer for. I believe that Israel is almost totally immune against violence. We can tolerate a huge amount of violence. We have no answer -- none whatsoever -- for civil disobedience. This is a kind of a bottom, we who claim that we are the only democracy in the Middle East. And since I'm quite a critical person, I will say don't exaggerate: we are the only half-democracy in the Middle East, okay. But as a half-democracy in the Middle East, this is a soft point for us.

Imagine that tomorrow morning at Al-Shuhada Street in Hebron -- which is the most racist apartheid street in the Middle East, the right hand side is for Palestinians only, the left hand side is for Jews only and Palestinians are not allowed to walk on the Palestinian sidewalk -- imagine that tomorrow morning, 1,000 Palestinian kids with bicycles and skateboards and footballs and whatever just go down to the street and say, "We'd like to play, like our parents played!" And the entire world will watch what Israel will do. Can we shoot them? Yes: 50, 100, 150, 200, how many? These are the kinds of questions which they have that we do not have answers for. I believe deep inside and strategically speaking, only civil disobedience can put an end to the occupation -- *serious* civil disobedience. I'm not at all sure, I say I don't understand, not because it does not exist, it's because I don't know who are the players out there for civil disobedience, for hunger strikes and this kind of demonstration? But I know what kind of impact it would have on the fate of Israel and the occupation.

Last but not least is something that we have to share but we have to be very clear about. It's a story of the trauma. It's a very important chapter. It's not immediate politics, it's psycho-politics, but it is still there. During the last operation in Gaza, which I naturally took a position against and demonstrated against, with many others, and wrote about etc., somebody came to me and said: "Avraham, I want to have a word with you." I said,

"Okay, have a word with me." He said: "We didn't actually build gas chambers in Gaza, did we?" I said, "No, of course not." He said, "So it's okay, it's kosher!" I mean, we compare everything to the absolute trauma and since very few things, if anything, can be compared to that absolute evil, it's immediately kosherized. Trauma is a national strategy with us, but it is a form of national existence for the Palestinians, which leads to the wrong outcome. Sam comes to me and says, "Avraham, you know in '48, when you established the state of Israel, our tragedy happened, the Nakba happened, 100 villages, thousands of people in disasters and ruin and destruction." And I say, "Sam, this is a trauma? Wait till you see mine, mine is bigger!" And all of a sudden, for 70 years, even in the very rare cases in which we are ready to recognize the very existence of the Palestinian tragedy, we immediately annihilate it by saying ours is bigger.

So instead of having the trauma competition, mine is bigger, yours is bigger, we need a different approach. This is how we contain each other's sufferings and wounds and miseries and, out of this recognition, go forward. The Holocaust today cannot, should not, justify any evil done to the Palestinians. And, as a principle, I think Sam was the first one, or one of those, who introduced it into our Kreisky Forum discussions in Vienna. We have to correct the wrongs of the past. But you cannot correct wrongs by creating new wrongs. Just taking this formula, I think, creates an opening for a different kind of conversation.

Jacqueline Rose:

Okay, I'm just going to respond one more time and hand back to Avraham and Sam and then open it up to the floor. I'm very struck, of course, by Avraham's statement, plaint, acknowledgement, confession -- I'm not quite sure what the right word would be -- in saying so simply, Sam is stronger than him, but he is more powerful than Sam, and in presenting us with that differential of power here on the platform today as something that we cannot turn our eyes away from, or assume that by having certain kinds of conversations, we will have, in and of itself, solved the problem. Of course, that's not our intention, but I really appreciate you bringing it up to the surface of what we are doing.

Like Avraham and everybody in this room, I'm knocked sideways by the account of Sam's daughter. I would like to ask a question, again this time not about the political difference necessarily between the two of you but about the difference of emphasis. Your daughter asks the most radical question, "Where do we get our medical card?" What you are saying is that the moment that becomes the question -- the whole reality, "you win" is so visible, along with the question of what then has to follow from that recognition -- that it's like a revolutionary statement. It makes me think a bit of the struggle over the Pass Laws in South Africa, although these analogies are always complex. But nonetheless, "Where do we get our medical card?" as a question lays bare the realities of power and makes them unavoidable.

On the other hand, what Avraham is talking about in his stress on trauma -- which has also been part of his writing -- is another dimension. And it seems that there is something about the status of trauma, as he and others have written about it, in Israel's history, which makes the ability to hear a simple demand like "Where can I get my medical card?" almost impossible. It's as if these two demands almost belong on completely different planets because one is saying: "Let me be equal, that is my demand, how are you going to process it?"; and the other one saying that there can be no equality in matters of the traumatized soul and Israel is a nation, which lives off that and continues to live off that. I'd love to know how you think, without effacing the difference in status between you. How do you bridge the gap between "Where do I get my medical card?" and "We are the most traumatized people out of the two on this planet"?

Sam Bahour:

Very briefly, the point I wanted to make and that I hopefully got across, is that the “you win” approach means: we may be too weak to create a state. It will never mean that we forfeit rights, because rights are inherent within our human rights. Rights are not inherent within nation state-building rights. And that’s very important, because when my daughters look around the region, which is now much sloppier than when she was 16 years old, when she sees Tahrir Square and Tunis and Bahrain, she sees her own kind rising up for rights, for jobs, for better governments, for women’s rights. She doesn’t see her neighbours rising up for borders or changing of borders. So, the model out there for her is one that maintains a focus on her own rights. And that’s just been instilled with this entire Arab Spring, or whatever we want to call it today.

I want to correct Avraham on something very important. You said you were born privileged. You weren’t. You were born 100% equal. It is the ideology of Zionism that instilled in you the idea that you’re privileged. And I believe today, when the State of Israel, 66 years later, looks in the mirror it doesn’t see the reflection of the State of Israel. It sees the reflection of that ideology. And as a friend of mine from the German colony, Bernard Avishai, once wrote in a book called *The Hebrew Republic*, the bottom line, one of the main messages of the book, is that Zionism -- and he’s a Zionist, which I will never be -- Zionism was to create a state. If anyone hasn’t noticed, in 1948, the state was created and it’s a rather strong state. And Bernie says in his book that what it really should have done should have been to take Zionism the ideology and make a beautiful museum and cherish it, because it had reached its goal. The state happened. From that point forward, it should have dealt with all the citizens of its state, Jew and non-Jew, with one set of legislation and rights and so forth. We still didn’t do that. So what matters is the ideology that was embedded within those who are very much equal, and I think that’s something we need to always focus on.

The issue of trauma -- it has been bugging me lately. My sister is a psychologist in the States and I have these discussions with her all the time. She says I need to buy a very long couch on eBay and put all six million Jews on the couch and work them through their trauma. We can’t do that as a people, nor is it our responsibility. But I’ve been searching for an answer to the question: how can Jews actually have reached the point where they are today? How can Netanyahu stand up and say he speaks for every single Jew in the world, and we don’t really hear sounds coming out of the diaspora Jewish community saying no you don’t? We are hearing some, but not the roaring sound that I thought we would hear. I went back and I studied two things. First, I must say that I usually don’t do what Avraham does -- I don’t try to compare the Holocaust with our issue, I don’t compare tragedies. Secondly, it’s such a red button issue within the communities that I speak to -- Western communities -- that I usually avoid it.

So, I recently watched a documentary called *The Wannsee Conference*. Anyone know what this is? This is the meeting where the decision to make the Holocaust took place, the Final Solution. It’s an amazing one-and-a-half hour documentary; you will not take your eyes off the screen. And the entire hour-and-a-half is shot in one room. It goes through, based on minutes. I guess that one set of minutes of this meeting were found. It shows the great extent, the great extremes, German society went through in order to be able to legalize what was about to become the Final Solution. And as I said, I don’t compare tragedies, but I worry about how we kind of make the Holocaust an individual responsibility and not the responsibility of a society.

What we’re seeing today in Israel is a society collectively moving so far right that attacking Gaza and killing 2,200 people in 50 days is cheered on, on a hill, right outside of the Gaza strip, where even the media goes to cover the cheering. That’s scary to me. The second thing I studied was the most popular, still widely read, *Atlantic* magazine

article called "The Case for Reparations", which talks about slavery in the US. I highly encourage us all to read it, it's a very long article. But yes, there can be sins within a state-building process that can be rectified by moving forward. I say that as compared with the idea that we have to turn back the clock and start over again, which is not going to happen, just like we can't turn back the clock for one set of people for 2,000 years and keep everyone else in modern history. So, either we turn back the clock for everyone -- and at that point there are no nation states, there's tribes, and I'm probably from one of them and Avraham is from one of them -- or we deal with the here and now and the today in terms of rights and states. Because after World War II, because of the Holocaust, the world pressed the reset button, just like you do on a computer. When the new operating system came up, it was a set of international humanitarian laws and UN resolutions which created relationships between peoples. We either respect that reset or we go back to pre-reset where anything goes. And thus, I'm proud that the Palestinians have accepted the state of international law as being the parameters of how we are operating, even though we're being battered by doing it every day.

Avraham Burg:

I don't remember what the question was, but I have couple of answers. What does an average Israeli say to the daughter of Sam about the healthcare question? I mean, what do I say to myself about her rights? How does it work?

First, we have to talk about the disappearance of the Occupation from our life. Some magician -- Houdini, David Copperfield, Bibi Netanyahu -- I don't know who it was, but they simply made it disappear with a kind of abracadabra formula. It is not part of our equation. There are many reasons for why it happened -- maybe we should talk about some of them tomorrow, I don't want to pre-empt myself -- but one of them is Oslo. Before Oslo, as difficult as it was, we had many shared spaces: geographical, political, transportation, workplace, market place. I mean, you name it. Then came Oslo, and with post-Oslo failure, with the failure of it, there was the Intifada and the erection of the wall etc. And all of a sudden, you are not there anymore, which is very convenient because it falls exactly into a certain Zionist psychological paradigm. Here are a people with no land, who come to a land with no people, so what's the problem? Abracadabra, you do not exist. And if you do not exist, the part which promoted a kind of a solution with you is not needed anymore, so the left disappeared as well.

The first question must be how to introduce the misery of the one, of the individual, through reintroducing the misery of the collective into the public equation. It's very difficult. It's not an easy thing to do. I'm not at all sure that Tuesday night [the election] will give us very good answers for this question, which brings us to the second thing: Israelis -- and you know I -- love these forums of peace, because first the Palestinians step up and criticize the State of Israel, and then in order to equalize and to balance, an Israeli steps up who does the same thing. So, let me follow up and criticize our reality by saying two things. Many Israelis believe that the goyim are not fair. Something is wrong with the goyim and I tell you what this something is. For so many years, you goyim, whoever you are -- I don't know who is who in the room -- you had fun everywhere in the world, playing with power and atrocities and genocides and ethnic cleansing, you had fun. Now that finally it's our turn, you become Jews on us? We don't understand it. Many of us do not understand the ethical change that the world, especially the Western one and, in particular, the European, one went through at the end of the second World War up to today, that there is a new normative language, a value language out there.

The second point, which is very complicated -- and I'm not at all sure this is the forum -- but let's put it on the table. I want to, I've never measured it, but my instinct is telling me that seven out of ten Jews in Israel believe somehow that we are the chosen people. This

kind of chosen-ness, the other kind of chosen-ness, but we are the chosen people. Now this concept of being chosen is a fantastic system. You are in Spain in the middle of the 11th century, 12th century, 13th century, you are somewhere where you are persecuted, you are hunted, you are beaten. I mean, it's awful. And the two big daughters of your Judaism, Christianity and Islam, are prospering, and only you suffer. Along comes your leader and tells you: listen, listen, listen, the fact that you are suffering here is because you were chosen to suffer, but a day will come at the end of days, or a day before the end of days, of redemption etc. Then you will get all the awards possible. All throughout history, being chosen was a kind of shield against histories. And then the State of Israel was established and we never checked out the concept of chosen-ness, and all of a sudden, the chosen people is the majority with power and privileges. Then being chosen and having a democracy which is equal for all don't work together. If there is a project that Jewish liberal thinking has to take upon itself, it is understanding what is the meaning of the notion of being a chosen people at a time of majority and sovereignty and power? How do you diffuse it, how do you write it off? Without this, I can forever, not personally, but I, as a generic Israeli, I can ignore you forever. These two notions -- it's our turn to play with power, and power in the hands of the chosen -- these are two existential spiritual elements that, without addressing them, no real political process will put an end to the conflict.

Conference Day One: Sunday 15 March 2015

Mapping the Balance of Power and Control in Israel-Palestine (Panel 1)

Speakers:

Avi Shlaim, Emeritus Professor of International Relations, Oxford University
Taghreed el-Khodary, Journalist and Visiting Scholar with the Carnegie Endowment for International Peace

Mustafa Barghouti, General Secretary, Palestine National Initiative (via video link)

Chair: Lynne Segal, Professor of Psychosocial Studies, Birkbeck

Introduction

Lynne Segal

Those of you who were here last night -- and I know many of you were -- will have heard the most riveting presentations from Sam Bahour and Avraham Burg on our theme of Equal Rights for All in Israel-Palestine. Mind you, Sam Bahour began by saying that Palestinians had always sought equal rights for all in the area of Palestine, alongside their demands for some sort of Palestinian sovereignty. This was so from the beginning, for the last 60 or 70 years. Indeed, he pointed out, it's hard not to conclude that Palestinian negotiations with Israel and their biased backer, the USA, had been for much too long unreasonably reasonable, waiting for the granting of any sort of human rights to the Palestinians.

Avraham Burg emphasized how much more hopeful things had looked in the 1990s, compared to how they look today, 20 years later. Not only has the occupation not ended, not only have Palestinian human rights not been delivered, but there has been more and more theft of Palestinian land, year on year, while the constraints and enclosures of Israeli military occupation and settlements have speeded up. Indeed, the settlements have increased five-fold over the last two decades. Today, in Israel, both emphasized, the talk is not really about any statehood at all -- least of all any statehood for the Palestinians -- but about land-hood, more and more land-hood, for the Israeli occupiers.

However gloomy all this seems, both speakers emphasized that only serious civil disobedience, supported by the world -- which for so long did not support the Palestinians -- can put an end to occupation. Thus, thinking of new ways for all in Palestine/Israel to try and build up that civil disobedience in the context of support from the outside remains the only way forward. So today, we continue with considering both the possibilities for, and the impediments to, that amazing struggle, which has gone on for so long, and where we begin discussing mapping the balance of power and control in Israel/Palestine.

We have three wonderful speakers. We begin with Mustafa Barghouti, who sadly can't be here with us because not only is it the case that Israel places enormous constraints on the movements of Palestinians, so does the rest of the world. It's becoming near impossible to get Palestinians out of the West Bank and Gaza -- not always because Israel has made it so difficult, but because our border police make it so difficult. They

are the ones who will not issue visas to Palestinians and allow them to come. So first we will hear from Mustafa Barghouti on video and, hopefully, on Skype to answer questions.

Many of you will know Mustafa Barghouti. He has been here speaking for IJV before, and to other people. He is a very significant Palestinian physician, activist and, above all, politician. He is the General Secretary of the Palestinian National Initiative and has been a member of the Palestinian Legislative Council since 2006. He remains a tireless campaigner, against all the enormous odds we know about, for Palestinian human rights, in his role as a member of the Palestinian delegation to the Madrid Peace Conference in 1991 and then as a member for the steering committee of the multilateral peace negotiations that went on between 1991 and 1993, in that decade when we all had more hope that change might happen. He has also joined lobbying efforts for peace and justice for Palestinians ever since.

We will also hear from Avi Shlaim. He is Emeritus Professor of International Relations at St Anthony's College, Oxford University. He is again, as many of you will know, one of the first eminent Israelis to question Israel's founding narrative of innocence, which, as Sam Bahour said yesterday, we all need to do. He did this brilliantly in his best-known book, *The Iron Wall*, which was published in 2000, and which has just been re-issued.

After that, we will hear from Taghreed el-Khodary, a journalist born in Gaza who is now an editor of the *Chronicle of the Middle East and North Africa, Fanack*, based in The Hague. She has for many years covered Gaza. She covered all the devastations in Gaza between 1995 and 2009, including the war on Gaza of 2008-9. She was the only reporter able to get in there and was reporting for *The New York Times*. She stood alone there trying to make the world address the amazing horrors that went on there in that war and, of course, in the next war.

Mustafa Barghouti

Good morning to all of you today and thank you for inviting me to speak. I'm sorry I can't be with you physically, but I hope my contribution will be useful to this conference. Today, the main problem that has prevented any development of a real peace process and a real solution of the situation in Palestine is mainly related to the fact that there is a very severe imbalance in power between the Israelis and the Palestinians. This imbalance of power has made all negotiations that are taking place useless. Twenty-one years of Oslo, 20 years of negotiations, became nothing but a cover for Israeli expansion of settlements; for Israeli continuation of occupation, which has become the longest in modern history; and for the consolidation of a system of apartheid and discrimination against the Palestinian people. During all these years, the Israeli establishment, the Israeli governing establishment, has done everything it could to destroy any possibility for a two-state solution. Some of the factors that contribute to the weakness of the Palestinian side relative to the Israeli side include the internal Palestinian division, for sure. But, in addition to that, a major factor is the Americans' unlimited and complete bias toward the Israeli side and complete support for the Israeli side. The same applies to many Western countries that continue to provide Israel with military arsenal and with diplomatic support without considering even the views of their own peoples in the continent.

A third major factor that is contributing to the imbalance of power is the shift inside Israel itself towards racism, towards a system of apartheid. The shift of many Israeli citizens that are voting for racist parties is very much relevant to the fact that, for all these years, the occupation of Palestinian territories has been profitable for Israeli citizens. It was an occupation without costs -- more than that, an occupation that profited the Israeli economy and the Israeli government.

The strategy that the PLO has followed during the last twenty-one years has failed. The Oslo Process has failed drastically. What we witness today is the end of an era. Unfortunately, it took 21 years for many people to realize that this approach was wrong. But, today, we see and witness a recognition -- and sometimes a shy admission -- of the fact that this past course has failed and that Oslo has led to disasters for the Palestinian people. What we witnessed recently, at the most recent meeting of the central council of the PLO, is a realization -- or the beginning of a realization for some people -- that Palestinians need a new alternative strategy to the one that has failed: a new strategy which we've been advocating for the last 13 years; a strategy whose goal is to change the balance of power; whose goal should be to make the occupation costly, whose goal should be that the occupation should be more costly than the benefits it's providing, through the combination of its pillars.

First, this new alternative strategy advocates popular non-violent resistance, which is growing very fast all over the occupied Palestinian territories. Second, it advocates the strategy of boycotting Israeli products. So far, Israel has been exporting to the Palestinian territories no less than 5.7 billion dollars' worth of products, while the export from the Palestinian side is only 700 million dollars' worth. The third part of the strategy is BDS, the Boycott, Divestment and Sanctions campaign all over the world, which is growing dramatically, and which has cost Israel, in addition to the resilience in Gaza, a very high price. In 2014, the Israeli economy, for the first time in ten years, stopped growing and actually shrank by half a per cent. The fourth very important pillar of this strategy is Palestinian internal unity. The fifth is to help people stand fast and survive on their own land. Finally, the sixth pillar is to consolidate and engage the Palestinians all over the world in the struggle for freedom and for justice.

Many Palestinians have been alienated during the last twenty years because of Oslo, because of the behaviour of the Palestinian Authority, and now there is a chance to re-collect and re-gather all the Palestinian energies in the right direction. The most recent resolution of the Central Council of the PLO in which we have participated took a very serious new direction, if it is, of course, followed. It spoke about an immediate stop to all forms of security coordination with the Israeli army. It spoke about holding Israeli authorities responsible for their duties as an occupying force of the Palestinian Territories. It spoke about practically ending the function of the Palestinian Authority as a security sub-agent for Israel and for occupation. The Council adopted boycott of all Israeli products. It also adopted the Boycott, Divestment and Sanctions movement and called on all free people and all solidarity movements all over the world to adopt BDS and to engage in it. And after ten years of our application to the PLO, finally, the Palestinian National Initiative was accepted as a full member. It was interesting that this acceptance, which was late by ten years, came exactly with these kinds of resolutions that were taken by the Central Council.

The success of the new strategy requires one other very important factor, which I haven't mentioned yet, which is the mobilization of the peace and democratic forces among Israelis and among Jewish communities all over the world. We need this from people who understand today very clearly that there is one of three possible options for today's situation. One option would be a fully sovereign and independent Palestinian State to be established on all territories occupied in 1967, including Jerusalem as its capital and without any settlements or settlement expansion. The second would be the consolidation of what we have today, which is a system of apartheid, land appropriation and land annexation and discrimination against the Palestinian people, both in Israel and in the occupied territories. And the third option, which, of course, would be the result of the second option eventually, but after lots of pain and suffering, would be one full democratic state for both people with equal rights and equal opportunities, in which case, Israel, of course, cannot claim that it is a Jewish state in any way.

We believe that the realization that these are the only possible options is very important to bring around a lot of democratic and progressive forces and people to support the right of the Palestinian people to be free from this terrible occupation and this terrible system of apartheid. We need a new alliance -- a new alliance of people who believe in humanity, who believe in human rights and who believe in justice. There are, of course, many tragedies all over the world and many victims all over the world, especially in our region, but there is no people today in the world that has been so systematically oppressed during the last 67 years as the Palestinian people. The Palestinians have been subjected to confiscation and theft of their land. Many of them were forced to leave their country in one of the most terrible acts of ethnic cleansing. Many saw their land, or the rest of what remained of it, occupied again. Many have been subjected to a system of apartheid that is, according to the opinion of most experts, much worse than the apartheid system that prevailed in South Africa at one point in time. And the same Palestinian people have been subjected to denial of their basic human rights and basic civil rights for decades. Maybe this is why a person or a leader that is highly respected all over the world like Nelson Mandela said one day that the cause of Palestine or the issue of Palestine is the most important issue of humanity of our time today.

What Jewish people have been subjected to during the last century and before, in the pogroms of Russia or during the terrible Holocaust during the Second World War or even during the Inquisition in Spain and in other places, is unacceptable and of course it created a lot of sympathy, a natural sympathy. But that suffering of the Jewish people does not justify in any way the same system of oppression that Palestinians are subjected to today. It does not justify in any way the behaviour of the Israeli governments against the Palestinian people or the behaviour of the Zionist movement in general against the Palestinian people. Palestinians have not been responsible for the suffering of Jewish people in Europe and in other places. But they were forced to pay a price for that suffering.

In a way, what we've witnessed is what Edward Said described very clearly by saying we've become the victims of the victims. This should not continue. This should end. But the only way to end it is to adopt a new strategy of changing the balance of power -- changing the balance of power through what I've described as popular resistance; as Boycott, Divestment and Sanctions; by a strong solidarity movement among the people who support the right of Palestinians for freedom all over the world; and also by a strong engagement of true democratic progressive Jewish voices which should side with the Palestinian struggle today, for the sake of the future of both peoples, for the sake of a future that can have peace and justice and happiness for everybody. I want to conclude by saying that there comes a time when people cannot take injustice anymore. And this time has come to Palestine. I hope that you will support the struggle for freedom, for peace and for justice. Thank you.

Avi Shlaim

My perspective is almost identical to the great and eloquent Palestinian perspective, which has just been presented by Mustafa Barghouti. Like him, I'd like to begin with a comment on the title of this session, which is on the balance of power and control in Israel-Palestine. The reality on the ground is the polar opposite of a balance of power. A balance of power suggests that there is some measure of balance, but the situation is one of total imbalance between the two sides. Israel is infinitely stronger than the Palestinians, economically, financially, technologically, diplomatically and militarily.

Israel has the fourth strongest army in the world. So the relationship is one between a powerful occupying power and a weak occupied people.

Indeed, as Mustafa said, it's the asymmetry of power that makes it impossible to resolve this conflict by bilateral negotiations between the parties. Israel is too strong and the Palestinians are too weak. A third party is therefore necessary to redress the balance, and the self-appointed third party is America. But America has a special relationship with Israel. So instead of putting its weight on the Palestinian side of the scales, America adds only its formidable power to the Israeli side, thus accentuating the imbalance. The United States poses as an honest broker in this conflict, but as Sam Bahour pointed out yesterday, it is not an honest broker because of its partiality towards Israel. It's a dishonest broker.

The US gives Israel massive support -- massive economic, military and diplomatic support and protection. America gives Israel 3 billion dollars a year. As Churchill might have put it, never in the annals of human history have so few owed so much to so many. America is also Israel's main arms supplier. It has formally guaranteed "Israel's qualitative military edge over all its Arab opponents." Last but not least, America gives Israel diplomatic protection. Since the Camp David Accords of 1978, America has used its veto on the Security Council 44 times to defeat resolutions that were not to Israel's liking. So, in effect, Israel wields the power of veto on the Security Council. It doesn't exercise it directly, but through a proxy, and that proxy is the United States of America.

And yet America has very little influence over Israel's policy towards the Palestinians. Why? Because American support for Israel is unconditional. It's unconditional. Israel doesn't pay any price for defying America, for rejecting its advice. This makes possible Israeli chutzpah in relation to America, which reached its climax with Netanyahu going to the special meeting of Congress, the special session of both Houses of Congress last week, speaking against the American President and getting standing ovations. This is the kind of behaviour that gives chutzpah a bad name.

The unconditional nature of American support for Israel is what gives Israel immunity to act in violation of international law, international humanitarian law and so on. Israel literally gets away with murder. The American sponsored peace process of the last 24 years has been all process and no peace. But it is worse than a charade because the semblance of peace talks gives Israel just the cover it needs to pursue its aggressive colonial project on the West Bank. The last American attempt to mediate was John Kerry's peace initiative, and there is no doubt about his commitment. In his first year as Secretary of State, Kerry made eleven trips to the region. But Benjamin Netanyahu's diplomatic intransigence turned all his efforts into an exercise in futility. Kerry knew that the Palestinians had two fundamental conditions for talks. One was a complete freeze on settlement activity and the second was the terms of reference for the final borders being the 1967 borders. Kerry could not get Netanyahu to agree to these conditions, and therefore, his mission was doomed to failure from the start. There is an Arabic saying that that which starts crooked remains crooked. Kerry's mission, his initiative, was doomed to failure because it started crooked and it remained crooked.

Let me say a word about the settlements. The settlements are illegal and are the main obstacle to peace. That is obvious. But they are worse than that. They are the root of all evil. John Dugard, the distinguished South African jurist, has pointed out that the settlements change the nature of the occupation from belligerent occupation to an

occupation that combines the worst features of colonialism and apartheid. The greatest achievement of the United Nations in the second half of the 20th century was the eradication of colonialism and apartheid. But sadly, the United Nations has failed in the case of Palestine. The Palestinians are still conducting today what is the last anticolonial struggle in the world.

A General Assembly resolution of 1960 defines colonialism as “the subjection of people to alien subjugation, domination and exploitation.” Israel fully qualifies for the title of colonial power under this definition. This is the most prolonged and brutal colonial occupation of modern times. The occupation has so far endured 47 years. The experience of other countries suggests that the longer any colonial occupation lasts, the greater the settlers’ extremism, racism and violence. And the Palestinians have discovered this universal truth at a great cost. Isaiah Berlin used to say the Jews are like any other people, only more so. And I say Jewish colonialism is like any other colonialism, only more so.

Now let me turn to the other ugly face of the settlements: apartheid. Analogies are frequently made between Israel and apartheid South Africa. But, interestingly, some prominent South African observers have commented, have observed, that in many ways, Israeli apartheid is much, much worse than South African apartheid. They include Desmond Tutu, John Dugard and Ronnie Kasrils. The hallmarks of apartheid in South Africa were discrimination, repression, displacement and territorial fragmentation. All of these features are present in the Israeli apartheid system.

To begin with, there are two legal systems on the West Bank: one for the settlers, one for the Palestinians. There are also two separate systems of roads. Second, there is brutality by the IDF, which takes many forms and includes harassment and humiliation of civilians; the systematic abuse of human rights; night raids on the homes of innocent families; arbitrary arrests, including the arbitrary arrest and detention of children for stone-throwing; house demolitions; routine torture; and targeted assassinations. And third, there is the fragmentation of the Palestinian occupied territories.

In 2005, Israel carried out a unilateral disengagement from Gaza -- and the emphasis is on unilateral. But under international law, Israel is still the occupying power because it controls access to the Gaza Strip by land, sea and air. So, the effect of the unilateral Israeli withdrawal from Gaza was to turn the Strip into an open-air prison. In the last six years, there have been three major Israeli assaults on the people -- military assaults on the inmates of this prison. Israeli generals talk about the operations in Gaza as “mowing the lawn”. And this chilling metaphor simply exposes the bankruptcy of Israeli policy towards Gaza.

And, finally, there is fragmentation of the Palestinian territories, and this proceeds through the relentless expansion of colonies and the infrastructure, which serves only the colonizers and not the colonized. Since 2003, Israel has been erecting a security barrier -- a so-called security barrier -- on the West Bank. This barrier is illegal and its fundamental purpose is not to provide security. It’s about land grabbing. The wall separates East Jerusalem from the west of the West Bank and the rest of the West Bank is divided into small enclaves without territorial contiguity. The illegal wall is connected with the illegal settlements. The aim of the settlements and the wall is to make it impossible to create a viable Palestinian state. So, Israel violates a whole range of

Palestinian rights, including the rights to land, the rights to property, the right to control their own water resources, and, last but not least, the right to national self-determination. It is sometimes said that good fences make good neighbours. Maybe, but not when the fences are created in the middle of the neighbour's garden!

Israel boasts that it is the only democracy in the Middle East, that it is an island of democracy in a sea of authoritarianism. But its record proves that Israel has never done anything to promote democracy on the Arab side, and it has done a huge amount to undermine democracy on the Palestinian side. Oren Yiftachel described the situation in Israel and the occupied territories as an ethnocracy, a situation in which one ethnic group dominates another. Like all imperial powers, Israel also practices the tactics of divide and rule. Sometimes, Israelis claim that they cannot reach an agreement with the Palestinians because they're internally divided. But Israel does everything in its power to perpetuate and to deepen division within the Palestinian camp, and, thereby, to defeat their struggle for independence and freedom.

In 2006, Hamas won a free and fair election. Israel refused to recognize a Hamas-led government and persuaded the United States and the European Union to join in economic warfare designed to undermine and bring down that government. In 2007, Hamas and Fatah formed a national unity government. Mustafa Barghouti was a minister in that government. It was a moderate government that called for negotiations with Israel for a long-term ceasefire. Israel refused to negotiate and -- as the Palestine Papers reveal -- Israel engaged in a conspiracy with Fatah, with Egyptian intelligence and with the Americans, to isolate, weaken and eventually drive Hamas out of power.

A few months later, Hamas pre-empted a Fatah coup by a violent seizure over power in Gaza. Israel responded by imposing an illegal blockade on Gaza, which is still in force today, eight years later. One of Netanyahu's aims in launching the war on Gaza last summer was to disrupt the latest national unity government -- which included Hamas and Fatah -- and it was again a very moderate government which accepted all the Quartet's conditions for negotiation. But this Palestinian unity government was perceived as a threat, and one of the operations was to disrupt and destroy it. So, to sum up, Israel has imposed a totalitarian regime on the occupied territories and it's in total control of these territories.

So, what is the way forward? As I said at the beginning -- and as Mustafa said at the beginning of his talk -- the traditional so-called peace process is completely useless. America as a mediator is useless. The Quartet is also useless, because it cannot act independently of America. So the Quartet is just a clever American trick for wasting time. The Quartet's envoy to Israel/Palestine is Tony Blair. I'll say no more. The way forward lays in internationalizing the Israeli-Palestinian conflict. The Palestinians have made a start with their application to join the United Nations and, more recently, the successful application to join the International Criminal Court.

Israel enjoys so many advantages. But the Palestinians have the advantage in two spheres: in the diplomatic arena and in the legal arena, and the two are related. The latest phase in the diplomatic arena is gaining parliamentary recognition of Palestine, and recently, nine European parliaments have voted to recognize Palestine. Menachem Klein and Alon Liel will have more to say about that effort and the Israeli liberals' contribution in this campaign to get recognition for Palestine. The Palestinians are entitled to equal rights in everything, including an independent state of their own, if that's what

they choose. And Jews everywhere have a moral duty to support them in their struggle for equal rights. All of the Palestinians' friends, Jews and non-Jews, ought to support them in the campaign to delegitimize the occupation -- not to delegitimize Israel within its original borders, but to delegitimize its colonial project on the West Bank. The apartheid regime in South Africa collapsed as a result of a sustained international campaign of delegitimization. The best hope of ending Israel's vicious colonial project in Palestine lies in a similar international campaign. This is the purpose of this conference, as I understand it.

Taghreed el-Khodary

I'm speechless. The question is what is to be done -- and to hear you, Avi, your voice is very strong, but it's absent. And to hear you is bringing me memories of when I covered Gaza, when I observed Gaza until my late thirties. That place -- Gaza -- for me was really school. I mean, what is to be done? Meetings such as this one are very crucial and your voices must be heard in the Arab media. I think you have to have access to people on the ground. You cannot go to Gaza, but there is a way, there is social media, which is very strong. These ideas just came to me by the fact that I listen to you.

I go to many conferences, but the conferences are about security and about politics, and the Israelis who are invited are from the right-wing and are those in power. So the voices and the ideas are extremely different. Just to hear you, it's giving me as a Palestinian moral support. It's really like: I'm normal. I think it makes me feel that the people in Gaza who are trapped are paying the price of such policies. The young population -- think about them! If you were 20 when the siege started, now you are 28. So your 20s are gone. The joy of your life during your 20s is gone. Something has to be done.

When I read the title of this session, on the balance of power, I thought, "What are they talking about?" If I remember life before the Oslo Agreement, and I think about what it was like in Gaza, I remember my father, God bless his soul, who passed away last year. He was lucky to have made it to treatment in Jerusalem. Many in Gaza cannot go to have such treatment. Gaza before Oslo was really different. I remember on the weekends, we would jump into the car and my father would drive us all the way to Tel Aviv for groceries, to buy schnitzel. So, before Oslo, we were exposed to Israeli society, to Israelis in civil dress. Now, when you see the Palestinians in Gaza, think about the difference! Since Oslo, people are not allowed to leave Gaza unless they have a magical Israeli permit. So, for them, Israelis are known as F16s or drones. This is what the generation today knows about Israelis. I mean, to meet someone like you and to hear you, they would be shocked. I think it's time to do something on the ground, but the question is how, given the fact that you have Sisi -- who is closing the border of Raffia -- and given the fact that Israel is completely closing down and controlling the place, and creating a reality that is extremely hard to deal with, extremely hard to understand.

Now, I'm lucky, I made it out. I know what freedom is now. I live in Amsterdam, I work in The Hague and I can travel anywhere. It's something to process in your mind. It takes a while -- for people in Gaza, I mean. And then you have Israelis from the right wing saying, you know the British are talking about Hamas who are terrorists. But who created that reality? That is the question. It is Israeli policy that is creating a reality that will be hard to deal with in the future. If Israel cared about its security, I think it would care about that. The region is paralyzed, while it is also moving somewhere else. You have a reality in every country, and each regime is busy with its own interests. Israel has no interest in the Palestinian cause. So, Israel is lucky at this time, but they are not thinking, they are not investing in this reality. You have a weak Palestinian body, you have a

weak region. Let's think in the long term, what is good for Israel? They are destructive and they are the experts of destruction, this government. It's unbelievable — the work of avoidance involved on their part when it comes to what is good for the two people. It's just not on the table. The thing is, to keep talking about Hamas as a terrorist organization after all these years, one is sick of it. It's obvious that it's a distraction to keep us from dealing with the real issue.

Two weeks ago, I was at a conference and, all of a sudden, the Israelis are against Abbas. I mean, okay, one can understand why they were against Arafat, for whatever reason, it may not be justified, but fine. But, Abbas, who gave so much, who lost his credibility on the ground, who lost his support on the ground because he gave a lot, he compromised on many issues, he talked about land swap, and he compromised on the right of return for the Palestinian refugees. I mean this is a guy who gave a lot. They are now criticizing him and punishing him financially because he went to the ICC. This is the only good achievement that he has done for his people so far.

If we talk about the imbalance of power, you know Israel has nuclear power. They are the strongest in the region and the sad part is that they are waging a war against Obama because I think he is going to be successful in reaching a deal with Iran. I don't know why they are against this, if they are thinking of what's good for Israel. It doesn't make sense. Looking at the reality of the West Bank, the only achievement of Abbas will be the ICC, and there was a recent poll conducted by the Jerusalem Media and Communication Centre that found that most Palestinians -- 69% of Palestinians -- support the Palestinian leadership's move to appeal to the ICC, even in the face of Israel's resulting economic sanctions. And the question, I think, to be asked is, what will happen if Abbas were to disappear? Fatah is extremely divided. There will be a fight over who is going to replace him, and I think Abbas should think of how he can prepare the next stage? Then Gaza -- Israel withdrew unilaterally from Gaza and they didn't even give the credit to Abbas, they didn't even work together with Abbas, who gave a lot.

This is the issue: Israel has never given credit to the moderate Palestinians. When Hamas kidnapped Shalit -- this is the language that people think Israel understands -- they think that the kidnaping of a soldier will result in the release of Palestinian prisoners. And the release of Palestinian prisoners was given to Hamas. But to someone like Abbas, who is a moderate, who compromises on many things, you know, he wasn't given anything in return! What will happen if the siege of Gaza is lifted? What generation will be the outcome? I'm angry for now, but the situation seems to be contained, and that's why nobody is moving. We are not dealing with ISIS, so you can say that it's okay so far. It can be contained, which is really insulting and beyond what is acceptable.

Listen, I'm a Palestinian who's now living in Amsterdam, and I was following the last war on TV. I was watching my neighbourhood being bombed live on TV, which I avoid watching, but this was Sunday. On Sunday, I really love to be with my family at home, so I couldn't avoid watching TV. My kid, who was three-and-a-half years old at the time, she caught me crying. I was thinking, oh my God! My neighbourhood is being bombed live on TV. What will happen to my family? My sisters, my mother, they live there! My brothers, my nephews, my nieces -- it's like your neighbourhood is gone. And my daughter -- who is now a Dutch Palestinian -- I would say, she has not been exposed. I haven't taught her what Israel is, nothing. We are not going to teach her hatred. But she caught me crying. And she asked me, "Mama, why are you crying?" And I said: "Israel is bombing Gaza." She knows I'm from Gaza, she knows that I'm Palestinian but she doesn't know the word Israel. And then I said: "Israel is bombing Gaza." And then she brought me my phone and said "Mama, call the police!" And this is a three-and-a-half-year-old, telling me to call the police.

I mentioned her and told that story in an opinion piece for the *Huffington Post* at the time. Some people don't like it. But it's time to do something. Even if you are far away from the reality of what Israel is doing on the ground, it's hard to avoid, and it's hard not to teach your kids, even when you are far removed from that reality. I raise this issue, because last night you discussed civil disobedience, and there were many questions, so I raised it on my Facebook, because all of Gaza is glued to Facebook. That's the only way for them to communicate with the outside world. Many young people reacted, saying that Palestinians are so divided, our leaderships are so divided, the political parties are so divided, and that's why it's not working. Also, Israel keeps fighting too hard to make sure we are not united -- the policies are not creating a healthy society. What is to be done, that's the question. Dr Mustafa Barghouti, wherever I mention new allies, I think it's good to keep on with this work described in your video-link talk just now. This is really the first time that I listen to your voice and I think it needs to be heard on the ground. We should invest in finding a way to do this by using social media, which is very popular on the ground, even in Gaza, and also by reaching out to the Arab media. Thank you so much.

Prioritizing Rights: Can It Supplant Failed International Peace Diplomacy and Lead to the End of Occupation? What Does Attaining Full Civil and Political Rights for All Mean in Practice? (Panel 2)

Speakers:

Bashir Bashir, political theorist, Van Leer Jerusalem Institute

Sam Bahour, Palestinian-American business consultant, policy adviser to Palestinian Policy Network Al-Shabaka, and writer

Philippe Sands QC, Matrix Chambers

Chair: Tony Klug, special advisor on the Middle East to the Oxford Research Group

Introduction

Tony Klug

Thank you very much. It's my pleasure to chair this session. I hope it will be your pleasure too. We are very fortunate in having three outstanding thinkers to address this session's topic, which is "Prioritizing Rights: Can It Supplant Failed International Peace Diplomacy and Lead to the End of Occupation?" And, in particular, "What Does Attaining Full Civil and Political Rights for All Mean in Practice?" We have three speakers who have volunteered to confine their opening interventions to 12 minutes each. And I should introduce each, in turn, beginning with my good friend, Bashir Bashir. They liked him so much they named him twice! Bashir is a Palestinian citizen of Israel. He is a political theorist and is at the Van Leer Jerusalem Institute.

Bashir Bashir

I will be trying to address the question indirectly by actually making the following observations. I am saying this as a gentle warning. I am going to be reductionist, not exhaustive, sometimes generalizing and, very often, offering decontextualized analyses, and that's simply because of the lack of time. When we speak about equal rights, this requires us to think of the different ways we can approach the slogan of equal rights. It could be within the parameters of liberalism. It could be within the parameters of a revised liberalism of some sort. And it could be from different angles and different approaches, socialist, whatever you want to call it. I want to be reductionist and selective by trying to address the question of equal rights from a binational perspective. I will shortly explain what I mean by a binational perspective and go into basically four to five points, depending on time.

For those who seek to engage with the struggle in Israel/Palestine, one of the dominant approaches to equal rights that seems to be implied --- or one of the approaches that seems to be implied -- is some form of an ethics of binationalism. Obviously, that has a history, but I'm talking about contemporary times. Binationalism, when we speak about equal rights, also implies something else, in my point of view, and that is called Arab-Jewish partnership of some sort. I want to offer a few problematizations and to push the limits of the debate a little bit further by trying to raise some points concerning this kind of Arab-Jewish partnership, the prospects and the difficulties it might face in a potential interplay of this kind.

I want to make some analytical distinctions that I think are very useful for analytical purposes that will serve me as I progress. One I have in mind is that, when I refer to binationalism, I also refer to something that exists now, that is an empirical reality, which is to say that binationalism is the reality that exists in Israel-Palestine. This is what some people referred to yesterday as the “de facto one state” or the “one-state reality”. This kind of empirical, descriptive binationalism refers to the fact that we have a rigid colonial relationship between the Arabs and Jews. This is not saying anything about any ethical dimension to it but actually descriptively referring to the existing conditions, which are a relationship of oppression, apartheid, discrimination, hatred, fear etc. I am actually not interested in making the proposal today that this is the reality. I am taking that as my starting point of analysis and I am not willing to waste my time to prove this point.

The second important distinction that I am offering is one of binationalism as a normative conceptual framework. This is where most of my intervention is going to be. So, I am interested in what binationalism entails as an ethic that informs our struggle. And here, I am much more interested in the “bi” than in nationalism. And the “bi” in binationalism refers to sets of values and principles. Most important among them is actually an implicit or explicit form of egalitarian politics of some sort that speaks about reciprocity, equality etc. That is something that is different from the descriptive kind of reality. This is something that we aspire to, that we want to move towards, informed by this kind of ethics. The third level I want to speak about is the programmatic level, i.e., having a programme that is a binational programme to offer something. The fourth level, which I call the agential level -- and I’m sorry that I’m boring you with all of these kinds of analytical categories, you will shortly see that I will actually squeeze them into one, the last three of them -- the agential level refers to the agents, those players who will carry and mobilize people for this kind of enterprise.

I want to squeeze the three categories -- the conceptual, the programmatic and the agential -- together in order to say something that I think is equally inspiring, but at the same time, very troubling and challenging for the Palestinians.

The first point that I want to make is that Zionism is a very interesting revolutionary idea. I am saying words that are explosive for some ears here -- maybe for my Arab and Palestinian colleagues. Zionism is a revolutionary movement in one very interesting dimension. That is not, obviously, to divide Zionism from the colonial movement. In my understanding, it is also a starting point that Zionism is a colonial movement par excellence. But Zionism is also a revolutionary movement in the following sense: Zionism has managed to achieve one of its ultimate aims within record time, which is that the Jews are *amish kish al a’ami*, or a nation like other nations (a nation among the nations). That’s one of the things that Zionism was really setting as a model. In that sense, it did manage to revolutionize the Jewish world. It moved from an insignificant minority group in Europe, where the Bund was much more popular, within a short period of time because of different coincidences and miracles, all the way from the Holocaust to geopolitical structures that made Zionism for whatever reason -- and there are dozens of reasons -- successful.

But Zionism failed to achieve two other major aims, which come with being a nation like all other nations. It did indeed manage to create something that is called Jewish national identity. And I think we have to seriously take that into account, come to terms with it under certain conditions, by the way, the fact that in Israel, a Jewish national identity of some sort has been created as an empirical sociological fact. But Zionism failed miserably in two other dimensions: to legitimize the enterprise and to normalize it.

The overwhelming majority, and -- I would issue the challenge that, if not every single Jew, including every single Israeli Jew who is in the hall here, feels that being in Israel is

the most normal thing, they also feel there is something missing. There is a form of sinfulness of some sort that underlies most of those whom we speak with. It's not normal and it's not legitimate. I want to sum up this point by going to the crux of the title of this conference, which is that the only way for Israeli Jews to get along with their national existence -- and I am distancing myself from Zionists, because the last thing that I want is to be considered a Zionist myself -- the only way forward to get legitimized and normalized is only, only, if the Israeli Jews come to terms with the rights of the Palestinians. That's the only way. That's the only way forward.

I'm not being naïve by the way. I'm not being naïve about the fact that Israel is a prosperous society that has remarkable achievements in media, in technology, in the sciences, yes. But this is not a guarantee for integration and normalization in the region. The only way to normalize the Jewish Israeli presence in the Middle East is through such a recognition of Palestinian rights. The second dimension, obviously, is that what I call a new political moral grammar is also required, one which I think the Israeli-Palestinian conflict has already internalized for ten years. Israel has to decolonize not only in the sense of coming to terms with Palestinian rights, whatever these terms may mean -- I haven't committed myself to any institutional solution thus far -- but it has to also decolonize by rethinking its relationship to the region. It should cease to see itself as an extension of Western civilization, when only about 60-70 years ago, the Jews were taken to concentration camps in Europe, and the legacy of antisemitism is much more sophisticated and deep-rooted than any other kind of complicated relationship when it comes to the Judeo-Islamic and Arab relationships. This is the first point.

The second point is that when we speak about decolonization and binationalism, this basically entails Israeli Jews giving up privileges of some sort, deeply structural privileges. While taking seriously the national identity of Israeli-Jews, I here want to push the limits and provoke something of a different sort. Which is that in order for Israeli Jews to give up their privilege, there would have to be some enabling reasons. One of them is Palestinian resilience and resistance, international boycott and pressure and all of these -- all possible tools that are legitimate within international law -- to force Israel further, putting a kind of pressure on them.

But there is one other very important, additional, thing which must be part of a political and intellectual engagement. The Israeli Jews will not get up in the morning and give up privileges, because giving up privileges is very hard to do, let alone when there is the history of the Holocaust and Biblical stories, divine interventions and rules coming from heaven. But one idea that I think needs to be seriously entertained is how those who are trying to think about alternatives to partitions and alternatives to the logic of segregation and separation seem to be offering an exit to the Israeli Jews and a future perspective, that this is, if you wish, something that is a burden on the shoulders of those who are engaged in this kind of alternative intellectual and political thinking. Through this, I think we need to seriously start entertaining the idea of something like a Freedom Charter of some sort, where the Israeli Jews are part and parcel of a binational perspective through which the Jews are treated with respect for their national identity, with self-determination included -- national self-determination for the Israeli Jews.

I'm being very picky and very careful about my words by the way -- not the Jews, but the Israeli Jews. I think that *this* is the language, which also proposes a very serious alternative to the ethnically tribal, chauvinistic, vulgar form of mainstream Zionism that speaks about Jewish exclusivity and "chosen-ness" of some sort. But you have to bring in that equation through which you say, "No, in this future enterprise that I am thinking about, the rights of the Israeli Jews will be respected individually and collectively", no matter what the institutional framework through which we propose a solution to that may

be. That is something that I think lies as a burden on those who are willing to engage in a Jewish-Arab partnership of some sort.

Two or three further very quick points: I am not naïve to the extent that I propose binationalism to go and embrace with the Jews united etc. But this needs to be conditioned a priori by a historical reconciliation process, on which I have written extensively, meaning coming to terms with the Nakba and its consequences etc. This is the first point. I am not here, offering symmetrical parity and recognition between the Palestinians and the Israelis as though I'm trying to neutralize history and abstract ourselves from its nuances and the particularities of the conflict. That's not my starting point. My starting point is that it is a colonial reality, asymmetrical, and the need to come to terms with this is one of the building blocks and the pillars of what a binational ethic says.

The second point is that I think that there is a new political grammar-in-making in the Israeli-Palestinian conflict. For various reasons -- the settlements being one of them -- there is one thing that is much more profound, which relates to some of the discussions earlier about whether the Palestinians included the Jews or not and where do we stand on this. One of the most important turning points in Palestinian modern history was in 1974, when the Palestinians instituted the Ten Point Programme. That is when the Palestinians started coming to terms with some sort of Jewish-Israeli existence. For me, this was the most important architectonic and defining moment, when Palestinian nationalism started being redefined, when Palestinians are coming to terms with partition, which means externalizing the Jews. The Jews are not Palestinians anymore, in a break with the National Charter of 1964 and 1968. In 1964 and 1968, the Palestinians referred to the Jews as Palestinians as well -- not all the Jews, obviously, but the local Jews, so to speak. Now, to cut a long story short, Jews and the Palestinians, the Israeli Jews -- including the left form of Zionism -- were speaking the language of separation, i.e., of externalizing the Arabs -- and the Palestinians were speaking the language of coming to terms with partition -- i.e., externalizing the Jews. Today, we are in a historical, demographic, empirical, ethical moment where the Jews are internalized to the Arabs and the Arabs are internalized to the Jews.

This takes me to the last statement, which is how we can think in this very complicated symbiotic way and nevertheless remain productive. That's exactly where the contrapuntal approach of Edward Said -- or something which others have called disruptive empathy -- comes in. This is precisely where you bring irreconcilable, incomparable parties with striking asymmetrical relationships of power between the colonized and the colonizer into an approach where you nevertheless want to move forward, where the ultimate aim is not reaching a moment of climax or closure. Rather, at the same time, it's also a moment of agony and a moment of agonism of some sort, where contestation remains present, but where the ethical-political dimensions are induced. And this is why I believe that binationalism, as an ethical enterprise, is the way forward, without committing myself to any institutional, prioritized frame of two-state or one-state solution. That comes maybe later on, I think.

Philippe Sands

I focused on the title for the panel and I am going to assume that Bashir's answer to the question of whether prioritizing rights can supplant failed international peace diplomacy etc. -- please tell me if I'm wrong in due course, but I think your answer is yes, at least in playing a role -- and I agree with that. He is nodding vigorously. I am assuming that Bashir's view in answer to the question that we are posed is yes. Rights *can* supplant etc. I'm going to be a little more nuanced about the place of rights and put this in a historical context in relation to work that I do in other fields also.

Obviously, the situation that is the subject of this fantastic and interesting conference is unique, but it is also not unique. There are many other situations around the world that raise fundamental questions about the balance between two or three or four or ten communities' competing claims to rights of an individual and collective nature. One of the things that you learn when you are involved in those kinds of matters is that there is something to be said for trying to draw a line, but at the end of the day, it is not possible to draw blunt, clear, unbroken lines. History really, really matters. That's the first point that I would make.

The second point is that one should not have too great hopes for the notion of rights. I'll come to the point that I want to make on rights -- and in particular, on individual rights as opposed to collective rights -- having in my view a vital role to play in this whole debate. And that includes the rights of all individual human beings who happen to be from time to time in the territory that is currently the subject of this appalling situation. You will note that I've chosen my words very carefully. I am not talking about the rights of Palestinians or the rights of Jews or the rights of Israelis or the rights of Egyptians or the rights of Brits. I am talking about individual human rights and that is what I am interested in. That is the core point in relation to the place that rights play. It doesn't matter whether you are Palestinian or Israeli or British or French or Egyptian or American. The fact is that as a human being, you have, since very recent times, certain minimal international rights, which are to be respected and which have to be part of the story for any future long-term settlement. They cannot be ignored. Whether you choose to refer to them as the rights of Palestinians or the rights of Jews or the rights of Israelis, the fact is that they are part of the agenda and they must be and they will be part of the agenda.

But let us recognize that the debate about rights is a very new debate, in a historical context. Reference was made earlier by Avi Shlaim to the 1948 moment. 1948 was important for another reason. 1948 was the year that the Universal Declaration on Human Rights was adopted, a non-binding instrument. 1948 was the year in which the first modern human rights treaty was adopted, the Convention on the Prevention and Punishment of Genocide. Before 1948, there was no such thing as individual rights or, indeed, collective rights, in their modern parlance. 1948 is incredibly recent. It is a rare, recent, fragile creature, and it has to be treated with care in the sense that we cannot assume that the language of rights, the function of rights, can somehow magically replace a debate that has a recent history -- by which I mean everything post-1948 -- and a long-term history, which goes way beyond 1948.

Let me give you an example from another context: Croatia and Serbia. I've been involved for 20 years in litigation in various international courts involving that terrible situation -- communities sort of living together for a bit, and then driven apart. In 2000, in the context of the case that I was doing for Croatia against Serbia, we went to a small village outside Vukovar, a town that will be known, in which terrible atrocities were committed in the autumn of 1991, a famous hospital selection case. And in this village -

- nine years after the conflict had really raged at its most intense -- by that point, but certainly not by the time it had ended, we met in the street a very elderly lady, a Croatian lady. We asked her what happened to her and her family in the events of 1991. She explained to us how she and her husband and her three children and grandchildren had been taken and had been hiding in a cellar. Someone threw a grenade into the cellar and the grenade exploded in the cellar and everyone was killed except for her. She was sole survivor of that incident in the village and she continued to live there. Then a colleague of mine just unexpectedly said, and "Do you know the person who did this?" And she said, "Yes, of course I do, he's my neighbour."

We, as British, London-type people were very surprised that this person could not somehow have been apprehended, locked up, charged with serial horrors of various types. And she said, "Yes, I see him every day, he comes into the shop. We have only one shop in the village and I know him." Another of our colleagues asked, "Why has nothing been done in relation to what this man is said to have done?" She said "Oh, because of the deal." "The deal?" we asked. "What deal?" She said, "Oh, well there was a deal to bring the war to an end in 1995 and the deal was that they would focus on the most senior perpetrators of the horrors on both sides, and for the rest of the people, it would be tabula rasa. We would draw a line and we would move on. And because of that deal," she said, "this man, whose name is known, was never questioned, was never indicted, was never prosecuted, was never tried, but we know what he did." And that's the way in which history and justice -- a reference made in the conversation this morning -- works in practice. There is a framework of rights. But rights are never perfect, absolute, complete or total.

When the 1945/48 moment arrived, there was a moment of expectation and hope that something could be transformed. And something was transformed. Because for the individuals who went through famine in the Ukraine in the 1930s, or the Holocaust in Germany and in other places in the 1930s and 1940s, there was no international instrument to which individuals could point and say, actually, I've got minimum rights and they've got to be protected. I can't be taken off the street. I can't be denied the right to express my views. I can't be denied the right to live where I want to live. I can't be denied the right to move to a particular area. And that was a huge psychological as well as symbolic change that took place. But let us not expect too much of those rights.

The kinds of deals that were done back in 1995 in relation to the Bosnian-Serbian-Croatian situation are the kinds of deals -- we talked a little before about wanting to move the debate forward -- that one has to start thinking about. It's not black and white in the sense that either all rights are protected or none are protected. The reality is that there's a middle ground somewhere in which, in a political context, deals are going to have to be cut about how people are willing to move on or not. Not all the horrors will be set right on any side of the equation. But, I think, coming to the points that Bashir just made, there is something that is changing that is very interesting.

And let me just end in relation to a recent development that I'm very interested in. I do cases at the International Criminal Court, so I'm most fascinated by the current developments in relation to the reference to the International Criminal Court by Palestine of proceedings and so on and so forth. It strikes me as a really interesting moment, actually. And I find it odd that it is opposed by the United States administration and by the Israeli government. Why do I say that? I say that because the fact is that packaged into the existence of the International Criminal Court's statutes -- again it's very novel, the statute was adopted in 1998, it came into force in 2002 -- are rights for individuals and collectively around four theme areas: aggression, the use of force, genocide, crimes against humanity and war crimes. And one can see in that package a set of rights that will be very central in relation to the subject of this conference. And yet, the reference

by the Palestinian government to the ICC in a sense strikes me as interesting for this reason. It's not going to be only about an investigation of what the Israelis do. It would be an investigation also of what Palestinians do. Because just as individuals who happen to have Palestinian identity in Gaza have rights, so do Israelis. Individuals who happen to have Israeli identity have rights. Just as the bombing of schools and family areas raises the most fundamental concerns about the rights of individuals and of groups, so does the sending of rockets into civilian areas.

I'm not making a point about equivalence. I'm simply saying that if you put yourself into the position of the prosecutor of the International Criminal Court, her job -- and she's an able and admirable individual -- is to just look at it with a clean slate, not to look at the history, but to take what happened at a snap shot of a moment, with all that implies, positively and negatively, and assess the rights that have been violated in relation to whoever happens to have been caught up. And so, it seems to me that the reference by the Palestinian government to the International Criminal Court is an interesting one because embedded in that reference is a recognition of the rights of all individuals in a conflict that crosses various boundaries and, of course, is part of a bigger set of conflicts. So that, I think, reflects a positive step.

I welcome, strongly, the idea that Palestine become a party to the International Criminal Court statute. I recognize and welcome, strongly, an intervention by the prosecutor, which will assess the facts on the ground in their totality for this reason: it is recognition that the rights of all individuals have a place in the debate. And so, I end simply by saying, probably in a slightly more nuanced form, that rights will have a place. Don't hope for too much from rights, but let us not forget *any* of the rights, both in relation to the now and to the before and, of course, that includes the rights of refugees pre- and post-1948, who must be part of any ultimate political solution. Rights is part of the story -- that, I think, is a good thing -- but don't have too many expectations for what they may offer in reality. They will be a part of the agenda for a political solution. They will not be the solution in themselves.

Sam Bahour

I want to start with brief comments linking the last session to this session, because there's something unsettling that stayed with me from the last session and that's the concept of power and balance of power. I want to leave that session on a positive note because I think it very much relates to how we can ascertain rights in this session's discussion.

I think we need to look at power as being hard and soft. What was talked about in the previous session was mostly hard power: Israel being a nuclear power, Israel having the fourth strongest military etc. That is all very true. But I think it's very important to note that the Palestinians have a lot of soft power.

What do I mean by soft power? This is where I believe it effects how the balance of power can be played out. One is that we have one of the most just causes in the world. That's power. That's what brings people out to city centres around the world whenever something happens, within twenty-four hours. Believe me, it's not our organizing skills; it's the embedded justice of this cause! The other is that 67 years later -- and this was beautifully seen by the Netanyahu administration, reintroducing the concept of the "Jewish state" and battering us over the head to accept it -- 67 years after the birth of the State of Israel, Israel still begs the Palestinians to issue them a birth certificate. That is power -- that is soft power. And then, also, the Palestinians having, for the most part -- and I will always say for the most part, because national liberation movements do not

move across a straight line -- today embedded and accepted civil disobedience and non-violence and diplomatic work as their path forward to resist the occupation. That has been shown -- also thanks to the Netanyahu government -- to represent an extreme amount out of power, to the point where the Israelis have gone berserk over the Palestinians entering these new fields of resistance.

So, I leave this last session thinking that the Palestinians have a lot to offer in terms of trying to balance out areas where we don't have an equality of power in the military. And it was noted that I'm part of the Palestine Strategy Group along with Bashir and some others and I highly encourage you to go to the PalestineStrategyGroup.ps website. We have three documents; two of them are online. The first one speaks about this soft power in much more of an academic way that I think will be helpful to the discussion, moving into this discussion taking into consideration that the Palestinian does have some leverage in the game. Coming to the question of the panel, in terms of whether rights can supplant/fill international peace diplomacy, my answer, thinking through, is yes and no, and it actually follows on the heels of what was just said.

In terms of political rights and national sovereignty-oriented rights, the answer is no. I mean that those are negotiated rights; those are a function of political will. However, I do feel that individual rights should not be linked to any failed diplomacy or political will being there or not being there. And I'll give the following example -- as a non-politician and non-academic, I'm allowed to use real life examples! If I come into your house tonight to rob it while you're asleep, I don't have the right to continue my path through your house and to have freedom of movement and access to your goods. You would call the police and my rights would be taken away from me. If we're talking about criminal acts -- and I use the word consciously -- if we're talking about a set of rules that emerged after the Second World War, which was spoken about, in 1948, it's the world reset on a new baseline. It may be young, it may be fragile, but it's there. And I believe the Palestinians are using the little resources that we have and the little leverage that we have to challenge that fragility, to show how critical it is, that especially the Western world -- which claims fame for these new sets of rules -- actually all hold those who are criminally responsible for war crimes or others accountable.

That has meant a lot for Palestinians during the last three years. When we entered UNESCO as a full member, the US had the kneejerk reaction to withdraw all of their funding from UNESCO, because it was embedded in their legislation even prior to that act. When we did that, somebody in Kenya didn't get a book that year. There is a huge amount of responsibility on the shoulders of the Palestinian leadership to use the tools available to us in this new state-like agency that we have, to hold Israel accountable even if it means poking the system to the point where we're challenging the system at hand. I would highly encourage us to responsibly poke and challenge the system. Because if we don't -- and I can just see people, maybe in the Hamas movement these days, listening to the debate and saying, yes, that's right, international law is not what it's made out to be, it's only on paper, it's fragile -- we have to revert to a different mode of operation which works, which is the military operation. They'll give us the examples of Vietnam and elsewhere, where there is a different way that we can arrange our leverage and grow and never end the conflict. Because if we lost this round of the war, the only thing that would be possible to do would be to get a little bit more militarily capability to win the next one. That's a never-ending debate, one that I believe we will lose.

So individual rights, I think, can and should be held accountable. When we're taken into Israeli prisons and tortured -- torture is a crime -- that is not to be negotiated because of the presence or absence of political will anywhere. That's something to be held

accountable for -- another example of something that is rather black and white, knowing that there are examples that are not black and white.

Yesterday, a point was made about rights -- that it must start within the refugee community if we're serious -- and I can accept that. But I actually wrote an article recently after I visited the Galilee, which is in the northern part of Israel. It's where most of the Palestinian-Israelis live. As I was taken on a tour, I looked around and saw some very familiar sites. I saw gated Jewish-only communities with guards, fenced in. I heard Palestinians talk about being arrested because of their political views or political activism. I heard about zoning laws that prohibit Palestinian cities from growing. On my way home to Ramallah that evening, I envisioned an article which I wrote. It was mentioned yesterday that there was a concept from the beginning of the Oslo Process called Jericho-Gaza First. It was the first practical step of implementing the Oslo Peace Accords. So I went home and I wrote an article. It basically said that if we're serious about moving forward, we should think about the Galilee first. Because if Israel cannot deal with its fully fledged Palestinian non-Jewish citizens in a fashion that is rights-based, who am I in Ramallah or -- God forbid! -- who is the Gazan in Gaza who thinks that we're going to see a different model of approach towards the Palestinians from the official Israeli system? I believe that if we want a soft point to start with -- as a Jewish audience, I think this is something that would resonate -- let's talk about the rights within Israel for non-Jews. That's a good starting point because the further we go away from there, the more complicated it becomes and the further back in history we have to go.

I'd like to shift to an article that Tony alluded to that he and I wrote recently in *Le Monde Diplomatique*. It was back in April of last year. In this article -- I'm summarizing it, so maybe I'm not doing it justice -- but basically it says that we think it's very important now that we are approaching 50 years of this occupation to extract from the discourse an ambiguity that Israel has created -- which is allowing it to proceed and allowing its discourse to continue as we remain occupied -- in the concept of occupation itself. We use it as if it's a given term and it is. First, it's a trick word because occupation is defined in international law. It comes with a body of law called the Fourth Geneva Convention. However, despite the entire world accepting -- including the US, including the UK -- the reality on the ground as being a military occupation, Israel to this day refuses to recognize it as such. We wrote in this article that we believe the international community's duty today, 50 years into this, is at least to get clarity from Israel and put them on the spot, call their bluff. They should be asked in no weak terms: do you, Israel, accept this as a military occupation? If you do, then it's time, 50 years into this, that we set a date for its closure.

It's interesting that we wrote this in April and President Abbas actually took on this issue of setting a date for the end of occupation in September. But we didn't stop there. This is where the difference between the Palestinian leadership and our article is. What did the Palestinian leadership say? They did this between Christmas and New Year, when everyone is thinking about us, of course! They basically said, set a deadline for the end of occupation, otherwise we will use the tools that we got from this new toolbox of statehood, which is the ICC, ability to be a member and so forth. I believe that was a flaw. No one gives their toolbox to another party to decide when to use it. Our article was much more strategic. What we said was -- based on an Israeli answer, putting the burden on Israeli shoulders -- if they answer "Yes, it's an occupation," the debate must be about when it will end.

I believe that the negotiations during the last 20 years didn't all go to waste. There are models out there for most of the elements of the conflict, which are all rather well-defined. The political will is not there to put them into play. If Israel stated this was an occupation, then it would be time to put it into play. If they did not, we would not give

them the right for us to use our toolbox or not, but rather, we will ask third states. And I want to make a very clear point here: that one of the premises of this conference is to try to move away from the internationalization of the conflict, to put pressure on Israel. I think that's a flaw as well. We said, in contradiction to what was written in the programme, that we would ask third states to view Israel as the sovereign body responsible for subjects between the Mediterranean and the Jordan River. And thus, given that Israel -- the state, the agency which is responsible for the lives under there, whether Palestinian or non-Palestinian Jewish or non-Jewish -- all rights should be given to those subjects, while the negotiation goes on.

Note that it's a very nuanced difference between saying two states has failed, let's press the button and now we're in a one-state reality. I don't believe politics happens in such a mechanical way. What we brought into the discussion was to say, if this is not going to be defined clearly as an occupation and ended, then Israel has a right in view of this new baseline of international humanitarian law, to deal with us in a different way.

Not only that, we actually went one step further and said, where Palestinian refugees reside, whether it's in the refugee camps in Lebanon, in Syria, in Jordan, in Egypt or elsewhere, those states, which happen to be Arab States, need also to offer those Palestinian rights. There's no reason that there is a list of 40, 50, 60 professions in Lebanon that a Palestinian refugee is not allowed to work in. Thus, we brought back the discourse into rights, but keeping the door open for a continuation of negotiations.

We feel that once we pressure Israel to look at Palestinian rights as their responsibility, that lays a tremendous burden on them to, hopefully, push them more towards reaching a two-state solution or some other political arrangement that would give us the ability to maintain the future by ourselves, our own future. That would be one article -- it's actually in this book -- which I would appreciate you looking at. I have other examples that are much more practical, but I'd rather leave them to the questions and answers. Thank you.

National Self-Determination and Belonging: Reconciling Competing Nationalisms (Panel 3)

Speakers:

Moshe Behar, Middle East historian, University of Manchester

Yossi Rapoport, Islamic historian, Queen Mary, University of London

Leila Farsakh, Associate Professor of Political Science, University of Massachusetts

Chair: Gertraud Auer Borea d' Olmo, Director, Bruno Kreisky Forum for International Dialogue

Introduction

Gertraud Auer Borea d'Olmo

Good afternoon, ladies and gentlemen, dear friends. My name is Gertraud. I am the Secretary General of the Bruno Kreisky Forum in Vienna which our distinguished founding President, the former Prime Minister Vranitzky, defined as an independent non-party-affiliated social democratic institution.

We are very happy to be partners with Independent Jewish Voices for this conference and I would like to thank Jacqueline and her team for inviting us to participate and to be a small helping hand to make this thing happen which is, so far, a truly outstanding conference. I would like to congratulate you for this wonderful conference. Of course, I would like to promote the book that some of our colleagues who are in the room and who are also on the panel have participated in producing. I'm very grateful to Bashir Bashir and Azar Dakwar, the two editors of the book, who did an amazing job putting together the rethinking of the politics of Israel and Palestine. Let me very shortly say that we are not a peace process, we are not a negotiation, we are not a process, and we are not partition and separation and solution. What we are trying to promote and to help is a rights -- and values --based discourse, a vocabulary which uses reconciliation, recognition, partnership, engagement, cooperation and equality.

With these few words, I would like to hand over to our distinguished panel. I'm very happy to introduce to you first to Moshe Behar. Moshe is a Senior Lecturer in the Department of Middle Eastern Studies at the University of Manchester and the co-editor of *Modern Middle East and Jewish Thought*, writing on identity, politics and culture. Moshe is also a participant member of one of our study groups in the Bruno Kreisky Forum, on Jewish engagement with the Arab question and Arab engagement with the Jewish Question, an outstanding group of people dealing not solely with Israel/Palestine but with Jewish and Arab thinkers on a broader scale. Thank you very much.

Moshe Behar

Thank you for inviting me. Given the fact that I deal with the history of the Palestine-Israel question, and given the fact that right now there are more qualified people who have spoken about the 21st century history of the question, I will discuss a longer trajectory in order to make sense of the present. In this way, I hope to add some critical thoughts.

The first thing to say is that Palestine is one part of the world. I think that many people who study Palestine-Israel do truly believe that Palestine-Israel is the centre of the world. People speak about Zionists and anti-Zionists, and there's a sense that there's nothing out there beside us, which is very unproductive, in my view. I'm happy that people have

mentioned Serbia and Croatia. We need to speak about Algiers, about Vietnam, about South Africa, about colonialism in Canada, in New Zealand, even Argentina. This the only way to make sense of what is going on there. And, as I have written recently, Israel and Palestine is not an island. Even Cyprus, which is an island, is not a socio-political island, and I think this insight is very important in relation to our attempt to make sense of what is going on there.

I want to start with the Ottoman history of Palestine-Israel, because in my view, everything that we see right now, not only in Palestine-Israel, but also in Syria, Lebanon and Iraq, is an outcome of the change between the Ottoman Empire and the entry of the colonial powers into the region. Palestine-Israel is part of this transition and cannot be understood in isolation from these other regional changes. Palestine, Syria, Lebanon, Iraq and Transjordan were part of the Ottoman Empire until its very last moment. The Ottoman Empire was in place for 400 years, longer than the Roman Empire. The Ottoman Empire had some social and political traces that are still relevant to the present day Middle East and that are also relevant not only to Palestine but to the whole area which is now in a state of flux. In my understanding, Palestine-Israel must be seen in this context.

What happened in 400 years of Ottoman rule over Palestine? In the Ottoman Empire, we have something that in my view can be called “pre-modern communitarianism”. It’s an empire, a broad political structure that formally and institutionally recognises the existence of collective identity. So, for example, the Ottoman Empire is not liberal. When we speak of liberalism, we speak of John Locke, John Stuart Mill. Liberalism is a tradition that places the individual at the centre of the universe, and, of course, his or her property and everything else springs out of it. This is not the way the Ottoman Empire was organised. Liberal, individualist, atomised arrangements are absent in the Ottoman Empire. At the same time, despite the fact that it is non-democratic, the Ottoman Empire is dignified by comparatively impressive socio-political performance in such terms as inter-group, inter-religious, inter-ethnic and inter-sectarian relationships. So you have something interesting: recognition of the existence of collectivities in the world, in addition to individual rights. And these collectivities by and large live in relative harmony when you compare the situation to other places. This is the background until 1914.

In my view, we are part of the chapter that follows and leads to the present time. That is to say, nothing has changed. Unfortunately, despite the Arab Spring, nothing changed, in that we are still part of the trajectory of the transition that followed the First World War. The post-1922 Arab Middle East, Palestine included -- because Palestine is part of the Arab Middle East -- liberalism cannot resolve the post-Ottoman Palestine-Israel question, and liberalism in my view is also unable to solve the question of Syria, Iraq and Lebanon. Liberalism is insufficient to get us out of the mess that we are in in Palestine-Israel, as well as in other places in the Arab Middle East.

One person, one vote is a necessary condition for equal rights for all, but this liberal principle is insufficient to get us out of the mess. Why? Because in 2015, after 140 years of conflict in this territory -- first Ottoman Palestine, then Mandatory Palestine, and later on, the State of Israel and the West Bank and Gaza -- this conflict has produced, in reality, two social collectivities that view themselves in national terms. One is the Palestinian Arabs and the other is the Israeli Jews -- not Jews in the world, but Israeli Jews. This collection of around seven or eight million diverse individuals -- Haredim, Ashkenazim, Mizrahim, men, women, tall, short -- still maintain an identity of a national collectivity, despite the fact that the roots of 50% of Jews, Ashkenazi Jews, are colonial and the other 50% are individuals that arrived in Ottoman and Mandatory Palestine

from the region. Non-European Jews comprise 50% of the Jewish population of present day Israel, so in my view, it cannot be simply categorised as colonialist because I believe it's a bit more complicated.

Now, to return to my argument: 100 years ago, hundreds and thousands of English workers stood up and went to war in the name of their nation, and the same thing with the Germans. They killed each other by the millions in the name of their national state. As part of this clash, the first Great War produced an agreement between Britain and the Hashemites of Arabia (it was not yet Saudi Arabia), and there was an exchange or an alliance between the Hashemites and the British that was supposed to produce an independent Arab space in the Middle East which until then had been dominated by the Ottoman Empire.

Later on, there was another agreement between two colonial powers: the Sykes-Picot Agreement that aimed to divide the Ottoman Arab Middle East into spheres of influence between these two European colonial forces. Palestine was the territory that was supposed to be excluded from the division, because Palestine was always viewed as international, a place that is important for all the world because of Jerusalem, Bethlehem, Nazareth. Palestine was important for the three monotheistic religions and was therefore supposed to be an international space under the Sykes-Picot Agreement.

Two years later, the British produced the Balfour Declaration, in which they recognised Jews as a collection of individuals that comprise a national group, maybe erroneously, mythically, because they were anti-Semites, maybe because they didn't want Jews from Eastern Europe to end up in Britain. That was the situation in 1917, and they came up with the idea of facilitating the establishment of a Jewish national home -- not a Jewish state, but a Jewish national home. And then the First World War ended. And the new world order rested on that new conception that governs us until this very day, which is the Wilsonian principle of national self-determination.

I was a bit concerned when Sam Bahour in his keynote speech spoke about his daughter and her existence. It almost seemed to the audience that she lives in a post-national universe. She only speaks about rights; she doesn't care about borders; she tweets; she knows what's going on in Tahrir Square; she has an existence that almost seems post-national, let alone post-religious. I disagree, because I think that unfortunately the world in which we are living today -- and I suspect the next British elections are going to prove that UKIP is going to have more votes here in British civil society -- this world is still a nationally organised world. The principle of nations and nationalisms is still there, and therefore I think we need to face it.

When the Zionists came to Paris in 1918 to present their case for national self-determination, they went to the victorious powers with a two and a half page document that included a map. You can see from this map that from the start, the Zionist movement had in mind a territory that is greater than Mandatory Palestine or the West Bank and Gaza strip. From the start, they had an idea of a space that is very large compared to what we discuss today. And then the world decides to introduce into the Middle East, into the former Ottoman Arab Middle East, a new system of mandate.

Now, we finish discussing the entire Middle East and start to discuss the territory that today comprises Lebanon, Syria, Jordan, Palestine and Israel -- a territory that is right now in a big mess. The world and the League of Nations introduces three mandates in this territory, in Syria, Lebanon, Mesopotamia-Iraq, and then also in Palestine. (It is

interesting to consider the name itself. Why wasn't the League of Nations called the League of States? Why don't we call the United Nations the United States? Nations are a category that is important to bear in mind when we discuss the issue.) And this is the division of the space in 1920. Later on -- and for reasons I have no time to discuss -- the United Kingdom comes up with the idea of Transjordan, which is how the state of Jordan, the Hashemite Kingdom of Jordan, is until today. So, another state was created between Iraq and what, until then, was Palestine. And we are now left with a discussion about this space.

Now, in the 1920s, there were people, mostly German Jews, but not only, who already understood something did not work well here. And this is after the publication of the Balfour Declaration and the granting of the Palestine Mandate by the League of Nations in 1923. Two years later, they said, there is a problem here. Magnes, Martin Buber, Anscombe, a great scholar of nationalism: these were the first people that came up with the concept of binationalism. They said, you cannot create a Jewish national home or a Jewish national state because this is ridiculous when Jews comprise only a 10% minority in the territory. So, they came up with an arrangement that was binational. Their proposal was opposed by the Zionist movement because the Zionists wanted a state of their own. Zionism was a separatist movement and the Zionists wanted a state of their own. It was also opposed by the Palestinians, given the fact that they were the indigenous community and comprised about 90% of the population. So, their idea was rejected.

In 1939, there was another proposal to establish a unitary space in the territory, and it didn't work. In the 1940s, in the countdown to the Nakba, the Disaster, these individuals come back and regroup, and they form what they called the Union Party, to unite, instead of partition, and they also propose some kind of binational arrangement. Their proposal is opposed by the Zionist movement because the Zionist movement is interested in a separate Jewish state. It's also opposed by the Palestinian national movement because at that point Jews comprised 33% of the population in Palestine and from the perspective of the majority community of the Palestinians, these relative newcomers are not supposed to be recognized as a collectivity that comprises a national group. This is why there is opposition to this idea in the 1940s.

I will finish here because I don't have a lot of time. I don't want to discuss post-1967, because this is more interesting. I want to stop in 1947 because it's probably the most important year in relation to everything we have discussed here, and this is the true last countdown in relation to the Nakba and the establishment of the State of Israel.

When the British government hands the question of Israel-Palestine to the United Nations General Assembly in 1947, the organisation sends a delegation of eleven member states to the territory to investigate the question. The members of the special committee return to New York and they introduce two plans to the General Assembly. One is what is called 'the majority plan'. Seven member states support it. This is an idea to partition the territory in two democratic states, with women's suffrage, with an economic union. This was the idea that led to United Nations Resolution 181. We know this chapter. I'm going to talk about the second proposal. This was by 3 member states out of the 11 (Australia abstained). The minority plan, which is less known, was inspired by the binationalists, Marxists and liberals of the 1940s, and they proposed to establish in Palestine a single federated state in the territory. And the minority plan that they proposed was again opposed by the Zionist movement. Why? Because the Zionist movement wasn't interested in a federation but in a Jewish state. It was also opposed by the Palestinian leadership and others. Why? Because from a Palestinian perspective

in 1947, the idea of establishing a federation in Mandatory Palestine seemed almost like a partition by other means. Therefore, the proposal for a federated state was rejected. And here I end.

Why is this important? Because right now, in the territory that was formerly Ottoman Palestine and Mandatory Palestine, you cannot make sense of what is going on there by highlighting only individual rights. You need to try to somehow address the question of collective rights. It is not enough to address the issue only in liberal terms, you need to make sense of collectivities in the territory in one way or another. People who do not want to do so are going to guarantee that the mess that exists right now will last for many, many more years and more suffering. Thank you very much.

Yossi Rapoport

Equal rights for all must be the first requirement for a shared future in this land, and the best means of reducing the level of violence. I want to stress, as has been said before me, that the forthcoming Israeli elections -- where half a million Jews in the West Bank and East Jerusalem can vote, while four million Palestinians living around them cannot -- are a variation of apartheid.

Yet, while equal rights are a necessary condition for a shared future, they are not sufficient. They are not sufficient primarily because the Jewish-Palestinian conflict over Israel-Palestine does not involve only those who currently live in it. Whether one likes it or not, Palestinian refugees and diasporic Jewish communities are part of this conflict, and their claims -- legitimate claims -- need to be addressed.

Palestinian refugees have claims over the land of Israel-Palestine as individuals. Those forced from their homes in 1948, and their descendants, have individual rights for restitution and claims over the lands which they left. But beyond the rights of individuals, this open wound marks an essential part of what it means to be Palestinian, a key part of Palestinian identity.

Let's talk about Yarmouk refugee camp, in the southern suburbs of Damascus. It has been under siege by the Assad regime for two years. The 18,000 who remain lack food and even water. Another 100,000 have become refugees again. Many of the refugees risking their lives on Mediterranean waters are Palestinians. When Jews talk about Israel as a safe haven, this is the type of situation they had in mind: stateless persons, caught in a war not of their own making. How can we, either as Jews or as Palestinians, ignore them?

Let's talk about Gaza. Will giving Gazans equal rights to Israelis improve their situation? Will having rights to vote and to the same standards of a judicial system make a difference to Gazans? Yes, dramatically. But it will not offer an answer to the homelessness in which 70% of Gazans have been living since 1948. Fundamentally, Gaza boils over not because of Hamas, or Islam, but because it has been overcrowded with refugees from villages in the Negev. From beyond the security fences erected by the IDF, even today, they can still see the traces of the hedges that marked the borders of their fields.

When hearing talk of refugees or Nakba, the instinctive reaction of most Jews and Israelis is, at best, sweeping under the carpet denial. It is understandable. In popular consciousness, the return of refugees means the end of Israel. But I ask our Independent Jewish Voices here to momentarily resist that instinct. We first need simply to recognize that the claims of those dispossessed are legitimate. We need to recognize the depth of

meaning of the Nakba for Palestinians. Refugees need not only a state to be part of and to protect them, but they -- and all others who define themselves as Palestinians -- have a legitimate claim to live in those areas of Israel-Palestine from which their families come from, even if they lie within Israel itself.

The surprising twist of this talk is that the same applies for the claims of Jews over all parts of Israel-Palestine. I am not comparing the plight of Palestinian refugees as individuals to that of Jewish diasporic communities, but I am comparing the Palestinian national narrative with the manner in which millions of Jews around the world support Israel as part of their Jewish identity. Jews around the world support the existence of Israel because they feel a need for the existence of a state where Jews can decide their own fate, and because they feel this sovereign existence has meaning only in Israel.

Even for most Jews who oppose the occupation, even for those who recognize the meaning of the Nakba, Israel matters. We have convened here in London, under the auspices of IJV, precisely because diasporic Jewish communities believe that their fate is intertwined, for better or for worse, with that of the state of Israel.

Too often, Palestinians dismiss Jewish nationalism in the same way Jews dismiss the Palestinian refugees. A popular response is to accept the Israelis already in the land as a *de facto* reality, but to sever any ties with a wider Jewish world. It is understandable. The lesson of history is that Zionism came at the expense of the Palestinians.

But, again, I ask independent Palestinians to momentarily suspend this instinctive reaction. Supporting the existence of Israel -- not necessarily its policies -- is today effectively part and parcel of being Jewish, nearly everywhere. It is about believing that Jews should have a sovereign state where they are in the position to decide their fate, and that this state should be in Israel, around Jerusalem. Put this way, and in and of itself, it is not an inherently racist or anti-Palestinian or anti-Muslim sentiment. And while one could argue that it has been artificially manufactured, Israel as an element of Jewish identity is today a reality.

We must avoid self-deception, which was Oslo's greatest weakness. Oslo not only swept the refugees under the carpet, not only imagined that the fabric of Jerusalem could be partitioned, but also caricatured the Jewish settlements in West Bank as an aberration of Zionism. Despite my grave contempt towards much of what many Jewish settlers do today, I will say this: equal rights for all means also equal rights for the settlers, including the right to remain in their homes. And their attachment to Israel, to the mountains around Jerusalem, is a logical manifestation of what brought Jews to this land in the first place. Denying the legitimacy of Jewish claims to these areas undermines, in the long run, the grounds for having any Jewish presence in the land.

It has already been said here that the struggle for equal rights must be accompanied by a political horizon. I truly believe that that political horizon is closer than you might think. Over the last few years, Palestinians and Israelis have come together, like we do here, on these inclusive premises, not to negotiate, but to imagine together a shared future. I am proud to be a member of one of these groups, Two States, One Homeland.

I say that the shared future is closer than you think, because we at the One Homeland group do not ask for the dismantling of the State of Israel, nor for the dismantling of all settlements, nor do we ignore the refugees, Jerusalem or Gaza. We recognise, legitimise and capitalise on the mixed demography and geography, and the impossibility of separation. But we also recognise the need of Jews and Palestinians to make their own decisions about the paths taken by their communities.

We take it for granted that two sovereign states, Israel and Palestine, must be established in the 1967 borders, with the state of Palestine in the West Bank, Gaza,

and its capital in Jerusalem. But we see a future where the citizens of both states -- Israeli citizens and citizens of Palestine -- will also have an automatic right, by virtue of their citizenship, to travel and work, and, gradually, and by mutual agreement, also live anywhere in the shared land.

These open borders do not mean the absence of security. Israel and Palestine can establish as many x-ray scanners and border check-points as it feels it needs to. But any Palestinian or Israeli who is not carrying illegal arms should be able to move freely -- not only because the land is small and demographically mixed, not only because economy and prosperity necessitate open borders, but mainly because this shared land is home to all Jews and to all Palestinians.

The most immediate expressions of the unity of the land will be the presence of Jewish settlers in the state of Palestine, and Palestinian refugees in the state of Israel. The Palestinian state will offer to all Jewish settlers who are willing to live at peace with their neighbours to stay in their homes. They will become Israeli citizens who are permanent residents of Palestine; they will enjoy equal rights, except the right to vote in Palestinian elections. According to current numbers, they will account for up to 10% of the population of the West Bank and Gaza.

In return, Israel will commit to allow a comparable proportion of Palestinian citizens -- these will probably be Palestinian refugees from Syria, or Lebanon, or Gaza, but it is up for Palestinians to decide -- to take up permanent residence in Israel. In a mirror image of the Jewish settlers in Palestine, they will remain Palestinian citizens, but with a permanent residence in Israel, much like a Frenchman living in Berlin today. Absorbing refugees at up to 10% of its population would shake the Israeli social fabric, but not dramatically alter it. And since the refugees will not be Israeli citizens, the political balance in Israel itself will not be affected at all. Jews will still be able to make decisions about their own fate.

For Palestinians, this return to the lands within Israel will be a partial implementation of the Right of Return, beyond and above any individual compensation refugees will receive. For Israel, this will be a price worth paying for not uprooting hundreds of thousands of Jews from their homes, but it should also be based on recognizing the validity of the Palestinian national narrative in the way I have just described. I think many Israelis already recognize this narrative in an unspoken way. We have to work to make this recognition explicit.

Everyone knows Jerusalem will have to be a shared city, that it cannot be divided or partitioned again. But Jerusalem could only be a shared city if the borders between Israel and Palestine are open, and if the two communities recognize the legitimacy of each other's claims over the land and its holy sites. At Two States, One Homeland, we see Jerusalem remaining as it is: one city of mixed and plural population. But it will be run by its inhabitants on the basis of parity, and sovereignty will be shared between the two states. This is not so unique or far-fetched, and such a model already works in Brussels. It would not involve creating new barriers inside the city, nor removing anyone from their homes. Yet both states would have their capital there, in the city which is the focal point of their national collective cultures.

Jerusalem is indivisible. It symbolizes the fact that this is one land historically, demographically, religiously and in the national consciousness of both national communities. On the other hand, the two-state formula is the only one that is grounded in international law and respects the will of both peoples for self-determination. The logical outcome is a model that promises open borders and free movement of people and goods, while also maintaining security and sovereignty.

Equal rights for all is a necessary condition for a shared future. But they need to be accompanied by a political horizon that embraces national identities, in the land itself and in the diaspora, rather than glosses over them. Equal rights for all should also mean mutual recognition of the right of every Palestinian to live anywhere in Palestine, and of every Jew to live anywhere in Israel. The land is one, and it belongs to both of us.

Leila Farsakh

The Palestinian struggle for self-determination has come very far, or some would say it has failed. If by this struggle we mean bringing the Palestinians back into history after their expulsion from it with Israel's creation in 1948, it would be fair to say that it succeeded. Palestinians today are on the map in a way that they were not in the 1950s or 1960s. They are no longer "a humanitarian problem in need of a humanitarian solution", as UNSC Resolution 242 conceptualized them, but recognized as a "political struggle for liberation", as the UN acknowledged in 1974, when it invited the PLO's Chairman Arafat to speak at its General Assembly.

The right to a state, long considered the aim and content of a struggle for self-determination, has also been reaffirmed. The PLO's Declaration of Independence in 1988 and the internationally endorsed Road Map to Peace in 2002 acknowledged the Palestinian right to a state in historic Palestine, one that is necessary for peace as much as for the fulfilment of Palestinian legitimate political rights to sovereignty and independence. By 2014, the Palestinian state had been recognized by over 139 states and admitted to the UN as a non-member state.

The issue that I would like to address here is how far this Palestinian struggle for self-determination has tried to reconcile or deal with Jewish nationalism. I would argue that it has grappled with it, albeit on its own terms, and has been willing to reconcile with it, but with little success. This lack of success stems as much from Zionism's inability to accept the Palestinians as equal as it does from its refusal to consent to their surrender. It is also tied to the difficulty of imagining the nation without the state, and how to reconcile collective and individual rights in a context of colonialism, let alone post-colonialism.

In the time that I have here, I will try to do three things. First, I will review the PLO's 1971 slogan, which called for the creation of a democratic state in all of Palestine, inclusive of Christians, Jews and Muslims. This was, in my view, the first attempt by the Palestinian national movement to deal directly with, and embrace, Jewish presence in Palestine and their yearning to be in it. Second, I will discuss the PLO's Declaration of Independence in 1988 and its acceptance of the two-state solution as an attempt to reconcile directly with Jewish nationalism. I will argue that this second attempt at historical reconciliation failed because the Oslo peace process reshaped, rather than ended, Zionist colonialism. Third, I will analyse the two main challenges that continue to face the Palestinian national movement and need to be addressed in any attempt to move forward, namely:

1. The question of how to decolonise Israel without negating Jewish collective rights in Palestine. This brings me to the issue of dealing with the fundamental core issues of the conflict: the Nakba and right to the land to questions of recognition and reconciliation with the "other". In respect of this, I will reflect on the concept of the Arab Jew as a category that can help us move forward in this regard.
2. Second is the challenge of how to define the relationship between the nation and the state in the 21st century. In other words, we need to interrogate the

extent to which the nation-state can really protect individual and collective rights when the state fragments the Palestinian nation, as happened with Oslo, or usurps a collective identity, as Israel seeks to do with the Jewish population worldwide.

Palestinian Struggle for Self-Determination: From Liberation to Statehood

In so far as the Palestinian struggle for self-determination is concerned, it is important to note that since the Nakba in 1948, this struggle has been concerned with liberating Palestine from Zionism. The PLO's charter in 1964 clearly defined the aim of the organization as the return of the refugees to their land. It did not talk about any state. It considered the Palestinian people or nation part of the Arab world and their liberation tied to Arab armies and Arab unity. It was only after the defeat of 1967 and the arrival of the guerrilla movements, especially of Fatah and DFLP, at the helm of the PLO that the Palestinian national movement defined its aim as the creation of a democratic state inclusive of Christians, Jews and Muslims.

The PNC's 1971 slogan of a democratic state might sound trivial today. Yet, announced only 22 years after the Nakba, when two-thirds of the Palestinian population were expelled from their original homes, and three years after the Arab defeat in the 1967 Six Day War, the proposal represented a significant attempt at historical reconciliation with Jewish presence in Palestine. It also sought to assert the sovereignty of the Palestinian people, their right to a state and that this state would include, rather than exclude, the Jew. As protagonists of this state argued already in 1971, "The long exiled and persecuted Palestinians are redefining their objectives and are finding the goal of creating a new Palestine that encompasses them and the present *Jewish settler* a very desirable one."

Central to the Palestinian nationalism of the time is the separation it made between the Jewish people and Zionists. The democratic state it proposed cannot be Zionist or include Zionists, but it includes Jews, even Israelis born after 1948, so long as they give up Zionism. This is because it viewed Zionism as a colonial project that expelled the original people from the land and settled it with western foreigners. The slogan of the democratic state thus marks a shift in the 1964 PLO position which maintained that only Jews born before 1914 are entitled to be in Palestine.

The democratic state the PLO was proposing, though, is neither a binational, nor clearly secular, state in the true sense of the term. This is because Palestinian nationalism at the time did not consider that the Jews constituted a nation. It refused to deal with them as a religious group either. Whilst acknowledging the persecution they suffered as a people, it considered Jews to be a diverse group of people, of different nationalities, and not a coherent ethnicity. The 1971 slogan recognized Jewish individual political rights. It could not acknowledge their collective rights, for if it did, it would have accepted Israel as a racist settler state, rather than dismantled its colonial foundation. The Palestinian struggle against Zionism then was inseparable from the struggle against Zionist colonialism.

The PLO's slogan of a democratic state in all of Palestine considered the nationality of the state as Arab and Palestinian. But being Palestinian included the Jew. All Jews, Muslims and Christians living in, or forcibly exiled from, Palestine will have the right to Palestinian citizenship. Equally this means that all Jewish Palestinians -- at present Israelis -- have the same right, provided of course they "*reject Zionist racist chauvinism and fully accept to live as Palestinians in the New Palestine.*"

The concept of the Arab Jew, long absent or considered derogatory in Zionist thinking, was important for the Palestinian nationalist movement and its attempt to reconcile with the Jewish sense of belonging in Palestine. It is a term that has not been worked on much, and needs to be further unpacked in today's context, but it is important to note that for the PLO, then-Arab Jews included those who escaped persecution in Europe as much as in the Middle East -- all those willing to get rid of Zionism but remain Jewish in this new Palestine.

Oslo, Zionism and the Two-State Solution

The Palestinian proposal of a democratic state in Palestine was rejected by Israel. It was not considered seriously by the international community either, the third party to this conflict. Ever since the partition plan in 1947, the international community sought to reconcile the two competing nationalisms in Palestine by proposing partition, or the two-state solution. The PLO officially came to accept this solution in 1988, when it also recognised Israel and UN Resolution 242.

The Palestinian Declaration of Independence in 1988, and signing of the Oslo agreements in 1993, represented another attempt at historical reconciliation with the Jewish question. It admitted the existence of Israel and acknowledged *Jewish collective rights*; i.e. the fact that the Jews are, or can, form a nation with a right to their own state, and on 78% of Palestine (rather than the 56% that UN Resolution 181 stipulated). Sceptics would argue that the PLO had no choice but to do so, given its political weaknesses in 1990, but realpolitik considerations notwithstanding, the Oslo peace agreements represented an important act of recognition and a first step towards national reconciliation. It provided the first official Zionist recognition of Palestinian existence, of their political rights and necessity to share the land with them (Rabin's speech), albeit without addressing the Nakba. The Israeli Prime Minister's willingness in 2009 to accept a Palestinian state provided the latest attempt at acknowledging the Palestinian right to being a nation-state, albeit by the fragmentation of the Palestinian nation and confining it to the West Bank and Gaza.

The problem, however, is that the Oslo peace process did not and could not bring about a viable two-state solution. This is because it reformulated, rather than ended, Zionist colonialism. The doubling of the settler population, the fragmentation of the Palestinian nation and land, the construction of a 708 km separation wall and the institutionalization of Israel's population control of the Palestinians, risk emptying the Palestinian struggle for self-determination of its content. Palestinians struggle today to defend their basic right to dignity, water and mobility, not whether they can achieve political independence. The siege on Gaza, the wars against it since 2008, the institutionalization of over 99 checkpoints in the West Bank are turning the Palestinian struggle again into a humanitarian, rather than a political, question. The issue today is how many checkpoints Israel will remove and how many trucks of medicine or cement it will allow into Gaza, whether or not Israel will give the PNA its customs revenue dues, and not when will Israel withdraw from the occupied land.

Moving Forward

Reconciling competing nationalisms through partition and the promise of a two-state solution has failed. It failed because it sought to confine the conflict to the 1967 war rather than tackle the core questions of the conflict, namely the Nakba, Zionist colonialism and the right of all citizens to the land, irrespective of their nationality or ethnicity.

In any attempt to move forward today to reconcile competing nationalisms, we need to return to the fundamentals, to 1948, and address and define clearly the claims and rights of Palestinians and Israelis in the land between the river and the sea. In so far as the Palestinians are concerned, they need to address what can be defined as the Jewish

question, namely, Jewish attachment to Palestine, their history of persecution and that Zionism's outcome is not only colonialism. This is not an easy conversation to have. The question remains how to decolonise Israel without negating the national culture and heritage it created over the past 60 years, while accommodating the rights of the Jews to live and migrate to Palestine, respect their Hebrew language, their cultural ties to the West and their right to self-government in Palestine. The challenge for the Palestinians remains how to create a new identity that includes the Jews rather than seeks to reconvert them into Arabs.

In other words, Palestinians need to move beyond the 1971 PLO slogan of one democratic state. They cannot assume that the democratic state is going to be Arab in a narrow sense of the word and that the Jew who will be part of it will be a rehabilitated Arab or otherwise only a resident with limited rights. They need to develop a Jewish-Arab partnership and foster a multiethnic, multicultural discourse that embraces the historical diversity of Palestine rather than confining it to an essentialist Islamic or Arab identity.

Reconciling with Jewish nationalism will require defining the constitutional arrangement for protecting Palestinian and Jewish or Israeli collective and individual political rights, be it in one state, two states, binational or parallel states. At a more fundamental level, it will require separating the nation from the state, and holding the state accountable to all of its citizens, rather than reified as the culmination of a struggle for self-determination. At a time when state power is being challenged from below as much as from the global system, when state power is becoming more repressive than representative and democratic, it is important to remember that the role of the state is to represent and protect its citizens in their diversity and not to impose on them a monolithic identity. This is not easy, but if there is a lesson to learn from the Arab Spring, it is the right of all people to dignity and freedom.

Last but not least, I think reviving and reworking the concept of the Arab Jew is going to be central to moving forward. It is both under-researched and misconceived. Yet the Arab Jew is as much a part of Jewish identity as it is part of the Arab world. Both negated it and both need to rehabilitate it in today's historical context. It is a term that can provide a venue for the Palestinians to accept Jewish presence in Palestine, as well as to face its western dimension, rather than lock it up in a colonial dimension and/or a pre-determined Arab identity.

The concept of the Arab Jew also offers the means for Israelis to confront the Arab dimension of their Jewishness. Zionism cannot deal with such a reality, since it is based on the premise that it is a western civilizing enterprise seeking to universalise the Jew, including the Arab Jew, and to turn him/her into an enlightened, i.e., western, Ashkenazi Jew who has his own home like all civilized nations. The level of negation of the Arab-Jew is still profound in Israeli society, which frowns upon, and considers derogatory, anything Arab. Yet, the concept of the Arab Jew is central to any attempt at historical reconciliation both within Jewish nationalism and beyond it. It does not need to be done at the expense of a multicultural Jewish or Arab dimension of one's identity. Bearing in mind that identities are in flux, never static and not to be essentialised, the concept of the Arab Jew can help unpack the relationship between colonialism and multiculturalism, so long as it is not done at the expense of, or in isolation from, the larger debate on multiculturalism and what it means to be a state for all of its citizens in the 21st century.

International Pressure to Achieve Change: International Law, Diplomatic Pressure, BDS, New Media and Diasporas (Panel 4)

Speakers:

Avraham Burg, author, MK, Former Speaker of the Knesset, former Chairman of the Jewish Agency

Salma Karmi-Ayyoub, criminal barrister, former litigator with Al-Haq, Ramallah-based human rights NGO

John Strawson, colonial legal historian, co-director, Centre on Human Rights in Conflict, University of East London

Chair: Sir Geoffrey Bindman QC, Visiting Professor of law at UCL and London South Bank University

Introduction

Sir Geoffrey Bindman

The purpose of this section, essentially, is to talk about the impact of international law and external pressures. As we've got three lawyers out of four people on the panel, the emphasis is likely to be on the international law aspect of the question. The issue we're looking at is: what strategies have been effective? What new initiatives have emerged recently? What role can activists outside Israel-Palestine play? What might be the role of the International Criminal Court and the debates around BDS?

Now, we have three speakers. We have Avraham Burg, former Speaker of the Knesset; Salma Karmi-Ayyoub, who is a criminal barrister and former litigator with Al-Haq, the Ramallah-based human rights NGO, for which she is currently an external consultant; and John Strawson, who is a colonial legal historian, co-director of the Centre on Human Rights in Conflict at the University of East London and who has a considerable interest in international law, the Middle East and Islamic law, conflict resolution and the transitional process in the Middle East and the implications of colonial rule for current images of Islamic law.

The issue I'd like to raise first -- and I would ask Salma if she would go first -- is, what is the role of international law in this situation, given that the International Court of Justice and pretty well every expert lawyer in the field has identified several gross violations of international law carried out by the Israeli Government and forces in the West Bank and Gaza and in relation to the occupation? On the face of it, if Israel is committed to the rule of law, then dramatic changes should be made, simply in order to comply with the law without any other pressure. Unfortunately, law doesn't work in that way. But it is to me quite extraordinary that Israel, which is a country containing a large number of very skilled lawyers, should be a byword and a model for the violation of law. So, I'd like to ask Salma to speak first.

Salma Karmi-Ayyoub

I'm glad Geoffrey raised the question because it is actually the question I wanted to address: to look at what role international law plays today. Is it actually important in the conflict? And if so why? I think in order to discuss that I'd like to talk a little bit about Palestinian engagement with the law over the last fifteen years or so and how it's come to constitute a form of non-violent resistance, and Israel's reaction to this. If I have time at the end, I'd like to draw back a little bit to the theme of the conference and ask: is reference to international law an important part of creating a new, more equal society?

And I will conclude that, in my view, it is, and I'll give some of the reasons why I think it's important. I think Geoffrey did touch on this a little bit in the introduction, but I think we have a strange contradiction in this particular conflict, which is that international law is almost totally unenforced against Israel and almost totally unenforceable, in fact. We keep having wars and both sides -- but particularly the Israeli side -- commit war crimes. The occupation is still going and the Palestinian right to self-determination is still not realised. So, in some sense, the law is completely marginal -- or has been completely marginalised -- in terms, at least, of its enforcement capability. But, on the other hand, I think it is playing more and more of a central role in the sense that it is constantly being referred to, by Israelis and Palestinians, in the way that they frame their claims and their positions. We have had lots of legal initiatives -- like the Goldstone report, the issue of the International Criminal Court -- which have become arenas for major diplomatic and political battles.

So, the question is, why is this the case? Why do we have this contradiction? I think the answer lies in the title to this panel, which if I remember from the brochure, grouped together international law with BDS and other things as mechanisms for pressure, for international pressure. And I think that is right.

I think the role of international law here is not really in its capacity to govern the behaviour of the parties, but in the effect it has on public perceptions and on world opinion and particularly about the legitimacy of Israeli versus Palestinian claims. So, in other words, the side in the conflict which is seen to be abiding by international law, or which can ground its claims in international law, is seen in world opinion as occupying the moral high ground. For Palestinians, who have very little power in this situation, as we know, very little military or economic or political clout, I think that they are increasingly realising that engaging with international law and grounding their demands in the law helps to win legitimacy for their cause and, also, taking legal cases to a certain extent helps to create an image of Israel, in the eyes of the world, as a pariah, a rogue state, and that this has become more and more a strategy of in some way resisting occupation or trying to achieve change.

Israel, for its part, is certainly very aware that its legitimacy in world opinion depends also on its being seen to be abiding by the law. So, we have this kind of battleground that has arisen between the Israelis and the Palestinians in terms of the engagement with international law.

What I want to do now is try to go very briefly through the important aspects of Palestinian engagement with the law and the Israeli reaction. Hopefully, I'll still have time for the concluding part of the presentation.

Legal advocacy has always been an important part of Palestinian civil society, at least from the 1980s in the West Bank and Gaza. But I think the use of law as a strategy -- and particularly the attempt to bring cases in jurisdictions outside of Israel-Palestine -- really took off in the 2000s. So you have in 2001 the first use of universal jurisdiction laws, where victims of the Sabra and Shatila massacre in Beirut managed to get an arrest warrant against Ariel Sharon in a Belgian court and this caused a massive diplomatic incident. Then you have several of those universal jurisdiction cases I'm sure many of you will be familiar with in this country. We had the arrest warrant against Doron Elmog in 2005 and Tzipi Livni in 2009.

I'm not really sure why the use of the law in this way took off at that point. I think, partly, there are other things going on in the world of the law internationally. There was the Pinochet case, and so on. But as far as Palestinians are concerned, it might have been a response to failure of the Oslo period in the 90s to deliver statehood, as we know, and to deliver rights, as well as a feeling amongst some sectors of society -- certainly not all,

but some -- that there was a need to try to find other means of non-violent resistance. And these cases are seen as one such way of doing that. The other engagements you have with the law that were very important, of course, were the 2004 ICJ opinion on the Wall and the recent accession to the International Criminal Court.

Israel has been extremely hostile in its reaction to this use of, or engagement with, the law by Palestinians. I think its reaction can only really be explained by the realisation on Israel's part as to what these cases could do to its legitimacy or its perceived legitimacy. There are a couple of quotes I'd like to give about Israel's reaction to demonstrate the level of its hostility.

In 2010, we have the Israeli Military Advocate General saying to the US Ambassador -- this was leaked on a cable published by WikiLeaks -- that as far as the government of Israel is concerned, if the PA pursues Israel through the ICC, this will be taken as a declaration of war. This is really an extraordinary thing to say about basically joining the ICC, which is tantamount to signing a treaty, to signing a piece of paper.

The other one I like to quote is Tzipi Livni, who famously said in 2007, reportedly to negotiators during the Annapolis process, "Although I was the Minister of Justice, I am a lawyer, but I am against law, international law in particular, law in general." That's an extraordinary thing for a former Minister of Justice to say. That was before the arrest warrant against her was actually issued in 2009, so it's a little bit like a self-fulfilling prophecy.

We know as well that Israel has formulated effectively a foreign policy of combatting legal initiatives. This is something that Deputy Foreign Minister Danny Ayalon said in 2010 in a talk he gave. He basically described how the foreign policy priority for Israel over the coming decades was thwarting and combatting these attempts by Palestinians to bring legal cases. In order to do that, the strategy that Israel employs is two-pronged.

Briefly, there are two things that Israel does to try to combat Palestinian use of the law. One, it uses this lawfare discourse, which some of you may have heard of. This is an allegation, which is made against Palestinians, that essentially, apparently what they do is, in armed conflict -- and this is something that Israel said a lot about Hamas during the summer war -- abuse the laws of armed conflict as a means of goading military forces into violating the law, apparently, and then they use these violations for propaganda purposes. So, in other words, the example given is Hamas locates its rocket launchers within civilian areas; it fights within civilian areas; this forces Israel to kill lots of civilians and appear to be committing these horrendous crimes. As the bodies pile up, Hamas capitalises on these images for its own purposes.

That's one line of argument. The other one is to say that all of the cases that are attempted abroad are a way of straining ties, of just delegitimising Israel; they're frivolous and basically there to cause trouble. I think the reason that Israel basically puts out this kind of allegation is that it prevents it from having to deal with the substance of Palestinian legal claims. It doesn't have to meet any of the legal challenges head on. It basically is able to just dismiss them from the start and not engage. I think that's a real indictment of Israel in a sense that its claim to be a law-abiding, democratic state is contradicted by this sort of reaction to the use of law by the other side.

I will just take one minute to sum up, very briefly, why I think an international law approach is important for creating an equal society, because that's the topic of today. I think that it goes without saying that we would hope that any future society is underpinned by the values of human rights and international law and the rule of law. That's important. But I think an international law perspective is also important, potentially, in the process of achieving this equal society. First of all, it does mean that we can take a rights-based approach. And I think that people talked a lot in this

conference about the need for rights to be paramount, rather than political objectives relating to, say, statehood or territory or borders. And I think the reference to international law allows us to keep that centre stage.

I think reference to international law also adds context and a framed situation when Israel often tries to remove that context. What I mean by that is that it allows us to talk about things like occupation, the existence of a colonial regime and the existence of apartheid, and takes us away from the competing narratives idea, which I think has come up, and the sense of moral equivalence between the two sides, which doesn't exist, for example, in a colonial situation.

I also think it counteracts the principles which have underlined the peace processes until now, which say that the land for peace formula means that Palestinians have to prove their peace-worthiness in order to be given their land back. International law wouldn't say that. It would define the situation as unlawful, and the consequence of that would be that the situation has to be removed or changed or dismantled, irrespective of what the other side does. I think that that will actually take us closer to a viable peace in the future more quickly.

Finally, I think international law is very important for true reconciliation. What I mean by that is that it allows us to define and to recognise that potentially, certain Israeli and Palestinian policies and actions are unlawful. In that way, we acknowledge the wrongs of the past, we acknowledge the fact that people have been harmed, that rights have been abused, and I think that's necessary for a genuine reconciliation between the peoples going forward. I think if we try to skip over that stage, you don't get true reconciliation. We've seen that in many other parts of the world as well. So, it provides a mechanism for telling the truth about things, for acknowledging wrongs and, hopefully, for providing some kind of remedy, some kind of redress, for the victims of violations and, hopefully, that paves the way for reconciliation and a more equal society in the future. So that would be my little clarion call for international law. It's not that it's a perfect system. It's not that it's enforceable. But I think it has other benefits.

John Strawson

I suppose I begin like a judge in relation to the last presentation: I disagree. I think international law is actually highly problematic in relationship to the Palestinian cause. First of all, it is not the case, as Salma suggested, that there is any reference in any international legal instrument or document to, for instance, the characterisation of the situation as apartheid. It doesn't exist. The only authoritative decision in international law which has been issued is, of course, from the International Court of Justice, in 2004, in its opinion on the wall. That opinion made it very clear, in order to get to the judgement, that the decision to build the wall was unlawful and that it should be removed. In order to get to that position, it went through every international legal instrument of the Palestinian-Israeli conflict from the beginning, including the Mandate, the partition resolution, 242, etc., and is a very clear legal argument in favour of the two-state solution. So, anyone here who thinks that international law might help in destabilising the notions of a two-state solution or undermining any idea of partition or two states, they are looking in the wrong area.

Second, I would like to say something else, and this picks up on what Yossi was saying at the beginning of his presentation about the question of settlers. It may surprise you to know that international law regards settlers as having human rights. This, by the way, is a decision not in relationship to the Palestinian-Israeli conflict, but in relationship to the

Russian populations in Latvia, a decision by the Council of Europe which said that any action taken against the Russian settlers who were sent to Latvia after the Second World War by the Soviet Union in order to prevent any nationalist developments taking place -- so of the whole population, about 45% was sent specifically with the aim of denying the right of Latvian self-determination -- *they* have human rights.

As someone who is both a lawyer and historian, in my view, I think you need to look at international law through a historical perspective because, after all, it is not quite as Salma suggests, that the question of law has been just of interest since the 1980s. From the beginning of this conflict -- and from the beginning of the Palestinian delegation arriving in London in 1920 to discuss what became the Order in Council and the Mandate -- the Palestinians framed their objections to the Mandate System and to what was going to become the Order in Council in terms of law and international law. And on the other side, the Zionist Federation, and those who came from Palestine, representing the then Jewish community, also framed their arguments in terms of international law. That has been acted out at the United Nations over the partition resolution, and you can see it acted out and can read about it in a library of books, which has been produced on both sides of the conflict.

International law is a discursive narrative. It is not something that is easily enforced. To give an example: the Israeli government has become extremely concerned that the Palestinians have acceded to the International Criminal Court statute. I think it's excellent that they have done so, I hasten to add. The Americans also are very worried that the Palestinians have become part of the International Criminal Court. But shall I tell you something? Only the Israeli government and the American government think the International Criminal Court is powerful. They are the only two states on the planet. Omar al-Bashir, the President of Sudan, who has been indicted with genocide and crimes against humanity, moves around the planet without restriction. He is not arrested. In fact, he has been re-elected, and he is protected by the African Union, the Organisation of the Islamic Conference and the Arab League, all of whom regard him as being penalised by the International Criminal Court.

Uhuru Kenyatta, the President of Kenya, was, of course, arraigned before the court on crimes against humanity and has managed to face down the court and the whole case has crumbled. In 11 years, it has had two cases. Now I don't want to argue that the International Criminal Court is not important. Actually, teaching international criminal law is a hobby of mine and I like students coming to the class. But I do want to warn that we should be very careful about the notion of investing in international law.

International law has been created by the states of the international community. It has not been created somewhere by lawyers abstractly writing law, but by states agreeing to be bound by it. The people who make the law are the same people who are regulated by it. International law has been created mainly through the experience of European colonialism. It is entirely imprinted with the characteristics of European colonialism. Indeed, one of the big problems of the opinion that was sought at the International Court of Justice in 2004 was that the main burden of the argument that the Palestinian team wanted to place was in the area of international law of occupation from international humanitarian law. The problem is international humanitarian law and the law of occupation gives rights to occupiers as well as the occupied. Article 49, which is often referred to -- which is the article of the Fourth Geneva Convention which says that you have to be careful of the transferring of populations -- is often used as a weapon against the Israeli creation of illegal settlements. Actually, that article allows an occupier to move people within an occupied territory, provided they don't move them outside the occupied territory, if it is for security reasons.

I just think you have to be extremely careful about this question of law. I must say, as a young lawyer, I spent most of my time advising clients not to go to the law because I thought they would lose. I'm not advising anyone not to use or to think in terms of international law, but I think it seems what we actually need to do is to return to politics. It is only politics that is actually going to solve this problem. The South African people between 1990 and 1994 understood that. Yes, there might be a small area for law, but actually, truth and reconciliation and not indicting even the apartheid leaders and allowing, for instance, as the African National Congress did, P.W. Botha to die in peace and then be given a state funeral -- despite the fact that the international community had said that apartheid was a crime against humanity -- was, in fact, the best way forward for South Africa as a whole. I urge you to think not in terms of law but in terms of politics.

Geoffrey Bindman

I'm just going to allow Salma to have a brief response to that.

Salma Karmi-Ayyoub

OK, I'll be very brief, only because John Strawson specifically referred to what I said. I want just to make one point which is that I'm not sure if he listened entirely to the presentation or if he responded to what he thought I was saying. I think my main point is that we can have a long argument about what international law does and does not say, and many of its rules are very indeterminate, and many are not as much with the Palestinians as the Palestinians wish they were. But I think that's the point really. I think there are a couple of things, which as I said: it's a vehicle in terms of the legitimacy war that is fought between Israelis and Palestinians and that is its contemporary importance and that was what I was trying to say.

And we know that it's having an effect. We know it is because we are seeing the popular reaction, the Israeli reactions. Whether it's powerful or not, if it's perceived as being powerful, I think that's the important point. It is the same with the ICC. Yes, the ICC is a very ineffective body, but it's perceived to be powerful. We stay with the image of people being war criminals etc.

And one of the points -- because I feel it shouldn't go not being said -- is, again, that there was an attempt to try to recast international law as being very, very wishy-washy about the Israel-Palestine situation and not really upholding any claims one way or the other, and perhaps upholding Israeli cases more than Palestinian ones. I think that's just absolutely untrue. The weight of world opinion and consensus on international law at the very minimum says that the West Bank, including East Jerusalem and the Gaza strip, are occupied territory over which Israel has no claim to sovereignty and that the settlements are unlawful. Now, this is a major advance if we think about it from the Palestinian position. They are a weak nation. They have no real power in terms of militarily expelling the occupier. So, having a decision like that in their favour reiterated again and again and again from the UN resolutions, International Court of Justice etc., is an expression of great support for the Palestinian cause and I don't think that it should be underplayed.

Avraham Burg

Since the last speaker spoke about times for politics, I take it this is my time, right? I was very reluctant to take part in this session because I wanted to talk some time during this seminar about what are the best ways to reintroduce the Palestinian issue into the political equations in the region. This is to say that the Palestinians -- and this was evidently expressed here -- are learning something that the Jewish people used for a long, long time, and this is the power of powerlessness. Not always does powerlessness mean being without power. How you use these kinds of pressure points, and how you use these kinds of opportunities, in order to move onwards is an important lesson to learn and the more you learn -- or the more we learn -- from what we, the Jews, did prior to becoming so powerful, might be useful against us when we are so powerful.

Now, it's very, very difficult because we are living in a situation in which international law is not there. I mean, the last settler there at the top of the hill, he doesn't know about you lot, he has never heard about stuff like that. And one of the issues that created this reality in Israel is that Israeli governments since Labour in the 70s are not the ones who decide what is the policy of the State of Israel vis-à-vis the occupation. It's the individual settler, who is not a law-abiding individual, who creates the boundaries of the discourse. I create a new settlement in the middle of Hebron, now the whole reality is around me, but by the end of the day . . .

I'll give you an example. Baruch Goldstein, a couple of decades ago, shot so many innocent Palestinians in one of the holiest places in the region. What was the result of this Jewish assassination? The centre of Hebron was evacuated of Palestinians. Here's an individual Jew who does something which, even according to the most liberal criteria of right-wing fundamentalists, is not completely legal, not to talk about international law, but by the end of the day, this created a new reality on the ground which holds. When you talk about international law, it's beautiful for a London seminar. It's a little bit less relevant for individuals down there.

Talking about individuals down there, the reality is very interesting. International law corresponds with local laws, but there is an international presence in the region, which means Western and European taxpayers' money goes to the region by local and international laws and channels, to finance the Palestinian Authority as the subcontractor of the Israeli occupation. So it's your money and their work for our benefit. That's the reality.

Within this reality, the international community changed many of its *modus operandi*. Networks are working, global economies beyond boundaries, social networks are actually very active, civil society is putting pressure. The situation is very networked all around the world. The Israelis developed a very unique approach to this international networking. We have a semi-osmosis acceptance of it. We interfere in anybody else's political system -- we support Republicans and we support arch-Republicans, neo-Republicans and conservatives and neo-conservatives -- but nobody is allowed to interfere in our politics. And it works, it's fantastic. We are off the international grid, the political and diplomatic and legal grid. And the question is how to reintroduce Israel to get back onto the grid? I don't know which one, but give me one. And I would say that one might be this: as a former legislator, I find it very difficult to understand a law without a legislator. How does it happen? Who votes? What was the majority? What was argued? But I understand it's a little bit of a different system, so to say.

Having said that, within the premises of international law, the occupation became possible and permanent, and let's take the issues there. By international law, whether it's the rule or the lack of rule, for how many years can an international temporary reality be accepted as interim? Ten years? Fifty years? How long? By June 2017, we

are going to celebrate the longest ever temporary situation in the history of the State of Israel, at least. Who is going to challenge the timetable, the timeline of how long temporary occupations can exist according to international law? Whatever way, you legislate or create a consensus around it.

The second point is many of the Israeli decisions are being laundered because we have, as mentioned by the Chairman, a couple of fantastic legal minds and a very, very good, reputable Supreme Court. And actually, the system is such that if your legal system deals with certain issues, the international level doesn't have an authority to interfere. But let's look into it. The deal that happened in Israel in the last thirty years, more or less, under the charismatic leadership of Aharon Barak, created a very interesting transaction within Israel. For his progressive, liberal, legal reform -- which introduced the whole notion of individual rights within the 1948 boundaries, which are gay rights, individual rights, minority rights, all kind of rights all over the place -- he sold the occupation. He gave the conservatives the occupation and legitimised so many things that happened there in order to get a better Tel Aviv. Does the international community and international law have the power or the courage to challenge the integrity of the Israeli Supreme Court system?

Last but not least, we talked a lot about the refugees, property, Right of Return etc. I individually participated in one of the most interesting -- not necessarily reputable but interesting -- chapters in Jewish history, negotiating restoration of Jewish property all over the world, all over Europe. It was very interesting, with Swiss banks and governments and other things. A lot of very interesting precedents were created there by us representing the Jewish people in order to restore Jewish property and Jewish rights in places in which Jews did not live anymore because they were expelled or ran away.

Enough of these contracts and principles and international law concepts should be borrowed, or actually copied and pasted, into the reality of the refugees. It would be very interesting to see the moral attitude of the majority of Israelis saying yes for Jews, no for Palestinians.

Geoffrey Bindman

What I would like to say is this. I'm closer to Salma's position than to John Strawson, in that I do think that international law is important in this situation and is influential. It is quite clear that Israel, being a country based -- or at least pretending to be based -- on the rule of law, and having a great many very eminent judges, believes in at least doing its best to persuade people that it is abiding by the rule of law. Therefore, that mere fact alone, regardless of whether the law is enforceable or clear, is enough to give law an influence on the conduct of the Israeli state. The evidence is that it does have influence.

I'll just give you an illustration. I don't know how many people are aware that three years ago, a group of English lawyers and judges, funded, remarkably enough, by the British Foreign Office, went to Palestine to examine the treatment of young Palestinians in the military tribunals. The purpose was to establish the facts and also to establish whether there were breaches of international law in the conduct of the Israeli authorities. They very clearly found a whole range of violations largely arising from the fact that Palestinian youngsters do not have the safeguards that are given to youngsters in Israel proper, for example, in relation to detention without access to a lawyer, without their parents being present, arrests in the middle of the night, beatings up, assaults,

transporting youngsters out of the territories to Israel proper, which is illegal under the Geneva conventions, and a whole range of violations. And that, of course, is quite separate from the violations of international law involved in the occupation itself.

Over the last three years, as a result of the pressure of these findings, changes have been made. The position of the youngsters in Palestine has been ameliorated, and that is a direct result of acceptance by Israel -- and there was really no challenge -- that they had violated international law in all the respects that were found against them.

I think it would be entirely wrong to suggest that international law is irrelevant in this situation. I don't think any of the speakers have actually gone that far. The point surely is, as John Strawson said, ultimately, politics is what really counts but law and international law have a role to play.

Israeli violations are so blatant, and so obvious, that no self-respecting lawyer in Israel or anywhere else can defend many of the things that happen, and therefore, it seems to me, it is a pressure point and can be used as such.

Conference Day Two: Monday, 16 March 2015

What Role for the EU? (Panel 5)

Speakers:

Michelle Pace, Professor (MSO) with Special Responsibilities in EU-Middle East Relations, Roskilde University

Leila Shahid, Ambassador of Palestine to the EU, Belgium and Luxembourg

Alon Liel, former Director General, Ministry for Foreign Affairs, Israel (via video link)

Chair: Avi Shlaim, Emeritus Professor of International Relations, Oxford University

Introduction

Avi Shlaim

I was asked to chair this session on “What Role for the European Union?” The emphasis is on the question mark. There is a big question mark about the role of the European Union in promoting equal rights for Palestinians. Willy Brandt famously said about the forerunner of the EU, the European Economic Community, as it was then known, that it’s an economic giant and a political dwarf. And in many ways, it still is. On the Israeli-Palestinian conflict, the EU has always had a clear policy since 1980. It supports a two-state solution. The EU is also the main giver of foreign aid to the Palestinian Authority. But it remains largely a payer rather than a player. We have touched on the EU’s role in this conference. Avraham Burg described it as a castrated player. This session will enable us to look at the limits and possibilities of an EU role.

We have three really distinguished speakers in this session, one academic and two very experienced and knowledgeable diplomats, one Israeli, one Palestinian. I’ll introduce all three speakers, starting with Michelle Pace, an academic. She spent fifteen years in the United Kingdom at the University of Birmingham. Currently, she’s a professor at Roskilde University in Denmark with special responsibility for the EU and the Mediterranean. She has published widely and she has headed many research projects, most recently on EU democracy promotion in the Middle East. She is the co-editor of the journal *Mediterranean Politics*. Her final qualification to speak today is her name, Pace, in Italian, which means peace.

The second speaker, on my right, is Leila Shahid. She studied at AUB, which was the stronghold of Arab nationalism, and, more recently, of Palestinian political activism. She was the President of the General Union of Palestinian Students in France. She was the first woman to be appointed as a PLO representative abroad. She was the PLO representative in Ireland, then the Netherlands, then France, then the EU until today, and also Ambassador to Belgium and Luxembourg, a very big role. Leila’s name is another qualification for speaking because she hasn’t been Shahid, she hasn’t been a martyr to the Palestinian cause, of course, but she’s been one of the most dedicated and distinguished public servants for this cause.

And finally, there is Dr Alon Liel. He is the former Director General of the Israeli Ministry of Foreign Affairs. He’s a lecturer in International Relations at Tel Aviv University and the Center for Interdisciplinary Studies in Herzlia. He held many posts in the Israeli Foreign Ministry, including Chargé d’Affaires in Turkey, and Ambassador to South Africa. He has written a number of books, including one on Islamic democracy in Turkey and another on nation building in South Africa. His name is an additional qualification to speak because Alon in Hebrew means oak. And Alon is a solid oak in his support for equal rights for Palestinians. These are our three speakers and we are going to begin with a video presentation by Alon Liel which was pre-recorded.

Alon Liel

My name is Alon Liel. I was an Israeli diplomat for three decades, serving as Ambassador to several places and as Director General of the Ministry of Foreign Affairs in the years 2000-2001. I'm the initiator of a petition, "1,000 Israelis to the European Parliaments", calling for the recognition of Palestine. In the last four months, nine European parliaments have called for the recognition of Palestine and I am thrilled about this opportunity to tell you the story.

I'll start by saying that I belong to a group of Israelis who believe that there's still a possibility to change circumstances on the ground. I think many of us understand what most of the Israeli public is understanding, and probably most of the Palestinians are understanding: that the word "peace" is becoming irrelevant and that even the word "agreement" is, to a certain extent, irrelevant. We are thinking in terms of a kind of an arrangement that is not necessarily agreed, and definitely not solving the whole problem, but is a kind of a tailor-made solution that we were taught based on the ingredients that we have around, based on the situation of the place, starting from Israel and Palestine and going through Europe, the United States and the interaction between the players.

We have a very strong Israel militarily, economically, technologically. We have a very weak Palestine, torn apart politically, very disillusioned. We have a worried Europe, as a result of Islamic terrorism, and economic problems. And we have a paralysed United States that has a very clear idea of what should be done but is very reluctant to intervene in order to enhance a solution. So, taking all these ingredients, we thought for a while about what could be done and four, five months ago, we jumped at an opportunity: a new Swedish Prime Minister announced that Sweden was going to recognise Palestine. We thought it is amazing, it is very courageous. The Israeli government jumped on them for a while, called the Ambassador. We thought that Sweden is standing alone in Europe and we felt it needed help.

About four months ago, I visited Oxford and I met a lord called John Alderdice who told me that the British Parliament is going to vote on the issue of recognising Palestine. I immediately jumped on it and said this could be an historic vote because the Swedes had already declared that they are going to recognise Palestine and we thought it would be very difficult for them to go ahead if they were going to be alone. If the British Parliament recognised Palestine, this would give them some backing and I think we could trigger a momentum in Europe of recognition of Palestine.

He listened to me and he said, "Let me check with my party members, the Liberal-Democrats, what the situation is, if there's a chance or not". And I told him, "Lord Alderdice, please, if it has a chance, I think I can organise a letter, a petition from maybe fifty, maybe 100 Israelis, that would call on the British Parliament to recognise Palestine, not only in favour of Palestine but also in favour of us, of saving our democracy, our Jewish identity". Certainly, I checked, and a week later, I got an email saying the vote stands a chance and we need your letter. And within 36 hours, 363 Israelis, most of them intellectuals, some of them big names in Europe, signed such a letter. The vote took place and there were 274 against and 12 for the recognition of Palestine.

To our great surprise, we saw that the letter was very effective – some of the members of Parliament read it during the debate! And those who submitted the motion used it all over with the Members of Parliament. We were shocked by this overwhelming result, when the government of Britain was against it. Then we thought it should spill over to

other parliaments and we announced that every parliament in Europe that will discuss the issue of recognition of Palestine will get our letter.

In the meantime, we added signatures. Over one thousand Israelis signed it, including famous authors, such as Amos Oz, A.B. Yehoshua, David Grossman and others. This letter started travelling from one parliament to the other. We not only sent the letter, we were in touch with the parliaments that submitted the motions through lobbying inside. Israelis lobbied all over Europe in different parliaments for the recognition of Palestine, coordinating what we are doing with the Palestinians. The result was that between October and December 2014, eight parliaments voted and called upon their governments to recognise Palestine, among them France (both houses), Ireland (both houses), Spain, Portugal, Luxemburg and the European Parliament as well.

It brought us to the middle of December with unbelievable momentum: a parliament voting once a week, reviving hopes among the Palestinians and also among us, Israeli leftists, who thought this could trigger something very interesting. And then Europe went for its vacation, Europe disappeared for five weeks. At the end of December, the Palestinians decided to submit a draft resolution to the UN Security Council, the Jordanian draft resolution. We were in constant touch with them. They were very confident that they had the nine votes they needed in order to trigger the discussion and maybe an American veto. We were not sure about it at all, we were not involved at all, we spoke with them, we warned them that they might fail but they decided to submit and they failed. They got eight out of the nine they needed and this was a blow to the European momentum as well, although the European momentum had helped already because France and Luxemburg, where the parliaments had already called for recognition, voted for the Jordanian resolution. But it was not enough. Nigeria abstained. They didn't get the nine. It was a setback. In the middle of this pause, when Europe was asleep politically, then came the Paris tragedy, this horrible terror attack in Paris with the impact on the whole continent.

When we came back to this recognition agenda towards the end of January, we were in a different context. The hesitations were enormous. The Paris attacks, and also other attacks in Europe, like those in Copenhagen, created a different mood. The European public connected these fanatical, terrible terrorist attacks and the Palestinians, somehow -- things which are of course not related at all. Parliaments that were about to vote, like the Italian Parliament, started postponing it. There was still a vote in Belgium, and the ninth parliament was added, but we felt it was becoming very difficult and that we had a crisis in this initiative. It was very, very difficult to trigger this momentum again. There were other things that played a role, like Israeli diplomacy, which was very much against it, and also, to a certain extent, American diplomacy, as well as the Security Council and terrorism in Europe. The Palestinians suffered as a result.

And here we stand with a very interesting momentum that lasted for four months and brought us recognition in nine parliaments. But if this does not continue, we did nothing. I have a lot of Turkish experience in my background -- I said I was a diplomat, the head of the foreign mission. I know from my experience with the Armenian genocide issue that for years travelled from one parliament to the other, a lot of parliaments, including in Europe, which recognised the events that happened in 1915-16 as genocide. But it stopped there. There was no movement into government decisions. So here we stand with this need to revive this momentum. I hope the Italians will do it soon and we can recover the momentum, and we will travel to Finland, Slovenia and the Swiss parliaments, which are beginning this, and then to the governments.

I have the feeling that at this juncture, this is a responsibility of Europe. It's strange, but Europe and the EU, with 28 countries, was very reluctant to get involved in the conflict, on the political level. You said, "We'll give money, we'll give money to Gaza, to the

West Bank". But the fact that it started rolling four, five months ago on the political level for recognition surprised us, and the mood prior to it was, "We are the cheerleaders of the Americans", "This is the prerogative of the Americans; we are not going to intervene". But when Europe took this responsibility, we were thrilled. But now, it has to come back to that agenda, otherwise we did nothing.

And I hope that conferences like you are having continue, and maybe we could have an even bigger conference with representatives of parties from all over Europe that submitted the motions for recognition of Palestine and are about to submit the motions. We could have an all-European conference on the recognition of Palestine, with Palestinians, with us Israelis. We can bring very prominent Israelis to attend it, very well-known intellectuals, very well-known in Europe. And if we have such a Palestinian-Israeli-European conference for the recognition of Palestine, it is important that it travels in Europe, that it goes on travelling from one parliament, from one government, to another.

But the end result has to be the Security Council. And we have the feeling that if we complete this journey, maybe until reaching the German parliament -- I don't know if the German parliament will recognise Palestine but at least they could discuss it -- we could build a European consensus coming from the public, not from the government. It's very much a public initiative. If we build such a consensus, the four European members of the Security Council will vote in favour and then we can get the nine. This time, in December, two of the European countries, including Britain, abstained, and Palestine could not get the nine. If we have the nine, then the Americans face the dilemma of whether or not to use the veto. They might veto it once, they might veto it twice, but I don't think they can veto such a thing forever, and I'm not sure at all they will veto it with the relations they are having now with our Prime Minister. Let's see what happens in our elections.

I remember when I was a Director General in the Ministry during the first year of the Second Intifada. It was 2000-2001. I had a call from the Ambassador. They had been using the veto several times and he said, "We cannot go on using the veto forever. You are ruining our relations with the whole Middle East. There's a limit to the price we are ready to pay in order to defend Israel." I think if Europe would be united about it, if Europe would be decisive about the need to recognise Palestine, that should spill over to the UN, spill over to the United States. And then it's a different ballgame.

It's a different ballgame because if there's even the danger of Palestine becoming a member state in the UN, or if it would really happen, then an unbelievable thing could happen: Palestine could be a member state of the UN without even negotiating with Israel. They could bypass all the issues of negotiation. This is a nightmare for Israel because the occupation at the moment is 48 years old but is still called "temporary". But if we occupy a member state of the UN, we are in an entirely different international situation. If such a thing happens, procedures will start to expel Israel from the UN. This is something that no Israeli leader, no Israeli government, and certainly not the Israeli public, can allow. So, this kind of rolling momentum can bring about a very meaningful change in the attitude of the Israelis to the conflict.

At the moment, the tragedy is that many of us don't believe in an agreement. We don't believe in an agreement because we are here and they are there. For the Israeli public, when there is a gap in the balance of power, why should we even have another look at them? Who are they, what can they do to us? This is the feeling towards the Palestinians. But if they are recognised as a member state -- they were already recognised as a state -- and the Israeli public understands that Europe is not going to give up, and the United States is not going to give up, and the world is not going to give up, this is kind of levelling the playing field with the Palestinians. Although they won't be strong militarily and economically as a result, it brings them to the point where we have to relate to them. And in a conflict situation -- I teach in the department of Conflict

Resolution in Tel Aviv University -- there is a term that came from the Irish conflict called "parity of esteem". I'd never heard it before. The first time I heard it was about four or five years ago, but the moment you absorb the meaning of it, you understand that this is our problem. In the Israeli-Palestinian conflict, there's no parity of esteem. Israel is strong, Israel is looking down on the Palestinians. The Palestinians are looking up. They say, "This giant, they are not going to let us to have a reasonable state of our own", and this leads to a lot of despair.

This type of elegant European momentum of recognition of Palestine is a positive thing. And I'm saying elegant because it's a positive thing -- you're not applying sanctions that can damage the Israeli economy, not even the Israeli settlements in this case, which are, by the way, supported -- but is a very positive way of recognising Palestine, something that infects the Israeli agenda. Even Netanyahu said, "We are supporting two states". If you are supporting two states, what's wrong with recognising Palestine? If something should not really provoke a big crisis between states in Europe and Israel, between the EU as a whole and Israel, you are giving the Palestinians the backing, giving them the pride, making use of the advantage they are having of international support. It's cashing in on this sympathy towards the Palestinians. It's closing the gap, and by narrowing the gap, you can sit down and start relating to each other.

Tony Blair was in Gaza recently and he published an article in which he said, at this stage, even if you take the representatives of each side with a talented mediator and you put them in one room for eternity, you will not reach an agreement. And this is Tony Blair, who is an optimist usually. I don't agree with the solution he finds for it. He goes a lot to the economic aspect. I go to the political. I think, unfortunately, this is the situation between Israel and the Palestinians. The only way to breach it is to explain to the Israeli public and the international arena that the Palestinians can get the support to embarrass Israel in legal institutions, but mostly in the Security Council, so Israel should have another serious look at the conflict and think again about this indifference and about this attitude of ignoring the conflict and thinking that one day it will just fade away.

Michelle Pace

If we want the EU to have a role in this conflict, then we have to mobilise European citizens. This is my main point. I always described the EU's role in the Middle East in Pirandello's famous words: "characters in search of an author". Basically, the EU has been directionless.

I have been spending most of my life half in Brussels and half in the Middle East. And when I'm in Brussels, I've been hammering European officials, saying, "You need a fundamental rethink. You need to go back to the drawing board and see what you are doing with all the billions that you are wasting." And I've been saying this because I'm listening closely to the people of the Middle East and I'm listening closely to the people in Europe. As has already been said, I'm a European but I'm also an internationalist, so my ears are always close to the ground.

At the moment, I have to be honest with you, coming from Brussels makes me very depressed because Europe is telling me that at the moment our key focus is Syria and Daesh, and Israel-Palestine has to be a bit on the backburner. And I said, no, if you want any legitimacy as a global actor, then you have to take this conflict very seriously because it is the longest dragging conflict that Europeans have been involved in.

European diplomats, and we have two of them here, either by video or in person, doubt whether they can qualitatively have a different strategy which is actually feasible in the near-term. This doesn't mean that we are left with the still impressive, I should say,

breadth of European activity on the ground. But again, I just emphasise it's devoid of any clear guiding script.

The EU has been blindly, as we have said in the conference, supporting the occupation without any vision, absolutely zero vision. I will argue that there need to be two issues that will determine a deeper future EU strategy. The first one -- and I have already referred to the core principle of conflict resolution -- but the first one needs to be giving a fundamental shape to the EU's conflict resolution efforts. Secondly, how do we improve on-the-ground European initiatives that are aimed at redressing the structure of governance deficiencies? And here, I'm not just talking about Palestinian governance deficiencies. I'm talking about Israeli as well.

As we said in this conference, of course Israel does not allow interference in its governance. But this is one of the ways in which European citizens can actually make EU states accountable. Now, we don't know what is going to happen tomorrow, but based on this premise, I'm going to introduce a management approach which is called the "Greenfield approach". This is a management term that is used mostly in the private sector, but it's first and foremost for us to have an intellectual exercise at least during the course of this conference. And the idea is that we start by looking at the whole problem from a fresh perspective. That's why it's called green: it's open and green and not to be bound by any previous courses of actions or assumptions. It starts off as an empty green field. Imagine we are all in this nice area and we have this beautiful big green field in front of us, where we then build a course of action, or what we call in academic terms "a theory of change". Then, of course, we start to introduce the realities of the context, and from my perspective, and what I'm going to say today, this will mean asking the following questions: what exactly are the EU's objectives in this conflict? What, really, are its norms, what are the values that it says it upholds and how do they operate in practice? Ideally, what would advance these objectives? What is realistic from a domestic political perspective for all EU member states? And what is realistic in the context of Israel and Palestine? We have heard during the conference the deeply problematic perceptions in Israeli society. I seriously think something has to be done there -- the way Palestinians are viewed by Israelis and the way Palestinians view Israelis. This is a really deep problem.

The final result of this approach may not look that different from the existing course of action. But I'm suggesting this approach in order to stop the charade. I, like many of us, am simply fed up with the charade.

Let's go have a look at the EU objectives. And again, I'm not going to repeat myself, but I want to emphasise this point so that we know as European citizens what we can work on, because we need to know the facts before we start to campaign. The EU's overarching declared goals, these are on paper, have been political for 20 years: it's the two-state solution including, as we know, the independent, viable, contiguous and democratic Palestine. We know the facts on the ground speak differently. But the EU goals have also been developmental and humanitarian. The EU is always there so Israel doesn't need to worry. It can destroy any EU infrastructure, hospitals, education facilities, because at the end of the day, the Europeans will pay. There's no cost for Israel, so it means that we have three wars in six years in Gaza.

Now, EU co-operation has also included financial, as well as non-financial, actions and this runs into billions of Euros, for those of you who are not aware. There's a lot of time and effort spent that could be spent much better, in my opinion, in non-financial ways.

We turn to EU norms. I don't need to tell you what the EU says it upholds in terms of norms -- rule of law, democracy etc. But the EU does not address the core root of the problem, which is the occupation. And in a critical position to the title of this conference,

the EU works with the assumption that, somehow, we have a shared sense of values between Europe, Israel and Palestine. We have equal rights, we are all equal in this boat. We know how that is in practice. My point is that Israel is simply not part of the European grid when it comes to international norms. So we have to stop trying to even stick to those discourses that say, "We are European"; "We are part of the European world"; "We are going to become a member of the EU"; "We need a strategic partnership" etc.

I'm sorry, but you are not European -- I'm going to be provocative, so just be prepared. This is what I think as European citizens again we need to work on. So, what will advance these objectives? I'm going to come back to that in a moment. I think we need a recognition on both sides that it is in their own societies' interest to compromise and to do so ASAP. As I said in private discussions last night, I'm very worried about Israeli society, but I'm not worried about Palestinian society. I was in Gaza in October and the hope and strength that young Gazans gave me is just amazing, the resilience is just amazing. So the victims give me strength, the occupiers make me worry. I critique the discussion about power that we have been having here. The first night, we were told that the Palestinians are stronger and that the Israelis are powerful. I'm sorry, I disagree with that. The Palestinians are strong *and* they are powerful -- it depends on your notion of power.

What are the obstacles? I will quote one minister that I spoke to on my way to Gaza. He's a Palestinian minister. He says to me, "The EU is our most reliable donor, it has benefited us a lot but its programme now is a process without an end. The effects are not visible to the average Palestinian, nor are they sustainable without a parallel effective political track." And we have agreed with that quote, we have agreed that it is that political track that we have to build on.

But if we look at the obstacles -- and we need to put ourselves in the position of European officials now -- I have split this into three parts. First is what I call the binding constraints that block EU objectives -- the occupation and the blockade, resources, movement, trade, revenue etc. -- and second, the absence of Palestinian reconciliation. It is a huge problem for Europeans that they don't have one voice to talk to on the Palestinian side. It's partly their fault because they didn't recognise Hamas in 2006.

Third, there are political constraints. It's the absence of what I call a triangulation. And here, what I mean is that the EU is not raising its hand and looking at what Israel is doing in terms of enhanced economic relations, support for Israel's involvement in research initiatives etc., and what it's doing to the Palestinians. These are separate desks at Brussels, OK? We need triangulation, we need to see the connection between what it's doing with both parties.

I would also argue that another challenge is the self-imposed restrictions that the EU has put on itself with regard to Gaza. As I said, non-recognition of Hamas is simply a non-starter. Hamas is there to stay, no matter what. And you know that the Court, the European Court, has given quite a large barking message in December saying: Hamas needs to be stricken out off this list, as in December 2014. The Council, of course, will appeal that, but this is a very important legal announcement from the European Court.

As we know, Gaza is probably the paradigm that shows us the failure of European policies. You don't replace a serious political policy with one of humanitarian aid. That is just short term. And it is doomed to fail, as we know from Gaza.

The other challenge we have is the entrenched Palestinian Authority's dependence on the European Union. The Palestinian Authority needs reform and it's needed reform for a long time. There's still lack of accountability and we need a sustainable government on the Palestinian side.

Then there are operational obstacles. We have problems implementing our policies (roadblocks etc.). We have weak linkages between elements in Brussels as well. The Commission does not talk to the Council, the Council does not talk to its representative offices on the ground. So there's a huge problem there. We have a problem of monitoring what we are doing and we are not results-oriented. It's good for the European Union to be seen to be doing something, but not necessarily to get something out of that. And we don't have a risk mitigation system in Brussels either.

What is realistic, from a domestic point of view, in Europe? As I said, the only way forward for us as European citizens is to recognise what tools and instruments are available for us: a European-wide campaign that would hopefully develop into an international campaign to put pressure on our governments to say, "You need to put pressure on Israel on this, this and this." I'll tell you why. I'll tell you on what grounds.

What is a realistic picture of the context? We have a declining Palestinian economy, declining resources, declining fiscal viability, declining employment, declining private investment, increasing donor dependency, increasing unemployment, increasing poverty, persistent fiscal deficit. What's the conundrum? As I said, the EU's systems preserve the occupation and are always there to rebuild after the destruction. But it is also what I call a palliative, a painkiller with increasing dependency and lack of accountability.

On the more positive side -- and I always say something positive about the EU because that's how they hear you -- you are all aware that the EU has been a primary factor in reshaping Palestinian institutions. This agenda partly succeeded in 2011 when the UN declared Palestinian institutions to be ready for statehood. So, the EU, I think, can be proud of their role in improving the capacity of Palestinian governance structures. But this is not enough.

With peace talks as we know now being moribund, the whole future of negotiations being not just in doubt but pushed down the drain, where does the EU approach stand? Let me give you a few ideas of where we can go. If somebody runs out of steam, if there's only so much in terms of institutional capacity-building that you can undertake, building state-like institutions that Israel does not allow to function fully as state bodies has no value.

We have also agreed at this conference that the state-building project now stands at an impasse. The payback from billions of Euros of support towards the state-building objective is not just disappointing but disgraceful. The Palestinian territories are politically fractured, authoritarian and dysfunctional. There's no parliamentary oversight of the executive. The PLC has not convened since 2007, so something has to give.

There are some small measures, for instance, EU embassies and the delegation have become more critical of the PA's abuse of due process in the rounding up, for instance, of Hamas members. There's also some things that they are doing on the additional reform programs and their emphasis on access to justice, which are good moves, I think. Yet the EU and a number of states remain ambivalent on other aspects of political reform. We have long delayed elections, there's a question about the legitimacy of Abbas, as we know, and the EU preference is to support the unity government. And I'm going to argue something which might surprise you, but I think that the EU's preference to support the unity government is actually to try and exclude Hamas, where it's not included, because they are using the unity government to go towards an election that they want to result in a Fatah win.

The other thing, of course, is what we discussed. There's an overwhelming imbalance in the EU's efforts in the West Bank. I would wish for all of our Israeli friends here to be able to go to Gaza to know what I'm talking about. If the EU had to send more and more European citizens to Gaza, there would be not just the revolution that I'm calling

for but also a huge uproar. This is not human, what is happening in Gaza. It's absolutely inhumane. I have interviewed families with young children who have called me recently to say that their little babies have died, because they were frozen, because there are no UN shelters to go to.

European member states have spent huge amounts of money to build what they call "community police" that were not allowed by Israel to operate with any effectiveness. We have a clear problem here, which is Israel, the elephant in the room. What can we do? I'll start by saying, for all of you who might not have noticed, there's an association agreement that Israel has signed with the EU and Article 2 gives the EU the legal possibility to stop any co-operation with Israel if there are breaches and violations of human rights. That article has never been adopted. So, it's important for those of us who want to campaign to see what our governments can do to pull out things like that. I'm a strong believer in legal approaches, unlike, maybe, what was discussed yesterday.

The second thing is what started, as the speaker before me said -- the move to recognize Palestine, which is important but is not enough. We need more. There are now EU guidelines on products from the settlements. There are new guidelines on how Israel can participate in research funds. I think we should stop that. Israel should not be allowed to benefit from EU research funding. It needs to feel a cost -- and I know this is controversial -- but *somehow*, a cost needs to be felt. And we also have to rethink our economic relations with Israel. The EU is a major trading partner, we have heard, and it benefits both ways, but the EU can have alternatives to Israel, and Israel will feel the cost, and I really think that's where the EU has the main leverage: it's the economic weapon.

I will not take more time. I think I have made my reflections clear, but one of the things I want to say before we finish is that there needs to be a rethink as well about the international division of labour in the Israel-Palestine conflict which I don't think we have mentioned in the last days. I think that if we are going to have peace as an objective, there must be a wider effort than the one with the US leading alone. As we know, Egypt has been given quite a lot of importance in the peace process or so-called peace process, but we know that Egypt has lost its standing across the region due to its failure to support Gazans in particular, but also Hamas. I think we need to rethink Egypt's role and I would remove it from the equation. The regional context is much more fluid now so it is up to us to do a little bit of homework along these lines and to see where our efforts should go. Because to be honest with you, like me, you are probably exhausted with this, very exhausted from our efforts. And if we want our efforts to go in some direction, I think these are just some ideas, in my humble opinion, of how we can go.

Leila Shahid

We speak about a tragedy which at the human level and the political level has such a great impact on our world. I really think that very often it is when things reach the most dramatic situation that innovation and out-of-the-box thinking imposes itself on us. Unfortunately, I don't think that it's out of particular brightness or genius or science or civilization that people go beyond the limits of their own thinking. I think they do so when they are forced to. We are forced to.

You have listened to perceptions of both Israeli society and Palestinian society and I think we share the feeling that we have really reached a point where we cannot afford not to re-strategize and rethink all the instruments we use. This can be a very important opportunity for us, both at the level of civil society in both societies but also at the level of the institutions, because we must not discharge them from their responsibilities. They have obligations and we have to remind them of their obligations. I want to talk both at

the level of civil society and at the institutional level. At the institutional level, I put as much responsibility on the Palestinian Authority as the British Government and the EU.

Now that I told you how much I appreciate all I heard, I have to tell you that I thought there was one missing thing which is the articulation of the local Palestinian-Israeli story with the more regional story. I think you dismissed too easily the fact that it doesn't happen in a four wall room. It happens in an area called the Middle East which has been living an earthquake since the brilliant strategy of George W. Bush. What happened with the invasion of Iraq was the actual dismantlement of a society and of a state that gave birth to Daesh.

For those of you who don't know what Daesh is -- and please don't call them a state because they are not a state -- it is what you call ISIS in the press, and this is about vocabulary. Vocabulary must tell you that you must not call them a state because they pretend to have a "caliph". Daesh were born in the prisons of the administration that Bush created in Iraq because they rounded up all the Sunnis and put them in jail because they were creating a new regime that would be loyal to American interests in Iraq. They separated the Kurds from the Arabs and they created a Kurdish promise because they're entitled to that. But they created the seeds of a civil war which will take decades to end.

Of course, they opened for Iran a whole subway, a whole highway, for its ambitions in the area. I think what we are witnessing, and for me the biggest outcome -- almost worse than Palestine -- is Syria. What is happening in Syria is almost a genocide by the official leaders of the country. Bashar al-Assad has killed 220,000 people in four years while the world is watching. And Mr Kerry had a slip of the tongue yesterday and said that we have to talk to Bashar al-Assad, in an interview where he is asked about Iran, because he was in Switzerland and now he's going to Brussels. After there have been 220,000 civilian martyrs in Syria, suddenly the Americans wake up and think they have to negotiate with Bashar al-Assad to end the tragedy in Syria.

This has tremendous impact on the Palestinian-Israeli conflict. Of course, all this at one level gives the Europeans the sense that Palestine and Israel are no more a central question, that the central question is how to stop this violence from Iraq and Syria spilling over into Paris and Copenhagen and Brussels, where you have all these Europeans who either are of Muslim and Arab origin or who converted to Islam, because some of the Europeans who converted are even more violent than the original Muslims. They feel threatened in their own flesh for the first time and this drives them crazy. Actually, they are panicking. They don't know what to do. You should read the Belgian Press, the French Press. I read a bit of the British press because of course this bloody John who comes from England, who is the one who cuts the throats of all the journalists, is a scary character for any normal human being. I think that what we are experiencing is that of course these are very serious matters and the origin is not the Palestinian-Israeli story but the discourse of the Islamist movements and the jihadi terrorist movements.

You may not know, but there are so many attempts, particularly from Mr Netanyahu's side, to say that Hamas and Daesh and Hezbollah and al-Nusra and al-Qaeda are the same -- in other words, that all this is Islam. And Mahmoud Abbas is Muslim and Leila Shahid is Muslim and they're all in the same bag, they're all the ones who are threatening Judeo-Christian civilization. We go back to George W. Bush's discourse of the war of civilization.

The EU doesn't seem to be able to handle all these battles at the same time -- to pursue its policy of partnership with the Mediterranean countries, including Israel and Palestine, and solve the problem of terrorism in its own territory. There is a very, very important relationship between what happens around this part of the Mediterranean. What is the impact of the rising power of Iran? What are the real reasons for the policies of Erdogan

in Turkey? What does the competition between Qatar and Saudi Arabia mean? What is the place of Egypt?

This question of Israel/Palestine is not only related to the region. It's related to your region because it is the outcome of something that is part of your history, first because of colonialism. We are in Britain. I couldn't not tell the people in the Foreign Office that given the colonial past of Britain, you'd better think well what you want to do to solve the issue of Palestine. I couldn't help it. And the lady was about to launch a missile on my head. But that's the truth.

Then of course there is the Holocaust. The Holocaust is a European phenomenon. It is neither an Islamic phenomenon nor a Palestinian one nor even an Arab one. I happen to be married to a Moroccan and I spent thirteen years studying Moroccan Jewish culture. And I'm still practicing this culture with the remaining few Jews of Morocco because it is part of Moroccan culture. I cannot accept that because there are no more Jews left in Morocco, we forget that Moroccan Jewish culture was part of Moroccan culture with Islam. We didn't have Christians in Morocco. Christians are the French, Nazara. We call them Nazara -- from Nazareth. In Iraq, it's the same thing. And the same is true in most of the Arab countries, though some communities were stronger than others.

But I think that because your history -- and it's not very long ago -- included genocide and a Holocaust and a systematic elimination of a whole population, not only in Germany, in most of the European countries, you cannot just shovel away the story like this and say, let Israelis and Palestinians deal with it. We are relieved of the problem because now we have laws against antisemitism. Laws are not enough because antisemitism is not enshrined in any constitution but there is still a lot of antisemitism.

And today, there is new islamophobia because racism, despite all the democratic advances, is coming back because of the fear of immigration. In the European Parliament, racist parties, including yours in England, took 25% of the seats. These are openly racist and they expect that in the coming local elections in France, the National Front will take 30% of the votes and will kick out a lot of the Socialists from the local authorities. So, I think that for these reasons -- and because the Americans took over after the colonial British but also the French, with Sykes-Picot -- it was British and then French colonialism taking over from the empire. And then the Americans came with their wonderful analysis of the Cold War and the fight against the Soviet Union. I think, for all these reasons, Europe cannot evade the very special place it has. It's not Japan, it's not Australia, and it's not Canada. It is Europe, which is entrenched in the basic trauma, our trauma, as colonized people, and the Jewish trauma, because of the Holocaust.

I think that for all these reasons, there is a fantastic challenge for Europe, if Europe is ready to think. The people who think are citizens, not institutions. Institutions try to carry the thought of citizens, intellectuals, professors, militants, women leaders' associations, NGOs, and that's why we want to talk to them today. We told them their job is to carry what is said in this seminar, to tell your minister what is expected of British foreign policy.

I think that this challenge allows us to think of what you call equal rights for all. Why? Because I think in the context we're living, the one I described is very scary, including for people like me. I'm not a practicing Muslim, but these people pretend to speak for the culture I belong to, because I belong to a culture and a civilization called Islam. It's very scary for me. It's very scary for me as a woman. I don't want to live under Sharia law, whether it's Hamas leading my country or Daesh and company pretending to represent the Islamic world. I think that because there's defiance by all these new groups that did not exist fifteen years ago, we must challenge that with one single universal holy book which is international law and civil law and human rights. I do have a holy book which is neither the Torah, nor the Koran, nor the Bible. My only holy book is the UN Charter, the

International Declaration of Human Rights, my civil rights, my international rights as a nation and my individual rights as a citizen. I think that this is common with Europeans.

When will Europeans remember those values? My experience is ten years in Brussels, 13 years in France and in the Netherlands. I have to tell you that after ten years, I am appalled at this cynicism of European institutions and European politicians concerning the respect for human rights and respect for the yard stick of international law. They laugh at you. One year there's a law for the whites and another for the blacks, one for Christians and one for the Muslims and another one for the Jews. There is such tremendous discrepancy between the powers of the EU because it is the richest regional entity in the world. Its half a billion citizens live mostly in democracies and have a fantastic impact on the world. They feel it. Every single public servant in the EU speaks like the lady we saw, with such arrogance, *chutzpah*. When you try and challenge them -- and you know how nice the Palestinians are, and they come, and they are against violence, and they are for nonviolent methods, and they have accepted Oslo, and they have accepted to give Israel 78% of what was their country -- despite all this, instead of looking up to the Palestinians, who are compromising so much for a solution, instead of really moving towards the Palestinians, they add more requests for more reforms and more changes and more accountability and more transparency. Yassir Arafat, who barely knew English, had to learn by heart the words accountability and transparency, because that was hammered home every day.

How come there is no accountability for the other side, for the occupying power? It's never mentioned, really never mentioned. There is this feeling that we are like a subhuman or a minor nation, there are levels of nation. It's very humiliating, even when you are an ambassador, because all the titles do not protect me from the feeling that my people are being humiliated every second because they have no right to be protected by human rights law and international law and international humanitarian law. It is very degrading to feel every minute that you can die of a cold because you don't have a roof over your head and the baby actually died a month ago, or not even to be able to cross the border because you can't go to the hospital in Jerusalem and you can do nothing about it with your stupid titles and your driver and your bodyguards, whatever it is.

I think this nourishes hatred, though not necessarily from us. I am angry but I don't hate my enemy. When I look at all these new guys, who cut throats with a knife and are using children to do it, I say, from where does all this hate come? How can they not faint when they actually kill all these poor people? I think this is also part of the responsibility of Europe to face. I'm not sure they realize this, because I see that the only strategy they have is again to send their F-16s and their Mirages. Now they've even sold Egypt, I don't know how many, sixteen planes. They really think they're going to fight this with military means, without any political initiative, without any work with the citizens of these countries? They think that they will solve the problem of Iraq and Syria and Palestine and Lebanon and Libya and Yemen because they will bombard them? These bombardments nourish the same hatred the Islamic jihadist terrorist movements fuel in society.

The Palestinians were among those who really believed most in the role of Europe. Basically, Europe was the first regional power that talked of Palestinian self-determination, a long time before the Americans or even the Arabs. They said in Venice that the crux of the problem is the Palestinians -- not the Syrian army, not the Egyptian army, but the Palestinians. That's why Oslo redefined the issue as a Palestinian-Israeli issue; it's not an Arab-Israeli war, despite the wars that happened. I really think that we have to realize this.

And I'm afraid, Michelle, when I listened to you, that you are a bit too reassured about the power and the strength of Palestinian society. Surely it is of all the societies I've mixed with -- and I lived in Morocco and Lebanon -- the most dynamic civil society and the most resilient and the most courageous, but it is being destroyed. It's being destroyed not by the bombardments. It's being destroyed by the unaccountability of Israel using security as an alibi to fragment and atomize our societies. Do you realize that it has been twenty years -- and you said it in your intervention -- since Oslo that the people can't meet? A cousin cannot see his cousin. He is in Nablus the other one is in Hebron; they haven't been able to see each other. One is in Ramallah and the other is in Gaza; they can't see each other. This has created a new feeling of identity which is very dangerous because it is tribal, clan-like. There are family ties and no more national ties. For all these reasons, I think that you have to be worried about what the impact of this is on the Palestinian society. What is the impact of what's happening among refugees? There has been a total destruction of the biggest refugee camp in all of the host countries, which is in Syria, which is Yarmouk. They ran away, they came and they lived over with the ones who are in Sabra and Shatila. And when they realized how bad Sabra and Shatila are in terms of infrastructure, they said, "Oh, we should have never left Yarmouk. Yarmouk under the bombs is better than Sabra and Shatila." This has an impact on what happened to Palestinian society.

I really think, to move now to practical aspects, that the EU has -- I have to say it as I feel it -- really a very cowardly attitude. They will use all the money, they will use all the nice discourses, and never, never dare challenge Israel with the instruments the EU invented, which is the association agreement. It is written that they must only sign association agreements with countries that respect international law and civil law and humanitarian law. They apply it on all the Mediterranean partners -- Syria, Egypt, Morocco and Tunisia -- but never on Israel. I think that this makes them accomplices of the crimes because they tolerate them.

I really think that civil society in Europe has saved Europe a bit because civil society is responsible for the BDS campaign that has, in a very respectable, objective way, defined a nonviolent way to sanction the aggressor. And that's not violently. You just stop buying things from the occupier, and I think that it's very important. Divestment is the same and we don't need the approval of the states, you know. You can keep on doing your BDS campaigns. Imagine that in France they are taken to court for antisemitism when they do BDS campaigns because supposedly, in France, calling for boycott is being antisemitic, to tell you how far it goes.

But I think also it's civil society and parliamentarians who are responsible for the wonderful work that we just heard from our Israeli friends to support the recognition campaign. Because the recognition campaign is not only a change in paradigm, it is a protection, because once you recognise the borders and the territory and the capital, you are responsible also for the protection of the population. You have new obligations as a state that recognises another state which is still under occupation. I really want to salute you because you don't know how happy I was when I went to the parliament and I found your colleagues and I just pushed them forward and I said, "Listen to them! Listen to the Israelis, don't listen to me, why you should recognise!"

But I have to tell you that not all the parliaments said the same thing. Some parliaments said we should recognise Palestine, like in Belgium, for example, once the peace process is back, once the Palestinian Authority has authority over everything, including Gaza, so they can get rid of Hamas. I mean there are so many conditions of recognition. But it's in the right direction, and I hope you can relaunch it like you said you will.

I really think that the only good news I have is how much the Europeans are scared of the discourse of our best "ally" Mr Netanyahu, who is talking again of religious war. I

heard in the French Parliament the representative of the French Jews in Israel said that the campaign we just heard about is nonsense because it's a war between Islam and Judaism. So I told them, I have just found the brother of Daesh! You speak exactly like Daesh. But so does Netanyahu. And for all these things, I think that I was very moved and very impressed by the presentation that Bashir Bashir did yesterday. Why? It is so courageous on the part of a Palestinian Israeli -- who is called in Israel an Arab Israeli although he's Palestinian -- to call for Jewish-Arab partnership, a Jewish-Arab common world for the future. I feel much closer to that approach and to that strategy that is what you will find again in the Kreisky book, in the Forum. I think not only because it ensures coexistence and multiculturalism -- which is what we heard about yesterday with the Ottoman Empire -- but it's also secularism, it is also separation of the state and the church that Avraham Burg is so interested in. But for me it's very simple: it's also modernity.

This invitation for a joint work between Jewish and Arab and Western Ashkenazi and Sefardi culture and citizens and Palestinians and Arabs, and Lebanese, Moroccans, Syrians, Iraqis, is, in my opinion, the only light at the end of the tunnel because otherwise we are all going to go back to religious solutions and religious states which are, in my opinion, as bad as occupations. Thank you.

What State-Based Constitutional Structures Might Most Successfully Enshrine and Protect Equal Rights for All? (Panel 6)

Speakers:

Brenna Bhandar, Senior Lecturer, SOAS School of Law

Nimer Sultany, Lecturer in Public Law and constitutional theorist, SOAS

Limor Yehuda, former director, Human Rights in the Occupied Territories Department, Association for Civil Rights in Israel

Chair: Leila Farsakh, Associate Professor of Political Science, University of Massachusetts

Introduction

Leila Farsakh

Thank you very much for being here. This is our last panel on a very important question, which is: what state-based constitutional structures might most successfully enshrine and protect equal rights for all? It is also a very challenging question, one that people who talk about alternatives to partition will always ask. What constitutional form can protect individual and collective rights for different people? Or what constitutional form might a solution take?

We have three very important speakers. Our first is Brenna Bhandar. She is a senior lecturer at SOAS, School of Law. Then we'll move to Nimer Sultany, who is a lecturer in public law and Director of the Human Rights in the Occupied Territories Department at the Association for Civil Rights in Israel. Finally, Limor Yehuda, of the Association of Civil Rights in Israel where she acted as Director of Human Rights in the Occupied Territories, now undertaking a PhD at the Hebrew University of Jerusalem.

Brenna Bhandar

I think both Nimer and I might be coming across as quite critical of the idea that constitutional rights can provide a path towards a just peace, and hopefully, the reasons for that critical stance will become clear. But I think that what I really want to do is to identify, in quite a stark way, the depth of the challenges that turning to constitutional law presents.

I want to talk about the fault lines that I think provide the biggest challenge here. Fault lines have geological, spatial and discursive dimensions. The demarcation of the soil, the pasturing and partitioning of land for the purposes of settling it, brings into being topographical fault lines, displacing some people in order to settle others in their place.

In a gross mimicry of the geological process by which the displacement of matter in the earth's deeper layers by other matter creates irremediable fissures in its surface, the cutting into the soil and the appropriation of land creates a new 'nomos', in the words of Carl Schmitt: an order of law, property and, ultimately, sovereignty.

It is with the demarcation of borders, with the partitioning of land and its parcelisation, that the colonial order of things displaces, reconfigures and obscures what was there before. This colonial order of things imposes a way of seeing the land, the law and its inhabitants that is at odds with what preceded it. This order of things is spatial and material, it's written into the land itself. The rationales and justifications for appropriation

render it both discursive and ideological. And in this colonial order of things, this is cast with the force of law and, to be more specific, is rendered in a language of jurisdiction.

It is the fault line between occupier and occupied, the differences in the narratives deployed to explain histories and forms of ownership and, indeed, the abyssal divide between, on the one hand, the juridical discourse and legal reality of colonial sovereignty and, on the other, struggles for self-determination. And it is this fault line that I want to focus on here.

I want to argue that while constitutions and constitutional law may seem to hold a great deal of promise as a way of moving towards a just post-occupation future in Israel-Palestine, experiences in other settler-colonial and post-colonial contexts tell us that constitutional reform rarely, if ever, is the panacea it promises to be. I want to argue here that two factors often render constitutional reform incapable of achieving meaningful forms of social and political justice. The first is the fault line in worldview between occupier and occupied, settler and native, that often turns constitutional interpretation into nothing more than an exercise in domination. The second difficulty lies in the modern separation of constitutional and public law, on the one hand, from the private realm of ownership and economy, on the other.

I'm going to talk about this idea of fault lines a little more and then I'm going to draw examples from the Canadian context -- which has an excellent constitution in terms of its protection of human rights and minority rights -- and look at how it's failed to protect indigenous rights, and then I'll make some concluding remarks.

A few years ago, on a trip to Israel-Palestine, I was struck by the fault line that I encountered repeatedly when interviewing Israeli and Palestinian lawyers, activists and planners. The fault line lay between seeing Israel as a settler-colonial state versus Palestine and Israel as two competing nationalisms. One prominent Israeli Jewish lawyer, who has devoted the past 25 years of his life to fighting injustices on behalf of Palestinians living in Jerusalem, disagreed with my framing of the conflict as one of settler-colonialism, offering up instead the framework of competing nationalisms. That was at the beginning of our interview conversation. He then proceeded to detail over the course of two hours the legal apparatus of dispossession that has operated in East Jerusalem for decades that, in my view, can only be described as colonial in nature. You know, in my current project, I look at legal techniques of dispossession in the realm of property law that has been used in a variety of settler-colonies, including Australia, Canada and Israel-Palestine, so I like to point to the similarities in these legal techniques.

A more recent example of this fault line can be seen in the struggle closer to home at SOAS, just next door. We recently had a referendum on whether the college should endorse BDS. It was successful, with 73% of the college voting to support BDS, which includes, at SOAS, severing all institutional links with the Hebrew University. What has been interesting to me over the past several years of becoming more involved in BDS politics is the fault line that appears between progressive Israeli academics, who do not support the boycott, and their Palestinian friends and colleagues, who do. There seems at times an inability to step outside of one's own position, to recognise the vast gulf between the inconveniences that one faces as an Israeli academic as a result of the boycott and, on the other hand, to contemplate what life must be like for a Palestinian scholar who has no freedom of movement, making academic collaborations and research outside of the West Bank and Gaza impossible. In part, this may be because, of the many progressive Israeli academics whom I've had the pleasure to meet, very few, if any, have been able to visit Palestinian communities outside of a military capacity. But that's just speculation on my part.

This fault line and vision is precisely what has stunted the promise that constitutional reform held for indigenous people in Canada. In 1982, the Canadian constitution was patriated, cutting finally and formally all imperial and colonial ties to this place. After a struggle for recognition waged by First Nations from the time of colonial settlement, a new constitution provisionally recognising Aboriginal rights was brought into force. Section 35 of the Canadian Constitution recognises and affirms Aboriginal and Treaty Rights. This was a major victory after 200 years of colonial settlement. Aboriginal and Treaty Rights were finally recognised in the Constitution, meaning that First Nations could finally take their struggles for recognition of their rights through the courts. They had done so before but now, of course, they could go to the courts with much stronger constitutional protection of their rights, recognition of their rights.

However, the way in which this constitutional provision has been defined reflects the tendency to capture challenges to colonial sovereignty within the status quo. In order to establish an Aboriginal right, a claimant must demonstrate that the practice, activity or custom they are seeking to have recognised and protected has a reasonable degree of continuity with the practices, traditions and customs that existed prior to contact with non-Aboriginal settlers. The practice, custom or tradition must have been integral to their distinctive culture in the sense that it lay at the core of their identity and that their culture would be fundamentally altered without it.

Now, by defining Aboriginal rights in this way, the court has in effect defined Aboriginal rights as a cultural artefact. The first point that I want to make is that over and over again, Aboriginal rights claims that have a commercial dimension to them have been rejected on the basis that they couldn't have been engaging in modern commercial activities prior to contact with Europeans. So, you can see that this is one of the cruellest paradoxes that lie at the heart of the way Aboriginal rights have been defined in Canada.

Now, I want to focus specifically for a few minutes on land rights. As Edward Said noted long ago, "Land is always the prize in the settler colony", and I think this is true regardless of which context we are looking at, even though we also must acknowledge the differences in them are vast.

In relation to the test for establishing an Aboriginal title, the court held that claimants must satisfy three criteria in order to prove the existence of Aboriginal title. The first one: the land must have been occupied prior to sovereignty (that's colonial sovereignty). Two: if present occupation is relied upon as proof of occupation pre-sovereignty, there must be a continuity between present and pre-sovereignty occupation. Clearly this doesn't account for all of the displacements that took place as a result of colonisation. The third criterion is that at sovereignty, the occupation must have been exclusive. In defining the criteria necessary to establish Aboriginal title, the court imports one of the central features of Anglo-European private property ownership, "exclusive possession", into the definition of Aboriginal title. The principle of prescription, that is, that one acquires title to land through continuous occupation, becomes one of the characteristics of Aboriginal title. However, the definition of Aboriginal title, constituted by one of the central characteristics of Anglo-European private property ownership, exists alongside the temporal requirement that Aboriginal Nations must have enjoyed exclusive possession prior to the assertion of colonial sovereignty.

This points to the fundamental paradox that lies at the heart of Aboriginal rights. They are based on the prior occupation of the land by Aboriginal people, but the content of the right is defined in relation to Anglo-European norms of private property ownership. We can see that indigenous law completely falls out of the picture, even though the Supreme Court of Canada has stated over and over again that the objectives of

reconciliation demand the balancing of Aboriginal perspectives on land use and Canadian ones.

Even with the recent modification of this legal test in a judgement that came down last summer that does go a little bit further in accounting for Aboriginal perspectives of land usage and ownership, the legitimacy of colonial sovereignty has never been challenged or questioned in any of these Aboriginal rights cases, including the title cases. We can think about how, projecting ourselves into some kind of future time of a just reconciliation in Israel-Palestine, any kind of just constitutional arrangements would somehow have to acknowledge that the founding of Israel in 1948 was also a catastrophe that lacked moral legitimacy for Palestinians.

Now, I want to draw back from the legal technicalities. Before I do that, the point I've been trying to make is that even when the recognition of indigenous or native rights to resources are constitutionally enshrined, those defining the legal criteria for establishing the rights have done so on the basis of an Anglo-Canadian epistemology. The competing visions of land use and ownership have been through the stated objective of reconciliation quelled by the imposition of Canadian concepts of property. It seems that indigenous sovereignty will never be established through constitutional means, as the recent Idle No More protest in Canada would tend to indicate.

Turning back to Israel-Palestine, one might query what kind of constitutional arrangements could achieve a just peace. And, of course, this is a huge exercise in imagination, and an important one, given current conditions there. What kind of constitutional forms of recognition of equal rights might work to ameliorate the profound inequalities inside of the bounds of Israel? And if the occupation were to end, what kind of constitutional arrangement would structure a just peace?

Most notably, scholars such as Judith Butler and Jacqueline Rose have sought to carefully think through and propose an ethics of rationality between Israelis and Palestinians. That might help us see and move past current impasses, current fault lines. How can different experiences of dispossession, alienation and displacement inform an ethics of relationality that could hypothetically ground new forms of cohabitation? I'm going to try and take some of their insights and pull them towards legal questions.

In *Parting Ways*, Judith Butler writes as follows: "Ethics is not understood exclusively as dispossession or action grounded in a ready-made subject, but rather is a relational practice that corresponds to an obligation that originates outside of the subject." It is through such a conception of ethics as being constituted through relation, through a decentring of the subject, that ethics can test sovereign notions of the subject and ontological claims of self-identity.

And considering further what this relational subject means. She writes, "We discover rather quickly that we do not know precisely what we mean by 'we' or how best to think about the temporality in which we live." This disorientation is not something to be lamented but rather the pre-condition of any effort to think anew about territory, property, sovereignty and cohabitation. I really like the idea of dispersing sovereignty, which she also discusses in *Parting Ways*, and the challenge to think beyond the boundaries of sovereign subject.

I think this idea of dispersing sovereignty might find some affinity with recent legal scholarship that challenges received ideas about jurisdiction. In their recent work, Shaunnagh Dorsett and Shaun McVeigh attempt, in the settler-colonial context of Australia, to reconceive a jurisdiction as a meeting place of different laws and legal traditions, so we shift from a unitary notion of sovereign power to something that is somewhat more relational. The reconciling of different ownership interests, different

ways of conceiving of land, becomes a site of negotiation between two legal traditions, rather than one of colonial domination.

When I think about how these works hold promise for rethinking foundational concepts of sovereignty -- that are, of course, the bedrock of constitutional law -- I have some other reservations that relate to my earlier comments about the poor track record that constitutional reformers have, particularly when it comes to matters deemed to fall into private law, namely property and economics.

In Palestine, I'm going to conclude with this: we are witnessing the unbridled reconstruction of the spatial and material conditions of life in the West Bank. How would constitutional arrangements, such as a bi-national agreement reflected in a federal state, for example, deal with ongoing neo-liberalisation of life in the West Bank? When liberation is won, how far will the process of neo-liberalisation -- which requires neither a unified territory, nor the respect of basic democratic rights, nor self-determination -- how far will this process have progressed? How can self-determination be achieved when it is preceded by the laying-out of the scaffolding of the neo-liberal state form? And obviously, that's not just happening in the West Bank but also within the bounds of Israel.

This takes us to an important question: does a constitutional transition, out of a situation of apartheid and occupation, as witnessed in South Africa, or in post-colonial states such as India, really enable political liberation in the fullest sense? Constitutions, even the ones with socialist preambles, such as the Indian one, or with well-defined provision for redistribution of wealth, such as the case with South Africa, rarely live up to the promises of equality that usher them into existence. And perhaps here, by way of a conclusion, we can reflect on another important fault line, this one juridical, identified by Marx long ago: there's a veil that separates formal legal equality from the private power of ownership, which in the colony has always been subtended by the racial logic of, and distinction between, settler and native. Perhaps until this veil is truly pierced, the promise held out by new constitutional arrangements will repeat the founding violence that inaugurates every new legal order.

Nimer Sultany

I found it kind of curious that the non-lawyers have much more belief -- I use this word deliberately -- in the law than the lawyers. Leila was talking earlier about how her bible is the law, but by the time I'm done, you will see that Brenna and I are self-hating jurists.

My talk is basically an attempt to give you six reasons why you should not ask me about what my constitutional vision is. I have a constitutional vision, I have thought about it and I can give you a very complicated constitutional structure, but I will try to convince you not to ask me that question. If you do, I will tell you. But let me start with my six points. Two of them follow closely on what Brenna said, so I'll start with these.

First of all, the claims for recognition are deficient if they remain in the political, symbolic and identitarian realm without addressing questions of distribution, given the intertwinement of identity claims and economic relations. Therefore, it is not enough to recognise identity, and even historical injustice, if that remains on the cultural level without examining the institutional context in which these identity claims arise, because this will lead only to sanctioning inequality and even to advancing inequality. And to open a little aside here, I'm not arguing here for the priority of the economic as Tony Blair has done, as mentioned earlier by Alon Liel. I'm just saying that we need to take that into account. And we cannot separate the political from the economic.

Another reason to think this way is the fact that the satisfaction of recognition claims through cultural rights or multiculturalism addresses the denigration or the exclusion or the under-representation of identity but it doesn't address the production of difference. Basically, what happens in racism or stereotypes is that it's a double-edged sword in which we assert a difference and then we attach a negative value to it. Cultural rights and recognition of cultural claims merely address the question of the denigration of difference without actually, or necessarily, addressing the question of difference itself. And this might endanger or risk the reification of identity.

The second point is on the separation of the political from the economic or the constitutional from the legal regulation of the private sphere. We cannot think of new future constitutional structures without actually thinking of relations of domination in civil society, that is, the non-state spheres. And this means that the question posed in the title of this session is flawed. I apologize to the organisers for attacking the question itself but, to the extent that the question about constitutional rights means that the state is implicated in producing any kind of new relations in the future, then this is fine. But to the extent that it means that we can think of new structures only by reference to the state and state-enforced rights system, then this is unsatisfactory, because the exclusive focus on the state structures, whether one state or two states, risks abstraction from relations of domination, which means that we may achieve justice for Palestine but not justice for the Palestinians, because relations of domination are likely to be maintained in a one-state or two-state model. It will simply be a new colonial relationship, and may be such under either two states or one state.

We already have examples of how the abstraction of political categories like sovereignty are subverted, or even flipped, by legal regulations of the private sphere. Equality, citizenship, one state, two states are, for the most part, using a Weberian ideal-type sense. But the fact of the matter is that these things are in reality much messier, and this implies that we usually exaggerate the difference between one state and two states because declarations of sovereignty in two states might be meaningless in the reality of private law.

It's true that the Israeli government did not annex *de jure* the West Bank, but -- at least since the 1980s, more than 25 years ago -- the Israeli Supreme Court integrated the occupied territories into the Israeli tax code, and it's the case of value-added tax.

There's also something called the increasing harmonisation of labour laws in cases related to torts and employment contracts. What happens in these cases is actually fascinating because it flips the political balance of the debate. The Palestinians in the West Bank who work for settler corporations, who politically would argue for the lack of Israeli sovereignty and, therefore, for the lack of validity of Israeli law in the West Bank, in these cases, when they sue the settler corporations, they argue for the application of Israeli law because it maximises their benefits. On the other hand, the settler corporations, who politically would argue for the imposition of Israeli sovereignty on the West Bank, in these cases, they argue for the application of Jordanian law because it maximises their benefits. So, the political and the actual legal are actually different. Now, the Supreme Court in these cases applied Israeli law, which means that at least part of the legal reality is already a "one state", and this is a different argument than we've heard so far in the course of this conference. We've heard arguments that we already have one state, in terms of descriptive manner, or, in terms of a normative manner, that we should have one state. Here, I'm arguing for the legal regulations already entangled in one legal system.

Third point: the abstraction of recognition from institutional context, as well as an abstraction of the constitutional form, because you are separated from the private and the economic, is only compounded by the reification of rights. I should note first that in

this course we have heard the word “rights” a lot, and also in daily life, there’s this loose talk about rights in which people confuse rights, meaning legally protected interests, with privileges, as if one can deduce rights from privileges, or from the mere assertion of rights. But the fact of the matter is that the fact that a group of persons has an interest in something does not necessarily mean that they have a right to it. For example, I have an interest in eating ice cream but it doesn’t mean I have a right to eat ice cream -- which corresponds to duties and obligations on others to provide me with the opportunities and resources to eat ice cream. Similarly, Israel has an *interest* in being recognised as a Jewish state, but it doesn’t mean it has a right. Even from the factual assertions -- like the majority of Israeli Jews want to have a Jewish state -- one cannot deduce normative statements from descriptive statements. That’s David Hume’s truism.

But even if we use rights in an accurate manner, rights are not natural or stable things. They are relational, as Brenna said. They are a social relation. They are a relation between people over things, rather than a relation between people and things. So, the meaning of rights is not simply a matter of legislation or constitution-making that is simply afterwards mechanically applied because it involves a normative activity or interpretation. This interpretative activity is inevitably intertwined with politics, given the fact that the law always has gaps, ambiguities and contradictions, and given the fact that there’s agency for the legal agent, be they lawyers or judges, in the interpretation of the law. This means that the meaning of rights and their effect is, in practice, to a large extent determined by power relations.

The power struggle that shapes the system of rights is structured through the background rules, whether permissive or prohibitive, that the legal system puts in place. This means that when we devise the background rules as in the envisioned constitutional structures, we have to be attentive to the reality and history of power relations. And these background rules cannot be neutral because they will increase the likelihood that certain consequences rather than others will be achieved. This means that there is always a lurking danger of the co-optation of the system of rights. It also means that there’s an uncertainty and instability even if we devise the best system of rights. Therefore, there is a need for constant assessment and revision. There is no *a priori*, one-size-fits all blueprint that we can imagine.

My fourth point is the fetishism of constitutionalism, which is the logical end of the three points that I mentioned so far. In the same way that Feuerbach talked about the projection of goodness onto the names of God or Marx talked about the projection of universality, community and equality onto the state through the abstract category of citizens who are abstracted from their embeddedness in the certified social and economic structures, the fetishism of constitutionalism means that we are projecting reciprocal and equal recognition or reconciliation or stability, because that’s what is missing, that’s what we are hoping for. But this merely means the imposition of attributes that the state or constitution does not inherently possess. And this imposition merely conceals the reality of domination, and thus risks reproducing it, rather than undermining it or rectifying it. Therefore, it might distract us from the necessary hard work that we need to do.

The fifth point that I want to make is that thinking of the issue in terms of state-based, legal rights risks falling into the trap of compartmentalisation. First of all, there’s a law that allows us to understand reality through different categories. But these categories may actually blind us to seeing the reality of the conflict clearly. I think categories or distinctions that have bad normative effects should be collapsed because the law fragments reality into different legal compartments and, therefore, is like focusing on the trees rather than seeing the forest. In other words, the general questions are marginalised and obscured. Concretely, the Palestinians inside Israel are fragmented

into three categories, according to international law: citizens of Israel; refugees; and residents of the occupied territories, in the jargon of international law, protected persons. Each one of these categories has different legal regulations or status.

But in reality, the category of refugee, for example, exists in each one of the other categories. The refugee who cannot return is not only the one who is in Lebanon but also the one in Gaza and the one in Nazareth, Haifa and Tira, my town. Now this means that the difference between these categories is not one of kind but one of degree. Additionally, the difference between resident himself or herself in the occupied territories, and the citizen, is also one of degree rather than one of kind, and we can see this in the following: the more the oppression of Palestinians inside Israel increases and their social and economic conditions deteriorate, the more they look like citizens without citizenship. And the more the Palestinians in the occupied territories remain under long occupation that looks like annexation, they look like unrecognised citizens, or citizens without citizenship. This compartmentalisation is consequential for political visions of resolving the question of Palestine.

There's an obvious distinction between adopting the language of international law and the call for a one-state solution. For example, many supporters of BDS argue that BDS is trying to advance the imposition of international law on Israel and its accountability. Yet, on the other hand, we call for a one-state solution on the question of Palestine. Now the reason for this tension is because international law is based on the Australian model of the nation-state as the cornerstone of the international order. Additionally, it is based on the partition view of ethnic and national conflicts that developed between the two world wars and the partition view, of course, is exemplified in the question of Palestine. The one-state solution can emerge through annexation, but annexation is illegal under international law. There's no legal way for Israel to do it.

A final point, my sixth, is that what is also troubling about the one-state/two-state debate, in addition to its abstraction, the messy reality and the legal challenges that a "one-state" might face, is the preoccupation with the *solution* rather than with the *situation*. Reality and power relations have their own dynamics and I think what we need is more analysis of the power structures that produce subordination and to build a movement to challenge these power structures. I want to emphasise the word "structures" here because, unlike some of the comments we heard yesterday, I don't think that the question is about ignorance or hatred or lack of communication or things like that. I think it is about the systemic production of relations of domination and, in this sense, which is basically what effectively Brenna was saying, Palestine is not exceptional. So maybe what we need is not a top-down vision but a bottom-up empowerment in order to change power structures and maybe, maybe create optimal conditions for humans to flourish.

Limor Yehuda

Although I'm starting my academic path and I'm starting a PhD now and the topic is about the role of equality in ethnic and national conflict resolution, I will speak today I think more as a political activist. Nevertheless, I think some of my thinking and some of what I've already achieved in studying can feed into my political activity.

I agree with Brenna and Nimer that constitutional rights are not enough, but my assumption is that the baseline is equal, individual rights for all. When we are talking about constitutional rights, what we mean are human rights or constitutional rights enshrined in a bill of rights that are protected in independent courts and which have the authority to override governmental actions and also to override laws of parliament. This is in a way, I think, not controversial anymore as a baseline.

But as we said, this is not enough. Courts are not providing enough support, enough protection for human rights and you cannot talk about equality without talking about the government structure that supports it. This is how it seems to me that political thinking is advancing, evolving from only talking about constitutional matters into talking about what the governmental structure, or the structure of the state institutions, is like.

Here again, democracy is being built on the idea that representatives represent the demos, the people. In every democracy, there's a tension or a gap between this ideal and the reality. But there are situations where you have a chronic minority, and this becomes an extreme situation. I think that the situation in Israel is an example of that. The Palestinian minority, which, at the moment, although they are full citizens of Israel and they have a right to vote for the Parliament of Israel, have not been considered a legitimate part of the government, any government, even today. I hope we will see it in future, and then Israel may become a real democracy, a full democracy.

This is why I believe citizens' rights, human rights, are not enough, but they are necessary. So what is the other layer? The other layer for me is collective rights. We know the place of the right of self-determination, which is the common way of perceiving collective rights. We know that today, self-determination doesn't have to be as an independent state; it can also be achieved through sub-state fulfilment.

Here, I want to make two points about liberal democracies. It was mentioned yesterday by Moshe Behar, and I think also by Bashir, that the classic perception of liberal democracy is not enough in two aspects. First, I would agree that it is not enough, and secondly, I would say that is not suitable for our situation in two aspects. Firstly then, it is not enough, as we can see, because it does not give enough space to, and fails to address, what we said about collective rights. I think it is also unsuitable because it assumes a traditional understanding, that assumes the neutrality of the state. As far as I can understand, Israel, and likewise a future Palestine or the area that we live in, or Eastern Europe even, the state cannot be seen as neutral towards the collectives that are part of it and towards the different viewpoints about "the good", if we use the term of John Rose. We need to find something other than neutrality, and I would pick equality - equality between collectives -- as something which could be the replacement for this.

We have the first layer: rights of individuals. We have a second layer of collective rights. We have a certain territory, and I prefer to be concrete. I don't remain in the academic sphere -- we are talking about the territory between the Jordan River and the sea. And we have, according to international law, prior to the outbreak of the Six-Day War, the 4 June 1967 lines, as internationally recognised borders. We have an existing Israeli state. We have a state of Palestine that has been recognised by many countries and gained wide recognition. It's not independent and is under occupation, but this is also a relevant factor.

We have two peoples, we have two national movements, that demand self-determination and the fact is that the people who belong to those nations, to those peoples, do not correspond to the international borders. So, what would be the right model, taking into consideration all of these parameters? It's complicated and it's unique but it is not singular. I think, as has already been mentioned, that we can be inspired by other situations and by other models that have been tried and implemented around the world in the last two to three decades.

Here, I will present the model I prefer, which we endorsed in our political initiative. The model is based on two states -- independent, democratic states on the basis of the 1967 borders. But instead of talking about two states in separation, we should be talking about two states in partnership. We are adding a significant change to the traditional model of two states but one which does not challenge the current political framework

and I think this is a great advantage. In contradiction to one-state, this model does not demand dismissing or withdrawing from all international resolutions that have been accepted in the last four to five decades and it does not demand the dismantling of the existing state, the State of Israel.

I have another consideration regarding why I would not choose a one-state solution, which I believe would lock me into my Jewishness-as-nationality, similar to what we see, for example, in Bosnia. As far as I understand it, instead of moving beyond their ethnic identity, people are being locked into them. The politics of a single state becomes only a politics of nationalities, whereas I think the politics of geography may go beyond that.

What are the details of the model? As I said, two states, full equal rights to citizens, according to the 1967 borders; full recognition of self-determination for both peoples, in both of the lands; shared institutions, like an EU-model, in which each of the states give some of their powers to mutual bodies; and open borders, with Jerusalem as one united city, a capital for both states.

Two last questions that I want to address: what is the significance in relation to the current two-state solution and what is the place of Israeli-Palestinian citizens in this model and with regard to the question of Israel being a Jewish and democratic state or the Jewishness of the state? The major difference in my opinion, as I said, is the replacement of the talk about separation as the ultimate goal of peace by talk about independence, with partnership as the vision we are aiming for. I cannot explain now why I see this as being immensely important. I would be happy to elaborate more but basically, I think our constitutions and our political models are an educational tool, not just a mechanism for going about our lives. If the politics we promote is one of separation, saying that we Jews cannot live together with Arabs and that this is the only way to peace, this is the message that we send to all the people in the region and I think this is a false message and we need to change it. So this is why, and I think this is the most important thing.

The other question is what is the place of the Israeli-Palestinian citizens? Of course, this is a really big issue. I cannot address it in the one minute that I have. First of all, as I said, the issue is their situation as full citizens with full rights. Beyond that, what should be discussed is their rights as a collective that, once again, have not been recognised to this day. What is the content of those rights in the State of Israel should be discussed -- as I said, equal recognition between the different communities in the region.

In response to the hard question, of the Jewishness of the state, I would not choose this word and I think this is an unfortunate phrase that has been entrenched in Israeli discourse. What I would say is that Israel is the place where Jewish people are fulfilling their right to self-determination and there's another group of people who also has a right to self-determination and the relationship between them should be established through discourse.

Concluding Remarks

Speakers:

Giles Fraser, former Canon Chancellor of St Paul's Cathedral

Jacqueline Rose, Professor of Humanities, Birkbeck Institute for the Humanities

Chair: Lynne Segal, Professor of Psychosocial Studies, Birkbeck

Lynne Segal

We really are at a time when a lot more is happening -- we hope -- around Israel-Palestine. The elections are focusing everybody's minds. Strangely enough, for us, the international left, it might seem to be better for Netanyahu to be elected. The call "Anyone but Bibi" we could all take up. If Bibi does get elected -- which he indeed still might -- it might make things easier for us. There is the thought that we might get slowed down if we get another apparently "less clear" person in charge, who carries on with all the old policies, which is the alternative to Bibi, unfortunately.

But what is so impressive was to hear the voices of people like Sam Bahour, who have been working for decades, doing so much, against such odds. It is so hard to achieve anything while keeping clear, as he did, what his goals are. What I found so impressive about what Sam Bahour said is, "Well, we just take it step by step."

We are talking about human rights, civil rights, collective rights. But let's begin by thinking what about the rights of Israeli citizens, Arab-Israeli citizens in the Galilee. What about us doing something there, pushing for something there?

The idea is that the framework of talking about human rights, civil rights is not to rule out any other types of possibilities at all. What Avraham Burg, our other main speaker of the first night, said is that what we have to face is how much worse things have got over there, how bad things are. Israel is turning into this comprehensively racist state. This fills so many Jewish people, whom it claims to represent, with humiliation, with dread about what they are going to do next and claiming to do in our name. Claiming that they are there to fight the forces of antisemitism, when we know that so much of Israeli policy -- the intransigence of Israeli policy, refusing to do anything about ending the occupation and supporting the human rights of the Palestinians -- means that they have done so much to fan the Islamic-Western polarization, which someone like Netanyahu thinks he can use by invoking antisemitism, to say it is us against them and you have to support us.

This is such a key time for us to be active. The idea that we are trying to open up in this conference, in talking about civil and human rights, equal rights, is the humanity of all, which is exactly where IJV began, talking about that.

And according to Sam Bahour, it is also where many or most of the Palestinians in the early days began. It is not to say that we don't need civil disobedience. In fact, everybody over the course of the conference has talked about the importance of civil disobedience. How else are we going to put pressure on the European Union, on the Israeli left, on the world, in order to be able to say, "Well, we can take actions that can be effective"? Now, those actions are not going to be -- usually -- legitimized by any state. These actions are going to be at odds with the blindness and refusal of the western world to take the Palestinian question seriously.

This conference has just tried to open that out and say, "Let's not just follow what has been some of the main ways forward", not to reject those ways forward. We heard from the EU panel how important it was to try and get EU states, following on from Sweden, to recognize the existence of Palestine. Of course, officially, everybody does

recognize and support a two-state solution, they just do nothing to support any type of Palestinian sovereignty. So let's once more push for that, because Israel just hates to hear that there is such a person as a Palestinian. And that's what we heard from our Palestinian speaker on the second day -- she was told she should not say she was Palestinian! You have no right to exist. Your ontological existence is to be denied. In talking about civil rights, legal rights, equal rights, we are not saying that other actions are unimportant. Any actions, we think, that help in bringing the Palestinian situation to the fore are all-important.

Giles Fraser

Before I introduce myself, just a word about voting for Bibi, and thinking that's an OK way to go. I voted for Mrs Thatcher (cries of disapproval). I was at the time a member of the Socialist Worker Party in Newcastle and the Newcastle SWP thought that the only way to bring about revolution was to make things worse and to vote for Mrs Thatcher and so we all, as an SWP en masse, thought that was the best way for the revolution to come. And the revolution didn't come -- it got worse! Don't vote for bloody Bibi, is the conclusion, please!

My name is Giles Fraser. I used to be a leftist and now I'm a priest in the Church of England. I am a journalist. I write for the *Guardian*, I have a column in the *Guardian*, I'm a leader writer for the *Guardian*. I have an academic past, I used to teach Philosophy at Oxford and I'm now Visiting Professor in Anthropology at the LSE. So I have lots of different hats. But I suppose religion is one of the things I want to talk a little bit about because it has been absent from the conversation or insufficiently present.

Being religious, I'm a sort of hope junkie, I guess. I arrived at the conference, I suspect, like many people, feeling really miserable about the current situation in Israel/Palestine, looking for something that I could grasp on to that would be hopeful. I'm aware that hope is complicated and rightly subject to critique. *Hatikva*, "The Hope", is the Israeli national anthem. I'm aware that as we come up to Passover, one narrative of hope can be another narrative of oppression, or can be seen that way. It's complicated being a person of hope, but I still feel that I'm going to stay there looking for it.

I've always been a two-state solution type of guy; I've always thought that was the way forward. But increasingly, I'm feeling how is that possible with the settler movement and the way in which that path is constantly being eroded and the fact that there is a lack of partner for peace on the Israeli side? When I heard Sam Bahour on the first night talk about his conversation with his daughter, there was that spark of *hatikva* within me. Maybe this was hope. And if you weren't there, let me just tell you what he said, what his daughter said to him.

She said, if I may summarize, "Dad, we've tried lots of different ways. We've tried to fight but we're not good at fighting. We've tried to memorize all the UN resolutions and to go through that route and that hasn't done anything. You've gone on all your life for bilateral negotiations -- these have been going on for 20 years and whilst they have been going on for 20 years, the settler movement has grown and grown and grown and things look less and less likely". She goes, "This is what I want to say to the Israelis: you win. Fine, you win, where's my medical card?" In other words, accept the reality, she was saying, but within that reality, demand your own rights, your own civic individual rights, like the right to healthcare. Where is my medical card?

And he was saying, for the Angry Birds generation, for the generation that's on Facebook and Twitter, that isn't so into national boundaries, perhaps that's the way to go, that is, a one-state solution supported by a very robust conception of individual and

human rights, is the way to go. When he said that, there was that spark of perhaps, perhaps, that's right. I tweeted, prematurely, "I've seen something new about Israel/Palestine that I hadn't seen before, how exciting."

However, as the conference has progressed, I have suddenly realized that my initial optimism was misplaced and we have had successive critiques of the idea that the rights language in and of itself is sufficiently robust to shoulder the burden of justice. We've heard particularly from the lawyers, from all the lawyers, from the wonderful self-hating jurists about the limitations of law. We've heard this all over the road: the road that Limor Yehuda was talking about the other day, that was a classic example, from Philippe Sands we heard about the limitations of rights and law in other contexts as well and we had it in the last session also. I agree with Lynne very much that that's not to say that you get rid of that language, but it needs to be supported and bolstered by other things as well. In and of itself, it doesn't do the work.

One of the things that it needs to be bolstered by, it seems to me, is a greater sense of activism and participation on the left. I was in Tel Aviv during the war last summer, in search of the Israeli left. It was a tricky thing to do; they are tricky to find, the Israeli left. Even the ones who were apparently on the left were not going to protest during the war itself because that looked too much like a political movement, they were saying. There were some protests but they usually happened after the war itself had ended. I went and saw Gideon Levy. There was a tiny, tiny band of protestors and they were attacked. I spent some time with Gideon Levy. He wouldn't meet me in the coffee shop because he was going to get spat at. He had to come with two bodyguards in order to get around and write pretty mild stuff that he writes in *Ha'aretz*.

What has happened to the Israeli left? There is Stav Shaffir talking about *hatikva* in that [YouTube sensation](#) that had been going round. All very well, but what does that mean in terms of content? I am depressed about the collapse of the Israeli left. I have a wonderful great friend who is an activist and lives in the Galilee. She is a Welsh Jew that made aliya when she was very young. She still has a very strong Welsh accent and she's from the sixties generation and she says to me, "Giles, I'm sick of singing 'We Shall Overcome'. That Joan Baez was wrong!" And I felt her pain at what has happened to the Israeli left.

Now, I started on the first evening by asking the question about the rights language. Where is the poetry? Where are the songs that you'll sing? Because I was not sure that "I want my medical card" is sufficient to produce poetry, stories, narrative that usually inspire a civil rights movement. This is where things become complicated for me, because if you look back at the United States civil rights movement, one of the narratives that's drawn upon heavily in that search for rights is actually a religious narrative, a Christian one quite specifically. What is interesting to me about that is the idea that you can somehow ally the search for rights to some big or larger story.

We've not talked about religion very much at all in this conference. When it has come up, it has come up in an entirely negative way. Of course, I understand why that's the case, but I am extremely reluctant to leave religion to the right, to allow religion to be the exclusive bailiwick of right-wing thinking and thereby not open up another front in this moral battle for justice for Palestinians.

The reason I think there is more scope than we have been talking about in this conference -- it has to be said that Jacqueline did mention this right at the outset -- is that the Hebrew scriptures particularly have a grammar of social justice and a commitment to self-critical vigilance, which I think has been lost within the religious discourse, particularly in Israel. I was reading Jeremiah the other morning, before I came here -- I'm a priest, I read things like that -- and I was thinking to myself, if Jeremiah existed today, he would

be called a self-hating Jew! With their self-critical vigilance -- of Isaiah, of Amos, of Jeremiah -- these are not conservative voices that are seeking to maintain and establish the status quo.

We are currently in the *shmita* year (the sabbatical year, the seventh year of the seven-year agricultural cycle mandated by the Torah for the Land of Israel and still observed in contemporary Judaism). This is very interesting. This is what inspires the Jubilee 2000 movement. This is what inspired all sorts of transnational emancipatory discourses that got many, many thousands of people out on the streets. The times that I have gone and talked about *shmita* to groups of Jews, it is actually seen as a much more narrowly conceived thing than the call for justice and care for the stranger and the other, which I think is deep within the Hebrew Scriptures.

So, from the Israeli side, for me, that's what I would see, what I would call on, even in the not-quite spiritual home of Jeremy Bentham -- I know that I'm not on religious ground. I was going to pick a fight with one of the previous speakers who talked about modernity so positively and about the only religious book being the book founded in 1948 with the Declaration of Human Rights. My plea is not to ignore religion and to draw upon it also as a positive resource, as a different new front in this.

I will finish on one thing about hope. A great friend of mine, an Israeli, died last year. He was called Assi Dayan and he was a director and film star, I guess you could say. His father was Moshe Dayan. Assi made films throughout his career but the first film that he starred in, his claim to fame, was a film made in 1967, interestingly. I think it was called *He Walked Through the Fields*. There was this bare-chested, beautiful Israeli film star who modelled all sorts of hope about fields and land and Israeli society and kibbutzim and all that stuff. And successively, throughout his career, his vision became darker and darker. He did films about parodies of the IDF, then darker films such as *Life According to Agfa*, which is a tragedy, a bloodbath in a pub. His last film, which came out a couple of years ago, before he died -- Assi himself had become a shadow of his former self through all sorts of self-abuse and drug-taking -- he did this film called *Doctor Pomerantz*, which didn't do terribly well, which was about a psychoanalyst. People would come and see him but he had nothing to say to them any more so he allows them -- he charges them -- to jump off his balcony and commit suicide. It is one of the darkest films I have ever seen in my life.

To go from the film he made in 1967 to the film that he made there, it is a trajectory where hope has been entirely eliminated from Israeli society. Israeli society itself needs to find hope. And one of the resources for that hope is not in the crass nationalism of Bibi Netanyahu, but actually, I think -- and I apologize for saying this -- in a deeper understanding of the sources of Jewish identity, within the Hebrew scriptures, which are emancipatory and a gift to all, as being a commitment to rights, a commitment to freedom and, importantly, a commitment to self-critical vigilance.

Jacqueline Rose

I want to thank our incredible line up of speakers, all of whom we invited separately. Some knew each other, some didn't, and I just feel it has been a privilege to watch the dialogue between all of you, so I want to thank you all very, very much. I want to thank the organizing committee of the conference, Nadia Valman, Adam Fagan, Ann Jungman, Tony Lerman. But the person I want to thank most is Merav Pinchassoff because not only has she been one of the intellectual leading lights in the original formulation of the conference but indeed, without her, none of us would be sitting here now or on Saturday

or yesterday. She has been absolutely unfailing in her support and she is one of the younger generation of Independent Jewish Voices and we need her so much.

The reference to Merav's youth is relevant because in some ways for me this has been the conference that has been about the daughters. Like Giles, I found that moment when Sam Bahour described his daughter saying, "Where is my medical card?" as very striking, very moving. And, for me, that is a revolutionary demand and it goes to the heart of what this conference has been trying to do, which is the point at which rights take off and collide with both politics and the law, not as a supplement to either of them but as part of an ongoing political struggle and a way of what the Russian formalists call "laying bare the device", i.e., suddenly exposing a reality that has become so banal, however violent. It has become so normalized and so familiar and so repetitious that you need to do something slightly scandalous which will just expose the limits of what you've been doing and where you need to go next. I want to stress that rights has not really been a supplement or alternative to other forms of struggle but another version.

The other daughter was, of course, Taghreed al-Khodary's daughter, for those who weren't there, when she was sitting weeping, watching the assault on her neighbourhood in Gaza on a television in Amsterdam last summer. Her three-year-old daughter had never seen her cry before and came into the room and said, "Why are you crying?" What really struck me about the story was that she said she used the word Israel to her daughter for the first time ever. She said, "Israel is bombing my neighbourhood", and her three-year-old daughter said, "Mummy, call the police."

Somewhere between "Give me my medical card" and "Call the police", what we're trying to talk about here -- and what we are all involved in trying to do -- seems to me to reside. "Call the police" is a tragic demand, because we know that the police are not going to come and "Give me my medical card" is a more pragmatic demand, which might actualize itself with consequences we cannot predict. But somewhere between those two daughters lies our future.

I've been very struck by the way in which a number of people have been very precise in the demands that they think are necessary. Here, I want to refer back to Mustafa Barghouti, who couldn't be with us but did his presentation long-distance, as it were, and who was very specific about the change to the balance of power that was needed. Stop the cooperation: Al-Fatah should stop the security cooperation with Israel. The occupation should take on its duties of responsibility towards its citizens, which of course chimes in with Sam Bahour and Tony Klug's paper on this question ("If Kerry Fails, What Then?" in [Rethinking the Politics of Israel/Palestine – Partition and its Alternatives](#) published by the Bruno Kreisky Forum).

I've also been struck by the critique of statehood, the limits of state power, and how in this conference, the conversation about a one or two-state solution has collided with another way of thinking which is summed up for me in Leila Farsakh's very important remark when she said it is so important not to reify the state as the only legitimate endpoint of self-determination and national self-identity. That idea of severing statehood and nationhood remains an absolutely crucial one.

There has been quite a lot of discussion about who has the strength and who has the power. I was struck when Michele Pace said, "The victims give me strength". But at the same time, she was the fiercest critic of the idea that the Palestinians have the strength and Israel has the power because she wanted to say that the Palestinians have the strength *and* the power, although in a later point in her conversation she actually talked about the ways in which the Palestinians have no rights, not even the right to have rights. So somewhere between power, strength and rights to rights there is something very complex that I am going to take away from this conference in terms of thinking who has

what kinds of power and how can we build on that. It has been a lesson for me to listen to everybody speaking about it.

I'm also very struck by the doublethink we've been required to do at this conference. Just to take a few examples: the law is ineffective and indispensable — you could say Nimer Sultany and Brenna Bhandar vs. Salma Karmi-Ayyoub. First of all, I would like to disagree with Giles when he says that everyone has critiqued the possibility and necessity of the law because Salma — with support from Geoffrey Bindman — really spoke of the necessity and possibility of legal transformation. It has not been a uniform critique of that but rather a disagreement of the kind we like. That is one tension.

The other one has been between Israel as a colonial-settler project vs. Israel as arising from the legitimate desire to save a persecuted people. I think that is still a real crunch number. I think both can be true, and both have been true, in the space of this conference, which I find very reassuring, however difficult it is.

Then again, to pick up on what Giles said -- *justice, justice ye shall pursue* — which is Deuteronomy and which indeed comes straight out of the Bible as an ethic, on which, indeed, IJV sees itself as drawing. And then to find ourselves faced with someone like Avraham Burg saying, “Basically, what’s going on here is that the Jews in Israel think, ‘You goyim, you’re so two-faced you’ve had all of these centuries to plunder and shed blood and massacre everybody and now it’s our turn!’” An absolutely shocking thing to say -- equal rights means we want to be equal to be as bad as you, as the distribution to date has been unfair. And he was talking about chosen-ness. The idea that Jewishness can split in that way between two such very different ways of conceptualizing itself is something, which to quote Giles again, calls for eternal vigilance.

The other thing I'd like to stress is what I do think has been (although the word hasn't been used, except by Giles, when he talked of the film of Assi Dayan where the analyst allowed his patients to pay him to jump off his balcony) what I will call the psychoanalytic dimension, which has been present in the discussion of trauma that has run through this conference: the still unresolved problem of the trauma of the Nakba in relationship to the trauma of the Holocaust. I think Edward Said's 1997 essay “Bases for Coexistence” -- the only essay, by the way, for which he received hate mail in the Arab press -- is still an unsurpassed discussion of that knot of relationality between the Holocaust and the Nakba. By the way, Brenna, I am honoured to be linked with Judith Butler but relationality is a word I'd never use, I hope, because I don't think it even gets close to the psychic complexity of how subjects process their history and their relationship to the other. That is a discussion we could have in private another time. I just wanted to say that.

Finally, I wanted to say that I have been struck by the number of times people have used formulae which challenge us in terms of our own thinking. Leila Shahid said we must go beyond the limits of our own thinking. Sam Bahour said, more than once, this is not a push-button debate. I really like that -- it is not a push-button debate -- which is to say that what we are dealing with is an injustice; a struggle against it; a struggle for equality; a recognition of the limits of national and international-brokered solutions; a recognition of the need for international law; and the need to formulate a way forward that will feel both concrete and speculatively daring. I like to think that is what we have been trying to do over the last few days and that thanks to your participation, we have got a little way along that path, so huge thanks to everyone.

List of Contributors

Participant Biographies

Gertraud Auer Borea d'Olmo



Gertraud Auer Borea d'Olmo is Secretary General of the Bruno Kreisky Forum for International Dialogue. Prior to this role, taken up in 2005, she worked as a project manager at BKF (Middle East Youth Peace Forum); a staff member and international and cultural affairs Adviser at the Federal Minister for Education and the Arts in Austria (1991-1995); and a free-lance professional in languages, architecture, theatre and international politics.

Sam Bahour



Sam Bahour is a Palestinian-American business consultant based in Al-Bireh/Ramallah, Palestine. His firm, Applied Information Management (AIM), specializes in business development with a niche focus on start-ups and providing executive counsel. Sam was instrumental in the establishment of the Palestine Telecommunications Company (PALTEL) and the PLAZA Shopping Center. He completed a full term as a Board of Trustees member at Birzeit University and is currently a Director at the Arab Islamic Bank and serves in various capacities in several community organizations, including as a policy adviser to Al-Shabaka, the Palestinian Policy Network, member of the core Local Reference Group of the Ecumenical Accompaniment Programme in Palestine and Israel (EAPPI), co-founder of the community foundation, Dalia Association, and Chairman of Americans for a Vibrant Palestinian Economy. Sam writes frequently on Palestinian affairs and has been widely published. He is co-editor of *HOMELAND: Oral History of Palestine and Palestinians* and may be reached via the blog www.epalestine.com.

Mustafa Barghouti



Dr. Mustafa Barghouti was born in Jerusalem in 1954 to a Palestinian family from Deir Ghassaneh village in the Ramallah District. He is a member of the Palestinian parliament and was a presidential candidate in 2005 and Minister of Information under the first National Unity Government in Palestinian history. Mustafa Barghouti has made an extraordinary contribution to initiatives to peacefully challenge the ongoing Israeli Occupation of Palestine and bring it to end, as well as efforts to build the institutional framework of Palestinian civil society and promote the principles of internal democracy and good governance. He writes extensively for local and international audiences on civil society and democracy issues and the political situation in Palestine, as well as on health development policy in Palestine. Dr. Barghouti is also one of the leading exponents of the campaign for economic and political divestment from Israel and its associated institutions. With a long history of involvement in the Palestinian political sphere, Dr. Barghouti was a member of the Palestinian delegation to the Madrid Peace Conference in 1991. He was also a member of the Steering Committee to the Multilateral Peace Negotiations from 1991-93. He drafted the Palestinian NGO law and participated in lobbying efforts to have it passed by the Palestinian Legislative Council. In 2002, Dr. Barghouti co-founded the Palestinian National Initiative.

Bashir Bashir



*Bashir Bashir is a research fellow at the Van Leer Jerusalem Institute and teaches political philosophy in the Department of Political Science at the Hebrew University of Jerusalem. His primary research interests are nationalism and citizenship studies, multiculturalism, conflict-resolution and the politics of reconciliation. His publications include: 'Reconciling Historical Injustices: Deliberative Democracy and the Politics of Reconciliation', *Res Publica*, 18(2), 2012: 127-143; with Amos Goldberg, 'Deliberating the Holocaust and the Nakba: Disruptive Empathy and Binationalism in Israel/Palestine', *Journal of Genocide Research*, 16(1), 2014: 77-99; with Will Kymlicka (eds.) *The Politics of Reconciliation in Multicultural Societies* (Oxford: Oxford University Press, 2008).*

Brenna Bhandar



*Brenna Bhandar is Senior Lecturer in Law, SOAS. She has published widely in the areas of critical legal theory, indigenous rights, and property law. She is co-editor of the forthcoming book, *Plastic Materialities: Legality, Politics and Metamorphosis in the work of Catherine Malabou* (Duke University Press, 2015).*

Geoffrey Bindman QC



*Sir Geoffrey Bindman QC, throughout his long and distinguished legal career, has specialised in civil liberty and human rights issues. From 1966-1976 he was legal adviser to the Race Relations Board and from 1976-1983, to the Commission for Racial Equality. He is a Visiting Professor of Law at University College London and at London South Bank University, an Honorary Fellow in Civil Legal Process at the University of Kent, and a Fellow of the Society of Advanced Legal Studies. He is chair of the Board of Trustees at the British Institute of Human Rights. He has won awards for a lifetime's achievement in human rights from *Liberty* (December 1999) and the *Law Society's Gazette* (October 2003). He has represented the International Commission of Jurists, the International Bar Association, Amnesty International, and other bodies in human rights missions in countries, including the former Soviet Union, Germany, South Africa, Chile, Uganda, Namibia, Malaysia, Israel and the Occupied Territories, and Northern Ireland. He was knighted in January 2007 for services to human rights and in March 2011 appointed honorary Queen's Counsel.*

Moshe Behar



*Moshe Behar is senior lecturer in the Department of Middle Eastern Studies at the University of Manchester and co-editor of *Modern Middle Eastern Jewish Thought, Writings on Identity, Politics and Culture, 1893-1958* (2013).*

Avraham Burg



Avraham (Avrum) Burg was born in Jerusalem 1955. An Israeli author and activist, he was formerly a member of the Knesset, Chairman of the Jewish Agency for Israel and Speaker of the Knesset. Burg was the first Speaker of the Knesset to have been born in Israeli territory after independence in 1948. Then a member of the Labor Party, he retired from the Knesset in 2004 and has published several Israeli and internationally best sellers. Burg is a regular contributor to the leading newspaper articles in Israel as well as appearing on TV programs in Israel, and around the world. Burg is the chairman of 'Mifalot' the largest Israeli movement for social change through sports and education.

Taghreed El-Khodary



Taghreed El-Khodary was born in Gaza and holds an undergraduate degree in communications from the American University in Cairo and an MS in mass communication from Murray State University, which she attended as a Fulbright Scholar. El-Khodary later returned to the U.S. to take up a Nieman Fellowship at Harvard University in 2006 as the Ruth Cowan Nash Fellow, and again in 2010 as a Heinrich Boell Fellow and Visiting Scholar with the Carnegie Endowment for International Peace. She covered Gaza for the New York Times for 8 years (2001-2009). She also worked for ICG as an analyst in Gaza. She covered the second intifada, the civil war, the Israeli war on Gaza (Cast-lead operation). El-Khodary has been working as a senior editor for a chronicle on the Middle East and North Africa www.fanack.com. Fanack is based in The Hague.

Leila Farsakh



*Leila Farsakh is Associate Professor of political science at the University of Massachusetts Boston. She is the author of *Palestinian Labor Migration to Israel: Labour, Land and Occupation*, (Routledge, fall 2005, 2012) and editor of *Commemorating the Naksa, Evoking the Nakba*, (a special volume of *Electronic Journal of Middle Eastern Studies*, in Spring 2008), as well as of numerous journal articles on the political economy of the Israeli-Palestinian conflict and on the One-State solution. Dr. Farsakh holds a Ph.D. from the University of London and an MPhil from the University of Cambridge, UK. She has also worked with a number of international organizations, including the Organization for Economic Cooperation and Development (OECD) in Paris and since 2008 has been a senior research fellow at the Center for Development Studies at Birzeit University, in the West Bank. In 2001 Dr. Farsakh won the Peace and Justice Award from the Cambridge Peace Commission, in Cambridge-Massachusetts.*

Salma Karmi-Ayyoub



Salma Karmi-Ayyoub is a criminal barrister and external consultant for the Palestinian human rights organisation Al Haq, where she used to head an international litigation project. She has a particular interest in the question of Palestine and the International Criminal Court. She is also co-chair of the British legal charity Lawyers for Palestinian Human Rights.

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Tony Klug, a special advisor on the Middle East to the Oxford Research Group, has written extensively about the Israeli-Palestinian conflict. His doctoral thesis was on the Israeli occupation of the West Bank during its early years. He is a former co-chair of the Council for Jewish-Palestinian Dialogue and the Arab-Jewish Forum and was a founder member of Independent Jewish Voices. For many years he worked at the International Secretariat of Amnesty International.

Alon Liel



Dr. Alon Liel is the former Director General of the Ministry of Foreign Affairs, Chairman of the Israel-Syria Peace Society, and lecturer in International Relations at Tel Aviv University and the Herzliya Interdisciplinary Center. Dr. Liel held numerous positions in the Foreign Ministry, including the Israeli Ambassador to South Africa, Foreign Ministry Spokesman, and Charge d'Affaires of Israel in Turkey. He is a member of the board of several civil society organizations, which promote peace and equality, including One Voice. In addition, Dr. Liel has published several books, including: Demo Islam, Islamic Democracy in Turkey, Turkish-Israeli Relations 1949-2010, and The Equalizer – South Africa is Building a Nation.

Michelle Pace



Michelle Pace is Professor with Special Responsibilities at the University of Roskilde's Department of Society and Globalisation. Her main areas of research include the External Relations of the European Union with special emphasis on relations with the Middle East and North African (MENA) region. She is also Honorary Professor in Politics and International Studies at the University of Birmingham in the UK. Her research interests cover identity politics, perceptions of democratisation in the MENA, the development of the public sphere in this region since the Arab "Uprisings", de-democratisation, governance and pluralism in the Middle East, Egypt, Palestine. Recent projects she was principal investigator on include a British Academy funded project on A 'Modern' Islamist Democracy? Perceptions of democratization in the Arab-Mediterranean world and an ESRC funded project on Paradoxes and Contradictions in EU democracy promotion efforts in the Middle East. She has supervised a study of the Danish Arab Partnership Programme and is the academic evaluator for the Danish policy towards Palestine. She is co-editor of the peer reviewed journal Mediterranean Politics. She was founder and convener of the British International Studies Association Working Group on International Mediterranean Studies (until 2013) and of the research group on the EU and democracy promotion efforts in the Middle East (2008 – to date).

Yossi Rapoport



Yossi Rapoport is Reader in the history of the Middle East and the Islamic World at Queen Mary University. His academic publications deal with the history of women in Islam and of Islamic law. He has also written on the Arab Spring and the territorial unity of Eretz Israel/Palestine. He is a member of the Israeli-Palestinian group "Two States, One Homeland".

Philippe Sands QC



Philippe Sands QC is Professor of Law at University College London and Director of the Centre for International Courts and Tribunals, and a practising barrister and co-founder of Matrix Chambers. He acts in cases before international courts and tribunals, including the International Court of Justice, and sits as an arbitrator in international investment disputes (ICSID) and on the Court of Arbitration for Sports. He is the author of several books, including *Principles of International Environmental Law* (CUP, 3rd edition, 2012), *Bowett's Law of International Institutions* (Sweet & Maxwell, 6th ed. 2009), *Lawless World* (2005) and *Torture Team* (2008), and contributes to the *New York Review of Books*, *Vanity Fair*, the *Financial Times* and *The Guardian*. His new book, a personal history of the Nuremberg trial and the origins of 'crimes against humanity' and 'genocide', will be published by Alfred Knopf in 2016. He is a member of the Foreign and Commonwealth Office's Panel on Diplomatic Excellence, a vice president of the Hay Festival, a member of the board of English PEN and of the Tricycle Theatre, and serves on the appeal board of the Bingham Centre for the Rule of Law.

Lynne Segal



Lynne Segal has been engaged in Left & feminist politics since coming to London from Sydney in the early 1970s. She is currently a Professor in Psychosocial Studies at Birkbeck, University of London. She has written many books on feminism, gender and politics. Her two most recent books are *Making Trouble: Life and Politics* and *Out of Time: The Pleasures & Perils of Ageing*. She was amongst the founding group of both *Jews for Justice for Palestinians* & *Independent Jewish Voices* in the UK.

Leila Shahid



Leila Shahid studied sociology and anthropology at the American University of Beirut (AUB), one of the centres of Palestinian political activism. At the same time, she joined the movement of Yasser Arafat in 1968. In 1976, she became the President of the General Union of Palestinian Students in France. She participated in the launch of the French quarterly, *La Revue d'études palestiniennes*, which was published until 2008. The first woman to be appointed by Yasser Arafat to represent the Palestine Liberation Organisation (PLO) in Ireland in 1989, she then became the PLO's representative to the Netherlands in 1990 before being appointed General Delegate of Palestine to France, from 1993 to 2005 and to UNESCO from 1993 to 1996. She was Ambassador of Palestine to the European Union, Belgium and Luxembourg from 2005 to 2015. Leila Shahid is also a Patron of the Support Committee of the Russell Tribunal on Palestine, which began its work in 2009, and member of the Board of Trustees of the Institute of Palestinian Studies and the Board of Trustees of Bir Zeit University. Leila Shahid is married to Moroccan novelist and literary critic Mohammed Berrada.

Avi Shlaim



Avi Shlaim is an Emeritus Fellow of St Antony's College and Professor of International Relations at the University of Oxford. He is a Fellow of the British Academy. His books include *The Politics of Partition* (1990); *The Iron Wall: Israel and the Arab World* (2000), *Lion of Jordan: The Life of King Hussein in War and Peace* (2007), and *Israel and Palestine: Reappraisals, Revisions, Refutations* (2009).

John Strawson



John Strawson works in the areas of colonial legal history and postcolonialism with interests in international law, the Middle East and Islamic law. He is co-director of the Centre for Human Rights in Conflict at the University of East London, and has held visiting positions at the International Institute of Social Studies (The Hague, Netherlands), Birzeit University (Palestine) and was Visiting Professor of Law at the International Islamic University Malaysia (Kuala Lumpur) in 2007. He broadcasts on international Law, Middle East politics and Islamic law. His publications include: *Partitioning Palestine: Legal Fundamentalism in the Palestinian-Israeli Conflict* (London and New York: Pluto Press, 2010) and (ed.) *Law after Ground Zero* (2002). He is currently working on a book on Islamic Law and British colonial India and co-editing *Injustice and Memory: Faith in Human Rights* (Ashgate 2015).

Nimer Sultany



Nimer Sultany is Lecturer in Public Law, School of Law, SOAS, University of London. Previously, he was Postdoctoral Fellow at SUNY Buffalo Law School (2012-2013). He holds an SJD from Harvard Law School; an LL.M. from University of Virginia; an LL.M. from Tel Aviv University; and an LL.B. from the College of Management. He practiced human rights law in Israel/Palestine, and was the director of the Political Monitoring Project at Mada al-Carmel - The Arab Research Center for Applied Social Research. He has written widely on constitutional democracy, Islamic Law, Israeli jurisprudence in relation to the occupation, and on the lack of citizenship for the Palestinian minority in Israel. His op-eds appeared in Arabic, Hebrew, and English in numerous media outlets, including: *The Boston Globe*, *The Miami Herald*, *The Guardian*, *Buffalo News*, *Ha'aretz*, and *Al-Quds al-Arabi*.

Limor Yehuda



Limor Yehuda is a human rights attorney and a social activist. After working as a prosecutor with the district attorney's office in Jerusalem, Limor spent six years at Israel's Supreme Court as a legal assistant and member of Chief Justice Aharon Barak's legal team. Following her work at the court Limor joined the Association for Civil Rights in Israel (ACRI) where she directed the department for human rights in the Occupied Territories and litigated human rights cases before Israel's High Court of Justice. Limor is currently a research fellow and PhD candidate at the Hebrew University in Jerusalem. Her research aims to explore the applicability of the legal norm of equality to the normative framework of ethno-national conflict resolution in general and the Israeli-Palestinian conflict in particular. In addition to her academic work, Limor is a founding member of "Two States, One Homeland", a political movement focused on offering a new paradigm to the resolution of the Israeli-Palestinian conflict. The movement advocates for a modified confederacy model, and aims to replace the widely accepted discourse of separation with one focusing on equality, mutual respect and partnership.

Independent Jewish Voices Organising Committee

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Adam Fagan is Professor of European Politics and Head of the School of Politics and International Relations, Queen Mary, University of London. He is also a Professorial Fellow at the London School of Economic and Political Science.

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Ann Jungman is a writer of children's books and a teacher. Born in London of refugees from Germany, Ann has been opposing aggressive Zionism, since joining "Jews Against the War in Lebanon" in 1982.

Antony Lerman



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Merav Pinchassoff



Merav Pinchassoff is a freelance conference Interpreter and has worked at various international organisations including the United Nations and the OECD. Merav is also a Visiting Lecturer in Conference Interpreting at the University of Westminster. She has been an active member of the IJV Steering Group since 2011.

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*Jacqueline Rose is Professor of Humanities at Birkbeck University of London. Her publications include *The Question of Zion*, *The Last Resistance*, *Women in Dark Times*. She is a co-founder of Independent Jewish Voices and was the writer and presenter of the C4 Documentary *Dangerous Liaison – Israel and America*.*

Nadia Valman



Nadia Valman is Senior Lecturer in English at Queen Mary, University of London, and has published widely on literature, gender and religion. For IJV she organised a public debate on antisemitism and Islamophobia in 2012.

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Independent Jewish Voices is a volunteer-led association and this two-day conference on Equal Rights for All would not have been possible without the generous support we received from our sponsors. The Conference is hosted and sponsored by Birkbeck Institute for the Humanities as one of its two annual international humanities conferences, as well as having the benefit of generous support from the Bruno Kreisky Forum for International Dialogue, the Andrew Wainwright Reform Trust and the Barry Amiel and Norman Melburn Trust.



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We hope to continue to work towards the aims established in our statement of purpose and any further donations will be used to this end.



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About Independent Jewish Voices

A Time To Speak Out: Independent Jewish Voices

We are a group of Jews in Britain from diverse backgrounds, occupations and affiliations who have in common a strong commitment to social justice and universal human rights. We come together in the belief that the broad spectrum of opinion among the Jewish population of this country is not reflected by those institutions which claim authority to represent the Jewish community as a whole. We further believe that individuals and groups within all communities should feel free to express their views on any issue of public concern without incurring accusations of disloyalty.

We have therefore resolved to promote the expression of alternative Jewish voices, particularly in respect of the grave situation in the Middle East, which threatens the future of both Israelis and Palestinians as well as the stability of the whole region. We are guided by the following principles:

- 1. Human rights are universal and indivisible and should be upheld without exception. This is as applicable in Israel and the occupied Palestinian territories as it is elsewhere.**
- 2. Palestinians and Israelis alike have the right to peaceful and secure lives.**
- 3. Peace and stability require the willingness of all parties to the conflict to comply with international law.**
- 4. There is no justification for any form of racism, including antisemitism, anti-Arab racism or Islamophobia, in any circumstance.**
- 5. The battle against antisemitism is vital and is undermined whenever opposition to Israeli government policies is automatically branded as anti-Semitic.**

These principles are contradicted when those who claim to speak on behalf of Jews in Britain and other countries consistently put support for the policies of an occupying power above the human rights of an occupied people. The Palestinian inhabitants of the West Bank and Gaza Strip face appalling living conditions with desperately little hope for the future. We declare our support for a properly negotiated peace between the Israeli and Palestinian people and oppose any attempt by the Israeli government to impose its own solutions on the Palestinians.

It is imperative and urgent that independent Jewish voices find a coherent and consistent way of asserting themselves on these and other issues of concern. We hereby reclaim the tradition of Jewish support for universal freedoms, human rights and social justice. The lessons we have learned from our own history compel us to speak out. We therefore commit ourselves to make public our views on a continuing basis and invite other concerned Jews to join and support us.

Please visit our website www.ijv.org for more information or to become a signatory.

