

PALESTINE ESSAYS No. 20

**ISRAEL
AND
NEGOTIATIONS**

By

IBRAHIM AL-ABID



**PALESTINE LIBERATION ORGANIZATION
RESEARCH CENTER**

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Since the June 1967 War, Israel has been wont to declare its belief that the only way to establish permanent peace in the area is through direct negotiations between it and the Arab States. This plea for negotiations seems, at first sight, to be innocent, logical and to reflect a positive, realistic and peaceful policy. However, a glance at the background of the conflict in the area and at the pattern of the Israeli political and military conduct from 1948 to the present time, will be sufficient to expose the falseness of this plea and its remoteness from any desire for a just and permanent peace in this part of the world.

Israel has been established on the ruins of another entity, Palestine. Its people are individuals gathered from other countries, occupying the lands of the original inhabitants of Palestine, who have been made to disperse in dozens of countries. The soil on which Israel stands is occupied territory, not land owned or bought by the present occupiers. Israel exists because Palestine does not exist. The Israelis are there because the Palestinians are not where they ought to be, in the land of their fathers and forefathers. The mere existence of Israel is a condition which leads to the non-existence, to the abolition, of Palestine and its original inhabitants. The mere existence of Israel means non-recognition and non-acceptance of the Palestinian Arab people and its natural right to live in its homeland and to enjoy its right to self-determination. The Arabs' non-recognition of Israel becomes, then, a negative response to Israel's positive non-recognition of Palestine and the Palestinians, to its expulsion of the Palestinian Arabs, to its usurpation of their public and private property, and to their displacement by aliens from different parts of the world.

Here lies the root of the Palestine Question. The Palestine problem, in fact, is a conflict between the Palestinian Arab people and the Zionist Movement allied with imperialism in its old and new forms, with its old and new leaders. From this, also stems the Palestinian rejection of direct negotiations with Israel. For this call involves basically a recognition of Israel, i.e. a guarantee for it to continue enjoying its gains. The principal Zionist political end for the establishment of a State has been reached. Most, not all, of Israel's avowed territorial aims have been realized. The greatest part possible in the present circumstances of its demographic task, to decrease the number of the original Palestinian inhabitants under its rule to a size easily manageable, while substituting for them about two sixths of World Jewry, has been achieved. By calling for immediate negotiations, Israel desires to invest with legality these acts, which have been realized through the use of force. In other words, Israel intends by its plea, to legalize and perpetuate its act of forcibly uprooting and dispossessing the Palestinian people.

Before analyzing further the contents of the Israeli call for direct negotiations, let us test Israel's "belief" in and its acceptance of the principle of peaceful settlement.

Israeli diplomacy places no great faith in political resolutions and agreements. It considers "physical achievement [to be] the weightiest political argument."¹

When the U.N. General Assembly made its recommendation to partition Palestine on November 29, 1947, Ben Gurion hastened to urge his followers not to relax and give way to optimism. He was referring to the possibility of the United Nations retracting its recommendation, and was calling for armed action in order to make of the partition a *fait accompli*. But once Israeli diplomacy gets what it can from an immediate situation, the material achievements of the moment become the firm ground from which it demands new agreements. After the partition recommendation was passed, the Zionist forces occupied the area allotted to the

(1) Moshe Pearlman, *Ben Gurion Looks Back*, New York: Simon and Schuster, 1965, p. 54.

Zionist State (56 per cent of the area of Palestine). Later, they went on to occupy more Palestinian territory (80 per cent). At that point Israel presented itself to the United Nations asking that it be admitted as a member on the basis of its *de facto* boundaries, not those drawn in the U.N. partition recommendation. When Israel failed to capture the Old City of Jerusalem, it called for its internationalization; when it occupied it in 1967, it refused to discuss the future of the city or its internationalization and declared its annexation to the State of Israel.

Agreements and treaties, at the start of every stage in the development of the Zionist Movement and of Israel, are *laissez-passés* which open new horizons for them but which become fetters after a while. It was the Zionist Movement which sought, and accomplished the impossible—it had the partition recommendation passed. But the Israel established in 1948 was not the state the partition recommendation had called for. Again, when Israel occupied the Gaza Sector and the Sinai Desert in 1956, it declared that the Armistice Agreement had died for ever; but it called upon the Arab States to uphold these agreements when it became the target of the Fedayeen attacks after 1965. Then, in 1967, Israel considered once more that the Armistice was not valid; after its military victory it began to demand that the cease-fire agreements be upheld and its new boundaries respected.

The U.N. General Assembly had linked the admission of Israel to the U.N. membership directly to the implementation of Resolution 194(3) which calls for the repatriation of the refugees. Resolution 194(3) of May 11, 1949, which admits Israel to the membership of the United Nations expresses this link clearly. But Israel did not fulfill the request of the United Nations and, hence, has rendered void the afore-said resolution.

In order to guarantee its admission to the United Nations, Israel signed the Lausanne Protocols (May 12, 1949). If we take into consideration the difference between Lausanne and New York times, its application was accepted by the U.N. General Assembly (May 11, 1949) in the same hour as the signing of the Protocols. By doing this, Israel gave U.N. members the im-

pression that it was now amenable to withdrawing from the areas which it had occupied beyond the area assigned to the State of Israel under the Partition Plan. Once Israel acquired what it was after, it washed its hands of the Protocols and declared through its representative at the Palestine Conciliation Commission that "it could not accept a certain proportionate distribution of territory agreed upon in 1947 as a criterion for a territorial settlement in present circumstances."²

Only six months earlier, the same representative had declared: "In the view of my delegation, the Assembly's resolution of 29th November 1947, is a valid international instrument of international law . . ."³

After the June, 1967 aggression, the U.N. General Assembly passed a resolution (July 4, 1967) calling upon Israel to allow the new refugees to return home. Pressure in the U.N. wrested from Israel hesitant promises to this effect. Israel allowed no more than 14,000 displaced persons to return, out of a total of 410,000, of whom only 176,000 had found it possible to fill repatriation applications within the very short period granted by Israel. (*UNRWA Report*, Document 1/6713, para. 36).

This is a brief sketch of the Israeli attitude to international agreements and peaceful settlements. It is an attitude which indicates categorically that what has been established by means of aggression and usurpation cannot remain, except by means of the same methods. Violations of international agreements and contraventions of the principles of world peace have been deeply set in Israeli diplomacy from the very beginning of the Zionist invasion of Palestine. Consequently, all that Israel aspires to by calling for a peace treaty through direct negotiations with the Arab States is a consecration and a legitimization of the gains it won through occupying Palestine and additional Arab territories belonging to neighboring Arab States. Israel calls for a peace based on a *fait accompli* through armed force; such a peace is rejected by all conventions, resolutions and international institutions. Is-

(2) U.N. Document A/927, June 21, 1949, paras. 32-33.

(3) *Ibid.*, paras. 24-29.

rael does not look upon its presence as a usurping state established on Arab land as a subject for discussion or negotiation. It refuses to repatriate the Palestinian Arabs or any segment of them. It rejects any adjustments to its boundaries in accordance with the U.N. Partition Resolution. Over and above all this, Israel rejects even the Security Council Resolution of November 22, 1967 which calls upon Israel to withdraw from the areas it occupied in the June 1967 war, although this resolution realizes for Israel important and vital gains in various fields. Yet Israel still insists upon direct negotiations as the only road to peace. Let us examine this demand more carefully.

1. Direct negotiations are not the only procedural method of solving international conflicts. Since the first international Hague Conference in 1899, the international community has adopted several principles and methods for solving international disputes peacefully without recourse to direct negotiations whenever such negotiations are not possible. The League of Nations confirmed the principles of the First and Second Hague Conferences. Later the United Nations expanded these principles and consecrated them in its Charter. Article 33 of the United Nations Charter contains a number of procedural methods from which concerned parties can choose the one they see appropriate as a basis for solving their disputes. Article 33 states that the parties involved in any conflict the prolongation of which threatens world peace and security, must seek a solution first, through negotiations, investigation, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or any other peaceful method of their choice. One draws the following from this article:

- a) There are at least seven methods for solving disputes, negotiations being only one of them.
- b) The manner of solving a problem rests upon the parties concerned; none of the disputants has the right to dictate a method or to insist upon one only.
- c) During the twenty years or more of its dealings with the Palestine problem, the United Nations has not once

called for direct negotiations as the only method to solve the conflict. On the contrary, it has always stated "either directly or through the Palestine Conciliation Commission."

- d) By insisting upon direct negotiations exclusively, regardless of the numerous methods mentioned in the Charter, and by laying emphasis upon this procedure and none other to solve the problems created by its existence, including the new ones which have resulted from the June aggression (1967), Israel claims competence and authority which the United Nations itself has refrained from demanding for itself. By insisting on direct negotiations, Israel, thus, violates one of the rights of sovereignty which the U.N. Charter grants to the members of the world organization.
- e) Thus, Israel does not only alter the substance of the procedures but also imposes one procedure and rejects all others (save the use of force).

2. Israel declares that the Arabs' agreement to negotiate should not be the price for its withdrawal from the territories it occupied in June, 1967. The principle of withdrawal and the extent of this withdrawal should be the subject of direct negotiations. In other words, Israel is inviting the Arabs to negotiate over the question of its withdrawal not over the major problems which have remained the real cause of the Arab-Israeli conflict for twenty years, and which have led to the June war and to the occupation of further territories, as Israel itself concedes.

3. It is as if Israel, by its plea for direct negotiations, is telling the Arabs and the world that the problems emanating from its existence shall be solved the moment the Arabs accept its magical "prescription." It should be noted, however, that this "prescription" is no more than a procedural method which does not deal with the basis of the problem nor come up with solutions and remedies for the roots of the conflict. The Israeli plea for direct negotiations is a misleading over-simplification of the problem. It is aimed at diverting the attention of the world from the major

problem by presenting the crisis as a controversy over method not substance.

4. The Israeli insistence upon direct negotiations is a clear and absolute denial of any role the United Nations has in the Palestine Question. This rejection means a rejection of and a trampling on all the United Nations' resolutions (over 150 resolutions) dealing with the Palestine Question and containing the demarcation of the boundaries of Israel, the call for the repatriation of the Palestinian Arabs, the rejection of the annexation of Jerusalem, the call for withdrawal from the occupied territories, etc. Israel seeks, with one stroke, to remove the United Nations from the scene and to revoke all past resolutions. It should be noted here that Israel does not bind itself by the previous resolutions in any event. It only seeks to liquidate completely the Palestine Question starting off from a *fait accompli* and from gains realized through aggression and the use of force.

5. By calling for direct negotiations with the Arab States, Israel aims to remove the Arab Palestinian people and to obliterate its entity because this people represents the party originally involved in the problem and because it is the rightful and legitimate party entitled to determine the future of Palestine.⁴ The Palestine

(4) The Israeli officials have been wont to deny the existence of the Palestinian people. *Lamerhav* correspondent asked Mrs. Golda Meir the following question: "You opposed in the past the so-called 'Palestinian Solution' and said that fourteen Arab States are enough for us. But what right have we—and are we able—to determine the nature of a Palestinian people? What right have we to determine whether it has the right to an independent State, of course outside the safe borders of the State of Israel?"

She answered: "What do we mean by a Palestinian people? I always wonder and ask myself this question but find no answer. There once was a country called Palestine which was placed under British Mandate and within Palestine's borders of that time there was also today's Kingdom of Jordan created by Churchill in the twenties. Twenty years have passed since the rise of the State of Israel and since the inhabitants of the West Bank have turned into Jordanian citizens. For they elect representatives to the Parliament and have Ministers in the Jordanian Government. When was the Palestinian people born, then? I understand that one of the means to eliminate the State of Israel is such a claim as the existence of a Palestinian people. For the person who speaks in the name of the Palestinian people speaks of Tel Aviv, Jaffa and Haifa. All these are for him the Palestinian people. But this has ceased to be since the Palestinians became Jordanians, and the Arabs who remained in Israel (since 1948) have become Israeli citizens and the State of Israel is their State." (*Lamerhav*, 22/4/1969).

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people is the principal party directly involved in most of the questions in dispute. The Arab States are not empowered by the Palestinian people. Therefore they have neither the competence nor the right to make decisions in the absence of this people, or on its behalf, in matters that deal with its homeland and destiny.

"There is a deeper significance, however, to Israel's refusal to countenance negotiations with Palestinians. Having banished them *physically* from their land, Israel now endeavors to banish them *politico-judicially* as well from councils of decision making concerning themselves and their country. To Israel, the Palestinian people as such does not exist, and Palestinians have neither national existence nor national rights. These are fundamental postulates of Israel's very being. By inviting the Arab states to negotiate with itself about the future of the area, Israel aspires to exact from them an implicit endorsement of these Israeli theses. Refusing to be accomplices in the politico-judicial assassination of the Palestinian people, the Arab states decline."⁵

6. By insisting upon direct negotiations, Israel aims at winning a political victory, namely the implicit recognition of Israel when it has not yet declared its agreement to withdraw from the territories it occupied during the 1967 aggression. In a deal like this, Israel emerges as the only winner: If the Arabs refuse to negotiate, they lose; if they accept, Israel gains.

7. Israel realizes that if the Arab States were to agree to direct negotiations, a pre-condition which Israel knows is unlikely, these States, since Israel occupies vast and important areas of their territories, would not be in a position to negotiate over the basic issues of the Palestine problem, namely the Israeli presence itself as a usurping entity established on Arab land and the resulting dispossession and expulsion of the Palestinian people.

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In his last statement to the press, Levi Eshkol denied emphatically the existence of the Palestinian people. To the question, "If the Jews have a right to live in a homeland in this part of the world, don't the Palestinians have the same right in their country?" Levi Eshkol answered: "Who are the Palestinians? When I came to this area there were 250 thousand non-Jews mostly Arabs and Bedouins. It was a wasteland more than backward. It was nothing. They have become interested in taking it from us after we transformed it into a paradise." (*Jerusalem Post*, 14/2/1969).

(5) Dr. Fayez Sayegh, *Palestine, Israel and Peace*, Beirut: Palestine Liberation Organization Research Center, 1970, p. 34.

8. Possibly, Israel is sure that the Arab States will reject this method of negotiating. Therefore, by insisting upon it, Israel continues to retain the territories it occupied in 1967, while it blames the Arab States for refusing to negotiate over the present crisis.

9. While Israel declares its desire for, and insistence upon negotiations, it simultaneously takes a series of measures which indicate it has no intentions of withdrawing:

- a) It has annexed Jerusalem, in defiance of the U.N. General Assembly and Security Council resolutions.
- b) It refuses to allow the Palestinians who were expelled from their homes in the wake of the June 1967 war to return thereto. By doing so, Israel defies the U.N. resolutions and asserts its wish to empty the occupied areas of their indigenous inhabitants, as it did in 1948.
- c) It is building a series of fortified settlements in the newly occupied territories.

10. Israel has not stated publicly its intentions to withdraw in the event of the Arabs accepting to negotiate. Instead, it has introduced a new expression in the lexicon of the crisis, "secure and recognized borders." We do not know precisely what the term means. The late Prime Minister, Levi Eshkol, thought the Suez Canal the best natural frontier between Israel and Egypt, Moshe Dayan believes the Jordan River to be the best dividing line between Israel and the Hashemite Kingdom, and various Israeli leaders insist that the Syrian Golan Heights should be retained.

11. Israel has begun, since the June 1967 war to appeal to World Jewry for widescale immigration to fill its newly acquired territories.

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The Israeli call for direct negotiations between Israel and the Arab States has been exposed, by the Israeli policy itself as well as by the statements of the Israeli leaders, in spite of the numerous declarations and memoranda the Israelis pile up in the name of

Peace. Following are examples of such statements, which, one notes, go parallel with the actual Israeli conduct mentioned above.

1. In a closed meeting of the Parliamentary bloc of the Labour Party, Moshe Dayan announced, "For Israel, the area lying between the Mediterranean Sea and the Jordan river constitutes one territorial unit. I vehemently oppose the demarcation of any frontiers that would divide this territorial unity." He continued to say, "Israel should not agree to the Security Council resolution under any circumstances, because this resolution clearly calls for our withdrawal to the 4th of June, 1967 lines. It is no use to play with words in an attempt to interpret the resolution otherwise." (*Ma'ariv*, 19th June, 1968)

2. In an interview by *Ha'aretz* (19/1/1968), Dayan declared: "It is possible that Abdel Nasser is ready to come to an agreement with us if we return to the old borders. It is possible, then, that Abdel Nasser is ready to end the state of war and to agree to freedom of navigation in the Straits of Tiran and to promise something in connection with Suez . . ." The *Ha'aretz* correspondent asked: "Do you support or oppose this?" Dayan answered: "I certainly oppose it."

3. The Chief of Staff of the Israeli Army, Haim Barlev, declared that the purpose of the military operations against Jordan was "to impose immediate conditions for a settlement with the Arab States . . . We can impose on Jordan the settlement we wish if we use our military forces properly. This way we can oblige Hussein to come to us asking for an agreement with us . . . We dictate a peaceful settlement if we force him to ask for one. We can do this only if we are on the other side of the borderlines." (*Ma'ariv*, 19/2/1968).

Thus, Israel's conception of a peaceful settlement rises from the barrel of a gun and from the assumption that Israel will keep the areas it occupied through aggression and will expand even further. It cannot desire a peaceful settlement, for Dayan's two

previous statements affirm Israel's rejection of the Security Council Resolution, and its refusal to withdraw from Sinai even if the United Arab Republic was prepared to pay an excessive price for it.

4. Moshe Dayan said in a meeting of the Political Committee of the Coalition that Israel considered the Jordan River to be its safe eastern border; the Golan Heights and the Gaza Sector should remain in Israel hands; freedom of navigation in the Straits of Tiran should be safeguarded by the Israeli forces in control of the Straits, which should be linked to the Israeli mainland. (*The Jewish Observer*, 18/7/1968, p. 4).

5. *Kol Israel* said in a Hebrew broadcast (17.00 hours, February 11, 1969): "Deputy Prime Minister, Yigal Allon, stated in the Knesset that he was authorized by the Prime Minister to deny all charges to the effect that the Israeli Government had declared to the Arabs it was not interested in any parts of Judea and Samaria (the West Bank). He said the Government was implementing the same policy that had been adopted."

Israel Yeshayahu, the Minister of Posts, confirmed the same thing at Beth Sokolov. He said: "The declared and approved policy of the Israeli Government regarding the occupied areas is that Jerusalem shall become all Jewish; the Golan Heights shall be a shield to guard the settlements in the Galilee and the Jordan Valley; the Gaza Sector shall not become once again part of Egypt nor shall it be placed under Jordanian rule." (*Davar*, 17/11/1968).

6. Mrs. Golda Meir, Israel's Prime Minister, gave the following interview to *Lamerhav* (22/4/1969):

Q. What, in your opinion, are the necessary conditions for the realization of peace?

A. Before anything else our neighbors must concede our presence.

Q. What is your opinion concerning Dayan's call for incorporating the areas we have acquired into the Israeli economy?

And what is your opinion concerning his call for permitting the Arabs of these areas to work in Israel?

A. I believe that we have to direct our attention to the inhabitants of these areas. However, we must provide work for them in their own areas. The idea of employing tens of thousands of workers in Israel disturbs me, not because they are Arabs, but because I believe that Jews should work in all fields, including those jobs at which workers get their hands soiled, and hard labor. In my opinion, had the Jews not performed all these jobs, we would not have realized our independence. *There is also the danger that the State might lose its Jewish quality if we leave these jobs to the Arabs.*⁶

Q. Is one to understand from your past statements that you support establishing settlements in these areas?

A. Yes, definitely.

Q. Are you satisfied with the speed with which these settlements are being built?

A. Since I have come to the Government, I have discovered that there are objective difficulties; but I shall not go into the details. I think that what has been done is not little; nevertheless, we shall try harder. Settlement in the areas should continue and I know that it shall.

Q. It is known that you oppose the drawing of a peace map as Israel sees it. On the other hand, you do not support the call of "not a foot of ground" which relieves its adherents from drawing maps for peace. I would like to ask, how can we direct our policy in the areas in the long run? More specifically, how do we decide and implement settlement without a clear policy?

A. We are living during a period when it is impossible to draw detailed outlines. We are not living in a normal situation. As to settlement for security, we just have to realize it. As to where or where not to build such settlements, it depends on objective causes and factors. There are certain places where building or not building settlements raises no controversy, although

(6) Emphasis added.

there exist in the Government divergent opinions about which peaceful borders are suitable for Israel. These differences will no doubt appear in all their violence when we come to decide, not now.

Q. Don't you have a definite geographic plan on this matter?

A. I believe I have such a plan; but I don't have to enter now into an argument with whoever has another plan. Nor am I obliged to present maps for instance. Were Israel to publish a map for peace, many conflicting maps would appear. I am convinced that these maps will be placed on the table of the Big Four; they will pick the one with the minimum (of expansion, *Translator*) and remove a part from it. I do not claim that the absence of maps will prevent the Big Powers from doing this (reducing areas Israel occupied in 1967, *Translator*), but why should I seem to condone their work by offering a map?

Q. Why isn't there a map for peace on which all the members of the Cabinet agree?

A. There cannot be a map on which all the members of the Cabinet agree; we do not live on Mount Olympus, we live in the land of Israel. We all know that there exist in the Government many different opinions on the subject.

Q. I do not mean a unanimous agreement on the part of the Cabinet members, but a majority decision.

A. But why decide now? Why present a map of this sort? I said once at the Party Headquarters (the ruling Mapai Party) that I was not ready to concede one foot of the areas to Jews (who demand total or partial withdrawal, *Translator*). However when the time comes to sit with the Arabs and negotiate, we shall see; for the time being, circumstances being what they are, a National Coalition Government is a treasure. There is no need for dissolving this government and starting a war of maps between us to no purpose.

Q. The previous Prime Minister, the late Levi Eshkol, said once that the Jordan River must be the safe border of Israel. He meant, in fact, a solution in line with what is known as

the "Allon Plan." Does your refusal to enter into a discussion of the borders mean a change in such a policy?

A. There has been no change and I don't think that there was another opinion or policy of the government or that such a policy has changed.

Q. It means that the difference lies in the manner of expressing the position of the Government, not in the position itself.

A. Exactly.

By reviewing Mrs. Meir's answers to *Lamerhav* the following points become clear:

- a) Behind the Israeli call for direct negotiations lies a desire to ensure Arab recognition of Israel's illegal existence.
- b) Israel is a racist State.
- c) Israel is continuing its policy of the *fait accompli*, this time through the establishment of settlements in the areas newly occupied. Shimon Perez confirmed this policy when he declared: "The future map of the Israeli borders shall be the result of the map we create in the present time. Therefore we have to concentrate on actual work in this field." (*Ha'aretz*, 4/8/1969).
- d) Israel is in fact determined not to withdraw from the newly occupied areas, but, for extraneous considerations, prefers not to make public this determination. Mrs. Meir referred to this fact in her conversation about maps.

* * *

We ask once again, why do the Arabs refuse to negotiate with Israel? We answer, for the reasons indicated above. For while Israel declares its faith in direct negotiations as the only acceptable way of solving the crisis in the area, we find that it persists in considering most of the principal problems as "non-negotiable." By stating this, Israel renders void this same principle to which it holds most strongly.

"Thus, the right of the refugees to return to their homes cannot be negotiated, according to Israel's *Diktat*. On the other hand, Israel declares its own claimed "right" to free shipping to be absolute and not subject to negotiation. The reactivation of the Armistice Agreements, which Israel unilaterally abrogated, is also non-negotiable. Similarly, much of the territory conquered in 1967 (the acquisition of which was unanimously pronounced "inadmissible" by the Security Council, on November 22, 1967, on May 21, 1968, on July 3, 1969 and on September 15, 1969) is declared non-negotiable: the Syrian Golan Plateau, the Egyptian Sharm Al-Shaikh, the Palestinian Gaza Strip, undisclosed portions of the West Bank, and the eastern portions of Jerusalem—the fate of all these vital areas, having been imperiously "determined" by Israel, shall not come into the proposed negotiations.

This unilateral exclusion of most of the questions at issue from the agenda of the negotiations Israel demands makes a mockery of Israel's professed desire for a settlement directly negotiated by the parties. What Israel really demands is *capitulation*."

The problem is not, then, one of a particular procedure. It is the problem of a people, uprooted and divested of its property. It is the question of a militant entity, continuously expanding at the expense of others, giving no weight to law, heeding no convention or agreement that frustrates its ambitions.

* * *

After all this, some proclaim that the Arab stand is negative and unrealistic and that it would be better to accept a compromise solution which would be better than nothing.

"Granted, that under certain circumstances a compromise solution is the most suitable for all parties. But there is a vast difference between saying that a compromise solution is possible in some cases in dispute, and that a compromise solution ought to be pursued in all cases. Where is the line to be drawn, beyond which this kind of agreement is not permissible?

"A compromise solution may be possible when the problem to be solved is a passing conflict over relative rights, or partial interests, or side issues, i.e., when the conflict arises within a larger framework of agreement on what remains of rights and interests.

(7) Fayez Sayegh, *op. cit.*, p. 33.

"But in matters of destiny, where the conflict is not over relative rights but on the absolute right of existence; or when it is not about foreign interests but about essential interests upon which existence itself rests, such as the homeland; also in matters of destiny in which one of the parties enjoys absolute right in his land and his existence while the other party's position is characterized by absolute usurpation of the right of others; in matters of destiny such as these, it is not permissible to think of a compromise solution, let alone accept or call for one.

"For the middle point between one absolute and another is not relative. It may fall midway between both absolutes; but the central point between one absolute and another absolute is itself absolute and must lie inevitably on the side of one or the other absolute.

"A compromise solution is not permissible when the dialogue runs between right and wrong. If two people argue and one says, '2 + 2 = 4,' while the other says, '2 + 2 = 6' and a mediator reconciles them on the basis of a compromise solution saying, '2 + 2 = 5', such a solution will not be midway between right and wrong. It will be all wrong.

"So it is in the struggle between good and evil. A compromise settlement is permissible in a conflict between two parties, each of them a mixture of good and evil, though this be in different proportions. It is also possible to devise a relative compromise course between two parties, each of which is of a relative nature, such that the suggested compromise course will be better for each party than any of the extremes. But between absolute right and wrong—between the owner of the house and the thief who broke into the house and got hold of its belongings—a compromise course is not a neutral course between this party and the other. It is a biased settlement in favor of the thief, of the principle of theft and of disregard for the Law; it is biased against the owner of the house and his right of property.

"This call for a compromise solution in the case of the Palestinian problem is not permissible . . . for in essence the Palestine problem is the holding of a people onto its right and its

national destiny, on the one hand, and the usurpation of this right by an intruder, on the other hand. Thus, a compromise solution between absolute right and absolute usurpation is a punishment for the owner of the usurped right and a reward to the intruder, no matter how varied the proposed compromises are, or what size area occupied. What is required of both parties is to accept that this area remain occupied.”⁸

* * *

As to the allegations that the Arab refusal to recognize Israel is a negative and unrealistic standpoint, the truth “is that every rejection involves also an acceptance, and every acceptance a rejection. In every choice between two opposites, the rejection of one is by necessity an acceptance of the other. There is no pure rejection or pure acceptance. Negativism is the other face of positivism and positivism the other side of negativism, both being inseparable.

“The test of positivism and negativism is not, then, the acts of rejection and acceptance. This formal and mechanical test is invalid, and must be replaced by a truer test. What could it be?

“The decisive test is the nature of the thing rejected or accepted. It lies in the nature of the purpose behind the rejection and the motive behind the acceptance.

“The person who rejects wrong out of insistence on the right, or who opposes injustice out of love for justice is not essentially negative though he may seem so outwardly.

“Similarly, the person who opposes out of love of opposition, or out of a personal tendency to contradict everything for the sake of contradiction holds a negative standpoint, be the subject he opposes evil or good. But he who rejects something out of a conscious distinction and a conviction that it is fit for rejection, his rejection is positive in spite of its negative appearance.

(8) Fayez Sayegh, *A Fistful of Fog*, Beirut: P.L.O. Research Center, 1966, pp. 14-16.

"In the light of these principles, we say 'no' to Israel because we say 'yes' to Palestine.

"We say 'no' to Israel, to the continued usurpation embodied in Israel because we say 'yes' to the principles which no international order can dispense with, if it is to be just, sound and stable.

"We say 'no' to Israel because deep in our hearts there is a positive attachment to our rightful national rights and a similar attachment to the principles of justice and honesty in international relations, and a positive readiness to fight for the sake of defending these principles and these rights.

"Because we are positive, truly positive, we say 'no' to the Israeli existence, its perpetuation, and all that Israel symbolizes and all it embodies."⁹

* * *

Finally, Arab non-recognition of Israel and Arab refusal to negotiate with it do not emanate from an unrealistic standpoint. "Realism, which is an appropriate measure of programs, plans, timetables and immediate aims, is not good for determining the absolute aims and ultimate ends of human endeavors . . .

"Determining the ultimate ends of human existence, or of any human endeavor, is not subject, and truly so, to the measures and mathematical operations of programs and plans that reach approximate ends that, in turn, lead to the fulfilment of more remote ones.

"Self-preservation and self-defence for example, are among the ultimate aims of every rational being, be he an individual or a state. They do not come under mathematical realism. Who amongst us looks into himself from time to time to decide in the light of a minute survey of factual calculations whether he should forfeit his right to existence or hang on to it? Which State does this? We look upon our survival as a self-evident matter—above calculations, above investigation, above realism. All that we see

(9) Fayez Sayegh, *op. cit.*, pp. 3-4.

about us may be conducive to pessimism about our ability to survive—should we then commit suicide because we are convinced that earthquakes, raging winds, tempestuous seas, and ferocious animals are stronger than our bodies? Many commit suicide daily—but how many do it out of a conviction in realistic calculations?”¹⁰

* * *

One last point remains to be mentioned in this respect: does admission to the U.N. necessarily and automatically entail recognition by the old members (the Arab States) of the new member (Israel)?

“In the first place,” Ian Brownlie writes, “to speak of a juridical obligation is, in fact, to beg the question. It cannot be said that obligation exists except *vis à vis* a subject of international law. But, as regards the State which refuses to extend recognition, the entity to be recognized is not yet a subject of international law; therefore no obligation to recognize it is owed to this entity. Recognition, as a sovereign act, is optional, and has a political and discretionary nature. There is no juridical obligation in this matter.

“In the second place, as to whether the recognition of a state is affected by its admission to the United Nations,” Brownlie observes, “it is wrong to hold that such admission involves *ipso jure* recognition of the new member by all the old members of the Organization regardless of how they voted on the question of admission. There is nothing in the Charter, or in the rules of international law outside the Charter, which obliges a State withholding recognition, to grant political recognition to the new member and to establish with it bilateral relations, which remain entirely discretionary.”

Furthermore, “The obligation to withhold recognition from new States falls upon the members of the international com-

(10) Fayez Sayegh, *op. cit.*, pp. 7-9.

munity when the creation of these new States is accompanied by manifest irregularities or by acts of violence . . .

"The Stimson Doctrine, which was accepted by the League of Nations, since a resolution unanimously adopted on March 11, 1932 forbade members to recognize new States created by force or conquest, has been ignored by the U.N. . . .

". . . It [Stimson Doctrine] is in keeping with Article 2, paragraph 4, of the Charter, which outlaws force; it imposes a penalty for the violation of this obligation."¹¹

* * *

On the other hand, *de jure* recognition of Israel by the Arab States "has not come about, as a result of the continuation of the state of war which, in this case, is a specific nature, inasmuch as it constitutes a *fundamental refusal on the part of the Arab States to recognize any right on the part of Israel to create a State.*"¹² Concerning the armistice or cease-fire agreements, (to which Israel has declared it non-commitment and which it violates daily), ". . . it is generally conceded that an armistice does not put an end to the state of war; it does no more than suspend war operations by an agreement between the belligerent parties; the local or general nature of the armistice, and its duration, do not modify its effects. Only a peace treaty or failing that, an express statement, puts an end to a state of war existing between the belligerents after the cessation of hostilities."¹³

* * *

(11) Seminar of Arab Jurists (Algiers, 22-27 July, 1967), *The Palestine Question*, Beirut: The Institute for Palestine Studies, 1968, pp. 98-99.

a — Ian Brownlie, *Principles of Public International Law*, Oxford: Clarendon Press, 1966, pp. 85-90.

b — *Memorandum of the U.N. Secretariat General*, Document S/1466.

c — Hans Kelsen, *The Law of the United Nations*, London: 1951, p. 946.

(12) *Ibid.*, p. 100.

(13) *Ibid.*, p. 102.

However, the belligerent State does not acquire rights in the occupied territory—even if the State against whom the aggression is committed forfeits this right—unless its possession of the land is uninterrupted, uncontested and not clandestine. In fact, the exercise of sovereignty on the part of one party and the consent of the other are the two necessary conditions for acquisitive prescription. This principle must be interpreted on the basis that consent represents a redressing of the original crime and constitutes a new act upon which valid legal results are built.

Military occupation in itself does not lead to a transfer of sovereignty. It must be accompanied by actual acquisition for the purpose of exercising legal sovereignty. There is no legal limitation set as to the duration of acquisition. Some have suggested that this duration should be sufficient to create, under the effect of historical development, a general conviction that the present situation is compatible with international law.¹⁴

Twenty two years have passed since the Zionist occupation of Palestinian land, and three years since the occupation of other Arab territories. Nevertheless, this jurisprudential condition has not been fulfilled, because "the general consensus" does not view the present situation in the Middle East as being compatible with international order. The removal of the political and social identity of a people in its entirety is incompatible with international order, particularly since this people still exists; it is a contravention that threatens world peace. In addition, Israel cannot avail itself of acquisitive prescription on mere duration, for the other condition that must accompany it, the condition of peaceful possession does not obtain. Peaceful possession is realized when a number of active and passive actions are indicative of stability and an acceptance of the new situation.

When we look at the official stand of the Arab States and at the activities of the armed Palestinian resistance, we shall find that the element of peaceful possession of the land does not ob-

(14) Oppenheim's International Law, Vol. I, p. 576.

tain. In the absence of this element, the element of time loses its validity; this nullifies legal acquisition, the right of sovereignty and the retention of the occupied area.

* * *

As to the Palestinian position *vis à vis* direct negotiations, it rests upon absolute rejection of this call; for the Arab Palestinian people refuses to negotiate with an enemy who usurped its land, seized its possessions and drove away its sons to sink deep in misery and suffering. Twice did the enemy send the Palestinians into collective exile: once in 1948 and again in 1967. Besides, the Palestinian people cannot negotiate with an enemy who, at any rate, does not recognize the existence of a Palestinian identity, nor shall the Palestinian people negotiate with an enemy who seeks with all his might to liquidate its entity, obliterate its characteristics and deface its heritage.

Represented by its fighting vanguard, the Arab Palestinian people rejects any call or project which will invest with legality the Zionist colonialist presence on the soil of Palestine. This rejection applies as well to the Security Council Resolution of November 22, 1967. In this, the Palestinian rejection concurs with the Israeli rejection, but for different reasons.

While Israel rejects the Security Council Resolution because it desires to retain the gains it acquired during the June 1967 aggression and to consecrate its occupation of additional Arab territories, the Palestinian rejection is based on the rejection of the Zionist colonialist phenomenon and of any attempt at investing it with legality and continuity. This rejection emanates from an absolute faith in the necessity of the reign of justice and peace in this part of the world.

Instead of the lame solutions proposed to end the Middle East crisis, the Palestinian Revolution proposes a positive solution for this crisis which goes beyond its seemingly negative stand based on the rejection of negotiations and the Security Council Resolution. This stand is summarized by the call for the estab-

lishment of a democratic Palestinian state in which Muslim, Christian and Jewish citizens shall enjoy equal rights and duties and where there will be no trace of discrimination in any form.

The only solution in which the Arab Palestinian people have faith is the liberation of Palestine from Zionist colonialism in alliance with world imperialism, and the establishment of a democratic state in Palestine which shall guarantee for all, Muslims, Christians and Jews, equal rights and duties. The Arab Palestinian people, which is engaged in an armed struggle for the sake of this aim, considers this solution to be the only just, acceptable and lasting one, not only from its own viewpoint but also from that of the Jewish inhabitants of Palestine.

Four conditions must obtain in any solution of the Palestine Question:¹⁵

1. The solution should equally satisfy and be beneficial to both Arab and Jew.
2. It should be centered on the substance of the problem not the details.
3. It should be based on justice.
4. It should be a final solution not temporary and palliative.

The solution proposed by the Arab Palestinian people fulfills these four conditions:

1. The proposed Democratic State of Palestine entails permitting the Jewish community in Palestine to live in peace and stability for the first time since the Balfour Declaration. The avowed aim of Jewish immigration into and settlement in Palestine was to provide a haven for

(15) These points and the following analysis occurred in a speech by Professor Yusif Sayegh, Director General of Palestine Liberation Organization Planning Center, delivered at the Joint Middle East Churches and World Council of Churches Convention, Nicosia, Cyprus, September 29-October 4, 1969.

Jews. This has been striven for against the will of the Arab Palestinian people. A truly peaceful haven for Jewish citizens, not for their powerful army and governing institutions, cannot be attained without an entente with the Palestinian Arabs. The democratic state based on the principle of partnership is the only form acceptable to the Arabs of Palestine, if they are to turn over a new leaf and pay no further attention to the injustice and sufferings they were subjected to during the long years of dispersion and deprivation.

2. The solution in which the Palestinian Revolution has faith is a fair one as regards the Jewish community in Palestine. It entails permitting Jews to remain in Palestine although they occupied it by force without recourse to law, and without the consent of its original inhabitants. The Arab Palestinian people is willing to waive any claims of redress for the great calamity that has befallen it, shattering its unity and identity as a community and menacing its very physical existence, if the Palestine Jews are willing to free themselves from Zionism and all the expansion, colonization, bigotry and racism it contains.
3. The solution which the Palestinians support has the quality of being durable, not temporary, for it returns the problem to its origin, to the point at which the wrong started, not to the derivatives of the error. All the proposed solutions, including the one proposed by the Security Council (November 22, 1967) deal with side effects, never with the essential problem. But the establishment of a democratic state in Palestine provides all parties with a permanent solution to their major problems and creates a tolerant, stable and peaceful climate in which they can coexist, free from coercion and belligerence, striving towards cultural and scientific achievement.

4. Finally, this call for the establishment of a democratic state in Palestine is completely realistic. Israel's military superiority over the Arab States is a temporary matter, no matter how long it lasts. The Arab States have potentialities that exceed, in the long run, Israel's potentialities, a condition which will eventually give the Arab States the opportunity to inflict on Israel a smashing defeat. The acceptance on the part of the Palestine Jews, of the Democratic State of Palestine, which shall rise on the ruins of the Zionist State and its political, military, economic and intellectual institutions, is the only solution which leads not to the inevitable Zionist defeat, but to a tolerant and peaceful society.

The Palestinian Arabs today carry arms to make Jewish citizens in Israel recover from the blinding ecstasy of the military victories which the Zionist army and world imperialism have realized for them, and to make them listen to the Palestinian voice calling for a permanent, just and acceptable solution for Jews and Arabs alike.

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