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REIMAGINING ISRAEL/PALESTINE

Assessing a Confederal Future

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Cover Photo: The image shows a mosaic "peace project" art installation on the Gaza separation barrier. Photo taken by authors.

At the request of the CIA, authors of this report examined the feasibility of a confederal model as an alternative to the traditional negotiated two-state solution.

The SIPA team employed qualitative analysis to investigate theories and real-life models of confederations, in which separate communities seek to achieve shared governance. Scholarly discourse, comparative case studies, and interviews with a broad range of stakeholders - including academics, policymakers, religious leaders, and local actors - informed the group's findings.

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ACRONYMNS

CT: Counterterrorism

DDR: Disarmament, Demobilization, Reintegration

IDF: Israeli Defense Forces

PA: Palestinian Authority

PASF: Palestinian Authority Security Forces

PLO: Palestine Liberation Organization

PNF: Palestinian National Security Forces

SS1: One-state solution

SS2: Two-state solution

SSR: Security Sector Reform

EXECUTIVE SUMMARY

Key Judgment

To alleviate diplomatic deadlock over an Israeli-Palestinian “two-state solution,” it is worth considering confederalism for novel insights. Nevertheless, a confederal approach cannot remedy divergent security assessments of Israelis and Palestinians, and the asymmetry of power between them.

The window of opportunity for the two-state solution (2SS) is closing. Periodic efforts to revive the Oslo Accords encounter a lack of political will by Israeli and Palestinian leaders. Realities on the ground, including power asymmetries and the proliferation of Israeli settlements, preclude clear-cut separation between two viable, independent states.

Redefining sovereignty in a way that focuses on power sharing and interdependence, rather than territorial exclusivity, opens the door for considering alternative models – moving away from the 2SS model to explore a potential Israeli-Palestinian confederation. In this report, a confederation is understood as a model of governance that spans two or more independent states with provisions for deep power sharing. A confederation between Israel and Palestine would include four key features: sovereign entities, open borders, provisions for power sharing, and a unified Jerusalem.

This report does not advocate for a confederal model but rather uses it to develop novel insights for a fresh approach to some core issues: Jerusalem, refugees, security, water and rights and reconciliation. Significantly, the confederal approach attempts to de-conflict rather than divorce

relations between adversarial parties. It requires cohabitation and therefore relies upon a higher level of trust and cooperation than a traditional two-state model.

Although there is no perfect comparative case study that could apply the confederal model to all features of the Israeli-Palestinian dispute, this report cites several case studies that are relevant to exploring components of such model.

Opportunity

If joint governance begins as a thin confederation rather than an exhaustive collaboration, the confederal approach may be more palatable to the parties, who are determined to retain sovereign privileges (Israel) or attain sovereignty (Palestine).

Jerusalem

The intermingling of Palestinians and Israelis in Jerusalem enable this urban center to serve as a laboratory for key elements of the confederal model: power sharing and open borders. However, Israelis worry that open borders would undermine security and Palestinians infer that power sharing won't be equitable, given their experience with Oslo.

Case Study:

Brussels is a bi-national city, which demonstrates the feasibility of a confederal urban model.

Opportunities:

If granted, freedom of movement could assuage some Palestinian concerns and

increase likelihood of "buy in" to the confederal model.

Citizenship and Residency

Delinked residency and citizenship could hold promise for settler populations and Palestinian refugees, by averting the need for a population and land swap. This is an advantage that the confederal approach has over the 2SS. However, negotiations between both entities over "quota" decisions would probably yield limits on returning refugees. Nor does this approach deal with the issue of compensation for Palestinian land appropriated for settlements and also for land lost through the creation of Israel. Finally, security would be a key challenge.

Case Study:

The European Union's Schengen Area may provide a model for citizenship in an Israeli-Palestinian confederation. People could live as residents of one entity, while retaining citizenship of the other entity-- without being subject to border checks. Restrictions on freedom of movement, employment opportunities, and residency would be gradually loosened.

Opportunities:

If both entities adopt a fluid approach to sovereignty and administrative authority, Israelis and Palestinians could benefit from equal citizenship rights and responsibilities.

Security

Security is the largest obstacle for the confederal approach. Israelis understand separation and control as fundamental to security, while Palestinians view Israeli presence in the West Bank as an occupation, entailing daily risks and humiliations. The confederal approach embraces an emphasis on "human security" for individuals and

communities, as distinguished from, if combined with, state security. Nevertheless, open borders raise Israeli concerns about security, while power sharing arrangements between asymmetrical entities cloud issues of sovereignty for Palestinians.

Case Study:

Open borders in Northern Ireland after the Troubles led to increased economic activity and a reduction in violence; this is a model for how transformative solutions can increase security rather than weakening it.

Opportunities:

Effective bottom-up security sector reform (SSR) in Palestine could convince Israelis to devolve more power to local Palestinian forces and bolster trust.

Enhanced human security via freedom of movement and economic empowerment could lessen expressions of violence, rendering separation unnecessary.

Shared Resources: Water

The confederal model presents great opportunities for Israel and Palestine to create joint, permanent institutions to manage, maximize, and share the benefits derived from water resources. Equitable power sharing would enhance and protect the dignity and living standards of the people and the environment in which they live.

Case study:

The 1995 agreement and creation of the Mekong River Commission promote cooperation and improve transparency and trust among member states. MRC allows better data monitoring and information sharing to minimize regional adverse impact

of hydro-climatic hazards, thus enhancing sustainable and equitable use.

Opportunities:

If a combination of top-down approach and bottom-up local initiatives is adopted to manage regional water, it could help foster cooperation and peacebuilding efforts between Israel, Palestinians, and other regional partners.

Rights and Reconciliation

A greater emphasis on rights and reconciliation would be vital because a confederation requires cohabitation, not divorce. The evolution of trust and cooperation would require confidence-building measures and reconciliation between the parties.

Case Study:

The transformation of South Africa from an apartheid regime to a democratic one is an example of peaceful transition and reconciliation between parties to an ethno-national conflict.

Opportunities:

If the parties integrate the diverging historical narratives into a shared educational curriculum, which also humanizes the opponent and bolsters critical thinking, this could create the opportunity to

develop the trust and respect needed for a confederal model to function.

If the parties hold a historical commission or a truth and reconciliation commission, this could open space for the cooperation necessary for power sharing and freedom of movement.

Main Takeaways

Trust is Central

The evolution of enhanced trust, vital for the success of a confederal model, may best be nurtured through a formal reconciliation process. This process would have to go beyond incremental trust-building exercises, which are unlikely to succeed because Palestinians are wary of incrementalism.

Bottom-up Initiatives are Most Effective

Local, bottom-up initiatives would need to supplement top-down approaches.

Prospects

Diplomatic initiatives in the past, which have been confined to the two-state model, have perpetuated rigidities that discourage innovative solutions. Whatever framework is ultimately embraced by Israelis and Palestinians, the lessons of a confederal model may help broaden the parameters of what seems possible.

01 Introduction



CHAPTER ONE: INTRODUCTION

Statement of Purpose

This report assesses confederalism as a proposed model for reimagining Israeli-Palestinian relations. The report does not promote a specific program of action. Rather, it lays out an analytic assessment of the confederal approach, while keeping in mind asymmetries of power and changing realities on the ground. This report rests on the premise that the guarantee of equal rights for all people affected is central to any sustainable model. From this perspective, it seeks to understand how narratives and discourse may affect different aspects of the model.

Overview

This report finds that an Israeli-Palestinian confederation could be transformative. At its core, a confederal approach seeks to establish a cooperative framework based on mutual interest, which could provide an alternative to the prevailing zero-sum mentality that has defined negotiations on the so-called “final-status” issues. At the same time, it holds the possibility of ending ongoing injustices while permitting both sides to maintain and protect their national identities. However, potential barriers to a confederal model are numerous. Israeli emphasis on security and the proliferation of Jewish settlements in the Palestinian territories raise numerous barriers for a diplomatic solution. Additionally, intra-Palestinian divisions, institutional weakness, and endemic poverty complicate any attempts to address decades of injustice towards the Palestinian population. Questions of timing and sequencing are critical to its implementation. Simply imposing a confederal model would be a sure-fire recipe for failure.

This report proceeds as follows. The first section provides a brief introduction to the history and current state of the conflict, followed by a conceptual discussion of confederation as a model. It explains the reconceptualization of sovereignty within a power sharing framework. It then takes a closer look at final status issues, and analyzes various recommendations by studying relevant comparative cases. The body of the report begins with an assessment of Jerusalem, as intermingled populations within the holy city most saliently showcase the difficulties of a two-state partition. The contested right of return and presence of settlers in Palestinian territories is then addressed. Next, the report turns to the highly problematic issue of security, attempting to give equal weight to Israeli and Palestinian security concerns. Then, the report makes suggestions for more equitable water and resource-sharing under a confederal model. Finally, the report notes a number of human rights challenges that would have to be addressed before a confederal model could take hold.

Key Judgments

Inherent difficulties in the one-state solution (1SS) and two-state solution (2SS) make it worthwhile to consider alternative models that could be applied to the question of Israel and Palestine.

The confederal approach attempts to deconflict rather than divorce shared interests, involving: (1) two sovereign entities; (2) with freedom of movement between them; (3) provisions for power sharing; and (4) shared sovereignty over Jerusalem.

Exploring sovereignty's relation to power sharing and interdependence, rather than insisting on territorial exclusivity, opens the door for considering alternative models.

While an overarching comparative case for the confederal model is absent, examples such as Belgium and the European Union can be considered.

Introduction

Many countries remain committed to the framework created by the Oslo¹ process in

¹ The Oslo Accords are a series of agreements signed between Israel and the Palestinians. The foundational agreement is the "Declaration of Principles on Interim Self Government Arrangements" ("Oslo I"), which was signed in Washington on September 13, 1993. Oslo I stipulated that the Palestinian Authority be officially recognized by Israel as the governing body of the Palestinian people and be afforded self-government in parts of the West Bank and Gaza Strip. On September 28, 1995 the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip ("Oslo II" and together with Oslo I, the "Oslo Accords") was signed, calling for Israeli withdrawals from various Palestinian areas and expanded Palestinian self-rule. It divided the West Bank and Gaza into three areas, controlled

1993, which anticipated an independent Palestinian state alongside Israel. Though the Oslo formula has since declined as a feasible option, there have been few credible alternatives considered by the international community.

The idea of a partition was first proposed by the Peel Commission, convened in 1937 by Britain, which had assumed mandatory authority over Palestine after World War I. The Commission proposed dividing Mandatory Palestine into two states – one Arab, one Jewish – including population swaps. Partition was again addressed in United Nations (UN) Resolution 181 of November 1947, which called for the creation of a Jewish state on 56 percent of the land, an Arab state on the remaining area, as well as an "international trusteeship regime" for Jerusalem. Jewish leaders, seeking a secure homeland for the Jewish people after almost a century of increasing persecution and pogroms in Europe, culminating in the Holocaust, accepted this plan. However, Palestinians, who formed a majority of the population and owned most of the land, refused to accept partition of their ancestral homeland. As a result of this impasse, war erupted within Palestine in 1947, drawing in Arab neighbors in 1948.

By the end of the war in 1949, an Israeli state was established, and it had gained more land with the Armistice Lines than was originally allocated to it in the Partition Plan. Of the areas that were designated for a Palestinian state under the Partition Plan, Gaza was administered by Egypt and the West Bank was annexed by Jordan (formerly Transjordan) in 1950. The Old City of East Jerusalem, which the UN plan hoped to transform into an international city, came under Jordanian control.

by either Israel, the Palestinians, or Palestinian civil authority with Israeli military control.

The war resulted in the expulsion of the majority of the Palestinian population (Morris). In response, the UN General Assembly passed Resolution 194 in December 1948, resolving that: “refugees wishing to return to their homes and live in peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible” (UNGA Resolution 194, Article 11).

In June 1967, war erupted again between Israel and its Arab neighbors. By the end of this war, Israel had conquered the Sinai and Gaza, the Golan Heights, and East Jerusalem. In East Jerusalem, Israel offered Palestinians Israeli citizenship in return for a renunciation of previous citizenships, assumed to be Jordanian. Others were granted permanent residency. Henceforward, Israel pursued a policy of building Jewish settlements, considered illegal by the international community, on occupied lands. UN Security Council Resolution 242, which addresses the aftermath of the 1967 War, emphasizes the “inadmissibility of the acquisition of territory by war” and the need to work toward a “just and lasting peace in the Middle East.” It calls on Israel to withdraw its forces from “territories occupied in the recent conflict”. It also recognizes every state’s “right to live in peace within secure and recognized boundaries”.

The Palestine Liberation Organization (PLO), formed in 1964, quickly assumed the mantle of leading Palestinian national aspirations. The PLO did not agree to a two-state solution until 1988, with the adoption

of the Palestinian Declaration of Independence during the first Intifada (“P.L.O. Proclaims Palestine to be an Independent State; Hints at Recognizing Israel”). Several years later, secret negotiations commenced in Norway, leading to the Oslo Peace Accords, the first of which was signed in a historic 1993 agreement. Pursuant to the Oslo Accords, Israel hoped that the Palestinian Authority (PA) would become a stable entity that maintained peaceful relations with Israel. The hope was that this would ensure Israel’s existence as a Jewish and democratic state (Even).

The window of opportunity for transitioning into two states peaked following this watershed year. The interim agreements were met with stark opposition by a variety of Palestinian and Israeli groups, and directly led to Israeli Prime Minister Yitzhak Rabin’s assassination. This event, coupled with a series of terrorist attacks in Israel, shifted the political discourse in Israel towards a general sense of insecurity, thus undermining the potential for achieving partition based on the Oslo framework.

Since the failure of the Camp David Summit in 2000, and Israel’s refusal to embrace the Arab Peace Initiative of 2002, Israelis widely subscribe to the narrative of having “no partner” for peace (Ehud). Since then, a series of governments in Israel have duly stated nominal support for the two-state solution, while continuing to expand settlement construction, eroding the viability of any solution based on partition. By the end of 2013, there were 125 settlements and 100 more outposts throughout the West Bank, with an estimated population of 547,000, not including East Jerusalem and enclaves within Hebron. Twelve large neighborhoods were built in areas that Israel annexed to the Jerusalem municipality in

1967. B'Tselem, an Israeli human rights organization, has found that, based on data from Israel's Bureau of Statistics, "the annual growth rate for the settler population (excluding East Jerusalem) in 2013 was more than two and a half times higher than that of the overall population in Israel" ("Statistics on Settlements and Settler Population").

The waning possibility of a two-state solution led the Palestinian Authority to pursue a strategy of seeking external recognition for its claim to statehood. Following a failed bid to join the UN as a full member state in 2011, Palestine obtained observer status in 2012. Now, the "State of Palestine" is recognized by 137 of the 193 UN member states, and there are Palestinian embassies in many countries around the world ("Palestine: Growing Recognition"). However, considering the scale of Israeli settlement building and its penetration deep into Palestinian territory, an assessment that the two-state solution is no longer tenable is increasingly widespread.

Difficulties with the Two-State and One-State Solutions

Inherent difficulties with 1SS and 2SS contribute in part to the intractability of the Israeli-Palestinian conflict. Growth of settlements deep within Palestinian territory and questions concerning the lack of territorial contiguity between the West Bank and the Gaza Strip complicate the proposed two-state solution. Meanwhile, future demographic trends, which are projected to assure Palestinian majority under a one-state solution, threaten to undermine Israel's status as a Jewish state - its very *raison d'être* - making this proposal a nonstarter for most Israelis. Simply put, the 1SS and 2SS

are imaginable yet nearly impossible to implement.

As outlined above, the 2SS faces several problems. More than two decades of failed negotiations suggest the bankruptcy, or questionable value, of the Oslo framework. Among other issues, if the realization of Palestinian statehood required a forced relocation of settlers, they might respond with violent resistance. Furthermore, Palestinian refugees seeking right of return would likely lack safeguards under Israel-approved 2SS terms (Waxman and Scheindlin). Finally, even if all final status issues were addressed, the future state of Palestine would continue to face economic challenges and threats to its own internal stability (Beilin).

Some Palestinians and many Westerners advocate for the 1SS with equal rights for all (Munayyer). The liberal-democratic model of diversity and pluralism, based on the protection of individual rights, freedom of religion, and freedom of association, could be ideal in many regards. However, the 1SS faces significant pushback from both sides.

Adherents of Zionist ideology, for example, believe that the one-state solution is unthinkable, as it presents a choice between a majority-Jewish state and a democratic one (Scheindlin, "Lessons from Cyprus for Israel-Palestine"). To preserve a majority-Jewish state under 1SS, a large portion of the population would likely be disenfranchised. This would require Israel to acknowledge a reality of apartheid, undermining Israel's claim to liberal democratic principles (Eldar). On the other hand, if all residents were given equal rights, Israel would no longer remain a majority-Jewish state (Beilin, "Confederation is the Key to Mideast Peace").

Though many Palestinians prefer the 1SS, there are nonetheless significant conflicting interests. Palestinian leadership is divided. The Palestinian Authority would likely withhold support for the 1SS because of the devolution of power it would require. A one-state solution resulting in the denial of Palestinian rights would not satisfy the PA, Hamas or, most importantly, the Palestinian people. Finally, it should be noted that a 1SS with equal rights for all would require that Palestinians accept living in a heterogeneous state (Munayyer).

The current situation is one in which the international community continues to call for a 2SS while Israel's government and policies advance toward a unilateral and unequal 1SS, denying Palestinians human rights and breeding insecurity throughout the region (Feldman). It is in this context that we explore whether a confederal model could be a viable alternative to the unsustainable and dangerous status quo.

Confederation: Definition and Theory

This report considers the strengths and limitations of a confederal model, if it were applied in the pursuit of peace and justice in Israel and Palestine. Broadly, the confederal approach envisages an "open, shared, and undivided" society, one that attempts to deconflict rather than divorce shared interests ("Two States in Once Space"). Though interpretations of a confederal approach vary, this report will consider four key features: sovereign entities, open borders, provisions for power sharing, and a unified Jerusalem.

In this report, a confederation is understood as a model of governance that spans two or more independent states with provisions for "thick" or deep power sharing. A confederal

model exists only when *two or more sovereign* member states engage in joint decision-making. Typically, sovereign member states use treaties to create a "permanent political framework," though configurations may differ according to the desires of each component entity (Scheindlin and Waxman). While there are many forms of non-unitary governance, a confederation is unique in that it rests on *voluntary* cooperation (Wolff). Unlike a federation, where sovereignty is constitutionally enshrined in the central government, a confederation permits constituent entities to retain sovereignty and potentially withdraw, at least in principle. Therefore, confederal arrangements demand ongoing consent to, and acceptance of, shared institutions.

Confederations feature substantial movement among or between constituent entities. This is concisely labeled "open borders," though controlled access points and territorial borders could feasibly continue under a confederal arrangement, by mutual agreement. Greater freedom of movement could apply to people, goods, services, or markets; it could even establish greater fluidity of citizenship, permitting residents to dwell alongside citizens.

A confederation consisting of two or more sovereign entities would also include provisions for power sharing. This would likely take the shape of limited shared governance mediated through joint institutions (Waxman). Economic and political unions, common institutions, and shared methods for arbitration serve as examples. Constituent entities would likely invest in joint mechanisms for external defense, internal security, and control over shared resources.

No single confederal model was found to apply closely to the Israeli-Palestinians case. Therefore, the report highlights a best-fitted confederal example for each of the issues, followed by several other cases that could serve as helpful references.

Sovereignty as a Legal and Political Concept

The question of sovereignty looms large as we consider mechanisms of power sharing under a confederal model. A precise definition is open to interpretation and will be discussed briefly below, as it pertains to the analysis in this report.

The concept of sovereignty is tied intimately to the modern state. Traditional definitions of sovereignty emerged in early modern Europe as secular rulers sought unfettered authority over territories or populations (Kibrik). Since the Peace of Westphalia in 1648, the concept of sovereignty has evolved to the point of merging identity, independence, population, power and territory under a single political structure with unbridled authority within a given territory (Murphy). World War I and World War II reinforced the association between sovereignty, nation-states, and territorial boundaries. By the late 1960s, most populated areas in the world were divided into territorial units with borders. The concurrent collapse of European imperialism enshrined the notion of popular sovereignty, resting on the premise that territorially-bounded people were the ultimate source of sovereignty. Put differently, a sovereign nation-state became the prerequisite for self determination (Jackson).

Legally, sovereignty is the basis for asserting exclusive territorial jurisdiction. It is also the basic norm upon which the society of states rests; Article 2 of the

United Nations Charter stipulates the principle of equal sovereignty in international law. Sovereignty thus establishes the state's right to rule its people, given their overall consent. That said, sovereignty is also a political concept that developed under certain historical conditions, relating to the exercise of authority between society and political institutions. Above all, it is a powerful norm that has developed and changed over time (Kibrik). As such, it need not remain static and could be altered to fit a specific context; "there is nothing about [sovereignty] that is natural or inevitable or immutable" (Jackson, 432).

Developments in the modern world have contributed to a new understanding of sovereignty. First, most sovereign states experience limits in their sovereign competence, because they are restricted by treaties, customary international law, and economic interdependence (Jennings). Second, intense globalization destabilizes the finality of state sovereignty due to new and powerful political actors in the global arena alongside the rapid movement of people, goods, capital and ideas (Kibrik). Third, statehood has become less about territory and more about access to markets and technology. Fourth, the meaning and importance of borders have been relativized in some parts of the world (Mossberg).

These trends challenge the traditional definition of sovereignty and its association with statehood and territory. The de facto erosion of state sovereign authorities affects both external and internal aspects of sovereignty, challenging the norm of indivisibility of sovereignty (LeVine and Mossberg). In other words, once one concedes that division between external and internal sovereignty is possible, it follows

that sovereignty can be partial and shared in different power sharing models.

Redefining Sovereignty in the Israeli-Palestinian Context

For Israelis, security is a fundamental concern that is closely associated with territory and sovereignty. The creation of the State of Israel allowed its citizens to take charge of their own destiny in the quest for permanent security. Nonetheless, they continue to fear external threats from regional state and non-state actors, such as Iran, Syria, ISIS, Hezbollah, and Hamas. These fears strongly reinforce Israel's focus on control over territory and access to land and resources, construed as critical elements of national security (Mossberg).

For Palestinians, loss of national land is the defining issue, as three-quarters of their land was lost in the 1948 war. Today, access to land in the West Bank continues to diminish as a product of expanding settlements, the separation barrier, and the proliferation of military checkpoints. Loss of land is a key security issue, in addition to being closely associated with fears of eroding national identity, concerns directly related to

questions of sovereignty and self-determination (Mossberg).

The focus of Israelis and Palestinians on territory and statehood demonstrates that the traditional definition of sovereignty still guides actions and policies on both sides. This association of sovereignty with ultimate and unimpeded authority within a given territory creates a zero-sum mind frame, which ignores the entangled reality of Israelis and Palestinians today, where a neat division between the two populations is impossible.

The current situation on the ground calls for a fresh approach that considers the basic fears, concerns, and aspirations of Israelis and Palestinians alike, and can shift the discourse from competition to cooperation. Redefining sovereignty in a way that focuses on power sharing and interdependence, rather than on territorial exclusivity, opens the door for considering alternative models. This may allow the international community to step away from traditional interpretations of sovereignty upheld in the 1SS and 2SS in favor of exploring the possibility of an Israeli-Palestinian confederation, through which two sovereign entities share power.

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02 Jerusalem



CHAPTER TWO: JERUSALEM

Key Judgments

The nature of intermingled population in Jerusalem means that it can be seen as a laboratory for key elements of the confederal model: power sharing and open borders.

Brussels serves an example that demonstrates the feasibility of a binational capital.

Several key challenges in Jerusalem, prime among them security and asymmetries of power, are not resolved by a confederal approach.

Introduction: Jerusalem is an Intermixed City

Due to its symbolic, historical, and cultural value, both Palestinians and Israelis insist that Jerusalem is their natural capital. With approximately 850,000 residents, it is also a major urban center. Most proposals associated with the two-state solution would attempt to divide Jerusalem along the Green Line. However, such a division would simply cause more suffering and create new sources of tension between residents. The idea of neatly separating 534,000 Jews and other non-Arabs (65%), and 316,000 Arabs (35%) living in Jerusalem contradicts the economic, demographic, and spatial realities on the ground. A clean separation in Jerusalem, much like other areas of Israel and the Palestinian territories, would run up against the “impossibility of disentangling Israeli and Palestinian space” (Busbridge

2014, 78). Therefore, this report takes the position that the city’s intermingled reality makes coexistence and shared governance a more realistic and equitable project. The challenge is to make it just, sustainable, and peaceful.

Israel gained control of majority-Palestinian East Jerusalem in the 1967 war and promptly extended Israeli law to the city (subsequently acknowledged as annexation), an action that contravenes international law and has been uniformly rejected by the international community. Indeed, during the fruitless two-state negotiations, the Palestinians cited UNSC Resolution 242, which calls on Israel to withdraw from territories occupied in 1967, as their starting point in negotiations. However, since then “the government of Israel’s primary goal in Jerusalem has been to create a demographic and geographic situation that will thwart any future attempt to challenge Israeli sovereignty over the city” (“Background on East Jerusalem”). This policy has produced a radical transformation in East Jerusalem’s spatial and demographic realities, where 280,000 Palestinians live alongside 200,000 Israeli settlers.

As such, Jerusalem is now an irrevocably mixed city. The lives of Palestinians and Israelis are intertwined in Jerusalem, and both the east and west sides of the city witness substantial intermixing. Most obviously problematic is the fact that over 200,000 Jewish Israelis live beyond the Green Line in East Jerusalem. While very few Palestinians live in West Jerusalem, many work there, providing crucial labor in the service and construction industries. Cutting off this movement of labor would imperil the livelihoods of Palestinians in

Jerusalem, who already suffer from high levels of poverty (Busbridge 2014). Furthermore, many of the holiest Jewish sites are in East Jerusalem and would become part of a Palestinian state in a traditional two-state solution, making it unpalatable to wide swathes of the Israeli political spectrum. In short, neatly dividing Jerusalem is impossible. It could be more practicable to share the city through a commonly agreed formula.

The idea of a shared Jerusalem is not new. It was first proposed in the 1947 United Nations Partition Plan, which conceived of Jerusalem as an international city to be administered by the UN. More recently, this notion has been embraced by various civil society organizations, academics, and even international statesmen (Dumper 2014).

Examples of Power Sharing over Cities

While all cities contain divisions (on the basis of class, race, ethnicity, etc.), there are a number of capital cities that have been divided by protracted conflicts between ethnic and national groups. The most instructive cases are Brussels in Belgium and Nicosia in Cyprus. In Brussels, a long history of differences has been settled by the recognition of each national group's rights (Flemish, French, and German) to a shared capital city. Meanwhile, although a national deal remains elusive in Cyprus, certain areas of infrastructural cooperation have persisted in the capital city, and are often cited as a possible basis for re-integrating the two halves of Nicosia.

2.1 Brussels: Micropolitics Multiplied and Enlarged

Recognizing the deep and almost irreconcilable historical divisions, Belgians have decided to embrace rather than erase their diversity. When the Belgian monarchy was established in 1830, French speakers held a monopoly over state power, excluding the Flemish minority. A century later however, this minority became a majority of the population, and the acrimony between the two communities dominated Belgian politics during the twentieth century. As a compromise solution, the country has been divided into three self-governing regions: a Flemish region, a French region, and the capital, Brussels, which is composed of nineteen officially bilingual communes.

Belgian history shows that groups that differ linguistically and religiously can share power effectively. It also shows how changing demographics, such as might be seen in Israel in the coming years, can force a shift in governing strategies. While an administrative rejig doesn't resolve longstanding hostilities, it can prevent eruption of violence and offer a platform for healing over time (Abunimah).

2.2 Nicosia: Infrastructure Management

Following civil war in 1963-64 and the invasion of northern Cyprus by Turkey in 1974, Cyprus was split in two, dividing its Greek and Turkish speaking communities. The Capital, Nicosia, was also forcibly split, and a United Nations-supervised buffer zone bifurcates the city to this day. However, certain aspects of the city could not be divided, not least the water and waste management system, which predated the war and mandated cross-border cooperation. In 1978, the United Nations Development Programme and the World Bank encouraged local communities to develop effective infrastructural cooperation programs. Representatives of the Greek and Turkish communities agreed to construct a modern sewage system that would serve both sides of the city, and is run by Greek and Turkish Cypriot engineers. The goal is to provide the best possible service to both communities. The plant continues to operate successfully to this day, and is an example of the ways functional infrastructure cooperation can be used to spur inter-communal cooperation.

Relatedly, a civil society effort to join the activities of the Nicosia Turkish Municipality and the Nicosia Greek Municipality, between whom urban authority is divided and fragmented, has been partly taken up by the Nicosia Master Plan (NMP). The idea is that close and systematic technical cooperation could build new bonds of community. The NMP allowed communities to identify a number of priority projects, such as the restoration of the walled city, which have been carried out to the benefit of all residents and communities. Other major issue areas are landscaping, urban reform, and the improvement of traffic flow. While this form of cooperation is specific to the urban and political history of Nicosia, it is instructive on the importance of technical and infrastructural coordination as the basis of inter-communal cooperation.

This example is instructive for Jerusalem, where the city has been divided like Nicosia and where both parties attach national identity to the city. Furthermore, involvement of the United Nations or other international actors could be useful in Jerusalem.

Features of the Confederal Model in Jerusalem

Under the confederal model, Jerusalem would be the epicenter of power sharing, an open city that would serve as the capital of both Israel and a future Palestinian state. This section will go into more detail on how key features of this theoretical model might apply in Jerusalem.

Dual Sovereignty

As distinguished from the confederal model as a whole, where two sovereign states may mean delineated territory, in Jerusalem, there would be shared sovereignty over one united space. There would be no territorial division of Jerusalem. Rather, both Israel and the Palestinians would share sovereignty over the entire city and the city would serve as the capital of both states. This is similar to the approach used in Belgium, where

Brussels serves as the capital city for both the French and Flemish populations.

Power Sharing: Areas of Necessary Cooperation

There are some benefits to focusing on a single urban space. By necessity, cooperation is unavoidable in some situations and can be mutually beneficial for both parties, especially in areas such as infrastructure and resource management. An instructive example is the Belgian solution to sharing the national capital, Brussels: one mayor with delimited powers oversees 19 official bilingual communes. Thanks to this arrangement, Brussels is effectively a binational city. For municipal issues, each national group (Flemish speakers, French speakers, or German speakers) is allowed to elect a community government invested with managing local issues (Abunimah 2006).

The details of power sharing between Israel and Palestine would have to be negotiated and could take many forms. The example of Brussels shows that power sharing can be very localized to ensure that power is exercised by those closest to the populations of concern.

There are many areas where cooperation between Israelis and Palestinians is possible and will be necessary. In the West Bank, security cooperation already takes place to some degree and will certainly be necessary in a confederal Jerusalem. Economic cooperation would also benefit both sides. Indeed, a single economic zone, much like that which exists throughout the EU, would be a crucial aspect of the confederation as a whole. Power could also be shared in managing urban planning, including infrastructure, roads, utilities, and city maintenance. Finally, cooperation over

tourism and the environment would prove fruitful (Dumper 2014).

To ensure long term viability, all power sharing mechanisms would provide equal protections for both parties. Furthermore, the final structures of municipal government would require the consent of all parties after negotiations.

Open Borders: Freedom of Movement

Jerusalem would be a truly united and open city under this model, with free flow of people, labor, and goods. A symbolic representation of this openness would be tearing down the separation wall that currently divides East Jerusalem from the rest of the city at certain points. City residents would be able to move freely; they could live and work wherever they chose. All residents would be citizens of either Israel or a Palestinian state. While all would vote for Jerusalem's Municipal Council, people would only vote in the national elections corresponding to their citizenship. The inheritance of citizenship is a complicating factor that will need to be addressed. Issues of citizenship and residency will be dealt with more fully in the Citizenship chapter.

Equal Rights

In a shared Jerusalem, Palestinians and Israelis would have equal rights. The law would not only respect the equal civil and political rights of individuals, but also grant equal access to services and government benefits. In practical terms, all areas of the city would have equal access to roads and road repair, trash collection, sewage service, public transportation, and other government services. Furthermore, Palestinians would have equal access to housing, including fair distribution of permits and application of zoning rules. Finally, this arrangement

would respect Palestinian historical and religious sites, culture, and self-determination.

Current Challenges: Facts on the Ground

Security: Major Concern for Israelis

For Israelis, a main concern with the confederation as a whole and an open Jerusalem in particular is security. Some Israelis fear that they will be less safe in a city ruled equally by Palestinians and Israelis. A united Jerusalem could allow Palestinian individuals with hostile intentions to mix freely in heavily populated Jewish areas, in Jerusalem and beyond (Stover 2008).

In this vein, it is important to note that heavy-handed Israeli measures have failed to buy security in Jerusalem, as evidenced by the wave of “knife attacks” in 2014, which greatly affected the settlements around Jerusalem. In contrast, the integrated Palestinian citizens of Israel, who have basically unlimited freedom of movement, have rarely been the source of terrorist attacks. It is likely that this kind of violence would lessen if the root causes of Palestinian anger were addressed. Given equal representation in government, equal access to government services, and equal rights, the grievances that drive insecurity would be much less powerful. Therefore, questions of justice and reconciliation are central.

Justice & Reconciliation are Needed

In order to address the grievances as noted above, and therefore to heighten security for both Israelis and Palestinians, justice and reconciliation would be beneficial. There are

three main issue areas where questions of justice are involved:

First, Palestinians in Jerusalem have not been compensated for lands appropriated from them or having their homes destroyed, which contravenes Article IV of the Geneva Convention. This applies to cases that stretch back to 1948.

Second, Palestinian neighborhoods in East Jerusalem are neglected and receive only about 9% of the municipal budget, leading to physical deterioration.

Finally, zoning and residency laws imposed by the Israeli government have created a bureaucratic nightmare for Palestinian residents, who live under an ongoing threat of expulsion or having their homes destroyed.

Lasting justice or reconciliation among the communities is unlikely unless these three injustices are addressed.

Asymmetries in Capabilities Strain Power Sharing

A foundational obstacle is the ability of the Palestinians to truly govern as equals. Because Israel has governed the city since 1967, there are no currently-established Palestinian governing institutions in Jerusalem. The process of building Palestinian institutional competence would need to be carefully managed - and accelerated. More broadly, underlying distrust, fueled by decades of conflict, may hinder the functioning of any shared governance institutions.

Third Party Protection of Holy Sites

In a reconfigured Jerusalem, all individuals would have free access to worship at the holy places. A protection regime based on

the Geneva Initiative (an unofficial draft accord on final status issues concluded by influential Palestinians and Israelis in 2003) could be productive. This plan would give Israel sovereignty over the Mount of Olives and the Western Wall and Palestine sovereignty over the Haram al-Sharif (Stover and Mankaryous). All Holy Sites would be protected by third party engagement. An interfaith Council could ensure that all faiths are represented in protecting the sites. UNESCO could designate the Old City as a World Heritage Site and play an oversight role. However, a complicating factor is Jordan's involvement in the Holy Places, as in the Washington Declaration of July 25, 1994, Israel and Jordan recognized Jordan's "special" and "historic" role in the sites. Thus, any agreement on Jerusalem would consider Jordan's interests (Baker).

Attitudes & Discourse

As detailed throughout this report, narratives, discourse, and attitudes would play a key role in a potential transition to a confederal model. As to Jerusalem, some progress was witnessed in the Oslo Accords, when both sides agreed for the first time to make Jerusalem a topic of negotiations. Furthermore, in ongoing negotiations both sides have indicated willingness to at least consider coordination mechanisms, including security coordination or municipal councils (Dumper 2014).

Israeli Identity & Perspective

In some ways, this model has natural appeal to Israelis, who place a high value on a unified Jerusalem. A key problem with the two-state solution has been the need to divide Jerusalem, which is a political impossibility in Israel. A 2012 survey showed that 71 percent of Israeli Jews

would oppose withdrawing from East Jerusalem. (Baker). On the other hand, Israelis would be very hesitant to give up control of the city to the Palestinians, even assuming that power is shared. Demographic concerns would make Israelis worried that shared power over Jerusalem would weaken their national identity (Dumper 2011).

Palestinian Identity & Perspective

Similarly, Palestinian discourse has centered around regaining control of East Jerusalem. Would Palestinians be willing to share power over a unified city? A survey from 2011 of Palestinians living in East Jerusalem revealed that at least a third of them would prefer to remain under Israeli sovereignty were a Palestinian state to be created and another third were undecided. However, this would depend on freedom of movement and better services. Furthermore, Palestinians would likely worry that even if equality were legally enshrined, the reality of unequal power would persist.

Opportunities

If joint governance begins as a thin confederation rather than an exhaustive collaboration, the confederal approach may be more palatable to the parties, both of whom aspire to sovereignty in Jerusalem.

If granted, freedom of movement could assuage some Palestinian concerns and increase likelihood of "buy in" to the confederal model.

If the people of Jerusalem undertake confidence-building measures and transitional justice processes, trust between both parties may strengthen.

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03 Citizenship Rights



CHAPTER THREE: CITIZENSHIP RIGHTS

Key Judgments

The European Union's Schengen Area suggests a framework for citizenship in an Israeli-Palestinian confederation. People could live as residents of one entity while retaining citizenship of the other, without being subject to border checks. This arrangement would slowly loosen restrictions on freedom of movement, employment opportunities, and residency.

Aspects of the confederal approach address Israeli concerns about demographic change and the future of settlers, as well as Palestinians concerns about lacking rights and equal citizenship. This approach averts the need to "swap" land and population, as required under a two-state solution.

Repatriation and compensation, negotiated by an Israeli-Palestinian confederal authority, could facilitate a solution for Palestinian refugees. However, providing refugees with justice would remain a challenge under a confederal model.

Introduction: The Concept of Citizenship

Flexibility in residency for constituent members is a key element of the confederal model. In theory, citizens of one entity could live as residents in the other. These residents would be subject to the laws of their place of residence, but would still hold civil and political rights as citizens of their "home" country.

A fundamental element of the concept of citizenship is membership in a political community. Without recourse to a state's protections, individuals have no access to rights. Hannah Arendt noted in *The Origins of Totalitarianism*:

“The fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective.”

A lack of citizenship entails a lack of human rights, since an individual's rights can only be granted and protected if they are a member of a political community. This is why the 1951 Refugee Convention and the 1967 Protocol have been adopted by the international community, to protect the rights of individuals who have been forced to leave their countries for legitimate fear of persecution due to their race, religion, nationality, political opinion, or membership in a social group.

Under International Law, there are three main ways in which a person can establish citizenship within a nation's territory: citizenship by birth, citizenship by blood, or naturalization. Citizenship entails "the right to have rights" endowed by the international human rights regime, including effective and indiscriminate civil, political, economic, social and cultural rights (Peled).

That said, as with sovereignty, the concept of citizenship and its meaning in relation to nation-state and sovereignty have both evolved over time. The traditional concept

of citizenship, based on reciprocity of relationship between individual duty and rights, can only have meaning within the framework of modern nation-states. Yet neither the concept of citizenship nor sovereignty have a single meaning within a political entity. Potentially, they can outgrow the limits of a defined state border (Feldman 2008).

The Evolution of Citizenship in Israel/Palestine

The notion of Israeli citizenship has evolved over time due to Israel's "colonial-settlement nation building" and "democratic state-formation" (Peled, 335). Israeli citizenship has been stratified at its very core since the beginning. The foundation of citizenship distinguishes not only Jews from Arabs, but also within the Jewish community depending on an individual's contribution (such as agricultural settlement and military services) to the Zionist project (Peled).

The Israeli debate on citizenship consists of three dimensions. The first is "an ethno-nationalist discourse of inclusion and exclusion" which distinguishes non-Jewish from Jewish citizens in the State of Israel. Second is "a republican discourse of community goals and civic virtue" that differentiates various Jewish social groups, such as *ashkenazim* and *mizrachim*, secular and Orthodox Jews, and males and females. Third is "a liberal discourse of civil, political, and social rights" which differentiates Jewish and Palestinian citizens of Israel from Palestinian refugees and Palestinians living in the Palestinian Territories (Peled, 336).

The 1950 Law of Return allows every Jew "the right of return" to Israel. Subsequently, the 1952 Nationality Law granted

citizenship to every person who entered Israel in accordance with that provision. This dimension of Israeli citizenship is therefore limited to and differentiated based on an individual's "inherent identity" – that is one's "Jewishness" and one's ability to contribute to the "Jewish character" of the state (Masri). This Jewish character, because it is inherently discriminatory against non-Jews, limits Palestinians', status and collective rights.

The Law of Return, as an expression of institutionalized Zionism, has been one of the most contentious issues in considering the future of Israel and Palestine. It is essentially related to a population's claim of "right to land" over another, and its right to a collective identity that has been territorialized over time (Masri).

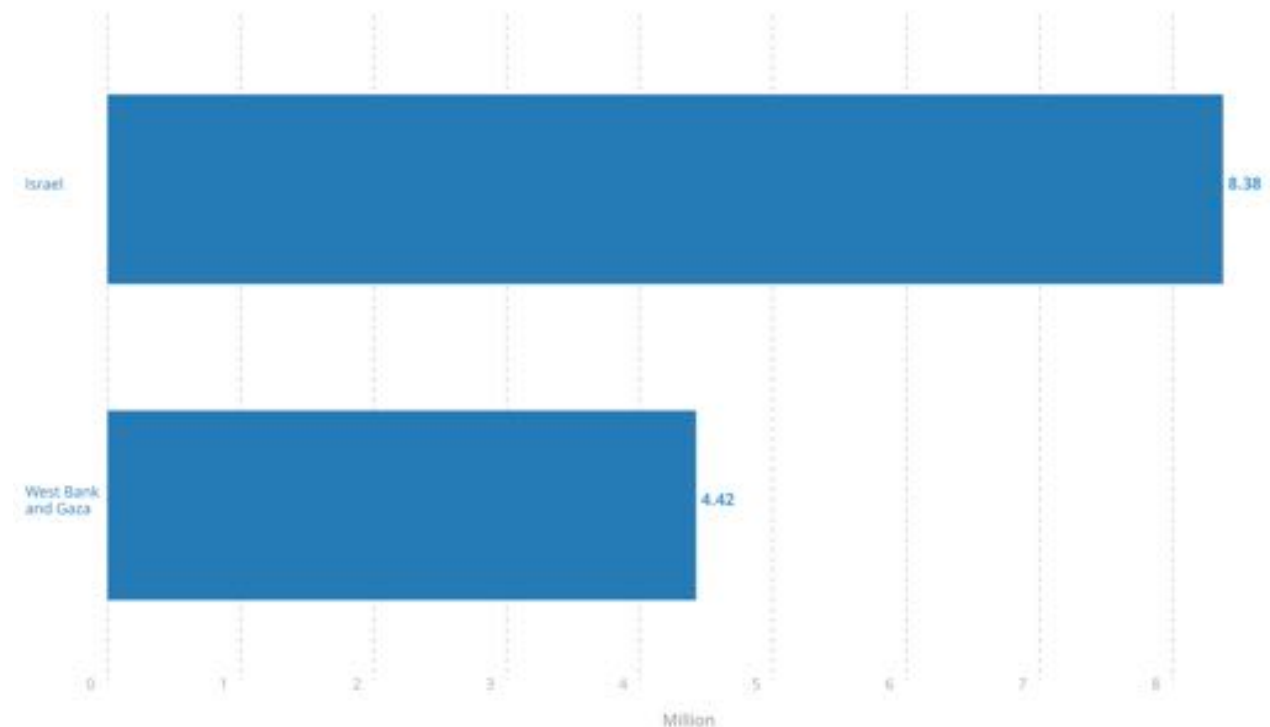
Though Palestinians who remained in Israel following the 1948 war have been granted formal citizenship, they are marginalized and do not receive many essential rights and services that are granted to Jewish citizens, such as land ownership or the right to family reunification (Feldman 2008). Palestinian citizens of Israel describe their limited political rights and status within the Israeli polity as "*ezrahut 'al tnei*" (conditional citizenship) (Blecher).

Essentially, Palestinians are being denied their collective "right to have rights" in Israel because exclusivist identity concerns trump the principle of equality for all citizens (Blecher). In addition, Palestinian refugees are subject to suspicion of political treachery, potentially serving as a fifth column trying to conquer the country from within (Hanafi). Palestinians, whether citizens of Israel, those residing in the West Bank and Gaza or those in the diaspora, are often viewed by Jewish Israelis as a "demographic threat" to the Jewish

character of the state if they were to be given “the right of return.” The concern is that the Jewish population would be

outnumbered by the influx of Palestinian refugees, meaning that the Zionist vision would more likely to be overturned.

Current Realities: Population Mixing



Population of Israel, West Bank, and Gaza as of 2015 (World Bank)

A consideration of current demographic realities and trends reveals why it would be so difficult to implement a two-state solution whose premise is separation between Arab and Jewish populations, so that Israel would retain a majority of Jewish citizens and Palestine would minimize or exclude Jewish residents.

The violence associated with Israel's unilateral disengagement from Gaza in 2005, of 8,000 settlers, illustrates the depth of the commitment of some settlers to their presence (Sasley 2011). Accordingly, removing the 500,000 settlers in the West Bank is a near impossibility.

On the other hand, it is difficult to project how many of the five million registered Palestinian refugees would choose to return to a Palestinian state, and how many would press their case for resettlement in Israel (UNRWA 2016). These difficult conditions only strengthen the case for an alternative approach to citizenship and residency under an Israeli-Palestinian confederation.

Citizenship Reimagined Under the Confederal Model

Any alteration to existing norms of citizenship and residency would have to be carefully considered, but it is also crucial to think of ideas that challenge the status quo.

Aspects of the confederal approach address Israeli concerns about demographic change and the future of settlers, as well as Palestinians' concerns about a lack of rights and equal citizenship. This approach averts the need for a population and land swap, required under a 2SS.

Each sovereign entity has the final authority to determine its citizenship policies, including its own version of the Law of Return and the number of non-citizen residents. The flexibility of residency provides a new approach to address the future of Israeli settlers and, in particular, the question of Palestinian refugees. It allows populations to either remain in or return to areas within the sovereign confines of the other entity. Under this approach, Palestinian refugees who wish to return could be citizens of Palestine – with voting rights determining Palestinian affairs – but live in Israel as residents. Therefore, any returning refugee would not be a demographic threat to Israel's Jewish majority and would not have voting rights in Israel. Palestinians' current lack of equal citizenship and protection of rights could be mitigated as all Palestinians would be granted equal citizenship in the state of Palestine. Current Palestinian citizens of Israel would be given the opportunity to choose whether to retain their current Israeli citizenship or renounce Israeli citizenship and acquire Palestinian citizenship.

Similarly, Israeli settlers currently residing in the West Bank could remain Israeli citizens and continue living on Palestinian land as residents. They would not have the right to determine affairs in a Palestinian

state but would have to follow any rules and laws put in place by the Palestinian government. Although the total number of Jewish residents could be limited by Palestinian authorities, the confederal approach avoids the necessity of evacuating all 500,000 settlers, who may resist evacuation and resort to violence against Palestinians, or a potential mutiny within the Israeli army (Waxman and Scheidlin). However, it is important to mention that most settler communities reside on Palestinian land that was appropriated unlawfully. A confederal approach which avoids land swaps may not be able to address the injustice of Israeli settlers' appropriation of Palestinian land. Therefore, if settlers are permitted to remain on contested land, a compensation framework would have to be negotiated and accepted by both populations.

A similar framework to the European Union Schengen Area could be applied to gradually loosen restrictions on freedom of movement, employment opportunities, and residency. The confederal model allows both Israelis and Palestinians to be citizens of the confederation and their respective state, which allows them to live as residents in either place. Although both sides would likely impose quotas on the number of residents, this flexibility averts the cumbersome task of uprooting entire communities. The details of how the legal framework of citizenship and residency would materialize would be addressed in the negotiation process. Nonetheless, there are some guiding principles, chief among them the equality of rights and responsibilities.

3.1 Comparative Focus: The Schengen Area in the EU

Within the international system, the Schengen Area represents a template to address the aforementioned challenges. Twenty-six countries agreed to allow the free movement of their citizens sans visa. The agreement enables more than 400 million European Union (EU) citizens to travel, work, and live in any EU country (European Commission 2016).

Freedom of movement means that EU citizens can cross from one Schengen country into another without going through border control and passport checks. Furthermore, all EU residents have EU citizenship in addition to their country citizenship. This allows them to live as residents of any of the countries of the Schengen Area. While this framework has, on the whole, operated effectively, the challenges posed by a recent influx of refugees from outside Europe has created tensions among members of the Schengen Area--revealing that there may be shortcomings to this formula.

The analysis of the layers of Israeli citizenship invokes potential challenges to the administration of equal citizenship within the confederation model. Different classes of Israeli citizenships were created based on the perceived contribution to the Zionist Project. The various gradations of Israeli citizenship are more likely to seep through the model and entrench the asymmetry between the proposed sovereign entities. Thus, a feasible confederation model would have to address the number of residents on both sides, their rights and responsibilities, the Law of Return, refugees, and illegal settlers.

Refugees: Potential Solutions

The question of refugees is a core issue for Palestinians. Although flexible residency and citizenship under a confederal model would allow an indeterminate number of Palestinian refugees to return, it would not accommodate all refugees. That said, an

overgeneralization of Palestinian attitudes towards returning needs to be reexamined: not all Palestinian refugees, whether registered or not, would want to return to their villages of origin. Furthermore, many pre-1948 villages were deliberately destroyed by the Israeli state. In other words, the right of return may not lead to an actual return; there are many factors affecting a refugee's choice (Hanafi).

Several options for implementing the Palestinian right of return could be adopted without negatively undermining Israeli-Jewish national existence. One way is to allow "present absentees" to return to their original places of residence, or to locations nearby. In cases where actual return is impossible, or where internal refugees do not wish to return, an adequate compensation program could be established. Another possibility is to abolish or modify the Israeli Law of Return, or replace it with an equitable civil immigration law, in return

for a possible concession on the number of Palestinian returnees (Peled and Rouhana).

The international community has contributed effectively to refugee repatriation in several cases (while ignoring

or acting ineffectively in others). One case of best practices in refugee repatriation is Bosnia and Herzegovina, pursuant to the 1995 Dayton Accords. Some of the innovative mechanisms and flexible practices introduced are summarized below.

3.2 Comparative Focus: Bosnia and Herzegovina: Repatriation

Mechanism	Annex 7 of Dayton Peace Agreement; Bosnia and Herzegovina Constitution.
Form	Repossession and compensation.
Enforcement	Strong presence of the international community, leveraged by Bosnia and Herzegovina's heavy dependence on it.
Legislation	Administrative; Ombudsman and Human Rights Chamber responsible for review mechanisms.

Lessons Learned: Repatriation Framework

- (1) A comprehensive legislative framework must be established to ensure that displaced persons and refugees exercise their full rights. Legislation could be administrative or judicial, but should be grounded in human rights law. The framework should provide a regional complaints mechanism, as well as adequate review mechanisms to ensure local officials comply with the law.
- (2) Refugees who chose not to, or couldn't, repossess property were given the right to compensation. But many chose to repossess and sold their property as a result of a lack of willingness and resources to fund the compensation by parties to conflict and international donors. Individuals whose property was destroyed or in undesirable locations were not compensated.
- (3) Return and repossession should be grounded in the rule of law, and not only be subject to political agreements.
- (4) Financial assistance and membership in regional organizations should be conditioned on cooperation with return and repossession of property laws.
- (5) Tasks should be delineated clearly, to avoid inefficient use of resources (BADIL).

Framework of Repatriation in the Context of Israel-Palestine

Israel views the international community and its agencies as predominantly biased against it, and it is reasonable to assume that Israel is unlikely to accept a strong international presence as in Bosnia and Herzegovina. The potential for misunderstanding underscores the importance of rendering any agreement on resolving the refugee issue as detailed and specific as possible. International donors such as the EU and the UN might be willing to fund compensation, should it be a mechanism Israel and the Palestinians agree on. In particular, the United States already provides significant funding to Palestinian refugees through the UN Relief and Works Agency (UNRWA). Regional countries hosting Palestinian refugees, such as Jordan and Lebanon, might be willing to contribute to a compensation fund. In addition, Israel cares about regional acceptance, and has been attempting to gain EU membership for years. Palestinians are still heavily reliant on international financial assistance. These considerations could be used for leverage in negotiating a satisfactory agreement.

Remaining Challenges: The Question of Refugees

Despite the abovementioned proposals, the question of refugees is unresolved for a potential confederation. Several challenges remain: the symbolism of repatriation as a Palestinian national aspiration; the viability of a compensation framework; the fairness of any procedure identifying who would be allowed to return to where; and the implications for those who cannot return.

The right of return as a political principle should be differentiated from humanitarian

objectives. The principle of return to a specific village or hometown is different from a desire to return to a recognized Palestinian state. Without a clear agreement between the two entities, a significant population will remain displaced and the issue would remain a thorn in the peace process. Another complicated situation continues to be the identification and proper compensation of refugees. Any agreement should set clear guidelines to identify first generation refugees and properly compensate them or their descendants.

Moreover, an important question that concerns Palestinians is less likely to be addressed: Why did Israel not permit Palestinian refugees to return in 1949 when the war was over? For the Palestinians, achieving justice would have to address this question (interview with a Palestinian official).

One relevant issue that has received less attention than that of Palestinian refugees is efforts by the Israeli government and non-governmental organizations to secure recognition of Jewish refugees from Muslim and Arab countries. The numbers are starkly different, as the bulk of this population immigrated to Israel shortly after the formation of the state, and the initiatives for raising this issue are sometimes viewed with skepticism. Outside of proponent organizations, it is difficult to find accurate numbers of Jewish refugees from Muslim and Arab countries, if they are to be determined as such. The aim of these efforts, in the view of detractors, is to curtail the Palestinian right of return and lower compensation (Shenhav).

Opportunities

If both entities are willing to adopt a fluid definition of sovereignty and administrative authority, Israelis and Palestinians could benefit from equal citizenship rights and responsibilities regardless of perceived contributions to their respective nationalist movements.

If a comprehensive survey is conducted to get a clearer estimate of how many diaspora Palestinians would take advantage of the Right of Return, policymakers would have a better idea of how to address the issue of refugees.

If Israelis and Palestinians agree on measures to accommodate refugees who wish to return, additional stakeholders could be persuaded to offset the economic and demographic impact. An international fund could be set to help Israel fund the necessary reparations. International bodies could support host countries to ameliorate the lives of Palestinians who want to remain in their current locations.

An agreement on citizenship and residency would decrease security costs for both the Palestinian and Israeli entities, which are a large drain on both economies

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04 Security



CHAPTER FOUR: SECURITY

Key Judgments

Security is the largest obstacle for the confederal approach. Israelis understand separation and control as fundamental to security, while Palestinians view Israeli presence in the West Bank as an occupation which entails daily risks and humiliations.

The confederal approach holds great promise for human security but raises questions for both parties: open borders can only be implemented if physical security is protected; while power sharing arrangements between asymmetrical entities may undermine the sovereign authority of the weaker party.

Further investment in hard security, if manifested as reinforcing barriers and suppressing opposition, will be counterproductive - feeding into a longstanding spiral of conflict and fear mongering.

Open borders in Northern Ireland after the Troubles led to a reduction in violence; this is a model for how transformative solutions can create security after conflict.

Enhancing Security through 'Human Security'

The intense focus on questions of hard security, to the neglect of human security, has been one of the hallmarks of the negotiations around Oslo. Not surprisingly, this failed to bring marked improvements to actual security or to perceptions. The only

way for a confederal model to escape this trap would be by considering human security alongside hard security, including not just the state's concerns, but also the persons directly affected, and shifting the emphasis away from preoccupation with state security towards human security. This concept seeks to break with the realist tradition, where the state is the sole recipient and provider of security (Ingrid).

Unlike the traditional definition of security, which focuses on security of territory from external aggression, 'human security' focuses on the legitimate security concerns of individuals in their day-to-day lives, including protection from the threat of disease, hunger, unemployment, crime, social conflict, political repression, and environmental hazards (UNDP).

The basic principles of human security are freedom from fear, freedom from want, and the right of personal dignity. Definitions of 'human security' vary in scope, but it must include two components: protection and empowerment (Nusseibeh). In other words 'human security' means protecting people from threats and danger, and creating a system that provides the opportunity to live in dignity and freedom.

The four key characteristics of 'human security' are: (1) universal applicability; (2) interdependency - when one person or community experiences insecurity it affects the collective; (3) it's easier to ensure through early prevention rather than reactive actions; and (4) it's people centered, as it's concerned with how people live and breathe in a society, and how freely they exercise their choices (Wheeler).

Reconceptualizing security, by incorporating greater sensitivity to ‘human security,’ is an important step in enabling Israelis and Palestinians to move past a zero-sum mentality of military buildup, separation, and detachment toward finding mutual security solutions. Further, for the purpose of this report, an emphasis on the centrality of ‘human security’ challenges the equation that open borders and power sharing necessarily lead to decreased physical security. Human security emphasizes the safety and dignity of the individual, which provides a good starting point to explore how security challenges could be addressed in the confederal model.

Different Views on Security Feed the Conflict

Although the security aspects of the Israeli-Palestinian conflict have a long history that predates the establishment of Israel in 1948, for the purpose of this report we will focus on the events that shaped perceptions of security by both Israelis and Palestinians, since the beginning of the peace process in the early 1990s, with the Oslo Accords.

Neither the views of Israelis nor Palestinians are monolithic. Among Israelis, there are vocal debates over security requirements, while disparities among Palestinians are equally pronounced, depending on whether they live in the West Bank or Gaza, and on which Palestinian leaders they support. In general, however, Israelis emphasize traditional, realist notions of national security, whereas Palestinians increasingly call attention to the absence of human security that they experience, both because of Israeli restrictions on their freedom and because of deficiencies in their own security services.

The different perspectives on security inform each side’s demands regarding any future framework and in many cases harden into “sticking points” on both sides. When considering the confederal model, it is important to understand that both sides are injured, fearful, and insecure. At the same time, in terms of sheer capacity, the IDF sits a class apart from the security capabilities available to any Palestinian.

Israeli Security Demands

Perceptions of Security Threats

Israel is adamant on maintaining “the right of self-defense as well as the capacity to defend itself by itself” (Goldenberg p. 14). Historical tensions between Israel and its Arab neighbors, as well as increasing regional instability, solidified Israeli public opinion to “conclude that for security reasons, Israel cannot move forward on an agreement with the Palestinians” (Goldenberg p. 4).

No mutual agreement can be reached without addressing the core Israeli concerns surrounding security. Regardless of whether non-Israelis perceive these concerns as rational or politically motivated, they remain a formidable obstacle to the peace process unless they are fully recognized. On the other hand, many Israelis realize that the country’s security efforts have not fully protected its domestic and foreign interests. This realization could help influence stringent Israeli sentiments towards security and push for alternative options.

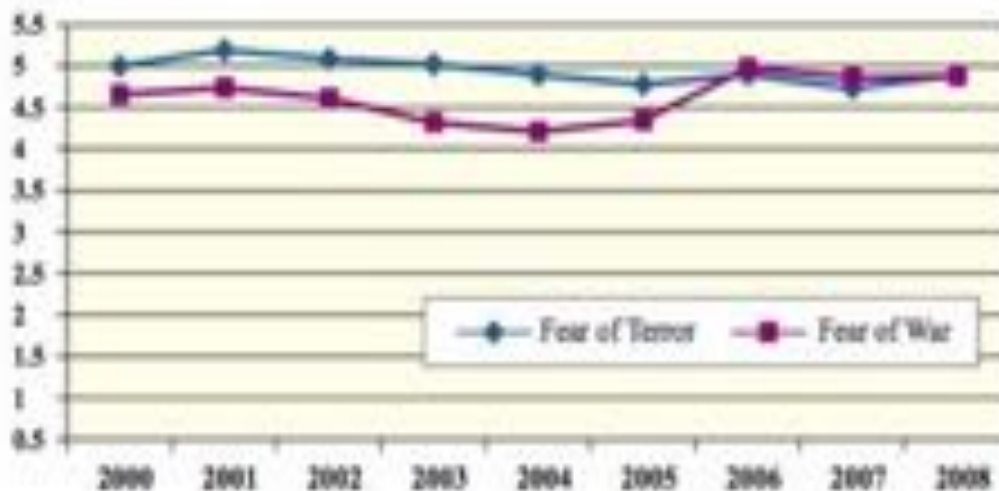
Security threats to Israel can be grouped into three sets of concern: (1) threats emerging from the Palestinian territories; (2) threats along Israel’s external borders; and (3) threats emanating from the broader region. Beyond a doubt, the Palestinian territories have been the major source of intense security crises in recent years, as evidenced

by the Second Intifada and three rounds of combat between Israel and Gaza.

The Second Intifada (2000-2004) that followed the collapse of the Oslo talks served for many Israelis as proof of the Palestinians' choice for conflict and violence over peace. Public opinion polls indicate that in 2007 only 44% of Israeli Jews believed that the majority of Palestinians want peace, compared to 64% who thought so in 1999. The change in perception among Israelis was also evident in a public opinion poll conducted after Operation Cast Lead in 2009, which found that respondents who think that the ultimate

goal of the Arabs is to eradicate the State of Israel increased from 50% in 1997 to 71% in 2009 (Halperin et al., 36).

Throughout the 2000s, the levels of fear of future war and terror among Jews in Israel were relatively high and stable (see figure below). On a scale of one (low fear) to six (high fear), levels of fear from terror did not drop below 4.78 even when the frequency of terrorist attacks dropped dramatically. This suggests that since 2000, fear is a stable and central psychological characteristic of the entire Jewish society in Israel (Halperin et al., 45).



Between 2005 (when Israel withdrew unilaterally from Gaza) and 2014 (before Operation Protective Edge) Hamas fired more than 11,000 rockets into Israel. According to the Israeli Defense Forces (IDF), approximately 500,000 Israelis have less than 60 seconds to find shelter after a rocket is launched from Gaza into Israel (idfonline).

The sentiment of fear and insecurity was exacerbated by Operation Protective Edge (2014), when Hamas fired nearly 5,000 rounds of rocket and mortar fire into Israel.

Most rockets were fired indiscriminately into Israel (Human Rights Council 2015), hitting 224 residential areas (Ynet News), and causing trauma (because of frequent attacks and insufficient time to carry out effective emergency procedures during attacks) (Human Rights Council 2015).

In conclusion, despite two decades of military buildup, the development of advanced defense systems and building the separation wall, the sense of security in Israel hasn't improved.

There is particular concern regarding threats from Gaza, where even after three military showdowns with Hamas in seven years, the Israeli government anticipates that another round is 'inevitable' (Wootlif). Pessimistic forecasts intensified when Yehya Sinwar, a militant hard-liner who served more than 20 years in Israeli prisons, was chosen in February 2017 as the new leader of Hamas in Gaza.

A Partner They Can Trust: Fractured Governance in Palestine

Strong Palestinian governance is a precondition for greater joint security cooperation between Israel and Palestine. For true power sharing over security to exist, both sides have to be able to exercise complete security control within their territory. At present, the Palestinian Authority is fractured and in decline. Political leadership is split between Fatah-dominated PA in the West Bank and Hamas in the Gaza Strip. Growing authoritarianism, a crippled economy, and institutional decline cast shadows on the legitimacy of Palestinian leadership (Elgindy).

Any attempt at power sharing arrangements would have to consider the role of Palestinian leadership. Weak states are often unable to assert a monopoly over violence, leading to a proliferation of non-state actors. Fractured Palestinian governance contributes to growing fears in Israel about Palestine as a breeding ground for terrorism. In this vein, it is important to note that, since Oslo, Israel has placed strict limitations on PA capacity building, while turning a blind eye to its authoritarian racketeering.

Any new Palestinian state would have an interest in limiting internal threats (an unstable Palestinian government in the West Bank, resembling conditions that permitted Hamas to seize control in 2007 in Gaza);

threats from border areas (infiltration of terrorists and degradation of monopoly on the use of force); and regional instability (the proliferation of extremist non-state actors and the potential of destabilization). Although these threats are common concerns throughout the Middle East, they could disproportionately affect a new and fragile Palestinian state.

From this perspective, Israel's security concerns center on the lack of trust in the capacity and ability of its neighbors and partners to control their territory. Without incrementally building trust and capacity, Israelis wish to reserve the right to re-entry in the Palestinian territories in the event of an emergency - an obstacle to peace negotiations.

Palestinian Security Demands

Dignity and National Sovereignty

Palestinian national security demands transcend conventional military considerations. Tied to Palestinian security are notions of statehood, state-building, and human security. For a people living under "occupation," faced everyday with coercive military presence, psychology is as much a concern as physical security. For this reason, it is inconceivable to decouple human rights from national security.

On a basic level, Palestinians aim to protect human dignity and national sovereignty. Palestinians desire self-policing mechanisms to minimize crime while freeing citizens from fear of Israeli occupation, raids, and harassment. Palestinian mobility, uninhibited by Israeli forces, is central to normalizing daily life and fostering economic growth.

Palestinians Lack Safeguards for their Security
Palestinians feel that, while Israel's security needs have been largely acknowledged, their own fears and concerns over a lack of rights are mostly ignored by the international community. From the Palestinian perspective, Israel has an overwhelming advantage in terms of power. The fear and insecurity among Palestinians is based on both historical experiences and future outlook. Of all the parties to the Arab-Israeli conflict, Palestinians believe that they lost the most (Khalidi 1995, 1-18). Moreover, given Israel's military superiority, the continuation of the occupation, stagnation in the peace process, the expansion of settlements, and the close relationship between Israel and the U.S., fear and distrust grow daily on the Palestinian side.

The Palestinians are deeply disillusioned by the incrementalism of the Oslo process over the past 20 years, the failure of which supports the sentiment that Israelis use security as an excuse to prolong the occupation indefinitely (Goldenberg et al., 14). Without a strict timetable and firm commitment to a mutually agreed upon vision, Palestinians will remain wary of any confidence-building measures.

Palestinians' fear and insecurity also stems from four major IDF operations in Gaza since 2002 that resulted in high numbers of Palestinian casualties: 197 Palestinians killed and 1,447 wounded during the IDF reoccupation of Palestinian areas in 2002 (Report of Secretary-General 2002); 1,387 Palestinians killed in the Gaza war of late 2008 (B'Tselem 2009); and 174 killed and hundreds wounded in the Gaza war of 2012 (Human Rights Council 2013). In the most recent war, in 2014, a UN Report noted that the scale of the devastation in Gaza was unprecedented: 2,251 Palestinians were killed, including 1,462 Palestinian civilians with 299 women and 551 children. A total

of 11,231 Palestinians were injured (Human Rights Council 2015).

For Palestinians living in the West Bank, the jurisdiction of the PA over some security matters does not remove the daily humiliation of living under Israeli occupation, in the form of restrictions on movement, IDF raids, Jewish settlement expansion, extremist settler racism and violence, and the lack of basic humanitarian services (United Nations News Service 2015).

It is important to note that the Palestinians also face internal challenges with respect to their personal security. After more than ten years in power, President Mahmoud Abbas is struggling to preside over the divided Palestinian polity. In addition to the split between Hamas-ruled Gaza and the West Bank, which is governed by the PA, Abbas isn't popular among the Palestinian people. A poll from 2016 showed that nearly two-thirds of Palestinians want Abbas to resign. The Palestinian leader preferred by Israel and the international community does not have the support and trust of the Palestinian people (Elgindy).

The levels of distrust between Palestinians living in the West Bank and Palestinian security forces are also very high. This is mainly due to the fact that the security forces are viewed as collaborators with the occupation, for example blocking Palestinian demonstrations headed towards Israeli checkpoints and settlements (Hadid and Nazzal qtd. in Goldenberg). Moreover, Palestinian security forces suffer from a lack of professionalism, driving Palestinian resentment against their own government, as discussed below.

Security Deficits

Below, the deficiencies in adequate safeguards for Palestinian security are

categorized in several domains: internal security; as well as air space, maritime, electromagnetic, and border security.

Internal Security

Palestinians in both Gaza and the West Bank care deeply about the legitimacy and effectiveness of their security services, recognizing that effective law and order are necessary to ensure their economic and social well-being. In the past ten years, Palestinian Authority Security Forces (PASF) in the West Bank have made considerable improvements in crime prevention. While the Palestinian public welcomes crime minimization, it remains wary of security that is ultimately directed by Israeli dictates. In particular, frustration stems from security force restrictions in Areas B and C in the West Bank. PASF are not allowed to operate in these areas, leading to greater lawlessness and lone-wolf attacks (Goldenberg).

Beyond crime management, Palestinians are concerned with a host of existential and current threats. On an existential level, Palestinians fear a superior Israeli force and encroaching settlements (LeVine and Mossberg). Israeli control of borders, resources, and trade raise concern about the feasibility of Palestinian statehood. Current threats include unilateral Israeli action in the West Bank and IDF disruptions of normal life. Sieges, closures, and raids continue to have a profound psychological impact on Palestinians.

Fractured politics in Palestine remains a stumbling block for successful security sector reform (SSR). Hamas' ongoing rule in Gaza and growing influence in the West Bank have undermined the legitimacy of the PA. Furthermore, the territorial divide between Gaza and the West Bank is "cause for political and psychological bifurcation

within the Palestinian polity" (LeVine and Mossberg, 104). The consolidation of state power would be essential to safeguarding Palestinian national security.

Air Space Security

Future arrangements may be envisioned to enhance air space security while safeguarding Palestinian sovereignty. In past negotiations, the PA opposed Israel's demand for unified airspace between the Mediterranean Sea and Jordan River, as articulated in the 2000 Camp David Summit (Jerusalem Center for Public Affairs). Palestinians view airspace as a component of their territory. As such, demands for sovereignty extend to the sky. Additionally, Palestinians require access to airports for internal Palestinian traffic. Without such access, mobility remains limited and human security underdeveloped.

Maritime Security

Palestinian leaders also seek control of territorial waters off the Gaza Strip (Goldenberg). Israel has blockaded sea routes to Gaza, limiting access to international aid through the Israeli port of Ashdod. Palestinians see maritime space as central to territorial sovereignty and heightened trade via a Palestinian seaport. Future security agreements anticipate maritime provisions consistent with Palestinian demands.

Electromagnetic Security

The electromagnetic spectrum (EMS) is a limited resource used for 3G and 4G cellphone data as well as military, police and emergency responses (Goldenberg). Currently, Israel determines the extent to which Palestinians have access to EMS, including the allocation of frequencies, infrastructure, and bandwidth (Goldenberg). Middle East Scholar Helga Tawil-Souri calls it a "digital occupation," referencing

asymmetrical power relations and excessive Israeli use of the spectrum (“Hacking Palestine: A digital occupation”). Palestinians continue to demand independent management of EMS, pressing for the sovereignty of digital terrain. However, uncoordinated use can lead to interference and system degradation (Goldenberg). Future security cooperation requires collaboration on EMS while safeguarding Palestinian claims to digital resources.

Border Security

Crossing points are paramount to human security. They permit the flow of people, goods, and services across borders. If crossings are too porous, they present a security challenge; too stringent, they undercut dignity. Palestinians also demand greater freedom of movement. More fluidity along the Israeli-Palestinian border would heighten economic activity as well as permit cross-border family reunions and work arrangements. Maintaining security along external borders is a priority for Palestinian leadership. Both Israel and the Palestinian territories face common threats posed by Al Qaeda, ISIS, and other extremist jihadi groups. Porous borders, without proper safeguards, would likely undermine counterterrorism efforts.

Efforts at Palestinian Security Sector Reform

At present, Israel and the Palestinians have profoundly disproportional capabilities. Efforts to enhance the Palestinian security sector in the West Bank occurred between 2007 and 2013. While international assistance improved training and technical capabilities, PASF continued to be driven by “personality based patronage politics” (Marten, 181).

Following the 1993 Oslo Accords, Israel recognized the legitimacy of the Palestine Liberation Organization (PLO) and devolved authority for internal security in selected locations to Palestinian security forces. In particular, the Israeli Defense Force (IDF) backed Arafat’s militias, affording them a foundational role in the new PASF. In exchange, PASF collaborated with the IDF and Israel’s intelligence arm Shin Bet. However, old militia practices continued under the new façade (Marten). Meanwhile, Hamas refused to integrate its independent militias into the PASF, and Hamas forcibly assumed control in Gaza in June 2007.

In April 2003, the United States, European Union, and Russia sponsored the “Road Map” in an effort to improve the Palestinian security sector. PASF reform thus became a precondition for Palestinian statehood. Mahmoud Abbas’ ascent to presidency in 2005 restored confidence in the potential for effective SSR. Indeed, a new April 2005 PA law streamlining Arafat’s forces gave the international community reason to believe that change was possible.

Reform reached its height after Salaam Fayyad became under Prime Minister in 2007 and championed an anti-corruption campaign to increase international legitimacy. During this time, the United States aided police reform through “train and equip” programs in Jordan (Dermer 2010, 75-80). Additionally, international donors supported bottom-up SSR projects in Jenin, a district in the West Bank, to improve the security apparatus (Homel and Masson). By 2010, PASF had bolstered its operations, exercising more authority in exchange for collaboration with Israeli security forces. Despite significant improvements, Palestinian SSR challenges abound. The rupture between Fatah and

Hamas, for example, remains a key stumbling block for the Palestinian security sector.

Since the establishment of the PA, asymmetries of power between Israeli and Palestinian security forces stoke public resentment. The IDF regularly operates in Area A, infringing on Palestinian jurisdictional claims. Israel’s defense forces also subject PASF to night-time curfews with some regularity (International Crisis Group 2010, 23). Though citizens are generally supportive of the civil police, concerns about Israeli presence undermine attempts at legitimizing the Palestinian security apparatus.

Considering the hefty gap in capabilities between Israel and the Palestinians, it would be impractical to assume an immediate and

seamless integration of security mechanisms. At best, Palestine would become dependent on Israel’s security umbrella, and, at worst, the process of state building would become unhinged (Two States in One Space, 221). While historical cooperation has tended toward cooption, power sharing between two entities requires local empowerment (Homel and Masson, 311-327). A key element of effective partnerships is equity among constituent parts.

Irrespective of its configuration, security sector reform in the Israeli-Palestinian confederation would need to address three distinct areas: internal security, bilateral cooperation, and external threats. Chart 4.1 illustrates this dynamic.

4.1 Security Sector Reform (SSR) in the Israeli-Palestinian Confederation

Internal Security	Bilateral Collaboration	External Threats
<ul style="list-style-type: none"> • Law and order • Combat incitement • CT • Decommission non-state armed militias 	<ul style="list-style-type: none"> • Border security • Visa requirements • Shared policing in Jerusalem • CT • Human Trafficking • Drug Control • Weapons Smuggling 	<ul style="list-style-type: none"> • Mutual defense treaty • Regulation and protection of external “hard” borders

Internal Security: Recognizing each entity’s sovereign power, Israel and Palestine would be responsible for their own internal security. This includes law and order, combating incitement, and counterterrorism measures. Both states would commit to establishing a monopoly of force, which

would involve decommissioning all armed militias and unauthorized organizations.

Bilateral Cooperation: Israel and Palestine would cooperate on shared cross-border concerns. Under a confederation, this would include border security; visa requirements; shared policing in Jerusalem; CT; human

trafficking; cross-border drug flows; and weapons smuggling. Institutional cooperation mechanisms would be critical (Two States in One Space, 221-248).

External Threats: A defense treaty enshrining joint action against external threats is worth considering, given physical realities, common regional threats, and the asymmetry in capability. Under this agreement, no foreign army could enter either state without joint permission. Additionally, each state would be bound to protect the other from external harm.

SSR under the confederal model runs up against two major challenges:

- (1) asymmetrical power and capabilities and
- (2) fractured governance in Palestine.

In the opening phase of the confederation's existence, joint security collaboration may remedy asymmetrical power dynamics between Israel and Palestine. Israel could foreseeably assume greater defense functions in the interim, allowing Palestine to strengthen its security services. However, closing the gap would need to remain a long-term goal of the security partnership so that Palestine could ultimately perform security functions independently and autonomously. Subject to further negotiations is the question of what restrictions on acquisition and deployment of armaments would apply in the newly independent Palestinian state.

4.2 Comparative Focus: Lessons from SSR in Apartheid South Africa

Hailed as a successful model, South Africa's 1994 SSR process serves as an instructive case. Much like Israel and Palestine, South Africa faced rising instability due to a policy of segregation.

Success was due in large part to local ownership. SSR adapted to local realities rather than doctrinal formulations. Though the international community was present, it did not overshadow demands emanating from within South Africa (Sandy). Strong political leadership, bolstered by respect for authority on both sides, helped to build support and momentum for disarmament. Where consensus was lacking, negotiations bridged gaps between multiple perspectives and stakeholders.

Armed Militias and Unauthorized Organizations

In order for the confederation to be a viable solution, both sides would have to commit to decommissioning armed militias and unauthorized organizations within their territories. While cooperation with the West Bank is foreseeable, the Gaza Strip remain a substantial obstacle to peace building.

El Salvador is an instructive case for successful disarmament and demobilization of militants in states riddled with conflict.

The Salvadoran case illustrates the potential for demobilization and demilitarization, even at the height of hostility among warring factions. Though DDR is often seen as a precondition to peace accords, FMLN demilitarization occurred only when negotiated alongside broader SSR arrangements. El Salvador also points to the importance of simultaneous reintegration efforts.

4.3 FMLN in El Salvador: Disarmament, Demobilization and Reintegration

In 1992, the Chapultepec Peace Accords ended El Salvador's devastating civil war. From 1980-1992, over 74,000 people died and nearly one million persons were displaced due to ongoing violence between Farabundo Marti National Liberation Front – an armed guerilla organization comprised of five left-wing political forces – and the El Salvadoran government (Palomino).

Peace negotiations hinged on democratization, demilitarization, and political incorporation of armed militant actors. Disarmament and demobilization were largely successful. Records from the United Nations Observer Mission note that over 15,000 members of the FMLN were demobilized. An additional 22,600 troops demobilized following the reform of Armed Forces of El Salvador. Success was due in part to the non-linear timeline; DDR occurred alongside the political reintegration of FMLN (FAES). FMLN agreed to lay down arms only when its preconditions for security and political incorporation were realized. Secondly, targeted training programs for mid-level commanders permitted the continuation of existing command structures, which aided the transition from hostility to peace (Segovia).

It should be noted, however, that reintegration as part of the DDR framework was not as successful. Both FML and FAES ex-combatants were victimized following the accords, leading to further tensions. Additionally, reintegration failed to consider specialized needs for female and children combatants (USIP).

Security Reimagined under the Confederal Model

Aspects of the confederal model could help to address demands for enhanced security emanating from Israel and Palestine. As outlined above, both the Israeli and Palestinian publics express anxiety over security, although each party understands the concept differently. Israelis tend to view security in the traditional, hard power sense. Palestinians share that perception too, but they understand their own capacity for enforcing “hard” security to be a necessary precondition and guarantee of freedom, livelihood, and individual and collective rights.

Israel perceives the presence of the IDF in the West Bank, investments in advanced military systems, and the security barrier as protections for its security. This approach directly impinges on Palestinians’ freedom and generates a sense of grievance from the threat Israeli soldiers represent (Nusseibeh). On the Palestinian side, Hamas invests money and resources in enhancing military capabilities using new technologies (Reuters), building new tunnels into Israel (New York Times 2015), and producing new missiles (Times of Israel). That approach has provoked further Israeli assaults on Gaza. Due to the “security dilemma” that has arisen, both sides perceive the need to continually invest in their own security capability, driving the other side’s fears and grievances.

The creation of an Israeli-Palestinian confederation might potentially transform this zero-sum spiral of endless conflict into a sustainable and mutually beneficial partnership. Though security is often a stumbling block in negotiations, both Israel and Palestine share concerns about cross-

border crisis prevention and crisis management. The goal is to “de-conflict” and decouple security and ideology rather than disentangle the interests of each party.

Broadly, security cooperation under the confederal model would allow the two states to stem cross-border criminal activity and secure Israeli-Palestinian land against external threats. Joint security arrangements would also establish protocol for peripheral and internal borders (as well as shared policing in Jerusalem). This section will provide more details on the possibilities and challenges of security in a confederation.

Analysis draws on an expanded understanding of security sector reform. Both traditional, state-centric security and human security will be considered. Successful peace building not only defuses the security dilemma but also works to strengthen socioeconomic development and human rights.

Power Sharing Arrangements

Joint security collaboration under the confederal model would build on existing agreements between Israel and Palestine. Both states would commit to coordinated action for crisis prevention and crisis management. Although power sharing arrangements would involve a degree of compromise, collaboration must be palatable to both Israeli and Palestinian leadership. *Two States in One Space* envisions cooperation through state-led security offices and joint security committees for cross border concerns (i.e. intelligence, border security, monitoring and compliance, law-enforcement, and radicalization prevention). However, Israel and Palestine would ultimately negotiate the design of power sharing mechanisms.

4.4 Comparative Focus: Yemen's Unification and Security Power Sharing Pitfalls

Through most of the Cold War, the People's Democratic Republic of Yemen (South Yemen) and the Yemen Arab Republic (North Yemen) were independent countries. With the impending collapse of the Soviet Union, South Yemen's patron for decades, the two countries decided to unite on 22 May 1990, thus forming the Republic of Yemen.

Despite the initial goodwill in the wake of unification, tensions quickly emerged, leading to a short, bloody civil war in 1994. While Northern forces prevailed, North-South relations continued to be fraught with difficulties up to and beyond the Arab Spring (Day 2012). The main point of contention between these two sides represents a cautionary tale for any security-related power sharing arrangement in a confederation combining Israel and Palestine. Namely, Northerners dominated the government apparatus in general and the security sector in particular, excluding Southerners from key positions. Moreover, Northern military commanders were sent in to directly control Southern Districts. The sudden and increased Northern hegemony was the direct cause of the 1994 Yemeni Civil war. Southern grievances, notably over control of key positions in the security sector, fueled the growth of the secessionist al-Hirak movement, which today plays a key role in Yemeni politics (ICG 2011).

Successive Israeli governments have consistently emphasized that security is the *sine qua non* of any political settlement with the Palestinians. The Israeli conceptualization of security prioritizes Tel Aviv's ability to secure its borders and citizens unilaterally. However, inadequate power sharing, especially on security, was one of the main reasons for the failure of Yemen's unification in 1990, and continued to affect politics through the Arab Spring and the ongoing civil war. This should serve as a cautionary tale for any confederal solution: while Israeli security must be safeguarded, failing to devise and implement meaningful power sharing security mechanisms may well breed resentment and instability.

Open Borders

Under the confederal model, Israel and Palestine would allow heightened mobility of persons, goods, and services. Both states would "recognize the right of their citizens to move, travel, visit, work, and trade in all parts of the land" (Two States, One Homeland). Mention of open borders evokes utopian dreams: citizens of Israel and Palestine would be granted much-anticipated freedom of movement; interaction among Israelis and Palestinians would increase; families and friends could reunite; and

economic security could be bolstered through cross-border socioeconomic growth. Most would agree that the separation paradigm – or the idea that a wall is the only solution to protracted conflict – pales in comparison. However, open borders also generate substantial fears among Israelis who equate separation with protection; who live under constant threats to their Jewish identity and statehood; and who have become accustomed to rocket fire emanating from Gaza. Traditional state-centric agendas, which tend to emphasize physical

security, often overpower even the deepest desires for cross-border human security. This section will explore the promises of,

and obstacles to, open borders under the confederal model.

4.5 The Four Key Features of Open Borders

1. *“Hard” external borders:* Conforming to Israeli and Palestinian security interests, a hard external border would be maintained to protect against external threats. Israel would likely take the lead in border protection in nascent stages to account for Palestine’s gap in capabilities, though both parties would eventually provide equal safeguards against external threats (Two States, One Space). External borders would also have to consider a unified airspace and electromagnetic spectrum.
2. *“Soft” internal borders between Israel and Palestine:* Open borders does not preclude “thin” separation, or so confederal proponents argue. Based on drafted agreements, internal border protocol allowing for freedom of travel, movement, and residency would be established between Israel and Palestine. Initial stages would likely have multiple open crossings between the two states with potential passport checks and electronic surveillance (Two States, One Space). To respect Palestinian sovereignty, Israeli soldiers would no longer be present at Israeli outposts. Security fences could be modified to address any territorial reconfigurations, and controls would likely loosen as time passed.
3. *Autonomous control of, and access to, airports and ports:* Fundamental to human security, Palestine could operate a main airport in the West Bank and a second in the Gaza Strip. Israel would continue to rely on Ben Gurion Airport in Tel Aviv. Palestine could also have independent piers in Haifa and Ashdod, along with a floating pier off the coast of Gaza (Two States, One Space). Though each state would exercise autonomy over its own entry and exit points, they would be subject to external security protocol devised by the two states as part of their joint security cooperation.
4. *A link between the Gaza Strip and West Bank for the free movement of people, goods, and infrastructure:* In principle, freedom of movement permits heightened interaction not only between Israel and Palestine but also between the West Bank and Gaza Strip. Under a confederal model, the geographic divide between Palestinian territories is no longer insurmountable (Two States, One Space).

The confederal model, as articulated above, paves the way for enhanced security in Israel and Palestine, particularly as we consider the human security dimension. “Soft” internal borders permit heightened

commercial activity across borders, bolstering the economies of both states. A link between the Gaza Strip and West Bank would allow Palestine greater economy of scale, perhaps strengthening industry and

fostering socio-economic development. Additionally, control of and access to airports and ports would empower Palestinian citizens.

Northern Ireland's peace process is instructive for conflict resolution in Israel and Palestine. Consider the case study below.

4.6 Comparative Focus: Northern Ireland: Open Borders for Economic Growth

Signed in 1998, the Good Friday Agreement – known also as the Belfast Agreement – brought an end to sectarian conflict in Northern Ireland. Strand Two of the agreement established heightened cooperation across the island, including provisions for cross-border economic collaboration. During its conception, politicians and corporate actors touted the possibility of a “peace dividend,” or economic growth following normalized relations (“Economics in Peacemaking”). Proponents argued for Ireland as one commercial zone rather than two separate entities, citing the possibility for socioeconomic growth across Ireland (Teague and Henderson, 1083-1096).

Indeed they were right. Prior to the agreement, Northern Ireland's economy was in a dismal state, crippled by poverty and high unemployment rates. Post-World War II, the economy began to decline, as corporations could no longer compete on a global scale. Economic disparity aggravated and sustained sectarian conflict. Following the Belfast Agreement, Northern Ireland's economy improved significantly, growing marginally above the UK's average between 1997-2007 (Archick). Unemployment sits today at 5.3%, a marked improvement from 17% in the late 1980s (Labor Market Statistics).

Open borders following protracted violence permitted robust cross-border economic partnerships that ultimately enhanced human security in a once fragile conflict zone.

However, appealing open borders may be, any solution to the security anxieties of Israelis and Palestinians would consider traditional conceptions of security alongside a people-centric approach. By removing strong barriers between the confederally linked states of Israel and Palestine, new threats to Israel emerge, amplifying palpable fears already strongly embedded in the Israeli psyche. That said, ending Palestinian grievances is the only way to ensure Israel's long term security.

Remaining Challenges

Open Borders Would Create Serious Security Concerns

Open borders remove a layer of protection between Israel and Palestine. In Gaza, the double-separation wall protects nearby Israeli towns from Hamas sniper fire. Barriers along the Green Line were built during the Second Intifada to stop a wave of Palestinian-led violence. Any attempt at open borders would have to consider the

role of neighboring militant groups, many of whom challenge Israel's right to statehood.

Palestinian Concerns About Infringed Sovereignty

Even assuming that everything else is successful, Palestinians still may reject a Confederal model because it would limit their sovereignty. Given that achieving sovereignty has been the major goal of Palestinians for over a century, they may resist any security cooperation or power sharing that significantly impinges on that sovereignty.

Palestinian Institutional Weakness: Statehood without State-Building Could Decrease Security for All Involved

The confederal model calls for two sovereign states. However, Palestinians have never experienced sovereignty. Jumping into a confederal model without incremental state-building steps would be likely to decrease security for both Palestinians and Israelis. The example of South Sudan is a cautionary tale.

4.7 Comparative Focus: South Sudan

After a protracted civil war, South Sudan achieved independence from Sudan in 2011. This was hailed as a watershed moment for self-determination and conflict resolution. The South Sudanese people were hopeful and believed that peace and freedom had been achieved at last (The Guardian, July 18, 2011). However, the situation rapidly deteriorated into civil war and over 50,000 people have been killed since 2013 (CFR, Civil War in South Sudan). There are many underlying causes of the war, but it's important to note that disagreements over government and lack of strong state institutions have been key drivers of the conflict.

Although incrementalism has a bad name among Palestinians after Oslo, it would likely be more effective in the long run to build state institutions before achieving full sovereignty. Namibia's transition to

independence shows that a well-planned and well-supported transition, with a clear end-goal and timeline in sight, stands a better chance of success.

4.8 Comparative Focus: Namibian Independence

After 75 years under South African control, Namibia gained independence in 1990 after 23 years of active fighting. The transition to independence began in 1988 and occurred under the guidance of the United Nations Transitional Assistance Group. Elections were held and the new government collaborated together to develop governing institutions before official independence (New York Times, March 20, 1990). It's important to note that in the case of Namibia, regional acceptance of the process of state-building was an essential factor in the successful transition to independence. In fact, South Africa's overwhelming power asymmetry allowed it to help Namibia develop its own internal security without feeling that Namibia's new capabilities would threaten its own (Halden).

Similarly, in the case of a future Palestinian state, international and regional support would be important. Given its power differential, Israel, as the prior ruling power, can provide assistance through international intermediaries, to help build Palestinian state structures just as South Africa did for Namibia.

Jerusalem

The status of Jerusalem remains one of the most important unresolved issues in the Israeli-Palestinian conflict. Under traditional two-state proposals, Jerusalem would have to be divided between an Israeli state and a Palestinian state. From a security perspective, the physical division seems, at least superficially, an apt layer of a defensive posture. The realities on the ground, however, would not allow a complete separation of Israelis and Palestinians to be implemented.

The construction of a separation barrier in Jerusalem stands out as the most blatant change in the configuration of the city since 1967 (Dumper 2014). Notably, the wall had to be altered to accommodate the terrain of a densely populated city, thus reducing its proclaimed effectiveness. The wall reduced certain types of security threats, but it did not completely isolate the state of Israel from attacks. On the other hand, it drastically altered the lives of both Palestinians and Israelis. An often-cited number is the 90% reduction in terrorist attacks after the construction of the barrier ("West Bank Security Fence"). This is misleading. The Shin Bet attributed the reduced number of attacks to the Palestinian truce (Hare). Therefore, the potential for cross border attacks is constantly present. In this case, physical separation may simply serve to defer hostilities.

While safety and security is a legitimate concern, the realities contradict the benefits of complete separation. The state of Israel has worked diligently to barricade its borders. Nevertheless, these security measures have failed to completely safeguard Israeli society. The threats have adjusted accordingly and will continue to evolve with Israeli countermeasures. An alternative approach to security in Jerusalem, entailing open borders, is a prerequisite to a feasible confederal model.

Innovative approaches to security would be necessary in Jerusalem. The power sharing and open border components of the confederal model would require a shared police force. Law enforcement duties envisage joint task forces representative of the demographic composition of each unit of locality. Security for the holy sites could be administered in coordination with potential third-parties and with interfaith councils.

The Palestinians lack modern security institutions. Any security proposals would have to include considerations for the creation and maintenance of a force capable of serving citizens, residents, and visitors of the holy city. Due to the asymmetry of capabilities, Israel might have to shoulder the initial burden of law enforcement duties (as it already does) while Palestinian security institutions are being constructed. International development agencies, joint-governance bodies, and local stakeholders

would work to create sustainable community safety and security sector reform. Once the Palestinian forces meet a predetermined benchmark of readiness, a transfer of security duties would gradually occur in coordination with all governing bodies.

Opportunities

Effective bottom-up security sector reform in Palestine could convince Israelis to devolve more power to local Palestinian forces and bolster trust.

Disarmament, demobilization, and reintegration of non-state armed actors in both entities could assuage fears about open borders and lead to heightened cooperation.

For the confederal model to work, transitional joint security mechanisms - as precursors to more enduring joint institutions - should be considered, whose jurisdiction would cover the entire territory to counter organized crime and terrorist activity.

Enhanced human security via freedom of movement and economic empowerment could lessen expressions of violence, rendering separation unnecessary.

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05 Shared Resources



CHAPTER FIVE: SHARED RESOURCES

Key Judgments

The confederal model presents opportunities to create joint, permanent institutions which allow Israel and Palestine to share sovereign authority beyond territorial integrity and manage, maximize, and equitably share the benefits derived from water resources and the conservation of the environment.

Better water management within the confederation would lead to more secure livelihoods, higher living standards, and sustainable development.

Despite an opportunity for greater cooperation, securitization of water discourse and the asymmetry of power relations remain serious challenges.

Access to Resources is an Essential Part of Human Security

A focus on human security, as envisioned in the previous chapter, emphasizes the protection and empowerment of individuals and respect for human rights, including religious, linguistic, cultural, or ethnic rights. Furthermore, ensuring minority rights would address sources of ethno-national tension (interview with Dahbour). Assuring access to resources is an essential component of human security,

encompassing water, land, minerals, airwaves, and other issues. This chapter focuses solely on the management of freshwater and disputes over rights to its use.

Access to water, integral to human security, is fundamental to human life and the realization of the right to an adequate living standard. However, the current power asymmetry between Israel and the Palestinians has led to an unequal allocation of water resources, which hinders the socio-economic development in parts of the region, particularly the Palestinian Territories (Marques). Beyond environmental considerations, water is mostly discussed as an economic asset, and a human right to water is yet to be consolidated without debate. However, this report finds value in viewing resource-sharing from a human rights perspective, as the lens of the law shifts the focus to those who are most vulnerable in the current situation, particularly women and children (Arden).

The proposed confederal model, characterized by shared governance and open borders, provides advantages in addressing resource disputes as a mechanism for cooperation and power sharing. It allows the implementation of local cross-border initiatives which could facilitate localized peacebuilding efforts and the establishment of a joint institution to manage resources.

5.1 Map: Water Resources in Israel/Palestine



Adapted from "Water and War in the Middle East," Info Paper No. 5, July 1996, Centre for Policy Analysis on Palestine/The Jerusalem Fund, Washington, DC; PASSIA.

Introduction: Water Disputes in Israel and the Palestinian Territories

Water is one of the most salient features of the power asymmetry between Israel and the Palestinian Territories, where territorial control is inherently linked to control over water resources. While natural resources in the region are scarce in the absolute sense, the problem arises from ideological and political competition over “who legitimately owns and controls what” in the land (Haddad, 78). Control of water is interconnected with the control over land, and therefore ties into each population’s perceived “existence,” self-determination, and identity.

Water is perceived as zero-sum, whereby giving up control is equated to an existential threat (Frohlich). As a result, water has been securitized over time so that access to water had been determined much more decisively by the political environment than the physical hydrology of the area (Hall). The next section looks at the securitization of Israeli and Palestinian water discourse.

Israeli Perspective: Water Scarcity is an Ecological Fact

Water plays a central role in Zionist narratives surrounding the creation of the Jewish state, establishing the idea of “settling the land” and “making the desert bloom” (Frohlich, 130). Sufficient water resources allowed early Jewish settlers to cultivate, settle in the frontiers, and “take into possession” the lands, creating a new identity of “*chalutz*” (pioneer) (Frohlich, 129-130). Accordingly, water was perceived as essential to the survival of the Jewish state from early on, and the control of water

corresponds to control over national security and the Jewish-Israeli identity. The value of water to Israelis can be summed up in the statement by Moshe Sharett, Israel’s first Foreign Minister: “Water for Israel is not a luxury” or “a desirable and helpful addition to our natural resources... Water to us is life itself” (Abukhater, 398).

In Israeli water discourse, water scarcity is viewed as an “objective” representation of an absolute lack of overall quantity of water that can be used in the area. Threatened by this scarcity, Israel has sought absolute control over the access to and management of water sources in historic Palestine since 1967. The Israeli government also seeks to reduce water demand (consumption) and maximize water supply through technologies such as desalination. The amount of water available to Palestinians is then perceived as sufficient and expendable, so long as it remains under Israeli control. In the quest to preserve Israeli fresh water hegemony, “emergency measures including violence continue to be legitimised” (Frohlich, 134-136).

Palestinian Perspective: Israeli Dominance Leads to Water Scarcity

In the Palestinian narrative, water scarcity is politically induced and predominantly caused by Israeli dominance. The development of a Palestinian water discourse, clearly in response to the Israeli discourse, rejects Israeli control over most of the natural water resources, and demands a reallocation of these resources. Thereby, Palestinians convey their rejection of Israeli dominance overall (Frohlich).

Though the Palestinian people recognize bad water management by the Palestinian Authority, the dominant water discourse still ascribes responsibility for water scarcity and

bad water governance solely to the Israeli government. Inadequate water resources, including potable water as well as water needed for agriculture and economic development, are viewed as a threat to the viability of a Palestinian state. Therefore, similar to the Israeli discourse, Palestinians perceive a lack of control over water as an existential threat and as a hindrance to the development of Palestinian society (Frohlich).

In addition to water scarcity, waste management is yet another topic in the Palestinian narrative. Israeli appropriation of water resources is perceived as the root cause of the waste problem in the West Bank (Hall). Even though the wastewater treatment facilities are clearly lacking, Israel still adopts the “polluter pays principle” requiring the PA to pay for the cost of cleanup (Lipchin et al., 72).

Despite the securitization of water discourse, both Israelis and Palestinians acknowledge the need to cooperatively manage resources which are not bound by artificially-drawn national borders - like water - and achieve sustainability and environmental protection of the region (Frohlich). This common perspective could possibly serve as a basis for building a more sustainable and robust power sharing structure for resource management.

Cooperation: The First Joint Water Management Initiative

Prior to the 1950s, several water projects and ventures were proposed, by either Israelis or Arabs, to unilaterally manage and utilize the limited water resources in the region. The first cooperative venture, Jordan Valley Unified Water Plan (commonly known as the “Johnston Plan”), was proposed by U.S. Ambassador Eric Johnston

in 1953. It provided technical details on joint management and allocation of water of the Jordan River among the co-riparians in the region - allocating 257 million cubic meter (MCM) of the water from Jordan River Valley to the Palestinians. Though the plan was never ratified, it became a customary law accepted by both Arab states and Israel (Abukhater).

Renewed cooperation between Israelis and Palestinians on water issues began with the Madrid peace process in the early 1990s. The Oslo I agreement (1993) established an Israeli-Palestinian Committee for Economic Cooperation, which was a major achievement, as Israel accepted the principle of equitable utilization of joint water resources with the Palestinians for the first time (Abukhater). Article 40 of the Oslo II Interim Agreement (1995) established a Joint Water Committee (JWC) and the Joint Supervision and Enforcement Mechanism Team (Fischhendler). It stipulated that all JWC decisions shall be “reached by consensus, including the agenda, its procedures, and other matters” (The Israeli-Palestinian Interim Agreement).

However, the voting rules that were adopted affect power dynamics and further the power imbalance between Israeli and Palestinian authorities, giving Israel veto power over all Palestinian water projects. The agreement, intended to be a temporary measure, maintained the status quo instead of advancing the two parties towards achieving peace (Haddad).

The Current Structure of Water Management in Israel-Palestine

Water Sources and Management in Israel

Groundwater is sourced from three different basins of the Mountain Aquifer: the North East Aquifer (flowing northward into Israel); the East Aquifer (flowing eastward into the Dead Sea and Jordan River); and the Western Aquifer (flowing eastward into Israel) (Stein). Israel extracts eighty percent of the water and overdraws on its Oslo-agreed quantum by more than fifty percent (World Bank). Surface water is obtained from the Jordan River, its tributaries, and some transboundary streams (Haddad).

The Water Authority is a state-owned executive body that administers, operates and develops the Israeli water economy. Water is supplied by Mekorot, a national company under the supervision of the Israeli Minister of Energy and Water Resources. Mekorot's water supply system unites most regional water plants, the National Water Carrier System, and the Yarkon Negev Facility, and integrates waters from the Kinneret, the shore and mountain aquifers, drilling waters, seawater, and desalinated water (Ministry of National Infrastructures).

Water Sources and Management in the Palestinian Territories

Water allocated to the West Bank amounts to one fifth of the "estimated potential" of the Mountain Aquifer (World Bank). While Palestinians don't have access to the Jordan River, they receive just over a third of the share allocated to Jordan per year, based on the 1952 - 1955 Johnston Plan (Haddad).

The water is purchased from the same company supplying water to the Israeli

population, Mekorot. The estimated average annual groundwater recharge in the West Bank is 648 MCM per year, although the actual quantity available for household consumption is less than one half of the amount supplied after taking into consideration the water used for industrial, commercial, and public consumption. In total, Israelis consume 65-75 gallons per person per day whereas Palestinians consume an average of about 13 gallons of water per person per day, an amount that is below the World Health Organization's recommended daily minimum (Stein; Haddad; B'Tselem "Discriminatory Water Supply").

The Palestinian Authority coordinates with Israel via the JWC and is responsible for water distribution. It does so through the Palestinian Water Authority. Although most Palestinian communities are now connected to a central water network, Palestinian authorities provide water by rotation, because the water supply is insufficient to run 24/7. Water development initiatives are also contingent upon Israeli approval, due to a structure put forth by the Oslo Accords. In Area C, which encompasses about sixty percent of the West Bank, the PA must receive authorization from the Israeli Civil Administration, which will evaluate proposals without any public participation or Palestinian representation, and the process to issue a decision often takes two to three years (Stein; B'Tselem "Discriminatory Water Supply").

In terms of sewage, eighty percent of Palestinian homes in the West Bank are still not connected to a sewer system, and the sewer systems used by the remaining twenty percent are outdated, leak-prone, and unable to absorb the wastewater currently channeled to them (Stein).

In Gaza, the only source of freshwater is the Coastal Aquifer, supplying 50-60 MCM per year (Haddad). The blockade significantly undermines the development of the water sector, especially considering Israel's "refusal to license household cisterns, rainwater harvesting cisterns, minor well rehabilitation projects, water connection repairs, and electrification of wells" (Stein, 182). Only forty percent of Gazan homes are connected to sewage networks, and the WHO reports that twenty-six percent of diseases in Gaza are water-related (Stein).

Potential Solution: Top-Down and Bottom-Up Approaches

Equality in knowledge, access, control, treatment, and quality of life are crucial components in any potential setup for sustainable power sharing between Israel and the Palestinians over water, or resources in general. In order to avoid the tragedy of the commons, this report envisions a solution that incorporates both bottom-up local initiatives and the establishment of a top-down authority to better manage water resources in the region.

Several factors are crucial in shaping power sharing mechanisms between Israel and the Palestinians, including technology, climate change, and the information gap. Although technology, such as desalination, could potentially benefit both Israelis and Palestinians, unequal access to the benefits of technology thus far has aggravated the power and knowledge asymmetry. For instance, desalination places Israel, which is the lower riparian on freshwater flow, in the position of an upper riparian, giving it control over the flow of desalinated water (Feitelson et al.). An over-reliance on desalinated water as an alternative to freshwater sources, therefore, maintains current unequal power relations.

Environmental degradation as a result of desalination would also have a disproportionately negative impact on Palestinians.

Climate change could potentially exacerbate tensions between Israel and the Palestinians. Ongoing changes in the environment - such as sea-level rise and changes in storage capacity of aquifers and groundwater lakes (such as Lake Kinneret/Sea of Galilee) - could further diminish the already-limited natural resources in the region, and worsen the competition over resources. In addition, the impact of climate change on Palestinian society is likely to be more substantial than on Israeli society, due to its reliance on rain-fed agriculture, its lack of advanced technology, limited mobility and access to livelihood (Feitelson et al.).

Regarding the gap in information, the concerns are twofold. First, there is a lack of cooperation among social scientists, data scientists, and other environmental experts to map out the causality between environmental changes and corresponding social and political implications. Second, a lack of knowledge, expertise, and technology is negatively impacting the capacity of Palestinian society to respond to changes in the environment and to water shortages, in particular.

Local Cross-Border Initiatives (A Bottom-up Approach)

Modeled after the "Good Water Neighbours" project initiated by EcoPeace, in 2001, a possible solution to the water issue is a localized approach fostering cooperation between cross-border communities in proximity to each other. EcoPeace is an environmental non-governmental organization from the Middle East founded in 1994 that seeks to advance

sustainable development and peace in the region. This perspective highlights the mutual dependence on shared water resources, and sees it as an opportunity to leverage understanding as well as promote further, broader cooperation in the longer-term. It vouches for community-based initiatives to identify win-win solutions that would appeal to local stakeholders (Djernaes et al.).

The shortcoming of this approach is that it largely disregards the power asymmetry between Israel and the Palestinians and overlooks systemic Israeli dominance. Furthermore, there is no causality between this people-to-people approach and policy change (Djernaes et al.). By excluding high-ranking officials, it creates a wedge between bottom-up initiatives and high-level impact.

A Joint Water Authority (A Top-down approach)

A shared authority to manage all available renewable and nonrenewable water resources and supply water for all purposes to both peoples could be established. It would be wide in “scope, power, and jurisdiction to implement political agreements on water,” and would include a conflict resolution mechanism (Haddad, 83). The formation of the joint authority would be gradual, considering Israel’s lack of immediate willingness to give up all control, as well the need to fill the knowledge and expertise gap on the Palestinian side. This authority would be a permanent institution, and not an interim body such as the current Joint Water Committee, whose potential has been undermined by being subject to renegotiation in final-status talks.

5.2 Comparative Focus: Mekong River Basin Water Management (source: International Waters Governance)

Similar to Israel/Palestine, Mekong River riparian states - Cambodia, Laos, Thailand, Vietnam, China and Myanmar - have a history of bitter conflicts, competing interests, and different political systems and socio-economic development. Collaboration among the six riparian countries, therefore, is not easy. The realization that the best alternative to a negotiated agreement was less desirable than coming to an agreement pushed the four lower riparian parties to cooperate and reached an agreement in 1995. The agreement is a culmination of extensive planning, negotiation, and a prior cooperation framework that existed since 1957.

As upper riparian states but not member states to the agreement, China and Myanmar became official “dialogue partners” in 1996 and are allowed to participate in meetings. The Mekong River Commission (MRC) has greatly improved data monitoring and information sharing among the countries. While some challenges remain, increased cooperation has contributed to improved transparency and trust among the four member states.

Lessons learned: (1) Existing cooperation framework could serve as a foundation for renegotiating terms and conditions of new framework to share and manage water resources more equitably. (2) Cooperation on data monitoring and information sharing could yield significant benefits to the states to counter environmental hazards. (3) Jordan could participate in an arrangement as a “partner” rather than a member so as to ensure equitable allocation of water resources and avoid sidelining Palestinian interests.

Remaining Challenges: Securitization of Water Discourse & Power Asymmetry

A confederal approach could lead to greater cooperation between Israeli and Palestinian authorities on managing shared resources and environmental concerns that cannot be arbitrarily divided and unilaterally addressed. However, despite the potential for greater cooperation, securitization of water discourse and the asymmetry of power remain serious challenges.

It is certain that water supply is not increasing, whereas population and water demand continue to grow. Therefore, unless water management directly translates into progressive and sustainable socio-economic development, particularly in Gaza, the perception of water scarcity and control of water as zero-sum will remain. Water management measures that could be used to enhance socio-economic development include increased sharing of data and desalination technology to benefit all people; modernizing sewage treatment systems in the Palestinian Territories; and investing in shifting the Palestinian

economy from subsistence agriculture to a more diversified economy.

Opportunities

If emphasis is put on equitably sharing the “benefits” that can be derived from water resources and not on the quantitative allocation of water, then Israeli and Palestinian authorities could better manage water resources based on actual needs.

If a combination of top-down approaches and bottom-up local initiatives is adopted to manage regional water, it could help foster cooperation and peacebuilding efforts between Israel and the Palestinians. A top-down approach calls for the establishment of a joint institution accepted by both authorities to pursue equitable sharing of all renewable and nonrenewable water resources, whereas a bottom-up approach includes initiatives that would promote people-to-people dialogue and cross-border interactions.

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06 Reconciliation



CHAPTER SIX: RIGHTS AND RECONCILIATION

Key Judgments

A governmental framework in Israel/Palestine that abides by international law and secures the equal provision of human rights to all peoples of the area is more sustainable.

A confederal model requires cohabitation (unlike a 2SS, which would involve separation). For this to be possible, a process of rehumanizing the opponent is necessary on both the Israeli and the Palestinian side.

The successful transition of South Africa from an apartheid regime to a democracy is an example of peaceful transition and reconciliation between parties to an ethnonational conflict. This could be instructive for achieving the reconciliation in Israel-Palestine that would be needed before a confederation could be successfully implemented. However, the process of transition is the most challenging, as it requires significant political will and international support, and is often tested by outbreaks of violence and ingrained narratives and attitudes.

Introduction

This report takes the position that a confederal model would be impossible given the current narratives of both Israelis and Palestinians. Unlike a 2SS, which involves complete separation (as some have called it, a divorce), a confederal model would require the parties to cooperate and in many cases even to cohabitate. Power sharing would require trust and mutual acceptance and respect. Given the current state of the

conflict, these foundational and necessary elements are not present. This report argues that technical elements of a confederation would only be achievable after reconciliation and enhanced respect for human rights.

The Israeli and Palestinian human rights communities have documented violations of civil, political, economic, social, and cultural rights, particularly in the West Bank, East Jerusalem, and the Gaza Strip. Whatever governmental framework is implemented in Israel/Palestine, it will be most sustainable if the newly empowered authorities abide by international law and secure the equal provision of human rights to all peoples of the area.

From the Palestinian perspective, the status quo since June 1967 constitutes an unacceptable state of institutionalized occupation. Israel, the state which was successful in establishing its sovereignty, protects Jewish lives and denies the human rights of Palestinians. It justifies its policies and practices as necessary for its existence.

One of the clearest sources of injustice has been militarization, a process implemented through socialization, official policies, and economic incentives (Eichler). Military control has subjected Palestinians to excessive violence, abuse, and arbitrary detentions, which create systematic rights violations (Montell).

Notions of masculinity are embedded in both societies, where warriors are glorified as heroes, and militarized patriotism is perceived as the ideal form of contribution. In both communities, national identity is strongly associated with 'the duty to protect' (Kronsell, 154). Militaristic leaders hold the

most power, and have a vested interest in perpetuating the status quo. Any viable, sustainable solution would require a redefinition of who is considered a role model and what behaviors are rewarded. This could include amplifying the voices that contest hegemonic narratives which ignore the power asymmetry and demonize “the other.”

Human rights organizations have prevented the situation from deteriorating further through research, strategic policy dialogue, litigation, and popular mobilization. However, outreach to the Israeli public requires better and further investment of resources. On both the Israeli and the Palestinian side, a process of rehumanizing the opponent is necessary, by being exposed to their vulnerable and cooperative characteristics (David and Maoz).

Outlined below are some suggestions for ways to incorporate human rights considerations and reconciliation under a confederal model.

Rethinking Education and Narratives: Segregation and Nationalism in Education Engrain Conflict Narratives

The narratives that would prevent a successful confederation are propagated and engrained in the education and school systems of both Israel and Palestine. Palestinian and Jewish school systems are totally segregated, but a hyper-ethno-nationalist ideology is central in both. As such, the issues worth addressing here are two-fold: the emphasis on ethno-nationalism within the curriculum, as well as the physical separation across space, which influences beliefs and attitudes.

Segregation in the school system directly reflects the more general ethnic and religious geographic separation, with the exception of a handful of “mixed cities.” Growing up, Jewish and Palestinian students don’t meet or interact with one another. Even when taking mixed cities into consideration, of 1.9 million children enrolled in Israeli schools and kindergartens, less than 750 Jewish and 750 Palestinian children attend some sort of multicultural binational educational framework (Gordon). The fact that Jewish-Israeli and Palestinian children rarely get to know one another has far reaching implications on promoting values and practices associated with respect, wellbeing, and protection of rights. Segregation leads to ethnic intolerance and makes it difficult to build trust or forge cross-ethnic identities.

6.1 Comparative Framework for Education: Northern Ireland

A study which examined mixed Catholic and Protestant schools in Northern Ireland suggests that integration positively affects out-group attitudes, holds great potential for social cohesion, and can promote forgiveness and reconciliation (McGlynn et al.). This case was similar to the situation in Israel, where Israeli and Palestinian children very rarely interact with one another and therefore do not necessarily see each other as fully deserving of rights and protections.

Spatial proximity alone bears little impact on tolerance. Absent the right conditions, it might even exacerbate prejudice. Contact has to be meaningful if it is to mitigate essentialist bias toward ethnicity, and create emotional awareness and feelings of responsibility towards the human rights of the other.

6.2 Comparative Framework for Education: Rwanda

After the 1994 genocide in Rwanda, the Ministry of Education made changes to curriculum policy and implementation in Rwanda. The Rwandan example differs from the Israeli-Palestinian case in that post-genocide education stressed national unity and solidarity, which is less relevant and applicable to intergroup conflict between the Israelis and Palestinians. However, one curriculum component which could be adopted is a shift from collective duty to individual responsibility; from an emphasis on blind in-group loyalty to an appreciation of critical and analytical thinking (Obura).

Lessons Learned

- Bolster desegregated schools in Israel, like Hand in Hand and Hagar.
- Propose a revised curriculum that exposes students to both the Israeli and Palestinian narratives, humanizes the opponent and encourages critical thinking.
- Introduce and further develop citizenship education in Israeli and Palestinian schools, as a means of shifting away from ethno-nationalist mentalities.

In the Context of Israel-Palestine

As of 2016, there are seven Jewish-Arab multicultural schools operating in Israel, encompassing 1,500 students (Gordon). The schools are recognized by the Ministry of Education and local authorities in Israel. These schools practice diversity through their mixed student population, by enrolling an equal number of students, on average, from each ethnic group. Hebrew and Arabic are given equal status, and language is used as a bridge, as each classroom is staffed with a Jewish and an Arab teacher. Within this bilingual space, the students engage responsibly with each ethnic group's heritage, customs, and historical narrative. One added positive effect of these schools is their ability to create mixed communities outside of the school's physical boundaries.

Major-General Eitan Dangot, Former Coordinator of Government Activities in the Territories, Israeli Ministry of Defense, has expressed support for the idea that multicultural education, and specifically requiring students to learn both Hebrew and Arabic, would be an essential step towards improving relations (Dangot Remarks).

Historical Justice and Reconciliation Commissions

Historical justice has mostly been avoided in peace talks because its subjective nature is perceived as a potential obstacle to negotiations. However, without considerations of justice, reconciliation is unlikely. Truth and reconciliation commissions are a vehicle for addressing transitional justice, which is ideal to address the Palestinian consensus on the injustice of the Israeli occupation: it is transformative and restorative rather than corrective or compensatory; it is future-oriented while recognizing the past; it establishes the

conditions for greater respect of human rights; and it takes the power asymmetry into consideration (Peled and Rouhana).

Truth commissions are usually sanctioned by the state, and sometimes also by the armed opposition. They are established at a time of transition, to investigate patterns of abuse and violations of human rights committed over a period of time in the past (Freeman and Quinn).

A commission for Israel-Palestine could be created in the process of transitioning into a confederation, but there are benefits to establishing a common truth regardless of the final political framework. A commission can serve as a step toward constructing a joint historical narrative, and preparing both populations for transitional justice (Peled and Rouhana).

Current realities generate great challenges to address the questions of "rights" in the context of Israel and the Palestinian Territories. The question of who is responsible to guarantee what rights to whom remains unclear and unaddressed. In order to move beyond the current quandary and to achieve equality of rights, mutual recognition and genuine security for both peoples, the paper suggests considering historical reconciliation as one of the incremental steps which leads to potential peace in the future. Reconciliation, rather than an end goal to be achieved along with political agreement, can be an instrument that brings people to confront and contest memories and narratives with the goal of understanding the other. Reconciliation should "guard against reversal of the relationship to a stage in which the very legitimacy of each side is questioned again" (Rouhana, 35). To allow genuine reconciliation to take place, four key issues should be addressed: justice, historic truth

(including a consensus history), historical responsibility for human rights abuses, and restructuring of the political and social relationship between Israel and the Palestinians.

6.3 South African Truth and Reconciliation Commission

The transition of South Africa from an apartheid regime to a democratic one is being analyzed here as an example of peaceful transition and reconciliation between parties to an ethnonational conflict. The South African Truth and Reconciliation Commission (TRC) was established in December 1995 by the newly-elected government to investigate gross human rights violations that were perpetrated during the period of Apartheid. The commission held special hearings, allowing both victims and perpetrators of gross human rights violations to give testimonies, and granted amnesty to perpetrators who confessed their crimes truthfully to the commission. The emphasis on “reconciliation,” the approach of “restorative justice” and placing responsibility on the apartheid system –rather than individuals – rendered the TRC effective in helping the society move forward (Rouhana). With political reform taking place, civil society was able to further pressure the government to establish a body, in 2006, to monitor TRC’s implementation of financial and symbolic reparations to victims, in particular, exhumation and reburial of victims (USIP 1995).

South Africa is similar to Israel/Palestine in the sense that a demographic minority held power over an oppressed group, including by the use of geographic limitations and restrictions on movement and employment. However, it is significantly different from the Israeli-Palestinian context as the process of reconciliation took place after the 1995 political change and thus commissioned by the elected government representing all people.

6.4 Guatemala: Historical Justice Commissions

Following decades of civil war that ended in the 1990s, both the Guatemalan government and the rebels agreed to establish a Commission for Historical Clarification (CHC), funded by both government and foreign sources. The mandate of the Commission was fully negotiated by parties to the conflict and implemented directly without the mediation of subsequent law (ICTJ). The UN Secretary General appointed the chair, who then selected two more commissioners approved by the two parties. The CHC staffed nationals and non-nationals, visited communities, collected thousands of testimonies, and investigated reports issued by civil society. The Commission's hearings were not held in public; naming individual perpetrators was not permitted; and reparations were not explicitly part of the terms of reference. An important lesson that could be applied to Israel/Palestine is starting the whole process with a more limited mandate and a low expectation of what the commission could "actually" achieve for individual victims. This may in fact give commissioners greater flexibility to interpret the mandate to address specific victims' demands (ICTJ).

A special liaison team was tasked with ensuring cooperation with the armed forces and guerrilla organizations. The military investigation became familiar with personnel and the tactics employed to assess collective responsibility, but did not cooperate well with the team. Similarly, the guerilla group claimed it couldn't provide the required information.

The report was successful in serving as a shared public record and source of information on abusive practices. However, its implementation fell through, in part because the former military officers who were involved in carrying out the violence continue to participate in national politics (Corntassel and Holder).

6.5 Lessons Learned (Freeman and Quinn 2003)

(1) Before the truth commission begins, it requires a clear set of conceptual guidelines. Its goal, number of commissioners, extent of popular participation, functions, procedures and expected impact must be determined in advance. The commission must also precisely define violations subject to its inquiry. A definite timeframe must be decided on, with a discrete preparatory phase and the capacity to contain delays.

(2) The commission's staff should be diverse, but also emphasize professional agency, and hire people with specialized experience.

(3) The work can be divided up between several regional offices and field stations, but communication must be streamlined, and there should be a degree of standardization across the various offices.

(4) Community members should be actively encouraged to participate in the process. As such, the commission could benefit from visiting local communities and holding public information sessions.

(5) The data collection process mostly takes the form of statements from victims and their families, but one recommendation from the CHC experience is for statement-takers to seek out key players, such as mayors and clergy, who can contextualize historical events as well as individual incidents. It was found important that statement-takers come from a legal background, and not only from the social science or human rights fields.

(6) A media liaison department could be established, to assist the commission in setting the parameters of public debate, prevent premature leaks and keep constituents informed of the commission's schedule.

In the Context of Israel-Palestine

The selection of commissioners would be particularly challenging, as Israel would likely reject chair appointments made without its involvement and explicit approval. That doesn't rule out the possibility of a truth commission; Israel could agree to the process given an international facilitator it perceives to be fair. Even if the Israeli government doesn't formally endorse a truth commission, civil society in Israel is robust enough to initiate

an equivalent informal process that could have a far-reaching positive impact.

One aspect of the CHC that could be adopted in the Israeli-Palestinian case is having a special team that fosters a relationship with the security apparatus. It would focus on communication and information collection from the Israeli military, as well as security forces and armed resistance groups in the West Bank and Gaza.

In Guatemala, the hearings weren't public. However, considering the power asymmetry, the strong ethno-nationalist narratives, and ethnic segregation in the Israeli-Palestinian experience, public truth-telling may hold more transformative power than a final report summarizing the findings.

If too many rigid material and symbolic limits are applied to a truth commission, its impact could be greatly compromised, and societal divisions could be further exacerbated. If truth commissions can't effectively address past and current injustices committed against indigenous peoples, the mechanism is flawed in its foundation, and it will fail in transforming inter-group relations (Corntassel and Holder).

As such, a genuine, durable reconciliation process could be just as challenging to facilitate in the instance where Israel agrees to cooperate. Similar to the Guatemalan case, in Israel-Palestine, indigenous communities are repeatedly identified as potential threats, and are the primary targets of violence. A process that is state-dominated tends to perpetuate power imbalances and justifications that lead to violence (Gibney and Roxstrom).

A Bilateral Human Rights Convention

In imagining an Israeli-Palestinian confederation, one mechanism that could

protect marginalized communities, including indigenous groups and women, is a shared constitution. Endorsed by Israeli and Palestinian leaderships, it would address, among other things, gender equality, political participation, and labor participation.

By involving civil society organizations, an opportunity lies in integrating voices and actors that tend to be marginalized in hyper-militaristic, ethno-nationalist societies. Women, for example, are often sidelined in the decision-making process, both at times of war as well as around the negotiation table.

Several diverse civil society actors are worth considering in this regard, such as: The Parents Circle-Families Forum, representing Israeli and Palestinian bereaved families; Zochrot, raising awareness of the *nakba* and humanizing Palestinians to the Jewish public; Breaking The Silence, serving as a platform for Israeli soldiers to share stories from their military service in the Palestinian Territories; Women Wage Peace, a women-led movement striving to bring a viable peace agreement by influencing the Israeli and Palestinian public agendas; Rabbis for Human Rights, a representation of 100 rabbis and rabbinical students across the different streams of Judaism, aiming to inform the Israeli public about human rights violations; Adalah, a non-sectarian, legal center for Arab minority rights in Israel.

6.6 Ecuador: Confederal Constitution

Ecuador's twentieth constitution since gaining independence in 1830 was a process initiated by a federation of 14 indigenous groups: The Confederation of Indigenous Nationalities of Ecuador (CONAIE). The CONAIE demanded an acknowledgement of Ecuador's plurinational character, granting indigenous languages official status, expanding collective rights for indigenous people and requiring requests for approval to extract resources on indigenous lands. (Benomar).

This case holds lessons for Israel/Palestine, where the frequent pitting of Israeli Jews against Muslim Palestinians masks the reality that there are many varied and diverse stakeholders, all of whose interests should be taken into account.

Lessons Learned

- (1) A separation should be made between peace talks and constitutional deliberation. Constitutions should be less about ending the war, and more focused on peace-building and imagining a common future.
- (2) Issues that inhibit meaningful debate, consensus-building, and transparency should be addressed.
- (3) The constitution-drafting body should not be dominated by a single political force.
- (4) Involve as many stakeholders as possible in the drafting of the constitution. The process should go beyond the elite groups, and actively encourage public participation. The constitution should incorporate principles of universal human rights, including the rights to participation and democratic governance.

In the Context of Israel-Palestine

In Israel, there's a long-standing debate on whether the state should draft a written constitution. In the Palestinian Territories, adopting a constitution without having the structural and institutional capacity to implement it can be more harmful than positive. With the two groups still fighting, agreement on clear definitions and values could prove to be a real challenge. Furthermore, in the absence of a peace process, it will be difficult for constitutional deliberation not to turn into a politicized exercise of power.

Opportunities

If the parties integrate the diverging historical narratives into a shared educational curriculum, which also humanizes the opponent and bolsters critical thinking, this could create the opportunity to develop the trust and respect needed for a confederal model to function.

If civil society organizations apply political pressure toward justice, then

powerful political interests may be more likely to engage in the reconciliation necessary for a confederal approach.

If the parties hold a historical commission or a truth and reconciliation commission, this could open space for the cooperation necessary for power sharing and freedom of movement.

If a future confederal solution includes a bilateral Convention on Human Rights, this could make the success of the confederation more likely.

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07 Conclusion



CONCLUSION

The report explored academic literature on confederations, and drew examples from similar case studies, so as to outline key judgements and opportunities for a confederal Israel and Palestine. Interviews were conducted with stakeholders on the ground, including diplomats, local politicians, and activists.

Imagining the future of Israel and Palestine through a confederal paradigm proposes to deconflict, rather than separate, the two entities. Thus, when applied to the core issues, the confederal model reveals several opportunities, particularly in reconceptualizing security to include human security. Human security assures the safety of individuals and communities, instead of prioritizing the defense of the nation-state. Another opportunity is to focus on bottom-up initiatives, such as the Good Water Neighbors project facilitated by EcoPeace. Such an approach contributes to trust-building, as well as sustainable power sharing dynamics in a confederal model.

With Israel's continued policy of settlement expansion, the populations are expected to grow further intermingled. Decoupling citizenship and residency could serve as a possible solution. The case of the European Union serves as an example of the potential benefits of the latter, including freedom of movement for people and goods. However, this outlook is less likely to offer a just solution for Palestinian refugees, both those in the diaspora as well as present absentees citizens of Israel.

Two main challenges remain: Under a confederal model, Israel would have to relinquish its control to Palestinian

authorities, even though it has long been reluctant to do exactly that. In a shared Jerusalem, or a Jerusalem that stands as its own entity, what would a mixed police force look like, for example? How would it operate? Furthermore, the power asymmetry means that Israel is likely to maintain the upper hand, both in negotiations and in establishing joint institutions. Bolstering Palestinian capabilities and allowing for potential international mediation could assuage this asymmetry.

Another aspect which is particularly difficult for realizing a confederal model is the temporal question - both with regards to the length of time and sequencing. Israelis would find more assurance in a gradual process, but after the Oslo peace negotiations, the Palestinians have become utterly disillusioned with incrementalism. Spoilers would have multiple opportunities to affect any transition period, and, absent a political climate determined to achieve peaceful cohabitation, could be successful in derailing any new transition process.

One way to overcome, or at least diminish, the impact of spoilers is to invest thought and resources in rights and reconciliation. Reforming the educational curriculum to recognize the Palestinian *nakba* is one example. Case studies from Northern Ireland point to positive effects in recognizing past wrongdoings and humanizing the other, which result in greater trust among people on opposite sides of the conflict. A process which integrates rights and reconciliation discourse would prime both societies to power sharing under a confederation, and contribute to a lasting solution that is just and fair.

08 Appendices



APPENDIX A: Comparative Insights of Confederations

Confederations and other multinational structures come in many different forms, reflecting the history and unique circumstances of the parties involved. There are few “true” confederations, but Switzerland and the EU serve as illustrative examples. Furthermore, examples of federations and consociational states can provide important insights and therefore some examples are detailed below.

Swiss Confederation (Switzerland)

Switzerland is a self-styled confederation consisting of twenty-six semi-sovereign cantons (Wolff). There are three main governing bodies on the federal level: a bicameral parliament, a Federal Council (which holds executive power), and a Federal Court. The Federal Council has seven members and the President of the Confederation is elected from among those members. Each canton has its own constitution, and its own parliament, government, and courts.

Although Switzerland is officially a “confederation” it is more appropriately classified as a federation. It has had a federal constitution since September 12, 1848, which was most recently modified in 1999. The constitution created a strong central government, replacing the previous weak confederation of independent cantons bound only by treaties. With the creation of a federal government, the cantons gave up some of their sovereign rights to the central government while retaining the rest (Constitution fédérale de la Confédération Suisse). This is similar to the structure of the United States constitution, on which the Swiss constitution was modeled.

The European Union (EU)

The EU is like a confederation in the sense that sovereign entities ceded authority to the EU governing bodies, retain the power to withdraw unilaterally at any time, and engage in certain acts of power sharing. However, it is officially called a Union and it can also be called a “treaty organization” to underline this completely voluntary nature. On the other hand, some scholars have classed the EU as a consociation reflecting the independence of the segmented polities (Gabel).

The EU has many unique structures that make it difficult to classify as either a confederation, a federation, or a consociation. There is no common army nor can the EU levy taxes or issue debt, but member states cooperate on military missions, maintain a supranational diplomatic corps, and coordinate on monetary policy (to an extent). There is a high level of regulatory cooperation, which has been a primary driver of increasing integration (Genschel). Europe is an illustrative example because it began as the European Coal and Steel Community, which gradually evolved into the current EU. This shows that in some circumstances states may willingly relinquish core aspects of their sovereignty for mutually beneficial cooperation.

Belgium

Belgium is technically a federation, but in some ways it is closer to a confederation since there is consociational power sharing at the center, combined with “alarm-bell mechanisms” for dispute resolution (Genschel). Belgium displays some similarities to the situation in Israel/Palestine. There are multiple linguistic groups (French, Dutch, German), but only French and Dutch are used in central power sharing arrangements. There have been disputes over territory between two self-governing entities within the federation. Additionally, Belgium is an interesting case because the capital (Brussels) is one of the three regions of the federation (Genschel). Belgium experienced violence in the past, but the consociational model has been a useful tool for moderating tension. In fact, the ethnolinguistic divisions, a source of conflict in the past, have not caused any violence in the last century (Genschel). In this regard, Belgium may be a hopeful model to consider.

Iraq

A new constitution in 2005 provided for a federal structure for Iraq. Generally, power is still centralized. However, Kurdistan has much more independence, which makes it an interesting example. Consociational institutions create structures for Kurds to participate in decision-making at the federal level (Genschel). There are also dispute resolution mechanisms in place.

Kurdistan is relevant because it exhibits similarities to Israel/Palestine, including: ethnic diversity, religious diversity, territorial disputes, asymmetries of power, and a history of conflict.

Kurdistan itself displays levels of diversity, with at least five percent local minorities and multiple religious and ethnic groups, including Kurds, Turkoman, Arabs, Christians. Additionally, Kurdistan and the central government dispute the exact boundaries of the territory (Wolff).

The federal model has granted the Kurds a level of autonomy and has helped to reduce levels of tension. It is unclear, though, whether this model will be sustainable in the long run. Given the current conflict with ISIS, the overflow from the crisis in Syria, and the increased tension between the Turkish government and the PKK, prospects for the future are uncertain.

Bosnia and Herzegovina (Federation of Bosnia and Herzegovina, Republika Srpska, Brčko District)

Bosnia’s system of government is an example of consociationalism, a form of power sharing that is often used in an attempt to manage tension among groups divided along ethnic or religious lines (Arend). There are two autonomous entities, the Federation of Bosnia and Herzegovina and Republika Srpska, with a third region, the Brčko District, governed under local government. The Federation of Bosnia and Herzegovina is itself complex and consists of ten federal units –

cantons. There is consociational power sharing at the center (Wolff).

Bosnia has some similarities to Israel/Palestine. The Federation of Bosnia and Herzegovina and the Brčko District both display levels of diversity of at least five percent local minorities. Additionally, there was a dispute over what should constitute the territory of the Brčko District and international arbitration successfully resolved the dispute (Wolff).

The United Kingdom of Great Britain and Northern Ireland (England, Scotland, Wales, and Northern Ireland)

The UK is similar to a confederation in the sense that all four entities maintain autonomy over their own internal affairs. However, the UK is not technically a confederation because power was devolved from the central government down to Northern Ireland, Scotland and Wales. In this case, Great Britain is still considered a unitary state because the central government could theoretically take back power at any time. On the other hand, Scotland's bid for independence shows that the state is not as unitary as others (for example, if one of the states in the United States made a bid for independence it's unlikely that a simple vote would be held (consider, for example, the Civil War)).

Furthermore, there really is no central power-sharing due to prominence of England within the UK (Wolff). This is an example of asymmetries of power, which would likely be a major issue in a confederation between Israel and Palestine as well.

Northern Ireland presents a different question, however. Home Rule, the Troubles, and the Good Friday Agreement are complex issues beyond the scope of this paper. It should be noted, though, that Northern Ireland since the Good Friday Agreement has operated under a consociational model (McGarry and O'Leary). This model has been largely effective and was responsible in no small part for achieving peace.

Lebanon

Lebanon is an interesting example because it is one of the world's few confessionalist countries: the system attempts to represent fairly the 18 recognized religious groups with a proportional representation in the government (Harb). This system echoes that used in the Ottoman Empire and attempts to limit sectarian conflict with *de jure* equal representation. Under Lebanon's version of confessionalism, the President of the Republic is a Maronite Christian, the Prime Minister is a Sunni Muslim, and the Speaker of Parliament is a Shia Muslim. The other groups are represented in lower political posts (Harb).

While some argue that this arrangement could be used in other countries in the Middle East, many critics say that it is an obstacle to true democracy and that a liberal, secular government would be better (Harb). Additionally, this complex arrangement can make it difficult to form governments and can lead to more troubles at times. In 2011, it took five months to form a government and this delay threatened Lebanon's internal stability (Yacoubian).

Ottoman Empire

The Ottoman Empire used certain consociational and confessional systems to manage the territories under its control. Specifically, the Millet system provided for jurisdiction over individuals, rather than over territory. Legal systems applied separately to Muslim, Christian and Jewish residents, regardless of where in the Empire they were (Levine and Mossberg).

However, imperial bureaucracy and imperial control managed conflicts in a way that current democratic states cannot. In this sense, power sharing arrangements in areas once under Ottoman control may be a good response to historic precedent (O'Leary 2005).

The United States (1781-1789)

Under the Articles of Confederation, the United States operated as a confederation with thirteen sovereign states joining together for mutual advantage under treaties. The central government had extremely limited power: there was a Confederation Congress but no president or judiciary and, crucially, no power to levy taxes (Horn). The experience of the United States as a confederation is a useful illustration of the inherent weaknesses of a confederation. Due to the limited powers of the central government, the United States were unable to effectively govern and conduct business.

Condominium

Condominiums help manage tension over borderlands or shared resources by using power sharing mechanisms to create shared sovereignty (Levine and Mossberg). There are several current examples of condominiums, including over water resources such as the Moselle River between Luxembourg and Germany, the Parana River between Brazil and Paraguay, and the Gulf of Fonseca among El Salvador, Honduras, and Nicaragua. This model could be useful for management of the Jordan River and other water resources. Additionally, condominiums over land areas, such as Andorra, under the sovereignty of Spain and France, and the Brcko district, between the Federation of Bosnia and Herzegovina and Republika Srpska, could provide examples of how to manage joint sovereignty over Jerusalem.

Table of Comparative Cases

	Switzerland	EU	Belgium	Iraq	Bosnia	Lebanon	Tanzania
SOVEREIGNTY							
Fully sovereign?		✓					
Limited sovereignty?	✓		✓	✓	✓	✓	✓
Right of Withdrawal?		✓					
OPEN BORDERS							
Open Residency?	✓	✓	✓	✓	✓	✓	✓
Confederation Citizenship?		✓					
POWER SHARING							
Thin?		✓					
Thick?	✓		✓	✓	✓	✓	✓
SUBSTANTIVE ISSUES							
Ethnic/Religious Diversity		✓		✓	✓	✓	✓
Linguistic Diversity	✓	✓	✓	✓	✓		✓
Territorial Disputes			✓	✓	✓		
Asymmetries of Power		✓		✓			
History of Conflict		✓	✓	✓	✓	✓	
Successful?	✓	✓	✓	?	?	?	✓

APPENDIX B: Case Study Chart

COMPARATIVE CASES BY CHAPTER

2. JERUSALEM	Brussels: Micropolitics Nicosia: Infrastructure Management
3. CITIZENSHIP RIGHTS	European Union: Residency Bosnia and Herzegovina: Repatriation
4. SECURITY	South Africa: SSR El Salvador: DDR Yemen: Power Sharing Northern Ireland: Open Borders South Sudan: State-Building Namibia: Independence
5. SHARED RESOURCES	Mekong River Basin Water Management
6. RIGHTS & RECONCILIATION	Northern Ireland: Education Rwanda: Education South Africa: Truth and Reconciliation Commission Guatemala: Historical Justice Commission Ecuador: Confederal Constitution

APPENDIX C: Table of Interviews

Name/Not for Attribution	Position/Title	Affiliation	Date
Geoffrey Aronson	Scholar	Middle East Institute	16 March 2017
Elazar Barkan	Professor of International and Public Affairs	Columbia University	23 March 2017
Lana Baydas	Research Fellow, Human Rights Initiative	Center for Strategic and International Studies	17 March 2017
Omar Dahbour	Professor and Chair of Philosophy	Hunter College and Graduate School, City University of New York	10 March 2017
Nancy Degnan	Adjunct Faculty	Columbia University, School of International and Public Affairs	21 March 2017
Khaled Elgindy	Fellow	The Brookings Institution	16 March 2017
Ilan Goldenberg	Senior Fellow and Director of the Middle East Security Program	Center for New American Studies	15 March 2017
John L. Hirsch	Senior Advisor, International Peace Institute	Columbia University	16 February 2017
Arthur Hughes	United States Ambassador (Ret.), Scholar	Middle East Institute	15 March 2017
Barry Korblau	Rabbi	Young Israel of Hollis Hills - Windsor Park, Queens, NY	20 February 2017
Haim Malka	Senior Fellow	Center for Strategic and International Studies	15 March 2017
David Makovsky	Ziegler Distinguished Fellow	Washington Institute for Near East Policy	16 March 2017
Brendan O'Leary	Lauder Professor of Political Science	University of Pennsylvania	6 April 2017
Ghaith al-Omari	Senior Fellow, Irwin Levy Family Program on the US-Israel Strategic Relationship	Washington Institute for Near East Policy	16 March 2017
Paul Scham	Executive Director and Research Associate Professor	Gildenhorn Institute for Israel Studies, University of Maryland	March 17 2017

Dahlia Scheindlin	Policy Fellow	Mitvim Institute	4 April 2017
Dov Waxman	Professor of Political Science	Northeastern University	15 February 2017
Not for Attribution	Official	US State Department	10 March 2017
Not for Attribution	Official	Israeli Politician	7 March 2017
Not for Attribution	Official	Palestinian Official	31 March 2017
Not for Attribution	Political Analyst	---	15 March 2017
Not for Attribution	Professor	Columbia University	3 April 2017

APPENDIX D: Classes of Governance

Unitary State	Sovereign state governed as a single entity; one supreme authority
Centralized	Central government retains power
Decentralized	Devolved power to autonomous regions
Confederation	Union of two states that falls short of a complete integration
Federation	A unified state with federal units that is constitutionally entrenched
Consociation	A power sharing mechanism that allocates collective rights to groups within a society (ethnic, religious, linguistic, national, or political)
Confessional	A form of consociation built on religious groups

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