

TALKING POINTS

DECEMBER 2008

DETAILED TPs ON EACH PERMENANT STATUS ISSUES:

1. Territory

- Our position is principled and remains consistent: that the two-state solution must be based on the 1967 line. That is, the future Palestinian state will comprise the West Bank, including East Jerusalem, the Jordan Valley, the No Man's Land (including in the Latrun) and the Dead Sea, and the Gaza Strip.
- While we view the 1967 line as the border between the two states, for the sake of peace, we are willing to consider minor modifications to the 1967 border that are based on fair and reasonable principles, most notably, 1:1 land swaps equal in quality and size, and that satisfy Palestinian rights and interests.
- The percentage of land swapped, while important, is not, in and of itself, a sufficient basis on which to evaluate the reasonableness of a given proposal. The *quality* and *location* of that land is at least as important as its size, and in some cases, more so.
- We cannot accept any proposal that severs or isolates East Jerusalem from the rest of Palestine, harms Palestinian contiguity, or otherwise harms core Palestinian interests as determined by the PLO—or that involves the transfer of Palestinians (on either side of the 1967 line, regardless of their citizenship).
- For these reasons, we do not accept the concept of so-called “settlement blocs”, much less accept their annexation wholesale. We will only address possible swaps on a settlement by settlement basis.

2. Jerusalem

- Jerusalem is the key to successful negotiations. Not only is it essential for gaining the support of the Palestinian people, it is also the key to securing the support of all Arab and Muslim states.
- There can be no agreement without resolving the issue of sovereignty over all parts of Jerusalem, including the Old City.
- Palestinians are tied to Jerusalem and its Old City through strong economic, religious and social links. A Palestinian state without East Jerusalem as its capital will simply not be viable – economically or politically.
- There are two pillars for a successful resolution to the Jerusalem issue. The first is agreeing political borders, *i.e.* sovereignty. Sovereignty in Jerusalem, as in the rest of the OPT, must be divided along the 1967 lines, with whatever minor modifications that are mutually agreed to as part of the overall land swaps. The second is agreeing arrangements over and across those political borders, *i.e.* arrangements and modalities of cooperation to ensure that the city remains open and not physically divided.
- Arrangements and modalities of cooperation, over and across the political borders, may be agreed to in order to ensure access to Holy Sites, movement of people and cooperation on the municipal and governmental levels in Jerusalem.

- Postponing the issue of Jerusalem – or any part of it – would not be credible, realistic or acceptable. Palestinians would overwhelmingly view it as a ploy by Israel to continue creating additional unilateral facts on the ground. Moreover, it is illogical to believe that an issue as difficult as Jerusalem is today would be anything but more difficult tomorrow.

3. Refugees

- There can be no lasting solution to the Palestinian-Israeli conflict without honoring the rights of Palestinian refugees. This issue must be resolved in a comprehensive agreement together with all other permanent status files.
- The PLO position on refugees is consistent with the Arab Peace Initiative which calls for “*a just solution of the Palestinian refugee problem to be agreed upon in accordance with UN GA 194*”. A just solution requires the recognition of all refugee rights, including the right of return, and an agreed implementation of these rights. Only a resolution that respects refugee choice and is accepted by all parties, including Israel, can be implemented.
- A just solution starts from Israel’s recognition of its responsibility for the actions it took to forcibly displace Palestinians from their country and homes. Israel also took steps after the 1948 war to prevent the refugees from returning home, after expropriating their lands and declaring them abandoned. Israel’s responsibility for these actions is irrespective of the relative narratives of the two sides. Israel should acknowledge its wrongs and seriously negotiate the implementation of refugee rights in order to achieve real sustainable peace.
- The right of return, protected by International Law, should be implemented in a reasonable manner according to refugee choice and practical factors such as Israel’s absorption capacity and legitimate national interests, as well as the absorption capacity of the future Palestinian state.
- To honor refugees’ right to choose, we want to maximize options including (1) return to Israel; (2) resettlement in an independent Palestinian state, (2) relocation to Western countries or (3) local integration where possible. Host states that absorb refugees may be compensated for their burdens.
- In addition, we seek remedies for the refugees in line with their international rights to restitution and compensation. We seek an agreement with Israel on the return of Absentee properties. Since the illegal confiscation of the lands owned by Palestinians, the vast majority of these properties have been designated for Jewish use only. Refugees also deserve compensation for their longstanding pain and suffering. These rights and remedies have become common place in the resolution of conflicts, including in Kosovo, Bosnia, South Africa and the case of the Holocaust reparation programs.
- An international mechanism should be established after we reach a detailed agreement on refugees. The mechanism will serve to manage the implementation of refugees’ rights: to assist in the movement and rehabilitation of refugees and to process their restitution and compensation claims.
- There are approximately 7 million Palestinian refugees today. Of this number around 6 million are refugees as a result of Israel’s actions during the 1948 war. Nearly one million are displaced persons as a result of Israel’s occupation of the West Bank, including East Jerusalem and the Gaza Strip in 1967. About 4.5 million 1948 refugees are registered with UNRWA of which more

than 1.3 million live in refugee camps in the occupied Palestinian territory, Jordan, Syria and Lebanon.

- The refugee problem is ongoing. Today, Israel's illegal unilateral actions undertaken in the West Bank (including East Jerusalem) and the Gaza Strip, as well as in Israel itself against Palestinians living there, lead to a continuing transfer of the Palestinian population and thus creating a new wave of refugees.

The four aspects of a solution on refugees:

- There are four aspects to the issue of refugees. First, Israel's **recognition of responsibility** for the creation and perpetuation of the problem is a crucial part of any solution in order to give people a sense of satisfaction that their overall historical experience has been acknowledged and addressed and to facilitate any possible compromise on implementation. Israel thus far has refused to recognize its responsibility with respect to the issue of the refugees.
- Second, although we understand that full implementation of the **right of return** is unlikely, in order for there to be a solution, the return option will have to be a real one and respect refugee choice. This prerequisite is crucial to ensure the endorsement of the resolution process by Palestinian refugees and Arab Host States. The right of return is a recognized right under international law and it has been a core aspect of the Palestinian struggle for the last 60 years. Therefore, it must be addressed in a reasonable manner that takes into account the existence of this individual right, its centrality in refugee experience, as well as Israel's capacity of absorption.
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- Third, on **reparations**, the Palestinian position remains that refugees shall be granted restitution, unless practically unfeasible, and full compensation for the material and non material damages they have suffered (including loss of livelihood and opportunities and human suffering, as a result of refugees' protracted displacement). Therefore, compensation is only one part of reparations due. In addition, states that have hosted Palestinian refugees shall be entitled to remuneration. Israel thus far has been willing to consider only compensation for the refugees. Their position on the other aspects of reparations remains unclear.
- Finally, the **international mechanism** should be solely conceived as a sophisticated instrument which will implement the agreed and just solution on refugees in coordination with the relevant stakeholders. Its purpose is not to resolve outstanding bilateral policy issues and it will therefore not prevent the parties from recognizing first all refugee rights and agreeing on the implementation of these rights. While Israel agrees in principle to the establishment of an international implementation mechanism, it remains at this stage impossible to determine its exact mandate and/or structure because of the absence of any guarantees as to the due recognition of Palestinian refugees' individual rights. In reality, all aspects of the international mechanism must be agreed (in other words it must have full parameters) in order for it to be operational. Thus, once a complete agreement is found on the refugee issue, it is our view that the Palestinian proposal on the international mechanism, which we believe can ensure a just and satisfactory resolution of the refugee issue acceptable by all parties, will provide the most appropriate framework for the resolution of the matter. In addition, we would like to emphasize that the mechanism will have to include all of the stakeholders that are part of the

implementation process in order for it to work effectively. Therefore, we think that the international community will have to be consulted regarding the work that will lead to the establishment of the mechanism and represented in it to guarantee the efficiency and durability of the implementation process.

4. Water

- There is a fundamental divergence between the Palestinian and Israeli approaches to resolving the issue of water.
- Palestinians insist that the reasonable first step is to determine the issue of both parties' water rights – the Palestinian and Israeli percentages of the shared conventional water resources determined in accordance with international law – regardless of the available amount of shared groundwater and surface water year to year. Only then can the parties turn to discussing methods of cooperation to maximize the available water resources for both parties.
- To consider fully their respective water rights consistent with accepted international practice, the parties must analyze and discuss all shared trans-boundary watercourses (surface and ground waters), including the Jordan River Basin to which both parties are riparians along with Jordan, Lebanon and Syria (but in which Israel continually attempts to preclude and deny Palestinian rights in an equitable share of that Basin).
- In contrast to the Palestinian approach, Israel refuses to engage in any discussion of water rights and frames the negotiations in terms of regional water scarcity with the view to cooperate on extending use of current allocations through wastewater treatment, as well as developing new non-conventional sources of water.

5. Security

- Palestinians want the same rights and responsibilities enjoyed by other states, no more and no less: full sovereignty, including full control of our airspace, maritime space, territory, borders, electromagnetic sphere and other resources. Nevertheless, we are sensitive to Israel's *legitimate* security interests.
- In this vein, we have presented reasonable and flexible proposals in response to Israel's blanket demand for "full demilitarization". We have said that:
 - Palestine will be a sovereign, independent state with limited arms – not limited dignity.
 - To meet our internal security needs, our security forces will need all appropriate weapons and equipment to perform their duties and responsibilities. Our approach is to start by defining what these responsibilities are, in order to agree on details based on needs later – rather than talk about abstract slogans.
- In order to fulfill our responsibilities as a state, and to meet Israeli security concerns, the following framework has been proposed:
 - We are committed to developing our security agencies in a manner consistent with their required functions and up to international standards as an ongoing process. In this important sense, our present efforts will continue to be ongoing until the creation of the state, and will continue thereafter. However, current efforts must be conceptually separated from our discussions on security following a permanent status agreement and the establishment of the state.
 - We require a robust, multi-faceted and possibly long-term international third party presence to assist us with meeting our security requirements, particularly regarding border protection

and capacity building, and to serve as a transitional arrangement between full Israeli military withdrawal and the takeover of security functions by the government of the Palestinian state.

- We cannot, however, accept any residual Israeli military presence or control over any portion of our territory, airspace, territorial waters, borders, or electromagnetic sphere as part of a permanent status peace agreement. Rather, legitimate security concerns should be addressed by the third party presence.
- We are determined to establish strong bilateral and regional security cooperation mechanisms with all neighbouring states and based on the principle of reciprocity and sovereign equality to meet security interests and concerns of all on an equal basis.
- As a fundamental principle, following decades of Israeli military occupation, Palestine cannot accept any Israeli military presence or control over its territory. Our people will not buy into any agreement that includes a continuation of Israeli control over their land. Israel continues to insist on a presence in Palestinian territory post-agreement, and has thus far been unwilling to accept a third party role that would be more extensive than that of purely capacity building.

6. Prisoners

- We appreciate the good will gesture of Olmert in releasing some of the Palestinian prisoners. We hope that such releases will continue. In addition, all remaining Palestinian and Arab prisoners detained or arrested by Israel as a result of the Israeli-Palestinian conflict must be released upon the signature of an agreement. Furthermore, for now until an agreement is signed, Israel should gradually release in a coordinated manner political prisoners in support of the peace process.