

The Palestinian Side of the Joint Jordanian-Palestinian Delegation

PALESTINIAN INTERIM SELFGOVERNMENT ARRANGEMENTS
EXPANDED OUTLINE OF MODEL OF PALESTINIAN INTERIM SELFGOVERNMENT
AUTHORITY: PRELIMINARY MEASURES AND MODALITIES FOR ELECTIONS

I INTRODUCTION

The immediate objective of the Palestinian-Israeli bilateral talks, as laid out in the cosponsors' letter of invitation of 18 October, 1991 is to negotiate interim self-government arrangements. These talks are conducted within the context of international legitimacy, which recognizes the right of the Palestinian people to self determination.

The Palestinian people have accepted fully the principle of interim self-government arrangements, provided that this does not in any way prejudice the ultimate exercise of their legitimate right to self determination. Moreover, the Palestinians in the Occupied Palestinian Territory (OPT)¹ and in exile are one people, and the interim self-governing arrangements should facilitate the exercise of the legitimate rights of those in exile, who should be enabled to participate in the second phase of the negotiations to determine the permanent status of the OPT and achieve a comprehensive settlement of the Palestine question in all its aspects.

II THE TRANSITIONAL NATURE OF THE INTERIM PERIOD

According to the cosponsors' letter of invitation, the entire negotiating process we have embarked upon, including the "negotiations along two tracks", are "based on United Nations Security Council resolutions 242 and 338". These resolutions stipulate that Israel's acquisition of the territories it occupied in the 1967 war is inadmissible, and are the basis of the principle of the exchange of territory for peace.

It should be clear that Resolutions 242 and 338 apply to all phases of the negotiations, thus constituting the main thread linking the various stages all the way to the implementation of permanent status. Resolution 242 governs the entire process in all its phases, and its principles have to be reflected in every phase, such that by the final stage it has been fully implemented.

The self-government arrangements being negotiated are, by definition, transitional, i.e. conducive to the next phase. This means that any attempt to undermine the subsequent stage jeopardizes the very

¹ According to United Nations Security Council resolutions 242 and 338, the Fourth Geneva Convention and the Hague Regulations, the West Bank including Jerusalem, the Gaza Strip and al@Himmah are occupied territories, and Israel is a belligerent occupant. These territories are hereafter referred to as the Occupied Palestinian Territory (OPT)

essence of the process. Transition means gradual motion from one status to another. The various phases of the peace process as outlined by the cosponsors therefore constitute a continuum: from the first year of talks to the establishment of the Palestinian Self Governing Authority (PISGA) and the orderly transfer of powers and responsibilities to the opening of permanent status negotiations, all the way to the end of the occupation. Gradual withdrawal of the occupation forces from the OPT should accompany this evolution at every stage, and any attempt to freeze the progression at any given stage will jeopardize the process as a whole.

The transitional period, therefore, does not constitute a regime which would be stabilized short of self determination. It represents, on the contrary, a framework whereby Resolutions 242, 338, and international legality are gradually implemented.

III AUTHORITY IN THE TRANSITIONAL PERIOD

The term "interim self-government arrangements" can only mean arrangements for an interim self government: i.e., the Palestinians in the OPT should fully govern themselves by themselves. This requires that the Palestinians be their own source of authority, since if authority over Palestinians is delegated by others that would mean that they do not enjoy real self government.

Governing themselves by themselves necessarily presupposes that the Palestinians have the authority to legislate, to adjudicate, and to adopt executive decisions on matters which concern them and the territory on which they live. Self government means that the Palestinians have achieved control, among other things, over political and economic decisions that affect their lives and fate.

The Palestinians in the OPT have the right and have expressed the wish to govern themselves according to democratic principles, i.e. through free elections. The Palestinian people in the OPT will thus delegate the authority to govern themselves to representatives whom they will elect freely without external interference. Arrangements for Palestinian self government during the interim period will culminate in the establishment of the Palestinian Interim Self-Government Authority (PISGA).

For all of these reasons, and because of the necessary linkage between the interim phase and that of final status, the success of the transitional process is only possible if the PISGA is vested with all the powers of a true self-governing authority, including all the powers presently exercised by the military government and civil administration of the occupier.

IV POWERS AND REPONSIBILITIES OF THE PISGA

1. The PISGA shall be elected by the Palestinians of the OPT. Its authority shall emanate from the people, and not from any foreign source. Being the representative of the Palestinian people in the OPT, its authority is vested in it by the people. Its powers and responsibilities cannot be delegated by a foreign authority and, in particular, not by Israel. Israel was never entitled to sovereignty over the OPT, but rather exercised certain powers as a belligerent occupant upon the entry of its armed forces into the areas occupied in 1967. It is therefore in no position to delegate such powers to others. With the inauguration of the interim phase, and the abolition of the Israeli military government and civil administration, Israel

shall cease to enjoy all these powers, which shall be assumed in their entirety by the PISGA.

2. As an occupying power, Israel's responsibilities under international law are those of temporary administration. It has no sovereign rights in the OPT. It is therefore not entitled to exercise any residual powers, and it cannot be the source of authority during the transitional period.

3. Once the PISGA is elected and inaugurated, it shall assume authority during the transitional period. No limitations should restrict the powers and responsibilities of the PISGA except those (such as matters relating to external security), which derive from its character as an interim arrangement and from the mutually agreed outcome of the peace process.

4. The PISGA is a self-government arrangement. It shall govern itself by itself without any foreign control or interference. The Israeli military government should withdraw, and its civilian administration should be abolished. All powers and responsibilities in the OPT should be assumed by the PISGA upon its election and inauguration. There should be a peaceful and orderly transfer of all powers to the PISGA.

5. In order for the PISGA to exercise freely its powers and responsibilities, there should be a withdrawal of the Israeli armed forces and the redeployment of the remaining forces in specific, mutually-agreed security locations.

6. The jurisdiction of the PISGA should encompass all Palestinians and all other inhabitants of the OPT. All shall be equal before the law, without discrimination due to race, gender or religion. Human rights shall be protected.

7. The jurisdiction of the PISGA should extend to all of the OPT, including its lands, natural resources, water, sub-soil, territorial sea, exclusive economic zone and air space. A self-governing authority cannot exercise its powers for the benefit of the inhabitants without having an exclusive territorial jurisdiction. The exploitation and use of natural and water resources shall benefit all inhabitants without discrimination.

8. The PISGA should have legislative powers. The transition from the state of occupation to the permanent status necessitates the assumption of such powers. In fact, no governing authority can function without having the power to enact, amend and abrogate laws. The Legislative Assembly of the PISGA should comprise not less than 180 members.

9. The PISGA should have all executive powers. It should formulate, implement and supervise its policy without any foreign control. The Executive Council of the PISGA should be constituted of 20-25 members.

10. The PISGA shall decide and agree on spheres and means of cooperation with neighboring countries.

11. The PISGA should administer justice. The courts should be independent and should have exclusive jurisdiction over all the Palestinians and other inhabitants of the OPT.

12. The PISGA should establish a strong police force and should be the only authority responsible for internal security and public order.

13. The PISGA can request the assistance of a U.N. peace-keeping force.

14. A standing committee should be established from representatives of the five permanent members of the U.N. Security Council, the Secretary General of the United Nations, the PISGA, Jordan, Egypt, Syria and Israel, which could assume certain residual powers, supervise

the implementation of the self-government arrangements, and settle disputes.

V PRELIMINARIES FOR PEACE

For peace to be possible, the legal and administrative structure which was established in the OPT by Israel over the course of the 25 years of its military occupation must be dismantled. This illegal structure allowed the exercise of powers far in excess of those that an occupier enjoys under international law. What came about through illegal means cannot be legalized through a process that aims at the attainment of peace and the implementation of international legality. Peace can become a reality only through insistence on the exercise of international legitimacy at every stage of this process,

Steps for Implementation during the Preliminary Phase:

The period from the beginning of negotiations until the inception of the PISGA is here described as the preliminary phase. The following measures shall commence immediately and shall continue throughout the preliminary phase, until the inauguration of the transitional phase.

The purpose of these measures is:

- a. To ensure the proper conditions for the initiation of the transitional phase.
- b. To provide the proper conditions for successful negotiations on the transitional phase.
- c. To provide necessary data for the negotiations on the transitional phase.

1. These measures are:

- a. The immediate cessation of all settlement activity and of the acquisition, by any means, of land and water resources.
- b. Revocation of military order 291 which suspended the land registration process, thus allowing land registration to continue according to law.
- c. Making available all public records regarding all aspects of the resources and inhabitants of the OPT.
- d. Review of discriminatory legislation in force in the OPT with a view to abolishing it.
- e. Ending the extraterritorial extension of Israeli domestic legislation to the OPT.
- f. Halting completely any and all unilateral steps affecting the legal, demographic or geographic status of the OPT.
- g. Releasing all Palestinian political prisoners, including administrative detainees.
- h. Ending the practice of administrative detention.
- i. Allowing the return of all deportees.
- j. Refraining from closing educational and other public institutions, blocking economic activity, imposing curfew, or otherwise impeding the normal conduct of the daily lives of the Palestinian population of the OPT.
- k. Facilitating the return of all displaced persons since 5 June, 1967 and their descendants, and granting all family reunification applications, in order to enable the returnees to participate in the elections for the PISGA
- l. Returning all land seized in accordance with military order 58 on the basis of its being abandoned property.
- m. Refraining from issuing any new Military Orders, whether as primary

or secondary legislation, and cancelling Military Order 2.

VI ELECTIONS FOR THE PALESTINIAN INTERIM SELFGOVERNING AUTHORITY: PRELIMINARY MEASURES AND MODALITIES

First: Basic principles

1. The provisions of the Charter of the United Nations and the Universal Declaration of Human Rights provide the universally accepted basis for the conduct of free elections.
2. The elections for the establishment of the Palestinian Interim Self-Government Authority (PISGA) should be a major step towards the realization of the legitimate rights of the Palestinian people and their just requirements. The PISGA should be the self-governing authority which represents that part of the Palestinian people in the Occupied Palestinian Territory, including Jerusalem. It should be freely elected on the basis of the universally accepted democratic principle of "by the people, of the people, and for the people".
3. All guarantees should be provided for free elections of the PISGA. It is necessary that elections be conducted and supervised by an international body. All measures must be taken to guarantee that Israel should not, in any way, interfere in the elections.
4. The preliminaries for peace mentioned in Part V of this expanded outline should be implemented before the elections. Other steps, as mentioned below, should also be taken at the appropriate time.

Second: Purpose of the elections

1. To provide the basis for the Palestinian people to gain control over political, economic and other decisions that affect their lives and fate, and to provide for their legitimate political rights through democratic modalities, structures, and bodies.
2. To enable the Palestinian people in the Occupied Palestinian Territory to elect accountable representatives, who will form the assembly.
3. To create a representative body to assume the powers and responsibilities of the Palestinian Interim Self-Governing Authority (PISGA) in the Occupied Palestinian Territory during the interim period, and to provide the legitimate basis for the various organs of the PISGA.

Third: Preliminary measures

1. In order to ensure the satisfactory conduct of the elections, they must be preceded by the following:
 - a) Withdrawal of Israeli Army units, Border Police and other military and para-military forces outside all populated areas and main communication routes.
 - b) Disarming Israeli settlers and guaranteeing their non-interference in the elections process.
 - c) The provision of international supervision (see below).

2. In order to guarantee full freedom for the Palestinian elections, the Israeli authorities must:

- a) Revoke the Military Order that reimposes the 1945 Emergency Regulations.
- b) Allow the return of all deportees, and facilitate the return of all persons displaced since 5 June 1967 and their descendants.
- c) Release all political prisoners, including all administrative detainees.
- d) Cease administrative detention.
- e) Refrain from closing educational institutions, blocking economic activity, imposing curfews and closed military areas (areas under siege) or otherwise impeding the normal conduct of daily life in the Occupied Palestinian Territory.
- f) Lift all restrictions on Palestinian social, economic, and cultural activity, and formally rescind all Military Orders that affect those areas of Palestinian daily life.
- g) Guarantee the freedom of movement throughout the Occupied Palestinian Territory.
- h) Guarantee the freedom of political expression, including the end of military censorship and the freedom of assembly, public election campaigning, and access to or establishment of all forms of audio-visual or print media.
- i) Guarantee the immunity of all candidates.
- j) Guarantee the freedom of political activity, including the formation of political parties.

3. The preliminary measures described above, in Items 1 and 2, must be implemented by a date not later than 31 July 1992.

Fourth: International supervision

1. International supervision is to be provided by the United Nations, or any other appropriate and mutually agreed international body.

2. This international body shall provide the following:

- a) Designate a high commissioner to supervise the preparations for, and conduct of, the elections. The commissioner's mandate will continue at least until the inauguration of the Palestinian interim self-governing authority.
- b) Establish an international supervisory body that, in addition to assisting the high commissioner, will endorse the electoral law and arbitrate in disputes arising from implementation and allocate responsibility.
- c) Station UN or other international observers to supervise implementation of the above-mentioned preliminary measures.
- d) Station UN or other appropriate international or multi-national forces to provide for the safety of candidates and security during the elections.

3. There shall be free access throughout the Occupied Palestinian Territory for the international media, as well as personalities known for their impartiality and independence.

Fifth: The elections

1. The elections shall be conducted in accordance with the electoral

system as endorsed by the international supervisory body to be established for the conduct of the elections.

2. The elections shall be based on universal suffrage, and be conducted by secret ballot.

3. The elections shall take place at least one month prior to the inauguration of the PISGA, which is to take place at a date not later than 29 October 1992.

4. The persons eligible to participate in the elections or stand as candidates are:

a) All Palestinians who were listed in the relevant population registers in any part of the West Bank including Jerusalem, the Gaza Strip, and al-Himmeh on June 4, 1967.

b) All descendants of those Palestinians defined in Item 4a above.

5. In order that all Palestinians eligible to vote may in fact do so, the Israeli authorities should submit all relevant population data records for the preparation of electoral registers.

6. These measures must be completed by a date not later than 31 July 1992, and must take place under international supervision.

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