

BEYOND OSLO

**HOW TO RECONSTRUCT
THE MIDDLE EAST
PEACE PROCESS ?**

A report by a delegation of
Pax Christi International, Pax Christi Netherlands and Pax Christi Flanders

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SUMMARY

The delegation of Pax Christi International that visited Israel, the Occupied Palestinian Territories and the territories under Palestinian self-rule, found a region pulled down in crisis. Since the al-Aqsa Intifadah broke out in September 2000, the trust between the Israeli and the Palestinian authorities has totally broken down and the two populations have become polarised. The co-operation between the Israeli and Palestinian authorities that had been established during the Oslo process has stopped. The crisis is mainly concentrated in the areas of economy, security and human rights and international law.

A severe economic crisis is ruling the West Bank and the Gaza Strip. The main cause for this crisis is the closure that the Israeli authorities have imposed on the Palestinian territories. Because of that closure, Palestinian workers have not been able to reach their jobs, products do not reach the markets and Palestinian industries lack sufficient raw materials. In connection with the conflict, material damage has been caused to buildings and infrastructure. The Israeli army has uprooted (olive) trees and destroyed other crops. Moreover, the activities of the Palestinian National Authority (PNA) have been stifled by a financial crisis. The tax income of the PNA has sharply decreased due to the decline in trade and the Israeli authorities have withheld tax money that should be transferred to the PNA according to earlier agreements.

The second area in which a crisis is dominating is security. Both Israel and the Palestinian areas have been pulled down in a hopeless spiral of violence. On both sides the use of violence is unprecedented and still increasing. The Israel Defence Forces (IDF) is using excessive force in reaction to Palestinian demonstrations and has been shelling Palestinian areas from tanks and helicopters. Well-trained, heavily armed settlers' militias are given freedom of action by the Israeli authorities. On the Palestinian side, armed groups have been attacking Jewish settlements and Israeli soldiers as well as civilians. Extremist Islamic groups have committed suicide bombings in Israeli cities. A new generation is growing up with violence and hate. Religious leaders can play a role in promoting dialogue and non-violence, but in some cases religious leaders have incited their followers to use violence.

Thirdly, human rights and international law are neglected. The Israeli and Palestinian authorities are committing large-scale human rights violations in connection with the political situation. The Israeli authorities have committed violations of humanitarian law in the Occupied Territories. The Israeli violations include wilful killings, extra-judicial executions, arbitrary detentions and maltreatment of detainees. The closure of the Palestinian territories leads to violations of economic, social and cultural rights such as the right to freedom of movement, the right to healthcare, the right to work and the right to education. The PNA has been responsible for unfair trials, public executions, arbitrary detentions and violations of the right to freedom of press and opinion. Moreover, the legal status of final status issues, such as the Palestinian refugees, the settlements and water, have been neglected.

The report includes recommendations towards the European Union and its member states and towards the United Nations. The European Union must ensure that future peace negotiations be based on principles of international law and not on the unequal balance of power between Israel and the Palestinians. The current economic hardship of the Palestinian civilians must be alleviated, but at the same time the development of an economically independent Palestinian state must be promoted. The EU can contribute to a just solution to the issue of the Palestinian refugees by allocating funds for compensation to the refugees. The EU should monitor compliance by all parties with international law

and the treaties signed by the parties. For the UN, there is a task in monitoring violations in the region, as well as establishing a body to protect the civilian population.

INTRODUCTION

Between 15 and 22 February 2001, a delegation of Pax Christi International¹, visited Israel, the Occupied Palestinian Territories and the areas under Palestinian self-rule. The major aim of the visit was to assess the situation in light of the al-Aqsa Intifadah that was triggered by the visit of Ariel Sharon to the Haram al-Sharif or Temple Mount on 28 September 2000. Another aim of the delegation was to learn how the possibilities for peace negotiations are seen in light of the change in administration in the United States and the election of Ariel Sharon as Prime Minister of Israel. In addition, the delegation went to learn about new developments in issues Pax Christi International has been following in the past, such as Jerusalem and the settlements. The delegation met with Palestinian and Israeli officials and NGOs, religious leaders and representatives of international organisations and governments. The delegation also visited the Hebron and Bethlehem area where it met Palestinian civilians who endure daily violence. This report is based on the findings of the delegation, which have been complemented by and compared with written sources.

The failure of the Camp David summit in July 2000 was the turning point after which the situation deteriorated. The Pax Christi International delegation found a region immersed in crisis with the total breakdown of contact between Israel and the Palestinian National Authority (PNA). In addition, a situation of public distrust existed towards the leadership on both sides. What has been built up over the years since the signing of the Declaration of Principles in 1993, in terms of joint projects and institution building, has been dismantled almost totally within the past six months. The Palestinian ministries can hardly function due to the lack of financial resources and the absence of co-operation with Israel. The Palestinian Ministry of Interior, for example, cannot issue any identity cards without Israel's approval, and regular contact between the Palestinian and Israeli authorities has been severed. The social and physical infrastructure that was built up during the Oslo process has been damaged.

The crisis that is dominating the region is mainly concentrated in three areas:

- Economic: The Palestinian economy has been engulfed in a crisis that it will take years to recover from. Although the Palestinian economy had been pushing ahead slowly over a few years, today the unemployment rate is higher than ever before. The PNA is unable to pay its civil servants and more Palestinians than ever before are living below the poverty line.
- Security: The use of violence has reached a peak on both sides. The Israeli security forces use disproportionate force in reaction to Palestinian violence. Since 29 September 2000, more than 380 Palestinians have been killed by Israeli security forces and settlers and almost 12,000 have been injured.² In the same period, more than 60 Israelis have been killed by Palestinians. More than half of them were civilians.³ Palestinian security personnel have been involved in these attacks on Israeli soldiers and civilians.
- Legal: Both the Israeli government and the PNA have used the crisis as a pretext for non-compliance with human rights standards. In the PNA-ruled areas, a situation of lawlessness has

¹The members of the delegation were Mgr Adriaan van Luyn (Bishop President of Pax Christi Netherlands, joined the delegation on 20 and 21 February), Prof. Willem van Genugten (Professor in international law at the University of Tilburg and in human rights at the University of Nijmegen, the Netherlands), Tjil Declercq (Former member of the Belgian parliament and the Council of Europe and chair of the Middle East working group of Pax Christi Flanders), Fr Paul Lansu (International Secretariat Pax Christi International) and Marjolein Wijninckx (Middle East programme Pax Christi Netherlands).

² According to the Palestinian Red Crescent Society, www.palestinercs.org

³ According to Amnesty International.

taken over. In the Occupied Territories, Israel has committed large-scale violations of international humanitarian law and human rights.

In past reports, Pax Christi International has emphasised that respect for international law is a precondition for a just and durable peace.⁴ One of the reasons why the Oslo process failed was because it neglected international law and instead reflected the unequal balance of power between Israel and the Palestinians. The Intifadah broke out because the Palestinian people were frustrated with the Oslo process and that frustration reached a peak after the failure of the Camp David talks in July 2000. After seven years, solutions to the most critical issues - Jerusalem, the refugees, water, the settlements - were still as far away as in the past. While Former Prime Minister Ehud Barak was talking about peace and making promises, he created 'facts on the ground' in the same way as his predecessor, Benyamin Netanyahu.

In August 2000, Pax Christi published a report in which it called for a stronger role of the European Union (EU) in the Middle East Peace Process.⁵ During the crisis of the past months, the EU has remained silent and continued to hide itself behind the United States. However, the new administration in the United States has indicated that it will involve itself less in the negotiations between Israel and the Palestinians than the Clinton administration did. Moreover, with the bombing of Baghdad, which took place during this delegation's visit to the region, the Bush administration has lost its credibility in the Arab world already. Therefore, this offers a new chance and an obligation for the EU, which is the largest donor to the Palestinian territories and the main trade partner of Israel, to take on its responsibility in the Middle East.

The Camp David Myth

Many people were made to believe that at the Camp David summit of July 2000, peace between Israel and the Palestinians was within reach. One of the problems of the Oslo process was that it left the most difficult issues for the end. A summit aimed at reaching an agreement over all the final status issues was premature at the time of Camp David, the positions of the negotiating parties being still too disparate. What Camp David really revealed was how large the distance was between the Israeli and the Palestinian public opinion. Both Ehud Barak and Yasser Arafat could not proceed any further if they were not to lose the support of their respective populations. It is a myth that Ehud Barak made an extremely generous offer in Camp David. Barak's offer might have been generous compared to what the Israeli public was willing to offer, but it did not meet the standards of international law, whereas the Palestinians demand the full implementation of United Nations resolutions. In the end, Yasser Arafat was blamed both by Bill Clinton and by Ehud Barak, for the failure of the summit. It is often said that Camp David collapsed over the issue of Jerusalem, but other final status issues such as the Palestinian refugees and the settlements would have turned out to be just as unsolvable at that time. The world saw Ehud Barak as a peace dove, but what the Palestinians saw was the reality on the ground: The expansion of settlements, land expropriation and house demolitions. However, the message Ehud Barak brought back from Camp David was that the Palestinians are untrustworthy peace partners.

⁴ *International Law and the Middle East Peace Process; Some Lines of Action for the Netherlands and Other European Union Member States* (1995), *The Middle East Peace Process: Between Fighting Terrorism, Respect for Human Rights and Starting the Final Status Talks* (1996), *The Middle East Peace Process in Coma. Policy Elements for the USA and (Member States of) the EU* (July 1997), *Towards a Stronger Role of the EU in the Middle East Peace Process* (August 2000).

⁵ Pax Christi Netherlands, in co-operation with Cordaid, IKV, EAD, *Towards a Stronger Role of the EU in the Middle East Peace Process*, August 2000.

ECONOMIC SITUATION

The current situation in the West Bank and the Gaza Strip is dominated by a severe economic crisis. According to PECNDAR, the Palestinian Economic Council for Development and Reconstruction, the present economic situation in the areas ruled by the PNA is the worst since 1967.⁶ According to the United Nations Special Co-ordinator (UNSCO), the unemployment rate in the West Bank and Gaza Strip has risen from about 11% to about 38% of the labour force during the current crisis.⁷ The percentage of the population living below the poverty line is estimated to have risen from 21.1% in September 2000 to 31.8% at the end of 2000.⁸ Some families are facing serious problems feeding their children. The main reason for the economic crisis in the Palestinian territories is the closure that the Israeli government has imposed on it. Other factors affecting the economy negatively are material damage caused by the violence, the decline in tourism, the uprooting of trees, and the negative investment climate.

Although the economic crisis has mainly hit the Palestinian economy, Israel has also felt the impact of the conflict. Israel is also experiencing a serious decrease in tourism, and because of the lack of Palestinian workers the construction sector is stifled.

Closure

Since the outbreak of the al-Aqsa Intifadah, Israel established an economic siege on the West Bank and Gaza Strip, which indiscriminately affects the whole Palestinian population. The Israeli government has imposed an external closure as well as an internal closure on the Palestinian territories, and in some places curfews. The external closure denies Palestinians from the West Bank and the Gaza Strip access to Israel. The international borders with Jordan and Egypt and the Palestinian airport in the Gaza Strip have also been closed, as well as the safe passage between the West Bank and the Gaza Strip. The internal closure separates Palestinian towns and villages from each other. The Israel Defence Forces (IDF) has bulldozed roads, dug ditches around towns and blocked roads with rubble and concrete blocks. According to the Israeli human rights organisation B'Tselem, internal closures have been imposed selectively as a collective punishment for violent actions committed by one or more of the community's residents.⁹ On 2 January 2001, the Gaza Strip was divided into three parts: Gaza City and the refugee camps in the North, the refugee camps in the middle and Khan Younis and Rafah in the South.¹⁰ Persons who want to go from one part to the other have to walk through the sea. In addition to these closures, curfews were imposed on a number of Palestinian towns and villages, such as Huwara in the Nablus district and Hebron.¹¹

The damage that has been caused by the Intifadah does not only have short-term effect, but will also have a tremendous effect on the middle long term. According to Terje Roed Larsen, the United Nations Special Co-ordinator for the Middle East Peace Process, the Palestinians are, under the

⁶ Interview with Muhammad Shtayyeh, Managing Director of PECNDAR, 17 February 2001.

⁷ UNSCO, *The Impact on the Palestinian Economy of Confrontations, Mobility Restrictions and Border Closures, 1 October 2000 – 31 January 2001*, p.10.

⁸ World Bank report *Poverty in the West Bank and Gaza*, quoted in op.cit. UNSCO. The World Bank bases its figures on the poverty line of approximately 2.1 US\$ (6.8 NIS) in consumption expenditures per person per day.

⁹ B'Tselem, *Civilians under Siege. Restrictions on Freedom of Movement as Collective Punishment*. January 2001, p. 6.

¹⁰ Ibid. p. 9.

¹¹ Ibid. p. 9-10.

current closure, losing 6.8 million US\$ a day, which comes up to a total of more than a billion US\$ till now. As a result of the closure, an estimated 125,000 Palestinian workers have not been able to reach their work in Israel.¹² These workers are mostly inhabitants of the refugee camps.

The Israeli-imposed closure has also stifled import to and export from the Palestinian territories. The Palestinian economy is highly dependent on foreign trade, especially with Israel. Because of the lack of natural resources, the Palestinian areas depend on the import of raw materials from Israel for their industries. With the blockade of the West Bank and Gaza Strip, the Palestinian industry and construction sectors could not continue working. Because the Israeli authorities control the international borders, all import to the Palestinian territories has to be authorised by Israel. During the past months, cargo destined for the West Bank and Gaza Strip has been kept at the harbours of Ashdod and Haifa by the Israeli authorities. Even cargo for the United Nations Relief and Works Agency for the Palestine Refugees (UNRWA) has been blocked at Ashdod. In addition to the damage caused by the delay of delivery of goods, importers have to pay thousands of US\$ a day to store goods at the harbour. The internal closure has also stifled trade and transportation within the Palestinian territory. Agriculture, which contributes to over a third of the Palestinian GDP,¹³ has also been affected by the internal and external closure of the Palestinian areas. Farmers have not been able to transport their products to the market. On several occasions, Palestinian farmers working on their land have been attacked by settlers. Olives are an important Palestinian agricultural product. The outbreak of the Intifadah in the season of the olive harvest resulted in the farmers not being able to reach their lands to harvest the olives and transport them to the markets. Also, there was not enough fuel for the oil presses.

One of the main sources of income of the PNA is the import tax. After the violence broke out, imports have seriously declined due to lowered demand and restrictions in movement. In addition, Israel has withheld tax income that it should transfer to the PNA according to the Paris Protocol of 1994. According to Palestinian officials, Israel has kept hundreds of thousands of US\$ from the PNA. According to UNSCO, the tax income of the PNA during the crisis has been on an average 45 million US\$ a month, only half of the average monthly tax income during the first 9 months of 2000.¹⁴

Material damage

The military attacks on Palestinian locations have also contributed to the decline of productivity in the Palestinian areas. Shelling from tanks and helicopters has caused damage to workshops and infrastructure. The IDF has demolished roads, some of them constructed with foreign aid, connecting Palestinian towns in order to block Palestinian traffic. Moreover, the Israeli army has uprooted large swaths of agricultural land and demolished many Palestinian houses and other buildings for 'security' purposes. According to the Palestinian Ministry of Agriculture, about 25,000 olive trees and fruit trees have been uprooted in the West Bank and Gaza Strip since October 2000. When these olive trees are replaced, it takes about 7 years before they bear fruit again. That means that these uprootings, executed under the motive of security, but often a means of collective punishment, have a severe effect on the middle long term. The Israeli army has bulldozed an estimated 11,000 dunums¹⁵ of land.¹⁶

¹² Palestinian Red Crescent Society, www.palestinercs.org.

¹³ According to the World Bank, www.worldbank.org, country profile West Bank and Gaza.

¹⁴ UNSCO, *The Impact on the Palestinian Economy of Confrontations, Mobility Restrictions and Border Closures, 1 October 2000 – 31 January 2001*, 25 February 2001, p.15.

¹⁵ 1 dunum = 1000 m²

¹⁶ Palestinian Ministry of Labour, quoted in HDIP fact sheet, www.hdip.org.

Since 29 September 2000, almost 12,000 Palestinians have been injured as a result of the confrontations.¹⁷ This means that many people have not been able to work temporarily and an estimated 1,500 have become permanently disabled.¹⁸ All these factors contribute to a decline in productivity.

Tourism and investment

Tourism is a potential growth sector in the Palestinian economy. In Israel, tourism has been an important source of income for many years. Since the outbreak of the Intifadah, tourism to the region has almost stopped. In the past few years, the PNA had been promoting tourism to the West Bank and the Gaza Strip. In connection with the Third Millennium and the Jubilee Year 2000, large investments were made in the Palestinian tourism industry, especially in Bethlehem. Hotels were built and the infrastructure was improved, but today Bethlehem is deserted.

The insecure political situation has made investment in the Palestinian areas increasingly unattractive. Foreign investment in the Palestinian territories is necessary, especially in order to promote small and medium sized private enterprises. One of the priorities of EU aid to the Palestinian territories is the development of the private sector, which can create employment and reduce the dependence on the Israeli economy.¹⁹ However, according to the World Bank, the business environment in the West Bank and Gaza Strip suffers from confusing commercial legislation and a lack of public sector regulatory institutions.²⁰ The World Bank states that the stagnation of private investment is not only due to the insecure situation, but also to the lack of accountable, transparent and effective public institutions.²¹ The PNA has repeatedly been criticised for its corruption. Private investment from outside is needed and must be facilitated, but that has to be accompanied by the development of public institutions and infrastructure.

SECURITY

Escalating violence

The violence used in the conflict today is unprecedented. The Israeli army responds with excessive use of force to Palestinian violence and uses tanks and helicopters to shell Palestinian residential areas. On the Palestinian side small arms and mortar fire are used, and also on this side the use of weapons is more than ever. Palestinian gunmen have attacked Israeli settlements and unarmed civilians. In addition, Islamic organisations commit bomb attacks that are often directed against innocent civilians. The region has been caught in a hopeless spiral of violence that many people fear will not lead anywhere. Although violence is used by both parties, this violence is not symmetrical: International organisations and human rights organisations have condemned the disproportionate force used by the Israeli security forces in response to Palestinian acts of violence.²² The violence has led to a dangerous polarisation between the two populations, and on both sides violence against 'enemies' of the own party has become widely accepted.

¹⁷ According to the Palestinian Red Crescent Society, www.palestinercs.org.

¹⁸ According to Health, Development, Information, and Policy Institute (HDIP), www.hdip.org.

¹⁹ European Communities, *The Barcelona Process, Five Years on. 1995 – 2000*, p.34-5.

²⁰ World Bank, www.worldbank.org, Country overview West Bank and Gaza.

²¹ World Bank, *Aid Effectiveness in the West Bank and Gaza*, June 2000, p.xvi.

²² Human Rights organisations such as Amnesty International, Human Rights Watch, and B'Tselem have investigated the situation and concluded that Israel is using excessive force. UN Security Council Resolution 1322 of October 2000 confirmed this.

The extra-judicial executions carried out by Israel (see the section below) have contributed to an aggravating spiral of violence. In revenge for the liquidation by the Israeli security forces of Dr. Thabet Thabet, for example, his cousin and a number of other members of Fatah killed two Israelis on 23 January 2001. A number of Palestinians suspected of collaborating with Israel have also allegedly been killed by individuals and armed groups.²³

The Israeli authorities argue that the uprising has been orchestrated by the PNA, and even Palestinian Communications Minister Emad Faluji has confirmed that. Most people familiar with the region, however, knew that frustration amongst the Palestinian population over the Oslo process was growing over a period of time and that the situation was going to explode at some point. The al-Aqsa Intifadah started on the streets, and it is unclear if the Palestinians had a strategy in the beginning. Nobody knew what the uprising would lead to. Faluji's remark can be put in a context of a Palestinian leadership without control, without a strategy, trying to create the image of being in full control and trying to restore confidence.

One of the tragic side effects of the current crisis is that a new generation is growing up with violence and hate. Over the years of the Oslo process, rapprochement between Israeli and Palestinian youths was encouraged by local and foreign organisations. This contact has totally stopped and we are back at the situation of 1993, and even if the conflict would be ended, it would take a long time to heal the wounds created by today's situation.

Settlers' militias

In the Occupied Palestinian Territories, well-trained, heavily armed settlers' militias have been established. Since many years, human rights organisations have reported acts of violence perpetrated by Jewish settlers against Palestinian civilians in the West Bank and Gaza Strip.²⁴ If punished at all, these settlers receive relatively light punishments for their crimes, especially in comparison with the punishment of Palestinians who commit crimes against Jewish Israelis. These armed militias, which block roads and attack Palestinians, are given freedom of action by the IDF. Ever since the beginning of the Intifadah the activities of these settlers groups have increased. Since October 2000, settlers have killed at least 7 Palestinians.²⁵ In addition to the 7 cases of Palestinians killed by settlers, 4 bodies of Palestinians were found near settlements in unclear circumstances. At least 39 Palestinians have been shot and injured by settlers and at least 11 have been beaten by settlers during the past six months. There have been at least 48 reports of stoning attacks and another 48 attacks against property, especially the uprooting of olive trees by settlers. In some cases settlers attacked Palestinians while the IDF stood idly by.²⁶

Reports of human rights organisations such as B'Tselem²⁷ and PHRMG²⁸ have clarified that cases of settlers' violence are rarely investigated seriously and that settlers are rarely punished for their acts. In

²³ According to the Palestinian Independent Commission for Citizens' Rights (PICCR), interview on 17 February 2001.

²⁴ B'Tselem, *Law Enforcement vis-a-vis Israeli Civilians in the Occupied Territories*, March 1994.

²⁵ According to the Palestinian Human Rights Monitoring Group (PHRMG), *Criminal Negligence? Settler Violence and State Inaction During the Al-Aqsa Intifada*, March 2001.

²⁶ Ibid.

²⁷ B'Tselem, *Law Enforcement vis-a-vis Israeli Civilians in the Occupied Territories*, March 1994.

²⁸ Palestinian Human Rights Monitoring Group (PHRMG), *Criminal Negligence? Settler Violence and State Inaction During the Al-Aqsa Intifada*, March 2001.

this light, the case of Nahum Korman should be mentioned. On 21 January 2001, the Jerusalem District Court sentenced this settler, who killed the 12-year old Palestinian boy Hilmi Shusha, to six months community service and paying NIS 70,000 (about US\$17,500) compensation. On the same day, an Israeli court sentenced the 17-year old Palestinian girl Si'ad Ghazal from Sabastia to six and a half years imprisonment for trying to stab a Jewish settler. Because of the aggressive reputation of Israeli settlers and the illegality of the settlements under international law, the Palestinian leadership has given the Palestinians the green light to attack settlers travelling in the Occupied Territories. As a result, a number of unarmed Israelis have been killed by Palestinian gunmen.

Religious incitement

During the visit of the Pax Christi International delegation, officials of the Israeli Ministry of Foreign Affairs accused religious leaders of inciting their followers to use violence. Some extremist leaders, such as Rabbi Ovadia Yosef, the spiritual leader of the Shas party, do indeed preach hatred. During this crisis, the threat of Islamic movements such as Hamas has also increased. The PNA has not been able to react adequately to the emergency situation. But Islamic organisations have been providing services to the population that the PNA has not been able to provide. Therefore, it takes the Islamic organisations no efforts to recruit new activists. As soon as Sharon was elected Prime Minister, Hamas announced that 10 bomb attacks would be carried out in the coming period.

Mainstream religious leaders, accuse political leaders of pulling religion into the conflict, which is in their eyes a political conflict between Israelis and Palestinians. The main Christian, Muslim and Jewish religious leaders say that the political process should be left to the politicians, but that religious leaders can play a role by advocating a reconciliatory attitude and inter-religious dialogue. The Israeli Ministry of Foreign Affairs has stated that the Churches should play a facilitating role.²⁹ Rabbi Naftali Rothenberg, member of the Chief Rabbinate responsible for inter-religious relations, is of the opinion that, if this conflict changes into a religious conflict there will be no solution, so the religious leaders should not let politicians use religion as an excuse for conflict.³⁰ Rothenberg emphasised that it is often secular people who use the religious feelings of the public. This was especially the case at the last Camp David summit, where Barak brought in the issue of the Temple Mount.

In their common Easter message for 2001, the Patriarchs and the Heads of the Churches in Jerusalem stated: "We pray for an end to the unjustifiable deaths that plague our societies. We pray for the immediate end of all collective punishments, especially for the lifting of the closures of Palestinians towns and villages. We pray for the good will of Palestinians and Israelis – of Jews, Christians and Moslems alike – in actively working for justice and peace. We pray for equality so that one no longer sees the neighbour as an enemy but rather as a brother or sister with whom to build a new society. Ours is a message of hope and compassion, of reconciliation and joy."³¹

The attitude of religious leaders towards the conflict is important because they are examples for and provide legitimacy to the actions of the members of their communities. Religious communities can especially pay a grass-root contribution through peace education within their networks. It is important

²⁹ Meeting with officials of the Ministry, 20 February 2000.

³⁰ Interview, 21 February 2001.

³¹ *Common Easter Message by Their Beatitudes the Patriarchs and Their Excellencies the Heads of the Churches in Jerusalem*, 15 April 2001.

to transfer the non-violent tradition to the youth. Other grass-roots organisations can also contribute in preparing the youth for peaceful coexistence and reconciliation.

HUMAN RIGHTS CONCERNS

ISRAEL

Excessive use of force by the Israeli security forces

In its resolution 1322 of 7 October 2000, the United Nations Security Council condemned “the excessive use of force against Palestinians, resulting in injury and loss of human life.” The United States, who often vetoes resolutions that are too critical of Israel, abstained from voting. The excessive use of lethal force has led to many deaths, which Amnesty International describes as ‘wilful killings’.³² According to international regulations, law enforcement officials may resort to lethal use of firearms only when strictly unavoidable in order to protect life.³³ Amnesty International concluded that the Israeli security forces use military methods rather than policing methods in the policing of demonstrations. The Palestinian Red Crescent Society observed a sharp increase in the use of live ammunition and a sharp decrease in the use of rubber coated metal bullets during the first four months of the Intifadah.³⁴ It is estimated that 78% of the deaths on the Palestinian side were caused by live ammunition and 10.9% by shelling.³⁵ A significant percentage of the injuries were located in the upper part of the body: 41.7% in the head and neck and 31.8% in the chest.³⁶ Ambulances and medical personnel have also been targeted by the Israeli security forces. As of the beginning of March 2001, one ambulance driver had been killed, almost a hundred medical personnel had been injured and 56 ambulances of the Palestinian Red Crescent Society had been hit by live ammunition, bullets and stones.³⁷

Arrest campaigns

In connection with the clashes of the past months, Israel has arrested hundreds of persons, amongst them over 300 Palestinians under 18 years,³⁸ during arrest campaigns in East Jerusalem, the West Bank and Gaza Strip and in Israel. Hundreds are still in detention.³⁹ In some cases, the detained were denied access to a lawyer for up to a week, and in many cases the courts have refused bail to detainees.⁴⁰ Many Palestinians and a number of Jews were reportedly beaten during their arrest, during transportation to police stations and in detention. Reportedly, youths under the age of 18 were beaten by Israeli police officers.⁴¹

³² Amnesty International, *Israel and the Occupied Territories. State Assassinations and other Unlawful Killings*. 21 February 2001.

³³ International standards concerning the use of lethal force by law enforcement officials are laid down in the *Code of Conduct for Law Enforcement Officials*, adopted by the UN General Assembly in 1979 and the *Basic Principles on the Use of Force and Firearms by Law Enforcement Officials*, adopted by the UN in 1990.

³⁴ www.palestinercs.org.

³⁵ Health, Development, Information and Policy Institute (HDIP), www.hdip.org.

³⁶ Ibid.

³⁷ HDIP Factsheet, www.hdip.org.

³⁸ Defence for Children International/Palestine Section, Action alert 4 April 2001.

³⁹ Amnesty International, *Israel and the Occupied Territories. Mass Arrests and Police Brutality*. November 2000.

⁴⁰ Ibid.

⁴¹ Ibid.

Torture

In September 1999, the Israeli High Court of Justice ruled out different forms of physical pressure during interrogations, such as *shabeh* – an interrogation method during which the interrogated is tied to a low chair with unequal legs, with the wrists bound behind the back and a stinking sack on the head – and violent shaking. Until the High Court decision, these forms of torture, as well as sleep deprivation and loud noise had been widely used by the Israeli General Security Service. The High Court decision was a step forward, but it leaves room for future legislation legalising physical pressure. A law has been drafted by the Knesset allowing ‘moderate forms of physical pressure’. Since the High Court decision, one obvious violation of this decision has been reported by the Public Committee Against Torture in Israel (PCATI). According to PCATI, 36-year old Nassar Iyad, who was arrested near Netzarim on 29 January 2001, was forced to sit on a chair, bent over until his head touched the floor, for a prolonged period of time.⁴²

Extra-judicial executions

During the al-Aqsa Intifadah, Israel has adopted a policy of deliberately killing Palestinians suspected of carrying out or planning to carry out violent attacks on Israeli targets. As of February 2001, at least 10, and perhaps as many as 30, extra-judicial executions have been carried out by the Israeli security forces against Palestinians in the West Bank and Gaza.⁴³ Whereas most governments deny carrying out extra-judicial executions, the Israeli government is of the opinion that it is a legal policy. Israeli officials, such as Efraim Sneh, the Deputy Defense Minister under Prime Minister Barak, have openly defended the policy of extra-judicial executions. According to Amnesty International, some of the executions were carried out in cases where it would have been possible to arrest the suspect.⁴⁴ Some of the Palestinians have been killed by sniper fire, but in other cases Palestinians were bombed from Israeli helicopters. Because of those methods, a number of uninvolved Palestinians were killed alongside the persons targeted. For example, when Hussein ‘Abayat was killed in Bethlehem on 9 November 2000, two women in their fifties who were in the same place were killed too and nine other persons were injured. According to Amnesty International, it is not clear who authorises the killings.⁴⁵ In order to be able to carry out these extra-judicial executions, the Israeli security forces rely on a considerable network of Palestinian informants. These extra-judicial executions are not only blatant violations of human rights, they are also grave breaches of the Fourth Geneva Convention. Article 147 of the Convention mentions ‘wilful killing’ as one of the grave breaches of the Convention.

Restrictions on the freedom of movement; violations of economic, social and cultural rights

Since 1993, a general closure had been imposed on the West Bank and Gaza Strip, meaning that any Palestinian from the West Bank or Gaza Strip who wanted to travel to Jerusalem, through the safe passage between the West Bank and the Gaza Strip or abroad, needed a permit from the Israeli authorities. At certain times, during Jewish holidays or after Palestinian bomb attacks, the Israeli authorities strengthened this general closure to a comprehensive closure, when no travel permits were issued and earlier permits were revoked. Since 8 October 2000, a comprehensive closure has been imposed on the West Bank and Gaza. In addition to that, the Israeli authorities have imposed temporary sieges on different Palestinian towns and villages. In some places curfews have also been imposed. In the H2 area in Hebron, in which some 400 settlers live, the Palestinian population has been put under

⁴² ‘Anti-torture Group Says GSS Using Banned Methods’, the Internet Jerusalem Post, 19 March 2001.

⁴³ Amnesty International, *State Assassinations and Other Unlawful Killings*, p. 1.

⁴⁴ *Ibid.* p.7.

⁴⁵ *Ibid.*

curfew, as well as in Huwara village south of Nablus. These closures and curfews have brought about the violation of economic, social and cultural rights of the Palestinian population. The right to work is provided in Article 6 of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which was ratified by Israel in 1991. The closure denies Palestinians their right to work directly (people cannot reach their jobs) and indirectly (supplies necessary for production do not arrive). Another right stipulated by the ICESCR (Article 12) is the right to health. The closures have caused the violation of the right to medical treatment of many Palestinians. Ambulances have been blocked at Israeli army checkpoints and attacked by Israeli security personnel and settlers. The Palestinian Red Crescent Society recorded 120 attacks on 56 of its ambulances between 29 September 2000 and 9 March 2001.⁴⁶ A number of Palestinians died because they could not reach the hospital in time. On 14 March 2001, for example, 48-year old Amira Abu Seif, from Faqu'a in the Jenin area died after being held for three and a half hours at a checkpoint when her family tried to get her to a hospital in Jenin because she was suffering from an upsurge in her blood sugar level.⁴⁷ In another incident, a woman was forced to give birth at a checkpoint because the soldiers would not let her pass to go to hospital.

The closure has also caused the violation of the right of education, which is also provided by the ICESCR (Article 13). Many Palestinian teachers and students cannot reach their schools and universities. In areas under curfew, all classes are cancelled. The IDF also closed a number of schools in Hebron and al-Khader village because of their strategic location. On 15 November 2000, the Association for Civil Rights in Israel (ACRI) petitioned the Israeli High Court of Justice to order the opening of these schools, but the High Court refuted the petition.

Although the Israeli authorities argue that the closure and curfews are necessary because of security reasons, organisations such as the Israeli human rights organisation B'Tselem, have argued that the closure is a form of collective punishment, for two reasons: First, closure has a severe effect on the whole population rather than on those individuals who constitute a security threat. Second, closure is often imposed in reaction to violent acts committed by Palestinians against Israelis and eased as a 'gesture' in a political context, rather than when the security situation changes.⁴⁸

Palestinian National Authorities (PNA)

The rule of law in the PNA areas

The already fragile position of the PNA has seriously weakened during the past months. On the one hand there is the economic crisis which makes it very hard for the PNA to consolidate its rule. On the other hand, a political polarisation has developed, with not only the 'usual' Hamas and Islamic Jihad opposition against the PNA, but also Fatah groups, belonging to the party of Yasser Arafat, which are operating more and more independently. The crisis has led to a further crack down of the rule of law in the PNA areas. Palestinians warn against an increase in criminal cases because Palestinian security forces are not willing to enforce the law anymore. On the other hand, Palestinian security officers have reportedly been kept out of refugee camps in the West Bank. Leaders of Amaari camp near Ramallah and Balata camp near Nablus have denied Palestinian security officers access to these camps.⁴⁹

⁴⁶ www.palestinercs.org

⁴⁷ LAW-The Palestinian Society for the Protection of Human Rights and the Environment, Press release 17 March 2001.

⁴⁸ B'Tselem, *Civilians under Siege. Restrictions on Freedom of Movement as Collective Punishment*, January 2001, p.29-31.

⁴⁹ According to UNRWA, interview with Richard Cook, Director of UNRWA operations in the West Bank, 19 February 2001.

Collaborators

A particularly sensitive issue the PNA has to deal with is the issue of Palestinians collaborating with Israel. As was mentioned above, the Israeli security forces rely on Palestinian informants for its extra-judicial executions of Palestinians. The public pressure to kill collaborators is very strong in the Palestinian territories. On 13 January 2001, the PNA succumbed to public pressure and after mock trials in State Security Courts, two Palestinians were publicly executed by the PNA. In Nablus, Allan Bani Odeh was sentenced to death for playing a role in the killing of Ibrahim Bani Odeh on 23 November 2000. The execution took place in front of 5,000 people. In Gaza, Majdi Mikkawi was executed after he was found guilty of giving Israel information that led to the killing of four Fatah members, amongst whom was his uncle. These were the first public executions in the PNA areas, but it was not the first time that the Palestinian judiciary succumbed to public pressure.⁵⁰ In several cases, civilians have been tried in these State Security Courts, which have been criticised for their non-compliance with international fair trial safeguards. Persons tried in a State Security Court are often not appointed a defence lawyer and do not have the right to appeal. It is clear, however, that also collaborators must be punished according to international fair trial standards.

Freedom of expression

One of the rights that is very often violated in the areas under PNA authority is the right to freedom of press and freedom of expression. The most recent example is the closure in March 2001 of the office of al-Jazira, a Qatari television channel, in Ramallah, after the channel had shown images critical of Yasser Arafat. During the year 2000, private Palestinian radio and television stations have repeatedly been closed by the authorities, and journalists have been arrested. Journalist Maher al-Alami, for example, was arrested on 6 June 2000, after he criticised the closing of television and radio stations on a local television station.⁵¹ Palestinian intellectuals and politicians have also been arrested after having criticised the PNA. Mu'awiyah al-Masri, member of the Palestinian Legislative Council (PLC), was shot in the leg in Nablus after he signed the 'Petition of Twenty', a pamphlet that was signed by 20 Palestinian intellectuals, including nine members of the PLC. The petition criticised the corruption in the PNA. Abd as-Sattar Qasem, a teacher at Najah University in Nablus and at Bir Zeit University was arrested and was kept in detention until January 2000. In February he was arrested again and he was kept in detention without charge or trial until the end of July 2000.⁵²

Arbitrary detentions

The Palestinian security forces have repeatedly carried out arrest campaigns of persons suspected of affiliation with opposition groups. Members of Hamas and the Islamic Jihad, as well as members of left wing factions such as the Popular Front for the Liberation of Palestine (PFLP), have been arrested during such arrest campaigns. Another example of these arbitrary arrests is what happened after the French Prime Minister Jospin was stoned during a visit to Bir Zeit University on 26 February 2000. In the wake of that incident, the Palestinian security service arrested many students belonging to

⁵⁰ In February 2000, a man from Nablus who allegedly raped a 5-year old girl, was tried in a State Security Court and sentenced to life imprisonment with hard labour, after a large group of protestors had called for his death penalty. Source: LAW-The Palestinian Society for the Protection of Human Rights and the Environment, Press release 18 February 2000.

⁵¹ 'Violations of the Right to Free Expression. Closure of 5 Private TV and Radio Stations in One Month' in: People's Rights Magazine, July 2000.

⁵² LAW - The Palestinian Society for the Protection of Human Rights and the Environment, press releases of 20 February 2000, 13 July 2000.

opposition parties such as Hamas and PFLP, although many of them had not been involved in the incident at Bir Zeit University. There are strong indications that the Palestinian authorities used the incident as a pretext to arrest students who were politically active in opposition parties.⁵³

Torture

There are regular reports about torture and maltreatment of detainees under the PNA. Palestinians have died under suspicious circumstances in PNA detention. In the most recent case, 30-year old Salem al-Akra'a died after he was transferred from the Military Intelligence Service prison in Nablus to al-Watani hospital in the same city on 27 February 2001. The Palestinian human rights organisation LAW stated that there were indications that al-Akra'a died as a result of *shabeh* – a method used by the Israeli General Security Service, see above – and beating. Ironically, the methods of the Israeli General Security Service have been adopted by the Palestinian security services. A considerable part of the Palestinian interrogators have been in Israeli detention in the past.⁵⁴

FINAL STATUS ISSUES

The right of return of the Palestinian refugees

Today, the Palestinians who fled during the war of 1948 and their descendants have grown to a refugee population of about 5 million.⁵⁵ The refugees constitute over two thirds of the total Palestinian population. About one and a half million Palestinians live in the West Bank and Gaza Strip. Large numbers of Palestinian refugees live in Jordan (1.8 million), Syria (460,000) and Lebanon (422,000), as well as other Arabic and western countries. Therefore, a solution for the refugee problem is necessary in order to achieve stability in the whole region. The refugees living in the camps in the West Bank and the Gaza Strip – over half of the refugee population in the Gaza Strip and about a quarter of the refugees in the West Bank – live in substandard circumstances: Overcrowding, poor health services, poor water networks. Ironically, the refugees registered with UNRWA are in the current situation sometimes better off than other Palestinians, because UNRWA has been able to provide emergency relief to them. Its mandate, however, does not allow assistance to people not registered with UNRWA.

Since the Camp David summit of July 2000, the refugee issue is 'back on the agenda'. There, the Palestinian negotiating team demanded that Israel recognises the right of return and compensation of the Palestinian refugees, which is stipulated by international law.⁵⁶ Israel refuses to accept the right to return of millions of refugees to Israel, because 'that will change the Jewish character of the state'. However, in order to reach a final agreement that can lead to reconciliation, Israel must take the co-responsibility for solving the refugee 'problem'. How many refugees in the end will exercise their right of return, will depend on various factors, such as the compensation offered and the possibility to obtain citizenship in the country of residence or in a third country. Human rights organisations such as Badil and B'Tselem reject the idea of setting quota to the Palestinians who want to return, because that is

⁵³ LAW press release 28 February 2000.

⁵⁴ According to Palestinian resources.

⁵⁵ This figure by Badil includes refugees registered with UNRWA and those not registered with UNRWA, and is based on natural growth of the refugee population of 1948.

⁵⁶ The right of return of the Palestinian refugees is provided by United Nations General Assembly Resolution 194 of 1948. In addition, the status of the Palestinian refugees is stipulated by a whole corpus of international law, including the 1951 Geneva Convention Relating to the Status of Refugees and its 1967 Protocol, the Statute of the UNHCR and the Regulations governing the mandate of UNRWA.

contradictory to the legal principles of the individual right to return.⁵⁷ The number of Palestinians who will choose to return to Israel is largely in the hands of the international community, which can contribute by providing generous funds for compensation and by offering the refugees the possibility to obtain citizenship in other countries. In this respect, countries such as Syria and Lebanon, which house large numbers of refugees but refuse to grant them citizenship, should be willing to adopt Palestinian refugees as citizens if these refugees choose to stay there.

Settlements

Throughout the al-Aqsa Intifadah, the Israeli government has continued its policy of creating 'facts on the ground' in terms of settlement expansion and land expropriations. Under the government of Ehud Barak, settlement construction reached a peak: In 2000, 1,943 housing units were constructed in settlements in the Occupied Territories, the highest number since 1992.⁵⁸ Today, about 180,000 Israelis live in settlements in East Jerusalem, and about 200,000 in the rest of the Occupied Palestinian Territories. Even during the Intifadah, construction work continued: In the last quarter of 2000, work was begun on 954 housing units, compared to 368 in the last quarter of 1999.⁵⁹ It is expected that under the government of Ariel Sharon, settlement activities will continue on a large scale. The Pax Christi International delegation witnessed some examples of settlement activities around Jerusalem: During the past months, construction of a road connecting the settlements of Pisgat Ze'ev and Neve Yaakov on the Eastern side of Jerusalem with the Jerusalem-Tel Aviv Highway has continued and new buildings have arisen in the not-yet inhabited Maaleh Hazeitim settlement in the Palestinian neighbourhood of Ras al-Amud in East Jerusalem.

In March 2001, the rejection by the Jerusalem municipal council of an appeal brought closer the construction of a new Jewish settlement in Abu Dis, a Palestinian village on the Eastern outskirts of Jerusalem.⁶⁰ This settlement will cut off the only corridor that connects the West Bank with the Old City of Jerusalem and will complete the ring of settlements that severs East Jerusalem from the rest of the West Bank. Meanwhile, the Jerusalem Municipality's Planning and Construction Committee is going to decide on the expansion of the Har Homa settlement south of Jerusalem with another 2,830 housing units.⁶¹ This settlement caused international uproar during the Netanyahu government, who then decided to postpone construction on the site. When Barak came to power, construction of the settlement started and 2,000 housing units have already been put up to sale.⁶² The continuing expansion of settlements in the West Bank and the Gaza Strip are a violation of international humanitarian law, specifically article 47 of the Fourth Geneva Convention Relative to the Protection of Civilians in Time of War, which prohibits the occupying power to transfer (parts of) its population into the Occupied Territories. The expansion of settlements and of the network of by-pass roads is frustrating a future solution of the final status issues and is against the letter and spirit of the agreements of the Oslo process.

⁵⁷ According to interviews with Ingrid Jaradat Gassner of Badil and Jessica Montell of B'Tselem, respectively on 17 February 2001 and 18 February 2001.

⁵⁸ Figures based on official data from the Israeli Housing Ministry, released by Knesset Member Mossi Raz. Nadav Shragai, 'Barak Was Biggest Settlement Builder Since '92', Ha'aretz, 27 February 2001.

⁵⁹ Ibid.

⁶⁰ Nadav Shragai, 'Jerusalem moves ahead with Jewish Neighbourhood in Abu Dis', Ha'aretz 19 March 2001.

⁶¹ Ibid.

⁶² 'Barak Was Biggest Settlement Builder Since '92', Ha'aretz, 27 February 2001.

Israel exporting products from the settlements

Israel is deliberately exporting products made in settlements in the Occupied Territories under EU preferences provided by the Association Agreement between the EU and Israel. In 2000, the Interim Association Agreement was changed into a final one. According to Article 83 of the Association Agreement, the agreement is only applicable to the territory of the State of Israel. This does not include the Occupied Territories, including the Golan Heights, which Israel annexed unilaterally contrary to international law. Since 1997, NGOs have revealed that Israel is exporting products from the settlements under EU preferences. The European Commission has been presented with these violations of the Association Agreement. In 1998, a special European delegation went to the region to assess the trade and customs procedures between Israel, the West Bank, the Gaza Strip and EU member states. That delegation concluded that Israel was exporting products produced in the Occupied Territories. However, the European Commission stated in January 2000 that this could not be determined with certitude and asked for further inquiry in order to collect evidence. During the year 2000, customs services of a number of EU member states such as Belgium and the Netherlands have requested verification from Israel concerning products of which there are 'reasonable doubts' about their origin. About 5,000 such requests have been presented to the Israeli authorities in connection with flowers, tomatoes, grapefruits and other products.⁶³ The Israeli authorities have already indicated that they will label these products as 'made in Israel'.⁶⁴ The import of products originating from Israeli settlements into the EU under the Association Agreement is not only a violation of the agreement, but also contributes to a breach of international humanitarian law. As was mentioned above, the settlements constitute a breach of Article 47 of the Fourth Geneva Convention. Under Article 1 of the Convention, the High Contracting Parties of the Convention have the duty to act when the Convention is breached. When importing products from the settlements, the EU and its member states are contributing to a breach of the Convention and therefore breaching the convention themselves.

Jerusalem

Although Ehud Barak was the first Israeli leader willing to open the issue of Jerusalem for discussion, a solution to the final status of the city has not come any closer. Jerusalem is one of the most sensitive final status issues and was labelled as the issue that led to the failure of the Camp David meeting. During his period as Prime Minister, Ehud Barak promised to hand over three villages around Jerusalem to the PNA. The Knesset approved the transfer, but it was never carried out. Meanwhile, Israel continued to create more 'facts on the ground' in and around the city, which complicates a solution to the final status of Jerusalem. (See the section on settlements above.) In addition to increasing the Jewish population of East Jerusalem, the Israeli authorities aim at the decrease the percentage of Palestinians in East Jerusalem, the so-called 'Judaisation' of East Jerusalem. As said before, today about 180,000 Israelis live in the settlements in East Jerusalem within the municipal boundaries. The Israeli authorities aim at preserving the demographic balance of 66% Jews and 33% Arabs in the city. In order to achieve that, the Israeli authorities put restrictions on construction of Palestinian houses in the city in the hope that Palestinians will move elsewhere. For a Palestinian Jerusalemite, it is almost impossible to obtain a building permit from the Jerusalem municipality. Because of the high birth rate, many Palestinians live in overcrowded conditions and decide to build houses or additions to existing houses without a permit, taking the risk of having their house demolished. During the past year, the Israeli authorities demolished nine houses in Jerusalem because they were

⁶³ Based on information from Charles Shamas of the Mattin Group.

⁶⁴ 'EU May Impose Sanctions on Israeli Goods Made in Territories', Ha'aretz, 5 February 2001.

built without a permit.⁶⁵ Under Ehud Barak, there has been a decrease in the number of house demolitions, but recently a wave of demolitions took place, amongst which were houses in Anata and Eizariyeh, on the outskirts of East Jerusalem.⁶⁶

Another instrument that the Israeli authorities have been using to decrease the Palestinian population of Jerusalem is the confiscation of ID cards. Many Palestinians lost their residency rights in the city as a result of the 'centre of life' policy, which was silently implemented by the Israeli Ministry of Interior in 1995. Palestinians who could not prove sufficiently that their 'centre of life' was Jerusalem saw their residency rights in the city revoked. The Jerusalem ID is highly important for Palestinians, because Palestinians without a Jerusalem ID need a special permit from the Israeli authorities to enter the city. Moreover, the Jerusalem ID gives Palestinians access to Israeli health and other insurances provided by the National Insurance Institute (NII). In the rest of the West Bank and the Gaza Strip, insurance systems are far less developed. As a result of the above-mentioned 'centre of life' policy, 2,721 residency cards have been revoked between January 1996 and April 1999. According to the Palestinian organisation for Refugee's and residency rights Badil, this affected about four times that number of people, since many people have their children registered on their ID. After a successful lobby of Israeli and Palestinian human rights organisations, the then Minister of the Interior, Nathan Sharansky, announced in October 1999 that the 'centre of life' policy would be ended and that persons whose ID cards had been confiscated unjustly would get back their residency rights in Jerusalem. Since then there have not been any reports of ID confiscations on the basis of the 'centre of life' policy.⁶⁷

A worrying fact in the conflict over Jerusalem is that political leaders have brought the religious aspect of Jerusalem into the discussion. Ironically it was secular politicians such as Ehud Barak who did so and who emphasised the religious value of Jerusalem for all Jews. Jewish, Muslim and Christian religious leaders emphasise that the conflict is a political conflict between Israelis and Palestinians, not a conflict between religions. The Latin patriarch in Jerusalem, Msgr. Michel Sabbah, the president of Pax Christi International, has stated that first, the political conflict must be solved. In the political conflict between Israel and the Palestinians, the PNA speaks for all Palestinians, Christians and Muslims. H.B. Michel Sabbah is of the opinion that, "once the political aspect of the conflict is settled, the second aspect, the religious aspect, is to be approached. The holiness of the city, patrimony of humankind, the Holy Places with all their historical requirements, are to be taken in consideration by both political and religious leaders. For the Christian places, Christian leaders of Jerusalem, representing all Christians, will speak with the political authorities. These political authorities have to find the special way which ensures all what is needed to keep the holiness of the city, to respect and safeguard historical and today religious and civil rights, to ensure freedom of worship and freedom of access in all times of peace or war. They should present this special regime to be recognized by the international community, in order to guarantee its stability. It is not any kind of internationalisation which takes away the property or the control of the city from the hands of its legitimate local governors, but it is the normal recognition required today for any agreement."⁶⁸

⁶⁵ According to B'Tselem, www.btselem.org.

⁶⁶ LAW press release 4 April 2000.

⁶⁷ For a detailed report on the issue see HaMoked / B'Tselem, *The Quiet Deportation Continues: Revocation of Residency and Denial of Social Rights of East Jerusalem Palestinians*, September 1998.

⁶⁸ From "Christianity and Jerusalem. Present and Future Perspectives", a lecture given by H.B. Michel Sabbah in London on 23 January 2001.

In July 1967, the Israeli Chief Rabbinate issued a halachic ruling that no Jew can enter the Temple Mount because it is not known where the holy of holiest was located exactly in the time of the Temple. The Chief Rabbinate reconfirmed this ruling recently. This was of course a political decision in order to maintain the status quo in the Holy Places of Jerusalem. Rabbi Naftali Rothenberg, member of the Chief Rabbinate who is responsible for the inter-religious relations, is of the opinion that Muslims must follow this example of the Rabbinate and also be generous and acknowledge that their Holy Places are similarly important to others.⁶⁹

Water

The issue of water remains one of the unsolved final status issues. Israel controls all the water sources in the Occupied Territories since 1967. In the Oslo II Agreement of 1995, Israel recognised the Palestinian water rights in the West Bank, but postponed a final agreement to the final status negotiations. According to the Agreement, a Joint Water Committee was established for the interim period, in which the Palestinians and Israel share the management of the water sources, but Israel may veto new water projects. Per capita water consumption in the West Bank for domestic, urban and industrial use is approximately 70 liters a day. In Israel, the per capita consumption of water for domestic, urban and industrial use is about 350 liters a day.⁷⁰ The World Health Organisation and the United States Agency for International Development (USAID) recommend 100 liters of water per person per day as the minimum quantity for basic consumption. The Oslo II Agreement estimates the future water needs of the Palestinians in the West Bank to be 70-80 million m² per year, and makes available to the Palestinians an additional 28.6 million m² per year during the interim period. Under the Interim Agreement, the arrangements in the Gaza Strip remain unchanged. Overall, the transfers of the Interim Agreement leave Israel with 90% of the shared water sources.⁷¹ Israel and the Palestinians share two water sources: the Mountain Aquifer and the Jordan River Basin. Currently, Israel receives 79% of the Mountain Aquifer water and even 100% of the Jordan River Basin water. When negotiating over the final solution for the water issue, it should be kept in mind that the Interim Agreement is contradictory to international law in the following respects:

- a. The distribution from shared water sources is inequitable; according to international law, both parties should allocate shared water sources on an equitable basis;
- b. Under the current Interim Agreement water consumption by settlements is protected, while it is a violation of international humanitarian law;
- c. Today, the Palestinians do not enjoy their rights to the Jordan River Basin, although it is a shared water source.⁷²

In a final status agreement, Israel and the PNA should have equal authority over shared water resources.

CONCLUSION AND RECOMMENDATIONS

The conflict in the Middle East is extremely complicated, and is becoming more complicated every day. Solutions cannot be found easily and logically this report does not provide these solutions. However,

⁶⁹ Meeting with Rabbi Naftali Rothenberg, 21 February 2001.

⁷⁰ Detailed reports about the water issue are: B'Tselem, *Thirsty for a Solution. The Water Crisis in the Occupied Territories and its Resolution in the Final Status Agreement*. July 2000. LAW, *Legal Brief Paper Series. Water*. September 2000.

⁷¹ According to LAW, *Legal Brief Paper Series*.

⁷² B'Tselem, *Thirsty for a Solution*, p.31-2, LAW, *Legal Brief Paper Series*, p.4, 28, 30.

there are some concrete contributions that the international community can make, which are summed up in the recommendations below. In earlier reports⁷³, Pax Christi International called for peace negotiations based on international law. In Pax Christi's opinion, peace negotiations should ultimately lead to a sovereign, viable Palestinian state, with Jerusalem as the capital of two states, accessible to followers of all three monotheistic religions. The framework of peace negotiations should include the following five principles of international law:

1. The right of return of the Palestinian refugees, as laid down in UN General Assembly Resolution 194.
2. The recognition of the right to self-determination of the Palestinian people as well as Israel's right to secure and recognised borders.
3. The right to protection against (further) annexation of Occupied Territories and from forced changes in the demographic composition of Jerusalem.
4. The full Israeli withdrawal from the territories occupied in 1967, as stipulated in UN Security Council Resolutions 242 and 338.
5. Respect for human rights by all parties.

Pax Christi International believes that the international community should play a role in assuring that future peace negotiations be dominated by these principles of international law and not by the unequal power balance between Israel and the Palestinians. The EU must reconsider its political role in the Middle East. The EU is one of the main donors to the Palestinians. This economical role should be accompanied by a political role. Europe's role should change from 'payer' into 'player'. Now that American President George W. Bush has announced that he will not continue Clinton's strategy in mediating in the negotiations between Israel and the PLO, a gap has been left and the EU has been given a chance and obligation to take its responsibility in the region. Moreover, the Americans have lost their credibility with the Palestinians with the recent bombing of Iraq.

- In light of the above, Europe can facilitate negotiations between the two parties, but should also ensure that the negotiations will not be dominated by the imbalance in power between Israel and the Palestinians.
- The EU and its member states must commit themselves to help alleviating the economic pressure on the Palestinian civilian population. Israel must be pressured to lift the economic siege of the West Bank and Gaza Strip and be urged to stop with activities like the uprooting of (olive) trees. The EU must also see to it that Israel transfers tax income to the PNA. The EU and its member states can alleviate the economic crisis by encouraging foreign investment in the Palestinian territories, especially in small and medium scale private enterprises. The unsteady investment climate should be compensated by other preferences and credit facilities. In addition, temporary emergency aid from the EU is necessary in order to prevent growing distress that can evoke more violence.
- The EU and its member states must ensure that no products produced in territories occupied by Israel are imported into the EU as Israeli products under EU preferences. Under Article 83 of the Association Agreement between Israel and the EU, products from the Occupied Territories are

⁷³ Earlier Pax Christi reports are: *International Law and the Middle East Peace Process; Some Lines of Action for the Netherlands and Other European Union Member States* (1995), *The Middle East Peace Process: Between Fighting Terrorism, Respect for Human Rights and Starting the Final Status Talks* (1996), *The Middle East Peace Process in Coma. Policy Elements for the USA and (Member States of) the EU* (July 1997), *Towards a Stronger Role of the EU in the Middle East Peace Process* (August 2000).

excluded from the agreement. Moreover, the Israeli settlements in the Occupied Territories constitute a breach of article 47 of the Fourth Geneva Convention Relative to the Protection of Civilians in Time of War. By importing products from these settlements, the EU and its member states are contributing to breaches of international humanitarian law. Therefore, import of these products must be stopped immediately.

- Representatives of Israeli and Palestinian organisations point out the important role of the EU, but complain about the bureaucracy of the Union. EU procedures to approve projects and allocate funds are too slow. The EU should improve its contribution by speeding up its procedures.
- The EU must monitor the creation of 'facts on the ground', for instance in the field of the creation of new settlements and the expansion of existing ones as well as with regard to the further 'judaisation' of Jerusalem, and take necessary measures against Israel's breach of Article 47 of the Fourth Geneva Convention. Ariel Sharon has lately expressed intentions to opt for new interim agreements with the Palestinians, instead of a final agreement. Therefore, more 'facts on the ground' that will complicate future negotiations must be prevented.
- The EU and its member states can contribute to the development of a viable Palestinian state. In order to be able to change the Palestinian economy from a dependent into an interdependent economy, the Palestinians must have control over their natural resources, including water, their external borders (including the airport and seaport in Gaza), their infrastructure, their tax system, and there must be free passage between the West Bank and the Gaza Strip. Europe has important expertise in economic co-operation as the basis for security. Europe should apply this expertise in the creation on the long term of a region of healthy, interdependent economies.
- Europe must continue its efforts in building up respect for human rights in the region. The EU should take systematic action against cases of arbitrary arrests and extra-judicial executions, of structural violations of the freedom of expression, of excessive use of force against innocent civilians, and of gross denials of economic, social and cultural rights by both Israel and the PNA. However, the EU should keep restraint in making improvements in these fields a precondition for financial and other forms of assistance to the PNA. The PNA is in such a difficult position, that missing the support by another major donor would be very detrimental, at least in the short run.
- Within the UN framework, the EU should lobby for the establishment of a body that will monitor the situation in order to protect (Palestinian) civilians against indiscriminate force and human rights violations. This body could have the form of human rights observers, or a UN force with a broader mandate.
- Special protection must be ensured for the Palestinian refugees, who do not enjoy UNHCR protection. The Palestinian refugees fall under the mandate of UNRWA, which is only authorised to provide assistance.
- Also for the EU, the position of the refugees should be a special point of concern. The international community, and the EU as part of it, should contribute to the stability in the region by providing generous funds for compensation to the refugees and by offering the refugees the possibility to obtain citizenship in other countries.
- An independent international investigation committee must be established on the basis of UN Security Council Resolution 1322 of 7 October 2000, that will investigate violations of international humanitarian law by the Israeli security forces in the Occupied Palestinian Territories.

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