

# *What are the central challenges to finding peace between Palestinians and Jews living in Israel and Palestine?*

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## 1. Introduction

As Kelman (2005) noted, the Israeli-Palestinian conflict has been ongoing for more than a century; from the start of the political Zionism movement in the 19<sup>th</sup> Century and continuing in violent conflicts and escalating tension today. Since the post WWI British mandate, and UN's partition and establishment of the state of Israel after WWII, all done without consultation with the neighbouring Arab states, some of the major issues in this conflict are acceptance of Israel as a Jewish state, and, most importantly, the clarification of the borders between these two regions. Other major challenges include the status of Jerusalem, Palestinian refugees and their right of return, and the current divided state of Palestine.

A vital observation by Kilcullen (2012) should be kept in mind when discussing the Israeli-Palestinian peace process: Currently, bi-lateral negotiations can't resolve the conflict because both sides are deliberately raising demands that they *know* the other side won't accept, for the purpose of preventing any progress or agreement.

This essay will focus on the challenges of resolving the issues of recognition, Palestinian refugees and the borders dispute between Israel and Palestine.

## 2. Recognition

One of the key challenges to peace between Israel and Palestine is the issue of recognition: Palestine's demand to be recognised as an independent state and Israel's insistence that they remain as a Jewish state.

### 1.1. Of Palestine

For Palestine, it is of great importance that they are internationally recognised as a sovereign state. Some of the advantages of UN recognised statehood are self-government, exclusive control over airspace, seas and borders, and the right to vote on United Nations resolutions of high importance. If Israel is to receive actual and real repercussions for its arguably illegal settlements in Palestinian territories, Palestine has to be a sovereign state with defined territories. However, the very issue at the core of Palestine's bid for statehood is the dispute of boundaries between Israel and Palestine.

Under the Declarative Theory of international law on legal recognition of state sovereignty, an entity is recognised as a State if it satisfies the four criteria (Stadnik 2013):

- (i) permanent population
- (ii) defined territory
- (iii) effective government; and
- (iv) capacity to enter into relations with other States

For Palestine, recognition of statehood would be impossible at the moment, not just because of Israel and Palestine's ongoing territorial disputes, but also due to the fact that Palestine is currently divided between the internationally recognised Palestine Liberation Organization ("PLO") led government, in control of the West Bank, and Hamas, controlling the Gaza Strip. Without an effective and functioning government, it would be impossible for Palestine to fulfil the fourth criterion and any international obligations that would come with recognition of statehood (Stadnik 2013).

Thus, Palestine is turning to the Constitutive Theory, which allows an entity to be recognised as a State if the international community officially acknowledge it as a State (Stadnik 2013). Under this theory, Palestine requires a UN General Assembly Resolution declaring its sovereignty. However, Israel has consistently blocked this path by threatening Palestine that bilateral peace negotiations will end if they approach the UN ('A peace process that is going nowhere; Israel-Palestine' 2014; Kilcullen 2012). Furthermore, with United States backing Israel, proposed UN resolutions regarding Palestinian statehood usually gets vetoed ('A peace process that is going nowhere; Israel-Palestine' 2014; Kilcullen 2012) at the UN Security Council stage.

As Israel continues to fight against the two-state solution and refusal to recognise Palestine, the peace negotiations between these two countries will not be able to progress.

## 1.2. Of Israel

Israel demands to be recognised as a democratic Jewish state, which the Economist ('Israel and Palestine - Take a Break' 2014) and the Middle East Monitor (2014) note is a problematic and unrealistic condition. If Israel continues to reject the two-state solution, they must eventually absorb the current Palestinian population in Israeli territory, and thus, will no longer be a Jewish state as Arabs would become the majority. Consequently, they would become undemocratic if they "withhold voting rights from non-Jews" (Kilcullen 2012). Finally, if they forcefully remove non-Jews from Israel in order to preserve their state as democratic and Jewish, that would amount to "soft ethnic cleansing" (Kilcullen 2012).

The main reason Israel is making such a demand is to prevent the Palestinian refugees from using their "right of return". By making the recognition of Israel as a Jewish state a prerequisite condition to peace agreements, Israel is ensuring that if the agreement is finalised, Palestinians will essentially give up their right of return as a purely Jewish state of Israel would render inhabitant of other ethnicities second class citizens and might deny them the same rights as the Jewish population (Awad 2011; Kilcullen 2012). As Kilcullen (2012) mentioned before, this is one of the unreasonable conditions raised purely to stall peace negotiations as Israel is aware of the advantage extra negotiation time provides. The longer the negotiations drag out, the weaker and more divided Palestine becomes, with Israel pushing their boundaries – forcefully settling into Palestinian territories – and using this as a justification for redrafting of borders.

## 3. Palestinian refugees

One of the most significant issues the Palestinian government raises during peace talks is the status and future rights of Palestinian refugees. Over five million Palestinian refugees are

currently living in the Occupied Territories, Jordan, Lebanon, Syria, and Egypt (Khalil 2014). The majority of these refugees and their descendants are stateless, choosing to remain so because they wish to exercise their right of return and eventually return to their state of origin as Palestinian citizens. However, these millions of refugees are currently living in limbo, without basic rights, freedoms or official nationalities (Khalil 2014). As the majority of the refugees are living in refugee camps in Middle-Eastern nations which also happen to be in conflict and unstable, they are living in poverty and unable to get out of their situation as their refugee status prevents them from obtaining jobs in their host countries (Khalil 2014).

Israel's stance is that it is a non-negotiable issue if Palestine does not admit Israel as a Jewish state ('Israel and Palestine - Take a Break' 2014; Awad 2011; Khalil 2014; Kilcullen 2012). As mentioned above, Palestine fights strongly against this demand in order to protect the rights of both Arab Israelis, who are a fifth of the population of Israel ('Israel and Palestine - Take a Break' 2014), as well as Palestinian refugees' right of return. Acknowledging Israel as a Jewish state also means accepting that Israel had a right to claim the land, and in the process, erase the long, historical narrative and struggles of the native Palestinians ('A peace process that is going nowhere; Israel-Palestine' 2014).

Israel's proposed solution to the issues of refugees is to limit the returning refugees, only recognising the right of return of those that were originally forced out, not their descendants, justifying that the descendants are already absorbed into their host countries and no longer Palestinian (Awad 2011). However, Israel is working around international law by enacting their Nationality Law, which would ensure that none of returning refugees attain Israeli citizenship anyway (Awad 2011). Nationality Law grants Israeli citizenship only to those:

- (i) That were residing there at the establishment of the Jewish state;
- (ii) That were resident in Israel on the day the Nationality Law came into force; and
- (iii) That were registered as such in a specific Registry

This really demonstrates that the central challenge to finding any peaceful agreement between Israel and Palestine is obstructed by the fact that Israel's words are usually seen to be contradicted by their actions. They tend to make concessions that aren't actually any progressive because domestic law or other conditions proposed in peace agreements are oppressive or disadvantageous towards Palestine. However, as long as Palestinians don't give up their right of return, customary International Law would take precedence over Israeli domestic law, and Israel would most likely be pressured to acknowledge the refugees' right of return (Awad 2011).

#### 4. Disputed borders and Israeli Settlements

Finally, one of the most fiercely contested issues is Israeli-Palestinian borders. Over the years, Israel have invaded and forcefully settled into UN partitioned Palestinian territory (Kelman 2005).

In peace talks, Israel is proposing to redefine the borders, mostly following the pre-1967 borders but with land swaps to take into account of "demographic changes" (Khalil 2014). Palestine interprets this as Israel attempting to keep their illegal settlements in the occupied

West Bank and East Jerusalem areas. The proposal means that the border would run alongside the Separation Wall built by Israel, cutting through the West Bank, isolating many Palestinians from their land and community. Palestine rejects this proposal, insisting on the pre-1967 borders, return of territories seized by Israel and the sharing of Jerusalem as capital (Khalil 2014).

As Israel's forceful settlement in Palestinian territory is technically illegal in international law, if Palestine becomes a state with defined territories, they would have to remove the settlers as well as face repercussions for what would be seen as invasion. Thus, Israel would not settle on any peace agreement that does not include the disputed territories as Israeli land.

## 5. Conclusion

The current negotiations are going nowhere ('A peace process that is going nowhere; Israel-Palestine' 2014). Israel's current government are far-right leaning and making more and more demands that Palestine is finding unacceptable ('A peace process that is going nowhere; Israel-Palestine' 2014). Palestine, weakened by internal conflict between PLO and Hamas, can't rely on support from neighbouring Arab nations either, as they are dealing with their own domestic conflicts. Both sides have reached no agreement on the most contented issues, such as state recognition, Palestinian refugees and border disputes, and leaving the peace negotiations in a deadlock. The longer the negotiations are stalled, the weaker Palestine would be, however, their own domestic issues are also a major obstacle to any progressive agreement with both Israel and the international community.

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