

The Question of Palestinian Independence in Light of the Islamic Law of Nations

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DR ANAS ALTIKRITI

PREFACE

THE issue of Palestine has been addressed, extensively one might argue, from the political, historic, social, humanitarian and ideological perspectives. Much has been said and written, whether it be the Israeli occupation of Palestinian territories instigated by an international mandate, the historic rights of Palestinians to their lands, the acute refugee crisis, the catalogue of failed peace processes, violence, human rights violations, international law, or the deepening impact of all this on the entire region rendering it one of the most volatile and unstable.

Indeed, as these words are sent to print, yet another Israeli military attack on Gaza is taking place, on the back of the gruesome burning alive of a young Palestinian teenager in revenge for the abduction and killing of three young Israeli settlers. A much heralded national conciliation between Fatah and Hamas seems to be once again stuttering amid an indifferent and unenthusiastic international community, which has long lost interest in a peace process which it all but admits is unrealistic based on the conditions set by the Israeli side and itself being far from impartial brokers.

This issue of the *Cordoba Papers* however, addresses the Palestinian question from another and arguably unique angle. The whole question of Palestinian independence from an Islamic legal point of view is one that is very rarely posed, and even more so addressed adequately and thoroughly. Such an examination is crucial for the understanding of the question of Palestine for young academics, Palestinians, Muslims and others, keen on getting to grips with this issue away from the domination of the pure political narrative.

Ismail Adam Patel is an expert on this issue. His leadership for two decades of Friends of al-Aqsa; the leading UK organisation in education, information, campaigning, and advocacy on Palestine, as well as his own insights and understanding of the Islamic legal perspective on this complex issue, are invaluable to his excellent critique.

Dr Anas Altikriti

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THE QUESTION OF PALESTINIAN INDEPENDENCE IN LIGHT OF THE ISLAMIC LAW OF NATIONS

Ismail Adam Patel

INTRODUCTION

DECADES of peace processes between Israelis and Palestinians have been the focus of the international community in the hope the region would finally find peace. Such processes have thus far failed to yield the much sought after amity. In the absence of meaningful dialogue, Israel has been occupied with engineering facts on the ground which appear to nullify any efforts towards peace. The erasing of Palestinian heritage, deportation of Palestinian citizens out of East Jerusalem and the expansion of Israeli settlements in the Occupied Palestinian Territories all play a significant role in negating peace processes.

For all intents and purposes the Israeli aspiration to annex the whole of Palestine is on course and exemplified by the fact that total usurpation of Palestinian rights and territory in East Jerusalem is in sight. On May 21st, 2009, at an official ceremony marking Israel's Jerusalem Day, Prime Minister Benjamin Netanyahu reiterated the Zionist claim, saying:

United Jerusalem is Israel's capital. Jerusalem was always ours and will always be ours. It will never again be partitioned and divided.¹

While Israel continues with its systematic march to subjugate Palestinian claims to Jerusalem, the Palestinians in the city, occupied West Bank and the besieged Gaza Strip are faced with several pressing challenges. The most obvious is survival and resistance against an occupying army with a history of using disproportionate force against unarmed civilians. Most Palestinians are preoccupied with the struggle at this very basic level, which is all consuming. However, there has existed for some time the need to develop and advance a new narrative which locates the claims over land and addresses the new reality of a multicultural society within the framework of Islamic traditions, be pragmatic and attract the greatest number of adherents from across all creeds and none based on the principles of justice and fairness. The issue of Palestine wrapped in religious heritage transcends the region and with the religious conviction of Palestinians at the forefront, any narrative rooted within an Islamic framework will carry greater significance and provide a solution which is more likely to be acceded to by the majority.

In formulating principles which create a vision for the future of the land and people, Palestinians need to achieve internal cohesive aspirations and external, international

¹ MAAN News Agency
– 24 May 2009, 'US:
Jerusalem's Future Subject
to Negotiation.'

solidarity. From within, the issue of refugees; the disconnected West Bank; the split between Gaza and the West Bank; East Jerusalem; and the issue of Palestinians within Israel all need to be addressed. While an end to the conflict is the desired goal, the Palestinian political leadership need to formulate policies, ideas and a vision upon which their new state would be modelled *before* it comes into being. This new vision must also necessarily consider the positions of Jews and other non-Muslim groups within a future Palestinian state, whether this is along the 1967 borders or within a single unitary state across all of historic Palestine. Without such considerations there is the danger of creating an ethnocentric state, which becomes a mirror image of the Zionist state.

The focal point for this vision would necessitate appropriately formulated *ijtihad* (independent reasoning) relating to *siyaar* (Islamic Laws of Nations) which is the most appropriate juristic avenue.

HISTORICAL BACKGROUND

The collapse of the Ottoman Empire and the occupation of the *vilayet* (Ottoman administrative division) of Palestine by the British in December 1917 was the first major step towards the erosion of freedom and independence of the Palestinian people. After the Balfour Declaration in November 1917, a month before the occupation of Palestine, the British in part helped facilitate the immigration of Jews into the country, swelling its population from 24,000 in 1882² to 650,000³ on the eve of the first Zionist-Palestinian war of 1947-48. By the end of that war, 531 villages⁴ were cleansed of their Palestinian population by the Zionists, who created over 700,000⁵ refugees and occupied 78 per cent of Mandate Palestine; thus creating the State of Israel. The Six-Day War in 1967, also known as the Arab-Israeli War, resulted in the remaining 22 per cent of land being occupied and created a further 320,000 refugees.⁶ Post-1967, the Israelis went into another phase of creating 'facts on the ground', which in effect has meant building illegal Jewish settlements across the West Bank and usurping more Palestinian land. The West Bank has been dissected into little enclaves interspersed by Jewish only settlements, Jewish only roads, security slated zones and the Wall further reinforces this division.

What remains of the truncated West Bank comprises approximately 13 per cent of historic Palestine. The Palestinian territories are further split with the geographic isolation of the Gaza Strip and its population of 1.8 million. The political and economic blockade of Gaza has been ongoing for almost seven years and the resultant damage to the future prospects of the strip of land presents its own distinct problems which vary greatly from the challenges in the West Bank. The final Palestinian population to take into account is the Arab-Israelis - the Palestinians who remained on their lands during the 1947-48 war. In Israel, they now number 2 million of the population.

A brief consideration of the historic developments which preceded the current political malaise will provide suitable grounding for developing a new narrative for Palestinian independence. The conflict over Palestine began with declarations by Jews of the Zionist ideology which sought to create a Jewish homeland in Palestine based on religious mythological claims. To further these ambitions, attempts at land purchases by Jews began as early as 1886-1891.⁷ At that time, Palestine was inhabited by an absolute majority of Arab Palestinians with centuries of history in the land. Due to the impending

² Hadawi, Sami (1988). *Palestinian Rights & Losses in 1948*, (Saqi Books), p.27.

³ Morris, Benny (1999). *Righteous Victims*, (John Murray), p.192.

⁴ Salman, Abu-Sitta (1999). *Palestinian Right to Return: Sacred, Legal and Possible*, (London, Palestinian Return Centre), p.12.

⁵ Morris, Benny (1999), p.252.

⁶ Aruri, Naseer ed. (2001). *Palestinian Refugees: The Right of Return*, (Pluto Press), p.61.

⁷ Hadawi, Sami (1988). *Palestinian Rights & Losses in 1948*, (Saqi Books), p.7.

threat, Muslim notables of Jerusalem petitioned the Turkish Grand Vizier urging that 'Russian Jews should be prohibited from entering Palestine and from acquiring land there'. In 1931, a world Islamic Conference was held in Jerusalem, with 130 delegates representing most of the Muslim world. It reaffirmed the sanctity of Jerusalem in Islam, condemned Zionism and the sale of land in the Holy City.⁸ In 1935, more than 200 Islamic scholars convened in Jerusalem again and issued a *fatwa* (religious edict) prohibiting the sale or lease of any part of Palestine to the Zionists. The Palestinian efforts were successful and on the eve of the 1948 war the Zionists, despite the backing of multi-millionaires like the Rothschilds, had acquired less than 7 per cent⁹ of the land. However, Palestinian vigilance over land purchase could not match the pace of Jewish immigration, and the superior military training and shipment of arms which were being brought in

Following the Balfour Declaration, the Palestinian community began to protest sporadically until 1922 when Hajj Amin Husayni became the president of the Supreme Muslim Council. He embarked on a vigorous campaign to inform the Arab and Muslim leaders of the Zionist and British aspirations for the land¹⁰ and the duty of Muslims to defend Jerusalem and Palestine. His initial ambitions were to use resistance, military and civil, to thwart the Zionist colonisation.

Although Hajj Amin was successful in getting the message across, this was not reciprocated with the required political, financial or military assistance from the Arab leadership. Arguably, Palestine became the first casualty of *Dar al-Islam* over the nation state. All the acts of civil disobedience carried out by the Palestinians pre-1948 were reactions to the Zionist influx and British policies. Although Hajj Amin organised and managed the mobilisation of the Palestinians in protest against the incoming Zionists, the brunt of the financial loss from the demonstrations, pickets and strikes was felt by the Palestinians themselves.

On the level of military resistance, it was only Shaykh Izz al-Din al-Qassam from Syria who first considered the use of force. Both of these initial resistance movements were buttressed in religious terms and ideals, calling for the defence of their homeland as a religious obligation. They, however, lacked the critical mass support necessary to defeat the Zionist advance. Al-Qassam carried out few raids but was caught early in his campaign. He was pursued by the British and at the time of his assassination in 1935,¹¹ he had only 16 men with him confronting the might of British colonial power.

The next notable evolution in the resistance movement was the emergence of the Palestinian National Liberation Movement (Fatah). Four of the five founding members of Fatah in the 1950s had close ties with the Muslim Brotherhood (*al-Ikhwan al-Muslimun*): Abu Jihad, Yusuf Amayra, Abdul Fatah Hammoud and Sulayman Hamad. The fifth, Yasser Arafat, was less religiously inclined but was in the minority although he had respect for the Brotherhood. The formation of the Palestine Liberation Organisation (PLO) in 1964, which brought the different Palestinian factions under one umbrella, saw the waning of the group's Islamic ethos and principles.

Throughout this period, 'defensive *jihad*' was the method used to pursue the objective of defeating the Zionists and the newly-declared State of Israel on Palestinian land. There is

⁸ Morris, Benny (1999), p.124.

⁹ Qumsiyeh Mazin (2004), *Sharing the Land of Canaan*, (Pluto Press), p.35.

¹⁰ Matter, Philip (1992), *The Mufti of Jerusalem: Al Hajj Amin Al Husayni and the Palestinian National Movement*, (Columbia University Press), p.56

¹¹ Milton-Edwards, Beverley (1996), *Islamic Politics in Palestine*, (I. B. Tauris), p.19.

no doubt that the initial aim was to regain total control of their historic land and deport the Jews who had just arrived back to Europe and the other places from where they had migrated. Although Fatah put up staunch resistance and for over a quarter of a century carried out military style raids, it fell short of developing a fully-fledged resistance army and kept nipping at the heels of the occupying Israeli forces.

Fatah's aversion for Islamic religious principles and its move towards secular ideals for conflict resolution produced a vacuum, and this triggered the re-emergence of resistance movements

With a turbulent history, Fatah finally abandoned armed resistance along with its initial goal of the total liberation of Palestinian land. Instead, Fatah became a National Authority within little more than Bantustans.¹² Significantly, Fatah's aversion for Islamic religious principles and its move towards secular ideals for conflict resolution produced a vacuum, and this triggered the re-emergence of resistance movements with strategies that the leaders asserted were couched in Islamic traditions.

The 1970s witnessed scholars like Shaykh Ahmad Yasin, Shaykh Yaqub Quresh, Shaykh Asad Buwayd Tamimi (Imam of Masjid al-Aqsa), Shaykh Abdul Aziz Audeh (who later formed the Islamic Jihad) and others calling for resistance against the Israeli occupation on the basis of Islamic traditions which promoted the defence of Muslim lands from enemy invasions. These values regarded the liberation of the land and defence of Al-Aqsa Mosque as a religious duty. Parallels can be drawn between these claims and those of any state which seeks to uphold its sovereignty. Unlike Fatah, which wanted liberation of the Palestinian

homeland based simply on their historical claims to the land; the Muslims further took into account their religious heritage, principles and values.

By 1987, the efforts of Muslim scholars in re-orientating the mindset of Palestinians resulted in the forming of the Islamic Resistance Movement (*Haraka Muqawama al-Islamiya* – Hamas), under the leadership of Shaykh Ahmad Yasin. This was proof that large numbers of Palestinians were now convinced that beyond their ancestry in the land, they held specific religiously-inspired motives for defending their territory.

Hamas' ideology centred around the following ideas:¹³ that the Palestine Question is fundamentally an Islamic one and liberation of the land is a responsibility to be shouldered by every Muslim, irrespective of their nationality. Hamas' central arguments are based on three points:

1. That Palestine is *waqf* (religious endowment) land and therefore it requires Muslims globally to ensure that it is protected and remains under Muslim rule.
2. The call for *jihad* is based on the Qur'anic injunctions, "Fight in the Cause of Allah those who fight you" (2:190) and, "Permission [to fight] is given to those against whom War is being wrongfully waged and verily, Allah is able to give them victory: ... those who have been driven from their homelands against all right ... (22:39-40)
3. No one can renounce any part of Palestine since it is *waqf* land and encompasses the holiest site in the region, the Noble Sanctuary of Al-Aqsa (Jerusalem).

¹² All-black enclaves formerly in the Republic of South Africa that had a limited degree of self-government

¹³ Abdullah, Daud (2005) *A History of Palestinian Resistance*, (Leicester, Al-Aqsa Publishers), p.120

The approach used against the aggressive Zionist colonisation has resulted in the Palestinians fighting a daily battle for survival. As a result of the use of force against them by the Israeli army, Palestinians within these movements began to undertake armed resistance, which qualifies as defensive jihad within Islamic philosophy and is validated by Article 51 of the UN Charter. More recently it has also employed the diplomatic concept of *hudnah* (long-term truce). However, what is strikingly absent is a vision for a future which encompasses the present reality of a multicultural society and ideas for governance when liberation is achieved. This vision must also give full consideration to Palestinians in the West Bank, Gaza, within Israel, and refugees; Israeli Jews and illegal settlers; and any other communities. It is clear that any future resolution to the conflict to be sustainable and equitable it must encompass a vision for all of these people to live and prosper side by side.

This paper begins by examining the relevant frameworks of Islamic traditions within which Palestinian resistance operates.

REDRESSING INJUSTICE

Jihad

Jihad is sanctioned by the Qur'an as an act of self-defence against persecution, oppression, exploitation, tyranny, fear, and corruption (2:193; 4:75-76); and is also sanctioned to establish justice, peace, and freedom. Thus, the role of many armies of modern nation states worldwide is, in fact, in Islamic terminology to wage *jihad*.

A major re-orientation in the implementation and understanding of *jihad* came about after the 10th century when *Dar al-Islam* (literally, the "House of Islam", ie territory governed by Islam) itself came under attack by the Crusaders and later the Mongols, thus reintroducing the initial reasons of self-defence for the sanctioning of *jihad* afforded to Prophet Muhammad. Ibn Taymiya (d. 1327), one of the most respected scholars in Islamic history who lived through the Mongol invasion, focused on the greater need for *jihad* in the defence of *Dar al-Islam*. Unbelievers who made no attempt to encroach upon *Dar al-Islam* would not have Islam imposed upon them by force. He said, "If the unbeliever were to be killed unless he becomes a Muslim, such an action would constitute the greatest compulsion in religion," which would run contrary to the Qur'anic rule that, "no compulsion is prescribed by religion (2:257)". But unbelievers who encroached upon *Dar al-Islam* would be in a different position altogether.

Thus Muslims are at ease with the concept of *jihad - qital* - to uphold human rights and values as much as the West has adopted this since the 17th century to wage war for the sake of implementing democracy. The similarities between the Western concept of a 'just war' and *jihad - qital* - are many but they differ in as far as Islam negates the expropriation of land purely for material gain and is diametrically opposed to ethnic-cleansing.

Hudnah

The concept of *hudnah* (truce) emerges from the time of Prophet Muhammad when

a truce was signed for a fixed period of ten years with conditions attached between the Muslims (including the Prophet) and the non-believers of Makkah at Hudaibia¹⁴ in 628 (6 AH). In the Palestinian struggle, the concept of applying *hudnah* with the Israelis for a specified period of time but on the condition that Israel withdraws to the 1967 borders was first proposed by Shaykh Yasin. Salah al-Din al-Ayubi's truce with King Richard of the Crusaders¹⁵ is also cited to consolidate the validity of this approach. The terms of the truce accepted by Salah al-Din were that the Crusaders would have the country from Jaffa to Tyre, but not Ramla and Lydda and some smaller (coastal) towns. The revenues of Ramla and Lydda were to be shared and Ashkelon would be demolished. The truce would run for three years and eight months.¹⁶

Hudnah is recognised in Islamic jurisprudence as a legitimate and binding contract whose objective is to bring about a cessation of fighting with an enemy for an agreed period of time. Such a truce would be different from the Oslo peace accords, under which the PLO recognised the State of Israel and its "right" to exist without Israel having to end the occupation or reciprocate the recognition of the Palestinians. The difference is that under the terms of *hudnah* an opportunity would be created for confidence building measures between the two parties, which would bring an immediate cessation to violence and pave the way for a just resolution to the conflict over the stipulated period of time.

APPRAISAL OF PAST POLICIES

Over the past 47 years Israel has disregarded the will of the international community and refused to withdraw to the 1967 borders even with the enticement of financial largess, recognition and normalisation of relations with all the Arab states. Therefore, it is highly unlikely to accept a conditional truce (*hudnah*) proposal by the Palestinians. Bearing in mind the political immunity Israel is offered in the international arena, the offer of *hudnah* has been outright rejected by Israel.

Although the term *jihad* has negative connotations in the Western psyche, armed resistance, which is enshrined in international law, has in part ensured that after over 60 years of brutal Zionist occupation there still remains a Palestinian community. However, the right of military resistance against an oppressive occupier needs to be appreciated if the Palestinians are to have a whisker of a chance of negotiating any sort of peace deal, despite their mounting concessions.

SUMMARY

The emergence of nation-states in the territories of the Ottoman Empire resulted in the Palestinians being faced with multi-faceted challenges. These included the British colonialist occupation; the annual increase in the influx of Zionist Jews; the colonial-settler agenda of the Zionists; the lack of support from its Arab neighbours (who were themselves in the infancy of state building); and the lack of internal political structures. The challenges to all the colonized people at this time were immense but for the Palestinians they were compounded by superpower support for Israel, the incongruous neighbouring Arab countries' vested interests, general Muslim apathy and internal divisions.

¹⁴ Haykal, Muhammad Husain (1976). *The Life of Muhammad*, (American Trust Publication), p.340.

¹⁵ Ibn Shaddad, Baha al-Din (trans. D.S. Richards) (2002). *The Rare and Excellent History of Saladin*, (Ashgate), p.230.

¹⁶ Azzam, A.R. (2009). *Saladin*, (Pearson Longman), p.230.

Besides attempting to meet the challenge presented by the Zionist occupier, Palestinians have also struggled against the superpowers' support of the Zionist cause in Palestine. Britain was followed by the USA who in turn brought pressure on numerous other states who take a position against Palestinian rights. Hence, the Palestinians have not only had to work towards shaking off the occupation in Palestine but also to win the minds of power-brokers and civil society around the globe regardless of faith. These challenges were compounded further by the fact that the Palestinians were geographically, religiously, and politically divided.

When viewed from a global perspective, the attempts by the Palestinians in the early years to prevent the selling of their land by demonstrating and appealing to the British for justice and resistance were all justifiable. However, the reality of the emergence of the state of Israel means that the Palestinians lacked the critical mass, for varied historical, political, military, and economic reasons, to overcome the Zionists. With hindsight, three significant follies were committed by the Palestinians which undermined and weakened their struggle for freedom. *First*, the Zionists have been able to consolidate their narrative globally of a polarised conflict between Jews and Muslims (Palestinians despite being a heterogeneous society, being considered solely as Muslims). With the Palestinian resistance couched in Islamic terms and ideals, the work of the Zionist spin-doctors became that much easier. By positioning the conflict in the historical context of the Holocaust, they succeeded in numbing the European and American senses against the occupation and atrocities visited upon the Palestinians.

Secondly, in an uncharacteristic manner and contrary to the historical precedents in terms of the diversity in the land; the Palestinian Muslims erroneously mirrored their resistance and struggle with that of the Zionists, and this was seen most pertinently in the claim over the land as exclusively for Palestinians (be they Christian or Muslim) but devoid of Jews. As a result, the defence against the Zionist ideologies and encroachment on Palestinian territory has never been explained adequately for what it truly was - a battle against occupation and exclusive Zionist claims to the land. Palestinian resistance has thus been perceived, rightly or wrongly, as representing a desire for an exclusively Islamic entity. The failure of Palestinian Muslims to advocate a pluralist state (which includes Jews and Christians) has become a major setback in building global consensus for their cause.

Finally, the failure to recruit and enlist the support of nearly two million Palestinians who live in Israel, for the liberation struggle has effectively torn away one arm, arguably the pivotal wing of resistance.

It is important to note two opposing factors. On the Palestinian side, most Palestinians believe that all of mandate Palestine has been occupied as the 1948 war dispossessed them of their homes and ancestral lands. Towns and villages were emptied and the refugees were prevented from ever returning home. The Palestinians have been displaced internally and in total 5 million refugees exist today. For most Palestinians, the idea of liberation unsurprisingly refers to the whole of their ancestral homeland,

The failure of Palestinian Muslims to advocate a pluralist state (which includes Jews and Christians) has become a major setback in building global consensus for their cause.

regardless of contemporary realities.

Zionist aspirations on the other hand, mirror Palestinian aspirations, with the absence of a legitimate narrative which can trace land ownership prior to 1948. The Zionist aspiration to create 'Israel' upon all of historic (Mandate) Palestine can be witnessed in the land colonisation and settlement building seen in the West Bank. Nearly 500,000 illegal Jewish settlers now live in East Jerusalem and the West Bank. This has led to the colonising of approximately 40 per cent of the West Bank. Within Israel itself, racist and discriminatory policies are exercised against Palestinians. Thus, both Israelis and Palestinians have similar visions of dominance over the land, which appears to negate the possibility for a future peace agreement.

Based on this reality, it seems prudent for Palestinians to search for an appropriately formulated *ijtihad* (independent reasoning) relating to *siyaar* (Islamic Laws of Nations) to lead to a sustained policy around which the (politically) irreconcilable aspirations and realities affecting the Palestinians and Israelis could be addressed.

Palestinian leaders have been well cognisant of the need to detach their struggle from any racist discourse. From Shaykh Ahmad Yasin to Khaled Meshaal, they all clearly understood their foe and have stated further that the Palestinian struggle was anything but a conflict between Muslims and the Jewish people. Hamas' leadership, which asserts that it underpins its ethos from within the Islamic traditions, has insisted that the Palestinians are fighting against the occupier who dispossessed them of their homes and lands, regardless of religion, creed or race. Shaykh Yasin stated clearly:

I want to proclaim loudly to the world that we are not fighting Jews because they are Jews! We are fighting them because they assaulted us, they killed us; they took our land and our homes. All we want is our rights. We don't want more.¹⁷

Meshaal went further in an interview with Ken Livingstone,¹⁸ former mayor of London, by stating that the concept of coexistence was largely present in the Palestinian psyche. Hamas' leadership further acknowledges that Jews, Muslims and Christians have lived side-by-side for centuries. This acknowledgement that there was nothing intrinsic to the Muslim faith which would prevent this happening again in the future is crucial. However, this idea needs to be articulated based on appropriately formulated *ijtihad* relating to *siyaar*, the concept of *dhimmi*, *waqf*, *haraam* and taking lessons from historical experience of other Muslim societies in analogous predicaments.

Siyaar

The avenue of *ijtihad*¹⁹ (to formulate independent reasoning) has made it possible for Islam to be appreciated universally, transcending geographical boundaries and the test of time. The accommodation of Islamic principles in the evolving geo-political world is a point in case. Initially, during the period of the four Rightly-Guided Caliphs (*Khulafa al-Rashidun*, 632-661), the scholars devised a strategy for expedience to divide the world into two spheres; *Dar al-Islam* (Land of Islam) and *Dar al-Harb* (non-Islamic regions or, literally, 'the abode of war'). Even with this bi-polar worldview, war was not always the first option as the Treaty of Hudaib²⁰ signed in 628 (6 AH) demonstrated.

¹⁷ *Ibid.*, p.147.

¹⁸ Livingstone, Ken (2009). *Struggle with Israelis is not because they are Jewish says Hamas leader*, Khaled Meshal, (NewStatesman, 21 Sept).

¹⁹ *Ijtihad* – as defined by Hashim Kamali (see Tariq Ramadan, Being a European Muslim) as the total expenditure of effort made by a jurist in order to infer, with a degree of probability, the rules of Shari'a from their detailed evidence in the sources. Some scholars have defined *ijtihad* as the application by a jurist of all his faculties either in inferring the rules of Shari'a from their sources or in implementing such rules and applying them to particular issues.

Dictionary definitions state - Islamic legal term meaning 'independent reasoning' as opposed to *taqlid* (imitation). This is one of the four sources of Sunni law which can be fallible since scholars can disagree. *Ijtihad* is utilised where the Qur'an, and Sunnah are silent.

²⁰ T. Haykal, Muhammad Husain (1976). *The Life of Muhammad*, (American Trust Publication), p.340.

Although the Islamic law of nations is not stipulated in the Qur'an, nor in the collected sayings of the Prophet Muhammad, the *Ahadith*,²¹ the basic principles are derived from these sources and customary practices. This allowed jurists to apply appropriately formulated *ijtihad* relating to *siyaar* to a changing world order. As the Islamic area expanded rapidly it brought with it new challenges on integrating new peoples while at the same time addressing the issue of dissension within the community.

Within the first fifty years, in 657²² at the Battle of Siffin, the once single and united community had witnessed the 'first fitna', a challenge over the Caliphate between Mu'awiyah and Ali. Further, the non-Muslims who were considered part of *Dar al-Harb* were entering into a truce. The capitulation of Cyprus in 649²³ is a case in point where they had to pay a fixed tax, yet the Muslims did not expect any support from them nor were they expected to support anyone else against the Muslims.²⁴ By the time the Abbasids came to power (749),²⁵ the worldview of Muslims had changed considerably and there was no longer a simple concept of the world divided into two spheres. Thus, the concept of *Dar al-Sulh*²⁶ (land of safety – territory with which there was a peaceful arrangement) came into being.

As circumstances changed further, the study of *siyaar* (international law) also developed to deal with varying conditions and further categories were deemed necessary and became available. Imam al-Shafi (819/820 d.) is thought to have introduced the concept of *Dar al-'Ahd* (land of treaty), and later *Dar al-Hiyad* (land of neutrality) came to the fore. It is worthy of note that even during the initial stage of Islam with the world seen as divided into *Dar al-Harb* and *Dar al-Islam* the Muslims were not in constant battle, but rather the people of *Dar al-Harb* were not recognised 'legally'²⁷ and, therefore, were not afforded any protection. However, opportunities to explore coexistence through negotiations and treaties were always open.

Continued foreign attacks and the fractured central authority of the Caliph meant appropriately formulated *ijtihad* relating to *siyaar* on how to deal with other Muslim 'emirates' and non-Muslims was in great need of being developed. With the collapse of the Ottoman Empire during the First World War and the emergence of nation-states across its territories, Muslims and *siyaar* have found themselves in unchartered territory. Muslim citizens of territorial states were directed to focus their loyalty away from the concept of the global *umma* to that of a territorial nation; and the repercussions are still being played out.

With the above in mind academics are now discussing the concept of dividing the world into *Dar al-Ijabah* (land of acceptance), where people have accepted Islam and Islamic values are practiced and *Dar al-Da'wa* (land of invitation), to which *da'wa* is presented and its people are invited to Islamic values and practices.²⁸ Yet others think that in a globalised arena the whole world should simply be considered as a 'Dar' (an abode).²⁹

With the ascendancy of the West and its legal philosophy, Islamic concepts of sovereignty for the law of Allah and for its implementation have been demoted. Muslim-populated states have now developed legal processes that encompass dual systems utilising both secular, Western approaches and traditional Islamic laws. The latter, however, are usually restricted to Muslim personal law; and the bulk of the

²¹ Ramadan, Tariq (1999). *To be a European Muslim*, (Islamic Foundation, UK), p.130.

²² Hitti, Philip K. (1970). *History of the Arabs*, (Macmillan), p.180.

²³ *Ibid.*, p.194.

²⁴ Al-Baladhuri Trans. Philip Hitti. (1966). *The Origins of the Islamic State*, (Khasyats), p.234.

²⁵ Hourani, Albert (1991). *A History of the Arab Peoples*, (Faber & Faber), p.32.

²⁶ This was first propounded Imam Shafi. Abu Sulayman, Abdulhamid, *Towards an Islamic Theory of International Relations*, International Institute of Islamic Thought, p.20.

²⁷ Shaybani, Muhammad, Trans. Majid Khaduri (1966). *Kitabus Siyar – The Islamic Law of Nations*, (The Johns Hopkins Press), p.56.

²⁸ Al Alwani, Taha Jabir (1988). *Centralisation not Globalism*, (The American Journal of Islamic Social Sciences, IIIT, USA), (Vol 15, No 3), p.vii.

²⁹ Ramadan, Tariq. *To be a European Muslim*, p.147.

laws formulated and implemented can be traced to Western legal norms. The serious contemporary debate within Muslim societies has less to do with returning to the traditional systems and more to do with attempting to establish Islamic ethics, morals and values within contemporary settings.

Muslim-populated states have now developed legal processes that encompass dual systems utilising both secular, Western approaches and traditional Islamic laws.

Hence, *siyaar* has moved a long way from the concept of *Dar al-Islam* and *Dar al-Harb*. Although the principles of military resistance based on Islamic teachings are sound and witnessed readily in Palestine, there are concerns that upon gaining victory through *jihad* or any other means there remains an absence of a vision for what follows. This reality is that at present the demographic statistics indicate that there are 6 million Jews and 2 million non-Jews within Israel. There are 4.5 million Palestinians in the Gaza Strip and the West Bank, and a further 5 million Palestinian refugees in the diaspora. Of the 6 million Jews, nearly 500,000 reside in 'occupied territories' with some within these Jewish communities now in their third generation and rooted in Palestine for over eighty years. Therefore it is now incumbent to formulate a vision for resolving this conflict which adequately contends with relations with the Jews, property and their legitimate concerns while at the same time addressing Palestinian needs and rights.

The concern here is not one of armed resistance against occupation or the means by which to overcome the occupation, but what ideological policies do Palestinians have to meet with the new reality. In traditional thought and methodology, the occupier is simply 'driven out', as was the case with the Crusaders. The reality in Palestine is that for most Israeli Jews there is nowhere for them to go to. It is, therefore, prudent not to look at the mere presence of Jews as being antagonistic, but rather separate this presence from the idea of the exclusivist policies of Zionism. Hence, there is a need to formulate a manifesto which clearly articulates the eradication of the racist ideology of Zionism, and not the Jewish people in the land. The challenge, therefore, is to present the vision for a liberated Palestine as a heterogeneous, pluralist society and clarify the position of non-Muslims while also addressing the rights of the Palestinians.

Dhimmi

The concept of *dhimmi* (non-Muslims living under the protection of Muslims and Islamic law) was introduced initially within the first century of Islam to serve the people residing within *Dar al-Islam*. As non-Muslim residents of Islamic territory, they would be protected by the state but would not need to serve the state. This status was only afforded to the *Ahl al-Kitab* (People of the Book: Jews, Christians and Sabians)³⁰ but as *Dar al-Islam* expanded its boundaries and encompassed people of various belief systems, fire worshippers (Zoroastrians), the Bedouins of Harran and pagan Berbers³¹ of north Africa came under Islamic rule. Special peace treaties of a definite duration called *ahds*³² were stipulated whereby their property and lives were secured, they had the right to practice their religion and they were protected by the Muslims in return for the payment of *jizya* (tax).

³⁰ Hourani, Albert. (1991), p.170.

³¹ Ibid, p.233.

³² Shaybani, Muhammad, p.18.

As time progressed, the stipulation of having a definite duration was also waved. By the time of the Ottomans, Sulayman the Magnificent, better known in the Islamic world

as Sulayman Qanuni (the Law Giver), signed a treaty in 1535 with the King of France,³³ which broke new ground. No longer would French citizens living under Ottoman rule have to pay *jizya*; furthermore, they would enjoy equal rights.³⁴ This reform led to the era of *tanzimat* (reorganisation) reforms³⁵ (1839-1876) in the Ottoman Empire where the status of minorities, in particular the Christians, would be the same as Muslim subjects. By 1855, even the *jizya* was abolished and non-Muslims were allowed to enter the army; thereby suspending the concept of *dhimmi*. This evolution of the *dhimmi* status provides the framework for Islamic rule over a jurisdiction wherein all people of all faiths are afforded equal rights.

[The] evolution of the dhimmi status provides the framework for Islamic rule over a jurisdiction wherein all people of all faiths are afforded equal rights."

THE CASE OF THE MUSLIMS OF INDIA

Although the situation faced by Palestinians is unique with parallels only to the period of the Crusades being visible, the struggles of Muslims within other jurisdictions may be analogous. For example, valuable lessons can be drawn from the experiences of Muslims in India against the British Raj. The debate about exclusive rule and power-sharing with non-Muslim communities in the face of a brutal and colonial occupying force (and ideology) is pertinent. The Muslims of India faced a dilemma over what basis to challenge the colonialist occupier and the impact of the fallout in a majority Hindu (non-Muslim) population, with scholars like Sayyid Ahmad Khan (1817-1898) and Sir Muhammad Iqbal (1873-1938)³⁶ taking the separatist route and opting for an independent sovereign state carved out of Indian territory for Muslims.

In hindsight, the Indian case provides a wealth of experience, particularly regarding partition and co-existence with other faith groups. As Duara describes it,

Partition has its own sordid history, not arising as a means of realising national self-determination, but imposed as a way for outside powers to unshoulder colonies or divide up spheres of influence – a strategy of divide and quit. Although described as a lesser of two evils, the partition of Cyprus, India, Palestine and Ireland, rather than separating irreconcilable ethnic groups, fomented further violence and forced mass migration.³⁷

Interestingly, one of the most vociferous protests against partition was also from amongst the Muslims and it came from the most eminent Islamic seminary of India, Darul Uloom Deoband, which at the time was headed by Shaykh al-Hind, Mahmood Hasan, and the most eminent scholar of Hadith of the time, Shaykh Hussain Madani. Both of these scholars were imprisoned by the British and had to serve time in prison in Malta (the Guantanamo Bay of the day).

Shaykh Madani, who taught in the Prophet's Mosque in Madina for around twenty years, had a clear vision of what Islamic teachings required from Muslims. In his writing, he reminds the reader of the following Qur'anic verses: 'It is He who has sent His messenger with guidance and the religion of truth so as to make it prevail over all religions. Sufficient is Allah as a witness.'³⁸

³³ Wilson, Kevin & Dussen, Jan Van Der ed. (1995). *The History of the Idea of Europe*, (Routledge), p.24.

³⁴ Shaybani, Muhammad, p.63.
³⁵ Al-Ahsan, Abdullah (1992). *Ummah or Nation*, (The Islamic Foundation), p.33.

³⁶ *Ibid.*, p.53.

³⁷ Duara, Prasenjit ed. (2003). *Decolonisation – Perspective from now and then*, (Oxon, Routledge), p.163.

³⁸ Qur'an, Al Fath: 28

He explained that if an Islamic land comes under the rule of a non-Muslim, it becomes obligatory for all Muslims to engage in *jihad*. If the Muslims of the occupied land become careless in their duty, the obligation then falls on the whole Muslim *Umma*. This is the basis upon which the global Muslim community has directed its attention to the issue of Palestine.

It was with this understanding that Shaykh Madani considered the liberation of India from British hegemony as a binding duty upon all Muslims. They should use every possible instrument at their disposal – from boycott to armed struggle. He was very much aware of the military weakness of Indian Muslims and therefore suggested,

If Muslims at this point of time fight single-handedly against the British their defeat is certain. And it is also clear that Muslims will have to bear the political and economic consequences of such an act...³⁹

There are several clear lessons that can be extracted from this experience: Palestinians have acknowledged that Zionism is the problem and, therefore, all energies must be focused to defeat the ideology. In order to achieve this, they need to mobilise all Palestinians between the River Jordan and the Mediterranean Sea and the Palestinian refugees in the diaspora, and gain international consensus. This includes extending a hand to Jews who oppose Zionism.

According to Shaykh Madani, ignoring the efforts of the other communities would be a grave injustice, if liberation was achieved,

‘due to the united struggle of different communities when India shall achieve freedom and a new system will be established, Muslims and non-Muslims together shall participate in forming this system. Although the new system will not be totally based on Islamic principles, Muslims will have an effective role in it. How much closer to the Islamic standard can they mould this system now depends upon the Muslims’ tact of propagation. And for this reason, the system that would be established after independence would be considered a lesser evil in comparison to the present system.’⁴⁰

While it is acknowledged that there would be an insignificant number of Jews rising to such a call from the Palestinians, nevertheless it provides a political ideal upon which a united geography and a united people, Palestinians and Jews, could reside. The alternative is accepting a Palestinian state on the 1967 borders. Here, the Palestinian leadership has to ask itself if a divided mandate Palestine will fulfil the aspirations of the people, crucially, preserve Islamic principles of *waqf* land and address the issue of refugees which Hamas -- the current most popular political party -- has promised to defend. While the Israelis have to question the logic of partition in light of its history, the fact that it is becoming dependent on Palestinians for precious resources like water and also contend with 2 million Palestinians within its borders.

³⁹ Mian, Maulana Syed Mehammad (2005). *The Prisoners of Malta*. (Manak Publication), p.154.

⁴⁰ *Ibid.* p.154.

For Palestinians, any new narrative must encompass a clearly defined role for the nearly two million Palestinians, who remained in their homes in 1948 and became Israeli citizens. These Arab-Isrealis have become redundant in the liberation struggle

and could be mobilised. Their input is needed to present a united Palestinian people, land and state. Despite the suffering and loss this group has encountered its narrative and history has been silenced and their identity blurred. When Tzipi Livni was Israel's Foreign Minister, she made a statement that reflects the real position of Palestinians within Israel: 'I would like to see Israel as a house for the Israeli Arabs, but Israel can't be a national house for them.'⁴¹ More pertinent is the concern that under the citizenship of Israel, albeit second class, the vitality of Palestinians in Israel and commitment to the liberation struggle with their people is slowly ebbing away.

An extensive study by Alina Kohn has revealed that despite the Palestinians in Israel being considered as a 'fifth column' threatening national security, the rate of convictions for purely political offences was low throughout the military government period (1948-1966). In 1953, for example, the number of convictions was only 4; and in 1959, just 38. She concludes that military rule did not give rise to political crime, or augment their involvement in offences against the state security agencies, as one finds in divided societies like Northern Ireland.⁴² This situation is no different today and even during the Israeli attacks on Gaza (December 2008 – January 2009) the most that was achieved were a few public demonstrations.

There is also a desperate need to reach out to the Jews, although no doubt cynicism and mistrust will create a wall of resistance. However, with highly articulated arguments and sincerity of intent, there could be a significant number who would consider it prudent for a united 'nation' to come into being and begin to shift towards the concept. Further, there is no doubt that these ideas and principles would secure for the Palestinians a higher moral ground in the international arena.

Haraam and Waqf

The great jurist al-Mawardi (974-1058) in his *al-Ahkam al-Sultaniyyah* categorises the territories into three zones: the Haraam (sacred),⁴³ the Hijaz, and the rest. Since Palestine falls into the territory of the rest with the al-Aqsa Sanctuary as arguably the Haraam,⁴⁴ both these aspects of territorial category need to be assessed.

The Sanctuary of al-Aqsa according to Imam al-Shafi'i and al-Shawkani is a Haraam and therefore non-negotiable. However, this is not an obstacle that is insurmountable. Religious Jews for centuries have been content to using the Western ("Wailing") Wall for their worship in the Holy City and the Muslims have acquiesced. It has been the fundamentalists and extremists within the Jewish Zionist community who have called for the destruction of buildings within al-Aqsa Sanctuary.

Even at this late stage, these groups, though dangerous, have not gathered deep-rooted support within Jewish society; they can, therefore, be stopped. A reminder is in order that the use of the Wailing Wall by the Jews, after their exile, was initially sanctioned by Muslims and it has never been of any concern for the past fourteen hundred years.

Waqf territory also has historical precedence. Al-Mawardi explains that the ruling applied to the Sawad territory in order to help with other analogous situations. The Sawad, in modern day Iraq, was conquered during the time of Umar ibn Khatib (638)⁴⁵ and it was made *waqf* by him for all the Muslims. He left the land in the hands of the

⁴¹ Ilan Pappé ed.(2007). *The Palestinian Question*, (Routledge), p.233.

⁴² *Ibid.* p.219.

⁴³ In this context it means sanctuary of Makkah.

⁴⁴ Not to be mistaken for *Haram*, which means forbidden in Islam

⁴⁵ Al-Tabarai, (trans. Gauthier Juyrboll) (1989). *The History of al-Tabari* Vol XIII, (Sunny Publication), p.51.

Jerusalem is not for the Palestinians only, but for all Muslims, be they Arabs or not. It is a city for all Arabs, be they Muslims or Christians.

- Shaykh Yusuf al-Qaradawi, 2004

previous owners in return for the *kharaj* tax as a kind of rental charge, although the period was not stipulated. Later jurists, after *ijtihad*, changed the *kharaj* to *muqasamah* (paying a percentage of yield rather than a fixed amount), because the sale price of the produce from the land did not cover the amount of *kharaj* expected. This was a revolutionary change for *waqf* land and opens avenues for present-day scholars to make *ijtihad* on evaluating co-existence with the people of all faiths, including Jews, as equals on the *waqf* land of Palestine.

Shaykh Yusuf al-Qaradawi in 2004 stated: "Jerusalem is not for the Palestinians only, but for all Muslims, be they Arabs or not. It is a city for all Arabs, be they Muslims or Christians."⁴⁶ The insertion of Christians is neither accidental nor opportunistic but reflects their suffering and efforts in the liberation of Palestine. It thus follows that if Jews also join hands with the Palestinians for a just, equal and fair nation then they can also become beneficiaries to enjoy all the fruits of that nation, be they structural or otherwise.

Those who raise concerns on how a city like Jerusalem could be shared neglect the fourteen hundred year history under Islamic rule where the Jews, Muslims and people of other faiths enjoyed the freedom of the Holy City.

CONCLUSION

Is an exclusive state of Palestine on less than 22 per cent of the original land a better option than the united control over 100 per cent where all people of all faiths, including Muslims, will be able to exercise their rights? This remains a pertinent question.

Those who are concerned about conceding Islamic lands must differentiate between *millat*, *qaumiyat* and *watan*. Again Shaykh Madani faced this accusation of short-changing Muslims and acting against Islamic principles. He argued that *millat* (*shari'a*/religion) and *qaum* (nation) are two distinct identities. *Qaumiyat* is (nationalism) and *wataniyat* (one's love of the country) are two distinct ideas in *Shari'a* and *wataniyat* is not based on *millat* but on *qaumiyat*, whereas *millat* means *shari'a* (religion) and *qaum* means a group of people.

To elucidate his point Shaykh Madani reminded his audience that terms like an Arab nation, Iranian nation, Egyptian nation, the Black nation, the White nation and so on are used frequently. In the Arabic language and even in the *Ahadith* and the *Qur'an* the word *qaum* is used to denote a group of people. In *Majma al-Bahar*, the word *millat* means the *Shari'a* that has been given to a nation by Allah Almighty through Prophets.

Further, Shaykh Madani argued that, 'among other nations there is also an Indian nation by which is meant for the inhabitants of India, whether they are Urdu speaking or Bangla; be they Hindu, Muslim, Sikh or Pharsi [Persian]. The word Indian is attributed to all.' Using these principles of Islam is it then possible to speak of a Palestinian nation made up of Christians, Jews and Muslims with Arabic, Hebrew and English as their official languages?

⁴⁶ Al-Qardawi, Yusuf. *Defending Jerusalem*

The religious heritage of Judaism, Christianity and Islam, the three main monotheistic faiths, of Jerusalem specifically, and of Mandate Palestine generally, cannot be denied; can Islamists, therefore, lead the way in uniting the *Ahlal-Kitab* (People of the Book) and others?

Zionism, which is the real adversary against uniting the people of the area, has manipulated the reading of the Jewish scripture, which has led Israelis towards building an exclusive Jewish state at the expense of the indigenous Palestinians. With Israeli society lurching more towards a fundamentalist reading of scriptures the problem, unfortunately, is going to get worse.

It is because of the potent value of faith that a serious investigation of it is needed in order to derive a solution from the scriptures. Extending a hand of invitation to the Jews and the other residents west of the Green line border; to a united single nation built on justice, equality and fairness is a prudent move. This will not only draw a line regarding past grievances, but also address both the Islamic needs of maintaining the *waqf* land, resolve the issue of the refugees and avoid renouncing any area of Palestine. Israelis can then also have their right to reside on all of Judea and Samaria and have equal access to Jerusalem. This would have the added advantage of creating a pluralist state irrespective of faith where each individual's universally accepted human rights would be upheld.

There is an interesting observation that 'Holiness' of land is not subject to or conditional upon sovereignty. The Blessedness of the Church of the Holy Sepulchre is no more or less because it finds itself under Zionist occupation. Muslims are also aware that sovereignty does not diminish nor increase the sacredness of the Holy sites in Palestine. The verse of the Qur'an which opens Surah al Isra - 'Limitless in His glory is He who transported His servant by night from the Sacred Masjid [Mosque, in Makkah] to Masjid Al-Aqsa [in Jerusalem] – whose surroundings We have blessed – so that We might show him some of Our signs. Indeed He alone is the One who hears all and sees all'⁴⁷ - was revealed in Makkah when the Ka'bah was littered with around 360 idols and was a place of congregation for the pagans.

At the same time, al-Aqsa Sanctuary was used as a rubbish dump by the Romans. Despite one being a place of spiritual impurity and the other physical impurity, and both not being under Islamic sovereignty, Allah the Almighty, the All Knowing, the Creator, refers in verse 17:1 to the Ka'bah as His Haraam and to al-Aqsa as His Masjid. Historically, the Jews have also shown that sovereignty is not a condition to their love for Jerusalem and its sanctity. The Jewish loss of sovereignty over Jerusalem which lasted for nearly two thousand years did not diminish their love and devotion to their holy sites.

The concept of power-sharing in establishing a government over a multi-denominational and multi-cultural 'people' raises the concern of permissibility within Islamic Shari'a and, further, if this privilege can be afforded to an unjust occupier who has torn 'Islamic land and lives' needs further elucidation. Tunisia's Shaykh Rachid

The religious heritage of Judaism, Christianity and Islam, the three main monotheistic faiths, of Jerusalem specifically, and of Mandate Palestine generally, cannot be denied.

⁴⁷ Qur'an, 17:1

al-Ghannouchi propounded an opinion accepted by most scholars, that all human acts are permissible unless a prohibition is specified. The prohibition in this case is derived from the commandment to implement the law of Allah and not to resort to adopting laws other than His. It is, therefore, crucial for all Muslims to do what they can in order to obey Allah's commandment and establish His governance.

What if the Muslims are unable to do so? The rule is that they are obliged to do only that which they can, as 'no soul shall have a burden laid on it greater than it can bear' (Qur'an, 2:233).⁴⁸ The great Hanafi jurist Ibn Abidin al Shami (1783-1856) said: The Muslim rulers who have accepted the sovereignty of a non-Muslim ruler, would remain Muslims. If such following is without necessity then they would be committing a sin. The acceptance of sovereignty could be as a temporary policy.⁴⁹

The case of Prophet Yusuf (Joseph), who despite being wronged and being against the 'pharoanic' system of Egypt, offered his service voluntarily to the government. He said, 'Place me in charge of the treasures of the land. I am a good keeper and know my task well.'⁵⁰ The reason Prophet Yusuf offered his service was not to seek power or authority or to endorse the un-Islamic system but because he knew that no one else could accomplish this task successfully⁵¹ and thereby save the people of Egypt from famine. It is thus an Islamic duty to opt for an option that is likely to ameliorate the situation. Palestinians, with Jews in a single state, would move forward a long way from the present crisis.

There is also an inference from the life of Prophet Muhammad who, as a young man, participated in the Treaty of Excellence or *Hilf al-Fudul*⁵² which called for support for the wronged, maintaining close relations with relatives and taking care of them. He said that if he were invited to a similar treaty in Islam he would accept it without reservation. Finally, there is the case of Umar bin Abdul Aziz who is regarded as the fifth Rightly Guided Caliph. He did not condone monarchical rule or sanction the Ummayyad style of governance; yet when the opportunity arose he accepted the caliphate and attempted to rectify the situation to the best of his abilities.⁵³

Hence, this does not imply that in Islam sovereignty is insignificant. Rather the need for sovereignty is for the law of the Creator to be implemented and not to consolidate the sanctity of a site. Thus a credible argument exists for a united Palestine with its mosaic of faiths and people which will go closer towards achieving this goal than a divided Palestine wherein over 78 per cent of the land will have zero Palestinian influence and limited influence on the other 22 per cent. Further, in this geographical split the Palestinians would be hard pressed to find a resolution for the refugees.

Islamic principles, therefore, empower Palestinians to proclaim political ideas for a single unitary state for all of its citizens. The Muslim genius and liberator of Jerusalem Salah al-Din is a hard act to follow, but the need to emulate him is desperate. His letter to the defeated and retreating King Richard is pertinent: 'Jerusalem is our heritage as much as it is yours.' Even after the Crusader bloodbath in Jerusalem, Muslims acknowledged Christian affiliations and today's Muslims need to say the same to the Jews and call on them to establish peace with equal rights, like Salah al-Din, without giving up the right to defend themselves against those who want to deny them their heritage, human and historical rights.

⁴⁸ Tamimi, Azzam ed. (1993). *Power-Sharing Islam*, (Liberty for Muslim World Publications), p.55.

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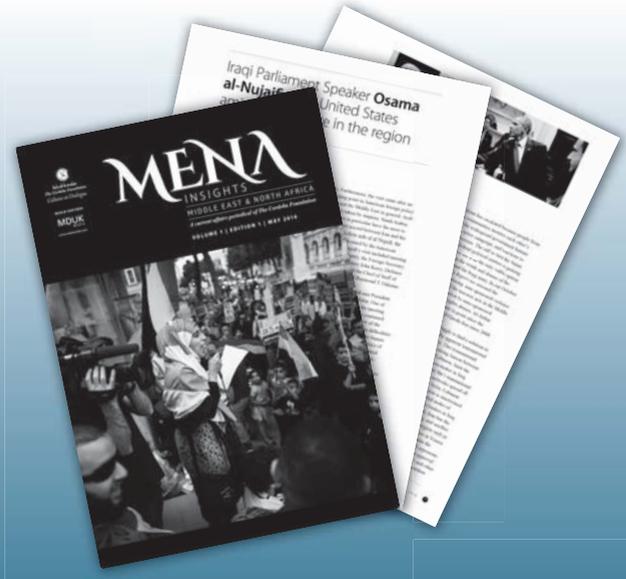
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