Common Land with Elective Government: The Case of Israel

Prepared for the Conference on
"The Role of Land and Rent in War and Peace"
Fred E. Foldvary
International Union for Land-Value Taxation and Free Trade
Wellington Hall, London
March 26, 1991

"Zion shall be redeemed by justice"
Isaiah 1:27 (Revised Standard Version)

I. When Nations Collide

A. The Israeli/Palestinian Conflict

The principles of individual liberty and equal rights logically imply a resolution to the problem of conflicting claims to territory. This chapter applies these principles to the conflict between Israeli Jews and Palestinian Arabs. The result is a peace plan that consists of the common ownership of territory and individual choice in government within a democratic confederacy.

As the Cold War recedes, and with the Gulf War concluded, the Arab-Israeli conflict remains as the major international confrontation. Similar conflicting claims occur in many parts of the world, including Northern Ireland, the former U.S.S.R. republics, Kashmir, Sri Lanka, and the former Yugoslavian republics. Ethnic conflicts in Lebanon, South Africa, Canada, and Ethiopia also involve claims to territory. The model of governance and land tenure presented here can apply to these cases as well as the conflict in Israel/Palestine.

Peace plans offered by the U.S. government have not addressed the core of the dispute. They seek a process for negotiations rather than proposing a long-term solution. As noted by Walid Khalidi (1988, p. 787), years have been spent on the issues of holding international conferences and bilateral talks at the expense of the "crystallization of substantive principles for the resolution of the conflict... Conferences, qua conferences, do not solve conflicts." A permanent solution must resolve the underlying causes of the conflict. The heart of the conflict is the question of who has the proper claim to the Land known through history as Retenu (of ancient Egypt), Canaan, Israel, Judea, Palestine, and the Holy Land.

The plans under current discussion for Israel have proposed either an independent Palestinian state or else an autonomousregion in the West Bank (Judea and Samaria) and Gaza Strip. But autonomy under Israel and/or Jordan would not satisfy the Palestinians' desire for sovereignty, and many Israelis fear that a Palestinian state would threaten them regardless of international guarantees. A resolution requires first an understanding of the perceptions of each side regarding the land and the other party.

This chapter examines the claims of the parties and various solutions which have been proposed. It proposes a peace plan that reconciles the rights and desires of each party in accord with principles of justice. Aspects of the plan have been advocated by members of both sides of the dispute. Moreover, elements of the plan have been tested by practice in Israel and elsewhere. Hence, the plan is proposed both as practical and as consistent with the traditions of both sides of the dispute.

B. The Claims of the Zionists and the Arabs

The government of Israel has tried to define the conflict as that between Israel and the Arab countries, with the Palestinian question a secondary matter. But to many Arabs, the five million Palestinians (some three million outside of Palestine) deprived of a homeland is primary.

To Israelis, as Harold Saunders (1985/6, p. 310) notes, "the overriding problem is to secure the future of Israel and the Jewish people." For many Palestinians, the problem has been the very existence of State of Israel itself, "how to reclaim all of Palestine" (p. 311), or at least part of it.

The conflicting claims and historical interpretations can be learned from an examination of official viewpoints and propaganda as revealed by the postage stamps of Israel and the Muslim countries. Stamps from Arab and other Muslim countries depict Palestinian refugees, the Deir Yassin massacre (of 1947), Palestinian freedom fighters, International Palestinian Solidarity Day, maps of Palestine, Arab support of Palestine, the "Inalienable Rights of the Palestinian People," and the burning of Al-Aqsa Mosque (in Jerusalem) in 1969. Israeli stamps honor the defenders of Israel, Independence Day, war memorials, "stockade and tower" villages, immigration (e.g. the airlift of Yemeni Jews), and the Peace Treaty with Egypt (Macris, 1985; Palestine Stamps, 1981).

According to Frank Epp (1970, p. 28), the Arabs identify with the Canaanites and base their claim to the land partly on this association, as descendants of the earliest recorded inhabitants. Palestinian peasants under Turkish rule perceived the ownership of their lands to be based on a long-standing possession and cultivation. Many peasants had registered their land under fictitious names or with urban merchants to escape taxation, but still regarded the land as theirs (Halbrook, 1981, p. 360).

Arabs believe that the Palestinians are part of the Arab Nation, and that the loss of Palestine is an affront to the Nation. Israel also separates the Asian from the African Arab lands (Khalidi, 1978, p. 696). Nevertheless, the main conflict is the problem of a Palestinian homeland (p. 698).

The Palestinian National Charter, drafted by the Palestinian Liberation Organization in Cairo, 1968, states in its Article 20 that "Claims of historical or religious ties of Jews with Palestine are incompatible with the facts of history... Judaism, being a religion, is not an independent nationality. Nor do Jews constitute a single nation with an identity of its own; they are citizen of the states to which they belong" (in Crescent and Star, 1973, p. 449). As Edward Said (1979, p. 10) states, "So far as the Arab Palestinian is concerned, the Zionist project for, and conquest of, Palestine was simply the most successful and to date the most protracted of many such European projects since the Middle Ages."

Arabs view Israeli Jews both as imperialist European colonizers and as "the reborn Crusader Kingdom of medieval times" (Khalidi, 1988, p. 775).

The Israeli-Jewish moral claim to the territory of Palestine derives from the historic Hebrew occupation of the land, interrupted only by forced expulsions. The Declaration of the Establishment of the State of Israel," enacted in 1948, begins: "Eretz Israel was the birthplace of the Jewish people." To Israelis, this moral claim was given international recognition when the League of Nations awarded Great Britain a mandate in Palestine whose purpose included "a national home for the Jewish people," so long as it did not "prejudice the civil and religious rights of existing non-Jewish communities in Palestine." Jews are recognized, and regard themselves, as a "people," hence whether they constituted a "nation" prior to 1948 is a semantical irrelevancy.

For Zionist Jews, immigration to Israel is not the colonization of a new or alien land, but coming from exile to Eretz Yisrael, the ancestral Land of Israel. Immigration is called aliyah, which means "ascension" (Immigration, 1974, p. 1). In the early 1900s, Uganda was being offered as an alternative Jewish homeland which would have presented fewer current difficulties than Palestine. But the Seventh Zionist Congress in Basel, 1905, rejected that option, affirming the fundamental principle of a Jewish homeland in Palestine. There was "no substitute for the Land" (Fackenheim, 1987, p. 227).

The Law of Return passed by Israel in 1950 did not, according to prime minister David Ben-Gurion, accord a new legal right to Jews to settle in Israel, but rather acknowledged the inherent right of Jews to do so, which preceded the State of Israel (Immigration, 1974, p. 75).

To Jews, the aliyah which began in the 1880s is only the latest of several historic "ingathering of exiles." Previous instances included the Exodus from Egypt, the return from the captivity in Babylon, and repeated returns during the occupation of the Holy Land by the Byzantine, Arab, Mamluk, and Ottoman rulers, despite the difficulties and dangers of doing so. According to the Jewish poet Judah Al-Harizi, who travelled to Israel in 1218, Saladin, the Sultan of Egypt and Syria, and Arab hero who drove the Crusaders from much of Palestine, invited Jews to settle there in 1190 after his victory. Some 300 French and English rabbis went to Palestine in 1210-11 (p. 6). An organized aliyah of Hassidic Jews took place in 1764, led by the Ba'al Sehm Tov's disciples, followed by others.

Israelis note that the majority of immigrants after independence have been from Arab countries, and they constituted a non-European majority of Israel's Jewish population until the Russian aliyah of the 1990s. Prime Minister Yitzhak Shamir (1987/8, p. 574) points out that rather than being imperialist colonizers, many of the immigrants to Israel were refugees from the holocaust, from threats of annihilation in Arab countries, and from totalitarian dictatorships. The recent rescue of Ethiopian Jews is the latest example of Jews in a hostile environment seeking refuge in Israel.

The conflicting historical claims to the land have a counterpart in the conflicting views of one another's nationality. Many Israeli Jews regard themselves as the genuine Palestinians. Shamir (1987/8, p. 575-6) points out that the Jews during the British mandate called themselves

Palestinians and so named their newspapers, orchestra, and fund-raising organization (the United Palestine Appeal). The Arabs living in Palestine, says Shamir, "insisted that they were part of the Arab nation and shunned the appellation 'Palestinians.'" Moreover, the only independent sovereignty in the territory since the conquest of Canaan was Israelite.

As Said (1979, p. 4-5) notes, "In Israel today it is the custom officially to refer to the Palestinians as 'so-called Palestinians,' which is a somewhat gentler phrase than Golda Meir's flat assertion in 1969 that the Palestinians did not exist." Israeli officials describe Palestinians as "South Syrians" (p. 138). However, "for any Palestinian, there was no doubt that his country had its own character and identity" (p.117).

In turn, Israel has been referred to by Arab governments as "occupied Palestine" or the "so-called state of Israel" (Haddad, 1975, p. 192). Shamir also expresses the Israeli view that the post-1967 territory under Israeli control is still only one quarter of the area of the original Palestine mandate (before Trans-Jordan was separated from it in 1922). Jordan, in his view, is thus a Palestinian Arab state "in every respect except in name" (p. 576).

As Said (1979, p. 49) puts it, "Much of the despair and pessimism that one feels at the whole Palestinian-Zionist conflict is each side's failure in a sense to reckon with the existential power and presence of another people within its land...nor in the end is one ever going to prevail over and definitely dominate the other."

According to Yehoshafat Harkabi (1988, p. 18), former director of military intelligence for Israel, the basic demand of the Palestinians "is the recognition that the Palestinian people constitutes a political entity whose collective existence deserves political expression as a state." But a state need not have complete independence. A federation of Jewish and Palestinian states could satisfy the desire of both parties for self- governance and a homeland, if both have a just claim to the land. We must therefore first investigate the historical claims of each side.

II. Historical Background

An analysis of the justice of the claims of the parties to the real estate of the Holy Land must take into account the history of the countries and peoples who occupied the territory. After the exodus from Egypt around 1250 B.C. (Chandler (1981, p. 44) puts it at around 1350 B.C.), the area was inhabited by Israelites and Canaanites as well as other peoples, such as the Philistines. Hebrews had lived there before the exodus as well. In 931 B.C. the Israelites split into two kingdoms, the northern (Israel) and the southern (Judah, from which the Jews descended). Jewish independence alternated with various occupations until the rule by the Roman Empire.

In 135 A.D., the Romans defeated the Jewish rebellion led by Bar Kochba. Emperor Hadrian changed the name of the territory from Judea to Palestina (named after the Philistines) and brought in Romans and other foreigners as settlers (Fackenheim, 1987, p. 228-9), although Jews remained in the northern part of Palestine. Palestine, Filastin in Arabic, became Islamic and Arabic at the end of the 600s. During Arab rule, the Holy Land was the southern part of Syria. In 1516, Palestine became a province of the Ottoman Empire. There had been no official title deeds

to land until 1858, after which much of the land came to be held by rich landholders, the sultan, and religious organizations. In 1867, foreigners were permitted to purchase land.

The modern origin of Zionism (derived from Mt. Zion, which symbolized the longing of Jews for their lost homeland) was Christian as well as Jewish. Napoleon arrived in Jerusalem in 1799 and declared to the chief rabbi there that the Israelites had been deprived of their ancestral lands and were the rightful heirs of Palestine (Epp, 1970, p. 99). Napoleon's excursion stirred interest about Palestine and the Jews in Great Britain. Works on the restoration of Israel appeared in Great Britain the decade after Napoleon's journey to the Middle East (p. 101). In 1842, the British established a consulate in Jerusalem and "became the official protectors of the Protestant Christians and the Jews in the Holy Land" (p. 124). Lord Shaftesbury, a millenialist, promoted Jewish settlement in Palestine (p. 125). British interest in Palestine thus precedes the mandate era.

Modern Jewish settlement dates from 1878 with the founding of Petah Tikvah. Hermann Schapira had proposed a land fund in 1884 and 1897, basing the idea of common land ownership in Leviticus 25:10 and 23. Baron Edmond de Rothschild, founder of the Palestine Jewish Colonization Association, bought land, much of it from the feudal gentry. In 1907, the World Zionist Organization incorporated the Keren Kayemeth Leisrael, or Jewish National Fund (JNF), whose purpose was to buy land for a Jewish homeland. Most of the land was purchased from owners of large estates, and the tenants were evicted (Halbrook, 1981, p. 361-2).

Sharif Hussein of Mecca, told by the British that the Balfour Declaration respected Arab rights, called upon Arabs to welcome Jews as brethren in accord with Arab tradition and religion (Haddad, 1975, p. 173).

The British Mandate area took land from three Turkish administrative units, the Vilayet of Damascus (Syria), the Vilayet of Beirut, and the Sanjak (sub-unit) of Jerusalem; previously Palestine had not been one administrative unit (Comay, 1983, p. 8). In 1947, Jews in Palestine constituted 31% of the population, owning 6.6% of the land (Halbrook, 1981, p. 365). The evacuation of the land by Arabs who fled during the 1948 war resulted in Jewish landownership rising to 79% (p. 368). Most Arabs were not permitted to return.

On May 14, 1948, after the war with neighboring Arab countries, the State of Israel was proclaimed, the Kingdom of Jordan assumed jurisdiction over the West Bank, and Egypt controlled the Gaza Strip. The Arab Palestinians lost their chance for self-government. Between 1948 and 1950, Israel took over refugee property (Haddad, 1975, p. 191). In 1950, the Law on the Acquisition of Absentees' Property (Law of Absentees) transferred to the J.N.F. not only lands of the Arabs who had fled but also from many Arabs who were displaced within Israel; remaining Arabs lost 40% of their land. Israel also required of its Arab citizens proof of land ownership, which many did not have because the British had not completed issuing title certificates (McDowall, 1987, p. 12). Zionists claim that 71% of the land in Israel had been state land vested in the Mandatory Government and then, as successor, the State of Israel, and that another 17% of the land was abandoned by Arabs (Comay, 1983, p. 40).

In 1960 the Israel Lands Authority assumed jurisdiction over state and J.N.F. land (Immigration, 1974, p. 108). This land cannot be sold except as specified by the law, which precludes its sale to gentiles. Leases generally run for 49 years or expire on the transfer to another party. Leaseholds can be renewed, and "ground rents are to be kept as low as possible" (Immigration, 1974, p. 112).

After its victory in the Six Day War in 1967, Israel occupied the West Bank, Gaza, the Sinai, and the Golan Heights. The Sinai was returned to Egypt, which established a peace treaty with Israel in 1979. Israel regards Judea and Samaria (the West Bank) as disputed rather than occupied territory (McDowall, 1987, p. 18). In 1987 Palestinians began an intifada or uprising against Israeli rule, and in 1988, Jordan's King Hussein severed the legal and governmental ties between Jordan and the West Bank.

On June 7, 1990, the Likud Party formed a new coalition government. On June 25, the Knesset approved the transfer of the Israel Lands Authority from the Ministry of Agriculture to the Ministry of Housing so that land for building housing for immigrants could be speeded up.

III. Proposed solutions

Such is the history against which various options can be judged. Before analyzing a model of governance that can resolve the conflicting claims in light of the history of the land, the alternative solutions will be examined to determine whether any of these are feasible and just.

In 1988, a study by Tel Aviv University's Jaffee Center for Strategic Studies (Jaffee, 1989) examined six options for dealing with the occupied or disputed Territories. The options were:

1) the status quo,
2) autonomy for the Territories,
3) Annexation,
4) a Palestinian state,
5) withdrawal from Gaza, and
6) a Jordanian-Palestinian federation.

These do not exhaust the possibilities. To analyze all categories of options, they will be examined in a logical sequence below.

A. Annihilation, expulsion, co-existence

There are three possible eventual outcomes to the conflict: the two sides can either destroy one another, or one side can destroy or expel the other, or the two will continue to co-exist either in conflict or in harmony. Mutual destruction or annihilation can be ruled out as a lose-lose situation which neither side would wish.

A second possibility is the destruction or expulsion of one side by the other. Arabs could drive the Jews into the sea, or the Jews would expel the Arabs into the desert. The annihilation of one side by the other is morally unacceptable, would create world-wide outrage, and is anyway infeasible. The expulsion of Arabs from the area, however, whether deliberate or as a

consequence of wars, has been occurring. As Amos Perlmutter (1985, p. 152) states, the Likud government in Israel has had a tacit policy "of forced or encouraged Arab emigration from the West Bank."

But, aside from the moral unacceptance of a total expulsion, even if this win/lose outcome would occur from either side, it would not be a permanent outcome. Both the Jews and the Palestinians have an emotional attachment to the land. Expulsion of either party would be followed by decades, if not centuries, of protracted warfare. Walid Khalidi (1988, p. 773) points out that previous expulsions of Arabs from Palestine, in 1948 and 1967, occurred during war and would encounter resistance during peacetime. Said (1979, p. 49), a Palestinian, also acknowledges that "it is useless to imagine that Israeli Jews would be likely ever to want to return to their places of origin."

The Palestinian state option could include the expulsion of the Jews who have settled in the Territories. There were about 95,000 Jews living there as of 1990 (4000 of which are in the Gaza Strip), with another 25,000 settlers planned by the Likud government (Shragai, 1990). Current plans involve "thickening" or expanding the existing settlements, rather than arouse opposition by establishing new settlements. The response by Shamir (1987/8, p. 579) to possible Jewish expulsion is that while Israelis were willing to dismantle the towns they had built in the Sinai, "it is quite unthinkable that we should allow Judea and Samaria, the cradle of our nation and culture, to revert to being Judenrein, forbidden to Jews," as was the case during the Jordanian occupation.

The Israelis, for their part, are engaged in deportations of Palestinians whose permits to stay in the West Bank are not in order, which potentially applies to 200,000 persons. Soldiers enter a house at night, give the occupants five minutes to collect their belongings, and put them in a taxi to the border. The Palestinians call such expulsions "the invisible transfer" (Kogan, 1989).

Since a complete expulsion is morally unacceptable and infeasible on either side, and since the expelled party will not renounce its claim, such partial and gradual expulsions will not resolve the essential problem of the conflicting claims to the land.

B. Alternative Methods of Coexistence

Only the third outcome offers a permanent, feasible solution: coexistence. Here again there are three logical possibilities: a unitary state, partition into two or more states, and a confederated state.

- A "unitary state" has a central government with constitutional authority over the entire territory. There are several variants of this option. One is the **status quo**, the first option of the Jaffee study, in which the government of Israel has control over the Territories. The Jaffee study group listed as consequences of continuing the status quo the further radicalization of Arabs, unilateral state-building in the Territories, deteriorating relations with Egypt and the Arab world as well as strained relations with the U.S. and Europe, and domestic discontent. Clearly, the current status will not resolve the conflict. Milton Friedman believes that "Israel will be destroyed if it does not rid itself of [the] West

Bank, one way or another." In an interview, he added that Israel should "get rid of the terrible load of conquest" (Plocker, 1990).

- The second variant examined by the Jaffee group is **autonomy**, whereby the state has ultimate authority but allows for a measure of self-rule and, with "deep autonomy," joint control with Israel over water. Palestinians regard this proposal as a "Bantustan" and reject such plans which leave them with a less-than-equal status. As Yehoshafat Harbaki (1988, p. 17) states, Palestinians will not even accept an interim autonomy unless they know what it leads to. Palestinians point out that the Israeli Jews fought for an independent state so that they themselves would no longer be dominated by others. As Saunders points out (1985/6, p. 314), Jews in Europe had lived in autonomous ghettos which were nevertheless eventually subject to domination and destruction.

- The third of the Jaffee study options, **annexation**, would result in an even more unitary state than the status quo. The group concluded that this would result in Arab violence and the risk of war, in addition to opposition from the U.S. and other countries.

Many Palestinians have favored a democratic, secular, unified state in historic Palestine with an eventual Arab majority. But Israeli Jews would fear eventual domination and, like the Palestinian Arabs, reject anything short of self-determination.

The second solution for coexistence, **partition**, has five variants.

- One is the "Jordanian Option," in which the West Bank would again come under Jordanian rule, and the Gaza Strip would either affiliate with Egypt or with Jordan. To many Palestinians, rule by Jordan would deny them self-determination and the identity of a Palestinian homeland, as it did prior to 1967. Walid Khalidi (1988, p. 781) believes that the Jordanian option would involve that country in a fight with the PLO, which Israel would keep out of the negotiations. Representatives approved by Israel would not be able to "negotiate away their birthright." Mark Heller (1983, p. 49) states that King Hussain himself has anyway ruled out the Jordanian option.

- The second variant of partition would be a Palestinian semi- independent state under the joint sovereignty or oversight of Israel and Jordan. Palestinians reject this variant for the same reasons they reject autonomy and the Jordanian option; it leaves them dependent on others.

- The third variant, the fifth option of the Jaffee study, is a withdrawal by Israel from Gaza which would leave Jewish settlements at the border with Egypt. But Israelis fear that it would set a precedent for a larger Palestinian state. Moreover, an independent Gaza would be destitute and could become a base for terrorism. It would also not solve the problem in the West Bank.

- The fourth variant of partition, the most widely advocated plan being discussed currently, would establish an independent Palestinian state in the Territories. Many Palestinians recognize Israel's security concerns and propose that the Palestinian state would be

demilitarized, at least for an interim period. Israel would keep some defense forces in the Territories. Partition was proposed by the United Nations in 1947, and rejected by the Arabs. But as Harbaki (1988, p. 9) points out, "the dispute has been a learning process," and world-wide support for the pre-1967 borders has persuaded many Arabs to accept them. In 1982, the Arab League forged a consensus at the Fez summit for a Palestinian state in coexistence with Israel (Khalidi, 1988, p. 779).

But a two-state partition still would not satisfy the territorial aspirations of either side. The Jaffee study warns of the danger that some Palestinians would still want to realize aspirations for a Greater Palestine. Many Jews also claim the right to live anywhere within historic Palestine, since to them Judea and Samaria are no less part of the Land of Israel than the pre-1967 land. The Israeli settlers in the occupied territories would not leave without a fierce fight, and some partition plans would allow current settlers to stay. Also, many Arabs within the pre-1967 borders would not prefer to live permanently in a Jewish state, with de facto control of their lives by the Jews, even if the state nominally endows them with political equality.

No matter what the boundaries, there would be those on both sides which felt that the division was unfair, that certain territories of the other were needed for military, historical, or economic reasons. Israelis state that the narrow coastal plain no more than ten miles wide leaves Israelis vulnerable to attacks from the West Bank. The possibility of a hostile independent Palestinian PLO-dominated state has kept Israelis from accepting this proposal, regardless of international "guarantees".

There is also a question of the economic viability of a Palestinian state. Since 1967 the economies of the occupied territories have become integrated with it, though with the intifada some movement in the opposite direction has occurred. The West Bank would requires access to Gaza. Disputes over the use of water would require cooperative agreements. Conflicts among the two states which resulted in barriers to trade and transportation would cause economic havoc.

- The fifth variant would create a Jordanian-Palestinian federation, also with a demilitarized West Bank and Israeli security arrangements. Jordanian-Palestinian talks in 1985 led to an agreement between King Hussein and Yasser Arafat on a confederation between Jordan and West-Bank Palestine (Saunders, 1985/6, p. 316). In the 1985 agreement, the P.L.O.accepted the principle of recognition of Israel in exchange for an Israeli withdrawal from the occupied territories (p. 320). Many Israelis, however, would oppose giving up the territories to an Arab confederation over which they would have no control, and which could evolve into a hostile Palestinian state if the Palestinians assume control over Jordan, where they already are a majority of the population.

Partition in any of the above variants would not resolve the historic claims of both Jews and Palestinians to the land as a whole. But the third method of coexistence, partition without independence, as states within a confederation, could offer the benefits of unity without the danger of domination. As Henry George wrote (1975, p. 511), "warfare is the negation of association." Perhaps the reverse is true as well: association is the negation of warfare.

C. Federation Options

Three federal options have been proposed:

- a three-way confederation with Jordan,

- the Swiss canton model, and

- confederation between Israeli and Palestinian states.

The Society for Middle East Confederation, based in Haifa, espouses a confederation among Israel, Palestine, and Jordan. A problem with such a plan is that if Jordan became governed by Palestinians, the federation would become dominated by a double-sized irredentist Palestinian state. A tight union would leave Jews as a minority, whereas a loose union would not be much different from an independent state. There are enough fears among the Israeli Jews of being overwhelmed by the Palestinian Arabs within Israel to prevent them from affiliating with even more Arabs in Jordan.

A more acceptable federation would be one within the boundaries of historic Palestine. Imad (Dean) Ahmad (1990), has written a proposal which is being promoted by American libertarians. Based on the Swiss model and a similar solution proposed for South Africa (Louw and Kendall, 1986), the plan would divide the land currently governed by Israel into cantons, self- governing provinces. A similar plan was proposed in 1947 by British foreign secretary Ernest Bevin, consisting of autonomous Jewish and Arab cantons. The plan was rejected by both parties (Haddad, 1975, p. 180).

In the Ahmad plan, the canton borders would be drawn so that the "ethnic rights" of the people would not be prejudiced by majority rule. The federal government would have limited powers, and its constitution would include a bill of rights. With autonomy within their local cantons, each group would no longer be dominated by hostile outsiders. But the canton system has some drawbacks. Both the Israeli Jews and the Palestinian Arabs aspire to nationhood, if not independent states.

Alliances among the Jewish and Arab cantons would likely develop and form a de facto partition, again dividing the area into two hostile camps. unless the cantons were tiny, could still be minorities within their boundaries. The proposal does not specify how the size and divisions of the cantons would be decided or how they could change.

Even if the canton system worked initially, there could well be a population war for ultimate control. With free immigration, as specified by the plan, nothing would prevent the Arabs, for example, from encouraging massive immigration to overwhelm the Jews numerically, so that most cantons and the federal government would fall under the control of the Arabs, and the Jews would again become a minority subject to the whims of a hostile majority. In any permanent solution, population must no longer matter. Israeli Jews would not likely accept a federation

unless they had within it a united Jewish entity which would stay Jewish. If there could be Jewish and Palestinian alliances among the cantons, there may as well be explicit Palestinian and Jewish states to begin with.

Yehudi Menuhin (1988) has also called for a model based on the Swiss federation, rejecting conditional autonomy and Jordanian links. The Jerusalem Center for Public Affairs has also worked on confederal schemes. But all the above options have not resolved the two basic issues, the conflicting claims to the land, and the desire for full self-determination.

The challenge in formulating a proposal is, to put it in economic terms, to maximize the opportunity to fulfill individual and ethnic interests subject to the constraint of universal justice. The third confederation option, a union between Jewish and Palestinian states within the Holy Land, offers this opportunity if the land claims can also be resolved. A confederate option needs to incorporate principles of justice as well as constitutional structures assuring equal sovereignty.

IV. A Geo-Confederacy with Elective Government

A. Principles of justice

Too often, peace plans have not confronted the fundamental moral issues that drive a conflict. A strength of the Ahmad (1990) canton plan is that it states its founding principles explicitly as "the primacy of the human person over the politico-juridical abstraction of statehood" and of justice over "political forms." The principles of justice themselves, however, need to be explicitly stated and justified as well.

- The first foundational premise for the plan presented here is that the methodology of determining justice is reason rather than any religious tradition or authority. In a letter to Gandhi in 1939, Martin Buber (1983, p. 118) wrote that "We do not open the Bible and seek therein sanction." The right of return is maintained by Jews who do not necessarily believe in the Bible, and the Palestinian case also does not rest on religion, since they include both Christians and Muslims, along with other religions.

- The second premise is that, using reason, one may determine a universal standard of morality and justice by which one may judge moral good and evil independently of any cultural rules and values. This universal ethic has been called "natural law" or "the law of nature" by philosophers from the Greeks to the European enlightenment.

The main principle of natural law was enunciated by **John Locke** (1947, p. 123), who stated that "Being all equal and independent, no one ought to harm another in his life, health, liberty, or possessions." The "Virginia Declaration of Rights" written by George Mason in 1776 (Papers, p. 287) echoed Locke, stating "That all men are by nature equally free and independent, and have certain inherent rights...." In 1948, these principles became encoded in the United Nations Universal Declaration of Human Rights, which includes the principles of equality before the law

and the right to freedom of movement. As Harkabi (1988, p. 14) states, "The central norm of the international system and international law is self-determination."

Locke did not derive natural law, and it has generally been regarded as self-evident or taken for granted by those who accept it (cf. Said, 1979, p. xvi). However, since natural law is not universally accepted, it is not self-evident, and, in accord with the first premise above, must be rationally derived. This I have attempted (Foldvary, 1980, 1985) elsewhere, using Locke's premises of independence and equality. It is assumed, then, that natural law has a rational foundation.

The specific rights expressed in the Bill of Rights, U.N. Declaration, etc., can be derived from Locke's universal principle that it is evil to coercively harm others. "Natural rights" can be defined in terms of this principle, whereby the right to do or have something means that it is morally wrong to prevent a person from doing or having it. It follows that persons have the equal right to do anything which does not coercively harm others. The premise of equality also endows human beings with equal rights to natural opportunities; as Locke (p. 143) put it, "The things of nature are given in common," whereas each person has ownership of himself.

There are both Jewish and Islamic connections to natural law. To Jews, the text of the Old Testament is only half of the Bible; the other half consists of the oral tradition, which subsequently was interpreted in the Talmud (Fackenheim, 1987, p. 66). The Talmud distinguishes between ordinances such as the prohibition of eating pork, which apply to Jews via their covenant with God, and moral principles which apply universally to all humanity. Such universal law is embodied in the Noachidic Covenant, which God, according to the Talmud (expounding on Gen. 9:1-17) made with Noah, by which all mankind is "bidden to practice justice" (p. 244). Principles of natural law are also found in Leviticus 19:13, "Thou shalt not defraud they neighbor..."; and 19:18, "thou shalt love thy neighbor as thyself" (implying equality).

Islam too "has laid down some universal fundamental rights for humanity as a whole, which are to be observed and respected under all circumstances whether" in an Islamic state or outside it, with no coercion in matters of faith (Human Rights in Islam). There is, then, in principle, fundamental agreement with natural law in both Judaism and Islam.

By natural law, persons have ownership of themselves and of their labor. Since land is not a product of labor, the self-ownership right does not extend to land. The homesteading "axiom" applies, whereby unclaimed land may be occupied and used, and the first user obtains a right of possession, since removing him would then constitute harm. But the right of possession in terms of occupation and use is separable from the right to receive the benefits yielded by the land apart from labor. The common right to the earth implies an equal right to the yield or rent of land.

A sovereign power is that which has ultimate authority in a given domain. Governmental sovereignty ultimately consists of land and persons. The equality premise of the universal ethic implies that each person is equally sovereign over his own person. Therefore a morally legitimate government is that of voluntary association.

In international law, among the ways state sovereignty may be acquired over territory are occupation and prescription. Occupation is an acquisition and control of land not previously in the domain of a state, which is analogous to homesteading. Prescription is the continuous possession where there is no legitimate sovereign, which implies previous occupation. Land may also be ceded from one state to another (Singh and Helou, 1973, p. 53).

The creation of a just peace proposal includes the formulation of a plan for governance. This involves the field of study called "constitutional economics," which as James Buchanan (1990, p. 7) states, "includes the derivation of, analysis of, and justificatory argument for rules that constrain both individual and collective behavior in a wide array of membership groupings." Constitutional economics will be used in designing a governance structure based on the ethical foundation.

In economic theory, a "club" consists of a set of individuals organized for some common purpose (cf. Buchanan, 1965). A club can own property, such that any member of the club is an equal and common owner. If someone leaves such a club, he cannot remove his share of the property, since it belongs to the club as a whole. Hence, if the club owns land, its members own it in common, and title rests with the club as a collective.

Singh and Helou (1973, p. 62) note that if Jews as a whole (i.e. as a club) have a title to the Land of Israel, then the government of Israel, elected only by the residents of the State of Israel, cannot act for the whole Jewish community. However, suppose a club owns a campground, but only a few members are using it at a given time. If the current occupants wish to organize a government to regulate their use of the site, there is no contradiction to the basic ownership of the land by the club. Moreover, International Zionist organizations have in effect represented the members of the Jewish religion as a club that claims title to the Land of Israel, leaving the government of Israel to handle the affairs of those currently residing in that land.

Natural law therefore prescribes government by individual consent and an equal right to the yield of natural resources. The right to possess land, to occupy and use it, is based on the homesteading principle, which can be implemented either by individuals or by clubs.

The final foundational ethical principle is the separation of restitution from current title to land. Suppose that land belonging to person X was confiscated and given to person Y, and now the wrong is to be redressed. Since Y now has possession, he would suffer harm if he were expelled. Justice can be met by compensating X for his past loss, without having to restore the title to X. However, if a club of X were expelled from a large territory by a club of Y, then members of X retain rights of possession and ownership to the territory as a whole. Restitution can be obtained by assigning common areas of the territory from Y back to X, collecting rent from individuals in Y and distributing it among X, and by compensating X as a club for past harms.

As a matter of terminology, possession refers here to the occupation and use of land, which may have several levels. A club may possess land at a high level while allocating lots for individual members' possession at lower levels. Ownership refers to the right to the yield or rent of land and rights to transfer land to others as well as rights of possession. Ownership may also have several levels. All humanity has ownership of the earth (apart from human activity) in common, while in

a locality a club or individual may also have ownership rights due to their historic occupancy, population, and past efforts (cf. the chapter by Nicolaus Tideman).

B. The Just Title to the Holy Land

Given these principles, we can now examine the question of who is the proper possessor of the Holy Land.

Martin Buber (1983, p. 120) in his 1939 letter to Gandhi, asked, "by what means did the Arabs attain to the right of ownership in Palestine? Surely by conquest...." As outlined above, the Arabs ruled Palestine by conquest after the 600s, and any just claims by present Palestinians cannot derive merely from this conquest. Palestinians, however, base their claim on the occupation of the land by their ancestors before the Arab conquest. The earliest known group in the area are the Canaanites. Although the Hebrews may have to some extent been invaders, the Canaanites are equally suspect. During Abraham's time, the Canaanites consisted of the Amorites. Around 2100 B.C., the area was devastated by invaders who were most likely Amorites (Potok, 1978, p. 45). Nevertheless, since of the previous residents almost nothing is known, the Amorite Canaanites can be given the benefit of the doubt and be regarded as one of the original known claimants, though not necessarily with an exclusive title. The Canaanites of various tribes survived in the area through the Israelite period and into Roman times, and their descendants, though culturally transformed, were still in the land when the Arabs conquered Palestine.

Jews are descendants of the twelve tribes of Israelites (mainly the Judean tribe) and claim possession of the area since the days of Abraham. The fact that many Jews today are descendants of converts to Judaism does not affect the Jewish claim to the land. Just as the exit of persons from a club does not reduce its title to property as a club, when persons are adopted into a club, their membership likewise does not add to or reduce the assets of the club. Hence the fact that there have been continuous conversions of persons into the religion of Judaism does not reduce its claim to the land as a club.

A substantial number of the Arabs in Palestine are also descendants of recent adoptees into that club, immigrants from surrounding areas during the past 150 years. For example, in 1831, Egyptian invaders conquered Palestine under Mohammed Ali, and many remained after the Turks took back the land in 1840. There were also Turks, Kurds, and other non-Arab settlers (Aumann, 1976, p. 6-7). According to the calculations by Ernst Frankenstein, 75% of the Palestinians are not descendants of the ancient inhabitants, but for the most part immigrated after 1882 (Aumann, 1976, p. 16). But this does not invalidate the claim of the Palestinians, since the newcomers can be considered to have joined the ancient Canaanite club.

The Biblically-based claim of Jews to the land derives from the promises made by God to Abraham. Arabs also claim Abraham as a patriarch and claim the land as his heir. By premise, Biblical authority is not a basis for the claims in natural law, although its historical narratives may provide some evidence of original possession and just transfer. Hebrews (with or without Abraham) may have occupied unclaimed land before the Exodus, to which they would have returned after their long stay in Egypt with a rightful title, and they may have purchased some from Canaanites. Abraham is blessed by Melchizebek, king of Salem, in Gen. 14:18, indicating

peaceful relations with Canaanites, and there are passages, such as Gen. 33:19, which relate the purchase of land from Canaanites.

Furthermore, Gen. 47: 13-20 relates that while Israelites were in Egypt, before they were enslaved, there was a famine in Egypt and Canaan. The people there first bought food from Joseph on behalf of the Pharaoh, and when the money was gone, they sold their animals, and when the famine continued, they sold their land, and thus lost title. There is, then, Biblical historical evidence of the rights of the Hebrews to the land by homesteading and by transfer before the Exodus. It should be noted that even if the Bible is used as historical evidence, the written text is not considered by Judaism to be a complete account, since the oral tradition fills out and interprets the text; hence, any reference to the text is necessarily incomplete, and it is misleading even within religious orthodoxy to take it as the literal final word without an interpretation and filling in by those versed in the full context.

The claims of contemporary Jews and Palestinian Arabs are based on their membership in their respective clubs, which in turn is based on adoption into the club and, ultimately, the status of the contemporary clubs as heirs of the original clubs. The status of the current heirs derives from the biological descent of some members from the original members, since children of members inherit the club membership. Hence, the current clubs must be able to claim ancestors which had original title. Ironically, both the Jews and Palestinian Arabs have a common ancestry in both the Canaanite and the Hebrew clubs.

Considerable numbers of pagans had converted to Judaism before the Christian era. In the first century A.D., out of seven million Jews in the Roman Empire there were three million that had converted from paganism or were descendent from converts. Hence, it is probable that many Canaanites had converted to Judaism during and previous to Roman times. Likewise, many Palestinian Arabs have Israelitish ancestry. After the Bar Kochba War, Jews were expelled from Judea and replaced by Syrian and Arab colonists, but the Galilee remained Jewish. During Roman times, a number of Jews converted to Christianity (Wilson, 1977, p. 59). Many of these Christians later converted to Islam. Also, during the centuries in which Jewish communities lived under Muslim rule, "considerable numbers of Jews, for one reason or other, embraced Islam" (Lewis, 1984, p. 92).

There is an additional Israelitish ancestry of modern Palestinians. Samaria, the northern part of the West Bank, was purchased by King Omri of the ancient Kingdom of Israel. He built a city called "Samaria," named after the previous owner, "Shemer" (1 Kings 16:24). Samaria became the capital of the Northern Kingdom, Israel. The Assyrians conquered Samaria in 721 B.C. and carried away many of the Israelites. The king of Assyria brought in people from Syria, Babylon and other areas and settled them in Samaria (2 Kings 17). They intermarried with the remaining Israelites and became the Samaritans, still identified as such in the New Testament, with a remnant still identified as Samaritans around Shechem, now known as Nablus (Epp, 1970, p. 63). Hence, some Palestinians are descendants not only of Judeans but also of Israelites who became Samaritans.

There were, then, Canaanites who became Israelites, and Israelites who eventually converted to Islam and became Arab Palestinians. With such mixed ancestry, modern Palestinian Arabs and

Jews are long-lost siblings and descendants of both clubs, each having a proper title to the land. The Jewish and Palestinian clubs have joint ownership over the entire area of the Holy Land, the territory now controlled by the State of Israel.

The claims of both clubs have been recognized by international agencies, such as the partition of the land in 1947. The United Nations recognized the right of Palestinian Arabs to self-determination in 1969 with General Assembly Resolution 2535B, which affirmed the "inalienable rights of the people of Palestine" (Said, 1979, p. 6). U.N. General Assembly resolution #194 (Dec. 11, 1948) affirms the right of Palestinians to return to their homes (p. 48).

Bedouins in Israel constitute a third club, having independent land claims in the Negev Most of that land, after having been passed down by Bedouins for generations, has been expropriated by Israel (Palestinians of Israeli Nationality, 1986).

Since there are, in effect, two clubs which have an equal claim to the same territory, with a third club claiming part of the land, and since natural law gives persons an equal right to nature, Jews and Palestinian Arabs have an equal title to the entire territory, apart from Bedouin land. Each resident in the Holy Land has an equal share of the title. Hence, aside from Bedouins, the residents of the Holy Land properly own the land in common, as a joint Canaanite/Hebrew club.

How can the rights of both clubs be implemented? However unjust initially, a subsequent occupation is difficult to reverse, and would itself harm the current occupants. The damage has been done through the centuries, and nothing can restore previous rights completely. A physical redivision of sites would be impractical, if not impossible.

We can, however, implement the principle that rights to the land are separable. The rights of current residents to their individual possessions can be separated from the rights of the clubs as ultimate owners of the land. An owner who rents land to a tenant shares some rights of possession with the tenant in exchange for the payment of rent by the tenant. The rent reflects the benefits of the use of the land, since this is what a tenant is willing to pay for possession. The Jewish and Palestinian clubs could jointly rent the land to those who have current possession. The land, then, would be jointly owned in common by both Jews and Palestinian Arabs, and the rent would be shared by members of both groups. The common ownership of land is in the Jewish tradition. Leviticus 25:23 states, "The land shall not be sold for ever." Ecclesiastes 5:9 states that "the profit of the earth is for all." A Biblical analysis by Torrey (1985) indicates that the Biblical laws on land were followed until the splitting of the Israelites into Judea and the Kingdom of Israel.

This Biblical law has been implemented formally by the Jews in Israel. The State of Israel owns or controls some 92% of the pre-1967 land. However, the substance of common ownership is not practiced. Rental payments to the state are kept low, leaving leaseholders with effective ownership. Among the taxes on land are a land zoning tax, a land betterment tax, and a 10 percent rental tax paid by apartment landlords, but evidently these make up a small portion of the economic rent, as reflected in the high price for land in Israel.

Not only do leaseholders obtain the economic rent of their sites, but the government keeps much of the land idle. Israelis have established dozens of tent cities throughout Israel (Rabushka, 1991, p. 8) while the government holds unused land. Contractors who purchase high-priced land fear they will go broke if land prices fall with the release of new state lands to the market (ibid., p. 6). Land in Israel is thus under government rather than common ownership, since the people do not obtain an equal share of the rent. Under a common joint Jewish/Palestinian ownership, all agents who possess land, including governments, would pay the clubs rent of the lands possessed. Such payments would not only equalize the benefit of the land to all the club members, but would induce the government of Israel to release unused land for building and other private uses, which would reduce the price of land, now kept high by government hoarding.

The law regarding land in the West Bank is based on the Ottoman Land Code, as amended by the British, Jordanian, and Israeli governments (Shehadeh, 1988, p. 23). By customary Arab law, much of the land was held in common by villages. Until 1967, land surrounding a village was regarded as available for the use of the villagers, with no need for land registration. The Israeli government decided to consider unregistered lands to be state lands, which gave it a means to obtain land for Jewish settlement (p. 28). The government has also taken registered, privately-owned land for "military requirements" which in practice include settlements (p. 37). About 40% of the West Bank land is registered with the Israel Land Authority, and another 20% is under Israeli government control, including "land expropriated but not registered" (p. 213).

After the Persian Gulf War Israel again took 7500 acres of land on the grounds that it was not registered and that the users could not document ten years of consecutive cultivation (Diehl, 1991e, p. 10). Such "declarations of public land" is not in harmony with the common ownership of land under natural law, by which users would have security of possession so long as rent was paid to the rightful owners.

But if proper ownership rests with Jews and Palestinians in common, do past users, with proper legal or traditional title, whose land were taken away have a just claim to compensation? Clearly they may claim restitution for the confiscation of their capital improvements, as well as from the hardship and distress caused by their removal from ancestral lands. Compensation may also be made for the lost rights to individual possession of the land itself to the extent that a user held no more than an average share of the land.

Henry George (1975, p. 360) argued against compensating the owners of land when it is made common property, since this would raise "by taxation" the value of their possession, imposing a burden on labor and capital, and since the price of land would include the "expectation of future increase of value" (p. 361). But if the compensation is not paid for by taxation, the first objection is met, and the second objection can be overcome by deflating the value to that reflecting current rather than future use.

However, if the State of Israel is to make compensations for taking land from non-Jews for Jewish use, then Jews have the right to compensation from their properties that have been stolen and destroyed as well. In 1951, the 100,000 Jews from Iraq in Israel argued that the value of the property they had been made to abandon in Iraq was equal to that abandoned by the Arabs in Israel. The argument was persuasive in Israel that the books on compensation should therefore be

closed (Epp, 1970, p. 222). A comprehensive settlement would justly take into account Jewish property confiscated in Europe, Asia, and Africa at the same time that Israeli Jews assume liability for property they took unjustly in the Holy Land.

C. A Three-State Confederation

Having established the principle that Israeli Jews and Palestinian Arabs have a joint ownership of the land which is properly manifested in its collection of rent from those possessing the land, the question is, how is this to be implemented, and more generally, how can the territory be governed when there are two or more clubs which have a just title to the land. The principles of natural law discussed above require government by consent. Most Jews and Arabs would like to have a government representative of their respective clubs, and those who do not consent to such governments have the right to alternative government. This logic implies the existence of at least three governments: Israel, Palestine, and a third government which would offer an alternative for those who did not feel at home in either of those two. The third government will be given the name "Land of the Covenant of Peace," after "Brith Shalom" (Covenant of Peace), a group of Jewish intellectuals who favored a binational state. To maintain cultural neutrality, it will be designated here by its translation in Esperanto as "**Paclando Interkonsenta**," (pronounced "pats-LAND-o"). Within Paclando, the residents would set up a cantonal system, each with its own language, religion, culture, schools, and other local institutions.

The term "geo-confederacy" used above in reference to this plan of government refers to the commonly-owned land ("geo") in conjunction with confederated states and citizenship. Most Jews would likely want to become citizens of Israel, and most Palestinian Arabs would probably choose Palestine. But there would be some who for cultural, religious, or ethnic reasons would not wish to belong to either. There are many religions in the area besides Judaism and Islam. Many of the Arabs are Christians. There are also Bahais, Druze, as well as the Bedouins who a separate ethnic group. They could choose Paclando.

In order to both collect the rent and provide coordination among the governments, there needs to be an agency with responsibility for the entire territory. This implies a confederate structure: the three governments would constitute states under a confederate government. The name of the confederation would obviously be neither "Israel" nor "Palestine." The ancient name "Canaan" has negative connotations in Judaism, hence would not be suitable, and as a secular confederation, "Holy Land" would not do. Edward Said (1979, p. 10) remarks that the area is "a place whose very name (and the endless historical naming and renaming of the place) has been an issue of doctrinal importance." The French called the eastern Mediterranean the Levant, from the "rising" of the sun. Call it then The Confederation of the Levant, leaving open the possibility of the inclusion of Jordan and other states in the future after peace has long been established.

In the plan to be described, the details are presented as offering one possibility. If implemented, the participants could choose different features; the plan is outlined in detail in order to demonstrate its feasibility. Once its feasibility is accepted, then different details can be substituted while retaining the basic framework.

Within the confederation, each resident, no matter where he lived, would choose to affiliate with one of the three states. A resident would enter into a seven-year contract with one of the three states. (The initial period could be for less than seven years, so that the contracts don't all expire the same year.) When the contract between citizen and a state expires, the person can either renew his contract or become a citizen of a different state. The ability to opt out would provide a check against despotism and corruption. The literature of public choice theory shows that representative democracy alone will not prevent the exploitation of minorities and even majorities, as special interest are able to spread the costs among the populace. A principle of constitutional economics is that competition among governments, such as in "voting with your feet," helps provide people with the government which best suits them.

Since a state consists of persons and territory, the land too would have to be allocated among the three states. Just as each person contracts with a state, each land possessor would register his property with one of the states for seven years. The territory of each nation would consist of the lands registered by individual citizens plus government-owned lands. Paclando would own no land as a state other than sites for its government buildings. The government of Israel would be assigned jurisdiction of the state and J.N.F. land, while public lands in the West Bank and the Gaza would be assigned to Palestine. The Golan Heights could be assigned to Israel or be subject to negotiation between Israel and Syria, with one option a condominium between the two. The laws of the three states would encompass both their citizens and their lands, but if a conflict arises among the two types of jurisdiction, then the jurisdiction over land would predominate, just as U.S.A. citizens must obey Mexican law when in Mexico.

Israel's concern for security can be met by at first keeping Palestine a demilitarized state, as has been proposed in Palestinian-state plans. Khalidi's (1988, p. 788) peace proposal includes a Palestinian state which is precluded from entering into military alliances with other countries. Paclando would not have an army, being constitutionally limited to a police force, following the example of Costa Rica.

The Confederation would assess and collect the economic rent from both private and government title holders. The "economic rent" is the land rent that would be paid by the highest bidder at an auction for any particular lot. Where private parties own leaseholds on state or JNF land, the Confederation would collect 50% of the rent from the leaseholder and 50% from the state. Collecting 50% of the rent from Israel on its lands would require Israel to in turn collect the other 50% directly from its tenants and preserve its landlord-tenant relationship with its leaseholders, as well as making Israel responsible for collecting half the rent from Arab leaseholders who would rather be under a Palestinian state. Collecting 50% from the leaseholders directly would prevent Israel from being able to withhold all its rent.

Land values or economic rent would need to be assessed annually to keep the rental payments equal to the economic rent. For land held by private title, the real estate market for leaseholds would signal the price and rent of land. Various techniques can be arranged to assess the value of lands held by governments, which would not be on the market. The Confederation could permit self-assessment for those who dispute an assessment, but the possessor would then be obliged to sell the lot to anyone bidding a certain percentage above the assessment or else be assessed at

that amount, plus a penalty for underassessment. People could also be able to register bids for sites even if not for sale, which would influence the assessment.

A major concern about this plan is the scattered land area that would result for each of the states. Paclando would likely be scattered throughout the area. However, since 92% of pre-1967 Israel is state-owned, it would be initially largely contiguous. Moreover, ethnic groups in Israel are generally located in homogenous neighborhoods (Peretz, 1977a, p. 95), so that there would be a de facto cantonal arrangement if state lands are privatized.

Even if the areas of the states are fragmented, the emotional desire for nationhood would be preserved as Israel and Palestine would have their own languages, schools, and other cultural institutions, as they do already. In the West Bank and Gaza, Jews and Arabs already live in communities under separate jurisdictions. Jordanian and Egyptian courts (as well as military courts) have jurisdiction over Palestinians, and Israeli civil courts have jurisdiction over Jews.

Suppose, however, that some town has a mix of lots under the jurisdiction of all three states. The town could still have a community government repesenting the entire town, while remaining under the jurisdiction of the several states. Precedents for this arrangement include the town of Takoma Park in Maryland, under the jurisdiction of two counties; the New Hebrides islands in the South Pacific, which was under the joint jurisdiction of France and the United Kingdom; and Andorra, which is still under the joint rule by France and Spain. There would also be both cooperation among the various jurisdictions in an area and confederate courts and possibly police to facilitate conflict resolution.

Some Israelis may fear that with this plan, Jerusalem would be divided again. However, the city could have a united government, as discussed above, across the state jurisdictions. One may also question whether the city has been truly united. Journalist Moshe Amirav (1990, p. 1) notes that "the illusion that the city is united has been shattered. Jerusalem is nearly as divided today as it was prior to the Six Day War." The Arab section faces discrimination in Jerusalem no less than in the rest of Israel. Only 2.6% of the city's development budget is earmarked for the eastern sector (ibid.). Amirav states that the Arabs in Jerusalem would accept autonomy, with responsibility for services in their areas.

The constitution of Paclando would provide for a minimal government confined to the collection of land rent, courts, and police. There would be no taxation, tariffs or other trade restrictions, state enterprises, national bank or currency, government schools, welfare programs.

Paclando's revenues would consist of its portion of the confederation rents plus user fees for services such as passports or street parking meters. As a third option for all ethnic groups, its government would be designed to minimize the possibility of ethnic bias and conflict. Its criminal laws would be restricted to the prohibition of force and fraud, with no restrictions on peaceful and honest enterprise or ways of life. This would permit cultural and economic freedom for the citizens, and would be a safety valve for Jews and Arabs unhappy with the restrictions and possible economic troubles in the other two states. This would permit Bahais, Druze, Bedouin, and other groups and individuals to set up their own institutions and neighborhood

cantons. There could be communities with Islamic or orthodox Jewish law, which would relieve both Palestine and Israel from pressure by fundamentalist to establish such law.

Some Israelis might fear that even within a confederation, Palestine would be hostile to Israel. But two factors would diminish the potential hostility. First, a settlement of the conflict perceived as just by many Palestinians would remove the major cause of the hostility, the domination, humiliation, and loss of identity suffered by the Palestinians. Thomas Friedman (1989, p. 419) writes that when Jews and Arabs receive visas to go to America, "all the anger between them disappears."

Secondly, the economic dependence of the Palestinians on the Israeli economy would make it in the interest of Palestinians to coexist peacefully. As Danny Rubestein (1990, p. 2) states, "Without work in Israel, Gaza would go through an economic holocaust and there would be a crisis in the West Bank." Palestine would also benefit from access to ports in the Mediterranean.

Under a geo-confederacy, Israel and Palestine would own government-owned land at a price. Israel's taking of Palestinian land now has no carrying cost. But if Israel had to pay dearly for each acre it holds, perhaps the price of holding it would induce it to turn much of the land to private users even if they became under the jurisdiction of Palestine.

D. Confederate Government

The confederate government itself would not interfere in the internal activities of the states. Each of the states would govern its domestic affairs as it saw fit, with the provision that in Paclando there would be a minimal government. In addition to the land rent received, Israel or Palestine could have other sources of revenue and government involvement in the economy as they chose.

Each state would elect representatives to the government of the Confederation. Following the U.S. model, one house could be elected on the basis of population, and the other with a fixed number per state, protecting the interests of the smaller states. A constitutional technique for restraining the abuse of power is to require supermajority votes, such as 60 or 66% to pass legislation. The Senate, where the three states would be represented equally, would be able to block legislation, but this could be overridden by a 2/3 vote of the other house, thus requiring a large majority for controversial legislation without letting any two states block any significant legislation. The president of the confederation could be elected for a short one-year term, reducing the potential power of the executive, as with the Swiss model.

The Confederation would have three main functions.

- First, it would establish courts to resolve disputes both among the constituent states and the citizens of different states. The Confederation would also have a police force for interstate matters and to help in law enforcement in border areas. The police could user persons of non-local ethnic origin. There would be no Confederate economic or welfare agencies, as those would be functions of the states.

- The second function of the Levant would be defense and foreign affairs. Each state would still be considered an international agent, able to maintain diplomatic relations with foreign states. The Levant would have its own foreign service representing the interests of the Confederation. The Confederation could have a non-voting membership in the United Nations. Israel would retain its own defense forces at first, and could, at its option, gradually transfer the military to the Confederation as it gains confidence in its viability. The assumption of defense expenses by the Confederation would be an incentive for Israelis to transfer the forces.

- The third function of the Confederation would be to assess all the land annually and collect the land rent from the owners. Mechanically, it would be the same as a property tax, except that it would exempt all personal property, buildings, and improvements to land, and, as discussed above, would collect what the land rents for in a free market. A small fraction of the rent would be retained by the title holder so that the land would have a positive value, including a margin for error in the assessment. The Confederation would impose no land use restrictions or regulations. The land would include the water beneath the surface, which the Confederation would sell at market prices in amounts which would sustain the supply.

   Some of the economic rent in a community is due to its own activity, since public goods and services increase the value of land. The Confederation would be constitutionally bound not take the proportion of rent generated by such local effort, just as economic rent should not include the value generated by the improvements to the land. Communities as well as individuals would be able to appeal assessments in the Confederate courts.

As discussed above, Israel would compensate Palestinians for land and other property taken previously by force, while simultaneously (perhaps in conjunction with international Jewish organizations) collecting compensation for Jewish property confiscated in other countries, with funds going to the victims of the injustice, or their heirs. The Confederation could as a totally separate matter pay private land owners for the value of their land, since the common ownership of the land would be implemented in one fell swoop.

Such compensation would not require raising funds by taxation; indeed, the Confederation would have no taxing power. It could, however, issue transferable non-interest-bearing notes redeemable as payments for rent as well as for user fees. Over the course of years, it would retire the notes as it received them for payment. The notes could be denominated in terms of some commodity or service, such as the delivery of surface foreign mail (equal to the redemption value of an International Reply Coupon), to maintain their real value over time. State-owned land would best not be compensated, since the states would receive much of the rent money back from the Confederation.

The Levant would distribute 33% of the rent to the governments of the constituent states on the basis of their population. Another 33% of the rents would be given equally to the states, each getting 11%. This would act as a counterweight to a population war. If, say, Paclando only had 2% of the population, it would receive 12% of the rents, and the residents would have a financial

benefit offsetting their minority status. This would be an incentive for citizens to move into and transfer land to the state with the least population, helping to equalize the three.

The Confederation of the Levant would retain 34% of the total land rent for its administration and the retirement of its notes.

E. International Commission

There would have to be some authority above the Confederation at first to help the Confederation become established. An International Commission with representatives from the U.N., the U.S., and other parties could act as a court of appeal to resolve conflicts during an interim period.

The plan requires no recognition or assistance of any hostile state outside of Israel, but only an agreement within the territory. It essentially consists of the residents of Israel/Palestine making peace with one another. Recognition of Israel and the Confederation would likely follow an internal agreement.

F. The Confederate Jubilee

In the spirit of the Jewish jubilee, the geo-confederacy could expire after 50 years, at which time the parties could renew the system for another 50 years. Any person or landholder could at that time withdraw from the confederation, but would then have to pay the Confederation for the value of any land withdrawn from it. The expiration date would inhibit the Confederation from abusing its powers, and would also inhibit any of the states from trying to dominate the others. Ultimately, the Confederation too would have to compete for citizens.

G. The Confederalist Heritage

The model of a geo-confederacy would not appear as a strange, new idea to Jews and Arabs in the Holy Land. Elements of the idea have been discussed for decades, and the concept of decentralized government has a long heritage in both Jewish and Palestinian Arab history. The current dialogue over a Palestinian state often alludes to a confederation with Israel. But the confederate heritage has been largely dormant, and a discussion of this plan would resurrect some ideas buried in the past.

The idea of a confederacy was proposed by several government commissions dealing with Palestine. In 1937, the Palestine Royal Commission, headed by Lord Peel, submitted a report on the Arab/Jewish conflict and recommended a tripartite plan: a Jewish state, the merging of Arab areas with Jordan, and continuing of the British mandate in Jerusalem with a corridor to the sea. The Jewish Agency accepted the proposal, while Arab leaders rejected it (Comay, 1983, p. 26; Epp, 1970, p. 156).

In 1945, the British and American governments formed the Anglo- American Committee of Inquiry, which was to examine issues regarding Palestine. It recommended that neither Jews nor Arabs should dominate the other, that Palestine be neither Jewish nor Arab, and that the

government protect the interests of all the parties. The Committee stated that justice cannot be reconciled with a state in which "a mere numeric majority is decisive." The struggle between Jews and Arabs "must be made purposeless by the constitution itself" (Buber, 1983, p. 185). In a later meeting, the Committee opposed partition and proposed the establishment of an Arab province and a Jewish province, with a central government administered by the British (Epp, 1970, p. 169). The Arab League did not favor the report, but rather sought a decision under the United Nations Charter, which they felt would favor themselves (p. 170).

The Zionist Congress, meeting in Basel in 1946, opposed provincial autonomy because "it would deny settlement in other parts of Palestine and deny complete autonomy even in the territory allocated to the Jews" (Epp, 1970, p. 171-2), factors which are not present in the geo-confederate plan.

In 1947, before the final vote for partition by the United Nations, the Arabs proposed a federal state divided into Arab and Jewish cantons, like the Bevin and federation plans which they had earlier rejected. But their motion was not put to a vote (Haddad, 1975, p. 183).

The United Nations Committee on Palestine (UNSCOP) was established to study the Palestinian question and make recommendations. The majority proposal was for partition with economic union (Epp, 1970, p. 176). The minority proposal called for a federation of an Arab state and a Jewish state. The federation would have authority for immigration. The Zionists favored the majority plan. The Arab governments rejected both plans, favoring instead a unitary state (pp. 177-8).

President Truman rejected the Morrison-Grady Plan for a federal Palestine with a Jewish province, an Arab province, and separate districts of Jerusalem and the Negev, all under a trusteeship (Campbell, 1975, p. 253). He supported partition "positively" (p. 256), though under pressure from Zionists (Epp, 1970, p. 179).

In 1948, U.N. Resolution 194 (III) asked the Conciliation Commission for Palestine for proposals to provide "maximum local autonomy" for the Arabs and Jews (Khouri, 1975, p. 31).

Binationalism also had an illustrious, though minority, following in the Holy Land. In 1925, Arthur Ruppin initiated Brith Shalom to promote a Zionism rooted in the "reality" of the territory, in the spirit of Ezekiel 34:25, "And I will make with them a covenant of peace." As mentioned above, the third state proposed here, Paclando Interkonsenta, takes its name from this movement.

Binational sympathizers included Chaim Weitzmann and David Ben-Gurion (Gendzier, 1974, p. xxxvii). Other organizations advocating binationalism included Kedma Mizraha, 1936; and the League for Jewish-American Rapprochement and Cooperation, 1939 (p. xxxviii). The League's program of a binational state was endorsed by several parties within the Yishuv (the Jewish community in Palestine). In 1946, the League signed an agreement with Falestin-al-Jedida (the New Palestine) endorsing binationalism (Buber, 1983, p. 252).

The Ichud party, organized in 1942, was associated with the League. Its platform included "a Union between the Jewish and Arab peoples" under a government based on "equal political rights" (Buber, 1983, pp. 148-9).

Ben-Gurion in 1930 proposed a federal state composed of cantons (autonomous districts), with national autonomy for each people. A federal council would have two houses: a) one representing nationalities, with equal Jewish and Arab representation, and b) one represented in proportion to population. But by the 1940s, Ben-Gurion and most Zionists rejected binationalism or a federalism with equal rights (Chomsky, 1974, p. 35-6).

Besides the Ichud, the Ha-Shomer Ha-Zair (young guard) party, which became the Mapan, supported binationalism. The Mapan party supported binationalism until 1948 (Peretz, 1977a, p. 95-6).

Martin Buber (1983, p. 61) in 1921 ("A Proposed Resolution on the Arab Question") proposed a "just alliance with the Arab peoples," with "unhampered independent development" for each in a binational state. He also favored (in a 1939 letter to Gandhi, p. 118) the "communal ownership of land" (citing Lev. 25:23) and "the independence of each individual". With "joint sovereignty," neither people need fear "domination by the other through numerical superiority," hence immigration need not be restricted (p. 199). In a 1947 radio lecture in the Netherlands, Buber said, "The demands for an Arab state or a Jewish state in the entire Land of Israel fall into the category of political 'surplus,' of the desire to achieve more than what is truly needed" (p. 199). Buber called the binational state an "intra-national approach" (p. 207). The two essential prerequisites for an agreement, said Buber, were "the precedence of economics over politics" and the "intra-national principle" (p. 212).

In a 1956 article, "Socialism and Peace," Buber wrote that the only thing that can bring about peace in Israel is "a just distribution of the soil, and the formulation of small communities which would be organic cells of this new economy and this new society." But he said he had no blueprint of how to bring this about (1983, p. 276). His version of "socialism of spontaneity" was the "possibility of living in one or another type of settlement" (p. 277).

Binationalist Arabs included Adil Jabr, member of the Jerusalem Municipal Council, who drafted a proposal for a federated binationalist state in 1940-41, and Fauzi al-Hussaini, head of Falastin al-Jadida. The small number of Arabs who entered into a dialogue with Jews regarding binationalism "were regarded as traitors to the national cause," and some were murdered (Peretz, 1977b, p. 21-2). After 1948, The Democratic Front for the Liberation of Palestine has favored a confederal state of the Yugoslavian model (Peretz, 1977a, p. 95).

Noam Chomski (1974, p. 34) advocates principles for a settlement which include: no domination of one group by another, self-government for each nation, the ability of each individual to live where he chooses, and a state which is neither Jewish nor Arab but multinational. Chomsky (1974, p. 132) suggests, as an alternative to the usual proposals, "parallel national institutions throughout the whole territory with a free option for each individual; and also the option of dissociation from national institutions with retention of full rights of citizenship for those who prefer." On the specifics, he added, "I will not sketch out details...."

Jurisdiction based on ethnic groupings is still being discussed. Kenneth Adelman (1991, p. C2), former director of the Arms Control and Disarmament Agency, proposes that Israel act unilaterally to transform the issue of a Palestinian homeland to that of drawing the borderlines. He suggests that those Arabs not wishing to remain under a Jewish government would not have to do so. Israeli occupation of Judea and Samaria would be restricted to the established settlements and strategic heights, as had been proposed by the Allon and Dayan plans. "Palestinians could organize themselves as they see fit." As a condition for the plan, there would be limits to military activity in the Palestinian lands.

Mark Heller (1983, p. 121) has proposed that in Jerusalem the residents could opt for either Palestinian or Israeli citizenship. The city would have neighborhood councils, and the city could be "crisscrossed by jurisdictional limits without impairing its unity" (p. 123).

Aside from proposals and advocates, there are historical precedents for multiple sovereignty. In Anglo-Saxon England, citizens could contract with a king, with a "reciprocal recognition of duty" (Benson, 1990, p. 27). The land associated with a particular king could change with shifting contractual arrangements, and, previous to the unification of England, freemen could shift from one king to another.

In Israel already, policy concerning marriage, divorce, and religious life falls within the jurisdiction of the various religious communities (Comay, 1983, p. 94). During the British mandate, the Jews operated an autonomous administration of their communities, with schools, social services, and symbols such as a flag (Haddad, 1975, p. 170; Peretz, 1977b, p. 22). The Jewish Agency became "almost a state within a state" (Haddad, 1975, p. 176), including a defense force, the Haganah.

Autonomy is in the Muslim tradition as well. As Daniel Pipes (1983, p. 164-5) states, "Where non-Muslim control of the central government is unshakable, Muslims opt out of the state by fighting for their independence or by attaching themselves to an existing Muslim state." Muslims seeking resisting non-Muslim domination include the Turks in Cyprus, the Eritreans in Ethiopia, and Muslims in Kashmir and the Philippines. These all exemplify "the Islamic drive for autonomy."

As Gordon Tullock (1985, p. 139) remarks, the old Turkish empire organized local government according to the millet system, by which Christian and Jewish communities had self-government so long as they paid an annual tribute. The local authorities had their own taxes, police, and other institutions and services. It was possible for someone to switch from one millet to another.

Tullock proposes to generalize this model to local government, where people could associate as they please with a governmental agency, a model which he states is "less of a radical change than it looks" (p. 142), since there are in the U.S. private arrangements that have analogous features, such as the communities of groups such as the Mormons, Jews, Black Muslims, and Amish. There is also a body of law, "conflict of laws," in each state dealing with cases involving the jurisdiction of other states.

The Palestinian Liberation Organization, founded in 1964, gradually took over responsibility for social services in the refugee camps from the U.N. Relief and Works Agency. The P.L.O. took on quasi-governmental operations (Said, 1979, p. 132), and in Lebanon it had built up a "protostate" (Heller, 1983, p. viii).

The concept of ethnic self-rule turned violent in the former Yugoslavian republics, where ethnic Serbs have expelled and killed Muslims and Croatians in setting up enclaves in Croatia and Bosnia. In Canada, the Indian community of Sechelt, north of Vancouver, has obtained legal autonomy, and other Indian nations are pressing for self-government (Canadian, 1991).

Examples exist also of joint sovereignty. The New Hebrides and Andorra were mentioned above as being governed by two territories. Another example was Berlin, which before the unification of Germany had a local government under the allies and West Germany. Washington, DC, has multiple governments, with Congress having overall authority for the district, under which a city government operates with elected officials. The federally- owned sections of the city are under federal governance, with Congress and the Supreme Court having independent jurisdictions in their sites as separate branches of government.

There are also many examples of small enclave jurisdictions. In Medieval Ireland, many monasteries were independent of secular authority and were ruled by abbots as "ecclesiastical principalities" (Peden, 1977). More recent enclaves included Danzig, Trieste, Tangier, and foreign enclaves in China, while Macao, Hong Kong, Vatican City, San Marino, and Monaco are contemporary examples.

In 1947, the Vatican supported the establishment of Jerusalem as an international enclave - a corpus separatum - administered under U.N. trusteeship. This proposal was incorporated in the U.N. General Assembly partition resolution (Kreutz, 1990, p. 93).

Tullock also notes the example of homeowner associations, including condominiums, which are local private governments. Indeed, Spencer MacCallum (1970) has analyzed hotels, shopping centers, trailer parks, industrial parks, and other such organized entities as private governments with their own laws (based on contracts with their tenants and members) and public-goods provisions. These all exemplify competition by governments for citizens, the model made famous by Tiebout (1956), in which people "vote with their feet" to select governments offering the public goods they find most suitable for themselves.

The demographic issue in Israel, the possibility that Arabs could eventually become the majority in Israel, has been widely discussed as a potential threat maintaining Israel as both Jewish and democratic. As noted by Walter Reich (1990), it is in the interest of Israelis to create an arrangement which can sustain both characteristics of Israel. Reich sees that such a structure would have to take into account the Palestinians in pre-1967 Israel as well, since they could become a majority there as well. This points to an arrangement which provides for self-governance for both Jews and Arabs in the areas in which they presently live.

The geo-confederate plan would bring back the minority federal plan submitted to the United Nations in 1947 by India, Iran, and Yugoslavia. The Indian representative felt that with partition,

Jewish-Arab cooperation would be unlikely and there would be a constant danger of war (Kumarasamy, 1990). He was right. A problem with that federal plan was the protection of minority rights within the constituent states, which can be resolved by elective government. The 1947 federal plan also did not confront the land question, which is settled in the geo-confederate plan by recognizing land as common property subject to the payment of rent by those possessing it. Martin Buber's vision of bi-nationalism in a common land would then be realized, only it would be a tri-national state, with Paclando preventing the other two states from monopolizing the options of the Jews and Arabs.

V. From Political Battle to Market Processes

A. An Alternative for Dialog

The function of this peace proposal is to initiate a public dialogue on an alternative to the options of "autonomy" and partition. One Israeli justification for occupation is ein breira: no alternative (Kerr, 1975, p. 4). Security, it is said, requires it. Prior to the negotiations begun after the Desert Storm war, an international conference had been resisted by the Israelis because they feared its outcome. Shamir (1987/8, p. 577) thought it "would be reduced to the lowest radical denominator," an "Israeli withdrawal to the 1949 armistice lines." A plan that maintains Israeli security while providing for self-determination for all the parties will remove the excuse of ein breira. Neither side may claim to want peace if it does not answer to a just plan.

B. Historical Timing

The ending of the Gulf War and the negotiations between Israel and the Palestinians and Arab countries have focused the international agenda on the conflict in Israel. In his address to a joint session of Congress on March 6, 1991, President Bush emphasized the need to resolve the conflict through compromise and stated that a "comprehensive peace must be grounded in United Nations Security Council Resolutions 242 and 338 and the principle of territory for peace," with provision for Israel's security and recognition, while respecting Palestinian rights. "The time has come to put an and to Arab-Israeli conflict" (Bush, 1991).

Journalist Jonathan Randal (1991) points out that the United States and Europe will be under international pressure to avoid charges that they are applying a double standard in the treatment of Iraq's occupation of Kuwait and Israel's occupations.

Two-track negotiations between Israel and the Arab states and between Israel and Palestinians have taken a new turn under Prime Minister Yitzhak Rabin. The Israeli public is being prepared for a territorial compromise with Syria on the Golan Heights, which have a greater security value than the Palestinian areas (Hoffman, 1992). As Buber (1983, p. 177) wrote, "everything depends on making the right compromise at the right time" and that "Everything depends on the kind of solution" (p. 204).

Interestingly, Buber felt in 1950 that "peace seems to have become unattainable. But an end of the 'Cold War' might make it again possible" (p. 260).

Israel's support in the U.S. Congress shields it somewhat from pressure from the presidency (Ahady, 1991). Columnist Mary McGrory (1991, p. C4) has noted, however, that the Gulf War has shattered the "false premise" that territory acquired in war can bring security to Israel. She adds that the U.S. can apply pressure "in the form of a concrete proposal."

Journalist Jackson Diehl (1991c) points out that the missile attacks on Israel during the Gulf war was made Israelis feel more vulnerable and more dependent on the United States, and therefore the ruling party may have lost some of its ability to mobilize opinion in favor of confrontation with the U.S.A. But without a "concrete proposal," U.S. clout will have little effect. In 1989, Shamir had stated his intention to hold elections for Palestinian representatives for negotiations, but members of the Likud coalition opposed the plan, and it was abandoned (Ahady, 1991). In 1988, Shamir told his ministers that since the Americans had not clear initiative, there was no need for any decision from them (Schultz's Mission, 1988).

Before the Gulf War had ended, Prime Minister Yitzhak Shamir told legislators in his Likud Party that his government would not yield territory in a post-war settlement (Diehl, 1991b). For the Israelis to accept a settlement, they need to regard it not as yielding territory, but changing its governance; not as a withdrawal, but an agreement to share sovereignty; not as the establishment of a hostile neighboring state, but as the preservation of Jewish autonomy within a common government over which they will have significant control.

Edward Said, member of the Palestine National Council (the Palestinian Parliament in exile), states that it is no longer feasible or moral for Palestinians to return to the status of 1948. After 1967, it was also clear that the Arab states cannot settle the conflict with Israel militarily (Said, 1979, p. 167).

The Palestinians are also under pressure for a settlement. The economy of the occupied territories has been devastated. Hundreds of thousands of Palestinians have faced deportation from the Gulf region. Kuwaiti officials have expressed their intention to expel many of the 120,000 Palestinians in Kuwait and prohibit most of the 180,000 who left from returning (Frankel, 1991b). Many have ended up in Jordan, where Hamas, the fundamentalist resistance movement calling for war against Israel, will be strengthened by the frustration. Saudi Arabia and Kuwait are expected to hold up the financial assistance which these governments had been providing to Palestinian organizations (Diehl, 1991a). The Palestinians cannot arise from this economic predicament without a settlement, but they too will nevertheless resist a settlement unless they see it as a just plan, with genuine self-governance.

While pressure increases for a settlement, for a brief time, an improved relationship between Israel and the Arab countries in the coalition against Iraq has opened the door towards the normalization of relationships which Israeli governments have sought. As noted by A. B. Yehoshua (1991), this good will be squandered if the Israeli government refuses to confront the Palestinian issue.

According to a study by Time magazine, previous to the uprising, Israel had been collecting taxes of roughly $400 million annually from the Territories and spending about $240 million, hence was making a profit from the occupation (Be'er, 1989). The intifada raised the cost of

holding the Territories, while revenues will most likely decrease due to greater economic autonomy and civil disobedience there.

The cost of the Territories is not merely its internal budget, but the defense costs of Israel, which are a consequence of the lack of a resolution of the conflict. There are other severe costs to Israel which have been much discussed: the effects of occupation on the culture, morality, and psychological well-being of Israelis.

Another cost is reverse Zionism - emigration. Due to both the constant threat of war and the economic hardships faced especially by young Israelis as they seek work and housing, emigration has accelerated. Over 400,000 Israelis have left - 10% of the inhabitants. In 1988, 14,600 emigrated, 9000 of them young persons (Sussman, 1990). Though Soviet Jews are now immigrating in huge numbers, there are already indications that many have left after a short time, despite having to repay loans which would become grants if they stayed for five years (Sheleg, 1990). Soviet Jews will enter Israel if they have no place else to go, they will emigrate as the economic hardships continue. The time is therefore optimal for a settlement of the crisis before this windfall of immigration is dissipated.

The water crisis also makes a settlement urgent. Without a solution, Israel will pump its underground sources dry and endanger the water level of the Sea of Galilee (Lake Kinneret). Jordan and Syria also face the exhaustion of their water supplies. Israel has refused to agree on a World Bank project to build a dam on the Yarmuk River, which flows into the Jordan, unless it obtains what it regards as its fair share of the water. A change of status in the West Bank would affect the use of the Yarkon/Taninim aquifer which lies on both sides of the 1967 border. The West Bank portion supplies one third of Israel's water consumption, with another third supplied from the Sea of Galilee. Turkey's president Turgut Ozal proposed a "Peace Pipeline" to bring water to the region if the countries can come to an agreement. There will be a Middle East water summit in November, 1991, in Istambul to deal with the coming water crisis (Starr, 1991). This provides one more stimulus to reach a settlement with the Palestinians.

While diplomacy has been bogged down over procedural issues, the substance of the dispute has not been confronted. James Zogby (1991), executive director of the Arab American Institute, has called for the U.S. government to "put forward a comprehensive peace plan." One way to begin a dialogue on the substance would be to acknowledge the rights of the parties in principle. The key issue for the Arabs today is not the factual "existence" of Israel, but what kind of state the Jews are to have: one which dominates over and expels Arabs, or one which recognizes their equal rights to the land. The government of Israel would agree that the Palestinian Arabs have rights to the land and to self-governance. Arab countries and Palestinian organizations would agree that the Jews too have rights to the land and to self-governance. Moreover, the Arab nations would recognize the Jews as a people of a religion rather than as a race.

The repeal of the 1975 United Nations resolution equating Zionism with racism recognized the return of Jews to the Holy Land as legitimate and reduced Israeli opposition to a role for the U.N. in the peace process (cf. Goshko, 1991). Once the principles are agreed upon, the details can then be worked out. As with the plan proposed here, once the principles are established, they logically imply a solution to the conflict.

C. Inherent justice

If the Confederation idea were to work at all, it would not be due to political pressure, but to the inherent justice of the plan. If most residents of Israel/Palestine agree that the plan serves their interests and promotes justice, then it will work. Any plan that fails to address the central issues will fail in the long term. The ultimate source of resentment and hatred is the feeling that another is enjoying a privilege, an unfair advantage, or a position of dominance. When all are politically equal, such feelings would subside and then and only then would cooperation and friendship be possible.

A study of the attitudes of Palestinians (Shadid, 1986) found that 95% support a Palestinian state, 78% would like a democratic state in all of Palestine, 17% favor an independent state in the occupied territories (50% would favor it as an interim solution), and there is effectively zero support for autonomy under Israel. A study by the Jaffee Center for Strategic Studies reported that 58% of Israelis favor ending direct rule in the Territories, contrary to the policy of the government (Diehl, 1991d). A Palestinian state within a confederation appears to be compatible with the Palestinian desires both for a democratic state in all Palestine and their own Palestinian homeland, and with Israeli opinion.

From the point of view of Israel, the loss of Jewish territory and of total control over the area would be compensated for by the establishment of peace and by the retention of Israel as a self-governing national homeland for the Jews. No Israeli would be forced to leave Judea and Samaria, and there would be no loss of Jewish occupancy of land so long as rent were paid.

For Palestinians, there would be a Palestinian State. The lack of all desired territory would be compensated for by the possible inclusion of Arabs within the pre-1967 Israeli borders as citizens of the Palestinian state. The confederation would make all of Palestine the common land of the Palestinians, though shared with the Israelites.

Other minorities in the Confederation would have justice as well with the option of affiliating with Paclando Interkonsenta.

D. From Political Conflict to a Market Process

What would make this peace plan work is that its land equalization is complementary to its confederate governance. The political struggle for land would be transformed into an economic marketplace where those who use the land compensate the others for their use of their common homeland. Citizens would have to pay a price for any attempt to occupy land simply for the sake of national holdings.

Unlike the situation in Lebanon, the Confederation would have everyone living under diverse authorities. In Lebanon, there was an attempt to have one government with shared power, and that failed.

The ability of the residents of the Levant to choose their citizenship periodically would provide a check against oppression in any of the states even where citizens of one state resided in the

territory of another. Their own state as well as the Confederation would provide leverage against domination by that state.

As David Bergland (1989) has said, "utopia is not one of the options." The plan would not create a utopia, and I do not wish to minimize the problems of reconciling decades of hostility. But when Sadat visited Israel, years of hatred vanished as the Israelis cheered the man who wished to make peace. Israelis and Palestinians don't have to like one another to live in peace. If a feeling of justice permeates the land, if past wrongs are redressed, when each is an equal citizen and in control of his destiny, then the foundation for harmony will be laid.

E. Paths towards Peace

The geo-confederate peace plan could be implemented if it were adopted and promoted by U.S. government, the Israelis, or the Palestinians. The U.S. government is in a unique position to influence both the Israelis and the Palestinians if it offers substance as well as procedure. The Israeli government could implement this plan if it desired, since the Palestinians are now eager for a settlement. But without a U.S. plan or an Israeli offer, the Palestinians in the Territories could also act unilaterally, but their strategy would have to avoid violence.

Violent revolts have succeeded against colonial powers, but the Israeli Jews regard themselves as indigenous, and violence against the Israelis has only led to stronger defensive measures and repression. To the Israelis, violence against them reinforces the idea that Palestinians want destroy Israel rather than live in peaceful co-existence. There is no need here to elaborate on the history of violence that has been perpetrated by Palestinian organizations (cf. Alexander and Sinai, 1989). Yasir Arafat stated in November-December 1988 that the PLO has abandoned terrorism and recognizes Israel's right to exist. The issue is now the best strategy for the Palestinians if Israel is unwilling to give up control.

Nonviolent resistance and civil disobedience, following the example of Henry David Thoreau, Mahatma Gandhi and Martin Luther King offers a path towards their freedom if accompanied by a just plan. As reported by Thomas Friedman (1989, p. 329), mass civil disobedience was never implemented by the Palestinians in the Territories. One exception was a military order that would have put universities under the control of the Israeli army; the university community rejected it, and the order was not put into effect. The intifada included civil disobedience, but it was not thorough or lasting. As Friedman (p. 412) states, "The only way the Palestinians can really put meaningful pressure on the Israelis is by concentrating on their original tactic of civil disobedience." At the same time, the Palestinians must clearly and explicitly recognize the right of the Jews to live in Israel, so that the Israelis will feel they can "disgorge them without committing suicide" (p. 421).

Some Palestinians have been pursuing this path. In the West Bank town of Beit Sahur, near Bethlehem, a tax revolt in 1989 held off an Israeli army siege for 42 days until the troops withdrew. According to journalist Yitzhar Be'er (1989), the tax administrators in the Territories have become "the most hated sector of the Israeli government in the eyes of many residents." The 14,000 residents of Beit Sahur, mostly Christian Palestinians, refused to pay the income tax and VAT (value-added tax). Although the Israeli government obtained tax revenues by

confiscating 3 million shekels of personal property, including household goods, the residents claimed a victory because the Israeli government could not break the revolt, despite the curfew and roadblocks imposed on them, including the prohibition of bringing in foodstuffs. Beit Sahur became a symbol of peaceful resistance (Algaz, 1989; Diehl, 1989; Zelinger, 1989).

The intifada strategy includes the development of local Palestinian institutions. Palestinian-made products are available in stores which previously had Israeli goods (Ashmore, 1990, p. 96). However, as McDowall (1987, p. 24) reports, the disempowerment of the Palestinians is not solely due to the Israeli occupation. Most Palestinian farmers are sharecroppers and turn 50% of their crop to their landlords, who often also purchase the produce wholesale. As noted by McDowall, development requires a transformation in land tenure. The geo-confederate peace plan would bring this about. The landlord would turn over the rental equivalent of his share of the crop to the confederate government, and farmers would be able to obtain alternative sites on their own at an equal or lower rent, putting them on the same level as the landlords. Land reform thus offers the Palestinians a further incentive to adopt the geo-confederate plan.

There are indications that Israeli officials are already thinking of shared sovereignty. According to one source (Wallach and Wallach, 1989), Shamir was considering sharing sovereignty over the West Bank and Gaza Strip. A commission having political authority over the territories would include representatives of Israel, Jordan, and the Palestinians. Such ideas had been exchanged, according to Wallach and Wallach, between Menachem Begin and Anwar Sadat in 1979, after the Camp David accord of 1978. The Palestinians, however, will in the end not accept any solution which leaves them dominated by outside agents.

In 1974 a committee in Israel studied various negotiating options. One requirement was access to terrorist suspects within the territories (ibid.). Another requirement was that there not be barriers between Israel and the territories, as existed before 1967. Moshe Dayan, a member of the committee, insisted that Jewish settlements remain. Wallach and Wallach (ibid.) report that Ben-Aharon today maintains that these three principles are the preconditions for negotiations. The Confederation plan satisfies all three, since the settlements could remain, there would be no barriers between the confederated states, and the confederate authorities could be bound by the constitution to pursue suspected criminals in cooperation with the governments of the constituent states.

The Shamir plan is to withdraw much of the Israeli military force and conduct elections to choose Palestinian local officials who would have authority over the land. Palestinians would also choose representatives to a confederal body that would include Israel and Jordan. The confederation of Israel, Jordan, and Palestine would be the sovereign entity in the West Bank and Gaza Strip. Each of the three parties would have veto powers over major decisions, such as the Israeli settlements and water distribution. As Wallach and Wallach state, there remains a wide gulf betweens such a plan and the two-state solution preferred by the PLO. Palestinians will not settle for a permanent less-than-equal relationship with the Israeli and Jordanian governments. A confederation of Palestine and Israel would bridge the gap between the two visions. As indicated above, if Israel were to become an equal member in a confederation, it would most likely prefer not to include Jordan in order to maintain equality in representation with the Arabs.

F. Conclusion

The peace plan presented here - elective government, common ownership of land, confederation, and a 50-year renewal jubilee - has precedents in Jewish and Palestinian history. It incorporates constitutional economic principles in limiting government power yet allowing the full expression of national drives. It provides for a compromise of interests subject to the constraint of uncompromising justice. It synthesizes aspects of unitary state, partition, and cantonal plans, recognizing each sides's claim on the land and each individual's right to be free from domination. The thesis has been expressed here that only with a substantive plan in advance can negotiations come to a fruitful conclusion. This geo-confederate peace plan seeks a middle ground between the unacceptable maximal proposals of independent partition and subordinate autonomy, providing an option which implements principles of justice recognized by the traditions and religions of both parties. The plan, building on the legacy of Martin Buber and the binational movements of both parties, is now offered for public dialogue so that people of good will no longer be able to say, "no alternative."

References

Adelman, Kenneth. 1991. "Israel: War as a Chance for Peace." The Washington Post (March 3): C2.

Ahady, Anwar-ul-Haq. 1991. "US Cannot Solve the Palestinian Problem." Christian Science Monitor (Mar. 7): 19.

Ahmad, I. Imad. 1990. "A libertarian solution to the Middle East Problem." Bethesda, MD: Imad-ad-Dean OPUS Bulletin Board System.

Alexander, Yonah, and Sinai, Joshua. 1989. Terrorism: The PLO Connection. New York: Taylor & Francis.

Algaz, Josefh. 1990. "Beit Sahur as an Example." Two Reports Submitted to the Israeli League for Human and Civil Rights (Nov. 1989). Reprinted in From the Hebrew Press 3, no. 4 (April 1990): 31-38.

Amirav, Moshe. 1990. "Jerusalem: A New Policy." Davar (Oct. 29). Reprinted in From the Hebrew Press 2, no. 12 (Dec. 1990): 1-2. Ashmore, Robert B. 1990. "Nonviolence as an Intifada Strategy." American-Arab Affairs (Spring): 92-104.

Aumann, Moshe. 1976. Land Ownership in Palestine, 1880-1948. Jerusalem: Israel Academic Committee on the Middle East. Be'er, Yitzhar. 1989. "Tax on the Peugeot, Tax on the Donkey."

Ha'Aretz (Nov. 24). Reprinted in From the Hebrew Press 2, no. 2 (Feb. 1990): 32-39.

Benson, Bruce L. 1990. The Enterprise of Law: Justice Without the State. San Francisco: Pacific Research Institute for Public Policy.

Buchanan, James M. 1965. "An Economic Theory of Clubs." Economica 32 (February): 1-14.

----------. 1990. "The Domain of Constitutional Economics." Constitutional Political Economy 1, no. 1 (Winter): 1-18. Buber, Martin. 1983. A Land of Two Peoples. Ed. Paul R. Mendes-Flohr. Oxford: Oxford University Press.

Bush, George. 1991. "Address to Joint Session of Congress." Washington Post (March 7): A32.

Campbell, John C. 1975. "American Efforts for Peace." In Elusive Peace: 249-310.

"Canadian Indian Tribe Attains Self-Government." 1991. Freedom Network News 29 (April): 1-2.

Chandler, Tertius. 1981. Godly Kings and Early Ethics. San Francisco: Gutenberg Press.

Chomsky, Noam. 1974. Peace in the Middle East? New York: Vintage Books.

Comay, Michel. 1983. Zionism, Israel, and the Palestinian Arabs. Jerusalem: Keter Books.

Crescent and Star. 1973. Ed. Yonah Alexander and Nicholas N. Kittrie. New York: AMS Press.

Diehl, Jackson. 1989. "Israel Lifts Siege in Tax Boycott." The Washington Post (Nov. 1): A35, A40.

----------. 1991a. "Palestinians Fear Results of Siding With Saddam." The Washington Post (Feb. 25): A11, A17.

----------. 1991b. "Israel Vows to Resist Concessions in Post-War Mideast Peace Effort." The Washington Post (Feb. 27): A18.

----------. 1991c. "Israel Wants Stiff Weapons Ban for Iraq." The Washington Post (March 1): A30.

----------. 1991d. "Many Israelis Would Return Arab Lands." The Washington Post (April 29): A1, A15.

----------. 1991e. "Israel Boosts Land Seizures." The Washington Post (May 14): A8, A10.

Elusive Peace in the Middle East. 1975. Ed. Malcolm H. Kerr. Albany: State University of New York Press.

Epp, Frank H. 1970. Whose Land is Palestine? Grand Rapids: William B. Eerdmans Publishing.

Fackenheim, Emil. 1987. What is Judaism? New York: Collier Books.

Foldvary, Fred. 1980. The Soul of Liberty. San Francisco: Gutenberg Press.

----------. 1985. Natural Rights. Berkeley: Gutenberg Press. Frankel, Glenn.

1991a. "Arab Allies Forge Postwar Security Plan for Mideast." The Washington Post (Feb. 17): A29, A35.

----------. 1991b. "The Mideast's Other War: The Conflict Over Values." The Washington Post (Feb. 24): B1-2.

Friedman, Thomas L. 1989. From Beirut to Jerusalem. New York: Farrar Strauss Giroux.

Gendzier, Irene L. 1974. Foreword to Chomsky, Peace in the Middle East.

George, Henry. 1975 (1879). Progress and Poverty. New York: Robert Schalkenbach Foundation.

Haddad, George M. 1975. "Arab Peace Efforts and the Solution of the Arab-Israeli Problem." In Elusive: 166-248.

Halbrook, Stephen P. 1981. "The Alienation of a Homeland: How Palestine Became Israel." Journal of Libertarian Studies 5, no. 4 (Fall): 357-374.

Harkabi, Yehoshafat. 1988. A Policy for the Moment of Truth. Washington, DC: Foundation for Middle East Peace.

Harrison, Fred. 1983. The Power in the Land. New York: Universe Books.

Heller, Mark A. 1983. A Palestinian State. Cambridge: Harvard University Press.

Hoffman, David. 1992. "Rabin Talks of Possible Concessions to Syria." The Washington Post (Sept. 11): A25-6.

"Human Rights in Islam." n.d. Series on Islam no. 10. Herndon, VA: Muslim Youth Council, Da'wa Committee.

Immigration & Settlement. 1974. Jerusalem: Israel Pocket Library, Keter Publishing House.

Jaffee Center for Strategic Studies. 1989. "Israel, the West Bank, and Gaza: Toward a Solution." New Outlook 32, no. 5 (May): 38-43.

Kerr, Malcolm H. 1975. Introduction. Elusive Peace: 1-18. Khalidi, Walid. 1978. "Thinking the Unthinkable: A Sovereign Palestinian State." Foreign Affairs 56, no. 4 (July): 695-713.

----------. 1988. "Toward Peace in the Holy Land." Foreign Affairs 66, no. 4: 771-789.

Khouri, Fred J. 1975. "United Nations Peace Efforts." In Elusive Peace: 19-101.

Kogan, Goga. 1989. "The Invisible Transfer." Hotam (Sept.). Reprinted in From the Hebrew Press 1, no. 12 (Dec. 1989): 11-17.

Kreutz, Andrej. 1990. Vatican Policy on the Palestinian-Israeli Conflict. New York: Greenwood Press.

Kumarasamy, P. R. 1990. "A Federal Palestine Re-examined." New Outlook 33, nos. 1 & 2 (Jan/Feb): 37-38.

Lewis, Bernard. 1984. The Jews of Islam. Princeton: Princeton University Press.

Locke, John. 1947 (1690). Two Treatises of Government. London: Hafner Press.

Louw, Leon, and Kendall, Frances. 1986. South Africa: The Solution. Bisho, Ciskei: Amagi Publications.

MacCallum, Spencer H. 1970. The Art of Community. Menlo Park: Institute of Humane Studies.

Macris, N. T. 1985. "The Arab/Israeli Conflict as Reflected on Stamps." Topical Time 36, no. 4 (July/August): 17-20.

McDowall, David. 1987. The Palestinians (Report no. 24). London: The Minority Rights Group.

McGrory, Mary. 1991. "Seizing the Peace." The Washington Post (March 3): C1, C4.

Menuhin, Yehudi. 1988. "Mideast Answer: Federation." The Washington Post (March 3): C5.

Murphy, Richard W. 1988. "U.S. Role in the Persian Gulf and the Middle East Peace Process." Current Policy 1062 (from address of Mar. 22).

Palestine Stamps. 1981. Beirut: Dar Al-Fata Al-Arabi. "Palestinians of Israeli Nationality." 1986. Report on the Palestinians under Israeli Rule 10, no. 160 (August): 20-21. Papers of George Mason, Vol. I. 1970. Ed. Robert A. Rutland. Chapel Hill: University of North Carolina Press.

Peden, Joseph R. 1977. "Property Rights in Celtic Irish Law." Journal of Libertarian Studies 1, no. 2 (Spring): 81-96. Peretz, Don. 1977a. "Forms and Projections of a Palestinian Entity." In The Palestinian State: 79-105.

----------. 1977b. "The Historical Background of Arab Nationalism in Palestine." In The Palestinian State: 3-58.

Perlmutter, Amos. 1985. "Unilateral Withdrawal: Israel's Security Option." Foreign Affairs 64, no. 1 (Fall): 141-153.

Pipes, Daniel. 1983. In the Path of God: Islam and Political Power. New York: Basic Books.

Plocker, Sever. 1990. "Is Milton Friedman a Revolutionary?" Yediot Ahronot (Feb. 13). Reprinted in From the Hebrew Press 3, no. 4 (Apr. 1990): 32-39.

Potok, Chaim. 1978. Wanderings: Chaim Potok's History of the Jews. New York: Fawcett Crest.

Rabushka, Alvin. 1991. Scorecard on the Israeli Economy: A Review of 1990. Jerusalem: Institute for Advanced Strategic and Political Studies.

Randal, Jonathan C. 1991. "PLO Support for Iraq Seen as Short-Term Loss." The Washington Post (March 2): A18.

Reich, Walter. 1990. "The Terrifying Clarity of Kahane's Logic." The Washington Post (Nov. 11): B7.

Rubestein, Danny. 1990. "Dependency of the Occupied." Ha'Aretz (Oct. 29). Reprinted in From the Hebrew Press 2, no. 12 (Dec. 1990): 2-3.

Said, Edward W. 1979. The Question of Palestine. New York, NY: Times Books.

Saunders, Harold H. 1985/6. "Arabs and Israelis: A Political Strategy." Foreign Affairs 64, no. 2 (Winter): 304-25. "Schultz's Mission in Perspective." 1988. Daily Report from the Occupied Territories 3, no. 36 (Feb. 24): 5.

Shadid, Mohammed. 1986. "Public Opinion survey of Palestinians in the West Bank and Gaza." Arab-American Affairs 18 (Fall): 166-74.

Shamir, Yitzhak. 1987/8. "Israel at 40." Foreign Affairs 66, no. : 574-590.

Shehadeh, Raja. 1988. Occupier's Law: Israel and the West Bank. Washington, DC: Institute for Palestine Studies.

Sheleg, Yair. 1990. "An Almost Secret Bank." Ha'Aretz (Feb. 23). Reprinted in From the Hebrew Press 3, no. 5 (May 1990): 26-32. Shragai, Nadav. 1990. "They Call it Expansion." Ha'Aretz (June 22). Reprinted in From the Hebrew Press 2, no. 8 (August 1990): 4-9.

Singh, Bhim, and Helou, Angelina. 1973. "An Examination of Documents on which the State of Israel is Based." In Crescent and Star: 52-65.

Starr, Joyce R. 1991. "Nature's Own Agenda: A War for Water in the Mideast." The Washington Post (Mar. 3): C3.

Sussman, Emanuel. 1990. "Encouraging Emigration." Ha'Aretz (Mar. 1). Reprinted in From the Hebrew Press 3, no. 5 (May 1990): 32-35.

The Palestinian State: A Rational Approach. 1977. Port Washington, NY: Kennikat Press.

Tiebout, Charles M. 1956. "A Pure Theory of Local Expenditures." Journal of Political Economy 64 (October): 416-24.

Torrey, Archer. 1985. The Land & Biblical Economics. 2nd edition. New York: Henry George Institute.

Tullock, Gordon. 1985. "A New Proposal for Decentralizing Government Activity." In Rationale Wirtschaftspolitik in komplexen Gesellschaften. Eds. Helmuth Milde Monissen & Hans G. Monissen. Stuttgart: Kohlhammer.

Yehoshua, A. B. 1991. "Time for Israeli-Arab Accord." The Washington Post (Feb. 24): B7.

Wallach, Janet, and Wallach, John. 1989. "Does Israel Have a Secret West Bank Peace Plan?" The Washington Post (Mar. 26): D1-2.

Wilson, Evan M. 1977. "Role of Jerusalem in a Possible Arab Entity." In The Palestinian State: 59-78.

Zelinger, Tali. 1989. "The Glory of Withstanding Suffering." Davar (Oct. 20). Reprinted in From the Hebrew Press 2, no. 1 (Jan. 1990): 37-9.

Zogby, James J. 1991. "Bush's Move." In The Washington Post (March 3): A23.