ISRAEL-PALESTINE CONFLICTS AND PEACE NEGOTIATIONS: INTERNATIONAL, REGIONAL AND RELIGIOUS PERSPECTIVES[*]

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ABSTRACT

Since the establishment of Israel State, although initiatives of many states and international organisations Israel-Palestine conflicts that caused by political, ideological and religious effects besides existential reasons has not been resulted in any concrete solution till-date. The aim of this study is to analyze the major diplomatic efforts and key issues in the Israel-Palestine conflicts and peace negotiations in the light of historical informations, international law and especially international human rights law. Accordingly at first, commitments of Israel and Palestine towards international law were investigated, thereby analyzing Camp David and Oslo Accords that had played a significant role for normalizing the situations relatively in the Middle East and Israeli occupation vis-à-vis Palestinian intifadas. After that, advisory opinion of the International Court of Justice (ICJ) stating that presence of Israel in the region is contrary to the international law, war crime and crime against humanity in the region, Palestinian membership in the International Criminal Court (ICC) and the nuclear deal of Iran with six major powers of the world and its impacts on the peace negotiations were analyzed in the light of international law. Subsequently, in the context of Israel-Palestine conflicts resolution by diplomatic efforts, especially initiatives of European Union for durable peace in the region was addressed. Nowadays, new perspectives of many western countries towards durable peace between Israel and Palestine and recognition of the State of Palestine by a large majority of the world's states gives us hope about resolution of the crisis between the two states.

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Keywords: Israel-Palestine Conflicts, Israeli Occupation, Palestinian Intifadas, War Crime, Crime Against Humanity, International Law, International Human Rights Law, Israel-Palestine Peace Negotiations, Diplomatic Efforts, European Union, Durable Peace.

İSRAİL-FİLİSTİN ÇATIŞMASI VE BARIŞ MÜZAKERELERİ: ULUSLARARASI, BÖLGESEL VE DİNSEL YAKLAŞIMLAR

ÖZ

İsrail Devleti'nin kuruluşundan itibaren varoluşsal nedenlerin yanında politik, ideolojik ve dinsel birçok etkinin de sebep olduğu İsrail-Filistin çatışması, günümüzde birçok devletin ve uluslararası kuruluşun girişimlerine rağmen hala somut çözümlere kavuşturulamamıştır. Bu çalışmanın amacı, İsrail-Filistin çatışması ve barış müzakerelerindeki anahtar meseleleri ve önemli diplomatik çabaları; uluslararası hukuk ve özellikle uluslararası insan hakları hukuku bağlamında tarihsel veriler ışığında analiz etmektir. Bu minvalde öncelikle, Orta Doğu'nun nispeten normalleşmesinde büyük rol oynayan Camp David ve Oslo Anlaşmaları ve İsrail işgali karşısında Filistin intifadaları (ayaklanmaları) üzerinde durularak İsrail ve Filistin'in uluslararası hukuk karşısındaki yükümlülüklerinden bahsedilmiştir. Sonrasında, Uluslararası Adalet Divanı'nın İsrail'in Filistin bölgesindeki varlığını uluslararası hukuka aykırı olarak gördüğü istişari mütalaası, bölgede işlenen savaş ve insanlık suçları, Filistin'in Uluslararası Ceza Mahkemesi'ne üyeliği ve İran ile dünyanın altı büyük gücü arasındaki nükleer anlaşmanın barış müzakerelerine etkileri uluslararası hukuk normları ışığında değerlendirilmiştir. Son olarak, İsrail-Filistin çatışmasının diplomatik çabalarla çözülmesi bağlamında özellikle Avrupa Birliği'nin bölgede kalıcı barış için girişimleri üzerinde durulmuştur. Günümüzde batı ülkelerinin getirdikleri yeni yaklaşımlarla İsrail-Filistin sorununa duyarsız kalmamaları ve Filistin'in devlet olarak dünyanın büyük çoğunluğu tarafından tanınmış olması, iki devlet arasındaki krizin çözümünün uzak bir hayal olmadığı noktasında ümitvar olmamızı sağlamaktadır.

Anahtar Kelimeler: İsrail-Filistin Çatışmaları, İsrail İşgali, Filistin İntifadaları, Savaş Suçu, İnsanlık Suçu, Uluslararası Hukuk, Uluslararası İnsan Hakları Hukuku, İsrail-Filistin Barış Müzakereleri, Diplomatik Çabalar, Avrupa Birliği, Kalıcı Barış.

"Be assured that this support for our people is more valuable to them than you can imagine, for it makes them feel that someone is listening to their narrative and that … [they] are not being ignored. And, it reinforces their hope that stems from the belief that justice is possible in this world … The time has come for my courageous and proud people, after decades of displacement and colonial occupation and ceaseless suffering, to live like other peoples of the earth, free in a sovereign and independent homeland.".

-Palestinian President Mahmoud Abbas

In the UNGA, 23 September 2011[1]

"I often hear them accuse Israel of Judaizing Jerusalem. That's like accusing America of Americanizing Washington, or the British of Anglicizing London. You know why we're called 'Jews'? Because we come from Judea.".

-Israeli Prime Minister Benjamin Netanyahu[2].

INTRODUCTION

In the context of 21st century, when the world is assumed to be a centre of advancements in many aspects that have turned our surroundings more livable than ever before, we have been witnessing a series of grave conflicts at heart of Middle East that just seem to be never ending in nature. Palestinians have been crying literally for their minimum survival in their homeland and relentlessly are trying to get justice from putative civilized world.[3] In contrast, Jews nation to whom historical injustices have been made during World War II and before has firmly established a State and is committed to secure its ideology with such nation State.[4] Both the nations have been crippled into some pieces of land that

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1 Cited by Michelle Leanne **Burgis-Kasthala**, *Overstating Palestine's UN Membership Bid? An ethnographic Study on the Narratives of Statehood,* The European Journal of International Law, Vol. 25, No. 3, p. 678

2 See, http://www.brainyquote.com/quotes/quotes/b/benjaminne416717.html, last visited on July 15, 2015

3 Michelle Leanne **Burgis-Kasthala**, *Overstating Palestine's UN Membership Bid? An ethnographic Study on the Narratives of Statehood,* The European Journal of International Law, Vol. 25, no. 3, p. 678

4 Gilad **Noam,** *Territorial Aspects of the Israeli-Palestinian Conflict: A Legal Perspective on Some Historical and Contemporary Issues,* Hebrew University International Law Research Paper No. 06-06; Acta Societatis Martensis, Vol. 1, pp. 221-238, 2005, available at SSRN: http://ssrn.com/abstract=902944, last visited on July 5, 2015.

each side considers either Homeland or Promised Land not only for existential reason but also religious or ideological perspective.[5] For many obvious reasons, the conflicts between the Israel and Palestine have serious religious, ideological, political implications with regional and international dynamics.[6] Thus, the peace negotiations between them had been and still have been an issue of great interest not only for Israel and Palestine but also for other countries within and the beyond the Middle East. There have been tireless diplomatic efforts by key players of the world, including Arab States, US and EU nations to bring qualitative changes in the landscape of conflicts resolution between Israel and Palestine. Although some of those initiatives have resulted in significant developments; however, durable peace in the region still remains as a distant dream to be realized.

In the aforesaid backdrops, the paper would tend to analyze the major diplomatic efforts and key issues in the Israel-Palestine conflicts and peace negotiations. In doing so, it would explore the following issues. What are the main issues of dispute between Israel-Palestine and why such dispute is unstoppable? Did the key players of world including Arab nations and Western world make any historical mistakes or resort any political game that aggravated the crisis to the present magnitude? Palestine and Israel and their allies have claimed to resolute the dispute peacefully in pursuant to the UN Charter,[7] if this is true, Why then has not the peace negotiations process resulted in any concrete solution till-date? In addition, what impacts have the major diplomatic initiatives such as Camp David Accord or Oslo Accord had on the peace negotiation? The disputant parties justified their actions under the norms of international law. How the issues of human rights, humanitarian law and refugee law really have been dealt with by Israel and Palestine?[8] Why frequent pre-emptive attacks on innocent Palestinians by

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5 Jill Allison **Weiner,** *Israel, Palestine and the Oslo Accords,* Fordham International Law Journal, Vol. 23, Issue 1, 1999, p. 230.

6 Jr. Chas W. **Freeman,** (USFS, Ret), Israel- Palestine the Consequence of Conflicts, Middle East Policy Council, 2011, available at http://mepc.org/articles-commentary/speeches /israel-palestine-consequences-conflict, last visited on July 6, 2015.

7 Article 33, The Charter of United Nations, adopted in June 26, 1945. This article enjoins the methods of settling International Dispute in a peaceful means.

8 Lynn **Welchman,** *International Humanetrerin Law and the Middle East Peace Process Aspect of EU Policy,* Journal of Conflicts and Security Law, (1997), p. 178.

Israeli forces or indiscriminate rocket attacks on Israeli civilians by Hamas have not been held responsible for? Historically, absence of local forum to ensure justice to the victims in the region has resulted in a culture of impunity and serious derogation of humanity as well.[9] Perhaps Palestinian membership in ICC would end the culture of impunity. However, it is to be tested that whether Palestinian joining on ICC would be sufficient to hold accused war criminals responsible for what they have done during Gaza War in summer 2014 on one hand and what impact it would have on peace negotiation on the other? The Nuclear Deal of Iran with Six Powers is another significant phenomenon that has global and regional implications. The impacts of this deal in the overall dynamics of Middle East and particularly on the peace process is another issue vital importance. And finally, exploring into the approaches and methods with a view to ensuring dispute resolution and peaceful co-existence between Israel- Palestine would also be ventilated.

A BRIEF HISTORICAL OVERVIEW OF ISRAEL-PALESTINE CONFLICT

The historical narrative of Israel-Palestine conflicts has long been witnessed distortion or partial narration because of the perspectives of the parties involved.[10] The legal aspect of the conflict has largely been marginalized by enjoining it as purely a political dispute.[11] It is perhaps until the recent time when at least justified if not due attention, has been given to the issue for legal, political and most importantly diplomatic solution of this conflict.[12] Historically, the current territory of

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9 Valentina **Azarov,** *Tell it to the Judge: Palestine's UN Bid and the International Criminal Court (June 1, 2013). Chapter Eight, in Mutaz Qafisheh, ed., 'Palestine Membership in the United Nations: Legal and Practical Implications'* (Cambridge Scholars Publishing), pp. 252-267, 2013, available at SSRN: http://ssrn.com/abstract=2297655, last visited on July 7, 2015.

10 Tilman **Rodenhäuser,** *The Legality of Israeli Settlements in the Occupied Palestinian Territories Under International Law (2013), e-International Relations, 2013*, p. 1 Available at SSRN: http://ssrn.com/abstract=2355982 or http://dx.doi.org/10.2139/ssrn.2355982 last visited on June 2, 2015.

11 Gilad **Noam,** *Territorial Aspects of the Israeli-Palestinian Conflict: A Legal Perspective on Some Historical and Contemporary Issues.* Hebrew University International Law Research Paper No. 06-06; Acta Societatis Martensis, Vol. 1, pp. 221-238, 2005, available at SSRN: http://ssrn.com/abstract=902944, p. 1, last visited on July 5, 2015.

12 For instance, Palestinian bid in UN for membership, Advisory opinion of ICJ on construction of wall by Israel, Membership of Palestine in ICC, and recognition of Palestine as State by European States and other States.

Palestine was under the control of Ottoman Empire, later it was occupied by the British during the time of World War-I.[13] In 1922 by the Mandate Britain and Council of League of Nations agreed to establish home for Jewish people in that area and at the same time keeping intact the rights of Arab inhabitants in the Palestinian territory.[14] However, the Arab world rejected the Mandate by underpinning that it is illegal and violation to the 'right of self-determination' of indigenous people of Palestinian.

In 1947, after World War-II, United Nations General Assembly (UNGA) adopted Resolution 181(II) which recommended a 'plan for partition' with a view to establishing two States one for Jewish people and another for Palestinian inhabitants.[15] Jewish State was envisaged for the migrants who were persecuted in different places of the world and Palestinian Statehood was designed to accommodate Arab inhabitants who already were residents of such territory.[16] The Resolution was unsuccessful because the Arab world was unwilling to recognize any Jewish state in the heart of Muslim world. Subsequently, Israel proclaimed its independence with the help of western allies in 1948. Such self-declared Statehood resulted in conflict between the Arab States and Israel. Israel invaded and capture to large territory of Palestine and thousands of Palestinian inhabitants were expelled or fled from the region. In 1949, Arabs-Israel Armistice Agreement was entered into so that no military or Para-military force is used in the region and also draws a demarcating line for Israel and Palestinian Territory called 'green line'.[17] The discontent over this issue was not resolved then, rather it was aggravated by the Six Days War in 1967 between Israel-Arab Countries. Consequently, United Nations Security Council (UNSC) adopted

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13 Gilad **Noam,** *Territorial Aspects of the Israeli-Palestinian Conflict: A Legal Perspective on Some Historical and Contemporary Issues.* Hebrew University International Law Research Paper No. 06-06; Acta Societatis Martensis, Vol. 1, pp. 221-238, 2005, available at SSRN: http://ssrn.com/abstract=902944, p. 3, last visited on July 5, 2015.

14 Article -2, League of Nations Official Journal, August 1922.

15 UNGA Resolution 181(II) on Future Government of Palestine.

16 Oren **Barak,** *The Failure of the Israeli-Palestinian Peace Process, 1993-2000,* Journal of Peace Research, Vol. 42, No. 6, Nov., 2005, p. 721.

17 Michelle Leanne **Burgis-Kasthala,** *Overstating Palestine's UN Membership Bid? An Ethnographic Study on the Narratives of Statehood,* The European Journal of International Law, V. 25, N. 3, p. 678.

Resolution 242 to peaceful resolution of the dispute.[18] The resolution sought complete withdrawal of military forces from the region and engaging in peace negotiation based on the 1967 border line. The role and impacts of historical events other than those discussed hereinbefore would be ventilated in the following sections of the article.

PEACE NEGOTIATION PROCESS: CAMP DAVID ACCORDS AND THE ROLE OF JIMMY CARTER

The Camp David Accord of 1978 was a landmark initiative in the peace negotiation process which resulted in two framework agreements, firstly, A Framework for Peace in the Middle East and secondly, A Framework for the Conclusion of Peace Treaty between the Egypt and Israel. This historical treaty was aimed to normalize the relation between the Arab States and Israel in general and between Egypt, Palestine and Israel in particular.[19] Western world and interests presented by the U.S President Jimmy Carter, at the negotiation table between the conflicting parties was a significant step towards to peace negotiation. He appreciated multidimensional factors of the conflicts in Middle East. Camp David intended to find out the historical causes, religious and cultural grievances of the two waving parties. In his opinion,

"To understand the roots of the hatred and bloodshed that still shape the relationship among the people of the region, it is useful to go back to Holy Scripture of ancient times. The situation in the Middle East continues to be unstable because of two crucial factors. First, the Arabs refuse to give clear and official recognition to the right of Israel to exist in peace within clearly defined and secure borders. Second, the Israelis refuse to withdraw from the occupied territories and to grant the Palestinians their basic human rights, including self-determination."[20].

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[18] UNSC Resolution 242 of 1967, available at http://unispal.un.org/UNISPAL.NSF/0/7D35E1F729DF491C85256EE700686136, last visited on May 20, 2015.

[19] The peace treaty between Egypt and Israel was signed sixteen months after Egyptian President Anwar El Sadat's visit to Israel in 1977 after intense negotiation through the US President Jimmy Carter, the basic objectives of the treaty were mutual recognition, cessation of the war situation that had existed since the 1948 Arab–Israeli War, normalization of relations and the complete withdrawal by Israel of its armed forces and civilians from the Sinai Peninsula which Israel had captured during the Six-Day War in 1967, Consequently Egypt became the first Arab state to recognize Israel as a state.

[20] Jimmy **Carter,** *The Blood of Abraham: Insight into the Middle East,* published by Houghton Mifflin (T), First Edition (March 1985), p. 257.

It appears that Mr. Carter as a president was sincere about the negotiation process and its outcome to settle the disputes.[21] President Carter took rather a simple formula to address the conflicting issues. For a durable peace "the Arabs must recognize the reality that is Israel, just as the Israelis must acknowledge Palestinian claims."[22] To that end conflicting parties should enter into a political and legal framework that may ultimately produce some kind of sustainable stability leading to region. By virtue of UNSC resolution 242 that had been adopted in aftermath of six days WAR of 1967, Israel and its allies appeared to be in awkward position to deal with the terms and conditions of UN resolution.[23] In this backdrop of 1967 war and the UN resolution The Camp David Accord, 1978 was signed.

MAJOR IMPACTS AND RAMIFICATIONS OF CAMP DAVID ACCORDS

The framework negotiated at Camp David was yet to vindicate the possible best and effective path to peace. The immediate impact of Camp David was that it required Israel, Egypt, Jordan and also Palestinians to reiterate the UNSC resolutions 242 & 338 with their legal status.[24] The Camp David Accord had been criticized on the ground that it did not reflect the hopes and aspirations of Palestinian people and the Accord was signed in absence of any genuine Palestinian representation. However, the Accord had huge immediate historic impact that includes the return of the Sinai to Egypt, the establishment of diplomatic relations between Israel and Egypt. It was promised that based on that achievement and a framework subsequent Palestinian sell-governance would be possible through further negotiation.[25] It is also plausible that if the Accord was not signed the

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21 It has been observed form the US government official documents keep in Jimmy **Carter,** Presidential Library & Museum, available at http://www.jimmycarterlibrary.gov, last visited on May 25, 2015.

22 Ibid.

23 For instance, the preamble of UNSC resolution 242 refers to the "inadmissibility of the acquisition of territory by war and the need to work for a just and lasting peace in the Middle East in which every State in the area can live in security.".

24 Jill Allison **Weiner,** *Israel, Palestine and the Oslo Accords,* Fordham International Law Journal, V. 23, I. 1, 1999, p. 237.

25 The concerned parties were agreed to enter into further negotiation with mutual trust and friendship which as a matter of fact did not happen later on. Full text of promised can be found at http://www.jimmycarterlibrary.gov/documents/campdavid25/cda25.pdf, last visited on June 25, 2015.

relationship between the parties might have turned into worse and more negative consequences would have been occurred in the Middle East. A pertinent question would be did hopes and aspirations of Camp David Accord extinguish? Was it a real setback to peace negotiation or was Camp David a beginning of a new era? Through that peace negotiation Egypt regain control over Sinai that was a great achievement for president Saddat who hoped for some negotiated settlement between Israel and Palestine. Egypt wishes to become a peace broker between Israel and Palestine both of which needed mutual negotiation. From 1978 to the end of Cold War the process of the consolidation of peace did not receive much strength.

PEACE NEGOTIATION PROCESS: THE ROLE AND CONSEQUENCE OF OSLO ACCORDS

Oslo Accord of 1993, signed between Israel and Palestinian representatives, was considered to be a landmark event for attaining much awaited and long cherished peace. The main objective of the Accord was to have an interim compromise so that long term peace negotiation can take place based on UNSC resolution 242 & 338.[26] The Accord tried to foster the legal and political implications of said two resolutions, especially UNSC resolution 242 which at least had the multiple impacts.[27] There are scope of debates as to the status of Oslo Accord, whether it binding treaty or not? Since Gaza or West Bank was not State, thus, it does not have capacity to enter into a treaty.[28] However, it is also argued that Oslo Accord may not be binding treaty in the traditional sense rather do qualify as the international treaty under the category of customary international binding agreement of non-state actors.[29] Put it in liberal way, the status of Oslo Accord under International Law is not hard or binding one rather 'soft instrument' setting forth the basis of future action plan for peace between the two contrasting parties. Through the Accord as the embodiment of Principles, Israeli authority recognized PLO as the legitimate representative of Palestinian

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[26] Article-I of Declaration of Principles (Popularly known as Oslo Accord, 1993).

[27] S. Michael **Lynk,** Conceived in Law: The Legal Foundations of Resolution 242 (July 2, 2007), available at SSRN: http://ssrn.com/abstract=1411698 or http://dx.doi.org/10.2139/ssrn.1411698, p. 2 last visited on March 20, 2015.

[28] See, http://www.meforum.org/1459/the-oslo-accords, last visited March 10, 2015.

[29] See, http://www.palestine-studies.org/jps/fulltext/41138, last visited March 21, 2015.

people, on the other hand, PLO recognized Israel's right to exist, more specifically right to co-exist. It was envisaged that, Military Occupation would cease from West Bank and Gaza Strip, human rights and basic rights of inhabitants will be restored and Israel's security issues shall also be adequately dealt with.

Despite the active involvement of major game changers of the world and key players to the conflicts,[30] why did not Oslo Accord succeed to permanent peace between Israel and Palestine? Did the major players including the US have been failing us? Did the Arab nations and Israel have been behaving unwisely? The Consequence of Oslo Accord was seemed to be too much shifting from real political commitments to legal codex on gaining the peace.[31] This shifting resulted in 'rejectionist' approach from both sides, assassination of accord signing Israeli Prime Minister Yitzhak Rabin by an Israeli. Jews fundamentalist shocked the entire world. After Camp David, Anwar Saadat was assassinated in almost similar fashion. Some Israelis believed that Rabin's acceptance of Oslo Accord would ultimately evict the Jews from their biblical right of Promised Land. This perception is also dominant within the Likud Party leaders including Israeli Prime Minister Benjamin Netanyahu. On the other hand, many Palestinians were not happy with terms and conditions of the document, however, they accepted it terming as 'unfortunate but necessary compromise'.

MAJOR INCONSISTENCIES AND CHALLENGES OF OSLO ACCORDS

It is well settled principle of International Law that every member of international community shall refrain from using force in settlement of dispute.[32] One may validly raise some questions on the peace negotiation process of Israel-Palestine and use of force by concerned parties. Camp David Accord was outcomes of various factors *inter-alia* Arab-Israel conflicts and Israel annexation of Sinai, some parts of Palestine.

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[30] USA and Soviet Russia were the signatory witnesses of this document. US president Clinton was the main negotiator between Palestine and Israel. He was so hopeful for peace negation who even made the statement in legacy with Jimmy Carter by saying 'Son of Abraham start moving from the blood war to peace'.

[31] Ian **S. Lustick,** *Ending the Protracted Conflicts: Oslo Peace Process Between Political Partnership and Legality,* 1993, Cornell International Law Journal, V. 30, N. 3.

[32] Article 2, UN Charter, 1945.

The major structural limitations of Oslo Accord was that it did not explicitly depicted the 'two state solution' at the end of all negotiations, probably neither sides was ready to a straightforward strategy.[33] In the absence of expressed commitments from Israel as to establishing Palestinian statehood at end of negotiation PLO leader, Yesin Arafat himself was not prepared to agree on consensus whose terms and conditions are unknown.[34] It was lambasted by leading Palestinian intellectual Diaspora Edward, W. Said who termed it as 'a complete disaster for Palestine'.[35] It was claimed that by this document US-Israel restricted the real peace negotiation and promoted the second class treatment for Palestinians.[36] It is further contended that PLO by this instrument has rather waived the existing obligations of Israel under some international instruments which were obligatory in nature.[37] Oslo Accord could not find its way forward because of the unequal positions and circumstances between the parties. Palestinians were under 'an imposed conflict' for more than few decades on the other hand, several aggressive attacks by Israel show that it was 'war of choice' for them. Thus, Oslo Accord could bear the heavy burden of 'conflicts management' and 'conflicts resolution' between the Palestinians and Israelis.[38]

PALESTINIAN INTIFADA AND ITS CONSEQUENCE IN PEACE NEGOTIATION

'Intifada' can be literally translated as shaking off. In context of Palestine, it indicates the two popular uprisings of Palestinians during 1987-1993 and 2000-2003 with view to achieve Palestinian autonomy or

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[33] Herbert **C. Kelman,** *The Israeli – Palestinian Peace Process and its Vicissitudes Insight from Attitude Theory,* American Psychologist, May-June 2007, p. 290.

[34] Ibid, p. 292.

[35] Anthony B. Tirado **Chase,** *Edward Said's Anti-Oslo Writings,* The Middle East Quarterly, Vol. 4, No. 1, 1997, available at http://www.meforum.org/342/edward-saids-anti-oslo-writings, last visited on April 7, 2015.

[36] Edward **W. Said,** *The End of the Peace Process: Oslo and After,* 2001, Pantheon Books, New York, USA, p. 4.

[37] For example, by the virtue of UNSC resolution 242, Israel ought to withdraw all military forces from West Bank, Gaza Strip and engage in negotiation on boundaries of 1967; Thus, interim power to PA and Israel is rather weaving the obligations that already Israel had to undergo.

[38] Oren **Barak,** *The Failure of the Israeli-Palestinian Peace Process, 1993-2000,* Journal of Peace Research, Vol. 42, No. 6 (Nov., 2005), p. 728.

eventual independence. However, there is a proposition claimed by the 'Hamas' that recent uprising (in July, 2014) of Palestinian masses against the deadly & heinous attacks by Israeli forces should be called as 'third Intifada'. The First 'Intifada' was known as the war of the stones due to the common and constant picture of Palestinians throwing rocks against the Israeli army and police. It also includes mass marches, through stones and civil disorder.[39] The second 'Intifada' was ignited after Ariel Sharon's visit to the al-Aqsa Mosque in Jerusalem in 2000. It was different in nature than previous one, involving many more pitched gun battles, suicide bombing and deadly clashes between Palestinians and Israelis. One of the main messages of the uprising of the Palestinians to achieve freedom and independence has been directed towards the world leaders in general and Arab leaders in particular. The message was very clear that no foreign power would give the Palestinian people their desired freedom and liberty from Israeli occupation.

In this backdrop, the rise of the Palestinian 'Intifada' in 1987 draws worldwide great attention. Aftermath of revolution in Iran and a letter of Imam Khomeini to the Mikhail Gorbachev in 1988 have reminded the entire world that the dynamics of the bi-polar war was about to end and the world needed to get prepared to have a kind of global arrangement to save many distressed and utterly exploited people, including the Palestinians.[40] It is argued that, fearing the uprising of the Arab and Muslim people around the world, Western powers hastily organized Oslo Treaty to quell the uprising of the Palestinians in 1993.[41] World renowned specialist on Palestinian freedom and a close ally of Yasser Arafat, an American Professor of Arab origin Edward Said rejected the Oslo Agreement terming it anti-Palestine and argued that two-state solution of Palestine so far been harbored by the West came to an end completely.

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[39] Gilad **Noam,** *Territorial Aspects of the Israeli-Palestinian Conflict: A Legal Perspective on Some Historical and Contemporary Issues.* Hebrew University International Law Research Paper No. 06-06; Acta Societatis Martensis, Vol. 1, pp. 221-238, 2005, available at SSRN: http://ssrn.com/abstract=902944, p. 11last visited on July 5, 2015.

[40] Abdar Rahman **Koya,** ed., *Imam Khomeini: Life, Thought and Legacy,* Islamic Book Trust, 2009, p. 107.

[41] The Oslo Declaration of Principles was signed on September 13, 1993; PLO signed the agreement under tremendous pressure of Western Global powers to recognize Israel as a Jewish State and in return got nothing from the Israeli side.

During the first wave of the Intifada (1987-1993) about seventy-five thousand Palestinian people were martyred and many thought that it was all in vain and the Israelis and their foreign allies could achieve everything according to their evil design with the help of PLO, which had long been regarded as the only spokesman of the liberation of Palestine.[42] Being frustrated with the policies of the PLO and its leadership, Palestinian people organized under the spiritual leadership of Sheikh Yaseen,[43] who was possibly the most popular leader of the ordinary Palestinian people. However, Israeli authority very quickly termed Hamas and Sheikh Yassin as terrorists and thereafter killed Sheikh Yassin. At the end of the first intifada, PLO and Israeli authority entered into peace negotiation which resulted in Oslo Accord, 1993 but ultimate failed in many aspects to protect right of the Palestinians.[44].

Despite the huge attention of the world by 'intifada' it did not have any pleasant impacts on the peace process. Palestinians masses came to the streets owing to the slow progress and uncertain possibilities of peace negotiation. However, it was not matter of great surprise that soon after their protests they have been tagged as terrorists. It is very unfortunate that most of the forces struggling for freedom against the imperial regimes and their military units have always been named as terrorists organizations. Israel and its western allies pushed all types of dissenting voices and voices for the right causes as Islamic Terrorists or Jihadists while they tend to forget or ignore the real terrorism. "Today things are different. "The United States often treats the Israeli-Palestinian dispute as a local conflict that can be contained," Clyde Prestowiz wrote in the *Washington Post*, "but it is spilling over. It is radicalizing attitudes in such countries as Indonesia and Malaysia." Prestowitz's "spillover" is hard to date with precision, but is was certainly pushed along by the late- 1987 founding of the Islamist Palestinian

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[42] In May 1964, with the initiative of the Arab league The Palestine Liberation Organisation (PLO) was founded in Cairo. The main goal or objective of the PLO was to liberate Palestine from the Israeli aggression and establish an independent State of Palestine; In February 2, 1969, Yasser Arafat was appointed chairman of the PLO, which had started to sideline in the liberation struggle of Palestine after signing the Oslo Accord with Israel in 1993.

[43] Sheikh **Yassin,** the co-founder and leader of Hamas, is assassinated by an Israeli helicopter gunship on March 22, 2004.

[44] Michelle Leanne **Burgis-Kasthala,** *Overstating Palestine's UN Membership Bid? An Ethnographic Study on the Narratives of Statehood,* The European Journal of International Law, V. 25, N. 3, p. 682.

resistance group, Hamas, and the activities of its insurgent wing with a that of the older Palestinian Islamic Jihad".[45].

PEACE NEGOTIATION PROCESS: ISRAELI SECURITY VIS-À-VIS SURVIVAL OF PALESTINIANS

The grave issue of ensuring minimum survival of Palestinian people has often been ignored or overshadowed due to the security measures of Israel. The matter of Israeli security has been given a priority over the issues of ensuring basic rights of Palestinian people. Palestinians are often deprived of basic socio-economic rights in the Occupied Palestinian Territories. Thus, as long as peace negotiation is under process or assume to be held, they must be provided opportunity to have an acceptable life. Right to water, for instance, is a basic right to have healthy environment and mere physical survival that has also been threatened by Israeli authority in West Bank and Gaza Stripes. This causes serious havoc to residents and violates the norms of International Human Rights Law.[46] Palestinians are forced to live a life devoid of minimum living standards under Israeli occupation for a long time that has been justified in the name of security measures for protecting Israel.

Israeli authority restricts the free movement of Palestinian inhabitants by proclaiming 'No Go' zone just inside the Gaza. Israeli policy has severe impacts on depriving basic human rights and potential ways of livelihood of the Palestinians. They are only allowed for fishing within the six nautical miles of the shore and often been subjugated to cruel and inhuman treatment by the Israeli forces.[47] Even the number OF fisherman has been decreased dramatically over the years due to the aggressive policy of Israel.[48] Consequently, a relevant question arises that whether for potential security threats of a State, should the hundreds of thousands of lives be deprived of minimum amenities of survival?

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45 Michael **Scheuer,** *Imperial Hubris,* Potomac Books Inc., USA 2004, p. 228.

46 See, Amanda **Cahill-Ripley,** *The Human Right to Water and its Application in the Occupied Palestinian Territories,* Oxford University Press, 2011.

47 World Report 2014, Human Rights Watch, available at http://www.hrw.org/world-report/2014/country-chapters/israel-and-palestine last visited on January 15, 2015.

48 According to United Nations in July 2013, about 3,500 Palestinian fishermen worked off the Gaza coast, compared to more than 10,000 fishermen in 2000, available http://www.aljazeera.com/news/middleeast/2014/08/gaza-palestinian-fishermen-israel-blockade last visited on January 15, 2015.

The issue of Palestinian refugee crisis is another significant matter on the table of peace negotiation process. Palestinians who were forced to left their homeland which known as the "nakba" or catastrophe that dislocated thousands of Palestinians who took shelter in many Arab States or who are internally displaced people due to eviction by Israeli.[49] How this issue would be resolved? Whether they will have right to return in either or both Occupied Palestinian Territories (OPTs) and in territories (now comprised Israel) where they previously been residing? Many argued dubiously on the right to return of those Palestinians refugees who acquired the nationalities of other states.[50] Acquisition of new nationality in relation to a refugee results in invalidation of status of refugee under the provisions of Refugee Law.[51] If they have lost the status of refugee how would they have right to return to their country of origin? The crucial question of right to return should resolved and can be attributed from many angles, including International Refugee Law, Human Rights Law, and Humanitarian law.[52] Palestinians have legitimate and genuine right to return in their 'own country' because of the concept of 'de jure nationality'[53] and 'genuine link'[54] with their homeland. For doing so, the issue of Statehood must be resolved first. However, for any peace negotiation to succeed we need to strike a balance between the existence of Israel as State and the survival of Palestinian people as nation to exist in their land. It should also be remembered that Palestinian refugees, displaced and unfortunate people "should not be made pawns in the negotiations for final settlement".[55].

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[49] Adrien K. **Wing,** *A Truth and Reconciliation Commission for Palestine/Israel: Healing Spirit Injuries;* U Iowa Legal Studies Research Paper No. 08-16; Transnational Law & Contemporary Problems, Vol. 17, No. 139, 2008, p. 140 Available at SSRN: http://ssrn.com/abstract=1130427, last visited on June 10, 2015.

[50] Masri **Mazen,** *The Implications of the Acquisition of a New Nationality for the Right of Return of Palestinian Refugees*, Asian Journal of International Law, V. 5, I. 2, 2015, p. 356 -386.

[51] Article IC, The Refugee Convention 1951.

[52] Kathleen **Lawand,** *The Right to Return of Palestinians in International Law,* International Journal of Refugee Law, V. 8, No. 4, p. 535.

[53] Ibid, p. 532.

[54] The concept was established and affirmed by *Nottebom Case* (Liechtenstein Vs. Guatemala) 1955, ICJ.

[55] John Bernard **Quigley,** *Repatriation of the Displaced Arabs of Palestine and the Meaning of Security Council Resolution 242 (September 2007)*. Ohio State Public Law Working Paper No. 103, p. 1, available at SSRN: http://ssrn.com/abstract=1017828 or http://dx.doi.org/10.2139/ssrn.1017828 last visited on February 10, 2015.

THE STATEHOOD OF PALESTINE: IS WEST SHIFTING TO SOME NEW PARADIGMS?

In 2012, United Nations General Assembly voted to provide Palestine as a non-member observer State of UN.[56] The proposal was passed with overwhelming majority, however, the United States and many European countries either objected or abstained from voting. After the conflict of 2014 between Israel and Palestine which resulted in huge Palestinian civilian casualties, many western States have deeply expressed their concerns over the issue along with other parts of the world. Even some Western nations have decided to change their previous positions and now advocate Palestinian Statehood with a view to ending the crisis immediately. Sweden officially recognizes the State of Palestine; it is the first European Union country to do so.[57] Hundred and thirty five other nations that already recognized Palestinian Statehood include Hungary, Slovakia and Poland although these three countries took this step before joining the EU.

Recently, British lawmakers voted a non-binding motion in recognizing Palestine as a State. It is considered to be a significant symbolic move that will increase the pressure for a two-State solution to the Israeli-Palestinian conflicts. Legislators in the House of Commons voted to support a motion calling on the British government to "recognize the State of Palestine alongside the State of Israel".[58] However, the government clarified that vote would not change Britain's official diplomatic stance.

Although there are differences of Stage agreed that for durable peace in the region, the recognition of Palestinian Statehood is inevitable. The recent Israeli attack on Palestinian civilians has posed the issue on the table

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[56] 29 November 2012, GA/11317, Available at http://www.un.org/press/en/2012/ga11317.doc.htm last visited on February 15, 2015.

[57] Swedish authority did that in recognition of right to self determination of Palestinian People; add added that "Today's recognition is a contribution to a better future for a region that has for too long been characterized by frozen negotiations, destruction and frustration,", available at: http://www.euronews.com/2014/10/30/sweden-becomes-first-eu-country-to-recognise-the-palestinian-state, last visited on March 5, 2015.

[58] The Motion was initiated by Labour Party legislator Grahame Morris on 13th November, 2014, the proposed motion was overwhelming supported by members both from Government and Opposition, however, Prime Minister David Cameron and some other influential government members did not participate in the voting, available at: http://time.com/3504959/u-k-israel-palestine-palestinian-statehood-parliament/.

with a demand of immediate resolution not just from Middle Eastern countries but from Western world as well. France also followed same course like Britain by preceding a non-binding proposal in the parliament.[59] Before that, Upper House of the Irish Parliament also adopted a resolution in favor of Palestinian Statehood. The ineffective peace negotiation and lingering sufferings of people in the region have navigated the growing frustrations. EU's foreign policy Chief Federica Mogherini recently while visiting the region has commented that "We're not going to wait forever" and warned that "Other European countries are poised to follow Sweden".[60] Irish Foreign Minister Charlie Flanagan also raised the prospect in recent times that his country would step up its support for an independent Palestinian state, citing it as "the cycle of construction, reconstruction, destruction and further construction."[61] The steps taken by western countries demonstrate the diplomatic success of Palestine at same time western approach to solve the dispute by diplomatic means. Vatican's recognition of Palestinian State is a significant step forward not only for Palestine but also for other parts of the world who may in the long run be interested to resolve the dispute.[62] Vatican's recognition conveyed the message that the dispute between Palestine and Israel should be placed beyond all politics, religious and regional partiality so that issue could be resolved neutrally with durable peace.

COMMITMENTS OF ISRAEL AND PALESTINE TOWARDS INTERNATIONAL LAW

The establishment of a Jewish State in the Middle East was purely a matter of political will of the world's big powers. However, this was a complicated political process that needed many diplomatic maneuvers to justify its legitimacy. The issue of establishment Israel as a State alongside with the Palestinian State was adopted by several UN Resolutions, mainly by UNGA

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59 On 2nd December 2014, French Parliament adopted a symbolic resolution in recognizing Palestine as a state.

60 See, http://online.wsj.com/articles/european-nations-consider-recognizing-palestinian-state-1415406076, last visited on March 5, 2015.

61 Ibid.

62 Vatican City entered into agreement with Palestine on 2nd January, 2015, which recognizes the State of Palestine, see, http://www.nytimes.com/2015/06/27/world/middleeast/vatican-palestinian-state.html?, last visited on March 25, 2015.

Resolution 181(II).[63] Two-States solution envisioned by the UN did not receive much attention from Jews Israel or Palestinians who have been fighting for their own sovereign State. The rights of Palestinian people were not respected seriously enough and thus their legitimate rights were either remained unprotected or ignored by international legal mechanism. Their rights were violated either in the name of Israeli security issues or ongoing armed conflicts did not allow to give much thought about the implementation of international law, human rights and humanitarian laws in the region. It is easy to blame both the parties for their violation of international law but the issue of peace and security of the people remained unaddressed.

At the initial stage of its emergence as Statehood, Israel used the armed forces and was as its strategies to obtain *de jure* recognition of its statehood from the Arab States. During the early decades, there were claims and counterclaims regarding violations of international law in the region by the conflicting parties. Aftermath of Six Days War, 1967 has assured some projects of compromise based on the resolution 242 of UNSC. Israel had to withdraw its force from 'Sinai' as an immediate impact of the implementation of the said resolution. Moreover, the resolution stipulates the parties to negotiate peace process keeping in consideration that the newly recognized 1967 territorial boundaries might be an acceptable formula of peace to all parties concerned. Israeli authority, in course of time, showed disrespect to the formula as well and carried it strategy to build settlements in Occupied Palestinian Territory beyond the said fence. In doing so, Israel has been using forces and demolishing the homes of Palestinians for the newly arrived Jews coming from many foreign countries. Historically, it has been demonstrated that Israel fell short of respecting the UN resolution in many aspects. For example, UNGA Resolution 194(III) postulates that "...refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date".[64] It

[63] The resolution requires that the United Kingdom shall evacuate and armed forces should withdraw no later than August 1, 1948; By this process Independent Arab and Jewish States and the Special International Regime for the City of Jerusalem administered by the United Nations should come into existence; The City of Jerusalem should preserve the interests of Christian, Jewish and Muslim faiths.

[64] GA Res. 194 (III), 11 Dec. 1948, available at: http://unispal.un.org/unispal.nsf/a06f2943c226015c85256c40005d359c/c758572b78d1cd0085256bcf0077e51a?, OpenDocument last visited on January 26, 2015.

is rather unpleasant that neither Palestinian refugee crisis has been solved nor the building Israeli new settlement has been stopped.

DISREGARD TO ADVISORY OPINION OF ICJ

The eligibility of Palestine to be a party or to seek legal recourse from any global entities is an issue of rigorous debates and discussions at hand.[65] Palestinian ability to seek advisory opinion from the International Court of justice (ICJ) has also been lambasted because of various politico-legal grounds. One of the key points of objection is that the territory of Palestine is uncertain and yet to be fixed, hence, it cannot be regarded as State. However, this *de jure* drawback is surpassed by the many *de facto* realities and contingencies that led the international institutions for paying their heed to Palestinian calls.[66] For instance, Resolution 67/19 of 2012 of UNGA recognizes the statehood of Palestine as the recognition of right to self-determination of Palestinians. In 2004, International Court of Justice (ICJ) in pursuant to the request of UNGA, opined that "…The Construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to the International Law, Israel is under an obligation to end its breaches of International Law"[67].

The court further opined that Israel is liable to pay compensation for such illegal constructions, and requested the UN to adopt appropriate measures in this regard. However, Israel and its allies did not pay heed to the opinion of ICJ. United Nations was unable to take any further effective steps because of the many obvious reasons related to the composition and split position of powerful political and military powers over the major conflicting issues between the two parties. Israeli policy of continuous construction and settlement in the Palestinian territory is considered to be one of main hindrance in the peace negotiation between them.[68].

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[65] E, **Kontorovich,** *"Israel/ Palestine- The ICC's Uncharted Territory ",* 11 Journal of International Criminal Justice (JICJ) 2013, p. 979.

[66] Yael **Renen,** *Israel, Palestine and ICC –The Territory Uncharted But Not Unknown,* 12 Journal of International Criminal Justice (JICJ), 2014, p. 7-25.

[67] Reports of Judgments, Advisory Opinions and Orders, International Court Justice (ICJ), 2004, p. 69, available at http://www.icj-cij.org/docket/index.php?p1=3&p2=4&case =131&p3=4, last visited on January 26, 2015.

[68] Cf. Statement by Richard **Miron,** Spokesman for the UN Special Coordinator for the Middle East Peace Process, Robert Serry on Israeli settlement plans in East Jerusalem

ACCUSATION OF WAR CRIME, CRIME AGAINST HUMANITY

The issue related to rules and norms of international law comes into spotlight repeatedly over the years because of unresolved conflicts between the parties. There has been series of actions and reactions that resulted in violence in many occasion. Violence has been regarded as formidable hindrance against to peaceful solution of Israeli-Palestinian conflicts. Has Israel been hunted by the 'Intifada' uprising? Are Israeli brutalities against Palestinians in the name of suppression of 'Intifada' uprising justified? How pertinent the question of breach of international human rights and humanitarian law since first Intifada in 1986 up to the all out Israeli repeated military assaults in Gaza Strip. United Nations Human Rights Council (UNHRC) assigned a fact finding mission to investigate the issues relating to alleged violations by Israel and Hamas.[69] The Goldstone Report, 2009 came up with a conclusion that Israeli defense forces should be indicted for their indiscriminate and disproportionate attacks on Palestinian civilians. The report accused Israel of committing large scale war crime and crime against humanity on one the hand, and on the other it accused Hamas of crime against humanity. Hamas initially rejected some findings of the reports, however, later on urged the world to consider it seriously. In contrast, Israel refused to cooperate with the report and out-rightly rejected it by terming it as erroneous statements of facts.

The question of war crime and crime against humanity again arose due to the Israeli operation 'Protective Edge', in 2014. As a result, UN constituted a three members committee to investigate the issue under international humanitarian law.[70] It is alleged that Israel has committed war crime during the recent conflict as well. There are sufficient grounds for

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and the West Bank, available at http://unispal.un.org/UNISPAL.NSF/0/6768ABE3972DA18F85257869004C8760, last visited on January 28, 2015.

69 United Nations Fact Finding Mission on Gaza Conflicts, popularly known as the Goldstone Report, was an independent body to investigate alleged violation of international law in Occupied Palestinian Territory, especially in Gaza Strip during the conflicts on 2009; Richard Goldstone, a South African Jurist appointed as the head of the Fact Finding Mission.

70 The international humanitarian laws regulating to conduct of armed conflicts are the 1949 Geneva Conventions, along with their official commentaries. Three additional Protocols that devoted to clarify and add various provisions were instituted in 1977. Article 149 of the Fourth Geneva Convention lays down the procedure to carry out an inquiry to the violation of the Convention.

assuming that Israeli Military operation has failed to respect the norms of international law. It has inflicted serious and indiscriminate attack on the Palestinian civilians, even on the hospitals, schools and shelter homes of UN.[71] Under current legal paradigm, such type of indiscriminate attack on the Palestinians violates the international humanitarian law in general, particularly 'Principle of Distinction between Civilians and Combatants'[72] and also 'Proportionality'[73]. On the other hand, there is serious allegation against Hamas that they used the Palestinian civilians as human shields and also run the attack against Israel from the civilian places.[74]

PALESTINIAN MEMBERSHIP IN ICC AND ITS IMPACTS ON PEACE NEGOTIATIONS

Palestinian National Authority on 22 January, 2009, requested the International Criminal Court (ICC) for preliminary investigation of alleged crime by Israel in the Palestinian soil by lodging acceptance of its jurisdiction.[75] The main issue was then to decide the status of Palestine

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[71] Amnesty Says Israel's Attacks on Civilians During Gaza Offensive Amounted to 'War Crimes', available at https://news.vice.com/article/amnesty-says-israels-attacks-on-civilians-during-gaza-offensive-amounted-to-war-crimes, see also U.N. Says Israel Killed Civilians in Schools, Gazans Hid Arms, available at http://www.wsj.com/articles/israeli-attacks-led-to-civilian-deaths-in-gaza-report-says-1430163324 last visited February 10, 2015.

[72] Article 48 of the 1977 Additional Protocol I provides: "The Parties to the conflict shall at all times distinguish between the civilian population and combatants."; Protocol Additional to the Geneva Conventions of 12 August 1949 and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977. Available at https://www.icrc.org/ihl/intro/470, see also https://www.icrc.org/customary-ihl/eng/docs/v2, rul_rule1 last visited July 9, 2015.

[73] It means "Launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated, is prohibited", Additional Protocol I, Article 51(5)(b) (adopted by 77 votes in favour, one against and 16 abstentions) (cited in Vol. II, Ch. 4, § 1) and Article 57(2)(a)(iii) (adopted by 90 votes in favour, none against and 4 abstentions) (cited in Vol. II, Ch. 5, § 325); available at https://www.icrc.org/customary-ihl/eng/docs/v1_cha_chapter4_rule14, last visited July 9, 2015.

[74] Is Hamas using human shields in Gaza? The answer is complicated, available at http://edition.cnn.com/2014/07/23/world/meast/human-shields-mideast-controversy, see also, Hamas' disturbing 'human shields' manual, available at http://nypost.com/2014/08/05/hamas-manual-details-civilian-death-plan-israel last visited on June 10, 2015.

[75] This has been done under article 12(3) of Rome Statute, 1988.

international law and with United Nations. At that time, Palestine was "observer" of UN due to which it could not sign and ratify the Rome Statute and thus, preliminary examination was not taken place. However, situation was changed when UN granted Palestine as "Non-Member Observer State".[76] The total scenario had been shifted dramatically on 2 January 2015, when Palestine deposited its instrument of accession to the Rome Statute with the UN Secretary General (UNSG).[77] In accordance with practice and particularly in reference to UNGA Resolution 67/19, the UNSG, acting in his capacity as depositary, accepted Palestine's accession to the Rome Statute, and Palestine became State Party to the ICC.[78] From Palestinian point of view, it has been considered a significant move to put pressure on Israel to hold it responsible for its alleged war crimes. In contrast, Israel and its major ally like US vigorously objected the issue by contending that Palestinian cannot be member of ICC since it lacks the statehood.[79]

It is argued that issue of Palestinian 'non-statehood' has long been a politics of keeping away Palestine from raising the voice in international forums at the same time keeping Israel out of jurisdiction of ICC or other international judicial bodies.[80] There have been several arguments in favor of Palestinian statehood including Israeli *defacto* recognition of Palestine in Oslo and at different negotiation tables which justify its membership at ICC.[81] Thus, it is plausible that ICC is no more interested to hold accept the objection and Palestine has been offered membership in due course.

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[76] UN General Assembly (UNGA) adopted Resolution 67/19, adopted on 29 November 2012.

[77] See, http://www.icc-cpi.int/en_menus/icc/press%20and%20media/press%20releases/pages/pr1083.aspx, last visited on June 10, 2015.

[78] On 6 January 2015, UNSG granted the membership to Palestine and it becomes the 123rd member of ICC.

[79] See, http://edition.cnn.com/2015/04/01/middleeast/palestinians-icc-membership/, last visited on June 10, 2015.

[80] John **Reynolds,** / Michael G. **Kearney,** *Palestine and the Politics of International Criminal Justice,* William A. Schabas, Yvonne McDermott & Niamh Hayes (eds.), The Ashgate Research Companion to International Criminal Law: Critical Perspectives (Farnham: Ashgate, 2013), available at SSRN: http://ssrn.com/abstract=2071138, last visited on July 10, 2015.

[81] Daniel **Benoliel,** / Ronen **Perry,** *Israel, Palestine and the ICC* (October 8, 2009). Michigan Journal of International Law, Vol. 32, p. 73, 2010, available at SSRN: http://ssrn.com/abstract=1391963, p. 80 last visited on July 10, 2015.

Palestinian membership in ICC may result in some serious consequences. Israel, although not a party to Rome Statute, may practically face the trail of war crimes that are alleged to be committed in Palestinian territory during summer of 2014. On the other hand, Hamas may also confront same sort of trail due to their alleged use of human shield in the Gaza War. However, Palestinian membership in ICC seems to be a big blow for Israel and its allies. Thus, they have reacted sharply in this regard. At the outset, Israel has frozen the taxes and revenues collected from Occupied Palestinian Territories. It is also claimed that Palestinian membership in ICC will hinder the peace negotiation and may dilute the issue in different direction.[82] The significant question is that how much sacrifice Palestinian people need to make to ensure peace negotiation. World has observed a heinous aggression of Israeli forces in Gaza on one hand, and also Hamas inhumane strategy in the war both of which resulted in loss of thousands of civilian lives. Palestine has long been relied on the peace negotiation and also on the international community for resolving the dispute in a peaceful manner. However, in return they have not been achieved their long cherished solution. Indicting the criminals from both sides who committed the war crime should not stand on the way of peace negotiation.

IRAN'S NUCLEAR DEAL AND ITS IMPACTS ON THE PEACE NEGOTIATION

The historic nuclear deal of Iran with six major powers of the world is a significant diplomatic and political development that may affect political and economic dynamics of Middle East along with other parts of the world. After a long negotiation process, the representatives have agreed to a nuclear deal that will limit Iran's ability of Military use of nuclear power.[83] The agreement envisages that Iran will allow International Atomic Energy Agency (IAEA) to investigate the different nuclear sites. In return, the longstanding sanctions that had been imposed by the Western world will be lifted in step by step.[84] UNSC

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[82] See, http://edition.cnn.com/2015/04/01/middleeast/palestinians-icc-membership/, last visited on July 10, 2015.

[83] On 14th July, 2015, the historic accord has been agreed at Vienna, See, http://www.theguardian.com/world/2015/apr/02/iran-nuclear-talks-timeline, last visited on July 23, 2015.

[84] See, http://www.economist.com/blogs/economist-explains/2015/04/economist-explains-3, last visited on July 23, 2015.

endorses the nuclear deal but with provisions that it won't come into effect within 90 days until the US congress review the landmark accord.[85] Although there are mixed reactions but the consensus at Vienna has wide been appreciated.

It is important to assess that alongside the Iranian issue what impact this historic deal may have on the Middle East, especially on the peace negotiations between the Israel and Palestine. Israeli Prime Minister Benjamin Netanyahu had vehemently opposed any kind of compromise with Iran while he was delivering his speech at US congress.[86] After the consensus has been made at Vienna, he criticized the deal terming it as "historic mistake" for the world.[87] On the other hand, its counterpart Palestine has welcomed the consensus and emphasized that world powers should also put pressure on Israel to end the Palestinian crisis.[88] Thus, the latest nuclear deal has certainly added new dimensions not only in the world politics but also in the regional dynamics. Israel is apprehending that this deal would boost up the economic power of Iran at same time Tehran may influence the Anti-Israeli organizations such as Hezbollah, Hamas to attack on Israel.[89] Most of the Arab States have appreciated the deal while Saudi Arabia is not happy with it because it believes that the deal will make Iran as more active player not only in the region but also in the global politics. It is rather difficult to assess the probable impacts of Iran's nuclear deal on the peace process between Israel and Palestine; however, it is easily understandable that the deal will have huge impacts in the region. Because of the diametrical position of Israel and Palestine, Iran's nuclear deal may have different impacts on the peace negotiation process on perspective of each party.

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85 See, http://www.wsj.com/articles/u-n-security-council-endorses-nuclear-agreement-with-iran-1437401196, last visited on July 23, 2015.

86 See, http://www.newyorker.com/news/news-desk/netanyahu-speech-congress, last visited on July 23, 2015.

87 See, http://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-is-reached-after-long-negotiations.html?, last visited on July 23, 2015.

88 See, http://www.haaretz.com/news/middle-east/1.665990, last visited on July 23, 2015.

89 See, http://www.nytimes.com/2015/07/15/world/middleeast/iran-nuclear-deal-is-reached-after-long-negotiations.html?, last visited on July 23, 2015.

ISRAEL-PALESTINE CONFLICTS RESOLUTION BY DIPLOMATIC EFFORTS

It has already been established in course of time that conflicts between Israel and Palestine would not be resolved without active involvements of regional Arabs States and global powers such EU, US and Russia. Israel and Palestine alone by using forces on each other and also with their skilled negotiators might not be able reach at acceptable solution to the crisis. Every day we are passing with intensifying the crisis, anger, hatred, and resentment of both populations increasing.[90] It is argued that diplomatic effort by all stakeholders is the best possible solution to the Israel-Palestine crisis.[91] It is most unlikely that any effort other than non-diplomatic way may result in any concrete outcome. Some has argued to establish UN General Secretary should form a commission consisting of representation of Arabs, other Muslims, Asian, and European Nations, United States and of the both parties.[92] The commission would try to resolve the each disputed issue between the parties with due significance. It is presumable that in this process both the States may not be satisfied with all the issues, however, only job of the commission would be to find out a reasonable compromise that majority of Palestinian and Israeli people are looking for.[93] The Commission must also find a way forward to convince and if necessary coerce the both States by different mechanisms, for instance, accepting refugees of Palestine by other Arabs States and also granting loans for both the States. The US should play key role so that Israel must be the within the process. It may include sanctions, boycotts, trade barriers, or withdrawal of present financial assistance.[94]

Diplomatic approach by different influential actors of the world may pave the way for resolution of disputes between Israel and Palestine. European Union (EU) is assessing new ways to push Israel back to the peace negotiation table with the Palestinians to reach consensus based on two states solution. EU is exploring the ways for members to increase pressure on Israel, for instance, possible means may be not buying products from Israel that

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90 Bracley **Martin** / Alfred **Oxenfeldt,** *The Israel- Palestine Conflicts: A Procedural Proposal of Resolution*, American Diplomacy, available at http://www.unc.edu/depts/diplomat/archives_roll/2003_01-03/martin_proposal/martin_proposal.html, last visited July 15, 2015.

91 Ibid.

92 Ibid.

93 Ibid.

94 Ibid.

originated from occupied territory of Palestine by considering such occupation as illegal.[95] Recognition of Palestinian State by the western nations will certainly put pressure on the Israel to get back in the negotiation table. The pressure may be mounted by the major international game changers. For instance, France has been envisaged on having a resolution at UNSC to set parameters so that Israeli-Palestinian crisis could be ended up by the supervision of UNSC.[96] However, despite the putative setbacks on relationship between US president and Israeli prime minster, it is apprehended that US might continue its traditional back-up to Israel by exercising veto power on France proposal.[97] In 2014, similar type of proposal was unsuccessful at UNSC due to not having required number votes for adoption.[98] The proposal sought to set deadline for negotiation between the parties. It is rather frustrating that allies of Israel in general and Israel in particular are unwilling to accept any imperative roadmap to end the crisis in the region.

In the peace negotiation process, there are some key issues to be dealt with in an appropriate manner. In peace negotiation 'two-state solution' based on the 1967 border line is probably best possible and viable solution at hand. However, Israeli Prime Minister Benjamin Netanyahu during his last election campaign made some serious comments on 'two state solution' even he refused the Palestinian Statehood.[99]Israeli approach is subjected too much criticism from international community and many believe that it was just propaganda to win the election not having much implications from the realistic point of view. Despite the pitfalls and contingencies diplomatic efforts are to be continued with 'two-state solution'.[100] Palestinian refugee crisis would a significant issue to have

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95 See, http://www.haaretz.com/news/diplomacy-defense/1.649244, last visited last visited July 10, 2015.

96 See, http://www.haaretz.com/news/diplomacy-defense/1.649244, last visited July 15, 2015.

97 See, http://www.jpost.com/Israel-News/Politics-And-Diplomacy/Obama-to-veto-French-proposal-for-Palestinian-state-in-UN-Security-Council-402516, last visited July 15, 2015.

98 See, http://www.un.org/press/en/2014/sc11722.doc.htm, last visited July 15, 2015.

99 See, http://www.nytimes.com/2014/11/06/opinion/naftali-bennett-for-israel-two-state-is-no-solution.html, last visited July 25, 2015.

100 Sussman **Gary,** The Challenge to the Two-State Solution, Middle East Research and Information Project, available at http://www.merip.org/mer/mer231/challenge-two-state-solution, last visited July 20, 2015.

acceptable resolution. Likewise, the Israeli settlements and their withdrawal from the Palestinian territory would be a matter of great complication.[101] There might be many issues of discontents pertaining to Israeli security, prevention of militancy in the region, water and maritime rights of Palestinian people and so on. It is unlikely that all the dispute could easily be resolved, however, it is probably safe to conclude that genuine diplomatic effort must go on to have peaceful resolution of the dispute between the parties. In doing so, peace negotiation should have a roadmap not uncertain time-limit and package.

CONCLUSION

Historical exploration shows that the British mandate and other associated events accompanied by the some western powers and United Nations (UN) acted as the prelude to the establishment of Israel State.[102] In no diplomatic effort, from the inception of Israeli State and of late, Palestinian Statehood has been refused.[103] In all initiatives whether it is related to establishment of Israel or protection of Palestinian inhabitants, there was always a roadmap to establish two States side by side one for Jews and another for Palestinians.[104] In the process, UN has also been involved to ensure peace and balance the conflict of interests between the parties. International Community especially the world's big players such as US, EU and other nations have also been resorted various diplomatic efforts to resolve the crisis. U.S President Jimmy Carter along with some other concerned persons had played a significant role in adopting Camp David Accord to normalize the situation in the Middle East. The immediate effect

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[101] Ada **Aharoni** / Chaim **Aharoni,** Possibilities of Israeli-Palestinian Conflict Resolution Based On Mutual Recognition Of National Aspirations, available at: http://www.iflac.com/ada/docs/Haim%20Article.html, last visited July 20, 2015.

[102] Michelle Leanne **Burgis-Kasthala,** *Overstating Palestine's UN Membership Bid? An ethnographic Study on the Narratives of Statehood,* The European Journal of International Law, V. 25, No. 3, p. 680.

[103] Jill Allison **Weiner**, *Israel, Palestine and the Oslo Accords,* Fordham International Law Journal, V. 23, Issue 1, 1999, p. 234.

[104] Adrien K. **Wing,** *A Truth and Reconciliation Commission for Palestine/Israel: Healing Spirit Injuries.* U Iowa Legal Studies Research Paper No. 08-16; Transnational Law & Contemporary Problems, V. 17, No. 139, 2008, p. 140, available at: SSRN: http://ssrn.com/abstract=1130427, last visited July 20, 2015.

of Camp David was satisfactory although world's leaders had to reiterate the relevant issues by Oslo Accord, another significant diplomatic effort to resolve the conflicts between Israel and Palestine. The Oslo Accord, for the first time, was able to bridge the gap to certain extent between Israeli Authority and Palestinian Liberation Organization that both of them recognized each other as competent authority to negotiate.

The peace negotiation process has failed at least to produce some visible outcomes, owing to which both the parties engaged in conflicts at different points of time in the history. At outset of establishing statehood, Israel adopted a policy 'compulsive recognition' by use of force especially from Palestinians and from other Arab States of Middle East. However, as the time goes by, it may sometime holt its policy but did not forgo that completely. Palestinian 'Intifada' or popular uprising at least in three times had tried to demonstrate the resilience of Palestinians against the aggressive policy of Israel.[105] In return, Israel has kept its military operation on the track at several times on Palestinians especially to stop Hamas. Israeli attacks on Gaza in summer 2014, particularly on civilians and children, even in the hospitals and UN shelters have raised serious allegation of war crimes against Israeli forces. The Palestinian membership at ICC has shifted the momentum to the Israel for alleged indiscriminate attacks on Palestinians and also the Hamas for using 'human shields' in the war. It is also observed that Israeli settlements and policy on occupied territory in Palestine has caused serious human sufferings, violation of basic rights, including right to foods, water, and free movement of stranded Palestinian inhabitants.[106] On the other hand, Hamas has been, at different times, operated rocket attacks on the Israeli civilians which posed genuine security threat to Israeli citizens. Israel and Hamas in different extents have been violating the norms of international law. However, the great positivity is that many Western countries have been shifting to new paradigm. Palestinian Statehood has been recognized by large majorities of world's nations and they are eager to see end of conflicts based on the 'two-states' solution.

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[105] Michelle Leanne **Burgis-Kasthala,** *Overstating Palestine's UN Membership Bid? An Ethnographic Study on the Narratives of Statehood,* The European Journal of International Law, V. 25, No. 3, p. 682.

[106] See, Amanda **Cahill-Ripley,** *The Human Right to Water and its Application in the Occupied Palestinian Territories,* Oxford University Press, 2011.

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