The Palestinian Emirates – Clans in the Eyes of International Law

By: Roy Wexler

Table of contents

<u>Paper's Objective</u>

In the past two decades the Israeli-Palestinian conflict discourse focused on one objective, the two states solution. As of today, not only does the two states solution seems to many as impossible unfortunately a three state solution might be more realistic (Hamas regime in the Gaza Strip and the Palestinian Authority in the West Bank). There is a popular saying which state that insanity is doing the same thing over and over again and expecting different results. While insanity might be the case for both sides, the Israeli policy-makers' lack of understanding of the Palestinian clan society and tribal customs might have a significant role in the current deadlock.

This paper would offer the following proposition: a two states solution would recreate for Israel and Palestine the same failure as the Sykes-Picot agreement created for the rest of the Middle East. Instead of the two states solution one, should adopt the complex structure of the Palestinian society and politics and shape the future state based on it. The Palestinian society is clan-based, by which clans possess a significant amount of social and political power within the society. Similar to the United Arab Emirates, seven clan-based emirates that form the state (UAE), the same concept should be suggested as an alternative path in future negotiations between Israel and the Palestine Authority. Thus, instead of a two state solution, there should be seven Palestinian Emirates in the West Bank and another emirate in the Gaza Strip. Each of these emirates would have a separate agreement with the state of Israel, and recognition of these

emirates in the international community would be based on a uniform emirate state in Palestine, similar to the recognition of the United Arab Emirates.[1]

The first chapter of this paper would provide the historical background of the clan based society in the Middle East. This background would include the history of the development of the clans and the different nuances between the Bedouin tribes, clans and notable families. In addition, this chapter would include the history of the clan-based model under the ruling of the Ottoman Empire.

The second chapter would provide the Historical background of the clan society after the fall of the Ottoman Empire. This chapter would compare the clan-based society to western society with an emphasis on the key reasons for the differences between the two. In addition, the background of the Sykes-Picot agreement and the consequences of its implementation would be introduced as well. The discussion would also focus on the "Arab Spring" and its connection to the Sykes-Picot agreement. Lastly, this chapter would provide a brief historical overview of the calm side of the Middle East, focusing on clan-based states in the gulf region.

The third chapter would introduce the proposed borders of the Palestinian Emirates. This chapter would introduce key facts which support the proposition, such as the ongoing tension between the Palestinian governing powers (Hamas and the Palestinian authority) and the clans in the West Bank and the Gaza strip, informal dispute settlement mechanism between neighboring

---

[1] The proposition of the Palestinian Emirates was suggested by Dr. Mordechai Kedar, a lecturer at Bar-Ilan University. The full concept of the Palestinian Emirates could be found in the website Palestinianemirates.com. Mr. Kedar is a leading expert and scholar on Middle East issues, Islam and Arabic literature.

clans, the clans influence on the Palestinian political order and the independent cooperation between at least one Palestinian clan with the Israeli government.

The fourth chapter will examine the relevant provisions of international law regarding statehood. The analysis in this chapter would first introduce the two main theories of statehood and state sovereignty. The first theory is enshrined in Article 1 of the 1933 Montevideo Convention which specifies four requirements for the establishment of statehood: 1) Territory; 2) Population; 3) Government; and 4) the capacity to enter into relations with other states. The second theory reflects the importance of recognition by other states as a condition for the statehood of the potential state. The analysis of this theory would introduce the key roles of the Security Council and the General Assembly in the recognition process. The second part of chapter four would introduce some past examples where the international community recognized clan-based states, or other mini-states, under the relevant provisions of international law, mainly the U.N. Charter. The analysis would focus on the United Arab Emirates, Monaco and San-Marino.

Chapter five would apply the two theories mentioned in chapter four to the concept of the Palestinian emirates. The analysis would focus on the Montevideo requirements and the recognition theory. The analysis would also compare the existing clan-based states and other mini states to the potential concept of the Palestinian Emirates.

Chapter six would analyze the current demands of the Israeli government and the Palestinian Authority in the scope of the Palestinian Emirates' model. The analysis would include the following issues: Jerusalem, settlements, specified military locations, Palestinian refugees, borders and foreign relations.

Finally, Chapter seven would examine three main criticisms to the Palestinian Emirates' proposition: Human rights violations, the divide and conquer problem and the alleged elimination, in part, of the Palestinian identity. The chapter would also include the counter arguments for these critiques.

To achieve progress and a sustainable solution in the peace business one must challenge existing policies and agendas, let alone when they fail. Policy-makers may lack the political power to do just that but it is nevertheless a crucial task that should be conducted. The proposition outlined in this paper is not without challenges, however, it does present a new and fresh approach to the conflict and to the accepted notion of the two states solution. This paper attempts to shake the weak foundations upon which the current view of the conflict stands.

Chapter 1 –Clans in the Middle East

Historical Background of the Arabic Clans

The term "Middle East" has been used by the western world only in the past century.[2] The region stretches from Turkey and Egypt in the west to Iran in the east, and from the northern border of Iran in the north to Yemen in the south.[3] Few big deserts cover the majority of the

---

[2] See W. B. FISHER , THE MIDDLE EAST (ROUTLEDGE REVIVALS): A PHYSICAL, SOCIAL AND REGIONAL GEOGRAPHY, introduction part, 1950.; ADELSON, ROGER (1995). LONDON AND THE INVENTION OF THE MIDDLE EAST: MONEY, POWER, AND WAR, 1902-1922 73 (1995).

[3] See *Middle East*, Worldatalas.com, available at:

http://www.worldatlas.com/webimage/countrys/me.htm.

Middle East territory,[4] and the living conditions there are indeed challenging. For hundreds of years the Middle East region was inhabited by Bedouin tribes and clans.[5] These two groups of societies hold some unique features which are crucial for surviving in the harsh desert environment of the Middle East.

Like any other desert in the world, water sources, crops, livestock and other survival resources in the Middle East desert are considered indispensable.[6] The clans' and tribes' society structures are the result of a human survival instinct and the necessity to best utilize the limited resources they own.[7] The clan, as a social unit, behaves differently than the state. Where the state is based on administrative branches which serve the collective's purpose to enforce order, the clan's main role is to defend its members, to enlarge its fighting and work force via high rates of birth, and to provide its members with more resources.[8] It should be noted that there are some fundamental differences between Bedouin tribes, notable families and clans. Noticing these

---

[4] *Id.* available at: http://www.worldatlas.com/webimage/countrys/asia/middleeast/melnd.htm; P. G. Fookes, *Middle East—Inherent Ground Problems*, Quarterly Journal of Engineering Geology and Hydrogeology, v. 11 33-49 (1978).

[5] See IRA M. LAPIDUS, A HISTORY OF ISLAMIC SOCIETIES 48 (Second Ed. 2002).

[6] See P. G. Fookes, *supra* note 4.

[7] See Philip Carl Salzman, *The Middle East's Tribal DNA*, Middle East Quarterly Vol 15 No. 1 p. 23-33 winter 2008. Available at: http://www.meforum.org/1813/the-middle-easts-tribal-dna.

[8] *Id*; See also Glenn E. Robinson, Palestinian Tribes, Clans, and Notable Families. Available at: http://dspace.africaportal.org/jspui/bitstream/123456789/25658/1/Palestinian%20tribes.pdf?1.

differences is important for this paper's discussion as these different social units inhabit the West Bank and the Gaza Strip.

a) Bedouin Tribes

The word Bedouin comes from the Arabic word "badawin" which means desert dwellers.[9] The Bedouin tribes are semi-nomadic and rely on decentralization and self-help.[10] The social structure of the tribes begin with the nuclear family and stretches to the outer circle of the family which includes the second, third and fourth cousin etc.[11] Although modern Bedouins tribes dwell the same regions for the past couple of centuries, for example the Bedouins of the Israeli Negev, they still keep their social and political norms.[12] Bedouin tribes in the Palestinian population are considered minorities as only 25% of the Gaza Strip population is from tribal origin and a lower percentage in the West Bank.[13]

---

[9] See *Oxford dictionaries*, oxforddictionaries.com.

http://www.oxforddictionaries.com/us/definition/american_english/bedouin

[10] See Philip Carl Salzman Middle East Quarterly, *supra* note 7.

[11] *Id.*

[12] See Cédric Parizot, *Gaza, Beersheba, Dhahriyya: Another Approach to the Negev Bedouins in the Israeli-Palestinian Space*, Bulletin du Centre de recherche français à Jérusalem, 105 2001, p. 98-110. Available at: http://bcrfj.revues.org/1742; Glenn E. Robinson *supra* note 8.

[13] *Id,* See also Glenn E. Robinson *supra* note 8.

b) Clans

The clan is a social unit comprised of several related families, which, so it is claimed, relates to the same shared ancestry, usually via the males' blood line.[14] The social structure of the clan is different as well. Because the clan serves as the social unit which provides its members with individual and family security, the clan's interests plays an important role in the life of its members.[15]

Clans' disputes will result in an ongoing retaliation in order to revenge the honor of the clan, as honor and interests are sometimes perceived as interchangeable.[16] Outsiders can merge into the clan in several ways. For example, if an outside female marries a male, she automatically embrace his clans name and will be considered part of it.[17] Their children will be part of the male's clan, and in the case of divorce, the women will go back to her clan and will leave the children in the male's clan.[18] Another known way to join the clan is by a merger of two clans,

---

[14] *Id.*

[15] *Id.*

[16] *Id*; See also Prof. Dror Ze'evi, *Clans and Militias in Palestinian Politics, middle east*, Brief No. 26 Crown center for the studies of the Middle East (Feb. 2008); Frauke Heard-Bey, *The Tribal Society of the UAE and its Traditional Economy*, in UNITED ARAB EMIRATES A NEW PERSPECTIVE 98 (Ibrahim Al Abed, 1997). Available at: https://www.uaeinteract.com/uaeint_misc/pdf/perspectives/00.pdf.

[17] *Id.*

[18] See Prof. Dror Ze'evi, *Supra* note 16.

where a weak clan search the protection of a strong clan.[19] The merger process will begin as the

weak clan adopts the strong clan's name, and will slowly merge into it.[20] It is not uncommon for

these merger to occur for political reasons, as such mergers can promote the interests of the

adopting clan.[21]

The clan, being a social unit, has managing hierarchy.[22] The elders of the clan are

consulted regarding various issues, but the day to day assignments are ran, usually, by the second

generation males of the clan.[23] The state might oppress its population, or will try to compete with

the clan on the protection of its members, thus the clan's interests will usually conflict with the

interest of the state.[24] It is not uncommon to see armed disputes between the state and the clans.[25]

---

[19] *Id*; See also Glenn E. Robinson *Supra* note 8.

[20] *Id.*

[21] *Id.*

[22] See Prof. Dror Ze'evi, *Supra* note 16; See also Hanna Herzog & Taghreed Yahia-Younis, *Men's Bargaining with Patriarchy the Case of Primaries within Hamulas in Palestinian Arab Communities in Israel*, Gender & Society, Vol. 21 No. 4 579-602 (2007).

[23] *Id.*

[24] See Prof. Dror Ze'evi, *Supra* note 16, p. 6; Glenn E. Robinson *Supra* note 8; Herzog & Younis, *supra* note 22, p. 581.

[25] See Prof. Dror Ze'evi, *Supra* note 16, p.4; See also Country of Origin Information Center, Landinfo Rep. p. 12 (2008). Available at: http://www.landinfo.no/asset/753/1/753_1.pdf.

As mentioned above, the clan's honor is deep routed in the clan's reputation,[26] therefore, if a clan's member is compromised, the entire clan is compromised.[27] It is for that reason that informal settlement dispute mechanisms play a key role in the lives of neighboring clans.[28] This informal justice system is similar to mediation and the state rarely interferes with it.[29] The proposition in the following paper will be based on two main baselines. First, a clan based society, within a state, is more divided than the unified state, and disputes between clans can threaten the stability of the state. Second, the interests of the clan will usually conflict with the interest of the state, and these conflicts of interests might cause repeating rounds of violence.

c) Notable Families

The notable families are structured as clans as well. The only difference is their role in society.[30] The notable families came to place during the Ottoman Empire, which used them as a local political power to enforce the Ottoman rules.[31] The members of these families were hired as high ranking officials by the Ottomans and were given a fair amount of autonomy, and even

---

[26] *Id*. Landinfo p. 7.

[27] See Frauke Heard-Bey, *supra* note 16 p. 99.

[28] *Id*.

[29] See Prof. Dror Ze'evi, *Supra* note 16, p.3; See also Landinfo, *supra* note 25 P. 13.

[30] See Glenn E. Robinson *supra* note 8.

[31] See DONALD QUATAERT, THE OTTOMAN EMPIRE 1700-1922 p. 47 (2nd ed., 2005); See also MARGARET L. MERIWETHER, THE KIN WHO COUNT IN OTTOMAN ALEPPO 1770-1840 p. 46 (1999); Glenn E. Robinson *Supra* note 8.

land.[32] After the dissolution of the Ottoman Empire, these families kept, to some degree, their political influence and the colonial powers used them to keep their governing force efficient.[33] For example the notable families were used during the British Mandate in Palestine, by the Jordanians during their control over the West Bank, by the Egyptians during their control over the Gaza Strip and even by the Israeli Military in the West Bank after the 1967 war.[34]

d) The Arab Society Under the Rule of the Ottoman Empire

The Ottoman Empire used the clans (or notable families as historians refer to them) in order to maximize their governing power over the Empire's population. The Ottoman Empire was indeed an imperialism force imposed on the Middle Eastern population, but within its borders, the local population was given significant amount of autonomy.[35] During the Ottoman Empire, prior to the Sykes-Picot agreement which created artificial Arab nations, the term "Arab nationality" did not exist.[36] The local community in the Middle East was free to build and

---

[32] *Id.*

[33] See Glenn E. Robinson *Supra* note 8.

[34] *Id.*

[35] See Donald Quataert and Margaret l. Meriwether *Supra* note 31; See also HUSSEIN D. HASSAN, CONG. RESEARCH SERV., RS22626, IRAQ: TRIBAL STRUCTURE, SOCIAL, AND POLITICAL ACTIVITIES 4 (2007). Available at:

http://oai.dtic.mil/oai/oai?verb=getRecord&metadataPrefix=html&identifier=ADA464737.

[36] See Efraim Karsh, *Misunderstanding Arab Nationalism*, Middle East Quarterly Vol 8 No. 2 pp. 59-61 Spring 2001. Available at: http://www.meforum.org/30/misunderstanding-arab-nationalism.

maintain its own order.[37] As will be further elaborated in the next chapter, after the disillusion of the Ottoman Empire, the Sykes-Picot agreement tore apart the delicate political structure of the local clans and tribes in the Middle East and imposed upon them the new concept of the modern state. Where a local clan under the Ottoman Empire was running its show, after the Sykes-Picot agreement this clan was governed by another clan who was recognized as the governing power by France and England.[38]

Chapter 2 - The Arab Society after the Fall of the Ottoman Empire

Historical Background of the Sykes-Picot Agreement

The Sykes-Picot agreement was a secret agreement between England and France, with the assent of Russia, prior to the defeat of the Ottoman Empire.[39] In the context of the Middle East, this agreement divided the Ottoman Empire's territory in the Middle East to the future states of Syria, Palestine (which include now days Israel, the West Bank, the Gaza Strip and Jordan), Lebanon and Iraq for the western power to control via the League of Nations' mandate.[40] These artificial borders did not represent the aspirations of the local communities in these regions. For example, the modern state of Iraq forcefully brought together, what is today, approximately 150 tribes that are composed of about 2,000 smaller clans,[41] all which are divided

---

[37] *Id.*

[38] *Id.*

[39] See MARTIN SICKER, THE MIDDLE EAST IN THE TWENTIETH CENTURY, p. 26 (2001).

[40] *Id*. p. 27. See also Articles 1-7 of the Sykes-Picot Agreement (1916). Available at:

http://wwi.lib.byu.edu/index.php/Sykes-Picot_Agreement.

[41] See Hussein d. Hassan, *Supra* note 35 p. 1.

to Kurds, Shiites and Sunnis.[42] Under the rule of the Ottoman Empire these local communities

inhabited three different provinces, Baghdad, Mosul, and Basra.[43] A similar reality was brought

upon the local communities of Syria[44] and Jordan.[45] Syria for example, was much larger under

the Ottoman rule and included Aqaba and Sinai on the south, the Taurus Mountains on the north,

the Syrian Desert on the east, and the Mediterranean Sea on the west.[46] After the Sykes-Picot

agreement introduced new artificial international borders, tribal and clan identities were suddenly

replaced by nationalism.[47] The implementation of the Sykes-Picot agreement resulted in the

---

[42] See William Easterly, Alberto Alesina, Janina Matuszeski, "Artificial States" 3 (center for

global development, working paper No. 100, 2006). Available at:

http://www.cgdev.org/sites/default/files/10648_file_Easterly_Artificial_States.pdf.

[43] See Hussein d. Hassan, *Supra* note 35 p. 3.

[44] See COLLELO, T. & LIBRARY OF CONGRESS. FEDERAL RESEARCH DIVISION, SYRIA: A

COUNTRY STUDY. p. 20-22 (1988).

[45] See JEREMY M. SHARP, CONG. RESEARCH SERV., RL33546, JORDAN: BACKGROUND AND

U.S. RELATIONS 6 (2007).

[46] See Ayse Tekdal Fildis, "*The Troubles in Syria: Spawned by French Divide and Rule*" the

Middle East policy Council Volume XVIII, Number 4 para 2 (winter 2011). Available at:

http://www.mepc.org/journal/middle-east-policy-archives/troubles-syria-spawned-french-divide-

and-rule?print.

[47] *Id.*

French mandate over what is now known as Syria and Lebanon,[48] and the British mandate over what now is known as the Palestine territories, Israel, Jordan,[49] and Iraq.[50]

a) The Differences Between Western States to the Clan-Based States

It is important to distinguish between "artificial states" that were created by the Sykes-Picot agreement (for example: Iraq, Syria, Jordan and Lebanon) and the gulf, clan-based, states (for example: U.A.E, Saudi Arabia, Qatar). "Artificial states" are those states where the physical borders bear no connection to the desire and aspiration of the local population.[51] As stated above, Iraq is a great example which illustrates this concept. The Iraqi local community, although did not share the same aspiration regarding the identity of its future, was nevertheless forced to live in one state. It is therefore easy to understand why it could only be governed by a sadistic dictator which controlled his population using the iron fist. Is also easy to understand why America's attempt to create democracy in Iraq did not prevail as well. The aspirations of the local population should be the building blocks of the state.

---

[48] See the French Mandate for Syria and Lebanon, League of Nations Official Journal, Vol 3, August 1922, p. 1013. Available at: http://www.jstor.org/stable/2212963?origin=JSTOR-pdf&seq=1#page_scan_tab_contents.

[49] See THE ISRAEL-ARAB READER: A DOCUMENTARY HISTORY OF THE MIDDLE EAST CONFLICT (Laqueur and Rubin (eds.), 7th ed., 2008) p. 30.

[50] See the Treaty of Alliance between Great Britain and Iraq, with protocol, U.K-Iraq, Oct. 10, 1922, and Apr. 30, 1923. Available at: http://www.scribd.com/doc/71915781/The-Anglo-Iraqi-Treaty-of-Alliance-of-1922-Oct-10-1922#scribd.

[51] See William Easterly, *Supra* note 42 p. 3.

The DNA of western states is much different then clan-based states. One great factor in this difference might be the earth's climate. As discussed in chapter one above, it is undisputed that Europe and America are much more suitable to sustain human life (than the Middle East desert), where rivalry over survival resources is much less common. This is true even today. Another key factor which makes western states different is the vast immigration rates within them. The U.S. was established by British immigrants, who served the British monarchy by providing it with raw materials and goods from the colonies[52] but eventually managed to escape its grip.[53] It could be assumed that an individual who leaves his home, family, friends and culture to become a part of a colony across the planet does not hold the same profound ties to them as a member of a Middle Eastern clan would.[54]

b) The Negative Impact of the Sykes-Picot Agreement

As demonstrated above, especially in the case of Syria and Iraq, the Sykes-Picot division of the Middle East had nothing to do with the will or aspirations of the local clans and tribes. While during the Ottoman Empire the concept of "live and let live" was mostly accepted, the

---

[52] See EDWARD COUNTERYMAN, THE AMERICAN REVOLUTION, p. 16 (2003 revised edition).

[53] *Id.* p. 106. See also Mordechai Kedar *Americans (Still) Don't Understand the Middle East. This Man Wants to Help* CHICAGO POLICY REVIEW (28 July 2015). http://chicagopolicyreview.org/2015/07/28/americans-still-dont-understand-the-middle-east-this-man-wants-to-help/. This point highlights the deep connection of the Middle East population to the land and the clan. The history of the U.S. is difference as it was built by immigrants from Europe that left their families and homeland to pursue other goals.

[54] Mordechai Kedar, *supra* note 53.

new national order and artificial borders resulted in total a chaotic mess.[55] The Ottoman Empire was in existence for so long due to its understanding of the Middle East by which as long as the local community obey to the rules of the empire, it was given great amount of autonomy.[56]

The structure of the modern state stands on the population's acceptance of common values which should include democracy, civil rights, economics and the rule of law. While the borders of the modern state are crucial and important for its identity, borders by themselves will not and could not be the sole bases upon which the state stands. This, it seems, is the main problem with the Sykes-Picot agreement. The western powers' artificial division of the Middle East was mainly pursued to fill the vacuum which was left by the Ottoman Empire, a vacuum that indeed appealed to western powers as an opportunity.[57]

The population in the Middle East is highly diverse, clans and tribes are popular and dominant social structures that exist within different sectors such as Kurds, Shiites and Sunnis. Clan rivalries for resources are mixed in with sectarian conflicts between the Shiites and Sunnis, and in Iraq also the Kurds.[58] Unfortunately coexistence between these different groups and sub-groups might not be a realistic approach in our current times, let alone after the dissolution of the

---

[55] See Ayse Tekdal Fildis, *Supra* note 46, para 1.

[56] See MARTIN SICKER, *supra* note 39.

[57] See Edward Peter Fitzgerald, *France's Middle Eastern Ambitions, the Sykes-Picot Negotiations, and the Oil Fields of Mosul, 1915-1918*, The Journal of Modern History Vol. 66, No. 4, 697-725 (1994).

[58] See Hussein d. Hassan, *Supra* note 35 p. 1; See also William Easterly, *supra* note 42 p. 3.

Ottoman Empire. One might argue that this is a pessimistic approach which thinks too little of the population of the Middle East, however, the facts indeed present a different case.

c) The Arab Spring

The deadly side effects of the Sykes-Picot agreements are more than just theory. We can now see them running wild in North Africa and the Middle East in the form of what is known as the "Arab Spring"[59] or as it should actually be defined "the Arab Winter." The western media defines the Arab Spring as the Middle East's struggle for democracy and peace.[60] While democracy and peace might have a role in the current rounds of violence, they are probably not

---

[59] See Ayse Tekdal Fildis, *Supra* note 46; See also CHRISTOPHER M. BLANCHARD, COORDINATOR, CONG. RESEARCH SERV., RL33487, ARMED CONFLICT IN SYRIA: OVERVIEW AND U.S. RESPONSE 7 (2005), Available at: http://www.fas.org/sgp/crs/mideast/RL33487.pdf.

[60] See John Simpson, *Who are the winners and losers from the Arab Spring?* BBC NEWS (12 Nov. 2014), http://www.bbc.com/news/world-middle-east-30003865; See also Ben Hubbard and Rick Gladstone, *Arab Spring Countries Find Peace Is Harder Than Revolution*, N.Y. TIMES: See as well MIDDLE EAST (Aug. 14, 2013), http://www.nytimes.com/2013/08/15/world/middleeast/egypt-bloodshed-may-be-ill-omen-for-broader-region.html?_r=0; See also Mark R. Beissinger, Amaney Jamal and Kevin Mazur, *What the Arab uprising protesters really wanted*, THE WASHINGTON POST (Oct. 19, 2015), https://www.washingtonpost.com/news/monkey-cage/wp/2015/10/19/what-the-arab-uprising-protesters-really-wanted/.

the lion's share.[61] There is a common pattern however, it is the diversity of the Middle Eastern population and its historical background that have a great role in the instability that inhabit the region since the beginning of the century.[62] It is impossible to identify the specific reasons for the current round of violence in the Middle East as it involves millions of people which, as stated above, are divided to different groups, Sub-groups, sectors and religions. Proving the obvious is always a hard task, and in some cases the alignment of more than a few circumstances might be the only way to establish one's point. In the case of the Arab Spring the point is that the diversity among the population of the Middle East, which was forced to live under the umbrella of one "state" had a great impact and influence on the current round of violence.

d) United Arab Emirates' Success as a Union of Clans

As stated in the introduction, this paper's proposition is a form of a United Palestinian Emirates state as an alternative to the two state solution. It is therefore crucial to analyze a similar existing model of the said proposition. Luckily, such a model exists.

The history of the United Arab Emirates (U.A.E.) is quite different than the rest of the Middle East. Since the end of the 19th century, the local community in the gulf region (the

---

[61] There are probably many reasons which could explain why the Arab Spring developed to what it is today, however, these issues are not addressed in this paper and will not be covered. This paper will focus on the diversity aspects of the Middle East which to the author's opinion, and according to many sources, was one of the main reasons to the result that we see today.

[62] See Ayse Tekdal Fildis, *Supra* note 46; See also Hussein d. Hassan, *Supra* note 35; Christopher M. Blanchard, *supra* note 59; Philip Carl Salzman, *supra* note 7; Efraim Karsh, *supra* note 36.

Trucial states which are now known as the U.A.E.) signed a set of agreements with Britain for mutual protection.[63] Under these agreements the local community would enjoy the protection of the British navy in return for its help to secure and protect trade routes in the gulf region.[64] The Trucial states' population was, and is still today, of tribal and clan origin.[65] The western powers did not impose a mandate regime in this region, but expanded mutual cooperation which benefited both sides. In the end of the 1960s' The U.K. decided to end the agreements with the Trucial states, which were in the process of transforming to the U.A.E., seven united emirates which form the international recognized state.[66]

The U.A.E. is a federal state comprised of seven Emirates.[67] An Emirate is a territorial unit, usually quite small, that is governed by a clan or a tribe.[68] This quasi-state functions as a de

---

[63] See Frauke Heard-Bey, *The Beginning of the Post-Imperial Era for the Trucial States from World War I to the 1960s* , in UNITED ARAB EMIRATES A NEW PERSPECTIVE 117 (Ibrahim Al Abed 1997).

[64] *Id*.

[65] See Frauke Heard-Bey, *supra* note 16 p. 101; See also Ingo Forstenlechner, "*The U.A.E, the "Arab Spring" and Different Types of Dissent*" the Middle East policy Council Volume XIX, Number 4 (winter 2012), Available at: http://www.mepc.org/journal/middle-east-policy-archives/uae-arab-spring-and-different-types-dissent.

[66] See Frauke Heard-Bey, *supra* note 63 p. 120.

[67] See Ibrahim Al Abed, *The Historical Background and Constitutional Basis to the Federation*, in UNITED ARAB EMIRATES A NEW PERSPECTIVE 121 (Ibrahim Al Abed, 1997)

[68] *Id*.

facto state and holds many similar features of a large scale state.[69] The seven emirates of the

U.A.E. are Dubai, Abu Dhabi, Ajman, Fujairah, Ras al-Khaimah, Sharjah, and Umm al-

Quwain.[70] These seven emirates form a federal state which was admitted to the U.N. upon the

recognition of the Security Council and approval of the General Assembly in 1971.[71]

So why did the Arab Spring pass the U.A.E.? Some reporters in the media attribute the

U.A.E.'s wealth and oil reserves as the main reason.[72] But this is a false argument as the crude oil

reserves in Iraq for example currently hold 143,069 barrels (by scale of a million)[73] and the

U.A.E. crude oil reserves hold 97,800 barrels (by scale of a million).[74] There is much more oil in

Iraq, a state that was drawn, in part, to the Arab Spring. It seems that the mainstream recognized

reasons of the Arab Spring (will for Democracy and Peace) are the heart of the problem. The

---

[69] *Id*. p. 131; See also Ingo Forstenlechner *supra* note 65.

[70] See *The Official Portal of the UAE government,* Government.ae

http://government.ae/en/uae;jsessionid=4SSFwJjTbCIBNnBrsMiYNeMk.undefined.

[71] See the U.N. G.A. Res. 2974 (December 9, 1971).

[72] See Angela Shah, *Why the Arab Spring Never Came to the U.A.E.?* Time (18 July. 2011),

http://content.time.com/time/world/article/0,8599,2083768,00.html; See also Yochi Dreazen,

United Arab Emirates: No Arab Spring in Sight, Pulitzer Center on Crisis Reporting para 3 (27

January. 2012), http://pulitzercenter.org/reporting/arab-spring-united-arab-emirates-uae-5-bin-

ghaith-persian-gulf-states.

[73] See the *Organization of Petroleum Exporting Countries*, opec.org

http://www.opec.org/opec_web/en/about_us/164.htm.

[74] *Id*. http://www.opec.org/opec_web/en/about_us/170.htm.

Arab Spring passed the U.A.E due to its social and political structure. The ruling clans of the seven emirates are of the same clan origin as the population in each emirate[75] and therefore their legitimacy was not challenged.[76] Thus, it is possible to suggest that the "Arab Nationalism" in some regions is actually not more than thin layer that covers the true tribal and clan origin of the local communities!

Chapter 3 – The Palestinian Emirates

To use the U.A.E. model as an alternative proposition for the two state solution one would need to explore the relevant clans and tribes in the West Bank and the Gaza Strip. This is crucial for this paper's objective as it will establish the factual basis for the legal analysis that will be introduced in chapter four.

a) Borders Between the Clans of the West Bank and the Gaza Strip

The largest seven cities in the West Bank from north to south are: Jenin, Tulkarm, Nabulus, Qalqilyah, Ram Allah, Jericho and Hebron (excluding for now Bethlehem). These major cities are the proposed locations of each emirate as seen in the attached map below.[77]

---

[75] See Ingo Forstenlechner, *supra* note 65.

[76] *Id*.

[77] See the Palestinian Emirates, PalesinnianEmirates.com

http://palestinianemirates.com/Maps.html.

Some of these major cities are occupied by large Palestinian clans that govern and dictate, to some degree, the order and social life.[78] For example the Karmi clan has a strong grip in Tulkarm, Al-Masri is the leading clan in Schechm (Nabulus), the Barghouti clan resides in Ram Allah, the Erekat clan is the ruling clan in Jericho and the Jabaris are the prominent clan in

---

[78] See Barry Shaw, *Thoughts on Israeli-Palestinian conflict: Part* II, THE JERUSALEM POST (13.12.2012) http://www.jpost.com/Opinion/Columnists/Thoughts-on-Israeli-Palestinian-conflict-Part-II; See also Glenn E. Robinson *supra* note 8, appendix.

Hebron although other clans resides there as well such as Abusnena, Qawasme and Natche.[79]

The case of Bethlehem is different however as the local population there is too fragmented in

order to sustain a stable emirate.[80] However, as discussed above in chapter one, mergers between

clans for political reasons is quite common, and exploring this solution for Bethlehem might bear

fruit. The same proposal could also be made for villages that are not located near the major

cities.

The case of the Gaza Strip is a bit different from the West Bank. Although several clans

resides in the Gaza Strip, the political situation in Gaza can be seen as a mixture of quasi-

emirates that coexists with the Hamas regime. For example the Hillis clan in Gaza, after a long

round of violence with Hamas, was permitted to keep its weapons as Hamas could not impose its

authority over it.[81] This fact should not be taken for granted. State sovereignty entails monopoly

over firearms and other devices for self-defense. Thus the Gaza Strip could be regarded as one,

de facto, emirate which will be part of the general solution of the Palestinian Emirates.

---

[79] *Id.*

[80] See the Palestinian Emirates, *supra* note 77.

[81] See Prof. Dror Ze'evi, *Supra* note 16 p. 4; See also Landinfo, *supra* note 25 p. 13. As Gaza is

currently governed by a group who openly calls for the elimination of all Jews, and to the

obliteration of the State of Israel, it is hard to propose any practical idea that could resolve the

issue there. Therefore, the West Bank is given much greater emphasis as the leadership there

appear to be friendlier to negotiations with Israel, for example: the Oslo Accord agreement and

the Road Map.

b) Dispute Settlement Agreements Between the Palestinian Clans

To make the concept of the Palestinian Emirates realistic we need to explore the current reality in the West Bank and the Gaza Strip, and find the clues that would support this paper's objective. One possible clue is the traditional settlement dispute mechanism between neighboring clans.

The clans' grip in the major cities of the Palestinian territory and the failure of the Palestinian authority to maintain a formal justice system, in part, strengthened the informal justice systems within the clans' society.[82] This is especially true in the case of Hebron. Hebron is well known for its mediation system and clan disputes there rarely escalate to violence.[83] As the political situation in Gaza is less stable, the Hamas regime turned to such informal justice tools as well.[84]

Informal justice systems between clans are strong evidence in favor of the Palestinian Emirates proposition. The Palestinian Authority in the West Bank and Hamas in the Gaza Strip allow these mechanism to work, it seems, because they are deep routed in the local population's routine. This is not surprising as these traditions and customs exists in the Arab society for centuries.[85]

---

[82] See Landinfo, *supra* note 25 p. 15; See Also Glenn E. Robinson *supra* note 8 p. 5.

[83] *Id.*

[84] See Landinfo, *supra* note 25 p. 16;

[85] See discussion in chapter 1.

c) <u>Cooperation Between the Israeli Government and a Palestinian Clan</u>

Besides the past cooperation between the Israeli government and notables families of the West Bank and the Gaza Strip[86] the most recent events of vandalism by Palestinians towards graves in the Mount Olives' graveyard in Jerusalem resulted in cooperation between the Israeli Government and a Palestinian clan from the nearby Ras el-Amoud neighborhood in the outskirts of Jerusalem.[87]

Rabi Hillel Horowitz, director of the Council of Cemeteries in Jerusalem (a governmental office under the jurisdiction of the Ministry of Religious Affairs[88]) gave an interview to the news website Arutz Sheva regarding the hostilities and vandalism by the Palestinians towards the graveyard on Mount Olives.[89] Mr. Horowitz stated that the Israeli government hired three members of the nearby 'Ith clan to guard the site and to prevent further acts of vandalism.[90] When asked why the new cooperation would deter Palestinians from vandalizing the graveyard, Mr. Horowitz replied "the Arab clan is supposed to create deterrence vis-à-vis its neighbors, due to the unwritten rules according to which each clan stays away from the other's territory".[91] As of

---

[86] *Id.*

[87] See Gil Ronen, *Arab Clan Hired to Guard Mt. Olives Cemetery,* ARTUZ SHEVA

(10.27.2015) http://www.israelnationalnews.com/News/News.aspx/202503#.VuCsGfkrLIV.

[88] See the Ministry of Religious Service, dat.gov

http://dat.gov.il/DeathAndInterment/Pages/Jerusalem.aspx.

[89] See Gil Ronen, *supra* note 87.

[90] *Id.* para 3.

[91] *Id*. para 5.

today there is still not enough evidence to that will determine whether the above stated solution worked. However, for the purpose of this paper, the cooperation itself serve as strong evidence that the interests of the Palestinian clans could be facilitated to create some degree of a peaceful coexistence with the Israeli Government.

The cooperation between the Israeli government and the Palestinian clan also resembles, to some degree, the protection agreements between Britain and the Trucial states (today UA.E.).[92] Israel should seek further cooperation with Palestinian clans!

d) The Clans' Influence in Palestinian Politics

Another strong example of the clans' control in the Palestinian society is their important role in Palestinian politics. Violent political struggles between members of Hamas and Fatah (the PLO's party) do not end on the political level. Every member of these political organizations is also a member of a clan, and the victim's clan will often pursue tribal law for remedy.[93] This reality forces Hamas for example to ask the permission of the clans before acting against one of their members.[94] This fact should also not be taken for granted as government legitimacy should entail full monopoly over law and order, yet it seems that this might not be the case in the Palestinian territories.

A good example describing this delicate political order is the round of violence between Hamas and Fatah in the Gaza Strip in 2007.[95] After Hamas killed a number of Fatah's

---

[92] See the historical brief of the U.A.E. in chapter 2.

[93] See Prof. Dror Ze'evi, *Supra* note 16 p. 1, 5.

[94] *Id.*

[95] *Id*. p. 5.

members,[96] Khaled Mashaal, the chair of Hamas' Political Bureau[97] made a public statement and apologized.[98] In his statement, Mashaal defined these act of violence as "the acts of individuals." Some writers identify Mashaal's statement as a mean to avoid retaliation from the victim's clan members, which could include blood feud.[99]

Politics in the West Bank is also intertwined with tribalism. For example, the Palestinian election law divides the Palestinian territory into 16 districts. [100] Under this law each of the Parliament members must be elected from and by his or her home district.[101] It seems that this division would not fit such a small entity, however, according to some scholars, this system empowers the local clans' leaders to control the Palestinian politics where on the national election systems they have no influence.[102]

Western states' politics is based on the division of different opinion, values and perspectives. For example the U.S. political sphere is divided between the Republicans and Democrats. In Israel, the Knesset (the Israeli Parliament) is divided to a coalition and opposition

---

[96] *Id.*

[97] See the *Islamic Resistance Movement Hamas,* Hamas.ps

http://hamas.ps/en/politicalofficemember/16/khaled-meshal.

[98] *Id*.

[99] *Id*.

[100] See Art. 5 to the Palestinian Election law No. 15 of 1995. Translation available at:

http://www.palestinianbasiclaw.org/downloads/1995-elections-law.pdf.

[101] *Id.*

[102] See Glenn E. Robinson *supra* note 8, p. 5. See also Landinfo, *supra* note 25 p. 11.

and each is comprised from different parties. The main difference however from the Palestinian politics is that regardless of these political difference, all will eventually obey to the rule of law and the executives orders of the government. As seen above, there has been occasions that the Palestinian clans did not accept the Palestinian authority's sovereignty over a particular issue,[103] this is a powerful manifestation of the Palestinians clan's influence and power.

Chapter 4 - Clans in the Eyes of International Law

a) What is a State Under International Law, Introduction to the Two Theories

There are two competing theories of statehood under International law. The first one can be found in the 1933 Montevideo Convention on the Rights and Duties of States[104] which state in article 1 that the state as a person of international law should possess the following qualifications: permanent population, defined territory, government and the capacity to enter into relations with the other states.[105] Some scholars defined this rule as binding customary international law.[106] The second theory put a much greater emphasis on the recognition of the

---

[103] See chapter three and the discussion about the Palestinian clans' settlement dispute mechanism, the struggles over bearing arms and the cooperation with the Israeli government.

[104] See the Convention on the Rights and Duties of States, art. 1, Dec. 26, 1933, 165 L.N.T.S. 19.

[105] *Id*. art. 1.

[106] See JAMES R. CRAWFORD, THE CREATION OF STATES IN INTERNATIONAL LAW 45 (2nd ed., 2006); See also IAN BROWNLIE, PRINCIPLES OF PUBLIC INTERNATIONAL LAW 70 (7th ed., 2008); MALCOLM M. SHAW, INTERNATIONAL LAW 487 (6th ed., 2006); KRYSTYNA MAREK, IDENTITY AND CONTINUITY OF STATES IN PUBLIC INTERNATIONAL LAW 7 (1968); JANE MCADAM, CLIMATE CHANGE, FORCED MIGRATION, AND INTERNATIONAL LAW 128 (2012).

potential state by other states, by which a state could only be defined as one if it recognized as such by other states.[107]

1) The 1933 Montevideo Convention's Requirements

a) Territory

The mere existence of a territory is insufficient to comply with the requirement of the Montevideo requirements.[108] A territory must be occupied by a population that maintains ties to it and over which authority can be effectively exercised.[109] Furthermore, the fact that the Territorial borders have yet to be fully defined does not derogate from the legal validity of the claim that the territory requirement does in fact exist.[110] The potential state should be able to exercise effective control over a portion of the earth's surface.[111]

---

[107] See Jure Vidmar, *Explaining the Legal effects of Recognition*, 61 INT'L & COMP. L. Q. 361 (2012); See also Stephan Talmon, The Constitutive versus the Declaratory Theory of Recognition: Tertium non Datur, 75 BRIT. Y.B. INT'L L. 101, 105 (2005).

[108] See *Supra* note 106.

[109] *Id.*

[110] See the U.N. SCOR, 3rd Sess., 383d mtg. at 11, U.N. Doc. S/PV.383 (Dec. 2, 1948); See also KRYSTYNA MAREK, IDENTITY AND CONTINUITY OF STATES IN PUBLIC INTERNATIONAL LAW 15 (1968).

[111] See Isle. Of Palmas (Neth. v. U.S.), 2R.I.A.A. 831, 838 (Perm. Ct. Arb. 1928).

b) Government

International law requires that there must be an independent public authority over a territory.[112] Independence entails the exclusive control over the territory and the population. For example The International Court of Justice (ICJ) ruled in the *Western Sahara* case that Morocco lacked the "ability to exercise effective and exclusive activities over Western Sahara" and therefore could not have a claim for it.[113] The exclusive control of the government over its population and territory signifies independent.[114] An independent state should be able to prevent other states from exercising their control over its territory.[115]

c) Population

International law scholars put an emphasis on the permanency requirement, where the potential state must show that its population have some degree of permanency over the territory.[116] Another factor is the shared history and identity of the population as a whole.[117] Moreover, the behavior of the population as a cohesive vibrant community could also identify the population requirement.[118]

---

[112] See Deutsche Continental Gas-Gesellschaft v. Polish state, 5 I.L.R. 11, 14-5 (1929).

[113] See the Western Sahara, Advisory Opinion, 1975 I.C.J. 12, ¶ 107 (Oct. 16).

[114] See Isle. Of Palmas *supra* note 111.

[115] *Id*.

[116] See DAVID RAIC, STATEHOOD AND THE LAW OF SELF DETERMINATION 58 (2002).

[117] See GIORGIO CANSACCHI, *IDENTITÉ ET CONTINUITÉ DES SUJETS INTERNATIONAUX* 88 (1970).

[118] See Duchy of Sealand 80 I.L.R. 683, 685 (Admin. Ct. Cologne 1978) (Ger.).

d) <u>Capacity to Enter into Relations with Other States</u>

The capacity to enter into relations with other states reflects the state's ability to engage with who it sees fit whether legally or diplomatically and be bound by these engagements.[119] This ability, again, signifies the state's independence[120] and as seen above, international law scholars and tribunals noted that independence lies in the heart of statehood. The state's ability to legally engage other entities means that it must have a monopoly over legislation, political order, financial markets etc.[121]

<u>Summary of the Montevideo Requirements</u>

Where international scholars and tribunals wrote many volumes about the Montevideo requirements, for the purpose of this paper the requirements would be put together to one rule, namely the state under international law is an independent entity that possesses exclusive and effective control over a territory and a cohesive and permanent population that inhabit it.

2) <u>The Recognition Theory</u>

<u>The United Nations' Charter</u>

The prominent legal mechanism that incorporates the recognition theory is enshrined in article 4(2) to the Charter of The United Nations (the U.N.).

---

[119] See SHAW, *Supra* note 106, at 202;

[120] See SHAW, *Supra* note 106, at 202; Crawford, *supra* note 106, at 62; McAdam, *Supra* note 106, at 133.

[121] See the Austro-German Customs Union Case, Advisory Opinion, 1931 P.C.I.J. (ser. A/B) No. 41, at 45, (Sept. 5).

Article 4(2) to U.N.'s charter states that "membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council."[122] Thus, for a "non-member" state to become a "member-state" the Security Council (S.C) must first give its recommendation to the General Assembly (G.A) which will then vote whether or not to accept the potential member.

At first glance it seems that article 4(2) provides the G.A. with the power to decide which member will be accepted as a U.N. member, however, it is actually the S.C. who controls the entry door. Article 27(3) of the U.N.'s charter states that "Decisions of the Security Council on all other matters[123] shall be made by an affirmative vote of nine members including the concurring votes of the permanent members…[124] The permanent members of the S.C. are the U.S., China, England, Russia and France.[125] Each of these permanent members control a veto power that could exclude potential "non- member states" from acquiring a seat in the U.N.

Palestine is a good example of the S.C's. control over U.N. membership. In December 2014, the S.C. voted on a draft resolution that would force Israel to withdraw its forces from the West Bank, upon which the State of Palestine would be accepted as a member of the U.N. The

---

[122] See the U.N. Charter art. 4.2.

[123] All matter excluding procedural decisions.

[124] See the U.N. Charter art. 27(3).

[125] See the U.N. Charter art. 23(1).

U.S. vetoed this vote and the resolution failed.[126] The significance of membership is manifested by the G.A.'s decision to accept Palestine as a non-member state in the U.N. in 2012.[127]

A non-members state is not a party to the U.N. charter and therefore does not carry the rights and obligations enshrined in it. To some this might be irrelevant as the word "state" appears in the term "non-member state". However, this status lacks important privileges granted to member-states such as prima facie standing right in front of the ICJ, which is a key tool to enforce international commitments. Article 93(1) of the U.N. charter states that all members of the U.N. "are ipso facto parties to the Statute of the International Court of Justice."[128] Article 35(2) to the statute of the ICJ state that "The conditions under which the Court shall be open to other states[129] shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court."[130] The statute does in fact allow non-member states to appear before the court but only upon the conditions set forth by the S.C.[131]

---

[126] See the *U.N. News Center*, U.N.org

http://www.un.org/apps/news/story.asp?NewsID=49709#.VuRbTPkrLIU.

[127] See the U.N. G.A. Res. 67/229 (December 21, 2012).

[128] See the U.N. Charter art. 93(1);

[129] See Article 35(1) to the statute of the ICJ which state that the jurisdiction of the court shall be open to all member states to the statute. Article 35(2) provide the conditions for jurisdiction to non-member states.

[130] See the Statute of the International Court of Justice art. 35(2).

[131] *Id*.

In Serbia and Montenegro v. Portugal[132] Serbia and Montenegro filed a complaint against the N.A.T.O. states after the bombing campaign N.A.T.O members conducted against Serbia. When the complaint was filed the Yugoslavian federation had dissolved and Serbia and Montenegro claimed to be the federation's successors, and therefore members of the U.N. charter. This argument was important as without U.N. membership the court would not grant prima facie standing. The court ruled that Serbia and Montenegro are not contracting parties to the U.N. charter and therefore are also not parties to the ICJ statute.[133] The court rejected jurisdiction.

The recognitions mechanism laid out in article 4(2) was also acknowledged as essential for membership in the Rome Statute of the International Criminal Court (Rome Statute). In 2011, the International Criminal Court's prosecutor rejected the Palestinian application for membership in the Rome Statute Court due to its failure to pass the S.C. and G.A. approval for U.N. membership according to article 4(2) of the U.N. charter.[134]

b) The Battle over Statehood, Recognition vs. the Montevideo Requirements

Currently there is no decisive answer which of the two theories of statehood prevails, which only makes the debate much more fascinating. After carefully reviewing the two theories,

_____

[132] See the Legality of Use of Force (Serb. & Montenegro v. Port.), 2004 I.C.J. 1160, ¶ 78 (Dec 15).

[133] *Id.* ¶ 117.

[134] See the International Criminal Court, Office of the Prosecutor, Update on Situation in Palestine, Report: 03/04/2012. Available at: https://www.icc-cpi.int/NR/rdonlyres/C6162BBF-FEB9-4FAF-AFA9-836106D2694A/284387/SituationinPalestine030412ENG.pdf.

it is reasonable to assume that while the Montevideo requirements do create an important legal debate, they sit on a very high ivory tower and it is actually the S.C. permanent members' political policies and interests that shape the global statehood order.

The Montevideo requirements are unenforceable. Article 1 to the convention seems to provide us with a check list. If an entity fulfil the check list than it is a state.[135] But an equally important question is who will conduct the analysis and provide the said entity with the approval stamp. Under Article 34(1) to the ICJ statute only states could appear before the court,[136] therefore the said entity, which is not a state and therefore does not meet the requirement of article 34(1), would not be able to appear before the ICJ to plea in favor of the Montevideo requirements. Even if another state would plea on the behalf of the said entity, article 59 to the ICJ statute state that "The decision of the Court has no binding force except between the parties and in respect of that particular case".[137] Therefore, such decision would not bind the entity or any other state to the ruling that the former is indeed a state under the Montevideo requirements.

In contrast to the Montevideo requirements, the legal mechanism enshrined in article 4(2) to the U.N. charter provides the new member state with all the rights granted to other states, this

---

[135] See *supra* note 104. Article 1 to the Montevideo convention state that: "The state as a person of international law should possess the following qualifications." As seen in the work of many scholars (footnotes 104) the word "should" in article 1 to the convention implies obligatory requirement by which without the four conditions specified in the article, a state could not exists.

[136] See art. 34(1) to the Statute of the International Court of Justice

[137] See art. 59 to the Statute of the International Court of Justice.

include the ICJ's jurisdiction. Without prima facie jurisdiction according to article 34 to the

statute, the entity could not enforce its international treaties. Accepting a member state to the

U.N. under article 4(2) grants the new state much more rights and privileges than an entity that

merely meets the Montevideo requirements.

From this theoretical discussion, the issue is whether the international community

recognizes any clan based states or other mini states with clan like features. Not surprisingly,

there are more than a few examples where such recognition has occurred. The discussion in this

chapter will focus on three states recognized by the international community: the U.A.E.,

Monaco and San Marino. The analysis in this chapter will briefly cover the territorial portions of

these states and relevant to Sam Marino and Monaco, their absence of military force, which is

outsourced to other states.

The United Arab Emirates[138]

The political structure of the U.A.E. is identical to the political structure of the Palestinian

Emirates' proposition, eight emirates, unified under the federal Palestinian state. Federal states,

such as Mexico, the U.S. and Germany, are not uncommon in the international community. The

difference between western federal states and clan-based federal states is the political and social

structure on the state level. For example, California, which has no seat in the U.N. functions as a

western state with social and political structures that are quite common in the western world. On

the other hand, Dubai, which also does not poses a U.N. seat, is governed by a clan and function

as an emirate where the majority of the population is from the same clan origin.[139] The territorial

---

[138] For the historical background of the U.A.E see chapter 2 above.

[139] See Frauke Heard-Bey, *supra* note 16 p. 98.

borders between the emirates are not consistent, for example Ras al-Khaimah is divided by Fujairah to two territorial unites.[140] This is also the case of Sharjah.[141] This fact is quite important as it demonstrates a level of flexibility regarding territorial borders. One could only hope that such flexibility exists among Palestinian clans.

San Marino

San Marino is quite a small country. It covers a territory of about 61 kilometers and has an estimated population of about 32,000 people.[142] The legal question whether San Marino fulfil the Montevideo requirements is moot as it was granted membership to the U.N in 1992.[143] San Marino has no army, but rather a ceremonial armed force with a limited police function.[144] Defending the territorial integrity of San Marino is the responsibility of Italy.[145] This fact is quite important as outsourcing the responsibly to defend the territorial integrity of the state might derogate the state's independence and exclusive control over its territory. Yet, the international community recognized San Marino as a state, nonetheless.

---

[140] See the *Ten Guid*, guide.theemiratesnetwork.com, http://guide.theemiratesnetwork.com.

[141] *Id*.

[142] See the *U.N. Data a World Information*, data.un.org,

http://data.un.org/CountryProfile.aspx?crName=San%20Marino.

[143] See the U.N. G.A. Res. A/RES/46/231 (March 2, 1992).

[144] See the *Central Intelligence Agency the World Factbook*, CIA.gov,

https://www.cia.gov/library/publications/the-world-factbook/geos/sm.html.

[145] *Id.*

Monaco

The case of Monaco is quite similar to the case of San Marino. Monaco covers a territory of approximately two kilometers and it has an estimated population of about 38,000 people.[146] Like San Marino, the legal question whether Monaco fulfills the Montevideo requirements is moot as well as it was granted membership to the U.N in 1993.[147] Similar to San Marino, France defends the territorial integrity of Monaco.[148] Yet, this is another case where the international community recognized an entity with limited state's independence.

Chapter 5 – The Palestinian Emirates, the Two Theories of Statehood

After establishing the factual background and the governing law, this chapter will analyze the proposition of the Palestinian Emirates under the scope of the Montevideo requirements and the recognition theory.

a) Territory and Effective Government Control

As stated above in chapter three, the territorial borders of the Palestinian Emirates would be based on the seven major cities in the West Bank and another emirate in the Gaza Strip. Furthermore, as seen above in chapter four, the territories' borders do not have to be either consistent or fully formed, but rather contain a core unit. As seen in the case of the U.A.E. the emirates themselves could be split and divided by other emirates. However, one should examine

---

[146] See U.N. data a World Information, *supra* note 142. Available at:

http://data.un.org/CountryProfile.aspx?crName=Monaco.

[147] See the U.N. G.A. Res. A/RES/47/231 (May 28, 1993).

[148] See *Central Intelligence Agency the World Factbook*, *supra* note 144. Available at:

https://www.cia.gov/library/publications/the-world-factbook/geos/mn.html.

whether the Palestinian Emirates, and the united federal body comprising these emirates, could in fact exercise exclusive and effective control over the population and the territory. As seen in chapter one and three, these conditions might already exist. The Palestinian clans already possess some degree of control over the West Bank and the Gaza Strip territories. This fact is strongly supported by the delicate political balance between the clans on the one hand and the Palestinian Authority and Hamas on the other. The effective control of the Palestinian clans is manifested by their ability to possess quasi-independent powers which are recognized by Hamas and the Palestinian Authority. Informal settlement dispute mechanisms, cooperation with the Israeli government, control over weapons and a great influence in the election process are just a few examples that support this argument.

b) Permanent Population

The fact that the Palestinian population fulfills the requirement of permanency is undisputed. As seen in the first chapter and the second one as well, the West Bank and the Gaza strip were populated by Arab communities prior to the extinction of the Ottoman Empire. The proposition of this paper suggests, however, that the clan and tribal identities precede the Palestinian national identity in more than just a few centuries. As stated in Chapter three, prior to the Sykes Picot agreement, the term Arab Nationalism did not exist but was rather based on clan and tribal social and political structure. This is evident from the Palestinian Independence which established the Palestinian national Identity only in 1964.[149] Although almost a century past since the Sykes-Picot agreement, the tribal and clan identity go back as far as the Seventh century.[150] Second, as seen above in chapter three there is a constant struggle between the Palestinian

---

[149] See the The Israeli-Arab Reader, *supra* note 49 p. 117.

[150] See chapters 1-2.

national identity and the clan/tribal identity. This struggle is manifested by the constant competition over political influence and exclusive control over resources. The Palestinian nationality could be manifested on the federal level, as this would, so it is suggested, create a better balance between the national and tribal/clan identities.

c) Capacity to Enter into Relation with Other States

As stated above in chapter four, the capacity to enter into relations with other states signifies the state's ability to engage other states in legal commitments and to be bound by them. Although the Palestinian Authority is not recognized as a state, it is currently a member of a great number of international treaties.[151] This fact seems to reduce the importance of this requirement as an entity does not need to be a state in order to bound itself in a state-like commitment. In the context of the Palestinian Emirates, the case of the U.A.E. proves that an Emirate state could in fact meet this requirement.

d) The Recognition Theory

The concept of an Emirate based state is not uncommon to the international community.[152] Moreover, some U.N. members function as emirate states, or states with a political order that is fully governed by clan and tribal structure, for example, as seen above, the

---

[151] See the *Permanent Observer Mission of the State of Palestine to the United Nations*, palestineun.org http://palestineun.org/category/treaties-conventions/.

[152] See chapter 2, in the early 20th century Britain engaged in a set of agreements with the Trucial states (now days the U.A.E).

U.A.E,[153] Qatar,[154] and Saudi Arabia.[155] Thus, it is fair to conclude at this stage that the

Palestinian Emirates could quite easily pass the recognition barrier in the international

community, mainly U.N. membership. The recognition of the Palestinian Emirates by the Israeli

government will be discussed in the next chapter.

Chapter 6 – Settling the Main Issues Still in Controversy

It is impossible to discuss the Palestinian Emirates proposition without including the

major issues that are currently in controversy between the Israelis and the Palestinians. These

issues could be traced back to the 1990's Oslo Accords (the Oslo Agreement).[156] The Oslo

Agreement highlights the following issues that should be resolved upon the implementation of

the agreement: Jerusalem, refugees, settlements, security arrangements, borders, relations and

---

[153] See the U.N. G.A. resolution, *supra* note 71.

[154] See the U.N. G.A. Res. 2753 (September 21, 1971). For the clan/tribal influence on the political order of Qatar see also CHRISTOPHER M. BLANCHARD, CONG. RESEARCH SERV., RL31718, QATAR: BACKGROUND AND U.S. RELATIONS 1 (2014). Available at: http://www.fas.org/sgp/crs/mideast/RL31718.pdf.

[155] See the U.N. *Member States*, un.org http://www.un.org/en/members/. For the clan/tribal influence on the political order of Saudi Arabia see also CHRISTOPHER M. BLANCHARD, CONG. RESEARCH SERVE., RL 33533, SAUDI ARABIA: BACKGROUND AND U.S. RELATIONS 4 (2016). Available at: http://www.fas.org/sgp/crs/mideast/RL33533.pdf.

[156] See the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, September 28, 1995, The Israeli-Arab Reader, *supra* note 49 p. 502.

cooperation with other neighbors.[157] Each of these issues would be analyzed differently in the context of the Palestinian Emirates.

a) Jerusalem

The issue of Jerusalem holds much more importance than it actually receives. Both Jews and Sunni Muslims attach religious claims to that small piece of land. To Jews, Jerusalem is the ancient city of King David and where King Solomon build the Jewish temple. For the Palestinian Sunni Muslim[158] the Al-Aqsa Mosque is the place where Muhammad the prophet is believed to have ascended to heaven. Because the claims for Jerusalem are religious in nature, this city transcends the conflict between Israel and Palestine. Jewish people from all around the world and Sunni Muslims might claim to have a say in any future solution regarding Jerusalem.

Jerusalem is currently divided into two separate cities, not by a wall, but by cultures. The eastern part of Jerusalem is occupied by a majority Palestinian population that holds permanent resident status under Israeli law.[159] The Current view of the Israeli Government could best be described by Prime Minister Benjamin Netanyahu's speech at the Knesset Session Marking 48

---

[157] *Id*. Chapter 4 art. 5.

[158] See Tariq Ahmad Hijazi, *The Shiites And Al-Aqsa Mosque*, The Committee for the Defense of the Belief of Ahlus-Sunnah - Palestine 7-8. Available at:

https://d1.islamhouse.com/data/en/ih_books/single/en_sheia_aqsa.pdf.

[159] See amendment 11 to the Government Order and Law Ordnance (1967) (Israel); *Betselem*, btselem.org http://www.btselem.org/download/201411_btselem_map_of_wb_eng.pdf; *Betselem, East Jerusalem*, btselem.org http://www.btselem.org/jerusalem/legal_status.

Years since the Reunification of Jerusalem.[160] The Prime Minister stated in his speech that: " The overwhelming majority of the Israeli public does not want to go back to the days in which legion snipers stood on the walls of our capital…This will not happen, ladies and gentlemen. Jerusalem is our capital. It has been and it will be".[161] The Israeli government's demand regarding Jerusalem is to subject its full sovereignty over the entire city, including east Jerusalem. Although the prime minister addressed the religious significance of the Jews to that piece of land in his speech, the security concerns for the western part of Jerusalem were equally significant.[162]

The Palestinian Authority's stand on Jerusalem is quite different from the Israeli government by which it mainly demands sovereignty only over the eastern part of the city. In his speech to the G.A. in 2015, Mahmud Abbas, the president of the Palestinian Authority stated that: "… Here, I wish to express, on behalf of our people, deepest gratitude to the countries that voted in favor of the resolution enabling us today to raise the flag of the State of Palestine at United Nations Headquarters. The day is not far when we will raise the flag of Palestine in East Jerusalem, the capital of the State of Palestine."[163] We can thus conclude that the core

---

[160] See Benjamin Netanyahu, Remarks at the Knesset Session Marking 48 Years Since the Reunification of Jerusalem (5.18.2015.).

http://www.pmo.gov.il/English/MediaCenter/Speeches/Pages/event48180515.aspx.

[161] *Id*.

[162] *Id*. para 7.
[163] See Mahmud Abbas, Statement at the General Debate of the United Nations General Assembly at its 70th Session (9.30.2015). Available at:

https://gadebate.un.org/sites/default/files/gastatements/70/70_PS_en.pdf.

controversy between the Israelis and the Palestinians is the sovereignty over the eastern part of the Jerusalem.

In order to analyze the issue of Jerusalem in the scope of the Palestinian Emirates we should abandon the two state solution narrative. This exercise would require us to rethink the meaning of the term "sovereignty" in the scope of the emirates sphere, and to examine a third solution that goes beyond full sovereignty or no sovereignty. Two main solutions could be offered. First, statistical analysis and demographic research of the clans residing in eastern Jerusalem's should be conducted. Via this analysis one could suggest a proposition to include east Jerusalem under the Ram Allah Emirate or the Jericho Emirate. As seen above, political interests might cause two clans or more to merge into one, and the Emirate's territory could be separated by another Emirate similar to the case of the U.A.E. This option would include security arrangement in any future agreement between the Emirates and the state of Israel where both sides would share some aspects of sovereignty over the eastern part of the city.

It is important to note that security arrangements between the Palestinian Authority and the Israeli government already exists in the West Bank.[164] This example shows us that mixed sovereignty could work. The second solution, which is outside the scope of this paper, would be to form a different mini Emirate in east Jerusalem in addition to the 8 suggested Emirates. This solution is weak however due to the large number of clans that reside in this area that might not

---

[164] See articles 4, 3, 12, 13 and annex one in chapter two of the Oslo Agreement, *supra* note 156; See also Seth Binder, *What Palestinian-Israeli security cooperation?*, AL JAZEERA (March 9, 2016), http://www.aljazeera.com/indepth/opinion/2016/03/palestinian-israeli-security-cooperation-160309091052648.html.

be of the same clan origin.[165] There is still a difficult question regarding the old city of

Jerusalem. This part of the city includes the Western wall which is important to Jews, and the Al

Aqsa Mosque, which is equally important to Sunni Muslims. Both of these sites reside near each

other, which only makes future solution hard to come by. Due to the strong religious aspect of

this situation, the issue of the old city should be addressed when the Israelis and the Palestinians

conflict would be resolved and not before. It is therefore excluded from this paper.

b) The Settlements and Specified Military Locations

Until 2005, one large Jewish settlement existed inside the Gaza territory, Gush Katif. This

area was comprised from a few small settlements including Natzer Hazini, Gan Or and Ganey

Tal Morag.[166] In 2005 the state of Israel decided to uproot these settlements and evacuated all of

them.[167] Although the Israeli decision was unilateral, the Israeli government hoped that this act

would convince the Palestinians to abandon their violent practices which included among other

things launching rockets from the Gaza Strip to Israeli towns and cities.[168] The question whether

---

[165] See Glenn E. Robinson *Supra* note 8, Appendix.

[166] See *Betselem, Gaza Strip*, *supra* note 159. Available at:

http://www.btselem.org/sites/default/files2/gaza_map_heb.pdf.

[167] See Exchange of letters between PM Sharon and President Bush, The Israeli-Arab Reader,

supra note 49 p. 589, 591.

[168] See Ariel Sharon, PM Sharon addresses the United Nations General Assembly (9.15.2005).

Available at:

http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/pm%20sharon%20addresses%20the

%20un%20general%20assembly%2015-sep-2005.aspx.

or not a unilateral disengagement by Israel was a smart move is not an issue for the purpose of this paper. However, in his speech to the G.A. in 2005, the Former Prime Minister Ariel Sharon (1928-2014) stated that: "… This week, the last Israeli soldier left the Gaza Strip, and military law there was ended… Now it is the Palestinians' turn to prove their desire for peace…"[169] Regardless of the disengagement, rockets kept raining.[170]

The Israelis' demand to keep the West Bank settlements where they are should be viewed through the lenses of the Gaza Strip disengagement plan. The Gaza strip taught Israelis that the formula "land for peace" might not work. This is evident from Prime Minister Benjamin Netanyahu's speech to the G.A. in 2009 where he stated that:" In 2005, hoping to advance peace, Israel unilaterally withdrew from every inch of Gaza. It was very painful. We dismantled 21 settlements, really, bedroom communities, and farms. We uprooted over 8,000 Israelis. We just yanked them out from their homes. We did this because many in Israel believed that this would get peace. Well, we didn't get peace. Instead, we got an Iranian-backed terror base 50 miles from Tel Aviv…"[171]

The Palestinian claim against the West Bank settlements is quite easy to understand. The existing, and any future, settlements in the West Bank are on the territory of the future state of

---

[169] *Id*.

[170] See *Israel Defense Force, Rockets Attack on Israel from Gaza*, idfblog.com https://www.idfblog.com/facts-figures/rocket-attacks-toward-israel/.

[171] See Benjamin Netanyahu, Remarks at the U.N. General Assembly (9.24.2009). Available at: http://www.washingtontimes.com/news/2009/sep/25/transcript-israeli-prime-minister-benjamin-netanya/?page=all.

Palestine. Therefore, the ongoing constructions of new Jewish settlements in the West Bank derogate and minimize the portion of land of the future Palestinian state. In his speech to the G.A. in 2015, Mahmud Abbas, asked the G.A.:"… Is it not time to end the racist, terrorist, colonial settlement of our land, which is destroying the two-State solution?"[172]

Any future solution regarding settlements, including the Palestinian emirates proposition, would have to include some kind of compromise between the parties. The proposition would allow Israel to maintain a security presence in areas of Israeli settlement that are not within the Israeli border. This proposition would again include a mixed sovereignty presence regarding security, but when put in the context of the Emirates, this issue might not raise any objections. As seen above in chapter one, and especially the example of the Mount Olives' graveyard in chapter three, the clan's main interests are to protect its members and provide for them. The security presence of the Israeli army in some parts of the West Bank might actually align with the interests of the clans as it will provide them with the necessary protection against foreign intruders. This kind of cooperation is not new to the Israelis nor to the Palestinian clans as it also existed after the Israeli army took control over the West Bank in 1967.[173]

The present security cooperation between the Palestinian Authority and the Israeli government entails a strong Israeli military presence in the West Bank. Although this security cooperation with the Palestinian authority is temporary,[174] it nevertheless shows that both parties

---

[172] See Mahmud Abbas, *supra* note 163.

[173] See Glenn E. Robinson *supra* note 8; See also the discussion on Notable Families in Chapter one.

[174] See articles 4, 3, 12, 13 and annex one in chapter two of the Oslo Agreement, *supra* note 156.

have a mutual interest in keeping a stable reality in the West Bank. On the other hand, the Israeli government would have to agree which portions of the West Bank would pass to the future emirates. Contrary to the current deadlock on this issue, the negotiations regarding the settlements will not be conducted between Israel and the Palestinian Authority but rather between Israel and each and every Palestinian Emirate separately. Regardless, if these new players, mainly the heads of the Palestinian clans, would find these security arrangements beneficial, it would still put the Israeli government in a new path, unlike the deadlock that currently exists.

c) The Palestinian refugees

The Palestinian demand is simple, the displaced Palestinians of the 1948 and 1967 wars should get the right to return to their homes, which are located within Israeli borders. In his speech to the G.A. in 2015, Mahmud Abbas, stated that: "Our people have placed their hopes on the countries of this organization to help them to gain their freedom, independence and sovereignty, so that their wish and right to their own State, like all other peoples of the Earth, can be achieved, along with a just solution for the Palestine refugee issue in accordance with General Assembly resolution 194 and the Arab Peace Initiative".[175] General Assembly Resolution 194 (1948)[176] states that the "…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…"[177]

---

[175] *Id.*

[176] See U.N G.A. Res. 194 (December 9, 1971). Available at: http://maurice-ostroff.tripod.com/sitebuildercontent/sitebuilderfiles/resolution-194.pdf.

[177] *Id.*

It is undisputed that the return of all the Palestinian refugees to the state of Israel will result in a clash cultures. And as evidence from this paper, it is questionable if both cultures could coexist side by side. Furthermore, the as a matter of demography, the Jewish identity of the Jewish state of Israel will be compromised.[178] Adopting the G.A. resolution might have been practical 70 years ago, but it is not the case today, keeping in mind that the number of people claiming to be Palestinian refugees increased to approximately 5 million.[179] The Palestinian Emirates proposition would introduce new negotiators with different demands, and different interests in mind. For the ruling clan of the Jenin Emirate, the issue of the refugees might not be a deal breaker as, for example, resources and funds from the Israeli government would be. The question of the 5 million refugees still stands and it is a question that should be addressed. However, as this paper deals with the dispute between Palestinians in the West Bank and Gaza, it will not resolve the question of the Palestinians in the diaspora, even though this question is included in the narrative of the two state solution.

---

[178] See *Central Bureau of Statistics*, cbs.gov.il

http://www.cbs.gov.il/reader/newhodaot/hodaa_template.html?hodaa=201511099. Also see

United Nations Relief and Work Agency for Palestinian Refugees in the Near East, Unrwa.org

http://www.unrwa.org/. According to the Central Bureau of Statistics as of April 21, 2015 there are 6.251 Jews living in Israel. As of April 2016 Unrwa's website states that there approximately 5 million Palestinian refugees. G.A. resolution 194 state that these 5 million refugees should be allowed to go back to their home, Israel. Accepting this solution would eliminate the Jewish identity of the state of Israel.

[179] See Unrwa, *Id*.

d) Borders and Foreign Relations

The question of the future borders of the Palestinian Emirates and it foreign relations are discussed in chapter three and four above.[180]

Chapter 7 – Criticism and Counter Arguments

The paper's proposition is not immune to heavy criticism, although the same could be said on any practical solution for the Israeli Palestinian conflict. The following chapter would address three main issues that should be, and will probably be criticized: human rights, the divide and conquer problem and the alleged elimination, in part, of the Palestinian Identity.

a) Human Rights

Critiques of the Palestinian Emirates would argue that the western states should not acknowledge the independence of a collective (clan) that constantly violates basic human rights by applying ancient and primitive tribal law.[181] Furthermore, history has shown that dictatorships eventually fall, usually in a violent matter, and the end result is a failed state.[182] As seen in recent years, failed states such as Iraq, Syria, Somalia and more have devastating effects on themselves and other countries such as the need for financial support, mass influx of migrants, terrorism and much more. Thus, only a stable state that is based on democratic values and the rule of law could survive the test of time.

---

[180] See chapters three and four.

[181] Frank H. Stewart, *Tribal Law in the Arab World: A Review of the Literature*, International Journal of Middle East Studies Vol. 19, No. 4 (Nov., 1987), pp. 473-490.

[182] See Hussein d. Hassan, *Supra* note 35 p. 1. See also TED DAGEN, CONG. RESEARCH SERV., RL33911, SOMALIA: CURRENT CONDITIONS AND PROSPECTS FOR LASTING PEACE (2011). Available at: https://fas.org/sgp/crs/row/RL33911.pdf.

<u>Counter Argument</u>

The counter arguments for this criticism are quite easy to find. First, the idea that democracy is the sole uncontested global value upon which states could strive is practically not true. It is hard to defend the pure evil of dictatorship regimes and this counter argument does not attempt to achieve that goal. However, there is a big gap between the theoretical justifications for the said criticism and what happens in practice. There are approximately 50 states that are currently controlled by dictators, some of which have been in existence for quite some time.[183] This sort of criticism lack real teeth as the western countries cooperate with, deal with, fight with and acknowledge the majority of these states.

It is no secret that the Arab countries in the Middle East constantly violate basic human rights laws,[184] and the Gulf States equally bear such blame.[185] Regardless of these facts, Qatar,

---

[183] See *Current Heads of State & Dictators*, planetrulers.com
http://www.planetrulers.com/current-dictators/.

[184] See Amnesty Int'l, *Annual Report: Egypt 2013*, (5.23.2013). Available at:
http://www.amnestyusa.org/research/reports/annual-report-egypt-2013?page=show; Amnesty Int'l, *Annual Report: Jordan 2013*, (5.23.2013) Available at:
http://www.amnestyusa.org/research/reports/annual-report-jordan-2013; See also Amnesty Int'l, *Annual Report Report: Kuwait 2013*, (5.23.2013). Available at:
http://www.amnestyusa.org/research/reports/annual-report-kuwait-2013;

[185] See Amnesty Int'l, *Annual Report: United Arab Emirates 2013*, (5.29.2013) Available at:
http://www.amnestyusa.org/research/reports/annual-report-united-arab-emirates-2013; See Amnesty Int'l, *Annual Report: Qatar 2013*, (5.23.2013). Available at:

the U.A.E. and Saudi Arabia were chosen to sit as members of the United Nation's Human Rights Council.[186] It is quite ironic that the world's guardian of human rights is ran by those states who are in constant struggle against its existence. Critiques would argue that the fact that dictatorships exist does not mean the international community should recognize more of them. This argument is weak however due to the international community's recent actions in the Human rights council, and its recognitions of more than a few emirates and emirates-like regimes.[187]

Perhaps this counter argument would be best explained by using chapter two of the Oslo Agreement from 1995.[188] As elaborated in chapter two above, since the fall of the Ottoman Empire the Arab community in what was known as Palestine lived under different rulers: 1) the British Mandate over the entire land, 2) Jordanian control in the West Bank and Egyptian Control in the Gaza Strip, and 3) Israeli Control in these areas after the 1967 war. Jordanian and Egyptian law that governed these regions between 1948 and 1967 were with "Arab Flavor"[189] by

---

http://www.amnestyusa.org/research/reports/annual-report-qatar-2013; See also Amnesty Int'l, *Annual Report: Saudi Arabia 2013*, (5.23.2013). Available at:

http://www.amnestyusa.org/research/reports/annual-report-saudi-arabia-2013.

[186] See the *United Nations Human Rights Office of the High Commissioner*, .ohchr.org

http://www.ohchr.org/EN/HRBodies/HRC/Pages/CurrentMembers.aspx.

[187] *Id*. See also the recognition of the U.A.E. in chapter two above.

[188] See the Oslo Agreement, chapter 2, *supra* note 156.

[189] See NATHAN J. BROWN, PALESTINIAN POLITICS AFTER THE OSLO ACCORDS, RESUMING ARAB PALESTINE 7 (2003).

which democracy and the rule of law were, and still are, in direct conflict with it. Chapter two to the Oslo agreement attempts to create, for the future Palestinian state, a democratic political system which includes a parliament (council) and an executive branch. The fact that the Oslo agreement does just that shows that these systems did not exist in the Palestinian society prior to the agreement. As stated above, the governing laws in the West Bank and Gaza were connected to the rule of law of the controlling entities in these regions.

Non-democratic society cannot turn to a democratic one overnight. Theoreticians conducting an abstract debate might introduce intelligent arguments why such a process could in fact succeed. However, those who prefer the practical world should only refer to the failed attempt of the U.S. to do exactly that in Iraq to refute such arguments.[190] Society's ability to be governed by a democratic system and principles is manifested by the education of pluralism, the value of human life and free speech. Unlike other regions where such attempts succeeded, the clan society is clearly distinct.[191]

Democracy should not and could not be imposed on a society that never experienced such a system. As history have shown repeatedly, this requires ongoing hard work for decades. In places where such a system is lacking, implementing democracy would be a great challenge. The concept of the Palestinian Emirates takes in consideration the fact that democracy might not be the prevailing system within the Palestinian society. However, similar to the U.A.E., at least this bargain might create stability upon which such talks of democracy and human rights could be conducted. It would be in the best interest of the international community, Including Israel,

---

[190] See KENNETH KATZMAN, CONG. RESEARCH SERV., RS21968, IRAQ: POLITICS AND GOVERNMENT 3 (2005). Available at: http://www.fas.org/sgp/crs/mideast/RS21968.pdf.

[191] See chapter one and two.

Jordan, Egypt and the population of the potential Palestinian state, to advocate for a stable emirate state such as the U.A.E. and not a failed state with democratic institutions such as Iraq.

b) Divide and Conquer

The formation of a Palestinian Emirates state would only serve Israel's interests as it would be in the best position to implement the divide and conquer strategy. Instead of negotiating with one entity that would represent the entire Palestinian population, under the formation of the Emirates States, Israel would be in the position to negotiate with 8 different emirates where it will have much more leverage. Furthermore, in times of violent hostility, Israel would be in the position to use such division to weaken one emirate while empowering another.

Counter Argument

It is well known that the devil hides in the details. The divide and conquer criticism fails to examine the clues and details upon which the main hypostasis of this paper stands. As seen in chapter three above, the Palestinian population is already divided, and such division is intertwined with many social and political aspects. The PLO's assent to the clans' control over weapons, informal justice systems and even politics are strong examples that refute this sort of criticism. As long as the Palestinian leadership would assent to the clans' strong influence, the argument in favor of a united Palestinian society is doomed to fail as it is being argued with no factual context.

The current, and only, policy regarding the Palestinian state would endanger Israel even more than it does now. As demonstrated above, the PLO lacks the political power and motivation to limit the clans' influence and control over many aspects of the Palestinian society. The full implementation of the Oslo agreement might create a realty where the clans could potentially retaliate against Israel and the Palestinian state would not be able to stop them. It is true that

Israel would be in a better position dealing with the Emirates rather than the PLO, however, such division in the Arab society in the Middle East already existed long before Israel came to existence. It is for these reasons that the justification for this paper's proposition outweigh the divide and conquer criticism.

c) The Alleged Elimination of the Palestinian National Identity

The formation of Palestinian Emirates would eliminate almost 60 years of the Palestinian self-recognition and national identity. The emirates would form a new identity which the Palestinian themselves might not agree to or relate to.

Counter Argument

As elegantly described by Dr. Yuval Arnon, a Middle East researcher from Ariel University, Palestinian identity now days is divided into three parts: the religion sector, the name of the village and the clan.[192] From these three answers the clan is the most important.[193] Within other religion sectors such as Arab Christians and Druzes the clan formation existed as well.[194] Furthermore, some Arab villages are divided to clans also where within the village each clan is located in a separate neighborhood.[195]

As stated in chapter one, and supported by Dr. Arnon as well, the national identity is relatively new to the Arab world. The concept of nationalism only emerged to the Arab world

---

[192] See Yuval Arnon Ohana, *Hebron Convention 2013-* YOUTUBE (May 19, 2013), https://www.youtube.com/watch?v=jmBNe4UKgX4.

[193] *Id.*

[194] *Id.*

[195] *Id.*

after the implementation of the Sikes-Picot agreement.[196] And even though this agreement was

implemented almost 100 years ago,[197] the Arab world still holds a unique connection to the clan

identity.[198] Thus, the dissection regarding the Palestinian nationality should exists in the context

of the clan and tribal identity as well. This counter argument does not refute or eliminate the

existence of the Palestinians' national identity but rather suggest to perceive it within the scope of

the Palestinian clans by which the Palestinian states is to be comprised from the unification of

the different clans within the Palestinian society.

---

[196] *Id*. See also Efraim Karsh *supra* note 36.

[197] See the Sykes-Picot Agreement, *supra* note 40.

[198] See Yuval Arnon Ohana, *supra* note 192.

Conclusion

As of today, it seems that the only discourse regarding the Israeli Palestinian conflict is the two states solution. This paper attempted to refute this notion and offer an alternative path to the establishment of a sovereign Palestinian state. The Palestinian emirates proposition takes in mind both the Palestinian national identity and the Palestinians' unique connection to the social and political role of the clans.

The Palestinian clans hold a great amount of power and influence in the Palestinian society. They are powerful enough to bear arms regardless of Hamas and the Palestinian Authority objections'. The clans also operate their own justice systems and even cooperate with the Israeli government. The role of the Palestinian clans in a future Palestinian state should not be taken for granted, and any solution to the conflict should incorporate their ability to influence the social and political discourse of the Palestinian population.

It is in Israel's best interests to cooperate with the clans in order achieve stability and security. Recognizing the clan's organic ability to govern will provide Israel with a better poison to align its security interests with those of the clans, as it did in the case of mount olive's graveyard. As prosperity and security are key interests of the clans, the Palestinian emirates hold the potential of eliminating extreme religious fever which currently control the Palestinian narrative.

The author of this paper recognizes the lack of data regarding the Palestinian emirates' demography and organic structure. Further research on these topics should be conducted in order to transform this paper's proposition into a practical solution. This is indeed a challenging subject to research, and one could only hope that it will be conducted in the near future.