

# Special File

## The Pope and Jerusalem

### 1. The PLO-Vatican Agreement

**Basic Agreement between Holy See and the Palestine Liberation Organization**

#### Preamble

The Holy See, the Sovereign Authority of the Catholic Church, and the Palestine Liberation Organization (hereinafter: PLO), the Representative of the Palestinian People working for the benefit and on behalf of the Palestinian Authority:

Deeply aware of the special significance of the Holy Land, which is inter alia a privileged space for inter-religious dialogue between the followers of the three monotheistic religions;

Having reviewed the history and development of the relations between the Holy See and the Palestinian people, including the working contacts and the subsequent establishment—on October 26, 1994—of official relations between the Holy See and the PLO;

Recalling and confirming the establishment of the Bilateral Permanent Working Commission to identify, study and address issues of common interest between the two Parties;

Reaffirming the need to achieve a just and comprehensive peace in the Middle East, so that all its nations live as good neighbors and work together to achieve development and prosperity for the entire region and all its inhabitants;

Calling for a peaceful solution of the Palestinian-Israeli conflict, which would realize the inalienable national legitimate

rights and aspirations of the Palestinian people, to be reached through negotiation and agreement, in order to ensure peace and security for all peoples of the region on the basis of international law, relevant United Nations and its Security Council resolutions, justice and equity;

Declaring that an equitable solution for the issue of Jerusalem, based on international resolutions, is fundamental for a just and lasting peace in the Middle East, and that unilateral decisions and actions altering the specific character and status of Jerusalem are morally and legally unacceptable;

Calling, therefore, for a special statute for Jerusalem, internationally guaranteed, which should safeguard the following: a. Freedom of religion and conscience for all b. The equality before the law of the three monotheistic religions and their institutions and followers in the City; c. The proper identity and sacred character of the City and its universally significant, religious and cultural heritage; d. The Holy Places, the freedom of access to them and of worship in them. e. The Regime of "Status Quo" in those Holy Places where it applies;

Recognizing that Palestinians irrespective of their religious affiliation are equal members of Palestinian society;

Concluding that the achievements of the aforementioned Bilateral Permanent Working Commission now amount to appropriate matter for a first and Basic Agreement, which should provide a solid and lasting foundation for the continued development of their present and future relations, and for the furtherance of the Commission's on-going task,

Agree on the following Articles:

## **Article 1**

### **Paragraph 1:**

The PLO affirms its permanent commitment to uphold and observe the human right to freedom of religion and conscience, as stated in the Universal Declaration of Human Rights and in other international instruments relative to its application.

### **Paragraph 2:**

The Holy See affirms the commitment of the Catholic Church to support this right and states once more the respect that the Catholic Church has for the followers of other religions.

## **Article 2**

### **Paragraph 1:**

The Parties are committed to appropriate cooperation in promoting respect for human rights, individual and collective, in combating all forms of discrimination and threats to human life and dignity, as well as to the promotion of understanding and harmony between nations and communities.

### **Paragraph 2:**

The Parties will continue to encourage inter-religious dialogue for the promotion of better understanding between people of different religions.

## **Article 3**

The PLO will ensure and protect in Palestinian Law the equality of human and civil rights of all citizens, including specifically, inter alia, their freedom from discrimination, individually or collectively, on the ground of religious affiliation, belief or practice.

## **Article 4**

The regime of the "Status Quo" will be maintained and observed in those Christian Holy Places where it applies.

## **Article 5**

The PLO recognizes the freedom of the Catholic Church to exercise her rights to carry out, through the necessary means, her functions and traditions, such as those that are spiritual, religious, moral, charitable, educational and cultural.

## **Article 6**

The PLO recognizes the rights of the Catholic Church in economic, legal and fiscal matters: these rights being exercised in harmony with the rights of the Palestinian authorities in these fields.

## **Article 7**

Full effect will be given in Palestinian Law to the legal personality of the Catholic Church and of the canonical legal persons.

## **Article 8**

The provisions of this Agreement are without prejudice to any agreement hitherto in force between either Party and any other party.

## **Article 9**

The Bilateral Permanent Working Commission, in accordance with such instructions as may be given by the respective Authorities of the two Parties, may propose further ways to address items of this Agreement.

## **Article 10**

Should any controversy arise regarding the interpretation or the application of provisions of the present Agreement, the Parties will resolve it by way of mutual consultation.

## Article 11

Done in two original copies in the English and Arabic languages, both texts being equally authentic. In case of divergency, the English text shall prevail.

## Article 12

This Agreement shall enter into force from the moment of its signature by the two Parties.

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## 2. An interview with Afif Safieh

### Graham Usher

*Afif Safieh is the Palestinian General Delegate to the United Kingdom and the PLO's Representative to the Holy See. He was one of the architects of the PLO-Vatican Accord signed in February and of the Pope's recent trip to Israel and the occupied territories. In an interview for the Jerusalem Quarterly File, Graham Usher asked Safieh about the political significance of the Pope's visit, especially vis-à-vis the Palestinians' national claims on Jerusalem.*

GU: What is the Vatican's official position on Jerusalem?

AS: The Holy See's position has been constant for the last thirty-three years. It views East Jerusalem as part of the occupied territories on which United Nations Resolution 242 applies. By signing the historic agreement with the PLO in Rome on 15 February, the Vatican made a deliberate choice. It wanted to clearly show the world the Vatican's position vis-à-vis Jerusalem lest any party exploit the Pope's visit to the Holy Land for partisan purposes.

The Vatican-PLO Accord reiterates the Holy See's view that "an equitable solution for Jerusalem" must be based on "international legality and UN resolutions." It views these bases as a necessity, a sine qua non condition for "a comprehensive and lasting peace in the Middle East." In the accord, the Vatican considers all "unilateral measures" that alter the status and demographic composition of Jerusalem to be "morally and legally unacceptable." In Vatican discourse, it should be noted that the word "morally" is more powerful than "legally."

In essence, the Vatican believes that in Jerusalem there are two national aspirations to be satisfied and three religious rights to be respected. We are comfortable with that message.

GU: Yet Israel's closure of the Old City during the Pope's tour of the Holy Sites was the epitome of "unilateral measures" in Jerusalem.

AS: Yes. To say that Israel "overdid" security in occupied East Jerusalem would be an understatement. It was more like a military curfew. By such an unnecessary and excessive deployment of muscle, the Israelis were hoping to project sovereignty. Their problem is that this sovereignty is recognized by nobody in the international community.

I still remember in May 1996 how the then British Foreign Secretary Malcolm Rifkind (who is Jewish and was conservative secretary of state) stated that the United Kingdom considers Israel to be in military occupation of East Jerusalem and only in de facto control of West Jerusalem. This is the consensus of the

world, the Vatican, and the Palestinians. When we reach serious discussion on the final status issue of Jerusalem, we will be discussing the future of both East and West Jerusalem. In other words, the international consensus recognizes Israel's sovereignty in neither East nor West Jerusalem.

Our position is well known. We believe Jerusalem should remain an undivided city—I say undivided rather than "united" because the word "united" has been perverted by the Israeli annexationists of Jerusalem—with West Jerusalem as the recognized capital of Israel and East Jerusalem as the recognized capital of Palestine. There should be freedom of access to the city for everyone from everywhere, with each religious shrine managed by the relevant religious community.

That is the workable formula for Jerusalem: it's doable, it's possible, it's desirable, and it's indispensable.

GU: Could you clarify the altercation you had with [ed: Israel's Chief Ashkenazi] Rabbi Meir Lau at the Interfaith Conference in Notre Dame on 23 March?

AS: Lau said, "We are grateful that the Pope recognizes the State of Israel with united Jerusalem as its capital." So I shouted from the audience, "the Pope has never said that." And I was pleased that the *Jerusalem Post* newspaper noted in its report of the conference that Lau had embarrassed the Pope by his comments. Neither the Pope nor the Vatican has ever made such a pronouncement. Had Lau's remarks gone unchallenged, it may have been taken as tacit endorsement.

GU: But how wise was it for the Palestinians to even attend the interfaith conference?

AS: I believe such interfaith exercises are premature. Prior to such events, Palestinians live under occupation. After such events, Palestinians live under occupation. And the Israelis always try to exploit such events.

The interfaith conference was prepared by the Vatican's Apostolic Delegate to the Holy Land [ed: Monsignor Pietro Sambini]. The local church [ed: headed by the Latin Patriarch Michel Sabbah] had little input and had recommended that it not be held.

This was one of the reasons for the non-attendance at the conference of the Grand Mufti in Jerusalem, Sheikh Ikramah Sabri. The Mufti is well aware that Rabbi Lau is in favor of the Israeli occupation, supports the annexation of Jerusalem, the confiscation of lands around Jerusalem, and Israel's settlement policies in Jerusalem. Yet he flew into the Interfaith Conference like a dove of peace. But Lau is not a dove of peace. He's a bird of prey.

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### 3. The Church and the Status of Jerusalem

**David Ott**

*This article originally appeared in Middle East International on 26 March 1999 and is re-printed here with their permission.*

Despite the pro-Israeli clamor generated by America's Christian Fundamentalists, significant recent declarations by three mainstream Christian bodies—the Lambeth

Conference, the World Council of Churches and the Vatican—have all confirmed that Christians are energetically engaged on the side of justice and peace in the Holy Land, particularly in relation to the status and future of Jerusalem.

Refreshingly, all three interventions are based implicitly or explicitly on the recognition that international law must play a crucial role in clarifying the historical context of the current situation and in defining the parameters within which an acceptable solution is fashioned.

In the summer of 1998 the Lambeth Conference of the Anglican Communion, which includes the Church of England and the Episcopal Church in the United States, agreed that "East Jerusalem is an integral part of the Occupied Territories and should be included in all political arrangements relating to those territories, including self-determination, release of prisoners, right of return, and eventual sovereignty." The conference urged "our political leaders to take every opportunity to encourage the Israeli government and Palestinian Authority to work urgently for a just and lasting peace" and urged "the United Nations and the governments of the United States and the European Community to use diplomatic and economic influence in support of the above and to demonstrate as firm a commitment to justice for the Palestinians as they do for the security of Israel."

### **A Rights-orientated Approach**

The reference to the use of "economic influence" is intriguing. The potential economic leverage of the U.S. and the European Union over Israel is clear, but the resolution leads logically to the question of how individuals might also use their economic clout to promote justice in the

Middle East. Will Anglicans be asked to boycott Israeli products in a campaign of the sort that was so significant a part of public action against the apartheid regime in South Africa?

Palestine was also high on the agenda when the World Council of Churches (WCC), the Geneva-based ecumenical organization that brings together 339 Protestant and Orthodox churches around the world, met for its 50<sup>th</sup> anniversary assembly just before Christmas. Fringe meetings were addressed by Rev. Dr. Naim Ateek, a noted Anglican clergyman and director of Sabeel, the Ecumenical Liberation Theology Centre in Jerusalem. The assembly also adopted by an overwhelming majority a detailed and wide-ranging, "Statement on the Status of Jerusalem."

The statement emphasizes that Jerusalem "is central to the faith of Christians" and regrets that, due to the problem of Jerusalem being consistently postponed to indeterminate "future negotiations," the city has been left "vulnerable to a series of unilateral actions which have radically altered its geography and demography in a way which violates especially the rights of Palestinians and poses a continuing threat to peace and security."

This rights-oriented approach is highlighted by the statement's conclusion that the Jerusalem issue is "organically linked" with the lives of the people who live there, so that "the continuing presence of Christian communities in Jerusalem" must be ensured and "the violations of rights of Palestinians in Jerusalem which oblige many to leave" condemned.

Because the Christian presence must be not merely demographic but also moral, ethical and spiritual, the statement adopts

the language of the joint Memorandum of the Heads of Christian Communities in Jerusalem, which was agreed in November 1994 and called on all parties "to go beyond exclusivist visions or actions and, without discrimination, to consider the religious and national aspirations of others, in order to give back to Jerusalem its true universal character and to make of the city a Holy Place of reconciliation for humankind."

Historically, WCC members (including of course the Orthodox churches) have had a direct interest in Jerusalem, since the majority of Christian holy places there and in neighboring areas belong to them. Thus the statement affirms, their "relationship... [with] the authorities [has been] guaranteed by ancient covenants and orders, and codified in international treaties and the League of Nations" under the rubric of the status quo.

### **Jerusalem's International Status**

The fact that the holy places in Jerusalem enjoy an international legal status which puts them juridically in a class by themselves has had a major impact on the legal position of the city as a whole, as evidenced notably by a long series of UN General Assembly and Security Council resolutions. Though not going into great detail on this, the WCC statement highlights among others the resolutions associated with the UN Partition Plan and usefully recalls documents whose current legal relevance is often overlooked. General Assembly Resolution 181 of November 1947 required the Arab and Jewish states which were to succeed the Mandate in Palestine to adopt as part of their constitutions provisions confirming "the existing rights in respect of Holy Places and religious buildings" and

guaranteeing "liberty of access, visit and transit for all residents and citizens of the other State and of the City of Jerusalem a subject to requirements of national security public order and decorum."

According to the 1947 Partition Plan envisaged for Palestine, Jerusalem was to be a corpus separatum under a special international regime administered by the United Nations. Significantly, the international stake in religious sites in the Arab and Jewish states was to be given legal force by according the UN-appointed governor of Jerusalem the power to adjudicate disputes over holy places and religious rights not only in his own domain but also "within the borders of [each] state." The UN governor's extraterritorial jurisdiction would evidently have operated even when questions of national security arose—a useful reminder that when "security" is used as a cloak for international illegality it ceases to be exclusively the concern of the offending state.

Significantly, even months after the de facto division of Jerusalem between Israel and Jordan, the UN General Assembly, in Resolution 303 of 9 December 1949, still reiterated its intention that the city should be placed under a "permanent... special international regime... administered by the United Nations," a clear affirmation that international law retains its de jure relevance even in the face of attempts on the ground to "create facts" to the contrary.

Similarly, according to the WCC Statement, the Fourth Geneva Convention of 1949 governing the rights of civilians under military occupation must be understood to prohibit boundary changes, annexation or settlement which would alter the religious, cultural, or historical