

## **Draft-Summary: The specificity of the Palestinian movement of liberalization:**

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The struggle Israeli-arab is considered as the most important struggle around the world because of the importance of this geographical area and its geopolitical and strategic situation, and because of the existence of oil in it. That explains the international interest to this area.

The Palestinian liberal movement is characterized by its struggle not only for the cancellation and the fight to **liberalize the occupied territories** and to liberalize the totality of the occupied countries in order to build a Palestinian state, but it is also to **liberalize the history** that Zionism try to control.

The Palestinian movement is struggling against the **expulsion** of the Palestinian people from his territory and against the daily **construction of colonies** in the occupied territories. In addition, this movement is fighting against a racist system, and working at the same time on **the return of Palestinian people to their land**.

The Palestinian liberal movement is characterized also by his work and fight not only from the Palestinian territories but also from outside where exist two third the Palestinian people.

This situation reflects on the legal and political situation of the Palestinian liberal movement.

On the legal level, is considered as the only legitimate representative of the Palestinian people in the Arab Summit in Algeria in 1973. In the same year, the Palestinian liberal movement has been convened to participate to the debate related to the Palestinian issue by the General Assembly of the United Nations, as the representative of the Palestinian people.

The Palestinian liberal movement has taken a special status within the specialized international agencies of the UN.

The General Assembly of the UN has taken many decisions related to The Palestinian liberal movement, amongst these decisions is decision Nb 3237, 1947. This latter has accorded the Palestinian liberal movement the “**observer status**” within the United Nations. Furthermore, this resolution (Nb 3237) has convened the Palestinian liberal movement as an observer member to participate in all sessions and international conferences convened by all organs of the United Nations.

The importance of this resolution is not only limited to the accordance the observer status to the Palestinian liberal movement, but also to the ability of The Palestinian liberal movement to participate in all works of the UN related to the Palestinian issue and other one. Furthermore, this resolution has provided the Palestinian liberal movement the right to intervene within the General Assembly, this privilege is not provided to non member states.

It is crucial to explain that this observer status is the normal result of the Palestinian people to right of self-determination. It is important to say also that the United Nations Charter and the statutes of the General Assembly do not mention the existence this special status called observer status. Moreover, the presence and the participation in UN organs are limited to the member states only. The practice has forbidden the presence of non members states within the General Assembly (the first extraordinary session for the examination of the Palestinian issue, the general Assembly has refused the claim of the Jewish agency to attend this session in order to explain its point of view). This special status given to the Palestinian liberal movement has faced opposition from few states, but the general Assembly has continued in the adoption of this resolution and has rejected the Irish claim to transfer this decision to the International Court of Justice (ICJ) in order to take a recommendation about it.

The Security Council has invited the Palestinian liberal movement in 1976 to present all sessions related to the Palestinian issue. In the same year, Palestine has become the member 21 of the Arab League.

**In 1988, the Palestinian liberal movement has declared the Palestinian state in Algeria. As a result, the Palestinian liberal movement starts to represent Palestine.**

It is important to highlight **the judgement advisory opinion of the ICJ** related to the legal consequences of the construction of a wall in the occupied Palestinian territory 2004 that

Palestine can provide a written and oral presentation based on the General Secretary Report and the observer status given to the Palestinian liberal movement.

Concerning the **International Humanitarian Law**, it is important to add that an important development has taken place in the legal situation of the Palestinian liberal movement. Since 1969, the Palestinian liberal movement has decided to join the Convention of Geneva. In addition, the Palestinian liberal movement has been invited with 11 other liberal movements to participate in the diplomatic conference on the reaffirmation and the development of the International Humanitarian Law of 1974-1977. In addition to the participation of the Palestinian liberal movement, this latter has signed the conference act for the first time such as a state.

It is important to draw attention to the first article of the first protocol that consider that the armed conflicts in which people fight against the colonization dominion and the foreign occupation, against the racist regimes in the framework of the right of self determination, are considered as international conflict legally. The Palestinian liberal movement is directly concerned with this article because it fights against colonization dominion, the foreign occupation and against the racist regimes at the same time.

In 1988, the Palestinian representative in the United Nations has presented a paper, based on article 96 par 3 of Protocol 1, in which he declares the participation of Palestine to the four Conventions of Geneva 1949 and their additional protocols 1977.

This declaration of participation to the Geneva Convention is made in the name of Palestine and not in the name of the Palestinian liberal movement. This act has posed a problem for the deposited states Switzerland. How can we qualify this declaration? The Palestinian state does exist or not? This declaration is it considered as an adhesion to the Protocol 1?

The Swiss government has refused to answer and it did not clarify these points. It did not clarify if Palestine is considered as a member of the first Protocol.

**We have an unclear legal situation because the Palestinian liberal organization is not a legally recognized state by the United Nations, it is an authority inside the Palestinian territories and at the same time it is a liberal movement.**

The **International court of justice, in its reports of judgments advisory opinions and orders**, has studied if the Israeli wall in occupied territories is against the principle of self determination for Palestinian people. The International court referred to Un resolution 2625, entitled Declaration on principles of international law concerning friendly relations and co operations among states, saying that: " the court also notes that the principle of self determination of peoples has been enshrined in the United Nations Charter and reaffirmed by the General Assembly in resolution 2625 cited above, pursuant to which every state has the duty to refrain from any forcible action which deprives peoples referred to... of their right to self determination. Article I common to the International Covenant on economic, social, and cultural Rights and the International Covenant on civil and political rights reaffirms the right of all peoples to self determination, and lays upon the states parties the obligation to promote the realization of that right and to respect it, in conformity with the provisions of United Nations Charter."

In addition, the court recalled that in 1971, it emphasized that current developments in " International law in regard non self governing territories, as enshrined in the Charter of United Nations, made the principle of self determination applicable to all". The Court went on to state that "these developments leave little doubt that the ultimate objective of the sacred trust" referred to in article 22, paragraph 1, of the Covenant of the League of Nations, "was the self determination of the people concerned". It is worth noting that the Court indeed made it clear that the right of peoples to self determination is today a right erga omnes ".

At least, it is quite clear that the route chosen for the wall gives expression in loco to the illegal measures taken by Israel, with regards to Jerusalem, and the settlements, as deplored by the Security Council. There is also a risk of further alterations to the demographic composition of the occupied Palestinian territory resulting from the construction of the wall inasmuch as it is contributing to the departure of Palestinian populations from certain areas. That construction, along with measures taken previously,, thus severely impedes the exercise by the Palestinian people of its right to self determination, and is therefore a breach of Israel's obligation to respect that right.

Consequently, the International Court notes that Israel is bound to comply with its obligation to respect the right of the Palestinian people to self determination and its obligation under

international humanitarian law and international human rights law. Furthermore, the Courts underlines that it must ensure freedom of access to the Holy Places that came under its control following the 1967 War.

So, it could be considered that the right of Palestinian people to self determination is seen by the International Court as a part of International humanitarian law and International human rights law, and, above all, erga omnes. Consequently, the International Court considers Israel, building the wall in West Bank, is totally violating the International rights law.

After having considered the question of the Palestinian national liberation movement and its relations with the International rights law, **we have to question the national liberation movement on the political level.** Here are the following questions

Today, what is the political position of PLO?

What is its function now?

How can we define the relationship between PLO and the National Palestinian Authority?

Did PLO realize its main political and historical goals?

What is the situation of Palestinian political organizations which are outside PLO (Hamas, Islamic Jihad)?

After Oslo agreements, the main question remains: are we still or not in a general phase of national liberation or in a phase of state building.

How did the Oslo agreements changed the nature of the Palestinian resistance?

It is very difficult to answer immediately to all of these questions, but we are able to say that PLO was a success story during the seventies, but on the contrary, **it is quite clear that nowadays there is undoubtedly a decline.** It is due to several reasons. We can of course quote some of them, as some Palestinian researchers and thinkers did before us:

- Camp David I between Israel and the Egyptian government
- The expulsion of PLO from Lebanon in 1982.

- The political stance of PLO and Yasser Arafat towards the Iraqi invasion of Koweit in 1990.
- The end of the cold war at the beginning of the nineties.

All these reasons conducted to Oslo agreements which were undoubtedly the fatal coup for PLO, despite the propulsive force of the first Intifada before.

**It is worth noting here that the accusation of so called terrorism** by the Americans and the Israelis was not the main factor in the historical decline of PLO. The so called accusation of terrorism failed until now for several reasons:

- At first because the Palestinian cause for international public spaces and for the international public sphere, is considered as a just cause, notably since the first Intifada.
- Secondly, PLO, during the seventies and the eighties, PLO had very good relations with the so called arab moderate states, as Saoudi Arabia, and had diplomatic ties with western countries such as France or Great Britain.
- PLO entered in the international and diplomatic balance of power since the seventies.
- Now, the so called anti terrorist struggle which is taking place in Afghanistan, Pakistan, Iraq and so on, is far from the Palestinian reality, despite the fact that Hamas is classified by some western states on the list of terrorist organizations.
- There is a process, since the Oslo agreements, of bureaucratization of PLO, and a deep phenomena of duality between PLO and the Palestinian National Authority, since there is an ambiguity between PLO as a national liberation movement and PNA as a proto-State.
- There is a deep division, inside PLO, between two political projects concerning the future of the Palestinian question.
- There is a problem concerning the fact that the Hamas movement and the Islamic Jihad Movement, two important palestinian factions, are outside PLO. It is all the more important since Hamas won the municipal and legislative elections.
- Palestinian factions are today divided between their regional and international alliances, and reflect the regional split between Iran and Syria and the one side, Egypt, Jordan, Saudi Arabia on the other side.
- The Palestinian decision is today weak, because Palestinians are very dependant from the international donations.

- There is a clear, geographic and sad division today, between Gaza strip and the West Bank which is the reflect and the outcome of the split between Hamas and Fatah movements.

Nowadays, the Palestinian national liberation movement needs unity. It is necessary that Hamas and Islamic Jihad enter in PLO, and it is necessary to come back to the 1969 political charter of PLO , which has been abandoned in 1996. It is important to resolve all the polemics and debates between national liberation movement, Palestinian Authority and State building.

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