

## **Sponsor Wanted! Human Rights at the Annapolis Summit**

**By Stefan August Lütgenau**

The populations of Israel and the occupied Palestinian territories (oPt), as well as that of the entire Middle East and the international community are focusing their attention on the small town of Annapolis, the capital of the state of Maryland and the home of the US Naval Academy. This sleepy town on the Chesapeake Bay, not far from Washington D.C., will be hosting the next US-sponsored Middle East peace conference.

As announced by the administration of George W. Bush, the conference aims to promote the establishment of a Palestinian state and in so doing to resolve the Israeli-Palestinian conflict. One of the main principles of any peace agreement should be that the regulation determined by the contracting parties does not conflict with international law, and in particular international human rights and international humanitarian law. Any agreement reached at a summit or peace conference that would cement or even protract human rights violations or violations of humanitarian law will not lead to a lasting peace. At best it will sweep the conflict beneath a carpet of words and actions, until its next, more violent outbreak.

Viewing the Annapolis conference from a human rights perspective, the announcements seem somewhat overstated. Let us have a look at the human rights records of the main actors in the conference. Clearly, a fully functioning human rights system is unthinkable in a non-democratic environment. All of the participating parties claim to be democratic, from the two parties to the conflict, Israel and the Palestinians, to the hosts the US administration and the remaining quartet members Russia, the UN and the EU.

So who will promote democracy and human rights in Annapolis?

### **The USA**

Over the past six years the hosting nation has abandoned crucial elements of its human rights regime at home and in its foreign policy by introducing a regime of torture and extra legality in their judiciary. Nobel Peace Prize winner and former US President Jimmy Carter may be our principal witness: "I don't think it. I know it", he told CNN when asked if the US commits torture. But even the Carter administration excluded the Middle East when it introduced human rights as a key element of US foreign policy. Carter spoke of "situations in which efforts to achieve our human rights goals will have to be modified, delayed or curtailed in deference to other important objectives," which included achieving peace in the Middle East, as well as "NATO solidarity, strategic arms limitation and other aspects of improving relations with the Soviet Union ... and normalizing relations with the PR China".<sup>1</sup>

### **Israel**

Israel has not only systematically violated – using changing systems, but still in a systematic way – the human rights of the Palestinians who have lived under its occupation for the forty years since 1967, but has also violated the human rights of the Arab minority in Israel since the establishment of the state, depriving them of equal citizenship and pursuing discriminatory policies towards them. With regard to the Arab minority in Israel, we will see a new "front" in the struggle for human rights open up when the issue of the vast expropriation of property from the Arab minority and the Palestinian refugees will be analysed in the context of restitution, human rights and investment law.<sup>2</sup> Once a peace is achieved the

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<sup>1</sup> Presidential Review Memorandum/NSC 28: Human Rights, quoted from David F. Schmitz and Vanessa Walker, "Jimmy Carter and the Foreign Policy of Human Rights: The Development of a Post-Cold War Foreign Policy," *Diplomatic History*, vol. 28 no. 1 (2004), pp. 113–143.

<sup>2</sup> See the seminal study of Ursula Kriebaum and Christoph Schreuer, "The Concept of Property in Human Rights Law and International Investment Law", in S. Breitenmoser et al. (eds.), *Liber*

Middle east will have to deal with the questions of restitution and compensations as Europe dealt with Holocaust Era Assets and Stalinist expropriation post 1989. From a recent case study concerning human rights and the conflict in the former Yugoslavia it can be concluded that a vast number of the IDF's actions are classifiable as war crimes, for which those responsible would have been summoned before the International Criminal Court in the Hague if they had been committed not in the oPt but in the Balkans.<sup>3</sup> With regard to the international humanitarian law, the occupier has blatantly denied its application to the oPt.

### **The Palestinian Authority**

The Palestinian Authority also has a long record of human rights violations that includes violations of rights of the Palestinians living under its rule as well as doing little to nothing to prevent Palestinian militant groups victimizing Israeli civilians. Since the Legislative Council elections of 2006, the two competing factions in the Palestinian political landscape, Fatah and Hamas, have proved themselves ready to lead Palestinian society along the path to destruction by undermining and blocking the legislative Council, scuttling the judiciary and what was left of the law enforcement combined with massive abuses of human rights having been committed on both sides.<sup>4</sup>

### **The European Union**

The EU has placed human rights and democracy at the centre of its foreign relations with the Common Foreign and Security Policy (CFSP). In accordance with the text of the respective association agreements signed between the EU and Israel and the PA, human rights are the cornerstone of bilateral relations. In reality, however, the EU has shied away from activating the human rights instruments at its disposal *vis-à-vis* Israel, and, to a lesser extent, the PA. This is also the general pattern of the EU's policy towards the entire Euro-Med region. In its relations with the PA, the EU's policy is actively undermining its own principles of human rights and democracy. After pressing for a reform in the Palestinian basic law, introducing a powerful prime minister, pushing for general elections and the participation of Hamas, the EU refused to accept the results of this democratic process. Worse still, the EU followed the disastrous policy of the US by imposing sanctions on the Palestinian people for democratically expressing their political choice. Since the 2006 elections the EU has supported Fatah in its policy of torpedoing the democratic shift of power. Today the EU and most of its members individually have sided with the antidemocratic elements within Fatah.

### **The UN**

From the long and convoluted history of UN policy towards human rights and the Palestinian-Israeli conflict, it may be enough here to note the results of the end of mission report filed by the highest ranking UN official in Israel, Peruvian Alvaro de Soto, the former representative of the UN Secretary General in the Middle East.<sup>5</sup> De Soto saw the UN's role as an impartial Middle East negotiator "pummelled into submission" by US pressure. While criticising Israel and the PA heavily, de Soto deemed the Quartet a "side show".

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*Amicorum Luzius Wildhaber, Human Rights Democracy and the Rule of Law* (Zurich, St. Gallen: Baden-Baden, Norbert P. Engel Publishers, 2007), pp. 743-762.

<sup>3</sup> Christina Binder, "Violations of Human Rights, Humanitarian Law and Prosecution: The Case of the Former Yugoslavia," in Stefan August Lütgenau (ed.), *Human Rights and a Middle East Peace Process. Analyses and case studies from a new perspective*, (Picataway, NJ: Studienverlag Innsbruck and Transaction Publishers, 2007 Publication anticipated in late October 2007.

<sup>4</sup> See the Palestinian Center for Human Rights – Gaza, "Black Pages in the Absence of Justice: Report on Bloody Fighting in the Gaza Strip from 7 to 14 June 2007", 9 October 2007.

<sup>5</sup> End of Mission Report, Alvaro de Soto, Under Secretary General United Nations Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary General to the Palestine Liberation Organisation and the Palestinian Authority, Envoy to the Quartet, May 2007. Available at: <http://www.guardian.co.uk/israel/Story/0,,2101677,00.html>, Site last accessed on 13 October 2007.

Thus none of the actors participating in and surrounding the Annapolis summit can be expected or is even qualified to safeguard the central place that human rights and international law should occupy at the negotiating table. Despite their obligations under international law, other interests, be they "special" or related to "security" or "national" concerns, have often prevailed over the human rights argument.

### **A new field for human rights NGOs?**

International and regional human rights organisations have so far not dealt with the peace process or with human rights as an indispensable element of any enduring peace agreement. This is for a number of reasons, including limits rightfully set in their mandates, reluctance to deal with "political issues", and limited recourses.<sup>6</sup>

Nevertheless human rights NGOs should take up the issue in one or the other way. Politicians and the public must be reminded that there are certain rules set by the international community, not least by those members sitting at the table in Annapolis, that create a human rights framework that simultaneously limits and enables the political negotiators. Universal and inalienable human rights have been perhaps the most valuable element of post-1945 international diplomacy that cannot be phased out of the peace process if further conflict is to be avoided and peace achieved. Human rights are designed to protect all parties to the conflict, Israeli individuals as well as Palestinians. They should not be regarded as an obstacle to peace; human rights will be essential to paving a way to a just and lasting solution to the conflict.

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<sup>6</sup> See the informative articles by Miranda Sissons, Jessica Montell and Sari Hanafi in Stefan August Lütgenau (ed.), *Human Rights and a Middle East Peace Process. Analyses and case studies from a new perspective*, op. cit.