

MINUTES
Concept Working Group
June 23, 1993

Palestinian side: Saeb Erakat, Nabil Kassis, Zakariya Agha, Rashid Khalidi, Sami Kilani. Farida Salfiti took the minutes.

Israeli side: Rubinstein, Sebel and others.

Rubinstein: I'd like to extend warm feeling to Dr. Shafi.

Saeb: Good afternoon. Even though we suggested not to repeat ourselves I want to repeat that we can do it--the DOP. And logically whatever is going to be joint between us has to have the consent of both of us.

Rubinstein: It is our hope too.

Saeb: We are very serious about this. We'll concentrate today on certain aspects of powers and responsibilities and on elections and since we have experts in such working groups, I'd like to introduce Dr. Khalidi.

Rashid: I want to try and continue from where Dr. Erakat left off yesterday with his analysis of what you can call the underlying constant factors and what Rubinstein called ideological factors. Continuing from there and taking this one step further and looking at other constant factors in your proposal and our proposal and see where we might go.

It seems to us a key constant in the Israeli proposal has been a functional role of self-government. It appears three times in your SOP. It seems that in many ways its motivations is important. Our proposal is organized around our understanding of what real self-government has to be. So we've argued that for there to be any real self-government there has to be free elections (we don't disagree on this) but for authority to be with full and defined powers within a geographic scope.

What is the basis of the differences between the proposals? We see the functional concept is intended to avoid dealing with the territory or the geographic aspect. Either this is a misunderstanding or perhaps there is a hidden intention. If it is a misunderstanding it is based on the assumption that giving geographic scope is tantamount to sovereignty or that the term territorial jurisdiction equals sovereignty. One thing I can assure you is that these are both incorrect assumptions.

As far as our reading goes all administrative entities have to have a specified geographic scope. The Basque in Spain, the Commonwealth in Puerto Rico--none of these are independent

sovereignties but are autonomous, self-governing administratives. All of these have a specified territory over which they have jurisdiction.

Now, if this is a misunderstanding perhaps we can find some way to deal with it. But we also fear that there is a hidden agenda which is to hold powers and responsibilities and control from areas we feel should go under the jurisdiction of a self-governing authority. In our view these are powers where there is no legitimate justification for Israeli concerns. There may be some areas where there are Israeli concerns. An example has to do with the issue of land. When in the past there seemed to us to be an attempt to avoid talking of land but then we heard that large areas of land, like Palestinian public state-land which in our view should be reserved for Palestinians, this land is not to be administered by the Palestinians self-governing authority because it touches on the permanent status. We are justified in concluding that the stated concern on permanent status may well be a cover for other intentions.

Rubinstein: What kind of other intentions? We're always puzzled by this notion of a hidden agenda or conspiracy type. What is the hidden motive behind this?

Rashid: In the case that I mentioned it seems to us there should be no Israeli concern that has to do with permanent status as far as these public lands are concerned because they should be for the use of the public. The question that arises is why is this land being held away from the Palestinian population?

Rubinstein: See Dr. Saeb, we still should have combined the committees.

Rashid: I think that this functional concept, which is a constant element, is there to prevent some outcome, which should be acceptable in the terms of reference. We have no intention of denying that there should be an interim stage and we have no intention of predetermining matters that should be left for the permanent status. And we certainly don't mean to ignore reasonable Israeli concerns which have to be dealt with. We feel that our proposal envisages a self-government with real authority which has to be exercised in a geographic area. All of these things can be subject only to specific limitations which we obviously have to negotiate. We hope that the Israeli side understands that none of this means in the interim phase a Palestinian state nor does it preclude any outcome in the final status which is consistent with the Terms of Reference and 242. We feel that the real authority we are talking about is compatible with self-government.

Rubinstein: There's a little confusion of terminology. You mentioned this being part of the powers and responsibilities but this also touches on what we call general aspects concerning the

nature of jurisdiction and it has a number of aspects to it.

Rashid: You're right.

Rubinstein: I'd like to first explain what our approach is. The difference between interim self-government and your example of the Basque is that in all these cases there is a recognized, final full-fledged sovereignty or constitutional roof that covers it. The Basque state is under the Federal Spanish structure etc.

Nabil: And Puerto Rico?

Rubinstein: It has a special status and is under the basic U.S. government framework. We are dealing with Territories which do not have a recognized sovereignty over them and the sovereignty is open for the second stage. These negotiations will better this question--you may have your claim, Jordan had its claim, others too and compromises will be reached. That's why we have to be careful politically in the way we structure the interim self-government arrangement. Negotiating basis have to be open. We feel that the notion of a full-fledged territorial approach will determine the permanent status from the beginning. It will negate the possibility for the future and it will be only open for one option in the future. Our ideology has been to look for ways to achieve the change in the situation for the Palestinians which is desirable and will include a recognized, in terms of land, it was developed and was purely functional in the beginning. Then we opened up to the land issue more. We have not though switched the basic approach to giving it the territorial structure for reasons mentioned before. It also has practical reasons because of the special situation. We tried to summarize them into three points: security, Israelis in the territories, and open options.

We said that in life it would be easier than in the theoretical discussion but while territoriality may not be equal to sovereignty, it maybe be a very quick and unreversible move towards sovereignty and have not hidden our ideology on this. It is to try to accommodate these interests. If we only deal with the problematics, we lose sight of what will be achieved in terms of powers and responsibilities.

Many areas have not been covered that could have explained and presented why we think a real change will occur when we have a,b,c. I don't want to go into this state land business here but it is definitely not to deny Palestinians from territory. Even if we speak of sharing of management of state-land, it would be done in a reasonable way. We want to prevent an inevitable result. We want to keep it for negotiations.

Having gotten to the point which we go into powers and responsibilities, we would try and convince you that a combination of all of that is something which is real power. There was an

apprehension on your side. We in the beginning used to come up with the detailed spheres, functions. We found out that you felt unhappy. The devil is in the details. If you feel it is not yet right to do this we will postpone it. Definitely this is needed. This accumulation of all of this and other aspects when you have flexibility is that we basically tried to demonstrate on the legislative arena will amount at the end of the day to real power. Real power but not full-fledged power because it is the interim.

By stating that this is not a state in the interim, from our point of view it is not enough if we feel it will inevitably become a state per the interim state. It doesn't mean that you won't raise your wish. What we want to make sure is to find the right balance. We are not hiding anything. One thing a future historian will find is that the tendency, which I don't place, is that so much is being put into the hidden agenda. A historian will find out it is not there. Sometimes I wish maybe we will be such Machiavellians to have such a hidden agenda. We are such an open society that nothing is hidden.

Sebel: One thing--you talk about your acquiring real powers in specific areas. If you look at the cumulation of powers it is very real. There is a clear outer envelope. We're not talking of jurisdiction over territories but of the exercise of real powers within the territories, you in fact are closer to what you are talking about.

Nabil: A question that arises again and again. I's not sure this particular question was asked but what you just said about the inevitability of a certain option seems to intimate that inevitability leads to a final status and since you argue that the final status should be negotiated and that all options should remain open. I fail to see how an interim state inevitably can lead to a final state. How can this be? We are not hiding and don't have a hidden agenda--it's open and it's so obvious. My question is how can an interim state inevitably lead to permanent status.

Rubinstein: Because by the nature of things, regarding the situation--I'll give you an example.

Nabil: Will an example answer the question?

Rubinstein: Give me a break. If we take the notion of what many Israelis believe in--Territorial compromise. If the Palestinian territorial model is agreed upon, which means we hand over the keys of the territories to the Palestinians, they now make exceptions for us in terms of security. What would be the status of an Israeli effort to negotiate a compromise of this kind? By the logic of things, once this territorial concept is derived, this will be very difficult if at all possible to achieve. What you want to do is close the options. What we suggest is something which,

given the fact that the permanent status will be negotiated in the third year, if you take what is being offered by us you did not close the options because we discuss it in the final status. What I said now is one explanation. Tell me, in your concept, could the Allon plan be negotiated in the third year.

Nabil: You are throwing a question to my answer and didn't answer my question: how an interim stage can inevitably lead to a final state?

Rubinstein: Because if it is shaped in a way that has the elements of three Montesquian authorities: legislative, executive and judiciary. With these three branches of government, with a full-fledged territorial concept with the combination of all of that this will be a structure that theoretically one can argue against it being a state but practically this will be beyond anybody to change. We want to have an opportunity to negotiate this or that idea. We say that practically, your model it won't happen and cannot happen. That is the government's position. Now I'm returning the question. Under your model, could the Allon plan be negotiated practically?

Nabil: Are you going to propose such a plan when we sit to negotiate the final status? Theoretically you can propose whatever you want in the final status. The thing is whether it is acceptable or not has to be judged on the basis of the terms of reference. When you say all options are open I question the all. What do you mean by all? Obviously certain options cannot remain open.

Rubinstein: I asked a question.

Nabil: I said you can put it on the table but whether we can say it is acceptable or not will be judged by the terms of reference. If you want to compare that with how we understand the terms of reference--the terms of reference talks about the inadmissibility of acquisition of territory by war. The Allon plan does not have in it such elements. But my guess is that it runs counter to the terms of reference and therefore won't be acceptable.

Rubinstein: I'm speaking of a practical political approach of making a big change but not of closing the door.

Nabil: It's not that theoretical. When you talk about territorial compromise, you're talking about territories where you are creating facts.

Sami: I will try to go as simple as possible to the hypothesis that you made, it was built on giving all the keys to the Palestinians and they will be able to close all the options but one major thing we both agree on in our negotiations about the interim self-government status is that security needs for both sides will

be fulfilled. And security needs for you is something that we don't have the key for. So I don't imagine a situation where we will have in the interim-self-government status all the keys. The danger is from the other side that we are afraid that those keys you will keep will affect our fate in the coming permanent status.

Rubinstein: I'll tell you what is bothering us. Many Israelis ask themselves why wouldn't the Palestinians give a try to what is being offered? I've been witnessing the same argument of autonomy before. Why won't the Palestinians give it a try while knowing they've not exhausted their means of things for the future? Why not say you offer us this and we bargain for it but okay, we'll give it a try and see. You're not losing anything by it because whatever is done is an improvement on the situation. It's not because we are doing you a favor but it is a negotiation. You see that we have limitations to our interests but we don't say because of these limitations we are closing all doors. It will demonstrate movements, coexistence and then there will be the second stage and we'll be arguing our cases.

This affects our efforts on working on the DOP. When we are suggesting early empowerment there can be two ways to argue it. One could say what will happen if--what will happen if. Second, this is what we decided to is you depend on your response to offer it without too much haggling. If problems occur solve them as they come.

On interim it's not an if. You insist on your way. Give it a chance. It will not be over-risky from your point of view. I think it is valid to this effort.

Saeb: I really wanted to concentrate on issues that we can agree on in terms of the DOP but you mentioned a few issues I cannot but answer. Concerning the issue of sovereignty, it's not an act of Palestinians that they didn't get independence after the British mandate. The world knows what happened to the Palestinians in 1916 and before.

The concept of self-government is vague. It's something that in international politics doesn't have a set of defined boundaries. You came up with it and it seems you have clear ideas on its limitations. We're trying very hard to say that self-governing people cannot be self-governing without territorial jurisdiction and legislation and so on. Why is it we are not taking the risk? We've taken many risks. It's our understanding that to reach a historical reconciliation what we are discussing is 90% of mandate Palestine and now you are coming to us planning to take 40% of that. The Palestinian problem is not a problem confined to the people who live in the West Bank and Gaza. It's our responsibility to have a historical reconciliation. It's not a matter of what we can and cannot accept. We don't want to end this problem and find a solution for it that will be a cause for failure for our children

to tackle.

The last thing I want to see is our children in the shoes of either the Bosnians or Serbs. We really can avoid it. If you cease your settlement activities on the ground things will change. As far as early empowerment is concerned, I conveyed it to my leadership and it is being studied.

Rubinstein: You'll register that we have obviously very different versions of history of 1947-48. I'm glad we're sitting here now because the fact that it didn't happen in 1948. It was an opportunity that was not used and many things didn't happen. You know what happened to the partition resolutions.

Saeb: I don't want to turn this into a historic debate. As far as our DOP, we suggest that in the second paragraph the Palestinian interim self government authority will be established under agreed international supervision. I too note that you opposed the term international. We don't object to agreed supervision but in this case supervision will have to be neutral and legitimate.

Rubinstein: Legitimate, but I'm not sure about neutral.

Saeb: Since we are directly involved, supervision needs to be neutral that we both accept.

Rubinstein: We have a number of modalities to agree: age, eligibility, most of which will be flexible. Supervision means something which has to be clarified in the talks. We are not yet there because we haven't discussed it. When we discuss modalities it will be clarified.

Saeb: When se say neutral and legitimate therefore it is international. We did not come and tell you the modalities of what will be the role of this or that nations. We are trying to set the principles, leaving the modalities for the time when we speak of modalities.

Rubinstein: You said we didn't want to discuss modalities of the discussion of the council but you injected elements. We said the principle of supervision is normal but you draw your own logical conclusion that supervision means neutral and neutral means international. That is not our logic. Our logic is supervision means agreed.

You saw an interview with Rabin and he was asked about this. When the U.S. people put in their May 12 paper the notion of international observation this is something we could live with at this point. We will have media coverage and there will be observants. But supervision may mean, and that's the problem, an opening for a wider intervention. You mentioned the UN and we have a history with caution about the UN. We want this to be discussed

in modalities. We have to be convinced we have a reasonable agreement. All we say is agreed supervision. You still have the option to raise international. Now, if we put it here, there are other modality questions we can go into. The fact that we suggest it shouldn't be the reason not to accept it. That's why people argue for a third party interventions. We call on you to agree to agreed supervision and take this formulation because it doesn't kill your interest.

Saeb: The same argument could be argued the other way. You noticed that we stopped using the term PLC (Palestinian Legislative Council) and we argued with you in the last session and then you came up with the name Palestinian Interim Council and then we were surprised in your paper that you called it a PEC--Palestinian Executive Council.

Rubinstein: We may have been misled but we've been told by Arab diplomats that they've tried to help and they said if we offer Palestinian Executive Council that it will be accepted. We said we'll offer it on the table.

Saeb: We don't accept PEC because it predetermines what has to be negotiated. That's why we ask you to use a neutral term. We stopped our term to come your way. If you say executive, legislative it predetermines the things that will be negotiated. That fact that you came back and used that name, you really surprised us.

Nabil: I have a question on the Palestinian Elected Council--is it part of the authority or the authority.

Rubinstein: We see it as the authority. Our basic approach was that executive was a development because people felt it could be a more reassuring term. The notion was administrative. We added Palestinian to go your way.

The notion was, that is why and it's all out of the basic thing that we didn't want a state-like shape but there's been flexibility in differently shaping the legislative approach. Why is it we tried to qualify this because we didn't want to mislead you. It's not an omnipotent legislative approach. We even accepted language that was less than our needs.

We have two problems with that. First, the procedural matter and we said how this will be done. It will be subject to agreed principles. The other thing is that we need to assure that it is not transcending the agreement and that is why we spoke of mutual confirmation. Our position is clear and it is on the table. It is not to limit what should be done by this legislative power but it should not transcend it.

Nabil: About the change in language. I don't mean to belittle the

change in language--you started with Arab inhabitants of the territories and went to Palestinian population. But I cannot help noticing what Dr. Khalidi was saying was a key constant approach which is the function. The other sounds too cosmetic--PAC, PEC what difference does it make as long as the concept is based on functional authority?

Rubinstein: I think you are belittling the changes and if you take all the legislative notions and the land aspect and the goals and other aspects, you will see that yes, the basic notion is functional.

Nabil: If it is then what is the difference what I call it.

Rubinstein: Language makes a difference. We live in a political reality and that's why we argue it and that is why I think the idea of empowerment is very important because it gives people a feeling that something is moving. The normal people don't care about this. The change isn't just semantics. When you put in the land aspect and develop them, yes, we'll not turn upside down the ideas to make them territorial.

(five minutes break)

Zakariya: So we agreed about the name PEC.

Rubinstein: No, we were discussing it.

Saeb: I think we both agree that the council is representative which means that we are talking about a big number. I saw Rabin's statement about doubling the number of representation. I want to bring your attention that we want the people to feel the change and that it is a new age. That is why we talk of the numbers of 150-200. You said 180 is like the PNC. But what is important is that the number is big.

Rubinstein: This we could find a way to deal with. We know your concerns. Our concern is the parliamentary notion which goes to the state-like appearance. We suggested to you numbers which are in an executive mode but there could be ways of being creative. We suggested in formal and informal discussions that we discussed a number of possibilities. Dr. Haidar said if we have a legislative power we will do it 30-40 and then the next day he changed his mind and now there is a legislative. It's something we took seriously because we respect Dr. Haidar.

Nabil: He was talking about a separate legislative council.

Rubinstein: Give me the full idea.

Nabil: He was talking about a legislative council and he aired some numbers.

Saeb: If it is symbolism that constitutes your concern it can be addressed in the agreement so I think these concerns would be addressed in that context. You don't need it because you know the legislative power covers so many areas. This will be addressed in the context of the agreement. These are just guidelines. I am aware of your concerns. In this period, if we start a historic reconciliation, we want to make sure that everything will be honored.

Rubinstein: We also go under this assumption. Nevertheless, the assumption must be embedded in an agreement. One should aspire that this will be done but in the meantime we want to be sure. You don't hide your assumptions.

Saeb: We're very open.

Rubinstein: The same here.

Saeb: In this agreement this will be addressed. You can't say unilaterally we want to apply it. We confine ourselves to the DOP, the terms of reference and leave the details. Your concerns, of course we expect you to guard your concerns. In this DOP we're trying to put our negotiations on a firm basis and say to our constituencies that these are the issues that will be negotiated.

Rubinstein: Looking at article three of our ideas and article 2,3 of your ideas. I feel that two of yours covered our ideas. I want to look at three of ours. I understand that besides the name...I'll start with two of ours. I assume that two is a language, unlike goal, which isn't your language but let's speak of the principles. We say a major change will occur in the territories. I was saying that you don't mind the idea of major change in the situations.

Nabil: I have a question on it. You said this is something that is acceptable. When you say during the interim arrangement you talk of a period of five years. Are you suggesting handing over the authority after the inauguration?

Rubinstein: With the inauguration. It will apply throughout the five years. "By transferring to the Palestinians the vast majority of the functions of the civil administration". In itself, as a statement what is bothersome from your point of view on this language?

Saeb: Vast implies exceptions compared to all. In that aspect its not only the civil administration but there is the military government, other certain branches of your government, certain ministries.

Rubinstein: You know the structure. The Israeli ministries is basically connected with the Israeli settlements. We should have

the overall security with due sensitivity to your security concerns. The military government is the part that enforces security.

Saeb: You're referring to exceptions?

Rubinstein: No. There are a few areas in the civil administration, mainly dealing with state-land, we will find some way of working on it together. It will be under the minority. The vast majority means vast majority. If you were going into the exercise of early empowerment and you decide to explore this, you will see that vast majority is very vast.

Saeb: But not all.

Rubinstein: You rightly described it as something that is not. I'm not describing the security and the question of the enforcement of security. It's a problem and a serious area because I'm sure what we want is more than what you'll like but we feel it's a decision that it has to be enforced which means codes, legal means of enforcement. That is why we didn't mention the military government.

This is something which the overall security will require. What I'm asking you is to pay attention to the fact that with all these caveats and qualifications, if you explore the areas that are to be transferred it is by far...it is an evolutionary change in terms of what Palestinians will be in charge of--functions and land aspects. It was drafted by us to convey a message which is a full-fledged ideology of major change.

Saeb: Look at our language on paragraph 4.

Rubinstein: I was going to ask about it. When you say and speak of withdrawal, we took it as a very extreme language because we know that when this was written, it was written by a person who knew that there is no way in which this concept can be acceptable to us even in the most liberal interpretation of our basic positions. It means we will have no security and power at all. We have a few elements but you deprive us from any security, responsibilities which means responsibility for our country's defense and responsibility for what is happening in the territories in terms of Israelis. I'm sure you understand that this is something remote from any minimum we can take.

Saeb: I was about to ask you a question on vast but since you raised this. What do we have? (he reads paragraph 4). Had we put in this that we want 10 divisions in our army, a navy etc., I'll anticipate such a reaction from you. We take so seriously the interim period because we don't want to fail. We're put in a position of being tested. This is very important to us. The stronger we are in this period the more sure we will complete the

historical reconciliation.

When you say overall security, and we probed each other on this in the seventh round, from what we heard is that it is your responsibility for any security actions and you separate between the criminal and security acts. When I look at this, how can we talk of change, a new period towards a lasting peace with so much restrictions. If you want to say because I don't trust one another, we're going to be responsible for everything.

Rubinstien: Tell me in a simple way--what does this mean in terms of what will happen when the interim self-government authority is inaugurated?

Sami: We have to mix it with paragraph 7. It's not alone.

Rubinstein: Give us a description we can convey to our government that this is what paragraph 4 means.

Saeb: For 26 years we have been under occupation and now we are trying to reach an agreement and after elections and the inauguration of PISGA, this Palestinian authority is going to control the lives of Palestinians. Due to the complexities on the ground, there will be so many things done. Palestinians took into account your security concerns and the Israeli government must be reminded that this is a new chapter and it is time for Palestinians to take charge of their own lives. We put in there orderly transfer, the time schedule to ensure this agreement is something of significance and of change and we suggested international supervision. These are things that compliments and defines what you mean. Put it within the context of what is above it and beneath it.

Zakaria: Nowadays, you have a high number of soldiers in the Occupied Territories. I don't know the exact number. After the establishment of a PISGA it is illogical that this number stays so you start to withdraw most of this number so the rest of the army is redeployed in the final status agreement.

Rubinstein: That is not what this says. Your concept is something which you did use in certain documents in the past which was a kind of certain re-writing of the project in Camp David but it is not mentioned here. What is in it is what is bothering us. You kind of withdrew from positions you held before and that is not good in negotiations. You assume positions will develop to your side. As you read the language, the article says it is simple--that we'll disappear from this sphere.

Saeb: Not at once.

Rubinstein: Reading the article as it is, I hope you understand what I mean.

Sami: What you are asking for I see is embedded in this paragraph and number seven. During this time an agreement in number seven which has to be done which have to satisfy mutual security needs of both sides. When you are combining 4 and seven it is orderly, peaceful and gradual.

Rashid: A lot of this involves detail and it is premature to go into that. You can say two things although we do not have the authority to go into the details. First, is the point just made that you have to see 4 and 7 together. Seven specifically talks of security needs. You made a distinction between our defense needs and the situation in the Occupied Territories. We clearly understand this distinction. You have important concerns here and then what we have is the matter of public order.

Rubinstein: Public order and internal security have overlapping things but they are not the same thing. The police takes care of public order but internal security has different aspects.

Rashid: As far as public order is concerned, we want this to work and for it to work there has to be a revolutionary change in security. We think there has to be a strong Palestinian security force. How and why are the details.

Last point, what you mentioned doesn't represent withdrawal. It's an attempt at a DOP. You will find elements are based on the Camp David and the issue of redeployment hasn't been abandoned.

Rubinstein: When you speak of revolutionary change, it's too much for security. Security is a conservative area. On security I would advise a less dramatic language because we will be very concerned with security but we want to show sensitivity to a new period. May I suggest we adjourn.

--the meeting was adjourned--