

Charting the Hamas Charter Changes

MOHAMED NIMER*

ABSTRACT

Hamas Charter has sparked a lot of controversy, both inside and outside the organization. This paper offers a critical analysis of the original Charter that was issued in 1988. The document attempted to offer an ideology to counter Zionism, but it advocated views that are essentially anti-Jewish, xenophobic and outside the mainstream of the scholarly tradition of Islam. The paper also highlights the contradiction between the search for a just peace and the language of triumphalism and demonization in the Charter. Tracing the political development of Hamas since 1992, the paper presents evidence that current political leaders of Hamas are moving the organization beyond the ideological rhetoric of the early years of the movement. While they have abandoned the outdated Charter, they have not developed a credible perspective on negotiating peace.

If peace between the Palestinians and Israelis will ever last, Hamas, as a mass movement, must be included. However, the Charter of Hamas leaves no room for friendly relations with the Israelis who fear that it has the destruction of Israel as a goal.¹ The evidence of such assertion is a mistranslated statement that is usually cited as if it were a central part of the Charter. It is actually thrown in the document before the preamble. Attributed to an historical Egyptian figure, it reads “Israel will be established and will continue to be established until Islam invalidates it, just as Islam invalidated others before it.”² Still, there is no doubt that Hamas and its literature are anti-Israel. Written by a few members of the underground leadership of the 1987 intifada, the Charter tells Palestinians to brace themselves for a long struggle. Announcing their ideological identification with the Muslim

* Assistant Professor, School of International Service, American University, nimer@american.edu

Brotherhood (MB), the drafters stressed their unique Palestinian experience and embraced Palestinian national sentiments.³

But the Charter of Hamas was never subject to deliberations and was never submitted for an approval before any governing body of the organization. The Charter was in fact little more than a long intifada leaflet, a tract meant to distinguish Hamas from the Fatah-led Unified Leadership of the Intifada. Through it, Hamas sought to carve out its place in the Palestinian national consciousness and to motivate its Islamist core: the Palestinian Muslim Brotherhood (PMB). Pressure from the grassroots of the PMB led to the establishment of Hamas. This was sparked by an incident that touched off a deep sense of humiliation among the Palestinians in Gaza. On December 7, 1987, an Israeli truck driver ran over Palestinian laborers waiting to be picked up for work in Israel. The relatives of the dead and injured lashed out against Israeli soldiers in the Jabalia Refugee Camp, where the PMB had good following. In a matter of few days, the intifada (uprising) engulfed the whole Occupied Territories (OTs).

But Hamas is no longer an intifada underground. Currently, it has the majority of seats in the Palestinian parliament and, as the government in Gaza, it shares responsibility for the welfare of the population. As this review of major Hamas documents reveals, the group has changed in some areas of thought and action. Hamas has become much more open to accepting Palestinian religious and political pluralism, but it has also become much more adamant in expressing the view that Israel is an existential threat to the Palestinians. And while Hamas has changed its military tactics, preferring rockets to suicide bombs, it has proposed its own conception of peace. Still, the Charter remains the only founding document of Hamas. It invokes justice, but it stresses triumph. A justice-centered discourse must be two-sided and realistic. Above all, its ideas must be expressed with humility. The following section attempts to assess the purposes and goals envisioned by the founders of Hamas who authored the Charter and led the group's initial phase.

The Founding Years: Ideological Hamas

Writing the Charter, which was released eight months after the intifada, was perhaps the first major attempt by the old guard of the PMB to engage in a national public discourse. Previously, the only public communication they produced were intifada leaflets meant to organize anti-occupation field activities. This followed nearly four decades of political passivity by the PMB. A brief history of the PMB can shed light on the conditions that shaped the worldview of the founding

ideology of Hamas. The group had been part of the larger Arab MB movement that began in 1928 in Egypt, when much of the Arab world was under colonial rule and the Zionist movement was on the rise. A few years after the establishment of Israel, the MB was suppressed by Egyptian President Nasser whose forces were in control of Gaza (until 1967).. Nasser pursued an anti-MB propaganda through Voice of the Arabs Radio, the first radio in the Arab world that captivated the attention of millions of Arabs. The pan-Arab Nasserist media did not distinguish between the different branches of the MB. The MB was shocked by the brutality of their suppression and the sudden rise of the Nasserist trend in the Arab world

Religio-centric conception of the Palestinian cause is purposefully meant to counter what Hamas founders view as a Zionist ideology that is based on similar self-referential terms

Disillusioned by Arab nationalist rhetoric and losing the guidance of the older leaders who languished in Arab prisons, the young members of PMB in the 1950s decided to remain away from politics—until they were pressured back into action by their own grassroots who grew up under conditions of Israeli expansionism. In the early 1980s, PMB members began participating in student and professional unions. The re-politicization of the PMB took a sharp turn when the intifada broke out. As Khalid Amayreh accurately describes, the PMB leadership played catch up with a spontaneous grassroots revolt.⁴ A small number of PMB seniors—mainly educators—wrote the Charter and it reflects their own worldview. They had grown up with memories, stories and experiences spanning the times of the Ottoman caliphate, the British colonial period, the Zionist take over of historical Palestine, the independence of several Arab countries, which was coupled with an immediate suppression of the MB, particularly in Egypt.

No wonder foreign designs on historical Palestine and its loss by Muslims loom large in the Charter. Having been away from the public scene for so long, their writing was influenced by their early political activism. The drafters of the Charter made their preference for an Islamic Palestine as a core idea separating them from the Palestine Liberation Organization (PLO), which they view as secular. More importantly, this religio-centric conception of the Palestinian cause is purposefully meant to counter what Hamas founders view as a Zionist ideology that is based on similar self-referential terms. The rationale is this: if the enemy is making claims of right on the basis of their own historical narrative, the Palestinians would fare better in this conflict by doing the same.

One third of the Charter is devoted to “strategy.” The verb “liberate” and the noun “liberation” appear 15 times in the Charter. The authors of the Hamas Charter wanted to distinguish their path from the PLO’s by refusing to concede Palestinian lands or to rely on political initiatives, which they saw as having always resulted in Palestinian concessions.⁵ Jihad in the form of resistance to occupation is deemed the only adequate response to the Zionist onslaught. Articles 29, 34 and 35 draw on past examples of the Mongol and Crusader invasions, both of which initially succeeded but were eventually repelled.

The strategy of the Charter’s authors was to tell Palestinians, Arabs and Muslims to prepare for an indefinite struggle with a usurper that seeks to displace the people of Palestine and take over the holy places of Muslims. The youth, women, artists, intellectuals, and community organizations each have a role in this jihad.⁶ Addressing Arab and Muslim governments and civil society leaders, the authors tell them that the Palestinians are the victims of an inhumane, anti-Muslim imperial campaign that found an ally in the Zionist movement. As a result, the Palestinians deserve their support because they stand in the front lines of this struggle on behalf of all Arabs and Muslims. Jews are then compared to Nazis who completely disregarded innocent women, children and other civilians.⁷ If this was a cry for justice, it was poorly delivered. Instead of appealing to the common humanity and values with the occupiers, it alienated them.

The Charter invokes the Qur'an repeatedly but selectively. It does not distinguish between Jews, whose forces occupy Palestinian territory, and *Bani Israel*, whose religious history is an essential part of the story of revelation in the Qur'an. The Charter reflects folk perceptions equating Jews with Israelis. But even if this were to be accepted, are all Israelis anti-Hamas or anti-peace? What about the Israelis who refuse to serve in the military because of their moral position on the Palestinian question? What about Israelis who are even anti-Zionist? Clearly, the references to Jews in the Charter were meant to give voice to the anger in the Palestinian streets rather than to establish a basis for relations with Jews beyond the current conflict.

But to members of the old guard of Hamas, any sign of moderation will be interpreted as a weakness that can be exploited by the enemy. Steadfastness is a key factor in this struggle. To insulate this position against internal fissure or external criticism they declared Palestine as a religious endowment that belongs to all Muslims until Judgment Day. The Charter advocates the following religious view as a backup:

The Islamic Resistance Movement believes that the land of Palestine is an Islamic endowment for Muslim generations until the Day of Resurrection; no one can renounce it or part of it, or abandon it or any part thereof; no Arab state or all Arab states together have such right; nor does any king or president or all kings and presidents together have such authority; nor does any organization or all organizations, whether Palestinian or Arab, is authorized to concede it.

The status of [Palestine] in Islamic law is similar to that of all lands forcefully conquered by Muslims, when the Muslims of the time of conquest, have endowed them to all generations of Muslims until the Day of Resurrection. This was decided when the leaders of the Islamic armies, having conquered the Levant and Iraq, sent to the Muslim Caliph Umar ibn al-Khattab to ask what to do with the newly acquired lands, whether to distribute them among the soldiers, keep them to their owners, or do something else with them. Consultations and deliberations between the Muslim Caliph Umar ibn al-Khattab and the companions of the Messenger of Allah, peace be upon him, ended with the decision to keep the land in the hands of their owners to benefit from the fruits, while generations of Muslims until the Day of Resurrection hold ownership rights.⁸

Ascribing this *fatwa* (juristic opinion) to a whole movement is a novelty in Islamic activism. Movements do not issue *fatwas*, jurists do. Either way, the analogy in the article hardly applies to current circumstances. Currently, Muslims are the conquered, not the conquerors. Moreover, the article assumes that any territory Muslims take by force becomes their eternal right. Such concept has no backing in the Islamic tradition. Ultimately, legitimate leaders make decisions of war and peace. But the authors of the Charter seem to argue that the question of who has the right to Palestine was settled at the time of the first Muslim conquest. Any condition contrary to that would be null and void.

None of the founders of Hamas is a recognized jurist. To place their opinion in context, it is worthwhile to note that other *fatwas* on relations with Jews and Israel issued by Islamic jurists were not justified via the notions of eternal right and endless jihad. Prior to the establishment of Israel, religious scholars in Palestine issued a *fatwa* that banned the sale of land to Jews because the sales were seen as facilitating the Zionist quest to take over Palestine. Before then Jews were living and doing business among Muslims. In 1956, Al-Azhar *mufti* (*fatwa* giver) was asked whether it would be permissible to make peace with Israel or to join an alliance with powers that supported Israel. The response delineated the following principles: (1) reconciliation is possible if it is based on returning what has been usurped by force; (2) cessation of hostilities with people in a state of war with Muslims is permissible if it is limited to a set period of time; (3) preparation of defensive war is obligatory; (4) what Jews have done to Palestine is usurpation that

must be repelled by force; and (5) treaties with other states are permissible if they serve the interests of Muslims.⁹

What is more important than the specifics of the *fatwa* are the historical context and rationale that explain it. Israel had barely been established and the experience of the *Nakbah*, the mass expulsion of Arabs from their land, was still fresh. The justification of the opinion stresses Palestinian grievances and Israeli intentions. But it established the possibility of settling conflicts by addressing grievances.

If restoring justice is the goal, how does one measure injustice during times of conflict? Also, how does the quest for justice apply to the other side of the conflict? In the Islamic tradition, unjust practices during war time are those that violate the rules of war—most prominently the prohibition of attacks on non-combatants. This is why the *fatwa* stressed the mass expulsion of Palestinian civilians from their land in 1948-1949. (One could speculate that the subsequent attacks by Israel on Palestinian civilians in the West Bank and Gaza would also be included under this conception). The *mufti*, however, acted as an advocate of the Muslim side, which by definition assumes that the other side may also have legitimate claims. These could include (1) the flight of Jews from their homes during the conflict because of attacks on their establishments in several Arab countries, and (2) attacks against non-combatant Jews by Palestinian factions (including most prominently Al-Qassam Brigades of Hamas). Acknowledging mischief and suffering on both sides can establish a basis for finding a just peace.

Historical practice and juristic views allow for peacemaking with enemies who forced Muslims out of their homes should the interest of the Muslims warrant such direction. One particularly pertinent precedent was the agreements that Salahuddin al-Ayubi concluded with the Crusaders in conflicts over Jerusalem and other parts of the Holy Land. The Qur'an does not prohibit good relations with people who wronged Muslims if they agree to take corrective actions to restore justice. A just settlement is one that addresses the disputed claims to the satisfaction of the two sides of a conflict. From an Islamic perspective, once a representative Muslim leader concludes such an agreement, a new chapter of the history of relations with the other side would begin.

But the Charter posits that Muslim leaders today cannot decide for future generations the status of Palestine through peace treaties,¹⁰ yet they granted this right to the generation that lived in the first half of the seventh century, when Jerusalem was surrendered to Caliph Umar Ibn al-Khattab.¹¹ But while the founders of Hamas were politically dormant from the 1950s to the 1980s, the Arab world has evolved

into nation states, each with its own commitments to treaties and obligations under international law. The wars of 1967 and 1973 showed that Israel is a power to be reckoned with and that war is very costly. Arab states moved toward accepting land for peace with Israel. When Egyptian leaders realized a value in peace with Israel, Shaykh al-Azhar Jad al-Haq issued a *fatwa* supporting its legitimacy even if it did not restore full rights to Muslims. He reasoned that peace with an enemy is permissible if it achieved higher ends for Muslims and stopped further harm to them.¹²

Beyond pseudo *fiqh* (jurisprudence), the Charter even makes outlandish allegations, including the claim that Zionists, working under the cover of Freemason and Rotarian movements, have infiltrated the educational institutions in the Muslim world and successfully corrupted their curricula.¹³ This xenophobic attitude flies in the face of the quest of today's Hamas leaders to expand their relations both east and west. The younger Hamas leaders demand recognition from world governments and have met publicly and privately even with leaders of other countries that have abused other Muslims, including Russia, China and France. What change in the course of Hamas does this constitute? How did it come about?

The Emergence of Political Hamas

The success of Hamas in resistance surpassed the expectation of its leaders. In three years, the grassroots base of Hamas eclipsed the traditional PMB base of observant Muslim Palestinians. The Hamas-led intifada activities had its own structure that consisted of the intifada committees and, later, the Qassam Brigades. In the heat of the ensuing political rivalry with Fatah, which until 1987 was the undisputed champion of the Palestinian cause, the independently run social service networks that were developed in part by efforts of PMB members and sympathizers in earlier decades became seen as pro-Hamas. Many non-practicing Muslims and even a few Christians have become accustomed to voting for pro-Hamas candidates in student unions, municipality councils and professional syndicates. Conscious of the increase in its share of the public square, Hamas sought to maximize its political influence.

Efforts to institutionalize the movement's presence in the Palestinian political mainstream began in 1992-1993 with the establishment of *al-Makatab al-Siyasi* (Political Bureau) of Hamas and *al-Maktab al-I'lami* (Information Office—Hamas, Palestine). While the latter office has run the flow of official information about the group, the former has gradually become the group's political powerhouse. Musa Abu-Marzook was the first chairman of the Political Bureau.¹⁴ He was followed by Khlid Mish'al who was elected for the first time in 1996 and gained a hero sta-

The essence of the conflict has been redefined: the enemy is the occupation and Zionists, not Jews

tus after surviving a foiled Israeli assassination attempt in 1997. That incident also marked a turning point for political Hamas. It gave a boost of legitimacy to Hamas and its Political Bureau, as King Hussein personally negotiated with Netanyahu (who had ordered the biological weapon attack) the release of the captured Mossad assassin for the antidote that saved Mish'al's life and the freedom of jailed Hamas spiritual leader Ahmad Yasin.

Mish'al has been re-elected three times. The last took place in 2009 after the Gaza War, which signaled an approval of his performance during the crisis. Although Mish'al emerged as the most significant power-broker within Hamas, the group tends to make decisions through consensus. Leadership positions are decided through formal voting. While the Political Bureau was established by Palestinians in exile, Hamas leaders from inside the OTs have increased their seats steadily reaching parity with the members in exile by 2009. In the last election Mahmoud Al-Zahhar, Khalil Al-Hayya and Nizar Awadallah from the Gaza Strip joined. The names of members from the West Bank remained undisclosed due to fear for their capture by Israel or the Palestinian Authority led by Mahmoud Abbas.¹⁵ Outside the Arab world, the political development of Hamas in since the early 1990s have been eclipsed by the blunders of the suicide bombings by members of the semi-independent military wing of Hamas. These operations, however, came to an end when Israel pulled out of Gaza in 2005.

Today's leaders of Hamas recognize the undiplomatic nature of the Charter's language. Musa Abu-Marzook wrote defensively: "As for the 1988 charter, if every state or movement were to be judged solely by its foundational, revolutionary documents or the ideas of its progenitors, there would be a good deal to answer for on all sides."¹⁶ Khalid Mish'al called the old Charter an "outdated document" that does not bind Hamas to anything.¹⁷ He cited the early Zionist thinkers who advocated the expulsion of Arabs from their lands. Instead of formally adopting a new document that represents the broad base of Hamas, leaders of the group use indirect tactics. A recent profile refers to changes in Hamas in terms of ideological rigidity and political flexibility.¹⁸ As the review below shows, this assessment is only partially true.

The Charter is no longer published by the pro-Hamas Palestinian Information Center, which archives documents and releases of Hamas and its Information Office. Instead, the section "About Hamas" on the website represents what amounts



CHAN

The Charter of Hamas was never subject to deliberations and was never submitted for an approval before any governing body of the organization.

to a modified version of the 1988 document.¹⁹ It makes one reference to the Charter while describing the foundation years of Hamas. The rest of the document rewrites the Charter. Most of the Qur'anic verses as well as the juristic position on Palestine as a trust land are dropped. Yet the new version defines the geographical borders of historical Palestine, which the old Charter did not. The modification did not leave any ambiguity about the Palestinian historical claim, which Hamas refuses to relinquish.

But the essence of the conflict has been redefined: the enemy is the occupation and Zionists, not Jews, and the cause of the conflict is their responsibility for displacing the Palestinians rather than a grand conspiracy against Islam and Muslims. The old Charter's anti-Jewish statements and the selective Qur'anic verses critical of Jews have been deleted. The new "Charter" presents Hamas as part of a pluralistic Palestinian political body. The reference to an Islamic state is dropped and so is the distinction between Hamas and the PLO on the basis of the Islamist-secularist divide. Christian Palestinians are repeatedly recognized as equal citizens; no mention of them appeared in the original Charter. A section is added to set principles for Hamas foreign policy, including an opposition to interference in the internal affairs of other states; a declaration of no hostility to anyone on the

basis of religion or race; and an expression of intent to work with other states, international organizations and international liberation movements in order to develop public support throughout the world for ending the Israeli occupation. The position of Hamas toward the possibility of a political settlement shifted from a rejection to accommodation on the basis of “restoring the rights of the Palestinian people in a way that allows the exercise the right to liberty, return, independence, and self-determination.”²⁰

It is not clear when the revamped Charter was published or at what level of Hamas structure it was discussed or approved. But the Information Office became active online after the mid 1990s. The growing political maturation of Hamas did not happen over night. The preceding discussion of change in Hamas followed the establishment of the group’s Political Bureau. The new ideas in the document are consistent with statements made by Hamas leaders since then.

But Hamas learned the hard way that it must deal with the demands of a peaceful settlement. The whole region has moved in this direction with the support of world powers. The blockade of Gaza has had a humanitarian toll on Hamas and Gaza. Observing the extreme hardship endured by the people of Gaza after the blockade that followed the 2006 election, Ahmad al-Raysooni, a respected Moroccan Islamist scholar, shared the opinion that the Palestinians are now in a position of extreme necessity, which in Islamic law is a condition that would create a license for what is otherwise undesirable or even impossible. He reasoned that accepting a peace agreement to secure some Palestinian rights carries more weight over an untenable insistence on the attainment of full rights. Al-Raysooni cited the Al-Hudaybiyah Treaty in which the Prophet Muhammad accepted a compromise with pagan Arabs.²¹ The rationale of this fatwa echoes the Azhar *fatwa* cited earlier regarding the Egyptian-Israeli peace accords.

Other Islamist scholars rejected such opinion. Ali Al-Qarah Daghī, an Islamic legal professor at the University of Qatar, argued that Israel is not ready to accept a compromise and that the choice before Hamas now is either to surrender to Israel or to relinquish its hold on power in Gaza. Given the high stakes, Daghī argued that it would be more favorable for Hamas to relinquish its hold on power than to give up Palestinian rights. In other words, the interest in maintaining political power does not constitute a necessity. Furthermore, he rejected the Al-Hudaybiyah Treaty analogy because it did not include the condition of accepting the legitimacy of the usurpation of rights.²² Daghī, however, neither rejected the principle of a peace agreement nor precluded the possibility of a settlement with Israel. He only questioned the intentions of the Israelis and weighed the choices before Hamas.

Hamas leaders did not engage in this debate. As mentioned above, the Hamas Political Bureau had already moved away from articulating political positions on the basis of *fatwas*. While the views of jurists are appreciated and still relevant, Hamas Political Bureau makes decisions through majority vote. Unlike the Iranian structure, it does not have a supreme guide whose words are final.

Hamas leaders realize the choices they are facing and have hinted at a willingness to evolve even with regards to accepting Israel as a permanent state in the region. They have accepted and even enforced one-sided cease-fire declarations. They have offered long-term *hudna* (truce).²³ After the post 2006 election blockade of Gaza, Khalid Mish'al reaffirmed the offer. But in responding to the cutoff of aid to Gaza by the US and Europe, he wrote:

We are being punished simply for resisting oppression and striving for justice. Those who threaten to impose sanctions on our people are the same powers that initiated our suffering and continue to support our oppressors almost unconditionally.... Our message to the US and EU governments is this: your attempt to force us to give up our principles or our struggle is in vain. Our people who gave thousands of martyrs, the millions of refugees who have waited for nearly 60 years to return home and our 9,000 political and war prisoners in Israeli jails have not made those sacrifices in order to settle for close to nothing.²⁴

While reaffirming Palestinian claims, Hamas leaders have been talking about settlement conditions they oppose. Extending a hand in peace to the Israelis, Mish'al moved a step further by addressing Israeli fears of Hamas anti-Jewish rhetoric:

Our message to the Israelis is this: we do not fight you because you belong to a certain faith or culture. Jews have lived in the Muslim world for 13 centuries in peace and harmony; they are in our religion “the people of the book” who have a covenant from God and His Messenger Muhammad (peace be upon him) to be respected and protected. Our conflict with you is not religious but political. We have no problem with Jews who have not attacked us - our problem is with those who came to our land, imposed themselves on us by force, destroyed our society and banished our people... We shall never recogni[z]e the right of any power to rob us of our land and deny us our national rights. We shall never recogni[z]e the legitimacy of a Zionist state created on our soil in order to atone for somebody else's sins or solve somebody else's problem. But if you are willing to accept the principle of a long-term truce, we are prepared to negotiate the terms. Hamas is extending a hand of peace to those who are truly interested in a peace based on justice.²⁵

In order for the future Palestine to function properly under international law, the Palestinians do not have to agree that what Israel did to them was right. Palestinians believe this is exactly what the Israelis currently demand. Given the diametrically

opposed claims of Hamas and Israel, any true settlement will not work if it is conditioned on settling the historical narrative of each side. Instead, once a peaceful settlement is reached, each side will develop a new historical memory that will result in a new future narrative. Neither Israel needs a Palestinian recognition of the morality of Israel's existence nor is the lack of recognition an obstacle to peacemaking.

But Hamas has gone even further in addressing settlement conditions they would support. After the election, Ahmad Yousef, political advisor to Hamas Prime Minister Ismail Haniyeh, went on a European tour to sell the idea of an indefinite truce. In return, the proposal required Israel to withdraw to the 1967 borders, recognize the right of return of Palestinian refugees, and release Palestinian prisoners.²⁶ Israel feared the right of return to millions of Palestinian refugees would end the Jewish majority in Israel or make Israel a bi-national state. But Hamas did not detail how the right of return would be exercised. Hamas leaders may be hesitant to spell out their expectations—even privately—because they are not recognized as a negotiating partner and because that would even further complicate their relationship with Fatah leaders, who insist that the PLO is the sole legitimate handler of negotiations with Israel. These issues, however, are beyond the scope of this paper.

Clearly Hamas officials have abandoned the Charter's original opposition to a political settlement. If negotiations are inevitable, on what grounds would both Israel and Hamas stand? Hamas leaders have recently begun to make statements incorporating international law and human rights conventions in what they call “just” resolutions and statements.²⁷ But Hamas takes a one-sided, opportunistic position vis-a-vis international law, lauding the UN and other human rights agencies when they condemn the behavior of Israel while fending off any criticism to it by resorting to a generalized argument of self-defense.

This was the initial reaction of columnists in the pro-Hamas *Sahifat Falastin (Palestine Newspaper)* to the recent report by the UN Fact Finding Mission of the Gaza Conflict. Hisham Munawwir hailed the Goldstone report as the first clear UN documentation and condemnation of Israeli crimes against the Palestinians. Yet he rejected the report's accusation of Hamas of war crimes, noting that this would equate the victim with the executioner.²⁸ The official Hamas position, however, remained circumscribed until the Palestinian Authority in the West Bank agreed to postpone UN discussions of the report in the UN Human Rights Council. Hamas then cynically exploited the Palestinian public's anger against Palestinian President Mahmoud Abbas. In media interviews Hamas leaders said they would abide by the recommendation of the report to investigate possible war crimes by the Palestinian side. Sami Abu-Zuhri said the Palestinian Authority

in Gaza would name a committee to investigate the allegations.²⁹ Later, Khalid Mish'al indicated willingness to do the same.³⁰

Hamas equivocates on international law and the UN in general because Israel gained international legitimacy through the UN's 1947 partition plan and the UN decision to admit Israel as a sovereign member state. For long, Palestinians have opposed both decisions as unjust because they did not take into consideration the wishes of the Palestinian people, the natives of the land who constituted a majority of the population at the time. But those decisions also recognized the right of the Palestinians to self-determination. Yet Hamas has recently expressed readiness to go along with a two-state solution, but Hamas has not yet developed a position receptive to the idea that UN resolutions and international law represent a neutral ground on which to negotiate peace. Arbitration through a third party has a long history in the conflict resolution practices among both Muslims and Jews.

In April 2008, Mish'al handed former President Carter a statement promising Hamas would go along with a two-state solution if it was approved in a popular referendum. The group's position assumes an inescapable political risk: Should the Fatah-led Palestinian Authority succeed in ending the occupation, it will definitely turn this achievement into a political capital that can be used to defeat Hamas in the next Palestinian election. On May 19, 2008, the French government revealed that during informal talks with Hamas the group leaders specifically agreed to a settlement creating a Palestinian state along the 1967 borders.³¹ Even before these encounters, it was widely reported in the Arab press that Khalid Mish'al told President Abbas and King Abdullah of Saudi Arabia that if the Arab states were able to conclude a deal on the basis of the 2002 Arab peace plan, Hamas would go along.

Israel continues to dismiss moderation in Hamas, as meaningless because Hamas continues to reject the right of Israel to exist. Hamas makes a distinction between the moral acceptance of Israel and recognizing the reality of Israel. The immorality of forcing Palestinians out of their homes is not subject to negotiation. This is what Hamas leaders understand as implicit in the "recognize Israel condition." In a recent press conference Khalid Mish'al said "we recognize Israel as a matter of fact."³² This may sound dubious to some Western politicians who understand the language of rights in terms of their political and legal implications for states. But in Arabic, *al-haq* (right) assumes both legal and moral meanings. This should not be confusing to Westerners who understand such phrases as "the right thing to do" to be a statement in favor of ethical conduct. Because the main audience of Hamas's public discourse is its own grassroots, the moral meaning is a lot more important than the politico-legal definition. In an interview meant for a Western audience,

The problem is not that there is an entity called Israel. The problem is that the Palestinian state is non-existent

moral consistency is paramount, then the credibility of Hamas would be strengthened if its leaders acknowledged the immorality of attacks against Jewish civilians by other Arabs and members of its own military wing.

Mish'al underscored his willingness to bypass this communication gap. He stated: "The problem is not that there is an entity called Israel. The problem is that the Palestinian state is non-existent."³³ But if

Conclusion

Despite change in the political behavior of Hamas, the group is still far from being ready to accept fairness and humility in its struggle for Palestinian rights. And the whole new media savvy political discourse has yet to become the official representation of Hamas goals and strategies. Moreover, literature of the Hamas Information Office still alludes to prophecies of the end of Israel at the hands of the *mujahidin* (fighters), which does not seem to be in sync with the new political direction supporting a two-state solution.

Is it possible for an Islamic party to accept Israel as a matter of a moral right? Hamas leaders may find it difficult to entertain such a question because any pronouncement may factor in the Israeli assessment of their will. Hamas leaders are very particular about projecting a strong resolve against the occupation. Yet, should Israel address their grievances, they will eventually come to see Jews as a people who have lived in the region for ages and the Qur'an supports their claim of attachment to the Holy Land. The bulk of Hamas supporters are likely then to accept that as a matter of right Jews belong to the region. But the public expression of such sentiment will not come about so long as Israel continues to pursue policies of disenfranchising the Palestinians.

Hamas leaders have to muster self confidence and remain true to the Islamic values of fairness and reciprocity in relations between nations. It will not help the Palestinian cause to cling to the view that they are the clear underdog in the conflict and as such they deserve the sympathy of all people who care for values. From Cairo University, President Obama indirectly advised Hamas to claim the moral authority by ending the indiscriminate firing of rockets against Israel.³⁴ Hamas leaders would also do their cause great good by digging deeper into how they rationalize and communicate their grievances and intentions. Because of their suffering, they must recognize that seeking a just peace requires recognition of the humanity of the Israelis. This is not only moral but also rational. Establishing the Political Bureau would have little meaning if the new generation of Hamas lead-

ers were anticipating a state of endless struggle. If settling the conflict drives the calculation of Hamas strategists, they must consider where Hamas would be after peace. Humanizing Jews and Israelis will only increase the chances of a just peace, it may make the world after peace much better for the Palestinians.

Endnotes

1. Netanyahu's website calls the Charter "the most important ideological manifest of the Hamas movement's ideals, objectives and methods." See <http://www.netanyahu.org/sphacoanofwo.html>, April 27, 2009.

2. The original Arabic text is published at: <http://www.islamonline.net/Arabic/Harakat/2009/01/images/covenant.pdf>.

The Israeli Foreign Ministry offers the following translation of the statement: "Israel will exist and will continue to exist until Islam will obliterate it, just as it obliterated others before it." The keyword here is "obliterate." If one translates accurately back to Arabic, the variations that could be used may include *yudammir*, *yuzil* or *yashaq* but not *ubtil*—the actual source word. Moreover, the quotation is often presented without any acknowledgement that it is not an article of the Charter. See for example: <http://singapore.mfa.gov.il/mfm/Web/main/document.asp?documentid=151729>.

3. *Mithaq Harakat al-Muqawamah al-Islamiyah* (Hamas Charter) August 18, 1988, Articles 2, 6 and 12.

4. Khalid Amayreh, Hamas, *The Link*, Volume 41, Issue 1, January-March 2008.

5. Hamas Charter Article 13.

6. Hamas Charter Articles 16 - 21.

7. Hamas Charter Article 20.

8. Hamas Charter Article 11.

9. Sheikh Hasan Ma'mun, *al-Sulh ma' al-Yahud fi Falastin* (The question of signing a peace treaty with Jews in Palestine) cited from al-Azhar fatwa sources in <http://www.jiis.org/.upload/publications/fatwa/fatwa%202.pdf>, October 26, 2009.

10. Hamas Charter Article 13.

11. Hamas Charter Article 11.

12. Shaykh Jad al-Haq, *Peace Treaty between Egypt and Israel and its Impact*, loaded as a pdf file from the original text at <http://www.jiis.org/.upload/publications/fatwa/fatwa%205.pdf>, October 26, 2009.

13. Hamas Charter Article 17.

14. Abu Marzook was still living and working legally in the United States at the time, but he frequently traveled to the Middle East. This author worked with him in 1992-1993 at the United Association for Studies and Research in Annandale, Virginia. In 1994 he moved to Jordan. In January 1995, President Clinton signed Executive Order 12947 prohibiting transactions with terrorist organizations threatening to disrupt the Middle East peace process. Hamas was listed among them. In July 1995 Jordan expelled Abu Marzook back to the U.S., where he had a permanent resident status. He was detained at the JFK Airport and remained in jail for two years until he was deported back to Jordan. During his detention, Khalid Mish'al was elected to the chairmanship of Hamas Political Bureau.

15. Ikhwanweb, May 5, 2009, "Hamas renews election of Mish'al and political bureau chairman," <http://www.ikhwanweb.com/article.php?id=20062>, November 1, 2009.

16. Musa Abu-Marzook, "Hamas' stand," *The Los Angeles Times*, July 10, 2007, <http://www.latimes.com/news/opinion/commentary/la-oe-marzook10jul10,1,6983951.story>, October 30, 2009.

17. New York Times, May 4, 2009, http://www.nytimes.com/2009/05/05/world/middleeast/05meshal.html?_r=2.

18. Paul Scham and Osama Abu-Irshaid, "*Hamas: Ideological Rigidity and Political Flexibility*," United States Institute of Peace, Washington, DC, June 2009.
19. <http://www.palestine-info.info/ar/default.aspx?xyz=U6Qq7k%2bcOd87MDI46m9rUxJEpM0%2bi1s7YjyNYgnCrGxy9LphpYtjbpN10jo4ZpAEj22uHhDql1JcP2sHDtgZlJCR3C2afNaApr%2bmcrhAOq3FNcmJIzvxLcU9gqqBHHcqmhfrDvamPtU%3d>, October 25, 2009.
20. <http://www.palestine-info.info/ar/default.aspx?xyz=U6Qq7k%2bcOd87MDI46m9rUxJEpM0%2bi1s7YjyNYgnCrGxy9LphpYtjbpN10jo4ZpAEj22uHhDql1JcP2sHDtgZlJCR3C2afNaApr%2bmcrhAOq3FNcmJIzvxLcU9gqqBHHcqmhfrDvamPtU%3d>, October 25, 2009. The document does not appear in the English version of the website. A recent pro-Israel review of U.S. policy on the peace process opposes the Obama declaration that he will take personal interest in revamping the search for peace. The argument hinges on the assumption that Hamas is ideologically driven and that its ideology rejects compromise. While such an argument necessitates a look at the discourse of Hamas in Arabic, the book does not cite Arabic sources, except those that had been translated to English by Western sources. Dennis Ross and David Makovsky, *Myths, Illusions, and Peace: Finding a New Direction for America in the Middle East*, (New York, NY: Viking, 2009). In particular see pp. 258-262.
21. <http://www.raissouni.org/def.asp?codelangue=6&ref=2>, October 15, 2009.
22. See the fatwa at http://www.islamonline.net/servlet/Satellite?c=ArticleA_C&pagename=Zone-Arabic-Shariah%2FSRALayout&cid=1173694996734, September 27, 2009.
23. Interview with Hamas political leader in the West Bank Adnan Asfoor, June 21, 2003, <http://www.islamonline.net/livedialogue/Arabic/Browse.asp?hGuestID=vy07ON>, September 27, 2009.
24. Khalid Mish'al, "We will not sell our people or our principles for foreign aid," [guardian.co.uk](http://www.guardian.co.uk/world/2006/jan/31/comment.israelandthepalestinians) <http://www.guardian.co.uk/world/2006/jan/31/comment.israelandthepalestinians>, October 29, 2009.
25. Khalid Mish'al, "We will not sell our people or our principles for foreign aid," [guardian.co.uk](http://www.guardian.co.uk/world/2006/jan/31/comment.israelandthepalestinians) <http://www.guardian.co.uk/world/2006/jan/31/comment.israelandthepalestinians>, October 29, 2009.
26. Mahmoud Ali, "Hamas Turawwij fi Urubba Hudnah ma' Isral" (Hamas Promotes in Europe Ceasefire with Israel), *Islamonline.net*, http://www.islamonline.net/servlet/Satellite?c=ArticleA_C&pgname=Zone-Arabic-News/NWALayout&cid=1165994149507, September 27, 2009.
27. *Nas Wathiqat al-Asra Lilwifaq al-Watani al-Filistini* (Text of Prisoners Pact for Palestinian National Reconciliation) May, 2006. <http://www.aljazeera.net/news/archive/archive?ArchivId=327796>, October 25, 2009.
28. *Sahifat Falastin*, September 20, 2009, <http://www.felesteen.ps/Index.php?action=showwrite&id=6410>, October 25, 2009.
29. Ali al-Salih, "Hamas tukhatit limarhalat 'Glodstone'" (Hamas Plans for 'Goldstone' Phase), *Al-Sharq Al-Awsat*, October 18, 2009, <http://www.aawsat.com/details.asp?section=4&article=540519&issueno=11282>, October 25, 2009.
30. Interview with Kaled Mashal by Steve Clemson, October 17, 2009, <http://palestinenote.com/cs/blogs/blogs/archive/2009/10/18/meshaal-confirms-he-is-sending-a-hamas-delegation-to-cairo.aspx>, October 29, 2009.
31. *New York Times*, May 20, 2008, <http://www.nytimes.com/2008/05/20/world/europe/20france.html?partner=rssnyt&emc=rss>, May 20, 2008.
32. Haaretz.com, November 1, 2007, <http://www.haaretz.com/hasen/spages/812084.html>, July 15, 2009.
33. *The Guardian*, January 11, 2007, <http://www.guardian.co.uk/israel/Story/0,,1987622,00.html>, May 3, 2009.
34. *A New Beginning*, President Barack Obama Speech at Cairo University, June 4, 2009, <http://www.whitehouse.gov/blog/NewBeginning/>, October 29, 2009.