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The Palestine Liberation Organization's Claim to Status: A Juridical Analysis under International Law

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The Palestine Liberation Organization's Claim to Status: A Juridical Analysis under International Law

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ARTICLES

The Palestine Liberation Organization's Claim to Status: A Juridical Analysis Under International Law*

ANIS F. KASSIM**

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I. INTRODUCTION

The Palestine Liberation Organization is not a state. It does not administer a defined territory. It does not have the attributes of a government of a state.¹

At the same meeting the [Security] Council also decided, by a vote, that an invitation should be accorded to the Palestine Liberation Organization to participate in the debate and that that invitation would confer upon it the same rights of participation as were conferred when a Member State was invited to participate. . . .²

1. Ambassador Daniel P. Moynihan, Permanent Representative of the United States to the United Nations. *Reprinted in U.S. DEP'T OF STATE, SELECTED DOCUMENTS* No. 4, at 66 (1976). This publication covers United States policy in the Middle East from November 1974 to February 1976. [Hereinafter cited as *SELECTED DOCUMENTS*.]

2. 30 U.N. SCOR, U.N. Doc. S/INF/31, at 7 (1975). The decision was adopted by nine votes to three, with three abstentions, on Dec. 4, 1975. *Id.* The same decision was adopted in 1976 by 11 votes to 1 (the United States), with 3 abstentions. S/INF/32, at 1 (1976). When the Council convened on Mar. 19, 1978, to discuss Israel's invasion of southern Lebanon, the PLO was invited to participate, at the request of Kuwait. The United States representative objected to Kuwait's request and suggested that the question be put to a vote. The proposal of Kuwait was adopted by 10 votes to 1, with 4 abstentions. See U.N. CHRONICLE, Apr. 1978, at 6.

Spokesmen for the Palestine Liberation Organization (PLO) persistently assert that their organization is the sole legitimate representative of the Palestinian people, wherever they might be located. They present and relentlessly pursue this claim in many regional and international forums.³ Their endeavors were highlighted by a resolution, passed overwhelmingly by the United Nations General Assembly in 1974, by which that body resolved to invite the PLO to participate in the debate relative to the Palestine question.⁴ It was the first time in the world organization's history that a non-state entity was accorded such status. In addition, the Arab Summit Conference, held in Rabat, Morocco, in October 1974, acknowledged the public status of the PLO as the sole and legitimate representative of the Palestinian people, and recognized the Organization's right to establish a Palestine National Authority in any Palestinian territory which Israel might evacuate.⁵

These dramatic developments give rise to the question of what juridical status an organization such as the PLO might have under public international law. To determine that status necessarily entails an analysis of wide scope involving, in particular, the definition and identification of participants in international law. This subject will be discussed in section II of this study. A recommended juridical approach is set up in section III; that section will also venture to delineate international practices and identify relevant legal prescriptions. A factual analysis of the PLO's claim to status is covered in section IV along with other relevant precedents. Section V will evaluate the PLO's status in the light of contemporary international law and practice. Section VI will present the conclusions flowing from this analysis.

3. The PLO attended the nonaligned nations conference and the Conference of the Muslim States as a full member. It attends, in the capacity of observer, all conferences held under the auspices of the United Nations, from the Law of the Sea Conference to the Geneva Conference concerning International Armed Conflicts. See G.A. Res. 3237, 29 U.N. GAOR, Supp. (No. 31) 4, U.N. Doc. A/L.742 and Add. 1 (1974).

4. G.A. Res. 3210, 29 U.N. GAOR, Supp. (No. 31) 3, U.N. Doc. A/L.736 and Add. 1, 2 (1974). The vote was 105 to 4, with 20 abstentions. Voting against the resolution were Bolivia, the Dominican Republic, Israel, and the United States. See 28 Y.B. U.N. 226 (1974). See also G.A. Res. 3236, 29 U.N. GAOR, Supp. (No. 31) 4, U.N. Doc. A/L.741 and Add. 1 (1974), whereby, among other things, the Secretary-General was requested to establish contacts with the PLO on all matters concerning the question of Palestine; and G.A. Res. 3237, note 3 *supra*.

5. The official text (in Arabic) was released by the PLO Political Department in Oct. 1974. The resolutions adopted by the Rabat Summit were published in *Al-Siyasah* (Kuwait), Dec. 5, 1977, at 19, cols. 1-8. See also *Middle East Economic Survey*, Nov. 1, 1974, at 2.

II. THE SUBJECTS OF INTERNATIONAL LAW

A. *Clarification of Conventional and Contemporary Approaches*

Nation states have traditionally been recognized as the sole subjects of international law. They were exclusively responsible for the formulation, application, and termination of international legal doctrines.

This trend, however, has moved recently towards a broader recognition of the participation of entities other than nation states. There is ample evidence that such institutions have been accorded certain status and recognition under contemporary international law.⁶ Various schools of jurisprudence have also concurred in and supported this new development. Perhaps no legal trend has received as much support from contradictory schools of jurisprudence as has the trend of recognizing and admitting new participants, other than nation states, into the realm of international law.

Legal scholars in the socialist countries are generally conservative relative to the issue of the subjects of international law. They do, however, hold that functioning national communities are entitled to rights under public law. In particular, Soviet writers support the recognition of national liberation movements which struggle to create their respective polities.⁷ Justice Pham Van Bach, First President of the Supreme Court of the Democratic Republic of Vietnam, noted that "besides the States, there are other large entities representing the will of the peoples who can also be subjects of international law"⁸ Among these entities, Justice Bach cited the World Federation of Trade Unions and the South Vietnam National Front for Liberation.⁹

The McDougal-Lasswell school of jurisprudence is a staunch advocate of recognizing non-nation state subjects of international law. Professor McDougal and his associates assert that "[a]ll participants in world social process act in the constitutive process of authoritative decision."¹⁰ Among these "participants," they enumerate

6. D. BOWETT, *THE LAW OF INTERNATIONAL INSTITUTIONS* 273 *passim* (1963).

7. Ginsburgs, "Wars of Liberation" and the Modern Law of Nations—*The Soviet Thesis*, in *THE SOVIET IMPACT ON INTERNATIONAL LAW* 66 (G. Ginsburgs ed. 1964).

8. See Van Bach, *International War Crimes Tribunal (Decision of the First Session held in Stockholm from April 30 to May 10, 1967)*, in *JURIDICAL SCIENCE INSTITUTE (DEMOCRATIC REPUBLIC OF VIET NAM), U.S. WAR CRIMES IN VIET NAM* 273, 297 (undated).

9. *Id.* at 298.

10. McDougal, Lasswell & Reisman, *The World Constitutive Process of Authoritative Decision*, 19 *J. LEGAL EDUC.* 253, 261 (1967) [hereinafter cited as McDougal *et al.*]. The second part of this article appeared at 19 *J. LEGAL EDUC.* 403 (1967). See also

territorial units, international governmental organizations, political parties, pressure groups, and private associations.¹¹ Furthermore, a fairly recent publication of the United States Department of State defined the subjects of international law as being, in addition to states, international organizations, non-self-governing territories, and belligerents and insurgents.¹²

B. *Recommended Approach*

While this study accepts the basic premises advanced by the various schools of thought, it ventures to clear up certain confusion and to recategorize the subjects of international law. The McDougal-Lasswell school considers territorial units as "prime participants" due to their "control over territory."¹³ Territory, in the view of this school, continues to be a "key resource for values."¹⁴ The significance of territory as a base value was recognized by this school in attaching different labels to various groupings. It defines a "group" as "participants sharing a high frequency of perspectives, but not necessarily having a territorial base."¹⁵ However, "[w]hen a group is territorially based, it is appropriate to speak of it as a community."¹⁶

The territorial importance, however, was subsequently discounted by the same school. It held that "[g]roups without territorial bases have struggled to form nation-states by invoking the broad policy of self-determination. The 'quasi-state' quality of these 'groundless' groups and the fact that they have concluded international constitutive agreements has been a steady challenge to the traditional doctrine of 'sovereignty'."¹⁷

To confuse the issue further, these groundless groups are listed by the McDougal-Lasswell school under the participant category of "Private Associations," which are defined as "nongovernmental organization[s] formed for the purpose of pursuing scope values other than power."¹⁸ Such nongovernmental groups may engage in interna-

Lasswell & McDougal, *Criteria for a Theory About Law*, 44 S. CAL. L. REV. 362 (1971); Mayo & Jones, *Legal-Policy Decision Process: Alternative Thinking and the Predictive Function*, 33 GEO. WASH. L. REV. 318 (1964); and McDougal, *International Law, Power and Policy: A Contemporary Conception*, 82 RECUEIL DES COURS 137 (1953).

11. McDougal *et al.*, *supra* note 10, at 263-67.

12. A. ROVINE, *DIGEST OF UNITED STATES PRACTICE IN INTERNATIONAL LAW—1973*, at 17, 59, 67 (1974).

13. McDougal *et al.*, *supra* note 10, at 263.

14. *Id.*

15. *Id.* at 255.

16. *Id.*

17. *Id.* at 270-71.

18. *Id.* at 267.

tional wealth processes, enlightenment, affection, and well-being, but not in the power value. What McDougal and his associates in effect suggest is that these groups may expand their commercial, religious or professional scope value to seek political power later on in the territory (the arena of their operations) in which they may claim the right of self-determination or a "quasi-state" status. If this confusion were to be accepted, the world community would witness a high degree of subversion and conquest, since some of these organizations outperform host governments in management and resources.¹⁹ The confusion would also result in undermining the world public order to which Professors McDougal and Lasswell are unequivocally committed.²⁰

Fully considering the juridical significance of the element of territory, an alternate classification might be recommended. "Groups" are so designated by McDougal and Lasswell because they, in contrast to "communities," lack the essential power base of territory. However, they share the characteristic of being entities that are not nation states and yet are recognized participants in the world arena. It is suggested, therefore, that both of these entities, possessing a common feature, be called "public bodies." As they differ on the element of territory, they can be divided into territorial and non-territorial public bodies. A territorial public body includes what McDougal and Lasswell describes as elites which are in the process of consolidating their statehood entities.²¹ A non-territorial public body comprises any group or organization which does not have a territorial base value.

The recommended categorization is not purely academic. It has important juridical consequences. Non-territorial public bodies legally differ from territorial public bodies in their formation, purposes, admittance under public law, and scope of authority.²²

19. An example of Private Associations seeking values other than power are the multinational corporations, which are primarily concerned with the value of wealth.

20. In most of their writings, McDougal and Lasswell, as well as other scholars who adhere to this school of jurisprudence, emphasize the "world public order" as the desired value sought to be maximized by using the instrument of law. *See, e.g.*, M. McDUGAL & ASSOCIATES, *STUDIES IN WORLD PUBLIC ORDER* (1960); M. McDUGAL & F. FELICIANO, *LAW AND MINIMUM WORLD PUBLIC ORDER* (1961); M. McDUGAL, H. LASSWELL, & J. MILLER, *THE INTERPRETATION OF AGREEMENTS AND WORLD PUBLIC ORDER* (1967); and *Dedications to Professor Myres McDougal*, 1 *DEN. J. INT'L L. & POL'Y* 1 (1971).

21. McDougal *et al.*, *supra* note 10, at 263.

22. As to the "scope of authority," especially with regard to the right of using force, it will be dealt with in a forthcoming continuation of this study, tentatively entitled *The Palestine Liberation Organization's Claim to the Use of Force*.

III. PUBLIC BODIES

A. *Non-Territorial Public Bodies*

1. *Procedures of Formation*

Non-territorial public bodies can be brought into existence or liquidated through the bilateral or multilateral agreement of nation states.²³ Two conditions must be present. First, the constituting entities must be nation states; neither individuals nor groups possess the requisite capacity.²⁴ It is not accidental, therefore, that non-territorial public bodies are often referred to as "governmental" international organizations. Second, there must be two or more states using their bilateral or multilateral authority, for "[t]here is no authority for [any single] state to constitute a public body unilaterally."²⁵ Hence, a French court held that the Committee of Debenture Holders of the Danube-Adriatic Railways Company, originally a private association, had gained the status of a public body and an international legal personality by virtue of two international treaties.²⁶

The postwar era has witnessed an unprecedented proliferation of non-territorial public bodies. This phenomenon reflects universal and regional needs for cooperation among states in various areas. All such public bodies are established to serve certain community values. The United Nations Organization, for example, was established primarily to "maintain international peace and security," "develop friendly relations among nations," and "achieve international co-operation in solving international problems."²⁷ A wide range of values are served by various universal and regional organizations, such as the United Nations' specialized agencies, the European Coal and Steel Community, the Organization of Petroleum Exporting Coun-

23. Mallison, *The Legal Problems Concerning the Juridical Status and Political Activities of the Zionist Organization/Jewish Agency: A Study in International and United States Law*, 9 WM. & MARY L. REV. 556, 565 (1968); RESTATEMENT (SECOND) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 5(a) (1965).

24. In *Godman v. Winterton*, [1919-1920] Ann. Dig. 205, 206-07 (C.A.), it was held that the Inter-Governmental Committee for Refugees could not be sued on the ground that it was "a committee of representatives of sovereign States," and any suit filed against it would be "an action against sovereign States." In *International Refugee Organization v. Republic S. S. Corp.*, 18 I.L.R. 447, 449, 189 F.2d 858 (4th Cir. 1951), the court said that a "suit by an international organization is a suit by the United States as well as by the other nations which are parties to the organization."

25. Mallison, *supra* note 23, at 565. However, a single state can create a "juristic body" under its municipal law.

26. *Vigoureux v. Comité des Obligataires Danube-Save-Adriatique*, 18 I.L.R. 1, 2 (Tribunal Civil de la Seine, France 1951).

27. U.N. CHARTER art. 1, paras. 1, 2, 3.

tries, the Organization of American States, and the League of Arab States.

As they are formed only by the bilateral or multilateral action of sovereign states, non-territorial public bodies can only be liquidated by the constituting states. The League of Nations was terminated by the unanimous vote of thirty-four member states; this constituted the "first instance in history of the complete disappearance of a major multilateral organization."²⁸

2. *Recognition in Public Law*

The recognition of non-territorial public bodies as subjects of contemporary international law is no longer in question. The juridical justification of admitting these entities in public law was formulated by Professor Corbett as follows: "[I]t must be recognized that the States whose consent is the immediate cause of [international] law can create what legal institutions they will [T]he States in creating an entity other than a State, with distinct rights and duties, thereby create a person."²⁹

The agreement creating such an entity may explicitly determine its international personality, or such a status may be ascertained by necessary implication of the powers granted it by the constituting document. An example of the former is found in the constituting document of the Food and Agriculture Organization, which proclaims that the Organization "shall have the capacity of a legal person to perform any legal act appropriate to its purpose which is not beyond the powers granted to it by this Constitution."³⁰ An example of the latter situation is Article 39 of the Constitution of the International Labour Organisation, whereby the Organisation is granted the juridical status and legal capacity to contract, to acquire and dispose of immovable and movable property, and to institute legal proceedings.³¹

Regarding the latter situation, the principal authority on the subject is an Advisory Opinion of the International Court of Justice. In the case concerning *Reparation for Injuries Suffered in the Service*

28. Myers, *Liquidation of League of Nations Functions*, 42 AM. J. INT'L L. 320 (1948).

29. Corbett, *What Is the League of Nations?*, 5 BRIT. Y.B. INT'L L. 119, 142-43 (1924). The same conclusion was reached by the International Court of Justice in the *Reparation Advisory Opinion*, *infra* note 32, at 185.

30. Constitution of the Food and Agriculture Organization of the United Nations, Oct. 16, 1945, 60 Stat. 1886, T.I.A.S. No. 1554.

31. Constitution of the International Labour Organisation, June 28, 1919, 49 Stat. 2713, T.S. No. 874.

of the United Nations,³² the Court rejected the traditional law, and said that "the progressive increase in the collective activities of the States has already given rise to instances of action upon the international plane by certain entities which are not States."³³ The Court further explained that such new subjects of international law need not necessarily be states or be "identical in their nature or in the extent of their rights, and their nature depends upon the needs of the community."³⁴ Then the Court concluded that the United Nations "is a subject of international law," a fact which can be ascertained from the "implied" substantive powers which were granted to it through its Charter.³⁵

B. Territorial Public Bodies

1. Procedures of Formation

Reference to territorial public bodies is meant to include territorial units the elites of which are in the process of consolidating their respective nation state units. In practical terms, international practice has witnessed the emergence of an irredentist elite that is committed to the objective of overthrowing the established authority and installing its own. The target authority may be either a national or a foreign (colonial or occupying) government.

In this context, a territorial public body is characterized as an entity composed of individuals rather than states. It is a self-styled political unit which proclaims itself as the *de facto* representative entity of the people from which it originated.³⁶ The second principal characteristic of this type of public body is that it is "territorial," that is, that the revolutionary elite draws its major powers from the territorial population it claims to represent.

2. Recognition in Public Law

The recognition accorded to territorial public bodies by nation states is not constitutive. It is, to a large extent, an action reminiscent of the recognition extended to newly formed states or governments.³⁷ The traditional recognition of insurgents in a civil war meant that the recognizing state would abide by the laws of neutral-

32. [1949] I.C.J. 174.

33. *Id.* at 178.

34. *Id.*

35. *Id.* at 179-80.

36. This is evident in all movements launched against incumbent governments, such as the United States Revolution and Civil War, and the Cuban, Algerian, Vietnamese, and Iranian Revolutions.

37. The Tinoco Claims Arbitration (Great Britain v. Costa Rica 1923), 1 R. Int'l Arb. Awards 375 (1948).

ity.³⁸ Contemporary practice of recognizing revolutionary movements means, however, that the state concerned is either in support of it or is recognizing a new hard fact.³⁹ As a result of the Nazi invasion of Europe, several governments-in-exile were established in London. They were recognized by several countries and acted as "international entities" with significant diplomatic status.⁴⁰ The United States, for example, nominated its ambassador to Poland to be also its diplomatic representative to the governments-in-exile of Belgium, the Netherlands, Norway, and Yugoslavia.⁴¹ The United States further agreed with the representative of General de Gaulle, President of the National Committee of the Free France, that "Free French naval vessels could enter American ports for repairs on the same status as British war vessels"⁴²

The resistance movements which launched wars of liberation against the German occupying forces were recognized as subjects of international law.⁴³ Several provisions of the Geneva Conventions for the protection of war victims (1949) were formulated so as to incorporate such practices in codified legal principles. These provisions envisage situations in which a belligerent state confronts an entity which is not a state. The Convention Relative to the Treatment of Prisoners of War, for example, refers to "[m]embers of regular armed forces who profess allegiance to a government or an authority not recognized by the Detaining Power."⁴⁴ The word "authority," in contrast to "government," indicates that the entity to which these forces belong is not necessarily a "state."

The Geneva Protocol of 1977 concerning international conflicts⁴⁵

38. On the rights and duties of neutral states towards belligerents, see the Hague Conventions of Oct. 18, 1907, 36 Stat. 2310.

39. Both instances have juridical consequences for legal principles concerning the law relating to neutrality and belligerency. See, e.g., United States Military Assistance Command, Vietnam, Directive No. 381-46 and Annex, Dec. 27, 1967, concerning the screening of detainees; and *Abi-Saab, Wars of National Liberation and the Laws of War*, 3 ANNALS INT'L STUD. 93, 102-116 (1972).

40. Brown, *Sovereignty in Exile*, 35 AM. J. INT'L L. 666, 667 (1941).

41. *Id.* at 666.

42. 2 U.S. DEP'T OF STATE, FOREIGN RELATIONS OF THE UNITED STATES—1942, at 502 (1962).

43. INTERNATIONAL COMMITTEE OF THE RED CROSS, COURSE OF FIVE LESSONS ON THE GENEVA CONVENTIONS 65 (H. Coursier & J. Pictet eds. 1962).

44. Art. 4, para. A(3), Aug. 12, 1949, 6 U.S.T. 3316, T.I.A.S. No. 3364, 75 U.N.T.S. 135.

45. Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), adopted by consensus on June 8, 1977, by the Diplomatic Conference on Reaffirmation and Development of International Humanitarian Law Applicable in Armed Conflicts. Text at 72 AM. J. INT'L L. 457 (1978).

has emphasized and elaborated on this concept. The Protocol extends its protective cover to include the armed forces, groups, and units which are under a command responsible to a "Party," whether this "Party" is "represented by a government or an authority"46 The Protocol has gone further in a lawmaking provision to include "peoples . . . fighting against colonial domination and alien occupation and against racist regimes"47

With regard to anticolonial liberation movements, contemporary international practice has widely accepted the premise that such territorial public bodies are subjects of international law.⁴⁸ The Algerian National Front, and later its Provisional Government of the Republic of Algeria, possessed diplomatic status in international law. The Front was early recognized by some Arab and African states, and it was allocated an annual subsidy by the Arab League.⁴⁹ The Provisional Government, which was established before Algeria gained its complete independence, was recognized by a total of twenty-five countries, most extending *de jure* recognition.⁵⁰ It also concluded international treaties with various governments.⁵¹ Tunisia and Morocco, on whose territories units of the Algerian Liberation Army were stationed, granted the Front and the Provisional Government extraterritorial jurisdiction thereon.⁵² The Moroccan Government concluded with the Provisional Government a secret agreement recognizing "the territorial problems created by the delineation imposed arbitrarily by France," and stipulating that the problems would be resolved through negotiations between Morocco and the Government of independent Algeria.⁵³

In the same vein, the National Liberation Front of South Vietnam and its subsequently constituted Provisional Revolutionary

46. *Id.* art. 43, para. 1. See also Mallison & Mallison, *The Juridical Status of Privileged Combatants under the Geneva Protocol of 1977 Concerning International Conflicts* (unpublished and undated study): "The comprehensive word 'authority' refers to nongovernmental public bodies." The writer wishes to thank the Mallisons for making their valuable study available to him.

47. Geneva Protocol, art. 1, para. 4.

48. Lauterpacht, *The Subjects of the Law of Nations*, 63 *LAW Q. REV.* 438, 444-45 (1947); Abi-Saab, *supra* note 39, at 107 *passim*.

49. Fraleigh, *The Algerian Revolution as a Case Study in International Law*, in *THE INTERNATIONAL LAW OF CIVIL WAR* 179, 213 (R. Falk ed. 1971).

50. M. BEDJAOURI, *LAW AND THE ALGERIAN REVOLUTION* 110-38 (1961). See also the Note sent by the Algerian Provisional Government to other states. *Id.* at 15.

51. *Id.* at 181-85. See also Fraleigh, *supra* note 49, at 238.

52. M. BEDJAOURI, *supra* note 50, at 54.

53. F. OKOYE, *INTERNATIONAL LAW AND THE NEW AFRICAN STATES* 101 (1972).

Government were recognized by twenty-seven states in which its mission received diplomatic status and privileges.⁵⁴ The Republic of Cuba, for example, agreed to raise the Front's permanent representation in Havana to the embassy level and appointed an Ambassador *extraordinaire* to the Front.⁵⁵ The Front had also participated in the Paris Peace Conference on Vietnam as an equal party and signed the ensuing agreements. These agreements referred to the "two South Vietnamese parties,"⁵⁶ namely, the Government of the Republic of (South) Vietnam and the Revolutionary Government.

The intensification of the armed struggle in the African colonies has led to a more crystalized legal status of the African national liberation movements. The Organization of African Unity, the United Nations, and individual states have recognized these national liberation movements as the authentic representatives of the peoples of the colonies.⁵⁷ In several resolutions of the United Nations, reference was made to "peoples" under foreign subjugation, and states and organizations were called upon to render those "peoples" all political, moral, and material assistance. The United Nations International Conference on Human Rights (Teheran, 1968) asserted that persons struggling against minority racist or colonial regimes "should be protected against inhuman or brutal treatment" and when detained "should be treated as prisoners of war or political prisoners under international law."⁵⁸

The Portuguese Government concluded agreements with the African territorial public bodies of Guinea-Bissau,⁵⁹ Mozambique,⁶⁰ São Tomé and Príncipe,⁶¹ and Angola.⁶² The basic features of these agree-

54. U.S. DEP'T OF STATE, BACKGROUND NOTES: NORTH VIET-NAM 7-8 and supplemental note listing the countries that recognized the Provisional Government (1971).

55. Meyrowitz, *The Law of War in the Vietnam Conflict*, in 2 THE VIETNAM WAR AND INTERNATIONAL LAW 516, 534 n.40 (R. Falk ed. 1969).

56. 68 DEP'T STATE BULL. 169, 171 (1973).

57. See, e.g., R.A. Res. 2918, 27 U.N. GAOR, Supp. (No. 30) 75, U.N. Doc. A/8889 (1972).

58. Text reprinted in REV. INT'L COMM'N JURISTS, Mar. 1969, at 50. See also G.A. Res. 2444, 23 U.N. GAOR, Supp. (No. 18) 50, U.N. Doc. A/7433 (1968), and the analysis in Mallison & Mallison, *supra* note 46, at 4-5.

59. Agreement Granting Independence of Portuguese Guinea (Guinea-Bissau and the Cape Verde Islands), Aug. 26, 1974, African Party for the Independence of Guinea—Portugal, 13 INT'L LEGAL MATERIALS 1244 (1974).

60. Agreement Concerning the Self-Determination and Independence of Mozambique, Sept. 7, 1974, Mozambique Liberation Front—Portugal, 13 INT'L LEGAL MATERIALS 1467 (1974).

61. Agreement Concerning the Self-Determination and Independence of São Tomé and Príncipe, Nov. 26, 1974, Portugal—Liberation Movement of São Tomé and Príncipe, 14 INT'L LEGAL MATERIALS 39 (1975).

ments were, first, that the Government of Portugal recognized the claims of the public bodies to their representative status, and second, that their claims to independence and sovereignty were acknowledged. It is worth noting that in some of these agreements, the issue of "state succession" was incorporated. Article 14 of the agreement signed with the Mozambique Liberation Front (FRELIMO) provided that: "The Mozambique Liberation Front declares its readiness to accept responsibility for financial obligations undertaken by the Portuguese State in the name of Mozambique, provided that those obligations were undertaken in the effective interests of this Territory."⁶³

IV. PUBLIC BODIES IN PALESTINE

For an adequate and comprehensive concept of the PLO's claim to status under public law, one must study the precedents having taken place in the arena of conflict: Palestine. Two historical entities developed in Palestine: the World Zionist Organization/Jewish Agency and the Arab Higher Committee.

A. *The World Zionist Organization/Jewish Agency*

The World Zionist Organization was originally a group of individuals who had no territorial base, but who "shared a high frequency of perspectives" about the solution of what they called the "Jewish Question."⁶⁴ The Organization emerged from the First Zionist Congress held at Basle, Switzerland, in 1897. The Congress was called by Dr. Theodor Herzl, the mastermind of political Zionism, and was attended by those who subscribed to the doctrine of Zionism. Dr. Herzl, as the first president of the World Zionist Organization, was aware of the fact that his organization was a private group with no juridical status. Hence, he sought to obtain *de facto* diplomatic recognition for the organization by conducting negotiations with the officials of various states. He made his first contacts with Kaiser Wilhelm II, the German Emperor, and with the Sultan of the Ottoman Empire. In both instances, Herzl was unsuccessful. Herzl's successor, Dr. Chaim Weizmann, was not able to obtain recognition even with the issuance of the Balfour Declaration⁶⁵ by Great

62. To the writer's knowledge, the agreement between Portugal and Angola was not made public; however, its content is known to be nearly identical to those involving Guinea-Bissau, Mozambique, and São Tomé and Príncipe.

63. *Supra* note 60, at 1470.

64. See Mallison, *supra* note 23, at 566-69.

65. Letter of Nov. 2, 1917, from Lord Arthur James Balfour to Lord Rothschild, in PALESTINE ROYAL COMMISSION, REPORT PRESENTED BY THE SECRETARY OF STATE FOR THE COLONIES TO PARLIAMENT BY COMMAND OF HIS MAJESTY, CMD. No. 5479, at 22 (1937) [REPORT hereinafter cited as CMD. No. 5479].

Britain in 1917. These diplomatic negotiations conducted by the Zionists with various states do not constitute the establishment of a legal status for the Zionist movement.⁶⁶

The public body status of the World Zionist Organization was finally determined by the multilateral treaty of the Mandate for Palestine, adopted under the auspices of the League of Nations.⁶⁷ The Mandate provided that:

An appropriate Jewish agency shall be recognized as a public body for the purpose of advising and co-operating with the Administration of Palestine in such economic, social and other matters as may affect the establishment of the Jewish national home and the interests of the Jewish population in Palestine, and, subject always to the control of the Administration, to assist and take part in the development of the country.

The Zionist organization, so long as its organization and constitution are in the opinion of the Mandatory appropriate, shall be recognized as such agency. It shall take steps in consultation with His Britannic Majesty's Government to secure the co-operation of all Jews who are willing to assist in the establishment of the Jewish national home.⁶⁸

The status of the Zionist Organization as a public body was subsequently confirmed. The Permanent Court of International Justice, for example, held in the *Mavrammatis Palestine Concession Cases*⁶⁹ that "the Jewish agency is in reality a public body, closely connected with the Palestine Administration and its task is to cooperate, with that Administration and under its control, in the development of the country."⁷⁰ The Passfield White Paper (1930) and other subsequent official communications asserted the public body status of the Agency as the representative of the Zionist settlers in Palestine.⁷¹

66. See Mallison, *supra* note 23, at 566-69.

67. The Mandate for Palestine Confirmed by the Council of the League of Nations on July 24, 1922, *reprinted in* Report to the General Assembly of the United Nations Special Committee on Palestine, Vol. II, U.N. Doc. A/364 Add. 1 (1947) [hereinafter cited as Mandate for Palestine].

68. *Id.* art. 4.

69. [1924] P.C.I.J., ser. A, No. 2; [1925] P.C.I.J., ser. A, No. 5; [1927] P.C.I.J., ser. A, No. 11. For an analysis of these cases, see Mallison, *supra* note 23, at 572-74.

70. [1924] P.C.I.J., ser. A, No. 2, at 21.

71. THE JEWISH AGENCY FOR PALESTINE, BOOK OF DOCUMENTS SUBMITTED TO THE GENERAL ASSEMBLY OF THE UNITED NATIONS RELATING TO THE ESTABLISHMENT OF THE NATIONAL HOME FOR THE JEWISH PEOPLE 69 (1947); THE ANGLO-AMERICAN COMMITTEE OF INQUIRY, REPORT TO THE UNITED STATES GOVERNMENT AND HIS MAJESTY'S GOVERNMENT IN THE UNITED KINGDOM 20 (1946).

B. *The Arab Executive Committee/The Arab Higher Committee*

The final legal framework imposed on Palestine was determined by the terms of the Mandate for Palestine.⁷² The Mandate demanded, by Article 2, that the Mandatory power place "the country under such political, administrative and economic conditions" as would ensure "the development of self-governing institutions, and also for safeguarding the civil and religious rights of all the inhabitants of Palestine, irrespective of race and religion." Article 3 provided that the Mandatory power "shall . . . encourage local autonomy." Meanwhile, the Palestinian people continued to develop a representative body of their own.

The Arab Executive Committee emerged from the Palestine Arab Congress, held in Haifa in 1920. In its report to the Higher Commissioner of Palestine, the Congress claimed that it was "the legal representative of all classes and sectors of the Palestine Arab People. . . ."⁷³ The Mandatory authorities proposed to the Arab Executive that it form an Arab Agency which would occupy "a position exactly analogous to that accorded to the Jewish Agency" under Article 4 of the Mandate.⁷⁴ The offer was rejected by the Arab Executive on the grounds that acceptance would be a "recognition of its Jewish counterpart . . ."⁷⁵ and that the Arab owners of the country could not see their way to accept a proposal which would tend to place them on an equal footing with the Jews.⁷⁶

The Executive had previously turned down an offer from the Mandatory to participate in the Legislative Council as provided for by the Constitution for Palestine. The rejection was based on the grounds that the British High Commissioner maintained wide discretionary powers which would make the authority of the Council almost nominal, and that Palestinian participation would imply a recognition of the Mandate and its plan to establish the "Jewish national home" in Palestine.⁷⁷ Ultimately, the Mandatory Government recognized the Arab Executive Committee as the representative entity of the Palestine people. It was so recognized as it appeared

72. Note 67 *supra*.

73. INSTITUTE FOR PALESTINE STUDIES, *THE ARAB PALESTINE RESISTANCE DOCUMENTS, 1918-1939*, at 16 (1968) [hereinafter cited as *PALESTINE DOCUMENTS*]. See also R. GABBAY, *A POLITICAL STUDY OF THE ARAB-JEWISH CONFLICT: THE ARAB REFUGEE PROBLEM 18-19* (1959).

74. CMD. No. 5479, *supra* note 65, at 181.

75. *Id.* at 183.

76. See *PALESTINE DOCUMENTS*, *supra* note 73, at 78, 81. See also ROYAL INSTITUTE OF INTERNATIONAL AFFAIRS, *GREAT BRITAIN AND PALESTINE, 1915-1939*, at 37 (1939).

77. *Id.* at 59, 60.

before the Commission of Enquiry into the causes of the disturbances of 1929.⁷⁸

In the heat of the Palestine revolt of 1936, the Arab Higher Committee was established.⁷⁹ Like its predecessor (*i.e.*, the Arab Executive Committee), the Arab Higher Committee was a united national front which included all the political parties of the Palestinian people.⁸⁰ The Committee showed a considerable degree of effectiveness within the Palestinian community. It had a network of committees in Arab villages and towns.⁸¹ Decisions taken at the center were largely carried out throughout the country.

The Arab Higher Committee was, although not from the beginning, responsible for conducting military and political operations during the 1936 revolt.⁸² It was regarded by various international authoritative bodies as well as nation states as the authorized legitimate entity representing the Palestinian community. During the hearings conducted by the British Royal Commission in 1937, the Committee's members appeared to be indisputably the representatives of the Palestinian people. The Commission accepted their briefings in that capacity.⁸³ The British Government invited the Committee to participate in the London Conference of 1939, and the Palestine delegation was received as the representative of the Palestine Arabs.⁸⁴ A similar invitation was extended on July 25, 1946, to the Second London Conference.⁸⁵

The United Nations Special Committee on Palestine asked the Arab Higher Committee in 1947 to present the view of the Palestinian people.⁸⁶ The Arab Higher Committee also participated as a recognized body in the deliberations of the General Assembly's First Committee in May 1947.⁸⁷ The General Assembly, on May 7, 1947, adopted a resolution by which it affirmed "[t]hat the decision of the First Committee to grant a hearing to the Arab Higher Committee

78. 1 A SURVEY OF PALESTINE 24 (2 vols. Gov't Print. Jerusalem 1946).

79. F. KHOURI, THE ARAB-ISRAELI DILEMMA 24 (1969).

80. CMD. No. 5479, *supra* note 65, at 96.

81. *Id.* at 98; J. HUREWITZ, THE STRUGGLE FOR PALESTINE 67-68 (1968).

82. See generally J. MARLOWE, REBELLION IN PALESTINE (1946); and N. BARBOUR, NISI DOMINUS (1946).

83. CMD. No. 5479, *supra* note 65, at 97, 102, 103.

84. See the text of the Palestine submission in PALESTINE DOCUMENTS, *supra* note 73, at 646. See also J. HUREWITZ, *supra* note 81, at 95-96, 98-99.

85. *Id.* at 271-72.

86. See 1 Y.B. U.N. 284 (1947); F. KHOURI, *supra* note 79, at 45-46.

87. 1 Y.B. U.N. 288 *passim* (1947).

gives a correct interpretation of the Assembly's intention."⁸⁸ Also, on April 1, 1948, the Security Council called upon

the Jewish Agency for Palestine and the Arab Higher Committee to make representatives available to the Security Council for the purpose of arranging a truce between the Arab and Jewish communities of Palestine; and emphasize[d] the heavy responsibility which would fall upon any party failing to observe such a truce.⁸⁹

The Arab governments dealt with the Arab Higher Committee as the only legitimate representative of the Palestinian people. It was *de facto* rather than *de jure* recognition of the public body status of the Committee. This was evidenced by the diplomatic correspondence and contacts made by various Arab states with the Committee during the 1936 strike and revolt.⁹⁰ The British Government sought, on many occasions, the good offices of the Arab states to persuade the Committee to end the strike of 1936 and the following revolt,⁹¹ to attend the London Conferences,⁹² and to participate in the United Nations committees dealing with the Palestine problem.⁹³ The Council of the League of Arab States, discussing the representation of Palestine on the Council, resolved on December 4, 1945, that "[t]he manner of selecting the [Palestinian] delegates shall take place through nomination by the Higher Arab Committee and then appointment by the Council of the League."⁹⁴

Extending *de jure* recognition of the public body status of the Arab Higher Committee, the Arab League, on July 12, 1946, agreed that the Committee was to be "the one representing all of the Arabs of Palestine and speaking in their name and uniting all their efforts and endeavours for the sake of Palestine."⁹⁵

As the territory of Palestine was recommended for partition by the United Nations General Assembly in 1947,⁹⁶ the Arab Higher Committee was declared as the "Government of All Palestine" with its headquarters at Gaza. The first Palestinian Cabinet was formed

88. G.A. Res. 105, U.N. Doc. A/310, at 6 (1947); 1 Y.B. U.N. 286 (1947).

89. S/714, 3 U.N. SCOR (277th mtg.) 35 (1948); *see also* S/723, 3 U.N. SCOR (284th mtg.) 41 (1948).

90. CMD. No. 5479, *supra* note 65, at 100, 102, 103.

91. *Id.*; F. KHOURI, *supra* note 79, at 25.

92. F. KHOURI, *supra* note 79, at 26, 31-32, 36-37.

93. *Id.* at 45-46.

94. 2 THE ARAB STATES AND THE ARAB LEAGUE: A DOCUMENTARY RECORD 161-62 (M. Khalil ed. 1962) [hereinafter cited as M. Khalil].

95. *Id.* at 162.

96. G.A. Res. 181 (Resolution Concerning the Future Government of Palestine), U.N. Doc. A/519, at 131-32 (1948).

on September 22, 1948, and the Palestine National Assembly met a week later and approved the newly established government. The States of Egypt, Syria, Lebanon, Yemen, Saudi Arabia, and Afghanistan accorded full diplomatic recognition to the new government. It also joined the Arab League where it participated with full voting rights on all issues concerning Palestine.⁹⁷ It continued to entertain this status until it was succeeded in 1964 by the Palestine Liberation Organization.

C. *The Palestine Liberation Organization*

1. *Procedures of Formation*

The PLO is a self-proclaimed entity that emerged from the first Palestine National Council held in Jerusalem on May 20, 1964.⁹⁸ The Council was attended by Palestinians who claimed to be representative authorities of their respective communities. The PLO replaced the Government of All Palestine at the Arab League and claimed for itself the right to represent the Palestinian people. This claim of representation was augmented by the attendance of several resistance groups that emerged from the midst of Palestinians on the heels of the total occupation of Palestine in the June 1967 war. These resistance organizations, led by the largest and most powerful movement—Fatah—are made up of individuals who claimed that all Palestinian affairs were to be determined solely by them. No authority except the PLO was to be allowed or entitled to represent the population of Palestine, including that portion of the population living under occupation and that portion living outside Palestine.

The Government of Jordan was the only government to initially challenge the PLO's claim on the grounds that it, and not the PLO, was the legitimate representative of the Palestinians, and that the majority of Palestinians were citizens of Jordan and held its passports. This official position was gradually softened, and Jordan finally conceded the PLO's claim.⁹⁹ This was reconfirmed in a new accord signed in December 1978 between the Government of Jordan and the PLO.¹⁰⁰ Article 1.1 of that agreement provided that the PLO was "the sole and legitimate representative of the Palestine People,

97. M. Khalil, *supra* note 94, at 579.

98. For summary information, see *SELECTED DOCUMENTS*, *supra* note 1, at 61-62; Hamid, *What Is the PLO?*, *J. PALESTINE STUD.*, vol. IV, no. 4, at 90 (1975); F. EPP, *THE PALESTINIANS: PORTRAIT OF A PEOPLE IN CONFLICT* (1976).

99. At the Arab Summit held at Algiers in Nov. 1973, Jordan's Prime Minister, Bahjat Talhouni, expressed the official rejection of the PLO claim to represent the Palestinian people. 22 *ARAB REPORT & RECORD* 554 (1973). Jordan's position was changed positively at the Arab Summit held at Rabat in 1974.

100. The text was published in *Al-Watan* (Kuwait), Dec. 13, 1978, at 1, cols. 3-6.

and consequently Jordan shall cooperate with it in that capacity. . . ." The accord also provided in article 1.7 that the level of PLO representation in Jordan would be elevated to be commensurate with the requirements of joint coordination of the activities of both parties.

2. *Recognition in Public Law*

The PLO has entertained more recognition in public law than any territorial public body yet to exist. The authority it has exercised is almost reminiscent to that of an established government.

a. *Diplomatic Recognition*

The PLO has been recognized by over one hundred nation states.¹⁰¹ It has opened offices similar or equivalent to governmental diplomatic missions in over sixty states. The Lebanese Council of Ministers, for example, approved in 1964 the establishment of a PLO office in Beirut and granted its Director the relevant diplomatic exemptions and immunities.¹⁰² The People's Republic of China recognized the PLO in 1965 and granted its legation in Peking "all diplomatic immunities."¹⁰³ The Jordanian Government agreed to exempt all PLO offices and employees in Jordan from taxes and to provide the members of the Executive Committee of the PLO with diplomatic passports.¹⁰⁴ The Government of Iraq issued a law according to which Iraq would exempt all imports by the PLO from customs duties and taxes.¹⁰⁵ The Government of India issued an official communiqué on January 10, 1975, recognizing the PLO as the sole and legitimate representative of the Palestinian people and approving the opening of a PLO office in New Delhi. Accordingly, the Indian Ambassador to Lebanon signed documents with the Chairman of the

101. At a press conference held in Abu Dhabi, Mr. Yassir Arafat claimed that 103 states had recognized the PLO. *Al-Ittihad* (Israel), Mar. 22, 1974, at 3, cols. 5-6.

102. Release by the Director General of Lebanon's Council of Ministers, Record No. 42, Nov. 26, 1964. Prior to this, a lawsuit had been filed by the Attorney General of Lebanon against Dr. Anis Sayegh because of the latter's book, *THE HASHEMITES*. The Lebanese Government considered the book as damaging to the Lebanese-Jordanian relationship. The suit was abandoned when Dr. Sayegh became the Director General of the PLO Research Center and obtained diplomatic status.

103. From a statement made by a PLO spokesman on Aug. 23, 1965. See 2 *PALESTINE RESEARCH CENTER, PALESTINE DIARIES* 87 (1965) [hereinafter cited as *PALESTINE DIARIES*]. The Minister of Foreign Affairs of the Provisional Government of South Vietnam also extended similar recognition to the PLO as the only legitimate representative of the Palestinian people. See *Falastine Al-Thawra*, the official newspaper of the PLO, Mar. 28, 1973, at 4.

104. Statement by Jordan's Minister of Foreign Affairs, Dec. 6, 1965. *PALESTINE DIARIES*, *supra* note 103, at 247.

105. *Id.* at 203.

Executive Committee of the PLO according to which the PLO office was to be granted certain privileges and diplomatic immunities.¹⁰⁶

As the PLO expanded its power bases, it received more recognition on the international plane. The Second Arab Summit Conference held in Alexandria in September 1964 welcomed the establishment of the PLO as the representative of the Palestinian people.¹⁰⁷ The Arab Summit Conference held in Algiers in November 1973 recognized the PLO as "the sole representative of the Palestinian people."¹⁰⁸

At its twenty-ninth session, in 1974, the United Nations General Assembly resolved that the PLO was "the representative of the Palestinian people. . . ."¹⁰⁹ That resolution was carried by an overwhelming majority.¹¹⁰ Furthermore, the General Assembly, in an unprecedented resolution adopted in 1975, called "for the invitation of the Palestine Liberation Organization, the representative of the Palestinian people, to participate in all efforts, deliberations and conferences on the Middle East which are held under the auspices of the United Nations, on an equal footing with other parties. . . ."¹¹¹

Perhaps most significant, the United Nations Security Council decided on December 4, 1975, to invite the PLO to participate in its discussion concerning the Israeli raids against Palestinian refugee camps in Lebanon. That invitation was extended to the PLO as if it were a member state in accordance with rule 37 and *not* on the basis of rule 39 of the Security Council's provisional rules of procedure. Rule 37 applies to "[a]ny Member of the United Nations which is not a member of the Security Council . . ."; rule 39 applies to "persons." The Council again decided to invite the PLO to participate under rule 37 in 1976 and 1978 in discussions concerning the

106. Press release by Wafa (the PLO news agency), Jan. 10, 1975. *See also* Wafa press release of Jan. 13, 1975, and Al-Nahar (Beirut), Dec. 11, 1975, at 1, cols. 1-2.

107. MINISTRY OF NATIONAL GUIDANCE (EGYPT), DOCUMENTS AND PAPERS ON PALESTINE, PART II, at 1283 (undated). It should be noted that the Summit did not "establish" or "constitute" the PLO as is generally misunderstood.

108. 22 ARAB REPORT & RECORD 554-55 (1973). Official text released by PLO Political Department Nov. 26-28, 1973.

109. G.A. Res. 3210, note 4 *supra*. For a Zionist analysis of General Assembly Resolutions 3210, 3236, and 3237 of 1974, *see* Stone, *Palestinian Resolution: Zenith or Nadir of the General Assembly*, 8 N.Y.U. J. INT'L L. & POL. 1 (1975).

110. Note 4 *supra*.

111. G.A. Res. 3375, 30 U.N. GAOR, Supp. (No. 34) 3, U.N. Doc. A/L.768/Rev. 1 and Rev. 1/Add. 1 (1975). The vote was 101 in favor, 8 opposed, with 25 abstentions. 29 Y.B. U.N. 247 (1975).

Middle East situation.¹¹²

b. *Membership in Governmental Organizations*

The PLO has fostered its status under public law by joining international governmental institutions established to serve various community values. An example is the Arab Bank for Economic Development in Africa, established in 1974 by eighteen sovereign states for the purpose of financing economic development schemes in Africa. The multilateral treaty constituting the Bank granted it the status of "an independent international institution enjoying full international legal status. . . ."¹¹³ Palestine, represented by the PLO, was admitted as a member of the Bank with powers accorded to other member governments.¹¹⁴

The governments of twenty-one Arab countries concluded an agreement in 1976 according to which the Arab Monetary Fund was established, among other things, to help rectify deficits in the balance of payments of member states.¹¹⁵ The PLO was admitted as a full member representing Palestine in the Fund.

The Arab Fund for Economic and Social Development was constituted in 1968.¹¹⁶ By Decree No. 4 of 1976, the Board of Governors of the Fund admitted Palestine, represented by the PLO, as a full fledged member.¹¹⁷ By virtue of Decree No. 6 of 1976, the Board of Governors, having considered Art. 12 of the Agreement establishing the Fund, resolved that "the Fund accept the guarantee of the Palestine Liberation Organization to loans granted to finance projects in the Palestinian territory. . . ."¹¹⁸ Article 12 provides, in part, that all lending transactions granted by the Fund to any public or private entity "shall be guaranteed by the Government" of the state or the country in which the project will be initiated. The Board of Governors' Decrees, therefore, recognized the PLO as equivalent to a "Government."

112. Note 2 *supra*.

113. Agreement establishing the Arab Bank for Economic Development in Africa, art. 3, para. 1, Feb. 18, 1974 (English text released by principal office of the Bank, at Khartoum, Sudan).

114. *Id.* at 24.

115. Articles of Agreement of the Arab Monetary Fund, art. 4(a) (official English text, Nov. 1977).

116. Agreement Establishing the Arab Fund for Economic and Social Development, May 16, 1968 (English text released by Head Office of the Fund, at Kuwait).

117. See the record of the Fifth Meeting of the Board of Governors of the Arab Fund for Economic and Social Development, held at Rabat, Apr. 28-29, 1976, at 66. See also the statement of Dr. Walid Qamhawi, Chairman of the Palestine National Fund, at that meeting. *Id.* at 52.

118. *Id.* at 67.

The Islamic Bank for Development is another international governmental organization to which the PLO was admitted as a member on the same footing with other governments.¹¹⁹ The PLO has participated in the share capital of the Bank and was represented on its Board of Governors.¹²⁰

At its sixty-sixth session held in Cairo in September 1976, the Arab League Council accepted Palestine, as represented by the PLO, as a full member of the Arab League equal to all other members.¹²¹ Considering that the Arab League is a regional political organization concerned, *inter alia*, with collective security¹²² aiming at the preservation of the political independence and territorial integrity of the member states, the admittance of the PLO as a full member represents a highly significant legal development of the PLO's status under public international law.

c. *Governmental Authority*

The PLO has been exercising certain powers that can only be exercised by governmental authorities. These powers are manifested in various forms and on different levels.

(i) *In War Situations*

The ensuing analysis is not intended to pass a value judgment on the coercion situations in which the PLO has been involved. The characterization of such coercion as self-defense, aggression or civil war is beyond the scope of this study.¹²³ Nevertheless, war situations are subject to public international law rather than to private or domestic law. The PLO has been able to exercise what amount to sovereign powers over Palestinians in war situations.

In 1969, at the close of a protracted war situation between the PLO and the Lebanese army, an agreement was concluded between the PLO and the Lebanese Government.¹²⁴ By that agreement, Lebanon recognized: the right of Palestinians residing in Lebanon to so reside and to work and move about in Lebanon; the establishment in the refugee camps of local committees to take care of the interests of

119. Second Annual Report of the Islamic Development Bank, Dec. 10, 1977, Annex III.

120. *Id.*, Annexes IV, V, and VI. The PLO's equity in the share capital of this Bank is equal to the equities of 14 member states. *Id.*, Annex IV.

121. Document No. D3462/S.66/M.2-9/9/1976, released by the Secretariat of the League of Arab States. *See also* Al-Ra'y Al-Aam (Kuwait), Sept. 10, 1976, at 13, col. 5.

122. *See* U.N. CHARTER arts. 52-54, on regional arrangements.

123. Note 18 *supra*.

124. The unofficial text was published in Al-Nahar (Beirut), Apr. 20, 1970, at 1, cols. 7-8.

Palestinians living therein; the creation of checkpoints by the Palestine Armed Struggle Command; the right of free passage of PLO forces across Lebanese borders; and the right of PLO forces to protect the strategic road to the Al-Arkoub area, better known as "Fatah Land."

On the heels of the bloody war that erupted in September 1970 between Palestinian forces and the Jordanian Army, an agreement was signed in Cairo by ten Arab governments to put an end to that war.¹²⁵ It was a collective action undertaken by these governments imposing a cease-fire on both the Government of Jordan and the PLO and requesting that they enter into negotiations to organize their relationship. In October 1970, Jordan and the PLO signed an agreement¹²⁶ which declared Jordan to be "the pivot base for the Palestinian Revolution. . . ." Also, by this agreement, the civil and military sources of Jordan were to be utilized to serve the cause of Palestinian liberation, and the Jordanian Government undertook that no party or organization would be set up in Jordan for the purpose of impeding the interests of the Palestinian revolution and that no authority would intervene against any member of the Palestine Revolutionary Forces or interfere in their affairs under any circumstances. The agreement further granted PLO institutions complete freedom. Such institutions included the Palestine Red Crescent, the Militia, Futuwa and Ashbal, the Institute for the Care of Fighters' and Martyrs' Families, PLO newspaper and radio stations, and the Institute for Studies and Scientific Research. In sum, the PLO achieved the exercise of nearly all governmental powers. Such powers were, however, regulated by a new accord signed in December 1978 between Jordan and the PLO in a relatively less coercive situation.¹²⁷

The massive invasion launched by the State of Israel in March 1978 against southern Lebanon was proclaimed by Israel as a war organized against the PLO.¹²⁸ The United Nations Security Council

125. The unofficial text was published in *Fateh*, Sept. 30, 1970, at 2; *see also* N.Y. Times, Sept. 28, 1970, at 1, col. 7.

126. The unofficial text was published in *Fateh*, Oct. 20, 1970; *see also* N.Y. Times, Oct. 15, 1970, at 3, col. 1.

127. Note 100 *supra*.

128. *Maariv* (Israel), Mar. 15, 1978, quoted an Israeli Army spokesman as saying that the invasion was aimed at uprooting Fatah and the PLO from their bases in southern Lebanon. He added that his army did not intend to engage the Lebanese Army or the Arab Deterrence Forces. *Davar* (Israel), Mar. 16, 1978, quoted Israel's Minister of Defense as saying that the military operation was aimed at the "terrorists'" bases. *Yediot Aharonot* (Israel), Mar. 16, 1978, quoted the official Israeli Government statement as saying that the purpose of the war was to prevent Fatah,

resolved on March 19, 1978, that Israel was "immediately to cease its military action against Lebanese territorial integrity and withdraw forthwith its forces from all Lebanese territory."¹²⁹ The Council also established "a United Nations interim force for southern Lebanon. . . ."¹³⁰ The resolution did not refer to PLO forces, but Israel's Chief of Staff admitted that the success of the United Nations forces called for by the Security Council depended upon the acceptance by the PLO of the cease-fire in southern Lebanon. He was quoted to have said in an interview with the *Jerusalem Post*:

that one of the results of the Israel Defense Forces incursion into South Lebanon has been to make the PLO a de facto party to any agreement in that area. "That is a fact," he said, adding that it was also a fact that the PLO has been a party to agreements in the past. "Anyone who claims that this is not so, is fooling himself. . . . From a practical point of view," he continued, "all past agreements have been linked to understandings with the PLO—something which we have preferred to ignore till this point."¹³¹

On March 28, 1978, Major General E. A. Erskine, Interim Commander of the United Nations Interim Force in Lebanon, conveyed to the Chairman of the Executive Committee of the PLO the United Nations Secretary-General's appeal for a general cease-fire. The Chairman accepted this appeal in an official communication to the Secretary-General.¹³²

(ii) *Extradition Powers*

The official policy proclaimed by the PLO with regard to plane hijacking is that it is a crime punishable under the Palestine Penal Code.¹³³ When in December 1973 five hijackers, claiming to be Palestinians, attacked a Pan American World Airways jet in Rome, and

the leading element in the PLO, from launching attacks against Israel. (All translations from Hebrew into Arabic were made by and appeared in *BULL. INST. FOR PALESTINE STUD.*, vol. VIII, no. 4, at 185 *passim* (1978).) See also the statement of Ambassador Chaim Herzog, Permanent Representative of Israel to the United Nations, summarized in *U.N. CHRONICLE*, May 1978, at 9.

129. Security Council Res. 425. For text, see *U.N. CHRONICLE*, Apr. 1978, at 22.

130. *Id.*

131. *Jerusalem Post*, Mar. 31, 1978, at 1, cols. 1-4.

132. *U.N. CHRONICLE*, Apr. 1978, at 13.

133. Art. 162. This provision is also applicable to unlawful seizure of a person, train or vessel belonging to a foreign state. However, the Arab Civil Aviation Council unanimously approved a draft resolution, submitted by the PLO delegation, by which it regarded that El-Al Israel Airlines is a military institution and that all its pilots are military reserve officers. See the statement released by the PLO Political Department, Dec. 5-14, 1974.

then hijacked a Lufthansa airliner to Kuwait where they surrendered, the PLO requested their extradition. Kuwait Minister of State Abdul Aziz Hussein was quoted as saying that "if the current interrogation of the gunmen proves they are all Palestinians," they would be turned over to the PLO in response to its request for extradition.¹³⁴ In another incident, in November 1974, eleven men hijacked a British Airways jet in Dubai, later surrendering in Tunis. These hijackers were ultimately turned over to the PLO which later announced that it had inflicted severe punishment on them.¹³⁵

(iii) *Taxation Authority*¹³⁶

The PLO exercises tax powers whereby, directly and indirectly, it levies taxes from Palestinians working in various countries. It is especially significant to point out that Palestinians are taxed regardless of their current citizenship status or of the passports they currently hold.

Iraqi Law No. 130 of 1965 provided that three percent of the monthly salaries of Palestinians working in Governmental and quasi-Governmental Departments and Companies and in the companies of the private sector would be deducted and credited to the account of the Palestine National Fund—the financial and monetary arm of the PLO. The law further provided that it was applicable to people who had acquired another citizenship but were of Palestinian origin. This law was later amended by Law No. 220 of 1969, which added to the former law the following provisions:

Any person subject to [these provisions] has the right to object against the estimated annual income within fifteen days following the date on which he was notified therewith to the Appellate Committee composed of the Director of Palestine Liberation Organization Office in Baghdad as Chairman, and four other members [of the preliminary income determining committee]. Decisions of the Appellate Committee are final.

Provisions basically similar to this, with deductions ranging from three to six percent, also exist in, for example, Syria,¹³⁷ Kuwait,¹³⁸ Libya,¹³⁹ the United Arab Emirates,¹⁴⁰ and Qatar.¹⁴¹

134. N.Y. Times, Dec. 21, 1973, at 14, col. 1.

135. N.Y. Times, Jan. 26, 1975, at 1, col. 7.

136. Most of the cited documents concerning the tax decrees were provided by Dr. Walid Qamhawi, Chairman of the Palestine National Fund, to whom the author wishes to express his appreciation. All these decrees are in Arabic; the English translations were made by the author.

137. Decree No. 880 of the Syrian Cabinet, Dec. 24, 1964.

138. Circular No. 10 (1964); Circular No. 1 (1965); Circular No. 19 (1972).

139. Cabinet decision of Jan. 25, 1970; Law of June 13, 1970.

140. Amiri Decree No. 48 of the Ruler of Abu Dhabi, Dec. 10, 1968; Federal Law No. 13 of the United Arab Emirates (1973).

141. Decree No. 102 (1964).

V. A JURIDICAL APPRAISAL OF PLO STATUS

A. *The Jewish Agency and the Arab Higher Committee*

The World Zionist Organization/Jewish Agency was a group comprised of individuals who shared certain perspectives. It had no territorial base. Its status under public law was determined through the Mandate for Palestine.¹⁴² The Mandate defined, in clear and explicit provisions, the rights accorded the Organization, later called the Jewish Agency, as well as the duties and limitations imposed thereupon. The Mandate *constituted* the Jewish Agency as an entity under public law, and as such, the Agency could be described as a non-territorial public body whether in terms of the procedures of its formation or its recognition under international law.¹⁴³

The Arab Higher Committee, in contrast, was a self-proclaimed entity claiming the authority of representing a well defined territorial community: the Palestinian people. No treaty created the Committee. In fact, the Committee rejected the offer presented to it by the Mandatory Power to be constituted as an agency, for it actually considered itself an indigenous representative body to which diplomatic recognition was merely declaratory rather than constitutive. The Committee thus met all the juridical requirements necessary for qualifying it as a territorial public body.¹⁴⁴

B. *The Status of the PLO*

From the juridical point of view, the PLO is a territorial public body. Its claim to represent the Palestinian constituency has been overwhelmingly recognized and accepted on the local, regional, and international levels.¹⁴⁵ Internally, the PLO has structured itself as a government-in-process.¹⁴⁶ The PLO Charter and its Fundamental Law have modeled PLO institutions after those of established governments. The Palestine National Congress serves as the "Palestine Parliament" with supreme legislative authority. The Executive Committee is the "Palestine Cabinet" with various departments and agencies to serve Palestinian values. Its Political Department serves as the Ministry of Foreign Affairs, with PLO offices in various countries operating as "embassies." The Military Department serves as the Ministry of Defense, in charge of all military operations including regular troops, guerrillas, ashbal, and purchase and manufacture

142. Note 67 *supra*.

143. See the text accompanying notes 23-35.

144. See the text accompanying notes 36-63.

145. See the text accompanying notes 98-141.

146. The ensuing text is based on F. EPP and Hamid, *supra* note 98.

of weapons. The Palestine National Fund serves as the Palestine Ministry of Finance and National Economy. There are also the Department of Information, in charge of the PLO newspapers, radio stations, and news agency, the Departments of Education, of Social Affairs, of Research and Planning, of Health, and of Occupied Territories.

The PLO has also established a judiciary. At its sixth session, held in 1969, the Palestine National Congress resolved to create the Revolutionary Court Order under the PLO. By Legislative Ordinance No. 5 of January 1, 1979, the Chairman of the PLO Executive Committee brought into force the Revolutionary Penal Code, the Revolutionary Code of Criminal Procedures, and the Revolutionary Rehabilitation Code. These codes are applied to all resistance groups of the PLO as well as "to all sectors of the Palestine People."¹⁴⁷ The court system is independent except for the administrative procedures of its staff.

To structure the PLO after a modern established government is not in itself sufficient to justify its claim of representation of the Palestinian people. It is more important to demonstrate its actual authority over Palestinians. This authority is evident in the absence of any challenge to it by Palestinians in or outside Palestine. There is opposition among Palestinians to certain PLO political practices, but this opposition is similar to that of a nonruling party to the policies of the ruling party in a democratic country. The Palestinian opposition, as strongly led by the Popular Front for the Liberation of Palestine, recently emphasized that no Palestinian entity other than the PLO Executive Committee can represent the Palestinian people.¹⁴⁸

On the other hand, there have been continuous efforts to find a substitute for the PLO. Such efforts are conducted by certain parties interested in liquidating the PLO or at least injuring its claim to authority. Israel, for obvious reasons, attempted to create an entity challenging the PLO among Palestinians living in the occupied territories of Palestine. All such efforts have so far failed to materialize.¹⁴⁹ The United States Government, too, exerts considerable effort to

147. The three Codes were compiled by the PLO Information Department. They superseded all previous legislation passed by Fatah in 1976 and 1978. That legislation had been prepared by Brig. Gen. Mohammed Tawfiq Al-Rousan.

148. See the statement of Mr. Bassam Abu Sharif, PFLP spokesman, in *Al-Qabas* (Kuwait), Jan. 30, 1979, at 15, cols. 1-4.

149. Pertinent material from the Israeli press appears in *J. PALESTINE STUD.*, vol. VII, no. 2, at 132-36 (1978).

create an entity which could compete with the PLO. The United States understands that the PLO exercises effective control over Palestinians and that it largely represents its constituency. The United States Government is, however, trying to "bring forward some authority" to displace the PLO.¹⁵⁰

Some arguments have been made to the effect that the PLO does not control any defined territory and, therefore, cannot claim authority or status.¹⁵¹ Official control over a territory, however, is not a decisive criterion. The experience of Vietnam is the most relevant example. United States forces were, in effect, in full control of the territory of South Vietnam. The Viet-Cong, on the other hand, were in full control of the population. The Americans were fighting "land warfare" while the Viet-Cong were fighting "a people's war."¹⁵² In another example, French forces were in control of the Algerian territory while the Algerian Liberation Front controlled the Algerian population. The same argument can be advanced with respect to the Nazi occupation of France while the French Government-in-Exile maintained its authority over the French people.¹⁵³

On the regional level, the PLO has been an active participant in decisionmaking processes. Being a full member of various regional monetary and developmental institutions, the PLO participates in decisionmaking affecting the distribution of human and natural re-

150. The following dialogue between Rep. Lee H. Hamilton, Chairman of the House Subcommittee on Europe and the Middle East, and Mr. Harold H. Saunders, Assistant Secretary of State, took place on June 12, 1978, and appears in *Review of Developments in the Middle East, 1978: Hearings before the Subcomm. on Europe and the Middle East of the House Comm. on International Relations, 95th Cong., 2d Sess. 27-28 (1978)*:

Mr. HAMILTON. You have most of the mayors on the West Bank running under the banner of the PLO in the local elections, 20 out of 22 were pro-PLO.

Mr. SAUNDERS. A number of them ran on platforms supported by the PLO. One way or another, support of the PLO was indicated.

Mr. HAMILTON. What I am looking for is what kind of a political force is there to represent the Palestinians other than the PLO? Is there anything emerging at all or happening in that area?

Mr. SAUNDERS. There is nothing happening now, but if you move down the course that we are talking about and can bring forward some authority to represent those million Palestinians, then presumably that would become, anyway, a new element on the scene

151. See, e.g., the text accompanying notes 1 and 163.

152. See generally V. GIAP, *PEOPLE'S WAR, PEOPLE'S ARMY: THE VIET-CONG INSURRECTION MANUAL FOR UNDERDEVELOPED COUNTRIES* (1968).

153. For an excellent analysis, see A. MCNAIR, *LEGAL EFFECTS OF WAR* 355-83 (3d ed. 1948).

sources in the countries concerned. Its membership in the League of Arab States gives it, *inter alia*, the right to participate in collective security arrangements along with and equal to other member governments.¹⁵⁴ The Lebanese Civil War was not discussed in any forum without taking into consideration the PLO position, since any resolution of that conflict would affect the Palestinians residing in Lebanon.¹⁵⁵

On the international level, the PLO claim to status has been widely recognized. Over one hundred nation states have extended their diplomatic recognition to the PLO as being the sole and legitimate representative of the Palestinian people.¹⁵⁶ None of these states made its recognition conditional upon any stipulations. Hence, such recognition is declaratory rather than constitutive. It is reminiscent of recognition accorded to a new government as traditionally characterized by international law. The United States Government, in an exception, has declared that it will recognize the PLO provided that the PLO recognize the State of Israel and accept United Nations Security Council Resolution No. 242 of 1967.¹⁵⁷ As recognition in international law must be complete and not conditional,¹⁵⁸ the United States Government arbitrarily demands requirements which lack legal justification and juridical authority. Ironically, the United States Government did not advance similar conditions when it recognized the State of Israel, which at the time of that recognition had encroached upon and occupied portions of the territory allocated for the Palestinian state.¹⁵⁹

The successive resolutions passed by United Nations organs reflect and emphasize the world community's view that the PLO is the

154. See the text accompanying notes 120-21.

155. All bilateral and multilateral meetings aimed at solving the civil war in Lebanon included the participation of PLO officials. Among these were the Riyadh and the Beit Al-Din meetings. Palestinians strongly adhere to the Cairo Agreement. See the text accompanying note 124.

156. Note 101 *supra*.

157. SELECTED DOCUMENTS, *supra* note 1, at 57-58, 70. Security Council Res. 242, 22 U.N. SCOR, U.N. Doc. S/INF/22/Rev. 2, at 8-9 (1967).

158. 1 G. HACKWORTH, DIGEST OF INTERNATIONAL LAW 192 (1940): "The United States has not, strictly speaking, accorded conditional recognition to any state in the period since 1906."

159. See J. KIMCHE & D. KIMCHE, A CLASH OF DESTINIES: THE ARAB-JEWISH WAR AND THE FOUNDING OF THE STATE OF ISRAEL 92, 117, 130 (1960). Jaffa and Acre and its hinterland were invaded and occupied by Jewish Agency forces before May 14, 1948. These areas were earmarked for the "Arab State" in G.A. Res. 181, note 96 *supra*. See also THE ORIGINS AND EVOLUTION OF THE PALESTINE PROBLEM, PART II, 1947-1977, U.N. Doc. ST/SG/SER.F/1, at 45-47 (1978).

sole and legitimate representative of the Palestinian people. The most significant development in this regard is the Security Council's decision, taken first in 1975, to invite the PLO to participate in its discussions as if it were a United Nations member state.¹⁶⁰ Professor Leo Gross characterized the Council's action as being "null and void."¹⁶¹ In his analysis, Professor Gross challenged the invitation on procedural and constitutional grounds.¹⁶² He explained that the prior practice of the Council showed that all invitations extended to non-member states were made on various bases and under different labels, but not on the basis of rule 37, which is reserved to member states. Having cited Articles 31 and 32 of the United Nations Charter, he concluded that the "PLO was neither a member nor a state non-member" of the United Nations, and that the PLO itself "made no claim to be a state or the government of a state. . . ."¹⁶³

In response to Professor Gross, it is submitted that since the previous practices of the Security Council were not homogeneous and did not follow a hard rule, there is nothing maverick or unusual about adding a new precedent. Moreover, such a precedent is responsive to universal high expectations, by granting status to peoples struggling for self-determination. The United Nations consists not only of articles 31 and 32, which refer to member states in procedural matters. There are other, substantive articles which refer to "peoples." The first words of the Charter are "We the peoples"¹⁶⁴ Article 1, dealing with the purposes of the United Nations, does not mention "states" or "governments"; it rather refers to "nations" and "peoples." Chapter XII of the Charter, concerning the trusteeship system, is basically devoted to "peoples," and it is specifically stated that "nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or *any peoples*. . . ."¹⁶⁵

Professor Gross cannot be oblivious to PLO claims to statehood or governmental authority. The PLO, from factual and juridical perspectives, is the legitimate successor to the Arab Higher Committee and subsequently to the Government of All Palestine. Furthermore, there has never been in any forum a discussion involving the Middle East or Arab-Israeli conflict in which consideration was not given to

160. Note 2 *supra*.

161. Gross, *Voting in the Security Council and the PLO*, 70 AM. J. INT'L L. 470, 479 (1976).

162. *Id.* at 477.

163. *Id.* at 478-79.

164. U.N. CHARTER preamble.

165. *Id.* art. 80 (emphasis added).

the PLO or the Palestinian people and their demands for a state of their own.

The PLO, consciously and deliberately, has avoided being labeled as a government.¹⁶⁶ Nevertheless, it has been exercising wide governmental authority that probably no other territorial public body has ever claimed or even considered. The Security Council invitation, in the view of Professor Gross, should have been thwarted, since it was "within the rights and, indeed, the responsibilities of the permanent members to prevent the intrusion into the Council of the sheer majoritarianism cultivated in the General Assembly."¹⁶⁷ The expectations of Professor Gross were frustrated, and it can be submitted that the Council's invitation represents a landmark in establishing a controlling and authoritative precedent.¹⁶⁸ It is an innovative decision that better served the world public order by allowing the PLO to exercise its rights by peaceful means and to reestablish faith in the world organization.

VI. CONCLUSIONS

The issue of establishing a Palestinian Government-in-Exile has been raised in and outside the Palestinian community. Some favoring a government-in-exile argue that it would enhance the stature of the PLO on the international level and that certain governments do not find it diplomatically acceptable to deal with an entity that is not a government.¹⁶⁹ When the Deputy Prime Minister of Australia, for example, was asked why his government had not recognized the PLO, he was reported to have said that diplomatic recognition is "usually accorded to governments and the [Palestine] Liberation Organization has not formed its government yet."¹⁷⁰

Authoritative officials of the PLO have advanced arguments against the establishing of a Palestinian Government-in-Exile. Their position is that such a government will be needed at the time the PLO is close to achieving its objectives; the government would deal

166. See the text accompanying note 172 *infra*.

167. Gross, *supra* note 161, at 479.

168. "Law is more usefully thought of as the conjunction of patterns of authority and patterns of control. Authority refers to expectations that an action is consistent with community beliefs about permissible decisions, decision-makers, and procedures. . . . [C]ontrol refers to the degree to which community practices actually conform to expectations of authority or are sanctioned for deviation." LAW AND THE INDO-CHINA WAR 12 (J. Moore ed. 1972).

169. President Mohammed Anwar El-Sadat of Egypt urged the PLO to form a provisional government in a speech on Sept. 28, 1972. See *Al-Ahram* (Egypt), Sept. 29, 1972, at 5, col. 1.

170. See *Al-Hadaf* (Kuwait weekly), Mar. 20, 1975, at 6, cols. 1-4.

with the transitional period. Also, this position holds that a government-in-exile would create problems of dual loyalty for Palestinians living in different countries. Such a government might also invite conflict with host governments. Timing, say the officials, does not warrant the formation of such a government, since Palestinians are still far away from realizing their objectives.¹⁷¹

The title "government" appears to be more prestigious than "organization." However, the basis of the power and authority exercised is the crucial criterion. The predecessor of the PLO was the "Government" of All Palestine, but it possessed little authority and exercised far less power over Palestinians than does the PLO. The Government of All Palestine was granted recognition, but was incapable of advancing its representative capacities at any significant level or forum. The PLO, in contrast, has established an unprecedented level of authority and representation. It is exercising typical governmental powers, including taxation, extradition, obtaining loans, granting governmental guarantees, signing international treaties and cease-fire arrangements, enjoying diplomatic immunities, and establishing an undisputed claim of status under public international law. Should it be converted into a provisional government, the PLO, strictly legally speaking, would not gain additional governmental authority.

The allegation that certain states are hesitant to deal with the PLO as an organization and not a government is unwarranted. There have been sufficient precedents to undermine the credibility of this line of reasoning. When the Polish National Committee declared itself in 1917 to be the supreme political authority of Poland, it was so recognized by the Governments of France, Great Britain, Italy, and the United States.¹⁷² As the Committee was converted into the Provisional Polish Government, it was so recognized in 1919 by the Council of Ten of the Paris Peace Conference.¹⁷³ Likewise, the National Committee of the Free France was accorded similar recognition by

171. See Bilal Al-Hassan, in *Al-Balagh*, Oct. 9, 1972, at 24-27; Khalid Al-Hassan, in *Al-Watan* (Kuwait), Jan. 5, 1979, at 12, cols. 1-5; Yassir Arafat, in *Al-Nahar Al-Arabi wa Al-Dawli* (Paris), Jan. 29, 1979, at 5, col. 2; and Abu Sharif, in *Al-Qabas* (Kuwait), Jan. 30, 1979, at 15, cols. 1-4.

172. By way of example, the then United States Secretary of State, Robert Lansing, addressed the following letter to the President of the Committee: "[T]his Government experiences a feeling of genuine satisfaction in being able to comply with your request by recognizing the Polish Army, under the supreme political authority of the Polish National Committee." H. BRIGGS, *THE LAW OF NATIONS* 103 (2d ed. 1952).

173. *Id.* at 104.

the Allied Powers.¹⁷⁴

The PLO is no less an entity than the Polish or the French committees. Indeed, having been recognized by many sovereign states and given the status of a member state by the United Nations Security Council, its status is perhaps more advanced than that of other such entities.

The characterization of the PLO as a territorial public body confers upon it the status of a participant in international law. Having a status, the PLO necessarily possesses certain rights and obligations under international law. Its claim to represent the Palestinian people is one of its undisputed rights—one which has been overwhelmingly recognized by the world community. The PLO has become an active participant in decisionmaking processes with respect to different arenas of operation, ranging from economic and fiscal to highly coercive situations. No authority can legally address the Palestinian community without first addressing its representative entity; those who ignore this commit themselves to noncontrolling, nonauthoritative decisions. Accordingly, all apparently peaceful efforts to solve the Palestine question or the Arab-Israeli conflict without involving the PLO have been frustrated. The Camp David accords¹⁷⁵ and the Treaty of Peace Between Egypt and Israel¹⁷⁶ give ample, but not final evidence. Once this fact is genuinely recognized, the world community will be able to aspire rationally for public order in the Middle East.

174. See the text accompanying note 42.

175. The two accords, *A Framework for Peace in the Middle East*, and *Framework for the Conclusion of a Peace Treaty*, were signed by President Sadat of Egypt and Prime Minister Begin of Israel, and witnessed by President Carter, on Sept. 17, 1978. For texts, see U.S. DEP'T OF STATE, PUB. NO. 8954, *THE CAMP DAVID SUMMIT* 6, 10 (1978); and 17 INT'L LEGAL MATERIALS 1463, 1466, 1470 (1978). Both accords ignored the PLO but suggested a Palestinian self-rule autonomy to be created in the West Bank and Gaza, without the PLO. American, Egyptian, and Israeli efforts have been frustrated by Palestinians who insist that the PLO is their sole and legitimate representative.

176. The Treaty was signed, and witnessed by President Carter, on Mar. 26, 1979. For text, see U.S. DEP'T OF STATE, *SELECTED DOCUMENTS* No. 11 (1979); and 18 INT'L LEGAL MATERIALS 362 (1979).

