

# International humanitarian law, ICRC and Israel's status in the Territories

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*This article discusses contentions voiced by ICRC President Maurer in a speech on 'Challenges to humanitarian action in contemporary conflicts: Israel, the Middle East and beyond', developed in the form of the article in this issue of the International Review of the Red Cross.*

*It discusses challenges to international humanitarian law in situations where one party violates humanitarian norms, and questions some ICRC contentions and assumptions regarding the status of the West Bank territories, the status of Israel-Palestinian agreements, the status of the Gaza Strip, the concept of 'occupation', Israel's settlement policy, Israel's separation barrier, East Jerusalem, and concludes with a discussion of ICRC policies of confidentiality, as opposed to public engagement.*

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This article discusses and analyses several points and contentions voiced by ICRC President Peter Maurer in his article in this issue of the *International Review of the Red Cross*.<sup>1</sup>

In his article, President Maurer discusses the significance, importance and challenges of international humanitarian law in general, as well as specific topics relating to Israel's status and actions in the territories.

## Significance of international humanitarian law

In expounding the ICRC view on the significance of international humanitarian law (IHL) in today's difficult and testing times, especially in the context of the situation in the Middle East, ICRC President Maurer attributes to humanitarian law an 'extraordinary significance in providing a legitimacy beyond today's international system'. As such, he considers humanitarian law to be a 'future-oriented body of law'.

Undoubtedly, IHL constitutes a vital and significant component in any and every conflict situation. It carries a huge potential for regulating the behavior of the various parties to such a conflict situation, reducing suffering and encouraging stability.

However, it cannot function independently of, beyond and separately from the historic, legal and political realities of today's international system. As such, it cannot exist or be implemented in a normative, legal or political vacuum. In order for it to be effective, IHL must relate to, and take into consideration each specific and individual framework, situation or circumstances in which it needs to be invoked and implemented.

While President Maurer correctly describes IHL as a 'tool for the protection of the life and dignity of civilians and combatants and thus a modicum of stabilisation in the midst of conflict',<sup>2</sup> this is accurate and workable as long as, and inasmuch as it is respected and implemented by all elements involved in any particular conflict.

However, despite what is obvious, obligatory and second-nature for military commanders and soldiers of the official, organised armed forces of a state that conducts itself in accordance with international law, and duly regulates such matters as discriminate targeting and ensuring proportionate use of force, this is regrettably not so obvious and acceptable to terror forces, organised or otherwise. Such forces, by definition, have no obligation or inclination to abide by humanitarian norms. The opposite is in fact the case. For their own tactical purposes aimed at targeting and harming civilians, they determinedly and indiscriminately attack civilian areas, centers, dwellings, protected public areas and cynically abuse

1 See Peter Maurer, 'Challenges to international humanitarian law: Israel's occupation policy', in this issue. President Maurer's article is based on a speech delivered at the Minerva Center for Human Rights, at the Hebrew University of Jerusalem, Israel, on 3 July 2013, entitled 'Challenges to humanitarian action in contemporary conflicts: Israel, the Middle East and beyond'.

2 *Ibid.*

buildings such as churches, mosques, schools and hospitals, using them as shields for rocket and weapons emplacements. They take civilian hostages and generally, knowingly utilize and rely on the above-noted assumption that an organized army or military forces of a state will function in accordance with such norms and will therefore hesitate before responding.<sup>3</sup>

## Status of the Territories

Moving from the universal and general challenges to implementing IHL to the specific humanitarian challenges in the context of the relationship between Israel and the Palestinians, there are some basic assumptions figuring in ICRC official positions and statements, including the contribution of President Maurer in this issue of the *Review*<sup>4</sup> regarding the status of the territories administered by Israel since 1967, that appear to have become *lingua franca* within the ICRC itself as well as in the United Nations (UN) and the international community in general. These assumptions, mostly politically-generated, call for some clarification inasmuch as they would appear to be inaccurate and to run counter to the ICRC's fundamental principles of impartiality and neutrality as defined in the Preamble to the Statutes of the International Red Cross and Red Crescent Movement,<sup>5</sup> and reaffirmed in the Article 4 of the ICRC's own Statutes.<sup>6</sup>

The first and perhaps the most frequently repeated and inaccurate assumption, including by the ICRC President himself, is to describe the historically-termed areas of Judea and Samaria, the Gaza Strip and the eastern part of Jerusalem held by Israel since 1967 as the 'Occupied Palestinian territory'.<sup>7</sup> This expression is inaccurate historically and legally, and is inherently and clearly politically-slanted.

These areas, situated in the 'West bank' of the River Jordan, an area originally described in the 29 November 1947 UN General Assembly 'partition' resolution 181 as 'the hill country of Samaria and Judea'<sup>8</sup> have never been part of, nor have they ever belonged to, or been seized from any sovereign or other formal

3 See Alan Baker, 'Legal and Tactical Dilemmas Inherent in Fighting Terror: Experience of the Israeli Army in Jenin and Bethlehem (April–May 2002)', in Richard B. Jacques (ed.), *International Law Studies Vol. 80: Issues in International Law and Military Operations*, US Naval War College, pp. 273–285.

4 See P. Maurer, above note 1.

5 Statutes of the International Red Cross and Red Crescent Movement, Preamble, in *Handbook of the International Red Cross and Red Crescent Movement*, 13<sup>th</sup> ed., ICRC/International Federation of Red Cross and Red Crescent Societies, 1994, p. 417: 'in order to continue to enjoy the confidence of all, the Movement may not take sides in hostilities or engage at any time in controversies of a political, racial, religious or ideological nature'.

6 See *ibid.*, p. 449, Art. 4 (1)(a), Statutes of the International Committee of the Red Cross as revised, which defines the role of the ICRC as 'to maintain and disseminate the Fundamental Principles of the Movement, namely, impartiality, neutrality, independence, voluntary service, unity and universality'.

7 See P. Maurer, above note 1.

8 See UNGA Res. 181, 29 November 1947, section II, available at: <http://daccess-dds-ny.un.org/doc/RESOLUTION/GEN/NR0/038/88/IMG/NR003888.pdf?OpenElement>. All internet references were last accessed in October 2013.

Palestinian entity, which has never existed. There has never been any binding treaty, agreement, resolution or any other international document that has accorded this territory to the Palestinians. The expression ‘Occupied Palestinian Territory’ is nothing more than a political term that has been commonly and frequently used in non-binding political resolutions, principally in the UN General Assembly, but also by the ICRC, representing nothing more than the political viewpoint of the majority of states voting in favour of such resolutions. These political determinations have never constituted, nor can they or should they constitute an authority for any determination by the ICRC that the territories are Palestinian. Such determination is clearly partisan.<sup>9</sup>

To arbitrarily make such a misleading determination, in fact represents a complete denial of legal, historic and political rights and realities regarding the areas in question, as well as undermining and even attempting to pre-determine the outcome of an ongoing negotiating process, based on valid agreements between Israel and the Palestine Liberation Organisation (PLO), intended to determine, by agreement, the ultimate ‘final status’ of these areas.

## Agreements between Israel and the Palestinians

In a similar vein, the position of the ICRC, as voiced by its President, according to which Israel, for 47 years, has exercised: “actual authority” over the West Bank and the Gaza Strip<sup>10</sup> and ‘continuously maintained effective control over the territories it occupied as a result of the Six Day War in 1967, and over the Palestinian population living there’<sup>11</sup> would appear to be somewhat over-generalised and factually inaccurate. It overlooks the landmark 1995 Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip,<sup>12</sup> witnessed by the United States’ President as well as leaders of Jordan, Egypt, Russia, Norway, and the European Union and endorsed by the UN, in which the parties agreed that effective control over the area would, pending a final status agreement, be divided between a Palestinian Authority established for that purpose, and Israel.

As such, the PLO, as the formal representative of the Palestinian people, freely and formally agreed that in addition to those West Bank and Gaza Strip areas in which all powers and responsibilities for governance and administration would be transferred into the hands of the Palestinian Authority (Areas A and B and Gaza), Israel would retain effective control over a part of the area (Area C) only. To ignore this fact and claim that the whole area is still ‘occupied’ by Israel and subject to

9 On this issue see Robbie Sabel “The ICJ opinion on the Separation Barrier: Designating the Entire West Bank as “Palestinian Territory””, in *Jerusalem Viewpoints*, No. 535, 2 October 2005, available at: <http://jcpa.org/jl/vp535.htm>

10 See P. Maurer, above note 1.

11 *Ibid.*

12 See Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip (Oslo II), Washington, D.C., 28 September 1995, available at: <http://mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT.aspx>.

Israel's effective military control would appear to be inaccurate and misleading at the least.

This unique and *sui generis* situation, including the history and circumstances of the Israeli-Palestinian conflict regarding the territories, as well as the series of agreements and memoranda that have been signed between the Palestinian leadership and the Government of Israel,<sup>13</sup> have produced a special independent regime – a *lex specialis* – that governs all aspects of the relationship between them, including the respective status of each party *vis-à-vis* the territory. As such, the oft-repeated contention that the Fourth Geneva Convention is applicable to the territories would appear to ignore this unique situation and this vital body of agreements.

The Israeli-Palestinian agreements call for a final status negotiating process to determine the fate of the territories. This process is underway, and thus the necessities of complete neutrality oblige the ICRC, as well as the international community as a whole, to allow this process to proceed, without attempting to prejudge or predetermine the outcome.

## Status of the Gaza Strip

By the same criteria of accuracy, some eight years after Israel's forces and settlements were removed by Israel, unilaterally, from the Gaza Strip, the contention as articulated by the President of ICRC that Israel continues to maintain 'effective control over the Strip', that it uses 'coercive measures' which impede 'efforts to build proper democratic institutions across areas under Palestinian administrative authority', and that Israel is responsible for the 'depressing' social and economic situation in this area,<sup>14</sup> would appear to indicate of a certain lack of awareness of the actual situation on the ground.

The international community has repeatedly acknowledged the regrettable fact that since Israel's unilateral redeployment out of the Gaza Strip in 2005, the area was occupied by the Hamas terror organization which physically and brutally ousted the Palestinian Authority and established its own effective military control and fundamentalist Islamist administration, totally opposed to any democratic form of governance. This has been accompanied by oppression and ongoing systematic violations of humanitarian norms by the Hamas administration, both *vis-à-vis* its own local Palestinian population as well as against the Israeli towns and villages in proximity to the Gaza Strip, through repeated indiscriminate firing of rockets

13 See Israel-Palestinian Declaration of Principles, 13 September 1993; Exchange of Letters between Prime Minister Rabin and Chairman Arafat of 9–10 September 1993; Agreement on the Gaza Strip and the Jericho Area, 4 May 1994; Interim Agreement between Israel and the Palestinians, 28 September 1995; Agreement on Temporary International Presence in Hebron, 9 May 1996; The Wye River Memorandum, 23 October 1998; The Sharm el-Sheikh Memorandum on Implementation Timeline of Outstanding Commitments of Agreements Signed and the Resumption of Permanent Status Negotiations, 4 September 1999; Protocol Concerning Safe Passage between the West Bank and the Gaza Strip, 5 October 1999. All these documents are referenced in: <http://www.mfa.gov.il/mfa/peace%20process/reference%20documents/>.

14 See P. Maurer, above note 1.

against civilian concentrations in Israel and dispatching terrorists into Israel and into Egyptian territory in the Sinai with the sole intention to kill Israeli civilians.

To disregard the acts of terror emanating from the Gaza Strip, willfully and deliberately directed against Israel's civilian population, and to overlook the ongoing threat to Israel's security through the continued stockpiling of offensive weaponry and missiles, would appear to belie reality.

Any limitation on economic and social contacts with the West Bank cannot in good conscience, be attributed to Israel, but is rather the result of the well-known and widely visible hostile internal relationship between the Hamas administration and the Palestinian Authority leadership in the West Bank.

With regard to Israel's 'closure measures' considered by the ICRC to 'impede efforts to build proper democratic institutions',<sup>15</sup> the 2011 report of the UN Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident clearly acknowledges that:

Israel faces a real threat to its security from militant groups in Gaza. The naval blockade was imposed as a legitimate security measure in order to prevent weapons from entering Gaza by sea and its implementation complied with the requirements of international law.<sup>16</sup>

## Assumptions regarding 'occupation'

The long-held assumption and determination by the ICRC that the territories are 'occupied' would appear to be based on an inaccurate and partisan reading of the factual situation and of the relevant international legal documentation.

Indeed, in the 1967 'Six Day War' Israel took control *inter alia* over the West Bank areas of Samaria, Judea, eastern Jerusalem and the Gaza Strip, that had been previously occupied and held by the Hashemite Kingdom of Jordan and Egypt respectively, since the 1948 war initiated against Israel by the neighboring Arab states. Neither of these areas constituted the legitimate sovereign territory of Jordan and Egypt respectively, the two High Contracting Parties to the Fourth Geneva Convention. Hence, Israel has consistently held the view that the classic definition of occupation embodied in the Fourth Geneva Convention regarding the status of territory cannot be attributed to Israel's status in these areas.

The unique historic and legal nature of the West Bank territories of Samaria and Judea and eastern Jerusalem, with basic historic rights emanating from time immemorial and encapsulated legally in official, binding and still valid international documents, inevitably render these territories as *sui generis*, and thus run against any attempt to use standard, loaded and inappropriate definitions such as 'occupied territories' to designate or describe their status.

<sup>15</sup> *Ibid.*

<sup>16</sup> See Report of the Secretary-General's Panel of Inquiry on the 31 May 2010 Flotilla Incident, September 2011, para. 82, available at: [http://www.un.org/News/dh/infocus/middle\\_east/Gaza\\_Flotilla\\_Panel\\_Report.pdf](http://www.un.org/News/dh/infocus/middle_east/Gaza_Flotilla_Panel_Report.pdf).

However, at the same time, Israel has, from the start, never denied its humanitarian obligations pursuant to international customary and humanitarian law *vis-à-vis* the local population in these areas, and to this end has cooperated and continues to cooperate with the ICRC's humanitarian role as set out in the Fourth Geneva Convention, to restore and improve the living conditions of affected Palestinians with a view to both ensuring respect for their basic rights and offering the prospect of a future political solution to the conflict. Furthermore, Israel's Supreme Court maintains strict supervision with a view to ensuring that the Israeli official bodies conduct themselves in accordance with Israel's international humanitarian obligations.<sup>17</sup>

By any objective criterion, the status of the territory could only be considered to be 'disputed territory', subject to an ongoing negotiation process between the involved parties, aimed at determining by agreement the fate of the territory. Any claim or determination, even by the ICRC, attempting to designate and assign the territory to one party, or to deny the rights and status of any party, could only be seen as a departure from the strict policy of neutrality dictated by the fundamental principles of the Red Cross Movement.

## Israel's settlement policy

The ICRC's consistently held claim, as voiced by President Maurer, that the Israel government's settlements policy is a violation of the Fourth Geneva Convention, merits some discussion.

Both the text of the Fourth Geneva Convention as well as its *travaux préparatoires*, indicate that in the post-World War II circumstances under which the convention was drafted, it was clearly never intended to deal with situations such as Israel's settlements. The authoritative and official commentary by the ICRC, edited by Jean S. Pictet and published in 1958 attributes the origin of Article 49 to situations where portions of an Occupying Power's own population were coerced into being transferred in order to colonise those territories.<sup>18</sup>

Historically, during the period of the Second World War, over 40 million people were subjected to forced migration, evacuation, displacement, and expulsion, including 15 million Germans, five million Soviet citizens, and millions of Poles, Czechs, Ukrainians and Hungarians. The vast numbers of people affected and the aims and purposes behind such a population movement speak for themselves. Realistically, there is nothing to link such circumstances to Israel's settlement policy.

17 See High Court of Justice (HCJ), *Beit Sourik Village Council v. Government of Israel*, HCJ 2056/04, Judgement, available at: [http://elyon1.court.gov.il/Files\\_ENG/04/560/020/A28/04020560.A28.pdf](http://elyon1.court.gov.il/Files_ENG/04/560/020/A28/04020560.A28.pdf); *Mariabe v Prime Minister of Israel*, HCJ 7957/04, Judgement, available at: [http://elyon1.court.gov.il/Files\\_ENG/04/570/079/A14/04079570.A14.pdf](http://elyon1.court.gov.il/Files_ENG/04/570/079/A14/04079570.A14.pdf).

18 For an extensive summary of the reasoning behind the drafting of the convention, see Jean Pictet (ed.), *Commentary on the Geneva Conventions of 12 August 1949*, Vol. 4, *Geneva Convention relative to the Protection of Civilian Persons in Time of War*, ICRC, Geneva, 1958, pp. 3–9.

Article 49 of the Fourth Geneva Convention uses terminology that is indicative of governmental action in coercing its citizens to move. Yet Israel has not forcibly deported or mass-transferred its citizens into the territories. It has consistently maintained a policy enabling people to reside voluntarily on land that is not privately owned. Any claim regarding ownership of land is open to supervision and adjudication within Israel's justice system, including by Israel's Supreme Court, and all this is subject to the outcome of the final status negotiations in which the fate of the territories will be agreed-upon.

In some cases Israel has permitted its citizens who have for many years owned property or tracts of land in the territories, and who had been previously dispossessed and displaced by Jordan, to return to their own properties. The presence in these areas of Jewish residence and settlement from Ottoman and British Mandatory times is totally unrelated to the context of, or claims regarding, the Geneva Convention.

Israel has never expressed any intention to colonise the territories, to confiscate land, nor to displace the local population for political or racial reasons, nor to alter the demographic nature of the area.

The background and circumstances in which the Fourth Geneva Convention was drafted, and specifically Article 49, raises a serious question as to the appropriateness and relevance of linkage to and reliance on the article by the ICRC and international community (including the International Court of Justice in its Advisory Opinion on Israel's security barrier)<sup>19</sup> as the basis and criterion for determining that Israel's settlements are illegal. One may further ask if this is not a misreading, misunderstanding, or even distortion of that article and its context.<sup>20</sup>

The agreed-upon final status negotiating issue of settlements is on the negotiating table, and this negotiating process cannot and should not be prejudiced or undermined by politically inspired and inaccurate determinations.

## Separation barrier

While President Maurer acknowledges Israel's inalienable right and need to ensure the security of its own population and territory,<sup>21</sup> he appears to take issue with the security barrier that Israel was obliged to construct in order to stem a tragic bout of infiltrations from Palestinian areas into Israel by suicide bombers who wreaked havoc and tragedy, brutally murdering hundreds of innocent Israeli civilians.

19 See International Court of Justice (ICJ), *Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory, Advisory Opinion*, 9 July 2004, ICJ Reports 2004.

20 For a detailed study of this issue see Alan Baker, 'The Settlements Issue: Distorting the Geneva Convention and the Oslo Accords', in *Jerusalem Center for Public Affairs (JCPA)*, Vol. 10, No. 20, 5 January 2011, available at : <http://jcpa.org/article/the-settlements-issue-distorting-the-geneva-convention-and-the-oslo-accords/>.

21 P. Maurer, above note 1.

The justification for this barrier was, and continues to be solely pragmatic and based on security considerations, aimed at preventing the above-noted infiltrations. Its routing within or outside Palestinian areas bears no relation whatsoever to, nor does it prejudice the negotiating issues of borders and settlements, presently under active negotiation by the parties concerned. Israel's Supreme Court, seized with weighing the proportionality of the security justification on the one hand, with the concomitant humanitarian considerations on the other, has maintained a constant vigil to ensure that this proportionality is observed.<sup>22</sup>

While the Advisory Opinion of the ICJ indeed questioned the legality of the barrier, but as observed in the separate opinions of the judges, the court based its opinion solely on positions presented to it opposing the barrier, and thus failed to consider the terror activity that served as justification for its emplacement.<sup>23</sup>

## East Jerusalem

As explained by President Maurer in his article, the ICRC as well as the international community in general, regards east Jerusalem as no less 'occupied' than any of the other areas in the West Bank and Gaza Strip.

However, as explained above, inasmuch as the status of the West Bank territories of Samaria and Judea are *sui generis*, and by the very nature of their unique historic, legal and political circumstances and characteristics, are in a category that falls outside the accepted frameworks known within the international community, so the status of Jerusalem is no less unique.

In fact, it is more so, in light of the city's central place, from time immemorial, in world history, and specifically in that of the world's three monotheistic religions - Judaism, Christianity and Islam, as well as being the location of Holy Places and other historic sites to all three religions.<sup>24</sup>

From its entry into eastern Jerusalem in 1967 and with the concomitant realisation of the dream and prayers of every Jew in the world who turns in prayer to Jerusalem, the eastern part of the city has been considered an integral part of Israel

22 See *Beit Sourik case*, above note 17. See also *Hawaja v. Prime Minister of Israel*, No 2577/04 at <http://uri.mitkadem.co.il/wall/bagatz-257704.html>; *Salim and others v. Commander of IDF Forces in Judea and Samaria*, available at: [http://www.psakdin.co.il/fileprint.asp?filename=/minhali/private/ver\\_dzhe.htm](http://www.psakdin.co.il/fileprint.asp?filename=/minhali/private/ver_dzhe.htm); and *Head of the Azoun Local Council v Government of Israel* No. 2732/05, available at: <http://www.azriel.co.il/modules.php?name=News&file=article&sid=518> (these 3 internet references are in Hebrew).

23 See ICJ, *Advisory Opinion*, above note 19, separate opinions of Judge Higgins Higgins, paras 15–20, 22, 23, 28, 30, Judge Kooijmans, paras 13, 26, 30, 32 and declaration of Judge Buergenthal, paras 3, 7.

24 See above note 8. Jerusalem's unique status and character was acknowledged in the 1947 UN General Assembly 'partition' resolution 181, recommending that Jerusalem and its environs become a '*corpus separatum*' under a special international regime for the City of Jerusalem, to be administered by the United Nations. Additional attempts in the UN to internationalize Jerusalem never gained support. See also attempts by the UN General Assembly to internationalize Jerusalem in UNGA Res. 185 (S2), 26 April 1948; UNGA Res. 187 (S2), 6 May 1948; UNGA Res. 303 (IV), 9 December 1949.

and not part of the territories as such. Israel indeed extended its law, jurisdiction and administration to the eastern part of the city.<sup>25</sup>

At the same time, Israel is committed, pursuant to the Oslo accords, to negotiate 'the issue of Jerusalem' with the Palestinians, with the aim of reaching a satisfactory settlement of the issue, as well as the other final status issues, during the course of the ongoing negotiations.<sup>26</sup>

Palestinians living in east Jerusalem are given the option to choose between full Israeli citizenship and alternatively permanent residency status, enjoying full Israeli social welfare and humanitarian benefits in accordance with Israeli law. As such they are equally subject to the requirements of Israeli law governing urban planning, zoning and construction.

In a similar vein, it is agreed in the Oslo Accords that Palestinian residents of eastern Jerusalem may vote and be elected in Palestinian Authority elections.<sup>27</sup>

As part of the functional relationship between Israel and the ICRC, and notwithstanding the lack of agreement between the ICRC and Israel regarding the status of Jerusalem, the ICRC carries out, to the best of its ability, its functions in the eastern Jerusalem area in coordination, as necessary, with the appropriate Israeli authorities with a view to ensuring the humanitarian needs of the Palestinians in east Jerusalem.

## Conclusion: confidentiality or public engagement

In concluding his article, President Maurer discusses the relative aspects of the ICRC's traditional policy of confidentiality in dealing with issues of violations of international humanitarian law on the one hand, and dealing with such issues in a more pro-active manner through engaging the public, on the other hand.<sup>28</sup>

In order to fulfill its humanitarian functions in the manner set out in the Statutes of the Movement itself and the ICRC Statutes, as well as in the specific international conventions, the ICRC is bound by its guiding fundamental principle of neutrality, which invokes a specific obligation 'in order to continue to enjoy the confidence of all', not to 'engage at any time in controversies of a political, racial, religious or ideological nature'.<sup>29</sup>

Engaging the public, whether through public speeches and statements, the public use of politically-generated terminology, reliance on biased and inaccurate information, and the adoption of formal policy positions based on political

25 Law and Administration Ordinance (Amendment No. 11) 5727-1967, 21 L.S.I. 75 (1967). There is no reference in this legislation to annexation.

26 See Israeli-Palestinian Interim Agreement, above note 12. For an in-depth study of the Jerusalem issue, see Alan Baker, 'Is Jerusalem Really Negotiable – An Analysis of Jerusalem's Place in the Peace Process', in JCPA, No. 11, May 2013, available at: <http://jcpa.org/article/is-jerusalem-really-negotiable-an-analysis-of-jerusalem-place-in-the-peace-process-2/>.

27 See Israeli-Palestinian Interim Agreement, above note 12, and specifically Annex II concerning elections, available at: [http://www.knesset.gov.il/process/docs/heskemb3\\_eng.htm](http://www.knesset.gov.il/process/docs/heskemb3_eng.htm).

28 P. Maurer, above note 1.

29 See above note 6.

assumptions that have the potential to influence, undermine or prejudice ongoing processes of negotiation and reconciliation, would all appear to run contrary to the fundamental obligation of neutrality.

The ICRC has a vitally important, sensitive and inherently difficult task to perform – whether in general or whether in the specific context of the Middle East and Israel-Palestinian relationship. The historic and legal complexities of the territories in question place an even heavier responsibility upon the ICRC in general, and upon its President in particular, to religiously honor and maintain the principle of neutrality and not to permit the organisation to prejudice its historic and vital task by any hint or perception of bias or partisanship.