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Permeable Fences Make Good Neighbors: Improving a Seemingly Intractable Border Conflict Between Israelis and Palestinians

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PERMEABLE FENCES MAKE GOOD NEIGHBORS: IMPROVING A SEEMINGLY INTRACTABLE BORDER CONFLICT BETWEEN ISRAELIS AND PALESTINIANS*

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I. INTRODUCTION	3
II. BORDERS IN GENERAL	4
III. OPEN BORDERS IN GENERAL	12

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IV. THE ABOLITION OF BORDERS	15
V. CLOSED BORDERS IN GENERAL	26
VI. PSYCHOLOGICAL AND HUMAN ELEMENTS	28
A. THE IRISH EXPERIENCE	40
B. ISRAELIS AND PALESTINIANS	48
C. LEARNING TO COOPERATE	51
D. EDUCATION, SOCIALIZATION, MASS MEDIA, AND CULTURE PRESERVATION	55
VII. PALESTINIAN STATE	62
VIII. MENTALLY IMPRINTED BORDER PERCEPTIONS	65
IX. OPEN/CLOSED BORDER PARADOXES	70
X. ECONOMICS	82
XI. INDUSTRIAL PARKS, JOINT VENTURE PROJECTS, FREE/FOREIGN TRADE ZONES, PRIVATELY FINANCED INFRASTRUCTURE PROJECTS	88
XII. TRANS-BORDER REGIONALISM AND COOPERATION	97
A. IN GENERAL	97
B. EUROPE	101
C. MEXICO-UNITED STATES	109
D. JOINT ISRAELI-PALESTINIAN EFFORTS	122
E. ASYMMETRICAL RELATIONS IN A COOPERATIVE ENVIRONMENT	126
F. INTERDEPENDENCY OF THE PALESTINIANS AND THE ISRAELIS	137
XIII. LAW ENFORCEMENT	145
XIV. CONCLUSION	159

Cohen and Levi both approached the rabbi in an attempt to resolve a festering dispute between them. After Cohen relates to the rabbi his side of the story, the rabbi pronounces to him: "You are right". Following Levi's rendition of the facts as he sees them, the rabbi declares to him, "You are right." Once the two have departed, the rabbi's assistant turns to the rabbi and asks, "Rabbi, how can they both be right?" To this question, the rabbi responds: "You are also right." —old Jewish story

I. INTRODUCTION

The conflict between Palestinians and Israelis is one of the most complex of our time. Both sides feel that they have a legitimate, exclusive claim over the same piece of land in the Middle East. Both have their own perception of history and events, a history and accumulation of events that they feel justify their respective contentions and actions. After years of bloodshed between the two, it began to appear that both sides finally accepted the other's existence and right to exist and the fact that the other side is here to stay.¹ As a result, the two sides entered into negotiations aiming at a peaceful settlement to their dispute.

Although this peace process between the two is occasionally punctuated by acts of extremists who are constantly attempting to undermine it by igniting violence, it is imperative that the leaders and their populations not get swept away by such outbursts of violence which have the potential of turning the Middle East clock back decades. Rather, it is vital, despite many setbacks along the way, that both sides continue to proceed courageously on the rocky path toward peace.

While at times this conflict appears insoluble due to mutual fears, suspicions, tensions, animosities, threat perceptions, and years of distrust, it is worthwhile to recall that this is not the first instance in which bitter enemies have faced each other at the negotiating table and forced themselves to overcome their hatred and apprehension toward the other side. Today's world is witness to many former battlefield adversaries who have become economic partners, strategic allies, and even the best of friends. For example, the cases of Germany and the other Member States of the European Union (EU), and of the United States and Mexico, Japan, and Britain, stand out and lend encouragement to the Middle East that the idealistic dream of lasting, true peace and coexistence can become reality.

One of the crucial matters that must be discussed, even in the midst of many hindrances along the way to peace between the Israelis and Palestinians, is the ostensibly impossible task of

1. See, e.g., Kenneth V. Stein, *Start at Home*, JERUSALEM POST, Nov. 30, 1999, at 8.

determining the nature of the borders between the two sides.

II. BORDERS IN GENERAL

Typically, examinations of borders were limited to the consideration of particular aspects relating to them, such as their anthropological, geopolitical, military, and strategic ambits, and the influence of borders on controlling or ending international conflicts.² Although border issues are germane to any analysis of social or economic interplay, political systems, or legal jurisdiction,³ social scientists, historians,⁴ lawyers, economists, or sociologists rarely examined the border's function in modern political life.⁵ Over roughly the last decade, however, borders increasingly have entered the forefront of political, popular, and scholarly consideration.⁶

Relationships between societies and between states demonstrate the crucial nature of borders.⁷ Borders create physical boundaries between distinct units, circumscribe political boundaries of authority

2. See Gad Barzilai & Ilan Peleg, *Israel and Future Borders: Assessment of a Dynamic Process*, 31 J. PEACE RES. 59 (1994) (linking the focus of border studies on the physical dimension because of the belief that border disputes cause international war and conflict).

3. See Liam O'Dowd & Thomas M. Wilson, *Frontiers of Sovereignty in the New Europe*, in BORDERS, NATIONS AND STATES: FRONTIERS OF SOVEREIGNTY IN THE NEW EUROPE 1, 7 (Liam O'Dowd & Thomas M. Wilson, eds. 1996) [hereinafter BORDERS, NATIONS AND STATES] (explaining that border studies provide information about the forces shaping and redefining the state).

4. See MALCOLM ANDERSON, FRONTIERS, TERRITORY AND STATE FORMATION IN THE MODERN WORLD 1 (1996) [hereinafter ANDERSON, FRONTIERS, TERRITORY]. The background to this field, however, has been covered extensively philosophically and historically. See *id.* It has also been dealt with anthropologically.

5. See Malcolm Anderson, *European Frontiers at the End of the Twentieth Century: An Introduction*, in THE FRONTIERS OF EUROPE 3 (Malcolm Anderson & Eberhard Bort, eds. 1998) [hereinafter Anderson, *European Frontiers*] (concluding that the effects of borders on the populations within them are difficult to assess).

6. See O'Dowd & Wilson, *supra* note 3, at 2 (pointing out that recently, while many national borders were being altered, the European Union sought to deemphasize their importance).

7. See Barzilai & Peleg, *supra* note 2, at 59 (identifying the physical, political, and social attributes of borders).

in a territory, and delineate the boundaries of a separate society.⁸ The border is a line depicting the beginning of a society, and often, the line past which exists the “enemy”, the “barbarian” or the “other”.⁹

However, borders are not merely map delineations;¹⁰ rather, they are institutionalized and legally constituted facts of political life.¹¹ The border is a fundamental political institution that is necessary to establish any rule-based political, social, or economic life in a progressive society.¹² This fundamental nature of borders is embedded in international law in Article 11 of the Vienna Convention on Succession of States in Respect of Treaties of 1978,¹³ which stipulates that a succession of states does not affect a boundary established by an agreement; nor does it affect treaty-established rights and obligations relating to a boundary regime.¹⁴ Thus, boundary agreements will remain in force despite a succession of states.¹⁵ In other words, borders are considered to exist prior to a state being restructured and, therefore, are acknowledged as essential to this restructuring.¹⁶

The state is a sovereign entity inside its own borders. As such, it has total control over its own territory and may employ that control at its borders. This signifies that sovereignty is still a major, applicable doctrine when considering states and the relations among them.¹⁷ Various ideas concerning the institutional border have existed

8. *See id.* at 59-60 (referring to the relationship between states and societies).

9. *See id.* (expounding on the attitudinal relationships between societies with regard to their borders).

10. *See* ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 1-2 (stating that borders reflect and symbolize national identity).

11. *See id.* (asserting that borders are institutions).

12. *See* Anderson, *European Frontiers*, *supra* note 5, at 4; ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 1.

13. *See* Vienna Convention on Succession of States in Respect of Treaties, U.N. Doc. A/Conf. 80/31 (1979), 17 I.L.M. 1488.

14. *See* Anderson, *European Frontiers*, *supra* note 5, at 4 (finding that this character of borders is reflected by the Vienna Convention).

15. *See id.*

16. *See id.*

17. *Cf. id.* at 4-5 (stating that there is no absolute control over a nation's borders since borders are not inviolable with respect to external forces);

in the past, and others certainly will appear in the future.¹⁸ Currently, there are indications of political upheavals that appear to be leading in this direction.¹⁹ The character of the state is being altered due to the inability of modern governments to manage, to any great extent, the flow of goods, persons, and information over their borders.²⁰

At the outset, one must recognize that the functioning of borders throughout the world typically reflects well-developed notions of sovereignty and is largely the outgrowth of nationalistic feelings.²¹ Yet, the character of both formal and informal relations across borders, as well as those that transpire internally, are crucial factors in stabilizing the relationship between the involved parties.²² Borders are, after all, the political tissue that information, wealth, people, and goods must penetrate for the state to consider them as either unacceptable or acceptable.²³ Part of an individual's identity is defined legally by borders, since borders fix the limits of a person's ability to exercise citizenship rights and nationality claims.²⁴ Europe, for instance, is made up of varied and separate states, each with its own borders, culture, language, history, and traditions.²⁵ Firmly established borders never have existed in Europe, and current

ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 2.

18. See Anderson, *European Frontiers*, *supra* note 5, at 5.

19. See *id.*

20. See ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 2 (noting that the government's lack of control over its borders in the modern age changes the nature of states).

21. See S. WHITTEMORE BOGGS, INTERNATIONAL BOUNDARIES: A STUDY OF BOUNDARY FUNCTIONS AND PROBLEMS 6-7 (1940) (observing that nationalism developed in Europe over the last two centuries).

22. See David Newman, *Demarcating a Boundary of Peace between Israel and the West Bank*, in POLITICAL BOUNDARIES AND COEXISTENCE 171, 172-74 (1994) [hereinafter Newman, *Demarcating a Boundary*] (discussing the cross-boundary relationships of neighboring countries).

23. See *id.* at 172 (discussing the movement of goods, people, and cultures across borders).

24. See Anderson, *European Frontiers*, *supra* note 5, at 3-4.

25. See Andreas G. Kourvetaris & George A. Kourvetaris, *Attitudes Toward European Integration: Ethnic and Cultural Dimensions*, in THE IMPACT OF EUROPEAN INTEGRATION: POLITICAL, SOCIOLOGICAL AND ECONOMIC CHANGES 151, 154 (George A. Kourvetaris & Andreas Moschonas, eds. 1996) (comparing the cultural and ethnic diversity of Europe and the United States).

European borders are still in dispute.²⁶ Most of Europe comprises states that are ill-defined units with unstable borders.²⁷ Interestingly, it turns out that only ten of the European states existing in 1899 had the same borders in 1989.²⁸ When a map of 1989 Europe is compared with a 1999 map, tremendous changes stand out, such as the dissolution of the Soviet Union, the division of Czechoslovakia, and the fracture of Yugoslavia.²⁹

Many wars and conflicts throughout the tumultuous history of Europe were caused by historical discords of values and ideas against a backdrop of heterogeneous, but clearly European, cultural heritages.³⁰ The states of Europe represent a political system of independent, competing centers of power, each with its own particular cultural uniqueness and characteristics.³¹ Generally, though, European states, by themselves, are internally homogeneous from an ethnic standpoint.³² Religious affiliations in European states also generally relate directly to an individual's nationality.³³

The diversity of European cultures, nevertheless, simultaneously presented benefits and detriments.³⁴ It has been advantageous in its consistency with democracy and freedom, which consequently has

26. See O'Dowd & Wilson, *supra* note 3, at 9 (asserting that nationalism and imperialistic expansion brought about these unstable European borders).

27. See *id.* (contending that in the case of the European Union, border stability was necessary to encourage economic interdependence).

28. See *id.*

29. See *The Change in Europe, For Good or Ill*, *ECONOMIST*, June 12, 1999, at 99 (discussing the changes in Europe since the fall of the Berlin wall).

30. See Kourvetaris & Kourvetaris, *supra* note 25, at 154 (finding that while Europeans are distinctly European, their diverse cultures and heritages have caused animosity and conflict).

31. See *id.* (characterizing Europe as a collection of nation-states).

32. See *id.* (averring that as a continent, Europe is a multiculturally diverse make-up of homogeneous individual states).

33. See *id.* at 155. For instance, the populations in France, Portugal, Ireland, Italy, Croatia, and Spain are generally Roman Catholic; Norway, England, and Sweden are basically Protestant; Russia, Romania, Serbia, Greece, and Bulgaria are predominantly Eastern Orthodox; and Germany is approximately half Protestant and half Roman Catholic. See *id.*

34. See *id.* at 156 (stating that diversity is good for democracy but usually is detrimental to unity and coordination).

enhanced the EU.³⁵ European cultural diversity, however, has been detrimental as well, since with this variety frequently comes inconsonant ethnic and cultural nationalism.³⁶ These characteristics reach to ethnic nationalism's very core. Furthermore, consequences of ethnic nationalism include the lack of solidarity, singleness of purpose, accommodation, and harmony.³⁷ At its peak, ethnic nationalism may eventually result in chauvinistic dominance and war.³⁸ Ethnic and cultural domination and imperialism of larger nations have been at the forefront of Europe's violent and tumultuous history for centuries.³⁹ Promoting unity in an environment of multifariousness is viewed as a demanding task that requires special effort and dedication.⁴⁰ The continual nationalistic enmity is

35. See Kourvetaris & Kourvetaris, *supra* note 25, at 156 (examining how diversity affects governing the European Union).

36. *See id.*

37. *See id.* (asserting that nationality affects cohesiveness, and thus, affects the European Union's ability to govern).

38. *See id.*

39. *See id.* at 160 (explaining that ethnic nationalism is not a new concept in Europe, and that it has been increasing since the end of the Cold War).

40. *See id.* at 156. The task of creating a united superstate out of Europe has been suspended, according to some observers, while European fears of potentially giving up their individual national identities and policies are considered further. *See id.* at 158. For instance, in a European identity survey from March 1999, more people in each of ten European Union Member States identified themselves by their countries alone than any other way. *See Europe Goes to the Polls, Little Respect, Less Love, but Growing Power*, ECONOMIST, June 12, 1999, at 19, 21-22. The next largest percentage of those surveyed identified themselves first by their countries and second as Europeans. *See id.* These two categories of identification—by country alone and by country first, then European—accounted for the overwhelming majority of the populations in these states. *See id.* In the five other European Union Member States, the categories reversed themselves—most identified themselves first by their countries, then as Europeans, and the next greatest percentage of people identified themselves solely by their countries. *See id.* Nevertheless, when combined, the same two categories of identification similarly resulted in accounting for an overwhelming majority in the populations of these five European Union Member States. *See id.* Thus, the percentage of people who live in the European Union and identify themselves as European only, or first as European and second by country, is miniscule. *See id.* For further discussion of the European identity issue, see O'Dowd & Wilson, *supra* note 3, at 1-2, 11-12 and *infra* note 81. Others believe that the centralization needed for a European federal-type system is not currently acceptable to many states and would create myriad problems of such an insoluble character that the Balkan ethnic

demonstrated aptly by Scottish, Belgian, Welsh, and Spanish discord, as well as by the long-lasting strife in Northern Ireland between Catholics and Protestants.⁴¹ Areas that contain unique cultural and social attributes, often located far from metropolitan centers, frequently are pushed simultaneously in different directions to adapt to intricate adjustments.⁴² While people may currently believe that borders preserve their interests, rights, and cultures, they are generally less rigorous about policing them than compared to the period immediately following the World War II.⁴³ For instance, a majority of the EU Member States have decided to eliminate interstate border controls.⁴⁴

History is embodied in borders as the outcome of international treaties, invasions, conquests, and/or population movements⁴⁵, while states have been the historical consequence of artificial borders carved out during and after wars by the victorious and by international agreements.⁴⁶ As demonstrated earlier, this arbitrary character of border establishment has continually modified the map of Europe throughout the course of history.⁴⁷ Belgium, for instance, illustrates this type of border modification. The major powers at the time, particularly Great Britain, established Belgium in 1830 following its revolt against control by Holland.⁴⁸ Europe was teeming

conflicts would pale in comparison. See Kourvetaris & Kourvetaris, *supra* note 25, at 158.

41. See Kourvetaris & Kourvetaris, *supra* note 25, at 160-61 (observing that ethnic nationalism continues to survive despite political and economic changes).

42. See ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 55 (citing Northern Ireland, Corsica, and the Basque Country as examples of this phenomenon).

43. See *id.* at 4-5 (noting the attitude change and the increased flexibility concerning borders).

44. See *id.* (stating that nine out of fifteen members of the European Union had already eliminated inter-state border controls).

45. See O'Dowd & Wilson, *supra* note 3, at 1 (explaining that the study of borders is a study of the past).

46. See Kourvetaris & Kourvetaris, *supra* note 25, at 153 (discussing the arbitrary nature of state formation in both Europe and the Americas).

47. See *id.* (analyzing the volatile nature of European borders).

48. See *id.* (comparing the creation of states in Europe with the creation of Arizona, Texas, and New Mexico in the United States).

with other artificial entities, even as late as the twentieth century, particularly in the wake of Austro-Hungary's dissolution.⁴⁹ In a similar fashion, following Mexico's drive out of Spain, the United States ultimately annexed some of the areas previously taken over by Spain in the Western Hemisphere, resulting in the formation of Texas, New Mexico, Arizona,⁵⁰ and California.⁵¹

While Europe's history is one of fragmentation and of war,⁵² post-war Europe searched for ways to create a common awareness among the states that were responsible for the terrible events.⁵³ If the European history of diversity, turbulence, violence, and conflict can give rise to a "Europe without Frontiers,"⁵⁴ and if former enemies like the United States and Mexico can sign the North American Free Trade Agreement in 1992,⁵⁵ thereby bolstering the prosperity of both

49. *See id.* (providing a historical context to demonstrate the chaotic nature of state formation).

50. *See id.* (demonstrating how conquests have led to the formation of states in the Americas); *see also* Susan Kaufman Purcell, *The Importance of Mexico-United States Relations*, in MEXICO-UNITED STATES RELATIONS, 34(1) PROCEEDINGS OF THE ACADEMY OF POLITICAL SCIENCE 1 (Susan Kaufman Purcell, ed. 1981) (indicating the loss of one-half of Mexican territory to the United States).

51. *See, e.g.*, Robert W. Johannsen, *America's Forgotten War*, WILSON Q., Spring 1996, at 96, 103 (stating that the terms of the treaty ending the Mexican War in 1848 included ceding New Mexico and California to the United States); Mark J. White, *The Case of the Yucatecan Request: American Foreign Policy at the Close of the Mexican War*, 72 MID-AMERICA, AN HISTORICAL REVIEW 169 (1990) (elaborating on specific territorial expansion in pursuit of Manifest Destiny); HOWARD F. CLINE, THE UNITED STATES AND MEXICO 11 (1953) (explaining that "revolution, annexation, conquest, and purchase" added pieces of Mexico to the United States).

52. *See* Neil Walker, *The New Frontiers of European Policing*, in THE FRONTIERS OF EUROPE, *supra* note 5, at 165, 173 [hereinafter Walker, *The New Frontiers of European Policing*] (observing that the revival of nationalism has drawn attention to the strong European bond).

53. *See* Giovanni Delli Zotti, *Transfrontier Co-operation at the External Borders of the European Union: Implications for Sovereignty*, in BORDERS, NATIONS AND STATES, *supra* note 3, at 51 (describing how the European community initially was formed and arguing that the movement toward political integration is now being done out of necessity).

54. *See, e.g.*, O'Dowd & Wilson, *supra* note 3, at 1, 2, 11-12 (advocating for a united Europe rather than one comprised of individual states).

55. *See* North American Free Trade Agreement, Dec. 17, 1992, U.S.-Can.-Mex., 32 I.L.M. 289 (chs. 1-9); 32 I.L.M. 605 (chs. 10-22) [hereinafter NAFTA].

countries, there is no reason why a concept of porous or permeable borders cannot exist between the Palestinians and Israel. In the case of Israel and the Palestinians, just as in Europe, the question becomes how the present may be accommodated with the past and joined to the future.⁵⁶

Under the terms of the Declaration of Principles of 1993⁵⁷ and the Interim Agreement of 1995⁵⁸ between Israel and the Palestinians, the permanent status negotiations are to cover various remaining issues, including the crucial subject of borders.⁵⁹ Presumably, the drafters of these accords intended that the issue of borders would encompass, among other things, the delimitation and demarcation of the borders.⁶⁰ Delimitation involves the proceedings related to the "determination of a boundary line ... and its definition in written, verbal terms."⁶¹ Demarcation refers to the method of actually and physically drawing a boundary line.⁶² Both delimitation and

For further discussion of the North American Free Trade Area, see *infra* notes 700-708, 715-749 and accompanying text.

56. Cf. O'Dowd & Wilson, *supra* note 3, at 1 (arguing that any change in Europe's borders requires a thorough understanding of the continent's history).

57. Declaration of Principles on Interim Self-Government Arrangements, Sept. 13, 1993, Isr.-P.L.O. Team, 32 I.L.M. 1525 [hereinafter Declaration of Principles].

58. Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, Sept. 28, 1995, Isr.-P.L.O., 36 I.L.M. 551 [hereinafter Interim Agreement].

59. Under these accords, the other remaining issues that the permanent status negotiations were to cover include "Jerusalem, refugees, settlements, security arrangements" and "relations and cooperation with other neighbors." Declaration of Principles, *supra* note 57, art. 5, § 3, at 1529; Interim Agreement, *supra* note 58, art. 31, § 5, at 567.

60. See David Newman, *Boundaries in Flux: The 'Green Line' Boundary Between Israel and the West Bank - Past, Present and Future*, in 1 BOUNDARY AND TERRITORY BRIEFING 1, 23 (Clive Schofield, ed. 1995) [hereinafter Newman, *Boundaries in Flux*]. Cf. Colonel Sir Henry McMahon, *International Boundaries*, 84 J. ROYAL SOC'Y ARTS 4 (1935) (defining the two main stages in boundary disputes, by distinguishing the terms "delimitation" and "demarcation").

61. McMahon, *supra* note 60, at 4; see A.O. CUKWURAH, *THE SETTLEMENT OF BOUNDARY DISPUTES IN INTERNATIONAL LAW* 27 (1967) (explaining that the delimitation of a boundary refers to the establishment of a boundary line in a treaty or in an arbitral award); see also STEPHEN B. JONES, *BOUNDARY-MAKING: A HANDBOOK FOR STATESMEN, TREATY EDITORS AND BOUNDARY COMMISSIONERS* 57-71 (1945) (establishing the aims and methods of boundary delimitation).

62. See McMahon, *supra* note 60, at 4; CUKWURAH, *supra* note 61, at 28

demarcation have played a crucial role in Palestine, or the Land of Israel, over the past one hundred years.⁶³ While delimitation and demarcation issues are critical, the functional characteristics of an open or closed border are at least as important as a peace settlement. Therefore, the Israelis and the Palestinians, as parties in the peace process, must examine the bearing of their relations resulting from cross-border cooperation or separation.⁶⁴

III. OPEN BORDERS IN GENERAL

Ideally, open borders would be maintained as an expression of the desire for economic, social, and political interaction across them. Such cross-border interaction could result in the creation of new links and the continuation of current ones between peoples of politically equal entities. Such links can eventually establish a beneficial by-product through an enduring normalization between neighboring territories.⁶⁵ Open borders would hopefully promote free movement of people and goods,⁶⁶ which in turn would help to allow

(explaining that the actual laying down of a boundary line may include placing boundary pillars, monuments, and other permanent structures along the ground to separate the territories); see generally JONES, *supra* note 61, at 165-225 (outlining the technical process involved in demarcating boundaries).

63. See Barzilai & Peleg, *supra* note 2, at 59, 63 (providing a historical examination of the political conflict in determining a future Israeli-Palestinian border).

64. See Newman, *Demarcating a Boundary*, *supra* note 22, at 172 (describing how relations between neighboring territories will affect whether the boundaries function in practice as open or closed borders).

65. See *id.* (correlating the nature of boundary relations—both formal and informal—to the level of political stability).

66. See David Newman, *Transforming Ethnic Frontiers of Conflict into Political Frontiers of Peace*, in *ETHNIC FRONTIERS AND PERIPHERIES: LANDSCAPES OF DEVELOPMENT AND INEQUALITY IN ISRAEL* 17, 18 (Oren Yiftachel & Avinoam Meir, eds. 1998) [hereinafter Newman, *Transforming Ethnic Frontiers*] (suggesting that the success in achieving long-term stability in the Middle East depends largely on economic, social, and cultural interactions between the parties). The term "open" borders must be examined from an appropriate historical viewpoint. See generally *Borders: Good Fences*, *ECONOMIST*, Dec. 19, 1998, at 19, 21. Unquestionably, it was easier for people to cross borders in the nineteenth century than it is now. See *id.* at 21. In fact, from 1850-1900, roughly sixty million people came to the Western Hemisphere from Europe. See *id.* Notwithstanding the current level of free trade, the degree of freedom of movement now found in developed countries is significantly less than

the dispersion and dissemination of a common realization of perceptions, sensibilities, and sensitivities.” These types of interplay between individuals could permit each side to appreciate the other’s viewpoint and to achieve a useful insight into the inner workings and the psychological makeup of the adversary’s society.” Accordingly, the parties may be better able to understand not only each other’s actions, and especially the basic concerns of the other party, but also the restrictions imposed on each other.” Therefore, this process could

it was in the nineteenth century. *See id.*

67. *See Newman, Demarcating a Boundary*, *supra* note 22, at 172 (recognizing that mutual acceptance of a common boundary is more feasible in areas where there are no fundamental issues of political or territorial conflict).

68. *See Herbert C. Kelman, An Interactional Approach to Conflict Resolution and its Application to Israeli-Palestinian Relations*, 6 INT’L INTERACTIONS 99, 115-16 (1979) [hereinafter Kelman, *An Interactional Approach*] (exploring how certain problem-solving workshops can possibly facilitate the peace process between Israel and the Palestinians).

69. *See id.* at 116 (suggesting that certain types of social interactions, such as a problem-solving workshop setting, would allow both the Israelis and the Palestinians to learn how each party defines one another, as well as themselves, and to begin to take steps toward mutual acceptance). As early as the 1940s and 1950s, the prevalent thinking held that contact among differing groups would ultimately alter mutual perceptions of one another, thereby improving long-term relationships. *See Rachel Ben-Ari & Yehuda Amir, Contact Between Arab and Jewish Youth in Israel: Reality and Potential*, in CONTACT AND CONFLICT IN INTERGROUP ENCOUNTERS 45, 50 (Miles Hewstone & Rupert Brown, eds. 1986). The thought was that it was sufficient for people of varied backgrounds and experiences to just be in contact with each other, to have a chance to get acquainted with one another, and to increase their knowledge, approval, and toleration of one another, which would diminish stress, discord, and bias between the groups. *See id.* Later investigation revealed that although contact may indeed actually alter predilections and interplay between varied ethnic groups, this alteration of relations and attitudes may not always yield a positive result. *See id.* at 51. For changes to occur in the desired direction, specific essential prerequisites must exist in contact situations, since different conditions could produce a less than positive outcome. *See id.* at 50-51. Contact must take place in “positive exposure” situations for it to be useful. *See id.* at 51-52. In ethnic contact, to help appreciate the other group’s members as individuals instead of as members of a stereotyped group, it is imperative to disclose sufficient information concerning the other group’s members. *See id.* at 51-52. The following prerequisites are deemed the most essential for altering in a positive way the predilections and interplay between varied ethnic groups: contact of an equal-status nature between the interacting groups’ members; intergroup dependence; discouragement of competition between the groups created by the search for a mutual objective through cooperation between the groups; and a forum in which there is close

stimulate and reinforce the evolution of amicable and cooperative relations between people living on different sides of the border,⁷⁰ helping achieve the creation of a stable peace between former adversaries.⁷¹ While the degree to which functional boundaries are open for the movement of people and goods, representing one of the crucial factors used to determine the extent to which border zones between Israel and its neighbors become less confrontational,⁷² it is obvious that the implementation of peace cannot occur overnight.⁷³ Rather, a peace settlement constitutes a long, drawn-out process between prior adversaries with two objectives: first, decreasing the extent of direct conflict; and second, gradually increasing the level of political stability along the border.⁷⁴ Longer-term objectives, such as the normalization of relations between the two sides and the complete opening of the borders to the free movement of people and goods, are usually not attainable in the first stages of border transformation.⁷⁵

contact between interacting members to acquaint each other beyond a superficial level. *See id.* at 51. For further discussion of the contact issue, see *infra* notes 145-156 and accompanying text.

70. *See Newman, Demarcating a Boundary, supra* note 23, at 172 (maintaining that mutual awareness and recognition diminishes the potential for future conflict and cross-boundary positional disputes). The shared perceptions and experiences of Israeli Jews and Arabs, for instance, comprise positive elements, which may eventually negate underlying stereotypes and tensions, thus improving relations within Israel. *See Ben-Ari & Amir, supra* note 71, at 47.

71. *See, e.g., Kelman, An Interactional Approach, supra* note 68, at 99, 104.

72. *See Newman, Transforming Ethnic Frontiers, supra* note 66, at 17 (proposing that in addition to economic cooperation, peace in the Middle East depends on the extent to which parties remove mutual suspicions of military threat and foster cross-border interactions among ethnic groups).

73. *See id.* at 28 (recognizing that despite the signing and implementation of a peace agreement, the history of animosity impedes any immediate changes in the military and security landscapes); *see also infra* Part XII, (B) and (C) (notes 549-666) in general (referring to Western Europe and North America to demonstrate that conflict situations often take many years to resolve peacefully) and Part XIV (notes 856-965) in particular.

74. *See Newman, Transforming Ethnic Frontiers, supra* note 66, at 18-19 (underscoring the importance of creating a long-term economic relationship after the reduction of direct altercations).

75. *See id.* at 27-28 (suggesting that "global media, telecommunications, and satellites" may help increase levels of cooperation in the short-term).

Moreover, a peace process, at times, involves nothing more than an agreement to end a state of warring without normal relations and economic cooperation as an integral part of that process.⁷⁶ The border region may continue to exhibit intricate geographical-ethnic, economic, strategic, and security interactions between former adversaries,⁷⁷ while emphasizing elements of a strategic and security nature, which may never be totally eliminated.⁷⁸ As borders display trans-boundary interaction, however, the direction shifts to regional and economic development.⁷⁹ Moreover, early micro-area changes can ease the transition to an ultimate situation of peace and coexistence, particularly after macro-area changes have occurred.⁸⁰

IV. THE ABOLITION OF BORDERS

There seems to be a discernable trend in many parts of the world today where borders are being “erased” or “eliminated.” In this sense, they are, or are becoming, either more penetrable, more permeable, more porous,⁸¹ or more obsolete,⁸² as demonstrated by

76. *See id.* at 19 (recognizing that the foremost concern in establishing peace is the dismantling of perceived military and security threats).

77. *See id.* (establishing that to achieve long-term stability after the implementation of a peace agreement, the parties must discuss a variety of issues in the negotiation process).

78. *See id.* at 19, 28 (noting that while a true border of peace involves removing military installations, the maintenance of peace necessitates the presence of security forces to respond to any breach of the treaty, which will be perceived as a renewed threat).

79. *See id.* at 19 (describing government-sponsored projects focusing on economic development between the political entities).

80. *See Ben-Ari & Amir, supra* note 69, at 57 (maintaining that informal relations between individuals through economic, social, and cultural interactions across the border will reinforce the implementation of formal relations between the political entities).

81. *See* SHIMON PERES & ARYE NAOR, *THE NEW MIDDLE EAST* 172 (1993) (recognizing that secular and religious considerations force Jordan, the Palestinians, and Israel to allow people, ideas, and goods to move freely); *see also* ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 7 (observing that in highly developed countries, such as in Europe, borders “have become more permeable and less clearly defined as . . . lines of cultural and social identities”); Victor Konrad, *Borderlines and Borderlands in the Geography of Canada-United States Relations*, in *NORTH AMERICA WITHOUT BORDERS? INTEGRATING CANADA, THE UNITED STATES, AND MEXICO* 189, 193 (Stephen J. Randall, ed. 1992) [hereinafter

NORTH AMERICA WITHOUT BORDERS?]; *Borders: Good Fences*, *supra* note 66, at 19-20; Warren Hogg, *The Bridge Between the Strict Interpreters and the Lovers of Pleasures*, HA'ARETZ, Sept. 7, 1999, at 11A (in Hebrew) (on file with author). For instance, the European Union's eastern border, which hitherto was distinguished by the line that divided Germany and was embodied by the Berlin Wall, disappeared with the fall of that wall in November 1989. The fall of the Berlin Wall epitomized the razing of the Iron Curtain, which until then separated the European Union from its neighbors to the east. See Eberhard Bort, *Mitteleuropa: The Difficult Frontier*, in THE FRONTIERS OF EUROPE, *supra* note 5, at 91. Nevertheless, a somewhat muddled and complicated situation actually seems to be occurring. According to some, the state, as such, is not being dismantled, but is actually experiencing an evolution and diversification. See Kourvetaris & Kourvetaris, *supra* note 25, at 160. The world is currently witnessing the expansion of ethnic nationalism and "subnationalism" that commenced with the Cold War's termination and continued with the decay of a large part of state socialism. See *id.* at 160-61. With the Soviet Union's downfall, a new world order has concurrently emerged whereby both ethnic cleansing and warfare have been employed to re-establish states and territories that are ethnically homogenous. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 24-25, 30. Strong inclinations toward shoring up their reacquired sovereignty is apparent in many of the European Union's newly independent Eastern neighbors. See Bort, *supra*, at 95. Consequently, the world in which identity politics is becoming increasingly deterritorialized is paradoxically a world of more profuse, and sometimes even stronger, states. See Thomas M. Wilson & Hastings Donnan, *Nation, State and Identity*, at *International Borders*, in BORDER IDENTITIES: NATION AND STATE AT INTERNATIONAL FRONTIERS 1, 2 (Thomas M. Wilson & Hastings Donnan, eds. 1998).

Places such as Quebec, Northern Italy, Flanders, and Scotland have separatist movements that have been encouraged to reach out for more borders. See *Borders: Good Fences*, *supra* note 66, at 21. Hence, in places where interests and identities seem to be seriously threatened, states may accordingly attempt to harden their borders. See ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 191. Thus, "harder" borders may constitute the necessary result of more autonomy; new borders evolve from the dissolution of a political community into a profusion of diverse states. See Raimondo Strassoldo, *Perspectives on Frontiers: The Case of Alpe Adria*, in THE FRONTIERS OF EUROPE, *supra* note 5, at 75, 88. The common "harder" border between Slovenia and Croatia provides a good illustration of this concept. See *id.* Thus, some borders are created while others come down. See *Borders: Good Fences*, *supra* note 66, at 19. In this way, the development of the European Union has created more borders rather than fewer. See Thomas M. Wilson, *Sovereignty, Identity and Borders: Political Anthropology and European Integration*, in BORDERS, NATIONS AND STATES, *supra* note 3, at 199, 213.

According to some observers, the redefinition and relocation of national sovereignty minimizes the significance of territorial boundaries. See Liam O'Dowd et al., *Borders, National Sovereignty and European Integration: The British-Irish Case*, 19 INT'L J. URB. & REGIONAL RES. 272, 273 (1995) [hereinafter O'Dowd et al., *Borders, National Sovereignty*]. Although borders may still exist, their importance will diminish since they will not contain political

authorities with exclusive control over the spectrum of state functions. *See id.* Rather, the emerging system would encompass a dispersion of the state's powers among varied authorities. *See id.* Some view this phenomenon in Europe as the establishment of a "Europe of the Borders," since the definitions of a border have become both broader and more variable. *See Wilson, supra*, at 213. "Europe without Frontiers," nonetheless, is still defined by many political, cultural, and legal borders. *See id.* at 215. In addition, there are those who are convinced of the resilience and flexibility in the definition of the contemporary state in territorial terms. *See O'Dowd et al., Borders, National Sovereignty, supra*, at 274. Even inside the European Union, some suggest that territorial borders should be maintained because such boundaries define nation-states and ethno-national groups. *See Liam O'Dowd & James Corrigan, Securing the Irish Border in a Europe Without Frontiers, in BORDERS, NATIONS AND STATES, supra* note 3, at 117, 129. Thus, as pointed out by some observers, European integration, both politically and economically, does not necessarily portend the state's termination. *See Kourvetaris & Kourvetaris, supra* note 25, at 156. According to these observers, the European Union may actually preserve the sovereign state within set territorial limits. *See O'Dowd & Corrigan, supra*, at 118. In this vein, according to one account, signs of the Western European states' decline are sporadic, minimal, and rare. *See O'Dowd et al., Borders, National Sovereignty, supra*, at 274. Thus, Western Europe certainly should not be considered as the be all and end all of the world: Western European states are "neither dying nor retiring; they have merely shifted functions and may continue to do so in the future." Michael Mann, *Nation-States in Europe and Other Continents: Diversifying, Developing, Not Dying*, 122 DAEDALUS 115, 133 (1993); *see O'Dowd et al., Borders, National Sovereignty, supra*, at 274. This view also implies that national authorities that have obtained much of their power and authority from the structure of the European Union—a structure that they helped set up—will be reluctant to readily accept ethno-nationalist or regionalist efforts to establish, or re-define, territorial borders. *See id.* at 274. Although an alteration of borders has occurred in Western Europe, borders have not disappeared despite the push to establish a common market in the region. *See Wilson, supra*, at 203-04; *see also A Thing That Won't Go Away, in A Survey of the New Geopolitics: The Road to 2050*, ECONOMIST, July 31, 1999, at 8 [hereinafter *Survey of the New Geopolitics*] (arguing that the spread of capitalism and information technology has not diminished the role of the state).

Indeed, "economic integration, migratory protection, and external security" are all different goals, each of which determines where a border is to be located. *See Michel Foucher, The Geopolitics of European Frontiers, in THE FRONTIERS OF EUROPE, supra* note 5, at 235, 236. The ensuing result is a system that establishes different borders for different purposes, all of which obviously create an extremely intricate arrangement in Europe. *See id.* at 236. Some suggest that in Western Europe it is obvious that there should exist a general adherence to allegiance to the state. *See MALCOLM ANDERSON ET AL., POLICING THE EUROPEAN UNION* 280 (1995) [hereinafter *ANDERSON, ET AL., POLICING THE EUROPEAN UNION*]. The borders separating European Union Member States are still significant political and legal institutions, and will continue to be so, at least until the current inter-governmental system is transformed into a true intra-European arrangement involving the policing of individuals under European law overseen by the

European Court of Justice. *See id.* at 153. Such an arrangement might provide practical grounds for sustaining an efficient European Union “outer shell.” *See id.* Although some Western European borders have disappeared, from a legal perspective, they remain significant dividing lines. *See id.* at 181. In other words, rather than restricting the formal sovereignty, European Union activity has limited Member States’ substantive sovereignty. *See Delli Zotti, supra* note 53, at 60. For example, the border denotes the beginning and the end of each European state’s criminal and police jurisdiction. *See ANDERSON ET AL., POLICING THE EUROPEAN UNION, supra*, at 181. European Union Member States have resisted attempts to weaken the notion of state sovereignty. *See id.* at 153, 181. The state’s exclusive jurisdiction in law enforcement matters demonstrates that the territorial notion attached to state sovereignty remains unimpaired, notwithstanding the increase in commerce and travel and the expansion of European law. *See id.* The constituent states are not yet confident in transferring the necessary authority to the European Union, given the lack of a cohesive European identity that could potentially offset the distinct political notions of sovereignty attached to a territorial state. *See id.* The absence of support for the European Union is predicated on the fact that there are no “European people.” *See ANDERSON, FRONTIERS, TERRITORY, supra* note 4, at 178. The dissimilarities of culture, history, and language define European peoples. *See id.* at 189. Furthermore, European peoples view themselves first and foremost as nationals—for example, German, Italian, Greek, French—and as Europeans second. *See Kourvetaris & Kourvetaris, supra* note 25, at 159, 164, 165. For further discussion of this issue, see *supra* note 40. Therefore, the European Union’s attempts to form a “European identity” are on a direct collision course with the national identities that individuals deem to be controlling. *See Wilson, supra*, at 208.

Some classify a “Europe without Frontiers” as a “new myth” and contend that borders form a critical component of a nation’s social life. *See O’Dowd & Wilson, supra* note 3, at 7. Some contend that establishing any rule-oriented society would be impossible without borders. *See ANDERSON, FRONTIERS, TERRITORY, supra* note 4, at 1; *see also Borders: Good Fences, supra* note 66, at 19-20 (asserting that a state must have a border). Stated differently, a state must have a border in order to have significance. *See id.* at 22. Others, however, find that while the importance of some established European Union internal borders are disappearing, new “buffer” or “frontier” zones have evolved within the more “official” European borders. *See O’Dowd & Wilson, supra* note 3, at 13; *see also Delli Zotti, supra* note 53, at 52 (detailing increased levels of regional cooperation, which improves relations between Eastern and Western Europe). Thus, skeptics argue that no indication exists for replacing the state as the fundamental unit of international relations, which accordingly leads to their conclusion that borders are for the present still with us. *See Survey of the New Geopolitics, supra*, at 8. Moreover, the skeptics contend that the elimination of borders in Europe is a *sui generis* process, not noticeable elsewhere in the world. *See id.* at 9-10. Nevertheless, even for those who may argue that borders between states continue to exist and play an important function, it is viewed as a worthwhile objective for borders in Europe to be desanctified and depoliticized. *See Delli Zotti, supra* note 53, at 64.

82. *See Wilson & Donnan, supra* note 81, at 1 (observing that scholars argue that borders are becoming so obsolete that they may no longer be able to impede

national borders' dwindling importance," or even by the vanishing of traditional borders.⁸⁴ Some observers speak in terms of "the withering away," "softening," "weakening," or "defunctionalization" of borders.⁸⁵

The Single European Market was designed as a step in the direction of European political and economic integration. This process of creating an internal market in the EU was meant to establish a Europe without frontiers⁸⁶—a Europe without territorial borders, which create obstacles to the transnational free movement of goods, capital, and people.⁸⁷ The abolition of borders as obstacles and the free movement concept were intended to energize and open up societies in Europe.⁸⁸ Linking political and economic interdependence with the mutual understanding of creating a border environment devoid of tension, the forefathers of the EU saw the facilitation of the free movement of culture, goods, and people, combined with trans-border cooperation, as a means to decrease the significance of borders.⁸⁹ The borders inside the EU thus have been

the flow of people, commerce, and ideas).

83. See O'Dowd & Wilson, *supra* note 3, at 2 (stating that borders within the European Union have become less significant since the creation of the Single European Market and the signing of the Maastricht Treaty).

84. See Wilson & Donnan, *supra* note 81, at 2 (proposing the emergence of a new politics of identity defined by territorial boundaries with the incorporation of gender, sexuality, ethnicity, and race to create transnationalism).

85. See, e.g., Strassoldo, *supra* note 81, at 88 (arguing that the opening of internal borders in Europe may have a detrimental effect on border town economies that rely on border controls to maintain cost differentials in goods and salaries).

86. See, e.g., Foucher, *supra* note 81, at 237 (discussing the realization of economic and political cooperation within Europe).

87. See *id.* (summarizing the aspirations of the European Union's founders who sought to promote the "Four Freedoms," the borderless movement of goods, services, capital, and people); see also Wilson, *supra* note 81, at 199. Some observers view this European design for social and economic harmony as being side-tracked and minimized when faced off with the horrendous atrocities emanating from war in the Balkans. See *id.*

88. See Didier Bigo, *Frontiers and Security in the European Union. The Illusion of Migration Control*, in *THE FRONTIERS OF EUROPE*, *supra* note 5, at 148, 151 (linking the opening of societies to the resurgence of immigration policy issues).

89. See Foucher, *supra* note 81, at 237 (recognizing that the forefathers of the

losing more and more their consequence,⁹⁰ and accordingly have been taken off Europe's political docket.⁹¹

As a result of the functional and characteristic alterations made to the borders in Western Europe, there may be implications in other areas of the world.⁹² Globalization seems to mean erasing borders everywhere, not just those in Europe.⁹³ Open borders have become commonplace, even for the "alienated" regions located on the EU's eastern edge.⁹⁴ Indeed, some of the EU's external borders now may be, in some ways, even more "open" than borders separating members of the EU.⁹⁵ According to this reasoning, the historical mission of territorial borders is not being accomplished since they no longer serve either as obstacles to the transnational movement of people, goods, and ideas, or as indicators of the geographical scope

European Union devised the concept of a European Union without borders specifically for the purpose of ending tensions that arise from defining borders).

90. See Delli Zotti, *supra* note 53, at 61 (suggesting further that external borders will continue to lose their significance as more countries accede into the European Union and become Member States).

91. See Anderson, *European Frontiers*, *supra* note 5, at 1 (pointing out that borders similarly were not the central focus of the European agenda during the Cold War when the United States and the Soviet Union dominated Europe).

92. See *id.* at 6. Such an observation, however, may be somewhat problematic since a specific analysis of borders in Europe may tend to lead to the allegation that the European example, warranted by the fact that alterations to their functions and characteristics have been more extreme there than in other places, is of a *sui generis* type, and thus not one from which analogies may readily be made. See *Survey of the New Geopolitics*, *supra* note 81, at 9-10. For further discussion, see *supra* note 81.

93. See Anderson, *European Frontiers*, *supra* note 5, at 3. The *ECONOMIST* observed not long ago that it seemed that every country in the world was building a road, a tunnel, and/or a bridge to its neighbor. See *Borders: Good Fences*, *supra* note 66, at 20.

94. See Anderson, *European Frontiers*, *supra* note 5, at 2 (describing developments within Europe under the framework of a European Union); Bort, *supra* note 81, at 91 (providing the boundary between Poland and Germany as an example of a previously "alienated" border transforming into an open border).

95. See Anderson, *European Frontiers*, *supra* note 5, at 7 (attributing global economic and technological change to the opening of external borders). Some observers have therefore linked the dismantling of the Iron Curtain to the creation of soft and open borders coupled with a corresponding need to harden the European Union's external borders. See Bort, *supra* note 81, at 94.

of state authority and power.⁹⁶ Therefore, the importance of borders is decreasing as they are becoming more permeable.⁹⁷ Trans-border, cooperative spirit opposes the creation of new borders and supports greater permeability for existing borders.⁹⁸ A strong political character for borders is unnecessary. Some borders may shed their political importance and take on a role more administrative in nature.⁹⁹

Decreasing international tensions in some areas of the world,¹⁰⁰ such as Western Europe,¹⁰¹ coupled with a radical alteration in the

96. See Wilson & Donnan, *supra* note 81, at 1 (predicting the end of nation-states as the pre-eminent political structure in the modern world).

97. See O'Dowd & Corrigan, *supra* note 81, at 118. Some observe that the diminution in importance of borders means that the state's sovereign powers are being dispersed down to various groups within the state and extending up to transnational agencies. See *id.*

98. See Delli Zotti, *supra* note 53, at 64 (illustrating this point with an examination of the Alpine region where certain territories are cooperating across traditional borders and joining the Alps-Adria Working Community and the Alpine Region Working Community).

99. See *id.* Unfortunately, the establishment of a territorial border rather than an administrative border between Croatia and Bosnia resulted in national and ethnic conflict. See *id.*

100. See *Borders: Good Fences*, *supra* note 66, at 20. Yet there still remain conflicts in almost every area of the world. See *id.* For instance, many Asian borders, such as the ones between the two Koreas and between Pakistan and India, are still in dispute. See *id.* Argentina almost waged war in 1978 with neighboring Chile for possession of its southern-most part. In fact, Argentina waged war against the United Kingdom for the Falkland Islands (known in Argentina as the Islas Malvinas) in 1982. See *id.* Ecuador and Peru provide a further illustration of border conflict, evinced by their mini-war fought in 1995, which culminated in a peace accord. See *id.*

101. Some observers have contended that in light of European border-establishment history, to claim that disputes about borders are a thing of the past, or that border feuds and ethnic-national struggles quietly will fade away despite demands for autonomy or secession, is incongruous considering the international facts available. See O'Dowd, et al., *Borders, National Sovereignty*, *supra* note 81, at 274, 275, 283. For further discussion of this issue, see *supra* note 81. The prominence of identities and border politics has been revitalized in both Eastern and Western Europe. See O'Dowd & Wilson, *supra* note 3, at 2-4. Border conflicts in the former Yugoslavia and the former Soviet Union are verifications of the seemingly irrepressible desire of ethnic-national groups for distinct lands of their own as well as the resulting significance of borders. See *id.* at 2. Ethnic nationalism's increase in the republics of the former Soviet Union and the former

magnitude to which borders can actually stay completely sealed—due to the global communications network's obliteration of sealing characteristics of borders—produced an outgrowth of border-openings.¹⁰² The ability to transfer information instantaneously procures a loss of the sovereignty over information.¹⁰³ Satellites, telecommunications, and the global media have altered the extent to which closed borders exist in the modern world.¹⁰⁴ The penetration of borders by the Internet—or even the simple radio¹⁰⁵—and the diffusion and dissemination of rudimentary information concerning communities and peoples in the immediate vicinity are useful in

Yugoslavia, and the seemingly endless confrontations in Northern Ireland and in other parts of Europe, do not portend a positive atmosphere for a Europe that is meant to be integrated and unified. See Kourvetaris & Kourvetaris, *supra* note 25, at 165; Karen Trew, *Catholic-Protestant Contact in Northern Ireland*, in CONTACT AND CONFLICT IN INTERGROUP ENCOUNTERS, *supra* note 69, at 93, 95 (providing support for the argument that the augmentation of ethnic nationalism in certain areas of the world exemplifies the increased significance of borders); *A Protestant Organization in Northern Ireland Killed a Catholic Lawyer in an Explosion of Her Car*, HA'ARETZ, Mar. 16, 1999, at 12A [hereinafter *A Protestant Organization in Northern Ireland*] (in Hebrew) (on file with author); *Riots and Additional Acts of Murder Threaten the Peace Agreement in Northern Ireland*, HA'ARETZ, Mar. 19, 1999, at 16A [hereinafter *Riots and Additional Acts*] (in Hebrew) (on file with author). But cf. Kourvetaris & Kourvetaris, *supra* note 25, at 163 (citing RIFFAULT, EUROPEAN NATIONAL IDENTITIES AND CULTURAL VALUES 1991) (asserting that Europeans indeed are heading in the direction of a multi-ethnic, integrated society at the same time that ethnic groups everywhere are seeking more recognition and autonomy). The ensuing result of this integration is the territorial state's diminished importance. See O'Dowd & Wilson, *supra*, at 2. On the other hand, another observer, writing in 1981, argued that problems in the border regions inside Europe stem from the desires of minorities to achieve their national goals inside an organized state's apparatus. See *id.* at 7.

102. See David Newman, *The Functional Presence of an 'Erased' Boundary, The Re-Emergence of the Green Line*, in 2 THE MIDDLE EAST AND NORTH AFRICA, WORLD BOUNDARIES 71-72 (C.H. Schofield & R.N. Schofield, eds. 1994) [hereinafter Newman, *The Functional Presence of an 'Erased' Boundary*]; see also, ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 191.

103. See Anderson, *European Frontiers*, *supra* note 5, at 6; see also ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 191.

104. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 27.

105. See Anthony P. Cohen, *Boundaries and Boundary-Consciousness: Politicizing Cultural Identity*, in THE FRONTIERS OF EUROPE, *supra* note 5, at 22, 33 (asserting that technological advances in communications have led to the permeability of old jurisdictional frontiers and have called forth new jurisdictional devices).

reducing both social and physical obstacles that existed between states formerly in conflict with one another.¹⁰⁶

The instantaneous transfer of information and the trans-border movement of people, which each year numbers more than the entire population of the states involved, has altered the practical and psychological significance of border controls.¹⁰⁷ The increasing inability of governments to control this trans-border information flow and movement of goods and people is altering the character of borders, as well as states themselves, in the modern world.¹⁰⁸ Thus, observers indicate that in light of contemporary reality, it is not possible to erect totally closed borders that act to deter suspect persons from traversing them.¹⁰⁹ Even the concept, in and of itself, of deterring unwanted foreign individuals from entering the EU Member States, for example, will not hold up under serious examination.¹¹⁰ As a matter of fact, the establishment and maintenance of a hermetically sealed border has barely ever come to fruition.¹¹¹ The more a border is sealed and the more powerful its effect as a symbolic mechanism, the more powerful the feeling of the person in charge that, in order to hold on to his or her authority, he or

106. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 27 (discussing the effect of changes on nation-states in conflict due to the development of communications). Such is the case of greater political and economic cooperation between Western European states as well as of the Western and Eastern European political barriers. See *id.*

107. See ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 4 (exploring the transformation of the practical and psychological uses of border controls and finding that the result has been more flexible attitudes of border policing).

108. See Anderson, *European Frontiers*, *supra* note 5, at 5 (observing that the amount of actual governmental border control is restricted by the state's practice and policies); ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 2 (advocating the notion that traditional border controls that used to protect and promote sovereign interests are becoming increasingly ineffective due to external influences).

109. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 154 (discussing various policing techniques being considered and implemented by EU Member States).

110. See *id.* at 152.

111. See ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 6 (citing as examples of sealed borders that failed over time the Iron Curtain separating Eastern and Western Europe and the militarized border of Franco's Spain).

she must preserve rigorous control of the border.¹¹² Well-known examples of this during the twentieth century include the precarious cease-fire line between Pakistan and India in Kashmir; the 38th Parallel, which divides South from North Korea; the Iron Curtain, together with its automatic killing apparatuses and surveillance mechanism; the border between capitalistic Hong Kong and the People's Republic of China in the New Territories; the partition line in Cyprus, which separates the Greek part from the Turkish part of the island; the South African apartheid regime known as the Black African separation line; General Franco's Spanish militarized border; and the Israel-Arab borders.¹¹³ However, even though the presence of automatic killing equipment, border guards ordered to shoot on sight, guard dogs, barbed wire, visual and electronic surveillance, and the seas obviously reduce the number of illegal border crossings, they have not succeeded in completely ending the movement of refugees across borders.¹¹⁴ For instance, between 1961, when the Berlin Wall was constructed, and 1989, when it was demolished, East Germany's western border maintained characteristics similar to those described above. Although those methods diminished the trans-border movement of emigrants, they did not succeed in completely halting this flow.¹¹⁵ Ironically, the border was quite porous in a number of ways and in two directions. The permeability of East Germany's western border to goods traded across it led East Germany to be considered a thirteenth "shadow" member of the European Economic Community.¹¹⁶

This therefore demonstrates that the possibility of goods and persons being rigorously controlled at the borders is substantially restricted in light of present-day realities.¹¹⁷ Mass communications' revolution, cultural and economic globalization, and increasing mobility and tourism all seem to be decreasing the importance of

112. *See id.*

113. *See id.* at 5-6.

114. *See* ANDERSON ET AL, *POLICING THE EUROPEAN UNION*, *supra* note 81, at 152 (illustrating the failed attempts by governments to create a true "closed border").

115. *See id.*

116. *See id.*

117. *See id.* at 152-53.

territorial borders as indicators of self-governed, self-contained societies of a collective identity. According to this rationale, national borders are permeable, porous, and abstract.¹¹⁸ While technological changes and economic globalization most likely have more effect on some borders rather than others,¹¹⁹ fundamental operations of cultural and economic globalization generally seem to be decreasing the importance of borders and the sovereignty that they enclose, and, at the very least, restructuring them.¹²⁰

In the case of Israelis and Palestinians, open borders are a virtual necessity for normal existence due to the small territorial area and the intertwinement and interdependence involved. Realities of an emotional, economic, geographic, and demographic nature dictate that both Palestinians and Israelis are connected to one another and to the entire area of Eretz Yisrael—The Land of Israel—or Palestine. As a result, it would be impossible for two completely closed societies to exist, separate from one another, with hostile relations between them. For the two sides to even exist, let alone flourish and advance, the only possible path is to live in conditions of mutual cooperation.¹²¹ In some respects, this may be similar to the mutual cooperation existing in Europe against the backdrop of separate and unique, yet intertwined, cultural traditions that are themselves the

118. See O'Dowd & Wilson, *supra* note 3, at 4-5 (observing that increased communications devalues the importance of borders). *But see id.* at 5 (offering the premise of some that what really is taking place is the "relativization" of borders, which was brought about by the rapid increase of borders rather than their vanishing). Looking at the situation in this fashion allows for ethno-nationalism's profusion, operating independently of specific political and economic authority. *See id.* In this way, while there is a decrease in the significance of territorial borders, they nonetheless exist side by side, or even overlap, with an abundance of economic, military, and ethnic borders. *See id.* For further discussion of this issue, see *supra* note 81.

119. See Anderson, *European Frontiers*, *supra* note 5, at 6, 7.

120. Cf. O'Dowd & Wilson, *supra* note 3, at 6 (questioning the assertion that borders are becoming entrenched and gaining significance).

121. See Herbert C. Kelman, *The Political Psychology of the Israeli-Palestinian Conflict: How Can We Overcome the Barriers To a Negotiated Solution?*, 8 J. INT'L SOC'Y POL. PSYCHOL. 347, 348 (1987) [hereinafter Kelman, *The Political Psychology of the Israeli-Palestinian Conflict*] (proposing cooperation between regions in conflict as a means of fostering advancement and growth for the overall societal progress of the geographic region).

result of a process of continual interchange.¹²² Such is the case of the Ireland-Northern Ireland experience, with some variations, of course. The border on the island of Ireland has basically been open. The people on both sides of the border speak an identical language, and the border divides, at different places, both Catholics and Protestants on one side from their co-religionists on the other. Many of the region's similar, shared problems—high unemployment levels, low levels of infrastructure, poor land, migration out of the area, and small farm dependence—are likewise divided by the border.¹²³

V. CLOSED BORDERS IN GENERAL

Territorial borders typically have been “closed” or even “sealed”, which often epitomizes the tense and hostile feelings between states. Such antagonistic relationships have frequently resulted in the establishment of security and military structures on the border and, at times, the outbreak of actual conflict.¹²⁴ In particular, borders between states in conflict have usually been closed, allowing for very limited movement, if any, between the two sides. A border that is completely sealed can create contrasting and entirely different “settlement landscapes” existing alongside one another. This “spatial differentiation” paradigm becomes prominent with sealed borders enclosing different ideologies and/or cultures.¹²⁵ Yet, this “spatial differentiation” may form over a relatively short time span by imposing a border that firmly encloses what was once an ethnically

122. See Delli Zotti, *supra* note 53, at 66 (demonstrating the benefits of the continued cultural exchanges between the peoples of the Alps and Adria in Italy to Italian society in general). For instance, Northern and Southern Italian cultural differences have been tracked back to the geographic, racial, and historical attachment of Southern Italy to the Mediterranean and Northern Italy to Central Europe. See Raimondo Strassoldo, *Ethnic-Regionalism Versus the State: The Case of Italy's Northern Leagues*, in *BORDERS, NATIONS AND STATES*, *supra* note 3, at 73, 74.

123. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 275. For further discussion of the situation on the island of Ireland, see *infra* notes 192-241, 400-437 and accompanying text.

124. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 18 (discussing closed border situations and the contrasting effects of a sealed border on the respective sides).

125. See *id.* at 20.

homogeneous and singularly functional entity.¹²⁶

The abrupt consequences that result from imposing a totally closed border are clearly exemplified by the “green line”, which separated the West Bank from Israel between 1949 and 1967, and the division between East and West Germany from 1950 to 1990.¹²⁷ Therefore, closed borders may effectively preclude beneficial local and individual relations, connections, commerce, and interactions.¹²⁸ When cross-border interaction is limited, populations are alienated from each other; exchanges of goods, services, and ideas are kept to a minimum; and the threat of violence looms ever-present.¹²⁹ Consequently, sealed borders prevent apprehensive populations on each side of the border from gaining both a better perspective of differing cultural and religious heritages and a positive awareness of the other’s population.¹³⁰ These segregated populations, thus, are

126. *See id.*

127. *See id.* In both the German and Israeli examples, a new “spatial equilibrium” was sought for new transportation and settlement patterns as well as new centers of economic activity. The then-newly imposed borders dictated the geographical lines at which the diffusion of development stopped. *See id.* The creation of separate types of settlement is a consequence of the diverse populations of each side of a sealed border, which develop different ideologies and/or political apparatuses. *See id.* These two instances aptly demonstrate the fact that, in one generation, diverse “human landscapes”—notwithstanding their geographic proximity—evolved out of these regions that both operated as one prior to their division. Economic and geographic centers were split down the middle with a border that bisected the previous political entity’s core. *See id.* at 21. The settlement patterns of the Arab population were altered significantly on each side of the “green line”, which for almost twenty years separated Jordanian from Israeli control. The Jordanians basically ignored the side under their administration whereas the other side benefited from Israeli development patterns. *See id.* Similarly, the development of successful, western-oriented, economic policies in West Germany impacted the patterns of settlement on one side, while, at the same time, a socialist, strictly controlled development pattern influenced the other. *See id.* at 20-21 (comparing the different social and economic developments of two societies divided by a closed or sealed border).

128. *See Newman, Demarcating a Boundary, supra* note 22, at 173 (arguing that closed borders limit contact, and thus, prevent mutual understanding from occurring).

129. *See ANDERSON, FRONTIERS, TERRITORY, supra* note 4, at 6 (comparing the ramifications of limited cross-border interactions with the opportunities presented when borders are opened and regions become integrated).

130. *See Newman, Demarcating a Boundary, supra* note 22, at 173.

precluded from arriving at a more favorable grasp of the sensibilities of each.¹³¹ On the other hand, open borders would greatly facilitate these interpersonal ends, and may help to allay apprehensiveness and serve to enhance awareness and positive understanding, which would further promote continued maintenance of open borders. Besides, sealed borders, in and of themselves, offer no fail-safe guarantees of hermetic security for the populations enclosed within them.

VI. PSYCHOLOGICAL AND HUMAN ELEMENTS

To move toward a peaceful resolution of a conflict situation like that between the Palestinians and the Israelis, the parties must eliminate the cycle of hostility and violence and must achieve an enhanced understanding of each side's interests and sensitivities.¹³² Both sides suffer from actual anger and fears toward each other, yet the anger and fears of each remain basically impalpable to the

131. *See id.* Some observers suggest, however, that under currently prevailing conditions in Israel, an element of conflict reduction is brought about between Israeli Arabs and Jews by separating them in political life, schools, and housing, although levels of hostility and alienation may be greater as a result of the separation. *See* Ben-Ari & Amir, *supra* note 69, at 54. Moreover, there are researchers who believe that friendships existing on an inter-religious level, such as in Northern Ireland, generally do not make a significantly perceptible improvement on either group's beliefs or social understanding of the other, despite the fact that these relationships are easily formed. *See* Colin Knox & Joanne Hughes, *Crossing the Divide: Community Relations in Northern Ireland*, 33 J. PEACE RES. 83, 85 (1996). However, assisting individuals in comprehending the diverse nature of the unique communities is indeed seen as the objective of successful community relations work. *See id.* at 92. A beneficial method for improving comprehension and increasing awareness of each side's different traditions is to promote participation in group activities based on mutual interests in similar cultural traditions, such as dancing, sports, and music. *See id.* at 93. For further discussion of this issue, *see infra* note 192. According to the Community Relations Council in Northern Ireland, a common appreciation of the groups may be brought about through various stages. *See id.* at 94. Each group's own traditions should be promoted and education should take place within each separate community. A beneficial basis thus will have been created for progressing to the next level—the inter-community stage—in which the groups experience together each other's different traditions. *See id.* The ultimate goal is to partake in discussions and debates about the different cultural traditions. *See id.*

132. *See* Ron Pundik, *Is Oslo Alive? The Security Dimension*, in *IS OSLO ALIVE?* 25, 26 (1998).

other.¹³³ Similarly, neither party detects that its actions, at times, are responsible for the existence and continuation of the other's anger and fears.¹³⁴ The "diabolical enemy" image, ignoring factual elements that may influence the actions of the enemy, lack of the ability to empathize greatly with others—especially the enemy— and a strong or moral self-image are all typical attributes of individuals involved in intense conflict relationships.¹³⁵ The possibility that change on the other side may occur is often underestimated. This demonstrates the limitations of mental information processing by the groups enmeshed in acute conflict situations. Negative interaction between the sides involved in the conflict, in addition to their resilience to conflict alteration, are exacerbated by the perpetuation of the morally virtuous and righteous self-image and the "demonic images" of the enemy. Furthermore, the threatening and militant stance of each group becomes a self-fulfilling prophecy, whereby intergroup interaction is controlled by the norms that arose from the conflict situation.¹³⁶ It is, after all, only natural that each side perceives the conflict as a zero-sum game, whereby each maintains an intense loyalty to its own identity, which it perceives as threatened, and, in the case of the Israelis and Palestinians, to its own identical land. It is not often in such a collision between diverse nationalisms that either side is able to recognize or appreciate the relative justice of the enemy's side, since by definition, nationalism glorifies itself and is usually self-referencing.¹³⁷

133. See Ralph K. White, *Misperception in the Arab-Israeli Conflict*, 33 J. SOC. ISSUES 190 (1977) [hereinafter White, *Misperception in the Arab-Israeli Conflict*] (discussing the causes of anger and frustration experienced by the parties involved on either side of a closed border).

134. See *id.* (arguing that psychological factors contribute to the continued conflict between Israelis and Palestinians).

135. See generally *id.* at 190, 193, 213, 217-18 (discussing the difficulties that arise as a result of a group's conflicting perceptions of its own psychological characteristics as compared with the enemy's).

136. See Nadim N. Rouhana & Herbert C. Kelman, *Promoting Joint Thinking in International Conflicts: An Israeli-Palestinian Continuing Workshop*, 50 J. SOC. ISSUES 157, 159 (1994) (discussing cognitive constraints of parties in conflict due to negative images).

137. See Yehezkel Landau, *Rehumanizing the "Enemy" and Confronting Ourselves: Challenges for Educators in an Era of Peace*, 3(1) PALESTINE-ISR. J. POL. ECON. & CULTURE 65, 67-68 (1996) (explaining the complexities of conflict

Negative interaction patterns must halt and, instead, become patterns of positive interaction that encourage, among other things, dilution of the enemy image, joint consideration of differing view points, and, especially, mutual examination of the escalation processes, to resolve conflict.¹³⁸ That is, party interaction at various levels is crucial to reverse the conflict's reasons, escalation, and continuance.¹³⁹ A process of "de-demonization"¹⁴⁰ is therefore crucial and must take place.¹⁴¹ Furthermore, direct encounters with the former "enemy," a significant method by which such stereotypes may be razed,¹⁴² may help to rehumanize the entire group¹⁴³ by expanding peoples' life experiences with intergroup exposure and contact.¹⁴⁴

A widely accepted idea, called the "contact hypothesis," postulates that interaction between persons who belong to diverse groups can reduce intergroup or ethnic stress.¹⁴⁵ This theory is based on the premise that contact may remedy each community's ignorance of the

between nations that each have passionate loyalty to their own respective nation).

138. See Rouhana & Kelman, *supra* note 136, at 159 (arguing interaction will promote resoulution of problems).

139. See Kelman, *An Interactional Approach*, *supra* note 68, at 99-100.

140. See Landau, *supra* note 137, at 66 (stating that both Israelis and Palestinians perceived themselves to be the "victims" that the barbarous enemy threatened). For example, Palestinians viewed Israelis as aggressive settlers or violent soldiers, while Israelis viewed Palestinians as fanatic terrorists. See *id.*

141. See, e.g., Kelman, *The Political Psychology of the Israeli-Palestinian Conflict*, *supra* note 121, at 362 (underscoring the importance of finding common ground).

142. See Alice Shalvi, in *Education for Peace: A Roundtable Discussion*, 3(1) PALESTINE-ISR. J. POL. ECON. & CULTURE 58 (1996) (promoting interaction as a means to eliminate stereotypes created by Palestinians and Israelis of one another).

143. See Landau, *supra* note 137, at 67 (noting that direct contact between groups in conflict is the best method of rehumanizing each other).

144. See Nabil Kassis, in *Education for Peace: A Roundtable Discussion*, 3(1) PALESTINE-ISR. J. POL. ECON. & CULTURE 58 (1996) (arguing that exposure through television, music, and other cultural areas will help parties in conflict rehumanize each other).

145. See, e.g., Miles Hewstone & Rupert Brown, *Contact is not Enough: An Intergroup Perspective on the 'Contact Hypothesis'*, in CONTACT AND CONFLICT IN INTERGROUP ENCOUNTERS, *supra* note 69, at 1 (explaining the traditional view that intergroup tension and ethnic prejudice can be reduced by interaction between individuals in different groups).

other—an ignorance that creates individual prejudices—since these problems derive from psychological and educational origins.¹⁴⁶ However, just as such association may reduce prejudice, the possibility nevertheless exists that prejudices may increase with contact.¹⁴⁷ Yet, under favorable conditions, contact experiences repeated over time tend to produce mutual liking and understanding, which leads to the neutralization of previously negative intergroup relationships.¹⁴⁸ All of this results from the realization by members of diverse groups that, in the end, everyone shares similar attitudes and

146. See Knox & Hughes, *supra* note 131, at 83-84 (arguing that the fundamental problem with conflict between groups is ignorance); see also Thomas F. Pettigrew, *The Intergroup Contact Hypothesis Reconsidered*, in CONTACT AND CONFLICT IN INTERGROUP ENCOUNTERS, *supra* note 69, at 172, 173. While it is recognized that in the field of social psychology multitudinous studies have been conducted over the years, particularly regarding attitude change, the intent of our article is not to analyze and develop each particular nuance in the various social psychological theories. Rather it is our intention to present a broad, general theoretical framework for analyzing attitude change resulting from interpersonal contact and then applying those concepts to advocate open borders and peace between Palestinians and Israelis. That being said, the idea that the image of a group becomes clearer with more contact is not only dictated by common sense, but it is supported by early research data. See William A. Scott, *Psychological and Social Correlates of International Images*, in INTERNATIONAL BEHAVIOR: A SOCIAL-PSYCHOLOGICAL ANALYSIS 71, 93 (Herbert C. Kelman, ed. 1965). That direct experience helps to reduce stereotypes, which result from superficially understood objects, is likewise common sense. See *id.* at 94; see also Ithiel de Sola Pool, *Effects of Cross National Contact on National and International Images*, in INTERNATIONAL BEHAVIOR: A SOCIAL-PSYCHOLOGICAL ANALYSIS, *supra*, at 106, 117 (finding travelers who have extensive contacts with people in the host country form optimistic attitudes of the natives in that country).

147. See Hewstone & Brown, *supra* note 145, at 2, citing GORDON W. ALLPORT, THE NATURE OF PREJUDICE (1954) (commenting that the type of contact experienced affects how groups perceive each other); see also Herbert C. Kelman, *International Interchanges: Some Contributions From Theories of Attitude Change*, 10 STUD. COMP. INT'L DEV. 83, 86 (1975) [hereinafter Kelman, *International Interchanges*] (expressing that individuals may not necessarily come away with positive experiences from exchanges with foreign individuals in their country); Herbert C. Kelman, *Social-Psychological Approaches to the Study of International Relations, the Question of Relevance*, in INTERNATIONAL BEHAVIOR: A SOCIAL-PSYCHOLOGICAL ANALYSIS, *supra* note 146, at 565, 573 [hereinafter Kelman, *Social-Psychological Approaches*] (admonishing that not all contacts will result in positive experiences).

148. See Hewstone & Brown, *supra* note 145, at 5 (finding that individuals reported having favorable impressions of persons they knew well).

values.¹⁴⁹ An increase in positive attitudes occurs once members of the diverse groups recognize that they hold similar beliefs, and that their perception of belief dissimilarity was inaccurate.¹⁵⁰ According to the traditional perspective, intergroup harmony is enhanced the more discrimination and prejudice obstacles are removed, which, in turn, comes from intergroup contact among members of the different groups increasingly resembling their own intra-group contact.¹⁵¹

149. See *id.* at 5 (arguing that extended contact should overcome initial negative reactions formed prior to contact).

150. See Trew, *supra* note 101, at 93, 102-03 (illustrating attitudinal changes using an example from Northern Ireland when school-aged Protestant and Catholic boys came into contact with each other over a five-week period).

151. See Donald M. Taylor et al., *Intergroup Contact in Quebec: Myth or Reality?*, in CONTACT AND CONFLICT IN INTERGROUP ENCOUNTERS, *supra* note 69, at 107. For details of the conditions considered necessary for successful reduction of conflict situations through intergroup contacts, see, for example, Yehuda Amir, *Contact Hypothesis in Ethnic Relations*, 71 PSYCHOL. BULL. 319, 338 (1969) [hereinafter Amir, *Contact Hypothesis*]; Knox & Hughes, *supra* note 131, at 84; ALLPORT, *supra* note 147, at 281; Hewstone & Brown, *supra* note 145, at 4-5, 7; Stuart W. Cook, *Interpersonal and Attitudinal Outcomes in Cooperating Interracial Groups*, 12 J. RES. DEV. EDUC. 97 (1978); Taylor et al., *supra*, at 107. Some researchers have expressed reservations that contact, while important, is not sufficient in and of itself for conflict resolution. See generally Hewstone & Brown, *supra* note 145, at 2, 11-30; Knox & Hughes, *supra* note 131, at 84. While, by itself, contact or interaction may not be adequate to reduce intergroup tension or ethnic prejudice, a context without interaction or contact unquestionably will facilitate intergroup tension and ethnic prejudice, hinder both sides in conflict from developing better relations, create an obstacle to maintaining and preserving open borders, and certainly, therefore, harm the peace process. Cf. Hewstone & Brown, *supra* note 145, at 2. Social isolation can result in an exceedingly different development of values in addition to ignorance concerning the other group. See Trew, *supra* note 101, at 106. Studies undertaken in Belfast, Northern Ireland, in closed sectarian enclaves, provide a good example of selective perceptions of events and their implications in areas that lack the representation of differing perceptions. Under such conditions, communities sanctioned violence considered to be part of the defense of their political affiliations. Accordingly, as Catholic and Protestant communities' interpretations of events started to significantly diverge in Northern Ireland, there was a corresponding decrease in the possibility of reconciling their conflict. Were it not for interweaving relationships between the Catholic and Protestant communities, the gap between the two sides might have been so immense that activities designed to transcend it would have been ineffective. See *id.* Skeptics of the contact hypothesis, however, find it difficult to comprehend how contacts of an interpersonal nature between Northern Ireland Catholics and Protestants could have an affect on the society's underlying infrastructure, or that direct ideological influences could occur as the result of

Categorization by group will become less important as the result of group boundaries becoming less clear, which is what the cross-cutting of social bonds rests upon.¹⁵² Furthermore, learning theory predicts an accumulation effect, which means that diverse individuals involved in repetitious contact circumstances in a variety of social

contact between the two sides. Yet, even such skeptics grudgingly admit that this does not mean that contact may not provide grounds for at least some group members to reconsider their views toward the other group and their characteristics. *See id.* at 105-06. Further, these skeptics concede that polarized perceptions may be enhanced in an environment of social isolation. *See id.* at 106. Even in describing the status of contact prior to the relatively recent constitutional changes in what was previously the "non-contact" society of South Africa, dissenters to the contact theory, nevertheless, conceded the desirability and necessity of contact between white and black people to alter the South African social order. *See* Don Foster & Gillian Finchilescu, *Contact in a 'Non Contact' Society: The Case of South Africa*, in *CONTACT AND CONFLICT IN INTERGROUP ENCOUNTERS*, *supra* note 69, at 119-35. Possibly, apartheid's bed-rock could have been the reverse view of the contact hypothesis, whereby the diminution of white-black contact would reduce racial problems and conflict and preserve peace. *See id.* at 120. Hence, in a basic attempt to bring about the stabilization of intergroup interaction, the South African government proceeded to apply its apartheid policy by legislating behavior pertaining to a variety of inter-ethnic contact situations. *See id.* at 121. It is fair to question whether intergroup racial relations positively benefited from the administration of apartheid over decades, or whether racial conflict decreased while peace was preserved, as a result of the apartheid regime and its enforced restrictions on white-black contact. *See id.* at 120-21. A very firm negative answer is the only possibility for these questions. The effects of the obligatory no-contact conditions on South African class and race relations were demonstrated aptly in numerous instances. Race relations epitomized by harmony or tranquility certainly were not the outcome of South Africa's "no contact" policy, even according to the most adherent apartheid supporters. Thus, even the contact hypothesis detractors do not hesitate to point out that their contention is not that there are no positive effects that can flow from contact between white and black people. *See id.* at 134. Although critics of the contact hypothesis postulate that "[c]ontact is not the only—in fact, it is probably not even the principal—mechanism of social influence across social groups" [Pettigrew, *supra* note 146, at 189.], this does not suggest that contact is not important at all or is unnecessary for the occurrence of such social influences. Furthermore, although some observers consider differences that exist between intergroup and interpersonal behavior to be significant [*See* Hewstone & Brown, *supra* note 145, at 1, 2, 13.], one must not lose sight, however, that such groups are, after all, made up of their individual components—the individuals themselves who constitute these groups. For there to exist any sort of intergroup interaction at all in the first place, individuals comprising one group must interact with other individuals belonging to another group.

152. *See* Pettigrew, *supra* note 146, at 183.

environments likely will produce a cumulative effect.¹⁵³ A cumulative effect reduces intergroup hostility through engaging in a series of cooperative activities based on achieving goals that one group alone may not achieve—that is, superordinate goals.¹⁵⁴ Conflicting sides that engaged in common efforts and experiences demonstrated a significant reduction in conflict between them.¹⁵⁵ Accordingly, a favorable environment was created for further, structural changes due to the adaptation of people to the changes.¹⁵⁶

Common attitudes may be ameliorated and international understanding heightened by interactions that cut across borders.¹⁵⁷ These mutual experiences and interests that penetrate borders and establish international networks would be facilitated greatly by open borders.¹⁵⁸ This process may be encouraged, supported, and engaged in by individuals and groups without interference by government. For example, people who might engage in such activities include teachers,¹⁵⁹ business people, actors, artists, environmentalists, academicians, tourists, entrepreneurs, and industrialists.¹⁶⁰ Because

153. See *id.* at 187 (finding a cumulative positive effect among school-aged boys).

154. See MUZAFER SHERIF, IN *COMMON PREDICAMENT: SOCIAL PSYCHOLOGY OF INTERGROUP CONFLICT AND COOPERATION* 93 (1966); see also Pettigrew, *supra* note 146, at 187 (finding an elevation in the mood of school-aged participants after achieving a superordinate goal through intergroup contact).

155. See Pettigrew, *supra* note 146, at 187 (discussing the reduction in hostility and conflict between groups participating in intergroup contact through the achievement of superordinate goals).

156. See *id.* at 191.

157. See Kelman, *International Interchanges*, *supra* note 147, at 83, 90, 98 (asserting that friendly relations between nations promote restructuring of negative attitudes to more positive attitudes).

158. Cf. Kelman, *Social-Psychological Approaches*, *supra* note 147, at 548 (arguing that positive international contact creates networks that supersede national boundaries).

159. For instance, encounters between individuals on similar planes could occur, like administrators of one side meeting with administrators on the other, inspectors meeting with inspectors, teachers with teachers, and pupils with pupils. See Shalvi, *supra* note 142, at 63.

160. See Yair Hirschfeld, *Keeping Oslo Alive: Developing a Non-governmental Peace Strategy*, in *IS OSLO ALIVE?*, *supra* note 132, at 68, 77, 82 (arguing that people to people contact must occur in order to achieve peace).

processes like this are involved at the individual level and are related to the interactions between individuals such as insight, learning, empathy, and creative problem-solving, they are considered critical to resolving conflict situations. Macro-level change can then result from the individual-level change that entered the disputant communities' decision-making processes and political debate.¹⁶¹ This increase in informal trans-border contact and economic activity thus may persuade governments to ease restrictions and thereby alter the formal character of political relations across borders.¹⁶²

Cross-border arrangements for individuals are developed with the help of international cooperation and interchange. Continuing relationships based on mutual interests of a professional nature are the probable outcome for participants in successful activities of this type; they are practical for participants who find these relationships to be pertinent to their personal professional concerns and to their effective professional performance.¹⁶³ In this manner, both long-term and short-term objectives may be pursued by Palestinians and Israelis who are committed to joint cooperation on a practical level.¹⁶⁴

Interdependently linked groups and individuals can create a network that develops a sense of loyalty, without reference to group differences.¹⁶⁵ Scholars have observed, in different contexts, responses of loyalty of international professionals to their professions instead of to their national loyalties.¹⁶⁶ This loyalty to profession acts independently of national loyalty rather than competitively with or

161. See Rouhana & Kelman, *supra* note 136, at 159.

162. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 20.

163. See Kelman, *International Interchanges*, *supra* note 147, at 84 (arguing that individuals have a vested interest in maintaining professional relationships); Kelman, *Social-Psychological Approaches*, *supra* note 147, at 575 (stating that professional relationships promote loyalty to order).

164. Cf. Kelman, *International Interchanges*, *supra* note 147, at 84 (noting that relationships that cut across nationalities are necessary for the pursuit of individual goals).

165. See *id.*; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 575 (explaining that international global integration promotes loyalty to profession).

166. See Sheldon A. Silverman, *Reflections on the Cultural Impact of a North American Free Trade Agreement*, in *NORTH AMERICA WITHOUT BORDERS?*, *supra* note 81, at 307, 312 (asserting that loyalty in professional networks is independent of national loyalty).

antagonistically to it, since it cuts across national lines.¹⁶⁷ Individuals belong to diversified groupings involved in varied conflicts along different lines. For example, members of a single political support group who stand together in a conflict with another political grouping may simultaneously be members of antagonistic religious groups. Accordingly, chasms are prevented along the common line since the divergent groups have conflict lines that do not intersect.¹⁶⁸ Put another way, a desire to preserve the system's integrity, as well as its pluralistic attributes, should be the outcome of many persons on both sides performing diverse functions, arising from the creation of networks that cut across borders.¹⁶⁹ In this manner, an Israeli-Palestinian border cut by professional or interest lines may serve as the basis for integration and stability.¹⁷⁰ This helps counteract the tendency of completely subordinating all interactions between the sides to one underlying conflict based on national issues.¹⁷¹ In other words, cross-cutting border networks help to mitigate the shift toward total polarization instead of focusing on doing away with conflicts entirely.¹⁷²

To the extent that national lines are cross-cut by groupings according to the professions or interests of individuals and have become truly interdependent, the Israeli-Palestinian conflict will tend not to be defined strictly in terms of national issues that totally suppress all other associations and connections.¹⁷³ It will thus remain

167. See Kelman, *International Interchanges*, *supra* note 147, at 84 (asserting that relationships serve professional interests that reach beyond national boundaries); Kelman, *Social-Psychological Approaches*, *supra* note 147, at 575 (noting that professional interests promote cooperation due to individual desires to achieve current and future goals).

168. See Kelman, *Social-Psychological Approaches*, *supra* note 147, at 575.

169. See *id.* at 576.

170. Cf. Kelman, *International Interchanges*, *supra* note 147, at 84 (explaining how individuals and groups have an interest in international cooperation); Kelman, *Social-Psychological Approaches*, *supra* note 147, at 575-76.

171. See Kelman, *International Interchanges*, *supra* note 147, at 84; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 576.

172. See Kelman, *International Interchanges*, *supra* note 147, at 84; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 576.

173. Cf. Kelman, *International Interchanges*, *supra* note 147, at 84 (explaining that individuals who are part of true interdependency will not confine themselves

in the interests of people on both sides to preserve the situation's integrity,¹⁷⁴ since its collapse would bring with it the collapse of the transnational networks in which they participate.¹⁷⁵ Increasingly more resilient obstacles to the system's collapse will tend to appear, since Israelis and Palestinians will develop a vested interest in creating a sturdy and pluralistic relationship between them.¹⁷⁶ This interest is due to the enhanced and ever-increasing connections that cut across borders, thereby increasing the prevalence of cooperation and interchange.¹⁷⁷ Accordingly, conditions for the creation of peace are bolstered to the extent that international cooperation and interchange are involved in cross-cutting loyalty development.¹⁷⁸ The health profession provides a constructive example of cooperative interaction on the professional level between Palestinians and Israelis. A research project jointly undertaken by the Brookdale Institute and Al-Quds University found that in 148 joint Israeli-Palestinian projects conducted in the health field between 1994 and 1998, approximately one-half of the Palestinian participants and approximately one-third of the Israeli participants reported that the joint activities positively influenced their attitudes toward coexistence.¹⁷⁹ Moreover, the report indicated that after five years of activities, 99 percent of the Israelis and 88 percent of the Palestinians suggested a desire to continue

to national lines); Kelman, *Social-Psychological Approaches*, *supra* note 147, at 576 (noting that individuals with interdependent ties oppose national affiliations superseding all other relations).

174. See Kelman, *International Interchanges*, *supra* note 147, at 84-85 (arguing that a breakdown of interdependency causes the loss of necessary professional networks); Kelman, *Social-Psychological Approaches*, *supra* note 147, at 576.

175. See Kelman, *International Interchanges*, *supra* note 147, at 85; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 576.

176. Cf. Kelman, *International Interchanges*, *supra* note 147, at 85; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 576.

177. See Kelman, *International Interchanges*, *supra* note 147, at 85; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 576.

178. See Kelman, *Social-Psychological Approaches*, *supra* note 147, at 575 (explaining how cooperation on matters outside of the conflict help to make resolution of the conflict more peaceful).

179. See Lili Galili, *We Are All One Epidemiological Family*, HA'ARETZ, Nov. 1, 1999, at 3B (in Hebrew) (on file with author).

working together.¹⁸⁰

As alluded to earlier, attitudes favorable to the other side are not necessarily the universal outcome of participation in international exchanges.¹⁸¹ Yet, assuming that the interaction is professionally and personally satisfying for those involved, there is a tendency that some significant changes in attitude may, and most often will, result from interchanges of this nature.¹⁸² A feeling of personal involvement in the fate of the other side will likely evolve through personal connections arising from participation in such interactions. Yet, while individuals will develop an augmented attitude of openness resulting from their greater involvement and understanding, these personal attitude changes alone probably will not be able to surmount the two sides' actual conflicts of interest.¹⁸³

However, an enhanced propensity to trust the other side, to view it as non-threatening, and to be responsive to it, should be the outcomes of developing their patterns of continuing interchange and cooperation.¹⁸⁴ Accordingly, there presumably will be a decrease in the tension level exhibited in the conflicting parties' general interactions if they are participating in cooperation and interchange

180. *See id.*

181. *See* Kelman, *International Interchanges*, *supra* note 147, at 86; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 573; Hewstone & Brown, *supra* note 145, at 2. Compare Anita L. Mishler, *Personal Contact in International Exchanges*, in *INTERNATIONAL BEHAVIOR: A SOCIAL-PSYCHOLOGICAL ANALYSIS* *supra* note 146, at 550-51 (pointing out that evidence is sparse in support of the contention that foreign exchange students develop favorable attitudes for the host country's activities and foreign policies as a result of cross-cultural contacts *per se*), and de Sola Pool, *supra* note 146, at 113-14, with Mishler, *supra*, at 551, 559-60 (predicting that a more varied and complex image of the host nation may be created if students who go abroad make contacts and friends), and de Sola Pool, *supra* note 146, at 114-15, 117.

182. Kelman, *International Interchanges*, *supra* note 147, at 86; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 573 (discussing attitude changes based on fulfilling experiences with the hostile group).

183. *See* Kelman, *International Interchanges*, *supra* note 147, at 86.

184. *See id.* at 86-87; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 573. Yet, the types of contacts created and the possibility for them to become lengthy interactions depend, to a certain extent, on factors existing before a foreign student, for instance, engages in an exchange experience, or on particular predispositions. *See* Mishler, *supra* note 181, at 560.

activities with each other.¹⁸⁵ While contacts between the parties of this nature may facilitate an environment that promotes efficient and effective negotiation to arrive at political settlements, such positive relationships will be able neither to convince the sides to ignore seeking objectives that are incompatible with each other, nor to succeed in totally eradicating the underlying conflict.¹⁸⁶ If interparty conflicts nevertheless appear, an atmosphere of increased openness between parties comprising individuals who maintain close and friendly contacts should lessen the likelihood that either party would construe the matter strictly or view the other as a threat against it. In addition, this should produce an enhanced desire to communicate with one another to resolve outstanding issues.¹⁸⁷

A decrease in the tension level between two sides historically in conflict, arising from the positive relationships developed concerning interests outside the conflict itself, will likely create a certain element of mutual trust—a trust that was previously eroded, thus making it difficult to arrive at political arrangements that may have benefitted both parties—and, consequently, may lay the groundwork for earnest negotiations to resolve outstanding conflicts.¹⁸⁸ As the introductory paragraph of the preamble of the Constitution of the United Nations Educational, Scientific, and Cultural Organization (UNESCO) stipulates, “[s]ince wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed.”¹⁸⁹ Polarization tendencies of conflicting sides may be offset by the creation of cooperative interaction in particular areas.¹⁹⁰ Thus,

185. See Kelman, *Social-Psychological Approaches*, *supra* note 147, at 574.

186. See Kelman, *International Interchanges*, *supra* note 147, at 85; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 574 (explaining how pleasant contacts can help lead to more cooperative negotiations but do not resolve conflict).

187. See Kelman, *International Interchanges*, *supra* note 147, at 87.

188. See *id.* at 85; Kelman, *Social-Psychological Approaches*, *supra* note 147, at 574 (identifying the Cold War relationship between the United States and the Soviet Union as an example where the absence of mutual trust impeded the negotiation of mutually beneficial agreements).

189. CONST. OF THE U.N. EDUC., SCI., & CULTURAL ORG. preamble.

190. See Kelman, *International Interchanges*, *supra* note 147, at 85 (demonstrating how interaction between groups can help bring them closer in conflict negotiations).

international relationships and cooperation might influence the interaction between two parties, which might in turn diminish the possibility that their conflicts will incorporate violence, notwithstanding the fact that international cooperation's role in developing peace might be long-term and even circuitous.¹⁹¹

A. THE IRISH EXPERIENCE

In Northern Ireland, for example, tolerance and appreciation for contending cultural and political traditions is sought through cross-community contact.¹⁹² The Irish example may be instructional and constructive for Palestinians and Israelis for many reasons. Like the situation between the Palestinians and the Israelis, the Northern Ireland situation is well-known internationally due to the degree of disorder and violence attributed to seemingly insurmountable intergroup divisions.¹⁹³ Over the last two hundred years or so,

191. See Kelman, *Social-Psychological Approaches*, *supra* note 147, at 573 (suggesting that interactions will help reduce violence and promote peace).

192. See Knox & Hughes, *supra* note 131, at 83. Note that analyses of various Northern Ireland contact programs indicated that unless relations between the Protestant and the Catholic communities were handled at an intergroup level, contact alone was likely to be unsatisfactory in dealing with the relations between the two groups. See *id.* at 86. For further discussion of the "contact is not enough" approach, see *supra* note 151. It was suggested that it is not possible to formulate cross-community generalizations regarding contacts of an interpersonal type, and/or that such contacts were transient in nature. See Hewstone & Brown, *supra* note 145, at 41. It is not entirely certain that creating interpersonal friendships to influence permanent relations between Protestants and Catholics will bridge the religious divide between the two communities. See *id.*; Knox & Hughes, *supra* note 131, at 86. However, even skeptical researchers have acknowledged that some positive contact is likely better than no contact at all. See *id.* In other words, in a situation of "no hope", the contact theory may nonetheless offer an element of hope. See Trew, *supra* note 101, at 100; Knox & Hughes, *supra* note 131, at 86. Northern Ireland's local council community relations program, however, cannot be characterized by this less than optimistic analysis. See *id.* On the contrary, there is the belief in Northern Ireland that a positive result has accrued from even short-periods of intergroup contact occurring under appropriate conditions and taking place in isolated settings. See Trew, *supra* note 101, at 100.

193. Cf. Trew, *supra* note 101, at 93 (discussing the violence and disorder occurring in Northern Ireland based on intergroup divisions). Yet, it bears noting that some, however, believe that there is little to compare between Israel and Ireland and that the Israeli-Palestinian dispute is much more complex than the Irish dispute. See Yossi Melman, "The Israeli-Palestinian Dispute is More Complex Than the Irish One," HA'ARETZ, June 27, 2000, at 11A (in Hebrew) (on file with

recurrent inter-community violence developed into a way of life due, in large part, to processes which brought about societal divisions.¹⁹⁴ This hostility persisted despite the fact that the Republic of Ireland-Northern Ireland border turned into a border within the EU, thereby becoming subject to the ever-expanding influences of the political and economic integration of Europe.¹⁹⁵ Furthermore, attempts at negotiating a peace process¹⁹⁶ were dead-locked¹⁹⁷ due to continued

author).

194. See Trew, *supra* note 101, at 95.

195. See O'Dowd & Corrigan, *supra* note 81, at 117; see also Wilson, *supra* note 81, at 209. Integration barriers, both national and cultural, nevertheless continue to thrive in a "frontierless" Europe. See *id.* at 205. For further discussion, see *supra* note 81.

196. See *Riots and Additional Acts*, *supra* note 103, at 16A.

197. See Sharon Sadeh, *The British Government Has Frozen the Peace Agreement in Northern Ireland*, HA'ARETZ, July 16, 1999, at 9A (in Hebrew) (on file with author); *A Protestant Organization in Northern Ireland*, *supra* note 101, at 12A; *Efforts to Save the Peace Agreement in Northern Ireland*, HA'ARETZ, June 29, 1999, at 11A (in Hebrew) (on file with author); *Groundhog Day*, ECONOMIST, July 24, 1999, at 55 (observing that the Northern Ireland peace talks are marked by endless repetition with respect to the frequent impasses); *Northern Ireland: UU-turn* [sic], ECONOMIST, May 22, 1999, at 63 (noting that the Northern Ireland peace process stalled, in part, due to the fact that the IRA was prevented from taking seats in the cabinet of the Northern Ireland government until the IRA disarmed); *Parking the Process*, ECONOMIST, July 17, 1999, at 51 (explaining how the inability to resolve the issues of disarmament delayed the Northern Ireland peace talks); *Race Against the Clock in Northern Ireland to Save the "Good Friday" Agreement*, HA'ARETZ, July 1, 1999, at 16A (in Hebrew) (on file with author); Sharon Sadeh, *Additional Effort to Advance the Peace Process in Northern Ireland Has Ended Without a Breakthrough*, HA'ARETZ Apr. 2, 1999, at 12A (in Hebrew) (on file with author); Sharon Sadeh, *A Declaration of the IRA Raises Suspicion Regarding the End of the Cease-fire*, HA'ARETZ, July 23, 1999, at 10A (in Hebrew) (on file with author); Sharon Sadeh, *A War of Declarations in Northern Ireland Saddles the Peace*, HA'ARETZ, Nov. 29, 1999, at 10A (in Hebrew) (on file with author); Sharon Sadeh, *Blair at a Cross-Roads*, HA'ARETZ, July 18, 1999, at 11A (in Hebrew) (on file with author); Sharon Sadeh, *Daily Telegraph: Evidence to the Effect That the IRA Doesn't Intend to Part From Its Weapons*, HA'ARETZ, July 6, 1999, at 6A (in Hebrew) (on file with author); Sharon Sadeh, *Initiative for Emergency Legislation in Britain in an Attempt to Save the Peace Process in Northern Ireland*, HA'ARETZ, July 14, 1999, at 9A (in Hebrew) (on file with author); Sharon Sadeh, *The American Mediator Mitchell Will Try to Save the Agreement*, HA'ARETZ, July 18, 1999, at 11A (in Hebrew) (on file with author); Sharon Sadeh, *The Leader of the Protestants in Northern Ireland is Opposed to Blair's Peace Initiative*, HA'ARETZ, July 12, 1999, at 5A (in Hebrew) (on file with author); *The Establishment on Time of the Local*

hostility until recently.¹⁹⁸ The lengthy British and Irish history of violence in the area¹⁹⁹ has resulted in thousands of deaths over the course of the conflict.²⁰⁰

The background to the area's recent strife is as follows. The British Government of Ireland Act of 1920²⁰¹ separated Ireland into two groups, each with its own, different national aspirations, by establishing a border between them.²⁰² Shortly thereafter, the Anglo-

Government in Northern Ireland is Cast in Doubt, HA'ARETZ Mar. 30, 1999, at 16A (in Hebrew) (on file with author); *Woman Slain in Northern Ireland*, HA'ARETZ, June 6, 1999, at 3 (English language ed.).

198. As of late, there finally appears to be room for increasing optimism over Northern Ireland. See Sharon Sadeh, *The Protestants in Northern Ireland Agreed to Establish a Local Government*, HA'ARETZ, Nov. 28, 1999, at 1A (in Hebrew) (on file with author); see also *Northern Ireland Received Independent Status*, HA'ARETZ, Dec. 2, 1999, at 9A (in Hebrew) (on file with author); *North Meets South*, ECONOMIST, Dec. 18, 1999, at 109 (considering the possibility of peace in Northern Ireland); Sharon Sadeh, *Britain and Ireland Removed Their Sovereignty Claims Over Northern Ireland*, HA'ARETZ, Dec. 3, 1999, at 10A (in Hebrew) (on file with author); Sharon Sadeh, *IRA Representatives Will be Brought Into the Government in Northern Ireland*, HA'ARETZ, Nov. 28, 1999, at 12A (in Hebrew) (on file with author); Sharon Sadeh, *Protestant and Catholic Representatives Established a Common Government in Northern Ireland*, HA'ARETZ, Nov. 30, 1999, at 10A (in Hebrew) (on file with author); *The Irish Underground Has Begun to Dismantle Its Weapons*, HA'ARETZ, Dec. 6, 1999, at 11A (in Hebrew) (on file with author); *Yes, Minister*, ECONOMIST, Dec. 4, 1999, at 5 (observing that the creation of a power-sharing Northern Ireland Parliament has renewed the prospects of peace). Yet the recent optimistic initiatives are certainly not free of troubles. See, e.g., Sharon Sadeh, *Britain Announced the Disbandment of the Government in Northern Ireland*, HA'ARETZ, Feb. 4, 2000, at 1A (in Hebrew) (on file with author); Sharon Sadeh, *Northern Ireland: The Talks Between Trimble and Adams Ended Without Results*, HA'ARETZ, Feb. 6, 2000, at 9A (in Hebrew) (on file with author); *Nil Return*, ECONOMIST, Feb. 5, 2000, at 14-15; *Stymied in Ulster*, ECONOMIST, Feb. 5, 2000, at 51-52; Sharon Sadeh, *The Legislative Assembly was Disbanded in Northern Ireland*, HA'ARETZ, Feb. 13, 2000, at 1A (in Hebrew) (on file with author).

199. See Wilson, *supra* note 81, at 205 (discussing the relation between firmly entrenched national identities at the Irish border and how the European Union is perceived).

200. See *A Brief History of Strife*, ECONOMIST, Dec. 4, 1999, at 56 (describing the loss of life resulting from the cultural and social clash in Ireland).

201. See O'Dowd & Corrigan, *supra* note 81, at 118 (describing the terms of the Irish partition, which was agreed upon without input from Irish nationalists).

202. See Trew, *supra* note 101, at 94; see also ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 51 (explaining the origin of Ireland's division into

Irish Treaty of 1921 reaffirmed this border.²⁰³ Of the thirty-two counties that comprise the island of Ireland, twenty-six of them—populated mostly by Catholics—eventually became the independent Republic of Ireland, while the other six mainly Protestant counties located in the northeast sector of the island remained part of the United Kingdom.²⁰⁴ People referred to the latter area either by its official British name, Northern Ireland, its name given by the Protestants, Ulster, or the name given by Catholics, “the six counties.”²⁰⁵ In the northeast sector, the Protestants constituted a majority, whereas, on the island of Ireland itself, they were in the minority.²⁰⁶ Nevertheless, Catholics comprised more than one-third of Northern Ireland’s population and were generally against maintaining a constitutional connection between Northern Ireland and the United Kingdom.²⁰⁷

A primary reason for the dispute in Northern Ireland continues to be national identity.²⁰⁸ Surveys show that while most Protestants identify themselves as British, most Catholics identify themselves as Irish.²⁰⁹ These identities²¹⁰ encompass divisions on cultural, social, and political levels.²¹¹ Catholics and Protestants both perceive themselves as part of separate traditions that have been present in

two parts).

203. See O’Dowd & Corrigan, *supra* note 81, at 118; see also ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 51.

204. See Trew, *supra* note 101, at 94 (basing the division of Ireland on religious affiliation).

205. See *id.*

206. See *id.*

207. See *id.* (finding, nevertheless, that about half of the Catholics prefer to remain a part of the United Kingdom).

208. See *id.*

209. See Trew, *supra* note 101, at 94.

210. See *id.*

211. See ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 45 (describing the division between Northern Ireland Protestants and Catholics as a “cultural divide”); O’Dowd & Corrigan, *supra* note 81, at 119 (ascribing the Protestant identification with Great Britain and the Catholic identification with Ireland as the hallmark of Northern Ireland’s social and cultural divisions); Trew, *supra* note 101, at 94 (detailing the divisions in Northern Ireland between the controlling Protestants and the politically-excluded Catholics).

Ireland since the seventeenth century, when Protestant farmers from Scotland and England were given land confiscated from Irish Catholic natives.²¹² Therefore, Protestants remain separated from Catholics by a social, cultural, and political cleavage resulting from numerous elements present in Northern Ireland's social structure.²¹³ The seemingly intractable and incessant Northern Ireland divisions that have been perpetuated by the threat perceived by each community of the other, and by difficult-to-dismiss memories of violent struggle that dates hundreds of years, are rooted in differences of religion, traditions, political allegiances, education, and symbols.²¹⁴

The Republic of Ireland-Northern Ireland border symbolized the territorial separation between British and Irish sovereignty from the time it was established in 1920, and since has played a major role in Northern Ireland's national-ethnic conflict.²¹⁵ This erratic and straggling border is, in some respects, reminiscent of the border between Israel and the Palestinians. The Irish border, which is approximately 240 miles long, is strewn across a region of spread-out, primarily agricultural settlements, and runs along the existing boundaries of local authorities.²¹⁶ At its creation, the border cut through a number of villages, and in places, through individuals' homes.²¹⁷ The border, likewise, ran across nearly 200 roads and about

212. See Trew, *supra* note 101, at 94; see also O'Dowd & Corrigan, *supra* note 81, at 119 (explaining how Catholics were rendered powerless by the controlling Protestants and were excluded from the Northern Ireland government).

213. See Trew, *supra* note 101, at 95 (observing that Northern Ireland is so religiously divided that every aspect of life is classified as either Catholic, Protestant, or commingled).

214. See ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 52 (delineating reasons for continued violence and unrest in Ireland).

215. See O'Dowd & Corrigan, *supra* note 81, at 117. Notwithstanding the porous nature of border relations involved in the nationalist-ethnic conflict, which were created by the lengthy history of joint power and culture in Ireland, the United Kingdom nevertheless tried to establish powerful political and social control mechanisms at its border with Ireland. See Wilson & Donnan, *supra* note 81, at 11. For further discussion regarding the situation in Northern Ireland, see *infra* notes 405-437 and accompanying text.

216. See O'Dowd & Corrigan, *supra* note 81, at 119 (describing the landscape of the border through Ireland).

217. See *id.*

1400 agricultural properties.²¹⁸ For instance, Pettigo, a village in County Donegal, was separated down the center of the bridge in the town.²¹⁹ In addition, an enclave was created by the border of Clones, a town located in County Monaghan.²²⁰ The final drawing of the border ended up including over a half million Catholics and nationalists in Protestant Northern Ireland, and resulted in three Ulster counties, which contained about 70,000 Unionists, becoming a part of the Catholic Republic of Ireland.²²¹ The Republic of Ireland-Britain border, which had become more militarized since the 1960s, represented a process that seemingly contradicted the Maastricht Treaty as well as the designed abolition of internal controls on borders in the Single European Market.²²²

The year 1969, when the British army arrived in Northern Ireland to assist the civil authorities in attempting to quell the significant civil disorder that erupted, witnessed the onset of the most recent chapter of this on-going conflict. The Provisional Irish Republican Army conducted a long, drawn out campaign of terror.²²³ As one in the succession of terrorist campaigns waged since the early 1920s, the IRA terrorist campaigns of the 1970s, 1980s, and 1990s represented not only the most recent but also the most persistent of them all.²²⁴

The fundamental issue in the Republic of Ireland-Northern Ireland conflict centers around the idea of change. The Protestant majority of Northern Ireland are diametrically opposed to it, whereas most of the Catholic minority supports it.²²⁵ Yet, the Protestants' majority position is not secure according to demographic trends. Northern

218. *See id.*

219. *See id.*

220. *See id.*

221. *See* O'Dowd & Corrigan, *supra* note 81, at 119.

222. *See id.* at 117-18. Sovereignty of the state represents, among other things, the claim to have complete control in a set territorial area over means of legal violence, which, often, is reflected by border militarization. *See id.* at 118.

223. *See* ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 51.

224. *See* O'Dowd & Corrigan, *supra* note 81, at 188 (describing the IRA campaigns that challenged Britain's claims to sovereignty).

225. *See* ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 52-53.

Ireland's western part gradually is becoming more Catholic. Within the next twenty-five years, the Catholic majority, feared by the Protestants, is predicted to take hold of Northern Ireland.²²⁶ The concern over losing support to steadfast extremists had created a situation where moderates had hitherto been unable to reach agreement.²²⁷ Northern Ireland society therefore reflects a deep chasm between two distinct groups, each with its own religious persuasions, political desires, social values, and cultural traditions. From these societal differences political instability and violence flow, carrying with them tragic human and high financial costs.²²⁸ Most of Northern Ireland's people related the conflict's continuation to radicals, representing a minority in each community, who support the use of violence to achieve their goals.²²⁹ Certainly, for extremists on each side, there are numerous sympathizers, and the average Protestants and Catholics remain polarized. Given this context, individual "bottom-up" programs were proposed²³⁰ that would help structure a society striving to take into account divergent desires, traditions, and beliefs of different people.²³¹ Such a framework was set up to promote equality and further mutual respect and reconciliation for Northern Ireland's distinct cultures and traditions.²³²

In this regard, both voluntary and governmental agencies have earmarked tremendous resources for programs aimed at uniting Catholic and Protestant children during community relations holidays.²³³ To enhance such contact and gain public support, most

226. *See id.* at 53.

227. *See id.* (detailing the changing demographics in Northern Ireland and attributing difficulties in the peace process to the presence of extremists on both sides). For further discussion, see *supra* notes 196-197 (describing various impediments to the Northern Ireland peace talks).

228. *See* Knox & Hughes, *supra* note 131, at 90 (advocating the need for community relations programs to help bridge the social and cultural divide between Northern Ireland's Catholic and Protestant communities).

229. *See id.* (observing that these extremists view violence as a legitimate method to obtain their objectives).

230. *See id.* at 87.

231. *See id.* at 86.

232. *See id.* at 86, 87.

233. *See* Trew, *supra* note 101, at 101.

Northern Ireland community relations officers encourage activities that satisfy the mutual interests of both groups of children or provide overall entertainment value.²³⁴ When participatory contact based on mutual interests is maintained, the result is more trusting Protestant-Catholic interaction.²³⁵ Studies in Northern Ireland indicate that intergroup contact is partly accountable for enhanced intergroup relations.²³⁶ At the political level, for example, cross-community interaction could facilitate the necessary, positive social environment to diminish prejudice, although the benefits are not easily measured.²³⁷ Yet, according to studies undertaken analyzing the outcome of exclusive sociability and denominational segregation in Northern Ireland, inter-denominational contact, at least of a limited nature, may nonetheless produce benefits.²³⁸ For instance, interaction

234. See Knox & Hughes, *supra* note 131, at 90. Community relations officers, through their experiences, found that more well-defined programs aimed at addressing "prejudiced, sectarian attitudes and other diverse issues, tend to appeal more to a minority of sympathetic and interested individuals." *Id.*

235. See *id.* at 92. This approach, however, recognizes that contact alone will not produce the necessary attitudinal and behavioral alterations. See *id.* For further discussion, see *supra* notes 151, 192 (discussing the "contact is not enough" approach). Even though people may have "latent, but potentially volatile, negative social stereotypes" of other groups, they nevertheless may be able to cooperate and interact with each other on an interpersonal level. See Knox & Hughes, *supra* note 131, at 93. Efforts are made through community relations work to deal with attitudinal matters and diminish suspicion, prejudice, and ignorance through several projects including: workshops designed for Catholic and Protestant encounters and aimed at reducing prejudice and anti-sectarianism; inter-church conferences; and peace and reconciliation groups. See *id.* Community relations officers who adopted the "ripple" or "multiplier" effect targeted interested and sympathetic, organizational and community, activists and leaders who were considered to be in good positions to distribute information and encourage discussion or workshops. See *id.* (setting forth methods that groups may use to enhance their appreciation and increase their awareness of varied traditions).

236. See Knox & Hughes, *supra* note 131, at 96. More significant changes in the social sphere, however, were deemed necessary to develop the requisites for intergroup contact that was actually successful. See *id.*

237. See *id.* To diminish prejudice, proponents contend that a significant requisite is that a favorable social climate and/or an authority should endorse the contact. See *id.*; see also Amir, *Contact Hypothesis*, *supra* note 151, at 338 (noting the uncertainty of successful intergroup contact and the extent to which prejudice is consequently reduced).

238. See Trew, *supra* note 101, at 106 (noting, however, that both Protestants and Catholics limit the opportunity for reconciliation when their perceptions are so

may foster close, personal friendships for Catholics and Protestants who, in the past, only socialized with members of their own religion, at least in suitable institutional frameworks or on non-partisan grounds.²³⁹ Moreover, an appreciation of common, cultural backgrounds, and a diminution of gross misperceptions regarding the other group may be facilitated in part by contact.²⁴⁰ Observers thus believe that beneficial "human relationships" will facilitate harmony in Northern Ireland.²⁴¹

B. ISRAELIS AND PALESTINIANS

While governments actually sign peace agreements, it is the people living under the former antagonists who often must implement many of the terms of those agreements.²⁴² Annex III of the Declaration of Principles of 1993,²⁴³ entitled the *Protocol on Israeli-Palestinian Cooperation in Economic and Development Programs*, and, particularly, Annex VI of the Interim Agreement of 1995,²⁴⁴ entitled the *Protocol Concerning Israeli-Palestinian Cooperation Programs*, recognize the importance of the "people to people" aspect of the peace-making process between Palestinians and Israelis.²⁴⁵

A mutually satisfactory solution to the conflict is ultimately based

different).

239. *See id.* at 104-05.

240. *See id.* at 105. Interestingly, the same observer who expounds the immediately preceding viewpoints concerning the benefits of contact, nevertheless notes that contact, in and of itself, will not necessarily influence societal sectarianism or alter long-standing political beliefs. *See id.*

241. *See id.* at 104. This view moved both scholars and professionals to advocate integration of schools by virtue of the belief that intergroup contact in an educational setting is an originating point for improved relations overall. *See id.* However, proponents neglect the fact that the separate educational systems reflect Catholic and Protestant desires to keep education segregated. *See id.* Moreover, there is scant evidence that education alone necessarily changes social mores. *See id.*

242. *See Hirschfeld, supra* note 160, at 82 (discussing the "bottom-up" or people-to-people concept).

243. Declaration of Principles, *supra* note 57, Annex III, 32 I.L.M. at 1523.

244. Interim Agreement, *supra* note 58, Annex VI, art. 8, 36 I.L.M. at 551 (addressing the *The People-To-People Program*).

245. *See Hirschfeld, supra* note 160, at 82.

on satisfying the human needs expressed through core identity groups.²⁴⁶ The alteration of stereotypes is the main goal.²⁴⁷ This requires eliminating preconceived notions and assisting both sides in appreciating the human dimension²⁴⁸ that is involved in the peace-making process.²⁴⁹ Allowing each side to see the face of the other side, resulting from the enhanced contact between them, may "humanize" the enemy.²⁵⁰ Appreciating and understanding the other's fundamental sensitivities, and realizing that the other side also has its own goals, visions, and needs, is a crucial part of the peace process.²⁵¹ While furthering international understanding through various activities may not necessarily create the conditions for peace,²⁵² both sides need to recognize that those on the other side seek peace and dignity and would rather build families, communities, professions, and businesses and make the most out of their lives than continue the

246. See Rouhana & Kelman, *supra* note 136, at 157, 158. The predicament, however, is that often times conflict encompasses "non-negotiable human needs" such as identity, security, or recognition. *Id.* at 158. In such situations, favorable conflict resolution depends on the ability of both parties to understand each other's concerns. See *id.*

247. See Manuel Hassassian, in *Education for Peace: A Roundtable Discussion*, 3(1) PALESTINE-ISR. J. POL., ECON. & CULTURE 55, 57 (1996).

248. See Shalvi, *supra* note 142, at 58.

249. See Hirschfeld, *supra* note 160, at 82.

250. See Erel Shalit, *Within Borders and Without - The Interaction Between Geopolitical and Personal Boundaries in Israel*, 8 POL. PSYCHOL. 365, 374 (1987) (examining the psychological aspects of self-segregation and the resultant "fear of the foreign"); see also Landau, *supra* note 137, at 66-67.

251. See Kelman, *The Political Psychology of the Israeli-Palestinian Conflict*, *supra* note 121, at 362. This understanding may occur when both Palestinians and Israelis engage in interactions that test each other's desire for coexistence and peace. See *id.* These relationships can produce outcomes that lead to mutual trust and acceptance of the fact that, despite differences, each has a "right to nationhood" and to the "symbols and institutions" that characterize the nationhood. *Id.*

252. See Kelman, *Social-Psychological Approaches*, *supra* note 147, at 572 (describing the "minds-of-men formulation" whereby men create and control societies and institutions). Therefore, "since wars begin in the minds of men, it is in the minds of men that the defenses of peace must be constructed." *Id.* Consequently, successful reform activities must actually permeate politics and not just exist in the minds of men. See *id.*

long-standing hostilities.²⁵³

It is equally important for both Palestinians and Israelis to recognize the overriding significance of security issues,²⁵⁴ since satisfactorily addressing this issue is a prerequisite for the resolution of any protracted conflict.²⁵⁵ For instance, Israelis who fear the establishment of a Palestinian state²⁵⁶ believe that it would pose an increased security risk for Israel.²⁵⁷ This apprehension is predicated on the supposition that the Palestinians ultimately would select, or perhaps—even beyond their control—would be forced to accept, the route of a militant, fundamentalist state that would naturally display hostility toward Israel.²⁵⁸ Internal terrorist activities could be ignored completely, or a weak Palestinian state could facilitate terror to

253. See Hirschfeld, *supra* note 160, at 82; see also White, *Misperception in the Arab-Israeli Conflict*, *supra* note 133, at 216 (observing how minor attention is given to the coupling of “physical self-preservation and economic progress,” reflecting a desire for peace).

254. See Landau, *supra* note 137, at 69.

255. See Elizabeth Crighton & Martha Abele MacIver, *The Evolution of Protracted Conflict: Group Dominance and Political Underdevelopment in Northern Ireland and Lebanon*, 23 COMP. POL. 127, 140 (Jan. 1991).

256. Even the Israel Labor Party, for many years, opposed the establishment of an independent Palestinian state in the West Bank. See Barzilai & Peleg, *supra* note 2, at 67. For further discussion regarding a Palestinian state, see *infra* Part VII.

257. See, e.g., David Bar-Illan, *Why a Palestinian State is Still a Mortal Threat*, 96 COMMENTARY 27 (1993) (elucidating several factors that are associated with the security risk, including: (1) continued violence through the importation of small arms by a Palestinian state; (2) the future inability of Israelis to carry out effective anti-terrorist tactics; and (3) the ease with which states can obtain heavy arms despite international sanctions); Efraim Inbar & Shmuel Sandler, *The Risks of Palestinian Statehood*, 37 SURVIVAL 23, 31-34, 38 (1997) (explaining that the instability of a Palestinian state, its geographic proximity, and its uncertain foreign orientation, all pose continuing threats to Israel); Kelman, *The Political Psychology of the Israeli-Palestinian Conflict*, *supra* note 121, at 354 (describing the fear of a continued national existence as the primary concern in the establishment of a Palestinian state). This concern grows from the perception that only one side can exist as a nation, not both. See *id.* Such a view originates from the problem that since both national movements—the Palestinian movement and Zionism—claim the same land, recognizing a Palestinian state may thus mean for Israelis that they are diminishing, if not completely giving up, their right to that land. See *id.*

258. See Hirschfeld, *supra* note 160, at 96.

promote its own interests, even if the state were neither fundamentalist nor militant.²⁵⁹ Many Israelis still consider terrorism to be a valuable lever in the hands of the Palestinian Authority, which uses terrorism as a tactical “weapon” to force further concessions from Israel and thus is not as keen as it might be in effectively squelching the armed opposition, which could potentially bring about civil war in the West Bank and Gaza. In Israel, many are wary that in a Palestinian state terrorists would be nurtured, proliferate, and eventually assume control of it, turning it into a base of international terror.²⁶⁰ Understandably, the predominant fear of continued perpetration of violent terrorist acts is shared by both Palestinians and Israelis alike. The Palestinians, for their part, aspire to determine their own destiny, live as they see fit,²⁶¹ earn decent livings, and be treated with dignity.²⁶²

C. LEARNING TO COOPERATE

Israelis and Palestinians must confront the other’s fears²⁶³ and allay mutual suspicions,²⁶⁴ tensions,²⁶⁵ animosities,²⁶⁶ threat perceptions,²⁶⁷ and distrust years in the making²⁶⁸ in order for the peace process to

259. See, e.g., Inbar & Sandler, *supra* note 257, at 33-34.

260. See, e.g., *id.* (observing that a weak Palestinian state, vulnerable to faction sponsored terrorism, would ignore such activity due to an inability, or unwillingness, to eliminate armed opposition and that if created, a Palestinian state could mirror the “PLO mini-state in Lebanon” in the 1970s-1980s, and turn into a center for international terrorism).

261. See, e.g., White, *Misperception in the Arab-Israeli Conflict*, *supra* note 133, at 194-95 (describing Palestinians’ desire to be independent, or minimally, autonomous “in all civilian affairs”).

262. See Kholoud Khayyat-Dajani, in *Minutes of Conference on Labor Migration*, in LABOR MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL 127, 163 (Mohammad Shtayyeh, ed. 1998) [hereinafter LABOR MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL].

263. See Landau, *supra* note 137, at 69; see also Salem I. Aweiss, *Educating for the Future*, 3 (1) PALESTINE-ISR. J. POL., ECON. & CULTURE 71, 72 (1996).

264. See Aweiss, *supra* note 263, at 72.

265. See *id.*

266. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 28.

267. See Aweiss, *supra* note 263, at 72.

268. See Manuel Hassassian, in *Presentations and Discussions*, in SCENARIOS

continue and to succeed.²⁶⁹ Furthermore, the degree to which mutual suspicions are removed will be one of the determinants of the extent to which Israel's borders become less confrontational with its

ON THE FUTURE OF JERUSALEM 105, 157, 159 (Mohammad Shtayyeh, ed. 1998) (emphasizing that fear and distrust have created stumbling blocks in all types of negotiations). This also means that it may take a long time to alter former images. See Mohammed S. Dajani, *The Future of Jerusalem: One Twin City, Two Peoples & Three Faiths—A Troika Solution*, in SCENARIOS ON THE FUTURE OF JERUSALEM, *supra*, at 47, 90 [hereinafter Dajani, *The Future of Jerusalem*]. According to some observers, within ten or twenty years nothing appears to adjust images in about 40 percent of most states' populations. See Karl W. Deutsch & Richard L. Merritt, *Effects of Events on National and International Images*, in INTERNATIONAL BEHAVIOR: A SOCIAL-PSYCHOLOGICAL ANALYSIS, *supra* note 146, at 132, 183. For the remaining 60 percent or so of these populations, very little can alter their attitudes and images. See *id.* Moreover, spectacular events, enormous efforts of governments, and the absence of significant cross-pressures are necessary to reinforce, and combine with, cumulative events to allow even these infrequent situations to arise. See *id.* The impact of cumulative events tends to be greater over longer periods of time—maybe twenty years or more, and especially through generations. See *id.* Combinations of external events and attempts by government have little effect on the readjustment of the chief images existing for most people. See *id.* The full impact of external alterations is achieved most fully when one generation is replaced by the next. See *id.* Societies' long-term process of learning is benefited by a significant resource—young adults' and adolescents' increased openness to new impressions and images. See *id.* This is an invaluable resource because of the enhanced learning ability and increased sensitivity of the young in addition to the fact that they are less encumbered with rigid, psychic structures and antiquated images. See *id.*

269. See Hirschfeld, *supra* note 160, at 97 (explaining that in order to gain support from Israel for Palestinian state-building, Palestinian society must confront and dispel Israeli fears). See, e.g., Kelman, *The Political Psychology of the Israeli-Palestinian Conflict*, *supra* note 121, at 362 (arguing that it is not necessary for either nation to accept the other's visions, but merely to "penetrat[e]" the other's ideology to develop a common goal regarding their shared land). According to observers, reality interpreted in a contradictory fashion serves as the basis for conflicting groups' mutual images, which, to some extent, tend to mirror one another. See Kelman, *Social-Psychological Approaches*, *supra* note 147, at 236. Generally speaking, the evil nature of the opposing side, which tends to be viewed in negative terms, is exaggerated, while one's own side, similarly exaggerated, tends to be seen as positive. See Ralph K. White, *Images in the Context of International Conflict, Soviet Perceptions of the U.S. and the U.S.S.R.*, in INTERNATIONAL BEHAVIOR: A SOCIAL-PSYCHOLOGICAL ANALYSIS, *supra* note 146, at 238, 255 [hereinafter White, *Images in the Context of International Conflict*]. States that interact with one another similarly possess mutual images of the other. See Kelman, *Social-Psychological Approaches*, *supra* note 147, at 392.

neighbors.²⁷⁰ The objective is to encourage relationships that will change the existing attitudes of indifference, antagonism, or suspicion into favorable ones.²⁷¹ Enhanced international cooperation and ensuing communication may be the eventual outcome of mutual trust. There is a possibility that communication can diminish inaccurate conclusions regarding the perceived threats of either side.²⁷² Both parties must show that they want, and are able, to live peacefully with each other, that security for both is in their mutual interest, and that terrorism is a criminal and punishable act.²⁷³ The two sides each must feel that there is no danger to their respective values, identities, economic and social welfare, and physical existence.²⁷⁴ Psychological needs, identity, and security are not, in and of themselves, part of a zero-sum game, and therefore it is frequently possible to resolve outstanding disputes in a mutually agreeable fashion by exposing and exploring the concerns of security and identity that underlie the supposedly irreconcilable positions of the two sides.²⁷⁵ Thus, resolution of the conflict could lead to a genuine and stable peace that would serve to dissipate each side's fundamental fears and satisfy their fundamental needs, potentially

270. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 17 (providing three necessary elements of less confrontational borders, two of which are the degree to which borders are opened to the movement of people and goods and the nature of the ethnic backgrounds of people).

271. See Kelman, *Changing Attitudes Through International Activities*, 18 J. SOC. ISSUES 68 (1962) [hereinafter Kelman, *Changing Attitudes*] (examining the barriers to change, and suggesting some facts that could result in lasting change).

272. See Dean G. Pruitt, *Definition of the Situation as a Determinant of International Action*, in INTERNATIONAL BEHAVIOR: A SOCIAL-PSYCHOLOGICAL ANALYSIS, *supra* note 146, at 393, 397 (discussing the relationship between distrust and threat perception).

273. See Hirschfeld, *supra* note 160, at 97 (pointing out that Israeli security is also a Palestinian concern).

274. See Aweiss, *supra* note 263, at 72 (stating that the first step to reconciliation is to assure both sides that their social values and identities are not threatened by the reconciliation process).

275. See Rouhana & Kelman, *supra* note 136, at 157-59 (arguing that unofficial conflict resolution approaches, such as the "interactive problem-solving model," can be effective in addressing the individual and societal aspects of international conflict); see also Kelman, *An Interactional Approach*, *supra* note 68, at 116-17 (providing a more detailed example of how an interactive problem-solving workshop between Israelis and Palestinians might function).

resulting in a reproach, followed by cordial and cooperative interaction between the two.²⁷⁶ Accordingly, the focal point of constructive action must be the future and present, not past occurrences.²⁷⁷

Although the mere dissipation of mutual hostile feelings may not, in and of itself, achieve peace, it will create a climate favorable to peace-making. An environment of mutual trust is best established through the enhancement of favorable attitudes of one side that are agreeable to the other; this facilitates the negotiation of political settlements. Establishing peace is a varied and complicated process that typically may not take place in the absence of the essential ingredient of changed attitudes.²⁷⁸ One side, the "sender", must supply updated information about itself and its people to the "recipient" party in the context of positive interaction.²⁷⁹ The end result is the creation of friendly attitudes out of once neutral or hostile ones.²⁸⁰ Therefore, the recipients will have a more powerful motivation as well as a better opportunity to view the sending side positively within the framework of the positive interaction.²⁸¹ As a result, there is a greater likelihood that the recipient will be more accepting of the new information under these circumstances that will enhance and accentuate the positive qualities of the sender.²⁸²

Furthermore, with both sides engaging in positive interactions with each other, the sender's perceptions tend to become restructured. The recipient's positive interaction with the sender

276. See Kelman, *The Political Psychology of the Israeli-Palestinian Conflict*, *supra* note 121, at 348 (describing how resolution of the conflict is not only favorable because it promotes peace, but also essential because of the geographical location and social ties between the Israelis and the Palestinians).

277. See White, *Misperception in the Arab-Israeli Conflict*, *supra* note 133, at 194.

278. See Kelman, *Changing Attitudes*, *supra* note 271, at 68 (arguing that reducing hostility can function to facilitate an environment of mutual trust and encourage negotiation).

279. See *id.* at 69-73, 85 (proposing a formula to change the entrenched, hostile attitudes of adversaries).

280. See *id.*

281. See *id.*

282. See *id.*

evolves into a factor which becomes part of that side's definition for him or her, and, eventually, becomes an element in his or her evaluation of that side.²⁸³ Consequently, an individual may be prepared to alter his or her attitude toward the other, since the other is one with whom he or she cooperated, became friendly, and agreed, since due to the circumstances, positive interaction had been promoted between the two. He or she will thus be more amenable to new information calling for an altered attitude relative to the other side within the framework of this positive interaction.²⁸⁴

D. EDUCATION, SOCIALIZATION, MASS MEDIA, AND CULTURE PRESERVATION

Since relations and attitudes between varied ethnic groups are the result of a continuous and lengthy development process, long-term educational programs for inculcating positive and stable relations and attitudes must commence early.²⁸⁵ Schools are one example of a societal group that establishes norms.²⁸⁶ Therefore, new attitudes and values must be developed through the existing educational system.²⁸⁷ Intergroup contact stressing emotional and societal aspects of intergroup and interpersonal interactions may be effective as part of an integrated program that also includes cognitive contents.²⁸⁸ A

283. See Kelman, *Changing Attitudes*, *supra* note 271, at 85-86.

284. See *id.* at 86. Yet, since behavior alone simply supplies the openness and motivation for accepting and analyzing supporting information, positive interactions alone are not sufficient. To positively alter attitudes, friendly interaction must combine with truly new information. See *id.*

285. See Ben-Ari & Amir, *supra* note 69, at 55 (stating that because of the ingrained quality of attitudes and beliefs, long-term educational programs are preferable to workshops which typically meet only once).

286. See Scott, *supra* note 146, at 96 (describing the many "norm-providing groups" within a society, including family and schools). In the past, however, the data supporting this finding was less direct. See *id.*

287. See Ben-Ari & Amir, *supra* note 69, at 57 (arguing that the "contact" methods of improving relations between Jews and Arabs in Israel is inadequate because of, among other things, the lack of geographic proximity and common language).

288. See *id.* (suggesting that because of the limits imposed on the contact method by geographical location and lack of a common language, a curriculum using the cognitive approach may be more effective—at least initially—than face to face interaction).

broad-based educational program could establish a powerful element for instituting peaceful relations between Arabs and Jews.²⁸⁹ Such a comprehensive program would provide a formal environment for Jewish-Arab contact, thereby encouraging peaceful coexistence between them.²⁹⁰ It is therefore crucial that these educational efforts accompany and follow successful peacemaking.²⁹¹ These efforts, in turn, will promote and help preserve open borders and peaceful relations. As in Northern Ireland, psychiatrists and psychologists believe that an integrated educational system could facilitate

289. *See id.* at 58 (arguing that such an educational program can validate and stabilize Arab-Jewish relations in Israel).

290. *See id.* (explaining that a general program with a wide scope in the education framework would lend institutional support and would legitimize relations between Israeli Jews and Israeli Arabs).

291. *See* Rouhana & Kelman, *supra* note 136, at 176; Hirschfeld, *supra* note 160, at 96 (arguing that a long-term peace education plan is necessary to change the long-standing bitterness between Israelis and Palestinians). The experience in Northern Ireland may be instructive in this respect. Schools have used a formal curriculum as a framework, within which intervention projects of a long-term nature have been designed to enhance mutual understanding and contact. *See* Knox & Hughes, *supra* note 131, at 86 (describing the various successes and failure of the "contact hypothesis" and integrated schools in particular). The Department of Education for Northern Ireland ("DENI") has acknowledged and acted on its statutory duty to sponsor and formulate policies for improving community relations. *See* Trew, *supra* note 101, at 104. For example, DENI financially supported activities like community relations holidays and encouraged development projects for schools designed to create an environment for children that is free from hatred, fear, or ignorance of people from whom they are educationally segregated. *See id.* Serious attempts at enhancing cooperation between Protestant and Catholic schools, and promoting joint activities between students from diverse religious backgrounds, have taken place. *See id.* For instance, two interdisciplinary themes, which encompassed cultural traditions and mutual appreciation, were part of a major educational reform program initiated in Northern Ireland. *See* Knox & Hughes, *supra* note 131, at 85. In analyzing the efficacy of the program, which was created to teach children to learn to respect others as well as themselves, and to understand and gain knowledge about both the shared and different aspects of their cultural heritage, observers concluded that, while students lean to preserving allegiance to their own national group, the result of teaching subjects like history in a more objective fashion allowed the students to develop more critical attitudes of their own groups and to move away from a polarized perception of society in Northern Ireland. *See id.* at 85-86. Once again, even the detractors of the contact theory, who think that these schemes will not alter society, admit that contact may help diminish some of the ignorance barriers. *See* Trew, *supra* note 101, at 104.

enhanced intergroup relations. They therefore view complete pupil integration in all levels of education as the single most important factor in breaking down community barriers and maintaining peace on a long-term basis.²⁹²

Both the Palestinian and Israeli school systems should teach how to resolve conflicts without the need to resort to violence in addition to encouraging comprehension and appreciation of the former antagonist's justified goals and wishes.²⁹³ A basic objective of peace education is to implant in each society²⁹⁴ the fact that those living on

292. See Trew, *supra* note 101, at 104. While the Northern Ireland interdisciplinary scheme was developed in the framework of its segregated schools, planned integrated schools have emerged since the mid-1980s from the belief that a segregated school system perpetuates the conflict and preserves negative social attitudes. See Knox & Hughes, *supra* note 131, at 86. The contact hypothesis helped inspire the development of integrated schools. See *id.* An environment for children where cultural diversity is tolerated and appreciated is encouraged by integrated education in the schools. Developing a set of less polarized social attitudes and creating inter-religious friendships among students resulted in the positive social effect of religious interaction in Northern Ireland's first such school. See *id.* However, it has been argued that research data in this area is equivocal since, according to certain findings, attendance in an integrated grade school, after seven years, had little or no effect on pupils' intergroup perceptions. See *id.* Although an integrated Belfast school's students developed less polarized attitudes, the change was attributed to the fact that they had adopted strategies to avoid mixed community intergroup relations. See *id.* The detractors of such integration processes allege that advocates of integrated schools lost sight of the fact that Northern Ireland's schools are segregated because both Catholics and Protestants have separate educational goals. See Trew, *supra* note 101, at 104. For example, Catholics desire denominational schools to affirm the practices and convictions of their faith that are taught in the homes. See *id.* Moreover, it has been asserted that there is little support for the theory that education systems, by themselves, have an impact on social values embedded in society. See *id.* Further, some researchers have concluded that, notwithstanding the fact that formal education's possibilities for affecting non-positive social attitudes were present, it should not be overestimated since the home environment was found to be the most important determining factor for social attitudes. See Knox & Hughes, *supra* note 131, at 86. Note that we are not contending in our article that any action or contact should take place in isolation. Rather, the cumulative effect of all human activities is, and will be, the determinative factor for enhancing open borders and peaceful relations.

293. See Hirschfeld, *supra* note 160, at 99 (listing the two main functions of peace education as instruction in non-violent dispute resolution strategies and acceptance of the legitimate aspirations of the former enemy).

294. See Landau, *supra* note 137, at 69 (arguing that schools should teach non-

“the other” side have a basic, fundamental right to live in an atmosphere free from fear.²⁹⁵ The parties, therefore, must work jointly to develop ideas for solutions that deal equally with one another’s concerns and needs. Both sides require an opportunity to understand and explore the constraints, concerns, and needs of the other.²⁹⁶ The goal is to create appreciation, recognition, and understanding in each society regarding the *other’s* security, stability, and peace demands.²⁹⁷ Each side must understand that the other has its own needs, visions, and purposes as well.²⁹⁸ In other words, the idea is to

violent methods of expressing anger and grief over the conflict).

295. See Hirschfeld, *supra* note 160, at 99 (stating that an important aspect of the peace education process is teaching Palestinians that Israel has an inalienable right to exist without fear and that Israel’s security concerns are legitimate). See generally Landau, *supra* note 137, at 69-70 (arguing that once people understand that the other side has strengths and weaknesses then it becomes easier for both sides to learn more about one another and how to peacefully coexist).

296. See Rouhana & Kelman, *supra* note 136, at 158, 174.

297. See Hirschfeld, *supra* note 160, at 99 (describing a meeting between Israelis and Palestinians and how the ability to speak openly with one another about their concerns created a sense of equality and respect); Gershon Baskin, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES 98 (Gershon Baskin & Zakaria al Qaq, eds. 1998) (acknowledging that while both Israelis and Palestinians have valid concerns about their security, not all so-called security measures currently in place address security problems); Hillal Adiri, *in id.* at 98; Mohammad Shtayyeh, in *Minutes of Conference on Labor Migration, in LABOR MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL*, *supra* note 262, at 127, 184-85; Gabi Bar, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra*, at 100. But see Samir Hulaileh, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra*, at 90 (arguing that many of the Israeli government’s concerns are political and not security-related).

298. See Kelman, *The Political Psychology of the Israeli-Palestinian Conflict*, *supra* note 121, at 361-62; see generally Irving L. Janis & M. Brewster Smith, *Effects of Education and Persuasion on National and International Images*, in INTERNATIONAL BEHAVIOR: A SOCIAL PSYCHOLOGICAL ANALYSIS, *supra* note 146, at 190, 213. One way to accomplish this goal is to avoid directly attacking existing stereotypes to create more understanding and tolerance. See *id.* at 213. This might be accomplished by carefully choosing subsidiary or minor issues to attack from the side in which less resistance, relatively speaking, might be expected. See *id.* For example, Soviets and Americans during the Cold War viewed, in a stereotypical fashion, the other side as being too treacherous or hostile to be trusted to abide by an international agreement. See *id.* Thus, a more sophisticated and varied perspective might be substituted if side attacks, taking the place of direct assaults, were focused on such matters as family life patterns of the

create an appreciation, awareness, and understanding in the Palestinian society that the sensibilities of Israelis revolving around security and the battle against terrorism are valid and authentic.²⁹⁹ Likewise, Israelis must develop an appreciation, awareness, and understanding that Palestinian demands for a separate entity, economic security, and recognition of their dignity³⁰⁰ are also valid and authentic.³⁰¹ To resolve the conflict between them in a mutually satisfactory fashion, both sides' needs must be met. Each concerned party must have a chance to understand and examine the other's limitations, worries, and needs, and they must both search together to jointly create possible solutions that address such concerns and requirements in an equal manner.³⁰²

"Human history," wrote H.G. Wells, at the end of his *OUTLINE OF HISTORY*, "becomes more and more a race between education and catastrophe."³⁰³ Education, therefore, can become an effective mechanism of socialization for coexistence and peace.³⁰⁴ Negative stereotypes of each side, which developed over time due to the disaffection and the distance between the parties, must be confronted

rival side; medical, cinema, and literary accomplishments; and leisure-time activities. *See id.* The respective audiences may tend to become more accepting of the other side once they realize that the "others" are not really that different from themselves. *See id.* Hence, introducing a succession of minor exceptions to the rule that the other side only contains evil people eventually may result in the break down of the rule itself. *See id.*

299. *See* Hirschfeld, *supra* note 160, at 99 (describing peace education and its major functions).

300. *See* Khayyat-Dajani, *supra* note 262, at 163 (emphasizing the role that human dignity has played in Palestinian labor migration).

301. *See, e.g.,* Herbert C. Kelman, *Building a Sustainable Peace: The Limits of Pragmatism in the Israeli-Palestinian Negotiations*, 28 J. PALESTINE STUD. 36, 47, 49 (1998) [hereinafter Kelman, *Building a Sustainable Peace*] (stating that while the Oslo Agreement's demonstration of mutual recognition is a good beginning, both sides must agree that the other has a valid right to exist).

302. *See* Rouhana & Kelman, *supra* note 136, at 158 (applying the interactive problem-solving model to conflict resolution through its use of psychological analysis of the individual in international conflict and conflict resolution).

303. H.G. WELLS, *OUTLINE OF HISTORY, BEING A PLAIN HISTORY OF LIFE AND MANKIND* 1198 (1949); Landau, *supra* note 137, at 66 (quoting Wells).

304. *See* Hassassian, *supra* note 247, at 56 (discussing the importance of education for peace as part of the socialization process).

through effective teaching methods.³⁰⁵ Skilled group leaders could utilize mixed encounter role reversals and simulation exercises to overcome conditioned “ideological reflex” responses.³⁰⁶ Educational institutions on both collective and individual levels could help allay the mutual fears and emotions of Israelis and Palestinians.³⁰⁷

Both sides must strive to develop educational contexts that embrace multicultural learning in order to appreciate each side’s history, language, and culture.³⁰⁸ In this framework of multicultural learning, which, in essence, means learning about the cultures of others,³⁰⁹ Palestinians and Israelis could participate jointly in social activities, student exchange programs,³¹⁰ and joint field trips. Multicultural learning can involve several elements, including developing positive feelings about other groups to reduce prejudices;³¹¹ recognizing stereotypes that are culturally biased;³¹² instructing with an emphasis on recognizing the achievements of others in all of life’s facets to demonstrate tolerance and diversity;³¹³ teaching students to recognize that varied viewpoints within a

305. See Landau, *supra* note 137, at 66 (challenging parents and educators to work toward “re-humanizing the enemy” through educational tools and programs).

306. See *id.* at 68 (stating that such exercises can facilitate the development of empathy for the other side).

307. See *id.* at 69 (arguing that the education system must adopt more programs which address the emotional and creative needs of their students in order to facilitate understanding of the other side’s emotional landscape).

308. See Aweiss, *supra* note 263, at 73 (providing a definition of multicultural education, which involves learning about other cultures, and explaining several multicultural teaching methods).

309. See *id.* (explaining that in this context, multicultural education is the teaching about the culture of others).

310. See *id.* at 74 (listing the use of books and materials from the other culture and the participation in the other culture’s religious ceremonies as ways students can learn about the other culture); see also Landau, *supra* note 137, at 67 (believing, however, that student exchanges will not occur in the immediate future because both sides need time to arrange and prepare for such exchanges).

311. See Aweiss, *supra* note 263, at 73 (stating that prejudice reduction is an essential aspect of multicultural education).

312. See *id.* at 74 (suggesting that schools should create a climate where students are instructed on how to identify such stereotypes).

313. See *id.* at 73.

discipline can influence the development of that discipline;³¹⁴ training the teaching staff to promote the instructors' appreciation and sensitivities for tolerance-encouraging strategies;³¹⁵ and national and regional joint collaborative academic and education efforts designed to increase the positive relationship between Israeli and Arab educators and academics in order to encourage idea exchanges pertaining to additional ways to include educators in strategies for resolving conflicts.³¹⁶ In short, awareness and appreciation of, and sensitivity for, the other side's viewpoints, customs, and beliefs could evolve through learning about the cultures of others, or in other words, multicultural learning, despite the fact that students may have entered school with misconceptions and negative ideas concerning other ethnic and racial groups.³¹⁷

Beyond the classroom's contribution to tolerance, reconciliation, and peace, the roles that mass media and other methods of electronic communication play are crucial.³¹⁸ Thus, the involvement of mass-media communication, which contributes to stereotyping groups since such misapprehensions often are created without physical contact with the typecast group, can actually serve an important function: they improve images of the other group by communicating materials that demonstrate that a common humanity knows no group boundaries.³¹⁹ The Israeli and Palestinian co-production of the half-hour series "Sesame Street" demonstrates the mass media's presence and impact on modern cultures.³²⁰ Additional forms of technology, such as CD-ROM programs and video and computer games, should also be used to assist in the development of positive images of the other group.³²¹

The goal of all of these efforts is that, instead of dwelling on the enmity of the past, both sides will look for common ground to find

314. *See id.*

315. *See id.* at 74.

316. *See* Aweiss, *supra* note 263, at 74.

317. *See id.* at 73.

318. *See id.* at 71.

319. *See* Pettigrew, *supra* note 146, at 190.

320. *See* Landau, *supra* note 137, at 67.

321. *See id.*

the positive aspects of the other side. Nonetheless, use of the term "open borders" does not imply, necessarily, a "single culture." For EU Member States, for example, the Maastricht Treaty states that the Community "shall contribute to the flowering of the cultures of the Member States,"³²² and respect their regional and national diversity while at the same time bringing to the fore common cultural heritage.³²³ Moreover, Community action is to be geared toward promoting, supplementing, and supporting Member State cooperation in European historical and cultural dissemination, knowledge improvement, and heritage safeguarding and conservation.³²⁴ Thus, it is clear that, as pertains to cultural preservation or promotion, the primary responsibility rests with the Member States, and community action in this domain is meant to be supplementary.³²⁵ Furthermore, other provisions of the Maastricht Treaty require the Community to take such cultural aspects into account.³²⁶ Accordingly, respect for regional and national cultural diversity and the multitude of traditions thus existed from the outset alongside the important function cultural action was to have in the EU's commercial and economic strategy.³²⁷

VII. PALESTINIAN STATE

It is a foregone conclusion to most observers that at some point soon, whether through the Palestinian-Israeli peace process or outside of it, a sovereign and independent Palestinian state will

322. Treaty Establishing the European Community, Feb. 7, 1992, arts. 3(p), 128, O.J. (C 224) 1 (1992), [1992] 1 C.M.L.R. 573 (1992) [hereinafter EC TREATY].

323. See *id.* art. 128.

324. See *id.*; Joseph A. McMahon, *The Protection of Cultures*, in *THE FRONTIERS OF EUROPE*, *supra* note 5, at 205.

325. See McMahon, *supra* note 324, at 206.

326. See EC TREATY art. 128, cl. 4.

327. See McMahon, *supra* note 324, at 216. Yet, it will not be a simple task to bridge cultural and economic goals in light of the integrating Community's historically-significant economic objectives. See *id.* If diverse regional and national cultures and traditions are to be respected, however, this cultural and economic bridging is required. See *id.* When viewed in this fashion, borders must exist to protect national cultures, which means accepting some economic protection in order to encourage cultural protection. See *id.*

ultimately be established,³²⁸ de jure,³²⁹ although many already see a de

328. See, e.g., Aluf Ben, *Israel Prepares for a Unilateral Palestinian Declaration*, HA'ARETZ, Sept. 24, 2000, at 4A (in Hebrew) (on file with author); Ravital Levi-Stein, *Oded Eran: A Palestinian State will be the Result of the Talks*, HA'ARETZ, May 2, 2000, at 3A (in Hebrew) (on file with author); Dov Alfon, *Sharon: The Autonomy Will Eventually Lead to a Palestinian State*, HA'ARETZ, Jan. 14, 1999, at 7A (in Hebrew) (on file with author); *A State Called Palestine*, ECONOMIST, Oct. 17, 1998, at 17-18; Dani Rubenstein & Itim, *Peres Expressed Support for a Palestinian State and Was Showered With Cheers in the Palestinian Parliament in Ramallah*, HA'ARETZ, Jan. 12, 1999, at 6A (in Hebrew) (on file with author); see also Newman, *Boundaries in Flux*, *supra* note 60, at 1. As a practical matter, for an entity to enjoy the benefits and status of statehood, a large number of states must recognize it as an entity and treat it as a state. See 1 RESTATEMENT (THIRD) OF FOREIGN RELATIONS §202, cmt. b (1987); see also Kathryn M. McKinney, *The Legal Effects of the Israeli-PLO Declaration of Principles: Steps Toward Statehood for Palestine*, 18 SEATTLE U. L. REV. 93, 95 n.13 (1994) [hereinafter McKinney, *The Legal Effects*]. The ECONOMIST pointed out that in Algiers, on November 15, 1988, Yasser Arafat declared an independent state of Palestine, which approximately 60 states recognized almost immediately. See *Palestine by Proclamation*, ECONOMIST, Dec. 21, 1996, at 13. Some sixty or so others have since recognized it as well. See *id.* In a later article, however, The ECONOMIST, using the Palestinians as an example, explained that nations are able to exist without being states. See *Borders: Good Fences*, *supra* note 66, at 20.

329. The Convention on Rights and Duties of States, signed at Montevideo, Dec. 26, 1933, art. 1, 49 Stat. 3097, 165 L.N.T.S. 19 [hereinafter Montevideo Convention] stipulates four qualifications for statehood: a permanent population; a defined territory; government; and capacity to enter into relations with other states. See *id.*; see also ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 123; Wilson & Donnan, *supra* note 81, at 9. The Montevideo Convention provides the classical definition of a "state." See Hurst Hannum & Richard B. Lillich, *The Concept of Autonomy in International Law*, 74 AM. J. INT'L L. 858, 886 n.170 (1980). The Montevideo Convention, reflecting customary international law in this respect, sets forth the criterion for the determination of statehood and represents the declaratory approach to being regarded a state under international law. The declaratory approach to being a state means that if an entity meets these objective criteria, it is considered a state. See GERHARD VON GLAHN, *LAW AMONG NATIONS: AN INTRODUCTION TO PUBLIC INTERNATIONAL LAW* 57-58 (5th ed. 1986). Under this approach, there is no need for any formal action as such on the part of other states. See McKinney, *The Legal Effects*, *supra* note 328, at 95, 105; Fred C. Morrison, Comment, *Recognition in International Law: A Functional Reappraisal*, 34 U. CHI. L. REV. 857, 861-63 (1967). Some believe that a Palestinian state exists since it now possesses the attributes necessary for recognition as a state under international law. See, e.g., Richard Wilner, *Nationalist Movements and the Middle East Peace Process: Exercises in Self-Determination*, 1 U.C. DAVIS J. INT'L L. & POL'Y 297, 326 n.124 (1995) (arguing that the Palestinian state has a permanent population, a defined territory, reflecting the borders implanted by the Partition Resolution of the United Nations General

facto state in existence,³³⁰ since it appears that many symbolic indications of statehood are now in place. For example, the Palestinians already have a separate international dialing code, postage stamps,³³¹ a national flag, travel documents,³³² and an intent to raise the level of Palestinian diplomatic representation throughout the world in countries that have yet to recognize fully a Palestinian state.³³³ Moreover, it seems that Israel has already indicated in

Assembly of November 1947 and the Palestine Mandate; a government, the PLO/Palestinian Authority; and the capacity to enter into relations with other states, which the PLO/Palestinian Authority has been doing with respect to the Palestinian state's economic development); *see also* McKinney, *The Legal Effects*, *supra* note 328, at 115, 118, 125, 127-28; *Palestine by Proclamation*, *supra* note 328, at 13. Many international legal writers, however, believe that under international law, the Palestinian entity does not fulfill the necessary criteria to qualify for statehood. *See, e.g.*, Louis Rene Beres & Zalman Shoval, *Why a Demilitarized Palestinian State Would Not Remain Demilitarized: A View Under International Law*, 11 TEMPLE INT'L & COMP. L. J. 347, 349-50, 350 n.9 (1997); *see also* Omar M. Dajani, *Stalled Between Seasons: The International Legal Status of Palestine During the Interim Period*, 26 DENV. J. INT'L L. & POL'Y 27, 79-89 (1997); J.D. van der Vyver, *Statehood in International Law*, 5 EMORY INT'L L. REV. 9, 11 n.6 (1991); Eyal Benvenisti, *The Status of the Palestinian Authority*, in THE ARAB-ISRAELI ACCORDS: LEGAL PERSPECTIVES 47, 58-59 (Eugene Cotran & Chibi Mallat, eds. 1996); Frederic L. Kirgis, Jr., *Admission of 'Palestine' as a Member of a Specialized Agency and Withholding Payment of Assessments in Response*, 84 AM. J. INT'L L. 218, 219-20 (1990). The customary view has long held that the Palestinian entity is not a state since it has not fulfilled the declaratory approach's objective requirements. *See* McKinney, *The Legal Effects*, *supra* note 328, at 95, 114.

330. *See, e.g.*, Aluf Ben, *The Foreign Minister is Against an Early Transfer of Abu Dis to the Palestinians*, HA'ARETZ, May 2, 2000, at 1A (in Hebrew) (on file with author); Amira Hess, *The Central Council of the PLO: The State is an Existing Fact*, HA'ARETZ, Apr. 30, 1999, at 8A (in Hebrew) (on file with author). The Central Council of the PLO adopted a decision that stipulated that the Palestinian state is an existing fact based on natural rights, United Nations General Assembly Resolution 181 [the Partition Resolution of November 1947], and its Declaration of Independence of 1988. *See id.* The Chairman of the Palestinian Authority, Yasser Arafat, has stated that the Palestinian state, in essence, already exists. *See* Yareach Tal et al., *Netanyahu: I Prevented the Declaration of a Palestinian State*, HA'ARETZ, May 5, 1999, at 4A (in Hebrew) (on file with author).

331. *See* *Netanyahu Outside the Picture*, HA'ARETZ, Apr. 19, 1999, at 1A (in Hebrew) (on file with author) (presenting the picture of a Palestinian Authority stamp commemorating the signing of the Wye River Accords of October 1998).

332. *See* Newman, *Demarcating a Boundary*, *supra* note 22, at 173.

333. *See* Yareach Tal et al., *Israel Opposes the Intention of the Palestinians to*

principle, albeit reluctantly, that it may give its consent in the near future to the establishment of a Palestinian state.³³⁴

VIII. MENTALLY IMPRINTED BORDER PERCEPTIONS

The rigid and restricted border, which separated Israel and the West Bank from 1949 to 1967,³³⁵ became extremely permeable,³³⁶ or, in essence, "erased" in the period following June 1967.³³⁷ Its "presence," however, remains strongly etched in the minds³³⁸ of people on both sides of the "green line,"³³⁹ —the pre-1967 border.³⁴⁰ The green line functioned as a cognitive schism to exclude and

Raise the Level of Its [sic] Missions in the World, HA'ARETZ, May 3, 1999, at 12A (in Hebrew) (on file with author).

334. See Akiba Eldar, *Israel Will Agree in February to a Palestinian State*, HA'ARETZ, Nov. 1, 1999, at 1A (in Hebrew) (on file with author); Dalia Shahori, *The Prime Minister Hints Regarding his Support for the Establishment of a Palestinian State*, HA'ARETZ, Apr. 10, 2000, at 2A (in Hebrew) (on file with author).

335. See Shalit, *supra* note 250, at 368.

336. See *id.* at 365, 370.

337. See *id.*

338. One observer assesses that the hardest borders are not the ones on the ground, but rather, they are the ones imprinted in peoples' minds. See Raimondo Strassoldo, *supra* note 81, at 88. Another scholar speaks generally of the "divergent mental images" of borders. See Anderson, *European Frontiers*, *supra* note 5, at 5. Another views borders as ambiguous and amorphous "matters of consciousness." See Cohen, *supra* note 105, at 28. Borders leave complicated and intricate imprints on the mind, and have an impact on peoples' consciousness and culture. See Strassoldo, *supra* note 81, at 87. Consequently, mentally imprinted borders are more difficult to dismantle. See *Borders: Good Fences*, *supra* note 66, at 21.

339. See David Newman, *Demarcating a Boundary*, *supra* note 22, at 174; see also Muhammad Nakhal, *Closure and Borders*, 3 (3-4) PALESTINE-ISR. J. POL., ECON. & CULTURE 118, 121 (1996); Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 80; Shalit, *supra* note 250, at 370.

340. See Shalit, *supra* note 250, at 370. The "green line," which developed after the Armistice Agreements with Egypt, Jordan, Lebanon, and Syria in 1949, resulted in Arab ethnic and geographic dislocation. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 31. Some of these Arabs became Israeli citizens, while others in the West Bank became citizens of Jordan, which then controlled and administered the West Bank. See *id.*

confine the other side.³⁴¹ The green line has stayed in the collective consciousness of people following the opening of the border in 1967³⁴² in a manner similar to that of the Berlin Wall, which continues to symbolize the numerous differences between the reunified inhabitants of Berlin.³⁴³ Comparable to the green line in Israel, this separation line in Germany still exists not as a tangible, visible border but as a “border of the mind” and as a separation of standards of living despite massive funds transfers from Germany to the area formerly constituting East Germany.³⁴⁴

A perceptible impression of a border separation³⁴⁵ between Israelis and Palestinians exists in the formal prohibition, for instance, on West Bank and Gaza Arab workers who remain overnight within Israel “proper”—within the green line.³⁴⁶ These restrictions, however, have been eased so that Palestinian workers in Israel now can receive permits to extend their work until late evening hours or even overnight.³⁴⁷ In addition, different military and civilian laws have

341. See Shlomo Hasson, *From Frontier to Periphery in Israel: Cultural Representations in Narratives and Counter-Narratives*, in *ETHNIC FRONTIERS AND PERIPHERIES*, *supra* note 66, at 123, 126.

342. See *id.* at 126-27.

343. Cf. Wilson & Donnan, *supra* note 81, at 24; see also Bort, *supra* note 81, at 91. The Berlin Wall has been the origin of great fear and fantasy. The Cold War's most physical symbol of the separation of the world into two entities in one city, in a previously unified state, was the Berlin Wall. See John Borneman, *Grenzregime (Border Regime): The Wall and Its Aftermath*, in *BORDER IDENTITIES*, *supra* note 81, at 162, 165-68. Like most others, this border limited, restricted, confined, contained, and separated people while it produced desire by developing yearnings, hatred, love, monsters, heroes, and traitors. See *id.* at 179. Understandably, adults perceive this “mental” wall as more sturdy than do children. See *id.* at 182.

344. Cf. Bort, *supra* note 81, at 104.

345. See Newman, *Demarcating a Boundary*, *supra* note 22, at 174; Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 80.

346. See Shalit, *supra* note 250, at 371; Nakhal, *supra* note 339, at 121-22. As a practical matter though, many Arab workers do spend the night in Israel. See, e.g., *The Police: Illegal Lodging—A Serious Offence*, HA'ARETZ, Sept. 28, 1999, at 7A (in Hebrew) (on file with author). They often sleep in primitive facilities and orange groves. See Shalit, *supra* note 250, at 371.

347. See Amos Harel & Merav Sheri, *The Labor Ministry Initiates an Information Campaign to Encourage the Employment of Palestinians in Israel*, HA'ARETZ, Mar. 20, 1998, at 9A (in Hebrew) (on file with author). For example, by August of 1998, about 5,000 Gaza Strip laborers were permitted to spend the

been implemented on each side of the green line since 1967.³⁴⁸

Mutual fears of Israelis and Palestinians have also helped to promote the perception of a border separation in the sense that crossing the “nonexistent” or “invisible” border between the two sides is, if possible, often avoided by both.³⁴⁹ In fact, there exists a division between Israelis and Palestinians in Jerusalem, despite their physical proximity to each other, due to the lack of social, economic, ethnic, and religious homogeneity.³⁵⁰ Palestinians may tend to think twice before, or may not even consider at all, crossing from the East side of Jerusalem to the West side, while many Israelis feel that venturing into the Old City of Jerusalem, or traveling through the West Bank for that matter, is too dangerous.³⁵¹ Accordingly, fewer Israelis than before enter Gaza and the West Bank,³⁵² and many will now consult maps to avoid traversing the green line and to circumvent the West Bank totally.³⁵³ In fact, parents often do not permit their children to participate in school trips that will cross the

night in Israel. See Israeli Ministry of Foreign Affairs & Ministry of Defense, *Israeli-Palestinian Economic Relations August 1998* (visited Aug. 27, 2000) <<http://www.israel-mfa.gov.il/mfa/go.asp?MFAH07sc0>> [hereinafter *Israeli-Palestinian Economic Relations*]. As of early 1998, however, few of the overnight permits had actually been used. See Harel & Sheri, *supra*, at 9A.

348. See Economic Office at Orient House, *Israeli Impediments to Investment in Palestine*, 3 (3-4) PALESTINE-ISR. J. POL., ECON. & CULTURE 152, 156 (Summer 1996) (pointing out that in the territories numerous military regulations and orders are in effect); see also Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 30 (observing the role of military regulations in response to changes in regional demographics).

349. See Newman, *Demarcating a Boundary*, *supra* note 22, at 174; Mohammed Dajani, in *Presentations and Discussions*, in SCENARIOS ON THE FUTURE OF JERUSALEM, *supra* note 268, at 105, 129, 137 [hereinafter Dajani, in *Presentations and Discussions*] (discussing and comparing administrative and socioeconomic divisions among Israelis and Palestinians); see also Shalit, *supra* note 250, at 373 (analyzing the psychological ramifications of perceived geopolitical boundaries).

350. See Nakhal, *supra* note 339, at 120.

351. See Dajani, in *Presentations and Discussions*, *supra* note 349, at 137 (observing the effect of socio-economic divisions on separation between East and West Jerusalem).

352. See Shalit, *supra* note 250, at 370, 373 (noting the effects of the Six-Day War on the curtailment of trans-border traffic).

353. See Newman, *The Functional Presence of an ‘Erased’ Boundary*, *supra* note 102, at 87-88.

“nonexistent” border.³⁵⁴ This is a common reaction, since studies show that once a group is considered an enemy, information processing entertains biases respecting the group’s actions.³⁵⁵ The crossing of the border becomes tantamount to passing into a forbidden or dangerous land due to a superstitious, all-encompassing fear surrounding closed borders that act as transition lines between two different worlds.³⁵⁶

Curfews and closures, imposed following terrorist attacks and other violent acts, preventing Palestinians from entering Israel, and identity checks at army roadblocks³⁵⁷ often established at these “erased” borders³⁵⁸ between the West Bank and Israel,³⁵⁹ give the

354. See *id.* at 88.

355. See generally Brett Silverstein & Catherine Flamenbaum, *Biases in the Perception and Cognition of the Actions of Enemies*, 45(2) J. SOC. ISSUES, 51, 52-77 (1989) (theorizing the existence of a correlation between cultural biases and behavioral perceptions).

356. See ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 6 (analyzing the sociological and psychological factors which have historically contributed to de facto geographic boundaries); see also David Newman, *Boundaries in Flux: The ‘Green Line’ Boundary Between Israel and the West Bank – Past, Present and Future*, in I BOUNDARY AND TERRITORY BRIEFING 1, 23 (Clive Schofield, ed. 1995) [hereinafter Newman, *Boundaries in Flux*] (discussing the ways in which the *intifada* reinforced *de facto* geographic boundaries).

357. The checkpoint at the entrance to Jerusalem provides a good example of this as border patrol soldiers authoritatively indicate who shall pass and who shall be required to remain in line, subject to a security check. See Amos Harel, *The Israeli-Palestinian Common Market*, HA’ARETZ, Aug. 30, 1999, at 6A (in Hebrew) (on file with author). For further discussion regarding closures, see *infra* note 757.

358. See Nakhal, *supra* note 339, at 118-19.

359. As part of the European Union’s attempts to police its external borders, spot-checks are permitted in the zone adjacent to the EU’s outer borders. See Bort, *supra* note 81, at 94. For further discussion on spot checks and restrictions on movement and their rationale within the European Union context, see *infra* notes 389-393 and accompanying text. Moreover, the Advocate-General at the European Court of Justice has indicated that border authorities have been permitted to question individuals behaving suspiciously, or in situations where there is a special threat to public security. The Proposal for a Council Directive on the Elimination of Controls on Persons Crossing Internal Frontiers of July 1995, does not prevent national laws from requiring individuals to carry documents, such as an identity card or a driver’s license. See Peter Cullen, *Frontier Issues before the European Court of Justice*, in THE FRONTIERS OF EUROPE, *supra* note 5, at 187, 196 (noting that inspection of these documents by police does not violate the law of the

impression at least that the green line serves as more than a simple administrative or "nonexistent" border.³⁶⁰ Borders between two states commonly offer points of entry and exit for their nationals. Security checkpoints and closures, like other Israeli security measures, create a situation allowing Israelis to enter the West Bank and Gaza freely—without permits. Israel allows West Bank and Gaza Strip Palestinians into Israel only if they have valid entry permits, which constitute a sort of "visa" similar to what most countries require foreign nationals to possess for entry.³⁶¹ The fact, incidentally, that traffic jams have occurred at the Erez Checkpoint between Israel and Gaza, and that fees are levied for using Israeli-operated forklifts³⁶² are issues that are reminiscent of complaints surrounding cross-border trucking between Mexico and the United States. Although the North American Free Trade Agreement ("NAFTA")³⁶³ was designed to terminate cross-border controls by the end of 1995, long lines of traffic due to lengthy border checks still persisted years later. Moreover, after enduring such a trying experience at the Mexican-American border, truckers, who are restricted to a narrow border strip in each country, must offload their shipment and return to their country of origin.³⁶⁴

Thus, from both a functional and a perceptual standpoint, the

European Community).

360. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 90; see also Nakhal, *supra* note 339, at 119-20, 123; Amira Hess, *Is Israel Trying to Isolate Bethlehem?*, HA'ARETZ, Sept. 24, 1999, at 3A (in Hebrew) (on file with author).

361. See Nakhal, *supra* note 339, at 119-22.

362. See *Israeli Impediments*, *supra* note 348, at 156 (discussing the extensive security procedures undertaken for Palestinian imports); see also Amos Harel, *The Normal Traffic at the Karni Checkpoint Has Been Resumed*, HA'ARETZ, Mar. 26, 1999, at 6A (in Hebrew) (on file with the author).

363. For further discussion of the North American Free Trade Area, see *infra* notes 700-708, 715-749 and accompanying text.

364. See *The Trucks That Hold Back NAFTA*, ECONOMIST, Dec. 13, 1997, at 23. Commercial vehicles are only allowed to freely traverse the six Mexican states and the four American states that comprise the region of the border, even pursuant to NAFTA's stipulations. See *id.* In the United States it was contended that the Mexican trucks were not safe and, thus, should be prevented from traveling on American highways. See *id.* In addition, the United States refused to implement a provision designed to allow commercial bus service across the border. See *id.*

“nonexistent” border between the Palestinians and the Israelis definitely exists in reality,³⁶⁵ as evinced by the daily Israeli and Palestinian activity patterns and the unambiguous perceptions in their minds.³⁶⁶

IX. OPEN/CLOSED BORDER PARADOXES

It is rather paradoxical that those among the Israelis and Palestinians who presumably would have favored the disappearance of any semblance of a border probably have done the most to preserve it.³⁶⁷ For instance, the same Arab “enemy,” who must be controlled on the other side of the green line, legally is allowed into Israel proper to work.³⁶⁸ Many of these workers also often dwell on the Israel side of the green line.³⁶⁹ Moreover, various sectors of the public and many politicians in Israel—both in and out of government—have made demands following violent acts³⁷⁰ to restrict, more severely, Palestinian freedom of movement within Israel.³⁷¹ Ironically, many of the same people make a great effort to

365. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 29 (addressing the development of geographic divisions resulting from the threat of the *intifada*).

366. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102 at 74; see also Nakhla, *supra* note 339 at 120, 123. Similarly, the two totally separate systems of health and welfare, administration, and education have created invisible barriers differentiating the social life on both sides of the Republic of Ireland-Northern Ireland border. See O'Dowd & Corrigan, *supra* note 81, at 129.

367. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 90.

368. See Shalit, *supra* note 250, at 371 (observing the effects of regional ethnic polarization on the composition of the Israeli work force).

369. See *id.* at 371-73. For further discussion, see *supra* notes 346-347 and accompanying text.

370. See Barzilai & Peleg, *supra* note 2, at 64 (noting the impact of Israeli domestic policies on territorial and regional stability).

371. See Newman, *The Functional Presence of an 'Erased' Boundary* *supra* note 102, at 90; Ezra Sadan & Ruth Lowenthal, , 4 (3-4) PALESTINE-ISR. J. POL., ECON. & CULTURE 151, 152 (1997); Ezra Sadan, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 98-99 (discussing the impact of domestic security concerns on Israeli labor trends); see also, e.g., Simcha Bahiri, *Economic Separation or Integration: A Rejoinder to*

emphasize that no border should exist.³⁷² The result of this irony is illustrated by the paradox of policies of successive governments: opposing territorial concessions,³⁷³ while, at the same time, implementing stricter punishments, curfews, and closures subsequent to terrorist activity.³⁷⁴ These controls defied the idea of a single, unified territory, and, in essence, promoted distinct territorial partition.³⁷⁵ On the one hand, for instance, decision-makers in Israel have understood that to halt the influx of workers from the Gaza Strip at the green line would bring about unemployment and a drastic reduction in income, which, in turn, could result in an "explosion." Work, commerce, and investment in industry likely will increase the trust between the two sides; he who has something to lose, it is said, likely will find it more difficult to engage in confrontation.³⁷⁶ Israeli Prime Minister Ehud Barak, on the other hand, has announced his support for employing foreign workers instead of Palestinians; thus, the Ministry of Internal Security began to revive separation schemes, which include the establishment of a security barrier on the green line.³⁷⁷ Similarly, the general trend of both the two elite groups in

Dr. Samir Hazboun, 3 (2) PALESTINE-ISR. J. POL., ECON. & CULTURE 91, 92 (1996) (calling Israel's economic domination of Palestinian territories colonial, while suggesting that only peace between the two groups can create economic equality).

372. See Newman, *The Functional Presence of an 'Erased' Boundary* *supra* note 102, at 90; see also *Keeping People in Their Place*, ECONOMIST, Sept. 12, 1998, at 48 (analyzing the effect of Israeli border restrictions on the development of a Palestinian economic infrastructure).

373. See Newman, *Boundaries in Flux*, *supra* note 60, at 25 (indicating the paradox of more stringent Israeli efforts to maintain peace engendering ethnic divisiveness); see also Barzilai & Peleg, *supra* note 2, at 64, 67.

374. See Newman, *Boundaries in Flux*, *supra* note 60, at 25, 32.

375. See *id.*; see also Elias Sanbar, in NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA 5 (1996) (summarizing an international conference sponsored by the Economic Development Institute of the World Bank and the French Institute for International Relations).

376. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A. For further discussion, see *infra* notes 754, 766 and accompanying text.

377. See *id.* Prime Minister Ehud Barak by September 2000 began to view the idea of total separation between Israel and the Palestinians as unworkable and seemed to be ready to eventually support an economic cooperation framework with the Palestinians. See Amos Harel, *The Chairman Prefers Business Before Independence*, HA'ARETZ, September 13, 2000, at 2A (in Hebrew) (on file with

Israeli politics—the Labor and the Likud parties—has been toward more separation between Israelis and Palestinians,³⁷⁸ which is supported by much of the Israeli public.³⁷⁹ This phenomenon is not surprising, though, since there is a natural tendency for rival communities to promote separation between them through territorial borders, which serve as unquestionable social boundaries. Ethnic separation can be created using borders in the framework of intractable conflict situations.³⁸⁰ The disputes between Turks and Greeks in Cyprus and between Pakistan and India are demonstrations of territorial separation's power as a method of resolving conflicts. If a community believes that separation from another community will enhance its self-preservation and its efficacy in handling conflict situations, that community is likely to consider a separation option seriously, since the concept is linked to the idea that each community tries to improve its conflict management ability.³⁸¹

It is equally paradoxical for the Palestinians to complain about closures,³⁸² which of course lead to obvious economic hardships,³⁸³

author). For further discussion, see *infra* note 754.

378. See Barzilai & Peleg, *supra* note 2, at 59, 65, 67-69 (discussing the increasingly polarized political policies favored by the Israeli Likud and Labor parties and their effect on reinforcing geographic separation).

379. See *id.* at 65, 66, 67, 70 (providing and analyzing data on Israeli support for policies of geographic separatism).

380. See *id.* at 64.

381. See *id.* (commenting on the trend toward separate ethnic territories resulting from recent hostilities). However, Turkish-Greek relations, for instance, have been improving recently since the assistance each side gave the other following their respective earthquakes in the summer of 1999. See *Taiwan's Disaster From Below*, *ECONOMIST*, Sept. 25, 1999, at 49. For further discussion on the Cyprus situation, see *infra* note 580.

382. See, e.g., Hisham Dasouqi, in *ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES*, *supra* note 297, at 94-95 (addressing obstacles and impediments to Palestinian-Israeli trade relations).

383. See, e.g., Bahiri, *supra* note 371, at 92 (maintaining that Israeli regional economic dominance is the result of both government policies and the failure of the Oslo accords to increase economic parity between Palestinians and Israelis); Samir Hazboun, *Politics and Economics, Closure and Separation*, 3 (2) *PALESTINE-ISR. J. POL., ECON. & CULTURE* 86 (1996); Khalili, in *Minutes of Conference on Labor Migration*, in *LABOR MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL*, *supra* note 262, at 127, 130, 131 (assessing the impact of Palestinian labor migration on the Israeli economic infrastructure); Sadan &

while, at the same time, demanding the establishment of a separate, territorial entity as soon as possible.³⁸⁴

Along similar lines, the basic freedom of movement that existed within and between the territories of Israel before the Oslo process began creates an interesting juxtaposition with the Palestinians' perception of the current restrictions on their movement.³⁸⁵ Israel attributes trade and labor barriers and the resulting movement restrictions³⁸⁶ to its security concerns,³⁸⁷ while the Palestinians view them as collective punishment.³⁸⁸

The European Union likewise permits similar restrictions on the movement of foreigners and similar spot checks in the external border zone of the European Union as part of its endeavors to control

Lowenthal, *supra* note 371, at 152; Elias Sanbar, in *NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA*, *supra* note 375, at 6; Radwan Shaban, in *NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA*, *supra* note 375, at 2; Amira Hess, *Netanyahu: The Closure Was Implemented Because the Palestinian Authority Is Not Fighting Terror; Arens: There is Security Cooperation*, HA'ARETZ, Mar. 1, 1999, at 5A (in Hebrew) (on file with author) [hereinafter Hess, *Netanyahu: The Closure*]; Amira Hess, *The UN: The Closure in September Diminished the Influence of the Improvements in the Palestinian Economy Since the Beginning of the Year*, HA'ARETZ, Nov. 10, 1998, at 6A (in Hebrew) (on file with author) [hereinafter Hess, *The UN*]; *Keeping People in Their Place*, *supra* note 372, at 48; *Israeli Impediments*, *supra* note 348, at 152-154.

384. See Newman, *Boundaries in Flux*, *supra* note 60, at 1, 25.

385. See, e.g., Harel, *The Israeli-Palestinian Common Market* *supra* note 357, at 6A; Amira Hess, *Low Expectations, Little Interest*, HA'ARETZ, Sept. 2, 1999, at 3A (in Hebrew) (on file with author).

386. See, e.g., Dasouqi, *supra* note 382, at 95 (maintaining that Israeli restrictions are punitive rather than based on security concerns). For further discussion of restrictions on movement of Palestinians, see *supra* Part VII.

387. See Arie Arnon & Avia Spivak, *The Oslo Peace Process: The Economic Dimension*, in *IS OSLO ALIVE?* *supra* note 132, at 40, 51 (discussing the significance of the Oslo peace accords to the liberalization of labor markets and the furtherance of trade between Israelis and Palestinians); see also Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 29; Sadan & Lowenthal, *supra* note 371, at 152; Amos Harel, *The Closure Was Lifted From the Territories*, HA'ARETZ, Mar. 4, 1999, at 5A (in Hebrew) (on file with author) [hereinafter Harel, *The Closure was Lifted*].

388. See Arnon & Spivak, *supra* note 387, at 40, 51; see also Bahiri, *supra* note 371, at 92; Hazboun, *supra* note 383, at 89; Khalili, *supra* note 383, at 131; *Keeping People in Their Place*, *supra* note 372, at 48.

it.³⁸⁹ Even though a border zone of twenty kilometers is allowed under the Schengen Agreement,³⁹⁰ the entire German state of Bavaria is, in essence, considered a border zone.³⁹¹ Collective and individual security, from a European perspective, is considered to commence beyond the borders of the EU and continue deep inside Europe itself. Accordingly, senior officials in Europe have supported applying the concept of spatial geography to borders rather than the linear method, since the latter approach is not capable, in their opinion, of withstanding the challenges of a modern world.³⁹² Random checks of trucks on the European Union side of the external borders, although such searches generally are conducted for economic reasons, serve additionally as a means by which the Member States can control their borders at a level of control similar to that which they ceded with the increased movement of goods and services in the single economic market.³⁹³

Just as important, an open border, with strong, economic ties traversing it, need not imply less autonomy.³⁹⁴ An open border may be viewed as posing a less formidable strategic threat than a closed border—behind which a potential threat may be perceived as lurking.³⁹⁵ Moreover, even the existence of a border does not necessarily imply that a state will be able to protect itself from outside influences.³⁹⁶ It was, after all, an outcome of World War II that economic integration was deemed crucial to preserve peace in

389. See Bort, *supra* note 81, at 94. For further discussion of restrictions on movement and spot checks in the European Union, see *supra* note 359 and accompanying text.

390. For further discussion, see *infra* notes 834-839 and accompanying text.

391. See Bort, *supra* note 81, at 106 n.21

392. See *id.* at 94. For further discussion, see *supra* note 359.

393. See *Borders: Good Fences*, *supra* note 66, at 21 (showing that some states have increased the number of spot-checks on trucks behind borders).

394. See O'Dowd & Wilson, *supra* note 3, at 13 (stating that the inter-state rules of the EU protect the smaller and weaker states from being arbitrarily controlled by the large states).

395. See Newman, *Boundaries in Flux*, *supra* note 60, at 32 (noting that open borders may not be perceived as threatening as closed borders).

396. See Wilson & Donnan, *supra* note 81, at 10 (providing examples of countries, such as Serbia and Russia, whose central governments have been unable to secure their respective border areas from outside influences).

Europe.³⁹⁷ The 1951 integration of the strategically important industries of steel and coal significantly diminished the future possibility that countries of Western Europe would confront each other militarily.³⁹⁸

The permeability alongside the rigidity, and the expansion alongside the constriction, of borders can therefore contribute to diverse and paradoxical border ideas, which at times are in conflict with each other and at times are being altered, such that they influence reality as interpreted by society and the individual.³⁹⁹ Thus the ensuing, and at times seemingly paradoxical, actions of both Israelis and Palestinians to unfolding events are far from atypical. In fact, they appear to be a natural outcome of occurrences, as further demonstrated by similar experiences in Northern Ireland. Increasing integration in Europe is enhancing the permeable nature of its internal national borders in diverse ways, which raises the issue as to under what terms, and to what extent, borders continue to constitute an important barrier or serve a significant security role in Northern Ireland.⁴⁰⁰ Following the creation of the border separating the Republic of Ireland and Northern Ireland, political and administrative difficulties for the two governments became apparent. Various controls had to be imposed on each side of the border, and separate

397. See Joseph McKinney, *Lessons from the Western European Experience for North American Integration*, in NORTH AMERICA WITHOUT BORDERS?, *supra* note 81, at 31 [hereinafter McKinney, *Lessons from the Western European Experience*] (suggesting that although the Western European powers had for some time pursued economic integration, they did not view it as essential for maintaining peace until after World War II). For further discussion, see *infra* notes 548, 959-964 and accompanying text.

398. See McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 31-32 (noting that the initial signatories to the 1951 Peace Treaty, which established the European Coal and Steel Community ("ECSC") were Belgium, France, Italy, Luxembourg, the Netherlands, and West Germany).

399. See Shalit, *supra* note 250, at 370-75 (offering examples of people's fears and insecurities regarding the possibility of hostile borders being crossed by the enemy).

400. See O'Dowd & Corrigan, *supra* note 81, at 118 (explaining that as borders become more permeable, some believe that the sovereign power of a state becomes diffused, while others believe that sovereignty can be maintained). For a background to the conflict in Northern Ireland, see *supra* notes 192-241 and accompanying text.

systems of revenue collection required that customs and excise taxes be divided.⁴⁰¹ A customs station and border post were established on each side of the border for the sixteen different approved border-crossings. The approximately 180 unapproved passages prohibited commercial and vehicular traffic with limited exceptions.⁴⁰² However, unofficial roads generally remained open and cross-border economic controls were lax.⁴⁰³ This, incidentally, is reminiscent of the "open" avenues usually available to the tens of thousands of undocumented Palestinian workers who ordinarily, on a daily basis, circumvent the legal routes via army roadblocks from the West Bank into Israel proper.⁴⁰⁴

401. See O'Dowd & Corrigan, *supra* note 81, at 120 (detailing the administrative difficulties of establishing an international border).

402. See *id.* Exceptions were granted, for instance, for residents living within five miles of the border who for business reasons had to cross over to the other side and for individuals like doctors and clergy, but to use a border crossing permit for social reasons was prohibited. See *id.*

403. See *id.* (showing the difficulty of maintaining absolute control of an international border).

404. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A; *Keeping People in Their Place*, *supra* note 372, at 48 (observing that the number of undocumented Palestinians working in Israel is roughly equal to the number of Palestinians legally employed there); see also *Israeli-Palestinian Economic Relations*, *supra* note 347, at 2-3 (providing statistics on the number of Palestinians working in Israel, which as of August 1998 numbered 100,000—60,000 of whom were legally employed—and discussing the joint Israeli and Palestinian efforts to increase the number of Palestinians lawfully employed in Israel); see also Ministry of Foreign Affairs, ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, BACKGROUND PAPER, February 1998, at 1-2 (1999), (visited Feb. 15, 2000) <<http://www.israel-mfa.gov.il/mfa/go.asp?MFAH00sd0>> [hereinafter ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY] (estimating that as of February 1998, 45,000 Palestinians were legally employed in Israel, while an additional 20,000 to 40,000 Palestinians without work permits cross from the West Bank into Israel each day). The Israeli army eventually suspended attempts to stop Palestinian workers who did not have the required security permits from entering Israel from the West Bank. See Amos Harel, *Relying on the Economic Interest of the Palestinians, Less on Preventing Infiltration*, HA'ARETZ Mar. 5, 2000, at 2A (in Hebrew) (on file with the author) [hereinafter, Harel, *Relying on the Economic Interest of the Palestinians*]; cf. Bigo, *supra* note 88, at 161 (noting that labor needs in some economic sectors of Europe have precipitated a silent acceptance by employers towards illegal immigrant workers). For further discussion, see *infra* notes 449-450, 759-772 and accompanying text.

Beginning in the 1960s, the border between the Republic of Ireland and Northern Ireland gradually became more militarized, which paradoxically seemed in general to negate the single market European Union's efforts to eradicate border controls under the Maastricht Treaty.⁴⁰⁵ The communal violence that resurfaced at the time resulted in increased border fortification by way of mobilization of security forces and the closing of particular roads that traversed the border.⁴⁰⁶ The conflict's expansion in the early 1970s, in addition to bringing direct British rule to Northern Ireland, led to the British Army's direct involvement in border control and the establishment of complex security fortifications for the border and the surrounding region.⁴⁰⁷

Consequently, the British security forces' all-encompassing road closure policy, when viewed together with national goals and obligations to enhance infrastructure such as border-traversing tourism and roads, thus specifically appears to contravene the idea of a single European Market since it is incongruous with the concept of eradication of internal border controls within the European Union.⁴⁰⁸ Accordingly, the majority nationalist communities on the border's two sides opposed the border's reinforcement, and viewed it as incompatible with their belief that the island of Ireland be a united entity.⁴⁰⁹ The road closures debate was a product of the internal conflict, the setting up of the initial borders, and intermittent defiance to the policy.⁴¹⁰ Northern Ireland's major concerns regarding roads traversing the border were concentrated in the field of security and

405. See O'Dowd & Corrigan, *supra* note 81, at 117-18 (explaining that militarization of borders is a display of one of the most basic characteristics of sovereignty, which is the claim to generate the means of legitimate violence).

406. See *id.* at 120-22 (providing as an example, one road that had been closed at various times since the 1920s in response to surges in communal violence).

407. See *id.* at 122. Initially, Catholics looked upon the British Army as a protector against Protestant sectarian attacks. Eventually, however, it started to be considered by many Catholics as an "occupying force" in Northern Ireland. See *id.*

408. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 281.

409. See *id.* (noting the use of words such as "unnatural divide," "artificial," "hindrance," and "illogical," among others, to showcase the negative attitude of border residents to the border reinforcements).

410. See *id.* (explaining that the conflict remained largely unchanged for many decades).

politics,⁴¹¹ with anywhere between 103 and 160 of the 227 roads subject to closure orders under the Emergency Provisions Act of 1990.⁴¹² Many saw the imperative aspect of closures of the roads, especially when they considered the Republic of Ireland to be an area for supply and training for deadly border assaults.⁴¹³ Nonetheless, the security forces of Northern Ireland and the British Army adapted the road closure policy to address different conditions along various parts of the border.⁴¹⁴ For example, major border crossings in the northwest contained fortified checkpoints with permanent police and army bases while minor passage ways were blocked.⁴¹⁵ In areas where IRA activity was most prevalent, army bases were abundantly fortified with watch towers, "microwave" fences, and high-tech surveillance.⁴¹⁶ Almost all roads traversing the border in the middle border area were closed,⁴¹⁷ despite it being the poorest and most rural border region whose economy is dependent on tourism and

411. See O'Dowd & Corrigan, *supra* note 81, at 120 (discussing the relation of the border to the road network).

412. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 281 (setting forth disparate statistics on the number of roads subject to closure under the Act, as provided by the Northern Ireland Office and the Dublin Department of Foreign Affairs, which place the figure at 103 and 160, respectively).

413. See *id.* at 282 (noting that Unionist border communities and Unionist politicians from the border areas endorsed the road closure policy as a means of preventing IRA attacks in these areas).

414. See *id.* at 281-82; see also O'Dowd & Corrigan, *supra* note 81, at 122 (showing that certain areas, where IRA activity was high, were highly militarized, while other areas, with less direct threat, were not).

415. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 282 (describing the border scenario in the dangerous areas compared to the less dangerous areas); see also O'Dowd & Corrigan, *supra* note 81, at 122 (explaining the buildup of fortifications along the border). On the other hand, the large system of roads traversing the border in the eastern region basically stayed open. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81 at 282.

416. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 282 (observing that border fortification policies varied by region, ranging from heavily fortified army bases in the areas most vulnerable to IRA attacks to security checkpoints in other border areas); see also O'Dowd & Corrigan, *supra* note 81, at 122.

417. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 282 (explaining the security measures taken in the mid-border regions); see also O'Dowd & Corrigan, *supra* note 81, at 123.

farming.⁴¹⁸ Protestants in this region perceived themselves to be particularly under the threat of IRA attacks.⁴¹⁹ Thus, greater social, cultural, and economic impact occurred here as compared to any other region due to the road closures.⁴²⁰

The policy of closing roads had a particularly disparate impact on areas containing a vastly nationalist presence in both Northern Ireland and the Republic of Ireland.⁴²¹ This probably also helped to intensify the frequent perception among Catholics that they were at war with British and local security forces.⁴²² In addition, Catholic opposition to the border fortification policy is grounded in their belief that the policy actually opposes both governments' declared objectives regarding cooperation across the border.⁴²³ Interestingly, some Unionists also desired that additional roads not be closed due to the negative economic impact, for example on such matters as the region's tourism and cross-border trade.⁴²⁴ Some complained that the roads were not closed for military reasons, but rather for political purposes, specifically, that the overall security policy was part of a greater political agenda of the United Kingdom to maintain its territorial sovereignty over Northern Ireland.⁴²⁵ While the Republic of

418. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 282 (stating that the small settlements in Fermanagh, Leitrim, Cavan, Monaghan, and Tyrone bear the brunt of the physical effects of contested sovereignty); see also O'Dowd & Corrigan, *supra* note 81, at 123, 126 (discussing the contradiction between the middle border region's reliance on tourism and the adverse effect that border fortifications have on tourism).

419. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 283 (analyzing inflamed divisions in the middle border region).

420. See *id.* at 282 (explaining the effects of road closures); see also O'Dowd & Corrigan, *supra* note 83, at 126.

421. See O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 282 (commenting on the Nationalists' desire to see a more permeable border).

422. See *id.* at 283 (noting that generally Catholics are opposed to fortification and militarization of the border).

423. See *id.*

424. See O'Dowd & Corrigan, *supra* note 81, at 124-125 (summarizing the results of a survey of councillors from Northern Ireland and the Republic of Ireland).

425. See *id.* at 125 (discussing the findings of a nongovernmental commission which concluded that security concerns did not warrant the restrictions on freedom of movement between the border communities caused by the road closure policy).

Ireland's government was sympathetic to Northern Ireland's security considerations, it too believed that road closures seriously disadvantaged the area.⁴²⁶ According to Ireland's Minister for Foreign Affairs, the potential adverse economic and social impact of keeping the borders closed had to be balanced against the serious security concerns stemming from the continued campaign of violence.⁴²⁷ The enhanced border fortifications appeared increasingly incongruous in light of the European Community's efforts to eliminate controls on internal borders.⁴²⁸ Late in 1994, cease-fires in Northern Ireland resulted in a gradual decrease of security force presence and almost all roads traversing the border have since been opened up.⁴²⁹ While both governments would like to take credit for the peace process and the ensuing benefits to the border region, demilitarization is a much slower process in the border regions than in the principal trouble areas of the cities.⁴³⁰

The border fortification issue in Northern Ireland and especially the closing of roads traversing the border accordingly were viewed as a physical and visual portrayal of the conflicting aims of economic development and national security, with the Unionists and the British, as well as the Irish government to a smaller degree, acting as proponents of security at the expense of economic progress.⁴³¹ Border fortification logic basically was founded on the assumption that the IRA was safe in Ireland, using it only as a base.⁴³² According to

426. *See id.* (commenting on the economic and social impact of road closures in border areas).

427. *See id.* (implying that the region's economic difficulties stem from the security measure taken along the border).

428. *See id.* at 127 (explaining that groups began to develop and organize protests against security developments).

429. *See* O'Dowd & Corrigan, *supra* note 81, at 129 (noting that the re-opening of the roads traversing the border was conditioned on the continuation of Northern Ireland's peace process).

430. *See id.* (explaining the gradual decrease in the presence of security along the border of Northern Ireland).

431. *See id.* at 123, 129 (commenting that the road closure policy contradicted the European Community's policy of economic integration and failed to account for national economic realities).

432. *See id.* at 123 (suggesting that the Irish government tolerated the IRA's presence). *But see* ARWELL ELLIS OWEN, THE ANGLO-IRISH AGREEMENT: THE

Unionist leaders, closing the borders was the only way to halt the flow of explosives and arms into Northern Ireland; security on the border was a necessity to maintain security throughout the province.⁴³³

It seems to be a reasonable conclusion that borders tend to be less porous in security and policing situations than in economic situations. In the security and policing framework, borders serve as obstacles, while in the economic integration context they are more like interaction areas or portals. The fortifications and road closures on the border of Northern Ireland represent a clear expression of the dichotomy between economic logic and security and political indications of sovereignty.⁴³⁴ Ireland's paradox is that while economic development did not appear to be a significant element in border policy, security inspections and the closing of cross-border roads did constitute a clear border policy, and it sharply divided the Unionist minority and the Nationalist majority.⁴³⁵ At the same time, this process on the island of Ireland seemingly contradicted both the Maastricht Treaty language and the Single European Market effort to eliminate internal border controls.⁴³⁶ Consequently, it allows for a comparison to be drawn between the situation along the Ireland-Northern Ireland border and the situation that the Israelis and Palestinians currently face. Lest there be any doubt, however, in other border regions throughout the world these security aspects of territorial sovereignty have also been accorded greater prominence than cohesive economic planning across borders⁴³⁷

FIRST THREE YEARS 166 (1994) (noting that the Irish government refused to extradite those accused of committing offenses in Britain and Northern Ireland and instead prosecuted them in Ireland). In 1987, however, the Irish Supreme Court ruled that an IRA member could not avoid extradition to Northern Ireland for politically-motivated crimes. *See id.* at 175.

433. *See* O'Dowd & Corrigan, *supra* note 81, at 123 (stating that some wanted the border "sealed and mined").

434. *See* O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 281; *see generally id.* at 281-83 (noting that the push for sovereignty results in increased fortifications and the push for economic integration brings them down).

435. *See id.* at 283.

436. *See* O'Dowd & Corrigan, *supra* note 81, at 117-18 (explaining the origins of the British-Irish conflict).

437. *See id.* at 129-30 (discussing what may occur when intense

X. ECONOMICS

In the Preamble to the Protocol on Economic Relations of the Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip, the Palestinians and the Israelis agreed that the economic realm constituted one of the cornerstones in their joint ties for the achievement of a fair and durable peace.⁴³⁸ Both parties consider economic arrangements enhancing the region's socio-economic status crucial to the success of the peace process.⁴³⁹ Further development of economic ties between the Israelis and the Palestinians will contribute positively to the peace process.⁴⁴⁰ In similar fashion, economic events and policies played a major role in determining whether Europe could maintain peace in the aftermath of World War II.⁴⁴¹ At that time, observers concluded that an economic slum is not an appropriate environment for the development of democracy or a peaceful state;⁴⁴² a poor, resentful, and hostile country is a clear source of problems, even if the country is weaponless.⁴⁴³

Obviously, the character of any border between Palestinians and Israelis will have great economic consequences and be of considerable influence, particularly for Palestinians and on

ethnic/nationalistic fervor confronts integration in Europe).

438. See Interim Agreement, *supra* note 58, at Annex V.

439. See *Israeli-Palestinian Economic Relations*, *supra* note 347, at 1 (increasing the Palestinian standard of living is tantamount to achieving good relations).

440. See Rouhana & Kelman, *supra* note 136, at 157, 176 (noting the necessary role of economic, media, educational, and institutional links in the peace-building process).

441. See generally Eugene Staley, *The Economic Side of Stable Peace*, THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 27 (Thorsten Sellin & Donald Young, eds., 1945) (positing a direct correlation between the health of the world economy and the effectiveness of the world security system).

442. See *The German Settlement*, ECONOMIST, Aug. 11, 1945, at 177, 178 (implying that a policy designed to carefully regulate Germany's post-war economic recovery through deindustrialization and tight economic controls in potential war-making industries would breed hostility in German citizens); see also *Has Labour a Foreign Policy?*, ECONOMIST, Aug. 4, 1945, at 148, 149 (pointing out that England's Labor Party's belief in German economic reconstruction had to include safeguards against economic power being used for aggressive purposes).

443. See *The German Settlement*, *supra* note 442, at 178.

Palestinian economic viability.⁴⁴⁴ Following the opening of the pre-1967 border, a high level of economic-based integration developed between the Palestinians and Israelis with a two-directional movement of people and goods,⁴⁴⁵ creating two very interrelated economies.⁴⁴⁶ Of particular significance, although it has been diminished⁴⁴⁷ due to the huge influx of foreign workers into Israel,⁴⁴⁸

444. See Newman, *The Functional Presence of an 'Erased' Boundary* *supra* note 102, at 95 (anticipating the negative impact of closed boundaries).

445. See *id.* at 78 (proposing market forces of supply and demand or strategic government policy as the catalyst for economic integration).

446. See ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 1 (characterizing the interrelatedness of the Israeli and Palestinian economies); see also *Israeli-Palestinian Economic Relations*, *supra* note 347, at 2 (citing, among other statistics, that an estimated 100,000 Palestinians were employed in Israel by August 1998).

447. See, e.g., Sadan, *supra* note 371, at 14-15 ("Palestinian labor in Israel is a disappearing phenomenon").

448. See Sadan & Lowenthal, *supra* note 371, at 152 (explaining that Israel issued tens of thousands of work permits to Asian farm workers and Eastern European construction workers, which resulted in Palestinians being pushed out of the Israeli labor market); Bahiri, *supra* note 371, at 93 (commenting that foreigners are being substituted for Palestinian agriculture and construction workers); Khalili, *supra* note 262, at 132; Yinon Cohen & Yitchak Habersfeld, *Israeli[sic] Labor Migration*, in *LABOR MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL*, *supra* note 262, at 107, 109, 110; Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 29. It is as instructive as it may be interesting to draw a few comparisons between foreign and Palestinian workers and the relative impact of each group on Israel's economy. The Israeli economy is assisted more by Palestinians who tend to spend much of what they earn in Israel on Israeli products than by foreign workers who tend to send most of what they earn out of Israel. See *id.* Yet, in construction, for example, it has been estimated that foreign workers cost around 50% less than their Palestinian counterparts. See Cohen and Habersfeld, *supra*, at 112. The economic reason proffered for this situation is that foreign workers are less productive than Palestinian workers. See *id.* There are economists who argue, however, that since foreign workers are linked to particular employers and consequently do not function in a free market of labor, it seems more logical that the Israeli employer is able to pay foreigners at a rate which is below their marginal productivity. See *id.* This limitation does not formally exist for Palestinians working legally in Israel. See *id.* In addition, the relatively expensive cost of Palestinian workers may at least partially be attributable to the fact that the Employment Service division of the Israel Ministry of Labor requires that employers of legally employed Palestinians in Israel submit monthly compliance reports detailing the wages received by each individual worker whereas employers of foreign workers have no such restrictive obligation regarding wages paid out. Through this manner of monitoring, the Employment Service is able to verify that

is the integration of both legal and illegal⁴⁴⁹ Palestinian workers in the

Palestinian workers' wages and fringe benefits required by law are received by them. *Interview conducted with officials of the Israel Ministry of Labor* on 16 February 2000. *Cf.* Cohen and Habersfeld, *supra*, at 112 (asserting that the relatively expensive cost of Palestinian workers comes from the fact that a government agency is responsible to collect from the employers of Palestinians their wages and thereby pays Palestinian workers indirectly, while employers directly pay the foreign workers, who are not as efficient as the government agency in collecting the workers' wages and fringe benefits required under the law). In the field of construction again, foreign workers are not directly covered by a collective bargaining agreement according them fringe benefits, while legally employed Palestinian workers are actually covered by it. Indeed, workers from abroad in the construction industry are entitled under Israeli labor law to receive benefits equal to those received by their Palestinian counterparts, however the law is generally ignored by foreign workers' employers. *See id.* The role played by the Palestinian Authority is no doubt part of the reason the Palestinian workers are relatively protected in Israel compared to foreign workers, whose governments are usually not as involved in protecting the rights of their citizens who work in Israel. Be that as it may, this at least partially explains the pressure applied by Israeli employer associations to issue work permits to foreigners irrespective of the number of work permits issued to Palestinian workers. *See id.* There is also the implication that if the cost of the Palestinian worker drops or the foreign worker's cost rises, so that their costs are roughly equal, economically speaking, employers will prefer less to employ foreigners than Palestinians. *See id.* It is important to mention that the Government of Israel has sought to decrease the number of foreigners working in Israel while increasing the number of legally employed Palestinians working in Israel. *See Israeli-Palestinian Economic Relations*, *supra* note 347, at 2; ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 1 (describing the motivation for reducing the number of foreign workers in Israel).

449. It does not work very well, as Europe has discovered, to make border controls and crossing regulations more stringent, as making them more stringent rarely results in succeeding to halt the flow but rather merely increases the amount of illegal persons in the country. *See Bigo*, *supra* note 88, at 159 (arguing that the idea of absolute control of territorial sovereignty is obsolete in light of the high cost and impracticality of controlling borders today). European employers stealthily take in illegal foreign workers in answer to demands from various sectors of the European economy like the clothing and fashion industry, public works, restaurants and cafes, and the construction industry. *See id.* at 161. Rather than prosecuting illegal workers' employers or admitting that the economy is in need of illegal workers, official action on the part of government is limited to pronouncements which are designed to instill a sense of security. *See id.* (pointing out that governments fail to prosecute the employers of illegal workers). Similarly, both illegal and legal Mexican workers have attempted to take advantage of economic opportunities in the United States for generations. *See Stephen J. Randall, Introduction, in NORTH AMERICA WITHOUT BORDERS?* *supra* note 81, at 1, 4 (attributing economic advantages for American agriculture and industry as incentives for the continued flow of Mexican workers into the United States). For

Israeli economy,⁴⁵⁰ particularly due to their geographical proximity to large Israeli cities,⁴⁵¹ which allows mass daily entrance of these Palestinian workers into Israel.⁴⁵²

Income earned by Palestinian laborers in Israel significantly contributes to Palestinian income,⁴⁵³ amounting to between thirty to forty percent of the entire income of the Palestinian labor force in 1998,⁴⁵⁴ and translated to monetary terms by the third quarter of the year 2000 as US\$1 billion annually.⁴⁵⁵ This state of economic affairs between the Palestinians and Israel parallels the important role played by the repatriation of wages earned by Mexican workers in

further discussion of the Mexico-United States labor situation, see *infra* notes 456, 606-607 and accompanying text.

450. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 78 (highlighting the fact that tens of thousands of Palestinians comprise Israel's cheap labor supply). The European Union's single goods and services market, for instance, also allows people from one Union Member country to be employed in another. See *Borders: Good Fences*, *supra* note 66, at 21 (stating that European Union Members have sought ways to replace the border control they surrendered through integration). For further discussion of the Palestinian-Israeli labor situation, see *supra* note 404 and accompanying text and *infra* notes 756-772 and accompanying text.

451. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 78 (attributing convenient proximity as an incentive for commuting Palestinian laborers). About five million foreign workers are within commuting distance of the developed economy of Austria, for example. See *Borders: Good Fences*, *supra* note 66, at 22.

452. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 78. Incidentally, it is more difficult for many Palestinians to go to Ramallah to shop or to universities in the West Bank to study than it is for them to go to Tel-Aviv to work. See *Keeping People in Their Place*, *supra* note 372, at 49.

453. See *Israeli-Palestinian Economic Relations*, *supra* note 347, at 2 (characterizing income earned in Israel by Palestinians as a pillar of the Palestinian economy); ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 1 (recognizing the considerable role played by wages from labor in Israel for the Palestinian GNP).

454. See Ministry of Foreign Affairs, ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, UPDATE, MAY 25, 1998, at 1 (1999) <<http://www.israel-mfa.gov.il/mfa/go.asp?MFAH01vn0>> [hereinafter ECONOMIC RELATIONS UPDATE]. In 1992, for example, Palestinian laborers' income in Israel amounted to 25% of the total Palestinian GNP. See Sadan and Lowenthal, *supra* note 371, at 151.

455. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A.

the United States. Mexican workers provide a source of relatively inexpensive labor for factory and agricultural employers in the United States, which, in turn, encourages the perpetuation of labor movement across the border.⁴⁵⁶ The Palestinian employment situation in Israel benefits Israeli employers for the same reasons and in similar industries. In addition to benefits to the Palestinian economy brought by Palestinian labor, the Palestinian manufacturing sector can also benefit from selling cheaply manufactured products in Israel,⁴⁵⁷ which is a logical market for Palestinian goods.⁴⁵⁸ Open borders also allow Palestinian products greater access to Israeli ports, and from there access to European, American, and even Mediterranean markets.⁴⁵⁹

Moreover, permanently cordoning off the border between the two sides would result in even more severe economic dislocation and unemployment for the Palestinians than at present.⁴⁶⁰ This, in turn, could increase the high rate of unemployment among the Palestinians,⁴⁶¹ further exacerbating existing internal difficulties of

456. See Randall, *supra* note 449, at 4 (noting the American demand for inexpensive labor and Mexican supply of both legal and illegal workers as fueling cross-border movements). For further discussion, see *supra* note 449 and accompanying text and *infra* notes 606-607 and accompanying text.

457. See Newman, *Demarcating a Boundary*, *supra* note 22, at 180.

458. See Bahiri, *supra* note 371, at 93 (explaining that the Arab markets would not provide Palestinians the same economic benefits as Israel).

459. See Newman, *Demarcating a Boundary*, *supra* note 22, at 180. *But see Keeping People in Their Place*, *supra* note 372, at 48 (commenting that the Palestinian economy has suffered as a result of border closures).

460. See Newman, *Demarcating a Boundary* *supra* note 22, at 178 (describing the potentially devastating effects of closing borders on an already precarious situation); Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 95 (anticipating an especially grave impact on the Palestinians due to a lack of natural resources and a self-sustaining industrial infrastructure); Kelman, *Building a Sustainable Peace*, *supra* note 301, at 36, 48 (stating that the border closures have caused adverse effects on the Palestinian economy).

461. See Newman, *Boundaries in Flux*, *supra* note 60, at 37; *The World Bank: The Palestinian Economy is Declining Because of the Political Situation*, HA'ARETZ, Feb. 7, 1999, at 5A (in Hebrew) (on file with author) (noting that some reports have put Palestinian unemployment in the West Bank as high as 40 percent). *But see Hess: The UN*, *supra* note 383, at 6A (estimating the Palestinian unemployment rate to be a much lower 24.9 percent through September of 1998); *Israeli-Palestinian Economic Relations*, *supra* note 347, at 3 (noting that

establishing the appropriate employment and industrial infrastructure for them.⁴⁶²

Consequently, while open economic relations would enhance the overall relations between the two sides, it is the Palestinians who would be the chief economic beneficiaries of open borders with Israel. For the Palestinians to preserve economic stability, it is therefore paramount that they maintain a high level of economic relations with Israel, an economic relations framework that by mid-September 2000 was valued at some US\$4 billion.⁴⁶³ Thus, there is a good deal of economic sense to maintaining open borders, despite any present asymmetries⁴⁶⁴

Current economic conditions between the Palestinians and Israelis, just as those existing on the island of Ireland, would be conducive to economic cooperation across the border.⁴⁶⁵ Assuming true economic modernization and advancement is sought for the Palestinians,

Palestinian unemployment had dropped to approximately 15.5%). By mid-September 2000, the unemployment rate in the Palestinian economy had dropped to eleven percent. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A. For further discussion, see *infra* note 758.

462. See Newman, *Boundaries in Flux*, *supra* note 60, at 37 (noting the current difficulties of creating suitable industrial and employment infrastructure); Khalili, *supra* note 383, at 132-33 (discussing the obstacles imposed by high unemployment); Ghazi, in *Minutes of Conference on Labor Migration*, in LABOR, MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL, *supra* note 262, at 191-92; Ishaq Qutob, in *Minutes of Conference on Labor Migration*, in LABOR, MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL, *supra* note 262, at 181-82 (discussing causes of Palestinian unemployment). Numerous problems are already confronting Palestinian commercial establishments and these troubles are independent of the effects closures have had on the Palestinian economy. See Khalili, *supra* note 383, at 132. Some 37% of these commercial establishments exploit only 43.5% of their capacity, only 48% of the establishments are operating at full capacity, and about 66% of them offer no new employment opportunities. See *id.*

463. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A.

464. See Newman, *Boundaries in Flux*, *supra* note 60, at 37 (presenting open borders as the more reasonable alternative). For further discussion of the asymmetry existing between the Israeli and the Palestinian economies, see *infra* Part XII(E).

465. Cf. O'Dowd et al., *Borders, National Sovereignty*, *supra* note 81, at 275 (noting that the Irish Border contrasts the ethno-national conflict with the potential cross-border economic integration of the region).

cardinal requisites must be an open-door foreign investment policy and trade liberalization,⁴⁶⁶ which are widely believed to foster sustainable growth and promote domestic reform.⁴⁶⁷

XI. INDUSTRIAL PARKS, JOINT VENTURE PROJECTS, FREE/FOREIGN TRADE ZONES, PRIVATELY FINANCED INFRASTRUCTURE PROJECTS

Both practical and psychological advantages could be achieved for the Israelis and the Palestinians by promoting and assisting the establishment of industrial parks, joint venture projects, free trade zones,⁴⁶⁸ and privately-financed infrastructure projects, which could all be facilitated by open borders. To borrow the wise ideas of one observer writing in the wake of World War II, barriers blocking commerce must first be lowered for people to learn to accept and internalize the idea of open borders.⁴⁶⁹ Setting up new industrial parks⁴⁷⁰ in the border regions,⁴⁷¹ for example, would have the effect of not only encouraging investment and trade,⁴⁷² but also would create

466. Cf. Randall, *supra* note 449, at 5-6 (arguing trade liberalization and attracting foreign investment as conditions for economic modernization); see also Sylvia Ostry, *The NAFTA: Its International Economic Background*, in NORTH AMERICA WITHOUT BORDERS? *supra* note 81, at 21, 27-28 (describing NAFTA as an expedient to modernizing the Mexican economy).

467. See Ostry, *supra* note 466, at 27 (proposing Mexico's economic growth and domestic reform as positive consequences of NAFTA).

468. See, e.g., Bahiri, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 35 (asserting that free trade zones provide employment opportunities).

469. See Gottfried Salomon Delatour, *The Problem of International Understanding*, 255 THE ANNALS OF THE AMERICAN ACADEMY OF POLITICAL AND SOCIAL SCIENCE 1, 9 (Thorsten Sellin ed., 1948) (observing that interaction through commerce can combat ignorance and mistrust).

470. See, e.g., Ron Pundik, in NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA, *supra* note 375, at 6.

471. See, e.g., Mandy Barak, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 85.

472. See Hirschfeld, *supra* note 160, at 81 (proposing industrial "border" parks to stimulate trade and investment between Israel and the Palestinians); see also Yossi Barnay, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 71 (suggesting the establishment of

further employment opportunities and income for Palestinian workers.⁴⁷³ Authorities not long ago inaugurated an industrial park at the Karni checkpoint in the Gaza Strip, and additional parks are envisioned in Tulkarem, Qalqilya, Nablus, Jenin, and Rafa-Kerem Shalom.⁴⁷⁴ By August of 1998, approximately 3,500 people were working at Erez, while it is anticipated that Karni eventually will employ tens of thousands.⁴⁷⁵ Many sectors of the economy currently promote such industrial and commercial projects.⁴⁷⁶ High-tech industrial parks⁴⁷⁷ are planned, yet would not necessarily compete with industrial areas like Karni, which currently cater to more traditional heavy industries.⁴⁷⁸

Entrepreneurs could also work together to launch joint ventures⁴⁷⁹

industrial zones).

473. See Bahiri, *supra* note 371, at 93; Aluf Ben, *Peres Will Sign Today With the Authority an Agreement to Open Industrial Parks in its Area*, HA'ARETZ, June 21, 1999, at 2A (in Hebrew) (on file with author); *Industrial Parks Will Be Set Up in the Authority*, HA'ARETZ, June 22, 1999, at 5A (in Hebrew) (on file with author); *Israeli-Palestinian Economic Relations*, *supra* note 347, at 3, 5 (adding the aims to improve industrial infrastructure and promote economic cooperation).

474. See Ben, *supra* note 473, at 2A; *Industrial Parks Will Be Set Up in the Authority*, *supra* note 473, at 5A; see also Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A. The income generated from the six or seven industrial areas agreed upon by Israel and the Palestinian Authority along the border between them is anticipated to amount to more than US\$1 billion annually. See *id.*

475. See *Israeli-Palestinian Economic Relations*, *supra* note, *supra* note 347, at 3, 5 (discussing the employment rates in the Karni and Erez industrial zones). The Karni industrial area has turned out to be relatively successful, one and one-half years following its inception, already directly employing at this early stage 1,500 workers in twenty-two factories. See *The Authority Advertises the Karni Industrial Area*, HA'ARETZ, Sept. 13, 2000, at 2A.

476. See Aliza Arbeli, *Farmers in the Negev Requested from Oron to Export their Produce via the Airport at Dahania*, HA'ARETZ, Sept. 5, 1999, at 11A (in Hebrew) (on file with author).

477. See *id.* These are to resemble the one planned for Tulkarem. See *The Authority Advertises the Karni Industrial Area*, *supra* note 475, at 2A.

478. See, e.g., Anat Zigalman, *Wertheimer will Meet with the Palestinian Minister of Industry to Discuss the Establishment of a High-tech Park*, HA'ARETZ, Dec. 30, 1998, at 12A (in Hebrew) (on file with author) (noting discussion regarding a high-tech industrial area in the Kerem Shalom region, on Egyptian, Israeli, and Palestinian ground).

479. See, e.g., David N. Goldsweig, *Forward*, INTERNATIONAL JOINT

that would also develop additional employment opportunities. These could be set up in "border" industrial parks or elsewhere. Such joint ventures between Palestinians and Israelis⁴⁸⁰ would also promote and stimulate positive Israeli-Palestinian interaction.

In the aftermath of the establishment of the North American Free Trade Area, an instructive example of the benefits of such joint venture activity comes from the cooperation between large commercial enterprises in central and northern Mexico and their southern United States counterparts.⁴⁸¹ Utilizing local inputs, manufacturers established joint ventures in Mexico,⁴⁸² such as the one

VENTURES: A PRACTICAL APPROACH TO WORKING WITH FOREIGN INVESTORS IN THE U.S. AND ABROAD, A CASE STUDY WITH SAMPLE DOCUMENTS vii-ix (David N. Goldsweig & Roger H. Cummings, eds., American Bar Association 2d ed. 1990) (offering a step-by-step plan to forming a foreign joint venture); Peter D. Ehrenhaft, *International Joint Venture Basics (Part I)*, 41(4) PRACTICAL LAW. 57, 58, June 1995 (identifying three strategies to access foreign markets: local licensing, direct shipment of goods, and direct investment); Joseph F. Brodley, *Joint Ventures and Antitrust Policy*, 95 HARV. L. REV. 1521, 1527-29 (1982) (noting the advantages and disadvantages of joint ventures in the context of antitrust law); Kathryn Rudie Harrigan, *Managing Joint Ventures, Part I*, MGMT. REV. 24 (Feb. 1987) (arguing that the proliferation of joint ventures is due to increased globalization and deregulation in the world-wide marketplace); F. Kingston Berlew, *The Joint Venture - A Way into Foreign Markets*, HARV. BUS. REV. 48 et seq. (July-Aug. 1984) (maintaining that locally administered joint ventures benefit from preferential treatment in third world countries); Steven R. Salbu & Richard Brahm, *Planning Versus Contracting for International Joint Venture Success: The Case for Replacing Contract with Strategy*, 31 COLUM. J. TRANSNAT'L L. 283, 283-85 (1983) (observing that international joint ventures require innovative contracting and strategic planning); Alvin F. Lindsay III, Comment, *Tuning in to HDTV: Can Production Joint Ventures Improve America's High-Tech Picture?*, 44 U. MIAMI L. REV. 1159, 1163-69 (1990) (describing joint ventures and their benefits, including simplifying access to new markets); Zenichi Shishido, *Conflicts of Interest and Fiduciary Duties in the Operation of a Joint Venture*, 39 HASTINGS L.J. 63, 75-80 (1987) (commenting on the common conflicts arising between a joint venture and its parent company).

480. See Pundik, *supra* note 470, at 6; Nasser Tahboub, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 84.

481. See *The NAFTA Effect: When Neighbors Embrace*, ECONOMIST, July 5, 1997, at 17, 18 (illustrating positive consequences of NAFTA); *One River, One Country*, ECONOMIST, Sept. 13, 1997, at 27-28 (describing the positive impact of NAFTA on both American and Mexican economies in the Rio Grande Valley).

482. See *The NAFTA Effect: When Neighbors Embrace*, *supra* note 481, at 17, 18 (setting forth the differences between joint ventures and maquiladoras). These

organized by Grupo Alfa of Mexico and DuPont and Guilford Mills of the United States in the form of a "textile city" project outside Mexico City.⁴⁸³ Similarly, enhanced cooperation between Palestinians and Israelis in agriculture and industry could provide countless mutual advantages and opportunities.⁴⁸⁴

Moreover, foreign, or "free" trade and special economic zones,⁴⁸⁵ established on or near the border and elsewhere, may prove effective in attracting foreign technology and capital, promoting international trade and commerce, as well as providing further economic opportunities for local workers.⁴⁸⁶ There are many financial benefits

joint ventures are unlike maquiladoras. Maquiladoras are located on the Mexican-American border, operate with American equipment, take advantage of inexpensive Mexican labor to assemble products out of duty-free materials, and export the finished product to the United States. See *One River, One Country*, *supra* note 481, at 51 (noting that several foreign companies, including BMW, General Motors, and Sony, have set up maquiladoras); Gary Gereffi, *Mexico's Maquiladora Industries and North American Integration*, in *NORTH AMERICA WITHOUT BORDERS?* *supra* note 81, at 135, 137 (noting that NAFTA has led to the proliferation of subcontracting plants on both sides of the Mexican-American border); see also *The NAFTA Effect: When Neighbors Embrace*, *supra* note 481, at 17, 18. For further discussion of the maquiladora industry, see *infra* notes 488-516 and accompanying text.

483. See *The NAFTA Effect: When Neighbors Embrace*, *supra* note 481, at 18 (suggesting that as a result, the Mexico-United States textile and clothing industry could one day rival that of Asia).

484. See Bahiri, *supra* note 371, at 93.

485. See, e.g., Thomas F. Clasen, Note, *U.S. Foreign-Trade Zone Manufacturing and Assembly: Overview and Update*, 13 LAW & POL'Y INT'L BUS. 339, 355-66 (1981) (noting that advantages to free trade zones include limiting or avoiding customs duties and exemptions from state and federal taxes); Peter Herrick, *Deferring and Avoiding Customs Duties: Foreign Trade Zones-Free Trade Benefits*, 56 FLA. BAR J. 416 (May 1982) (explaining that foreign free trade zones are within United States jurisdiction and are subject to state and local laws); Kenneth M. Horwitz & J. William McArthur, Jr., *Recent Developments Favor Use of Foreign Trade Zones as a Way to Avoid Local Taxes*, 63 J. TAX'N 172 et seq. (1985) (discussing the advantages for American businesses in operating in a free trade zone); Thomas G. Travis, *Customs Classification and the Use of Foreign Trade Zones*, 11 LAWYER OF THE AMERICAS, U. MIAMI J. OF INT'L L. 319, 328-32 (1979) (stating that there is no such thing in the United States as a free trade zone - it is statutorily labeled a foreign trade zone).

486. See, e.g., *Iran's Little Welcome Mats*, *ECONOMIST*, October 17, 1998, at 51 (discussing the creation of free trade zones on two Iranian islands in the Persian Gulf).

that entice foreign investors to free trade zones, such as lengthy tax breaks, the possibility of full foreign ownership, no customs duties on raw materials, unlimited repatriation of capital and profit, and no requirements to obtain a visa for entry into these special zones.⁴⁸⁷ For example, the maquiladoras, primarily foreign enclaves situated on the border between the United States and Mexico,⁴⁸⁸ have functioned with inexpensive Mexican workers⁴⁸⁹ and equipment from America⁴⁹⁰ by assembling products for exporting back into the United States out of duty free⁴⁹¹ imported raw materials.⁴⁹² Foreign investors from wealthy countries consider these export-gearred assembly firms to be a partnership, enhancing the manufacturers' competitiveness by affording them the opportunity to take advantage of a country that lacks capital, yet is able to supply much labor.⁴⁹³ The maquiladora industry provides a comparative advantage that benefits both Americans and Mexicans: the productivity of foreign firms increases while Mexicans are employed.⁴⁹⁴ The northern border area of Mexico

487. See *Iran's Little Welcome Mats*, *supra* note 486, at 51 (noting the advantages and disadvantages of Iran's free trade zone); see also Clasen, *supra* note 485, at 355-66 (discussing the advantages of free trade zones).

488. See Gereffi, *supra* note 482, at 135 (commenting on the argument that maquiladoras do not integrate into Mexico's industrial structure and merely take advantage of the available cheap labor).

489. See *One River, One Country*, *supra* note 481, at 27 (describing the operation of the maquiladoras); see also Randall, *supra* note 449, at 4 (demonstrating that the maquiladoras circumvented opposition in the United States to exporting manufacturing abroad due to the inexpensive labor source).

490. See *Deep in the Heart of NAFTA*, *ECONOMIST*, Feb. 28, 1998, at 31 (explaining that the maquiladora assembly lines use American equipment).

491. See *One River, One Country*, *supra* note 481, at 51; Gereffi, *supra* note 482, at 137-38; see also *The NAFTA Effect: When Neighbors Embrace*, *supra* note 481, at 18.

492. See *A Greener, or Browner, Mexico?* *ECONOMIST*, Aug. 7, 1999, at 26.

493. See Gereffi, *supra* note 482, at 135-36 (maintaining that those who support the maquiladoras consider them mutually beneficial to both foreign investors and the Mexican workers).

494. See *id.* at 136. Technically, Mexican maquiladora industries cease to exist upon creation of a North American Free Trade Area of no tariffs. The historic purpose of the maquiladoras was to benefit from United States tariff regulations, which permitted participating firms to acquire inputs from the United States which were duty-free, and pay only a value added tax. See *id.* at 149. Thus, in a tariff-free trade zone, the maquiladoras become economically irrelevant. See *id.* However,

receives a greater amount of foreign investment than any country in the developing world other than China.⁴⁹⁶ Observers aptly describe the economic situation that has descended upon Mexican border cities as an “industrial invasion.”⁴⁹⁷ For instance, General Motors has built factories in the Mexican border towns of Matamoros⁴⁹⁸ and Ciudad Juárez.⁴⁹⁹ Additional foreign firms, such as Matsushita, Sony, and BMW, have established maquiladoras in Matamoros and Reynosa, another Mexican border town.⁵⁰⁰ In addition to the maquiladoras, smaller supply firms have also been sprouting up on the American side of the border, in such towns as McAllen and Harlingen, Texas, where property is less expensive.⁵⁰¹

Just before NAFTA took effect, about 1,900 maquiladora factories in Mexico directly employed approximately 450,000 people and indirectly provided work for an equal number of additional people in

practically speaking, whenever political stability and sufficient infrastructure combine with a low wage work force, assembly industries that are labor intensive are likely to be set up. Mexico is able to provide these benefits to American firms and thus attract investment. *See id.* Maquiladora exports have increased over 18% yearly since the NAFTA came into force in 1994. *See The NAFTA Effect: When Neighbors Embrace, supra* note 481, at 18 (noting that, economically, NAFTA has benefited Mexico more than it has the United States).

495. *See One River, One Country, supra* note 481, at 27 (noting that the high amount of in foreign investment is due to the low average cost of labor in the maquiladoras, which is approximately US\$7.00 per day). This is approximately 25 percent of the cost of labor in the United States. *See Borders: Good Fences, supra* note 66, at 22. The United States, however, is not the only country investing in Mexico; Germany and Japan also have investments there. *See Gereffi, supra* note 482, at 140 (noting that Germany was the number two investor followed by Japan).

496. *See A Greener, or Browner, Mexico, supra* note 492, at 26 (noting NAFTA’s economic impact on Mexican border towns).

497. *See One River, One Country, supra* note 481, at 27.

498. *See Deep in the Heart of NAFTA, supra* note 490, at 31 (pointing out that General Motors opened a plant as early as 1971).

499. *See One River, One Country, supra* note 482, at 27-28 (listing several foreign conglomerates that have established factories since NAFTA).

500. *See id.* at 28 (describing the maquiladoras’ indirect effect on the economy on both sides of the border). Although McAllen is one of the least expensive places to do business in the United States and is its third quickest expanding city, the city had a 16% unemployment rate, notwithstanding a job-growth rate of 7% in 1997. *See id.* (explaining that NAFTA has not had an equal impact on both sides of the border).

supporting industries.⁵⁰¹ NAFTA unquestionably has produced the desired outcome of bringing industries to Mexico.⁵⁰² The period between 1994 and 1998 saw a two-fold increase in the number of Mexican maquiladora plants⁵⁰³ employing almost one million people.⁵⁰⁴ These plants contributed US\$7 billion to the Mexican economy and, after oil, constituted the nation's second largest economic sector.⁵⁰⁵

Jobs having some bearing on the maquiladoras, while responsible before NAFTA came into effect for the income of over four million people in Mexico,⁵⁰⁶ would be responsible, using the same analysis, for around ten million individuals by the end of 1998. For instance, the 187 maquiladoras in Reynosa employ 42,000 workers,⁵⁰⁷ while 200,000 Mexicans work in the 330 maquiladoras in Ciudad Juárez.⁵⁰⁸ The economic benefits of the maquiladoras to the Mexican economy are clear, even based on pre-NAFTA figures.⁵⁰⁹ In 1988, exports totaled US\$10.1 billion compared with US\$7.8 billion in imported inputs, resulting in a net value added figure of US\$2.3 billion for Mexico, which constituted approximately one-third of all the value

501. See Gereffi, *supra* note 482, at 138. For further discussion of the North American Free Trade Area (NAFTA), see *infra* notes 700-708, 715-749.

502. See A Greener, or Browner, *Mexico*, *supra* note 492, at 26 (noting that due to NAFTA, the number of maquiladoras has doubled since 1994).

503. See *id.* at 26 (noting that at least 50% of the maquiladoras are located within 100 kilometers of the United States-Mexico border).

504. See *Borders: Good Fences*, *supra* note 66, at 22. This figure, according to original forecasts, had only been projected to reach slightly more than half that amount by the end of 1999. See Gereffi, *supra* note 482, at 138 (noting that original forecasts projected that the maquiladoras would employ 600,000 workers by the year 2000).

505. See *Borders: Good Fences*, *supra* note 66, at 22 (stating that many of the factories are becoming highly technical).

506. See Gereffi, *supra* note 482, at 138 (calculating the direct and indirect impact of the maquiladoras on Mexican employment before NAFTA based on an assumption of five people per family on the average).

507. See *One River, One Country*, *supra* note 481, at 28.

508. See *Deep in the Heart of NAFTA*, *supra* note 490, at 31 (noting that the maquiladoras here employ more people than any other border city).

509. See Gereffi, *supra* note 482, at 138 (calculating the impact of the maquiladoras on Mexican exports).

added for all exports manufactured in Mexico.⁵¹⁰ Moreover, even beyond the distinct economic advantages to Mexico, maquiladora personnel frequently benefit from conditions in the maquiladora itself that are superior to those found in their homes.⁵¹¹

Historically, maquiladoras constituted labor-intensive operations, employing predominantly females at minimum wage.⁵¹² These workers were primarily engaged in the garment industry and semiconductor and general light manufacturing.⁵¹³ Recently, a second "generation" of maquiladora firms has invested heavily in sophisticated technology, employing an increasing number of men.⁵¹⁴ This new wave of maquiladoras shows that firms in Mexico utilizing advanced means of production are capable of producing both high-quality and complex exports.⁵¹⁵ While the original maquiladoras consisted of basically foreign exchange-creating exporters producing employment opportunities, the newer version has further significantly benefited Mexico by providing the opportunity to train and educate its workers, thereby helping it to compete more effectively on an international scale.⁵¹⁶

Hence, industrial parks and foreign trade zones established in proximity to the Palestinian and Israeli border might be based, at

510. *See id.* (explaining that the US\$2.3 billion corresponds almost entirely to Mexican labor costs).

511. *See One River, One Country*, *supra* note 481, at 27.

512. *See Gereffi*, *supra* note 482, at 138 (describing the growth of maquiladoras, their break-down by economic sector, and the numbers of people employed by them).

513. *See id.* (noting that maquiladoras in electronic components, machinery, transportation, and textiles employed over 300,000 people in 1989).

514. *See id.* at 139. Business services such as airline and bank data processing and computer software programming have also been attracted to the maquiladora area. *See id.* at 150.

515. *See id.* at 139 (emphasizing Mexico's capabilities to produce sophisticated exports using advanced technology); *see also Borders: Good Fences*, *supra* note 66, at 22 (observing also that 4,000 maquiladora factories contribute US\$7 billion to the local Mexican economy).

516. *See Gereffi*, *supra* note 482, at 139 (noting that the new-style plant not only out-performs the older type of maquiladora but also promotes enhanced transfer of technology). This represents a clear advantage over the original maquiladoras, which used few inputs that were locally produced and had a limited impact on a country-wide scale. *See id.*

least in part, on the economically successful maquiladora model. In addition to the purely economic benefits that these parks and zones can generate, a further advantage to the region would be increased security, since it is anticipated that the parks and zones can diminish movement of Palestinian labor into the major metropolitan centers of Israel,⁵¹⁷ in the sense of bringing work to the Palestinians rather than having Palestinian workers coming to Israel.⁵¹⁸

Since present borders between the Palestinians and the Israelis are so intertwined, thought might also be given to encouraging and promoting privately-financed, trans-border infrastructure projects that private (possibly foreign-owned) entities would maintain and operate in exchange for the right to charge for services they render,⁵¹⁹ and that could also employ many local people. Toll roads, telecommunication networks, facilities for waste water treatment, airports, and railways are some examples of possible privately-financed infrastructure projects.⁵²⁰

Joint Israeli-Palestinian participation in such trans-border infrastructure projects could contribute towards the development of positive, beneficial relations and, at the same time, could provide valuable assistance to the crucial and presently insufficient development of the local Palestinian infrastructure. Regional European Union politics, for instance, also evidences as one of its essential factors the enhancement of infrastructure, and conformity and integration of the infrastructure networks of communication is one of the first aspects sought by developing cooperation across borders.⁵²¹

517. See Newman, *Boundaries in Flux*, *supra* note 60, at 45.

518. See *Industrial Parks Will Be Set Up in the Authority*, *supra* note 473, at 5A.

519. See UNCITRAL, *Privately-financed Infrastructure Projects*, A/CN.9/438/Add. 1, Dec. 18, 1996, at 2 [hereinafter UNCITRAL, *Privately-financed Infrastructure Projects*]. But see Francisco Letamendia et al., *Astride Two States: Cross-Border Co-operation in the Basque Country*, in BORDERS, NATIONS AND STATES, *supra* note 3, at 104 (contending that concentrated centers are the result of major infrastructure internationalization rather than integrated regional development).

520. See UNCITRAL, *Privately-financed Infrastructure Projects*, *supra* note 519, at 2 (explaining that privately funded infrastructures are complex, and their implementation requires a strong legal framework to protect the public's interest).

521. See Letamendia et al., *supra* note 519, at 104 (asserting, however, that

XII. TRANS-BORDER REGIONALISM AND COOPERATION

A. IN GENERAL

Cross-border activities need not necessarily be undertaken by large firms to reap advantages. For example, one scholar comments, a prevailing trend in industrial policy is to group interdependent firms.⁵²² He points out that positive economic benefits accrue from creating economies that are regional in nature. Geographical batches of enterprises or industrial districts can result in external advantages to the individual producer and internal advantages for the economic system.⁵²³ Additional benefits include low transaction costs that enhance the flow of information between enterprises, making them better equipped to more effectively and efficiently deal with financial, production, and marketing needs. Consequently, regionalizing economic activity may duplicate advantages gained by large enterprises in the age of mass production.⁵²⁴

Applying this reasoning to Ireland, for instance, if interdependent and intimate relations between social partners, institutions, and commercial enterprises can occur on both sides of the border, scholars predict a new economic atmosphere may emerge.⁵²⁵ The hope is that the system will force policy makers and social partners to confront and work toward compromise on policy development and issues relating to commerce and labor.⁵²⁶

cross-border cooperation does not enhance the local community but rather produces large metropolitan centers).

522. See Paul Teague, *Governance Structures and Economic Performance: The Case of Northern Ireland*, 18(2) INT'L J. URBAN AND REGIONAL RES. 275 (1994) (discussing the economic advantages of developing regional economies).

523. See *id.*

524. See *id.* (stating that the ultimate result is a regional cluster of small firms connected in one way or another that have the ability to easily move in and out of the markets, thereby reducing uncertainty and the myriad of daily problems a firm may encounter).

525. See *id.* at 289 (proposing more extensive economic cooperation strategies for the island of Ireland).

526. See *id.* at 290 (noting, however, that this notion may be unrealistic due to the unstable and uncertain business environment brought about by political

Cooperation techniques may be used to enhance complex and awkward government structures on an inter-level, inter-functional, and inter-regional basis.⁵²⁷ In the United States, for example, a myriad of agencies on the local, state, and federal levels all govern within one metropolitan area.⁵²⁸ Such agencies have for many years managed social services, employment, transportation, education, and police on a city-region basis.⁵²⁹ Networking across borders between various state branches has proliferated over the last twenty years.⁵³⁰ As one observer, Kenichi Ohmae, comments, it is not states that are natural engines of growth, but rather regions traversing borders.⁵³¹ Economists have discussed, for example, the benefits of merging border cities in the Mexican-American lower Rio Grande Valley into

turbulence). For cluster economies to be successful, there must first be a high degree of consensus, both politically and socially, which has not existed on the island of Ireland. *See id.*

527. *See* James W. Fesler, *The Reconciliation of Function and Area*, in *POLITICS AND GEOGRAPHIC RELATIONSHIPS, TOWARD A NEW FOCUS* 284, 285 (W.A. Douglas Jackson & Marwyn S. Samuels, eds., 2d ed. 1971) (noting that where there is a strong emphasis on specialization, such as in the United States, cooperation techniques can drive specialized departments to work cohesively while maintaining their independence). Some observers, however, have mentioned that the merger of regions does not necessarily accrue despite their open or easily traversed borders, since they remain borders for purposes such as legal systems, taxation, and access to public services. *See* ANDERSON, *FRONTIERS. TERRITORY*, *supra* note 4, at 6. Examples of the resulting effect of the lack of region merger despite existing requisites for border integration include the lack of interaction between some towns located along the French-Swiss border, the lack of serious mutual actions between some regional and local authorities of the European Union, and the feeling of divide created by the Canadian-American border. *See id.* at 6-7.

528. *See* Vincent Ostrom et al., *The Organization of Government in Metropolitan Areas: A Theoretical Inquiry*, in *POLITICS AND GEOGRAPHIC RELATIONSHIPS, TOWARD A NEW FOCUS*, *supra* note 527, at 292 (observing that there is a duplication of functions and overlapping jurisdictions).

529. *See* SAUL B. COHEN, *GEOGRAPHY AND POLITICS IN A WORLD DIVIDED* 120 (2d ed. 1973).

530. *See* *Borders: Good Fences*, *supra* note 66, at 21 (noting that countries around the world have joined with neighbors to battle social and economic problems).

531. *See id.* at 20 (suggesting that firms develop what he terms an "Anchorage Alaska" mentality since it is seven hours by plane from Anchorage to New York, Tokyo, and Düsseldorf); *see also* KENICHI OHMAE, *TRIAD POWER, THE COMING OF SHAPE OF GLOBAL COMPETITION* 123 (1985).

a place called the "Borderplex" which would encompass one large, extended metropolitan area.⁵³²

Generally speaking, though, "cooperation" and "harmony" have never been terms used as frequently as "competition" and "tension" in describing neighboring border regions.⁵³³ The scope of cooperation between states has often mirrored the nature of the relationships between bordering areas,⁵³⁴ which is not surprising, since borders are an integral part of the areas they encompass.⁵³⁵

A significant step to bringing political stability between two sides in conflict is to apply policies designed to enhance regional management and cooperation.⁵³⁶ Although border altercations can occur even when both sides are seeking peace, the reduction of such altercations still remains a useful barometer for determining political relations. What transpires culturally, socially, and economically in these confrontational regions of the border may constitute an important factor in determining whether the implementation of peace agreements will provide long-term stability.⁵³⁷ Accordingly, since the degree and nature of, and importance attached to, cooperation across borders is a significant gauge of reconciliation,⁵³⁸ border regions are viewed by some observers as "laboratories" for the rest of the

532. See *One River, One Country*, *supra* note 481, at 52.

533. See Niles Hansen, *International Cooperation in Border Regions: An Overview and Research Agenda*, 8(3) INT'L REGIONAL SCIENCE REV. 255, 265 (1983); see also Richard R. Fagen, *The Politics of the United States-Mexico Relationship*, in U.S. MEXICO RELATIONS, ECONOMIC AND SOCIAL ASPECTS 331, 341 (Clark W. Reynolds & Carlos Tello, eds. 1983) (noting that many academics continued to view Mexico-United States relations in terms of "we/they").

534. See Hansen, *supra* note 533, at 255. A border is a shifting area where people of diverse cultural backgrounds and identities come together and interact with one another. See Henk Driessen, *At the Edge of Europe: Crossing and Marking the Mediterranean Divide*, in BORDERS, NATIONS AND STATES, *supra* note 3, at 179, 181 (contending that a society's identity is reflected by shifts and changes in the border areas). See generally, Wilson, *supra* note 81, at 200 (describing borders as a place for integration and cultural encounters).

535. See Anderson, *European Frontiers*, *supra* note 5, at 6 (describing the territorial border as a European invention).

536. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 32.

537. See *id.* at 17.

538. See Hansen, *supra* note 533, at 255.

world.⁵³⁹ These border regions are the place where selective images first give way, eventually reaching the centers and economic cores of the state.⁵⁴⁰

In some border regions, the likelihood for regional cooperation is evidenced by the fact that the inhabitants on both sides are ethnically similar, such as those in the respective Spanish and French Basque regions.⁵⁴¹ Many other border regions, however, such as along the Mexico-United States border, and in many areas of Europe, are replete with differences in administrative organization and economic systems, cultures, histories, and languages.⁵⁴² Conflicts often broke out due to these dissimilarities.⁵⁴³ The common history of Mexico and the United States has been one of hostility.⁵⁴⁴ For instance, in the nineteenth century, Mexicans and Americans battled fiercely over territory in the American-Mexican war.⁵⁴⁵ The long-standing conflict between Catholics and Protestants, as well as the battles between the Germanic and Latin people of Europe, also may be recalled.⁵⁴⁶ In addition, now kindred Denmark and Sweden also had a long, violent history of warfare, particularly in the seventeenth, eighteenth, and nineteenth centuries.⁵⁴⁷ It eventually took the calamity of a World

539. See Foucher, *supra* note 81, at 237 (defining borderlands as areas where free movement of goods occur).

540. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 28 (discussing the important elements in the process of transforming a conflict situation into one of peace: the degree of economic cooperation across the border, patterns of geographic ethnicity in the abutting border regions; and the character of the border's military presence).

541. See Letamendia et al., *supra* note 519, at 103 (discussing the new political ties that have emerged in the Basque country, an area located on the French-Spanish border); see also Delli Zotti, *supra* note 53, at 65 (noting that an integrated region emerges due to ethnic similarities).

542. See Hansen, *supra* note 533, at 256; see also Strassoldo, *supra* note 81, at 88 (noting that the same factors, such as culture and ethnicity that may give rise to integration may also give rise to conflict).

543. See Hansen, *supra* note 533, at 256.

544. See *The NAFTA Effect: When Neighbors Embrace*, *supra* note 481, at 18.

545. See Hansen, *supra* note 533, at 256. For further discussion, see *infra* notes 878-903 and accompanying text.

546. See Hansen, *supra* note 533, at 258.

547. See Hogg, *supra* note 81, at 11A.

War II for the European nations to realize that economic integration is a prerequisite for maintaining peace.⁵⁴⁸

B. EUROPE

Despite Europe's turbulent history, local and regional cooperation across borders has transpired on the continent.⁵⁴⁹ Differences remained and border disputes still ensued due to cultural, administrative, and legal differences that constituted obstacles to cooperation involving matters such as transportation infrastructure, industrial competition, commuting workers' status, nuclear power plant locations, and environmental pollution.⁵⁵⁰ However, the expansion of commerce and industry, together with the ever-increasing amount of transactions and traffic between European border areas, made it clear that these border areas could not effectively function without increased cooperation between bordering states.⁵⁵¹ Some of the major issues that exemplified the point that external factors did not cease at a border separating a region merely because they were located in different states⁵⁵² were: planning with respect to land use,⁵⁵³ commuting workers crossing borders,⁵⁵⁴ public health,⁵⁵⁵ transportation,⁵⁵⁶ pollution of the environment,⁵⁵⁷ and

548. See McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 31, 60 (juxtaposing Western European economic integration against North American efforts). For further discussion, see *supra* notes 397-398 and accompanying text and *infra* notes 959-964 and accompanying text.

549. See Hansen, *supra* note 533, at 256.

550. See *id.* at 266.

551. See *id.* at 260-61.

552. See Letamendia et. al, *supra* note 519, at 93 (examining the close relationship between the Spanish Navarra and Basque Autonomous Community and the French Basques in Aquitaine).

553. See Hansen, *supra* note 533, at 261; see also James W. Scott, *Transborder Cooperation, Regional Initiatives, and Sovereignty Conflicts in Western Europe: The Case of the Upper Rhine Valley*, 19 (1) *PUBLIUS THE JOURNAL OF FEDERALISM* 139, 143 (Winter 1989) [hereinafter Scott, *Transborder Cooperation*].

554. See Delli Zotti, *supra* note 53, at 62; Scott, *Transborder Cooperation*, *supra* note 553, at 143; Hansen, *supra* note 533, at 261.

555. See Hansen, *supra* note 533, at 261.

556. See Scott, *Transborder Cooperation*, *supra* note 553, at 143 (discussing

differences concerning education and legal systems.⁵⁵⁸ In the 1970s, as a response to such trans-border issues, initiatives were undertaken to broaden local and regional cooperation.⁵⁵⁹ Ministers in charge of regional planning, in conjunction with regional and local authorities in border areas, created, under the auspices of the Council of Europe, a European Outline Convention on Transfrontier Cooperation between Territorial Communities or Authorities. In 1979, the Parliamentary Assembly of the Council of Europe endorsed the Outline Convention and opened it for signatures the following year.⁵⁶⁰ This Outline Convention set forth new judicial principles and models for trans-border linkages.⁵⁶¹ In Europe, cooperation across borders had been considered implicitly as developing interaction. Such interaction generally evolves from an informal network of contacts into increasingly complex solidified arrangements. Based on the then-existing cooperation schemes which traversed borders, sixteen fields of possible cooperative relationships were suggested, which included tourism, development of industry, energy, communications and transport, culture, commuting workers, disaster relief, environmental protection, health, development of regional and urban areas, and education.⁵⁶² It appears probable that efforts to improve economic infrastructure in border areas will remain strong while

cross-border planning in the creation of communications and transportation infrastructures which are integrated tri-nationally); Hansen, *supra* note 533, at 261.

557. See Delli Zotti, *supra* note 53, at 62; Letamendia et al., *supra* note 519, at 93; Scott, *Transborder Cooperation*, *supra* note 553, at 143; Hansen, *supra* note 533, at 261; see also *Borders: Good Fences*, *supra* note 66, at 21.

558. See Hansen, *supra* note 533, at 261.

559. See Anderson, *European Frontiers*, *supra* note 5, at 1 (pointing out that at this time, cross-border exchanges of people, goods, and information increased).

560. See Hansen, *supra* note 533, at 264.

561. See O'Dowd & Wilson, *supra* note 3, at 12 (detailing the cross-border regional cooperation). However, the Outline Convention, practically speaking, did not have a significant effect, since Western Europe was still divided as to the exact character of linkage between national sovereignty and economic integration. See *id.*

562. See Hansen, *supra* note 533, at 265. Even though the initiatives had to be locally developed, it seemed apparent, nonetheless, that national governments would have to lend their support and become involved in matters such as long term planning, environmental protection, and infrastructure integration. See Scott, *Transborder Cooperation*, *supra* note 553, at 155.

significant border region investment plans have been considered between neighboring European countries.⁵⁶³

European Union Member States have committed themselves to common policies regarding health and safety matters, competition, state aid, trade, professional qualification, protection of the environment, and other areas.⁵⁶⁴ As an example, in order to preserve naturally beautiful and untouched areas from industrialization and modernization and maintain them, joint border crossing projects have been developed to protect the landscape.⁵⁶⁵ The Rhine River region, an area where borders reflect not so much natural physical and geographic features as they do diplomatic schemes and conquests of the past,⁵⁶⁶ has generated international cooperation between bordering states.⁵⁶⁷ Along the Rhine, on the borders of Switzerland, Belgium, Germany, Holland, and France from the 1950s,⁵⁶⁸ cooperation has turned into a tradition.⁵⁶⁹ Local authorities have established cooperation methods for river regulation, protection, and economic utilization.⁵⁷⁰ Trans-border labor markets, for example, emerged at the Swiss borders at Basel and Geneva.⁵⁷¹ Economic and political cooperation is also prevalent in the Scandinavian and Alpine vicinities,⁵⁷² while both formal and informal cooperation is occurring

563. See Letamendia et al., *supra* note 519, at 105 (noting examples of such plans pertaining to waste disposal, environmental protection, communications, transportation, and tourism).

564. See ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 188 (noting that other improvements have occurred in the regulatory, judicial, and legislative areas).

565. See Bort, *supra* note 81, at 99 (listing recycling, sewage treatment, and refuse clean up as some of these projects).

566. See Hansen, *supra* note 533, at 261.

567. See Scott, *Transborder Cooperation*, *supra* note 553, at 143.

568. See O'Dowd and Wilson, *supra* note 3, at 12.

569. See Delli Zotti, *supra* note 53, at 52 (noting how European nations have employed concerted action, collaboration, and exchanges of information to achieve mutually beneficial goals); see also Anderson, *European Frontiers*, *supra* note 5, at 1.

570. See Delli Zotti, *supra* note 53, at 52.

571. See Anderson, *European Frontiers*, *supra* note 5, at 1 (providing a general context within which trans-border cooperation has taken place).

572. See Delli Zotti, *supra* note 53, at 52 (discussing principal aspects of

in Eastern and Central Europe as well.⁵⁷³ For instance, the Friuli-Venezia Giulia autonomous area, which is the interface between the Slav, Latin, and German culture areas, wants to serve as a bridge between Italy and the countries bordering it to the east, starting with Croatia and Slovenia. Partners in cooperation across the border also included Styria and Carinthia, Austria. An interregional, though informal, policy evolved for the Friuli-Venezia Giulia area.⁵⁷⁴ First, Trigon appeared, which was an informal, private regional planning group made up of these members. Trigon's objective was to agree on joint economic and infrastructure ideas for regional development. From this entity evolved Alpe Adria, which local and regional European border area authorities created as a "working committee."⁵⁷⁵ Alpe Adria added to its existing members Veneto, Italy, Upper Austria and Salzburg, Austria and provided a forum for members to consider and discuss issues related to the management of the environment, regional planning, agriculture, sports, science, culture, transportation, social affairs, forestry, tourism, and health.⁵⁷⁶

The Friuli-Venezia Giulia situation may be particularly instructive for Israelis and Palestinians, since it, too, has been a very complex issue, and cooperation across the borders there has grown out of circumstances which were extremely tragic and unfortunate. Friuli-Venezia Giulia has been the point of contention between the powers of the Mediterranean Sea (particularly Venice and later Italy) and the powers of Central Europe (specifically the Hapsburg Empire). Thus, disputes regarding the borders abounded between these powers and wars succeeded in drastically altering them. Although the borders had divided the same populations for over four hundred years, the

cooperation in the Alps-Adria Working Committee).

573. See *id.* at 56 (discussing the renewed relations between Central and Eastern Europe).

574. See Strassoldo, *supra* note 81, at 77-78 (discussing the position of the region of Friuli-Venezia in the field of cross-border cooperation).

575. See *id.* at 79 (explaining that the primary purpose of the Alpe-Adria working committee is to provide a forum for discussion with few executive functions, however, the committee is responsible for organizing support and fostering participation in events).

576. See *id.* at 80 (describing the make up of the working program at Alpe Adria); Delli Zotti, *supra* note 53, at 53 (citing the six Standing Commissions created by the Alps-Adria Working Committee).

two World Wars exacerbated the existing national minorities problem, with various territorial claims resulting in violent conflict.⁵⁷⁷ Coercive minority cultural absorption and severe suppression erupted into “ethnic cleansing,” massacres, and genocide.⁵⁷⁸ Hundreds of thousands of civilians were forced to escape from their occupied homelands while the festering border dispute and mutual apprehensions and animosity continued to rage.⁵⁷⁹ It was not until the 1960s that a new generation, not having experienced the atrocities of war and Fascism themselves, began to grow up with changed feelings to their neighbors across the border. Since these altered attitudes were also those of individuals holding important political positions, cross-border interaction eventually resumed again between local authorities. Joint economic interests, cultural values, and social contacts were considered, and relations across the border once more turned cordial.⁵⁸⁰

577. See Strassoldo, *supra* note 81, at 76 (specifying the border region of Italy between Tarvis and Gorizia as a particularly contentious spot for territorial disputes).

578. See *id.* at 76-77 (explaining that Yugoslavia Marshall Tito’s claims to portions of Italy late in World War II resulted in raging internal warfare amidst various factions of anti-Nazi partisans).

579. See *id.* at 77 (noting that approximately 350,000 people fled Yugoslav-occupied lands between 1945 and 1953).

580. See *id.* (explaining that the generation that came of age in the 1960s had not experienced the war first-hand and thus had a cooperative attitude towards their border neighbors). Another divided area that has known much conflict and animosity on both sides of a divide is Cyprus, located an hour flying time from Israel and the Palestinians. One of the most tightly kept of all secrets there was the occurrence of regular trade meetings on the island’s Greco-Turkish partition line between farmers from each side to buy and sell animals. See *Borders: Good Fences*, *supra* note 66, at 20 (discussing the fact that borders have not always been favored by everybody). Moreover, during his visit to Greece earlier this year, the Turkish Minister of Foreign Affairs announced that the Greek Prime Minister had accepted his invitation to visit Turkey. This visit had been preceded by a visit of the Greek Foreign Minister to Turkey one month earlier. *The Prime Minister of Greece Will Visit Turkey*, HA’ARETZ, Feb. 6, 2000, at 9A (in Hebrew) (on file with author). The mutual good feelings that have developed between Greece and Turkey have led to discussions regarding the over-all improvement of relations between the two, and in particular the extension of Greek support for acceptance of its long-time enemy, Turkey, as a member of the European Union. See *Greece Supports Accepting Turkey into the European Union*, HA’ARETZ September 14, 1999, at 9A (in Hebrew) (on file with author). For further discussion concerning the relations between Greece and Turkey with regard to Cyprus, see *supra* note

Even though the basic catalyst for cooperation across borders is considered to be economic development, such cooperation may frequently be enhanced by similar ethnic or language groups located on either side of the border.⁵⁸¹ This principle is well demonstrated in Europe in places such as the Swiss, Austrian, and German-speaking region, the French-speaking region of Belgium along the French border, and Scandinavia.⁵⁸² Likewise, several Eastern Europe nations

380 and accompanying text.

581. See Hansen, *supra* note 533, at 261 (discussing cooperation activities in border areas).

582. See *id.* at 261 (discussing how similar ethnicities have generated cooperation in this area). The herding of reindeer in the Scandinavian nations illustrates this point. Swedish Laplanders were allowed during particular times of the year to cross Finnish territory when moving with their reindeer herds for the purpose of exercising their grazing rights in Norway along specified tracks, in accordance with Paragraph 1 of the Convention Between Finland and Sweden Concerning Reindeer in Frontier Districts of May 9, 1925. See 47 L.N.T.S. 301 [hereinafter Finland-Sweden Convention]; see also BOGGS, *supra* note 21, at 100 (noting that concerns over weather and usable pastures necessitate cooperation between these countries). The specified tracks were normally three kilometers wide. See Finland-Sweden Convention, *supra*, paragraph 2, at 301.. Similarly, Norwegian nomadic Lapps migrating with their reindeer herds at appointed places and times were permitted to cross Finnish territory, and migrating Finnish Lapps were to be allowed, in accordance with detailed rules, to use roads crossing Norwegian territory, pursuant to Article 29 of the Convention Between Finland and Norway Regarding Measures to be Taken in Order to Prevent Reindeer from Crossing the Frontier Between the Two Countries of Nov. 5, 1935. See 169 L.N.T.S. 57, 69 [hereinafter Finland-Norway Convention of 1935]; see also BOGGS, *supra* note 21, at 100-01 (discussing provisions of the Convention that relate to reindeer migration and grazing). According to a treaty between Sweden and Norway, Swedish Lapps had special rights in a long piece of territory along the border for their herds to graze. See *id.* at 101 (highlighting the grazing rights provided for Swedish Lapps as a result of the treaty between Norway and Sweden). North of the Arctic Circle, the Finnish-Norwegian border is largely uninhabited. See *id.* at 103. Residents dwelling on the shores of specified rivers in Norway and Finland had permission to cross into the territory of the other state in the vicinity of the frontier without unnecessary hindrance under Article V of the Convention between Finland and Norway, Concerning the Passage of Travelers Over the Pasvik (Patsjoki) and the Jakobselv (Vuoremajoki) of Apr. 28, 1924. See 30 L.N.T.S. 46, 47 [hereinafter Passage Convention]; see also BOGGS, *supra* note 21, at 104 (discussing the lack of unnecessary formalities for cross-border travelers in that region). Furthermore, Finnish and Norwegian travelers had use of the rivers in the territory of both states as necessary for their journey. See Passage Convention, *supra*, Article I, at 46; see also BOGGS, *supra* note 21, at 103.

reached agreements allowing trans-border traffic.⁵⁸³

Border regions tend to advance slower than interior regions or those with sea access. Cross-border cooperation and integration are therefore more in accordance with the functioning and organization of modern business than with conflict and isolation.⁵⁸⁴ As a result, the European Union's eastern border members, for instance, may be in favor of cross-border cooperation in order to receive assistance to their own economies, which were seriously handicapped economically due to their many years under the influence of the Iron Curtain.⁵⁸⁵ By sharing resources across borders, states are able to utilize their joint potential in information, research, and education and thus partially mitigate a border's negative effects by developing

583. See BOGGS, *supra* note 21, at 101-02. For example, Frontier traffic between Yugoslavia and Hungary, consisting of specified articles and products, received special privileges under Article 2, Annex A of the Treaty of Commerce Between the Kingdom of Hungary and the Kingdom of the Serbs, Croats and Slovenes of July 24, 1926. See 97 L.N.T.S. 103, 117 [hereinafter Yugoslav-Hungarian Commerce Treaty]; see also BOGGS, *supra* note 21, at 101-02 (stating the articles and products enumerated by the Treaty). Additionally, livestock driven to pasture across the border from one frontier zone to the other were exempt from import and export duty charges, provided they return to their country of origin at the end of each day. See Yugoslav-Hungarian Commerce Treaty, *supra*, Article 5(a), Annex A, at 121; see also BOGGS, *supra* note 21, at 102 (describing the terms of the treaty, including that the exemption duties applied to any young born or products derived from the pastured animals while they were in the neighboring territory). The frontier zones established on both sides of the Yugoslav-Hungarian border were approximately ten to fifteen kilometers in width. See Yugoslav-Hungarian Commerce Treaty, *supra*, Article 1, Annex A, at 117; see also BOGGS, *supra* note 21, at 101.

584. See Hansen, *supra* note 533, at 257 (comparing the evolution of modern-day business with border region relations). Some observers, however, have mentioned that the merger of regions does not necessarily accrue despite their open or easily traversed borders, since they remain borders for purposes such as legal systems, taxation, and access to public services. See ANDERSON, FRONTIERS. TERRITORY, *supra* note 4, at 6. Examples of the resulting effect of the lack of region merger despite existing requisites for border integration include the the lack of interaction between some towns located along the French-Swiss border, the lack of serious mutual actions between some regional and local authorities of the European Union, and the feeling of divide created by the Canadian-American border. See *id.* at 6-7.

585. See Bort, *supra* note 81, at 99, 101 (explaining how Eastern European countries may benefit from cross-border cooperation with their Central and Western European economic partners by receiving economic assistance to their economies that suffered as a result of Communist domination).

innovation and transfers of technology, and creating regional businesses.⁵⁸⁶ Accordingly, European border regions have benefited through cross-border cooperation operating in conjunction with interaction and joint interest zones.⁵⁸⁷ European border cooperation, moreover, facilitates the integration of civil society⁵⁸⁸ and the elimination of controls on the border has prompted the development of further European cooperation along the borders.⁵⁸⁹

Although regional and local cooperation across borders is a central tenet of Western European integration, it extends beyond the boundaries of the European Union.⁵⁹⁰ Not only has the European Parliament consistently emphasized the importance of cooperation among internal border areas for European Union development, but also the importance of interacting with the Eastern European states bordering the EU. Regional and local projects are the foundation for "Euregios" created on the eastern border of the European Union. Working and living close to half a century in the Iron Curtain's proximity with "dead-end" transportation systems, the populations of these regions developed a mutual peripheral experience.⁵⁹¹

Cooperation between economic and social organizations, local officials, municipalities, and regions is now abundant across the European Union's borders.⁵⁹² Regional cooperation across borders with Eastern Europe may, as a matter of fact, be the most productive way to promote the establishment of democratic systems.⁵⁹³ Yet,

586. See Scott, *Transborder Cooperation*, *supra* note 553, at 149.

587. See *id.* at 140.

588. See Delli Zotti, *supra* note 53, at 52 (setting forth additional benefits to inter-regional cooperation, such as the effect of bringing societies closer together).

589. See O'Dowd & Wilson, *supra* note 3, at 12 (discussing the positive effect of the EU borders program and the abolition of border controls).

590. See Bort, *supra* note 81, at 98 (explaining that the institutionalization of regional and local cooperation across borders was viewed as important along the eastern EU border, as well).

591. See *id.* at 99 (describing the increased opportunities to interact with neighboring countries that Eastern European states behind the Iron Curtain were unable to experience over a fifty-year period).

592. See ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 190.

593. See Bort, *supra* note 81, at 103 (suggesting that democratic systems in Eastern Europe stand the best chance of being set up through cross-border

cross-border cooperation is not only a potentially useful tool for encouraging the Eastern European's struggling democracies. It may also ensure that human resource development, the enhancement of which is essential to the development of Eastern and Central European economic and societal change, occurs through an exchange of experiences and information.⁵⁹⁴

Moreover, the way to diminish, if not resolve, ethnic troubles is by regional cooperation across borders.⁵⁹⁵ Regionalism across borders demonstrates that a regional framework may be more appropriate for handling national minority issues and finding solutions for international disputes of a regional character.⁵⁹⁶ Various types of such cooperation have been shown to reduce both current and potential disputes between different national and ethnic groups over territory.⁵⁹⁷

C. MEXICO-UNITED STATES

In similar fashion to that of adjacent European border areas, the border between Mexico and the United States, which spans the continent of North America for approximately two thousand miles,⁵⁹⁸ also has witnessed more competition, strife, and tension than cooperation, integration, or harmony.⁵⁹⁹ While at times this border

cooperation in developing a "bottom-up" approach and directly addressing problems with infrastructure).

594. See Delli Zotti, *supra* note 53, at 66 (arguing why more trans-border cooperation is needed).

595. See *id.* at 65 (observing that in regions of Italy, the lack of tension among ethnic minorities stems from the presence of trans-border cooperation). Many ethnic minority populations are located on the borders of states. See *id.*

596. See Bort, *supra* note 81, at 100 (describing the potential benefits of cross-border cooperation in a regional context).

597. See Delli Zotti, *supra* note 53, at 68 (suggesting that cooperation helps adjust cultural and economic imbalances).

598. See, e.g., Kevin J. Middlebrook, *The Ties That Bind: "Silent Integration" and Conflict Regulation in U.S.-Mexican Relations*, 26(2) LATIN AM. RES. REV. 261, 261 (1991) (discussing divisions between Mexico and the United States).

599. See Hansen, *supra* note 533, at 265 (comparing how differing priorities between the United States and Mexico have led to conflict between them); see also JOHN W. HOUSE, *FRONTIER ON THE RIO GRANDE, A POLITICAL GEOGRAPHY OF DEVELOPMENT AND SOCIAL DEPRIVATION* 255 (1982) (establishing that differing positions between the United States and Mexico have caused the countries to be

acts as a barrier,⁶⁰⁰ it nevertheless functions more frequently as a membrane through which people, goods, and services pass,⁶⁰¹ both for good and for bad. That is, between towns situated on the Mexican-American border it is porous for traffic and trade,⁶⁰² yet also allows a seemingly endless flow of illegal workers, illicit narcotics, and contraband goods.⁶⁰³

As an initial matter, each of the two countries tends to view border issues in a divergent light, applying different levels of importance to mutual border issues.⁶⁰⁴ For instance, the United States loathes the smuggling of narcotics over the Mexican-American border,⁶⁰⁵ the

hesitant in their interactions with one another); Middlebrook, *supra* note 598, at 261 (providing various sources of strife between Mexico and the United States); Olga Pellicer de Brody, *A Mexican Perspective*, in MEXICO-UNITED STATES RELATIONS, *supra* note 50 at 4, 12 (citing the negative effects of United States' direct foreign investment in Mexico resulting from their geographical proximity).

600. See Wilson & Donnan, *supra* note 81, at 24 (describing a variety of uses for borders in countries around the world).

601. See John W. Sloan & Jonathan P. West, *Community Integration and Policies Among Elites in Two Border Cities, Los dos Laredo*, 18 J. INTERAMERICAN STUD. WORLD AFF. 451 (Nov. 1976); see also Wilson & Donnan, *supra* note 81, at 22 (citing various reasons for crossing borders in countries throughout the world); CLINE, *supra* note 51, at 10 (establishing that the border allows for the travel of people, goods, and ideas). There are annually some 280 million legal crossings of the Mexico-United States border, which makes it one of the world's most traveled-over borders. See Embassy of Mexico, *Relations with the U.S.: Continuing Dialogue and Cooperation* 4 (December 1998) <www.embassyofmexico.org/> [hereinafter *Relations with the U.S.*].

602. See *One River, One Country*, *supra* note 481, at 51 (describing the relative ease with which traffic and trade cross between towns along the Mexican-American border).

603. See *id.*; see also Middlebrook, *supra* note 598, at 261 (describing the bilateral dilemmas between the United States and Mexico).

604. See Hansen, *supra* note 533, at 265 (comparing the way that differing priorities between the United States and Mexico have led to conflict between them); see also HOUSE, *supra* note 599, at 254-55 (observing the different priorities attached to various border-related matters); Middlebrook, *supra* note 598, at 261 (explaining that differences in language, culture, and perspective lead each country to place on border issues different levels of importance); Pellicer de Brody, *supra* note 599, at 12 (arguing that mutual understanding of each country's perspective will foster mutual respect).

605. See, e.g., *Excelentísimo Clinton*, ECONOMIST, May 10, 1997, at 30 (describing drugs as a security threat and pointing out that most of the illicit narcotics coming into the US go through Mexico); see also *Mexico's Drug*

economically deleterious effects of undocumented workers from Mexico working in the United States,⁶⁰⁶ placed at more than 2.5 million undocumented workers from Mexico working in the United States,⁶⁰⁷ and the harmful effects of cross-border pollution to the United States' environment.⁶⁰⁸ Mexico, for its part, has been more preoccupied with such issues as the border area's reliance on the United States' more powerful economy,⁶⁰⁹ Mexican workers' access

Menace: Poison Across the Rio Grande, *ECONOMIST*, Nov. 15, 1997, at 36 (noting that 14,000 people die annually in the United States from drugs, that the United States has spent US\$100 billion since the 1980's in attempting to control the flow of illicit narcotics, and that the indirect cost of drugs amounts to US\$67 billion annually); Hansen, *supra* note 533, at 265; HOUSE, *supra* note 599, at 255 (explaining that the United States regards drug trafficking from Mexico as an issue of utmost importance); *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 19 (citing Congress' concerns over approval of NAFTA due to a past history of drug trafficking across the border); *Borders: Good Fences*, *supra* note 66, at 22 (noting the ineffectiveness of the 100-kilometer "tortilla curtain" erected by the United States along the Rio Grande, the growth of the United States' Border Patrol which by the end of 1998 was 7,000 agents strong, which is double the number as in the past, and the tripling of the Border Patrol's budget between 1993 and 1999 to US\$4.2 billion).

606. See Hansen, *supra* note 533, at 265 (explaining that the consequences of Mexican immigration are detrimental to the United States); see also HOUSE, *supra* note 599, at 255 (stating that the United States is concerned about undocumented worker inflow from Mexico); *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21 (discussing the sentiments of NAFTA's critics); Bruce M. Bagley, *A United States Perspective*, in *MEXICO-UNITED STATES RELATIONS*, *supra* note 50, at 13, 16 (reporting sociological findings, however, that undocumented workers fill jobs that American workers are unwilling to take due to such factors as poor working conditions, cyclical seasonal employment, and low salaries).

607. See *Excelentísimo Clinton*, *supra* note 605, at 30 (describing illegal immigration as a security threat while pointing out that more than 100,000 legal immigrants annually enter America). Observers have suggested that it may be difficult for Mexico to take action to reduce illegal immigration. See Sydney Weintraub, *U.S. Foreign Policy and Mexican Immigration*, in *AT THE CROSSROADS: MEXICO AND U.S. IMMIGRATION POLICY* 283, 288 (Frank D. Bean et al., eds. 1997). Yet, NAFTA may help to create enough economic incentive in Mexico to discourage illegal immigration into the United States.

608. See Hansen, *supra* note 533, at 265 (stating that the United States' close geographical proximity to Mexico has made cross-border pollution a problem); see also HOUSE, *supra* note 599, at 255; *Excelentísimo Clinton*, *supra* note 605, at 30 (establishing that Mexico's pollution problem along the common American-Mexican border inevitably affects the United States and has turned into a security threat).

609. See Hansen, *supra* note 533, at 265 (explaining that Mexico attaches

to the United States⁶¹⁰ and exploitation there,⁶¹¹ national and border region balance of payments,⁶¹² United States goods being smuggled into Mexico,⁶¹³ Gulf of Mexico fishing rights regulation for Americans,⁶¹⁴ and water resource control and access, including control of and access to supplies of groundwater.⁶¹⁵

Unruly issues consequently surface out of the intense economic and social dichotomy existing between an extremely wealthy country bordering an extremely poor country.⁶¹⁶ Given the tremendously different levels of affluence between the two countries,⁶¹⁷ the United

different priorities to border problems than the United States); *see also* HOUSE, *supra* note 599, at 255 (describing one category of Mexican-American border problems as arising from the interaction between a rich country and a poor one, including the migration of Mexicans northward, commodity smuggling in both directions, and polarization of trade and retailing).

610. *See* HOUSE, *supra* note 599, at 255 (observing that Mexicans prioritize issues such as access of Mexican workers, including "border commuters," to the United States).

611. *See* Hansen, *supra* note 533, at 265.

612. *See* HOUSE, *supra* note 599, at 255.

613. *See* Hansen, *supra* note 533, at 265 (discussing Mexico's concerns over border issues with the United States); *see also* HOUSE, *supra* note 599, at 255 (explaining that preventing smuggling is a priority for Mexico). NAFTA's implementation, however, may have an effect on Mexico's concern about smuggling.

614. *See* HOUSE, *supra* note 599, at 255.

615. *See id.* Disputes revolving around the quality and equitable distribution of limited water resources unquestionably will intensify and be aggravated due to progressive development in the dry border region. *See* Hansen, *supra* note 533, at 265-66); *see also* HOUSE, *supra* note 599, at 131-32 (remarking on an older study revealing that half of the summer water consumed in a United States border city was for lawn irrigation, while Mexicans on the other side suffered shortages in both domestic and industrial water supplies).

616. *See* HOUSE, *supra* note 599 at 255 (describing mass migration, labor market disparity, smuggling, and price and quality disparity of goods and services resulting from unequal economic conditions of the United States and Mexico); *see also* ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 127 (noting the divergence in living standards between the United States and Mexico, and the attractiveness of the United States for criminal activity because of the opportunities it offers to reap large profits). For further discussion on the general impact of asymmetrical economic relationships, *see infra* Part XII(E).

617. *See* Fagen, *supra* note 533, at 341 (commenting on the great difference in wealth between the United States and Mexico). A store attendant in Brownsville, Texas, for example, earns more than a graduate engineer just over the border in

States has a much greater effect on the Mexican economy and society than does Mexico on that of the United States.⁶¹⁸ The unavoidable consequence of this fact is that the United States will always be more important for Mexico than the Mexico will be for the United States.⁶¹⁹ An additional result of this divergent economic situation has been the quality and price differential in retailing and trade, smuggling of goods, labor market distortions, and migration to the north.⁶²⁰ Cultural, legal, and administrative differences regarding all these issues have not only resulted in obstacles to cooperation, as in Europe,⁶²¹ but also to conflict.⁶²²

Yet, along the Mexican-American border, with its over 300 percent population increase since 1980,⁶²³ there has been a common appreciation⁶²⁴ of the two countries' mutual dependence on one another.⁶²⁵ This mutual dependence has developed considerably since

Matamoros, Mexico. See *One River, One Country*, *supra* note 481, at 27 (explaining that the difference in wages remains the primary distinction between Mexicans and Americans in border cities in the lower Rio Grande Valley).

618. See Fagen, *supra* note 533, at 332 (discussing the impact the United States has on the Mexican economy, culture, and society).

619. See *id.* at 331.

620. See HOUSE, *supra* note 599, at 255 (listing problems arising from interaction between the Mexican and American economies).

621. See Hansen, *supra* note 533, at 266 (comparing barriers to cross-border cooperation in Europe, the United States, and Mexico). Interestingly, as significant as differences in culture may be, variances have in fact created unique cooperation opportunities. See HOUSE, *supra* note 599, at 133 (relating that in the area of solid waste disposal, Americans create much more waste per capita than Mexicans, and that Mexicans on both sides of the border have gathered discarded materials such as tires, cardboard, used appliances, and lumber to use in small manufacturing firms and homes, making for informal recycling).

622. See Fagen, *supra* note 533, at 341 (discussing the existence of conflicts and tensions arising from conflicting interests).

623. See *Borders: Good Fences*, *supra* note 66, at 22 (stating that the number of people living on the Mexican-American border has increased from 3.5 million people in 1980 to 12 million by the end of 1998).

624. See Hansen, *supra* note 533, at 261 (observing the acknowledgement of the necessity to handle trans-border problems jointly).

625. See Purcell, *supra* note 50, at 1 (noting that in the late 1970s, United States commentators spoke of interdependence, but that Mexicans questioned whether that was truly possible given the two countries' asymmetrical relationship); Bagley, *supra* note 606, at 17 (highlighting differences between Mexican and

the 1970s, especially in the border region, expanding in technology, migration of labor, trade, and investment.⁶²⁶ Cooperation across the border also has taken place between regions extending to economic and social organizations, local authorities, and municipalities,⁶²⁷ creating opportunities for advantageous and necessary interrelationships between the countries.⁶²⁸ A mutual awareness has developed concerning the importance of handling issues which transcend the border, such as law enforcement, sewage and flood control, management of water resources, public health, transportation system planning, commuting and migration, and industrial development.⁶²⁹ Joint needs are the clear impetus to cross-border cooperation,⁶³⁰ and similar to authorities in Europe's states, American and Mexican authorities have conducted countless friendly and often complicated arrangements for interaction.⁶³¹ These connections frequently have resulted in informal understandings and agreements pertaining to cooperation⁶³² in matters like health care⁶³³ and public

American views on interdependence).

626. See Clark W. Reynolds, *The Structure of the Economic Relationship, in MEXICO-UNITED STATES RELATIONS*, *supra* note 50, at 125 (observing the growth of interdependence between Mexico and the United States).

627. See ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 190 (comparing similarities between cooperation across the Mexican-American border and cooperation in the border regions of the European Union).

628. See Reynolds, *supra* note 626, at 125 (arguing that Mexico and the United States can complement each other to their mutual advantage).

629. See Hansen, *supra* note 533, at 261 (listing border-related problems that border cities are attempting to address cooperatively).

630. See HOUSE, *supra* note 599, at 253 (describing the kinds of cross-border cooperation that mutual necessity has generated).

631. See Hansen, *supra* note 533, at 261; see also HOUSE, *supra* note 599, at 252 (discussing social, professional, and business contacts facilitating exchange).

632. See Sloan & West, *supra* note 601, at 464-65; Hansen, *supra* note 533, at 261 (finding that contacts have resulted in informal agreements in several areas).

633. See Sloan & West, *supra* note 601 at 465 (observing that local government officials from the border cities of Laredo and Nuevo Laredo most often cited the subject of health care, among others, as subjects of informal agreements between them); Hansen, *supra* note 533, at 261 (noting cross-border cooperative agreements, including in the field of health care, between Mexican and United States officials in border cities). Cooperation in border health matters is needed, as the spread of both animal and human diseases are not subject to international borders. See HOUSE, *supra* note 599, at 135. And clearly, open borders promotes

health,⁶³⁴ public transport,⁶³⁵ fire control,⁶³⁶ education,⁶³⁷ and law

better border health. *See id.* at 137. Health conditions in Mexican border cities are generally better than elsewhere in Mexico, yet cannot compare with the far superior conditions in the American border cities, which when compared to the rest of the United States is generally comparatively lower. *See id.* (describing and comparing health conditions on both sides of the border). The market for medical services along the border flows in two directions as Mexicans in the upper and middle class have often crossed the border to benefit from the better hospital treatment, consultations, and diagnosis available in the United States, while less wealthy Hispanic Americans have crossed to Mexico to take advantage of lower medical costs. *See id.*; *see also* Gereffi, *supra* note 482, at 150; *Deep in the Heart of NAFTA*, *supra* note 490, at 32 (stating that Texans in El Paso seek low-priced dental work across the border in Juárez, Mexico). In 1976, commentators estimated that more than half of the physicians in Laredo were Mexican-trained and that around ten percent of their patients were from their Mexican sister-city, Nuevo Laredo. *See* Sloan & West, *supra* note 601, at 466. Furthermore, they found that physicians in one city referred both medicine and patients to physicians in the other. *See id.* at 467.

634. *See* HOUSE, *supra* note 599, at 253 (describing areas of cooperation based on mutual needs). Close cooperation has existed regarding the control of rabies, venereal disease, tuberculosis, and mosquitoes. *See id.* Mexican and American city officials have freely shared information about communicable diseases and there has also been dental and medical facility sharing. *See id.* Laredo public health authorities have even assisted Mexican women from Nuevo Laredo to give birth in Laredo to obtain United States citizenship for the child. *See* Sloan & West, *supra* note 601, at 467.

635. *See Good Fences and Good Neighbors*, *ECONOMIST*, Feb. 28, 1998, at 32 (describing agreements between the border towns of Columbus, New Mexico and Palomas, Mexico).

636. *See* Sloan & West, *supra* note 601, at 465; Hansen, *supra* note 533, at 261 (describing informal cooperative agreements between Mexico and United States officials); *Good Fences and Good Neighbors*, *supra* note 635, at 32 (stating that border towns along the Mexican-American border have always made agreements with respect to fire-fighting and public transportation). Joint fire prevention efforts have resulted in regular border crossings by both Mexican and United States fire engines to assist in putting out fires. *See* HOUSE, *supra* note 602, at 253. For instance, Sloan and West's 1976 study noted that when the fire department in Nuevo Laredo, Mexico asked for assistance from its counterpart over the border in Laredo, United States fire fighters were sent forthwith, and the same held true for fire protection assistance from the opposite direction. *See* Sloan & West, *supra* note 601, at 465. Mutual fire protection assistance involved, in addition to emergency help, training courses dealing with preventing fires, first aid, handling dangerous chemicals, and fire-fighting techniques. *See id.* Both Mexican and American fire departments stressed that their counterparts had never denied them assistance. *See id.* Forest fire fighting cooperation also takes place between Mexico and the United States. *See Relations with the U.S.*, *supra* note 601, at 6.

637. *See* Sloan & West, *supra* note 601, at 465 (mentioning joint agreements

enforcement.⁶³⁸ An additional significant area of cooperation includes environmental pollution control and monitoring.⁶³⁹ The main outcome of this cooperative relationship is that influential people in the border cities have learned to cooperate among themselves in these areas as well as others,⁶⁴⁰ and generally speaking, local authorities have acted on the conviction that their efforts in one city will benefit the sister-city as well.⁶⁴¹

across the Laredo-Nuevo Laredo border); Hansen, *supra* note 533, at 261 (pointing to education as a general subject of informal cross-border agreements along the Mexican-American border). Cooperative educational agreements in the Laredo-Nuevo Laredo area have included exchange programs for public school teachers and students and course offerings designed to meet the needs of Mexican students attending Laredo Junior College. *See* Sloan & West, *supra* note 601, at 467-68. Moreover, many Nuevo Laredo parents have used fictitious addresses of friends or relatives to register their children in the Laredo public school system. *See id.* at 467. Pupils in other border towns in Mexico have legally been able to take advantage of educational cooperation between cities on the border; until foreign school children education in the United States was halted by Congress in 1997, Chihuahua, Mexico, pupils by the hundreds or maybe even thousands had benefited from an American education in Columbus, New Mexico. *See Good Fences and Good Neighbors*, *supra* note 635, at 32.

638. *See* Sloan & West, *supra* note 601, at 465 (providing examples of informal agreements between American and Mexican officials regarding law enforcement); Hansen, *supra* note 533, at 261 (mentioning law enforcement as a subject of informal cross-border agreements between Mexican and American city officials). For further discussion concerning cross-border law enforcement cooperation between Mexico and the United States, *see infra* notes 793-803 and accompanying text.

639. *See* HOUSE, *supra* note 599, at 253 (describing civic cooperation in many fields). Environmental and ecological cooperation occurs between the United States and Mexico regarding such matters as protected nature reserves, climate alteration, and protection of border-crossing migrating birds. *See Relations with the U.S.*, *supra* note 601, at 6. Sharing in the cost of setting up sewage plants on the Mexican-American border is also another environmental cooperative effort. *See Clinton Visit*, 43 KEESINGS 1 (May 1997), (visited July 12, 2000) <wysiwyg://doc.16/http://keesings.gvpi...ORCEMENT%20COOPERATION&x=Advanced&2>.

640. *See* Sloan & West, *supra* note 601, at 472 (noting that social and political cooperation among Mexican and American elites leads to cooperation in other areas). For example, in the Laredo-Nuevo Laredo case, additional agreements have included the intergovernmental exchange of information, interlibrary lending, administration of the international bridge, and the transfer of used equipment. *See id.* at 468.

641. *See id.* at 472 (concluding that Laredo and Nuevo Laredo elites have helped create a single community spanning an international border); *see also*

Accordingly, a pervasive acknowledgement of the interrelationship between sister-cities that share a border has developed⁶⁴² since they have mutual problems such as industrial stagnation, high unemployment, a low tax base, poverty, and poor public services.⁶⁴³ The economies of the sister-cities have interdependently evolved, with the Mexican cities extending to American cities numerous professional⁶⁴⁴ and lower-scale retail services, tourist related activities, and accommodations for “in bond” factories,⁶⁴⁵ while the American counterparts have extended to Mexicans many specialized services, employment opportunities, and general retailing facilities.⁶⁴⁶ For instance, as between Nuevo Laredo

Hansen, *supra* note 533, at 261 (indicating the facts motivating cooperation between Mexican and American city officials).

642. See HOUSE, *supra* note 599, at 251 (describing the interdependence and shared problems of border “twin cities”); see also Sloan & West, *supra* note 601, at 469 (noting that city official in Laredo and Nuevo Laredo have recognized similar policy goals to address common problems, and believed that cooperation was both necessary and likely).

643. See HOUSE, *supra* note 599, at 251 (discussing shared problems of border cities).

644. See *id.* For further discussion, see *supra* notes 633-639.

645. See HOUSE, *supra* note 599, at 251. “In bond” relates to foreign components entering Mexico without duty. See, e.g., Sylvia Tiuersten, *Mexican Maquiladora Plants Present a Catch-22*, (visited Aug. 3, 2000) <<http://www.web-cottage.com/eb.htm>>. Thus “in bond” factories is just another way to refer to maquiladoras. See, e.g., *Break for the Border, The US/Mexico Crossing*, (visited Aug. 3, 2000) <<http://www.love2travel.co.uk/tijuana.htm>>. For further discussion of the maquiladora industry, see *supra* notes 488-516 and accompanying text.

646. See HOUSE, *supra* note 599, at 251. One of the factors accounting for the relative ease of cooperation across the border in the Texas-Mexico vicinity has to do with language and ethnicity. See Hansen, *supra* note 533, at 261-62. Already by 1982, more than fifty percent of the people living in every one of the Texan cities on the border were Mexican-Americans. See *id.* at 262. As of 1990, the percentage of Eagle Pass, Texas’ population of Hispanic origin was well over 95% of the total, the percentage of Hispanics in Laredo’s population stood at almost 94%, Brownsville’s percentage of those of Hispanic origin was over 90%, the percentage of Hispanics in McAllen’s and Del Rio’s population was about 77% each, and El Paso’s Hispanics accounted for 69% of the total population. See *Texas 1990 Census*, (visited Aug. 3, 2000) <<http://govinfo.library.orst.edu/cgi-bin/post2>>, for the Eagle Pass figures; *City of Laredo - 1990 Census*, (visited Aug. 3, 2000) <<http://govinfo.library.orst.edu/cgi-bin/bulldit2?filenam=1a-41464.txp&mfil=130859>>, for the Laredo figures; *City of Brownsville - 1990 Census*, (visited Aug. 3, 2000) <<http://govinfo.library.orst.edu/cgi->

and Laredo, there has been more social and economic integration than each with its own country.⁶⁴⁷ Notwithstanding that Americans and Mexicans each have a distinct political system, policy cooperation and interaction has been one of the cordial personal ties between the general population and the authorities on each side of the border.⁶⁴⁸ Thus, particularly in the border regions, both Mexicans and Americans of Mexican origin share a mutual culture, and a generally open border has commonly been viewed favorably.⁶⁴⁹

bin/buildit2?filenam=la-10768.txp&mfil=132557>, for the Brownsville figures; 1990 Census of Population and Housing, McAllen city, Texas, <<http://govinfo.library.orst.edu/cgi-bin/post2>>, for the McAllen figures; 1990 Census of Population and Housing, Del Rio city, Texas, <<http://govinfo.library.orst.edu/cgi-bin/post2>>, for the Del Rio figures; and 1990 Census of Population and Housing, El Paso city, Texas, <<http://govinfo.library.orst.edu/cgi-bin/post2>>, for the El Paso figures. Understandably, Spanish was spoken freely in public and in the home. See Hansen, *supra* note 533, at 262. On the other hand, attempts at cooperation between San Diego, California, where only 13% of the people by 1982 were Mexican-Americans and its Mexican neighbor Tijuana, had not been as fruitful. See *id.* As of 1990, the percentage of San Diego County's population of Hispanic origin was still only 20% and by July of 1997 had risen to 24%. See *Race/Ethnic Population Estimates: Components of Change for California Counties, April 1990 to July 1997* [Race Ethnic Report (April 1999)], (visited Aug. 3, 2000) <<http://www.dof.ca.gov/html/Demograp/race-eth.htm>> Incidentally, thirty percent of California's entire population is Latino. See *A New Republican Heartland*, *ECONOMIST*, Oct. 9, 1999, at 29. Other factors besides shared ethnicity and language influence the amount of cross-border cooperation, such as economic integration, professional and social interaction, economic integration, local customs and culture, and geographic proximity. See HOUSE, *supra* note 599, at 253 (comparing the levels of interdependence in the border cities Laredo and Nuevo Laredo, Brownsville and Matamoros, and Del Rio and Ciudad Acuña). The tenacity of cooperation between sister cities was revealed in local opposition some twenty years ago, on both sides of the border, to the design of the so-called "tortilla curtain," a fence erected to prevent illegal immigration and smuggling into the United States. See *id.* at 254; see also *Borders: Good Fences*, *supra* note 66, at 22 (pointing out that this "tortilla curtain" border fence, which extends 100 kilometers along the Rio Grande river, is not very effective in preventing illegal border crossings). For further discussion of the "tortilla curtain," see *supra* note 605.

647. See Sloan & West, *supra* note 601, at 471.

648. See *id.* at 472.

649. See Hansen, *supra* note 533, at 263-64 (observing that border residents are prepared for a relationship of more harmony, prosperity, and stability); see also *Good Fences and Good Neighbors*, *supra* note 635, at 32 (noting that border authorities in Columbus, New Mexico used to keep border gates open during the

Policy-makers at the federal level in Mexico and the United States frequently have not been aware of the reality that surrounds the border regions, nor with the integration and informal networks integrative systems, which make-up local daily life."⁶⁰ As a result, authorities on the border, in an attempt to maximize local cooperative endeavors, have interpreted broadly and loosely both countries' policies, regulations, and rules.⁶¹ Consequently, this is one of the reasons that border sister-cities' relationships have been cultivated through informal agreements between their respective elites.⁶² Thus,

night to permit late returnees back across the border). Even the American and Mexican ranchers have developed close contacts, communicating through "the common language of cattle." *See id.* at 32.

650. *See* HOUSE, *supra* note 599, at 256 (commenting on the lack of understanding federal governments generally have for border issues). *Cf.* Letamendia et al., *supra* note 519, at 103 (discussing similar European problems relating to the location of border areas on state peripheries, isolated from decision-making and economic centers).

651. *See* HOUSE, *supra* note 599, at 251 (explaining the strategies used by both border officials and border city elites to achieve much needed local cooperation). Living in Laredo can be risky, quipped a former city attorney, because "[w]e are subjected to floods, drought, the Mexican government and the US government." *Id.*

652. *See id.* at 251-52. Yet, while Mexican and American elites have tackled mutual problems in a pragmatic fashion, they often differed in their approach and understanding of the issues. *See id.* at 252 (discussing differences in priority given to problems and the manners proposed to solve them). Mexican elites addressed problems more broadly, while their American counterparts concentrated on public safety, physical planning, tourism, and commerce. *See id.* The elites from the sister-cities of El Paso-Ciudad Juárez illustrated the contrasting characteristics of the Mexican and American elites. *See id.* Ciudad Juárez's influential community members generally understood the functioning of the United States system, knew English, had an American education, sought to establish social contacts in the United States, and viewed it favorably – strove to emulate American values, ideas, and ideals. In contrast, the elites of El Paso, although they realized the advantages of developing good neighborly relations and wanted to assist their sister-city evolve into a more dynamic community, nevertheless did not consider the Mexicans as a good source for new ideas, friendships, intellectual challenges, or values, and that there was nothing worthy to be gained from their counterparts and thus understood little about Mexican culture. *See id.* As one observer noted, "when successful bicultural relations occur ... it is because the Mexican influentials have deferred to the values and informal demands of the American influentials on a near unilateral basis." *Id.* Unquestionably, then, Americans know substantially less about Mexico than Mexicans know about the United States. *See* Purcell, *supra* note 50, at 1.

many friendly, yet complicated, interactions have comprised the Rio Grande system of communications in the border cities,⁶⁵³ and various business, social, and professional interactions have existed alongside official relations.⁶⁵⁴ Authorities from either side of the border have been able to meet in a social environment and work to solve problems relating to municipal business matters.⁶⁵⁵ Thus, typically within the border communities, a good deal of social interchange has taken place, especially during public holidays, conventions, fairs, ceremonial activities, and parades.⁶⁵⁶ The festivities have encouraged beneficial relationships among influential community members.⁶⁵⁷ Expanding one's personal network across the border has been beneficial not only for personal relationships,⁶⁵⁸ but for business as well.⁶⁵⁹

The United States and Mexico enjoy a unique cultural mix. For example, many Americans enjoy Mexican food, such as fajitas, and many Mexicans play baseball, America's "national pastime." In the lower Rio Grande Valley, Mexican firms construct warehouses in Texas, while Mexicans shop in American supermarkets without

653. See HOUSE, *supra* note 599, at 252 (discussing the nature of communications among Rio Grande cities).

654. See *id.* (discussing the significance of social networking).

655. See Sloan & West, *supra* note 601, at 460 (emphasizing the crucial role of social and personal relationships for resolving business matters); HOUSE, *supra* note 599, at 252 (discussing the role of social interactions for policy makers). The increasing number of Hispanics holding local or federal office has frequently promoted stronger and more comprehensive cross border interactions/relationships. See *id.* at 252-53.

656. See HOUSE, *supra* note 599, at 253 (commenting on the types of interactions and cooperation that take place within border communities).

657. See Sloan & West, *supra* note 601, at 461 (noting the importance of social functions for networking purposes).

658. See *id.* at 460 (stating that simply knowing the names of relevant people across the border may not be enough to obtain the needed assistance). Moreover, it is essential to understand the other side's "rules" and to be able to work within its cultural framework. See *id.*

659. See *id.* at 461, 468 (concluding that in the areas of tourism promotion, celebration of holidays of the other, and banking, the cooperation between the cities Nuevo Laredo and Laredo has been a result of "mutual necessity" and has proven beneficial for both).

leaving their towns.⁶⁶⁰ For example, just over the border from Ciudad Juárez, forty percent of all El Paso retail sales are to Mexicans.⁶⁶¹ Unsurprisingly, as middle and upper income class Mexicans share similar tastes with Americans, Mexican production patterns mirror technology from the United States.⁶⁶²

Local exchanges between the border communities along and across the Rio Grande border between Mexico and the United States have informally sought to improve the border's permeability, while minimizing deleterious effects of distant federal capital decisions.⁶⁶³ The population located in the forbidding and distant border regions throughout the area of the Rio Grande see tremendous advantages and benefits in cooperating closely via specifically designed informal mechanisms.⁶⁶⁴ By facing the same day-to-day issues, cross-border neighbors may, in essence, have more in common with each other than with their compatriots in their respective states.⁶⁶⁵ As a result, border populations sharing common interests often wish to maintain cordial relations and open borders, despite the suspicions their own

660. See *One River, One Country*, *supra* note 481, at 27 (remarking on how the border regions are culturally similar, yet distinguished by the extreme income disparity).

661. See *Borders: Good Fences*, *supra* note 66, at 22 (noting that while El Paso is an American city, it has a Latino flavor).

662. See Reynolds, *supra* note 626, at 125 (discussing how intertwined the markets of Mexico and the United States have become).

663. See HOUSE, *supra* note 599, at 254 (explaining the community impact of local interaction). Federal offices have differed in their approach to border issues – some strive to enhance border permeability for commerce and trade purposes, yet others, through immigration and customs surveillance, work to block the border. See *id.* Consequently, the use of informal networks and understandings seems inevitable for the effective survival of the Mexican and American communities along the Rio Grande. See *id.* at 256.

664. See *id.* at 264 (commenting on how cross-border communities have united to fight the same problems). Likewise, residents of Canada and the United States along their border, through common interests and cooperative efforts, have also become both economically and socially integrated. See Konrad, *supra* note 81, at 199.

665. See Konrad, *supra* note 81, at 191. Cf. Letamendia et al., *supra* note 519, at 103 (highlighting the example of the Basque country, whose people share more in common with each other than with either the French or the Spanish).

governments raise about the other side.⁶⁶⁶

D. JOINT ISRAELI-PALESTINIAN EFFORTS

Similar examples of Palestinian-Israeli cooperation abound.⁶⁶⁷ For instance, in addition to cooperative security efforts,⁶⁶⁸ both sides have often assisted each other with road accidents, Palestinian and Israeli firefighters and rescue units have worked together in extinguishing fires,⁶⁶⁹ and specialized Israeli army units have, at the request of Palestinian authorities, cooperated with Palestinian rescue teams and Palestinian Red Crescent units in rescuing Palestinians trapped under fallen buildings in the Palestinian Authority.⁶⁷⁰ Also, Palestinian and Israeli police have cooperated in criminal investigations,⁶⁷¹ control of

666. See *Good Fences and Good Neighbors*, *supra* note 635, at 50 (contrasting local sentiments about border issues with nationally-voiced opinions).

667. Even despite the slow progress of the peace process throughout the years of former Prime Minister Benjamin Netanyahu's government, cooperative activities between Israelis and Palestinians nevertheless continued during its reign in the mid to later 1990's. See Galili, *supra* note 179, at 3B.

668. See, e.g., Amos Harel et al., *In the Security Services it is Assessed: Hamas is Planning A Number of Parallel Attacks*, HA'ARETZ, Oct. 4, 1998, at 2A (in Hebrew) (on file with author); see also Amos Harel, *Arafat: The Period Close at Hand is Especially Sensitive, I Will Work to Prevent Attacks*, HA'ARETZ, Jan. 24, 1999, at 5A (in Hebrew) (on file with author); *Israel and the Palestine Authority, Memorandum of Security Understandings, 17 December 1997*, 27(3) J. PALESTINE STUD. 147-148 (1998) (presenting the example of Israeli-Palestinian cooperation in the struggle against violence and terrorism).

669. See Margot Dudkevitch, *Palestinian Firemen Fight Blaze at Settlement*, JERUSALEM POST, Oct. 14, 1998, at 4 (recounting the cooperative efforts of Palestinian firemen from Qalqilya and Nablus who worked alongside their Israeli counterparts in successfully extinguishing a fire in the Israeli settlement of Ginot Shomron). Palestinian firefighters from Nablus assisted in putting out a big fire that threatened to harm the Elon Moreh settlement in May of 1999. Later that evening, Israeli Air Force helicopters and firemen assisted in extinguishing a fire that had broken out near the Askar Palestinian refugee camp. See Amos Harel, *Firefighters From the Palestinian Authority Extinguished a Blaze That Threatened Elon Moreh*, HA'ARETZ, May 24, 1999, at 7A (in Hebrew) (on file with author).

670. See Amira Hess, *Two Construction Workers Were Killed and 7 Were Injured in a Roof Collapse in El Bireh*, HA'ARETZ, July 9, 1999, at 6A (in Hebrew) (on file with author).

671. See, e.g., Shimon Azulai, *Israeli Palestinian Cooperation in the Investigation of Counterfeiting*, KOL HA'IR, Sept. 17, 1999, at 25 (in Hebrew) (on file with author); Anat Zigalman, *Israel, Jordan and the Palestinian Authority Will*

agricultural disease has been jointly handled,⁶⁷² and cooperative commercial relations are abundant.⁶⁷³ For example, Israeli agricultural products grown in agricultural settlements located near the Palestinian Authority Airport at Dahania (the Gaza International Airport) can be transported quickly and directly from the farms to the planes without the need for cooling devices.⁶⁷⁴ In the health field alone, Israelis and Palestinians cooperated in 148 joint projects between 1994 and 1998,⁶⁷⁵ with the participation of over 4,000 people and sixty-eight organizations from both sides. Among these cooperative efforts are projects such as training courses in large Israeli hospitals for Palestinian doctors, occupational medicine courses provided through Israeli health funds, a project for the development of mental health services for Palestinians, joint clinical research in schizophrenic disorders, and the first extensive research of its kind on health behavioral patterns of Israeli and Palestinian youths conducted jointly by Israelis and Palestinians.⁶⁷⁶ Fifty-one joint projects between Al-Quds University and all the academic institutions in Israel either have taken place or are currently being

Cooperate in the War Against Drug Traffickers, HA'ARETZ, Feb. 18, 1999, at 9A (in Hebrew) (on file with author); Amira Hess, *The Body of a Palestinian Woman Who Was Murdered by Stone Hits Was Found Near the Settlement Elezar*, HA'ARETZ, Nov. 24, 1998, at 4A (in Hebrew) (on file with author) [hereinafter Hess, *The Body of a Palestinian Woman*]. For further discussion on cooperative law enforcement activities between Israelis and Palestinians, see *infra* notes 790-792 and accompanying text.

672. See, e.g., Adiri, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 20 (commenting on a recent import issue pertaining to Jordanian apples that did not measure up to Israeli sanitary standards).

673. See, e.g., Hazboun, *supra* note 383, at 88 (noting that 600 tons of flour required daily by Gaza and the West Bank amount to 37% of Israel's milling output and that the Palestinian territories receive veal from Israeli kibbutzim and a million liters of milk every day).

674. See Arbeli, *supra* note 476, at 11A.

675. See Galili, *supra* note 179, at 3B. It should be recalled that the Israelis and Palestinians suffered from many turbulent events during these years, including vicious terrorist attacks, radical alterations in the peace process, periodic border closures, and events such as the opening of the tunnel of the Holy Wall in Jerusalem. See *id.*

676. See *id.*

implemented.⁶⁷⁷

The prevalence of commercial interaction in the Israeli-Palestinian "border" region⁶⁷⁸ is demonstrated further by the tremendous flow of business profits. In particular, Israeli citizens⁶⁷⁹ typically have spent on average some ten million New Israeli Shekels in shopping sprees on a normal Saturday in the Palestinian "border" cities of Nablus, Jenin, and Qalqilya, which is equivalent to more than US\$100 million annually on Saturdays alone.⁶⁸⁰ A total of 100,000 Israelis ordinarily shop on the other side of the green line each week, translating to a yearly income for Palestinians of half a billion dollars, from which 10,000 Palestinians directly have been earning a living, while the Palestinian Authority itself has been purchasing annually US\$1.8 billion of goods from Israel.⁶⁸¹ Palestinian and Israeli executives and business persons also have been meeting to promote doing business in times of peace.⁶⁸² Economic cooperation is seen as essential for advancing industry and technology, for without it, the Palestinian standard of living will never approach that of Israel.⁶⁸³

677. *See id.*

678. *See Harel, The Israeli-Palestinian Common Market, supra* note 357, at 6A.

679. They are for the most part Israeli Arabs. *See Harel, The Closure Was Lifted, supra* note 387, at 5A.

680. *See id.* Israelis also seek out local Palestinian dentists whose work won't force them to break into their personal savings accounts. *See Harel, The Israeli-Palestinian Common Market, supra* note 357, at 6A. For further discussion detailing a similar phenomenon occurring in the Mexican-American border regions, *see supra*, notes 633, 660-61 and accompanying text.

681. *See Harel, The Chairman Prefers Business Before Independence, supra* note 377, at 2A. It was anticipated that one and one-half million tourists would visit Bethlehem and Jerusalem and spend hundreds of millions of dollars in these two cities alone. *See id.*

682. *See, e.g.,* HA'ARETZ, June 21, 1999, at 10A (on file with author). (publicizing in a newspaper advertisement a conference to be held six days later for Israeli and Palestinian business persons and executives on the subject of "Doing Business in Peace"); HA'ARETZ, Sept. 25, 2000, at 11A (in Hebrew) (on file with author) (advertising a "Conference on Legal Aspects of Doing Business in the Palestinian Authority" sponsored by the Israel Ministry of Regional Cooperation).

683. *See Omar Salah, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, supra* note 297, at 8-10 (noting that economic cooperation would raise living standards).

It also would be beneficial for Palestinians and Israelis to seek to increase cooperation in areas outside of trade and commerce, particularly in matters pertaining to water, industry, agriculture, and infrastructure.⁶⁸⁴ Accordingly, border-spanning research-oriented proposals in this regard have highlighted regional cooperation and economic development between Israel and its neighbors.⁶⁸⁵ Areas in which cooperation that spans borders is crucial for regional development are environment, water, and tourism.⁶⁸⁶ Cooperative regional water resource management likely will allow for more efficient water consumption based on regional demand, instead of individual entities' needs. Furthermore, these cooperation schemes can create tremendous advantages that flow, not only to the Palestinians and Israel, but also to Jordan.⁶⁸⁷ Likewise, regional tourism cooperation may provide mutual advantages.⁶⁸⁸ The Red Sea's winter sun, archaeological and historical attractions, and holy sites are excellent tourism opportunities that could be developed jointly. The border regions could act as zones for tourist passage due to the short travel times from the country's center into one of the neighboring entities, which may help these areas abandon their peripheral nature.⁶⁸⁹ Finally, it is critical that the Palestinians and

684. See Bahiri, *supra* note 371, at 93. It must be realized, however, that large infrastructure projects require a significant amount of time to finance and develop. See Geoffrey Haley, in *NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA*, *supra* note 375, at 16. For further discussion on privately financed infrastructure projects, see *supra* notes 519-521 and accompanying text.

685. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 32-33 (suggesting that such cooperative relationships force neighbors to rely on each other, thereby reducing the potential for fresh outbreaks of violence between them).

686. See *id.* at 33.

687. See *id.* A Jordanian canal water diversion project, for instance, has been very beneficial to agricultural development, and has brought about cross-border agricultural cooperation between Israel and Jordan. See *id.* at 27. These and similar cooperative projects help create an easier conflict-to-peace transition. See *id.*

688. See Arbeli, *supra* note 476, at 11A.

689. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 34 (noting that while such cross-border tourism can facilitate peaceful relations by helping to break down common stereotypes, regional tourism development ironically might not actually assist the economic advancement of the border regions).

Israelis develop environmental management cooperation projects with one another, as well as with Jordan and Egypt, to ensure protection of the entire region's environment.⁶⁹⁰

The creation of an interdependent Israeli-Palestinian relationship may develop, not so much out of governmental intervention, but more naturally through the realization of the benefits of cooperative development and economic investments. This, in turn, will help create the desire for greater cross-border interdependence and border permeability. Moreover, if political relations were to deteriorate, the existence of such an economic interrelationship may also help deter conflict.⁶⁹¹ Economic resource interdependence in areas such as water, tourism, and the environment should cause regional actors—confronted with a potential conflict—to seriously reconsider the potential destruction of a beneficial and well-functioning peacetime interdependent infrastructure.⁶⁹²

Finally, as in the Mexican-American example, the proximity of large portions of the Arab population in Israel to portions of the West Bank Palestinian population could result in increased cultural affinity between people on opposite sides of the border to an extent greater than to the bulk of the population located in the respective centers.⁶⁹³ Thus, just as neighbors in ethnically homogenous border regions in both the United States and Mexico have been cooperating peacefully and successfully for many years, so too, ethnically homogenous

690. See *id.* at 35 (observing the importance of cooperation on a regional scale to protect the area's ecological balance). A recent example of cooperative action to preserve the environment was contained in an agreement signed in September 2000 between Israel and the Palestinians to build the Gaza seaport. See Tsafrira Rinat, *The Palestinians Will Transfer the Sea Sands North*, HA'ARETZ, Sept. 26, 2000, at 3A (in Hebrew) (on file with author). The agreement called for, among other things, the transfer north to Israel of tons of sand situated south of the new seaport in Gaza. See *id.* It is anticipated that the construction of the port will further intensify the current depletion of sand from Israeli beaches since the new port will essentially disturb the natural flow and movement of sand with the water currents up the Gaza and Israel coasts from Egypt's Sinai Peninsula. See *id.* This movement of sand normally replenishes the beach sand that has been dragged out to sea by waves and preserves the stability of beaches. See *id.*

691. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 32.

692. See *id.*

693. See *id.* at 31. Cf. Konrad, *supra* note 81, at 191. For further discussion of the Mexican-American example, see *supra* notes 648-666 and accompanying text.

interface regions between Israel and the Palestinians can develop into key places for economic cooperation across borders.⁶⁹⁴

E. ASYMMETRICAL RELATIONS IN A COOPERATIVE ENVIRONMENT

The marked asymmetry of economic relations between the Palestinians and Israel is also similar to that of Mexico and the United States, to that of Portugal with EFTA, as well as to the relationship of both Portugal and Spain with the European Community.⁶⁹⁵ Each of these cases is illustrative of economic interaction between developing countries and the developed world generally.⁶⁹⁶ The lack of symmetry in the United States-Mexico relationship, for example, has coexisted with cross-border suspicions and apprehensions concerning “dependency, domination, exploitation, and neocolonialism,”⁶⁹⁷ and still exists today.⁶⁹⁸ Comparable fears also exist in the similarly asymmetrical relationship between Israel and the Palestinians. Nonetheless, the benefits of interaction between economically strong and weak countries are apparent and may be greater and more focused across

694. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 32.

695. Cf. McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 34-36 (emphasizing that Spain and Portugal’s decision to become a part of the EEC lead to substantial economic development within these two countries, which did not come at a detriment to other EEC members).

696. See HOUSE, *supra* note 599, at 264 (relating to the general problems facing the development of border areas between wealthy and poor nations); Purcell, *supra* note 50, at 1 (acknowledging the United States’ marked interest in Mexico as a potential source for petroleum and natural gas, and noting that Mexico is both suspicious and desirous of American investment); see also Reynolds, *supra* note 626, at 125 (observing the disparity between and the interdependence of Mexico and the United States); Wilson & Donnan, *supra* note 81, at 6 (noting the Mexico-US asymmetric economic relationship).

697. See HOUSE, *supra* note 599, at 264 (suggesting that such fears create unnecessary cultural and ideological boundaries that prevent the South from being able to profit from any commitment the North may make to help it); see also Susan Kaufman Purcell, *The Changing Nature of US-Mexican Relations*, 39(1) J. OF INTERAMER. STU. AND WORLD AFF. 137, 151 (1997).

698. See, e.g., Purcell, *supra* note 697, at 142; see also Bagley, *supra* note 606, at 16-17 (stating that Mexican policymakers and intellectuals believe that the United States is willing to sacrifice Mexico’s national interests to further its own interests). Cf. Mimi Hall, *Mexico’s Fox seeks more open borders*, USA TODAY, Aug. 25, 2000, at 1A.

permeable borders.⁶⁹⁹

In the period leading up to the North American Free-Trade Agreement (NAFTA)⁷⁰⁰ between the economically weak Mexico and

699. See HOUSE, *supra* note 599, at 264 (pointing to the relationship between the US and Mexico as an example in which border people view closer cooperation between them in a very positive light).

700. See NAFTA, *supra* note 55. While we are drawing a comparison at this point in our article to a "free-trade area" as such, our object is neither to promote nor detract from the value of a free-trade agreement between Israel and the Palestinians. Rather, our intent is to consider fears and suspicions pertaining to the free-trade agreement, which all NAFTA partners experienced to some extent, and to examine how they were confronted, how they have basically been overcome, and how this analysis may be analogously applied to the Israelis and Palestinians concerning their mutual economic interdependency. Yet, perhaps it may be useful nevertheless to consider generally some of the economic advantages and disadvantages of a free trade area as opposed to a customs union with a common external tariff. See, e.g., McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 38 (examining the advantages and disadvantages of the EFTA model of free trade and concluding that it is likely more beneficial than the EC customs union model for North American states). In a free trade area, generally, tariffs and other trade restrictions (sometimes applied only to specific relevant sectors) between the members are abolished (possibly in a gradual fashion pursuant to a mutually agreed-upon schedule), while each member maintains the right to implement its own trade policy. Generally speaking, a customs union, however, is actually a free trade area agreement extension comprising an external trade policy that is shared by all partners. No borders need to be established since no intra-customs union trade is subject to inspection, which represents compensation for giving up external trade policy independence. See Bahiri, *supra* note 468, at 31, 32. Many experts believe that a customs union is the most desirable economic arrangement for integration from Israel's standpoint. See *id.* at 35, 39, 40. The Palestinian and Israeli economies are already so closely interrelated, a customs union would help avert the creation of economic borders and allow for the continuing free flow of products. See ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 1. Without a physical border, a customs union is viewed by many as the sole available alternative. See Alisah Odenheimer and Orah Koren, *Finance: The Authority May Institute an Independent Currency*, HA'ARETZ, Oct. 18, 1999, at 2A (in Hebrew) (on file with author). Currently, a customs union arrangement exists between the West Bank and Gaza and Israel. See Hanspeter Tschaeni, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 3, 5; Orah Koren, *The Industrialists Offer the Palestinian Authority Customs Harmonization, VAT, Sales Tax, and Standardization*, HA'ARETZ, Sept. 19, 2000, at 3C (in Hebrew) (on file with author); see also Sadan, *supra* note 371, at 43. But see Tahboub, in *supra* note 480, at 49. A basically common currency is used in the customs union. See Bahiri, *supra* note 468, at 32 (remarking that the hybrid currency shared between Israel

and the Palestinians is not the norm). Free trade has not even existed between Egypt, the Palestinians, and Jordan, for instance. See Mahmoud Abu Samra, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 17. The fact that no physical barrier is necessary anywhere in the Palestinian-Israeli union represents an advantage. In Israel, for example, the overwhelming majority of the population refuses to consider physical barriers for Jerusalem. See Sadan and Lowenthal, *supra* note 371, at 153. Furthermore, some observers deem a customs union preferable for wholly economic reasons. See Noman Kanafani, in NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA, *supra* note 375, at 8, 9; see also Ishac Diwan, in NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA, *supra* note 375, at 12. They consider a customs union as frequently advantageous in situations where highly industrialized and developed economies, like in Israel, border smaller, more limited markets, like that of the Palestinians. See Kanafani, *supra*, at 9. Some view a custom union's exchange of preferences as economically beneficial for the Palestinians, since they offer both labor-intensive products, like shoes and clothes, and agricultural products, which are among the most protected sectors in the Israeli economy. According to some experts, the customs union is therefore economically ideal. See Diwan, *supra*, at 12. A customs union also will allow the Palestinians to contemporaneously enter agreements that Israel enjoys with the West. See Michael Jungreis, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 49. For further discussion regarding taking advantage of trade ties with the West, see *supra* note 459 and accompanying text. The direct and indirect deflection of trade, which may result from differing tariff rates on various sides of the border is, moreover, one of the disadvantages of a free trade area. See McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 38. Indirectly deflected trade is inputs entering a lower tariff state, which gives a cost advantage to local industries, and thus provides an impetus for businesses in lower tariff countries to increase production at the expense of higher-tariff free trade members' producers. See *id.* at 38 n. 10. Direct deflection of trade simply means rerouting products through another country with lower tariff rates before the products are ultimately sold in a high tariff rate state. See *id.* at 38. While the direct deflection of trade can be averted by enforcing requirements concerning rules of origin, it also increases trade's transaction costs. See *id.* If the objectives of participating countries' trade policies are not identical, which is often the case, harmonizing tariffs is not an easy task. See McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 38. The adoption of a free trade policy by the Palestinians and Israel may also involve certain risks. First, the customs tariffs of the Palestinians would need to be so low, compared to Israel's customs tariffs, that they would approach the zero mark. Yet, the heavy fiscal and budgetary pressures affecting the Palestinian Authority would likely make this quite difficult. As a result, the Palestinians would not only lose custom union advantages, but would also pay free trade area costs. Second, a free trade area would reduce the potentially significant benefits of associating with Israel. It is less likely that the Palestinians would enjoy the benefits of their association with Israel with a free trade area than with a customs union. See Kanafani, *supra*, at 9. Furthermore, since a free trade area would need to be administered and would

its stronger northern neighbors, Canada and the United States,⁷⁰¹ some worried that investments and employment opportunities would be drawn into Mexico from Canada and the United States.⁷⁰² Furthermore, there was apprehension concerning the fact that American workers may have been forced to compete with Mexican workers who would work for much less⁷⁰³ and tolerate unhealthy and unsafe work conditions.⁷⁰⁴ It was thus felt that workers in the United States did not stand a chance in relation to their Mexican counterparts.⁷⁰⁵ For their part, many analysts in Mexico, like their Canadian counterparts earlier, were concerned with the notion of a formalized arrangement with the economically powerful United States.⁷⁰⁶ They feared that a free trade agreement would solidify Mexico's dependence on the United States because of the economic

have to have certificates of origins and a border, it would also be expensive. In addition, Israel's economy has a value-added content that is high, in comparison to that of the economy of the Palestinians, accounting for an inherent asymmetry between the two. *See* Diwan, *supra*, at 13. The European Union is an example of a customs union, whereas NAFTA and EFTA are free trade areas. *See* McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 38. Independent pursuit of a country's own trade policy is an advantage maintained by a free trade area over a customs union. *See id.* Prime Minister Ehud Barak has supported setting up a trade agreement between Israel and the Palestinians based on the principle of an independent Palestinian economic entity, or, in other words, a Free Trade Area Agreement. *See* Koren, *supra*, at 3C.

701. *See* Neil Nevitte, et. al., *Directions of Value Change in North America*, in NORTH AMERICA WITHOUT BORDERS?, *Supra* note 81, at 245, 248 (stating that in absolute terms, Mexico's economic level is much lower than that of the United States or Canada). On the eve of the signing of NAFTA, Mexico's per capita Gross National Product was only about one-tenth of that of Canada and less than one-eleventh of that of the United States. *See id.* at 248.

702. *See The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21 (stating, however, that thus far NAFTA has benefited Mexico's economy without hurting the United States).

703. *See id.* at 23. Workers in Mexico cost roughly twenty-five percent of what workers cost in the United States. *See Borders: Good Fences*, *supra* note 66, at 22.

704. *See The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 23 (describing arguments by NAFTA's opponents). In 1993, one Texas slogan proclaimed: "Free trade equals slave trade." *See id.* at 21.

705. *See id.*

706. *See* Lorraine Eden & Maureen Appel Molot, *The View from the Spokes: Canada and Mexico Face the United States*, in NORTH AMERICA WITHOUT BORDERS?, *supra* note 81, at 67, 77.

asymmetry between the two countries."⁷⁰⁷ They believed that NAFTA would place the Mexicans "at the mercy of rapacious capitalists pouring filth into Mexico's air and rivers," rather than assisting them.⁷⁰⁸

In the framework of a free-trade agreement, such as EFTA or NAFTA, the differences in levels of economic development between a weak partner, like Portugal (in EFTA) or Mexico (in NAFTA), and its stronger partners, or Spain and Portugal compared to the other European Community countries at the time they became members in 1986,⁷⁰⁹ are similar to the difference between the Palestinian level of economic development and that of Israel. At the time EFTA was formed, for example, the per capita income in Portugal was extremely low compared to that in the Scandinavian countries or Switzerland, as were Portuguese wage levels.⁷¹⁰ Despite this, Portugal's economic situation had no apparent negative effect on wages or unemployment in the other EFTA countries.⁷¹¹ Rather, Portugal and the other EFTA countries benefited from EFTA's creation, as demonstrated by the positive growth rates.⁷¹² Although Portugal's experience is instructive, the integration of Portugal and Spain into the European Community actually may be a closer parallel to the Israel-Palestinian situation.⁷¹³ This is because, unlike Mexico's geographic contiguity to the United States and Palestinian contiguity to Israel, Portugal had no geographic contiguity to any of the EFTA partners.⁷¹⁴

While many warned that NAFTA would lead to a deleterious outcome for both Mexico and the United States, others expected

707. *See id.*

708. *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21.

709. *See* McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 34-35 (stating that the static effects, trade creation and diversion, of European economic integration have as a whole been positive).

710. *See id.* at 35 (stating that Portugal's per capita income was only about twenty percent of those countries' per capita income).

711. *See id.*

712. *See id.*

713. *Cf. id.*

714. *Cf. McKinney, Lessons from the Western European Experience*, *supra* note 397, at 35.

NAFTA to guarantee Mexico's entrance into the American market,⁷¹⁵ which would affect the flow of Mexican trade,⁷¹⁶ to develop urgently required jobs in the Mexican market place by enhancing economic stability through enticing foreign direct investment,⁷¹⁷ and to raise the Mexican standard of living.⁷¹⁸ The idea was to encourage American multinational companies, along with firms from other countries, to invest in Mexico, and thus take advantage of both inexpensive Mexican labor and Mexico's geographic proximity to the lucrative United States markets.⁷¹⁹ An economic framework that solidified Mexico's relationship as a major partner in trade with the United States was considered the best available option.⁷²⁰ Proponents considered NAFTA a means to strengthen the economic stability of Mexico,⁷²¹ and an overall benefit to all three partners.⁷²² In a global economy that has become increasingly more interdependent and open, NAFTA joins other similar agreements that are meant to help place Mexico in a competitive position.⁷²³ Indeed, the flood of

715. See Eden & Molot, *supra* note 706, at 76 (discussing Mexico's desire for a free trade agreement with the United States); see also Juan Jose Moreno Sada, *Mexican Trade Policy and the North American Free Trade Agreement*, in NORTH AMERICA WITHOUT BORDERS?, *supra* note 81, at 105, 108 (discussing Mexico's commitment to trade).

716. See Sada, *supra* note 715, at 108 (arguing that NAFTA will strengthen Mexico's economic stability).

717. See Eden & Molot, *supra* note 706, at 76 (listing Mexico's motives for desiring a Mexico-United States Free Trade Agreement); see also Wilson & Donnan, *supra* note 81, at 22.

718. See Sada, *supra* note 715, at 109 (stating that Mexico's standard of living will only be raised through trade and international investment).

719. See Eden & Molot, *supra* note 706, at 76. Mexico welcomed enhanced foreign direct investment from Canada, as well. See *id.* at 77. The two nations, however, have engaged in very little trade. See *A Question of Preferences*, *ECONOMIST*, Aug. 22, 1998, at 62.

720. See Sada, *supra* note 715, at 108 (arguing that for Mexico the free trade initiative was a logical step).

721. See *id.* at 106 (stating that NAFTA will serve to strengthen Mexico's economy and will facilitate social advancement for Mexican citizens).

722. See *id.* at 107 (noting that Mexican President Carlos Salinas expressed his belief that the three NAFTA trading partners have much to gain from the agreement).

723. See *id.* at 108 (discussing how the free trade initiative will help Mexico establish a "competitive presence" in the global economy).

investment from trade with Canada and the United States was seen as something that would bolster Mexico's economy.⁷²⁴ Although disputes regarding NAFTA continue, there is no serious threat that it will be dismantled.⁷²⁵

For the United States, NAFTA's comprehensive economic effect, in and of itself, is not terribly consequential.⁷²⁶ Its overall impact on Mexico's economy, which is not even five percent of the size of the

724. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21 (describing the economic effects of free trade in Mexico). Increasing Canadian concerns regarding protectionism in the United States and the dependence of Canadian trade on the United States were two of the motives behind Canada's decision to join the United States in a free trade agreement. See Eden & Molot, *supra* note 706, at 72. Increased opportunities for Canadian producers to export their products and guarantee access to the United States market were considered good reasons for a free trade agreement. See Eden & Molot, *supra* note 706, at 72. Furthermore, many analysts viewed increased competition as a means to enhance the competitiveness of Canadian firms. See *id.* Goods and services are trading across the United States-Canada border in the amount of approximately US\$1 billion a day. See *Borders: Good Fences*, *supra* note 66, at 22 (stating that people use the Canadian-American border as a "model of compatibility"). In addition, exports from Canada to the United States increased to 30% of Canada's GDP in 1998, from 15% in 1989. See *A New Realism*, in *A Survey of Canada*, ECONOMIST, July 24, 1999, at 4, 6 (explaining NAFTA's positive effect on the Canadian economy). The economies of Quebec and Ontario alone have experienced similar increases: exports from Quebec to the United States reached about 24 % of the GDP, which is double what it was ten years ago. See *id.* at 6. Ontario also doubled its exports to the United States to 40% of its GDP over the same timeframe. See *id.* Both Canada and the United States have recognized the economic opportunity provided by the opening of Mexico's economy. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21.

725. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21 (observing that despite the fact that quarrels between the countries persist, no one really is discussing its demise seriously). For instance, to Mexicans, migration is one of the most troublesome issues. See Weintraub, *supra* note 607, at 289. Although the contradiction inherent in erecting border fences while promoting free investment and trade exists, official declarations concerning this inconsistency are rare and typically unobtrusive. See *id.*

726. See Ostry, *supra* note 466, at 27 (explaining the three partners' different motives to implement NAFTA); see also *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21, 23 (discussing the impact of free trade on the Mexican economy). Although the need to compete worldwide indeed served as a catalyst for America to buttress and improve its economic relationship with Mexico. See Purcell, *supra* note 697, at 147.

United States' economy, is much more clear.⁷²⁷ NAFTA, however, has indeed benefited all three partners. After Japan and Canada, Mexico has been the United States' third-largest trading partner for quite some time.⁷²⁸ Even preceding NAFTA's implementation, the United States accounted for approximately two-thirds of Mexico's imports and exports.⁷²⁹ Likewise, Israel has been the Palestinian Authority's major trading partner.⁷³⁰ Within just three years of NAFTA's implementation in 1994, exports from the United States to Mexico had risen by thirty-six percent and imports from Mexico had skyrocketed by eighty percent.⁷³¹ Moreover, by the end of 1997, annual trade between Mexico and the United States amounted to approximately US\$190 billion.⁷³² Economics experts do not hesitate

727. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 21.

728. See *Excelentísimo Clinton*, *supra* note 605, at 30 (arguing that America has made possible the development of successful economic links between the two countries).

729. See Purcell, *supra* note 50, at 1 (discussing the involvement of the United States in Mexican imports and exports); Pellicer de Brody, *supra* note 599, at 6 (stating that not only does the United States dominate Mexico's foreign trade, but Mexico is becoming increasingly dependent on the United States for capital goods and technology); Reynolds, *supra* note 626, at 125 (discussing the growth of economic links between Mexico and the United States).

730. For further discussion see *infra* notes 773-784 and accompanying text (discussing Israel's role as the Palestinian Authority's leading trading partner).

731. See *Excelentísimo Clinton*, *supra* note 605, at 30 (discussing the flourishing economic relationship between Mexico and the United States).

732. See *The Trucks That Hold Back NAFTA*, *supra* note 364, at 23. In the first three years alone following NAFTA's implementation, trade between Mexico, the United States, and Canada reached more than US\$470 billion, which represented a sixty percent increase between 1994 and 1997. See *Relations with the United States*, *supra* note 601, at 5. In order to prepare themselves for supplying a consolidated market in North America, manufacturers located in Mexico, foreign and local alike, have been streamlining their production, sales, and distribution procedures. See *id.* NAFTA has been instrumental in Mexican automobile production, with one million units manufactured, representing a 100% increase in truck and car exports between 1994 and 1997. See *id.* Local networks of suppliers in Mexico that have been supplying low quality materials are now being financed and trained by Mexican enterprises. See *id.* Big name retailers from the United States, like Sears and Wal-Mart, have been increasing their Mexican presence and have accordingly begun purchasing their brand clothes from factories located in Mexico. These factories now supply the Mexican market, instead of only exporting their products. See *id.* These important retail outlets have even begun boosting products manufactured in Mexico via their networks throughout North America.

to point out that typical Mexicans may gain the most from this increased regional integration and investment, since they are now able to buy a larger variety of goods at less expense; until recently, this was not an option because of Mexican manufacturers' practice of tacking high prices on low quality merchandise."⁷³⁵ Clearly, both Mexico and the United States are benefiting from NAFTA."⁷³⁶

The successes of NAFTA are instructive for both Israelis and Palestinians, despite lack of a free trade agreement between them. The short history of NAFTA demonstrates that for developing countries, free trade is a beneficial economic choice."⁷³⁷ Over the course of time, as the developing countries' middle class demands a better style of life, its environment and work conditions will become better.⁷³⁸ Moreover, economically well-off countries like the United States need not worry about trading with the developing world, because economically weak countries will become stronger and, in turn, will be able to buy more products from the more developed ones.⁷³⁹ Mexicans can now share the American expectation of an improved lifestyle and a durable and dynamic economy,"⁷⁴⁰ due in large part to NAFTA, while United States authorities understand that their efforts to curb the entrance of illegal immigrants and narcotics from their southern neighbor would be more successful if Mexico

See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 22 (discussing how foreign and local manufacturers in Mexico have been improving their sales, production, and distribution methods in order to compete better in North America).

733. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 22. Now there are manufacturers of pesticide, for instance, that deliver from Texas warehouses directly to northern Mexico customers, while concerns operating in other businesses deliver from Mexican warehouses directly to American customers. See *id.* Products are, therefore, reaching their destination more quickly, which is advantageous for the firms as well as for their customers. See *id.*

734. See *id.* (describing the advantages for customers on both sides from trading goods more efficiently).

735. See *id.* at 23 (stating that both the United States and Mexico have gained from an economic perspective by participating in NAFTA).

736. See *id.*

737. See *id.* (stating that the United States has much to gain from freer trade).

738. Cf. HOUSE, *supra* note 599, at 208 (explaining how the Mexican government instituted commercial development policies in order to benefit from the United States' expanding economy).

had a stronger economy.⁷³⁹ Thus, NAFTA benefits both nations, because Mexico's resulting prosperity should provide an incentive for young Mexicans to remain in Mexico, rather than illegally immigrating to the United States or engaging in illegal narcotics smuggling.⁷⁴⁰

The inextricable, intertwined relationship between Mexico and the United States, which NAFTA personifies, is especially noteworthy in light of the historical hostility between them.⁷⁴¹ Mexican officials have diminished their former anti-American language, while American presidents have shown a willingness to protect Mexico from a frequently antagonistic Congress.⁷⁴²

The Palestinians, much like the Mexicans, are contiguously located next to a more advanced neighbor. The Palestinians, however, are in an especially favorable position, as they also can produce specialty goods that their economically stronger neighbor, Israel, wants to purchase, while at the same time they can duplicate Israeli technologies.⁷⁴³

The positive results produced by Portugal's participation in EFTA, and later, Portugal and Spain's participation in the European Economic Community/European Union⁷⁴⁴ similarly may be instructive for Israel and the Palestinians. Portugal and Spain both witnessed tremendous economic growth following their entrance into

739. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 22, 23 (observing that Mexico's future economic prospects look promising because of NAFTA).

740. See *id.* at 23 (discussing the benefits of NAFTA for residents on each side of the border).

741. See *id.* For further discussion of the history of conflict and hostility between the United States and Mexico, see *infra* notes 877-903.

742. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 22. (mentioning that NAFTA has resulted in a stronger alliance between the United States and Mexico).

743. See Chris Pissarides, in *NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA*, *supra* note 375, at 10, 11.

744. See McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 35-36 (discussing the effects of regional economic integration in Western Europe).

the European Community.⁷⁴⁵ Meanwhile, neither the European Community's economic growth nor that of any specific Member State has suffered due to their participation. Moreover, none of the participating European Economic Community countries experienced a perceptible increase in unemployment attributable to their entrance into the Community. Rather, all participating countries appear to have benefited from trade liberalization.⁷⁴⁶ The European Union's open internal market thus appears to be a valuable economic commodity for all concerned.⁷⁴⁷ Indeed, it is economic development that provides the basic incentive for cooperation across borders,⁷⁴⁸ while in turn, positive interaction, mutual trust, appreciation, and friendship are fostered by cooperation between regions.⁷⁴⁹

F. INTERDEPENDENCY OF THE PALESTINIANS AND THE ISRAELIS

In the same way that essential Mexico-United States interests require political stability and a viable and flourishing Mexican economy,⁷⁵⁰ or that essential global interests required economic prosperity and political stability in a post-World War II Western Europe,⁷⁵¹ the vital interests between the Palestinians and Israel require not only national goals serving as the framework for

745. See *id.* (arguing that Spain and Portugal have expanded their economic growth because of their participation in the European Community).

746. See *id.* at 36 (stating that the positive-sum game of trade liberalization has been advantageous for the countries involved in the European Community).

747. See John Benyon et al., *Understanding Police Cooperation in Europe: Setting a Framework for Analysis*, in *POLICING ACROSS NATIONAL BOUNDARIES* 46, 50 (Malcolm Anderson & Monica den Boer, eds. 1994) (arguing that an open market in the European Community is important because economic interests serve as promoters of change in Europe).

748. See Hansen, *supra* note 533, at 261, 267 (stressing the importance of border region economic development based on trans-border cooperative efforts).

749. See Delli Zotti, *supra* note 53, at 54, 66 (discussing intergovernmental cooperation and its effects in the Alps-Adria region).

750. See Bagley, *supra* note 606, at 13 (noting Mexico's importance to the United States economy).

751. For further discussion on the need for Western European political stability and economic prosperity following World War II, see *supra* notes 441-443 and accompanying text and *infra* notes 906-907 and accompanying text.

economically interdependent relationships,⁷⁵² but also that both of them will be sound and secure from a political standpoint and thriving and flourishing from an economic perspective.

Economic and social development may also help create popular support for the Palestinian-Israeli peace process⁷⁵³ since, and it bears repetition, trade, employment, and investment in industry should increase trust between Israelis and Palestinians, and the resulting potential risk of loss should make it all the more difficult for the two sides to engage in a confrontation with one another.⁷⁵⁴

For instance, the general accessibility of the Israeli labor market to Palestinians has been one of the strongest benefits that they have derived from economic connections to Israel, which are vital to the

752. Cf. Reynolds, *supra* note 626, at 134 (discussing the requirements of cooperative development between Mexico and the United States).

753. See Rick Hooper, in *NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA*, *supra* note 375, at 15; see also Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A; *Israeli-Palestinian Economic Relations*, *supra* note 347, at 1 (stating that in order for the peace process to improve socio-economic conditions in the region, it needs to be supported by economic agreements).

754. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A. For further discussion, see *supra* note 376 and accompanying text and *infra* note 766. Conventional wisdom maintained that economics ensures security and that "people with full pockets do not throw stones." In 1999 and throughout most of 2000, all the security branches in Israel spoke with one voice in support of this maxim. See Amos Harel, *Relying on the Economic Interest of the Palestinians*, *supra* note 404, at 2A. What was once the minority view in Israel of the people working in the apparatus of the Coordinator of Activities in the Territories had developed into the consensus in the general security forces, the Central Army Command, and even to a certain extent also in the Israel Police. See *id.* The obsolete ideas regarding separation between Israel and the West Bank (at least during the period of the interim agreement) had been abandoned. See *id.* The Israel army even desisted from attempting to prevent West Bank Palestinians without security permits from crossing from the West Bank into Israel to work. See *id.* The security barriers between Israel and the West Bank were termed "doors in a house without walls", and the soldiers manning them were prohibited from detaining Palestinians crossing through them on foot to Israel. See *id.* Even Prime Minister Ehud Barak appeared to have changed his mind and was no longer in favor of separation schemes between Israelis and Palestinians. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A. For further discussion regarding separation schemes, see *supra* note 377 and accompanying text.

Palestinian economy.⁷⁵⁵ As previously indicated, 30-40 percent of the Palestinian labor force's income was earned in Israel.⁷⁵⁶

The economic tide of the Palestinians now appears to have improved.⁷⁵⁷ The April 1998 report of the Special United Nations

755. See Sadan and Lowenthal, *supra* note 371, at 151; see also *Israeli-Palestinian Economic Relations*, *supra* note 347, at 2 (stating that Israel is cooperating with the Palestinians to create more jobs); ECONOMIC RELATIONS UPDATE, *supra* note 454, at 1 (noting the positive trend in Palestinian employment); ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 1 (observing that Israel is accepting more Palestinian workers which correspondingly reduces the number of foreign workers).

756. See ECONOMIC RELATIONS UPDATE, *supra* note 454, at 1. In 1992, there were approximately 120,000 Palestinians working regularly in Israel. See *Keeping People in Their Place*, *supra* note 372, at 48. By September 2000, the annual income of Palestinian workers in Israel had reached some US\$1 billion. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A. For further discussion, see *supra* notes 450-454 and accompanying text and *infra* notes 759-772 and accompanying text.

757. See *Israeli-Palestinian Economic Relations*, *supra* note 347, at 1, 8; ECONOMIC RELATIONS UPDATE, *supra* note 454, at 1. In principle, the per capita GNP of the Palestinians increased by 2.5% per year from 1968 to 1976, while the per capita GDP increased at a rate of 2.35% per year between 1977 and 1986. After that, an epoch of *intifada*, closures, and war set in and the Palestinian per capita GNP between 1987 and 1996 dropped to almost zero, while the per capita GDP increased at only 0.2% per year. See Sadan and Lowenthal, *supra* note 371, at 156. Cf. *The Euro-Economies, Growing Apart*, ECONOMIST, May 29, 1999, at 49 (noting that the GDP of Germany for the first quarter of 1999 only increased at a yearly rate of 0.4 percent). Between 1993 and 1998, the GNP had diminished by 35%. See *Keeping People in Their Place*, *supra* note 372, at 48. By 1995, Palestinian income from employment in Israel had diminished to under 30% of the 1992 amounts. For further discussion, see *infra* notes 759-772 and accompanying text. Industrial trade relations were similarly affected and the value added to Palestinian trade with Israel had decreased by 35%. See Sadan and Lowenthal, *supra* note 371, at 152. In 1993, as a result of security considerations, Israel began implementing a method called closures to forbid and restrict West Bank and Gaza Palestinian access into Israel in order to curb Israeli and Palestinian tension. See Nakhal, *supra* note 339, at 118; Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 29; see also *Israeli-Palestinian Economic Relations*, *supra* note 347, at 1. A total closure separates Israel from the Palestinians in Gaza and the West Bank. See Nakhal, *supra* note 339, at 118-19. During closures, Palestinians are denied access into Israel proper, while inter-village/town passage within Gaza and the West Bank is not prohibited. See *id.* An internal closure does not allow inter-village/town passage. See *Keeping People in Their Place*, *supra* note 372, at 48; Nakhal, *supra* note 339, at 119. Closures which prevent their departure to work influence the entire Palestinian economy within days; purchasing in the territories

Coordinator to the territories cited positive growth trends in the private sector as well as in employment.⁷⁵⁸

According to some observers, approximately one-third of the Palestinians have been employed in Israel,⁷⁵⁹ with both legal and

drops immediately, which harms anyone who sells any goods other than food. See Hess, *Netanyahu: The Closure*, *supra* note 383, at 5A. Cf. *Keeping People in Their Place*, *supra* note 372, at 48 (noting that the government of former Prime Minister Benjamin Netanyahu did not generally favor closures, yet it did use them at times as a form of punishment). Throughout the entire year of 1998, which was the last full year of former Prime Minister Benjamin Netanyahu's government, closures were only implemented six times. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A. Since then and at least until September 2000, according to one recent source, the policy of closures was not used at all. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A.

758. See ECONOMIC RELATIONS UPDATE, *supra* note 454, at 1. (citing a United Nations report detailing that in 1997, the number of Palestinians working in Israel increased 14.4% from the previous year). By March of 1999, the United States Under-Secretary of State for Economic Matters praised the economic improvement that had taken place in the territories over the last two years of former Prime Minister Benjamin Netanyahu's administration. See Harel, *The Closure was Lifted*, *supra* note 387, at 5A. Additional United Nations reports have also indicated that the Palestinian economy was enjoying signs of moderate improvement. Overall unemployment, for instance, had dropped by 5% in 1998. See Hess, *The UN*, *supra* note 383, at 6A; see also *Keeping People in Their Place*, *supra* note 372, at 48 (citing a 3% drop in the unemployment rate of Palestinians, from 24 % to 21%). Israeli sources placed the Palestinian unemployment rate at an even lower 15.5% average. See *Israel-Palestinian Economic Relations*, *supra* note 347, at 3. On the other hand, a World Bank report, published in February of 1999, indicated a declining West Bank and Gaza Strip economy since the Oslo Accords, citing diminishing income and rampant unemployment. See *The World Bank: The Palestinian Economy is Declining Because of the Political Situation*, *supra* note 461, at 5A (indicating that this report put unemployment at forty percent). Other reports have shown a twenty-five percent drop in the standard of living among residents in the territories. See Aluf Ben, *Gives a Chance to Barak*, HA'ARETZ, Aug. 25, 1999, at 10A (in Hebrew) (on file with author). Recent statistics, however, from September 2000, demonstrated a significant plunge in Palestinian unemployment, to an eleven percent level. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A. For further discussion, see *supra* note 461.

759. See Samir Huleileh, in *NEW VISIONS FOR THE ECONOMIC AND SOCIAL DEVELOPMENT OF THE WEST BANK AND GAZA*, *supra* note 375, at 7. They have been enticed to work in Israel by relatively high wages. See Hazboun, *supra* note 383, at 89 (describing how the Palestinian agricultural sector has lost workers because of the higher wages offered in Israel). For further discussion on Palestinians employed in Israel, see *supra* note 404 and accompanying text.

illegal workers currently constituting an important component of the Palestinian workforce, as previously mentioned.⁷⁶⁰ The number of Palestinians employed in Israel steadily has increased since the late 1960s, comprising, according to other observers, some forty percent of the Palestinian labor force by the late 1980s.⁷⁶¹ Specifically, the seventeen percent of the Gaza Strip residents who worked in Israel in the first part of 1998, for instance, supported approximately forty percent of all Gazans, according to the Israel Coordinator of Activities in the Territories.⁷⁶² As of August 1999, the figures showed that forty-eight percent of all Gaza income was received from work in Israel, by eighteen percent of Gaza residents who were working there.⁷⁶³ More generally speaking, in early 1998, approximately 50,000 workers from the territories were legally working in Israel⁷⁶⁴ and up to 40,000 were working illegally.⁷⁶⁵ By September 1998, the number of Palestinian workers in Israel had thus increased significantly over the past.⁷⁶⁶ More recently, the Palestinian Authority

760. See Hess, *Netanyahu: The Closure*, *supra* note 383, at 5A. For further discussion of illegal Palestinian workers, see *supra* notes 404, 449, 766 and accompanying text.

761. See Cohen & Haberfeld, *supra* note 448, at 109; see also Khalih, *supra* note 383, at 131. The Palestinian laborers in Israel were basically employed in a number of specific industries: agriculture (approximately fifteen percent), unskilled manufacturing positions (approximately twenty percent), and construction (approximately fifty percent). See Cohen & Haberfeld, *supra*, at 109. Palestinians were eventually employed in other branches of the economy, but in similarly low-end jobs. The notion of opening up the Israeli labor market to Palestinians while denying them advancement opportunities was similar to the practice employed in European countries where foreign workers were also working. See *id.*

762. See Harel & Sheri, *supra* note 347, at 9A.

763. See *Palestinian Workers in Israel—Facts and Figures*, HA'ARETZ, Aug. 30, 1999, at 6A (in Hebrew) (on file with author).

764. See Harel & Sheri, *supra* note 347, at 9A; ECONOMIC RELATIONS UPDATE, *supra* note 454, at 1; ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 2.

765. See ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 2; ECONOMIC RELATIONS UPDATE, *supra* note 454, at 1.

766. See Hess, *Netanyahu: The Closure*, *supra* note 383, at 6A (stating that at this time, a general closure was imposed on the territories). According to The ECONOMIST's statistics, 38,000 Palestinians were working in Israel in 1997 and by

and Israel had agreed to work together to employ 140,000 documented workers,⁷⁶⁷ a significant improvement from the

the first quarter of 1998, 45,000 Palestinians were legally employed there. See *Keeping People in Their Place*, *supra* note 372, at 48. However, 25% fewer Palestinians worked in Israel in June 1997, for instance, than the number of permits issued that month to work. See Cohen & Habersfeld, *supra* note 448, at 109. In August of 1998, Israeli sources indicated that approximately 60,000 Palestinians were legally employed in Israel, including about 13,000 working in the settlements and in industrial zones. See *Israeli-Palestinian Economic Relations*, *supra* note 347, at 2. Also, the number of Palestinians permitted to work in the settlements and the industrial parks in the territories has increased to 20,000. See *Palestinian Workers in Israel – Facts and Figures*, *supra* note 763, at 6A. The increase in the number of Palestinian workers in Israel by 1998 resulted from the fact that Prime Minister Benjamin Netanyahu's government had a more relaxed attitude on the issue of Palestinian labor than did his predecessor. See *Keeping People in Their Place*, *supra* note 372, at 48, 49.

As previously indicated, the number of undocumented Palestinian workers in Israel is at least equal to the amount legally working there. See *Keeping People in Their Place*, *supra* note 372, at 48. The number of illegal Palestinian workers was placed last year at between 40,000 to 60,000. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A; ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 2; see also ECONOMIC RELATIONS UPDATE, *supra* note 454, at 1. Most of these undocumented workers are from the West Bank. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A; see also *Keeping People in Their Place*, *supra* note 372, at 48. For further discussion, see *supra* notes 404, 449-450 and accompanying text. In fact, Israeli security authorities are now openly discussing the benefits of "laundering" illegal Palestinian work. Senior officers of the Israel Defense Force are now claiming that "economics is security" and that the more employment for Palestinians, the lower the risk of terror attacks. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A (noting that such declarations are a relatively new phenomenon for the Israeli Army). For further discussion, see *supra* notes 376, 754 and accompanying text.

Israel has also allowed Palestinian workers to move freely between employers inside Israel, and issued an extra 15,000 permits to Palestinian businessmen in 1998. See *Keeping People in Their Place*, *supra* note 372, at 48. By August of 1998, the total number stood at 21,000 businessmen permits. See Amos Harel, *More Workers from the Territories*, HA'ARETZ, Aug. 24, 1999, at 1A (in Hebrew) (on file with author). Some 30,000 Palestinian merchants and businessmen were crossing the green line daily into Israel as of September 2000. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A. Approximately 5,000 businessmen were permitted to travel between Gaza and the West Bank by August 1999. See Harel, *More Workers from the Territories*, *supra*, at 1A. This latter figure, of course, reflects the situation during the period preceding the opening of the road through Israel for direct Palestinian traffic between the West Bank and Gaza.

767. See Amos Harel, *Israel and the Authority Agreed to Increase the Number*

approximately 60,000 documented Palestinian workers employed in Israel in November 1998.⁷⁶⁸ As of September 2000, 120,000 Palestinians were coming daily to work in Israel.⁷⁶⁹ One of the objectives of increasing the number of Palestinian workers was likely the diminishing of the number of documented and undocumented foreign workers in Israel.⁷⁷⁰ Another goal, which both Israel and the Palestinian Authority shared, was to decrease the number of undocumented Palestinian workers in Israel, since the Israelis have a security interest and the Palestinians have tax collection interests.⁷⁷¹ Nevertheless, it should be noted that even during normal closures, some 100,000 Palestinian workers, merchants, drivers, and students in Israel, as well as Palestinian Authority workers from the West Bank and the Gaza Strip, have been permitted to enter Israel. By comparison, approximately 50,000 to 60,000 laborers without permits, particularly from the West Bank, have entered Israel during normal closures.⁷⁷²

Palestinians trade preponderantly with Israel.⁷⁷³ According to the

of Documented Palestinian Workers to 140 Thousand, HA'ARETZ, Nov. 19, 1998, at 5A (in Hebrew) (on file with author) [hereinafter Harel, *Israel and the Authority*] (noting that many of these laborers were to be employed in the construction industry). The agreement falls within the framework of the Joint Employment Committee, and with the participation of the Deputy Director of the Israel Ministry of Labor and Welfare, the Coordinator of Activities in the Territories, and the Head of the Palestinian Civil Committee. *See id.*

768. *See id.*; *see also Israeli-Palestinian Economic Relations*, *supra* note 347 at 2 (noting that there were an additional 40,000 undocumented workers in Israel in 1998 as well).

769. *See Harel, The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A.

770. *See Harel, Israel and the Authority*, *supra* note 767, at 5A; *see also Harel, The Israeli-Palestinian Common Market*, *supra* note 357, at 6A; *Israeli-Palestinian Economic Relations*, *supra* note 347, at 2; ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 1. For further discussion of foreign workers in Israel, *see supra* note 448.

771. *See Harel, Israel and the Authority*, *supra* note 767, at 5A.

772. *See Hess, Netanyahu: The Closure*, *supra* note 383, at 5A; *see also Harel, The Israeli-Palestinian Common Market*, *supra* note 357, at 6A (citing the figure of 30,000 Palestinians who were permitted into Israel even during normal closures, under the "continuing work plan"); *Israeli-Palestinian Economic Relations*, *supra* note 347, at 2, 3.

773. *See Tschaeni, supra* note 700, at 4; *Keeping People in Their Place*, *supra*

United Nations Commission for Trade and Development in 1996, Israel was the destination of for 88.3 percent of all Palestinian exports and the origin of 89.9 percent of all Palestinian imports.⁷⁷⁴ Understandably, the Palestinian economy is thus highly dependent on Israel.⁷⁷⁵ Yet, although Israel is the most obvious market for Palestinian products,⁷⁷⁶ Israeli trade with the Palestinians accounts for only about eight percent of Israel's foreign trade.⁷⁷⁷ Because Israel is a much larger developed economy,⁷⁷⁸ it has a much greater impact on the Palestinians' economy than the Palestinians have on Israel's.⁷⁷⁹ Nevertheless, the two economies are more interdependent now than they have been since 1993.⁷⁸⁰

Therefore, most Palestinian economists appreciate the interdependency of Palestine's economic relationship with Israel,⁷⁸¹

note 372, at 49.

774. See THE ECONOMIST INTELLIGENCE UNIT, COUNTRY REPORT: ISRAEL, THE OCCUPIED TERRITORIES, 3RD QUARTER 1999, at 27.

775. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A. This is similar to the Mexican economy which is highly dependent on that of the United States. See Purcell, *supra* note 50, at 1 (describing the increasing interdependence between the economies of Mexico and the United States, and the resentment by many Mexicans of the "asymmetry" of the relationship). For further discussion on Mexico's dependency on the United States, see *supra* notes 624-666 and accompanying text.

776. See Bahiri, *supra* note 371, at 92-93.

777. See Tschaeni, *supra* note 700, at 3; see also *Israeli Exports*, in ISRAELI-PALESTINIAN-JORDANIAN TRADE: PRESENT ISSUES, FUTURE POSSIBILITIES, *supra* note 297, at 25 (indicating that exports from Israel to Gaza and the West Bank in 1996 constituted 8% of all Israel's exports).

778. See Tahboub, *supra* note 480, at 65.

779. See Bahiri, *supra* note 468, at 34; see also Baskin, *supra* note 297, at 38-39.

780. See Harel, *The Israeli-Palestinian Common Market*, *supra* note 357, at 6A (pointing out that the trade between the two reached US\$2.5 billion annually by early 1998); see also ECONOMIC RELATIONS BETWEEN ISRAEL AND THE PALESTINIAN AUTHORITY, *supra* note 404, at 1; *Israeli-Palestinian Economic Relations*, *supra* note 347, at 1 (noting that because of the interrelated economies, Israel has a vested interest in encouraging the Palestinian economy). As previously mentioned, the economic value of the relationship between the Palestinians and the Israelis by the middle of September 2000 stood at US\$4 billion. See Harel, *The Chairman Prefers Business Before Independence*, *supra* note 377, at 2A.

781. See Shtayyeh, *supra* note 297, at 187; Manuel Hassassian, in *Minutes of*

particularly in respect to labor and trade.⁷⁸² It is vital that the Palestinian work force continue to be employed in Israel.⁷⁸³ A viable Palestinian economy and closed borders between Israel and Palestine cannot coexist.⁷⁸⁴ Open borders will provide economic benefits to the Palestinians, in particular, as they will be able to take advantage of Israel's advanced consumer economy and trade ties with Europe, the United States, and the rest of the world. Open economic relations will enhance overall relations between the two sides.⁷⁸⁵

XIII. LAW ENFORCEMENT

Palestinian and Israeli criminal elements have cooperated quite successfully and profitably.⁷⁸⁶ They have collaborated to engage in such diverse activities as the cross-border traffic of tens of thousands of stolen cars annually⁷⁸⁷ and the sale of counterfeit pharmaceutical

Conference on Labor Migration, in LABOR, MIGRATION: PALESTINE, EGYPT, JORDAN AND ISRAEL, *supra* note 262, at 127, 188-189.

782. See Shtayyeh, *supra* note 297, at 187.

783. See Hassassian, *supra* note 781, at 186 (stating that Palestinian workers in Israel foster economic prosperity for the Palestinians).

784. See *id.* at 188-89 (arguing that walls and boundaries between the Palestinians and Israel are not feasible).

785. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 95 (observing that political boundaries will negatively impact the Israeli and Palestinian economy).

786. See Amos Harel, *Contrary to the Agreements, The Authority is Arresting Israelis*, HA'ARETZ, Dec. 1, 1999, at 5A (in Hebrew) (on file with author). It is not an unusual phenomenon that some people living in border regions engage in smuggling activities. See Wilson & Donnan, *supra* note 81, at 10, 21. Efficient smuggling relations has been apparent in the border region of Northern Ireland and the Republic of Ireland. See *id.* at 11. Such illicit relations have resulted in the creation of an economy of localized smuggling, founded on a multitude of informal connections on both sides of the border. See O'Dowd, et. al., *Borders, National Sovereignty*, *supra* note 81, at 275, 277; see also Wilson & Donnan, *supra* note 81, at 11. The booming informal economy of smuggling in Ireland functioned inside the two states' official economies and was a part of the creation of a particular border culture. See O'Dowd and Corrigan, *supra* note 81, at 120.

787. See, e.g., Nicole Karo, *A Border Patrolman is Suspected of Rendering Assistance in the Transfer of Stolen Cars to the Area of the Authority*, HA'ARETZ, Oct. 22, 1998, at 7A (in Hebrew) (on file with author); see also *48 Suspects Were Arrested for Selling Vehicles and Defrauding Insurance*, HA'ARETZ, June 27, 1999, at 10A (in Hebrew) (on file with author); Nina Pinto, *The Police Raided Garages that Traded in Stolen Spare Parts*, HA'ARETZ, June 30, 1999, at 9A (in

prescriptions to Palestinians in the Palestinian Authority.⁷⁸⁸ In light of these flourishing and lucrative cooperative efforts of Israeli and Palestinian criminals, there is no reason, therefore, why *legal* cross-border activities designed to thwart their sinister intentions, such as between Palestinians and Israelis law enforcement personnel, should not be equally successful.⁷⁸⁹ In fact, Israeli and Palestinian law enforcement officials indeed have successfully cooperated, for example, in the fight against counterfeit currency,⁷⁹⁰ illegal drug trafficking,⁷⁹¹ and in murder investigations.⁷⁹²

Cross-border cooperation in the form of law enforcement agreements or understandings relating to mutual assistance between law enforcement officials at different government levels plays an important role in satisfying mutual public safety objectives also along the border between Mexico and the United States.⁷⁹¹ For example, when a fugitive from the United States flees to Mexico, American and Mexican law enforcement authorities have cooperated to see that the fugitive is apprehended and extradited to the United

Hebrew) (on file with author); Aliza Arbeli, *Dozens of Arrests of Suspects in Vehicle Thefts to the Territory of the Authority*, HA'ARETZ, June 6, 2000, at 13A (in Hebrew) (on file with author); Aliza Arbeli, *Two Settlers Suspected of Smuggling Cars to the Territory of the Palestinian Authority*, HA'ARETZ, Sept. 5, 2000, at 12A (in Hebrew) (on file with author).

788. See Iris Krauz and Nicole Karo, *Sick Fund Doctors Suspected of Selling to Criminals Fictive Prescriptions*, HA'ARETZ, June 18, 1999, at 11A (in Hebrew) (on file with author).

789. See Hirschfeld, *supra* note 160, at 77 (noting the high rate of cross-border traffic in stolen cars).

790. See Azulai, *supra* note 671, at 25.

791. See, e.g., Zigalman, *supra* note 671, at 9A. Around the same time, the United States and Mexico were in the process of agreeing on further measures to fight drug traffickers who use Mexico as a base from which to supply the American drug market. See *Clinton in Mexico: Hillary Will Be 'Great' in the Senate*, HA'ARETZ, Feb. 16, 1999, at 16A (in Hebrew) (on file with author).

792. See, e.g., Hess, *The Body of a Palestinian Woman*, *supra* note 671, at 4A. However, joint law enforcement activities do not always turn out as desired. See Anat Zigalman, *Jabril Rajub: Israel Thwarted Joint Combat of Car Thefts*, HA'ARETZ, July 28, 1999, at 11A (in Hebrew) (on file with author).

793. See Sloan & West, *supra* note 601, at 465 (illustrating by way of example how law enforcement mutual aid "understandings" along the Texas-Mexico border frequently take place); HOUSE, *supra* note 599, at 253 (describing cooperative policing activities between the United States and Mexico).

States for trial.⁷⁹⁴ Also, the United States has provided intelligence information to Mexican officials so they may prevent crime in Mexico.⁷⁹⁵

The confiscation and return of property stolen from the United States and taken to Mexico has also been quite problematic. It extends to everything from cars stolen by sophisticated auto theft rings to trifling articles shoplifted by individual juveniles.⁷⁹⁶ American insurance companies, with the cooperation of the Laredo, Texas police, have informally arranged for the assistance of the police in Nuevo Laredo, Mexico to help them locate and get back stolen property. In return, the Mexicans have received firearms, which are considerably more costly in Mexico, or cash.⁷⁹⁷ In addition, informers have worked undercover in Mexico for the United States to collect intelligence information regarding stolen property and smuggling.⁷⁹⁸ Moreover, police from Mexico have trained in the United States, and American police have loaned equipment to Mexican authorities.⁷⁹⁹ Americans have also assisted in the search for fugitives or accident victims using airplanes and helicopters from the

794. See Sloan & West, *supra* note 602, at 465.

795. See *id.* at 465-66 (detailing cooperative intelligence gathering efforts).

796. See *id.* at 466.

797. See *id.* (describing the system of exchange that has developed between the United States and Mexican law enforcement authorities).

798. See *id.* (detailing stolen property recovery efforts conducted across the United States-Mexico border).

799. See HOUSE, *supra* note 599, at 253 (delineating various examples of cross-border civic cooperation based upon mutual necessities); see also Sloan & West, *supra* note 601, at 466 (noting that American police loan Mexican law enforcement officials items such as radios, tear gas, two-way radios, automobiles, weapons, and binoculars). In an attempt to enhance anti-drug cooperation between the two countries, Mexican military personnel have trained on United States bases for counter-drug operations. Other examples of military cooperative efforts between the United States and Mexico have centered on joint programs for disaster relief and force training, modernization, and education. See Linda D. Kozaryn, *U.S. and Mexico to Increase Cooperation*, in *American Forces Information Service News Articles*, (visited July 24, 2000) <http://www.defenselink.mil/news/May1996/n05081996_9605086.htm>; see also Stanley Meisler, *U.S. Bolstering Mexican Military, Report Says; Latin America: Washington Group Compiles Dossier on Assistance to Region*, LOS ANGELES TIMES (July 15, 1998), (visited July 27, 2000) <http://web.lexis-nexis.com/universe/d..._md5=dda7834f7f7e7e1259b97118e40d901>.

United States,⁸⁰⁰ and have provided experts specializing in photography and fingerprinting⁸⁰¹ to assist crime-fighting efforts in neighboring Mexican cities.⁸⁰² These, then, are only a few examples of the procedures and informal understandings that impact law enforcement relationships across the Mexico-United States border; law enforcement personnel on both sides have developed an informal relationship, so that they know who to contact when they need help.⁸⁰³

A catalyst for the increased proclivity of traffickers of illicit narcotics, terrorists, and other criminals to ignore borders between states is the drive to integrate Western Europe; the development of a market which is free in people, services, goods, and capital⁸⁰⁴ allows

800. See Sloan & West, *supra* note 601, at 466.

801. See *id.*

802. See HOUSE, *supra* note 599, at 253 (citing other examples of cross-border civic cooperation in which American and Mexican border towns frequently share fire engines when necessary, as well as public health control measures, pollution monitoring, information on communicable diseases, and, at times, medical and dental facilities, on a paid basis). A *U.S.-Mexico Bi-national Drug Control Strategy*, published in 1998, contained cooperative effort proposals dealing with such issues as processing extradition and fugitives requests, fighting organized crime and the illicit trade in weapons, combating money laundering and the production of drugs, the destruction of illicit crops, and the seizure of drugs. See *Relations with the U.S.*, *supra* note 601, at 2.

803. See Sloan & West, *supra* note 601, at 460, 466 (demonstrating how the network of personal and social relationships on both sides of the border is critical to the achievement of public cooperation).

804. See Neil Walker, *European Integration and European Policing: A Complex Relationship*, in *POLICING ACROSS NATIONAL BOUNDARIES*, *supra* note 747, at 22, 27 [hereinafter Walker, *European Integration*] (contrasting the historical approach, which confuses the consequences with the causes, with the counterfactual approach, which focuses more closely upon the contemporary relevance of policing institutions); see also, ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 125 (contrasting the opening of frontiers and its liberation implications with the closing of frontiers for the protection of community and social identities and interests); Bigo, *supra* note 88, at 153 (arguing that firmness is necessary now to avoid the need to be repressive later); Anderson, *European Frontiers*, *supra* note 5, at 2, 3 (stating that the 1985 Single European Act and the European Commission's white paper accelerated the process of border dismantling); ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 186-87 (noting how security threats have evolved from massive military offensives to a lesser, but more widespread prevalence of disorder including organized crime). For example, between 1990-1991, crime across the Germany-Poland border

criminals to roam Europe unimpeded.⁸⁰⁵ This results in a lack of control over the criminal element,⁸⁰⁶ leading to the creation of a single European market for crime, without regard to national borders.⁸⁰⁷ Accordingly, the enhanced mobility of crime and criminals is evidence of the need for cooperation among European law enforcement authorities,⁸⁰⁸ since European Union security is clearly threatened by cross-border crime requires international action.⁸⁰⁹

The trafficking of illegal narcotics is an example of the need for collaboration efforts for European law enforcement purposes. The combined wealth of the EU's Member States provides a valuable

increased by 400%, while border-crossings increased by only 40%. See Bort, *supra* note 81, at 91 (demonstrating the nature of this change from an "alienated" sealed border to an open one). German borders are consequently viewed as being quite porous. See ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 187 (noting, for example, how the 420 kilometers of its border with Switzerland is only policed minimally, and that in 1992, more than one million people entered Germany with the intention of permanent residency there).

805. See John Benyon et al., *supra* note 747, at 48 (discussing the argument that relaxed border controls foretells a great rise in crime); see also, ANDERSON ET AL. POLICING THE EUROPEAN UNION, *supra* note 81, at 125 (describing how many Europeans believed that a sudden relaxation of police and customs activity along the border would encourage criminals interested in expanding their activities).

806. See ANDERSON ET AL., POLICING THE EUROPEAN UNION, *supra* note 81, at 154 (explaining how the level of security at the internal borders was dependent on the extent of external border policing rules and standards).

807. See *Europe's Borders: A Single Market in Crime*, ECONOMIST, Oct. 16, 1999, at 23-24 (contending that the result would push border controls to the outer rim of the Union, as well as drive certain cross-border activities underground).

808. See John Benyon et al., *supra* note 747, at 49 (noting the importance of further in-depth analyses regarding European police cooperation); ANDERSON, FRONTIERS, TERRITORY, *supra* note 4, at 3 (suggesting that a ripple effect would involve all borders, not only the borders of Europe); *World: Europe Euro-cops take on Organised Crime*, BBC ONLINE NETWORK, BBC NEWS, October 1, 1998, at 1, (visited June 22, 2000) <<http://news6.thdo.bbc.co.uk/hi/english/world/europe/newsid%5F184000/184690.stm>>; see also *World: Europe EU drive against organised crime*, BBC ONLINE NETWORK, BBC NEWS, October 15, 1999, at 2, (visited June 22, 2000) <<http://news6.thdo.bbc.co.uk/hi/english/world/europe/newsid%5F475000/475420.stm>>.

809. See ANDERSON ET AL., POLICING THE EUROPEAN UNION, *supra* note 81, at 73 (noting the significance of EU Member States' admission that transnational crime poses a genuine threat to internal security).

illicit drug market and money laundering infrastructure.⁸¹⁰ In this respect, Western Europe is similar to the United States, as they both attract criminal activity due to the immense profits that can be illegally made.⁸¹¹ Furthermore, the United States, like Western Europe, is located nearby states with much different social and living standards.⁸¹² In addition, the EU's permeable borders themselves facilitate the trafficking of illicit narcotics.⁸¹³ Law enforcement agencies may accomplish a great deal in intercepting or disrupting the profitability of the trafficking in illicit narcotics and psychotropics.⁸¹⁴ Indeed, there have been efforts since the 1970s to foster a mutual way to repress illicit drug use.⁸¹⁵

The quickly expanding illegal trafficking of human beings, which has become almost as lucrative as the traffic of illegal drugs, is a recent addition to the more traditional list of illicit European cross-border trade in stolen automobiles, weapons, and narcotics.⁸¹⁶ The permeability of EU borders particularly has been helpful to the

810. See *id.* at 38 (pointing out how these factors combine to establish an opportune structure within the international drug trade).

811. See *id.* at 127 (comparing the EU drug market with that in the United States).

812. See *id.* (describing the United States' relationship with its neighbors to the South); see also Russell King, *The Mediterranean: Europe's Rio Grande*, in THE FRONTIERS OF EUROPE, *supra* note 5, at 109; *Fortress Europe*, ECONOMIST, Oct. 16, 1999, at 19, 20 (describing how the millions of people who illegally slip across the EU's borders in search of a better life undermine the freedom to move within the various states of the EU). The former border between China and Hong Kong is another analogy. At the time, that border divided two tremendously varied social and economic societies, which facilitated considerable illegal immigration and smuggling, as well as armed robbery, over the border. Although this border has been eliminated, the economic and social differences have not been erased. See ANDERSON ET AL., POLICING THE EUROPEAN UNION, *supra* note 81, at 127.

813. See King, *supra* note 812, at 131 (noting that this also presents a problem for policymakers).

814. See ANDERSON ET AL., POLICING THE EUROPEAN UNION, *supra* note 81, at 38-39 (explaining that there is much to be gained through cooperative efforts).

815. See *id.* at 283 (noting that although success has been limited, harmonized attempts to foster a common approach to the repression of illegal drugs among EU states have been taking place since the 1970's); see also *Borders: Good Fences*, *supra* note 66, at 21.

816. See *Europe's Borders: A Single Market in Crime*, *supra* note 807, at 23 (describing the disturbing increase in the illegal trafficking in human beings).

roughly half million "illegals" who annually have been attracted to the economically strong European Union.⁸¹⁷ Statistics reporting the number of people illegally smuggled into Europe provide a conservative annual estimate of 400,000.⁸¹⁸

While experts are of the opinion that law enforcement cooperation is critical and must be improved in order for the integration of Europe to proceed,⁸¹⁹ more advanced manners of police cooperation in Europe are viewed as possible due to increasing political cooperation with the EU.⁸²⁰

Over the course of European integration, different approaches have developed concerning law enforcement cooperation.⁸²¹

817. See *Fortress Europe*, *supra* note 812, at 20 (suggesting that as long as there is an economic disparity this large, "illegals" will continue to slip across borders).

818. See *id.* at 23 (noting that since 1993, the increase has been five fold).

819. See Malcolm Anderson, *The Agenda for Police Cooperation*, in *POLICING ACROSS NATIONAL BOUNDARIES*, *supra* note 747, at 3 [hereinafter Anderson, *The Agenda for Police Cooperation*]; see also *Fortress Europe*, *supra* note 812, at 19. In Western Europe, mutual legal assistance and law enforcement cooperation in criminal matters is rather new. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 44 (listing various obstacles to a clear policy regarding European police cooperation). Such cooperation has also been ineffective. See *id.* at 247. Nor was it set up as an official part of the original structure of the European Union. See Anderson, *The Agenda for Police Cooperation*, *supra*, at 3 (explaining that despite the remarkable development of European integration, no dominant conceptual framework has emerged). Moreover, some experts have stressed the importance of harmonizing criminal justice and mutual judicial assistance, rather than institutionalizing or coordinating policing across the border. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 84, 248. Thus by as late as the mid-1990's, law enforcement cooperation had not yet been formalized. See *id.* at 84. Conventional mechanisms have accordingly not been a major factor in the Europe-without internal-border's crime combating effort, due to their terribly complex nature and variability. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 247 (noting factors that characterize the current arrangements for mutual assistance in administration of justice among European Union states). Modern European policing has consequently progressed in an uneven manner, and its future is thus uncertain. See Walker, *The New Frontiers of European Policing*, *supra* note 52, at 165.

820. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 84 (noting that even former critics of such a system have begun to acknowledge its benefits).

821. See *id.* at 38 (discussing these various approaches). It is not our objective to discuss herein all the various viewpoints relating to the political theory of European integration and its effect on police cooperation. We intend to

notwithstanding similar professional experience, political consensus, mutual material interests and cultural practices, and considerations of costs and advantages to the effect that criminal investigations and prosecutions become less expensive and more effectual with enhanced cooperation among police forces.⁸²² It has often been said that closer cross-border cooperation among law enforcement authorities is needed because contemporary mass transportation and communications systems have succeeded in disabling customary border controls.⁸²³ Commentators argue that intensified law enforcement cooperation is a direct outcome of necessity and changing circumstances. Clearly, internal European police coordination is seen as necessary to effectively deter crime.⁸²⁴

Since law enforcement cooperation is therefore required to curb the increase in the level of crime,⁸²⁵ the elimination of EU internal border controls, which were frequently viewed as crime stoppers, has consequently stimulated new ideas regarding enhanced cross-border cooperation among police forces to offset the negative effects that

demonstrate, through the use of selected European examples and analogies, how Palestinian and Israeli law enforcement officials might work better with one another and what the advantages and disadvantages of such cooperation may be. It bears mention at this point, nonetheless, that among the reasons that some observers do not even believe that a European police cooperation theory as such actually exists are the following: (1) Most police matters are neither international nor regional, but local, and therefore, law enforcement practice maintains a distinctively national concentration; and (2) since there are numerous levels and spheres of law enforcement cooperation across borders, its practice is hard to determine. *See id.* at 40.

822. *See id.* at 38 (citing numerous arguments in favor of increased EU cooperation to reconcile national interests and to resolve the lack of coordination between various national law enforcement agencies).

823. *But see* Anderson, *The Agenda for Police Cooperation*, *supra* note 819, at 4 (criticizing this frequently made assertion as based on crude functionalist premises).

824. *See id.* at 5 (discussing the political theory of European integration).

825. *See* Bigo, *supra* note 88, at 154, 161 (noting that controls can only be effective if they are based on an accurate understanding of realities); *see also* Walker, *European Integration*, *supra* note 804, at 27. This is notwithstanding the contention that apparently not much seems to be known about crime across European borders. *See* Benyon et al., *supra* note 747, at 48 (noting that diverse criminal justice systems as well as the variety of bilateral and multilateral agreements complicate the issues of cooperative law enforcement).

have consequently arisen.⁸²⁶

Governments, security forces, and police in Europe have made great efforts to create effective measures of cooperation to combat criminal activity,⁸²⁷ which has resulted in significant advancements in the realm of cross-border police work and law enforcement cooperation.⁸²⁸ Informal networks, secret arrangements, bilateral

826. See Monica den Boer, *The Quest for European Policing: Rhetoric and Justification in a Disorderly Debate*, in POLICING ACROSS NATIONAL BOUNDARIES, *supra* note 747, at 174 (contrasting the experts' views with the assertion that there may be serious implications with finance, democracy, and civil liberties if the experts' views remain unchallenged); see also *Fortress Europe*, *supra* note 812, at 19.

827. See Charles D. Raab, *Police Cooperation: The Prospects for Privacy*, in POLICING ACROSS NATIONAL BOUNDARIES, *supra* note 747, at 121 (listing drug trafficking, financial fraud, terrorism, art and antique theft, and large scale movements of people across borders as the most prevalent of crimes).

828. See Benyon et al., *supra* note 747, at 46 (theorizing that any such advancement resulted as a response to changes in the political, economic, and social context of the European Community and Europe as a whole). The path to effective law enforcement cooperation in Europe has been an arduous one. See *id.* at 46 (explaining that progress has been intermittent and incremental). Advancement towards cooperation has been uneven. See Walker, *The New Frontiers of European Policing*, *supra* note 52, at 168 (pointing out the variable progress in the cooperation among police in the EU). Thus, according to some observers, little has been accomplished in enhancing law enforcement cooperation across borders from an operational standpoint, and what minor progress has been made remains limited to the territorial principle of enforcement jurisdiction. See ANDERSON ET AL., POLICING THE EUROPEAN UNION, *supra* note 81, at 218. Law enforcement is therefore still fundamentally a state concern and suspicions are accordingly aroused regarding suggestions aimed at promoting law enforcement activity on an international scale when they border delicate political sovereignty issues. See Benyon et al., *supra* note 747, at 47. The multifariousness of specific state rules pertaining to criminal procedures and offenses, and the authority of police, obstructs cross-border EU police cooperation. See ANDERSON ET AL., POLICING THE EUROPEAN UNION, *supra* note 81, at 181; *Europe's Borders: A Single Market in Crime*, *supra* note 807, at 26. Moreover, achieving worthwhile cooperation among national forces all functioning within the one state, and sometimes also within the same unit, is frequently complicated enough. See Benyon et al., *supra* note 747, at 49 (emphasizing that a high level of effective cooperation is often difficult to achieve between forces operating within the same country). Effective cooperation among multiple police forces in multiple states is all that more complex. See *id.* at 48. The complicated nature of the problem is astonishing. See *id.* at 48, 54. In addition to the fifteen different Members of the European Union with various judicial traditions, there are countless individual legal jurisdictions and around 120 police forces. See *Europe's Borders: A Single*

agreements, and formal frameworks all function to further law enforcement activities across borders and foster cooperation.⁸²⁹ For

Market in Crime, *supra* note 807, at 26. European police forces differ considerably from one other. In some states, single national forces operate, while others contain state and federal divisions of police responsibility. *See* Benyon et al., *supra* note 747, at 48. Some jurisdictions operate a national force together with many regional forces, run semi-autonomous forces by the dozens, have a police force set up on different planes with jurisdictional and authority disputes, have mutually integrated forces, and have two statewide or very centralized forces. *See id.* at 48, 54. Police forces in Europe are not organized according to any specific pattern and have no basic uniformity. *See id.* at 48, 54. Therefore, procedures and practices can be quite diverse. *See id.* at 54. Legislative, linguistic, and cultural differences further hinder effective police cooperation. *See* ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 85. Police forces within the EU are also frequently unaware of other police force organization, structure, and crime handling methods. *See* Benyon et al., *supra* note 747, at 48. Moreover, police forces function in the framework of various criminal justice systems. *See id.* The differing procedures, communications, and varied organizational and legal frameworks, together with the different traditions and cultures, make it even more complicated to achieve cross-border law enforcement authority cooperation than internal law enforcement cooperation. *See id.* Obstacles to EU crime control continue to exist in Member States with varied legal systems, criminal justice procedures, and police organization. This consequently represents another area in which borders continue to function as barriers. Disagreement, conflict, expense, misunderstandings, and delay are among the outcomes of the complexities involved in matters such as crime definition, differing law enforcement policies, witness subpoenaing, inter-jurisdictional transfer of evidence, and arrests. The unification of criminal law and procedure are not simple tasks, and there is little political desire to harmonize them. *See* ANDERSON, *FRONTIERS, TERRITORY*, *supra* note 4, at 188-89. In light of these seemingly insurmountable differences and difficulties, some are surprised that cooperation among European law enforcement authorities has progressed as far as it has, especially given the diversity of agencies involved. *See* Benyon et al., *supra* note 747, at 54. There are, nonetheless, some indications of progress. *See* ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 72. For instance, the decentralized nature of law enforcement cooperation in Europe is slowly giving way to a more centralized and coordinated approach. *See id.* at 73. Moreover, quantitative and qualitative improvements in law enforcement activity across borders have also been taking place. *See id.* While cooperation among law enforcement authorities concentrated on data exchanges until the late 1980's, currently more dynamic types of police cooperation, which take advantage of new technologies like electronic surveillance, telecommunications, computerized data banks, smart cards, DNA profiling, and mutual intelligence and information analysis, are becoming important. *See id.* at 73.

829. *See* Benyon et al., *supra* note 747, at 46, 48, 53 (arguing that while there have been attempts at cooperation, there has been little coordination of the policies involved). The cooperation agreements, which have various origins and have taken

instance, some of these formal frameworks give police cross-border authority with respect to interrogation, detention, arrest, and investigation matters,⁸³⁰ while close personal contact between various countries' mid-level police officials represents a significant aspect of informal arrangements.⁸³¹

Cooperation on a practical level among administrators and policy professionals was put in place before formal political frameworks, and it continues to endure.⁸³² Perhaps the most venerable and oldest arrangement for fostering cooperation among law enforcement authorities is the International Criminal Police Organization, or Interpol. That organization furthers cooperation among police forces through aid and collaboration in particular investigations.⁸³³

The Schengen Agreement, originally signed by five states⁸³⁴ in 1985 and later joined by other states,⁸³⁵ represents a rather

shape gradually, are quite intricate. *See id.* at 46.

830. *See id.* at 53 (noting that discussions on these agreements can only take place at the highest level).

831. *See id.* at 54, 55 (providing, as an example of such face-to-face cooperation, the preparation for policing the English Channel tunnel). The importance of informal ties lies in the fact that they allow officers closest to the policing activity to work together. *See* ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 75. More formal cooperation among police forces in Europe will involve giving officials and civil servants most, if not all, of police business, thereby reducing the role played by practical and professional knowledge. *See id.* at 287. One risk involved in this scheme is that informal, unaccountable cooperation frameworks might be created if EU law enforcement personnel become disillusioned. According to police experts, the evolution of unsuitable strategies for criminal justice may be another risk. *See id.* Yet, most realize that due to disadvantages inherent in informal structures, formalized cooperation among police in Europe is nevertheless a necessity. *See id.* at 84. For further discussion, see *infra* notes 837, 842 and accompanying text.

832. *See* Walker, *The New Frontiers of European Policing*, *supra* note 52, at 175 (placing cooperation on a practical level in an historical context and explaining that the legacy has remained strong).

833. *See* Benyon et al., *supra* note 747, at 56 (indicating that Interpol's role exists primarily as a communications network, allowing for discussions of European crime trends). Interpol's history began in the period between the two world wars. The organization is situated in Lyon, France, and today has more than 169 members. *See id.*

834. *See, e.g.,* Walker, *The New Frontiers of European Policing*, *supra* note 52, at 166.

835. *See id.* (recounting the formation and growth of the Schengen Agreement).

enterprising step towards the formalization of European law enforcement cooperation.⁸³⁶ The 1990 Schengen Implementing Convention continued this trend by way of an all-inclusive effort to facilitate cross-border law enforcement cooperation.⁸³⁷ Some observers believe it is a forerunner to future cooperation structures.⁸³⁸ Arrangements that allow police to function beyond their border also enhance cooperation, such as those where law enforcement authority is extended up to ten kilometers beyond a state's internal borders in cases of hot pursuit.⁸³⁹

The Trevi group is an important European law enforcement cooperation forum, which includes, among other associates, Switzerland, Canada, and the United States. The group was established in 1975 to coordinate anti-terrorism action, assess threats, and exchange ideas, information, and data regarding issues of private security, public order, equipment, and training.⁸⁴⁰ It later assumed the added responsibility of handling information exchanges for more serious crimes, such as environmental and computer crime, money laundering, stolen artworks and antiques, trafficking of illicit narcotics, and organized crime.⁸⁴¹ The meetings of the Trevi ministers

836. See Benyon et al., *supra* note 747, at 57; see also Driessen, *supra* note 534, at 182 (focusing on the immigration aspect of the Schengen Agreement).

837. See Benyon et al., *supra* note 747, at 57-58 (describing key implementations, including measures on visa regime harmonization, hot pursuit, and the establishment of a computerized data exchange system); see also Walker, *The New Frontiers of European Policing*, *supra* note 52, at 166. In 1995, the Schengen framework began operating. It is interesting to note that some experts worried that informal structures, which are crucial in border region cooperation, might be at risk due to the Schengen Agreement's formalization of law enforcement cooperation. See ANDERSON ET. AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 75 (noting that despite the concern that the formalization of police cooperation will endanger informal arrangements, informal cooperation will not be halted because it is essential in policing the border regions). For further discussion, see *supra* note 831 and accompanying text and *infra* note 842 and accompanying text.

838. See Benyon et al., *supra* note 747, at 58-59 (suggesting that improvements will be implemented based on this prototype's successes and failures).

839. See *id.* at 58.

840. See *id.* at 59.

841. See Benyon et al., *supra* note 747, at 59-60 (outlining the objectives of "Working Group III" of the four working groups designed under the Trevi group); see also Walker, *The New Frontiers of European Policing*, *supra* note 52, at 166

promote cooperation among law enforcement authorities, which is further facilitated by the discussions and meetings that provide a convenient opportunity for the personnel of various police forces to meet on a very informal basis. Although not officially part of the structure, personal ties often facilitate cooperation.⁸⁴²

The 1992 Maastricht Treaty on European Union also provided some direction for law enforcement cooperation in Europe, including the institution of the European Police Office ("Europol"), which was to serve as an information exchange framework for the entire European Union.⁸⁴³ Initially coordinating drug-related crime information exchanges,⁸⁴⁴ Europol was considered the most aspiring and lofty effort at the time in the fight against crime in Europe.⁸⁴⁵ The information exchange apparatus was also designed to combat and prevent serious crimes like terrorism and furnish assistance cooperation for criminal analyses and investigations in the European Union. Eventually, Europol also began to deal with international vehicle crime, networks of illegal immigration, and nuclear crime.⁸⁴⁶

The Council of Europe's attempts to encourage modernization of law and facilitate more intimate member cooperation have resulted in

(contrasting the Trevi Group with Europol).

842. See Benyon et al., *supra* note 747, at 60 (suggesting that the Trevi group has made the most substantial contributions at the micro level). For further discussion, see *supra* notes 831, 837 and accompanying text.

843. See *id.* at 61; see also Walker, *The New Frontiers of European Policing*, *supra* note 52, at 167.

844. See Benyon et al., *supra* note 747, at 61 (noting the strong likelihood that the Europol will evolve into a full-fledged European police agency).

845. See Walker, *The New Frontiers of European Policing*, *supra* note 52, at 166.

846. See *id.* at 167 (explaining that as time progressed, the scope of the "fledgling organization had been extended beyond drug-trafficking and associated criminal organizations and money laundering activities"). Europol is expected to gain a special perspective on particular international patterns of crime that will place it in a better position than other police elements to coordinate intelligence. See *id.* at 178. In addition, the creation of international task forces on an ad hoc basis will enable it to orchestrate case-specific criminal investigations in various states. See *id.*; Philip Johnston, *Britain powerless to arrest arrival of Eurocop*, THE DAILY TELEGRAPH, June 16, 2000, at 24 (explaining that Europol has now included among its priorities "to gradually steer the work from strategic to operational-related activities").

numerous international agreements, including many in the area of criminality.⁸⁴⁷ The Council of Europe is well aware of the importance of improved justice administration cooperation⁸⁴⁸ and encourages cooperation between states through procedural regimes. The Council's mutual legal assistance and extradition instruments aid cooperation regarding law enforcement matters, while its efforts in the areas of sentencing and criminal proceedings transfers have also been helpful.⁸⁴⁹ Enhanced law enforcement agency cooperation, cooperation in anti-terrorist matters, coordination of external border checks, cooperation in judicial matters, and combating illicit drug trafficking were included in the "Palma Document" submitted at a European Council meeting in 1989.⁸⁵⁰

The Treaty of Amsterdam brought with it in 1997 far-reaching alterations to the legal mechanism of police cooperation in Europe.⁸⁵¹ The Treaty of Amsterdam, which took effect in May 1999,⁸⁵² covers criminal judicial cooperation as well as cooperation in customs and police matters.⁸⁵³ Eurojust, another border-transcending law enforcement organization that is soon to be set up, is designed to "facilitate the proper co-ordination of national prosecuting authorities

847. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 220 (stating, for instance, that by March 31, 1994, twelve EU Member States had signed and ten had ratified the 1988 UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances).

848. See *id.* at 239 (stating that the Council of Europe has sought to acknowledge the need for flexibility in promoting cooperation in the administration of justice).

849. See *id.* at 221-22.

850. See Cullen, *supra* note 359, at 194 (noting that the "Palma Document" set areas of priority for Member State action in respect to external and internal borders).

851. See *Europe's Borders: A Single Market in Crime*, *supra* note 807, at 26.

852. See *id.*

853. See Walker, *The New Frontiers of European Policing*, *supra* note 52, at 182 (stating that there is a debate as to whether these new structures foretell an approach to European internal security that will be more detached, threatening to blur the lines of accountability and answerability). One of the four main objectives of the Treaty of Amsterdam is "to sweep away the last remaining obstacles to freedom of movement and to strengthen security." M.B. McGeever, *Widening and Deepening of the European Union: Economic and Political Challenges*, 36(3) INTERNATIONAL STUDIES 237, 240 (1999).

and of supporting criminal investigations in organised crime cases.”⁸⁵⁴

Many of the less formal and comprehensive European law enforcement cooperation understandings continue to function alongside the more structured arrangements. These arrangements encourage cooperation regarding specific areas of crime. As a whole, both the formal and informal systems constitute a complicated and interrelated network serviced by a wide variety of systems of information.⁸⁵⁵

XIV. CONCLUSION

The European Union, as the European Economic Community, originated in political reaction to incessant conflicts between Western European states, and the structure designed to eliminate the roots of these conflicts regarding sovereignty and territorial borders was that of free trade and intertwined economic relationships.”⁸⁵⁶ These methods by which the conflicts were to be quelled eventually evolved into the objectives of the European Union, the institutions of which continued to be generally limited to integration in the economic sphere and symbolized by the development of the Single European Market and its “Europe without Frontiers.”⁸⁵⁷ In the Maastricht Treaty, economic integration led to an effort to achieve integration on a political level, in addition to considerations of issues related to European Union external border police activity and ties

854. See Johnston, *supra* note 846, at 24 (explaining that Eurojust is to consist of police, magistrates, and national prosecutors of Member States). Additional European Union efforts also include Member States posting police liaison personnel to one another. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 130-31 (explaining that Member States have also posted police liaison officers in the United States, South America, Africa, and Asia).

855. See Benyon et al., *supra* note 747, at 62 (finding that the network is complex and intricate, and the systems of information are frequently incongruous). Cross-border policing is thus in essence a “mosaic of activities” that involve many organizations and entities performing countless functions. See ANDERSON ET AL., *POLICING THE EUROPEAN UNION*, *supra* note 81, at 38.

856. See O’Dowd et. al., *supra* note 81, at 272 (highlighting the interconnected nature of economic and political integration in the European Union).

857. See *id.*

with states that are not members of the Union.⁸⁵⁸

As the result of a protracted and bitter dispute between Israelis and Palestinians, relations between the two sides obviously will not be normalized instantaneously. Yet more economic dependency—two-way trade, rather than a basically unidirectional economic movement,⁸⁵⁹ and a higher level of economically equitable cooperation⁸⁶⁰—could help nurture and promote more positive contact between the two sides,⁸⁶¹ leading eventually to much improved relations.⁸⁶² Economic cooperation must be viable for both Israelis and Palestinians, and each side's interests must be addressed appropriately by the other.⁸⁶³ The possibilities for successful economic cooperation increase when each side is able to view the potentials and problems of the other,⁸⁶⁴ since these possibilities are of an objective nature and will be better accommodated with the existing relations between them, which are characterized by their political and social limitations, which are subjective.⁸⁶⁵

858. *See id.* at 273.

859. *See* Newman, *Boundaries in Flux*, *supra* note 60, at 37. In the Mexican-American case, for example, a body of rules was created to structure relations of economic interdependence in the form of national objectives, which would connote a two-directional movement of tastes and values instead of a one-directional pattern of behavior and consumption. *See* Reynolds, *supra* note 626, at 134.

860. *See* Bahiri, *supra* note 371, at 93-94.

861. *See* Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 96.

862. *See* Bahiri, *supra* note 468, at 33; *see also* *Israeli-Palestinian Economic Relations*, *supra* note 347, at 1. Likewise, Mexico participated in NAFTA to transform more distant interaction into a closer relationship with the United States. *See* Weintraub, *supra* note 607, at 288-89. The United States favored free-trade with Mexico for its potential political and economic advantages. Ruling politicians in Mexico stopped much of their anti-American rhetoric, and the Mexican press afforded considerably less emphasis to news items which were unfavorable to the United States. *See id.* at 289. For further discussion, *see supra* notes 726-734, 742 and accompanying text.

863. *See* Arnon & Spivak, *supra* note 387, at 52. *Cf.* Bagley, *supra* note 606, at 17; Reynolds, *supra* note 626, at 134-35 (highlighting the need for mutual tolerance between Mexico and the United States).

864. *See* Reynolds, *supra* note 626, at 135 (noting the need for the United States and Mexico to maintain realistic expectations of the relationship between them).

865. *See id.* (commenting that there is great potential for the Mexico-United

International relations, however, involve more than free cross-border movement of goods.⁸⁶⁶ International cooperation on a regional basis where participants officially take part on equal footing and benefit from its development might serve as a formula for imitation.⁸⁶⁷ Central and Western European participants making up the Central European Initiative⁸⁶⁸ created an intermediary pattern that helped develop equality among members cooperating symmetrically. Yet, the Western participants, having bought the economic resources for the projects' realization, functioned as development promoters, resulting initially in a comparatively asymmetric situation. Participants could contribute and exchange intuitions, solutions, and experiences that confirmed each participant's equal dignity and value.⁸⁶⁹

Durable normalization and an increase in mutual assurance and confidence between Palestinians and Israelis is more readily obtainable with an open border than a closed one.⁸⁷⁰ Functional border characteristics should move toward more positive contact, which should contribute to the normalization process.⁸⁷¹ Successful allaying of suspicions between the Palestinians and the Israelis, and the porousness of borders to the movement of products and individuals significantly will influence the extent to which the borders become less confrontational.⁸⁷² Cross-border patterns of

States relationship with increased communication).

866. See Randall, *supra* note 449, at 6 (suggesting that a cross-disciplinary approach to international relations provides for a more comprehensive discussion).

867. See Delli Zotti, *supra* note 53, at 67 (describing the regional international model).

868. See *id.* at 55 (suggesting that the changes in political regimes helped create the Central Europe Initiative).

869. See *id.* at 67 (noting how the unique characteristics of nations contribute to cooperation).

870. See Newman, *Demarcating a Boundary*, *supra* note 22, at 178. Efforts to close off the border between Mexico and the United States, for example, have demonstrated the minimal influence on illegal immigration and have caused immediate economic damage as well as inter-social group tension. See Bigo, *supra* note 88, at 161 (explaining how many attributes of society transcend borders).

871. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 96.

872. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 17.

respect for and recognition of non-territorial international circumstances, experiences, and events⁸⁷³ are among the basic ingredients for success. Western Europe's example of "erasing" borders, which has resulted in a gradual process of political normalization and stabilization, brought about by economic integration,⁸⁷⁴ illustrates this positive outcome.⁸⁷⁵ It is complicated for parties intimately involved in unending conflicts to disentangle themselves because of the complex emotional and social causes; however, exchanges of a technological, cultural, and economic nature between the conflicting parties may be beneficial in enhancing social unity of purpose, interest, and feeling.⁸⁷⁶

Former attitudes reflecting conflict mentality between current friends and allies are reminiscent of prior (and frequently not even yet outdated) attitudes between Israelis and Palestinians. As illustrated very well along the border between Mexico and the United States and within Europe, adjacent border areas reflect extremely varied cultures, histories, administrative and economic structural systems, and languages. Such differences often augment conflict.⁸⁷⁷

873. See Bigo, *supra* note 88, at 161 (recognizing that many characteristics of society transcend borders).

874. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 96. The Treaty of Rome's four freedoms—freedom of movement of capital, services, labor, and goods—impliedly constitute an elimination of border controls. See Anderson, *European Frontiers*, *supra* note 5, at 1-2.

875. See Newman, *The Functional Presence of an 'Erased' Boundary*, *supra* note 102, at 96. Some believe that the states of Western Europe may have mistakenly progressed too cautiously in the direction of liberalization. As support for this proposition, they cite the fact that the process of economic integration has continued for half a century and is not yet complete. See McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 36.

876. See THOMAS J. SCHEFF, BLOODY REVENGE, EMOTIONS, NATIONALISM, AND WAR 141, 142 (1994) (highlighting the benefits of a more open relationship between nations). This does not mean that increasing interaction will always enhance cooperation. Foreign worker and immigration tension in Europe indicates that interaction may frequently result in the development of hostility and competition. See *id.* at 142.

877. See Hansen, *supra* note 533, at 256 (discussing differences between the United States and Mexico that instigate possible border tensions); Middlebrook, *supra* note 598, at 261 (asserting that the relationship between Mexico and the United States is the most complex between two nations); de Brody, *supra* note 599, at 12 (opining that the differing backgrounds of Mexico and the United States

Mexico and the United States, for example, historically have been fiercely hostile to one another.⁸⁷⁸ Texas was an integral part of Mexico until 1836, when it gained its independence,⁸⁷⁹ and in 1845 it was annexed by the United States.⁸⁸⁰ Chroniclers of the war between the Republic of Texas and Mexico in the 1830s and 1840s published narrations of cruelty by Mexicans toward captured prisoners, which strengthened the characterization of Mexicans as barbaric.⁸⁸¹ Later, between 1846 and 1848,⁸⁸² a vicious war raged between the United States and Mexico.⁸⁸³ Over its course, acts of violence and retaliation rarely were punished.⁸⁸⁴

During the mid-1800s, many Americans characterized Mexicans by their “wretched appearance” and could only think “of their abject poverty and ignorance.”⁸⁸⁵ They viewed Mexicans as belonging to a “miserable ignorant, filthy race”⁸⁸⁶ and qualified them as the most “ignorant and degraded” individuals. Many Americans strongly

will permanently affect their views on political and economic issues).

878. See *The NAFTA Effect, When Neighbors Embrace*, *supra* note 481, at 18 (describing United States-Mexico relations as “prickly”).

879. See Randall, *supra* note 449, at 1 (explaining that Texas was much later instrumental in pushing for the inclusion of Mexico in the Canadian-United States Free Trade Agreement due to its shared background with Mexico).

880. See, e.g., Johannsen, *supra* note 51, at 98 (noting how the annexation of Texas contributed to the rapid breakdown of relations between the United States and Mexico).

881. See RICHARD BRUCE WINDERS, *POLK’S ARMY, THE AMERICAN MILITARY EXPERIENCE IN THE MEXICAN WAR* 168 (1997) (commenting on how early publications concerning Mexico helped establish Americans’ impressions of Mexicans).

882. See White, *supra* note 51, at 169 (describing the impetus for territorial expansion).

883. See Hansen, *supra* note 533, at 257.

884. See Johannsen, *supra* note 51, at 101 (discussing how acts of violence often erupted during the slow periods of the war).

885. WINDERS, *supra* note 881, at 174 (quoting Private Scribner); see also *id.* at 181, 183 (outlining the thoughts of many Americans at that time, including those of Lieutenant Kirkham, who believed that Catholic idolatrous practices bred “ignorance” and “superstition” in Mexico); Johannsen, *supra* note 51, at 104 (describing American literature around the time of the Mexican War, which promoted the idea that Mexico was a backwards nation).

886. See WINDERS, *supra* note 881, at 174 (quoting Col. William B. Campbell).

believed that Mexicans were inferior people, "lazy," and "cruel."⁸⁸⁷ They could only see "the evils of Mexico,"⁸⁸⁸ and they described Mexicans as "poor . . . unfortunate beings."⁸⁸⁹ Some felt Mexicans trailed by two hundred years, at least, in every aspect of life, while others claimed the lag to be more like a thousand years. Still others contended that the Mexicans' implements were identical to those employed 5,000 years ago by the Egyptians,⁸⁹⁰ and considered Mexico a backward country.⁸⁹¹

The contentious relationship between the United States and Mexico continued after the signing of the 1848 Treaty of Guadalupe-Hidalgo, which officially brought the war between them to a close.⁸⁹² Mutual complaints and suspicions between the countries persisted during the decades following the war. Mexicans alleged that Americans discriminated against them even though they became United States citizens.⁸⁹³ For instance, in order to work in the

887. See *id.* at 175 (outlining the range of judgments made by American soldiers).

888. Johannsen, *supra* note 51, at 106 (relying on the popular perception that America had a duty to fight those evils).

889. See WINDERS, *supra* note 881, at 180 (noting the comments of an American volunteer soldier from Pennsylvania).

890. See *id.* at 181 (describing how many Americans viewed the Mexicans' simple tools and methodologies as uncivilized).

891. See *id.* at 180-81 (observing that many Americans viewed Mexicans as uncivilized in many respects).

892. See Weintraub, *supra* note 607, at 288 (discussing the 1848 Treaty of Guadalupe-Hidalgo that allowed for the seizure of half the territory of Mexico). Under the Treaty of Guadalupe-Hidalgo, New Mexico and California were transferred to the United States. See White, *supra* note 51, at 169; Johannsen, *supra* note 51, at 103 (outlining the treaty's provisions). Roughly half of the entire territory of Mexico was lost to the United States due to the war, a fact which Mexicans have not forgotten over time. Even after 150 years, this fact continues to generate concern over the United States' true intentions. See Purcell, *supra* note 50, at 1 (describing Mexico's present-day apprehensions).

893. See JOSEPHINE ZORAIDA VAZQUEZ & LORENZO MEYER, *THE UNITED STATES AND MEXICO*, 58 (1985). Article 8 of the Treaty of Guadalupe-Hidalgo stipulated that Mexicans choosing to remain in territory that had been ceded to the United States were permitted to become citizens of the United States. See *id.* That treaty also guaranteed respect for Mexican property while Mexicans living in the territories, who had not declared an intent to retain their Mexican nationality within a year following the ratification of the agreement, were deemed to have

goldmines in California, Mexicans had to acquire special authorization, just like foreigners, and they experienced a great deal of abuse.⁸⁹⁴

In April 1848, United States President James Polk pushed to intervene in Yucatan, Mexico in order "to rescue the white race from extermination or expulsion from their country" at the hands of Indians who were deceitful and uncivilized.⁸⁹⁵ President Polk's racial connotations indicate the widespread racial bias that evolved from the mid-1830s in the United States' political and intellectual circles.⁸⁹⁶ Politicians and intellectuals were contending by the 1840s that "non-white races were immutably inferior to a more vibrant Anglo-Saxon race, and incapable of participating in democratic republicanism."⁸⁹⁷

One of the outcomes of this contentious history was that Mexicans maintained a deeply ingrained suspicion and lack of trust towards United States.⁸⁹⁸ Even 130 years after the signing of the Treaty of Guadalupe-Hidalgo, writers continued to use negative language to explain the relationship between the United States and Mexico.⁸⁹⁹ Perceived dissimilarities intensified existing pressures on the

decided to become United States citizens. *See id.*; *see generally* Treaty of Guadalupe Hidalgo, Feb. 2, 1848, U.S.-Mex. 9 U.S.T. 922.

894. *See* VAZQUEZ & MEYER, *supra* note 893, at 58 (discussing the numerous claims made by Mexicans under Article 8 of the Treaty of Guadalupe Hidalgo).

895. White, *supra* note 51, at 176-77.

896. *See id.* at 177.

897. *Id.*

898. *See* Weintraub, *supra* note 607, at 288 (discussing the "deep-seated mistrust" on the part of Mexican intellectuals and media towards the United States). Bitter resentment and prejudice also abounded in the United States after the Civil War, for example. *See* Helen Peak, *Some Psychological Problems in the Re-education of Germany*, J. OF SOC. ISSUES, Aug. 1946, at 26, 27 n.2. These feelings reflected in the tense relations between individuals and interests of the losing Confederate side and those of the victorious Union. *See* Lowell Julliard Carr, *A Situational Approach to Conflict and War*, 24 SOC. FORCES 300, 302-03 (1946).

899. *See* de Brody, *supra* note 599, at 7; *see also id.* at 4-7 (characterizing Mexico's relationship with the United States as "mistrust engendered by closer ties with the United States," "misunderstandings and tension," "conflict in political relations," and "political friction"); Bagley, *supra* note 606, at 17 (providing examples of economic tensions between Mexico and the United States).

fundamental structural plane. An acute nationalistic feeling in Mexico, coupled with anti-American sentiments, evoked a deep-rooted sense of suspicion and distrust for United States objectives and extreme touchiness to the slightest suggestion of control by the United States.⁹⁰⁰ The majority of intellectuals and policymakers in Mexico dismissed all proposals of Mexican cooperation in the establishment of a common market for North America, having defined the relationship between the United States and Mexico as one of dependence or, at best, as one of asymmetrical interdependence.⁹⁰¹ Mexico's northern neighbor, the United States, historically was, and continued to represent to them, a superpower bent on political and economic expansion, prepared to pursue its goals at the expense of Mexican national interests.⁹⁰² Therefore, Mexicans viewed the North American proposal as an effort to bring the United States one step closer to exploiting the raw materials of Mexico and sacrificing its economic independence and sovereignty.⁹⁰³

Suspensions, fears, prejudices, rampant extremism, animosities, and hatred were also prevalent throughout Europe. It would be superfluous to recount the many battles between Germanic and Latin people, in addition to those between Catholics and Protestants.⁹⁰⁴ For hundreds of years, European states tried to establish and stabilize their control over swathes of national territory within set borders by altering them and creating a permanency for them through war, which marshaled populations in support of national consolidation.⁹⁰⁵ World War II was the unfortunate, but necessary, event that finally precipitated discussion of an economically integrated Europe that

900. See Bagley, *supra* note 606, at 16 (discussing perceived divergences in Mexico-United States relations from an American perspective).

901. See *id.* at 17.

902. See *id.*

903. See *id.* (describing Mexico's skepticism regarding economic integration with the United States).

904. See Hansen, *supra* note 533, at 258 (depicting the Rhine Basin historically as one of Europe's most advanced areas economically speaking, but also as a common place for waging battles).

905. See Foucher, *supra* note 81, at 238 (discussing the conceptual basis of border region analysis).

was crucial for preserving the peace.⁹⁰⁶ At last, there was a vigorous effort in Europe to eradicate the endless vicious and vehement conflicts over border locations.⁹⁰⁷

But war, in and of itself, naturally creates an inheritance of intense pain, sorrow, grief, and interminable discord.⁹⁰⁸ Europe, devastated and traumatized in the same century by two tragic world wars and by the intense emotions emanating from them,⁹⁰⁹ was certainly no exception. The Allied successes in both World War I and World War II were certain to revive an atmosphere of mutual hostility between individuals as well as interests of both the defeated and the triumphant sides.⁹¹⁰

Certainly anyone living during the same period as Clemenceau or MacMahon, as correctly pointed out by one observer, would have been shocked to learn that the backbone of European politics today is the present close association of France and Germany.⁹¹¹ Clemenceau himself described France's and Europe's problem with the Germans as one that centered around the fact that 20,000,000 Germans too many populated Germany.⁹¹² He thought the best way to handle the

906. See McKinney, *Lessons from the Western European Experience*, *supra* note 397, at 31 pointing out that the impetus for modern European economic integration was initiated in 1948 with the Benelux customs union); see also *Free to be European*, in *A Survey of the 20th Century: Freedom's Journey*, ECONOMIST, Sept. 11, 1999, at 21.

907. See Foucher, *supra* note 81, at 237 (presenting pro-European Union views on European integration).

908. See Rene Albrecht-Carrie, *France in Europe: Prospect and Retrospect*, 69 POL. SCI. Q. 161 (1954) (noting that war results in weariness, bitterness, and unresolved issues).

909. See John A. Loftus, *An Inquiry into Feasible Forms of European Integration*, in EUROPEAN INTEGRATION 97, 99 (C. Grove Haines, ed. 1957) (discussing war-ravished Europe and the resultant extreme feelings).

910. See Carr, *supra* note 898, at 302-03 (describing the development of "frictional-tensional situations" after World War II).

911. See Abstract 43.5282, of Jean Mathiex, *German-French Relations: Mythical Fatality or Reality of Ill-Advised Decisions?*, 23 LE TRIMESTRE DU MONDE 121-133 (1993), in 43 INT'L POL. SCI. ABSTRACTS 565 (listing abstracts up to July 1993 including that of Mathiex's article concerning the relationship between France and Germany).

912. See Kenneth W. Thompson, *The Limits of Principle in International Politics: Necessity and the New Balance of Power*, 20 J. POL. 437, 446 (1958) For

issue would be to imitate the Roman techniques that finally put an end to the Carthaginian matter.⁹¹³ This form of "blood rivalry" was by no means a French-German monopoly. During World War I, the Bishop of London frankly summoned the English to "[k]ill Germans . . . to kill . . . the good as well as the bad, to kill the young men as well as the old . . .,"⁹¹⁴ while the Archbishop of Canterbury, though acknowledging righteous wrath's legitimacy, nevertheless was afraid that it could turn into "poisonous hatred", degenerating and tarnishing the worthy objectives of England.⁹¹⁵

Following World War II, many wanted Germany to suffer for the crimes it had committed.⁹¹⁶ It was obvious that feelings of hostility would be displayed against all the Germans as the result of the rancor bred by their occupation troops,⁹¹⁷ and especially against German soldiers.⁹¹⁸ Moreover, since Allied bombings had damaged only approximately one-fifth of Germany's industry, therefore leaving the overwhelming proportion of its industrial capacity unscathed and, since little control had been placed over its technical organizations, laboratories, and research institutes, many feared that by 1950, Germany could possibly equip its industrial plant for another war.⁹¹⁹

comparison purposes, by the end of World War II, Germany's total population numbered around 50 million people. *See The German Settlement*, *supra* note 442, at 178.

913. *See Thompson*, *supra* note 912, at 446.

914. ROLAND H. BAINTON, *CHRISTIAN ATTITUDES TOWARD WAR AND PEACE: A HISTORICAL SURVEY AND CRITICAL RE-EVALUATION* 207 (1960); BARBARA EHRENREICH, *BLOOD RITES, ORIGINS AND HISTORY OF THE PASSIONS OF WAR* 205 (1997).

915. *See BAINTON*, *supra* note 914, at 207.

916. *Cf. Peak*, *supra* note 898, at 26 (pointing out that among the official objectives of the Allied occupation of Germany was "to make Germany atone for her crimes").

917. *See Henry L. Bretton*, *The German Social Democratic Party and the International Situation*, 47 AM. POL. SCI. REV. 980, 982 (1953) (discussing the development of the German Social Democratic party and how it lacked support after World War II).

918. *See Jane Perry Clark Carey*, *Political Organization of the Refugees and Expellees in West Germany*, 66 POL. SCI. Q. 191, 212 (1951) (including defamation of German soldiers among issues that some political groups thought post-World War II Germany should address).

919. *See Germany Still Can Make War*, *ECONOMIST*, July 7, 1945, at 15 (noting

By the close of World War II, food, for example, had become an immediately needed commodity worldwide,⁹²⁰ particularly in Germany, where the greatest European undernourishment problem existed.⁹²¹ When American farmers were asked whether they would accommodate continued food rationing following the war in order to assist in feeding various foreigners,⁹²² their opinions differed according to whether the intended recipients were enemies or allies. While sharing food with other countries generally was viewed favorably, only forty percent of the farmers would agree to assist Japan and Germany following the war, while double that percentage would agree to assist the Allied nations.⁹²³

War had also obviously left lasting emotional effects in Germany, and these were considered at the time to be a potential source of future problems.⁹²⁴ It was unreasonable therefore to assume that once the Allies had defeated, occupied, and disarmed Germany following World War II, Germany would despise the Allies any less than they did following World War I—for actions that were significantly less severe.⁹²⁵ Following World War I, a defiant and belligerent attitude against the Allied forces, which had just vanquished imperial

the overriding concerns that if not stopped, Germany would soon be prepared for war once more); see also *Has Labour a Foreign Policy?*, *supra* note 442, at 149 (describing the restoration of the German economy as well as the necessity of establishing protections which would counter German economic power being used aggressively); cf. *Political Parties in Germany*, *ECONOMIST*, Sept. 22, 1945, at 409 (explaining that due to the suspicions of the Allied Powers regarding the political record of Germany, various controls had to be implemented).

920. See Ray E. Wakeley, *Farmers Opinions on Post-War International Relations*, 11 *RURAL SOC.* 244, 245 (1946) (presenting studies of opinions on the issue of food sharing in the aftermath of World War II).

921. See *Food for Germany*, *ECONOMIST*, Dec. 15, 1945, at 856.

922. See Wakeley, *supra* note 920, at 245 (providing the question American farmers were asked: "Would you be willing to continue rationing after the war for a period to help feed the people of the following countries?").

923. See *id.* at 244, 246-47 (discussing and summarizing farmers' opinions toward enemies and allies). The studies compiling these findings on food-sharing with the major enemy and Allied countries were conducted in Iowa in late 1944 and early 1945. See *id.* at 245.

924. See Peak, *supra* note 898, at 29 (discussing Germans' attitudes toward the Allies in 1946).

925. See Hans Speier, *War Aims in Political Warfare*, 12 *SOC. RES.* 157, 172 (1945).

Germany, was not out of the ordinary.⁹²⁶ The terrible experiences that would continue to be a potential igniting point for rekindled enmity toward the Allied Powers, in addition to the memories that would remain vivid as a result of the enormous economic and physical destruction that had taken place, obviously could not easily be put aside.⁹²⁷ Soldiers of the Allied occupying forces were at times looked upon by Germans as hooligans who were untrustworthy, reckless, and merciless.⁹²⁸ It was natural, therefore, that the Germans despised the Allies and were quick to accuse them of being responsible for Germany's hardships.⁹²⁹

These and other intense feelings of animosity, prejudice, fears, suspicion, hatred, and extremist enthusiasm could be considered a natural outcome of the immeasurably exorbitant "costs of war." The actual total cost of World War II to the Allied and Axis Powers together amounted to between twelve and seventeen million civilian deaths, 13.5 million military deaths, over twenty-five million military wounded, and approximately US\$1.25 trillion in economic and financial costs.⁹³⁰ In comparison, the actual total cost of World War I to the Allies and the Central Powers combined amounted to over 6.6 million civilian deaths, more than eight million military battle deaths, over twenty-one million military wounded, and over

926. See Bretton, *supra* note 918, at 981.

927. See Peak, *supra* note 898, at 29.

928. See *id.* at 38 (discussing the seriousness of the friction between Allied forces and Germans).

929. See Hugh G. Latimer, *Western Germany, June 1947 and Now, Impressions of Conditions and Outlook*, in 5 WORLD TODAY, CHATHAM HOUSE REV. 371, 375 (1949) (finding that Germans were quick to forget the original cause of their misfortune). A negative attitude, specifically against the British, was apparent in Germany after World War II; some Germans believed that England was purposely trying to starve their country. See *id.* at 373, 374 (referring to the post-war German factory dismantling policies established by England). Moreover, German distaste for the people they had harmed over the course of World War II was additionally among the many post-war German aversions. See Clifford Kirkpatrick, *Reactions of Educated Germans to Defeat*, 54 AM. J. SOC. 36, 37 (July 1948-May 1949) (showing tabulated results of a questionnaire given to Germans following World War II).

930. See R. ERNEST DUPUY & TREVOR N. DUPUY, THE ENCYCLOPEDIA OF MILITARY HISTORY, FROM 3500 B.C. TO THE PRESENT 1198 (rev. ed. 1970).

US\$280 billion in economic and financial costs.⁹³¹ Nevertheless, as early as 1957, despite the tragic consequences of the war, political experts assessed that since the end of the war twelve years earlier, the ties between West Germany and England, for example, steadily had improved and attained a level of assurance and certitude that only a few years earlier would have been considered impossible.⁹³² Germany and England both strove to enhance their interaction and, over the course of 1956 and 1957, institutional and individual relations were cultivated in economic, political, and cultural fields. These receptive ties helped create an open environment for hospitable relations between the two states.⁹³³

Such extreme passions as at one time existed between former sworn enemies, who are now faithful friends and loyal allies, were also apparent in the now rectified relationship between Japan and the United States. Admiral William Halsey, the commander of the United States naval forces in the South Pacific during World War II, stirred his troops with the words like "Kill Japs, kill Japs, kill more Japs" and vowed, after Japan had attacked Pearl Harbor, that hell would be the only place the Japanese language would be spoken.⁹³⁴ Such violent language epitomized the vulgar and racist character of America's rhetorical reaction to the Japanese attack on Pearl Harbor.⁹³⁵

The hostile attitudes England exhibited toward the United States, beginning with the War of 1812 and continuing until the 1870s,⁹³⁶ are

931. See *id.* at 990; see also S.T.H.W., *World War I*, in 23 *ENCYCLOPAEDIA BRITANNICA, A SURVEY OF UNIVERSAL KNOWLEDGE* 748, 775 (1956) (providing similar figures of military casualties).

932. See Sabine Lee, *Anglo-German Relations 1958-59: The Postwar Turning Point?*, 6 *DIPL. & STATECRAFT* 787, 790 (1995) (explaining that England treated Germany more as a subject than an object of politics).

933. See *id.* at 790-91. Relations between Germany and England recovered from a 1958-59 crisis in 1964. See *id.* at 787.

934. See JOHN W. DOWER, *WAR WITHOUT MERCY: RACE AND POWER IN THE PACIFIC WAR* 36 (1986); EHRENREICH, *supra* note 914, at 207.

935. See DOWER, *supra* note 934, at 36-37 (1986) (stating that Americans used terms such as "yellow enemy," "yellow bastards," and "yellow monkeys" in reference to Japanese people).

936. See C. J. Bartlett, *Gentlemen versus Democrats: Cultural Prejudice and Military Strategy in Britain in the War of 1812*, 1(2) *WAR IN HISTORY* 140, 141

also relevant in the present context. Over the course of about a ten-year period preceding the war, British elites revived their previous anti-American dispositions.⁹³⁷ The British hurled denunciations at the Americans, their society, their ideas, and their institutions.⁹³⁸ They used derogatory and malicious pronouncements and far-fetched stereotypes to continuously fan the basest of biases towards the Americans.⁹³⁹ They viewed Americans as a conceited, reckless, and clutching people, endowed with lowly moral traits, who always whined and cried, and whose impertinence would be endless if they were not confronted and subdued. They were brazen hooligans who were conceited to no end, whose "lowmindedness"⁹⁴⁰ and "ungentlemanlike conduct" was dictated by the "insolence of the mob."⁹⁴¹ The most fervent of the British were bent on showing that the other side did not comprise "gentlemen."⁹⁴² It frequently was pointed out that Americans were without honesty or a sense of honor, morals, and culture.⁹⁴³ Animosity against Americans also appeared in the British Parliament, where it was stated that it would not be beneficial to consider Americans as related to the British.⁹⁴⁴ Over the past twenty years, it was said, Americans had developed a clear and

(July 1994).

937. *See id.* at 143-44 (explaining that there was a resurgence of historical feelings of hostility, resentment, and ill-will rooted in the War of Independence). The British people and their government had never forgiven America for its independence. *See id.* at 147. Thus, animosity between the British and the Americans was clearly influenced by revived recollections of the United States War for Independence. *See id.* at 150.

938. *See id.* at 142-53. British grievances and the ensuing disparagement and criticism must of course be viewed in a contextual framework. It was just as typical for rhetorical onslaughts to be hurled at others, such as neutral states that conducted trade with the United States as well as those who had allied themselves with France. *See id.* at 145.

939. *See id.* at 147 (declaring that Americans were respected even less than the "base and bigoted" Portuguese and the "ferocious and ignorant Russian").

940. *See id.* at 142, 145, 152-53.

941. *See* Bartlett, *supra* note 936, at 145.

942. *See id.* at 144-45 (noting that the British argued that there were very few American honest men of principle and that Americans had so "prostituted" military ranking, that even pubs were run by full-ranking colonels).

943. *See id.* at 144.

944. *See id.* at 145.

well-deserved trait of “low and lying knavery.”⁹⁴⁵ An American historian explained that the Washington public buildings were incinerated by the British in the War of 1812 in the same manner as they would have burned up “a negro kraal” or a pirates’ den because they presumed that the government of the United States was outside civilization’s realms.⁹⁴⁶ The press in England was generally in an uproar against the Americans by 1814, chastising them frequently with tremendous acerbity and acrimony.⁹⁴⁷ In short, Americans were derogatorily considered by the British a deplorable and contemptible people throughout the entire course of the war.⁹⁴⁸

The Americans, for their part, were not to be outdone and hurled unceasing abuses in return against the British. Rear Admiral Sir George Cockburn, who led the first principle attacks in the vicinity of Chesapeake Bay in 1813, became the target of a great deal of hostility. A reward was even offered for his death. It was written that “Cockburn stood like Satan in his cloud, when he saw the blood of man from murdered Abel first crimson the earth, exulting at the damning deed, and treating the suppliant females with the rudest curses and most vile appellations.”⁹⁴⁹

The British continued to feel a sense of indignation toward their American counterparts even following their defeat at the hands of the Americans.⁹⁵⁰ There were complaints that Americans created trouble wherever they went, provoking only repulsion and abhorrence, and were considered to be poisonous snakes.⁹⁵¹ As late as 1861, some British still argued that Americans had no perception of honor and were ruled by the abhorrent emotions of unaccountable ruffraff.⁹⁵²

945. See *id.* at 146 (stating that it was thought, too, that Americans had acquired independence at least a hundred years too early, before they had amongst them scholars and gentlemen).

946. See Bartlett, *supra* note 936, at 142-43 (noting that more radical means had to be used to subdue the Americans than were common in Europe).

947. See *id.* at 149.

948. See *id.* at 158.

949. *Id.* at 143.

950. See *id.* at 144.

951. See Bartlett, *supra* note 936, at 146.

952. See *id.* at 141.

Attitudes between America and Britain before, during, and in the wake of the War of 1812 were full of prejudice and extremely strong feelings,⁹⁵³ yet, by the end of the nineteenth century, with the onset of intellectual notions regarding the inevitable success of the English-speaking world,⁹⁵⁴ bonding between the United States and England already was apparent, and both Americans and British viewed their destiny as a mutual one.⁹⁵⁵ President Franklin D. Roosevelt was able to remark by 1932 that he anticipated with pleasure a point when the United States and England would be as one, working as one in economic and political affairs.⁹⁵⁶

The Israelis and Palestinians should thus be encouraged by the fact that despite a turbulent and destructive history of feverish rage particularly in Europe and between the United States and Mexico, considerable cooperation across borders has since evolved, often naturally and without specific prompting at local, regional, and national levels in Europe⁹⁵⁷ and along the United States-Mexico border. Yet, just as with the Western Europeans and North Americans, it likely will take generations for the wounds of the Palestinians and Israelis to heal. While there has existed a great deal of spontaneous trans-border cooperation in parallel with more formal cooperation between the Palestinians and Israelis, it may be a bit much to expect that after countless years of hostility and suffering, they will be able to resolve all of their outstanding differences in less time than it took the Western Europeans or the Mexicans and the Americans. As desirable as it may be to resolve their disagreements more quickly than their European or North American counterparts, the Israelis and the Palestinians cannot reasonably be expected to do

953. See *id.* at 150, 153.

954. See Nicholas J. Cull, *Selling Peace: The Origins, Promotion and Fate of the Anglo-American New Order during the Second World War*, 7(1)DIPL. & STATECRAFT 1, 4 (1996) (discussing the unique qualities of the Anglo-Saxons and their increasing interest in international organization).

955. See *id.* at 4-5 (explaining that many influential individuals felt that only cooperation would bring international security).

956. See *id.* at 1.

957. See Hansen, *supra* note 533, at 256 (indicating that many countries could benefit from reviewing European success in integration).

so.⁹⁵⁸ For example, one can only begin to speculate as to the mutual distrust, suspicions, fear, and despair that must have existed in individuals, families, societies, and governments in the wake of the American war against the British in 1812. Between two currently inseparable allies like Britain and America, it took much time for amicable relations to prevail.

At times, however, it seems that in the midst of zealous attempts to achieve the instant gratification of seeing an acceptable peace agreement signed between Israel and the Palestinians, the historical experiences of other regions is forgotten. Hence, one of the greatest obstacles to obtaining a genuine and lasting peace may be lack of patience. If instant gratification is not at hand, feelings of disillusionment and failure may lead Israelis and Palestinians to blame one another.

Yet, even if the peace process between the Israelis and the Palestinians is progressing more slowly than might be hoped, and experiences frequent discontinuities along the way, this does not mean that the process is not moving forward. Ideally, over the course of this slow and tedious progress—from a status of incessant conflict to a more normalized interrelationship—economic and social advancements should be able to gradually take the place of security and military activity, as ultimately occurred in Western Europe,⁹⁵⁹ and eventually turn into something like a common market.⁹⁶⁰

It should be understood that permeable borders do not necessarily imply the existence of an immediate border-free situation between two sides. After all, even the Single European Act of 1986 was rather obscure about its encouragement of a Europe free of borders for people.⁹⁶¹ The process of European integration, though, guarantees

958. Cf. Amos Harel, *Mopez on the Desired Date for the Permanent Arrangement: "A 50 Year Conflict is Not Solved Within One Year,"* HA'ARETZ, Sept. 16, 1999, at 1A (in Hebrew) (on file with author).

959. See Newman, *Transforming Ethnic Frontiers*, *supra* note 66, at 35-36 (explaining that change in Western Europe comes from spontaneous cross-boundary development as much as from government policies).

960. Cf. *Free to be European*, *supra* note 906, at 22.

961. See Cullen, *supra* note 359, at 200-01 (reviewing the decisions of the European Court of Justice regarding border issues). It was not completely clear whether the Act allowed police to continue controlling the borders or totally

that intertwined economic relationships are acknowledged and viewed favorably, and this mutual economic dependence helps ensure peaceful ties.⁹⁶² The Western European experience of cooperation and planning in areas such as security, culture, infrastructure, transport, and economics demonstrates how trans-permeable border schemes can succeed, even between former foes.⁹⁶³

The Israelis and the Palestinians should thus determine reasonable objectives and continue forging ahead, despite the amount of time it may take to achieve these goals. They may, during this transition process, look for positive instruction from Western Europe's successful economic integration,⁹⁶⁴ which followed in the wake of Europe's history of tumultuous upheavals, as well as from North America's successful economic cooperation in the aftermath of a violent past.

Historically, it has taken years, decades, and even centuries for parties in conflict to put aside mutual suspicions, distrust, hatred, and fears. It is hoped, however, that the Palestinians and the Israelis will resolve their differences sooner rather than later and will have less time to wait for truly productive cooperation to materialize⁹⁶⁵ and a genuine, durable peace to take hold between them.⁹⁶⁶

eliminated such controls. *See id.* at 201. Due to sovereignty concerns, it had been much more difficult for Western Europeans to establish the free movement of people than to arrange for the free movement of goods. *See Foucher, supra* note 81, at 237. The usefulness and legitimacy of controls at the external borders of the EU's Member States were finally approved in the more recent Maastricht Treaty. *See Cullen, supra* note 359, at 201.

962. *See Foucher, supra* note 81, at 238 (describing European economic dependencies).

963. *See Hirschfeld, supra* note 160, at 76.

964. *Cf. McKinney, Lessons from the Western European Experience, supra* note 397, at 39.

965. *See Dajani, The Future of Jerusalem, supra* note 268, at 90; Dajani, in *Presentations and Discussions, supra* note 349, at 163.

967. *See Dajani, in Presentations and Discussions, supra* note 349, at 163.