DESIGNING THE LEGAL STRUCTURES OF WATER MANAGEMENT NEEDED TO FULFILL THE ISRAELI-PALESTINIAN DECLARATION OF PRINCIPLES

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I. Introduction

There is an ancient Chinese curse: "May you live in interesting times." By this measure, we are all cursed; perhaps nowhere more so than in the Jordan Valley. Today, five states or state-like entities share the Valley. Just how interesting times are is indicated by the lack of an appropriate term to describe all five of these entities. The best such term in my view is "community." While the English term "community" is vague and may refer to groups that do not aspire to statehood, the very vagueness of the term makes it attractive. The four generally recognized states in the Valley (Israel, Jordan, Lebanon, and Syria) unquestionably form communities. Use of the term "community" avoids the debate over whether Palestinians do or should constitute a...
"state." The Palestinians undoubtedly constitute a community, and as a community acting collectively they are a primary political actor in the Jordan Valley. The communities that will be addressed then are (listed alphabetically) Israel, Jordan, Lebanon, the Palestinians, and Syria.

These five communities have been locked in endemic strife since the end of Ottoman rule over the region some seventy-five years ago. Their struggles can in turn be traced back as much as two or three millennia, with water often a prominent feature. Today, although the five communities are making startling progress toward peace, each step by any one of them in the direction of peace encounters resistance from people within the same community nearly as much as it encounters resistance from persons belonging to other communities. Hope continues to travel hand-in-hand with despair in the Jordan Valley. The times are indeed interesting.

In this paper, the challenge within the larger peace process of creating the institutions necessary for the efficient and effective management of water by at least several of the five communities in cooperation with each other will be examined. Indeed, water is the most crucial resource in this arid region. This reality is at least hinted at in the documents that Israel signed with the Palestinians and Jordan.

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3 See Kally, Water and Peace: Water Resources and the Arab-Israeli Peace Process xvi (1993) (referring to an ancient war over the Dan River and the migration of peoples to the Nile Valley).
