Middle East Insights

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Colonial Deadlock or Confederation for Israel/Palestine?

by Oren Yiftachel

At the beginning of 2013 the Israeli-Palestinian scene is once again confusing. On the one hand, Israeli leaders, including Prime Minister Benjamin Netanyahu and former Foreign Minister Avigdor Lieberman, have announced in recent times their agreement to the principle of "two states for two peoples." Even the hard-line Hamas has occasionally expressed support for the Arab Peace Initiative, implying a two state future. The UN General Assembly's overwhelming support in November 2012 of the establishment of a Palestinian state based on the 1967 borders was another encouraging sign for peace and the end of Israeli colonial rule of Palestine.

On the other hand, concrete and political factors have been working precisely in the opposite direction. Israel has continued its suffocating siege of Hamas' Gaza, and in response to Palestinian shelling of Israel's southern regions, Israel recently (again) caused widespread destruction during Operation "Column of Defense." This was answered with renewed hardening of Hamas statements, with leader Khaled Mash'al during his December 2012 visit to Gaza calling again to destroy the state of Israel and "liberate the entire Palestine, from River to Sea." In parallel, and after a short lull during 2010, Israel has continued to settle Jews in large numbers in the occupied Palestinian West Bank and has built dozens of new "outpost" settlements, further slicing the already fragmented Palestinian Territory. Following the UN decision, Israel announced it will build more than a thousand housing units east of Jerusalem, permanently dividing the West Bank into two parts so as to prevent the establishment of a continuous state.

These seemingly conflicting trends illustrate the colonial deadlock that has typified Israel/Palestine since the 1995 assassination of Yitzhak Rabin, the Israeli prime minister who attempted to make a breakthrough reconciliation with the Palestinians. Since his assassination, Israel has accompanied its

putative pursuit of peace, with the creation of obstacles to that very "peace." Under the empty slogan of "two states for two peoples," Israeli actions have rendered the establishment of a viable independent Palestinian state virtually impossible. This is mainly due to Israel's deepening and illegal colonial rule that has had major spatial, demographic, and economic consequences and to the associated phenomenon of Palestinian fragmentation, radicalization, and terror against Israeli civilians.

Against these circumstances, a strong, evenhanded international intervention is needed to enforce international law, with Europe, the Arab states, and possibly Asia as key players joining or even replacing a lackluster United States, which has shown reluctance to face its aggressive Jewish lobby working against Middle Eastern peace. The recent transformations in the Arab world are likely to increase pressure on Israel once the new regimes reach internal stability. Europe too is likely to add weight to its efforts, given its close proximity to the Middle East and its historical responsibility for the welfare of the region. But will the new environment be sufficient to end Israeli colonial rule over Palestine and bring peace?

I argue that international political will is no longer enough. Israeli-Palestinian peace efforts need a new paradigm to replace the failed two-state solution while not falling into the trap of pursuing the risky one-state solution, which has resurfaced in recent years. I argue that new interventions and peace programs need to adopt a new "confederational" framework. Given the history and political geography of Israel/Palestine, such a framework is the only viable path to turn the current condition of "creeping apartheid"—in which the political status quo of deepening Israeli colonization and Palestinian resistance is creating an undeclared, yet profound, process of institutionalizing "separate and unequal" rights for Jews and Palestinians living under the same regime.

Continuing Jewish oppression and forced separation, even if accompanied by the establishment of a weak Palestinian state, is likely to continue the instability in the region. A sieged and divided Palestinian state—the one offered in the past by Israel—would most likely be hostile and greatly influenced by Hamas or other radical elements. The typical dialectics of ethnic conflict would likely produce evermore hardline Israeli governments, which would deepen the deadlock. A two-state solution would also leave a small and fragmented Palestinian state dependent on Israel, unable to properly absorb Palestinian refugees and forced to manage frustration

regarding the lack of substantive progress on several core issues, most prominently genuine sovereignty, mobility, and the right of return.

Yet the "one-state solution" is also problematic and risky. This option was the main Palestinian demand until the recognition of UN decisions in 1988. It may appear logical, given the status of Palestine/Land of Israel as a natural geographical unit between the Jordan River and the Mediterranean Sea, the small size of the territory in question, and the status of this land as the cherished homeland of both Jews and Palestinians. But the one-state solution also implies the dissolution of Israel into a new entity. This runs against international law and the basic rights of Israelis for self-determination, and is hence virtually a non-starter for most Israeli Jews, who would present stiff and legally legitimate resistance to the de facto disappearance of their state. The one-state solution also runs counter to the aspirations and rights of many Palestinians for the establishment of a nation-state for which they have struggled for nearly a century. Thus, both the two- and one-state "solutions" currently on the table are highly problematic.

Political geography of protracted conflict

Recent Israeli unilateral policy initiatives—backed by the United States—have continued the post-Oslo trend of Jewish territorial consolidation and Palestinian fragmentation. Such policies have included the Gaza disengagement in 2005 and the imposition of a siege over the area since Hamas took control of it in 2007; the construction of the illegal separation barrier within the West Bank that began in 2003 and is still continuing; and the rapid expansion of Jewish settlements throughout the West Bank. This phase is causing radicalization among the Palestinians, marked by the popular election of Hamas to lead the Palestinian authority in 2006 and the ongoing popularity of Hamas and its allied jihadist organizations since.

This oppressive setting is delaying the necessary dialogue between Jews and Palestinians about core issues (recognition, refugees, Jerusalem, the status of Arabs in Israel, borders, and settlements) without which reconciliation is impossible. These conditions are also a sure recipe for continuing cycles of mutual violence and terror that could endanger the entire region and beyond. The creeping apartheid dynamic is also eroding the belief of most Palestinians in the viability of a legitimate independent state in the Occupied Territories, redirecting their struggle to alternative routes, including the

mobilization of an Islamic revolution or a civil struggle for a one-state solution.

Yet comparative research gives some hope. It shows that settler-colonial states have generally preferred to shrink rather than give up their regime and state power. The most famous counterexample, which has some similarities, is South Africa—but here we saw the democratization of an existing state rather than the ending of colonial occupation outside state boundaries, as is the case in Israel/Palestine. Shrinkage occurred when Britain gave up control over Ireland; when France left Algiers; when Serbia left Bosnia and Kosovo; when Jordan left the West Bank; or even when Russia gave up control over the Soviet Union. Essentially, the core national state would generally prefer to shrink rather than be dissolved. The lessons for Palestine are clear, although its historical, political, and geographical conditions are more complex and thus require fresh thinking.

However, present structural and political factors militate against the creation of a viable, legitimate Palestinian state. Structural factors include the land, settlement, demographic, security, and economic systems supporting Israeli colonialism. Other factors include undemocratic group relations within the Israeli polity, especially vis-à-vis its Palestinian citizens, whose voice is nearly totally absent from Israeli decision making forums. In contrast, the settler Jewish population that resides outside the state's borders receives full political rights and is the most overrepresented Israeli group in the Israeli parliament and government.

In addition, the timing of public support for peace among Israelis and Palestinians appears to be persistently at odds. During the mid-1990s, the vast majority of Palestinians supported a two-state solution, while most Israelis rejected such a scenario. In the 2006 elections, for the first time in history Israel elected a parliament with a majority supporting the establishment of a Palestinian state (69 of 120). In the same year the rejectionist Hamas won the Palestinian elections, thereby continuing the deadlock. More recently, in 2009 the Israelis voted in the hard-line and colonialist Likud government and the Palestinian Authority has declared its commitment to a two-state solution and its opposition to armed struggle.

Beyond political settings reality "on the ground" has fundamentally changed the West Bank. Over 500,000 Jews have now settled there (including occupied East Jerusalem), and Israel may well be unable to transform this

political geography even if it wished to do so. At the same time, 1.4 million marginalized Palestinians reside inside Israel, opposing in the main the state's ethnocratic Jewish culture and its colonial control over the West Bank and Gaza. Clearly, the deadlock in Israel/Palestine is deep and complex. Its surface expression reveals two national movements struggling for control, but deeper currents of history, refugeeness, religion, economy, and colonial rule make the lines of conflict more profound and protracted.

Moving ahead

So, what can be done? The deadlock is indeed deep and complex, but it can be broken with determined, benign, and evenhanded international intervention in addition to the more creative approach of a Palestinian-Israeli confederation. This approach would first and foremost enforce international law and assist the two nations financially, given the huge expense associated with the resettlement of Palestinian refugees, possible evacuation of (some if not all) Jewish settlements, and the much needed reconstruction of the Palestinian space and economy. But equally important, an evenhanded international intervention would guarantee the right of both nations for peaceful fulfillment of their national goals. As noted, Europe and Asia should be key players due to their growing trade and cultural connections to the two sides and their status as neutral interlocutors.

But even within the known parameters of international law, a fresh approach is needed. The confederation of the two states would accompany the democratization of Palestine and Israel and establish a "layer" of joint Israel-Palestinian governance and management of key issues. The confederation framework would be based on the following core principles:

- Establishing a joint body (possibly called "the Palestine-Israel Union") based on parity to which the two states would allocate policy and legal responsibilities to manage joint issues, such as natural resources, economic arrangements, defense, and immigration
- Granting Israelis and Palestinians full membership in "the Union" beyond full citizenship in their respective states
- Establishing a united "capital region" in Jerusalem/al-Quds as an autonomous region managed by equal representation of Palestinian, Israel, and international elements

- Maintaining an open border between the two entities for trade, employment, and tourism (but not for residence)
- Offering Jewish settlers the option of remaining under Palestinian sovereignty while holding Israeli citizenship
- Opening the possibility of Palestinian refugees to resettle in Israel as Palestinian citizens, possibly in numbers proportional to the numbers of Jewish settlers in Palestine
- Ensuring the Palestinian citizens in Israel proportional share of the state resources and fair representation in its public institutions
- Compensating the owners of all property confiscated as part of the conflict

Clearly, these principles must be refined and examined carefully, but I suggest that they should be part of any peace agreement from the outset. That is, the urgent need to reach "point B" (an independent Palestinian state) would be assisted by the creation of "point C" (a confederation agreement) on the near horizon. Political experience from various regions of the world, most notably Europe, also suggests that confederations tend to "thicken" their cooperation over time and allocate more powers and responsibilities to the joint governing and judicial bodies. This dynamic is likely to make the possibility of conflict more remote over time.

Importantly, this proposal has the potential to win both Jewish and Palestinian support. It may also defuse the opposition of key actors among both Jewish and Palestinian publics. Among the Jews, the possibility of avoiding the injuring process of forcefully evacuating West Bank settlements and the continuing unity of Jerusalem could form a major breakthrough in winning the support of many who currently oppose progress toward peace. Among the Palestinians, the establishment of a sovereign state with its capital city in al-Quds, the return of some refugees, and freedom of movement throughout historical Palestine are likely to mobilize most Palestinians, including many Hamas supporters, to support such a confederation.

In many ways, the current confederation outline resembles the parameters of UN Resolution 181 from 1947 (adjusted to the Green Line). It should be remembered that that decision gave international legitimacy to the creation of Israel (and Palestine). Hence, the very decision that created Israel also created Palestine. Yet Resolution 181 was not a simple partition but stipulated that the two states would have an economic union, freedom of movement, and

extensive minority rights on both sides. Jerusalem was to become a "corpus separatum," managed internationally, while its Jewish and Palestinian populations would become citizens of either of the two states.

Critically, while rejecting this resolution in 1947 and fighting for decades against it, the Palestinians made a major change in 1988 and accepted it. Hence, and despite the violent opposition of Hamas, UN Resolution 181 *remains the only major international resolution accepted by both sides*. I propose returning to the agreed and still valid parameters (adjusted to the Green Line) as a legal, historical, and moral foundation for creating an Israeli-Palestinian confederation.

Moreover, the confederation proposal could overcome the inherent problem of territorial fragmentation by allowing Palestinian movement for labor, business, and tourism purposes throughout the small country under conditions acceptable to Israel. It would also ease Jewish fears about the intentions of Palestinians by granting their legitimacy for the collective and political existence of Jews in the Middle East. It would allow the development of Palestine and the gradual integration of the two economies in order to guarantee a level of coexistence necessary for sustainable peace. Under this scenario, the gradual building of joint life and mutual trust will occur *after* the Palestinians are liberated, thereby avoiding the pitfalls of the Oslo agreement, which wrongly demanded that the Palestinians build "trust" with the state that continued to colonize their lands.

Finally, as noted in the suggested principles, a stable resolution requires changes within Israel, particularly in regard to the deprived status of the state's large Palestinian Arab minority, now totaling 1.4 million. Here the democratization of majority-minority arrangements is needed to prevent the eruption of internal conflict that has torn apart states the world over. Such arrangements would have to allocate Palestinian citizens acceptable collective rights of autonomous communal management, as well as proportional share of the state power and resources. The recent examples of Macedonia, Slovakia, Northern Ireland, and Spain can act as a useful guide for various possible models for stabilizing majority-minority relations.

Clearly, the scenario sketched above is only preliminary. It also presents a tall order, as it places incredible pressure on Israel and the Palestinians to reform their deeply entrenched ethnocratic and militarist orientations and begin a process of democratization. But the knowledge gained by extensive

comparative and local research tells us clearly that it is the best way to advance toward peace and stability, thereby putting an end to one of the world's most protracted—and most dangerous— ethnic conflicts.

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