

A New Middle East Approach: Externally Directed Separation

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The chance for a peaceful resolution of the Israeli-Palestinian conflict is not dead. A way to reach a just, secure and internationally guaranteed compromise exists. Though the path forward may not be easy, it is infinitely preferable to what otherwise lies ahead: a complete unraveling of the Oslo Accords, the dissolution of the Palestinian Authority and a massive escalation of death and destruction on both sides.

We must start with a simple fact: The Israeli-Palestinian final-status negotiations did not end at Camp David in July 2000. Nor did they end when the Al-Aqsa Intifada started two months later. President Clinton's framework for peace was presented only in December 2000. Indeed, the negotiations in Taba in January 2001 were viewed by the participants as having been distinctly productive. Had Israeli Prime Minister Barak won re-election, it is quite possible that a peace agreement would have been concluded. The new intifada has been enormously destructive, but only after the February 2001 election of Ariel Sharon, to which it contributed, did the violence itself become the dominating issue, ending the negotiations. This has, of course, been reinforced by the events of September 11, 2001.

The American approach to the collapsed peace process remains firmly rooted in the Mitchell report, which was issued last spring: Achieve a cease-fire, undertake confidence-building measures and renew negotiations. It seems eminently sensible. Yet the extraordinary American effort made to achieve even a brief cease-fire suggests that this policy will not work. Indeed, even if a cease-fire takes hold, chances are very high that it will break down long before confidence-building measures have been undertaken. Moreover, even if negotiations are renewed, with the vast gap on final status between the PLO and the present Israeli government led by Sharon, the likelihood for negotiations deadlock, on every central issue, is very high. And such total deadlock will inevitably disintegrate into renewed violence, at ever higher levels of intensity. Indeed, even if the proposal discussed by Shimon Peres and Abu Ala for immediate Palestinian sovereignty in the limited areas from which Israel has already withdrawn were to be adopted, it would provide only a short respite before the reality of total deadlock reasserted itself. It is time for the United States, exercising leadership through the UN Security Council, to pursue a wholly different approach.

With the failure of efforts to re-establish meaningful bilateral negotiations, and with the delegitimization of Arafat as a negotiating partner, Israelis are increasingly looking for decisive unilateral solutions. In particular there is strong public support for unilateral separation: the idea that Israel, without negotiations, should withdraw from some or all of the territories and establish a physical barrier, with the Palestinians on one side and Israelis on the other.

While unilateral separation resonates well with the public, it has only limited support among the Israeli leadership and security establishment. There are several reasons for this. First, with the current Israeli government in power, any unilateral separation would only be partial, leaving almost all the settlements intact and substantial areas of the West Bank under Israeli control. It would not result in a viable territory for the emergence of a Palestinian state. Thus it would produce only a new line of conflict. Second, unilateral withdrawal would serve to confirm among Palestinians the belief that it is possible to drive Israel from the territories through violence. Thus it would bring fresh recruits to that effort. And third, even if it were possible to withdraw to a truly viable line—some version of the 1967 border with adjustments to accommodate some of the settlers—unilateral withdrawal would mean that Israel was giving up territory without having gotten anything in return. Even for the advocates of land for peace, to give up the land without having secured the peace is wrongheaded.

In what follows I lay out a new alternative. It seeks to achieve a separation of the two peoples, but not through unilateral action. Rather, it proposes that the United States use the UN Security Council to achieve a kind of coordinated separation, but one in which the Council will not take no for an answer. In this, it represents a radical departure from previous US policies. But the proposal is far from radical in its objectives. It leaves for later the issues of Jerusalem and refugees; instead, it focuses on the issues of territory, statehood and settlements. Here it seeks to be decisive, to achieve an end to the territorial dimension of the conflict through the emergence of a Palestinian state living at peace with Israel. The territorial specifics are little different from what Clinton proposed and what is now an international consensus: the near complete withdrawal of Israel from the occupied territories.

The Plan

First, the UN Security Council would assert its legal authority over the territories and East Jerusalem. This assertion of authority would be justified on several grounds. Except for its recognition/admission of the State of Israel in 1949, the UN never relinquished the territorial authority it possessed over Palestine at the end of the British Mandate. While Security Council Resolutions 242 and 338 called for bilateral negotiations to achieve Israeli withdrawal from "territories occupied" during the 1967 war and respect for Israel's right to live in peace, thirty-five years have passed without resolving the status of the territories. In taking this new initiative, the Council would explicitly acknowledge that the prospects for achieving, through bilateral negotiations alone, the peace agreement envisioned in Resolution 242 are not promising. Noting that the West Bank, the Gaza Strip and East Jerusalem were not, in 1948 or in 1967 (or at present), under the recognized sovereignty of any state, the Council would assert that it is the ultimate legal authority for the disposition of these areas.

Seeking to delineate sovereignty within the territories, the Council

would then specify conditions that, if met, would result in Security Council authorization of the PLO to establish the government of a Palestinian state, and subsequently for Security Council recognition of that state. If, along the lines of the Peres/ Abu Ala proposal, a truncated Palestinian state already exists, these would be preconditions for directing Israel to undertake a fuller withdrawal. These conditions would include:

§ The State of Palestine will recognize Israel as a Jewish state.

§ The State of Palestine will (Jerusalem excepted and postponed) recognize Israel as sovereign within the borders established by this plan, and further agree that such borders are final, constituting the end of the territorial dimension of the Israeli-Palestinian conflict.

§ The Palestinian state will not enter into any defense or assistance treaty with any state not at peace with Israel, and until a bilateral agreement with Israel is achieved will not import weapons.

§ The State of Palestine will accept international inspectors, appointed by the Security Council, under US leadership and including Israeli participants, to insure that such conditions are carried out faithfully.

§ The State of Palestine will demonstrate, as a prior condition of international recognition, its capacity to exercise control over acts of violence emanating from its territory.

If the PLO/State of Palestine accepts these conditions, the Security Council would then direct Israel to submit to the Council, within ninety days, a plan for an Israeli withdrawal from the Gaza Strip and the West Bank. Specific requirements would be:

§ Israel must withdraw from all of the Gaza Strip.

§ Israel must withdraw from a minimum of 95 percent of the West Bank, and must provide, on a one-for-one basis, a territorial swap for areas it proposes to retain.

§ Within the West Bank area, there must be territorial contiguity for the State of Palestine, with access to Jordan.

§ Within evacuated areas, Israel will provide for the full evacuation of Israeli citizens.

§ Evacuated settlements will be transferred to the State of Palestine in good condition, with the understanding that the value of the housing and infrastructure will count as a credit in any ultimate plan for compensation of Palestinian refugees.

Upon receipt of the Israeli plan, a committee formed of the five permanent members of the Security Council and chaired by the United States, would either accept the Israeli proposal, modify it or return it to Israel for specified amendments. Once the committee agreed on a final plan and received from the PLO its acceptance of the conditions detailed above, the Council would direct Israel to carry out the withdrawal. It would further announce that (Jerusalem excepted) the resulting border between Israel and Palestine fulfills UNSC Resolution 242 and constitutes the permanent international border, with Israel recognized as a sovereign Jewish state within that border. Thus the Council would foreclose any future effort to challenge Israeli sovereignty over those areas of Israel that exceed the original lines of the UN's 1947 partition plan. If the PLO does not accept the conditions, there would be no directive to withdraw.

While this would end the territorial dimension of the conflict (Jerusalem excepted), other vital issues would remain. Here the Council would call upon the two states, at the earliest date, to undertake bilateral negotiations on the remaining issues, including Jerusalem, the Temple Mount, refugees, security arrangements and economic cooperation. On Jerusalem, the Council would endorse the Clinton parameter that what is Arab should be Palestinian and what is Jewish should be Israeli. On refugees the negotiations would be based on recognition of Israel as a Jewish state. The Council would further specify that if the two sides reach agreed modifications in the Security Council separation plan, the Council will accept those modifications.

Why This Approach Can Work

As noted above, from an Israeli point of view one of the problems with unilateral separation is that it turns land over to the Palestinians but gets nothing in return. In particular, it leads to a Palestinian state that has made no commitments with respect to security issues. By contrast, this proposal, which I call externally directed separation/end of territorial conflict (EDS/ETC), extracts from the PLO in advance major concessions on a variety of issues: Israel as a Jewish state, the finality of borders, demilitarization,

alliances and international inspectors. Other security considerations could be pursued through bilateral negotiations, using economic cooperation as an incentive.

Like the proposals for unilateral separation, EDS/ETC results in Israeli withdrawal and a Palestinian state, and leaves for the future negotiations on other issues. Because both approaches result in a Palestinian state, they share the important benefit of moving Palestinian nationalism toward normalization. If Israel's long-term security vis-à-vis the Palestinians is to be attained, it will come about not through crushing popular movements and terrorists with popular support but through the evolution of Palestinian nationalism into the familiar pattern of a nation-state with national interests to protect, and thus with a susceptibility to the familiar logic of deterrence between states.

Externally directed separation, however, has a particular value for Israel with respect to the internal problems it faces over settlement evacuation. Whether through bilateral agreement, unilateral separation or externally directed separation, extricating the settlers from the West Bank and Gaza will be a traumatic experience for Israeli society. Potentially it will pit the Israeli army against armed settlers. Probably there will be experiences so scarring that Israel will not recover for a generation. Of the three alternative approaches to separation, externally directed separation will result in the lowest level of national trauma. An evacuation from the settlements that is forced upon an Israeli government by the pressure of the entire outside world is one that is not optional. As such it will engender the least amount of resistance and have the widest level of popular support. Moreover, once it is accomplished, as externally imposed, it will be relatively free from never-ending charges of internal betrayal. In this way, it is even preferable to a bilateral negotiated agreement.

In the plan presented above, the five permanent members of the Security Council, led by the United States, would require a withdrawal not to some interim territorial line but to a permanent border between Israel and Palestine, recognizing Israeli sovereignty within that border. Thus the plan seeks territorial stability. Under the current political configuration in Israel, no proposal for unilateral separation will be sufficient in territory to achieve a stable border. Externally directed separation, just because it is imposed, has the ability to go beyond the constraints of domestic politics. In this case, imposition from the outside represents an

advantage for Israel, even though it will mean that more territory is transferred to the Palestinians. By imposing final borders, the Security Council will solidify an international consensus on the territorial issue. As such, there will be virtually no international support or sympathy for any further Palestinian territorial ambitions. In international law, it will end the territorial dimension of the conflict.

Political Dynamics

The reader may ask how this plan can surmount the political opposition of territorial and religious absolutists on both sides of the conflict. The answer lies in the political dynamic created by such action by the Security Council.

First, by resolving the territorial dimension of the conflict EDS/ETC removes the most fundamental motivation for violence among those Palestinians prepared to live at peace with a Jewish state. Thereby, it isolates the true maximalists from the bulk of the Palestinian populace. And second, by giving rise to an established Palestinian state, it removes from the various factional forces any legitimization of their claim to be independent decision-makers on issues of war and peace. Both factors will increase the capability (and thus the accountability) of the new Palestinian government with regard to preventing any continued violence. A Palestinian state can act to achieve a monopoly over the means of violence not because of Israeli or US demands but simply because that monopoly is a normal constitutive feature of any state. While Hamas and Islamic Jihad may hope to resist the authority of the Palestinian state, they will find—as did the Irgun in its 1948 confrontation with Israel's first prime minister, David Ben-Gurion—that once statehood is achieved, the ability to do so is severely limited.

There is, of course, the possibility that the PLO will not agree to the various conditions for statehood required by the Security Council. In particular, it may resist recognizing Israel as a Jewish state, because this would have relevance to the issues arising when the question of refugees is negotiated. In effect, the international community would be saying to the Palestinians that accepting Israel as a Jewish state is a condition of their own statehood. With this coming from the Security Council there is a strong chance it would be accepted. However, were the PLO to refuse this, there would be no directive to Israel to withdraw. Internationally, the situation would, however, be transformed. The responsibility for continuing

occupation would rest upon Palestinian unwillingness to meet Security Council conditions.

Similarly, there is the possibility that the Sharon government would refuse to obey a Security Council directive to withdraw. Indeed, if the Security Council directed unconditional withdrawal, there might be widespread support in Israel for standing alone against the world. But the above plan is conditional on the PLO (and the putative state of Palestine) recognizing Israel as a Jewish state and accepting that this withdrawal ends the territorial dimension of the conflict. On territory, it is not radically different from what Clinton proposed. Coming from the Security Council, under US leadership, it is unlikely that Sharon would choose to disobey such a directive, but if he did, a totally new dynamic would arise within Israeli politics. The Labor Party would withdraw from the national unity government and would be in a position to make the next elections a referendum on whether to accede to the Security Council and end the territorial dimensions of the conflict. Central to winning such a referendum would be the demonstration by the PLO/State of Palestine that it exercises and will continue to exercise a monopoly over the use of force within the Palestinian polity. It will be the moment of truth for both peoples.

The real difficulty facing the EDS/ETC idea is that it can't succeed without strong US leadership. Thus far the Bush Administration has not been willing to play that role. There are three conditions under which this might change. First, if an Israeli government were to signal its desire for an imposed solution. Today this is, of course, impossible. Second, if the conflict became so heated as to generate a major threat to America's fundamental security interests. And third, if there developed within Israel a substantial body of public opinion calling on the United States to play this role. Such appeals would have to be sufficiently forceful to win significant support within the US Jewish community and the larger US public. It is with this last option that hope resides.