

Israel and the Palestinians: Ongoing Crisis and Widening Stagnation

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The deadlock in relations between Israel and the Palestinians worsened in 2016, marked by continued violence, the lack of communication between the parties, and a mutual avoidance of one another's political constraints. In the not-so-distant future, this stagnation is expected to bring about at least two crises on the two main Palestinian fronts – the Palestinian Authority (PA) in the West Bank, and the Gaza Strip, controlled by Hamas. The ongoing weakening of the PA following the loss of legitimacy on the part of its leadership may well cause its collapse, and a severe inheritance crisis is expected to develop at the end of President Mahmoud Abbas's term. The humanitarian and infrastructure crisis in the Gaza Strip is expected to worsen, and is liable to cause an outbreak of violence, unless measures are taken to improve the situation and ease the pressure in the area. Along with the dark atmosphere in the Israeli-Palestinian arena, following the wave of terrorism that began in October 2015, continuation of the status quo threatens to undermine what remains of viable possibilities for separation between Israel and the Palestinians and a two-state solution.

This chapter discusses the political situations on both the Israeli and Palestinian sides that feed the political deadlock and as such, the inherent threats to the future relations between the parties. The discussion is followed by a series of recommendations that aim to maintain the relevance of the two-state solution, both in principle and in practice.

The Israeli Political Situation

Perhaps Prime Minister Benjamin Netanyahu intended to change his policy and adopt measures to prevent the anticipated crises. For this policy change to be viable, however, a change in the composition of the government coalition and the addition of the Zionist Union party (in place of the Bayit Hayehudi party) is necessary. Nevertheless, Netanyahu's attempt to change the coalition structure failed, probably because he refused to commit himself to political measures in the Palestinian arena that were more than purely cosmetic. Instead, the Yisrael Beiteinu Party, headed by Avigdor Liberman, joined the coalition, highlighting the government's clearly right wing nature and in effect eliminating the possibility of a change in policy toward the Palestinians. The replacement of Minister of Defense Moshe Ya'alon by Avigdor Liberman amplified the consequences of this development (the Ministry of Defense is responsible for ongoing management of the policy toward the Palestinians, and also serves as the Israeli organ for actual management of the West Bank). In contrast to the assessments that stressed Minister Liberman's "pragmatic" tendency relative to his previous belligerency, the measures he took upon entering his position, such as the widely reported directive to the IDF to prepare to overthrow the Hamas government in the Gaza Strip by military force and additional restrictions on the Palestinians' freedom of movement (including for humanitarian and economic purposes) reflected an escalation in policy toward the Palestinians.

Minister Liberman is also likely to promote a policy in line with his previously expressed idea that the PA and its leadership are the problem, not part of the solution, and will not be a partner in the regulation of relations between Israel and the Palestinians. Implementation of this policy is liable to hasten the PA's collapse, a development that will inevitably exact a high price from Israel. Furthermore, the Israeli government in its current composition will be unable to conduct more effective negotiations with the Palestinians than the preceding unsuccessful round of negotiations mediated by US Secretary of State John Kerry. Although Netanyahu continues to insist that he seeks a dialogue with the Palestinians, it is doubtful whether he has any real interest in undertaking direct negotiations aimed at achieving a concrete breakthrough toward a settlement and making progress toward the declared goal of the establishment of a Palestinian state alongside Israel.

The Palestinian Political Situation

The PA leadership's loss of legitimacy is to a large extent due to its problematic performance; its undemocratic tendencies – since 2006, it has prevented any efforts to hold new elections, the main means of obtaining public legitimacy; the use of PA institutions, including the security forces, to suppress political opposition; and allegations of corruption and cronyism. The main reason for the loss of legitimacy, however, is the collapse of the paradigm of Mahmoud Abbas and Fatah to advance Palestinian national aspirations through negotiations with Israel toward implementation of a two-state solution. This failure and the ongoing status quo, in which Israel maintains its full control of 60 percent of the West Bank (Area C) and partial control elsewhere in the territories, along with the ongoing expansion of the settlements, obstructs progress toward a Palestinian state and the improvement of daily services for the Palestinian population. The Palestinians have lost all hope for a positive change in the situation through this paradigm, and therefore seek alternatives. For his part, Abbas is unwilling to renew the negotiations with Israel without preconditions anchored in several previously concluded understandings, including the outline of borders between the two states on the basis of the pre-1967 lines. Not believing that Netanyahu is sincere, Abbas is loath to conduct useless talks that will only serve to reduce the pressure on Israel to make progress in a political process.

Abbas, who opposes a violent struggle, has based the PA's operational strategy on the internationalization of the Israeli-Palestinian conflict by combining diplomacy, lawfare, and the media campaigns. This longstanding Palestinian policy option, which reflects the idea that only international involvement can narrow the gap in the balance of power between the two sides, was previously considered an auxiliary factor. Given the prolonged political stalemate, however, and for lack of a viable alternative, the international effort has become the sole channel for action. The first measure taken by the PA in this direction was a request for recognition of the Palestinian state, which was obtained in November 2012 when a large majority of the UN General Assembly recognized Palestine as a non-member observer country. The Palestinians translated this ability to join international organizations and conventions into pressure on Israel. The most prominent example of this was the accession of the "State of Palestine" in 2015 to the Rome Convention,

the basis of the International Criminal Court in The Hague. Consequently, the court's jurisdiction was applied to the Palestinian territories, and the PA filed a series of complaints against Israelis for their activities in these territories, including on the issue of the settlements, which (in contrast to Israel's opinion) are considered illegal under international law. If the court decides to hear these complaints, Israeli politicians and military personnel might stand trial for their activities. The BDS movement, led by non-state organizations seeking to boycott Israel, is another example of the Palestinian turn to the international theater as a means of pressure on Israel. The effectiveness of the Palestinian internationalization strategy will be tested over the next year; it may be that the threat itself of applying to international institutions creates pressure in Israel, at least judging by the response of the government and political system, but its implementation will likely reveal its practical ineffectiveness.

Among the general Palestinian public other alternatives have emerged. One of these, common among frustrated young people, is unorganized violence, sometimes referred to as the "knives and car-rammings intifada," incidents that became less frequent over the course of 2016. Presumably this trend is an expression of cumulative fatigue following actions that accomplish nothing, as well as the result of countermeasures by the Israeli security forces and the PA, and Israel's success in dealing with terrorists and distinguishing them from the general Palestinian population, mainly by avoiding collective punishments and allowing most Palestinians to continue their daily routine.

At the same time, among the intellectual class, there is new discussion of a one-state solution in place of the aspiration toward two states. The resulting operative conclusion is the abandonment of pressure on Israel to reach an agreement on the establishment of a Palestinian state based on the pre-1967 borders, to be replaced by pressure on Israel to grant the Palestinians equal rights in the framework of one country. This line of thinking also underlines the arguments that Israel conducts a policy of apartheid; on this basis, the answer is a South Africa-type struggle for equal rights. There is also discussion of another trend, which to date has garnered little enthusiasm, calling for a renewal of the connection between the West Bank and Jordan.

The PA's weakness is likewise reflected in the undermining of its rule and that of its security organizations in the territory under its authority. On the West Bank, mainly in refugee camps and in some of the towns, there are areas that Palestinian security personnel fear to enter, and shooting incidents are common if they attempt to enter and arrest suspects. Thus far, Abbas has adhered to a policy of cooperation between Israeli security and PA agencies. As perceived by many Palestinians, however, when there is no chance of a political process leading to the establishment of a Palestinian state, such cooperation is illegitimate. The resulting pressure on the PA is gradually liable to erode the security cooperation between the parties.

Abbas has already declared that he will not be a candidate for president in the next elections, although there are no signs that such elections will be held in the foreseeable future. Fatah has no interest in holding new elections when its public standing is poor and there is no guarantee that it will win, and in the absence of a binding democratic tradition, the PA can postpone the elections indefinitely. It was decided in August 2016 to hold local elections, perhaps also for the sake of testing the possibility of holding general elections at a later date. But the lack of organization, the split, and the fierce power struggles within Fatah, however, will probably result in the defeat of Fatah and victory for Hamas, which has decided to take part in the local elections. Defeat for Fatah at the municipal level will certainly not encourage Abbas to declare general elections. All these factors strengthen the feeling among the public and in the Palestinian political system that the Abbas government is approaching the end of its days, although when it will fold is unknown. In any case, the struggle over succession has already begun, as shown by the struggles between various factions and individuals. It is commonly assumed that Marwan Barghouti is the most popular Palestinian leader and certainly the most popular figure in Fatah, but it does not appear that Israel will release him from prison, and his rivals therefore believe that they will be able to win the leadership, although no one of them seems to have better chances than the rest.

The Situation in the Gaza Strip

The split between the West Bank and the Gaza Strip continued and intensified further. No serious effort is currently underway to hold reconciliation talks

between Fatah and Hamas, even though several rounds of such talks were held during 2016. Reconstruction in the Gaza Strip, following Operation Protective Edge in 2014, proceeds at a slow pace, due to difficulties in the transfer of construction materials and money to the Gaza Strip. The main responsibility for these difficulties lies with Egypt and the PA – these two parties regard Hamas as a formidable threat, and are unwilling to allow measures that will reinforce the rule of Hamas, even indirectly. As far as they are concerned, the distress experienced by the population in the Gaza Strip and the growing bitterness there promote their own interests, namely, undermining Hamas's rule. However, a continuation of the existing situation means further deterioration: a severe humanitarian crisis already prevails in the Gaza Strip, reflected in many important areas, including the supply of drinking water, energy, and employment. The crisis is projected to worsen in the not-too-distant future. Israel is aware that the crisis will eventually cause an outbreak of violence that will drag it into another round of conflict in the Gaza Strip, and has accordingly changed its policy by adopting a more liberal attitude toward permits for the entry and exit of goods to and from the Gaza Strip, including construction materials. The establishment of a port in the Gaza Strip is also under discussion, but even if such a plan is approved, its implementation will take time and therefore does not constitute a solution to the approaching crisis.

The measures taken by Egypt to prevent smuggling into the Gaza Strip and the destruction of the tunnels dug between Sinai and the Gaza Strip have restricted Hamas's military buildup. Thus, the organization is focusing on the local production of rockets and mortar shells, and on an effort to rebuild its system of tunnels, including tunnels penetrating beyond fences. This situation contributes toward maintaining the deterrence achieved in Operation Protective Edge. Quiet for the most part has been preserved on the Gaza Strip border since the last round of conflict, and it appears that Hamas has no interest in another conflict with Israel.

The background to the escalation that caused the conflict in 2014 was a situation where Hamas had nothing to lose. This was also one of the main reasons why the campaign lasted for 50 days. Thus in view of the growing distress in the Gaza Strip, Hamas is liable to conclude that a flare-up will serve its interests by creating a dynamic of international pressure on Israel

to remove the restrictions imposed on the Gaza Strip, and will reinstate the issue of the Gaza Strip on the regional and international agendas. At the same time, the Hamas leadership has not yet exhausted its political channels for improving the situation in the Gaza Strip, and aims to exploit the aid offered by Qatar to the organization and the moderation of the hostility toward Hamas on the part of Sunni regimes. An agreement formulated in August 2016 for financing the salaries of Hamas government officials (following two years of deadlock), to which Israel was a party, indicates that Hamas's efforts in this direction are achieving at least partial success.

A Possible Israeli Policy

There is general agreement in Israel, including even more than a few on the political left, and certainly in the political center, that in the current situation, it is doubtful whether negotiations with the Palestinians on a permanent settlement are possible. It is also commonly believed that such negotiations will certainly not end in an agreement. It is therefore necessary to devise other concrete political objectives, which would of course be linked to a guiding political concept, in response to the question whether Israel should adhere to the goal of a two-state solution. Most of the Israeli public still responds to this question in the affirmative, and believes that separation from the Palestinians is an important interest, because without it, Israel will be unable to exist as the democratic state of the Jewish nation. After the elections in March 2016 Prime Minister Netanyahu reiterated that he stood by his remarks in his Bar Ilan speech, in other words, that he supported the two-state solution. It therefore follows that Israel's concrete political goals should be to maintain the viability of this solution by means of measures that will prevent the current situation of one state becoming an irreversible reality, and to carry out preparatory measures that will make future negotiations effective. These goals should be the criteria for assessing various actions under consideration in the local, regional, and global discourse.

There are two types of such measures. Some involve preventing actions that contribute to a drift toward an irreversible situation of one state. The question of the settlements in the West Bank is central in this context. Some assert that the number of Jews residing in the West Bank and their distribution over the territory have in effect rendered separation between Israel and the

Palestinians impossible. A demographic examination of the Israelis living in the West Bank, however, suggests that separation that leaves blocs of settlements near the Green Line under Israeli control in the framework of a unilateral Israeli plan or an agreement based on the pre-1967 borders, including an exchange of territory, is still possible.

It therefore appears that Israel should act gradually, but urgently, to promote conditions that will facilitate a situation of two states for two peoples for sake of its future as the nation state of the Jewish people and the security of the country and its citizens. Measures to be initiated in this context can contribute to future negotiations or take place in the absence of dialogue. A government willing to adopt this path, and to create a situation of two states, must see the imperative of designing of a temporary border between Israel and the Palestinian entity that will not impact negatively on the possibility of future negotiations for a permanent settlement, will enable Israel to continue its essential security activity, and will lead to progress in the Palestinian project of building a state. Such a border, beyond which there will be no Jewish settlements, will prevent the continued expansion of Jewish settlements in a manner that prevents implementation of a two-state solution.

In the absence of a government capable of such an ambitious move, it may still be possible to carry out a series of actions that will limit construction in the settlements to places that Israel can be expected to annex in a future agreement (settlement blocs near the Green Line and Jerusalem neighborhoods).

The second type of measure is aimed at building the infrastructure of a Palestinian state, its economy, and its institutions. In this framework, the development of Area C, constituting 60 percent of the West Bank, is of key importance. Palestinian inability to use most of the West Bank area creates cantonization and prevents economic development and stabilization of PA institutions. For example, Area C has become a refuge for Palestinian criminals, but lack of authority prevents the PA from dealing with this problem. Extending the PA's access to at least some of Area C is essential for the state-building project. In this essential sphere of building an infrastructure for a future Palestinian state, there can be useful cooperation between Israel, the countries in the region relevant to the political process, and the international community in general. Israel can create the conditions that will facilitate the

actions necessary for this – which is likely to help the countries in the region and outside it in providing financial, consulting, and practical assistance.

Israel's measures can be either unilateral or based on specific agreements with the Palestinians on particular matters. It is likely that in the first stages, most of the measures will be unilateral, because in the current atmosphere of deep mutual distrust, the parties will find it difficult to reach any agreements. If a certain level of trust is created, however, even if as a result of unilateral Israeli measures indicating an intention of promoting a two-state solution, it is likely that it will also be possible to reach specific agreements. For example, it appears that the time is right for an agreement on water and sewage issues, which will have important consequences for construction of infrastructure for a Palestinian state. In order to make progress along this road, it is important to abandon the principle of "nothing is agreed until everything is agreed," which was the logic guiding the Annapolis talks, and to replace it with the principle that "what has been agreed and can be implemented will be carried out."

Finally, preparatory measures for a renewal of negotiations, once the political situation in Israel and on the Palestinian side allows this, are likely to interface with various conceptual frameworks proposed during 2016 for a regional and international agenda aimed at ending the deadlock. The regional upheaval and the crises it has created – unstable regimes, civil wars, refugee problems, and terrorism – have relegated the Israeli-Palestinian conflict to a lower priority on the regional and global agenda, which is also one of the reasons for the sense of crisis and deadlock on both sides: the motivation among the leadership and the public on both the Israeli and Palestinian sides for initiating measures toward a settlement and paying the ensuing costs has fallen drastically. Nonetheless, growing engagement in the issue has been tangible in the second half of 2016, resulting from concern about the creation of an irreversible situation in the theater of conflict and a feeling that while this is not the leading regional priority, it is still important to many in the region and around the world.

France is promoting an initiative involving an international conference that will formulate principles for the two sides toward a renewal of negotiations. These principles will apparently include a timetable and a number of basic principles for a framework agreement. In the United States, the Obama

administration is considering whether to take advantage of the period between the presidential election (in November 2016) and the beginning of the new administration (January 2017) in order to establish principles for the form of an agreement on the basis of the negotiations mediated by Kerry. These principles, if the administration does indeed decide to leave them on the agenda, may be presented in a presidential statement, or through a proposed resolution in the UN Security Council. At the same time, several Sunni Arab countries are trying to persuade Israel to embark on a dialogue concerning the Arab Peace Initiative aimed at formulating an agreement on several principles as a basis for negotiations between Israel and the Palestinians. The invitation issued by Egyptian President Abdel el-Sisi to Netanyahu and Abbas for a meeting in Cairo is directly linked to this regional format.

Israel's current policy rejects any initiative originating in the international arena, which it regards as a means of imposing a solution. On the other hand, voices are heard in Israel encouraging a regional approach, i.e., the formulation of a settlement with the Palestinians through negotiations that from the outset involve pragmatic regional parties. In contrast to the belief common among several groups in Israel, however, these regional actors do not intend to negotiate with Israel in place of the Palestinians; they mean to aid the beginning of negotiations between the parties, and to assist in their progress. El-Sisi's invitation was also free of pretensions for shaping a political process that was guaranteed to succeed; it is designed to motivate the two sides to renew the dialogue between them. Consequently, it appears that it is preferable for Israel to avoid an (almost automatic) rejection of any international initiative whatsoever, and instead consider the set of regional and international initiatives from an overall perspective for the purpose of utilizing them to shape the future of its relations with the Palestinians, and to maintain the relevance of the two-state solution.