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Rights-Based Discourse as a Palestinian Strategy

Liran Ofek

The Palestinian Authority finds itself today in a difficult quandary. The public views the Palestinian leadership as weak and irrelevant, the political system suffers from profound and bitter political and ideological polarization, and Palestinian society has the sense that no one is at the helm. The findings of a public opinion survey taken in December 2015 by the Palestinian Center for Policy and Survey Research headed by Khalil Shikaki show that 75 percent of respondents no longer believe that the PA is capable of establishing a state based on the two-state principle within the next five years. Given the existing situation, characterized inter alia by disappointment with the political process led by PA Chairman Mahmoud Abbas and the failure of violent resistance led by Hamas, the rights-based discourse is now presented as an alternative.

The rights-based discourse in the Palestinian context is not new, and was always part of the Palestinian position presented by both official and unofficial parties. Since 2004, this discourse has been embedded in the BDS campaign. Those embracing the rights discourse present Israel as an apartheid, rights-violating state and cast their own activity as a struggle for rights for Palestinians wherever they may be – rather than as a struggle to achieve a particular political resolution to the Israeli-Palestinian conflict. This in effect reflects the abandonment of the principle that informed the Oslo Accords, and its replacement by the goal of a binational state in which the Palestinians would have full equal rights.

Over the years, the strategy focusing on attaining individual and collective rights for Palestinians attracted little attention in research institutes or think tanks in the Palestinian arena. But since 2014, two of the large think tanks in the PA – the Palestine Strategy Group and the Palestinian Center for Policy Research and Strategic Studies (also known as Masarat) – have consistently dealt with the need to formulate a policy based on the rights discourse in order to change the balance of power vis-à-vis Israel by reframing the conflict as a struggle against occupation and colonialization. To this end, several conditions have been proposed, the first being a transition from speaking of a political

settlement and institution building to speaking of rights, a stance prevalent among BDS campaign leaders.

According to those advancing this discourse in the Palestinian think tanks, the focus on rights was adopted given the assessment that the political process would not lead to a political resolution but rather to the preservation of Israel's control of the region and deepened rifts in the Palestinian arena. Therefore, a focus on building Palestinian national institutions and reaching a settlement through a negotiated two-state principle is mistaken and misleading. Instead, they contend, it is necessary to pursue a policy that strives to achieve the following goals: the right of self-determination of Palestinians wherever they may be; an end to the occupation; dismantlement of the security barrier; defense of the individual and collective rights of all Palestinians and Israel's Arabs; and the return of the refugees in accordance with UN General Assembly Resolution 194. This approach abandons the idea of establishing a Palestinian state in favor of a struggle to realize rights. While the supporters of the approach are not opposed to continuing the political process, from the outset they feel that Israel will not accept the Palestinians' terms, and therefore prefer to focus on using pressure to achieve their rights rather than attaining a political settlement of one type or another.

In their opinion, a policy based on a discourse of rights is likely to provide several benefits. For example, defining the conflict using the sole criterion of human rights, which would allow the Palestinians to present the Israeli policy as an unjust and illegitimate relationship between occupier and occupied, would bypass the existing gaps between the sides and challenge the Israeli claims that underlie the gaps. A discourse of rights would also allow the use of international law and other legal tools to put Israel on trial for violation of Palestinian rights, and generate pressure on other nations to sever relations with Israel as a law-violating state. It would help strengthen intra-Palestinian cohesion and aid in formulating a consensus over a shared principle. Furthermore, a strategy based on a discourse of rights would make it possible to blur the differences between Palestinians and Israeli Arabs with the goal of involving the latter in the struggle for Palestinian rights.

A national Palestinian strategy focused on accepting the reality of a binational state contradicts the notion underpinning the existence of the PA and the idea of a Palestinian state. It also contradicts the PA's position, which according to Abbas seeks a settlement with Israel, and contradicts the sanctions and boycotts (unlike the boycotts of Israel's West Bank settlements), as the BDS movement demands. But it seems as if the Palestinian public is not yet ready to adopt this strategy. A survey conducted by the AWRAD Center in Ramallah in February 2016 showed that more than half the Palestinian public supports Abbas' declarations, whereby there is no real alternative to

the PA; therefore, the dismantling of the PA is not an option for the public. By contrast, supporters of the rights discourse claim that it is necessary to assimilate the political settlement approach within the struggle for rights so as to pressure Israel and the international community into reaching an agreement. Given the fact that the two objectives are quite different, both in essence and in their objectives – in fact, contradictory in nature – it is unclear how the two can be joined into one coherent position that would generate pressure on Israel without also working against the explicit interests of the Palestinian leadership.

Therefore, Mahmoud Abbas and the Palestinian leadership view the rights discourse in general as a challenge that must be contained using limited steps, such as adopting the rhetoric of delegitimization of Israel's policy in the West Bank and Gaza Strip, or boycotting Israeli goods within PA territory alone. Such steps, they believe, could appease public opinion at home, which is critical of the political settlement approach, without changing the fundamental Palestinian position in a way that would erode the wide international support for the establishment of a Palestinian state according to the two-state approach. Accordingly, the probability that the PA would at this stage formulate a policy based on the rights discourse is slim. But the support for a strategy based on that approach is spreading among opinion leaders within and outside Fatah. The use of the rights-based discourse could provide the Palestinians with certain benefits, because it is familiar and recognizable among liberal circles in Europe and elsewhere in the world, and is a way to promulgate a negative portrayal of Israel to the international community. Nonetheless, the turn toward a rights discourse is first and foremost an expression of Palestinian disappointment with those who supported a political settlement with Israel on the basis of the two-state solution and represents a gradual return to the PLO's traditional stance, which championed "one democratic state." Given the ongoing political deadlock, many in the Palestinian community view the two-state solution as no longer relevant.

It is important to follow the rights-based discourse developing in the Palestinian arena and the related policy recommendations emerging from Palestinian research institutes. An analysis of the components of that discourse and the – albeit limited – use the PA makes of it indicates deep processes in Palestinian society, politics, and leadership, and requires preparation for the possibility that Israel will find itself without a negotiating partner, not only in practice but also in theory.