



Reversing the Logic and Reconstructing It

Working from the End to the Beginning with Stipulations and International Assurances

Is it possible to reach a permanent status agreement whose fulfillment will depend on the graduated construction of a Palestinian State and its effective governance?

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Forward

As Israeli disengagement from the Gaza Strip and the Northern West Bank draws near, it becomes apparent that expectations regarding the tightening of coordination between Israelis and Palestinians will not be met. The impression that has been created is that the disengagement will be a unilateral Israeli action, in essence, and will not lead to the hoped for renewal of the political process on the basis of the Roadmap. Correspondingly, Palestinian opposition to the original outline of the Roadmap and the idea of provisional borders has radicalized and is being led by the Palestinian Authority President and Prime Minister.

Alongside these two trends, limited American involvement in the conflict arena and limited European influence (despite the British Presidency of the European Union and the declarations of Prime Minister Blair regarding his intentions to increase the involvement of the European Union) have not proven effective in getting the side back to negotiations thus far.

Public opinion polls within Palestinian and Israel publics alike, point to a sense of desperation regarding the chances of reaching a political arrangement, and it looks as if the sides have come to terms with the possible continuation of the bloody conflict and the chance of another violent wave (the Third Intifada).

Despite its political failure and the absence of political expectations, the very essence of the Oslo process – the recognition that the only possible political solution is the building of two states, side by side – has largely been accepted, leading to a significant change in public opinion and political leadership on both sides. This can be termed the Oslo Paradox.

Despite the broad political recognition within the two publics regarding the need for political agreements, it appears that the breakdown in trust between the sides makes reaching agreements nearly impossible given the current terms of reference set out in the Road Map. This situation is further complicated by the inability of the political leadership in Israel and in Palestine to stabilize consensus and public legitimacy for far-reaching, political maneuvers. Moreover the almost complete disintegration of the governing institutions in the Palestinian Authority along with the demonstrable apathy from the international community has led to the consolidation of political despair regarding the opportunity for breaking through the stalemate.

Previous years have proven that all regional and international political apparatuses working on the basis of Oslo-logic based on the idea of gradual progression towards final agreement have not brought the sides to the hoped breakthrough. Therefore the question arises, should Oslo's underlying logic be reversed or converted to logic of a different order?

Our Presentation

In this document, we will present a possible analytical framework for breaking through the stalemate that is based on a different rationale. The concept is that the sides will reach an agreement on the principles of the final settlement being determined from the outset and then implemented on a graduated basis. The implementation would then occur under specific stipulations regarding the

development of the Palestinian State and its effective governance (as a basis and proof for the ability to take responsibility and as a condition for the advancement of the process). The international community, including the Arab League, will provide a system of guarantees and would be the determining body regarding further implementation.

The sides will have to agree to establish an international monitoring apparatus that, under the specific and agreed upon criteria and milestones will determine the readiness of the Palestinian State to accept its responsibility for lands and authorities under the agreement in the manner agreed-upon in advance by both sides.

The chief advantage of this analytic framework is a clarification of the characteristics of a final settlement and the removal of doubts regarding political expectations. Such clarification may remove a significant obstacle from the political process and it can help build trust between the sides, without which there is no chance for any political progress. A necessary condition for fulfilling this suggested rationale is the readiness of the international community, with US leadership, to accept the responsibility for active and significant involvement, whose characteristics are similar but less than a full trusteeship for the emerging Palestinian State.

The international community, by building monitoring and compliance apparatus for the Palestinian state, will become the responsible party before international institutions, and, more importantly, before Israel. The international community, by means of the same monitoring and compliance apparatus, will be authorized to evaluate and determine the degree of fulfillment of the agreed-upon criteria and milestones in the progression of the Palestinian State, determining its ability to receive further responsibilities and assets. The fact that the international community – and not Israel – will judge whether or not the Palestinians fulfill their agreed obligations is likely to facilitate the Palestinians' acceptance of and complicity with the decisions and recommendations of the international community.

Purposes of this document

1. To present an alternative rationale for breaking the stalemate, returning the sides to a political track and the renewal of a political process whose end and expectation is two states for two peoples, living side by side in peace.
2. To present a possible list of criteria and milestones for the advancement of the process.
3. To characterize the active involvement of the international community and the operational characteristics of the monitoring and compliance apparatus.
4. To present a list of possible obstacles to the idea and some difficult basic questions.

The Rationale

A reversal of the logic of Oslo, that is the demarcation of the final objective, agreement on the characteristics of the final settlement and stipulations for its fulfillment. A Palestinian State will be established in areas allotted to it at given periods, assuming its continuous proof of effective governance on the basis of agreed-upon criteria and milestones, which will be determined by an agreed-upon, international monitoring and compliance apparatus.

The suggested rationale is based on two basic cornerstones: Palestinian responsibility and international supervision on a level approaching trusteeship.

By adopting the proposed rationale, the international community will be compelled to broaden the scope and quality of its involvement in the conflict arena, including increasing responsibility for ensuring the application of the agreed-upon political framework by both conflict parties. In fact, the transfer of this kind of responsibility to the international community annuls the right of the parties to veto the existence and success of the process. The internalization by the conflict parties of the increasing responsibility of the international community in the maintenance of the agreed-upon framework is essential to both the stability of their internal political arenas and the long-term success of the framework.

Possible Criteria and Milestones

A necessary condition for the effective endowment of the new rationale and the assurance of effective implementation of the monitoring and compliance apparatus is a clear, agreed-upon list of the criteria and milestones as a basis for every progression in the direction of a political arrangement agreed-upon by the sides.

Because of the current political reality is characterized by prominent asymmetry between the sides, it is evident that in a basic manner, the majority of assets are held by the Israeli authority while the Palestinians can and should provide two main inputs: (1) security in the sense of combating terror against Israel and efforts to stabilize the security reality and (2) the recognition of the right of existence of the State of Israel as the State of the Jewish People.

In order to ensure the graduated and consistent transfer of assets from the Israelis to the Palestinians (land, freedom of movement of goods and people, aspects of sovereignty, land and sea ports, control of international borders, etc.), the Palestinians will be required to supply these two inputs and to demonstrate advancements in the improvements of the institutions of the Palestinian State and its effective governance (two of the parameters of a viable state).

Therefore, the list of criteria should be sorted into a number of major categories:

- A. Combating terror, including the systematic removal of its infrastructures.
- B. Eliminating incitement against Israel in the media and the educational system and incorporating peace education into the curricula.
- C. The continual and effective operation of the governmental institutions.
- D. The fulfillment of the principle of supremacy of law and addressing systematically and institutionally corruption in government institutions.
- E. The establishment, development, and stabilization of the Palestinian economy.

For our purposes, milestones are defined as necessary conditions whose attainment, as determined by the monitoring and compliance apparatus, will compel Israel to transfer additional assets to the Palestinian Authority. The above-mentioned

categories of criteria (and following the detailed criteria themselves) are the basis for the milestones. The follow-up and monitoring of their fulfillment will be carried out by the monitoring and compliance apparatus under conditions of total transparency, especially in regard to reporting regulations used with both the conflict parties and the source of authority of the apparatus. The two conflict parties will be given the right to formally object to any findings. Apparatus for dealing with such objections will be laid out in the operationalization protocols of the international authority. The final right for the approval or rejection of findings will remain in the hands of the international apparatus.

In order to ensure clarity and to avoid contradictory interpretations, it is important that all criteria be stated in a way that is clear, quantifiable, and measurable. Definitions of clarity and measurability facilitate objective judgment and validate the reliability of evaluations made by the monitoring and compliance apparatus.

Characteristics of International Involvement and the Operation of the Monitoring and Compliance Apparatus

Basic Principles: International involvement in this context will necessarily parallel the characteristics of the current Quartet, with the clear leadership of the United States. The foundation of the authority of the monitoring and compliance apparatus will be a special tribunal composed of representatives of the Quartet and other possible members from the international community (the Parties together with the Quartet will determine the make-up of the tribunal). The conflict parties will be allowed to sit as observers with no voting rights. The tribunal is the supreme decision making body and the primary source of authority for the monitoring and compliance apparatus.

The monitoring and compliance apparatus will be run from a General Headquarters, which will be directed by a senior American official. Through its various professional branches (operations, intelligence, logistics, public relations, etc), Headquarters will guide the ongoing activities of the monitoring and compliance apparatus. Headquarters will receive its reports, process them, and will be directly accountable to the special tribunal.

The monitoring and compliance apparatus itself, to differentiate from peacekeeping forces, will deploy observers, and not troops, in the field. The apparatus will be deployed in the Gaza Strip as well as in the West Bank in field offices. While the Headquarters will be headed by US personnel; each professional branch will be staffed by one of the other representatives of the coalition.

The apparatus will be operated as a single organic unit that will be prepared and trained in a collective manner before its deployment in the field. At Headquarters, the apparatus and its deployed observers in the field offices will be liaisons between the sides, guaranteeing functional communication between the sides and the apparatus.

Guiding Principles for the Suggested Operational Model

The monitoring and compliance apparatus will be operated also as an accompanying apparatus for the Palestinian State building process with a defined mandate lasting no less than five years. This duration is necessary to ensure international commitment for the allocation of resources, the establishment of the apparatus and its operation, the professionalization of the apparatus, and the attainment of the trust of both sides and their commitment to its operation. In order to guarantee the effectiveness of the apparatus, an analytical and methodological framework must be developed. This framework should give high quality and detailed responses for the following components:

- A. The specification of the mandate and the operation of the apparatus.
- B. The specification of the source of authority and the manner of its operation with an emphasis on regulations for fact-clarification and determination, the evaluation of the operations (on the basis of the criteria and milestones) and enforcement.
- C. The specification of criteria, their classification into categories and the characterization of milestones.
- D. The apparatus structure.
- E. Identification, sorting, recruitment and training of the apparatus personnel.
- F. The operationalization doctrine.

- G. Principles of the work of the administration – command, coordination, and control.
- H. Intellectual ability – addressing ideas that lie in the tension that exists between the ethics of the work of the intelligence service, the apparatus's commitment to the sides, and the need to effectively gather and evaluate intelligence in order to ensure the success of the apparatus and its relevance of activities in this complicated context.
- I. Logistics especially with regard to the influence of logistic on the economy of the Palestinian state in being.
- J. Information operations and public relations.

Possible Obstacles and a Few Difficult Basic Questions

The chief obstacles standing before the suggested rationale are the readiness of the sides to approach the negotiating table to discuss final status problems and their ability to reach understandings and agreements, and resulting concessions, in relation to core problems (Jerusalem, refugees, and borders). The sides are likely to express the feeling of being caught in a Catch-22. There is a danger in agreeing to the outline of a settlement, with ensuing public statements regarding concessions, when the chances of its actualization are unclear.

An additional obstacle is related to the degree of readiness of the international community to lead the process and discover the degree of readiness and responsibility necessary for its fulfillment. More important is the readiness of the US government to assume responsibility for leading the apparatus, which is a necessary condition. It is not clear at this stage what will generate the necessary change in the position of the American government in relation to its involvement in this conflict arena, given that its basic evaluation is that the conflict parties are not ripe for reaching an agreement on their own and cannot be brought to one by an outside party. From the point of view of the US, any additional failure in the Israeli-Palestinian arena will only further problematize an already weak and negative standing in the region. What possible incentives could induce the international community, especially the United States, to deepen its involvement and responsibility in this conflict arena and in the suggested process?

In the Palestinian arena, the chaos and continued disintegration of the central government and its failure to carry out and enforce policy. The general weakening of the Fatah movement, corresponding to the strengthening of the opposition lead by Hamas, is likely to destroy the ability of the Palestinian side to make strategic and far-reaching policy towards the fulfillment of a negotiated political settlement. How is it possible to ensure Palestinian faith in the decisions of the Palestinian leadership, especially in relation to the problems of refugees and Jerusalem? Who will be the official Palestinian actor for negotiations – will it be the Palestinian Authority or the PLO? Can the Palestinian Authority promise the necessary foundation of legitimacy?

A fundamental asymmetry in the power relations between the sides, including Israeli veto power susceptible to the lack of real political desire to reach a final settlement with the Palestinians, comes alongside problems in the enforcement and imposition of sanctions on Israel. Additional problems are found in the monitoring and compliance apparatus. The apparatus is supposed to work as a compliance apparatus for the Palestinians (more than for the Israelis) in order to ensure their ability to establish a viable state and effective governance. The operation of the enforcement apparatus is meant to resemble, to a large degree, a patronage or mandate with the characteristics of a trusteeship. The question must be asked, are the Palestinians ready to accept such an international patronage?

What will be source of authority of the monitoring and compliance apparatus and its ability to enforce its findings upon the sides for the sake of advancing the process? How will it be able to ensure the imposing of its authority upon the sides. What possible incentives can ensure the obedience of the conflict parties, or alternatively, what possible sanctions can be enforced in order to guarantee effective enforcement?

Summary

It is possible to characterize the Oslo period as a paradox. On one hand, the process was a political failure. On the other hand, it galvanized Israeli and Palestinian public opinions on the characteristics of a political solution to the conflict: two states for two people. The Oslo period was characterized by drawn-out

negotiations alongside of violent outbreaks, resulting in a particularly bloody four years of violent confrontation. During these four years, the international community and the United States, together and separately, attempted on a number of occasions to lead the conflict parties to a cessation of violence and a return to the negotiating table. All of these attempts failed. One of the most prominent indicators of this failure, beyond the continued violent conflict, is the decision of the Israeli government to unilaterally withdraw from the Gaza Strip and the Northern West Bank. Despite the inherent potential of this process to serve as an impetus for the renewal of the political process, the two sides are preparing for deterioration and escalation. It seems that the eruption of the Third Intifada is no longer a distant delusion, but our most probable future.

At this point, it is highly doubtful that the sides will be able to bridge the gaps between them. It is also doubtful that the sides will be able to divert themselves from the course of future collision, yet we cannot relax our efforts to avoid the spilling of more blood.

In this document, we presented an alternative to the Oslo rationale, an attempt to resolve the conflict from the end to the beginning. The suggested rationale contains the assumption that it is not possible to fulfill any final status agreement under the existing conditions in the Palestinian arena. We assume that the agreement's built-in stipulations regarding the Palestinian's proven ability for effective governance will appease Israel opinions and reservations regarding the absence of a responsible and committed Palestinian partner.

The involvement of the international community in the process, led by the United States, is an essential condition for success. The establishment of the monitoring and compliance apparatus will demand a high degree of intellectual exertion and the investment of vast political resources. The apparatus must be able to benefit from a proven and effective source of authority, to guarantee the obedience of the two sides, and to ensure effective compliance with the program by means of providing patronage for the growing Palestinian state. The principles of compliance patronage are related, to a certain degree, to the principles of trusteeship, and they increase the chances of success of the establishment of a viable Palestinian state that will

become an inseparable part of the international community and will operate on the basis of accepted international law.

It is clear that this rationale has some problems and that many obstacles stand in the path of its implementation. In this document we characterized a few of the major obstacles and most challenging questions. These deserve deep and fundamental analysis, yet it seems to that the suggested rationale can serve as an alternative “conceptual map” to the current analytical framework and to those that were attempted until now. What is shared by these previous efforts is the fact that they were unable to renew the political process or to be operationalized; they remained conceptual failures.