**Assessing Palestinian Negotiations: What’s at Stake?**

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 24 March 2003

**Where were we at the negotiations?**

With the end of the Washington talks in 1991 and the start of the Oslo agreements, the negotiations started focusing more on power dynamics. It became less of an issue of law and more of an issue of an imbalance of power.  Given that the Palestinians are the weaker party and Israel is stronger party, Israel has all the time on its hands and the ability to create facts on the ground while the Palestinians only have one thing: the law. Moving into the Oslo phase was a movement away from international law into simply power-based negotiations. As much as one can be critical of the Oslo agreements and their aftermath, I believe that what led us down that path, particularly at Camp Davidand Taba, were two things:

1. The lack of reference to international law on the part of Israel
2. The lack of demand by the international community for Israel to abide by international law.

When the negotiation phase started with the U.S. taking the lead, the emphasis was more on conflict management rather than conflict resolution. It was more about getting the parties together, rather than actually addressing legal issues. The Americans then saw it as an achievement that the Palestinians and Israelis were talking together in the same room rather than focusing on international law and Israel’s violations of it.  Hence, we saw more and more facts on the ground created, with the number of settlers in the territories doubling between 1993 and 2000. Over the seven-year period of negotiations, the number of housing units in the settlements increased by 62%.

Not only did the United States ignore international law and Israel’s violations of it, the United States effectively ensured that it would be the only party to play a role in negotiations.  The European Union, Russia, the UN and Canada were marginalized during that period.

At the same time human rights violations obviously continued. There were more house demolitions during the seven year period; settlements increased; the facts on the ground were proceeding at an alarming pace, all of which lead to the current Intifada. I am not only critical of the international community for not enforcing the Geneva Conventions or doing what could have done to perhaps incentivize Israel and Israelis from moving into the territories to moving out of Israel, I am also critical of the Palestinian role in the negotiations process.

My first criticism is with respect to the institutions that worked on the ground. Many of the institutions at the time, instead of focusing on the occupation, had suddenly turned their emphasis to the P.A., leading to a situation in which parties were blaming the Palestinian Authority, while nobody was focusing on the fact that the P.A. is a security sub-contractor for Israel and because of that there is a whole set of violations. Instead, there has been focus on the Palestinian Authority (as if there was perhaps a state, focusing the attention away from the occupation). There was focus by many NGOs that Israel was engaged in an “excessive use of force,” thereby implying that some force against a captive civilian population is acceptable.

The second aspect which I am critical of the Palestinians has to do with communications in Palestine and in the West. I am a Palestinian Canadian and growing up in CanadaI, like many others in Canada and the US, I was interested and active in promoting the Palestinian quest for justice.  However, like many others, I ignored the situation in Palestine, in the mistaken belief that peace would be achieved in 5 years and that the international community was finally going to force Israel to abide by international law.  Like a lot of people I stopped focusing on the problem:  the ongoing occupation and, its intensification under the guise of “peace.”

The foreign media, of course, fostered that belief, by also focusing on the “peace process” and ignoring Israel’s military occupation.  Rather than continuing to focus on the occupation, attention shifted to the signed agreements and to the negotiations.  This ended up to a situation in which the vast majority of the people living outside Palestine had no idea of that the Palestinians were still living under Israel’s military occupation; what these consequences were and what the Palestinian position was with respect to resolving the conflict. Instead it was seen by the vast majority of people as simply an issue of two equal parties who would basically negotiate and work together, and that this would somehow be resolved, again ignoring the most fundamental aspect of this conflict:  Israel’s failure to abide by international law and the international community’s failure to enforce it.

The failure of the media to accurately portray the occupation and the international community’s abandonment of international law had an impact on negotiations.  There are two components to any permanent status agreement:  geography and refugees.  At Camp David it became clear that Israel, as buttressed by the United States, did not want to abide by international law and did not see the Palestinians as equals. Instead it was the opposite: because they did not recognize the Palestinians as equals, because they saw Palestinians as simply a demographic or a security threat, they were going to continue to demand further concessions from the Palestinians, in violation of international law, while ignoring the very important fact that the Palestinians had already compromised on 78% of their territory and that Israel had not made a single concession regarding its territory.  On the issue of refugees, Israel refused to engage on the issue and demanded that the Palestinians simply “give up” the right of return and ignore the 53 year plight of the refugees.  Again there was a shift away from international law to power.

The US was very eager to put forward “solutions” for the Palestinians to accept; solutions that simply fostered Israel’s goal of ridding itself of as many Palestinians as possible while holding onto as much Palestinian land as possible.  These “solutions” not only violate international law but would not have guaranteed the Palestinians a viable state. There were proposals to divide geography-wise into four separate areas, completely surrounded and controlled by Israel. Israel sought to have a settlement (colony) blocs in the north from the Green Line to the Jordan Valley through Ariel, and in the south in the area of Gush Etzion while also controlling most of East Jerusalem and establishing a corridor of control from East Jerusalem through Ma’ale Adumim to the Jordan Valley.  With the Gaza Strip, the Palestinian “state” would have been divided into four separate areas.

Everything from water to air space would have been subject to Israeli control. In Jerusalem, the illegal settlements (colonies) of East Jerusalem would have been legitimized, while Israel would simultaneously rid itself of the Palestinian Christian and Muslim population of Jerusalem by making them citizens of the Palestinian state.  Their goal was clear:  we want the land but we don’t want the people.

In Taba, which was the last negotiation that was held, the situation was much the same. Many people say that there was more progress at Taba.  This is true when speaking of both of the issues: geography and refugees.  Regarding geography, Israel still sought to take more Palestinian land, particularly around Jerusalem and Ariel (in order to control Palestinian water resources).  Regarding refugees, Israel recognized that the plight of refugees must be dealt with in order to have a comprehensive peace agreement.  The view was to resolve the Palestinian refugee crisis by giving Palestinian refugees “choices” and “options” as to where they want to live.  Four options were presented:

-       Allow the refugees to go to the Palestinian state

-       Allow the refugees to staying where they were and work towards rehabilitation/resettlement of the camps

-       Allow the refugees to immigrate to a third country

-       Allow the refugees to return to what is now Israel.

There was some discussion in terms of quotas and numbers. We explained to the Israeli delegation that the refugee problem could not be resolved by quotas and numbers because such formulas would undermine any agreement.  Given that our goal is to seek a comprehensive agreement in which the *peoples*of both sides, we explained that ignoring the rights of 4.5 million Palestinians would not create a comprehensive agreement; only additional conflict.    Despite this progress, Israel continued to use power rather than law during negotiations and failed to regard the Palestinians as equals.   Israel, the more powerful party, continued to impose its will on the weaker Palestinian side.

**Where are we now?**

My personal opinion is that the two-state solution is almost dead. It has got to the point where there are over 200 colonies in the West Bank, over 400,000 settlers in the West Bank, 200,000 alone in East Jerusalem, Israel’s colonization of East Jerusalem has reached to the point where it is leading to full Israeli control over Jerusalem, and continuing along the same pattern of trying to get rid of as many Palestinians as possible but holding on to as much of their land as possible.

This has made me reach to the conclusion that ending the Palestinians alone cannot end Israel’s occupation. However, there is no readiness on the part of the international community to stop Israel’s violations of international law, there is an electorate now in Israel that has shifted far more to the right.  This same electorate does not view the settlements (colonies) as causing any harm and believes that Israel can simply undo everything with the press of a button:  they do not understand Israel’s overall strategy; the permanent damage that the settlements cause and the fact that Israel’s colonization and the wall are making a two-state solution impossible.

I do not see a readiness on the part of the international community to actually push for an end to Israel’s 36-year occupation. I think it a stretch of the imagination to believe that the Palestinians, the weak, occupied Palestinians can somehow end Israel’s occupation on their own. We need help.

I also see that not only has the US washed its hands of trying to end the occupation (though it continues to fund Israel’s occupation) but the rest of the world has also washed its hands of the conflict. With the road map coming out, it does not look very promising. It is simply demanding from the Palestinians that they sometimes humanize themselves before the law becomes applicable. It is asking Palestinians “to reform, to talk better, to look better, to change all the security services” before international law is enforced against Israel.  This led to a situation where I think we are completely at the crossroads.

**Where do we go from here?**

We have two options:

1. To seek international support to continue along the same path of advocating for a return to negotiations. I am critical of this. I do not think this will happen, I do not think there is any desire on the part of the international community to actually push Israel to stop the settlement (colony) construction.  Rather, the international community expects us to negotiate our way out of the occupation, while allowing Israel to continue its violations of international law while the negotiations are underway.  This option has not worked for the past ten years and I do not see it changing overnight.

1. Ending the idea of separation as a means to resolve the conflict.  For the past eighty years international efforts to resolve the conflict have focused on “separation” rather than on reconciliation.  New efforts must be developed to focus on justice rather than on continuing hegemony of one party over the other.

I believe that we will need to seriously examine both options in the coming months.  Whatever path is chosen, I think that the new leadership needs to take three important steps at the outset:

1.      To spell out very clearly what kind of permanent status agreement we want with Israel – whether continuing with the idea of separation or moving towards reconciliation.

2.      How to deal with Israel’s ongoing occupation – spelling out how the leadership intends to confront Israel’s brutal occupation (i.e. through nonviolent resistance or otherwise)

3.      What the Palestinian state is going to look like - What kind of society are we going to create – what type of constitution or laws we want and what role will Israel and Israelis have on our future state.

Without clarity on these issues, it will be difficult to move ahead.  As one journalist told me yesterday, it is not a crime to admit the mistakes you made in the past but it is a crime to lie about it and to act as though there have been no mistakes.

Those 3 things are very much lacking. We need to clearly spell out what it is that we want, how it is that we intend to achieve it and how our future is going to look like.