

## **The Nature of the Palestinian State: Some Observations about the Final Status Under Barak**

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### **Speakers:**

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### **Summary**

Two main questions surround the debate about the future of the Israeli position in the peace process under Ehud Barak: Is Barak different from Netanyahu, and if he is, in what respect, and is he different from Yitzhak Rabin, and again, if he is, in what respect? In relation to Rabin, Barak is a virtual copy, following the ways of his top mentor. In relation to Netanyahu, the difference is only in degrees, not structure.

Since the dawn of the Arab-Israeli conflict, three major issues have constituted its definition: refugees, Jerusalem, and the borders of Israel. In 1967, a fourth base issue was added, namely settlements. Today, after Oslo, the final status issues are the same as they were all the way back in 1948, the only difference being that back then, Israel was discussing these issues with Arab states, whereas today it is discussing them with Palestinians.

Regarding borders, we have not moved except to build a form of legal Palestinian official presence on the ground. PLO leaders are here, flags fly everywhere, civil authority and internal security rule over the Palestinian population in the concentrated land areas in which Palestinians live. Since 98 percent of the Palestinian population is nominally under Palestinian control, Netanyahu says there is no more occupation. However, the issue was always land, and with land comes freedom of movement. This will be important in the final status as it relates to borders in a fundamental strategic way, for it bears on the nature of the Palestinian State.

The issue of borders in the Oslo final status has less to do with the borders of a future Palestinian state than, as in the past, with the borders of Israel for the nature of Israel's borders will surely determine the reality or non-reality of a Palestinian state. We should be negotiating not the Palestinian State borders except in the context of Israel's future legitimate border, as the Arab states conceived it in the past. Is it the pre-1967 border, or something in between? This way we can work from the pre-1967 border forward, rather than backward from the post-1967 boundary, in envisioning the Palestinian State.

Tactically, something in between the pre-1967 and post-1967 lines means that Israel begins its withdrawal from the Jordan River to a final status line that bears some logical resemblance to the pre-1967 border; with regard to the Golan, this is what it is negotiating with the Syrians. In the final status we should introduce the idea that Israel withdraw westward, not from the center outward in all directions while keeping control of the Palestinian exterior. The final status should not be based on the continuation of the A, B, and C areas, since the Oslo Agreement states that the final status is not to be prejudiced in any way by the nature of the Interim Agreement.

As it turns out, Barak's position on the borders of Israel is basically the same as that of Netanyahu: Israel's legitimate borders end, at the very least, at the Jordan River. For the sake of peace, he will work downward from there. It is up to us to insist that the Palestinian State be conceived upwards from the pre-1967 border, not downward from the post-1967 border. The concept of the two sides as to what the

starting point is is innately important to the eventual outcome of negotiations, for the negotiations are by their very nature incremental, and concessions are based on giving up increments in an upward or downward direction from some specific conceptual starting points.

Barak's position on the four major issues of the Arab-Israeli conflict are, in essence, the same as those of Netanyahu, and the same as those of Rabin. They are encompassed in the 'no's' of Barak in 1999, copied almost verbatim from the same group of 'no's' of Rabin in 1992: no to the pre-1967 borders, no giving up control of external borders, no sharing of Jerusalem between East and West, and not even as a common city, no return of the refugees. The famous Rabin declaration, "No to the two million additional Palestinian citizens of Israel," is unspoken by Barak because it is by now understood in the very concept of Oslo. Barak believes in Rabin's separation doctrine of creating an apartheid system between the Israelis and the Palestinians, where Israelis rule Palestinians from above and all around but not in front, whereby the two peoples are separated from each other but where the geography, the land, and therefore the destiny is not separate. The difference between Rabin and Barak is that the Labor position has since evolved to the point where Barak is willing to call the foregoing situation – the implementation of the separation doctrine - by the name of a Palestinian state.

In terms of the amount of land allocated to this entity, unlike Netanyahu, Barak may be willing to give up larger pieces or percentages of land in the pattern of Rabin or Peres, but who says that these pieces will be contiguous to each other, or, for that matter, to the borders of neighboring Arab states? When Barak agrees to the concept of a Palestinian state but says it should not have full powers, he means that this state should exist inside of Israel, not beside nor separate from it. He means that the populations should be separated from each other – but not from the Israeli Government - on the Rabin model, not that Israel should lose its absolute control over the Palestinian population's fate.

What Barak intends to do, very ironically, is to create a PLO state within a state, as was seen in Jordan and Lebanon in the good old days of the PLO, but in this case, one that Israel can control. Israel is not weak, whereas Jordan and Lebanon were; instead of falling to anarchy, Israel can control the surrounded state by the continuous threat of strangulation from the four sides. This is not a case of two states living side by side, but rather one of a sovereign state atop a subordinate non-state entity that may, indeed, be called a state. It ensures a vertical relationship between Israel and any future Palestinian state, which constitutes the absolute antithesis of anything called sovereignty for the latter.

On the refugee issue, if in fact we are dealing with a sovereign state, then the issue should immediately cease to exist, for it would fall within the Palestinian State's sovereignty domain. The extent to which the refugee issue remains an issue in its own right, an international issue as opposed to a domestic one, is itself a yardstick by which we can judge the reality or non-reality of the Palestinian State's intended sovereignty. If the refugees are somehow forbidden from returning to a sovereign Palestinian state, whether it is by force or by 'agreement', by logical standards that state is not in fact sovereign. A state that cannot act in its own best interests whether it is due to indirect pressure or overt force is not in fact a sovereign state. One of the essential objective attributes of a sovereign state in today's international system is the power to admit and expel individuals, or populations, at its will. A state that cannot admit people, especially its own, and give them nationality and residence is not a state. This is the kind of state Barak wants. The refugees need assurances that this is not the kind of state the Palestinian Authority will accept as a permanent solution for the Palestinian people. They have to hear that they haven't been forgotten, and that nobody is going to sacrifice this core segment of the Palestinian population – of the Palestinian nation that is in fact embodied by the PA at this moment – as a card at the bargaining table.

There are two ways that Barak could realize his kind of state: one is by retaining control of Israel's external borders by military force; the second way is to insist that a refugee non-return clause be written into a secret annex of the final status agreement. Of course, in the latter case, the Palestinians could violate it gradually and ad hoc, but it would take many, many years to bring in the approximately one million Palestinians who want and really need to come back immediately in this illicit manner. In any case, there is no difference between any of the major Israeli players or parties on the subject of the 1948 refugees.

The place where Barak differs substantively from Netanyahu is on the issue of some settlements: it is likely that Barak will give a higher priority to incorporating those major settlement blocs from Area C directly into Israel's borders, namely: Ma'ale Adumim, Gush Etzion, and Ariel. He may encourage Israelis from the smaller settlements to move to the larger ones instead of trying to keep them all, or, using force if necessary, dismantle them. As for the smaller and more remote ones, they may come under Palestinian control, though even here Barak will probably try to retain some measure of extraterritoriality for any Israelis who might decide to stay there.

If the decision to expand Ma'ale Adumim is not reversed, then the northern part of the West Bank will be severed from the southern part, and then we can forget about independence. Israel always complaining about its narrow 'nine-mile waist' in history past is now trying to create an even worse situation for the Palestinians. Surely the Israelis know that a Palestinian state and a Palestinian economy cannot hang on the thread of a single safe-road that really isn't so safe, judging from the current situation at the Erez checkpoint. It is difficult enough that the West Bank and Gaza Strip are separated, and we know how Israel has been taking advantage of that fact since early 1993 by strangling the Palestinian economy and imprisoning the people through the closure of these tiny checkpoints. One of the major demands in the final status should be the cessation of all closure restrictions.

We can agree that Palestinian entry to Israel from Gaza can be controlled, but not Palestinian movement on a safe road between the West Bank and Gaza Strip. The road itself does not have to be a corridor. It could be under Israeli sovereignty, but the exits and entrances should be under sole Palestinian control, so that the issuance of Israeli permits to drive between them need not be necessary. The road itself could be physically isolated from Israel to prevent Palestinians from detouring into Israel, thus eliminating the need for Israeli security checkpoints, but it need not be sovereign to the Palestinians so long as there is no Israeli threat to choke it or arrest individuals on it whenever it pleases. The road need not be a bridge to be isolated; it could be on the ground to save cost, on the pattern of the 17-mile Dulles Airport road in Washington DC, but with much more formidable security barriers than the traffic police to prevent unauthorized detours off the road. Short north-south tunnels could be built under the road in three or four places to facilitate Israeli travel 'across' the safe road to other points in Israel so they would not need to intersect with the road itself.

What we do not want is another such situation to be created within the West Bank itself, and it is developing. The congruence of the post-1993 Jerusalem-Bethlehem and Jerusalem-Ramallah checkpoints and the new expansion of the Ma'ale Adumim settlement are in fact on the verge of creating a second Erez-type situation inside the West Bank. The fact that we are talking about two safe roads from Gaza to the West Bank instead of one in fact proves the Israeli intention. If there will be travel once again on the West Bank's north-south roads after final status, then why do we need two roads from Gaza? Why do we need the Gaza- Ramallah road in addition to the Gaza-Hebron road if there is to be normal travel between Hebron and Ramallah in the West Bank after the final status? The only logical rationale or necessity for two roads is if indeed the Israeli intention is to create a tri-cantonal state of Palestine in which Israel controls – and therefore prevents - all normal (unauthorized) movement between the cantons.

In addition to the suggestion for an isolated (but not sovereign) land-connection from Gaza to Hebron, an additional demand should be made for the final status that the Israeli checkpoints in the Jerusalem-Ramallah and Jerusalem-Bethlehem areas be removed from there and relocated to the point where one enters West Jerusalem. Surely the Israelis can control access to Israel from there; there is no need to prevent Palestinian access to East Jerusalem *per se*; at least there was no need for it prior to early 1993.

On the issue of Jerusalem as such, it will most likely be the intention of Barak - as it was the intention of Rabin - to approach the delicate issue of Jerusalem by miniaturizing its concept. Instead of discussing the issue of Jerusalem as a city, as a political issue, Israel will discuss it as a religious issue. For Israel knows as we all know that the Arab states care about Jerusalem only in its religious aspect, and of this Israel will take full advantage. Israel will seek to reduce the entire issue of Jerusalem from that of a city that is central to Palestinian existence culturally, economically politically, and geographically, to an issue of physical control over a series of buildings, namely, the holy sites of Islam and Christianity. It will surely try to hand over that control to Jordan if possible – or to the Palestinian Authority if necessary – but in either

case, once the issue of religious sites is finalized Israel will declare the matter closed. And if we don't insist, the vast majority of Palestinians – those in the West Bank, Gaza Strip, and in exile – will never even have access to those holy sites that they supposedly control, not to mention access to the city at large.

Here is the point at which the issue of Jerusalem intersects with the issue of borders, Israel's borders. It is a fact that no Palestinian economy will ever be able to survive unless freedom of movement through East Jerusalem as existed prior to early 1993 is restored and until the Palestinian Authority has sole control over the external land borders (not just the crossing-points) at the Jordan river and Rafah. Not only the passages themselves are important, but also the land borders at large, because it is this land that protects the security of the passages. For there are now some indications that even if Barak surrenders the crossing points, he will keep his troops deployed all along the land borders around it, retaining effective Israeli sovereignty not on Israel's pre-1967 borders but in fact on its post-1967 borders. It is a fact that no overseas businesses are going to invest in a country that can be sealed off from the entire outside world by a single tank. A nation cannot be viable if it is hanging by a string that can be cut at any moment. Palestine will have to be open in order to survive; it cannot at once be a 'closed country' and also be the next Hong Kong or Singapore. It is widely believed that the real point of closure is to pressure West Bank and Gaza Strip Palestinians to lose faith in their Authority and their future, and to pack up their bags, motivated by cynicism and a fear for their children's future, and to leave without looking back in the direction of Jordan or any other country that will take them.

With the beginning of the closure six years ago, the Palestinian economy entered a state of desperation that grows deeper and more severe with each passing year, and the people, unable to see past the nearest checkpoint, are blaming the Palestinian Authority, which is exactly what Israel wants. Israel's strategy is to create a permanent and fundamental rift between the Palestinian people and the Palestinian Authority, so that the people will turn on the Authority and both will end up weaker as a result. Unfortunately, this strategy is working. People are for the most part blaming their economic woes on the Authority rather than on the closure, and it will take more than a massive internal public relations effort at this point to set the perceptions straight.

A few words are in order regarding the American role, as the question keeps popping up: "Why aren't the Americans playing their role?" Some people might think that American inaction is somehow anomalous because they see the policy in Washington as having changed. This is supposedly evidenced by the moves made by the US administration to increase its relations with the Palestinian Authority, capped off with President Clinton's visit to Gaza. The significance of those moves has nothing to do with taking the PA's side against Israel, but in gaining control of it to the benefit of Israel. America's only role in the Arab-Israeli arena is to strengthen Israel's hand politically, economically, and militarily, and to defend its interests in the region and the world. As we all know, the main area of US-Palestinian Authority cooperation has been in the area of security: not security for the PA *per se*, or for the Palestinian people, but for Israel on the one hand and the peace process on the other. The truth is that America is not befriending the PA but is rather trying to establish control over it and render it harmless through the fatal embrace. This can be evidenced by America's preliminary indirect involvement in the exquisitely sensitive question of the eventual Palestinian leadership succession.

Today, the conventional wisdom on the street is that the PA will not be in full control of its eventual leadership succession some years into the future, that it will not then be free to choose a successor leader without American approval. If this is indeed the case, then we can also say goodbye to independence. For a state is not sovereign if it is unable to choose its own leaders, based on its own internal interests, in isolation from any foreign interference in the selection or election process. If the PA gains the external mantle of statehood but finds itself unable to direct its internal leadership selection process in an independent manner, then we have gained nothing, but rather have been subjected only to another kind of foreign rule. In fact, the primary motto of the PLO has always been the protection of the independent decision from the various Arab states, and so it must be now the motto of the PA to protect the same from the American attempts to control it.

The PA must resist any attempted interference in its eventual leadership succession selection with all its might. The Palestinians must select their future leader behind closed Palestinian doors and then present this leader as a *fait accompli* to the Americans and the world. The Americans must be provided with no information on the process, which will in turn prevent Washington from offering (or forcing) any input into it. Once it is done, the PLO and the PA must then say to the Americans: "This is our leader." The Americans will in fact deal with whoever emerges, but if they are given an open door to interfere at all, they will take advantage. They do not see it as their right to interfere, but they will in fact interfere to whatever degree the PA allows them. If they find that they can do it, even though they know they are not entitled, they will say, in the name of national interest, "Why not?" There can be no independent state without an independence of will.

On the relationship between the United States and Israel, do not expect America to pressure Barak on the strategic level. Do not expect the Americans to pressure Israel on the shape or depth of the future Israel, or on the structure or shape of the future Palestinian State. Expect pressure only on minute matters, such as one percentage point here, four percentage points there, ten or 20 peacekeeping soldiers here, or on issues of appearance, such as whom the Palestinian citizen encounters first when he crosses the bridge or lands at Gaza Airport. Israel has benefited all along by making concessions on issues of appearances and on the tactical level and then saying it was under extreme American pressure to do it, and even resenting that pressure. Then, when the time comes for discussion of the major strategic issues, the United States is shy to put any pressure at all on Israel, for fear it will either come to nothing or that it will lead to an all-out assault on the governing US administration by the pro-Israeli Jewish lobby forces that have now appeared inside American governing structures. For instance, it has been said that if the United States puts pressure on Israel now to implement the Wye Agreement, which they both signed, supposedly in a stand-alone fashion and in good faith, then the Palestinians will have to pay the price in the final status settlement. Perhaps the Israelis have already decided how much and what parts of the West Bank and Gaza Strip to offer to the Palestinians, and the only consideration from the Israeli point of view is the tactics of disturbing that already decided concession throughout a series of interim, re-deployment, and final status agreements.

As for the question of change in Washington, it is no longer about who in the United States is running for President or Congress, but about the control of Israeli interests over the American democratic institutions as institutions, for instance: the internal process of candidate selection in both the Democratic and Republican parties (the same thing we were talking about in relation to the Palestinians), the candidate selection process for sensitive posts within the American executive branch, such as foreign policymaking and national security bodies, and the process of candidate selection and policymaking for the important committees in both houses of Congress that deal with various aspects of Middle East policy. This control by Israeli interests is maintained using money and threats to defame a dissenting individual in the court of public relations, and this control has become stronger, not weaker, in the decade since the Iraqi war. There is no reason to believe it will be reversed or even slowed down in the near- or medium-term future. Do not expect any more George Bushes who will stand up to Israel: the new one is already in their pocket. The wing of the Republican Party that used to stand up to Israel is gone and has been replaced by a new one called the Neoconservatives who are closely aligned to the right wing in Israel. And with Barak, the relationship between the United States and Israel will be even closer, whichever party takes power in America, for unlike Netanyahu, no matter what Barak does – if he escalates in Lebanon or expands settlements or whatever- he will still be called a man of peace and this will not change. He will never be demonized and his judgement will never be doubted as with Netanyahu, and the Palestinians are going to suffer from this. Also expect Barak and the Americans to use the Syrian track, the Syrian 'final status' talks as it were, as a leverage against the Palestinians, namely, by threatening to ignore the Palestinian track in favor of the Syrian one whenever the Palestinians press their demands strongly. The PA must immediately develop a strategy to counter this most immediate threat. However, over the long run, no one must count on anything changing for the better in Washington. The answer to the worsening situation in Washington is more self-reliance on the Palestinian side, not less. Relying more heavily on Washington is the worst thing the Palestinians could do.

My sense is that there are two basic scenarios for the final status endgame. One is that the PA concedes everything on the substance of independence while achieving the appearance. The second is that the PA

presses its demands for real independence and backs this up with a real threat of rebellion, which it has still not been able to develop - as the recent 'day of rage' so unfortunately exposed. In the event that the PA redevelops these capabilities, most probably by reactivating the Fateh *tanzim*, and then presses its demands - to finish the second scenario – the talks will probably stall in a deadlock. And then it will be up to the next generation of leadership – and the next generation of Palestinians on the ground both inside and outside Palestine – to decide what to do next.