Compromising Palestine

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A Guide to Final Status Negotiations

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With respect for Professor William V. O'Brien

friend, scholar, believer

and in memory of Aharon Yariv

above all else,
a distinctly Jewish general

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Compromising Palestine

Introduction

Partition, which prescribes dividing contested land in order to avoid or to terminate ethnic conflict, is currently at the center of Middle Eastern peacemaking. And, we hasten to add, not for the first time in the long, singularly bloody and seemingly interminable Arab-Jewish struggle for undivided, unshared mastery over Palestine.

Here, in the much promised but overly compromised Holy Land, partition has a past as well as a future. Both its history and its prospects are biased, however. Prejudiced in the former by a legacy of failure and in the latter by inauspicious, nonsupportive elements: geographic and demographic determinants that defy notions of a "clean cut" or a "neat divide" between Arab and Jewish nationalists.

Nevertheless, that said, partition's present and foreseeable centrality is all but assured. This is true irrespective of whether the many schemes now on the table for a permanent Israeli-Palestinian settlement explicitly refer by name to the redistribution and redivision of land as *partition,* or whether they choose instead to employ any one of a string of slogans and euphemisms masquerading as political and territorial partition.

Take your pick from a rich, bewildering array of themes and schemes that form the vocabulary of partition. The fine line in Hebrew between Arab and Jewish "detachment" (*hafrada*) and "disengagement" (*hipardut*). "Permanent closure." "Land for peace." The "one land for two peoples" thesis . . . the "two-state solution" . . . "separation" as espoused by Israeli Prime Minister Ehud Barak . . . "territorial compromise" . . . "functional" partition . . . "hard" versus "soft" partition.

A unilateral declaration of Palestinian independence, with or without Israel's consent? The 1996 Beilin-Abu Mazin draft accords? Possibly a modified "Allon plan," or Binyamin (Benjamin) Netanyahu's 1997 trial balloon of "autonomy plus, state minus"? Any one of Israel's "Jordanian," "Palestinian," or hyphenated "Jordanian-Palestinian" options? Or perhaps one favors Shimon Peres's captivating vision of a closely inte-

grated trilateral "Benelux-like confederation" formed by separate Israeli, Palestinian, and Jordanian units in league together for the collective good?

Whatever our individual peace models and preferences, these various proposals have one, perhaps two definite features in common. Being verbal formulas, they are singularly vague. More important, they go beyond unilateral victory, capitulation, and physical elimination of one side by the other in search of a middle ground. They are moderate solutions. They mandate Arab-Jewish compromise; political *and* territorial compromise. As such, they all embody the irreducible core strategy of dividing, of sharing, and of ultimately cohabiting parts of the contested land. In a word, *partition.*

The reasoning for partition's renewed prominence in the quest for peace is twofold. First, with the 1993 accords Middle East peacemaking has entered a new and possibly decisive phase. Once this happens in negotiation and bargaining situations, words like "permanent" and "precise" take the place of "intermediate" and "ambiguous." In their on-again, off-again negotiations Israelis and Palestinians have moved from procedures and technical questions to substantive peace goals and tangible peace maps. Also, second, because *territorial* partition assumes singular relevance in raging conflicts like Palestine, where the struggle from the very outset has been over land and physical space, which is where it remains at present.

By solemnly signing the Oslo declaration of principles these two historic protagonists turned interlocutors, Israelis and Palestinians, have undertaken a profound change in the basic patterns of their relationship. In one fell swoop they have gone from delegitimizing each other to extending mutual recognition. Opting for peace over enmity, they have shifted from uncompromising all-or-nothing positions to political and territorial compromise. And, in choosing to move forward instead of temporizing and remaining locked in place, they have forced us to look beyond making peace to peace building.

Not only levels of expectation have been transformed; the very nature and content of the discourse has as well. Only a few short years ago we might still have been terribly impressed by the fact that Israeli and Palestinian interlocutors physically sit in the same room and actually talk to each other (or about each other to American and European go-betweens).

After the 1998 Wye plantation summit and the Wye River memorandum, the world is no longer prepared to rest content with pleasantries and handshakes, however; or quite so impressed by press releases reporting meetings as "constructive" and "businesslike." Why? Not because we have become jaded in our views, but because our sights are raised higher. Perhaps some of us, quite frankly, because of frustration with the entire

Palestine issue and a desire to see the volatile, unending Mideast conflict struck from the global agenda. Others of us, because of Oslo's and Wye's tantalizing effect. After all, both sets of talks offer a fleeting vision of peace and reconciliation as attainable, and within immediate reach.

Whatever one's motive—desperation or inspiration—peace enthusiasts sense that after Oslo, and with Israel's 17 May elections now behind us, there is no turning back. Too much has transpired; also, there is too much at stake. Nor are the set of global, regional, or internal circumstances and the latitude for making compromises likely to improve in the near future.

Today, consequently, in lobbying to move the peace process into the final status phase, we have every reason—and right—to insist negotiations between official Israeli and Palestinian representatives be *focused* and *intensive*: focused on peace constructs and peace maps; intensive, in moving more quickly from resolving misunderstandings to ratifying understandings and then to carrying them out to the letter of the agreement.

Still, for all their importance, the 1993 Oslo accords provided only a mechanism and a format. They did not explicitly provide the solution. The search is now on, therefore, for a definitive end to the interminably long and prohibitively costly Arab-Israeli blood feud. As of 1999 the emphasis in Arab-Israeli conflict resolution has shifted from *procedural gambits* to *substantive constructs,* and from so-called *constructive ambiguity* to *drawing lines* on a real map.

Even though we are forced to concentrate daily on new, interim, often unanticipated and not uniformly encouraging developments, surely it is within our individual and collective capacity to wrestle with the longer-term aspects of the peacemaking process. Where is it heading? Where should it be going? What will need to be done, or avoided, after the peace agreement goes into effect?

Statesmen, government and ministry officials, conflict management experts, students, academics, and lay persons—each of us is finally being forced by the Israeli-Palestinian peace process to face questions so basic that they challenge our most personal individual philosophies and fundamental political beliefs. Questions so controversial as well as tangled and complex for peacemakers that they have been postponed until now. But, hopefully, not for much longer.

Must all international problems have a solution? Do all wars necessarily end? Are we therefore about to give thanks in 1999 . . . perhaps by the year 2000 or at the latest 2001 . . . for a halt, at long last, to unrelenting strife in the Holy Land?

But, if so, how high a price are each of us (Israelis, Palestinians, their

respective Jewish and Arab backers at a safer distance removed, an onlooking world audience) actually prepared to pay for a peaceful settlement?

Let there be no misapprehensions. Without painful concessions by all the parties directly and even indirectly concerned this historic clash of wills between Arab nationalism and Jewish nationalism could just possibly endure as a tragic exception. An exception to the premise of universal conflict termination (the "all wars must end" postulate). And an exception to the renewed premillennial drive in world affairs aimed at resolving outstanding disputes like Northern Ireland and Bosnia by pacific means and through concerted international pressure.

Again, there is no room for misreading the severity of the objective situation in the Holy Land. This is no ordinary squabble or blackboard exercise in conflict resolution. We are talking here about a modern Hundred Years' War between Arab and Jew that has raged on for the better part of this century. A bloody altercation, which thus far has managed to defy every effort imaginable at reconciliation, thereby combining the worst features of both "enduring rivalries" and "recurring conflicts."[1] But also one that, its hallmark features aside, offers invaluable lessons and insights into the dynamics of dispute settlement in general. Which also means, in turn, that this particular quarrel (also commonly referred to as the perennial "Palestine problem" and the permanent "Mideast crisis") has, if anything, been overstudied and overanalyzed.

What the current situation really begs for are less backgrounders and historical perspectives than concrete answers. Practicable, workable solutions are needed yet are in short supply. For there is no perfect endgame or "exit strategy" for Palestine; only painful compromises. Foremost: *territorial* compromise.

To the above battery of dilemmas and political-philosophical questions one more specific question now needs to be added. How does the reader respond associatively to the very mention of partition? Does it suggest something sinister and unjust? Is it nothing more than a cynical, short-term, and ultimately ineffective expedient? Or, alternatively, something consistent with the spirit of fair share and fair division? For that matter, as long as we are playing word politics, might *territorial compromise*—substituting for *partition*—strike a different, less discordant note?

Considering less cogent, less appealing, or entirely unrealistic options, and daring to look ahead to the final act of Arab-Israeli peacemaking, this book poses the thesis of partition's inescapability. Under prevailing conditions some model for reapportioning and repartitioning Palestine represents historical and diplomatic inevitability.

Land sharing becomes a necessity because there is no other way out of the mystifying maze that is Israel/Palestine. Consequently, I shall be arguing that inasmuch as time and patience are required to bring peace to Palestine, the partitionist strategy of dividing land through political and territorial compromise is going to figure in all peacemaking efforts. The other part of my thesis underlines that the most nationalistic Israeli and Palestinian separatists can hope for under the jumbled circumstances prevailing today is "partition plus." Meaning the notion of political distinctiveness moderated by, and combined with, degrees of integration and coordination.

It would be the height of presumption for anyone to step forward so late in the Palestine struggle with a new vision and an original formula for peace. Especially when so many others—a veritable gallery of "the best and the brightest" in the arts of diplomacy and peacemaking—have tried, and failed. Neither am I as an academic responsible for or equipped to enter into the operational details or myriad technical aspects involved in delineating precise boundaries. Therefore, in making this argument for partition's guaranteed prominence my intention is not to preempt the official negotiators—only to goad them, and their circle of attending critics, scholars, and commentators, into confronting the endgame sooner rather than at the very last moment.

Nor, again, is my role that of advocate for a particular set of specific detailed peace arrangements. More than fifty years of studying, teaching, researching, living, and arguing the Palestine problem have taught me better. Rather, by investigating specific peace issues, divergent positions, and, literally, down-to-earth solutions, I intend to show the complexities awaiting any attempt at converting the partition principle into practice, even though partition may well be the *only way out* for Israelis and Palestinians.

This extended essay is put forth as a companion guide to the permanent status negotiations that already are badly behind schedule but nevertheless formally underway. My focus and research design are therefore pitched at the intermediate level: between broad general principles masquerading as grand theory and, at the other extreme, operational map drawing. By the same token, my time frame goes well beyond May 4, 1999, or any other arbitrary date or marker along the way to a peace settlement, looking to the settlement itself.

In this way the following pages should provide a useful reference point whichever one of the two possible eventualities does actually result: negotiating success or negotiating failure.

In the former, best-case scenario, should the diplomatic process begun at Oslo in 1993 succeed at some point in the future, it will be because Is-

raeli and Palestinian leaders by then will have concurred in any one of the partition-based variants, converting it into a far-reaching political compromise. If so, then this primer on the territorial dimension of the final status talks goes well beyond the bounds of an academic nonpolicy paper.

On the other hand, past performance cautions that peace efforts can just as easily miscarry. With Israelis and Palestinians united as one in fiercely refusing to give ground (both literally and figuratively), the road to an agreed repartition is paved with bad intentions. Just as the road itself is obstructed with countless ruts and potholes in the form of legitimate sentimental, economic, security, and other concerns.

For this reason it is altogether conceivable that the directly concerned parties may find no single form or expression of territorial compromise acceptable—or workable. In that worse-case scenario, even though reduced to a purely "academic" study in the sense of being antiquated and passed over, this paper unfortunately will have provided the reader with as compelling a set of reasons and explanations as any for the lamentable failure, yet again, of Arab-Israel reconciliation.

Especially at the present moment, however, and without prejudice to the outcome, the partition-for-Palestine prescription merits close scrutiny at several levels. First, deep within the Israeli polity, itself sharply divided over exactly where to retain, divide, yield, or exchange territory. Likewise, in the Palestinian national movement, where the question is more whether rather than where to compromise on land. Second, across the bargaining table: in the spasmodic official bilateral negotiations between the two territorial claimants and hence would-be partitionists: Israel and the Palestinian National Authority. The territorial compromise principle is now intimately part of the permanent status talks, clearly establishing the direct linkage between Palestine, partition, and peacemaking. Third, along the sidelines: among outside observers, including foreign governments, media commentators, the international academic community, and interested third parties in the United States and at the United Nations.

It is here, in each of these three different public domains, that partition's controversial nature and divisive influence are manifestly to be felt. Indeed, what has always blunted rather than aided in sharpening political discourse over partition is the extreme lack of precision in our usage of the term itself—as a concept, as a sketchy blueprint, or as a specific policy course of action.

In the words of Yossi Beilin, one of the chief architects of the Oslo accords, Arabs and Israelis "are speaking more or less about the same so-

lution. Despite using other words, other symbols, we know more or less what the solution will be."[2] One assumes the inclusive "we" refers to all three of the above-mentioned levels of analysis and discussion. Again, the two official sides squared off against each other across the bargaining table, but also among the different schools of thought and political factions within each respective camp, because Arabs and Jews, Israelis and Palestinians are not monolithic and do not necessarily speak with one voice. Not to be left out are those countless outsiders and well-wishers anxious to see this latest diplomatic effort eventuate in a real, lasting Middle East peace. They, too, are welcomed under Beilin's canopy of general consensus. Peace, after all, is the great unifier.

Unfortunately, I must disagree. Because, leaving everyone else out for the moment, Israelis and Palestinians are in fact poles apart. As the post-Oslo posturing and excruciating negotiations fully and readily confirm, even following the Wye River memorandum, we are not in full agreement about what the permanent status solution will be or should be.

And nothing succeeds in dividing us quite so much as efforts at interpreting partition's exact meaning. Why? Principally, because there is a difference, a profound difference, between "partition" and "territorial compromise" and between "territorial compromise" and "land for peace."

Ambiguity therefore no longer really serves the cause of peace. "More or less" is no longer good enough. For far too long we have gotten away with leaving peace and the precise terms of peace for the future . . . when conditions are ripe . . . not before attitudes have changed . . . only when the general situation is more conducive . . . until such time as success is assured.

Lack of a precise, agreed upon exit strategy has been a consistently troubling omission in Middle East peace efforts. It has consistently plagued implementation of the Oslo and Wye agreements. Now that focusing on the hypothetical permanent status is no longer premature, this becomes a glaring omission. The time for confronting peace is close at hand. That we have already overshot and gone beyond the May 1999 deadline set for finalizing the Madrid-Oslo peace process merely adds to the sense of immediacy by intensifying the inquiry into the architecture of an Israeli-Palestinian peace.

My concern is not with the merits and necessity for peace. This much ought to be patently self-evident. Nor with dates, deadlines, or time tables. Rather, in this book I am raising two questions: (1) the meaning and substance of peace, and (2) the price it must inevitably extract—politically and territorially—from all parties concerned. Because this is not a

running commentary on the pre-Oslo and Oslo phases, or the post-Oslo and Wye interim talks, but a consideration of the issues and dynamics likely to dominate the final round of permanent status negotiations, what most interests me is not "Gaza-Jericho *first*" but what comes afterward. Still more specific: What comes *last* when the dividing line needs to be penciled in between Israelis and Palestinians, between an Israel and a Palestine? The operative question is whether a peace map based upon territorial compromise can be drawn between minimal Israeli and Palestinian objectives.

Today we are compelled not only to clarify our intentions but to define our peace terms. Going beyond whether or not there ought to be a Palestinian state—the question seems all but moot by now—this book poses an entirely different set of practical issues: that state's exact location and boundaries; how large a state; its relations with Israel and Jordan respectively; and what it will mean for Israel to have Palestinian neighbors to the east . . . and to the west.

On this point I entirely agree with Professor Edward Said that what is now needed is "a discipline of detail"[3]—one yielding counterstrategies and countermaps. Then, and only then, will we have a better feel for the true prospects of lasting peace. In effect, this study calls for going beyond catchwords and slogans while yet stopping short of tabling minutely detailed and elaborate schemes that, in any case, are best left to the official negotiating parties themselves.

A durable peace between the two communities resident in the Holy Land is arguably the world community's largest piece of unfinished business in its war against deadly conflicts. Viewed in broad, metahistorical terms, we may very well be witnessing at the present moment the final momentous chapter in the long and unbearably tragic struggle for Jewish, and Arab, self-determination, vindication, and—above all—land possession. Innocent bystander, distant observer, and direct participant alike: we are all permitted the fervent wish that this forthcoming chapter be sealed in ink rather than blood.

Thus motivated, this monograph of reflections on partition hopes to contribute to the quality of analysis at each level of debate as Israeli-PLO conflict resolution enters the critical countdown after May 1999 and the crafting of a detailed peace blueprint. On the ground and not only on paper. The confining, inhospitable ground of geographic, demographic, historic Palestine.