

Breaking the Vicious Cycle

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A lot has already been said and written about the horror of the past long 25 days in the form of a most tragic loss of life, including many children's lives, extensive destruction, misery and despair, and, especially for the Palestinians in Gaza, a complete loss of whatever little hope or sense of possibility about a better tomorrow, which they may have still retained before the most recent round of escalation. Given the most gripping human dimension of this recurring tragedy, a lot more can and will undoubtedly be said and written about it for some time to come. However, there is enough in the weeping words of an otherwise seemingly composed woman, as she sat by the remains of what only two weeks ago used to be her home in Gaza, to strongly point to what needs to be done, indeed to what always needed to be done, beyond securing agreement on a ceasefire in short order. Pointing to the rubble to which her home was completely reduced by an air strike, and with the terrible state of the human condition associated with life under siege in Gaza for many long years very much on her mind, Um Ahmad said: "even before this, we did not have much to lose...we managed to stay alive only because there was not enough death to go around".

It is not that this basic reality has escaped the attention of current or past mediators. In fact, it is fair to say that all past mediation efforts had started with the premise that stoppage of the bloodshed had to be followed by the implementation of measures aimed at effectively addressing the root causes of instability and conflict. But, that did not happen before, and, unless a fundamentally different approach is adopted, it is unlikely to happen this time around either. There are many reasons for this. To be sure, there is now, as previously, the complication associated with some of the demands and expectations ahead of a ceasefire being unrealistic altogether or unrealistic to fulfill in short order, given the prevailing context of Israeli-Palestinian relations. Consider, for example, the Israeli demand of having Gaza demilitarized. Well, that was not the case even before the Israeli army redeployed from Gaza in 2005. Indeed, minus the rockets, there was then just about everything else, including the tunnels. So what would make anyone believe that what was not possible then is feasible now, notwithstanding the real advancements in the Palestinians' fighting capabilities since then? As to the Palestinian demands, in a nutshell, they are mainly about the legitimate need to end the state of siege on Gaza. But, here again, how likely is it to promptly achieve this important objective now when it proved to be impossible to achieve even before the takeover of power by Hamas in Gaza in 2007 and at a time when a highly capricious control regime continues to be enforced by Israel in the West Bank?

Obviously, past mediation efforts were not oblivious to these difficulties or to the complexity of the task at hand, and a quick review of previous understandings, including, for example, those enshrined in UNSCR 1860, would reveal that mediators had managed to find formulae for touching on the issues of concern just enough to give the principals a much needed political cover, and just when one or both sides to the fighting began to view continuing on with it as costlier than calling it a day, and also at a time when probably both sides knew very well that the ceasefire they had agreed to was not going to be a durable one. Unfortunately, the issues of concern then are still the contentious issues of today, and in their totality, the past mediation efforts ended up amounting to little more than kicking the can down the road, and with that, the vicious cycle continued.

To break this vicious cycle, a renewed international diplomatic effort that involves addressing the pathological state of Israeli-Palestinian relations ahead of a credible and effective re-launching of what has remained of the "peace process" is critically needed. It should be obvious that such an effort would not be intended to subsume the effort undertaken to secure agreement on a ceasefire in the way achieved with UNSCR 1860, or through a humanitarian respite, but rather to facilitate it and immediately build on it. Nor should it be construed to mean a rush to hit the reset button on the stalled Palestinian-Israeli negotiations. For that repeatedly, maybe even predictably, did not work before and it is virtually certain to continue to fail, so long as the requirements of genuine peace making, as opposed to peace processing, continue to be approached in the context of a framework, namely, the Oslo framework, which has lost validity of premise in some critical areas. To be sure, a wide variety of factors and circumstance had conspired to lead to failure in the previous rounds of internationally brokered bilateral negotiations. But, there is little doubt that this loss of validity has been a common thread, and I argue that, even alone, it could have led to failure and that, therefore, without significant adjustments aimed at effectively addressing it, the existing framework or paradigm will not lead to the restoration of viability to the path to Palestinian statehood any time soon, if ever.

Before moving to outline the key elements of the adjustments required, let first me make it unambiguously clear that those adjustments are not intended to even remotely signal or imply an abandonment of the two-state solution concept. To the contrary, they are completely inspired by the need to restore viability to that solution concept. Secondly, in thinking the content and sequencing of those adjustments through, due consideration was given to the need for them to be adequate not only for addressing the fundamental asymmetry in the balance of power between the occupier and the occupied, but also, as importantly, for effectively dealing with the consequences of failure of the previous rounds of diplomacy, as reflected in a most serious erosion in the terms of reference of the peace process and the consequent progressive widening of what I call the "expectations gap", which is simply defined as the space between the maximum on offer by Israel and the minimum acceptable to Palestinians. Thirdly, maybe on a lighter note, I should mildly caution that, inevitably, a mere consideration of the adjustments that I believe would be necessary to make, and quickly, would require many, myself included, to move away from their traditionally comfortable comfort zones.

As to the adjustments I propose, they fundamentally fall in two highly interrelated areas. The first relates to the question of whether Palestinian representation in the context of the requirements of both the Oslo framework, as well as national governance, remains adequate, while the second relates to the question of continued validity of that framework, especially given that the end of the timeline on the basis of which it was designed has long passed. The answer to both of these questions is in the negative; hence the need for adjustment. Indeed, adjustment is overdue, especially in view of the fact that the framework's failure to lead to agreement on the "permanent status" issues has now spanned more than fifteen years beyond the originally envisaged timeline, thereby leading to the obvious contradiction of terms resulting from Oslo--originally designed to be an interim arrangement--having become an open-ended interim arrangement.

With regard to the issue of Palestinian representation, and by way of a brief background, it may be recalled that the question of where the power or privilege to represent the Palestinian people resides had featured very prominently in the political discourse both on the Palestinian and Arab scenes since the early days of the contemporary Palestinian revolution, and it, to a considerable extent, underlay much of the intra- and inter-factional rivalries since then. It was not before the mid-1970s, however, that the drive to vest that power solely in the Palestine Liberation Organization (PLO) started to gain momentum, and it ultimately culminated in Israel's recognition of the PLO as "the representative of the Palestinian people" in the context of the highly asymmetrical and skewed "Declaration of Mutual Recognition", which was at the heart of the Oslo Accords. Conspicuously, but not coincidentally, missing from that formulation was the characterization of the "representative" as the "sole legitimate" representative. But, that is not why I regard that declaration as highly asymmetrical. Rather, the fact that it was a qualified recognition, in the sense of it having been, as per the relevant documentation, conditioned on the PLO's recognition of "the right of the state of Israel to exist in peace and security", clearly made it so, with the PLO having settled for much less than a reciprocal recognition of the right of Palestinians to a state of their own. Nevertheless, notwithstanding the asymmetry of it, the "Declaration of Mutual Recognition" paved the way for the PLO to become universally accepted as the representative of the Palestinian people, and with that, its drive for safeguarding the identity of the Palestinian people was complete.

Given the context in which it obtained, however, a downside to this success was that as of the signing of the Oslo Accords, the PLO stood to be judged, not any more on the basis of past glory, but entirely by the success of the Oslo framework in delivering a fully sovereign Palestinian state on the territory Israel occupied in 1967--a goal, which, incidentally, Oslo itself was silent on. This is especially so, given the other key condition which attached to Israel's recognition of the PLO, namely, that the latter lay down its arms and unequivocally commit to a path of nonviolence to peace.

Unfortunately, when judged by what turned out to be a very high standard, the PLO's record cannot be considered but as one of dismal failure. Apart from the obvious, which is Oslo's failure to deliver Palestinian statehood by the end of the "interim period", the prospects of that happening any time soon are decidedly a lot dimmer today than they were then. The failure of successive rounds of negotiations over the past fifteen years to produce tangible

progress toward ending the Israeli occupation that began in 1967 has clearly contributed to precipitating a progressively receding sense of possibility about Palestinian statehood. This sense of gloom was no doubt reinforced by a completely unbearable state of the "human condition" "in the occupied Palestinian territory, both in Gaza, where, in addition to the tragedy associated with periodic military escalation, people had to always contend with severe water and power shortages, inadequate public services, and a virtually complete ban on travel, and in the West Bank, where Palestinians' right to live with dignity on their land has been constantly and severely undermined by a highly capricious and oppressive control regime, as well as settler extremism and acts of outright terrorism. In addition, continued settlement expansion did a lot of damage in the obvious material sense, but also politically, to the prospects of continued viability of the two-state solution concept, while highly frequent Israeli military incursions into the so-called area "A", despite a vastly improved Palestinian security performance there over the past several years, contributed to reinforcing the view that, if anything, the occupation was becoming more deeply entrenched.

The combination of the above mentioned factors was more than enough to substantially weaken the PLO's standing as the sole legitimate representative of the Palestinian people. Needless to say, the fact that the Palestinian Authority, which is the executive arm of the PLO in the West Bank and Gaza, did not always govern right or well, did not help matters either, as most tellingly evidenced by Hamas's decisive win in the 2006 elections. However, what, probably more than anything else, all but completely compromised, and ultimately damaged, that standing was the doctrinal defeat which the PLO's platform of nonviolence sustained as the view that "violence pays off" started to gain favor with the public at large. Occasioned by the perverse signal associated with a particular event, like the Shalit prisoner exchange deal, or an untowardly turn of events, this view has tended to gain traction during periods of military escalation, and it was especially effective in weakening the standing of the PLO, and in correspondingly enhancing the popularity of non-PLO resistance factions, especially Hamas and Al Jihad Islami, when, like currently, the escalation coincided with the failure of a round of negotiations.

With the above considerations in mind, there can be little question but that the Palestinian representation framework must be reconsidered, with a view to making it more effective. This would be important in and of itself, but it would also be necessary to facilitate bringing about much needed adjustments in the overall Oslo framework, which must include doing something about it having turned into an open-ended arrangement. It is to be noted that failure to do so would imply perpetuating the absurd situation whereby the fallback to non-agreement between the Palestinians and Israelis on "permanent status" issues is the reality of continued occupation, or to put it bluntly, Palestinians would continue to have to choose between accepting what Israel was prepared to offer in negotiations or to continue to live under its oppressive occupation.

I now will turn to the adjustments to the existing paradigm that need to be made if the prospects of attaining a just and lasting peace are to genuinely improve, and in a way that minimizes threats to security and stability in the interim. In a nutshell, these adjustments are aimed at redressing the fundamental asymmetry in the balance of power between the occupying power and the occupied, and they consist of the following key elements. First,

twenty years after it gained full Palestinian recognition of its right to exit in peace and security, the state of Israel should reciprocate symmetrically by recognizing the Palestinians' right to a sovereign state on the territory it occupied in 1967 in its entirety. Second, Israel should be prepared to accept an internationally mandated date-certain for ending its occupation and a mutually agreed path for getting there. Third, in the interim, Palestinians should not continue to be hamstrung in their effort to achieve national unity by insistence, on the part of the international community, on a rigid application of international conditions that derive their validity from a framework, namely, the Oslo framework, whose integrity has been undermined by a loss of validity of premise in key areas. In addition, Palestinians need to see a cessation of all practices that undermine their right to live with dignity on their land, as they proceed to attain full national unity and persevere in their effort to build their state and deepen the readiness for statehood.

The key to working toward securing these adjustments quickly lies in a fully determined Palestinian effort aimed at achieving unity through a more, if not all-inclusive representation framework. Toward that end, the following elements may merit careful consideration. They are intended to constitute more than a general statement of principles, but less than a detailed plan, pending consideration of the extent to which they may get traction.

1. Until such time it may become possible to expand the membership of the PLO, whether through elections or some other objective mechanism that may be agreed, it is proposed that the PLO, together with its platform, be left alone, while permitting it to retain the title of "sole legitimate representative of the Palestinian people".
2. Operationalize the Unified Leadership Framework (ULF), which includes all PLO factions and those not affiliated with it, and task the ULF with collectively informing the decisions of the Executive Committee of the PLO on matters of high national interest.
3. Membership in the ULF by non-PLO factions does not require acceptance on their part of the PLO's platform. Consideration could, however, be given to having the ULF adopt, by consensus, a time-bound commitment by all factions to nonviolence, keeping in mind that it would make sense to have the term of the commitment to nonviolence correspond to the time judged to be needed to enable the government to unify state official institutions and laws after more than seven years of separation.
4. Ensure that the government is empowered to the fullest extent afforded by the Basic Law to rebuild and unify the institutions, and to discharge the full range of its responsibilities as defined by the law.
5. Commit to holding fair, free, and inclusive elections no later than six months before the end of the interim period referred to in item 3 above, and, to ensure maximum accountability, reconvene the current legislature and open up the political system by actively seeking to broaden the base of participation in it through democratic means.

I should make it clear that the above list of measures is not meant to be exhaustive. Other issues and ideas could be entertained, with a view to forging a national Palestinian consensus

on a possible way forward as soon as possible. But, once achieved, the content of this national consensus, and the timeline embodied in it, must be used as a basis for approaching Israel and the international community with the chief aim of setting a date certain for ending the Israeli occupation and moving to resolve all outstanding issues.

However, beyond trying to forge a Palestinian national consensus on issues of the kind outlined above, it would be important for that consensus to reflect an adequate appreciation of three other elements. First, there needs to be a much better appreciation of the fact that the operation of the Rafah crossing is a bilateral Egyptian-Palestinian issue, and that it should not continue to be lumped with all other issues of access, keeping in mind the vital importance of Gaza being open northward to and with the West Bank, rather than having it continue to be pushed southward or in the direction of reinforcing its status as a stand-alone entity. Second, good governance is always and everywhere important. In the Palestinian context, it is also hugely important as an enabler in the quest for greater international attention and support. Last, but certainly not least, the "value content" of the Palestinian state acquires added importance against the backdrop of a region tragically caught up in unprecedented extremism and violence in the aftermath of the Arab Spring. Thus, it is incumbent on Palestinians, and as a matter of conscious decision making, to build a state that is founded on the basis of the universally shared progressive values of equality, tolerance, nondiscrimination, openness, and full sensitivity to the unabridged rights and privileges of citizenship.

Finally, let me conclude with what I started with, namely, that adjustments to the existing paradigm are needed to simultaneously reduce the constant threat and frequent incidence of instability, on the one hand, and pave the way for launching an effort that can lead to durable peace and security, on the other. To get there, I argue that Palestinians must take the initiative of setting in motion a process that can in short order lead to forging a broad national consensus on a platform that can enable them to effectively govern domestically and engage internationally, including with Israel. But this also does require a fundamental adjustment on the part of the international community in terms of the conditions it has long maintained would be necessary to completely fulfill by any Palestinian counterpart in engagement. I believe it is time for those conditions to be reconsidered. For one thing, continuing to exclude non-PLO factions is virtually certain to continue to lead to failure and tragedy, and for another, the essence of the conditions in question has not been observed by, or even formally internationally expected of, the various factions to Israeli governing coalitions for much of the period since 1996. In this regard, I believe the words of Israeli Prime Minister Netanyahu, as he recently sought to make the point that there was no room for Palestinian sovereignty west of the Jordan River, tell the whole story. In those words, "I think the Israeli people understand now what I always say: that there cannot be a situation, under any agreement, in which we relinquish control of the territory west of the River Jordan."

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