The Obama Administration and the Unavoidable Issue of Palestine

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Overview

The recent Israeli military operation in Gaza clearly demonstrates that the Palestinian-Israeli conflict will continue to be central to stability – or the lack of it – in the Middle East. In addition to the human and political toll this conflict has taken on the two principal parties, it is increasingly developing the potential to spill over, at least politically, and destabilize key United States allies in the region. Because of its potential to shake the foundations of Arab governments and the regional order, rejectionist or extremist governments and organizations in the Middle East will continue to use the conflict in attempts to destabilize traditional US allies and to gain political advantage and ideological influence.

Previous US policies that accorded a low priority to resolving the conflict, or which sought to distantly manage or contain it have failed, as the issue has repeatedly forced itself back onto the agenda. President Barack Obama's early engagement with the issue and the high priority he has apparently assigned to its resolution presents a new and vitally important opportunity for progress.

The most immediate item on the agenda obviously is dealing with the aftermath of the Gaza hostilities. The US must work to consolidate a stable ceasefire, meet immediate humanitarian needs, and commence expeditious reconstruction, while ensuring that Hamas does not politically use international reconstruction and civilian relief efforts in Gaza to erode the Quartet conditions and strengthen its position without moderating its policies.

The priority should remain ending the conflict by reaching a peace agreement between the Palestine Liberation Organization (PLO) and Israel. Fortunately, the incoming Administration has inherited a fundamentally sound diplomatic architecture in the form of the Annapolis process. The logic of Annapolis – namely progressing simultaneously and in parallel on both the macro-political level through permanent status negotiations, and the micro level through tangible, on-the-ground measures – is a solid one that needs to be continued, expanded and refined. In particular, two initiatives must be granted a higher priority than they have in the past: enforcing a settlement freeze and developing the role of the Arab states in resolving the conflict.

Hamas and Gaza

The recent armed hostilities in Gaza have created an immediate set of new complications that require urgent action, particularly with regard to the provision of humanitarian aid and reconstruction. However, basic issues regarding Hamas, Gaza and the balance of power within the Palestinian polity remain fundamentally unchanged.

In the short term, Hamas is predictably trying to extract political gains from the conflict by claiming victory. The extent to which such claims may gain traction partly depends on the terms that will emerge from the ceasefire, and the political conditions that develop in the aftermath of the conflict. In particular, Hamas is seeking the following: opening the Gaza crossings under its control, being accepted as the address for the Gaza reconstruction efforts and funds, loosening its diplomatic isolation and acquiring the ability to claim and even exercise the right to resist (through a short-term ceasefire and the ability to rearm). The extent to which it can point to achievements in any of these spheres will determine the degree of political credit it can claim in the near-term.

A situation in which Hamas emerges politically and diplomatically strengthened would complicate much needed efforts to re-unite the Palestinians politically and geographically. A Hamas that feels victorious would continue imposing conditions on national unity that fall short of international demands. Such conditions would not be acceptable to the Palestinian Authority (PA) or to major regional actors as they would almost certainly result in a return to the international isolation of the Palestinians. This would obviously be strongly against Palestinian interests, and would continue to complicate peace-making efforts. Instead, the post-Gaza conflict reality needs to be leveraged to bring Hamas into the political mainstream under conditions that are internationally acceptable. Hamas needs to realize that continuing to operate outside a national consensus will harm it politically, while accepting international conditions would bring it – and the Palestinian people – tangible benefits.

While the siege of Gaza must be lifted, and crossing points must be opened, this should not be done through, and therefore validate, the authority of Hamas. Instead, the 2005 Access and Movement Agreement should be applied, and accordingly crossing points should be operated under PA and with international supervision. This would create a breathing space for Gaza civilians while accruing political credit to the strategy of diplomatic negotiations as opposed to violent confrontation.

Reconstruction efforts are equally crucial and should be managed in a way that minimizes the role of Hamas. Whether reconstruction is undertaken by the PA, through existing international mechanisms or through a new international body created for this purpose, Hamas should have no direct or indirect access to international reconstruction funds. It should be clear that attempts by Hamas to bypass international modalities and conditions regarding aid would result in its suspension until such modalities are restored.

Keeping Hamas out of the border crossings and away from reconstruction funds is crucial. If Hamas is able to claim credit for progress on these fronts, it will put the PA – and its efforts to resume negotiations – under further domestic political strain. As important is the message such an outcome would send to other extremist groups in the region. In the same way that Hamas was emboldened by the perceived Hizbullah "victory" in 2006, a credible claim of "victory" by Hamas will embolden other extremist and confrontationalist groups. This is particularly important for countries like Egypt, Saudi Arabia and Jordan that took a strong stance during the conflict and consequently endured withering political and rhetorical attacks.

The dynamics of the split between Hamas in Gaza and the PA in the West Bank have not been changed in the aftermath of the hostilities. Irrespective of its popularity, Hamas' power in Gaza is secure as it has methodically and successfully eliminated all organized opposition to its rule. There is no concrete internal threat to its rule over Gaza, nor are there realistic threats of an externally-driven regime change in the immediate future. Similarly, and also irrespective of its popularity, the PA is fairly secure in the West Bank, with President Mahmoud Abbas and Prime Minister Salam Fayyad continuing to enjoy support from the security services, regional actors and the international community. Hamas lacks the ability to forcefully overthrow the PA in the West Bank - for now.

While a unity arrangement is preferable to a continued split between the PA and Hamas, chances of reconciliation are now even lower than before the Gaza conflict. As both are secure in their respective territories, neither side feels any urgency for "national unity." On the contrary, each side will try to leverage the Gaza confrontations to their benefit by extracting more favorable terms in any reconciliation, resulting in more inflexible – and therefore less achievable – demands. In particular, Hamas will seek to maintain its separate military and security assets. Any agreement that allows it to do so will be highly unstable, as Hamas will maintain the option of using violence to disrupt the political and diplomatic process whenever it chooses, in a manner analogous to Hizballah's behavior in Lebanon. While Hamas might possibly emerge with more domestic political credit, it has strongly antagonized its Arab neighbors – particularly Egypt which was politically targeted by Hamas and its Iranian and Muslim Brotherhood allies – and will be in a weaker negotiating position as a result.

While the international community should continue to encourage Palestinian unity, it should also be clear that a unity arrangement should not jeopardize the PA's commitment to a negotiated two state solution and to existing Palestinian agreements. It should also be clear that such a Palestinian political reunification arrangement should be rendered sustainable by including concrete provisions for the removal of guns from Palestinian party and electoral politics.

An alternative to a "national unity" arrangement would be the creation of a non-partisan, so called "national accord" government, composed of individuals who are not members of the major political parties but who are approved by them. Such a government would not **resolve** the underlying ideological and security differences between Hamas and the PA, but could be helpful in the short term for handling the immediate Gaza reconstruction needs. As a minimum, though, such a government should operate clearly under the power of President Abbas, meet the Quartet conditions, and be able to exert security control in both the West Bank and Gaza Strip, in effect reversing the Hamas coup of 2007. Such a government should be an interim one and should have the specific mandate of overseeing Gaza aid and reconstruction and preparing for elections at a specific date.

The international community, under US leadership, must continue to be clear regarding its conditions for engaging with Hamas. Any engagement that takes place before Hamas accepts the international conditions will be seen as a victory for Hamas and a signal to others that – with time and some violence – the resolve of the international community will erode. Hamas – whether on its own or as part of a national unity arrangement – must accept the goal of a two state solution and legitimacy of existing Palestinian-Israeli agreements, including the letters of mutual recognition between the PLO and Israel, and should disarm and renounce violence.

Ultimately, what will determine the outcome of the power struggle between Hamas and the PA will be the success or failure of the peace process. If the PA is unable to point to economic,

security, and – above all – political achievements, it will continue to decline in popularity and ultimately in power. If, on the other hand, advances towards ending the occupation and political achievements are secured through the peace process, Hamas' fundamental message – that negotiation and diplomacy are futile while violence and terrorism produce results – will be refuted, putting Hamas on the defensive.

Reviving the Peace Process

While efforts will initially be concentrated on the aftermath of the Gaza conflict, focus needs to quickly shift again towards resuming and invigorating the peace process. This requires action on permanent status negotiations, progress on the ground, and achieving a settlement freeze.

Permanent Status Negotiations

A breakthrough in permanent status negotiations in the coming year is unlikely. This is less a function of substantive differences – though these still exist and are significant – than a function of domestic politics. After more than a year of talks since Annapolis – which themselves were built upon previous negotiations – the areas of agreement and difference are fairly well defined, and so is the range of possible solutions to these differences. There is not much that is needed in terms of new or creative substantive ideas.

The problem so far has been primarily a political one: the instability in both the Palestinian and Israeli political systems has prevented the emergence of strong, stable leaderships on either side capable of taking the necessary, and politically costly, decisions that would define an agreement. A quick glance at the political map among the Israelis and the Palestinians does not promise the emergence of politically stable governments in the immediate future.

However, despite the improbability of a peace agreement in the short term, permanent status negotiations must be maintained. A collapse of the process would create additional political instability and would particularly weaken the moderate PA leadership that has invested its whole political legitimacy and credibility in the peace process. Such a collapse will serve the argument of those in Palestine and elsewhere in the region that advocate violence and confrontation. The collapse of the negotiations during the Clinton Administration had dramatically negative consequences that are still not fully resolved and continue to contribute to instability at several levels.

Credible, ongoing permanent status negotiations would help the Palestinians implement their Roadmap obligations, specifically the central obligation of ensuring security and fighting terrorism. An ongoing peace process will enable the Palestinians – as they did in the mid-1990s – to demonstrate that their counter-terrorism actions are necessary steps to maintaining a process that will ultimately end the occupation and bring about independence. Conversely, a lack of a process would enable rejectionist parties to define such steps as a form of collaboration with the occupation, as they did after the collapse of the negotiations in 2000.

Similarly, such a process could help the Israeli side implement its central Roadmap obligation, namely freezing settlements. It would enable the Israeli government to place such a freeze in the context of securing peace, achieving strategic stability and realizing a permanent end to the conflict.

While it is important for the US Administration to bring the parties to the negotiating table and ensure that they stay there, the issue of substantive US intervention and initiatives is more delicate. Presenting far-reaching American proposals prematurely could force the two sides to retrench and could be counterproductive. Unless the Administration is willing to expend significant political and diplomatic capital in presenting and sustaining its substantive ideas, it might be more effective to present such proposals at a stage in the negotiations when the areas of disagreement between the parties are more clearly defined and their respective leaderships are in a political position to make the necessary decisions.

Progress on the Ground

While it is important to keep permanent status negotiations going, and while it is essential that the incoming Administration strongly reaffirm its unwavering commitment to a two-state solution by word and deed, the initial bulk of the American diplomatic focus should shift towards improving conditions, both on the ground and diplomatically. Such improvements would facilitate creating conditions in which a peace deal can, in fact, be realized. This would require maintaining, stepping up and fine-tuning the ongoing efforts in the economic and security spheres, in addition to pushing for a settlement freeze and working with the Arab world to develop the potential of the Arab Peace Initiative (API).

It must be emphasized that such measures on the ground – important as they may be – are not sustainable nor are they fully realizable if the overall political environment is not changed. Specifically, as long as the occupation remains in place, economic and security progress will be stunted. This, however, should not be an excuse for not developing these areas within the context of a viable political and diplomatic process.

Economy

Economic progress is essential for both political and structural reasons. Politically, economic progress can demonstrate the benefits of peace and help maintain momentum as the permanent status negotiations take their course. Structurally, building a sound economy is essential for the creation of a stable and sustainable future Palestinian state. A situation in which the Palestinians continue to be among the largest per-capita recipients of international aid is neither sustainable nor desirable. The foundation of a self-sufficient, effective economy must be laid – even if full realization of such an economy is not possible under conditions of occupation.

Removing obstacles to freedom of movement is the most fundamental requirement for creating a functioning economy. While some of the obstacles to movement may in fact have a security rationale, many checkpoints in the West Bank have no obvious security basis. These should be removed immediately. Even those that do fulfill a security need can be managed in a more predictable, less time-consuming, and less abusive manner using technology and better staffing, particularly regarding movement of goods. Restrictions on and impediments to the movement of people should be minimized and, whenever possible, eliminated.

Removing obstacles to freedom of movement is an essential component of enabling the most important driving force in the Palestinian economy: the private sector. All obstacles to the development of this sector, whether in terms of freedom of movement, the legal and commercial infrastructure, or access to markets must be removed. American initiatives to

encourage export of Palestinian goods to the US, as well as initiatives aimed at encouraging foreign investments in Palestine, need to developed.

Since the major natural resource of a Palestinian state is likely to be its human capital, education is of paramount importance to Palestinian social and economic development in the long-term. Health care is another urgent matter, as it directly impacts the quality of daily life of ordinary people, and speaks directly to trust in institutions and the ability of the society to protect the individual's most basic physical needs and interests.

Infrastructure and housing projects can also be initiated to meet pressing needs of the population while creating immediate jobs. Israel will need to facilitate such projects, and adopt less prohibitive security criteria. This obviously requires higher levels of security coordination, and also third party oversight to ensure that security conditions or restrictions are only raised when warranted and unavoidable.

Ultimately, a system must be put in place to balance legitimate Israeli security concerns, when applicable, with the need for Palestinian economic and institutional development. Failure to economically develop the West Bank would reinforce the impression that the PA's approach is futile and would further erode its authority and legitimacy. Alleviating poverty and improving the economic prospects for the Palestinian people is not a substitute for a dynamic political process leading to an end-of-conflict agreement, but it is a necessary component thereof.

Security

Security progress is also important for political and structural reasons. It is clear that without security, there can be no diplomatic progress. No Israeli leader can reach a peace deal without being able to demonstrate to his or her own public that the Palestinians have both the will and the capacity to maintain security. This has become a more pressing political issue in Israel after the Hamas takeover of the Gaza Strip and the ensuing violence. If progress is to be made towards peace, Palestinian security capacity must be strengthened.

However, security is not only a short-term political convenience. It is an essential structural component of building a stable Palestinian state. As the Hamas takeover of Gaza – and indeed as Hizballah's behavior in Lebanon – clearly demonstrates, a government that has no monopoly on the use of force will always be weak and unstable. Therefore, progress must be made in increasing the capacity of Palestinian security forces through recruitment, training and equipment. In addition, efforts must focus on creating a security sector that is well organized, with a clear mission and – most importantly – with a clear, rational chain of command that ultimately rests with civilian authorities. The doctrine of the security sector has to be clearly articulated in the framework of state-building and responsiveness to the rule of law, rather than along partisan lines. This need for comprehensive security sector reform may be one of the most salient lessons from the Hamas takeover of Gaza in 2007.

The US has made valuable contributions in the field of security in recent years. The efforts of Generals Jones and Dayton have been essential in bringing about security progress. However, there is significant room for improvement.

Great systemic progress has been made in upgrading PA security capacity, but less methodical efforts have been made in reviving Palestinian-Israeli security cooperation. While this task is admittedly more difficult after years of active conflict, it is nonetheless essential.

The US should play a clearly defined role that is accepted by both parties to gradually bring security cooperation to the levels that existed prior to 2000. Some significant successes, especially in Jenin, have been realized and they must be nurtured and expanded.

Similarly, while advances have been made in systematically upgrading and reforming the PA's law and order operational capacities, very little has been done in the intelligence and counterterrorism spheres. This was partly due to domestic Palestinian complications, but also partly due to the absence of a US security mission that is mandated to develop and reform these agencies in a methodical and transparent fashion. Whether the mandate of the US Security Coordinator is expanded to include these spheres, or a new mission is designed instead, such a process is necessary if the Palestinians are to resume effective security control over their areas of responsibility.

Organizationally, the US security architecture on the ground should be redesigned to create clearly identifiable missions and mandates that cover the areas of expanding and refining Palestinian operational law and order capacity, developing and reforming intelligence and counterterrorism capacity, and re-establishing Palestinian-Israeli security cooperation. There are a number of models that can be employed to achieve such a structure, but it would have to be supported with the necessary resources. Recent shifts in Congressional attitudes regarding funding these efforts are extremely promising and should be capitalized on without delay. For such a structure to succeed it must have unequivocal support from the various branches of government in Washington.

Settlement Freeze

The issue of freezing Israeli settlement growth has been a matter of contention since the beginning of the peace process in the early 1990s. Arguably, the failure to address settlement expansion was a fatal flaw in, and one of the central reasons for the erosion of, the Oslo process. While a settlement freeze has traditionally been a US demand, there have so far been few concerted efforts to give it a significant place in the US diplomatic agenda.

Settlement expansion presents real, on the ground complications for reaching and implementing a future peace deal. Since 2000, at least 4 new official settlements have been established, bringing the total to no less than 121 in the West Bank. In the same period, the number of settlers in the West Bank (excluding East Jerusalem) has increased from 190,000 to 286,000. This vastly complicates the implementation of any future peace deal. If this rate continues, settlement evacuation, which is central to the creation of a viable, contiguous Palestinian state, might soon move from the realm of the difficult to that of the impossible.

Settlement activity also presents a fundamental and immediate political problem for the Palestinians. It is difficult to convince Palestinian public opinion that Israel is serious about peace when settlements – which are seen as a means for confiscating Palestinian land, imposing facts on the ground, and creating a permanent, irreversible occupation – continue to grow at ever-increasing rates. In Palestinian eyes, Israeli action on a settlement freeze remains the central test of the real intentions of Israeli governments, a test that has so far been consistently failed. In the same way that Israelis view security as a central component for progress in the negotiations, Palestinians regard a settlement freeze as an essential component – a sine qua non – for progress. Conversely, failure to prevent settlement expansion remains the most potent argument of rejectionist groups. Because of the topographical, structural, and political obstacles they place in the path of peace, Americans

and Israelis committed to peace should similarly recognize the urgency of a settlement freeze.

In addition to the strategic significance of such a freeze, it also corresponds to an immediate and potentially decisive political need. Since tangible progress on permanent status negotiations is unlikely in the short term, the Palestinian leadership needs to be able to point to substantive diplomatic progress beyond issues regarding the quality of daily life. Such a step would go a long way towards enhancing the credibility of the process among Palestinians and creating an environment in which the PA can continue to exercise its governmental responsibilities on the ground with legitimacy. It is telling that the Palestinian Prime Minister, who has so far shied away from dealing with peace process issues in favor of focusing on developing and reforming the various functions of the PA, has recently been uncharacteristically vocal about settlement growth.

Imposing a settlement freeze would present significant political difficulties to any Israeli leader who undertakes it, but external steps can be taken to help. A strong US public stance on the issue would help create political cover for a willing Israeli Prime Minister, who could argue that such a decision is necessary so as not to endanger US-Israel relations, or it could help convince a more hesitant one. Similarly, such a freeze could be linked to the triggering of diplomatic steps by Arab countries towards normalization with the Israel in the context of the API, thus giving political incentives and credit to any Israeli leader who institutes such a policy.

While a settlement freeze is imperative to a successful Palestinian-Israeli peace process, it should not be subject to bilateral Palestinian-Israeli negotiations. This would turn it into another intractable negotiation that becomes bogged down in all sorts of extraneous issues, demands and expectations, and probably thwart the initiative. Instead, the freeze should be secured through formal or informal Israeli understandings with the US or the Quartet.

The Arab Peace Initiative

The API has been on the table for a number of years now. And while there is near unanimity on its importance and value, very little has been done to operationalize it and turn it from a positive statement into a functioning and politically and diplomatically significant tool.

The premise of the API is a simple one: normalization and security guarantees for Israel in exchange for ending the occupation of Palestinian and other Arab lands. This premise could begin to be operationalized in practice through reciprocal movement in both directions simultaneously. Rather than viewing normalization as an all-or-nothing proposition, it should be reconceived as a series of quid-pro-quo steps by the Arab world in response to benchmarks of progress in the peace process. A settlement freeze, for example, should trigger certain, pre-defined, normalization steps by Arab countries. The US can work with like-minded Arab states to develop such a formula, and to ensure an Israeli buy-in.

A series of interlocking and reinforcing security guarantees could also serve as a vehicle for initiating a much-needed regional strategic dialogue. In particular, new regional threats from a hegemonic Iran, an unstable (and already nuclear) Pakistan, terrorism and religious extremism represent common threats to Israel and to moderate Arab regimes, and some may require a coordinated response. While a direct Arab-Israeli dialogue on these matters is premature, the US can help both sides develop a better understanding of each other's needs and concerns. Developing such a comprehensive regional understanding can go a long towards responding to certain strategic Israeli security concerns that cannot be dealt with in

separate, bilateral Arab-Israeli negotiating tracks.

Conclusion

The new Administration is finding itself forced to deal with Palestinian-Israeli conflict from its inception. As it strives to contain the fallout from the recent conflict in Gaza, the US should not lose sight of the big picture. A robust restatement of US commitment to a two-state solution, demonstrated through a reinvigorated peace process – in which permanent status negotiations continue to follow their natural pace parallel to improvements on the ground in terms of the economy and security – still represents the only possible path for achieving a permanent end to the Arab-Israeli conflict. For such a process to be credible, it must be supported by a settlement freeze and by inclusion of the Arab world in the peace process through the API.

Failure to achieve progress in the peace process will have far-reaching implications. It will strengthen extremist groups, as well as Iran, initially in Palestine but also farther afield in the region, potentially even destabilizing pro-American regimes in the region. Success, on the other hand, will deprive extremists of a potent rhetorical tool through which to claim nationalist credentials and mobilize popular support, improve the US image in the region, and revalidate and rebuild the credibility of moderates who have chosen to pursue the path of a negotiated settlement rather than conflict and confrontation.

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