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The Dangers of Disaggregating Sovereignty

By: Diana Buttu · March, 2010

Introduction

Israel's position towards Palestinian sovereignty has remained relatively consistent since its first policy formulation in the 1970s: no sovereignty over the land but limited control over the population. Despite an occasional statement by an outgoing prime minister that Israel did not wish to "control" the Palestinians indefinitely, it espoused the notion of Palestinian "autonomous" but not independent areas on some, but not all, of the lands occupied in 1967.

As noted by Camille Mansour in his Policy Brief, "How Sovereign a State?," the elements of sovereignty entail control over land, territorial waters, borders, natural resources, and population. Facing external pressure to negotiate with the Palestinians, Israel's strategy was designed to ensure that these elements of sovereignty remained unaddressed and that it retained control over the Palestinians and their lands. From the limited jurisdiction accorded to the Palestinian Authority (PA), on to the PA's inability to enter into trade or other international agreements, and down to the minutiae of referring to the PA head as "Ra'is" rather than president, Israel's strategy has been to focus on and develop the option of limited Palestinian self-rule.

The Halfway "State"

Throughout the negotiations, Israel's approach has been to disaggregate the components of sovereignty, negotiate "compromise" over them, and then argue that the essential elements of sovereignty (and hence statehood) are not present. The Oslo Accords between the Palestine Liberation Organization (PLO) and Israel delineated the various "permanent status" issues requiring further negotiations. The six permanent status issues neatly break down to cover the elements of sovereignty: refugees (control over people), security, borders, settlements, water (control over territory and natural resources), and Jerusalem (embodying a combination of control over territory and over population). In his book, The Missing Peace, Dennis Ross boasts of his efforts to convince Israel about Palestinian statehood and acknowledges that the outcome of the years of Palestinian-Israeli negotiations was not statehood and sovereignty for Palestinians but some other construct between occupied territory and statehood.

During the 1990s, this middle ground – the creation of an entity that can be classified neither as a sovereign state nor as occupied territory – continued to take shape. As late as 2000 and 2001, during the final round of Israeli-Palestinian negotiations, Israel still envisaged limited sovereignty over the West Bank and Gaza Strip. During the final rounds of negotiations at Taba, Israel demanded five early warning stations in the West Bank – lands that would be under Israel's control for surveillance over Palestinians. It thereby ensured that an essential element of sovereignty – control over land – would remain under a foreign state. Palestinians would have a non-militarized entity, with limited defense capabilities. Israel would continue to control natural resources, borders as well as economic and diplomatic relations with foreign states.

Although Israel said at Taba that it would relinquish control over the Gaza Strip, it continued to insist on control over territorial waters and airspace in the name of

"security." The "safe passage" between the West Bank and the Gaza Strip was to be under Israel's control and supervision, but allotted in terms of land percentages to the future Palestinian entity. And, while little progress was made over the issue of Palestinian refugees, Israel refused to allow unlimited immigration/entry into the future Palestinian entity. Indeed, the very word "state" was something that Israeli negotiators refused to enunciate.

The Lessons of Gaza

Israel's approach to Palestinian sovereignty is best demonstrated in the period following its unilateral evacuation from the Gaza Strip. As was its approach during bilateral negotiations, Israel retained essential elements of sovereignty after its pullout, while also arguing that a new international standard be developed to cover an entity that is no longer considered to be occupied yet lacks the elements of full sovereignty (somewhat akin to the Bantustans of South Africa that only the apartheid government of South Africa recognized as being states).

Israel's unilateral evacuation of its colonies from the Gaza Strip was accompanied by continued control over Palestinian borders (indirectly), imports and exports, territorial waters, airspace, and the population registry. The latter item is of particular significance as it enables Israel to continue to determine who is entitled to enter, exit, and remain in the occupied Palestinian territories. Although Israel continues to control the Gaza Strip, it argues that the area is no longer occupied. The Israeli Supreme Court decided that the area is no longer occupied under international law, but Israeli attempts to pass a UN resolution to this effect have yet to succeed. However, should the PLO decide, under pressure of bilateral negotiations, to accept the formation of a "statelet" rather than a sovereign state then it is likely that the international community would also accept it.

Yet while Israel can and must be held to account for its desire to perpetuate its control over the Palestinians and their land, so too must the PLO be criticized for

falling into the trap of approaching negotiations in a piecemeal fashion and sticking to the six pre-defined issues without looking at the broader implications of Israel's strategy of disaggregating the components of sovereignty. By accepting to approach the negotiations process in such a manner, the PLO communicated that "compromise" could be reached on essential elements of sovereignty. Palestinian negotiators must also be heavily criticized for buying into and continuing to hold onto a failed process that seeks to grant Palestinians little more than a statelet without real sovereignty. The experience following Israel's unilateral evacuation from the Gaza Strip sheds light on its future plans for the West Bank. It is hoped that Palestinian negotiators will learn from their experience of negotiations with Israel and realize that the sum of the disaggregated parts can never be greater than the whole.

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