PLENARY I
THE PEACE PROCESS AND PALESTINIAN STATEHOOD

Paper presented by

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Dear Friends,

As the day of reckoning for the Palestinian-Israeli peace negotiations comes closer, the far-reaching complexities and necessary compromises for their success become overwhelmingly and depressingly apparent. The issues of Jerusalem, final borders, the right of return, and indeed, the very central meaning of self-determination and sovereignty, now loom glaringly and challengingly at the end of the negotiation tunnel.

All along, the advantages and disadvantages of the two distinct approaches to an Israeli-Palestinian negotiation process were obvious: the two partners could either sign an end-product contract from the outset and then agree to a phased implementation of this agreement; or they could sign an interim agreement, leaving an end-product contract to the end. On the first approach, an initial engagement in negotiations would be faced with innumerable difficulties, including the painful internalization of the grand design and the compromises attached to it. But once engaged on this basis, the two partners could proceed with relative ease in the implementation procedures. On the second approach, the initial negotiation engagement could be effected with relative ease. But once the engagement is effected, it would then become an uphill battle all the way to the top, and it is never clear at any one point that the destination would in fact be reached.

The Palestinians were prodded by the Israelis and the American peace-makers to adopt the second approach. One of the arguments used to convince the Palestinians of this approach was that there really was no other alternative. This is a classic case of the logical fallacy which goes by the name “Arg uentum ad bacculum”, or “Argument by Force”. Of itself, it by no way propounds the intrinsic value of the approach, on which the call for negotiations could be predicated. But another of the arguments used, whether by intimation or explicit suggestion, was that the Israeli public could only be made to swallow the painful pill of ultimate compromise by stages. A little bit of withdrawal or redeployment of forces, and a little bit of autonomy for a new authority, would pave the psychological way for a full withdrawal, and a full sovereignty. To lure the Palestinians to step into this path, various key words and concepts were incorporated into the general framework of the interim agreement, or were expressed on official occasions where it was deemed opportune. United Nations Security Council resolution 242 was mentioned, the right to self-determination, the international consensus, and so on. This maze of legal and political jargon hung like a colourful cloud over the perceptual environment of the Palestinian political leadership, and the Palestinian people at large, like a picturesque promise of compensation for the puny rewards of the interim agreement, even when those were actually fulfilled.
This second argument was, then, an “argument by enticement”, if you will. Unlike the first argument, which is a clear case of the wrongful imposition of a negotiating model by one party over another, this is, if negatively employed or in bad faith - and one hopes it was not - an underhanded and sinister design in political deception, given the gap in differences between the hopes in 1991, and the realities of 2000. Needless to say, neither one of the two arguments, however persuasive it may initially seem, is legally valid. Nor can the political realities arising from the application of either argument be just or enduring.

Referring to the disappointment in the peace process, it may be protested that rather than assuming deception, Palestinian high expectations on this score are to be blamed. Israel can claim that it never promised the Palestinians an independent State with East Jerusalem as its capital, nor has it ever intimated that Palestinian refugees in the diaspora will be returned to their original homes. Quite the contrary, it may be added, Israel has kept insisting, in the loudest and clearest of words, that the entirety of Jerusalem will remain under its sovereignty, and as its capital. Also, Israel has always stated, in the most unambiguous way, that it will never allow the return of the Palestinian refugees to their original homes. These claims, of course, are true, but they do not support the claim of unjustified expectations. This is the case because Israel committed itself to United Nations Security Council resolution 242 as a foundation on which the negotiations would be predicated. In so doing, Israel surely also committed itself to the principle on which this resolution is founded, namely, the principle of the inadmissibility of the acquisition of territory by force. By clear and legal implication, therefore, and specifically in the context of the 1967 war which prompted the adoption of the said resolution, Israel could be argued to be bound by a commitment to the inadmissibility of its own acquisition of East Jerusalem by force. Such a commitment is the underlying legal foundation validating its acceptance that the Jerusalem question is unresolved, notwithstanding its public statements to the contrary, and that it has to be addressed in the final status negotiations. Taken one step further, it can be argued that this very logic also serves as a pivotal point of reference for such negotiations, thus determining that any rights or privileges Israel will or may have in East Jerusalem from these negotiations will be those, and only those that the Palestinians themselves will deem acceptable.

Needless to say, the underlying logic of this argument - determining justified expectations - can easily be extended to the other areas said to be slated for final talks, including the issue of settlements, borders and water. The one possible exception to this logic may in all fairness be suggested to be the right of return, where Israel could make the claim that it could not possibly be held to a demographic pledge which would radically alter the very nature of the State. In this regard, Israel may claim that its very readiness to engage in a framework of agreement between two parties is dependent on the very existence and preservation of the parties so engaged. An argument, you will immediately see, which has its corollary implications as to how the Palestinian side should be viewed. Israel’s claim in this regard, even if justified, in no way detracts
from the Palestinian right of return as expressed in United Nations resolutions, but it
does bring out the complexities involved, and it does call for creative diplomacy in
dealing with the full texts of those resolutions, especially as these relate to the element
of compensation.

Without delving any deeper into this specific complexity, it is clear in any case
that the anticipation of the Palestinian partner in these negotiations of an eventually
acceptable final product cannot in any way be regarded as unrealistic, or to be an
expression of unjustified high expectations. Quite the contrary, and even leaving out
the question of the inalienable right of a people to be free on its own soil, Palestinian
expectations from these negotiations, as I hope I have shown, are solidly based on an
internationally legal foundation, having clear implications, and to which Israel
committed itself as it engaged the Palestinian partner in negotiations.

This being the case, we now have a clear standard by which to measure the
Israeli partner’s intents in these negotiations, and by which to determine, therefore,
whether we stand before a genuine or a deceptive strategy: because, were Israel really
committed to the principles underlying the interim-agreement concerning final talks, at
the very least, it would have ceased all unilateral activities in the areas under its rule,
whether it viewed those areas as occupied or as a sovereign part, whose status was still
to be negotiated with its Palestinian partner. Conversely, continuing and unimpeded
unilateral actions in those areas, such as the confiscation of land, the expansion of
settlements, the construction of new neighbourhoods and settlements, the
implementation of master plans related to infrastructure, and such like - all of which
have paradoxically continued after Madrid, and even increased since Barak’s
replacement of Netanyahu - could only lead to the conclusion that Israel was never
really committed to those aforementioned principles, and that its overall strategy with
the Palestinians has therefore been one of a grand deception.

This would be a sad conclusion to draw indeed. Sad because it would reflect the
total disappearance of an elite of wise sages in the leadership of this historic people,
and their replacement by a new breed which relies on cleverness and force alone.
Occurring especially at the historic point where a violated and dispossessed people
looked courageously and well-meaningly beyond the injustice it suffered into a new
world of reconciliation and peace, it is a matter which should give rise to grave
concern. Furthermore if, together with these manifestations of ill-intent at the grander
scale Israel procrastinates even at the level of implementing small-scale redeployments
and other measures meant as cumulative, step-by-step devolution of authorities in the
context of the interim agreement, it becomes a wonder to the Palestinian people how its
leadership could exercise any self-restraint. Needless to say, it will be a wonder if the
people themselves could exercise any further self-restraint, as recent mounting tension
in the Occupied Territories have clearly shown.
This puts us squarely before today’s events and entitles us to ask the following question: Is Israel’s procrastination in the implementation of the interim agreement also part of the grand deception strategy, rather than being, as we are led to believe, an incidental and side issue arising from some unnecessary complication in the mechanics of the negotiations of the interim phase – a complication invariably brought about – we are also led to believe – by an erratic Palestinian mode of negotiation? I do not refer here only to the issue of al-Ram, Izariyya, Abu Dis, and suchlike. I refer explicitly to a list of over 100 points of understanding which Israel did not honour, to do with time and space, according to Palestinian Chief negotiator for the interim accords, Saeb Erekat. I refer additionally to countless other aberrations and obstacles arising from the implementation of agreements, situations on the ground which could, as an afterthought, be easily addressed and rectified, thus making life for the population more simple and natural, given the right attitude and the goodwill. Are all of these procrastinations and complications really the product of an erratic negotiating behaviour on the Palestinian side, or can we read them now as being yet another logical manifestation of Israel’s deceptive design?

What would Israel gain from procrastination? Surely, if the grand strategy is to prevent Palestinians from the attainment of their minimal rights, expressed in the establishment of their own State in those territories which were occupied in 1967, including East Jerusalem, then the logical imperative would be to exercise a slow-paced mode of negotiations, made slow partly by the concoction of obstacles, and partly by the bringing into focus the final status issues as insurmountable problems. A flexing of muscles on a foregone interim issue such as Abu Dis under the banner of its proximity to the Old City Walls of Jerusalem at once places a bar into the machinations of the interim agreement negotiations, and pours cold water on the prospects of the final talks. A call to bring the final talks forward under such circumstances in no way alleviates the underlying concern. Thus Israel creates the conditions which stall for time. But time for what? Is it possible that Israel hopes for a breakdown of the Palestinian leadership, one way or another, and therefore for its replacement by a new generation of leaders, with a pliant agenda and an “amenable” set of priorities? Or does Israel hope for a breakdown of Arab and international support of Palestinian rights, especially in the aftermath of an agreement with Syria? Or does it hope for a hardening of positions, on both the Israeli as well as the Palestinian sides, thus making a credible agreement “democratically” impossible? Clearly, under all of the above scenarios, Israel can guarantee for itself and in the absence of an agreement between equals, an imperial hegemony over Palestinian destiny, a total control over the mosaic of self-rule reservations spread throughout Gaza and the West Bank, by whatever collective name this mosaic of reservations chooses to call itself. And while the Palestinians may believe that a unilateral escalation in nomenclature will in this context turn such a scenario upside down, Israel’s own strategy might well require or at least benefit from precisely such an escalation.
Ladies and Gentlemen,

Portrayed this way what we have before us unfortunately is a classic case of the ruler-nation syndrome. A nation, inspired by greed and self-aggrandisement, oblivious to a cast of untouchables living in its midst and under its dominion, mindful of them only to rule and manipulate, seeking at the same time legitimacy and recognition from the world around it, and, amazingly, receiving such legitimacy and recognition, especially from the United States. This is an aggravating portrayal of a nation, necessitated by the actions especially of its present leaders. It is aggravating because, especially in the short-spaced opportunity that was presented to the people on both sides over the past few years, and in spite of the difficulties and tensions, there were enough genuine attempts at cooperation and reconciliation across the national divide between ordinary people to make true peace-seekers sense the solid grounds for hope. It is also aggravating because Israel’s present leaders came to the forefront specifically because it was felt that the Netanyahu Government wasn’t making much progress in the peace talks. Indeed, much was made generally about Barak being Rabin’s successor. Are we now to understand that Barak simply represents Rabin’s own strategy, or are we to understand that, notwithstanding the stunningly carefree attitude of Barak’s left-wing partners in government towards the daily acts of aggrandisement, Barak has gone off on his own track?

I sincerely hope that my entire analysis is wrong. I would be the happiest man if my logic turns out to be completely flawed, and Barak proves me so by his actions on the ground. Let him state in unequivocal terms, his readiness to withdraw from the West Bank and Gaza, just as he stated his willingness to withdraw from Lebanon. Or let him expedite the redeployments of the interim agreement, and give them the substance they need and would have, if the process is to unfold in the right direction. Let him release the stranglehold on East Jerusalem, or cease ploughing through the hillslides of the West Bank, laying down bypass roads and settlements. However, failing to do this, let us call a spade a spade, and cease deceiving ourselves.

Ladies and Gentlemen,

This being a forum of the Committee on the Exercise of the Inalienable Rights of the Palestinian People, I should finally like to venture a few words about rights as I view them: as I see it, the political rights of Palestinians on their soil can either be exercised collectively in the context of a State which can come to exist alongside Israel, or they can be exercised individually in the context of a State which is binationally Jewish and Palestinian. It has often been argued by international political leaders that a binational state is unrealistic. But if a proper State is equally not to materialise, and if paradoxically the reason for its non-materialization is precisely the policy of domination, settlements, confiscations, demographic transformations, and the like, then the new world with the new generation of Palestinian leaders Israel should expect will
not be one, as now, which calls for a State alongside Israel: it will be a generation which will fight apartheid and struggle for equal rights, including the right of return, within Israel/Palestine. This, in the evolving context, will fast become the only realistic option left. If Israel insists on continuing to build settlements right next to Palestinian villages and in between them, thus making a coherent border separation between them impossible, then all that will be left will be a political integration of an already infrastructurally and demographically integrated polity. Thus, both objectively as well as subjectively, the seeds of Israel's ruin will seem to lie in the very success of its short-sighted, self-aggrandising strategy.

Thank you.