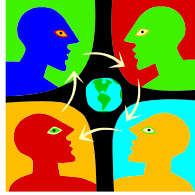


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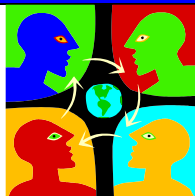


**Policy Paper #4**

**ALLOW THE STATEHOOD LOGIC TO PREVAIL**

**A PALESTINIAN STATE NOW!**

**May 2005**



## **ALLOW THE STATEHOOD LOGIC TO PREVAIL A PALESTINIAN STATE NOW!**

### **Forward**

During the past months, IPCRI's Strategic Affairs Unit has been working with the assistance of STAT – the Strategic Thinking and Analysis team – a joint Israeli-Palestinian team – on the development of ideas and initiatives to advance the political process. The strategic focus that we have developed is based on a number of guiding principles:

1. The immediate challenge facing us is the renewal of the political process where the establishment of a Palestinian State in about 90% of the West Bank, all of Gaza and the Palestinian neighborhoods of East Jerusalem is part of the process (as specified in Phase II of the Road Map) and not necessarily its final result which will be completed in Phase III of the Road Map with permanent status negotiations and an end of conflict agreement.
2. Coordinated disengagement can be the base for renewing the political process and an important incentive for rebuilding trust and confidence between the sides.
3. The two sides cannot advance the political process by themselves without the assistance and active involvement of the international community serving as a third party.
4. The US is the most significant and necessary third party for the renewal and advancement of the political process and building trust between the sides and, therefore; should lead the other international players in the process.
5. Relating to the Israeli-Palestinian conflict in a wider regional context could “expand the pie” in enlarging and creating new scopes of interests and

expanding existing ones which can assist in shaping and stabilizing a new regional regime, in which Israel and Palestine become are included. The regional regime or system can assist in operating a mechanism of restraint and remuneration, which will make it more difficult for the sides to defect from the agreed framework. Accordingly, it is appropriate to think about converting the commonly used concepts regarding the solution of the conflict into concepts such as stabilizing the conflict or minimizing the dimensions of the conflict.

6. The political process must be conducted in a reality which offers more possibilities for greater symmetry than the asymmetry that has existed since the beginning of Oslo. Since it is not possible to reach full symmetry, we should work to reduce the level of asymmetry by introducing the “**statehood logic**” to the process. Then the political process would be conducted on the basis of a state-to-state rationale in which both States are working according to the accepted international codex of behavior between States.
7. The political process must have a defined and agreed upon time frame with appropriate and real international guarantees to ensure that the time frame will be honored by both sides. One of the most important aspects of the agreed time frame is that permanent status negotiation should commence no later than one year after the formal establishment of the Palestinian State and should last no longer than two years.
8. The permanent status negotiations will be based on the Clinton principles and international legitimacy.

Last year IPCRI developed the idea of converting the Israeli unilateral disengagement into a coordinated plan aimed at leveraging the side back into political process. Several months ago we developed these ideas, which were translated into action models and presented in detailed policy papers. In this framework the rationale of the model for the renewal of the Israeli-Palestinian security coordination as well as the model for border regime management were developed and presented. In the past months the SAU has been working on developing the concept of “the State with provisional borders” which appears in the Road Map.

Despite the fact that the Road Map is the only conceptual and political framework that all of the parties agree to, including the international community, an in-depth analysis of the document leads to the conclusion for the need to update the main ideas and logic of the plan. Indeed, during the last meeting of IPCRI’s strategic team (STAT) which was held in Antalya, Turkey on March 17-21, 2005, a new and innovative approach was developed to confront the need to make the Road Map more appropriate to the developing political situation (the Road Map was designed during a very different political era with very different circumstances at

that time and therefore, may not provide all of the completely appropriate answers at this time). Using the methodology of **deconstruction** of the main concepts in the Road Map and then facing the new political realities, the team **reconstructed** these main concepts, placing in focus the Israeli disengagement plan (under the assumption that it will be implemented in coordination with the Palestinian Authority), the exit of Yasser Arafat from the arena and the election of President Mahmoud Abbas.

The most significant main concept that was confronted was “the Palestinian State with provisional borders”. In this document we will present an alternative rationale for this concept and advocate the importance of establishing an independent Palestinian State as soon as possible.

### **Aim of this Document**

The aim of this document is to present the rationale of the Palestinian State with provisional borders as the necessary basis for renewing and advancing the political process and for stabilizing the region.

### **The Organizing Rationale**

The logic behind the Oslo process was based on the principle of gradualism – step-by-step, which would enable the building of trust and the developing areas of common and mutual interests. However, in addition to the declared logic of the process, the Oslo process ran according to another logical base which was the logic of asymmetry between a state entity (Israel) and a non-state entity (the PLO and the Palestinian Authority). This lack of symmetry was one of the primary faults of the process and assisted in the perpetuation of a protracted transitional reality in the Palestinian Authority. The PA never succeeded in moving from a transitional entity into a State. The protracted transitional period led to the weakening of Palestinian society and its institutions, and now, after more than a decade, Palestinian society has reached a much more difficult situation than was known prior to Oslo. The political reality has brought out and increased social cleavages, segregation and tensions and weakened the governmental/institutional source of authority. The Palestinian political, social and structural reality in these days makes more difficult the functioning of the Palestinian political leadership and makes it easier for Israel to hold fast to the principles of mutuality embodied within the Road Map. This reality ensures that continuation of both sides wallowing in the swamp of the conflict and makes very difficult the possibility of any real breakthrough.

### **Why a Palestinian State now?**

Establishing a Palestinian State now and as the first major stage of the political process in about 90% of the West Bank (excluding the main Israeli settlement blocs and with the isolated Israeli settlements being vacated) and in all of the Gaza Strip, with an acceptable link between them, is in the realm of absolute necessity with no alternatives for the following reasons:

1. Only with the establishment of a Palestinian State will the rehabilitation of existing governmental and social institutions in Palestine and the building of new and needed institutions for the civil welfare of the Palestinian citizens be possible. Without the rehabilitation of these institutions, it will not be possible to create political stability and social welfare for Palestinians as the current social frameworks are currently based on factionalism, rivalry, and an absence of a monopoly on the use of military force.
2. The creation of a Palestinian State will enable conversion of the logic of asymmetry to the “**statehood logic**” based on two state-entity actors working under acceptable and known international codex. The “statehood logic” will obligate the Palestinian State to adhere to a greater level of responsibility towards its citizens, neighbors and adversaries. International experience demonstrates that states tend to act with greater responsibility than non-state entities in conflict situations, even in situations of violent confrontations. State responsibility can clearly be more opportune platform for building renewed trust between the sides.
3. Establishing a Palestinian State will grant the Palestinians a form of international guarantees from Israeli military invasion to its territory and will provide Israel with more security regarding possible terror activities emanating from the territory of the Palestinian State.
4. Establishing a Palestinian State and its receiving full membership in international institutions, including all of the bodies of the United Nations, will normalize the Palestinian reality. This could provide a more appropriate platform for developing the idea of regional **concepts** with the Palestinian State becoming an equal actor with the other state actors in the area.
5. Establishing a Palestinian State as part of a political process and not as its end result will neutralize one of the essential mutual traps of the Road Map and will enable the sides to shape alternative domains of logical mutual and common actions.
6. Establishing a Palestinian State will liberate the sides from the trap of the two-headed Palestinian Authority and the PLO. The PLO can continue to exist as the government of the Palestinian people as the Jewish Agency serves this function for the Jewish people, but will no longer be a side in

the political process, which will then be led by the government of the Palestinian State on behalf of the Palestinian people.

### **From Establishing a Palestinian State to the renewal and advancement of the political process**

It is both desirable and correct that the establishment of the Palestinian State be viewed as a common interest of both sides as well as for the international community. The establishment of the Palestinian State with the agreement of Israel and the international community should be based on the following four main principles:

1. The end of the conflict will provide guarantees for the final borders of both the State of Israel and the State of Palestine. Until that time, both states will be defined as states with provisional borders.
2. The final borders of both states will be based on the borders of June 4, 1967 with acceptable agreed modifications based on demographic changes that obligate a territorial exchange on the 1:1 basis.
3. The two states will agree to confront any disputes between them in non-violent ways.
4. The international community will provide guarantees to the Palestinian State regarding the continuation of the political process and to the State of Israel regarding the political responsibility of the Palestinian State to act as a sole monopoly holder of military force in its responsibility to prevent terror against Israel emanating from its territory. The guarantees will include a set time frame for the continuation of the process. If the parties do not commence permanent status negotiations within one year of the formal establishment of the Palestinian State (in Phase II of the Road Map), the Quartet will convene the negotiation process under its auspices.

The establishment of the Palestinian State will be founded on the principle that all Israeli isolated settlements beyond and outside of the main settlement blocs will be vacated. Palestinian sovereignty will be on all of the territories of the Gaza Strip and the West Bank (excluding the Israeli settlement blocs). A political framework based on the statehood rationale will assist in the crystallization of the Palestinian national identity and its application as a State and a nation. In this context, it is worthwhile to mention the urgency of institutionalizing the Palestinian State. The development and basing of democratic and governmental institutions is crucial to the stabilization of the Palestinian State and its role in bringing greater stability to its people and to the region.

The international community will assist in the rehabilitation of the Palestinian infrastructures and economy and including the establishment of a sea port in Gaza and in the rehabilitation of the Gaza International Airport. Israel will make assist in efforts to raise the necessary international funds for these needs (a detailed policy paper on this will be prepared by IPCRI's economic working group).

The international borders of the Palestinian State (other than those with Israel) will be run by the Palestinian State authorities under the close inspection and monitoring of agreed upon third parties and according to agreed security protocols. This also concerns the operation of the Gaza Sea and airports.

Israel and Palestine, with the assistance of third parties, will work together towards the effective resumption of security coordination apparatuses. The third party will hold monitoring, verification and compliance authorities regarding all aspects of obligations that the sides will take upon themselves within agreements between them.

The international community – the third party, will ensure a time frame of three years for the withdrawal of all Israeli isolated settlements in a way that will guarantee territorial contiguity of the Palestinian State. The sides will agree to complete final border negotiations within five years from the date of the establishment of the Palestinian State.

### **A mechanism for achieving regional stability – Mechanism for Assurance of Regional Stabilization – with the establishment of the Palestinian State**

The Quartet will actively assist the States of the region, including Israel and Palestine, Egypt, Jordan, Turkey and perhaps Lebanon and Syria, to establish a **regional security regime** along with a **regional economic organization** that will be founded on a special status including the possibility for a special unified customs regime vis-à-vis the European Union and the United States. Economic incentives such as these can assist in the flow of investors to the region and in the establishment of joint industrial areas such as QIZ's. Mechanisms for economic incentives and regional economic cooperation in parallel to a regional security regime supported by the international community may assist in the **stabilization of the region** and in policing the Israeli-Palestinian conflict thereby containing possibilities of violent outbursts.

Establishing the Palestinian State will necessarily lead to the changing of the existing conceptual framework. Intelligent adoption of alternative concepts and ideas such as regional stabilization, statehood rationale, symmetry, for concepts such as conflict resolution, reconciliation and the end of conflict, can assist the parties to retrieve themselves from the trap of the Road Map and from the almost

eternal dilemma of serial steps as a function of conditional mutuality or parallel steps.



## **ANNEX I – ATTRIBUTES OF SOVEREIGNTY**

### **Attributes of Sovereignty**

The main and important attributes of sovereignty that Palestinians mention when they speak of statehood include:

- A Palestinian rule of law with a constitution and a government composed of independent branches of government – a legislature, an executive branch and a judiciary, under Palestinian law.
- The ability to conduct normal diplomatic relations with other countries including the ability to freely enter into international conventions and agreements and to have full membership in international bodies such as the United Nation.
- Full control over territory and people within the territory.
- Control of external borders for entry and exit.
- Control of military and police forces within its territory.
- Control of natural resources within the territory.
- The ability to determine immigration policies.
- Control of economic policies including the ability to freely sign trade agreements and to decide currency and fiscal policies.
- Control of airspace.
- Control of maritime coastal waters.
- The responsibility for the well-being of the citizens of the State and the protection of their human rights.

It is clear that the Palestinians would like for the Palestinian State with provisional borders during Phase II of the Road Map to possess all of the above attributes of sovereignty. It is equally clear that Israel will not agree to a formula for Palestinian statehood in Phase II that extends all of these attributes. Phase II of the Road Map is an interim phase and not a permanent status agreement and therefore, it is essential to arrive at Israeli-Palestinian agreements on those acceptable limitations on sovereignty with which the Palestinians can live with a sense of dignity. It seems that the primary limitations on sovereignty will be those with a direct linkage to issues of security. The following are the attributes that will be difficult to imagine that Israel will fully agree to for the Palestinian State in Phase II.

- Control of external borders for entry and exit.
- Control of natural resources within the territory.
- The ability to determine immigration policies.
- Control of airspace.
- Control of maritime coastal waters.

### **CONTROL OF EXTERNAL BORDERS FOR ENTRY AND EXIT**

The borders in question are the land borders between the West Bank and Jordan at the King Hussein-Allenby Bridge and the Rafah crossing between Gaza and Egypt, as well as the possible international air link from the Gaza International Airport and the future seaport in Gaza.

### **Recommendations:**

It seems that the best possible solution for these international borders during the interim phase would be the direct involvement of trusted and agreed upon third parties to verify security protocols and understandings reached between Israel and the Palestinians. The formula would include acceptance of Palestinian control with appropriate third party mechanisms for monitoring, inspection and verification and when and if needed, enforcement powers.

The main Israeli concerns deal with the potential importation of weapons and materials for the production of weapons through these points of entry. Another Israeli concern relates to the possible entry of persona non-grata and citizens of countries with which Israel has no diplomatic relations and those countries who are still in a state of war with Israel. Agreed upon security protocol would have to cover the following issues:

- Stringent and rigorous security screening of passengers and goods moving in and out of the crossings into and from the Palestinian State. State of the art technology of magnometers and sniffers would have to be in place at each crossing. Standards equal to those used by Israel should be adopted by the Palestinians in order to create a higher level of trust with the Israelis. All of these regulations could be implemented by trained Palestinian personnel. The work of the Palestinian security personnel would be monitored and verified by on-sight third party officials with expertise in this area. Potential third party participants in this security regime include the US and the UK and could be supplemented by Egyptians at the Rafah crossing (on both sides) and Jordanians at the Allenby crossing.

Once the security protocol is agreed between Israel and Palestine and the third parties, and after the Palestinians have selected the personnel who will be involved in the process, a joint training program should be initiated involving all of the concerned parties (including Israel).

- Regarding persona non-grata and the entry of citizens from countries in a state of war with Israel or with no diplomatic relations with Israel, there is little that is reasonable that could be done regarding their entry into the Palestinian State. Their entry to Israel would be controlled and monitored by Israel at the crossing points between Israel and Palestine. It would be advisable for Israel to already begin making plans to establish Israeli

Consulates in the West Bank and Gaza for dealing with consular issues such as issuing visas for foreigners who enter Palestine and wish to later enter Israel. This could be done at the borders by Israel, but it may be advisable to consider the possibility of Israeli Consulates in Palestine as a mechanism for establishing and conducting normal diplomatic relations on a State-to-State basis.

## **CONTROL OF NATURAL RESOURCES WITHIN THE TERRITORY**

The main issue of concern here regards water. It has been reported that the Israeli and Palestinian negotiating teams in the framework of permanent status negotiations made considerable progress towards an agreement at Camp David.

### **Recommendations:**

Those understandings reached should be reviewed and if possible revived. The issue of provisional or final status borders should not have to impact on the issue of water resources. It is clear that there must be a mechanism for forms of joint management of the water resources. Close cooperation between both States is essential to protect, manage, conserve and develop new water resources for both States. (A later policy paper will deal with this issue in detail). The water regime will have to be determined prior to the establishment of the Palestinian state, even with provisional borders. The existing lack of parity and equity in the allocation and ownership of water resources will not enable an agreement. A joint Israeli-Palestinian water group for negotiations of this issue should be established immediately and should be assisted by willing and capable third parties.

## **THE ABILITY TO DETERMINE IMMIGRATION POLICIES**

This is an issue that relates mainly to the final status issue concerning refugees. The Palestinian State should have the right to determine its own immigration and absorption policies. The main Israeli concerns involve possible "seepage" from Palestine to Israel of refugees seeking to return to the 1948 borders and immigration rates that might be too high and would place too large a burden on the Palestinian economy and thus would create potential pressures on Israel.

### **Recommendations:**

The Palestinians and Israel should enter into a discussion of this issue as early as possible. Palestinians should develop a policy plan for their desired immigration and absorption policies. Palestinians should be willing to hear Israeli concerns regarding that policy plan and should consider taking into account mitigating policies. Understandably the Palestinians might be interested in

designing an early plan for the absorption of Palestinian refugees from Lebanon. Israel should exhibit willingness to assist, as much as possible, in enabling this particular group of refugees to return to the Palestinian State even during Phase II and prior to the formal and final resolution of the issue in permanent status.

## **CONTROL OF AIRSPACE AND THE CONTROL OF MARITIME COASTAL WATERS**

In our assessment the State of Israel will not relinquish its complete control over these two issues during the interim phase. Even with third party involvement it is very unlikely that Israel would be willing to compromise its complete control on airspace and maritime coastal waters (for security and not for the development and exploitation of maritime resources such as natural gas and fishing rights). The two States must negotiate and agree to operational procedures for the Gaza International Airport including the provisions of air traffic routes for the Gaza airport for traffic in eastward and westward flights. It should be remembered that the Gaza International Airport did function for a period of time, however, in the post-Palestine Statehood period, the direct Israeli controls over the airport would not exist.