

Two State Theories: Israel and Palestine Conflict

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ABSTRACT: Recently, the Hamas, the militant group ruling the Gaza Strip, have mounted a scathing attack on Israel from the land, air and water leading to multiple casualties. This has revived the century-old dispute between Israel-Palestine Conflict once again, necessitating the intervention by global and regional powers.

- Israel, in the recent times, has cemented many peace agreements with neighboring countries such as UAE, Saudi Arabia etc which is set to feel a jolt due to the recent attack.

KEYWORDS-militant, Israel, Palestine, conflict, UAE, attack

I. INTRODUCTION

- Balfour Declaration:
 - The seeds of the conflict were laid in 1917 when the then British Foreign Secretary Arthur James Balfour expressed official support of Britain for a Jewish "national home" in Palestine under the Balfour Declaration.
- Creation Of Palestine:
 - Unable to contain Arab and Jewish violence, Britain withdrew its forces from Palestine in 1948, leaving responsibility for resolving the competing claims to the newly created United Nations.
 - The UN presented a partition plan to create independent Jewish and Arab states in Palestine which was not accepted by most of Arab nations.
- Arab Israel War (1948):
 - In 1948, the Jewish declaration of Israel's independence prompted surrounding Arab states to attack. At the end of the war, Israel controlled about 50 % more territory than originally envisioned by the UN partition plan.[1,2,3]
- UN Partition Plan:
 - As per the Plan, Jordan controlled the West Bank and Jerusalem's holy sites, and Egypt controlled the Gaza Strip. But it fell short of solving the palestinian crisis which led to the formation of Palestinian Liberation Organisation in 1964.
- Palestinian Liberation Organisation (PLO):
 - PLO was founded, with the aim of freeing Palestine from clutches of Israel and Jewish domination and setting up the dominance of Muslim Brotherhood in the Arab world.
 - The United Nations granted the PLO observer status in 1975 and recognizes Palestinians' right to self-determination.
- Six-Day War: In 1967 war, Israeli forces seized the Golan Heights from Syria, the West Bank & East Jerusalem from Jordan and Sinai Peninsula & Gaza strip from Egypt.
- Camp David Accords (1978):
 - "Framework for Peace in the Middle East" brokered by the U.S. set the stage for peace talks between Israel and its neighbors and a resolution to the "Palestinian problem". This however remained unfulfilled.

- Emergence of Hamas:
 - 1987: Founding of Hamas, a violent offshoot of Egypt's Muslim Brotherhood seeking to fulfill its agenda through violent jihad.
 - Hamas- It is regarded as a terrorist organization by the U.S. government. In 2006, Hamas won the Palestinian Authority's legislative elections. It ejected Fatah from Gaza in 2007, splitting the Palestinian movement geographically, as well
 - 1987: Tensions in the occupied territories of West Bank and Gaza reached boiling point resulting in the First Intifada (Palestinian Uprising). It grew into a small war between Palestinian militants and the Israeli army.[4,5,6]
- Oslo Accords:
 - 1993: Under the Oslo Accords Israel and the PLO agree to officially recognize each other and renounce the use of violence. The Oslo Accords also established the Palestinian Authority, which received limited autonomy in the Gaza Strip and parts of the West Bank.
 - 2005: Israel begins a unilateral withdrawal of Jews from settlements in Gaza. However, Israel kept tight control over all border crossings (blockade).
 - 2012- UN upgrades Palestinian representation to that of "non-member observer state".
- Territorial Disputes of Israel with Neighboring Countries:
 - West Bank: The West Bank is sandwiched between Israel and Jordan. One of its major cities is Ramallah, the de facto administrative capital of Palestine. Israel took control of it in the 1967 war and has over the years established settlements there.
 - Gaza: The Gaza Strip located between Israel and Egypt. Israel occupied the strip after 1967, but relinquished control of Gaza City and day-to-day administration in most of the territory during the Oslo peace process. In 2005, Israel unilaterally removed Jewish settlements from the territory, though it continues to control international access to it.
 - Golan Heights: The Golan Heights is a strategic plateau that Israel captured from Syria in the 1967 war. Israel effectively annexed the territory in 1981. Recently, the USA has officially recognized Jerusalem and Golan Heights as a part of Israel.

II. DISCUSSION

- India's Stand on the Israel-Palestine Conflict:
 - India was one of the few countries to oppose the UN's partition plan in 1947, echoing its own experience during independence a few months earlier.[7,8,9]
 - India recognised Israel in 1950 but it is also the first non-Arab country to recognise Palestine Liberation Organisation (PLO) as the sole representative of the Palestinian. India is also one of the first countries to recognise the statehood of Palestine in 1988.
 - In recent times, India is being seen shifted towards a Dehyphenation of Policy.
 - Dehyphenation of Policy:
 - India's policy on the longest running conflict in the world has gone from being unequivocally pro-Palestine for the first four decades, to a tense balancing act with its three-decade-old friendly ties with Israel.
 - In recent years, India's position has also been perceived as pro-Israel.
 - Further, India believes in a Two-State Solution with respect to Israel-Palestine conflict, and proposes the right to self-determination to both the countries in a peaceful manner.

What is the Impact of Assault on Israel-Saudi Arabia Ties ?



- One of the reasons for Hamas' assault on Israel can be attributed to disrupting efforts to bring Saudi Arabia and Israel together, along with other countries that may be interested in normalizing relations with Israel.
- Hamas had highlighted threats to Jerusalem's Al-Aqsa Mosque, the continuation of an Israeli blockade on Gaza and Israeli normalization with countries in the region.
- Dehyphenating Saudi Arabia from Israel will help promote the agenda of Muslim Brotherhood and territorial sovereignty over the Arab and Middle East region.
- Normalization of ties of regional powers with Israel will further embolden and strengthen the position of Israel vis-a-vis reclaiming Palestinian territories.[10,11,12]
- Ties with UAE,Egypt,Saudi Arabia etc will provide a vigorous push to infrastructural development, and create inter-dependence and inter-relationships among these countries, much to the chagrin of Palestinians.
- The world at large needs to come together for a peaceful solution but the reluctance of the Israeli government and other involved parties have aggravated the issue more. Thus a balanced approach would help to maintain favorable relations with Arab countries as well as Israel.
- The recent normalization agreements between Israel and the UAE, Bahrain, Sudan, and Morocco, known as the Abraham Accords, are the steps in the right direction. All regional powers should envisage peace between the two countries on line of Abraham Accords.
- India's role in multilateral organizations requires "strenuous efforts in cooperation with all related parties to achieve security and stability in the Middle East and West Asia".
- India is currently serving as a non-permanent member of the United Nations Security Council for 2021-22 and was re-elected to the Human Rights Council for the 2021-future. India should use these multilateral forums to act as a mediator to resolve the Israel-Palestine issue.

III. RESULTS

For thirty years, the United States has sent mixed messages to Israelis and Palestinians. While successive administrations have expressed support for a two-state solution and the establishment of a democratic state of Palestine, they have refrained from using the levers of U.S. power to stem the tide of Israel's illegal settlement expansion. Meanwhile, they have used the levers regularly to constrain Palestinians' diplomatic and legal efforts to fulfill their legitimate aspirations. The failure to hold Israel to its commitments and legal obligations during the peace process and the de-prioritization of Palestinian good governance and accountability effectively undercut the efforts of Israeli and Palestinian constituencies who supported a political agreement through negotiations.

A new approach to Israel-Palestine conflict resolution is needed to allow the United States to achieve better outcomes by doing less, including less harm. This requires prioritizing rights and human security—what is referred to here as a rights-based approach—and is all the more urgent according to a recent Human Rights Watch report that finds that Israel is committing crimes against humanity including persecution and apartheid against Palestinians. Although a shift in focus, the approach would align with President Joe Biden's overall U.S. national security strategy, strengthen U.S. alliances with normative actors, and help to restore U.S. credibility and global standing. It would also hold the most promise for changing the political calculations currently steering Israelis and Palestinians away from a durable political solution. But what does a rights-based approach look like and how would it work?

SHIFTING THE PARADIGM: A RIGHTS-BASED APPROACH THE NORMATIVE ARGUMENT

A rights-based approach that espouses universal values and norms in the conduct of foreign policy is not an entirely novel concept. In fact, in the immediate aftermath of World War II, the United States consistently centered values and norms in arguing for a rules-based international order. The effort brought forth the Geneva Conventions [13,14,15] to protect civilians and occupied people during times of war and led to the creation of the United Nations system, which includes treaties and associated mechanisms to promote respect for rights and the well-being of peoples, as well as to advance decolonization. Unfortunately, in the pursuit of U.S. interests, this architecture has been buckling under the weight of its contradictions for some time. Some say it may be dead and buried, particularly in the wake of former president Donald Trump's establishment of a more transactional method for advancing U.S. policy. Certainly, the policies of Trump have gone a long way in undermining the normative framework for international peace and security, particularly in the context of Israel-Palestine conflict resolution. The administration's Peace to Prosperity



Plan, which sought to resolve all outstanding final status issues between Palestinians and Israelis with or without the participation of or consultation with Palestinians, is a stark example of the disregard for the rule of law.

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With human rights experts, UN bodies, leading legal organizations in Palestine and Israel, and now Human Right Watch describing Israeli policies vis-à-vis Palestinians as a system of domination fitting the legal description of apartheid, the U.S. approach to Israel-Palestine conflict resolution needs to be reconsidered. The Oslo peace process and its two-state solution have little currency in Israel today, particularly after the passage of the Basic Law: Israel as the Nation State of the Jewish People and the rise of Israeli political parties openly advocating policies for Jewish supremacy. Palestinians are unlikely to accept a permanent regime of separate and unequal treatment as well as ongoing displacement. How that plays out in the months and years to come remains to be seen. What is clear is that the vast asymmetry of power between Palestinians and Israelis means U.S. and international engagement is necessary to prevent the permanent disenfranchisement of approximately half the population living under Israeli control and the negative impacts that it would have in an already unstable region.¹

Though the post-World War II international system has proven unable to prevent grave human rights situations—for example, ethnic cleansing in former Yugoslavia, genocide in Rwanda, and forced population transfers of the Rohingya from Myanmar—that does not mean the United States can have no effect on Israel-Palestine conflict resolution. In fact, a reckoning with the harmful effect U.S. policy has had on Israelis and Palestinians is long overdue; and a meaningful and positive, even if modest, international and U.S. response to the Israel-Palestine situation could help change the negative trends on the ground. Moreover, the international community bears significant responsibility for the conflict, whose seeds were sown by partition of the land into two ethno-religious states following a UN General Assembly vote in 1947. The UN has been beleaguered with the matter ever since, dealing with the humanitarian concerns of Palestine’s refugees, successive Arab-Israeli wars, and deteriorating human rights conditions in the occupied territories. The contradictions between declared American values and U.S. policies on Israel and Palestine have become a growing source of tension in American politics, particularly among younger, more progressive citizens and advocates for racial justice. Palestinian human rights are now part of the policy debate in presidential primaries: a clear majority of American voters favor a U.S. approach on Palestine and Israel that is consistent with American values;² leading progressive Democrats are calling for the administration to “ground its engagement on Palestine and Israel in international law and human rights”; and the Movement for Black Lives, in recognizing the interconnectedness and transnational nature of systems of oppression, includes in its policy platform a call for redirecting funds spent on weapons transfers to Israel for domestic priorities—pointing out Israel’s ongoing human rights abuses against Palestinians. Even among Democrats writ large, a majority now favor putting pressure on Israel to make compromises vis-à-vis Palestinians, and around two-thirds of Americans consistently say that they do not want the United States to favor one side or the other on Israeli-Palestinian issues.[16,17,18]

U.S. engagement with Israelis and Palestinians—at home and abroad—has and will continue to come into conflict with the fundamental values the U.S. espouses. This interplay between U.S. domestic and foreign policy was on full display when, with the full backing of the U.S. president, Israeli Prime Minister Benjamin Netanyahu announced he would deny a sitting U.S. congresswoman of Palestinian descent entry into Israel and the occupied Palestinian territories with a congressional delegation because she supports other Americans’ right to engage in political boycotts of Israel—activity entitled to the highest protection under the First Amendment of the U.S. Constitution.

But what are the norms that should shape a rights-based approach? A start would be those encapsulated in the United Nations Charter; in customary international law to which all states are bound; and in the International Bill of Human Rights, consisting of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on Civil and Political Rights. Many of the norms contained in these instruments are already built into U.S. foreign policy by virtue of Section 502B of the Foreign Assistance Act, which states that “a principal goal of the foreign policy of the United States shall be to promote the increased observance of internationally recognized human rights by all countries.”

In an advisory opinion in 2004, the International Court of Justice (ICJ), the judicial arm of the United Nations, determined that Israel had obligations to Palestinians under humanitarian law and international human rights conventions. Among the human rights that the court determined Israel violated in constructing a wall inside the occupied West Bank and its associated regime included the right to self-determination, work, freedom of movement, and protection of families and children and the right to an adequate standard of living, health, and education. The World Court also determined that all states parties to the Geneva Convention—the United States among them—have an obligation to ensure compliance with the convention and to cease all aid to Israel that supports its violations of the convention.

Thus, a rights-based approach is not only about centering values for values-sake, it is also an obligation under federal legislation and international law.

IV. CONCLUSION

Even if a negotiated agreement that is in the interests of the United States seems far off, a rights-based approach would markedly improve the environment for a solution by creating costs for maintaining the status quo. In this sense, a rights-based approach would not be a placeholder policy that prioritizes conflict mitigation until more conducive political conditions materialize but rather be the conduit that creates those very necessary conditions.

First, a rights-based approach makes the United States a more credible mediator, thereby empowering Palestinian and Israeli leaders to reach an agreement. For decades, there has been a credibility gap associated with U.S. mediation. While Israelis and their leadership have wanted exclusive U.S. engagement, the Palestinian public has been much more skeptical. The latest polls show that even under a Biden administration, 51 percent of Palestinians do not expect fair treatment from the United States and 48 percent oppose “a return to Palestinian-Israeli negotiations under the US leadership.” The lack of faith in U.S. mediation means that Palestinian leaders come into negotiations with little confidence in their ability to sell agreements to their publics, thus tying their hands. In Israel, the knowledge that all is required is pro forma participation in the process has strengthened constituencies’ support of permanent Israeli control over the West Bank. If human rights were centered and there was accountability for the violation of rights and international law, Palestinian trust in American engagement would grow and expectations would be clarified for Israeli leaders—with ripple effects down through the Israeli electorate.[19,20,21]

Second, centering rights can inspire the necessary public confidence and create momentum for reaching a political agreement. Some 75 percent of Palestinians believe that the chances of an independent Palestinian state coming to fruition in the next five years is either low or very low. About 62 percent believe the two-state solution is no longer possible. Likewise, inside Israel, nearly 85 percent of Israelis believe a solution in the next five years is somewhat unlikely or very unlikely. These views are undoubtedly tied to the repeated failures of the peace process as well as the worsening realities on the ground.

Today, neither Israeli nor Palestinian leaders have an incentive to create political constituencies to back a negotiated solution. In Israel, the U.S. approach failed to create any real costs for right-wing nationalist policies even as Israeli politics continued to leap right-ward over the years. The message from Washington was that the U.S.-Israel relationship should not be jeopardized by pressing Israel on its conduct vis-à-vis Palestinians.³ In Israel, political parties coalesced around anti-Palestinian policies without fear of alienating a vital ally that was ostensibly aiming to broker Israeli-Palestinian peace. Among Palestinians, this incentive structure meant that political parties committed to negotiations would inadvertently undercut their own legitimacy by repeatedly committing to a failed peace process that demanded much from them, while Israeli settlements expanded without repercussions.

If Israeli policies that violated rights and previous commitments came with costs attached to the U.S.-Israel relationship, it would force a recalculation and promote politics that are more amenable to political negotiation. On the Palestinian side, it would allow parties committed to negotiation to garner the faith of their publics.

Third, a rights-based approach could correct the imbalance of power and provide Palestinians some agency to bolster international consensus around their rights, which might also spur Israel to take its obligations more seriously as an occupying power and to negotiate an end to the conflict consistent with principles of international legitimacy. The previous U.S. approach—crafting positions on peace proposals or parameters with Israel’s input while inhibiting Palestinian diplomatic and legal maneuvers at the UN or at the International Criminal Court—effectively allowed Israel to maintain its occupation at no cost.

Beyond advancing U.S. interests, a rights-based approach to Israel-Palestine conflict resolution holds promise for reinforcing American objectives and interests on issues beyond the Middle East, including on authoritarianism, nationalism, nativism, and refugee rights. It would also pull the rug out from under U.S. adversaries who exploit the way the United States has shielded Israel from accountability in multilateral fora and with third states and would give the United States greater leverage with China and Russia as competition for regional influence becomes more and more pronounced in the years to come.

In adopting a rights-based approach toward Israel-Palestine, the United States should first

The United States should thoroughly review its bilateral relationship with Israel, including its security assistance to Israel, to ensure that U.S. policy no longer perpetuates Israel’s military occupation or enables human rights abuses.

The Fourth Geneva Convention makes clear that occupied people may not be deprived “in any case or in any manner whatsoever” of the protections guaranteed them under the convention, including in any agreements they may sign. This humanitarian law seeks to mitigate the inherent unfairness associated with a people under occupation having to negotiate the terms of their own freedom. The U.S. backing of territorial compromises while Palestinians remain under occupation violates the UN Charter and customary international law principle of the inadmissibility of the acquisition of territory by force.

As the ICJ determined in a 2004 advisory opinion, Israel has obligations to Palestinians living under its control according to both humanitarian law and human rights law. Given the length of Israel’s military occupation, the human rights obligations owed to Palestinians should mirror the rights owed to Israel’s own citizens. The United States should make clear that the status quo in the absence of a two-state outcome is not merely unsustainable but also unacceptable.

UN Security Council Resolution 2334 calls upon all states to take immediate steps to prevent acts of violence against civilians and to hold violators accountable. The United States, as a state party to the Fourth Geneva Convention, is also obligated to uphold the protections contained in the convention for occupied populations. U.S. attempts to shield Israel from the legal consequences of its settlement enterprise in international fora—via withholding funding to multilateral bodies, undue influence, or diplomatic pressure against third states or the International Criminal Court to avoid taking measures in this regard—undermine U.S. responsibilities.

The United States is at a pivotal moment in its relations with the world, seeking to reassert its leadership and support a rules-based international order. This moment calls for a new approach that puts human rights at the center of policymaking in regard to the Israel-Palestine issue. This approach is not only a moral imperative given the grave and long-lasting human rights crisis on the ground but also an opportunity for the United States to advance its broader policy objectives in the region and beyond.[22]

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