

## A WAY FORWARD: ISRAEL-PALESTINE AS AN INTERSTATE CONFLICT

Theodore Minerva

Despite decades of violence, there is no meaningful initiative on the horizon to break the Israeli-Palestinian stalemate. The conflict contains aspects of civil war that render it intractable. Professor Donald Horowitz proffers one explanation for the conflict's longevity by shedding light on the competition for moral worth that can arise when opposing ethnic groups occupy the same environment.<sup>1</sup> In the Israeli-Palestinian conflict, Israeli leaders stake such a moral claim by evoking a Jewish homeland that grew out of the Holocaust and yet is still surrounded by enemies. Palestinian leaders, on the other hand, derive moral power from an obsessive focus on the historical injustice in which they relinquished holy lands under duress for the sake of the Jewish state. As Palestinians do not have equal standing in Israel, there is no other means for them to negotiate. If the Israeli-Palestinian conflict were a clear interstate dispute, there would be a better chance of achieving resolution. Such a change in the existing dynamic would require that the global community recognize a Palestinian state in the short term, prior to settlement of the major points in dispute. This approach would be difficult given Israel's clear reluctance to participate in the creation of a viable Palestinian state. Clarifying the status of both bargaining parties and setting them on a more equal footing can improve outcomes in a crisis that continues to have severe consequences.

The Israeli-Palestinian conflict can easily be mistaken for a war among sovereign states. Palestinian Arab and Israeli Jewish populations are ethnically and religiously distinct, and to a large extent they live and work in separate areas. These factors suggest that their longstanding dispute already operates as an interstate crisis. Yet, a necessary condition for an interstate conflict is the presence of two or more warring sovereign entities, and there are differing views regarding the status of both Israel and Palestine. Israel, a member of the international community for over fifty years, qualifies as a strong state on the continuum that Robert Rotberg sets out in *Why States Fail*, because it fully controls its borders and delivers a full range and a high quality of political goods to its citizens.<sup>2</sup> Israel also satisfies the dual meaning of *state* outlined by Bruce Porter in *War and the Rise of the State*, namely, that a state include not only a sovereign government and the land, population, and society it controls, but also a set of institutions such as a central government, armed forces, regulatory agencies, and police, whose principal function is to control its territory and maintain internal order.<sup>3</sup> Despite Israel's formidable institutional capacities, thirty-two UN member na-

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tions including most Islamic countries – as well as the Palestinian group Hamas – do not recognize the state of Israel's right to exist. Another challenge in portraying the Israeli-Palestinian dispute as an interstate conflict is that Palestinian dominated areas, including the Gaza Strip, East Jerusalem, and the West Bank, clearly lack sovereign status. Israel exercises substantial authority in these territories, controlling entry and egress, maintaining a blockade of Gaza, and regularly adding to the growing stock of Jewish-only residential settlements in the West Bank and East Jerusalem.<sup>4</sup> Hostilities between groups like Hamas and Israel are, therefore, akin to civil unrest. When the Israeli military enters the West Bank in a police action or Gaza to counter Hamas aggression, the international community views these forays as fundamentally more acceptable than an incursion into a sovereign state like Lebanon.

The civil strife in the Israeli-Palestinian dispute approximates an intrastate rather than an interstate conflict; however, since the occupied territories are not integrated into the rest of Israel, the hostilities are not a civil war. Bloody intifada uprisings, months-long clashes between Israeli military and Hamas in Gaza, and suicide bombings in Israel proper all reflect Palestinian frustration with occupation as well as moral outrage over historical events. The picture conjures a civil war, but differs from other civil wars in some respects: even though their movements, livelihood, and security are all controlled by Israel, Palestinians living in the territories are not Israeli citizens and the Israeli government does not represent them. Secession or government overthrow are not the goals of Palestinian unrest, as they are in most other civil wars. Rather, Palestinians hope to escape the yoke of Israel and secure their holy lands, reverting to a period that preceded the establishment of the Jewish homeland.

There is a relatively low probability that the Israeli-Palestinian conflict will be settled any time soon, specifically because its hostilities take the form of civil unrest. In *Bargaining Failures and Civil War*, Barbara Walter asserts that civil wars are harder to settle than interstate conflicts. Civil wars are longer, include more one-sided victories, and suffer a higher rate of recurrence.<sup>5</sup> Walter's comments resonate in the Israeli-Palestinian context because of the seemingly perpetual cycle of civil unrest and crackdowns. The Israeli-Palestinian conflict is among the most protracted in modern history, having stymied generations of peacemakers.<sup>6</sup> Israel orchestrates a complex security apparatus to keep daily violence to a minimum, but outbursts can occur at any time. When major battles do break out, such as the crisis involving Gaza during the summer of 2014, the outcome is usually decisive in Israel's favor. However, with each militarily definitive victory against a much weaker Palestinian adversary, Israel loses ground in the eyes of global public opinion. This offset increases the likelihood of recurrence as Palestinians capitalize on anti-Israeli sentiment to pressure Israel to change its behavior. Hence, the conflict seems caught in a vicious cycle of violence and tentative calm with no prospect of resolution.

As Walter notes, resolution of intrastate conflicts can be derailed by information asymmetry, difficulties in credibly committing to settlements, and indivisible stakes (land or resources that cannot be split between opposing factions).<sup>7</sup> All of

these factors apply in the Israeli-Palestinian situation. An example of information asymmetry is the network of secret Hamas tunnels uncovered in recent violent clashes. Vastly increasing the potential for surprise attacks, the tunnels would have allowed Hamas to inflict significant casualties on Israeli soldiers and civilians. However, the improvement in Hamas's capability reduced the chances for a negotiated settlement as it reinforced Israel's concern about unforeseen risk. Israeli and Palestinian leaders cannot credibly commit to agreements because they see vulnerabilities in changes to the status quo. Israel raises concern about security buffers while the Palestinians recognize that Israelis can renege on any settlement, without repercussion, as long as the parties negotiate in an intrastate context. Finally, at the heart of the Israeli-Palestinian conflict lays Walter's problem of indivisible stakes.<sup>8</sup> Both Israeli Jews and Arab Muslims see Jerusalem as the symbolic center of their respective religions, and neither is willing to acknowledge any prior claim. Israel currently oversees access to Jerusalem by virtue of its occupation of East Jerusalem. Walter points to the possibility that decisive military victory may be the only way to resolve such claims.<sup>9</sup>

Negotiation of the Israeli-Palestinian conflict as a clear interstate dispute would be the most productive way forward. The two-state solution features a grand bargain, in which issues as diverse as borders, the right of return, and mutual recognition are settled upfront, and the reward for success is an independent Palestinian state. A better starting point to resolve the conflict involves recognition of the State of Palestine, after which negotiation of the remaining issues could begin anew. This may be the path embraced by Sweden, which recently recognized the State of Palestine, declaring that all requisite qualities of a sovereign state exist.<sup>10</sup> One means of testing the efficacy of this approach is to examine how the three factors Walter cites as problematic in intrastate disputes might change in an interstate Israeli-Palestinian conflict. First, with respect to information asymmetry, the external assistance needed to build institutional capacity would compel Palestine to open its borders to NGOs and private investors, making it difficult to retain military secrets and reducing the incentives to do so. In such an environment, Hamas's influence would diminish, and the moderate Palestinian Authority would help unify Gaza and the West Bank. Second, Israel and a Palestinian state could more credibly commit to agreements on a range of issues when they approach them on a state-to-state basis. As Walter notes, third party enforcement can prove critical in situations where there is a power imbalance.<sup>11</sup> The global community would presumably have a significant stake in this enterprise and would make every effort to ensure compliance. Third party backing would generate two benefits: Palestinians would gain confidence in the enforceability of agreements, and Israeli leaders would have political cover for difficult decisions such as dismantling settlements in occupied areas. Finally, on the question of Jerusalem and indivisible stakes in an interstate debate, there should be renewed support for administration by an independent entity that could ensure access to holy sites as well as protection for both the sites and visitors.

This analysis suggests that those factors that often undermine bargains in an

intrastate dispute would have more limited effects if an interstate bargain were under negotiation by a Palestinian state and Israel. While not a comprehensive examination of each issue separating the two parties, the findings support the conclusion that an interstate negotiation involving a newly established Palestinian state would be a more productive means of resolving issues than the status quo.

## NOTES

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1. Horowitz, Donald L., *Ethnic Groups in Conflict*, 141-3.
2. Robert I. Rotberg, "The Failure and Collapse of Nation-States: Breakdown, Prevention, and Repair," in *When States Fail: Causes and Consequences*, ed. Robert Rotberg (Princeton: Princeton University Press, 2003), 4.
3. Bruce D. Porter, "The Mirror Image of War" in *War and the Rise of the State*, ed. Bruce D. Porter (New York: The Free Press, a Division of Simon & Schuster, 1994), 5.
4. Central Intelligence Agency. "West Bank." World Factbook.
5. Barbara F. Walter, "Bargaining Failures and Civil War." *The Annual Review of Political Science*, 12 (2009): 244.
6. Central Intelligence Agency. "Israel." World Factbook.
7. Walter, 245-7.
8. Ibid., 246-7.
9. Ibid., 247.
10. "Sweden Recognises state of Palestine," *Al Jazeera America*, October 30, 2014.
11. Walter, 255.

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