

A New Convergence?

European and American Positions on Jerusalem

Marian Houk

Two extended Palestinian families consisting of fifty-three members were evicted at gunpoint at dawn by Israeli Police and Border Police from their homes in the Sheikh Jarrah area of East Jerusalem, about a kilometer north of the Old City, in early August, about two weeks after a deadline issued by the Israeli Supreme Court. Two teenage children from the Hanoun family were thrown out of their homes so roughly that one son sustained an arm fracture, and a daughter's arm was sprained. The families' furniture was hastily bundled into moving trucks, and unceremoniously deposited in two roadside locations – one of them just in front of the UNRWA West Bank headquarters in Sheikh Jarrah. After all, the Palestinians who were evicted were UNRWA-registered refugees UNRWA then moved the furniture into one of their warehouses. As the evicted Palestinians spent their first night on the sidewalks outside their homes, they could hear the sounds of the settlers inside, hammering and drilling, behind fabric screens and police barriers, remodeling the structures that had been built around 1953 by UNRWA for Palestinian refugees who had lost their homes in what became Israel in 1948.

The Hanoun and Ghawi families who had been evicted after years of court appeals angrily refused to accept tents offered by the Red Cross, and declined offers of a grant of emergency money from the U.S. Consulate, saying that they wanted only to be able to return to their homes. European and American diplomats made regular sympathy visits to these evicted Palestinians, both before and after they were thrown out of their UNRWA-built homes – it had been expected that their stand would deter Israeli authorities from carrying out the evictions.

Obama Enters into the Scene

With the January 2009 inauguration of U.S. President Barack Obama, who was elected the previous November to succeed George W. Bush, analysts say they see a new congruity of American and European policies in the Middle East after three decades of substantive differences.

Obama's officials have had to press Israel's Prime Minister Benjamin Netanyahu, newly-installed after February general elections for (1) a recommitment to the two-state solution to the Israeli-Palestinian conflict and (2) for a complete end to its settlement activities. European policy, however, continues to emphasize the role of

international law and United Nations resolutions, while American policy may have not yet fully recovered from the view that some of that is “ancient history” – and important American policy decisions still hang in the balance. Europe for several decades worked to have an independent policy. Still, European policy on the Middle East can’t be analyzed in isolation from American policy – and from American reaction to European policy.

There were persistent reports that Obama’s special envoy George Mitchell had, after months of talks, only succeeded in extracting Israeli agreement to a qualified and limited settlement freeze that Israeli officials insisted would not, in any case, be permanent. One Israeli media report even stated that American officials privately told their Israeli counterparts that they would not require a full settlement freeze if the Palestinians did not insist.

The issue of a settlement freeze in Jerusalem is complicated by Israeli operational definitions: in 1967, Israel unilaterally expanded East Jerusalem, which was about 6 square kilometers under Jordanian rule from May 1948, by some 65 square kilometers, adding areas of the surrounding West Bank on three sides around the Old City. This, plus West Jerusalem, became known as the “Greater Jerusalem municipality”. It extends primarily to the north, to include Qalandia airport and what became the adjacent Atarot industrial zone, but also to the south, to include Jebal Abu Ghneim which has now been deforested and the large Har Homa settlement is still being expanded there. Har Homa and Gilo, like other large Jewish settlements such as Pisgat Ze’ev and Ramot in “Greater Jerusalem” north, actually look much more like the “neighborhoods” they are called rather than the “gated communities” that exist in the West Bank, guarded by their own volunteer militias as well as by the Israeli military.

At the same time, the route of The Wall that Israel is constructing through Greater Jerusalem has revealed another Israeli unilateral redefinition of “Jerusalem”. Areas whose Palestinian residents continue to pay the Jerusalem municipal tax, or Arnona, now find themselves cut off from Jerusalem on the West Bank side of The Wall -- Qafz Aqab and Semiramis behind the Qalandia checkpoint; and Shu’fat Refugee Camp (not Shu’fat village), Ras Khamis, Dahiet al-Salaam, and Anata behind another prison-like military checkpoint.

But, Netanyahu asserted in mid-2009 that “Jerusalem is not a settlement” -- and he made the immediately contested claim that Jews and Arabs have equal rights to live and build in Jerusalem. In response, a U.S. State Department spokesman, pressed by journalists, explained that, “we believe that Israel has an obligation to cease all settlement activity in East Jerusalem or the West Bank or wherever it may be over the 1967 border”. A few days earlier, US Presidential Spokesman Robert Gibbs told reporters, that in Obama’s view, Israeli plans to approve additional settlement construction are “inconsistent with Israel’s commitment under the Roadmap.” The European Union presidency, which called the Sheikh Jarrah evictions “unacceptable”, then expressed their “serious concern” over the matter.

If the Netanyahu position is maintained, the only explanation is that the Israelis think the Americans are not serious – that is, unless the Obama Administration is about

to unveil a bold new initiative, and Netanyahu is merely being a tough bargainer.

The Venice Declaration and the Forgotten Luxembourg Declarations

The U.S.-European convergence of views on the Israeli-Palestinian conflict may well now be the closest since Europe fell out of favor following its June 1980 Venice Declaration in which it intended to prepare a “special role” for itself in the Middle East, and that it believed the Palestine Liberation Organization should be associated with a new peace initiative that Europe would propose. The nine Western European states who were members of the European Community at the time were apparently persuaded that the Camp David negotiations between Israel and Egypt that started in September 1978 with the sponsorship and strong backing of U.S. President Jimmy Carter might have led to a bilateral peace treaty but had otherwise only exacerbated regional tensions.

According to this 1980 Venice Declaration, “the time has come to promote the recognition and implementation of the two principles universally accepted by the international community: the right to existence and to security of all States in the region, including Israel, and justice for all the peoples, which implies the recognition of the legitimate rights of the Palestinian people ... A just solution must finally be found to the Palestinian problem, which is not simply one of refugees. The Palestinian people, which is conscious of existing as such, must be placed in a position, by an appropriate process defined within the framework of a comprehensive peace settlement, to exercise fully its right to self-determination ... These principles are binding on all the parties concerned, and thus on the Palestinian people, and on the PLO, which will have to be associated with the negotiations”.

But, after the Venice declaration, the Israeli Cabinet issued an angry reaction, saying that, “Nothing will remain of the Venice Resolution but its bitter memory”. Israeli officials furiously accused the Western Europeans of being motivated by their interest in guaranteeing a stable oil supply from the Arab States. The Israeli Cabinet specifically explained, however, that its wrath was provoked by the Venice Declaration’s calling “upon us, and other nations, to include in the peace process the Arab S.S. known as ‘The Palestine Liberation Organization’.” The Israeli Cabinet also fumed that “The initiators of the Venice Document and its authors even tried to interfere with the status of Jerusalem, our eternal capital, which is not to be divided again, and with our right to settle and live in Eretz Israel, a right which is also an inseparable part of our defense system in the face of enemies and attackers”.

European leaders did, indeed, stress in the Venice Declaration “the need for Israel to put an end to the territorial occupation which it has maintained since the conflict of 1967, as it has done for part of Sinai. They are deeply convinced that the Israeli settlements constitute a serious obstacle to the peace process in the Middle East. The Nine consider that these settlements, as well as modifications in population and property in the occupied Arab territories, are illegal under international law”. The

Venice Declaration also recognized “the special importance of the role played by the question of Jerusalem for all the parties concerned. The Nine stressed that they would not accept any unilateral initiative designed to change the status of Jerusalem and that any agreement on the city’s status should guarantee freedom of access for everyone to the Holy Places”. The European position on these two issues still stands to this day – and is now being echoed in statements made by the Obama Administration.

What has not been published is the follow-up document approved in December 1980, by the Nine Western European leaders at a summit meeting in Luxembourg, after six months of intensive work to flesh out the European proposal for a new peace initiative. Shortly afterwards, it was suddenly put on hold, apparently out of consideration for the one-term Carter’s successor, Ronald Reagan, who took office after his inauguration in January 1981.

The Nine said they could assert the interest of the Christian world in the holy places in Jerusalem. The Luxembourg document said that withdrawal, as mentioned in UN Security Council resolution 242, means also from East Jerusalem, but that the future of Jerusalem as a whole must be determined in negotiations. The document stated that the situation of Jerusalem in international law is not yet precisely defined, but the Nine did state that they do not recognize either the partition between Israel and Jordan (established in the cease-fire accord of 30 November 1948 and the armistice accord of 3 April 1949; or the Israeli Knesset’s proclamation of Jerusalem as the capital of Israel (23 June 1950; or the de facto annexation of East Jerusalem in 1967; or the fundamental law passed by the Knesset on 30 July 1980, proclaiming Jerusalem as the united and reunified capital of Israel.

The Luxembourg document contains several different proposals concerning Jerusalem:

- 1) Internationalization of the entire city;*
- 2) A new plan of partition which would give juridical value to the situation that existed between 1948 and 1967;*
- 3) A “condominium” between Israel and the Arabs [this was the word used at the time, not “Palestinians”, though that may be what it meant, or it may have wished to be ambiguous] which would involve joint sovereignty;*
- 4) A formula which would include common administration without physical divisions (either keeping de facto unity, without specifying respective sovereignty, or dividing sovereignty without any actual physical division of the city on the ground). In these cases, Jerusalem would be ruled by a municipal authority composed of elected Israelis and Palestinians [similar to a proposal made when the British mandate was still in place, but never implemented]. Religious places would be under the exclusive administration of religious authorities;*

5) Internationalization of the Old City – i.e., everything within the city walls, where most of the holy places are. “This would give the Old City the character of the Vatican”, the Luxembourg document said. The Old City would then be administered by a special representative named by the Security Council for a determined number of years. This would require the parties to renounce their sovereignty over the Old City – and this last proposal could be combined and made compatible with most of the earlier options outlined above, the Luxembourg document said.

Not everyone in the PLO supported the proposal for a special extraterritorial status for Jerusalem which would be administered by a religious coalition.

The American chilly and distant reaction to the Venice Declaration and the Luxembourg Documents, caused a European retreat – or a sidelining -- that lasted for several decades.

The immediate problem, in 1980, was that the American administration of President Jimmy Carter was defensively protecting its heavy political and diplomatic investment in the Camp David strategy it had launched with Israel and Egypt.

Carter’s singular focus on the importance of maintaining the Israeli-Egyptian negotiations was apparently responsible for compromising the publicly-stated U.S. position on Jerusalem in 1980 – which, if it did not actually change, at least to become so closely-held that it appeared less critical of Israeli actions concerning Jerusalem. On Carter’s orders, the U.S. abstained from a series of more than half a dozen UN Security Council resolutions condemning Israel’s “Basic Law” of proclaiming united Jerusalem as its eternal capital. The U.S. delegation did not restate the previously-declared American position on Jerusalem¹ and just kept quiet.

In a statement explaining the U.S. abstention to the Security Council on 20 August 1980, as it adopted resolution 478 censuring Israel’s Basic Law, Carter’s Secretary of State, Edmund Muskie only stated that, “We are absolutely and firmly committed to the success of the Camp David process and its ultimate goal of a just and lasting peace throughout the region. There is no issue on which President Carter has spent more time and effort than this great cause, and that will continue to be the case until the job is done”.

The American silence, or obfuscation, about its position on Jerusalem, adopted for Carter’s political advantage in negotiations, and in an election year, also perfectly suited the worldview of the neo-conservatives who joined Ronald Reagan’s team, and who used this lack of clarity to suggest a much more pro-Israeli policy on Jerusalem.

The Europeans Reformulate their Position

European heads of missions in Jerusalem and Ramallah, who serve as the “eyes on the ground” for their governments and for the European institutions in Brussels,

issued a special warning about East Jerusalem in a firmly worded assessment drafted in December 2008 that the Middle East peace process was being jeopardized.

The EU Heads of Mission report, leaked to journalists in the spring of 2009, stated that “Long-standing Israeli plans for Jerusalem, now being implemented at an accelerated rate, are undermining prospects for a Palestinian capital in East Jerusalem and a sustainable two-state solution. Although Israel has legitimate security concerns in Jerusalem, many of its current illegal actions in and around the city have limited security justifications. Israeli ‘facts on the ground’ – including new settlements, construction of the barrier, discriminatory housing policies, house demolitions, restrictive permit regime and continued closure of Palestinians institutions – increase Jewish Israeli presence in East Jerusalem, weaken the Palestinian community in the city, impede Palestinian urban development and separate East Jerusalem from the rest of the West Bank. Israel is, by practical means, actively pursuing the illegal annexation of East Jerusalem ... Israel’s actions in and around Jerusalem constitute one of the most acute challenges to Israeli-Palestinian peace making”.

A similar report drafted by EU heads of mission in 2005 stated that “Palestinians are, without exception, deeply alarmed about East Jerusalem. They fear that Israel will ‘get away with it’ ... Israeli actions also risk radicalising the hitherto relatively quiescent Palestinian population in East Jerusalem. Clear statements by the European Union and the Quartet that Jerusalem remains an issue for negotiation by the two sides, and that Israel should desist from all measures designed to pre-empt such negotiations, would be timely. We should also support Palestinian cultural, political and economic activities in East Jerusalem”. However, the 2005 EU Heads of Mission report was not adopted in Brussels at the urging of the EU Foreign Policy Chief Javier Solana, who argued that it would be counterproductive and make working with the Israelis more difficult.

The 2008 report has not yet been adopted in Brussels, either.

The Solana Proposal and Palestinian Statehood

[Javier] Solana made a surprising proposal in a speech delivered in London in mid-2009: if direct Israeli-Palestinian negotiations were not fruitful, then “after a fixed deadline, a UN Security Council resolution should proclaim the adoption of the two-state solution. This should include all the parameters of borders, refugees, Jerusalem and security arrangements. It would accept the Palestinian state as a full member of the UN, and set a calendar for implementation. It would mandate the resolution of other remaining territorial disputes and legitimize the end of claims. International monitoring will then be crucial”.

Solana did not, however, propose specific detailed solutions for any of these parameters.

As if choreographed, Palestinian Prime Minister Salam Fayyad issued his own plan just a few weeks later, in August, for a two-year program for “ending the occupation”

and creating a Palestinian State by mid-2011. Fayyad's proposal was widely-welcomed in the West.

“Solana is letting us build on his proposal, and a UN Security Council resolution might happen” in the next few months, commented one Palestinian official who works with the Ramallah-based PLO Negotiations Support Unit. A large Palestinian delegation is expected to attend the annual UN General Assembly session that starts with a high-level segment in mid-September and runs until the final adoption of resolutions on all agenda items in late December.

One idea being floated is to have a UN Security Council resolution authorizing full United Nations membership for a state of Palestine. The idea itself is not new – but the proposal coming from the EU's Solana is an interesting signal that was no doubt coordinated with the American administration. The proposal to apply for full UN membership was seriously discussed by the PLO leadership in the late 1970s and early 1980s. It was considered as an extension of the 1974 Palestine National Council decision to create a state on any inch of liberated Palestine.

According to ranking PLO officials who attended the annual UN General Assembly debates in New York in 1979 and 1980, the PLO strategy was based on the UN's plan to partition the British mandate of Palestine into two states – one Jewish and one Arab -- adopted as Resolution 181 by a vote in the UN General Assembly on 29 November 1947.

The main obstacle at the time, according to interviews conducted by this journalist with the PLO officials who attended UN meetings in New York as well as in Beirut, was that they feared problems would be created by objections from, or disagreements with, various Arab states. More than a decade after the PLO leadership entertained those discussions, and nearly a year after the outbreak of the first Palestinian intifada in the West Bank and Gaza, Yasser Arafat proclaimed an independent State of Palestine in November 1988, based on the UN's partition Resolution 181.

Following the 1988 Palestinian declaration of Independence, the PLO again planned to ask for a seat – even though they were willing to leave it ‘symbolically’ empty – in the United Nations, for the State of Palestine that they had proclaimed, with Jerusalem as its capital, on the basis of UN General Assembly Resolution 181. Again, the PLO backed off after carrying out diplomatic consultations. The issue of recognition is one critical factor in legitimizing the proclamation of a state. In 1988, more than 130 states recognized State of Palestine proclaimed by the PLO. (By comparison, some 160 states recognize the State of Israel, according to the Israeli Ministry of Foreign Affairs website.)

The Road Map formally adopted by the U.S.-led Quartet (on 30 April 2003) projected that by December 2003, at the end of the second of three phases, the “Quartet members [would] promote international recognition of [a, the] Palestinian State, including possible UN membership” [emphasis added].

This year, the United States will be chairing the UN Security Council in September – when Obama, Netanyahu, and a big Palestinian delegation led by President Mahmoud Abbas will all be attending the high-level segment of the annual General

Assembly debate. If all were going well in American mediation efforts with Israel and the Palestinian leadership, a tripartite meeting was being planned, at which the resumption of direct negotiations was supposed to be announced – and after which the Quartet could go to the UN Security Council to table a recommendation for the admission of a Palestinian state to full UN membership. This move would be a reward to the Palestinians for agreeing to resume negotiations that they broke off in anger during Israel’s 22-day military offensive last winter in Gaza, Operation Cast Lead.

Back in East Jerusalem’s Sheikh Jarrah neighborhood, the Hanoun family had put a long printed plastic sign on the front of their home, just before their recent eviction, reading “Obama, yes you can -- stop ethnic cleansing in Jerusalem”.

No social safety net was offered by the Israeli authorities who evicted the Hanoun and Ghawi families – nor by the settler organizations who had asked for the evictions, and who had young Jewish families ready to move into the emptied homes within hours, under Israeli police and Border Police protection.

Since then, the Hanoun and Ghawi families have been living in full public view on the sidewalks across from their homes. This drama has taken place just hundreds of meters away from the well-furbished European consulates located in the Sheikh Jarrah area of East Jerusalem, and less than a kilometer from the U.S. Consulate in East Jerusalem.

The story of these two extended families – and of Fawzia “Um Kamel” al-Kurd, who was evicted at dawn with her disabled husband (who died ten days later) from their UNRWA-built home in the same area last November – is just part of the human cost that results from the failure, to date, of the intertwined – but not necessarily complimentary – European and American policies in Jerusalem.

And Jimmy Carter, who as U.S. president was so protective of the Camp David process that he had invested so much in, visited the Hanoun and Ghawi families living on the sidewalks in front of their homes in Sheikh Jarrah on 27 August, as part of a delegation of The Elders – a group of former statesmen and women – and brought them a “gift of food”. Did he remember that in 1980, he instructed officials in his administration just before he faced re-election in what became the final year of his presidency, to be “noticeably quiet” on the subject of Jerusalem?

Marian Houk is a journalist based in Jerusalem.

Endnotes

1 On 14 July 1967 (after Israel extended its law and administration over East Jerusalem) U.S. Ambassador Arthur Goldberg (representing President Lyndon Johnson) stated in a UN General Assembly vote that “this Assembly should have dealt with the problem by declaring itself against any unilateral change in the status of Jerusalem ... [O]n July 3, I said that the safeguarding of the Holy Places and freedom of access to them for all should be internationally guaranteed and the status of Jerusalem in relation to them should be decided not unilaterally but in consultation with all concerned. These statements represent the considered and continuing policy of the United States ... We insist that the measures taken cannot be considered other than interim and provisional, and not prejudging the final and permanent status of Jerusalem”. In his speech before the Council, Goldberg also read excerpts from two statements issued on 28 June 1967: (1) the first from the White House, which stated that in the President’s view, “there must be adequate recognition of the special interests of three great religions in the holy places of Jerusalem. On this principle he assumes that before any unilateral action is taken on the status of Jerusalem there will be appropriate consultations with religious leaders and others who are deeply concerned ... The world must find an answer that is fair and recognized to be fair”; and (2) the second from the State Department, saying that “The hasty administrative action taken today cannot be regarded as determining the future of the Holy Places or the status of Jerusalem in relation to them. The United States has

never recognized such unilateral actions by any of the states in the area as governing the international status of Jerusalem”. On 1 July 1969, U.S. Ambassador Charles Yost (representing President Richard Nixon) told the UN Security Council that “the United States has always considered that Jerusalem enjoys a unique international standing and that no action should be taken there without full regard to Jerusalem’s special history and special place in the world community ... The United States considers that the part of Jerusalem that came under the control of Israel in the June war, like other areas occupied by Israel, is occupied territory and hence subject to the provisions of international law governing the rights and obligations of an occupying power ... The pattern of behavior authorized under the Geneva Convention and international law is clear: the occupier must maintain the occupied area as intact and unaltered as possible, without interfering with the customary life of the area, and any changes must be necessitated by immediate needs of the occupation. I regret to say that the actions of Israel in the occupied portion of Jerusalem present a different picture, one which gives rise to understandable concerns that the eventual disposition of East Jerusalem may be prejudiced and the rights and activities of the population are already being affected and altered ... We have consistently refused to recognize these measures as having anything but a provisional character and do not accept them as affecting the ultimate status of Jerusalem”.