Independence, Cantons, or Bantustans: Whither the Palestinian State?

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The Palestinian state remains an internationally endorsed project, yet an increasingly difficult one to implement. By analyzing the territorial, legal, and demographic developments that took place in the West Bank and the Gaza Strip over the past ten years, this article assesses the extent to which the prospective Palestinian state has become unattainable. A comparison between the South African apartheid experience and the Israeli-Palestinian conflict is made to shed light on the ways in which the Palestinian territories are becoming analogous to Bantustans. While historical comparisons are never exact or prescriptive, they raise interesting parallels whose implications need to be considered, if not altered, in any attempt to materialize the project of a viable Palestinian independence.

The idea of the Palestinian state as a solution to the Israeli-Palestinian conflict is not a new one. Yet, it is still far from being realised. It received its clearest endorsement by the international community with the publication of the US backed Road Map in May 2003. This plan called for the establishment of an "independent, democratic, and viable Palestinian State living side by side in peace and security with Israel and its other neighbors," as envisaged by UNSC resolution 1397 and the Saudi Initiative of March 2002.[1] However after four years of the al-Aqsa Intifada that resulted in the killing of over 3,500 Palestinians and 989 Israelis,[2] the economic and social resources of the Palestinians was severely damaged,[3] and the infrastructure of the Palestinian Authority destroyed; the prospects of a viable Palestinian state could not be more remote. The Israeli government's decision in June 2004 to "disengage" unilaterally from the Gaza Strip and to continue the construction of a separation wall in the West Bank gave another blow to the project of a viable contiguous sovereign Palestinian entity in the Occupied Territories.

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1. See *Performance-Based Roadmap to a Permanent Two-State Solution to the Israeli-Palestinian Conflict*, at http://www.state.gov/r/pa/prs/ps/2003/20062.htm
2. See www.betselem.org
3. World Bank, *Twenty-Seven Months- Intifada, Closures and Palestinian Economic Crisis, An Assessment* (World Bank, Washington, DC, May 2003).

International scholars, as well as Palestinian NGOs, have long argued that the Oslo process and the Intifada did not bring the Palestinians closer to statehood, but rather confirmed an Israeli "apartheid" in the West Bank and Gaza Strip (WBGS).[4] Ariel Sharon, Israel's Prime Minister since 2001, had long contended that the Bantustan model, so central to the apartheid system, is the most appropriate to the present Israeli-Palestinian conflict.[5] Others, by contrast, have maintained that the Palestinian territories have been transformed into cantons whose final status is still to be determined.[6] The difference in terminology between cantons and Bantustans is not arbitrary though. The former suggests a neutral territorial concept whose political implications and contours are left to be determined. The latter indicates a structural development with economic and political implications that put in jeopardy the prospects for any meaningfully sovereign viable Palestinian state. It makes the prospects for a binational state seem inevitable, if most threatening to the notion of ethnic nationalism.

The aim of this article is to analyze the demise of a potential Palestinian state by drawing on the South African apartheid paradigm. Although the comparison between the Israeli-Palestinian conflict and apartheid South Africa is not new, [7] it has not always been fully explained or accepted. This article seeks to fill this gap by exploring how the South African and the Zionist colonial experiences converged despite their significant historical differences. By carefully exploring the South African apartheid edifice, particularly the Bantustans, and comparing it with the structural developments set in place in the Palestinian territory since the Oslo process, it shows how the West Bank and Gaza Strip have moved towards a process of "Bantustanization" rather than of sovereign independence. This is a process by which Palestinian territories have been transformed into *de facto* population reserves out of which Palestinians cannot exit without the possession of a permit issued by Israeli military authorities. These "reserves" have remained dependent on the Israeli economy, but at the same

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4. See, for example, Roane Carey, *The New Intifada: Resisting Israel's Apartheid* (London: Vintage Press, 2001), Hanan Ashrawi, *Critique of the Road Map* in www.muftah.org, (October 28, 2002), Uri Davis, *Apartheid Israel: Possibilities for the Struggle Within* (New York: Zed Books Ltd, 2003) and LAW *Apartheid, Bantustans and Cantons: The ABC of the Oslo Accords* (Jerusalem, 1998). The Palestinian NGO community, during the *World Conference against Racism in Durban South Africa*, August/September 2001, was unanimous in presenting a position paper calling for ending Israel's brand of apartheid (see www.lawsociety.org/apartheid/palngo.html).

5. Quoted by Akiva Eldar "People and Politics: Sharon's Bantustans are far from Copenhagen's Hope" *Haaretz*, May 13, 2000.

6. Rema Hamammi and Salim Tamari, "The Second Intifada: an End or a Beginning?", *Journal of Palestine Studies*, Vol. 30, No. 2, Winter 2003, pp. 2-35.

7. Robert Stevens, "Israel and South Africa: A Comparative Study in Racism and Settler Colonialism" in Abdel-Wahab Kayyali, *Zionism, Imperialism and Racism* (London: Croon Helm, 1979); Daniel Lieberfeld, *Talking with the Enemy: Negotiation and Threat Perception in South Africa and Israel/Palestine* (Westport: Praeger, 1999), Ran Greenstein, *Genealogies of Conflict: Class Identity and State in Palestine/Israel and South Africa* (Hanover: New England University Press, 1995), Uri Davis, *Israel: An Apartheid State* (London: Zed Books Ltd, 1987) and Davis, *Apartheid Israel: Possibilities for the Struggle Within*.

time have been unable to gain access to it, nor capable of evolving into a sovereign independent entity. Whether by default or design, the Israeli response to the Al-Aqsa Intifada and the Road Map have simply consolidated this process.

THE ISRAELI-PALESTINIAN CONFLICT IN APARTHEID SOUTH AFRICA

A number of factors have made the comparison between apartheid South Africa and Israel/Palestine attractive, if not always easy. The first, and perhaps the most important, is the historical colonialist foundation of each of these two conflicts. As in South Africa, the settlers expelled the indigenous population, took possession of their properties and legally discriminated against those who remained within what became settlers' confines.[8]

However, Israel's colonialist foundation does not automatically make it an apartheid state. As Gershon Shafir, one of Israel's leading new sociologists, puts it, "if there is a potential similarity in present-day Israel to South Africa, its roots must be found in the inability of these, and similar societies to come to terms with the legacy of their histories of colonization."[9] He argues that the fundamental differences between the two cases lie in the *different historical and economic paths* that each of the dominant settler movements took. The Israeli labor movement, which has been the historical backbone of the Zionist project of State formation in Palestine, "condoned a course that potentially diverted it from the South African path: it sought a bifurcated model of economic development leading to territorial partition."[10]

In other words, the Zionist movement and White South African government dealt differently with the economic reality they encountered. In Israel/Palestine, the Zionist labor movement sought to prevent a structural dependence on the Palestinian economy, particularly labor. Before 1948, Palestinian labor did not represent more than a third of total workers employed in the Jewish sector, mainly in agriculture and transportation.[11] Between 1948 and 1967, the remaining Palestinian Arabs, did not represent more than 20% of the total population living in Israel, and less than 15% of its labor force.[12] By contrast, Black natives in South Africa represented over 65-75%

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8. Although official Israeli scholars were often reluctant to admit the colonial basis of the Israeli Zionist project in Palestine, arguing that the Zionist endeavor did not seek to dominate the Palestinians but rather to ingather the Jews escaping persecution, the new Israeli historians and sociologists showed the contrary. The work of Ilan Pappe and Gershon Shafir, among others, has been particularly important in demonstrating that the non-colonialist motivations of Jewish immigration to Palestine does not free Zionism from its colonial essence, as exemplified in its aim to establish an exclusive Jewish State in a land already inhabited by others (see llan Pappe, *The Making of the Arab-Israeli Conflict, 1947-1951* (London: I.B. Tauris, 1992), Gershon Shafir, *Land, Labour and the Origins of the Israeli-Palestinian Conflict 1883-1914* (Cambridge: Cambridge University Press, 1989) and Gershon Shafir "Zionism and Colonialism: A Comparative Approach" in Ilan Pappe (ed), *The Israel/Palestine Question* (London: Routledge, 1999).

9. Gershon Shafir, *Land, Labour and the Origins of the Israeli-Palestinian Conflict,* p. xiii.

10. Shafir, *Land, Labour and the Origins of the Israeli-Palestinian Conflict*, p.xiii.

11. Baruch Kimmerling, *Zionism and Economy* (Cambridge MA: Schenkmen, 1983) p. 51.

12. Israeli Central Bureau of Statistics (1994), *Statistical Abstract of Israel*, Table 16.15.

of the total South African labor force between 1913 and 1994.[13]

The Zionist and South African colonialist projects also dealt differently with the demographic reality they faced. The idea of transfer was fundamental to the Zionist movement, which wanted the land without the people, and sought to negate the very notion of a native non-Jewish population living in Palestine.[14] Between 1947 and 1948, it destroyed over 450 Arab villages, expelled two thirds of the native Palestinians from their land, and put the remaining 200,000 Palestinians under military rule. Although Israel granted those "Israeli Palestinians" citizenship and freedom of movement after 1966, it continued to discriminate against them politically and economically. Palestinians in Israel never became a political force or demographic threat to the Israeli State or to its Jewish identity. In South Africa, by contrast, the indigenous population remained the overwhelming majority. The white South African government expropriated the land of the native blacks but it sought above all to dominate them economically and politically in a polity under exclusive white control. In 1948, the white South African State imposed the apartheid policy, which institutionalized legal, economic and residential discrimination against the natives. This policy did not intend so much to negate the indigenous population but rather to facilitate their transformation into supplier of cheap labor for the white areas.

The Bantustans

The concept of territorial separation is key to understanding the similarities and differences between apartheid South Africa and the Israeli-Palestinian conflict. Fundamental to the edifice of apartheid was the idea of separating the natives from the white areas territorially, while incorporating them economically. Already in 1913, the indigenous black population was allowed to reside in only 13% of the land, in reserves demarcated by the colonial government. They were deprived of their freedom of movement and could only circulate out of the reserves if they carried passes issued by the white authority. Between 1951 and 1970, four major acts were enacted by the white South African parliament, which transformed these reserves into ten Bantustans, or homelands.[15] These Acts addressed the question of Black Africans' right to self-determination and political representation in a way that excluded them from the national democratic process which the whites wanted under their exclusive control. The *1959 Promotion of Bantu-Self Government Act* stated as its goal to "give the Bantu people of South Africa a categorical assurance that the South African government has irrevocably set a course on a road that would lead the homelands to mean-

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13. Guy Standing, John Sender and John Weeks, *Restructuring the Labor Market: The South African Challenge* (Geneva: International Labor Organisation, 1996) pp. 10-15.

14. See Nur Masalha, *Expulsion of the Palestinians: the Concept of "Transfer" in Zionist Political Thought, 1882-1984*, (Washington, DC: Institute of Palestine Studies, 1991), pp.1-5.

15. These are the Bantu Authorities Act 1951, the Promotion of Bantu Self-Government Act 1959, and the Bantu Homeland Citizenship Act 1970 which was amended in 1974.

ingful self-government."[16]

The Bantustans were, thus, intended to prepare the natives for political independence from white South Africa, while preventing them from competing economically with it. The natives were given "self-government" rights and responsibilities, were allowed to define their own economic policies, and to run their civilian and functional affairs. They were also set on a "separate development" path that aimed at encouraging local investment and employment creation, in an attempt to reduce black poverty and prevent it from spilling into white areas. The Bantustans received subsidies from the white government, were allowed to levy taxes and attract numerous investment corporations, and were encouraged to develop industrial projects, particularly in border areas with white areas. However, the Bantustans failed to grow economically, or to reduce their dependency on the white economy.[17] The majority of native workers continued to be employed in white areas due to the lack of sustainable jobs at home. Their movement continued to be monitored by the pass law system.

Meanwhile, the Bantustans failed to become sovereign political entities. By 1960 the natives were disenfranchised from indirect voting rights in the State of South Africa but were not given full sovereign political rights in their Bantustans.[18] The source of authority and scope of jurisdiction of the Bantustans' parliaments did not emanate solely from the indigenous population. Rather, it depended on decrees and acts issued by the white political establishment, be it the South African government or parliament. Moreover, the Bantustans governments had to coordinate with the apartheid government on security matters and did not have direct independent relations to foreign countries. The residents of the Bantustans continued to have their mobility, place of work and residence controlled by the white South African pass law system. In 1974 a Bantustans citizenship was created and by 1976 four out of ten Bantustans were proclaimed independent by White South African government.[19] The international community, however, never recognized the South African Bantustans as sovereign entities.

Separation versus Integration

The question of territorial separation was more complex in the context of the Palestinian-Israeli conflict. Ideologically, Zionism sought the land without the people while South African apartheid sought the land with the people. However, the 1967 war altered the demographic reality of the Israeli/Palestinian conflict. In contrast to the situation in the 1948 war, the majority of Palestinian inhabitants of the West Bank

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16. Quoted in Barbara Rogers, *Divide and Rule: South Africa's Bantustans* (London: International Defence and Aid Fund, 1976), p. 21.

17. See Anthony Marx, *Making Race and Nation: A Comparison of South Africa, USA and Brazil* (Cambridge: Cambridge University Press, 1998) and Rogers, *Divide and Rule*, pp. 59-76.

18. In 1960, the government abolished all African voting rights of white representatives in the South African parliament (Rogers, *Divide and Rule*, p. 56).

19. These include the Transkei (1976), Bophuthatswana (1977), Venda (1979) and Ciskei (1981).

and Gaza Strip did not flee in 1967. While Israel continued to pursue a policy of transfer (albeit more of the voluntary type rather than of the forced one), the majority of the Palestinian population in the West Bank and Gaza Strip (WBGS) stayed. Nearly one million Palestinians remained in the Occupied Territories, representing a third of the total population living under Israel's control at the time. The Palestinian population continued to grow by more than 2.3% per annum ever since.[20] The way Israel dealt with the Palestinian demographic reality proved to be a key additional similarity between the Israeli-Palestinian conflict and Apartheid South Africa, despite the initial differences between the Zionist and the South African colonial trajectories.

Israel's response to the challenges posed by the 1967 war was to foster its claims over the occupied land, rather than facilitate its separation from it. Already in November 1967, UNSC resolution 242 declared Israel's acquisition of land by force illegal, called upon it to withdraw from the WBGS, and to settle the conflict on the basis of the land-for-peace formula. Yet, Israel's vision of a land-for-peace settlement, as proposed by the Allon Plan, envisaged Israeli retention of over 25-40% of the West Bank, and all of the Gaza Strip. This included the Jerusalem enclave, the Jordan Valley rift and the Latrun Salient.[21] Central to Israel's plan to assert control over the land was the construction of settlements. Between 1970 and 1993, Israel built over 145 settlements and moved 196,000 settlers, half of which lived in the 11 settlements around East-Jerusalem.[22] The settlements' exponential growth with the arrival of Likud to power in 1977 laid the foundations for the structural territorial fragmentation of the WBGS. In contrast to the situation in South Africa where the whites sought to dominate the natives by segregating them territorially, Israel sought to stifle and undo, rather than avoid, the Palestinian demographic presence in the WBGS by building Jewish settlements around, and between, Palestinian areas.

The implication of Israeli policies was to lay the foundation for an apartheid system, by default if not by design. This is largely because Israel pursued an elaborate policy of territorial integration combined with societal separation in the West Bank and Gaza Strip. On the one hand, the Israeli military government in the WBGS expropriated and enclosed militarily around 36-39% of the land[23] and allowed the transfer of Israeli settlers to the Occupied Territories, notwithstanding the illegality of such

20. See Leila Farsakh, *Palestinian Employment in Israel, 1967-1997: A Review* (Ramallah: MAS Publications, November 1998), p. 45.

21. Israel had a different interpretation of UNSC resolution 242, as it maintained that its occupation of the West Bank and Gaza Strip was *sui generis*, resulting from a defensive, rather than an offensive, war and that the withdrawal was intended from some, and not all, the territories occupied in that war. Moreover, Israel argued that the land occupied was not "the territory of a high Contracting Party", and thus it was not obliged to comply with the 4th Geneva convention (Israel though undertook to apply the humanitarian provisions of the Geneva Convention.) Israel's interpretation, however, has been contested by various international organisations as well as Israeli legal experts (Betselem, *Land Grab: Israel's Settlement Policy in the West Bank* (Betselem: Tel Aviv, 2002).

22. Foundation for Middle East Peace (FMEP) *Report on Israeli Settlements in the Occupied Territories*, Vol. 11/6, 2001, Table 1.

23. Farsakh, *Palestinian Labour Migration to Israel,* p. 110.

transfer according to the Fourth Geneva Convention. [24] These settlers continued to be governed by Israeli laws. On the other hand, the military government in the WBGS enacted different sets of military laws and decrees that regulated the civilian, economic, and legal affairs of the Palestinian inhabitants. These decrees strangled the Palestinian economy while fostering its dependence and integration into Israel. Between 1967 and 1990, borders between Israel and the Occupied Territories were kept open. Palestinian workers employed in Israel represented over a third of the Palestinian labor force and generated over a quarter of the territories' Gross Domestic Product (GDP). Israel was also the market for 90% of Palestinian imports and 70% of its exports between 1975 and 1990. After 1990, Israel started to restrict labor and population movement by introducing the closure and permit policies without giving the Palestinians the scope for economic independence.

This system of territorial integration combined with societal separation makes Israeli policies analogous to a form of apartheid, at least according to a number of scholars and activists.[25] However, the applicability of the South African apartheid model to Israeli-Palestinian relations remains problematic on three main levels. First is the geographic delineation of "Israeli apartheid." While Davis considers Israel in its essence an apartheid state, due to its nature as a Jewish state and its policies of legal discrimination against the Palestinians in Israel, M. Bishara and Carey use the term to describe Israeli policies towards the Palestinians in the WBGS during the Oslo years.[26] The problem, however, is that Palestinians living beyond the Green Line are Israeli citizens, while Palestinians of the WBGS are not. The former are not confined to specific geographic areas out of which they cannot move, nor are they excluded from the Israeli political process, even if they are discriminated against. The latter are an occupied population awaiting a political solution.

The second point of contention in the apartheid comparison lies in the role of territorial partition as a solution to the ongoing conflict. In South Africa, the white Afrikaners' created the Bantustans to exclude the natives from the white political process, arguing that the natives belonged to different tribes and "nationalities" that warranted territorial separation. However, the African National Congress (ANC), which became the main political voice of the natives, refused the Afrikaners' separatist position and called for the end of apartheid and the creation of a democratic South Africa for all of its citizens. In the Israeli-Palestinian conflict, the situation was inversely

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24. Israel does not consider its settlements illegal or prohibited by article 49 of the Fourth Geneva Convention. The Israeli official position maintains that settlements "are not intended to displace Arab inhabitants, nor do they do so in practice". It further argues that the transfer of population is voluntary rather than forced, as it involves individuals returning "to towns and villages from which they or their ancestors had been ousted" (Israel Ministry of Foreign Affairs, *Israeli Settlements and International Law*, May 2001, www.israel-mfa.gov.il).

25. See Carey, *The New Intifada*; Mark Marshal, "Rethinking the Palestine Question: The Apartheid Paradigm," *Journal of Palestine Studies*, Vol. 25, No. 1, 1998, pp. 15-22; Law at www.lawsociety.org/apartheid/palngo.html.

26. Davis *Apartheid Israel,* pp.60-73, and Marwan Bishara *Israel/Palestine: Peace or Apartheid* (London: Zed Books, 2001), pp.1-5.

analogous. From a historical point of view, the Zionist movement officially accepted the idea of partition of Palestine as a solution to the Arab-Israeli conflict in 1947, but pursued a policy of ethnic cleansing. After the occupation of the West Bank and Gaza Strip in 1967, the Israeli government envisaged a territorial solution with the Arab countries, not with the Palestinians from whom it took the land.[27] Israeli governments, up until Oslo, refused the idea of a territorially distinct independent political entity for the Palestinians in the Occupied Territories. They did not officially acknowledge the existence of a "Palestinian" question. They considered those living in the West Bank and Gaza Strip merely as "Arabs" whose political destiny would have to be resolved with, and via, Jordan.

The Palestinian national movement's initial position towards the resolution of the conflict also started off by negating the existence of Israel. However, it evolved towards accepting its *de facto* political existence. The Palestinian Liberation Organization (PLO), created in 1964, had originally adopted the idea of a secular democratic state including Jews, Christians and Muslims as the solution to the conflict. However, by 1974 it called for the creation of a Palestinian state on any piece of liberated land. In other words, it implicitly accepted the partition of historic Palestine as the solution to the fulfillment of Palestinian rights to self-determination. It confirmed this position in 1988 with its acceptance of UNSC resolution 242, which provided a *de facto* recognition of Israel. In this respect, the PLO diverged from the position taken by the ANC in its struggle for self-determination. Although it took another 19 years, with the Oslo process, for Israel to recognize the PLO as the party to negotiate with in order to resolve the Israeli-Palestinian conflict, Israel ended up accepting the idea of partitioning the land with the Palestinians. In the words of the late Israeli Prime Minister, Yitzhak Rabin, Israelis and Palestinians "are destined to live together on the same soil in the same land."[28] The aim of Oslo was to define the boundaries and political content of a separate Palestinian entity.

The third element of difference between the Israeli-Palestinian conflict and South African apartheid lies in the position that the international community took towards the resolution of each of these conflicts. In the case of South Africa, the international community never accepted the apartheid system, or the idea of creating separate nationhood for the natives, the Bantustans. In 1976, when the South African government tried to get the Transkei, one of the ten Bantustans, admitted into the United Nations as an independent state, the UN refused.[29] With regards to the Israeli-Pales-

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27. During the first months of the occupation, though, some key members of the Israeli cabinet tossed with the idea of creating a Palestinian State in the West Bank (without Gaza), but one that would be enclaved within Israel and under its control. By the end of 1967 this idea was abandoned and Israel opted for what became known as the Jordanian option. (For further details see Reuven Pedatzur, "Coming Back full Circle: The Palestinian Option in 1967," *Middle East Journal*, Vol. 49, No.2 , Spring 1995, pp. 268-291).

28. In "Statements by Leaders at the Signing of the Middle East Pact," *New York Times*, September 14,1993.

29. Allen Kerby, *South Africa's Bantustans: What Independence for the Transkei*, (Geneva: World Council of Churches, 1987), p.10.

tinian conflict, by contrast, the UN endorsed the concept of separate nation-states as the model for conflict resolution in the area. The UN General Assembly (UNGA) resolution 181 in 1947 installed the principle of partition and UN Security Council (UNSC) resolution 242 called on Israel to retreat from areas it occupied during the 1967 war. While there was no mention of Palestinian national rights in it nor any specifications of the boundaries of the land that Israel occupied, UNSC resolution 242 affirmed that the only way to peace in the Middle East is through returning land in exchange for peace and in recognizing all states in the region. The Oslo process was based on UNSC resolution 242.

THE "ROAD MAP" TO "BANTUSTANIZATION" IN THE WBGS

Despite the important differences between the Israeli-Palestinian conflict and the South African Apartheid experience, the Oslo process has paradoxically brought them closer together. This has been made possible through the way the Oslo accords bridged the gap in the legal, territorial, and international dimensions that distinguished the Palestinian-Israeli conflict from apartheid South Africa. By institutionalizing the contradictory processes of societal separation and territorial integration that Israel created between 1967 and 1993, the Oslo process has actually paved the way for the "Bantustanization" of the WBGS. As explained earlier, the essence of the Bantustans has been to create territorially demarcated and politically autonomous areas for the indigenous population while controlling their mobility through a complex system of pass permits and security control. The "Bantustanization" of the WBGS has been the outcome of the way the Oslo process dealt with the question of transfer of authority from Israel to the Palestinians, the issue of territorial control - in which settlements play a key role, and the question of population and labor movements.

Transfer of Authority

The Oslo accords give the Palestinians political autonomy, as manifested in the establishment of an elected Palestinian authority, the devolution of Israeli rule over Palestinian civilian affairs, and the establishment of Palestinian security forces. However, it does not guarantee the creation of an independent sovereign Palestinian state. Its legal structure puts the Palestinian entity in a similar position to South African Bantustans under the apartheid regime, in three main ways.

First, Oslo failed to guarantee the end of Israel's occupation and its withdrawal from the WBGS. As in South African Bantustans, Oslo did not make the native electorate the *only* source of authority for the Palestinian entity. Although the Oslo agreements called for the establishment of a Palestinian National Council and Presidency, elected democratically by the Palestinian people, the jurisdiction of these elected institutions did not stem only from the national electorate. Rather it remained dependent on the Israeli military authority in the WBGS, together with the Israeli Civil Administration, which were not dismantled. The military government delegated to the newly elected Palestinian Council the jurisdiction that the latter was supposed to

have.[30] These included a series of territorial, civilian and legal jurisdictions, which were defined by Israel. The elected Palestinian Council and the Palestinian National Authority (PNA) were given mainly civilian, or functional, jurisdiction over 93% of the Palestinian population living in the WBGS. They were not given full territorial jurisdiction, nor bestowed with any sovereign identity, a fact facilitated by the exclusion of the issues of borders, Israeli settlements, Jerusalem and sovereignty from the prerogatives of the Oslo agreement.[31]

Second, Oslo did not affirm the superiority of international law over Israeli law that has been governing the occupied Palestinian territories since 1967. There was no mention of UN General Assembly Resolution (UNGAR) 181 which provides the international legitimacy for an Arab state in historic Palestine, of the Geneva Convention, or of the other UN resolutions affirming Palestinian rights to self-determination.[32] UNSC resolutions 242 and 336 were the only UN resolutions referred to in the accords, but these have been typically silent with regards to Palestinian rights to statehood, or to the size and boundaries of the Occupied Territories. They refer to the Palestinians as refugees needing a humanitarian solution. Their silence with regards to Palestinian national rights has made it easy for Israel to impose its own interpretation of these rights, especially as there was no role for the international community to supervise or monitor the process.

Third, the Oslo agreements focused on establishing an infrastructure of close cooperation between the Israeli and Palestinian parties for the transfer of civilian and security responsibilities, as was the case with the transfer of authority from the white South African government to the Bantustans. While the Palestinians were given the upper hand in running their civilian and security affairs in areas under their control, they still had to coordinate with the Israeli authorities via the Joint Israeli-Palestinian committees. These committees were created in every field, from water to economic affairs and health, but most importantly in security matters. One of the first things that the Oslo I and the Interim Agreement called for was the establishment of a Palestinian police force to ensure public order that would cooperate closely with the Israeli side on security issues.[33] However, Israel continued to have the upper hand in security matters. This type of security cooperation was also called for in South Africa's Bantustans.

"Bantustanization" of Palestinian Land

Territorially, the Oslo Agreements facilitated the "Bantustanization" of WBGS by the way it institutionalized the fragmentation of the area and consolidated Israel's

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30. See Articles 1.1, 15.4 of Chapter 1 of the *Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip*, 28th September 1995, (Oslo-II).

31. See article V of the *Israeli-Palestinian Declaration of Principles on Interim Self-Government Authority* (DOP or Oslo I), Washington, September 13, 1993.

32. See http://domino.un.org/unispal.nsf.

33. Article VII in DOP and Article XIII in Chapter 2, Oslo II.

claim to it. Although Oslo promised to maintain the territorial integrity of the WBGS (DOP article VI), it did not specify how this integrity could be maintained. As is well known, the Oslo accords divided the WBGS into three zones, A, B and C. Although in principle the Palestinian National Authority (PNA) was supposed to control most of the WBGS by 1996, the reality was that it had only territorial and civilian jurisdiction over less than 19% of the West Bank by July 2000 (area A). Political opposition to Oslo, as manifested by the phenomena of suicide bombers, the killing of Rabin, and the election of Netanyahu, can be argued to have been some of the reasons behind the failure to ensure adequately Israeli redeployment. However, the fact remains that Palestinian jurisdiction remained fragmented and excluded from 59% of the West Bank (excluding East Jerusalem) and 30% of the Gaza Strip (area C).

The fragmentation of the WBGS has been consolidated by the presence of Israeli settlements, a phenomenon that was not central to the South African apartheid system, but fundamental to the process of Palestinian "Bantustanization." Area C, which contained the bulk of settlements and remained under Israeli control, divided the West Bank into three major parts. These were further cut into smaller population reserves as a result of the bypass road system and the four major settlement blocs. The center of the West Bank was cut from the South through the Jerusalem Metropolitan settlement bloc and the Etzion bloc along the Green Line, while the Shomron settlements bloc split the North from the center. Three smaller settlement blocs, which accommodated less than 7,500 settlers by 2004, cut the Gaza Strip. The Oslo accords did not reverse this fragmentation but rather institutionalized it. They explicitly recognize sole Israeli jurisdiction over Israeli settlements and settlers, both from a territorial as well as from a functional point of view.[34] Furthermore, Oslo did not ensure that settlements would not expand in the interim period. Between 1993 and 2000 over 72 settlement outposts were built and the settlers' population (including in East Jerusalem) increased by two thirds, reaching a total of 375,000 (or 409,000 in 2004).[35] Israel built over 250 miles of bypass roads and an average of 2,500 new houses per year in the settlements over the same period.[36] This expansion shattered the Palestinian territorial contiguity in the WBGS.

The "Bantustanization" of WBGS land was also consolidated by the way that the Oslo agreement legitimized Israel's claim over WBGS land. Article XI.c of the Oslo II states that only Israel territorially controls area C. Article 16.3 of Protocol III clearly states, "The Palestinian Council shall respect the legal rights of Israelis (including corporations owned by Israelis) relating to Government and absentee land located in areas under the territorial jurisdiction of the Council." Articles 12, 22 and 27 from Protocol III confirm this right with regard to all other lands (including bypass roads). In other words, the Palestinian Authority accepted Israel's claim over

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34. Articles IA, XVII, XVIII, in Protocol IV of Oslo II.

35. FMEP, *Report on Israeli Settlements in the Occupied Territories*, ˉVol. 11/6, 2001, Vol. 12/1, 2002 and 13/6, 2003.

36. Israeli Central Bureau of Statistics, *Statistical Abstract of Israel*, 1995, 1998, 2002, Tables 2.7, 22.5, 22.12.

Palestinian land, even over those that lie in Areas A.

Last, but not least, the Oslo process sets the stage for separating the West Bank from the Gaza Strip and for treating territorial claims in each differently. The Oslo Accords talks about Israeli *withdrawal* from the Gaza Strip and Jericho but only about *redeployment* from the rest of the West Bank.[37] The difference in terms is important since withdrawal implies an end of the occupation while redeployment entitles Israel to reinstall itself in any area whenever it deems it necessary. Since 1990, Israel has demarcated borders with the Gaza Strip more clearly than with the West Bank,[38] facilitating the transformation of the former into a *de facto* demarcated Bantustan. Israel's disengagement plan in 2004 has simply confirmed this transformation.

The "Bantustanization" of People's Movement

The "Bantustanization" of the WBGS is intrinsically bound to the way the Oslo process institutionalized Israel's control of Palestinian population movement. Palestinian labor continued to need the Israeli economy but found it became increasingly difficult to access it as a result of the permit and closure policy.[39] Between 1993 and 2000, Israel imposed over 484 days of closure, that locked the Palestinians in over 63 enclaves and stalled any attempt to grow domestically or rely on non-Israeli markets to absorb its growing labor force. In 1996, and again after October 2000, when Israel imposed over 100 days of closure per year, unemployment in the WBGS soared to over 35%.[40] Poverty touched one third of the Gaza Strip and 15% of the West Bank before the al-Aqsa Intifada.[41] Since October 2000, over 770 checkpoints have been placed in the WBGS and poverty touched over 60% of the population.[42]

The Oslo process institutionalized the closure and permits system as the regulatory mechanism for controlling Palestinian population movement. Article IX of the Protocol of Redeployment and Security Arrangements (PRS) in Oslo II clearly stated that Israel alone has the right to close its crossing points, prohibit or limit the entry of persons into its areas, and determine the mode of entry of people into its areas (including areas C). With regards to the permits system, Oslo made it more analogous to

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37. See Article II in Gaza-Jericho autonomy agreement (Cairo Agreement, 4 May 1994), and Article X, Chapter 2 Oslo II.

38. By establishing the Eretz checkpoint in Gaza and controlling all border crossing.

39. Work in the Israeli economy was key to keeping unemployment rates at less than 7% in the WBGS between 1970 and 1993, and for sustaining a labor force growing at more than 4% per annum. See Leila Farsakh, "Palestinian Labor Flows to Israel: A Finished Story?" *Journal of Palestine Studies*, Vol. 32, No.1, Autumn, 2002, pp.13-27.

40. UNSCO, *The Impact on the Palestinian Economy of the Recent Confrontations, Mobility Restriction and Border Closures,* (Jerusalem: UNSCO, 2002), pp. 3-15.

41. World Bank, *Poverty in the West Bank and Gaza Strip*, (Washington D.C: World Bank, 2001), p. 15.

42. See World Bank, *Twenty-Seven Months Intifada, Closure and Palestinian Economic Crisis: An Assessment*, (Washington, DC: World Bank, July 2003) p. xi.

the South African pass law system, even if its origins were different. While in apartheid South Africa the pass system was central to ensure the control and supply of cheap labor to the South African economy, in Israel/Palestine it was introduced primarily for security reasons. The Protocol on Civil Affairs specifies that permits are the only document allowing Palestinians to enter any Israeli defined areas (article 11.2). These include permits for businessmen and workers, employed in the settlements as well as in Israel. Negotiated and implemented by security officials, rather than politicians or economists, the Protocol on Civil Affairs made people's movement determined not by the economic interests of both sides, but rather by what the military establishment in Israel defines as "security" (article 11). The articulation of the permit system with the pattern of Israel's territorial control and Palestinian demographic expansion inevitably transformed the WBGS into *de facto* fragmented unsustainable population "reserves."

AL-AQSA INTIFADA, THE SEPERATION WALL AND THE PALESTINIAN STATE

The Camp David summit in July 2000 did not guarantee an end to the process of Bantustanization. Israel's offer to establish a sovereign Palestinian State encompassing the Gaza Strip, 91% of the West Bank and some parts of East Jerusalem, rather confirmed the fragmentation of Palestinian land. The 9% area that Israel planned to annex would have cut the West Bank into 3 non-contiguous areas. The areas to be annexed included the Jerusalem settlements bloc, which severs the South of the West Bank from its Center, and the Ariel settlement bloc, which *de facto* separates the North from the Ramallah area.[43] Moreover, Israel did not guarantee free and clear passage between the Gaza Strip and the West Bank, and kept the Jordan valley under its military control. It also maintained that border controls would be subject to Israeli-Palestinian security co-ordinations. The summit failed as Palestinians rejected Israel's offer.[44] Two months later the Al-Aqsa Intifada erupted, expressing a Palestinian popular rejection of the Camp David summit as much as of the Oslo Process itself.

Israel's response to the al-Aqsa Intifada was to develop further the permit system and fragment the WBGS territorially. In April 2002 Israel declared that the WBGS would be cut into 8 main areas out of which Palestinians could not exit without holding a permit.[45] Meanwhile, settlement expansion went on as 62 new settlement

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43. See projection of the Final Status Map presented by the Israelis at Camp David at http://www.fmep.org/maps/2001/jaasherc2palstate.jpg.

44. Israeli and US media and policy circles have put most of the blame for the failure of the summit on 'Arafat. This view however has been contested by Robert Malley and Hussein Agha, "Camp David: Tragedy of Errors, *New York Review of Books*, August 9, 2001, p.62-66. See also Jeremy Pressman, "Visions in Collision: What happened at Camp David and Taba?" *International Security*, Vol. 28, No. 2, Fall 2003, pp. 5-43.

45. See ARIJ, *The Israeli Security Zone make up 45.25% of the West Bank, Including 158 Israeli Colonies*, 2002, in www.poica.org/casestudies/security-zones.

outposts were constructed between February 2001 and January 2004.[46] Moreover, Israel started in June 2002 to build a separation wall between it and the West Bank, but one which was not along the Green line. By July 2004, 145km of the barrier, of which 22km is an 8-meter wall, had been constructed, trapping 16 Palestinian villages and displacing over 12,000 Palestinians.[47] The latest projections indicate that upon completion, the Wall is expected to be at least 622 km long, 15% of which will be along the Green Line. It would trap 93,000 Palestinians (63 communities) between it and the Green Line. It would establish an Israeli unilaterally defined border that violates the 1967 boundaries, and leaves the Palestinians with control over less than 53% of the West Bank.[48] Although the International Court of Justice and the Israeli Supreme Court ruled against the route of the wall, its construction has not stopped.[49]

The Bush Administration and the international community criticized the wall[50] and called for the application of the Road Map. Yet, the Road Map has not done much to reverse the realities established on the ground. While important in its endorsement of an independent Palestinian State as the solution to the Israeli-Palestinian conflict, the Road Map remains vague with regards to five issues that are central to the establishment of a viable Palestinian sovereignty. In the three phases that it set out for reaching a final status settlement, the Road Map insists on positive performance with regard to the question of security cooperation and Palestinian institution building, thereby affirming Israel's right to intervene in Palestinian affairs. On the question of settlements, it only states that those built after March 2001 are to be dismantled. Israel is asked to consider the question of territorial contiguity of the Palestinian state, without specifying how this contiguity could be maintained without dismantling settlements. With regards to Jerusalem, the Road Map calls for a negotiated solution, but not one based on the fact that East Jerusalem is occupied and Israel must retreat from it. Concerning the refugees, it calls for "an agreed, just, fair and realistic solution"

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46. FMEP, *Report on Israeli Settlements in the Occupied Territories,* at www.fmep.org (December 10, 2004).

47. See www.stopthewall.org.

48. See United Nations Office for Coordination of Humanitarian Affairs (OCHA), *The Humanitarian Impact of the West Bank Barrier on Palestinian Communities*, UN, September 2004, p. 5.

49. The International Court of Justice has ruled that the "construction of the wall being built by Israel, the occupying Power, in the Occupied Palestinian Territory, including in and around East Jerusalem, and its associated regime, are contrary to international law." The Court "considers that the construction of the wall and its associated regime create a "fait accompli" on the ground that could well become permanent, in which case, and notwithstanding the formal characterisation of the wall by Israel, it would be tantamount to *de facto* annexation" (ICJ, *Legal Consequence of the Construction of a Wall in the Occupied Palestinian Territories*, 9 July 2004, Para. 163(3)A, 121). The Israeli Supreme Court ruled against the route of the separation fence because the humanitarian damage inflicted by it was disproportionate to the security it was supposed to provide. It calls on the Israeli government to find alternative less damaging routes but does not specify that the Wall is to be built on the 1967 borders. (HCJ*, Beit Sourik Village Council v. The Government of Israel*, HCJ 2056/04, June 30, 2004, para.36.)

50. See, George Bush statement, July 26, 2003 considering the security fence as a problem, at http://news.bbc.co.uk/1/hi/world/middle_east/3096609.stm and see EU position in "EU's Solana criticises Israel for "bizarre" Arafat policy" at www.eubusiness.com/afp/ 031111123326.e93fq9ps.

without any reference to international law. When it comes to borders, the Road Map maintains that these will be provisional. They would be determined through negotiations between the parties under the auspice of an international conference to be launched in 2005, not according to the 1967 armistice lines.

It is true to say though that the Road Map introduces a new precedent. In contrast to Oslo, it specifies the aim of the negotiations, namely the establishment of the Palestinian State. It also called for a greater role for the international community, namely the Quartet (USA, Russia, EU, and UN) which is asked to monitor the implementation of the agreement and cooperation between the two sides. However, the quartet is not given the power to impose its arbitration and monitoring. If anything, the Road Map actually provides an international endorsement of the "Bantustanization" of the WBGS, since the international community accepted the establishment of a Palestinian state with provisional borders while settlements were not dismantled and the borders continued to be redefined by Israel.

The US administration and the Israeli government have moved even further away from the vague promises of the Road Map, at a time when civil society was calling for a more viable Palestinian State. The Geneva initiative in November 2003, launched by figures such as Yossi Beilin on the Israeli left and by Palestinians, such as Yasser 'Abed Rabbo, proposed land swaps, a demilitarized Palestinian state on 98% of the West Bank and Gaza strip, with clearly defined borders, and with East Jerusalem as its capital.[51] Yet, neither the Israeli government, nor the US administration accepted it as an alternative to the Road Map. In June 2004, the Sharon government rather adopted a unilateral disengagement plan from Gaza and from certain military installations and settlements in the West Bank. Although the Bush and Sharon administrations portray the plan as a vehicle for implementing the Road Map, it actually brings the American administration in line with Israel's interpretation of the Road Map. Bush's letter endorsing Sharon's disengagement plan accepts Israeli demands that no negotiations take place before there is a new and different Palestinian leadership that renounces the right of return, dismantles "terrorist" organizations and collaborates on security matters. Moreover, the US officially accepts Israel's position on the final status issues such as Jerusalem, borders, settlements and refugees, thereby setting a new precedent and dropping all US pretenses as an impartial mediator between Israel and the Palestinians.[52]

The disengagement plan confirms the Bantustanization of Gaza and of the eventual Palestinian state, and provides a *de facto* American endorsement of this process.

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51. It also proposes to incorporate the majority of settlers into Israel, but would provide the Palestinian State with territorial contiguity. It offers a solution to the refugee problems and Palestinian right of return based on UNGA resolution 181, but without putting in jeopardy the Jewish identity of the Israeli state, which the Palestinian state promises to respect. Moreover, the Geneva Initiative provides a role for the international community, both as a monitoring force for the implementation of the agreements, as well as a multinational force that would supervise the borders of the Palestinian State.

52. See US President George W. Bush's letter to Israeli Prime Minister Ariel Sharon on the Disengagement Plan, Washington 14 June 2004, in Special Document, *Journal of Palestine Studies*, Vol. 132, No. 2, Summer 2004, pp. 88-90.

While promising the evacuation of all the Gaza Strip settlements and the redeployment of Israeli troops, it keeps Israel in control of land borders, airspace and sea off Gaza. Moreover, it gives Israel the right to intervene inside the Gaza strip to respond to and preempt "threats" inside Gaza. While the Plan maintains that upon its implementation "there will be no basis for the claim that the Gaza Strip is occupied territory," Palestinian political independence remains tied to the scope of Israel's military, civilian, and legal disengagement.

CONCLUSION

By drawing on the South African apartheid example it has been possible to elucidate how the project of Palestinian statehood has been trivialized over the past ten years. The legal, territorial, and economic developments launched by Oslo have not brought the Palestinians closer to their independent viable state. Rather, they have made the Occupied Territories more analogous to the Bantustans of South Africa's apartheid. The Israeli permit or pass system, the territorial fragmentation of the WBGS under the Oslo accords, and the expansion of settlements all contributed to the creation of disconnected Palestinian population reserves that have the characteristics of Bantustans rather than of cantons. The Intifada and the Road Map have consolidated rather than reversed this reality.

It is important to stress, though, that the South African apartheid experience and the Israeli-Palestinian conflict do not have the same historical origin nor were destined to have the same course, even if they converged at particular points of their respective histories. The present US and Israeli administrations seem, at best, ambivalent to the content of the Palestinian state. Yet a Bantustan Palestine is unlikely to provide Israel with the security it so much desires, for it will be unstable and would fall short of Palestinians' minimum aspirations. If the prospect for a two states solution is buried by default, if not by design, the only prospects that remain are either a perpetual war or a bi-national state. The former is not a viable alternative, and the latter is a threat to the concept of ethnic nationalism and is far from being defined, let alone accepted. The departure of 'Arafat and the new Palestinian and Israeli elections provide a window of opportunity that needs to be capitalized upon. One can only hope that the new Bush Administration, as well as the international community, will push for the resumption of the negotiations that will lead to the establishment of a viable contiguous state in the Gaza Strip *and* the West Bank, before it is too late.