
Wye and the Road to War

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THE CLINTON administration has made a practice of quieting crises in faraway places by striking costly deals with international malefactors, buying the unsustainable from the unreliable. The dividend from these transactions—in Iraq, North Korea, the Balkans—has not been peace, security, or disarmament but, on occasion, signing ceremonies. Thus it was again this past October, in the negotiations that President Clinton personally superintended at Maryland's Wye Plantation between Israeli Prime Minister Benjamin Netanyahu and Yasir Arafat, chairman of the Palestinian Authority (PA).

The Wye talks responded to a crisis in the Oslo "process"—the diplomacy based on the 1993 peace accords signed by Arafat and Israel's then-prime minister, the late Yitzhak Rabin. The process itself was suffering the death of a thousand Palestinian violations. Wye revived it with a new agreement that has been hailed not only for breaking a stalemate but for carrying the parties toward genuine peace and brightening prospects for an end to the entire Arab-Israeli conflict.

To say the least, such hopes are unrealistic. The Wye deal imparts the appearance of vitality to Oslo as one might paint the cheeks of an expiring patient. In line with the entire series of Palestinian-Israeli

agreements of which it forms a part, it is likelier to produce war than peace and likelier to endanger than to promote U.S. interests in the region—in particular, the U.S. interest in a secure Israel.

THE LAST such agreement between the parties was concluded in January 1997, when the recently-elected Netanyahu, intent on giving the Oslo experiment at least one more chance for success, consented to withdraw Israeli forces from the West Bank city of Hebron. He did so without first requiring the PA to cure any of its outstanding violations of promises made in earlier agreements.

The Hebron accord displeased many of Netanyahu's backers in the Likud party. In Israel's 1996 election campaign, after all, Likud had charged incumbent Prime Minister Shimon Peres with conducting a one-sided peace process in which Israel never insisted successfully, or even sincerely, that the Palestinian side fulfill its obligations. After defeating Peres, Netanyahu had made "reciprocity" his government's byword. Now his core constituency threw back at him the very criticisms he had directed against Peres.

To distinguish his government's diplomacy from that of his predecessors, Netanyahu defended the Hebron deal by stressing, first, that *henceforth* "the fulfillment of the undertakings of one side would be dependent upon fulfillment by the other side," and, second, that Israel in its sole discretion would determine the extent of any further redeployments of

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forces. This, he reassured the Knesset, was “also the way in which the United States interprets the [Hebron] agreement.” In a “Note for the Record,” signed by the U.S. mediator Dennis Ross, there was a list of unfulfilled Palestinian pledges (to combat terrorism, confiscate illegal firearms, limit the number of Palestinian police, prevent hostile propaganda, and amend the PLO Charter), and there was an American promise that these “commitments will be dealt with immediately”; a letter from Secretary of State Warren Christopher likewise pledged an American effort to ensure “reciprocity.” Vowing that there would be no new agreements until the PA complied with the old ones, Netanyahu won approval of the Hebron accords from the Israeli parliament.

Israel withdrew from Hebron. The PA, however, did not remedy—indeed, has not yet remedied—any of the violations listed in the Note for the Record. Nor did the Clinton administration fulfill its promise to press the PA on compliance. Nor was Israel allowed to determine on its own the scope of further redeployments. To the contrary, the Clinton administration developed its own proposal, endorsed by the PA, for a withdrawal from an additional 13 percent of the West Bank and the Gaza Strip. Then the PA and the U.S. pressured Israel over many months to accept the American proposal. Eventually, they succeeded in getting Netanyahu to do what he had vowed not to do.

On this slag heap of multilateral promise-breaking, the Wye talks convened in October.

THE ESSENCE of the Wye River Memorandum, as the agreement is called, is a pledge from Israel to withdraw from more territory. In addition to laying out the terms for that withdrawal, a section entitled “Security” obliges the Palestinian side, “in conformity with prior agreements,” to take steps to combat terror, collect illegal weapons, provide Israel with a list of its policemen, amend the PLO Charter, and so forth. The Memorandum refers many matters to committees—charged, among other things, with overseeing the PA’s promises. On these committees the United States is to play a prominent role.

Netanyahu had agreed to the 13-percent withdrawal even before Wye began (on the condition that, in order to help contain the security risks for Israel, three of the thirteen percentage points would remain virgin territory as a “nature reserve”). So the main subject of negotiations was what the Palestinian side was offering. Consistent with his theme of reciprocity, Netanyahu wanted terms that would po-

sition him strongly to decline further moves in the Oslo process if the PA continued to fail to perform its duties. Arafat wanted the opposite—an agreement without clear commitments or enforcement mechanisms.

At Wye, administration officials continually told the press that they were in harmony with the Palestinians. What they focused on was protecting the Oslo process from present and future disputes over compliance. In practice, this meant not curing existing violations or preventing future ones but suppressing and precluding *complaints* about them. Although this may sound irrational, or just plain cynical, it follows logically from the belief that in the Oslo process lies the key to peace. For how better to preserve that process—i.e., sustain the negotiations, produce new agreements—than by making it difficult if not impossible for the Israeli side to prove the Palestinian side’s violations? And how accomplish *that* except by crafting an agreement that may appear sound but meticulously omits the kinds of terms that competent people routinely include in commercial contracts: verification of compliance, surety mechanisms to enforce obligations, and provisions for termination in case of material breach?

Such are the Wye accords—documents replete with undefined terms, unaddressed contingencies, unauthorized interpretations, loopholes, and lacunae (grammatical errors, too). To get a sense of them, one must read at least a few provisions in full. Here, for example, are the paragraphs providing for a nature reserve. My comments are in italics:

The Palestinian side has informed that it will allocate an area/areas amounting to 3 percent from the above Area (B) to be designated as Green Areas and/or Nature Reserves.

When must this allocation occur? What happens if it is later rescinded?

The Palestinian side has further informed that they will act according to the established scientific standards,

What standards? Who is authorized to alter them?

and that therefore there will be no changes in the status of these areas,

If the “scientific standards” are altered, can the PA claim the right to change the areas’ status?

without prejudice to the rights of the existing inhabitants in these areas, including Bedouins;

If the PA wants to build a road, for whatever

*purpose, what is to prevent it from saying the road is needed in order to avoid prejudicing the rights of the existing inhabitants, thus nullifying the entire paragraph? **

while these standards do not allow new construction in these areas, existing roads and buildings may be maintained.

Why not say simply that the Palestinian side shall, by a date certain, allocate the 3 percent permanently as a nature reserve and that, without advance approval of the two sides, no new construction shall take place there?

Now here in full is the section on illegal weapons, of which there are large quantities in the areas under PA control.

(a) The Palestinian side will ensure an effective legal framework is in place to criminalize, in conformity with the prior agreements, any importation, manufacturing or unlicensed sale, acquisition or possession of firearms, ammunition or weapons in areas under Palestinian jurisdiction.

What are the standards for an "effective" legal framework? Who judges? What if the standards are lowered or ignored after Israel completes its 13-percent withdrawal?

(b) In addition, the Palestinian side will establish and vigorously and continuously implement a systematic program for the collection and appropriate handling of all such illegal items in accordance with the prior agreements. The U.S. has agreed to assist in carrying out this program.

What are the standards for assessing the adequacy of the PA's program? When does it begin? What does "implement" mean? Might Israel have to begin and perhaps complete its withdrawal before any direct action against terrorist groups is initiated? Even if direct action is taken early on, what are the consequences if it is halted or reversed a few months later? Will Israel then make a new agreement for additional withdrawals in return for PA reaffirmation of its Wye undertakings? Why not say, "The PA shall disarm within its area of control the terrorist organizations listed below. . . ."

(c) A U.S.-Palestinian-Israeli committee will be established to assist and enhance cooperation in preventing the smuggling or other unauthorized introduction of weapons or explosive materials into areas under Palestinian jurisdiction.

Why, again, is there no mention of particular action against any terrorist group? What about the importation by the PA itself of weapons im-

permissible under prior agreements, such as Katyushas and shoulder-fired rockets? What if the PA fulfills its duty to establish the committee, but reports it has not yet found an opportune time to disarm the terrorist cells? What if the PA informs the Americans that the Palestinian legislature refuses to approve action against illegal weapons? What commitment does Israel have from the United States in the event of unsatisfactory performance?

SIMILAR CRITICISMS apply to virtually every provision of the Wye Memorandum. Since the document, only nine pages long, was negotiated under the direct supervision of President Clinton, whose linguistic finesse has been well established in recent months, one cannot assume that its nonobligatory obligations and illusory promises are the result of inadvertence or of an inability to create nuance. No, the gaps and ambiguities were built in with care. They ensure that, down the road, Israel will not be able to establish easily or clearly that the Palestinians have violated their undertakings.

True, the Wye agreement includes a "time line," which breaks down each side's obligations into sequential steps, and Israeli officials have pointed to this feature as the agreement's key innovation. According to the Memorandum, indeed, the duties of the two parties "are to be carried out in a parallel phased approach" in accordance with the time line. But "parallel phased approach" is nowhere defined, and nowhere is it stated that any given step in the time line must precede any other. Nor is it specified that all steps in a given stage must occur before any obligations in a later stage become due.†

Netanyahu has said that he will halt the Israeli re-deployments, scheduled to occur in three stages over a 90-day period, if the PA does not fulfill its undertakings according to the time line. But the Memorandum does not actually say that Israel has the right to do so. In recent years, when Israel has suspended

* Any student of Zionist history should have been sensitive to this phrase, for a similar proviso in the 1917 Balfour Declaration (about not prejudicing the rights of non-Jewish communities in Palestine) was famously exploited by anti-Zionists to undermine the Declaration's principal purpose regarding the establishment of a Jewish National Home in Palestine.

† In a side letter to Netanyahu, Secretary of State Madeleine Albright noted that "actions in each stage of the time line are to be completed by both sides before moving to the next stage." But it is unclear why this elaboration is absent from the Memorandum. Moreover, Albright's explanation itself contains a loophole: in referring to "actions" rather than "the actions," it implies that not necessarily all actions must be completed before the parties move to the next stage.

withdrawals due to the other side's violations, the PA has turned the tables by asserting that Israel's suspensions constitute violations of Oslo.

In any event, even if the "parallel phased approach" plays out according to Netanyahu's concept, Israel will have completed its redeployments within a brief period. From that point forward, the time line affords Israel no leverage with the PA. However tough-minded the idea may have been in its initial conception, it emerged from the negotiations as a dubious mechanism for ensuring reciprocity.

AS IF mushy drafting did not offer a sufficient impediment to enforcement of the PA's promises at Wye, the agreement assigns to the U.S.—in fact, to the Central Intelligence Agency—a pivotal role in assessing the parties' compliance. To believe that the CIA will actually help enforce Wye is to misunderstand both the agency and American policy.

Over the decades, the CIA has collected much information relating to arms control and peace agreements. But when violations of those agreements need to be assessed, it is powerfully resistant to functioning either as judge or prosecutor. During the cold war, for example, Defense Department officials found it an exercise in pulling teeth to get the CIA to provide clear reports of how the Soviet Union was violating the Anti-Ballistic Missile treaty, the Biological Weapons convention, and other international agreements.

As soon as something is made the subject of a peace or arms-control treaty, ordinary intelligence reports on the matter become politically and diplomatically sensitive. To avoid being drawn into a highly politicized dispute, the CIA, which does not see itself as in the business of treaty-enforcement, hedges its reports, taking pains to highlight gaps in the data, ambiguities in the available evidence, uncertainties in its estimates. Even the limited and grudging cooperation the Pentagon extracted during the cold war is likely to be denied to Israeli officials responsible for upholding the Oslo peace process.

Moreover, the Clinton administration has no desire to expose the PA's record. Since the Oslo process began in 1993, the State Department has issued a series of congressionally-mandated compliance reports; in them, PA violations have been either minimized or ignored. Wye reaffirmed the administration's determination to preserve the process despite PA violations, and the CIA can hardly be expected to cast doubt on something the government favors so intensely.

That is not all. The new U.S. role—neutral monitor of an agreement between Israel and the PA—is at odds with the existing relationship between the two democracies. American statutes commonly designate Israel a "major non-NATO ally." It is an ally's function to side with its fellow ally against those who would attack and destroy it. The United States can be neutral between Israel and the PA only if it assumes that the PA does not intend to destroy the Jewish state. But such an assumption would, in and of itself, disqualify the United States as a neutral party.

As a practical matter, the more deeply the U.S. enters into the role of monitor, the more it will resist favoring Israel on various matters *not* governed by the Wye or Oslo agreements: for example, relocating the U.S. embassy to Jerusalem. Anyone within the administration who might advocate a pro-Israel position on such an issue will encounter the objection that he is tainting the neutrality crucial to the role of monitor, which in turn is crucial to preserving the Oslo process. Over time, the putative value of apparent neutrality will encourage neutrality in fact.

That the U.S.-Israeli "special relationship" has already frayed was manifested at Wye in the recklessness with which American officials toyed with the PA's threats to issue a unilateral declaration of independence. Arafat has said that, if Israel is not sufficiently forthcoming in negotiations, he will declare statehood on May 4, 1999 (the date on which "permanent status" of the PA-controlled areas was scheduled to take effect according to the 1993 Declaration of Principles and the 1994 Gaza-Jericho agreement). Such an act, far beyond violating Oslo, has catastrophic potential. It could provoke a war with Israel that might end up involving other states and endangering a multiplicity of American interests.

Washington had every opportunity at Wye to make known its unshakable rejection of such an act. American officials, for example, could have demanded that, as part of the Wye Memorandum, the PA formally renounce a unilateral declaration of independence. Washington could have said that if the Palestinians were intransigent on this point, they would bear the blame for the talks' failure. (On other issues, Israel was admonished at Wye in just these terms.) At the very least, the administration could have asserted that any such declaration by the PA would be deemed an unfriendly act toward the United States as well as a material breach of the Oslo agreements that would relieve Israel of any of its obligations thereunder. Washington

could have made clear that it would not recognize a unilaterally declared Palestinian state, would work to ensure that other countries withhold recognition, and would terminate U.S. aid to the PA-controlled territories.

But, despite Israel's request for help on this issue, all that the Clinton administration was willing to provide was a letter from U.S. Ambassador Edward S. Walker, Jr. to Israel's cabinet secretary Dani Naveh:

[A]s regards to the possibility of a unilateral declaration of statehood or other unilateral actions by either party outside the negotiating process that prejudice or predetermine the outcome of those negotiations, the U.S. opposes and will oppose any such unilateral actions.

This is far short of a vow not to recognize a state, and it puts the Palestinian threat—a virtual declaration of war—in the same category as disapproved “unilateral actions” by Israel, like building towns for Jews in the territories or apartments at Har Homa in Jerusalem.

THIS, THEN, was the breakthrough that administration officials congratulated themselves on having achieved at Wye. Since it was concluded, what has happened has been much like what happened before: Israel has withdrawn from additional territory, and has permitted the PA to operate its own airport. PA officials have written up security plans for committee consideration, but meanwhile have disclaimed any intention of fulfilling key promises they made in October. Thus, one top-level PA official announced early on that “there will be no vote” to amend the PLO Charter; another publicly contradicted the PA's promises regarding the arrest of terror suspects; and a third, the PA police chief, detailed how he means to circumvent the PA's commitment at Wye to reduce its police forces.

Since Wye, Palestinian terrorists have remained on the job. One post-Wye operation targeted Jewish children in a school bus near Gaza, another the Mahane Yehuda market in Jerusalem. And Palestinian newspaper articles and television broadcasts have continued repeatedly to condemn Israel—and Jews generally—in bigoted and incendiary language. On November 3, a religious program on the PA's official channel instructed viewers that “the Jews do not believe in God” and are “the seed of

Satan and the devils.” On November 7, the PA's official newspaper, *Al-Hayat Al-Jadeeda*, told its readers: “Corruption is part of the nature of the Jews. . . . If one studies their history, it becomes apparent that the Jews were subjected to losses and expulsions as a result of their wickedness and their despicable acts.” Other examples abound.

WYE IS said to have put Oslo back on track. So it has done—if by Oslo one means the whole history of one-sided Israeli concessions, of inflated Palestinian expectations, of Palestinian breaches of solemn undertakings, of Palestinian violence threatened and executed, and, crucially, of American rewards for Palestinian recalcitrance.

Oslo was meant to be an experiment. It was a test, in the aftermath of the cold war and the Gulf war, of whether peace might at last be available to Israel. It was a test, in other words, of PLO intentions. Whether or not Israel and the United States were prudent to embark on the experiment—to see whether land and authority provided by Israel would transform the PLO into a force for conciliation and against violence and war—the evidence, plentiful from the start, is now overwhelming that the experiment has failed. Building on the concessions Israel has already made, the PA has or will soon enjoy and undoubtedly exploit the capability to import weapons through its new air and sea facilities, to forge political alliances with the likes of Saddam Hussein, to protect terrorist organizations behind a wall of state sovereignty—in short, to continue its armed struggle to liberate all of Palestine.

Just as it has become increasingly clear that the dangers posed by Saddam Hussein in Iraq (as by Slobodan Milosevic in Serbia and Kim Jung Il in North Korea) cannot be effectively contained so long as the present regime there remains in power, it should be plain that there will be no peace between Israel and the Palestinians until the latter enjoy a different and better leadership than the corrupt, violent, and irresponsible police-state regime of the PA. The ability of the United States (or of Israel) to promote improvement in that leadership is limited. But the administration's current policy—increasing U.S. aid to the PA while winking at its violations of Oslo and its human-rights abuses—simply reinforces the regime's most dangerous traits. Down that road lie further misery for the Palestinians and, for Israel, war.