

## Der ottomanische Weg zum Frieden

**Rafael Castro<sup>1</sup>**

*Der Autor weist in seinem Gastbeitrag darauf hin, dass der Nationalstaat im Nahen Osten historisch ein relativ junges Phänomen und für die Gemengelage aus religiösen und sprachlichen Gruppen höchst unpassend sei und deshalb das ottomanische Modell des Respekts für Minderheitenrechte revitalisiert werden solle.*

*Deshalb sei die Zeit gekommen, ein Israel und ein Palästina jenseits der europäischen politischen Vorstellungen aufzubauen. Da die Unlösbarkeit des Konflikts unter anderem auf die Unversöhnlichkeit von Souveränität und Selbstbestimmung zurückführe, schlägt Castro zwar die Schaffung eines palästinensischen Staates an der Seite Israels vor. Doch würden Palästinenser in Israel und in dem neuen Staat ein palästinensisches Parlament wählen, während für die israelische [jüdische] Bevölkerung die Wahl der Knesset auf Dauer gewährleistet werde. Juden wie Palästinenser würden hernach unter der Rechtsetzung ihrer jeweiligen politischen Gemeinschaft leben: Palästinenser in Israel unter palästinenischem Recht, Israelis in Judäa und Samaria unter israelischem Recht. Damit hätten beide Völker die Möglichkeit, selbst über ihren Wohnort zu entscheiden. Die Grenzen würden nur die Geltung der Rechtssetzung für die jeweiligen Sicherheitskräfte definieren.*

*Der Autor kommt zu der Einschätzung, dass die Schaffung eines palästinensischen Staates den Konflikt unendlich verlängere, wie am Beispiel „Gaza“ sichtbar, während ein binationaler Staat, wie im Irak und im Libanon zu erkennen, auseinanderbreche und der Status-quo*

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<sup>1</sup> Erschienen im Internet-Portal [www.ynet.com](http://www.ynet.com) der auflagenstärksten israelischen Tageszeitung „Yediot Acharonot (Letzte Nachrichten)“ am 08. Juni 2012.

*zur offenen Apartheid degeneriere. Jedes israelisch-palästinensisches Friedensabkommen werde nur dann von Dauer sein, wenn es den legitimen historischen Ansprüchen genüge.*

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## **The Ottoman path to peace**

The nation state is a relatively recent phenomenon in the Middle East – and with good reason: It is highly unsuited to the patchwork of religious and linguistic groups that populate the region. The time has come to recognize this reality and to build an Israel and a Palestine beyond the confines of European political convention.

The intractability of the Israeli-Palestinian conflict is in no small measure owed to the nation-state being unable to separate sovereignty from self-determination. This conflation renders the legitimate aspirations of different communities impossible to reconcile. Jews' aspirations to reside in Judea and Samaria are deemed unviable, even though they are historically more grounded than those of Jews to live in Eilat and Tel-Aviv.

Meanwhile, Palestinians displaced in the Independence War of 1948 are denied residence rights in Israel automatically granted to Jews hailing from California or Australia. Ignoring these aspirations and grievances for the sake of building conventional nation-states will backfire. Peace agreements only endure when they accommodate legitimate historical claims.

The establishment of a Palestinian state next to a Jewish state should be followed by arrangements whereby Palestinians, both in

Israel and in Palestine, vote for a Palestinian parliament. Jews and Palestinians would thereafter be allowed to live under the laws of their own polities. That is, Palestinians in Israel would have the right to live under Palestinian laws and be tried by Palestinian courts. Israelis in Judea and Samaria would have the right of being subject to Israeli laws. These laws would be enforced by the Israeli police in Israel and by the Palestinian police in Palestine. In mixed judicial cases (Jew vs. Palestinian) trials in both Palestine and Israel could be held by bi-national courts under the laws of the plaintiff. As a corollary, Israel should allow West Bank Palestinians to live anywhere in Israel while Palestinians should allow Israelis to live anywhere in Palestine.

### **Respecting minority rights**

This proposal grants Palestinians the right to reside anywhere in historical Palestine while allowing Jews to reside everywhere in Eretz Israel. It also ensures a perpetually Jewish electorate for the Knesset. In addition, it grants Jews and Arabs the right to live according to their own laws thus satisfying all parties' claims to self-determination. Giving Palestinians in Israel the right to live under Palestinian or Israeli laws will be a stimulus for Palestinian laws to be enlightened and democratic. If Palestinian laws are draconian or Palestinian courts corrupt, Palestinians in Israel could embarrass Palestine by choosing to be judged under Israeli laws.

Why does this proposal deserve consideration? To begin, it solves the most contentious issues of the conflict, including refugees, Jewish settlements in Judea and Samaria and self-determination rights. In addition, it renders the boundaries between Israel and Palestine a minor issue, since boundaries would merely define the jurisdiction of each country's security forces rather than determining where Jews and Palestinians are allowed to reside. Once these Gordian knots are cut, residual issues such as resettlement, tax

revenue distribution, and municipal voting rights will be relatively easy to tackle.

This approach to the Israeli-Arab conflict defuses the grievances that fuel Arab hatred of Zionism, while fulfilling the Zionist goal of Jewish self-determination in Eretz Israel. Although this proposal may be easy to dismiss on grounds of its unorthodoxy, it is high-time to recognize that the orthodox approaches to the conflict are fatally flawed: The establishment of a Palestinian state simmering with irredentism will lead to unending conflict - as Gaza shows; a bi-national state would fall apart like Iraq or Lebanon, while the status-quo is bound to degenerate into open apartheid. None of these scenarios are appetizing either for Jews or for Palestinians.

The Ottoman practice of respecting minorities' right to live under their own laws must be revived. Those who assume that separate legal systems within the same state are absurd in the 21st century, should remember that Israel already adjudicates personal law according to religious affiliation: Jews, Muslims, and Christians in Israel are all happier for being allowed to marry, divorce, and inherit according to their own traditions. This vestige of Ottoman jurisprudence enshrined in Israeli legislation has served these communities well. There is no reason its principles should not be incorporated in a future peace agreement between Israelis and Palestinians.

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