

Does the Paris Communique Impose the “Auschwitz Border” on Israel? – Part 1 of An interview with Shoshana Bryen of the Jewish Policy Center



Israeli Jewish Youths at Damascus Gate, Jerusalem Day, May 17, 2015

Source: AP



Host Mike Bates: Good afternoon and welcome to Your Turn. This is Mike Bates. We’re going to have one of our periodic Middle East round table discussions this afternoon, and I have with me in the studio Jerry Gordon, who is senior editor at the *New English Review* and its blog *The Iconoclast*. Jerry, welcome.



Jerry Gordon:
Mike.

Glad to be back,

Host Mike Bates: Jerry is also a contributor to Israel News Talk Radio out of Jerusalem. Joining us by telephone from Washington DC is Shoshana Bryen, senior director of the Jewish Policy Center. Shoshana, welcome.



Shoshana Bryen:
Nice to be here.

Thank you, Mike.

Host Mike Bates: I appreciate you joining us. Let's begin the program, Shoshana, with a question for you regarding UN Security Council resolution 2334 that recently passed with the United States abstaining. We could have vetoed it, we chose not to. What is 2334 and its effect?

Shoshana Bryen: 2334 is a Security Council resolution drafted by the United States and France essentially to state the parameters of the Israel-Palestine problem as they understand,

they meaning the United States and France. It has a lot of clauses in it about occupied Palestinian territory, and everybody should judge the difference between Israel and its pre-'67 and post-'67 borders. However it has no legal authority. Legally, it means nothing. Morally however, it becomes a force to be reckoned with. It gives aid and comfort to those who would like to boycott, disinvest from, or sanction Israel, the BDS movement, because it says there is a difference between the disputed territories and Israel in the pre-'67 borders.

The bigger problem is the International Criminal Court. Israel is not a member of the court. The Palestinians however have petitioned the court to bring Israeli military officials up on war crimes charges. It's not easy to do that. Because the court can only work where a country involved, which is Israel. Palestine is not a country and does not have a judiciary that prosecutes its own for failures in international law. Israel is well-known to prosecute Israelis on war crimes charges. Sometimes they win, sometimes they lose, but Israelis knows and the International Criminal Court knows Israel has a working and honest judicial system. That's not really a problem.

In this case however, the Criminal Court can say to Israel, "Yeah, you have a great judicial system, except your laws about settlements, your own system on settlements is out of sync with the rules of international justice." Then they can decide to try Israel, not just soldiers, but the Prime Minister of Israel, the parliament of

Israel that makes the laws, as a violator of international law in Palestinian territory.

Host Mike Bates: Now specifically with the denunciation of settlement activity, there is no possibility that a marshal from the United Nations is going to show up with an eviction warrant and kick out the settlers, right?

Shoshana Bryen: That's true. The UN has no judiciary power. It has no ability to go into another country uninvited and do something. Now, occasionally it does that under the guise of peacekeeping or under the guise of a place without borders. All of UN refugee work in Syria, for example, is done without the Syrian government. But in the case of actual borders in an actual country, no. It can't go in and change things.

Host Mike Bates: Why did the US abstain? Why not veto it?

Shoshana Bryen: Well, you have two choices. It was either just a kick in the pants on the way out the door by President Obama to Israel, or it was really anti-Semitism. Take your pick.

Jerry Gordon: What if it was both?

Shoshana Bryen: Could've been.

Host Mike Bates: I think that's probably the most logical explanation.

Shoshana Bryen: There is no other

explanation because if you listened, and I'm sorry if you listened, to the 70 minute long defense of himself that John Kerry gave in the guise of a speech on the Middle East, even John Kerry said, "And of course we know that certain settlements will remain in Israeli hands even after a peace treaty." He was telling you that some settlements will remain in Israel. Makes a mockery out of the idea that you can't have any.

Host Mike Bates: Speaking of these settlements, I think it's important that people understand what these settlements are. The media, especially in the United States, does a horrible job reporting the truth, specifically as it pertains to Israel. A lot of people as a result have this misimpression that these settlements are pioneers going in their covered wagons, throwing a stake in the ground, and telling the Indians, "It's ours, get out." However, in reality a lot of these settlement activities are simply organic growth of existing neighborhoods that look like any other suburban neighborhood in America, right?

Shoshana Bryen: Well, first of all, yes, that's true. They are towns and villages, in fact small cities. However, when Kerry says and when President Bush said and President Obama had said that certain settlements, they call them settlement blocks, are going to remain in Israel, what you need to understand is those are places that Jews lived in, that Jews owned, for which Jews had deeds, until either 1929 or 1948 when most of them were killed and pushed out. The Jews returned to those places from which they had come after '67.

The settlements surrounding Jerusalem, Efrat and Ma'ale Adumim and places like that are places that Jews had historically lived, and so they went back to their historic places. Those are now small cities and those are the ones that prior American presidents and even Secretary Kerry agree belong to Israel. The rest of them, some of them are really small villages, some of them are outposts, some of them are illegal by Israeli standards, and those tend to get ripped up by the Israeli government. They are not even legal according to Israel, and those have not experienced very much growth in the last eight years. 90% of the growth when we talk about growth in settlements is inside those blocks of communities that need more housing.

Jerry Gordon: Shoshana, having cousins in Ma'ale Adumim, they were the subject of some news in the Knesset this past week that was consideration of a possible bill to annex it. Are we going to see that realized or not?

Shoshana Bryen: I don't think so, not right now. Look, I don't really do Israeli politics so I don't want to say what the Knesset could or should do. However, periodically, it comes up that people say, "Look, the way to preempt what people think of as a two state solution, which really isn't much of a solution at all, is just to annex it and make it a fact on the ground." I do not think at this moment with a new American administration coming in that anybody wants that kind of trouble with the new administration.

Host Mike Bates: Well, one of the

problems that I see with annexing Judea and Samaria is simply the population numbers. The last time I studied this less than a year ago the population of the occupied territories, and that's including Gaza in this, is approximately 4.7 million with 2.8 million in the West Bank and 1.9 million in the Gaza Strip. The population of Israel is about 7.8 million of which 75% is Jewish. If Israel were to annex the West Bank and Gaza with those populations intact, the population of a combined Israel would be 12.5 million, however it would only be 47% Jewish. With that, Israel as a Jewish state, would disappear and with it universal suffrage. It wouldn't take very long before the Israeli government would be comprised of a non-Jewish majority.

Shoshana Bryen: Right, although the Palestinian figures are very, very suspect, Mike, it turns out that nobody ever dies in the West Bank. No one ever dies there and no one ever dies in Gaza. The reason for that is that if you admit that someone dies, you have to turn in their UN benefits card and no one wants to do that. The population growth in Gaza is either the world's most amazing and extraordinary growth in all of human history, or it's not true. Mostly it's not true. Mostly if you look at the birth statistics, you see it's not true. They're not having that many babies. That is the number one problem.

The number two problem is that the issue of Palestinian people, not the state of Palestine, which is a made up entity. The people who live on the land, was meant to be agreed to between

Israel and Jordan. If you go back to 1980, to Eugene Rostow, who was a genius at this stuff, he explained what the US government had in mind in terms of Israel-Jordan negotiation that would change Israel's border to make it secure, that would put the Palestinian population essentially back in Jordan where it belongs. All of those things were meant to be negotiated between Israel and Jordan. The problem was the King of Jordan refused and continued to refuse until 1988 at which he said, "Hey, you know what? Don't bother me anymore. It's not my problem."

Host Mike Bates: And ceded any control of the West Bank to the PLO?

Shoshana Bryen: No. He didn't really cede it to anybody, he just walked away. By the way, he pulled the passports of about a million Palestinians, who until the night before had been Jordanian citizens and suddenly became stateless people. Nobody seemed to care very much, but he created an entirely new category of stateless people in 1988.

Host Mike Bates: And it's a refugee population that has grown immensely over the years?

Shoshana Bryen: Yes. Now people want to satisfy the issue, even when they talk about a secure border for Israel. So you draw some line in the border that's better than the line of '67, that's good. Then they think that the rest of this has to be solved by creating a third state between the Iraqi border and the Mediterranean. Rostow said, "No, that's not true. You don't want a state there. You want the Jordanians and the

Israelis, who are the people responsible for the bodies who live in that space, to govern those bodies." He was right.

Host Mike Bates: But Jordan has no interest in that solution?

Shoshana Bryen: Jordan has to be brought in no matter what because what the Jordanians do is rely on Israel to support their security interests. Jordan's security interests to keep the Israeli army on the banks of the Jordan River because that protects them from the Palestinians, it protects them from Hamas, it protects them from ISIS. They just want Israel to do that because Israel should do that. They do not want to deal with the issues involved. I would say a wise move by the American government would be to say, "Here are the lines that got screwed up, and to unscrew them, we need the Jordanians too."

Host Mike Bates: A very interesting angle. Let's see if it materializes

Jerry Gordon: Shoshana, what was the motivation behind the attacker from East Jerusalem who drove a truck on Sunday into a crowd of young IDF officers, killing four and injuring 17?

Shoshana Bryen: He was incited very specifically by the Palestinian Authority. The Palestinian Authority last week told the imams on the West Bank to lean heavily in their sermons on the idea that the move of the American embassy to Jerusalem was a war on all Muslims. It was a declaration of war by the United States. It was a

declaration of war by Israel. It was not possible to compromise over the issue of Jerusalem and the Muslims had to rise up and defend Jerusalem.

The terrorist, whose name was Fadi Al-Qunbar, was well-known in his own community. He was a Salafist, a very conservative religious man. He was not known to be political, he belonged to no organizations, but he adhered a very strict form of Salafi Islam. He came out of the mosque, according to his cousin, extremely upset. His cousin said he was very angry and that transferring the embassy would lead to war. He went off and did his own thing in this war. I lay this one directly at the feet of Mahmoud Abbas and his people and the Imams of the West Bank who told people, "Here's the war. Go fight the war. Go kill somebody."

Host Mike Bates: Do you think, Shoshana, that the Trump administration will move our embassy from Tel Aviv into Jerusalem?

Shoshana Bryen: My understanding just today is that he's actually splitting the difference, and not in a bad way. The US embassy in Tel Aviv is huge and it includes our security people and our military liaison and the Israeli Ministry of Defense is right next door. It seems the bulk of the embassy staff will remain in Tel Aviv. The ambassador however will set up his office in the US consulate in Jerusalem, which kills two birds with one stone.

First of all, the US consulate in Jerusalem is

one of a kind because it is the only American consulate that does not report back to the State Department through an embassy. It reports directly to the State Department. It is therefore much more independent than most consulates and therefore functions, or has functioned essentially as an embassy to the state of Palestine. Since the state of Palestine does not exist, putting the ambassador there and saying, "This consulate will work like every other consulate and it will be attached to the US embassy in Tel Aviv or it will be the US embassy in Jerusalem." it stops this thing from being a free radical, it ends the idea that we have diplomatic representation to the state of Palestine, which is illegal because there is no state of Palestine. It places the United States ambassador to Israel in the capital of Israel in Jerusalem. I think it's a good deal.

Host Mike Bates: Which building is called the embassy?

Shoshana Bryen: That's a good question. They may turn Tel Aviv into a consulate. I don't know. I don't think anyone asked that yet.

Host Mike Bates: Because I think it is more than just semantics.

Shoshana Bryen: Yes, it is more than semantics. You want to place your embassy in the capital of your ally Israel. Second best would be that it would be a consulate under an embassy and the embassy would be the embassy to the state of Israel. It would have diplomatic representation in Jerusalem, which we currently don't have. Did

you know that if a US ambassador goes to Jerusalem, he cannot fly the flag of the United States on his car in Jerusalem?

Host Mike Bates: I did not know that. Is that a security reason?

Shoshana Bryen: No. Because it might be construed as diplomatic recognition of Jerusalem as the capital of Israel. It is definitely not for security because if the ambassador goes to Ramallah, which he normally does not do, I'm not suggesting he runs off to Ramallah, he can take the car with the flags.

Host Mike Bates: Amazing.

Jerry Gordon: Shoshana, the consulate in Jerusalem has been a place where many Jewish Jerusalemites don't prefer to go to obtain visas to come to the United States. In fact, they go all the way to Tel Aviv. Given what you've just talked about, does that mean that the composition of the local interest section in this consulate cum embassy in Jerusalem is going to change significantly?

Shoshana Bryen: I have no idea, but the reason that Israelis do not go to the consulate in Jerusalem is because the consulate in Jerusalem doesn't deal with Israelis, it deals with Palestinians. If you're an Israeli and you want to come to the United States, you have to go to Tel Aviv. You have to go to the embassy.

Jerry Gordon: Wow.

Shoshana Bryen: Again, unlike anywhere else in the world. Here in Washington we

have the Brazilian embassy, okay? We also have a Brazilian consulate in Washington, DC, separate from the embassy. If you want to get a visa to go to Brazil, you can go to the consulate. You don't have to go to the embassy, which has more security. In Israel, if you are a Jewish Israeli, you do not go to the consulate in Jerusalem, you go to Tel Aviv.

Host Mike Bates: Specifically with the possibility of moving the US embassy to Jerusalem, whether it occurs as you just described, splitting in two parts, or whether we just move it entirely, it is important that people understand that under present US law, our policy is that our embassy will be in Jerusalem. It is just that every president since that law went into effect has waived it. These people that are upset about it, why are they upset with Donald Trump when in fact the law's been in effect for years ?

Host Mike Bates: Since '95, right?

Shoshana Bryen: No, since '90. There was a second act in '95. The first act that should have moved the embassy was in 1990. The second one was the Jerusalem Embassy Act of 1995, reiterating that the US should recognize Jerusalem as the undivided eternal capital of Israel and require that the US embassy then be established there. However, you are right. Every president since has exercised the waiver. There are two reasons that people are concerned that Trump will not. Actually, maybe there are three.

First of all, there are people who believe ...

They're afraid. They really are afraid that there will be such an outcry from the Arab world and it really might start a war and it really might lead to very bad things. I would suggest that they look around the Middle East. The war has already started. Israel may be the only place that isn't having one.

Secondly, there are people who don't want to do it because they don't want to acknowledge that the issue of Jerusalem is essentially closed. It was the capital of the Jewish people, it remains the capital of the Jewish people, and it will remain that. They don't want that.

Third, there are people who simply want to give Donald Trump a hard time, and that's true in all kinds of policy. The reason the US was so adamant about getting this thing to the UN and lobbying members so that they had a 14 votes in favor plus the US abstention, was they wanted those 14 votes. Nine votes, 10 votes were not enough. They lobbied every single country. Why would you do that for a resolution that has no legal impact? You do it because you want to create a problem for Donald Trump.

Host Mike Bates: There is a lot of that going on, no question about it.