

ISRAEL AND PALESTINE



ALTERNATIVE PERSPECTIVES
ON STATEHOOD

JOHN EHRENBURG AND YOAV PELED

Israel and Palestine

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Alternative Perspectives on Statehood

Edited by John Ehrenberg and Yoav Peled

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Introduction

John Ehrenberg

THE PICTURE

On November 9, 2004, Visam Thiem, a twenty-eight year-old Palestinian music student at Al-Najah University in Nablus, left his home in the Al-Farah refugee camp in the West Bank to go to a violin lesson in a nearby village. As he entered the Beit Iba checkpoint near Nablus, Horit Herman Peled was there with other members of the human rights group Mashsom (Checkpoint) Watch as part of their campaign to document and monitor the conduct of Israeli troops. While army officers inspected Thiem's papers, he said, they asked him to "play something sad to match their mood." Ms. Herman Peled, a renowned Israeli media artist, academic, and contributor to this volume, captured a moment of the two-minute encounter in a remarkable video that caused a sensation in Israel and beyond. A haunting image from her film graces the cover of this book.

Hoping that he could get through the checkpoint and make it to his lesson, Thiem played. As he did, Ms. Peled's picture captured other people who were squashed between the electronic gate behind them and the soldiers in front. The blindfolded face of an incarcerated young Palestinian man was visible through the rusty bars of a tiny cell. Out of camera range, an open shack was crammed with young men whose identification papers had failed to satisfy the soldiers. It was all familiar and banal, an everyday occurrence in the Occupied Territories.

Two weeks after Ms. Herman Peled posted the video on her website, it was picked up by an Israeli newspaper and was reproduced internationally. The resulting debate in the print media, on talk shows, and on dozens of Internet blogs lasted almost a month—a long time in this day and age. Like

the picture itself, the flurry of activity peeled back layers of myth and reality, dream and memory, fact and fiction, past and present.

An Israeli Defense Force spokesman initially claimed that Thiem had volunteered to play for the guards. The incident occurred toward the end of the Second Intifada, and the army was understandably nervous about the violin and its case. But the media clamor about the incident forced a reconsideration, and the Israeli Defense Force's subsequent acknowledgment that the soldiers had been "insensitive" but "deal with a complex and dangerous reality" at the checkpoints failed to settle the issue.

On the surface, the incident was just another moment in the tangled relations between Israelis and Palestinians. But there was much more to the picture, and to the reaction it generated, than meets the eye. Some Israelis denounced the guards for personifying the daily harassments that are part of life in the Occupied Territories. Others called attention to the routinized "sadism" that comes from policing an unwilling population. But the truly suffocating Israeli criticism had nothing to do with the Occupation. Not directly, at any rate.

Checkpoints and border guards immediately raised the memory of the Holocaust—the permanent center of gravity that lies at the heart of the State of Israel. The image of doomed musicians being forced to play for their Nazi tormentors is a powerful image in the vast array of Holocaust imagery, and it turned out that some of the army's Israeli critics were more interested in the sanctity of Jewish victimhood than in what happens in the Occupied Territories. Indeed, *The Guardian* reported that some critics worried that *Jewish suffering had been diminished by the Army's humiliation of Mr. Tayem*. It quoted Yoram Kaniuk, the distinguished Israeli author, who wrote in an Israeli newspaper that the soldiers responsible should be put on trial "not for abusing Arabs but for disgracing the Holocaust. Of all the terrible things done at the roadblocks," he said, "this story is one which negates the very possibility of the existence of Israel as a Jewish state. If [the military] does not put these soldiers on trial we will have no moral right to speak of ourselves as a state that rose from the Holocaust. If we allow Jewish soldiers to put an Arab violinist at a roadblock and laugh at him," he continued, "we have succeeded in arriving at the lowest moral point possible. Our entire existence in this Arab region was justified, and is still justified, by our suffering; by Jewish violinists in the camps."

Legitimizing narratives that draw on a deep well of victimization are not a monopoly of any particular group, and Palestinian organizations are just as prone as the Israeli state to use past injuries as justification for present obstinacy. The past is often marshalled to legitimize the present, and the Nakba of 1948 serves much the same purpose as the Holocaust in preventing either party from moving toward a negotiated solution to the longest and most destructive conflict in contemporary world politics. For Israelis, sanctifying

the Holocaust creates an immovable rock that can be called upon to justify whatever the state does. The dispossession and expulsion of 1948 serves the same function for Palestinians. Both have been normalized as sacred memory, legitimizing narratives that confer righteousness and block resolution. For Israel, the memory of Jewish suffering in the past trumps the reality of Palestinian suffering in the present. For its opponents, the memory of Palestinian expulsion in the past trumps the reality of Israeli existence in the present. The deeply held conviction of the Israelis that they stand alone against the hordes who would exterminate them is mirrored by the equally powerful Palestinian conviction that they must stand alone against a world that has abandoned and betrayed them. What changes is the environment. The dialectic of history can transform victims into victimizers, victimizers into victims.

Little has changed in the years since Ms. Peled's picture was taken, and the cover picture is still a metaphor for Israelis and Palestinians alike. More than that, it serves to introduce an urgent debate among Israeli Jews, Israeli Palestinians, and Palestinians living in the Occupied Territories about the contours of the present and the possibility of reframing the issues for a settlement that could be acceptable to the contending parties. That debate is an ongoing one, and the intensity with which it is carried on is a testament to the accumulated sense of grievance—and to the importance of the imagined stakes for everyone. It takes place in a variety of venues and features a variety of participants. Sooner or later, all these debates have to engage fundamental questions of state formation and state legitimacy that offer a possible path to resolution even as they pose the most serious theoretical and practical obstacles to peace.

But to say that there's a debate doesn't mean that it's going anywhere. Indeed, there's not much of a debate at the moment. The entire situation is at a frozen impasse, the parties dug into old positions, the Obama Administration all but admitting that it will be unable to broker a breakthrough before it leaves office, the international community preoccupied by a different set of problems. The present volume originated in this moment of deadly paralysis. On May 17, 2011, *The Public Sphere*, a Hebrew journal published by the Political Science Department at Tel Aviv University, organized a conference whose proceedings were later published in a special issue (No. 6). "One State Between the Mediterranean Sea and the Jordan River—Reality or Dream?" sounds like a typical title for a scholarly meeting, but the participants were anything but typical. Israeli Jews, Israeli Palestinians, and Palestinians living in the Occupied Territories took part—a group of respected activists and scholars whose collaboration at this meeting was remarkable. The series of essays that emerged from the conference raised basic questions of possible state organization at a moment when the rush of events seems to be sweeping

away all efforts at reconceptualizing an environment that seems increasingly unmanageable.

Many of the papers in this volume were reprinted in *The Public Sphere*. Because they appeared in Hebrew, they were not available to a wide English-speaking readership. They have been translated and supplemented by additional essays in an effort to present a wide variety of approaches to the one-state-two-state-confederation debates that have generated so much attention in and between the affected communities. They are not intended to propose solutions or to offer a comprehensive approach. They seek to present the terms of the debate to an English-speaking readership that is not often exposed to the forthrightness and honesty with which these questions are debated in the region. The debate matters because the issue is so fraught, because it's so important, because it's so destructive—and because it's so dangerous.

Part I

Overviews

Chapter One

Facing the Music

Israel, Palestine, and the Politics of Partisan Delusions

Stephen Eric Bronner

Israelis and Palestinians remain engaged in a wearying crisis fueled by an overload of emotional investments. Once this conflict monopolized interest in the region, and it influenced other events from 9/11 to the ill-fated U.S. invasion of Iraq and beyond. Today, however, the Israeli-Palestinian dispute is increasingly being pushed to the periphery though, for different reasons, neither side is willing to admit as much. The result is a shared cognitive dissonance that makes each people oblivious to the sufferings of the other as they compete over which has suffered the most. Each side feels itself the victim of a victim and, as a consequence, guilt plays a decisive political role in the Israeli-Palestinian conflict. Both sides thus have a stake in keeping the past alive since it provides justifications for controlling the narrative. Each side claims to have a privileged insight into the crisis whose ramifications simply expected to resonate throughout the region and the world at large. They do—but not in the manner of times past. To be sure, the Israeli-Palestinian conflict still holds an exaggerated importance in the United States, which inhibits its strategic thinking and its ability to develop an appropriate policy for the region. In the Middle East, meanwhile, grumblings about Palestinian corruption and sectarianism are becoming ever more audible. Indeed, just as Israel's staunch Western supporters are becoming disgusted with its imperialist arrogance, the Arab world is becoming increasingly disillusioned with the Palestinians.

Other states in the region have other things to worry about. Only the most naïve and nationalistic partisans can expect that the world will privilege a seemingly endless and fruitless battle between what are actually two minor political actors when Afghanistan, Iraq, Syria, and Yemen are imploding,

proxy wars abound, terrorism proliferates, environmental damage escalates (Civilization 3000 2011), sixty million homeless or exiled seek to survive (*New York Times* June 18, 2015), and new insurgent transnational actors are rising from the ashes of a devastated region. Israeli imperialism benefits from governmental policies that aid and abet the chaos. In any event, just when the need is growing ever stronger for what Paul Ricoeur termed a “hermeneutic of suspicion,” emotional investments born of identity concerns are becoming ever more intense.

Bombastic slogans like “Never Again” clash with exaggerated cries of “genocide” in symbolically transforming a contained conflict with relatively little bloodshed into an event comparable with what is taking place in Congo, Darfur, the bloody activities of Boko Haram in Nigeria, or the virtual genocide triggered by the American invasion of Iraq (*The World Post* July 15, 2015). Myths build upon one another. Israel has now existed as an occupying power twice as long as the tiny, encircled, outnumbered, and imperiled outpost of democracy it once was. Its victim status is increasingly difficult to maintain given its formidable military apparatus, its highly advanced economy, its billions in American aid, its pre-emptive strikes, its expanding settlements and continual land-grabbing, its blockade of Gaza, its brutal treatment of the West Bank, its destruction of thousands upon thousands of olive trees, its use of “security” to justify every excess, and its manipulation of an anti-Semitic past.

In the aftermath of World War II, the Holocaust turned Israel into the recipient of an unchallenged moral privilege by the (still guilt-ridden) West, while Palestinians were essentially seen as the successors of Hitler. It seemed to occur to no one that they had little to do with an essentially European event (Herf 2009), and that their interests (ideological and political) were simply being disregarded in favor of those associated with an Israeli interloper in the region. Respect for what Jews underwent in the Holocaust is somewhat hypocritical to expect when the Arab “catastrophe” (*nakba*) of 1948, which strikes far closer to home, has been dramatically downplayed by the very nation that caused it. Tending to identify anti-imperialist Arab interests with those of the Soviet Union, however, the United States assuaged its lingering guilt while Europe, which felt itself in no moral position to criticize Israel, readily embraced the myths that only Arabs were the culprits in the bloody Palestine riots of 1929 and that Israel constituted a land without a people for a people without a land.

Zionists never understood the Jewish “people” as being confined within the geographical borders of the new state. Israel has been arbitrary and cynical in attempting to conflate its national policy interests with those of Jews everywhere. Territorial acquisitions were thus portrayed as necessary for Jews (always threatened by another Holocaust) and less as simple colonial expansion than the morally legitimate necessity for *Lebensraum*. Other jus-

tifications—such as Israeli control over “Judaea and Samaria” being pre-ordained by the Bible—complemented the always handy worries of Israeli security that tended to transform what were little more than land grabs into matters of defense and security. Religious and secular Zionists happily internalized an image of Israel as born of unique circumstances with a special moral standing, encircled, imperiled, and in need of essentially uncritical support from all decent people—especially Jews.

Securing this ideological outlook and material support has been the goal of interest groups, protected religious institutions, and influential lobbies in the United States such as the Anti-Defamation League, the World Jewish Congress, the American Israel Public Affairs Committee, and others with a direct stake in heightening distinctions between friend and foe. With its anti-Islam hysteria trumping its traditional anti-Semitism after 9/11, moreover, Evangelicals and the Christian Right offer unwavering support for Israeli policies; it doesn’t matter that American Jews still generally embrace liberal causes and overwhelmingly vote for the Democratic Party. Having such institutional advocates to rely upon is actually the goal of every minority and every particular interest. In the United States, far more powerful advocacy organizations like the National Rifle Association, the oil lobby, the American Medical Association, and a host of other lobbies prove this point (Bronner 2004). Nevertheless, Israel’s advocates are powerful enough, and their influence is magnified by the inability and often unwillingness of American Arabs to organize and to vote.

Blaming this disparity on some new version of Jewish power conspiratorially working behind the scenes is simply an excuse for political incompetence. Arab lobbies would be just as quick to heighten their influence through polemical exaggeration, reverential treatment for past injustices, and insistence upon the moral superiority and victim status of their clients in the Israeli-Palestinian conflict. There is a bitter irony in all of this since Arabs have taken the place of Jews as outcasts beyond the Middle East. The psychological projection inspiring Israeli propaganda is striking. Arabs, not Jews, are today living in wretched ghettos replete with building codes reminiscent of anti-Semitic times past. They are subject to media attack and cultural humiliation. Arabs are at the bottom rung of the economic ladder, the butt of everyday slurs and jokes, identified with rogue states and terror. In addition, Palestinians feel themselves denied a homeland and appropriate representation in the international community.

Of course, anti-Semitism still exists, and it rests on many of the same stereotypes, myths, and irrational prejudices as in times past. But this traditional prejudice is today colored by the imperialist policies of a powerful Jewish state and the various ways in which Zionism has been married to anti-Arab prejudices and imperialist designs. In contrast to the old-fashioned image of “the Jew” conjured up by the anti-Semite, Israeli policies are not

imagined but real—and, while striving to appear as the victim, cognitive dissonance is evident among Jews about how the “other” views the situation. Possibilities for intellectual confusion, public misunderstanding, and political paranoia intensify as what might be termed subterranean anti-Semitism becomes entangled with legitimate criticisms of Israeli state policies. Israel benefits from this mixture far more than the Palestinians. Its leaders and supporters can thereby dramatically inflate the need for territorial expansion and brutalizing any particular Islamic enemy as part of the fight against new anti-Semitic prejudices that inevitably will pave the way for new concentration camps. Thus, presidential candidate and former Arkansas governor Mike Huckabee excoriated the U.S.-Iran nuclear deal and President Obama for leading Israelis into another “big Holocaust” (sic!) and “to the door of the ovens.”

Changing the rhetoric from one of revanchist nationalism to one of civil rights on either side of the barricades might mitigate the reliance on myth—and the confusions. Even in the United States and Europe, guilt over American inaction during the 1930s no longer works as it once did, and, for better or worse, the standing of the Holocaust has undergone a radical change. Anti-imperialist movements and new states flourished in the decades following World War II, and a seemingly endless set of imperialist atrocities have come to light. The Arab *nakba* that occurred during the War of 1947–1948 offers a case in point: its depiction of 650,000 people driven into exile de-sanitized the creation of Israel. Amid such an explosion of genocidal narratives, the once unique status of the Holocaust is no longer taken for granted. Auschwitz has ceased to serve as the universal point of reference for judging other acts of barbarity, and anti-Semitism has become just another prejudice.

Fanatical acts like the blatantly anti-Semitic *Charlie Hebdo* murders of January 2015 in Paris are thus a godsend or Israeli reactionaries (Bronner 2015). They confirm the belief that nothing has changed, that the Jew is still *the* victim, and that sympathy for “the Arab” is misplaced. The *goyim* destroyed Jewish temples, engaged in barbaric pogroms, shuttled Jews into ghettos (or, in Russia, the “pale”), drove them into exile time and again, and then—finally—attempted what they had always secretly wished: the annihilation of the Jews. After centuries of oppression, so the Zionist argument runs, it is sheer chutzpah for outsiders to criticize—let alone wish to intervene—in a complex crisis that portends yet another genocide.

With older generations dying out, however, ever fewer Israelis and Jews will have experienced the sufferings of times past. Claims that they alone somehow “own” the Middle East narrative ring increasingly hollow. Their ancestors may have witnessed the Holocaust and experienced its horrors—but not the next generation or the generations after that. Insisting upon having some special existential insight into genocide, and then using that claim

to justify colonial policies, must increasingly appear to the rest of the world as just another ploy to excuse the inexcusable. There are also few material reasons for any longer giving Israel the benefit of the doubt in terms of the policies it pursues. Israel's value as an ally lessened in the decades following 1967. The disastrous war of 1973 shattered Israel's aura of invincibility. Communism died during the 1980s, and now, with the devastation of Egypt, Iraq, and Syria, there is no longer an enemy for which an alliance with Israel is quite so necessary. The need for an identifiable and meaningful enemy, indeed, helps explain why the Israeli Right should exaggerate the importance of rocket attacks that inflict minimal damage and obsess over the "existential threat" posed by Iran. Justification is thereby provided to Zionists who deny the obvious dictates of geopolitics that would lead the United States and Europe to prioritize forging constructive relationships with Islamic nations (like Iran) in order to further their long-term regional interests.

The Israeli political establishment refuses to face this new reality. Indifferent to the outrage caused by its colonial policies settlements, Israel winds up generating precisely what its citizens most fear and its right-wing politicians most desire, namely, growing paranoia and an ever more palpable identity deficit. Anxieties of this sort tend to strengthen the worst traits of Israeli politics—inflexibility, brutality, and self-righteousness. Albert Memmi's (1991) notion of the "Nero effect" clarifies this dynamic. Insofar as the colonizer believes in the justice of his political domination, and the colonized shows ever less respect for it, the settler becomes increasingly plagued by feelings of doubt and guilt. He thus seeks to eradicate them, but only in a way that allows him to maintain his power and status. In dialectical fashion, the ever more intense subconscious experience of guilt and self-doubt leads the colonizer to ever more blatantly demonize the colonized. In turn, of course, this justifies still more brutal repression thereby creating newer forms of bloody resistance. Thus, the cycle of violence perpetuates itself and worsens.

The Nero complex is fueled by conspiracy fetishism (Bronner 2015), which always inflates the standing of both the victim and the enemy. Buttressed by bigotry, each sees in the other an existential threat so monumental that trust is never granted and compromise becomes impossible. In this sense, both Israelis and Palestinians wind up in the classic Hegelian situation of being defined by what they should oppose. Just as reactionary Israelis tend to portray themselves as encircled, endangered, and struggling valiantly against overwhelming odds, indeed, Palestinian extremists like to depict their enemy as having international power reminiscent of what appears in the *Protocols of Zion*. Each turns itself into the hero of its own drama and its enemy into the incarnation of evil. Such conspiracy fetishism is a form of neurosis and, like Freud (1962) said about neurosis in general, it makes one

stupid. That is true for both sides since conspiracy fetishism rests on myths, scapegoats, and the denial of responsibility for past mistakes.

Turning Shakespeare on his head, conspiracy fetishism makes sure that the fault lies always in our stars and never in ourselves. Supporters have mostly avoided discussing Palestinian transgressions of human rights and international law, the virtual civil war underway between Fatah and Hamas, and the sham united front in which they both participate. Tensions between these two organizations are not simply a function of Israeli policy—though Israeli policy allows for an easy evasion of the function they play in perpetuating the crisis. There are real and substantive conflicts of interest involved that range from the need of both Fatah and Hamas to secure their separate identities, which alone would justify the existence of two competing organizations, to their disparate institutional incentives for maintaining control over the West Bank and Gaza, respectively. This is not simply a fight between “brothers” but rather expresses what Freud (1962) called a “narcissism of small differences” that turns minimal into major conflicts, lets resentments simmer, and generates a consuming rivalry.

Coming to terms with this situation, in fact, might just require consideration of an alternative to either the “one-state” or the “two-state” solution. Indeed, the prospect of three states is not out of the question—especially if Hamas (or Islamic Jihad) finally reaches the conclusion that one state is impossible and that it would lose political power should two states (Israel and Palestine) come into existence. Claims that taking positions on such issues would only subvert the “cause” are old refrains. Unthinking solidarity does more harm than good. The subaltern suffers from internal conflicts and problems that are not somehow exempt from reasoned judgments. That was true of past anti-imperialist movements from Algeria to Vietnam—and it is true today. Having a certain distance from the actual events should provide partisans with a higher degree of objectivity and clarity in evaluating actions and policy proposals. As things stand now, however, misguided ideas of solidarity are leaving these same partisans (on both sides of the barricades) increasingly in danger of falling behind new regional and global trends and developments.

Negotiations have ground to a halt and skepticism born of political paralysis and bad faith now greets talk of a one-state as well as a two-state (and, of course, three-state) solution. With its lack of a left-wing opposition and right-wing coalition of religious and settler parties, which was cobbled together by Prime Minister Netanyahu of Likud, Israel is the primary stumbling block. No less than the right-wing politicians and orthodox ideologues who insist upon responding in kind, however, Islamic Jihad and fanatical elements in Hamas choose to fire their rockets from Gaza or elsewhere thereby undermining any step made in the direction of peace: *les extremes se touchent*. Extremists on both sides of the barricades need each other—and need each

other to do well: The extent to which peace approaches is precisely the extent to which they will lose political power.

Just like the communists of times past, indeed, extremist organizations identify the general interest with their own. Would that it were so. As it stands, however, partisan Israel and Palestine find it difficult to distinguish between the interests of this or that political organization and those of the populace. Or, to put it another way, they seem incapable of cutting through the sloganeering. The current paralysis that is akin to a state of “neither war nor peace” benefits them both but especially Israel whose overriding power enables the continuity of its land-grabbing policies. Even the most cursory look at the appropriate maps will show how the contours for a prospective Palestinian state have grown smaller from 1948 to 1968, 1980 to 2000, and to the present. This territorial erosion will probably continue—just as it did when Trotsky employed the policy of “neither war nor peace” in 1917.

Ignoring tactics in the name of strategy (or vice versa) is a dangerous game. That is particularly the case insofar as achieving the goal of one as against two states requires mutually exclusive approaches. A one-state strategy logically involves opposing the recognition of Israel not simply as a “Jewish” but also as a sovereign state. It would insist upon rejecting practical proposals for peace like the King Faisal Plan that calls upon Israel to accept pre-1967 borders in exchange for its recognition by all members of the Arab Union. Discussions over land swaps and territorial compromises would also become illegitimate and irrelevant along with negotiations over the status of Jerusalem. Such plans can only appear to supporters of the one-state solution as evasions of the real issue, namely, reversing the outcome of 1948. In turn, that is considered possible only in a single state where (whether through force, voting, or a combination of both) Jews would no longer be in the majority.

But it is hard to imagine Israeli Jews abandoning the identity of their state or agreeing to turn themselves into a minority. The bureaucratic problems generated by a new single state appear almost insurmountable. The economic status of such a state is at best questionable, and its legitimacy would obviously be imperiled by past hatreds. And that is just for a start. It would seem that either there will be a two-state (or three-state) solution or there will be no solution. Yet many insist that the goal of two states is becoming no less utopian than its one state alternative: 450,000 Israel settlers now dot the landscape, and relocating them portends civil war. Water shortages, a dilapidated infrastructure, environmental devastation, unresolved conflicts over control of electrical grids and airspace, lack of investment, and the economic legacy of colonization all call into question the viability of a second Palestinian state bordering Israel. But the utopian character of a two-state solution is becoming another self-fulfilling prophecy under the weight of both romantic longings for one state that lack any plan to bring it about and blindness to the

existing imbalances of power that for moral reasons justifies rejecting one deal after another as not being good enough.

Frustration is building among Palestinians, and especially its young people, which could result in yet another intifada. But it is time to start thinking outside the box. Perhaps the next phase of the struggle needs to be fought under the banner of human rights. After all, it is the Palestinian people rather than their parties and loyalists who require freedom. If one state, two states, or even three states are not on the political agenda then perhaps it is time to think about a more modest strategy predicated on demands for civil liberties, economic support, and constraints on the arbitrary exercise of power in the West Bank and Gaza as surely as in Israel. Each bears the marks of illegitimate authority and exploitative policies. Whatever the differences in degree and kind, rights are denied, institutional transparency is lacking, and the liberal rule of law is tenuous. Highlighting such concerns projects the possibility of new agents arising. These include coalitions between Israeli Arabs and Palestinians as well as an Israeli left (built with an eye on the American civil rights movement) in which Arab parties stand at the forefront. Issues abound. They range from abolishing de-humanizing checkpoints to the repression of dissidents and the need for an independent judicial system. Without even considering the libertarian disaster that Zionism has generated, the corruption and the institutional cronyism on the West Bank is a disgrace while the same can be said, in spite of contested elections and the like, of the arbitrary arrests and political murders that are an everyday occurrence in Gaza.

Challenging such practices does not necessarily require a new state structure or an intifada or even the resumption of negotiations that have been stalled for so long (primarily due to Israel's refusal to halt settlement of its occupied territories). Modest strategies for dealing with such humanitarian concern target the general interests of the Palestinian people and they provide potentially new forms of solidarity and democratic pedagogy that would bolster the progressive possibilities for any broader future political outcome. Emphasizing issues associated with human rights and the liberal rule of law across the board would also surely bolster the international image of the Palestinian cause and provide new ideological inspiration for Western supporters.

The new legitimacy accorded the Palestinian "cause" has certainly been hard earned and Israel has been incapable of dealing with its rising popularity. "Boycott Divestment Sanctions" (BDS), which was spurred by English activists like Hillary and Stephen Rose, and supported by influential writers/bloggers like Lawrence Davidson (2012), has influenced the popular dialogue and (with a certain irony) protected critical intellectuals who have been subject to boycotts and sanctions by American universities and the media (Abraham 2014). BDS has become an important vehicle for express-

ing outrage against Israeli policy toward the Palestinians. It has clearly gotten under the skin of the Israeli government and its right-wing American chorus who are content (as usual) with attacking the movement for being anti-Semitic (*The Jerusalem Post* July 15, 2015).

But there are also legitimate criticisms of BDS that its admirers tend to ignore. Boycotts, divestment, and sanctions have usually impacted poorer citizens. Such policies also fuel chauvinism, paranoia, and authoritarianism. Just the thought of other nations employing these tactics has strengthened such ideological tendencies in Israel thereby contributing to yet another self-fulfilling prophecy concerning the growth of anti-Semitism and Israeli isolation from the rest of the world. At the same time, the agenda of BDS has so many qualifications that its actual demands tend to become fuzzy: Not all individual scholars and activists, for example, but only institutions (though many professors belong to them and identify with them) are subject to boycott. More relevant for present purposes, however, is the unique treatment the movement wishes to employ against Israeli colonialism. It is legitimate to ask why the same boycotts, divestment, and sanctions usually criticized by progressives, even when applied to far more brutal regimes, deserve support when it comes to Israel (MacDonald 2003). BDS has done important and difficult political work. Nevertheless, it has introduced a double standard for dealing with the Israeli aggressor that is ultimately justified by little more than a particularly strong emotional investment in the conflict.

International support for the Palestinians has clearly increased. But there is a danger in mistaking appearances for reality. Support for them is mostly being generated by non-governmental actors and states not entangled in the conflict; their support may be a mile wide, but it is also only an inch thick. New problems have surfaced among Islamic states for whom the Israeli-Palestinian conflict plays no part: religious tensions between Sunnis and Shias, the emergence of new regional and transnational actors like ISIS, an increasing number of proxy wars, and a seeming inability to engage in what Theodor Adorno would have called “working through the past.” The trauma associated with the *nakba*, the expulsion of 650,000 people from their homes during the 1947–1948 war, is a case in point (Harvey 2003). The catastrophe was regional in its impact. Dreams of revenge festered in the minds of humiliated generals who returned home to a host of different Arab states after leading the failed assault on what all of them considered the externally imposed and illegitimate state of Israel. Irredentism was reinforced by a common commitment to national self-determination and unyielding opposition to Israel. The plight of the Palestinians in the face of Israeli aggression thus generated a certain sense of solidarity among Arab states that no longer exists—or, at least, not in the same way as it once did. Open conflict has broken out in the region between national actors, transnational political is-

sues have come to the fore, and a religious civil war is raging within Islam. Nevertheless, these issues did not simply appear *ex nihilo*.

They took shape in the aftermath of 1948. Saved from another disaster by American policy after Egypt seized the Suez Canal in 1956 (Nichols 2003), the utter embarrassment attendant on the failed joint attack by Arab states on Israel in 1967 led to an important change in the Palestine Liberation Organization (PLO) in 1964, which came under the command of Yasser Arafat in 1969. Complex, underestimated, and still unresolved issues faced him from the beginning. These involved choice of tactics, organizing rival tribes and militias, navigating between secularism and Islam, as well as—perhaps most important for the present discussion—coming to terms with the consequences not of one defeat but two. Tensions existed between those who placed primacy on reversing the Occupation of 1967 and those who insisted upon rejecting the illegitimate Zionist state that had expelled the Palestinians in the first place. In short, from the beginning, the two-state solution co-existed uneasily with the vision of a single state comprising both peoples.

Imperatives of solidarity probably dictated that the PLO should avoid the simmering tensions for as long as possible. But this ultimately proved untenable both for the PLO and its Islamic-nationalist rival, an offshoot of the Muslim Brotherhood, which appeared on the scene in 1987: Hamas. “Extremists” confronted “pragmatists” in both organizations—and, for that matter, in Israel, where the same conflict exists with regard to dealing with Hamas and Hezbollah—over a very basic question: Is it morally legitimate to recognize and negotiate with a putatively illegitimate (if actually existing) imperialist and terrorist “Jewish” state if it holds the key to liberating the occupied territories? Or is outright rejection of any compromise with Israel the proper tactic given that the primary aim for Palestinians is a single multi-cultural state despite the lack of a transformative agent, the nationalistic attachments of both peoples, and the daunting organizational difficulties involved?

Treatment of all other tactical matters rests upon the strategic choice between these two very different and ultimately competing visions of the future. But making that choice will obviously pit parts of the Palestinian community (and its supporters) against one another. Historical parallels are important, and there is no reason to believe that the Palestinian struggle should somehow be insulated from the kind of conflicts between supporters of councils and communists that emerged during the Russian Revolution or the conflict between republican loyalists and anarchist revolutionaries in Spain from 1936 to 1938 that resulted in a civil war within the civil war. Cutting to the chase: Is the supporter of one state the friend or the foe of the activist who calls for two (or three) states? Is there a place for those working to further political recognition, civil rights, and on-the-ground solidarity within any of the territories involved?

Answering those questions calls for attacking the use of double standards across the board. It also involves taking positions on identity, solidarity, and the ability of existing organizations to deal with an Israeli policy predicated on divide and conquer. That the vision of 1948 insinuated itself into the response to 1967 explains why commitment to a “right of return” on the part of Palestinian refugees remains so strong despite the ongoing lack of clarity concerning what it actually means, whether it applies to new generations born in any number of countries, how it might be implemented, and if it is actually anything other than a mirror image of the legitimating claim employed by Zionism. Neither one Israeli/Palestinian state nor an independent state bordering Israel could possibly accommodate four million returnees (Masalha 2003). The ensuing economic chaos, lowering of wages, and new ethnic conflicts would immediately threaten political stability. Not all refugees would exercise the right of return, of course, and providing (extraordinarily costly) financial compensation is an option. Land swaps might also mitigate (if not solve) the problem. Both Israelis and Palestinian leaders know this. But they also know that the right of return has turned into a symbolic issue whose seeming intractability derives not simply from the inability to provide a practical solution but rather from an inability—mostly due to the inflated emotions sparked by the conflict—to define the contours of the problem in terms other than that of national memory. Especially Western supporters of the Palestinian struggle have been remiss in not confronting this matter forthrightly. Nevertheless, the worsening plight of so many refugees has surely served as a constant reminder of Israeli colonialism.

With the number of settlements still growing, and the suffering in Gaza still in the headlines, Israel is increasingly seen as a rogue state uninterested in human rights. The International Criminal Court is coming under increasing pressure to indict its political and military leaders for war crimes and crimes against humanity. To the same degree, the struggle for a Palestinian nation is becoming identified with the struggle for human rights and the defense of international law. Appreciation of this development has dramatically transformed the character of the Israeli-Palestinian conflict. Where Israel was once seen as a valiant victim of a barbaric state, and Palestinians were considered little more than a band of terrorists, today the roles have seemingly been reversed. The UN General Assembly will vote on Palestinian statehood in 2015, and how Israel responds will influence future judgments of the crisis in which it is enmeshed. But it is doubtful that the Israeli government will react intelligently.

Enough Jews are thinking like anti-Semites. Paranoid fears of a world conspiracy, once directed against Jews, are now projected on the world community at large and its Arab vanguard. Feelings of superiority based on their ability to counter this threat, the suffering of times past, and chauvinism in the present have only intensified Israel’s isolation and belligerence. The rest

of the world is no longer turning a blind eye to its excesses. Traditional allies like the United States and the European Union have recognized that there is hardly a single major regional conflict in which Israel is a serious player or that can be solved without its nominal enemies, who are also rivals, Shiite Iran and Sunni Saudi Arabia. Disorientation with regard to the outside world is also taking place at home. Israel has prided itself on being democratic, but its discriminatory attitudes are rapidly becoming authoritarian. Israeli Arabs are resisting that trend, and their willingness to ally with the Palestinians down the road may well change the character of the conflict. Nevertheless, there is no reason for Palestinians or their supporters to become overly sanguine.

Both liberal Zionists and many conservatives appear to support a two-state solution. Both can afford to be (more or less) critical of Israeli policy in what is actually a period of relative calm marked only by exaggerated “existential” threats emanating from Iran. Liberal critics are mostly skeptical about the character of this ill-defined “feeling,” which other nations have felt often enough with their enemies, or how it justifies either a pre-emptive strike or military action. Were the threat to become real, however, it would be another story entirely. Were Israel in genuine military peril, or were the one-state solution explicitly pursued by the Palestinians, patriotism and identity would undoubtedly lead the great majority of Jews to rally around those they consider their brothers and sisters. That is precisely why staunch Zionists and Israeli reactionaries constantly raise the specter of annihilation, military encirclement, and growing anti-Semitism in Europe and elsewhere that is reinforced by their provocations in foreign policy and the very colonial policy that they support.

At the same time, Sunni-Shia conflicts are cutting across national boundaries, and they might well cut across the struggle for Palestinian independence. Hamas and Hezbollah are on different sides of the Islamic divide with the former supporting Sunni states like Saudi Arabia and Egypt and the latter allied with Iran and Shiite militias in Iraq and Lebanon. This could all change instantly as proxy wars in Iraq and Syria produce shifting alliances and groups like al-Qaeda, ISIS, and the al-Nusra Front unite or divide in choosing new targets. That they privilege the attack on more moderate elements in the Sunni community is not explicable by the “narcissism of small differences.” In any event, this broader conflict also shifts the geopolitical focus away from the Palestinian struggle. Israel is thereby given greater freedom to expand its settlements and bolster its claim that regional instability caused by Islamic extremism has intensified its national security needs.

Ironically, however, Israel’s security has never been greater: Its once dangerous regional enemies have been torn apart by civil war as in Syria, internecine religious conflict as in Iraq, squabbling among counter-revolutionary forces (the military and the mosque) as in Egypt—and regional eco-

conomic collapse. Even the U.S.-Iran nuclear deal portends new loan packages for Israel and the setback suffered by AIPAC (as a result of Israel's clumsy diplomacy regarding the Iran deal) will undoubtedly prove temporary. Always ambivalent about the conflict, Turkey is busy fighting the Kurds and intervening in Syria. Egypt, Jordan, and Saudi Arabia have made their own deals with Israel. They have done so not simply in exchange for foreign aid packages from the United States, but also (whatever the public pronouncements) from exasperation with the internecine conflicts, the inability to close a deal, the economic disaster prevalent in the occupied territories, and the irresponsibility of more radical partisans in the struggle to bring a new state into being.

Solidarity requires engagement, not passivity. It is the same with human rights: they "exist" only insofar as the commitment is made to realize them. Palestinians no less than Israelis employ the double standard. Charges of war crimes and use of torture have been directed against both sides. Reference to the imbalances of power only go so far as an excuse and insisting upon an "eye for an eye" will—as Gandhi knew—leave the whole world blind. Extreme Zionists and Islamic extremists share the same desire, namely, to keep the cycle of violence running and sabotage any prospect of negotiations. Each knows that its power will decline to the extent that possibilities for resolving the crisis grow. Like all other extremist groups, their policies are predicated on "the worse the better" and, ultimately, their judgments rest on what is good for the organization rather than the citizenry.

Engagement to resolve the conflict is as necessary and legitimate as it ever was. But politics means playing the hand one is dealt. Emotional hyperventilation has helped nullify any residual good will, obscure the interests involved, and transform a conflict objectively like many others into a symbolic fight of good against evil. It is time to focus on the self-serving institutional interests at play and lack of political leadership on both sides of the barricades. This involves something more than emotional investments made with the intent of securing an existential identification with one side or the other: It will take sober reflection on actual political alternatives, criticism of ideological sloganeering, and the courage to question prevailing assumptions.

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Chapter Two

Making Sense of the Nakba

*Ari Shavit, Baruch Marzel, and Zionist Claims to Territory*¹

Ian S. Lustick

PROLOGUE

On February 27, 2014, I attended a book launch at Tel Aviv University where authors Daniel Bar-Tal and Itzhak Schnell introduced the Hebrew edition of their book, *The Impacts of Lasting Occupation: Lessons from Israeli Society*. Originally published in English two years earlier, the book discusses the effects on Israeli society of the prolonged occupation of the territories conquered in 1967.

As I entered the packed lecture room, I noticed a man sitting in the front row. He wore a white knitted *kippah* (skullcap), of the sort associated with ideologically motivated settlers in the West Bank, and sported a full but somewhat scraggly beard and visible “*tzitzit*,” the tasseled fringes of an undergarment worn by ritually observant Jewish men. The rest of the audience was comprised mainly of Jewish, secular, well-educated, well-informed, liberal/dovish, and considerably older-than-the-average Israeli members of the politically aware public.

When the man with the large white kippah saw me look at him with interest, he stood up, walked over to me, and handed me a leaflet. The leaflet’s bold Hebrew headline read, “Sheikh Munis University”—a reference, in poorly transliterated Hebrew, to the Arab village of Sheikh Muanis that was destroyed in 1948 and on the ruins of which Tel Aviv University was established. My first reaction was to imagine he was a representative of *Zochrot*, a radical organization dedicated to demanding Israeli accountability

for the Nakba and advocating for Palestinian refugees' right of return. "No," he responded, "I'm kind of my own special NGO." Once the event got underway, he started shouting: "Enough hypocrisy! You are all living off the occupation! End the occupation!" As he was being escorted from the room by security officers, I learned who he was—Baruch Marzel, a far-right wing activist and Hebron settler associated with the Kach movement of Rabbi Meir Kahane,² which is banned in Israel for its explicit racism.

What follows is the translation from the Hebrew of the top side of the leaflet Marzel handed to me.³

Sheikh Munis University

Student/Professor:

Know something about the place where you study.

- In the place where stands the University of Tel Aviv, and on its expropriated lands, lived the Arab inhabitants of the village of Sheikh Munis!
- The inhabitants of Sheikh Munis were forcibly expelled from their homes in the Nakba⁴ of 1948.
- The inhabitants of Sheikh Munis and their descendants have never given up their right to return to their homes, lands, and property.
- The university campus, along with apartment blocs in Ramat Aviv,⁵ were built on the destruction of the homes of Arab refugees.
- No compensation affects the rights to the land by the Islamic Waqf.⁶ (And stop despising Arabs!)
- As President Abu Mazen⁷ has said, the State of Israel began the occupation [sixty-three] years ago. Sheikh Munis is a symbol of the Nakba.
- Leftists in this university calm their consciences by distinguishing between theft of lands in 1948 and theft of lands in 1967, but in this way show their hypocrisy. In any case, the Arab refugees categorically refuse this distinction.
- Member of Knesset Jamal Zkhalka⁸ was right when he told Dan Margalit⁹ in a television interview on the university campus that: "Here is Sheikh Munis."

Dear Student/Professor. Enough with hypocrisy. Enough with two-faces. Do not participate in the crimes of occupation, join the boycott and our just struggle.

Do not step foot on occupied land.

Join the demonstration to show solidarity with Sheikh Munis.

Demonstrate until the fascist occupying settlers are expelled.

The oppressed will return to their conquered land—the campus of Sheikh Munis University

End Hypocrisy

Solidarity with Sheikh Munis

Signed by Kahane disciple Michael Ben-Ari and distributed by Marzel, the leaflet serves as a vivid introduction to the potent question of establishing

political rights to a territory, and how this can be accomplished legitimately, or at least effectively. Using both the leaflet and *My Promised Land*, the bestselling book by noted Israeli journalist Ari Shavit, this chapter uses the case of Israel/Palestine to examine the applicability of a rule advanced for claiming territorial rights.

1948 VERSUS 1967

There is no disputing the facts presented in the Ben-Ari/Marzel leaflet: Tel Aviv University was indeed built on the ruins of Sheikh Muanis; the university's elegant faculty club surrounds the partially reconstructed house of its former Palestinian owner¹⁰; the village was not destroyed in the heat of battle, from the sheer exigencies of war, but was conquered, and its inhabitants expelled in direct betrayal of a non-belligerence agreement between Zionist forces and village elders.

More significantly for the discussion at hand, the leaflet raises the following interesting question: Why should Israel's 1967 occupation of the West Bank, which was followed by extensive land expropriation, forcible implantation of Jewish settlements, the deportation of thousands of Arab inhabitants, and the territory's steady absorption into the Jewish state, be deemed *less* legitimate than the forcible occupation, destruction, and expulsions that occurred nineteen years earlier, on the ruins of which Israeli agricultural settlements, towns, cities, and universities were established?

Although tedious, it would not be difficult to show that the coercion used to uproot three-quarters of a million Palestinian Arabs from their homes and lands in 1948 far exceeded that deployed against the Arab population of the West Bank in and after 1967. In any case, few if any Israelis would take issue with this statement, regardless of their position on the future of the West Bank. The distributors of the leaflet dispute the distinction made between Israel proper (territory inside the 1949 Armistice Lines, also known as the Green Line) and the occupied West Bank (outside the Green Line). They charge as hypocrites those who make this distinction. By so doing, they challenge liberal Zionist commitments to a "two-state solution," as such commitments require recognition by Israel and Palestine that each state has a right to exist within borders that reflect remedies for what happened in 1967 but not for the events of 1948. To the extent that no moral difference is seen between them, the task of legitimizing the permanence of the consequences of one and not the other is that much more difficult.

The significant shift in Jewish circles toward serious consideration of what really happened in 1948, and its implications for Israel and its legitimacy as a state, can be discerned in the reception accorded to Ari Shavit's *My Promised Land*. Not only did the book become an immediate bestseller

among American Jews, it is actually being read. Shavit has lectured across the United States to packed halls. In November 2013, the Council on Foreign Relations hosted an elaborate luncheon and discussion of the book with its author. The moderator was David Remnick, editor of *The New Yorker* magazine, which six months before the book's appearance had published its central, and most potent, chapter—a no-holds-barred account of the brutality with which hundreds of Palestinian Arabs were killed and tens of thousands forcibly dispossessed and expelled from the large prosperous town of Lydda in 1948.

Drawing directly from interviews with Israeli officers who participated in and directed the operation, the power of Shavit's account is not simply in the details of the fate of Lydda and its inhabitants. Scholars have known and written about that for years. But Shavit does more. He places the event in a context which not only destroys already frayed but cherished beliefs that Palestinian Arabs fled "of their own accord" or as a result of orders from Arab countries, but also demonstrates the crucial role played by deliberate and systematic campaigns to betray Arab villagers who engaged in non-belligerence agreements and to cleanse the country of as many of its Arab inhabitants as possible.

In describing the origins and training of the officers who conducted the Lydda operation in July 1948, Shavit details events some months earlier. The following passage illustrates how Leon Uris/*Exodus* images of heroic, morally upright Jewish soldiers fighting a desperate post-Holocaust struggle for survival quickly yield to key elements of the Palestinian Nakba narrative, including the barbarism of both the slaughter and the expulsion of Palestinian Arabs.

In mid-January, eight of the boys carry out their first roadside ambush: they open fire with a machine gun on an Arab taxi, killing all of its innocent passengers. In mid-February some of them participate in their first commando-style raid: they blow up sixteen stone houses in a remote Galilee village, killing sixty. The mindset changes. Values and norms begin to devolve. There are still gramophone concerts in the evenings, but the talk now is of revenge. Literary discussions and ideological debates still take place, but just before a military operation there is now a war dance. Like painted Indian warriors, like lustful Arab assassins, the Hebrew boys go round and round with daggers held high, knives between their teeth. And on the eve of May Day, they descend the mountain of Kna'an to conquer a village for the first time. They drive away the eight hundred inhabitants, loot the village, and blow it up. They erase the village from the face of the earth.¹¹

Aside from its implications for enlivening debates among Israel supporters, comparison of the means Israel used to seize land in 1948 and its aftermath with those it used in 1967 and its aftermath also raises the theoretical

problem of the relationship between “might” and “right.” In both cases, in 1948 and in 1967, might was used. How then, consistent with the rules of logic and appeals to universal morality, can we think that the results of the former are just—that is, capable of establishing rights to land that was acquired via coercion, usurpations, erasures, and oppression—while the results of the latter are not just, and cannot establish rights despite the deployment of identical policies? Posed in this way, the question is not about Israelis and Palestinians, *per se*, but about the much more difficult and general question: “What gives peoples, or states, rights to the territories they rule or seek to rule?”

I turn now from the Israeli-Palestinian case itself to the general question of how rights to territory can be established, recognized, and/or lost. That analysis will lead to a list of criteria for judging rules for allocating rights to territory and an argument that there does exist at least one rule that meets those criteria. This chapter concludes by returning to the different arguments that the Ben-Ari/Marzel leaflet and the Shavit book advance in light of that rule.

THE GENERAL QUESTION: WHAT GIVES A PEOPLE RIGHTS TO A LAND?

Evaluating Israeli and Palestinian claims is now particularly interesting because most Israelis have come to recognize that Arab suffering and injustice were key elements in the establishment of Jewish control over territory in Palestine. In most arguments on this matter, both sides accept historical truths that render irrelevant many older and more comforting narratives. But *how* the arguments are resolved is important. Unless a formula can be found to legitimize national control of lands that were acquired unrightfully, then all we may hope for is a series of broken cease-fires in an endless tournament of brutality. Around the world conflicts over territory, that is to say over what groups will inhabit and govern which pieces of the earth, are among the bloodiest and most intractable struggles afflicting humankind.¹² Principles advanced to justify territorial claims combine economic, demographic, legal, ethnic, nationalist, and religious principles. Seldom does a movement or state struggle for territory that it does not claim a “right” to rule on the basis of some formula or combination of formulae. Moreover, the collapse of the Eastern bloc, and of communism and communist parties as organizing frameworks for politics from Prague to Vladivostok and from Latvia to Tajikistan, has created dozens of political vacuums.¹³ Sucked into these vacuums have been collections of new and old formulas for political legitimacy—each advanced by political entrepreneurs anxious to enshrine the identity that corresponds to their own comparative political advantage. Each of these iden-

tities—regionalist, ethnic, religious, tribal, class, or racial—imply differently shaped states and different complexions for the political arenas to be formed within them. Almost always, the territorial implications of these identities contradict those of several others. This is a recipe, it would seem, for a virtually Hobbesian struggle for ascendancy—a “war of all against all” to achieve a favorable distribution of the earth’s surface, a war in which every person would be forced to find within him- or herself a cultural affiliation with a territorially focused movement that had the potential to be a “winner” in this fateful contest.

Despite this cacophony of claims and counterclaims and amidst the incapacities of international law and international organizations, it is nevertheless the case that most states that could challenge the territorial integrity of their neighbors do not—not because they fear war, but because doing so would first require taking risks associated with placing territorial issues on public agendas. Indeed, my argument about how to evaluate claims to territory is anchored precisely in the emergence and protection of boundaries that can exclude such claims from the agenda of politics. I shall argue that it is the struggle to match political identities and justifications with appropriately enlarged or reduced territories that, over long periods of time, can yield progress toward demarcations experienced as “natural” enough to answer the question of what gives a people rights to a land.

What are rights to land? Before we decide what criteria to use to judge claims on behalf of peoples to rights to land, and even before we decide whether such rights even exist, we have to be clear about what a right to a land would be if we determined that a particular people did have one with respect to a particular piece of land.

A right is a claim on a benefit which is treated as justified, that is, which is recognized or treated as placing on others a “duty” to refrain from taking, using, or enjoying the same benefit. The operational meaning of my neighbor’s right to his life entails my identification of him as a living person and my conscious or habituated sense of duty not to kill him, even if I might want to and even if I might be able to. Conversely, if I refrain from killing him only because I am afraid of the police, it is clear I do not believe he has a “right to life.” Accordingly, a people’s or a state’s right to rule designated territories would entail recognition by others 1) that the group in question is a “group,” a “people,” of the sort that can have collective rights; and 2) that the claim of this particular people to the territories in question is such that other potential claimants have a duty to refrain from using their resources to advance their own claims.

To begin, we may easily dispense with the common objection that experience shows that only “might” makes “right.” This view, broadened to include all of political life, was captured by Thucydides in his chilling account of the Melian dialogue, when the Athenians confronted their weaker neighbors with

the opinion that in this world “the strong take what they can and the weak grant what they must.”

One can certainly develop a view of politics, whether as an analyst or as a practitioner, which does not imagine the existence of the kinds of obligations, privileged claims, and habituated practices I have identified as “rights.” But to do so means paying some very high costs. One cost would be the very phrase “might makes right,” which becomes a contradiction in terms. The phrase is meant to communicate the non-existence of rights as they have here been defined. If rights as such, that is duties not to use available capabilities to achieve valued ends, cannot exist, neither “might,” nor anything else, can create them. If, on the other hand, the exercise of might (i.e., conquest) creates a “right,” that is, a duty to refrain from changing that which “might” has established, then the claim that rights do not exist would not be correct, since, in fact, “might” had established such a “right.”

Another problem with the claim that all assertions of rights are spurious is the fact that so many people in so many places and for such long stretches of history have acted precisely as if they *do* believe in the existence of rights, especially their own, but also those of others. Multitudes of men and women have given their lives out of a sense that they were defending their “rightful” presence in, and rule over, their land. Third parties to conflicts regularly shift the direction and weight of their involvement on the basis of beliefs about whose “rights” are being violated. These are facts about our political world that cannot be ignored. The familiar sense of outrage we feel about our territorial conflict of choice when seeing a report of an “innocent” people’s “rights” being violated—whether in Kosova/Kosovo; Judea and Samaria/West Bank, Palestine; Crimea; or Tibet—and equally powerful sense of vindication when our side wins its “rights” in a dramatic reversal of fortunes, must both be ignored by those who would deny the political potency of beliefs in a people’s rights to its land. An approach which denies that the concept of a “right” to a land can have meaning, or that “rights” have effects in this world, would have to accept the burden of explaining conflicts, accommodations, alignments, and decisions to participate or abstain from participating on one or another side of a conflict, without ever mentioning “rights” (including the “right” to defend one’s homeland).

To be sure, one might argue that the masses are “duped” into making sacrifices for “rights” and “duties” that do not really exist, but that serve merely as slogans in schemes of manipulation fashioned by cynical elites. This argument, however, admits the importance of the idea of rights. Indeed, it is based on an image of so many people so regularly motivated by their understanding of their rights, and those of others, that elites are required, everywhere and always, to talk and act as if they too believe in such rights. Few indeed would question the energy and regularity with which elites participate in the rhetoric of rights to land, often staking the legitimacy of their

regimes and their entire political careers on appeals associated with irredentism, expansionism, secessionism, decolonization, or state contraction.

A FORMULA FOR TERRITORIAL RIGHTS ALLOCATION

There are four criteria that any rule for allocating territorial rights to peoples must meet. First, since it must be universal, the rule needs to be stated abstractly enough so that the specific characteristics of particular groups (their languages, ideologies, sacred scriptures, or historical experiences) are not established, by fiat, as enjoying special and parochial privileges. The whole basis of a claim to a right is the appeal to others to accept a “duty” to honor that claim. No group that is *excluded* from a set of privileged cultural attributes—those attributes used to justify claims—can be expected to accept the rights and duties such a rule would generate since it would thereby automatically preclude the possibility of making its own culturally based counterclaims.

Second, the rule must be stated trans-historically. It is not satisfactory, for example, to argue that only “nations” have rights to land. Until the seventeenth century, no group advanced its claims to land in terms of a universal theory of national self-determination. A rule based strictly on “national rights” would therefore produce the absurd conclusion that no people or state had made any valid claims to land before at least the seventeenth century. Moreover, unless the rule is stated trans-historically, there is nothing to prevent it from being declared outmoded tomorrow, or in several decades, when, for example, nationalism, as a popular form of collective solidarity, may have faded away, or is replaced by religion.

Third, the rule must be formulated in a way which promises that in the long run, at least, all groups would be better off with this rule than with any other. This criterion is a simple statement of the obvious point that unless we rely on a divine, revelatory moment (which would contradict rule one), and barring particular attributes or experiences of some groups and not others as the grounds of decision, the only way to justify any rule is by arguing that it serves the interests of those it affects better than any other.

Finally, the rule must be capable of being implemented. No rule would be satisfactory that required or assumed that it was not going to be implemented or enforced. This means that the rule must not, for example, require such a constant rearrangement of borders that political institutions as we know them and groups as we understand them could not continue to exist.

Using these criteria, we can now consider how unsatisfactory the most commonly suggested rules for allocating territorial rights to states and peoples are, whether explicitly or implicitly. Arguments that the Bible, the Koran, or some other people’s holy writ establishes the “right” of peoples to

particular pieces of land can elicit a sense of duty to abide by that claim only in the minds of those peoples who accept the authoritativeness of that text. Since there is no universally accepted authoritative text, there can be no universal rule based on any group's particular beliefs about the cosmic source of its rights.

Arguments about permanent "natural" boundaries linked to security or economic viability can only pass the trans-historical test if they are understood as fluidly changing to reflect continual transformation in the technologies of war, trade, and production. But if boundaries are to be reconsidered with every shift in technology and economic activity, the rule becomes impossible to enforce. Indeed, an allocation rule based on "most efficient use," reflecting both the demographic weight of a people making a claim to a territory and its demonstrated industriousness in exploiting that territory, would require a process of constant redistribution of land in accordance with changing population sizes and land use patterns. Enforcement of this rule would be enormously disruptive as well as unachievable given the impossibility of measuring the value of one culture's "efficiency" standard against another's: some groups might value natural spaces and low population densities more greatly while others might prefer increased GNP, higher population densities, and natural resources exploitation that is more transformative. Indeed, any rule for allocating rights to lands that emphasizes economic performance would tend to encourage the endless fragmentation of states, with groups living in economically profitable areas drawn to seek independence as the only way to ensure continued rights to "their" land. If that were the case, every group and state would find itself motivated to increase rates of population growth, a form of competition which would quickly overburden the planet, undermining the interests of all groups.

The argument that only *nations* have rights to land runs aground on the oft-noted and insuperable difficulty of gaining universal agreement on what constitutes a nation and, by extension, when a group becomes or ceases to be a nation, thereby gaining or losing rights to a land. This rule also succumbs to its historically (and geographically) limited applicability (as would analogous rules based on religion, imperialism, or socialism). Some have suggested that the principle of self-determination itself, using liberal theory as its foundation, can justify and limit group demands for ruling over territories. But the most prominent of these, John Rawls's use of the "veil of ignorance" to assess the justice of competing claims, depends on participation in a limited human community, and yet is notoriously incapable of producing rules for specifying the morally correct boundaries for such a community.¹⁴ Arguments that liberal and only liberal groups have rights to land cannot survive the challenge of non-liberal groups (e.g., fundamentalist Christians, Muslims, and Jews), whose value systems produce no basis for accepting a duty to respect "rights" to land based on liberal values they reject. If one opposes

non-liberal bases for according rights out of convictions that are liberal, one cannot, without enforcing on others the same kind of absolutist claims to truth one has just opposed, reject duties to honor “rights” that those with non-liberal values seek to impose.¹⁵

Arguments that prior possession or habitation guarantees political rights over a territory in perpetuity appeal to a rule that cannot be implemented. Even if aboriginal habitation patterns could be identified and linked convincingly to contemporary groups, reallocation of territory on this basis would require virtually all peoples to be displaced and population densities reduced in most areas of the world to the point that the majority of the planet’s inhabitants would literally have nowhere to live.¹⁶ This is not only manifestly impossible, but it would also not meet the criterion of a rule serving the interests of all groups affected by it better than any other.

What these examples illustrate is that there are no *particular* attributes, beliefs, or practices that can produce a rule for allocating territorial rights to different peoples. They suggest that any rule based on an a priori specification of desirable attributes, beliefs, or practices is inevitably biased. It cannot be universal, because it must necessarily reflect either the interests of those peoples making the specification or the principles by which those doing the judging can best justify their claims to the lands they themselves possess or want.

HEGEMONIC ANALYSIS TO THE RESCUE

All is not lost, however. To make my argument baldly, if imprecisely, a people can be said to have a right to a particular land if, and to the extent that, its claim over the territory is not challenged by counterclaims. To clarify this argument, it is necessary to adopt the language of hegemonic analysis.

Hegemonic beliefs are beliefs which no one who holds them thinks to examine because they form part of the presumptive background of thought and action. They form our “common sense” impressions of life. When aspects of political life become so deeply institutionalized by processes, however brutal or gentle, abbreviated or protracted, that they cease to be considered as artifacts of political decision and struggle, but as given, and “natural,” they become invisible as political circumstances.¹⁷ They thereby assume a degree of immunity from challenges to their validity or from pressures toward change. Thus, to the extent that a state’s rule over a piece of territory is institutionalized hegemonically, that territory is no longer imagined by citizens of that state, in their everyday uncalculated apprehensions, thought processes, and language, to be distinct from or separable from the state. Questions about whether the territory ought or could in the future be ruled by their state would, accordingly, either not intrude upon their political con-

sciousness or be treated, if they did appear, as worthy of ridicule, scorn, or hilarity, not as subjects of serious political debate.

My claim is that the best rule for allocating territory to peoples, and the only one that can meet the four criteria described above as necessary for recognizing collective rights to land, is one that uses hegemonic beliefs as a measure of rights. The potential to institutionalize territorial control via such beliefs thus becomes the yardstick for evaluating demands for the expansion or contraction of existing states or the creation of new ones. In other words, a state, and the people represented by it or which control it, can be said to have a right to rule a piece of territory only to the extent that its claim on that territory is hegemonically established. Such rights, once established, are not necessarily permanent. Rivals may arise with claims to that territory either from within the state itself or from outside. However, the onus will be on those rivals to overthrow prevailing and powerful dispositions to view their claims as irrelevant and wrongheaded, if not silly, before they can begin the arduous task of replacing the existing rights of others with rights of their own. Such a campaign would entail institutionalizing, within relevant political arenas (and these might well include arenas quite far, geographically, from the territory under dispute), a new hegemonic belief about who should rule the now problematically classified territory. The extent to which a belief can be sustained as hegemonic within a particular political arena if it is not also treated as such within other relevant political arenas is an empirical question. But regardless of how far afield one might have to go to secure or disrupt hegemonic claims, the rule, once adopted, would have the great benefit of being self-enforcing. For to reduce prospects of counterclaims and thereby establish or protest the hegemonic status of one's own claims, it would be necessary to avoid or relinquish making claims that would be difficult to integrate as "natural" or commonsensical by others, including potential rivals.

As a practical matter, politicians advance claims to territory in the form of stories about what has happened to particular peoples, who they have been, and what they have done.¹⁸ When it comes to claiming rights to land, this means telling stories that can become hegemonic, stories that feature fulfillment of whatever criteria are accepted by listeners for validating rights. If the people on behalf of whom the claim is made do not believe the story, they will certainly not be able to treat the claims it supports for rights to rule a territory as commonsensically true. If they are incapable of acting as if those beliefs are natural presumptions of their collective life, then it will be difficult if not impossible to establish such beliefs and presumptions in the minds of others. And if others, *especially* other potential claimants, do not accept those beliefs as presumptions of their collective life, then, under the theory of rights to land advanced here, the group making the claim will not have established their rights to the territory effectively.

There are few types of arguments, or stories, for asserting a people's right to a land that one group of Zionists or another has not, at one time or another, advanced to support Jewish rights to Palestine/the Land of Israel. Among the most familiar: Genesis and other books of the Bible narrating God's promise to the Jews that the land was theirs; the original inhabitants of an independent political unit in the land were Jews, who were unjustly conquered and expelled, and now return to redeem their position as its rightful inhabitants and rulers; Jews worked to develop what was otherwise a barren land, making it fruitful and thereby earning the right to rule it; in light of a history of ferocious persecution, the Jews' need to rule the land, or a large part of it, is greater than the need of the Palestinians, or the Arabs in general, and so takes precedence; international law, as expressed in the Balfour Declaration and the League of Nations Mandate, established Jewish legal rights to rule the country—a legal position stronger than any rival claimant can advance; the requirements of self-defense by Jews under attack from Arabs who refused to make peace with them justify the expansion of Jewish rule from the territory allotted for a Jewish state by the United Nations Partition Resolution of 1947, to what became the State of Israel in 1948/1949, and from those borders, to the inclusion of East Jerusalem, the West Bank, and the Golan Heights, occupied in 1967; and there is no justification for allowing the return of Palestinian Arab refugees and their descendants, whether displaced in 1948 or 1967, because they chose to leave rather than stay, were rightfully punished for supporting war against the Jews, and/or were replaced by Jewish refugees constrained to leave Arab countries.

Many of these arguments, and the narratives within which they are embedded, are based on specious or extremely dubious empirical claims, claims now rarely heard—at least in scholarly circles. This is in large measure due to the fact that for very large proportions of the relevant populations more and more is known—or, to be more precise, no longer forgotten—about the details of the country's history and the conflict over it. In the last few decades, we have witnessed, including and sometimes *especially*, among Israeli researchers, an explosion of scholarship describing the developed culture and society of Arab Palestine in the Ottoman and British periods; the major role that Arab labor and investment played in the country's development even after the arrival of Zionists; and the expansionist aggressiveness of Jewish forces in 1947–1948 who broke local treaties of peace; engaged in tactics of terror, intimidation, and massacre; and systematically exploited opportunities to seize more territory as well as cleanse occupied regions of as many non-Jews as possible.

It is in this greatly enriched information environment that continuing to assert Jewish rights to rule heavily Arab (or formerly heavily Arab) areas of Israel within the Green Line, but not the West Bank, has become increasingly problematic. A crucial outcome of the scholarly deconstruction of the official

Israeli/Zionist narrative about what occurred in 1948 and of a variety of story threads pertaining to Jewish rights to rule the Land of Israel/Palestine, is that many Israeli Jews as well as many supporters of Israel outside the country speak publicly and maintain private beliefs that contradict that narrative. One result is that while claims to rightful rule of the West Bank are far from achieving hegemonic status, the previously hegemonic status of Jewish/Israeli claims to rightful rule of areas *within* the Green Line is now seriously threatened. From the point of view advanced here, this means that Israeli Jews seeking to advance Jewish rights to territory in or over the country—on either side of the Green Line—must first focus within their community to rebuild or fashion anew both claims to land rights and a story to support them that at least in principle could be a candidate for hegemonic status. We can see in the Marzel leaflet, and the Shavit volume, two distinctive strategies for doing so.

COPING WITH NEW KNOWLEDGE AND THE SEARCH FOR HEGEMONIC POTENTIAL

Zionist doves (interchangeably referred to here as liberal Zionists) face an excruciating conundrum. They now know the means by which most of the territory within Israel proper came to be ruled by Jews. The old story, although largely false, had succeeded among Jews in Israel and most of the international community in establishing hegemonic beliefs in the rightness of Israel's rule over territory acquired in 1948. By 1967, even most Arab citizens in Israel had acquiesced, in their public behavior, to the institutionalization of this construction of moral and political reality. Now most Arabs in Israel, much of the world, and even many Israeli Jews, are at least questioning the legitimacy of rule by a "Jewish state" of the portions of the country inside the Green Line. Seeking with increasing desperation to uphold those rights, liberal Zionists vehemently deny the right of annexationists to enforce Jewish political and sovereignty claims in the West Bank. But when they decry the land expropriation, settlement, and "voluntary transfer" policies employed by West Bank settlers and their allies, they end up attacking the very measures that they now know were used to enforce Jewish rule over territory inside the Green Line.

In essence, dovish Zionists fight against land expropriation and settlement in the West Bank, and against policies designed to encourage Arabs to leave, because they seek to preserve an image of Israel within the Green Line as a Jewish state "rightfully established." They emphasize and even exaggerate the crimes of 1967 and its aftermath in order to prevent memories of the crimes of 1948 and its aftermath from occupying center stage on national, regional, and international agendas. To protect the legitimacy of Israel on one

side of the 1949 Armistice Line, they must delegitimize Israeli policies on the other side. What outrages and even terrifies Israeli doves is that the settlers and their supporters are willing to contaminate the State of Israel in the eyes of the world by equating its establishment with their own activities in the West Bank, preferring, it would appear, a “greater” Israel to a smaller Israel reliant on the continuation of selective memory, even if the that state is condemned to international pariah status.

The cruelty of this predicament is mercilessly exploited by the leaflet Marzel distributed at the book launch event. On its reverse side, the leaflet sets aside the “joke” to make the point explicitly: There is no consistent basis for upholding Jewish rule within the Green Line based on rights to do so while condemning assertions of comparable rights in the West Bank. In this way, West Bank annexationists reject condemnation of their position by Israeli opponents on the basis that those opponents know, but do not make moral inferences from, the fact that the policies deemed to make Israeli rule of the West Bank wrongful are precisely the same policies that were used to establish and are now used to enforce Israeli/Jewish rule of lands inside the Green Line (i.e., within Israel proper).

Here is the (translated) text of the reverse side of the leaflet.

Now, Seriously. Who here are the fascists?

We did not come to fight, nor to be irritating, only to explain.

No. We are not occupiers, not in Sheikh Munis, and certainly not in Sheikh Jarrah.¹⁹ Sheikh Jarrah, remember, was essentially a Jewish neighborhood surrounding the grave of Shimon the Righteous. The Jews that lived there were expelled from their homes in the War of Liberation (remember the Hadassah hospital massacre?!). The High Court has now decided to do justice and to return the property to its owners.

Regarding Tel-Aviv University and the neighborhoods next to it, that is another story. That is the story of Zionism, which raises the flag of Israel’s return to its historical homeland, without apologies. True, the buildings of the campus and the offices of the Dean and the Rector sit on the ruins of an Arab village. Yes, that is true also of the office of Professor Gadi Alghazi,²⁰ a building constructed on what is called “privately owned Palestinian lands.” But again, that is the essence of Zionism, the people of Israel returning to its land!

That was the fate also of Majdal (i.e., Ashkelon) and Yavneh. Indeed more than eighty kibbutzim were established on the ruins of Arab villages. But as we have explained, there is one and only one basis for the legitimacy of this. We, the Jewish people, are the masters of this land, from the beginning and for eternity!!! Without squirming and without apologizing.

So who here are the fascists? Baruch Marzel, whose house is on Jewish land in the center of Tel Rumeida²¹ in Hebron? Or Yariv Oppenheimer,²² whose office is in an Arab house in the Baka neighborhood of Jerusalem? If there are those deserving of being called “fascists” or “occupiers,” they are to be found in Tel-Aviv University.

Those who roll their eyes, and argue that Judea and Samaria are occupied territory, should listen to Abu Mazen who speaks about 63 years of occupation. And they should remember that the Palestine Liberation Organization was established in 1964, years before the “occupation of Judea and Samaria.” Our enemies do not distinguish and will not distinguish between Ramat Aviv and Kfar Shmaryahu²³ that were built on Sidni Ali and Kfar Halem, and Kiryat Arba and Ariel. From the point of view of Member of Knesset Zahalka, when Dan Margalit sat with him in the university television studio (just a little way from here), he was sitting in Sheikh Munis.

Enough with hypocrisy and confusion. This land is one, including all its parts. Judea and Samaria are the heart of the country. Look at the map; learn a little of our history. There never was another entity here since we were expelled, and certainly there was nothing here called Palestine. Nonetheless, “the Kingdom of Judah,” was here and still is (and we are building it). That is a fact, that is not a “narrative!”

We have returned to our home, and we do not intend to move from here to any other place, not from Tel-Aviv University and not from Jaffa and not from Shavei Shomron (in Nahalat Mishneh)²⁴ and not from Carmi Tzur that is in Nahalat Yehuda.

The next time that some self-righteous dove preaches to you about “occupation” and “settlers,” ask him about Sheikh Munis, and you’ll see a lesson in acrobatic balancing and professional level hypocrisy.

Thus the settlers seek to remind the world in general, and Israelis in particular, of the crimes of 1948. Calculating that Israeli Jews will never abandon their conviction of the rightness of claims to the land within the Green Line, or to the settlements established there, West Bank settlers seek to force their dovish opponents into supporting policies in the West Bank they cannot deny were implemented in Israel “proper.” What settlers insist Israelis remember is precisely what Israeli doves dread will no longer remain forgotten. In effect, annexationists are telling anti-annexationists that there is no such thing as “liberal” Zionism, and that if you want to be a Zionist, you must risk being called a fascist by liberals.

It should be noted that the leaflet is much more committed to the proclamation of Jewish claims to the land than to making those claims in ways that could ever be translated into “rights” (i.e., into a sense by others), including Palestinians and other Arabs, that a Jewish state’s rule over all of historic Palestine should be undisturbed. The leaflet’s argument is not that “enemies” will become “friends,” or even “non-enemies,” or respectful “neighbors,” only that they will be equally and ferociously opposed to Israel whether or not it withdraws to the 1949 Armistice Lines.

By using the analysis of what could work as a rule for evaluating claims of rights to land, we can appreciate both the appropriateness of the argument advanced in this leaflet and the retreat it represents from right-wing efforts in the past to promote the annexationist agenda. Yitzhak Shamir was an ultrana-

tionalist member of Menachem Begin's right-wing Herut Party and then of Likud. He served as prime minister from 1983 until 1992 except for two years of a national unity government in which Labor Party leader Shimon Peres occupied that office. In 1982, in the midst of the accelerating effort of the second Likud government to ensure permanent Israeli rule of the West Bank and Gaza, Shamir was foreign minister. Meeting privately with a group of party activists in December of that year, he was asked how properly to respond to arguments about the merits of the case for keeping the territories. His advice: refuse to provide any arguments. To do so, Shamir suggested, would imply that some sort of conditionality was attached to the enlarged shape of the state and thereby postpone the elimination of such arguments from public debate. "We, members of the national movement," he said, "must drive into every youth and Jew, this deep, simple, and elementary realization that Eretz Yisrael is ours. Why? Because, without any justifications of explanations, it is [*kacha zeh*]."25

Refusing to argue reflects a strategy for achieving rights to the land by changing discursive patterns regarding the propriety of Jews ruling the West Bank so that common sense (i.e., hegemony) replaces discussion of the merits of claims. As a rhetorical position, the advice reflects confidence, firstly, that the immediate audience has internalized the arguments and the narrative that weaves them together, and, secondly, that the main objective of political action is not to persuade the unpersuaded but to widen the circle of those for whom the belief is hegemonic. Implicit within this position is that there are many more who accept the arguments but do not yet contribute to their hegemonic status by acting as if they take their truth for granted.

Comparing the argument in the leaflet to Shamir's position three decades ago, we see important similarities, but also a certain kind of retreat. In neither text do we see appeals to the value systems of others as a basis for supporting claims to Jewish rule of the West Bank. Both emphasize the importance of vigorous and categorical assertion of the claim over systematic justification. But there is a key difference. Shamir's advice is based on an image of a hegemonic project making progress toward total hegemony, progress that may be slowed by failure of its supporters to use language consistent with its eventual success. He sees no need to risk loss of support by advancing arguments that could alienate those whom he wants to see accept the naturalness of Israeli rule over territory occupied in 1967. The author of the leaflet, however, is more focused on expanding the community of those who assert Jewish claims to rule the whole Land of Israel, not in promoting modes of speech that would help to hegemonize those claims by removing them from the agenda of discussion. Moreover, the audience of the leaflet is much more limited than the audience imagined for the tactics Shamir was encouraging all young Jews to adopt. Specifically, the leaflet's audience is really only

those Zionists who are more committed to Jewish sovereignty rights in the Land of Israel than to liberal principles.

Public knowledge that much of what Zionism and Israel did in the pre-state era, in 1948, and during the early years of statehood, is not consistent with liberal nationalist arguments in favor of the Jewish state's right to rule territory within the Green Line has had a quite different meaning for liberal Zionists doves than for annexationist Zionist hawks. The author and distributors of the leaflet welcomed the revelations of the "crimes" committed in 1948 as an opportunity to legitimize similar actions taken in the West Bank. In contrast, liberal Zionist doves encountered these revelations as a fundamental threat—one requiring abandonment of old justificatory slogans, stories, and arguments, and a search for some new way to sustain a defensible claim to rightful Jewish rule.

That search has not been easy. Instructively, the dovish Zionist speakers at the book launch event interrupted by Marzel never did respond to his questions. Indeed, it is relatively rare to find direct attention given to this problem by theorists of dovish-liberal Zionism. One notable exception is Chaim Gans's 2008 book *A Just Zionism: On the Morality of the Jewish State*. A liberal Zionist philosophy professor at Tel Aviv University, Gans offers a two-pronged solution. The Jewish state has the right to rule the lands it acquired via ethnic cleansing in 1948 because:

1. Much of that activity was in response to Arab violence and was not intended for the purpose of territorial expansion, per se, while settlement in the West Bank is motivated by desire for territorial expansion.²⁶
2. However the Green Line was produced, it is the only line that attracts international recognition and is accordingly the only basis for achieving the morally necessary division of the Land of Israel/Palestine between the Jewish and Palestinian nations.²⁷

One reason why Ari Shavit's book is so interesting is that he does not resort to Gans's first argument.²⁸ Instead he provides detailed reconstruction of the ideological, cultural, and practical preparations that made it possible to implement those policies of ethnic cleansing when the opportunity arose. In other words, Shavit does not deny that the elimination of Arab life in Palestine was the effective and conscious, but not publicly expressed, intention of the mainstream Labor Zionist leadership. His honesty deprives him of the justification that Gans offers for Zionist rights to rule the territory, namely that they were motivated to do the evil they did only because they believed it was necessary for self-preservation.

In any case, the argument that the character of the motives in the minds of those who seize land would produce the rights to do so would have to be

rejected under at least two of the criteria examined earlier. First, the argument is particularistic, not universalistic. No victim of a land seizure could sensibly be asked to acknowledge his/her duty to recognize its consequences as right because of the motives that animated the dispossessors.²⁹ Second, such an argument could not be implemented without destroying all existing rights to land, since its acceptance as a general rule would encourage every people to use what power it had to seize any lands it wanted based on the self-proclaimed purity of its motives.

Although Shavit rejects Gans's first strategy for responding to the arguments contained in the Ben-Ari/Marzel leaflet, he endorses the second. Evil was done to create the state and establish Jewish rule over its territory. Though the crimes are now visible and known, the Zionist movement showed skill and political maturity by perpetrating them in such a way as to permit Israel to emerge as a legitimized and recognized member of the international community with enough land to prosper as an immigrant-absorbing state and an Arab minority small enough to be effectively controlled and deprived of most of its land. The problem for Shavit is that the occupation begun in 1967 unleashed processes—whether inside Israel, among the Palestinians, in the region, or across the globe—that have culminated in imminent threats to its survival: internally in the form of “the disintegrating code of humane Zionism . . . allowing dark forces to menace the nation. [S]emi-fascist ideas . . . are now being endorsed by some leading politicians in the ruling parties,”³⁰ and externally in the form, most dramatically, of the Iranian nuclear program. Despite Israel's own extraordinarily advanced atomic arsenal, which Shavit not only acknowledges but celebrates, the Iranian nuclear threat is an “existential challenge,” which “casts a heavy shadow over the future of Israel.”³¹

With no hope for a negotiated peace, and having identified unilateral actions as necessary to defend threats to Israel's survival, Shavit guides his intended audience—those worried about Israel's future, ready to accept the truth about the past, but confused about how to defend it—toward a sense of desperation so strong that they will be ready to live without a general moral formula upholding the rightness of Zionist claims. When survival itself is threatened, and Shavit makes it clear that he endorses the classical Herzlian Zionist view that Jewish life on the planet cannot continue without a Jewish State,³² no action deemed necessary or even relevant to self-preservation can be questioned and no price, in moral coin, is too high to pay.

But Shavit's argument is more complex than that Israeli Jews can take anything they want in the Land of Israel because it is a matter of survival. By demanding that Israel abandon the West Bank and its settlements in order to avoid international pariah status, Shavit is holding out the hope of someday, at least, offering Israelis and the world a formula for validating Jewish rights in the State of Israel that could achieve hegemonic status.³³ For this he must

make an argument that is much more difficult than the leaflet's argument. To draw a bright line between 1948 and 1967, Shavit must classify everything morally outrageous that Israel did in 1948 as absolutely necessary for Israel, in any way, to even exist. On the other hand, all evil done to expand and make permanent Israeli control over areas occupied in 1967 must be seen as unnecessary for, or even contrary to, the country's prospects for survival.

On the face of it this is a peculiar claim. Why was expelling the Arabs of Lydda, and of each and every one of the four hundred other Arab communities that were destroyed in 1948, absolutely necessary for Israel's establishment and survival? Why was it *not* necessary to expel the more than one hundred thousand Arabs who remained, but *was* necessary to subsequently confiscate 70 percent of their land? Why was it necessary to take 35 percent of the territory allotted by the United Nations to the Arab state in Palestine, and not more? These are not questions Shavit can ask if he is to promote the 1949 Armistice Lines as established legitimately out of fear for Jewish survival. He must make the choice categorical.³⁴ "Lydda," as he puts it, using the town and its fate as a metonym for the fate of Arab Palestine and its inhabitants, "is our black box. In it lies the dark secret of Zionism. From the very beginning there was a substantial contradiction between Zionism and Lydda. If Zionism was to be, Lydda could not be. If Lydda was to be, Zionism could not be."³⁵

He goes on to state: "In the name of the Kishniev Pogrom, Zionism instigated a human catastrophe in the Lydda Valley."³⁶ Thus does Shavit collapse anti-Semitic persecution and war with Arabs into one category of existential threat—indeed, the chapter that immediately follows "Lydda" is Shavit's graphic treatment of the Holocaust and the inspiring stories of child survivors who lived full and productive lives thanks to Zionism. In this way, he provides the moral and emotional basis for his virulent critique of "bleeding heart" Israelis who want to condemn what was done in 1948, but enjoy its fruits.

[T]he conquest of Lydda and the expulsion of Lydda were no accident. They were an inevitable phase of the Zionist revolution that laid the foundation for the Zionist state. Lydda is an integral and essential part of our story. . . . I see that the choice is stark: either reject Zionism because of Lydda, or accept Zionism along with Lydda. . . . If need be, I'll stand by the damned. . . . They did the dirty, filthy work that enables my people, myself, my daughter, and my sons to live.³⁷

It appears that this formulation is something Shavit has developed during the last decade. His interview with Benny Morris, in 2004, reflects his shock and even outrage at somewhat comparable sentiments Morris expressed at that time.³⁸ Morris had objected to Israel's occupation policy in the West Bank and Gaza and even spent a brief stint in jail for refusing to do reserve military

service in those areas. But after the second Palestinian intifada, he shifted his political position, declaring that Israel had erred in 1948 by not more thoroughly cleansing the country of Arabs. Praising Israel's separation barrier built to keep Palestinians within well-patrolled ghettos, Morris told Shavit: "Something like a cage has to be built for them. I know that sounds terrible. It is really cruel. But there is no choice. There is a wild animal there that has to be locked up in one way or another. . . . Even the great American democracy could not have been created without the annihilation of the Indians."³⁹

Morris's language is much more brutal than Shavit's sometimes agonized defiance. But in his book, ten years later, Shavit echoes Morris's invocation of the hoary Israeli slogan of "*ain breira*"—there is no alternative. Shavit depicts both Israel's treatment of the Palestinians in 1948 and the need for unilateral withdrawal from the West Bank as bad options that had to be taken, and must now be taken, because there is no other choice available consistent with Jewish survival. Indeed he goes to great lengths to stress just how overwhelming are current threats to Israel's survival.

VISIONS OF APOCALYPTIC REDEMPTION VERSUS IMMEDIATE THREATS TO SURVIVAL

The argument advanced in the Ben-Ari/Marzel leaflet is very different from Shavit's. It fundamentally abandons the effort to assert a justification for Jewish rule that could become hegemonic among non-Jews. It reflects an ideology rooted in images of an antinomian struggle between God and his people Israel, on one side, and gentiles on the other in which Jewish rights will be recognized only after an apocalyptic battle and God's explicit establishment of the Jews as his chosen people. From this perspective, concern for what the world may think of what Jews do makes no sense.

On the other hand, Shavit recognizes as a dangerous threat the virtual collapse of the arguments and master Zionist narrative that had made substantial progress toward hegemonizing the status of Israel's 1949 borders. He advances the necessity argument as a recovery project. This means identifying Israel's present struggle as being equally existential and dramatic as was the 1948 struggle and therefore requiring similarly drastic action. Except now, the extraordinary action required is not the expulsion of Palestinian Arabs and the seizure of their lands, but evacuation of the West Bank and complete separation of Palestinians there from the State of Israel. This desperate measure, desperate as any taken in 1948, combined with a future unspecified opportunity for Palestinians to build their own state, is how Shavit aims to recover the Green Line as a candidate for hegemonic claims to Israel's right to rule at least parts of the Land of Israel. According to Shavit, only by offering a theoretical basis for reestablishing Israel's legitimacy

hegemonically can Israel break out of the international isolation Netanyahu's policies have brought about, and accomplish necessary missions—first and foremost, preventing a “nuclear Auschwitz,” if need be, by taking unilateral military action against Iran.⁴⁰

Offering a panegyric to Zionist leadership in the heyday of Mapai's domination (in the 1950s and 1960s) and a catastrophic depiction of the threats posed to Israel's survival today, Shavit argues powerfully on two fronts to advance his recovery project. He contrasts the silly bombast of Israel's current political leadership to Ben-Gurion's genius, and the self-flagellation of the country's “cultural elites” to the self-confident and profound historical understanding of those who undertook the tasks of founding and consolidating the State. The fundamental cause of the rot, however, is the prolonged occupation of the West Bank. For Shavit, recovering the viable hegemonic project advanced by Israel's brilliant founders means ending the occupation with the decisiveness, maturity, and ruthlessness that produced the State (and the Nakba) and then enforcing a categorical distinction between the moral meaning of dispossession imposed by Zionism in 1948 and that imposed after 1967.

Just as inflicting the Nakba on the Palestinians was justified, and can be made to seem justifiable, by the desperate necessity of “them or us,” so Shavit must portray the threats arrayed against Israel at present as equally capable of justifying the drastic step of ending West Bank settlements and withdrawing from the area even without a peace agreement. It is here that Shavit brings out his heavy rhetorical artillery. Israel, he says, is a project whose success means “walking a tightrope over the abyss” (394), with the occupation a burden too heavy for the tightrope walker to bear without losing his balance. “[I]f Israel does not retreat from the West Bank, it will be politically and morally doomed” (401), even if the risks of doing so are also great. Israel is “a fortress on the cliff” (408); “demography is turning against the Jews” (398); “less than a quarter of Jerusalem's youth are Jewish Zionists” (398); “[a] giant circle of a billion and a half Muslims surrounds the Jewish state and threatens its future” (400); “[a] wide circle of 370 million Arabs surrounds the Zionist state and threatens its very existence” (400); “[a]n inner circle of ten million Palestinians threatens Israel's very existence” (401); “like the Crusaders . . . we live on a cliff facing east” (407); “The howling winds of change . . . are turning into a hurricane that is sweeping the Middle East . . . the future of the fortress on the cliff is not clear” (408); “Israel is a lonely rock in a stormy ocean” (409); “a state in chaos and a state of chaos” (329).

CONCLUSION

Each of the two approaches to the problem of comparing claims to land arising from 1948 and 1967 can be seen as evidence for the empirical power of hegemony as the only self-enforcing and self-limiting formula for establishing and evaluating rights to land. To the extent states and peoples know they can only establish rights to land via the hegemony of their claims inside and outside their borders, then, in the long run, leaders of states will be incentivized to seek rule of as much territory as can be made to seem natural for them to rule, but not more. As international norms move toward popular sovereignty, this will mean that demographic, cultural, and equality principles will encourage both expansion and contraction depending on the changing extent to which states can rule local populations in ways that make their inclusion appear accepted, natural, and therefore right. The self-enforcing aspect of the rule means that when “mistakes” are made, the state will likely face long roiling struggles and, eventually, changes in boundaries or demography that move toward more hegemonically promising outcomes.

Recognizing that their particularistic claims have no potential for success as a hegemonic project, Ben-Ari and Marzel direct their attention only to Jews and expect a struggle with the entire world over the assertion of Jewish rights—a struggle that will end only when history itself ends. Unable to elicit non-Jewish obligations by making claims that could become hegemonic, the solution of this approach is to abandon the effort. On the other hand, Shavit recognizes that only a claim that has potential for success as a hegemonic project could provide Israel with international respect for its existence as a territorial nation-state. Accordingly, he demands that the terrifying existential struggle confronting Jews in the late 1940s be re-experienced as contemporary reality so as to rehabilitate Israel’s image (domestically and internationally) and thereby recover the prospects for hegemony that “little Israel” enjoyed, at least temporarily, for the claims it made to the territory within the 1949 Armistice Lines.

The Ben-Ari/Marzel leaflet encourages memory of the crimes of 1948 in order to force Jews into an all-or-nothing struggle with the world. Shavit offers an approach he thinks capable of recognizing the crimes of 1948 while subsuming them within a narrative sufficiently dramatic to undergird a credible hegemonic project—trading emphasis on the immorality of the occupation of the West Bank for moral amnesia about what it took to make the state in its smaller borders.

NOTES

1. Published originally in *The Journal of Palestine Studies*, Vol. XLIV, No. 2, 2015. Reprinted here by permission with some slight emendations.

2. Rabbi Meir Kahane was the founder of the ultra-nationalist Jewish Defense League in the United States. Kahane immigrated to Israel in 1971 and set up the Kach Party, which secured representation in the Knesset on a platform of expelling Arabs and transforming Israel into a society strictly ruled by Jewish Law. Israel banned the party for racist incitement in 1988 and Kahane was assassinated in the United States in 1990.

3. The leaflet, undated, was signed “In Love for Israel, Dr. Michael Ben-Ari, Jewish State Movement, medyehudit@gmail.com.” Ben-Ari is a former Member of Knesset, a declared disciple of Meir Kahane, whose Kach party was banned for racist incitement. Ben-Ari is known, among other things, for publicly burning Palestinian flags and tearing up a copy of the Christian Bible. I note that although the views of Ben-Ari and Marzel are extreme on many subjects, the formulations used in this leaflet are identical to those offered by mainstream leaders, spokesmen, and polemicists of the settler/annexationist right.

4. Meaning catastrophe or disaster—the term used by Arabs to refer to the expulsion and dispossession of 750,000 Palestinian Arabs in 1948 in the war associated with the birth of the State of Israel.

5. The upscale suburb in north Tel Aviv where the university is located.

6. The term for a Muslim charitable endowment.

7. Mahmoud Abbas, head of the Palestinian National Authority.

8. Member of the Israeli parliament, head of the Palestinian nationalist and somewhat radical “Balad” Party.

9. Noted Israeli journalist and television personality.

10. See Esther Zandberg, “Opposition to the demolition of the Beidas House, one of the last remains of Sheikh Muwanis in Tel Aviv,” *Haaretz*, July 31, 2003, <http://zochrot.org/en/content/opposition-demolition-beidas-house-one-last-remains-sheikh-muwanis-tel-aviv>.

11. Ari Shavit, *My Promised Land: The Triumph and Tragedy of Israel* (New York: Spiegel & Grau, 2013), p. 115.

12. This portion of the paper is adapted from an earlier publication. See Ian S. Lustick, “Hegemonic Beliefs and Territorial Rights,” *International Journal of Intercultural Relations*, Vol. 20 (1996), pp. 1–14.

13. Russia’s moves to annex the Crimea and its apparent designs on eastern Ukraine (also known as “New Russia”) and perhaps other territories inhabited by the Russian “near abroad,” are recent examples of chronic conflicts over territory involving both coercion and contradictory claims of superior “rights.”

14. Yael Tamir, *Liberal Nationalism* (Princeton: Princeton University Press, 1993) p. 10.

15. For a useful review of relevant literature on these points, along with a presentation of a liberal argument for territorial rights, see Daniel Philpott, “In defense of self-determination,” *Ethics*, Vol. 105, no. 2 (January 1995), pp. 352–85. Despite the rhetoric of the article, which suggests the author is promoting a general theory of territorial rights, Philpott is admirably careful to say that his exercise is only a demonstration of what rights to land would be if one accepts liberal values. He explicitly does not advance what he calls the “perfectionist” argument (that liberal values are absolutely just and incumbent upon everyone) that would alone permit his theory to be advanced as a general theory of moral rights to land.

16. To clarify, if Native Americans were the only people allowed to live in North America, hundreds of millions of humans would have nowhere to live. Apply a similar rule to each continent and all but a tiny percentage of humans would have to leave the planet.

17. For a detailed discussion of this essentially Gramscian concept and theory of hegemony, see Ian S. Lustick, *Unsettled States Disputed Lands: Britain and Ireland, France and Algeria, Israel and the West Bank/Gaza* (Ithaca: Cornell University Press, 1993), pp. 53–54.

18. Rogers M. Smith, *Stories of Peoplehood: The Politics and Morals of Political Membership* (Cambridge: Cambridge University Press, 2003).

19. Sheikh Jarrah is a neighborhood in Arab East Jerusalem, occupied by Israel since 1967. Inhabited in part by Palestinians evacuated from the old city when the area in front of the Western Wall was demolished shortly after the June war, the neighborhood has been the site of a long-running struggle against Jewish settlers who have asserted claims to homes in which these refugees live.

20. Alghazi is a well-known left-wing critic of annexationist policies in the West Bank and a professor at Tel Aviv University.

21. Tel Rumeida is a Jewish settler enclave within the Arab city of Hebron that includes Kahanist and other extremist elements.

22. Yariv Oppenheimer is the General Director of the dovish Zionist organization, Peace Now.

23. Kfar Shmaryahu is an exclusive suburb north of Tel Aviv. Both are known for the left-liberal-dovish leanings of their inhabitants.

24. West Bank settlements built on expropriated Arab land.

25. Lustick, *Unsettled States Disputed Lands*, p. 358.

26. “[O]ne could point out that the expulsion of Palestinians from certain areas in Palestine cannot be said to have been a planned policy designed for the future but, rather, an exceptional, local event.” Chaim Gans, *A Just Zionism: On the Morality of the Jewish State* (Oxford: Oxford University Press, 2008) p. 99; Chaim Gans, “The Zionism we really want: A third way to look at the morality of the Jewish nationalist project,” *Haaretz*, September 3, 2013. <http://www.haaretz.com/weekend/magazine/.premium-1.545098>.

27. Gans, 2008, pp. 94, 97.

28. Shavit rejects the label “dove” because he does not believe in negotiations with the Palestinians. He advocates decisive but unilateral Israeli actions to divest itself of the occupation and completely isolate Palestinians from Israel. On the other hand, he portrays himself as having developed the political views of a “peacenik,” and vigorously advocates nearly complete Israeli withdrawal from the West Bank along with evacuation of Jewish settlements there. Shavit, p. xii.

29. In a subsequent formulation, Gans shifted from motivation to perceived necessity as justification, but since necessity is in the eye of the one who feels the need, and since there is no mechanism in place to judge objective necessities and remediate takings that extend beyond them, this criterion cannot escape the fundamental flaw of any particularist argument in favor of recognizing rights to land. Gans, 2013, *op. cit.* This is a more general response to Gans’s familiar example of the right of a dying person to burglarize a pharmacy in order to gain access to life-preserving drugs he cannot afford. A more particular response would involve asking how to judge the results of the act if it included the destruction of the pharmacy and the expulsion of its owners.

30. Shavit, p. 404.

31. *Ibid.*, p. 380.

32. *Ibid.*, pp. 5–6.

33. Shavit, p. 256.

34. It is worth noting that in a rough way Gans does seek to respond to these questions by suggesting some ways, via compensation or symbolic return of small numbers of refugees, to recognize that more evil was done in 1948 than actually was necessary for Jewish self-determination and survival. Gans, 2008, *op. cit.*, pp. 91–93.

35. Shavit, p. 108.

36. *Ibid.*, p. 132.

37. *Ibid.*, pp. 131 and 331–33.

38. Morris’s seminal 1987 work, *The Birth of the Palestinian Arab Refugee Problem*, and his subsequent volume, *Israel’s Border Wars*, had revealed how much support previously secret documents in Israel’s state archives provided for the Palestinian account of the Nakba. Morris fully documented the processes and specific means by which hundreds of thousands of Arabs were expelled, dispossessed of their lands and property, and prevented from returning to their homes by Jewish and then official Israeli forces determined to expand the amount of territory under Jewish rule while reducing the size of the remaining Arab population.

39. Ari Shavit, “Survival of the Fittest? An Interview with Benny Morris,” *CounterPunch*, January 16, 2004.

40. Shavit (2013), pp. 373, 380–81.

Chapter Three

Israel and the Closing of the American Jewish Mind

Richard Silverstein

The 1967 war was one of the watershed moments in the history of Israel and American Jewry. The jubilation and religious triumphalism that followed Israel's military victory led to the founding of the Greater Israel movement, which became the theological inspiration for the settler enterprise (Wikipedia 2015, *Movement for Greater Israel*). Later, after the 1973 war, it became institutionalized through the founding of Gush Emunim, which launched the first permanent Israeli settlement in the West Bank (Wikipedia 2015, *Gush Emunim*).

This mood of Israeli national celebration evoked a parallel response in the American Jewish community that, over the decades, has transformed Israel into a secular religion. Zionism has eventually become a litmus test of Jewish legitimacy; even, in some circles, a substitute for Judaism itself.

Nevertheless, in the intervening decades, Jews here have generally (with some exceptions) become more secular and gradually turned away from religious affiliation. Though some have distanced themselves from their Jewish identity entirely, many have only turned away from religious expression. For many of these who retain a sense of Jewish identity, Israel has taken Judaism's place.

A 2014 Pew poll on Jewish identity showed that younger American Jews are increasingly choosing not to affiliate with the mainstream community—either Jewish federations or synagogues (Lugo & Cooperman 2013). Of all the religious denominations, the poll showed that the Conservative movement was declining fastest, while the Orthodox was growing fastest (though still a marked minority), followed by Reform. American Jews, especially the

youth segment, are increasingly secular, and do not see Israel as the defining identity issue for the Jewish people.

But the older generation has not given up. Wealthy pro-Israel corporate titans like Sheldon Adelson and Michael Steinhardt have joined other donors in pouring one billion dollars into Birthright (Taglit) Israel (Mayer 2013). It has sent three hundred thousand American Jewish youth to Israel for two-week trips called a form of “Jewish penicillin,” which will ensure continuity into the next generation. Adelson even brags that the trips are meant to promote sexual liaisons which he hopes will lead to future marriages and pro-Israel families (Feldman 2011).

Another critical goal of Birthright is to introduce participants to a distinctly pro-Israel world-view. Tour groups are accompanied by Israel Defense Forces (IDF) soldiers who inject their security-oriented perspective into the discussions. The agenda of speakers and places visited focuses largely on a nationalist view of Israel and its role in Jewish identity. Israel is presented as an embattled enclave amidst a sea of Arab enemies. Trips visit Israeli settlements, but never view, visit, or meet with West Bank Palestinians, whose lives are deeply entwined with those of Israelis due to the ongoing occupation. These young Jews return to the United States with a mission to support Israel and promote its interests wherever possible.

Steinhardt has invested millions in supporting academic studies that “prove” the utility of Birthright in promoting Jewish continuity. This social science research, funded through a Brandeis University institute bearing his name, is conducted by Professor Len Saxe (Saxe 2015). Such research, funded by a single individual or self-defined (pro-Israel) group, and meant to validate a project also funded by the donor, is a model of self-interest. In a broader sense, this critique applies to Israel studies as an academic enterprise on American campuses.

As someone who is a product of the pre-Birthright generation, which for me included decades of Jewish education, summer camps, and Jewish studies, there is no quick fix, no one-shot inoculation that can guarantee the future of the Jewish people. Anyone who believes that two weeks of intensive pro-Israel indoctrination, fraternal bonding, and sexual frolic will do this is fooling himself.

In the past, Jewish leaders saw the future as guaranteed by promoting a closer bond between young people and Jewish tradition. They promoted the institutions I mentioned above (schools, synagogues, camps, seminaries, universities, etc.). But increasingly in this generation, the menu is restricted to a single item: Israel. Though the community does continue to focus on education and the other programs I mentioned above, even these are increasingly refracted through a pro-Israel lens.

These largely secular pro-Israel philanthropists no longer feel that Judaism is the mortar that will hold the Jewish people together. Instead they see

the only viable future for world Jewry in Israel. That has turned the debate over Zionism and Israel's future into a set of landmines.

In past decades, American Jewry had respected leaders who held progressive and dissenting views on these issues like Rabbis Judah Magnes, Arthur Hertzberg, and Leonard Beerman, and secular leaders like Henry Siegman. These were the courageous leaders who first advocated a two-state solution in the 1970s (or in Magnes' earlier case, a bi-national state), when such a concept was anathema in the Jewish mainstream. But increasingly, there are litmus tests for leadership and any dissent from a narrow communal consensus is no longer tolerated. Our current Jewish leadership is pro-Israel and lacking in political diversity.

ROLE OF LOBBY IN SUPPRESSING SPEECH

The Israel Lobby in the United States has two major agendas.¹ The most obvious is promoting Israel's interests in the legislative and public policy arena. That's the mission of groups like Aipac and the think-tank founded in collaboration with it, the Washington Institute for Near East Policy.

Another arena is activism among young Jews and particularly on campus. The Lobby sees colleges as the place where it can have the greatest impact in shaping future generations. Academia is also an intellectual laboratory for ideas which later make their way into the body politic. For that reason, faculty, their ideas, courses, and publications are viewed as on society's cutting edge. They are critical foci in the battle for public opinion around Israel.

Hillel International, the umbrella body for Jewish student organizations on campus, several years ago announced a policy which restricted events campus Hillels may sponsor. Henceforward, they must adhere to a pro-Israel agenda. This eliminated programming that explored any perspective other than Zionism and excluded discussions about Boycott Divestment Sanctions (BDS). Recently, an insurgent response to this has arisen called Open Hillel (Open Hillel 2015). As its name implies, it rejects constraints on Israel-related speech. Campuses at Swarthmore and Vassar have joined it and eschewed any ideological constraints. But Hillel chief executive officer Eric Fingerhut has put them on notice that if they sponsor forbidden programs they will lose their affiliation with Hillel (Kwait 2013).

Two Jewish museums in New York cancelled talks by University of California, Berkeley, Professor Judith Butler and New Republic senior editor John Judis because pro-Israel groups and donors threatened to withhold funding (LeVine 2014). Several years ago, Anti-Defamation League Chief Abe Foxman pressured the Polish consulate in New York to cancel a talk by the late New York University Professor Tony Judt, another Israel dissenter. The

Minneapolis Jewish Community Relations Council pressured the University of St. Thomas to cancel a talk by Archbishop Desmond Tutu (Mprnews 2007). The Jewish Community Relations Council included in its charges against Tutu statements he never uttered, which were manufactured by the Zionist Organization of America's Morton Klein. Under pressure, the college president cancelled the talk. But after a national uproar ensued, he backed off and reinstated the invitation. The faculty member who'd invited Tutu was dismissed from her position and Tutu refused to come unless she was reinstated. She wasn't. Tutu didn't speak.

Some years ago, after the San Francisco Jewish Film Festival screened the documentary *Rachel*, about the life and death of Palestine activist, Rachel Corrie, the local Jewish federation introduced rules precluding grantees from hosting events deemed "anti-Israel" (Jweekly 2009). These guidelines resulted from pressure exerted by major local pro-Israel Jewish foundations like the Taube and Koret Foundations. They are also major funders of what's come to be known as the Islamophobia industry, portrayed in the Center for American Progress report, *Fear Inc* (Ali, et al. 2011).

In 2006, when the producers of a play about Corrie, *My Name is Rachel Corrie*, attempted to bring it to New York for the first time, the New York Theater Workshop agreed to present it. But after theater subscribers and other New York pro-Israel forces conveyed their alarm at Corrie's story, the Workshop backed out, leaving it with a black-eye, and the producers, Alan Rickman and Katharine Viner, livid (Borger 2006). Though *Corrie* was produced at another theater venue, yet another major New York cultural institution had been cowed by fear and the Lobby.

The Metropolitan Opera recently revived the John Adams' opera the *Death of Klinghoffer*. Adams is of one of America's greatest living composers and his opera, first performed in 1991, is considered one of his finest works. The history of its production is marked by instructive lessons in the power of Israel when linked to terrorism and the power to silence artists and sabotage careers.

The Guardian called *Klinghoffer* "cursed." Five opera companies commissioned the work originally. The premier was offered at the Brooklyn Academy of Music. Three of the other companies abandoned it after realizing the controversy involved. It was never performed again until twenty years later (2011), when a St. Louis company mounted a production.

Adams didn't write another opera for years afterward. The librettist, Alice Goodman, was, in her words, "uncommissionable." Instead, after converting from Judaism, she became a rector of the Church of England.

In 2014, the opera world looked forward to hearing a production that hadn't been performed in New York in over twenty-five years. Until Abe Foxman and the Klinghoffer survivors raised a furor, accusing the opera of

expressing too much “sympathy” for the terrorist who murdered Leon Klinghoffer (Ross 2014).

The surviving daughters of Leon Klinghoffer had earlier released a statement after seeing the 1991 premier: “The juxtaposition of the plight of the Palestinian people with the cold-blooded murder of an innocent disabled American Jew is both historically naive and appalling” (Jeffries 2012). Other detractors accused *Klinghoffer* of supporting terrorism and the murder of Jews. Supporters of the opera, including Adams himself, clarified that dramatic tension and exposition of the views of all the major characters was necessary for the audience to understand the conflict at the heart of the opera.

Foxman, the consummate inside-player, met with the Met’s director, Peter Gelb, ostensibly to work out a deal that would enable the production to go forward while assuaging critics. The deal amounted to a capitulation of sorts: instead of a live production viewed by thousands and pay-per-view production viewed by millions more, Gelb agreed to forego the screen showing. It would only be seen live. Adams too acquiesced and made no public comment except to express sorrow at the misunderstanding of his opera.

Each of these cultural and academic institutions were forced to make a calculation when threatened by the power of the Lobby. How financially secure are you? How much controversy are you willing to withstand? How strong are your principles? Are you prepared for your friends and donors to desert you? Are you willing to write off your career? Is it worth it?

Very few are willing to withstand the full shock. Very few are willing to take a pure stand for principle. Most are prepared to compromise or relent. And when they do, the Lobby learns it can get its way by threats and intimidation. It learns that it has more discipline and stamina than the other side. Thus the bullying behavior is reinforced as a successful tactic.

DECLINE IN DIVERSITY AND LEADERSHIP

The communal retreat from intellectual and political diversity has resulted in the impoverishment of its leadership. Until a decade ago, there were respected liberal Jewish groups like the American Jewish Congress (once led by Siegman), which espoused a generally liberal Zionist perspective. The American Jewish Congress eventually lost membership and donors, and was taken over by real estate tycoon and acolyte of some of the world’s autocratic leaders, Jack Rosen (Rosenblatt 2013). It now espouses a pro-Israel agenda that reflects Rosen’s own hawkish views.

The sole remaining national Jewish group with a liberal approach to Israel is J Street. It is essentially a Jewish lobbying group on behalf of Obama administration policies, a “Jews for Obama” of sorts. Liberal financier George Soros has been a major funder of the group. But he does so in as low-

key a manner as possible because right-wing groups and media have launched vicious attacks on him. Separately, Alan Dershowitz and Glenn Beck have each accused him of surviving the Holocaust (as a child) by collaborating with the Nazis. Such smears are another tool by which pro-Israel forces control and manipulate the debate (Knickerbocker 2010).

The only group that espouses a truly progressive agenda on Israel is Jewish Voice for Peace (JVP). It was one of the first national Jewish groups which espoused an explicitly non-Zionist position. It refused to take a position favoring either a two or one-state solution:

We support any solution that is consistent with the full rights of both Palestinians and Israeli Jews, whether one binational state, two states, or some other solution. It is up to Israelis and Palestinians to reach a mutually agreed upon solution. (JVP 2015)

It is also the first and only Jewish organization to endorse BDS. The organized Jewish community, steeped in the Zionist narrative going all the way back to World War II and the Holocaust, has been shocked by these heresies.

Despite its tens of thousands of members, JVP is largely demonized in the mainstream community (Anti-Defamation League 2013). Not even J Street will permit JVP to co-sponsor its national conferences (though last year, for the first time, it invited JVP's director to sit on a panel). JVP cannot host events at most Jewish federation-funded community venues. It is foreclosed from campus Hillels. Even J Street U campus groups have been excluded from many college Jewish communities.

As Israeli politics and occupation policies grow increasingly extremist, even mainstream figures like the nation's most popular daily columnist, Nahum Barnea, and President Reuven Rivlin concede that a one-state solution is an almost certain outcome (Remnick 2014). They recognize that if Israel will not accept a return to 1967 borders and the sharing of Jerusalem by two states, then there's not much left to talk about.

Barnea told an Israeli TV audience: "Everybody knows how this will end." When asked what he meant, he answered, "*There will be a binational state west of the Jordan . . . the two-state solution is no longer possible*" (Silverstein, 2012).

In Barnea's case, it is not because he supports this outcome personally, but he is a realist and recognizes that continued Israeli rejectionism can lead to only one possible outcome: a unitary state incorporating all Israeli Jews and Palestinians from the Mediterranean to the Jordan River.

There has been no parallel development within the American Jewish community. There are no leaders willing to see the unvarnished truth, the handwriting on the wall. American Jews and the Israel Lobby continue to

mouth support for a two-state solution as if it were a political mantra, though the Likudist governments in power for much of the past thirty-five years utterly reject it. The result has been a strange bifurcation of reality with American Jews advocating a solution which has never been popular or achievable under Israel's nationalist governments. The leadership's refusal to exert any pressure on Israel to negotiate a two-state solution has made it a mockery as a policy option. The result here has been a stultifying effect on political discourse.

What American Jewry needs is more of the spirit of Walt Whitman: "Do I contradict myself? Very well, then *I contradict myself, I am large, I contain multitudes.*" Where are the Jewish multitudes? Instead of embracing contradiction and contentious debate, instead of welcoming the multitude of opinions and ideas about Israel, American Jews are increasingly closing their minds. In the past, American Jewry entertained wider debate on these troubling issues. If we didn't exactly "contain multitudes," we hosted Hannah Arendt, Albert Einstein, I. F. Stone, Grace Paley, Adrienne Rich, Hertzberg, Rabbis Abraham Joshua Herschel and Marshall Meyer, and gave birth to Magnes, all of whom competed vigorously with more parochial-conservative ideas in the political-intellectual arena.

Now, who are our "dissidents"? Peter Beinart? He proudly calls himself a liberal Zionist. His politics on Israel are more conservative than those of a number of those past leaders mentioned above. Yet even he receives a hostile reception from much of the organized Jewish community, where a number of his appearances promoting his books criticizing Israeli policy have been cancelled by Jewish sponsors (Severson 2012). Is his the best, most outspoken voice we've produced in this generation as far as Israel is concerned?

Art Spiegelman, the renowned graphic novelist who produced the *Maus* series about American Jewish identity and the Holocaust, holds progressive views about the Israel-Arab conflict. But he's shied away from making any major statement on the subject until Operation Protective Edge, when he published a graphic attacking the Israeli massacre (Sucharov 2014). Jewish cultural and public intellectuals like Spiegelman have to weigh their career options when they take this subject on. Are they willing to confront the massive wall of hostility that will accompany them if they make this part of their oeuvre? Are they willing to lose the next book contract or an opportunity for tenure?

Max Blumenthal is another case in point. He'd made a reputation as a muckraking journalist who explored the seamy underbelly of pre-Tea Party Republican oddity in his *Republican Gomorrah*. After that book, Blumenthal became increasingly interested in the Israel-Palestine conflict. He made trips to Israel documenting the aberrant behavior of the radical Israeli right in a shocking video series called *Feeling the Hate* (Blumenthal 2010). He transformed the videos into a provocative book, *Goliath: Life and Loathing in*

Greater Israel. Like Mearsheimer and Walt's *The Israel Lobby*, *Goliath* was a lightning rod. Pro-Israel advocates not only hated it, they found it anti-Semitic, because Blumenthal used rhetoric describing Israeli settler phenomena which, critics claimed, echoed Nazi-era phraseology.

But no one was prepared for the vicious assault on the book mounted by fellow *Nation* contributor, Eric Alterman (Alterman 2013). Known as a progressive on domestic issues and liberal on Israel, Alterman not only detested the book, he became the spearhead for all the attacks on it. His rhetoric was intemperate and overheated, and his facts were sparse or downright false. Considering that *Goliath* was published by *The Nation*'s publishing imprint, Nation Books, the Alterman attack was inexplicable.

But for the Lobby, Alterman's intervention was a gold mine. It gave them a liberal fig-leaf behind which to launch their own attacks. *The Nation* had little choice but to stand back and let their two contributors engage in mortal combat in the pages of the magazine, while the audience looked on in shock and horror. It was a nadir of liberal American discourse on Israel.

The result of all this is that Blumenthal, one in a long line of Jewish intellectual dissenters, has been driven from mainstream Jewry. He finds instead a far more comfortable home among the Palestinian activist world, which includes more than its fair share of fellow dissident Jews.

THE FIGHT FOR CAMPUS FREE SPEECH ON ISRAEL

The case of Steven Salaita is instructive in a different way. He is a Palestinian American professor who teaches indigenous studies. He was offered a tenured position at the University of Illinois. His department had approved his appointment. The only hurdle remaining was pro forma approval by the board of trustees. Such votes are inevitably a pro forma ratification of the decision of the academic department.

But in Salaita's case, a wealthy venture capital university alumnus who was a pro-Israel activist asked for an urgent meeting with Chancellor Phyllis Wise (Ramahi 2014). Steven Miller, a founder of Origin Ventures and former chair of the Jewish Federation of Chicago, also served on the board of Hillel International (Miller n.d.).

At that meeting, he offered Wise a series of social media postings Salaita had published on Twitter which excoriated Israel for its massacre of civilians in Gaza during Operation "Protective Edge." Miller saw these tweets as not just anti-Israel, but anti-Semitic, and urged her to cancel the appointment. He warned that there would be a boycott by other alumni and that they would withdraw their contributions in protest. During the meeting, Wise noted he gave her a memo outlining his charges. The university has refused to produce

the document after a Freedom of Information Act request. Nor has it publicly acknowledged the identity of its author.

The university administration got the message. Later that day, Wise wrote a letter rescinding the offer. The board, headed by Christopher Kennedy (Wikipedia 2015, *Kennedy*), son of Robert Kennedy of the vaunted American liberal dynasty, affirmed her decision. Since he had already resigned his previous position at Virginia Tech, sold his home, and moved his belongings to Illinois, Salaita was a man without a home or job.

Now represented by the Center for Constitutional Rights, Salaita is suing Wise and the members of the board of trustees (except the one who voted to approve his hiring) (Center for Constitutional Rights 2014b). Besides Kennedy, they also include U.S. Attorney Patrick Fitzgerald, a paragon of prosecutorial probity, who prosecuted Scooter Libby.

The university's refusal to release the memo containing talking points against Salaita's appointment, and its shielding of the identity of Salaita's detractors, is precisely the way the Lobby works. They act in secret whenever possible. The only time they come out in the open is when they want their power to be known, usually when they want to remind a target of the harm they can do. In Salaita's case, exposing the donor (who's been identified as Miller) and the memo he wrote to Wise would detract from the attack on Salaita. It would also open those in the pro-Israel community who organized this campaign to charges of bullying and violation of academic freedom and free speech.

In early August 2015, Chancellor Wise resigned her position, under fire for the mess caused both by rescinding Salaita's appointment and the ensuing lawsuit. Christopher Kennedy also stepped down earlier as board chairman (Nytimes.com 2015). This removed the two major architects of the Salaita affair from the scene.

Another major campus free speech debate has played out in the University of California system (Fox News 2015). There, powerful Israel Lobby interests, alarmed by the rise of support for BDS in the student body (pro-BDS resolutions have been approved by six campus student unions), have advocated restraint and even punishment of speech that is deemed anti-Israel.

The university regents, led by Senator Dianne Feinstein's husband, Richard Blum, have used strong-arm tactics to pressure the body to adopt regulations that would label support of BDS or a one-state solution as impermissible (Greenwald 2015). Students violating the speech code could be disciplined, suspended, or even expelled.

Though the Regents withdrew the most punitive version of the code from consideration, even a code that is advisory is a threat to academic freedom and free speech. Once such regulations are in place, it's just another small step to turn them into a mandatory speech code.

BOYCOTT DIVESTMENT SANCTIONS AND “DELEGITIMIZATION”

The Jewish community’s response to the BDS movement highlights some of the problems it has with free debate on Israel. The Israeli government has decreed that BDS is the leftist equivalent of what Hillary Clinton once called a “massive right wing conspiracy” against her husband’s presidential candidacy. For Israel, the movement is part of a massive anti-Israel conspiracy. It’s even given the phenomenon its own frightening-sounding name: delegitimization (Rosenberg 2005). That is, the process of gradually delegitimizing Israel in the eyes of the world so that eventually it can be eliminated entirely.

BDS has taken its own agenda to academia. Several professional societies have begun debating the role of the academy in the debate around Israel. This, of course, has drawn pro-Israel forces both on campuses and in Israel into the fray.

In 2014, the Modern Language Association debated Israel’s assault on academic freedom in the occupied territories. Pro-Israel academics and activists piled on the Modern Language Association and its officers, accusing it of being anti-Israel. Association president, Marianne Hirsch, a child of Holocaust survivors, described the avalanche of abuse that targeted her:

I was more disheartened by how American Jewish organizations and their members insisted on violating the painful history of Jews, including that of my parents, to *foreclose discussion of the policies of the state of Israel and their impact on Israeli and Palestinian education.* (Hirsch 2014)

Since delegitimization happens mostly outside Israel, the Israeli foreign ministry has allocated tens of millions of dollars to fighting this battle abroad. There are also “provocative” domestic human rights non-governmental organizations (NGOs) like B’Tselem, which file reports documenting Israeli war crimes. They too are viewed by Israel’s leadership as part of the global anti-Israel “cabal.”

Exhibit A in this effort was the Olympia (Washington State) Food Coop boycott (whose story follows below). Olympia is the home of the Evergreen State College, known for its progressive student body and faculty. Rachel Corrie studied there before she joined the International Solidarity Movement in Palestine. While volunteering in Gaza, she died after being crushed by an IDF bulldozer.

Pro-Israel advocacy groups like StandWithUs (SWU), Aipac, and Middle East Forum have invested a great deal of organization energy tracking what they perceive as anti-Israel activism on campuses (including Evergreen). This is similar to a legal advocacy campaign by pro-Israel activists like Ken Marcus, who files complaints against major universities like Columbia and

the University of California, Berkeley, for allegedly violating the civil rights of Jewish students (Louis D. Brandeis Center 2015). The claim is that anti-Israel activism on campus frightens Jewish students, raising the specter of anti-Semitism and causing Jews to fear for their well-being. Those complaints, which have been filed with the Department of Education against Columbia University and University of California, Berkeley, have been dismissed (Zaveloff 2012). But losing these battles isn't as important for advocates as setting a tone.

University presidents recognize they must walk a fine line when it comes to Israel-related speech on campus. When a faculty member gets "out of line," administrators can no longer dismiss complaints by involving academic freedom and free speech. In the past, such values were sacrosanct. No longer. The effect of the continual pressure by the Lobby is to erode traditional values and replace them with vague notions of "collegial civility" like those used against Steven Salaita.

In other words, some young Jews are no longer satisfied with going to college and participating in the free marketplace of ideas. They want an environment where they can feel "comfortable" with their pro-Israelism. "Comfort" in this context means an environment which isn't overly threatening. An environment that protects them from the contentious, buffeting winds of free debate.

Returning to the Olympia Food Coop, in 2010 members of the Coop voted unanimously to remove nine Israeli products from the shelves of the store. The move was an attempt to honor the principle of BDS. That might've been the end of the matter except that SWU had been investigating faculty, courses, and pro-Palestine student groups, looking for an issue it could exploit to bring the college's alleged anti-Israelism to the public's awareness.

SWU recruited five former Coop members to file suit against the grocery store, claiming proper voting procedures hadn't been followed in deciding to join the boycott. SWU also recruited a local attorney, whose wife had served on its board, to take the case.

The Coop was represented by the same Center for Constitutional Rights representing Salaita. The local Seattle attorney arguing the case, Bruce Johnson, had helped draft the Washington State anti-Strategic Litigation Against Public Participation statute (Center for Constitutional Rights 2014a). He filed a motion under this law in State Superior Court arguing the case was frivolous and intended to harass the Coop for engaging in protected political speech. The judge threw the lawsuit out. The complainants appealed and the original ruling favoring the Coop was upheld by the Court of Appeal.

In March 2015, the Supreme Court overturned the lower court's ruling (White 2015). It found the anti-Strategic Litigation Against Public Participation law unconstitutional. Now the Coop will be forced to go to trial and defend its actions in court.

This is a perfect example of lawfare: using courts and the legal system as an extension of the battle for Israel in the public arena (Winstanley 2014). It's a strategy employed by pro-Israel NGOs like the Lawfare Project or Shurat HaDin, which file frivolous lawsuits designed to tie up resources and garner headlines, rather than to win a legal case or establish a precedent. When a company or institution acts in ways hostile to Israel's interest in this country, filing a lawsuit forces them to spend enormous sums defending their position. It wears them down. It makes them pay a price that is more than financial. Further, it is an attempt to control speech. It's almost as if they fear that in a truly free environment their message will lose.

The Olympia case is a microcosm of the greater battle over Israel-related speech. But there is another little-noticed, but very significant factor in this case. In an Israeli television news interview, then-deputy foreign minister, Danny Ayalon, when asked about this case, said explicitly that the government was participating as an equal partner with pro-Israel NGOs like SWU in bringing such cases (Silverstein 2011). This, in turn, transforms these organizations into extensions of the Israeli state. They are, in effect, foreign agents.

THE LOBBY AS ISRAELI AGENTS

This highlights an ever-expanding phenomenon in pro-Israel advocacy here in the United States. Groups like Aipac, The Israel Project, SWU, and American Jewish Committee have operated in the past independently of Israel in pursuing their own organizational agendas. But increasingly, they have become mouthpieces for the Israeli government. This gets into increasingly sensitive territory, because NGOs that receive funding from foreign governments and act on their behalf must register as foreign agents under the Foreign Agents Registration Act. Aipac has fought such designation tooth and nail since its inception, fearing it would tar it as an agent of Israeli influence.

But the Israeli government itself is barely skirting such designations by advancing new joint projects like the social media war room it's developing with SWU (Silverstein 2015). As part of the program, the government's "information directorate" will craft a hasbara program in which college students in the United States and United Kingdom will take pro-Israel messaging developed by the government and bring it to campus. There, in time of "emergency" (i.e., wartime), it will activate the hasbara volunteers to promote Israel's agenda via social media.

Israeli media reports that SWU and the government are contributing a total of five hundred thousand dollars toward the project. As part of this expense, SWU will build a media war room in its Jerusalem office, where it

will bring the student volunteers to train. The official minutes of the government committee meeting at which the project was approved debated the nature of SWU's involvement: was this "organizational support" (in which case they'd clearly be acting as an agent of the government)? Or was Israel merely "purchasing services" from SWU? The committee conveniently determined that they were purchasing services, which would formally allow SWU to defend itself from a Foreign Agents Registration Act claim.

These pro-Israel NGOs in many instances take direction from, and coordinate closely with, Israeli diplomats in the United States. They rarely initiate independent action. They are lobbyists on Israel's behalf.

When American Jews become agents of Israel, they enter dangerous territory. Americans have always been extremely sensitive to immigrant groups who come to this country with Old World allegiances which might undermine American interests. This tradition goes back to George Washington's famous Farewell Address in which he warned of the danger of "foreign entanglements." It also includes the Know Nothings of the nineteenth century, who suspected the loyalty of Catholic immigrants, whom they derided as "Papists" (Encyclopedia Britannica 2014).

The concept of "dual loyalty," by which Jews were viewed as holding superior loyalty to Israel than to their homeland, has appeared to many American Jews as a red herring, a shorthand for anti-Semitism. But the cynical exploitation of American Jews by the Israeli government puts us in jeopardy. We run the risk of being suspected of disloyalty.

This is not a fear recently discovered either. In 1960, Brandeis Chancellor Abe Sachar was the first to warn of what he called "Israel Firsters" based on this speech:

Among American Jews there is no room "for Israel Firsters whose chauvinism and arrogance find nothing relevant or viable in any area outside of Israel."
(Weiss 2012)

Interestingly, when M. J. Rosenberg resurrected the term in 2012, using it disparagingly to refer to the narrow-minded attitudes of the Israel Lobby, former Aipac spokesperson Josh Block shot back that the term was anti-Semitic. He launched a vitriolic campaign aimed to embarrass Rosenberg's employer, Media Matters, and get him fired. Politico's conservative columnist, Ben Smith, piled on as well. After Alan Dershowitz joined the fray with an op-ed in the *New York Daily News*, Media Matters, which had featured his columns for several years, severed its ties with Rosenberg. Though the arrangement suited each party for different reasons (Rosenberg gained editorial independence and Media Matters had one less headache), neither one would've chosen this course (Rosenberg 2012). This is yet another example of the suppression of speech which undermines full-throated discourse.

Israel is trying to create here a nation of Israel Firsters. One of the most disturbing forms Israeli exploitation takes, besides the collaboration between the Israeli government and the Lobby, is recruitment of American Jews to spy for Israeli intelligence. The most prominent and damaging of these cases was that of Jonathan Pollard. This former U.S. Naval Intelligence analyst stole so many documents of such superb value concerning Soviet military capabilities, that they were used by Israel in exchange for “Jews working in highly sensitive positions in the Soviet Union” (Hersh 1999).

Pollard’s Israeli handler, the famous Israeli intelligence agent Rafi Eitan, didn’t give any thought to the repercussions for American Jews of the Pollard affair. Nor has Israel stopped recruiting spies here, despite promises to the contrary.

Fortunately for Israel’s sake, it continues to enjoy a reservoir of goodwill among average Americans. They will forgive and forget a great deal and see these Israeli agents as aberrations, rather than representative of all American Jewry. But the danger is that pro-Israel activism may reach a certain threshold of intrusiveness and Americans may begin to respond negatively.

AMERICAN JEWRY’S TOXIC “GIFT” TO ISRAEL

The American Jewish community has also contributed immeasurably to the radicalization of Israel itself. We exported one of the true visionaries of the settler ultra-nationalist movement, Meir Kahane. Among the most radical cohort of settler activists have been American Jews like Baruch Goldstein, a mass murderer of Palestinians, and another convicted murderer, Jack Teitel. More recently, a younger generation of violent activists suspected of acts of terror like the arson attack on the historic Church of Loaves of Fishes, has taken up the cause. They include Kahane’s grandson, Meir Ettinger, and other Israeli Americans (Hirschhorn 2015).

We have contributed more than human and intellectual property to the movement. American Jews have contributed well over one hundred million dollars directly to Israeli settlements. The funding allows the fraudulent “purchase” of Palestinian property in the West Bank and East Jerusalem. This in turn fuels a campaign to “Judaize” these areas. It’s a form of ethnic cleansing not by violent means, but by legal subterfuge, since many of the purchases are accomplished through forgeries and shady, unidentified middlemen.

The New York Times and *Washington Post* have published major exposés of the massive funding scheme that transfers American Jewish wealth to Israeli settlements (Ignatius 2009; Rutenberg, McIntire, & Bronner 2010). The most disturbing aspect is that all the major American funding vehicles, including the Hebron Fund, Central Fund of Israel, Ateret Cohanim, Aish HaTorah, and the Moskowitz Foundation are 501c3 tax-deductible organiza-

tions. That tax deduction offers a tangible benefit to the donors, meaning that American taxpayers are financing an Israeli enterprise that flies in the face of decades-long American policy opposing such settlements.

Because of sensitivity to the power of the Lobby, no administration has dared to challenge this tax deduction. Government officials figure this is a minor footnote compared to the larger issues of negotiating a peace deal between Israelis and Palestinians. But given the current level of hostility between Israel and America's top leaders, perhaps a light bulb will go off. A U.S. president may realize that turning a blind eye to a massive settlement funding scheme is part of a larger problem of Americans and American Jews enabling Israeli policies.

Lest anyone think that only Orthodox American Jews provide the fodder for Kahanism, remember no less than the doyen of pro-Israel journalists, Jeffrey Goldberg, who writes for *Bloomberg* and *The Atlantic*, was himself a Kahanist until well into young adulthood (Silverstein 2012). As recently as 1990, after the funeral of Rabbi Kahane, he told the latter's grandchildren, who include Meir Ettinger now under Shin Bet investigation, what a great man their grandfather had been. This highlights a disturbing romance between elements of American Jewry and the most extreme Israeli nationalism.

The American Jewish mind is closing because the issue of Israel is so difficult, so fraught with guilt and anxiety. We relegate it to zealots like SWU, CAMERA, and The Israel Project. This is reminiscent of Yeats's immortal words:

The best lack all conviction, while the worst
Are full of passionate intensity. (Poetryfoundation.org 2015)

By delegating the Israel issue to the bullies and extremists, it not only forecloses any serious debate, it essentially pushes those with divergent views to the margins or out of the community altogether. We close our minds because to open them would mean putting the bullies in their place and having to hear uncomfortable ideas about the Israeli-Arab conflict.

IMPACT ON POLICY

While many of the examples offered above deal with issues of free speech and cultural-artistic freedom, the stifling of debate has a very real impact in the sphere of foreign policy. Though the Lobby exercises enormous sway in the internal discourse among Jews about Israel, its primary agenda is to control actual government policy. That is why the lobbying network established by Aipac is so powerful, with local Jewish constituents assigned to each member of Congress. The responsibility of each of these volunteers is to

establish one-on-one relationships with their member and maintain regular contact, “educating” representatives about Aipac’s Israel agenda.

Another key element in the lobbying process involves regular, often Aipac-funded junkets to Israel in which the leadership of both parties choose key members to join them (Guttman 2012). On these tours, they receive “briefings” from Israel’s political-military and intelligence chiefs. Getting the undivided attention of a member of Congress for days at a time is a feat which other domestic lobbyists would kill for. By the time legislators return home, they have Aipac’s agenda practically memorized.

This relationship isn’t a one-way street benefiting the Lobby alone. Elected officials expect something in return: cash. The Lobby maintains one of the most, if not *the* most well-endowed campaign funding networks in the country. Wealthy pro-Israel donors, both individually and through businesses and political action committees, pump tens of millions of dollars into candidates’ coffers every election cycle. Bernard Avishai projects that Aipac alone “distributes roughly [twenty-five million dollars] in campaign contributions” (Avishai 2015). This doesn’t include SuperPAC giving, which is much higher. For example, Sheldon Adelson alone gave almost one hundred million dollars to such entities for the 2012 campaign. Thanks to the Supreme Court’s Citizens United decision, candidates don’t have to report any of this.

The Lobby expects a great deal in return. It demands fealty to a legislative agenda promoting the development and/or sale of billions of dollars in U.S. weapons systems to the IDF, supporting Israel’s annual three billion dollar foreign aid grant, ensuring continued American support for Israel in the UN Security Council, and opposing the interests of Israeli “enemies” such as Iran or Palestine.

When Israeli interests are threatened, Aipac ghostwrites legislation or sense-of-the-Congress resolutions meant to give a boost to Israel domestically and internationally. Often such efforts are heavy-handed and even run counter to the policy of the sitting U.S. administration. In such cases, the Lobby often expects the majority party to break with their president to support its agenda.

A recent example is the Iran nuclear negotiations. Over the course of many years, the Israeli government, with the aid of the Lobby, has orchestrated a campaign against Iran. The goal has been to isolate the regime with sanctions and sabotage it internally, eventually leading to regime change. This anti-Iran lobby in Congress put a punitive sanctions regimen in place which caused enormous stress to the country’s economy, harming the interests of the average Iranian far more than those of its military or clerical elite. This campaign has included massive levels of distortion and outright misinformation about Iran’s nuclear program and the views of its leaders toward Israel (Sahimi 2013).

The current Likudist Israeli government exerted enormous pressure on members of Congress to torpedo the P5+1 nuclear talks, which were led by the United States. As part of this campaign, Prime Minister Netanyahu's ambassador to the United States, Ron Dermer, conspired with Speaker John Boehner to invite the Israeli leader to address a joint session of Congress. The speech, scheduled for two weeks before an Israeli national election and during Aipac's annual convention, was intended to reinforce his government's implacable opposition to President Obama's foreign policy objectives regarding Iran.

It placed members of Congress in the awkward position of having to choose between their leader and the leader of a foreign country. In normal circumstances, our legislators would know what to do. They would choose the interests of their own country and its leader. But when a nation with as powerful a U.S. domestic lobby as Israel enters the fray, all bets are off.

In September 2015, the Obama administration persuaded almost all Democratic senators, except Senator Chuck Schumer, one of the Lobby's closest allies, to support the nuclear deal approved by the P5+1 nations. This meant a sound defeat to the agenda of the Israel Lobby and Prime Minister Netanyahu. It meant an end to international sanctions against Iran. It meant a chance for détente between the United States and Iran. It meant that Israel's long-term goal of isolating Iran from the world had failed.

Only the Israel Lobby could put President Obama into the unlikely position of vetoing a UN Security Council which endorsed a Palestinian state (a position officially endorsed by the U.S. government since 1993), and second that denounced Israeli settlements, another long-term U.S. policy (United Nations News Centre 2011).

When presidents or members of Congress do the math, they often find that expediency is the better part of valor. For decades, the outline of an Israeli-Palestinian peace agreement has been as clear as day. Yet no American leader was willing to push any Israeli government into the corner to seal a deal. Somehow, we hoped that Israelis themselves would see the benefit of reaching a compromise. When they didn't, no one was willing to take the next step—to exert the sort of pressure necessary to force a compromise.

There is only one reason: presidents know that they and their party will be punished for such hubris. They know that 40 percent of the early money in presidential primary campaigns comes from Jewish (mostly pro-Israel) donors (Tobin 2012). They know that 20 percent of the voters in the most critical and populous cities are Jewish and Democrats. The math seems inexorable. If you're a Democratic president, you don't rile the Lobby.

The inexorable conclusion is that the Lobby exerts a toxic influence on American Mideast policy. It places diplomats and politicians in a straitjacket. Instead of having a strategic quiver full of options to advance our strategic

interests, they have only one set of pro-Israel arrows. Often the choice left to these professionals is the worst, or close to the worst one.

President Obama's progressive critics have harshly criticized many of his Mideast policies and the lost opportunities during the Arab Spring and Israeli-Palestinian peace talks. But he *has* pursued an independent approach regarding Iran. He has taken a pragmatic, rather than hawkishly ideological, position (as did Prime Minister Netanyahu). His victory with the nuclear deal is one of the very few times (the last one being President George H.W. Bush and his Secretary of State James Brady) a president has stared down the Lobby and won. Unfortunately, such victories over the Lobby are few and far between. And U.S. policy is far the worse for it.

Let's return to the stultifying impact this issue has had on American Jewish identity. Intellectual retreat from "dangerous ideas" like BDS, the one-state solution, Nakba, and the Palestinian Right of Return, does a grave disservice to American Jews and Israel itself (Institute for Middle East Understanding 2012). History has shown that societies intolerant of dissenters lose the intellectual and innovative edge. Think of the Dutch Jewish community's excommunication of Spinoza and Socrates' scandalous philosophical provocations which drove Athens to sentence him to death. Such societies are desperate to preserve the status quo. They cannot tolerate shifts in the winds of social change. They refuse to adapt. As a result, eventually they become an afterthought or are swept away altogether.

American Jewry's pro-Israel leaders view themselves as defending Israel. But in reality, they are eliminating precisely the sorts of political ideas which could save Israel, or at least contribute to securing its future.

NOTE

1. I use the term "Israel Lobby" here as developed in Mearsheimer-Walt's *The Israel Lobby and U.S. Foreign Policy* (Farrar, Straus and Giroux). It encompasses a network of Jewish groups (some of them mentioned in the course of this chapter) whose goals are promoting a pro-Israel political agenda in the United States. Though they may work independently of the Israeli government, they often coordinate their work directly with each other and the State of Israel itself.

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Chapter Four

The Root Causes of Enduring Conflict

Can Israel and Palestine Co-exist?'

Jeffrey A. Frieden

The Israeli-Palestinian conflict is one of the most enduring, and apparently intractable, in all of modern international politics. In the face of nearly a hundred years of bitter controversy, both before and after the creation of the state of Israel, many observers have come to despair that a resolution can be found. As the other chapters in this volume attest, many participants have turned in frustration to strategies that had long been off the table. One of the more striking, again as represented in this volume, is to accept “one state, from the Jordan to the Mediterranean.” Although there are different variants of this approach, all of them assume a common sovereign state to include Israel, the West Bank, and the Gaza Strip. There might be some form of confederation, or other guarantees to the various communities. But what ties all the “one-state” proposals together is the hope that bringing all the protagonists together in one sovereign entity would facilitate resolution of the conflict.

In this chapter, I address the issue from a purely analytical standpoint: that is, I attempt to demonstrate how scholarship in international relations can help illuminate the problem in question.² Specifically, I draw upon the extensive theoretical literature that analyzes the sources of enduring conflicts, both international and domestic, including the sorts of ethnic conflicts of which the Israeli-Palestinian dispute is an instance. In this case, the basic elements of a potential bargain have been clear for some time, and yet no agreement has been reached. One must wonder what the obstacle is, especially in the contemporary context, in which developments in the region are increasingly threatening to both the Israeli and the Palestinian sides.

The scholarly literature on conflict emphasizes that the principal theoretically grounded source of such protracted conflict, given its very high costs, is the inability of the sides to credibly commit to carry out the terms of an agreement. This is, it seems to me, clearly the case here, and this provides important insights on the debate over one or two states. The two sides may agree upon an ultimate settlement, but each side lacks confidence in the willingness and ability of the other side to follow through on its promises. The analysis suggests, in particular, that whether the two peoples are in two separate states or one state, the core question will continue to be whether commitments they make to compromise are believable.

WHY DO CONFLICTS ENDURE?

It is common to ascribe militarized disputes to conflicts of interest. This, however, is a superficial error. The world is full of conflicts of interest, some of them quite major: the territorial integrity of Spain, the United Kingdom, or Belgium; indigenous rights in Latin America; economic inequities in most developing countries. Yet very few of these conflicts of interest—in fact, almost none of them—ever become violent, and even fewer lead to set battles among military camps. Virtually none of the world's major conflicts of interest, indeed, end up with decades of low-grade military and paramilitary skirmishes. Among the conflicts that are remotely similar to the Israeli-Palestinian dispute on this dimension—lengthy, organized, military hostilities—the only ones that come easily to mind are Northern Ireland and Sri Lanka, both of which are now resolved. Certainly one reason such battles do not last so long is that one side has a preponderance of force and wins; but by this criterion, Israel should long since have prevailed.

In a world full of conflicts of interest, only a very few rise to the level of open violent battle and carry on for long periods of time, that is, are as bitter and last as long as that between Israelis and Palestinians. The reason is relatively simple: to engage in protracted military conflict is extraordinarily costly. It takes resources of every kind to sustain a prolonged violent struggle: money, people, weapons. These are scarce resources everywhere, and especially in the relatively poor societies in which such struggles are most likely to erupt.

The extraordinary cost of extensive violence makes it attractive for both parties to find a peaceful outcome to such conflicts of interest. In the language of the social sciences, war is almost certainly not Pareto optimal: both sides can be made better off by a durable peaceful compromise than they would be by continued battle. The rigorous approach to this problem is known as the “bargaining theory of war,” and posits that war is, indeed, the result of a failure of bargaining (Reiter 2003 is a good survey). In other

words, both sides would be better off if they could arrive at a resolution without fighting. This is intuitive: fighting uses up resources, and the protagonists would prefer not to use them up. And the logic of the argument holds just as firmly for civil wars, including ethnic conflicts and other such related disputes.

The puzzle, then, is why do governments engage in military engagements, and spend enormous amounts preparing for them? The answer may seem obvious to some—they hope to achieve more by fighting than by compromising—but some thought reveals that this only pushes the question back a step, leading us to ask why a government would expect to do better by fighting and achieving a result than by compromising without fighting. And the answers to this question are the core insights of the modern theory of war and conflict.³

Start with an ideal-typical interaction between two countries with interests in conflict, say a territory. If both sides know exactly how much military power and political will the other has, they could accurately predict the outcome of a violent conflict. They could then settle upon this outcome as a compromise, and save themselves the cost of the conflict. But scholars identify three reasons why the two governments might engage in costly conflict rather than settling their dispute peacefully.

First, the two governments might not have accurate information about each other's power and resolve. Uncertainty about the strength of the enemy, and in particular an underestimation of this strength, might lead one country to attack another. It is almost certain that if the belligerents in World War I had known how long and costly that war was going to be, they would have resolved their differences without going to war—especially as none of the original protagonists really benefited from the outcome (the only real beneficiary was the United States, and it was not involved until three years after the war began). This source of conflict is “asymmetric information,” that is, one side does not have fully accurate information about the other.

A second source of conflict is the possibility that whatever the two countries are in conflict over is impossible to divide, so that there is no practical scope for a compromise. This might be sovereignty over all people of one ethnicity, or control of a territory that for whatever reason both sides believed could not viably be split or shared. If this were to be the case, compromise would be technically infeasible.

The third reason why governments might go to war rather than settling is that whatever compromise they might work out could unravel. This is a common concern in all of politics: political agreements are hard to implement, and this is doubly true about agreements among sovereign nation states. In normal domestic disagreements, contracts can be enforced in a court of law. Political agreements are harder to enforce, unless there is something commercial at stake. *International* political agreements are an entirely

different matter. There is no court, and no international government, that can force a sovereign state to stand by its obligations. Concern about reputation might encourage governments to keep their promises, but the immediate incentives to renege, or cheat around the edges, can easily overwhelm the much vaguer and longer-term incentives to abide by prior agreements in order to preserve the abstraction of a reputation. Any government, knowing the fragility of sovereign commitments, will be hesitant to enter into a politically sensitive compromise that might simply be overturned by an unreliable partner.

The unreliability of potential international partners is reinforced by the fact that partners change. Contracts between two firms, or even two political parties, are bound to some extent by continuity in the identity of those representing the firms or parties, and more generally by the continuity in the name brand of the corporate or partisan entity. But the identity of governments can change overnight, assuming it's over an election night. A conciliatory government eager to cut a deal and strongly disposed to honor it can be replaced in a matter of hours by a hostile government that wants nothing to do with prior obligations.

All three of these factors have stood up to rigorous theoretical and empirical exploration as potential causes of military conflict. There are, to be sure, other potential sources that do not rely on the assumption of rational calculation that underpins the bargaining theory of war: the possibility that some countries may actually prefer war to peace, or that a government might be controlled by a small elite that benefits from war but pays few of its costs, for example. But these rely on special assumptions about particular countries, political systems, or individuals. The value of the bargaining theory of war is that it is a *general* theory, with potential application to a wide range of conflict environments. Indeed, while it has been applied fruitfully to interstate war, it can also elucidate conflicts within nations, if these conflicts take place in an environment that, like international politics, has few or no reliable enforcement mechanisms. Such domestic environments include, prominently, civil wars, or any other conflict in which powerful groups fight without regard for the national rule of law.

I now turn to the Israeli-Palestinian dispute, to explore the ways in which the bargaining theory of war can help clarify the enduring nature of violent conflict in this most difficult arena.

APPLYING THE BARGAINING THEORY OF WAR TO ISRAEL-PALESTINE

Of the three potential sources of costly military conflict identified by theory, one can probably be ruled out easily, and another somewhat less easily. The

remaining source—the commitment problem—is almost certainly the most directly relevant one.

Asymmetric information. The first potential source of enduring conflict is asymmetric information: that is, each side does not have a clear picture of the resources and resolve of the other. The idea here is simple, as mentioned above: if both parties knew how hard each could and would fight, they could anticipate the outcome and arrive at a compromise solution that would avoid the actual costs of conflict. Of course, in reality, one belligerent may have only the most general notion of the military strength of the other, and an even fuzzier sense of how hard the other side was willing to fight.

However, in the case of the Israeli-Palestinian dispute, it is hard to believe that an absence of information plays much of a role. The two sides (and the sides within each side) know each other extraordinarily well. Both Israelis and Palestinians can follow the twists and turns of the domestic political debates in each political entity. And between technical means, historical connections, and intelligence, neither side has much doubt about the military capabilities of the other.

Israel clearly has the preponderance of military might, and this reality is certainly closely connected to the major concessions the Palestinian Authority (and its predecessors) have made: they had little hope of obtaining more by military means. “Resolve” is a somewhat hazier concept, and more open to interpretation. But with a conflict that has gone on for nearly seventy years—perhaps more than one hundred, depending on how one counts—neither side is likely to have any illusions about how passionate the other is. All things considered, it is unlikely that a lack of information has played much part in prolonging the conflict.⁴

Indivisibility. Scholars are somewhat skeptical in general of the possibility that any particular issue in contest could not be resolved by compromise. But there are some who believe that certain matters—ethnicity, ideology, certain territories—are difficult or impossible to divide in any meaningful way. The Israeli-Palestinian dispute has sometimes been debated in this context (Hassner 2003 and Goddard 2006 are two examples).

The strongest argument for indivisibility in the Israeli-Palestinian context has to do with the status of Jerusalem. The other territorial issues are almost certainly amenable to resolution. All indications are that land swaps could effectively address the question of the large-scale settlements around East Jerusalem, as well as other security-related territorial concerns. However, there are some who believe that the religious significance of Jerusalem makes it inherently impossible for either side to cede to the other. The “right of return” of Palestinians may also have features of this sort of indivisibility, in that to some compromise may seem impossible.

Although we cannot bring data to bear on this, it would seem that arrangements are possible that would be acceptable to majority opinion on both

sides. In the case of Jerusalem, the city could be divided, with major religious sites under some form of international supervision. The old city itself could be “internationalized” as neutral ground, open to all. And other resolutions to the Jerusalem problem have been suggested and widely discussed. Informed observers, indeed, appear to believe that some form of agreement for Jerusalem has been considered, and that a satisfactory resolution could be achieved without too much difficulty. Similar “shadow agreements” have apparently also been discussed and arrived at, with respect to the right of return.

We cannot definitively rule out the possibility that the division of Jerusalem, and the right of return, are obstacles to a lasting settlement. However, it seems far less important a barrier than the third source of protracted conflict, the lack of ability to make credible commitments.

Commitment problems. Even when both sides anticipate that settling is better than fighting, and when a suitable compromise can be arranged, commitment problems can be a major obstacle to a peaceful solution. Virtually any negotiated settlement involves promises to carry out concessions in return for analogous concessions by the other side. One country agrees to decommission half its ballistic missiles in return for a similar agreement from the other country; one belligerent agrees to withdraw troops from an occupied territory in return for a promise to keep that territory demilitarized; one side in a civil conflict agrees to hand in its weapons if the other side does so, too. Should the agreements be carried out as planned, both parties are better off—and they are better off than if they had arrived at a similar outcome by fighting.

The problem is that one or both of the parties may fail to carry out the terms of the settlement as agreed. This may be due to outright cheating, but it could also be due to circumstances beyond the control of the parties, or to a misunderstanding. As long as there is the possibility that one side is not fulfilling its end of the bargain, the other side has no incentive to reciprocate. And in anticipation of a failure along these lines, no agreement will be reached. As mentioned, this problem is addressed in domestic disputes with the presence of third-party enforcement mechanisms: the courts and the police, for example. But among countries, or among armed groups fighting in an essential state of anarchy in a domestic civil conflict, there is no credible third party strong enough to enforce such agreements.

Concern about the credibility of commitments is compounded, as mentioned above, by the fact that when the parties in question are governments, or substantial political entities, there can be changes in the identity or views of those controlling the governments or entities in question. A government can be voted out of office or overthrown; the leadership of a rebel group can be replaced. And when the leadership changes, previous agreements may be thrown away.

The commitment problem would appear to be central to the Israeli-Palestinian dispute. Even the most casual observer is aware that neither side trusts the other to carry through on whatever commitments it might make—and both sides have plenty of evidence to back up their mistrust. This is not necessarily because both sides are dishonest or intent on cheating. There are two very real possible sources of the lack of credibility of their commitments, neither one of which relies on assertions of actual duplicity.

First is the possibility of misinterpretation. In an atmosphere as fraught as that of the Israeli-Palestinian relationship, where mistrust is virtually universal, even the most sincere of statements or actions is likely to be looked upon with suspicion. And this is not just about rhetoric. Typically, settlements include provisions for monitoring and enforcing the agreement, and in particular for forestalling or punishing violations. However, many putative violations are somewhere in a grey zone. This issue has surfaced frequently in Israel-Palestine. If a rogue extremist Palestinian (Israeli) group kidnaps an Israeli (Palestinian) soldier or civilian, should this be regarded as a violation of a truce? If extremist Israelis (Palestinians) attack Palestinian (Israeli) civilians, are the Israeli (Palestinian) authorities responsible? Who should be held to account for acts of terrorism that are not sanctioned by the authorities? Who should adjudicate differences over terms of the agreement? In conditions of this kind of uncertainty, parties to an agreement can easily anticipate a downward spiral of misunderstanding leading to the unraveling of any existing agreement—or, in anticipation of this spiral, to the absence of agreement.

The second very real and comprehensible source of limited credibility of commitments in Israel-Palestine is the possibility that the authorities responsible for implementing any agreement might change character. Both political entities are democracies, and both have strong extremist wings of their legitimate (that is, electoral) political spectrum. Just as Hamas came to control the Gaza Strip, radical Israeli extremists seem to be increasing their influence among the settler community, and extreme political movements and parties are well-represented in Israeli electoral politics.

The presence of powerful rejectionist forces on both sides of the dispute seriously complicates bargaining and can severely restrict the prospects of compromise. Either side might renege on an eventual agreement after it is in place. This is particularly challenging in the case of armed struggle, as most agreements typically involve some form of disarmament, or at least military disengagement, that may be difficult to reverse. Often an agreement involves both sides making some tangible gesture in the direction of disarmament, frequently including some irreversible component in order to make the commitment to change more credible. During the drawn-out attempts to decompress tensions in Northern Ireland, the principal sticking point was disarmament.

ment. This was a clear example of a commitment problem: A side that gave up its guns would be defenseless if the other side cheated, or did not comply.

The commitment problem associated with irreversible actions that might profoundly prejudice one party's position is central to the stalemate in Israel-Palestine. Take, for example, the issue of Israeli military forces in the West Bank. A logical step toward a two-state solution would be for Israeli to remove all of its forces. However, once these forces—and, potentially, any permanent or temporary installations destroyed in the process—are gone, it might be very difficult to restore them. The same might be said about the more militant settlers. By the same token, the Palestinian Authority might undertake particularly vigorous efforts to shut down armed groups—perhaps even using a UN or international force to police this. However, inasmuch as these things—Israeli military outposts and extremist settlers, and armed Palestinian groups—serve as bargaining chips in the ongoing conflict between the two sides, shutting them down could mean giving up a bargaining chip without a guarantee that the other side would do so as well.

It seems that the most convincing explanation as to why the Israel-Palestine dispute has been so protracted, and so intractable, is largely due to inherent and enduring commitment problems. Neither side trusts the other to follow through on concessions that might have been agreed upon. And in the absence of trust, and in the absence of any third party capable of reliably enforcing an agreement, the incentives to make further concessions are very limited.

Alternative explanations. There are a multitude of alternative explanations, from the cultural and ideological to the messianic. One in particular is consistent with the general approach taken here, but goes in a somewhat different direction. It is to argue that the cost of maintaining the status quo is low, especially for Israel, while the benefits of settlement are also low. On the cost side, the idea is that Israel can sustain the occupation, and the associated low-grade conflict, indefinitely. On the benefit side, Israel has little to gain from peace with the Palestinians—the economic stakes are trivial given the relative poverty of the West Bank and Gaza.⁵

This calculus, I believe, understates both the costs of the conflict to Israeli society and the potential benefits of a settlement. The state of permanent quasi-war with the Palestinians in which Israel finds itself is economically, socially, and politically disruptive, especially as the region in general becomes more unstable. On the other hand, the Palestinian population presents quite impressive opportunities for complementary economic development: it is educated and low-wage, and its profile would fit well with the more dynamic sectors of the Israeli economy.

Whether this alternative explanation is more compelling than one based on commitment problems is impossible to evaluate in the abstract. Further

analysis would be required to assess both the reality of the situation and the reigning perceptions on both sides of the conflict.

In any case, I now turn to consider how these analytical considerations might affect our interpretation of the current state of play in Israeli-Palestinian relations, and in particular of prospects for a new path forward.

COMMITMENT PROBLEMS AND POTENTIAL SOLUTIONS

What, in particular, are the implications of the prior analysis for the kinds of proposals that have surfaced recently, for a one-state solution to the conflict? While the nature of the plans varies, and many of them contain few if any details, the one-state proposals seem to share a common view as to how incorporating both peoples into a single unitary state might encourage compromise. Once both sides understand that they are inextricably linked together in a single state, the logic seems to go, they will be forced to come to some sort of arrangement that is mutually acceptable.

There is a certain soundness to this reasoning. After all, there have been proposals for a democratic, non-sectarian, state “from the Mediterranean to the Jordan” for a long time. And if the two peoples shared a democratic state, especially with the typical protections for minority rights and the normal role for political oppositions, it would be very difficult to deny either one a substantial influence on national policy. After all, functioning democracies include the possibility of alternation in power, and of respecting the full political rights of groups that may happen to be out of office at the moment. Without such guarantees, democracy is meaningless. However, the assumption that the resulting state would function like really existing democratic non-sectarian states is clearly a very strong one.

As with just about everything else in the Israeli-Palestinian conflict, the real problem is getting to a position where each side feels confident that its interests will be taken into account in decision-making, and that any significant policies put in place will have some staying power past the next election. And so we are back to the commitment problem.

Putting two groups in conflict into one state does not in and of itself resolve the underlying challenge of attempting to convince both groups to make concessions that could undermine their subsequent bargaining power. Established democratic regimes have largely solved the problem in one way or another. Typically, the resolution involves a constitutional agreement to provide for adequate representation of the interests of all major groups. This, of course, does not explain why the constitutional arrangement is itself stable; this is certainly an important topic of analysis.⁶

But for a democratic system to be stable, there must be a generalized acceptance of, and expectation of, respect for the principles of alternation in

power and respect for minority views. Without these two principles, groups out of power have no motivation to play by the rules of the game, inasmuch as they have every reason to anticipate that they will never be given the opportunity to be in power, and that their interests will be ignored in decision-making. Again, the core issue is the credibility of commitments: if the government loses an election, will it leave office? And will a government refrain from undertaking policies that fundamentally and structurally—and, potentially, irreversibly—weaken the position of its opponents? If there is a strong possibility of a negative answer to either question, democracy is unlikely to survive.

To apply these considerations to the case of relations between Israelis and Palestinians, it seems clear that commitment problems will be central to their interactions whether the interactions take place within a single state or between two entities. I see no reason to believe that housing the two groups within one state will make the commitments of either side more credible.

The only counter-argument that would appear to make sense seems to be that Israeli commitments to democratic principles are so strong that they would not be challenged by the incorporation of the Arab populations of the West Bank and the Gaza Strip. This seems, quite frankly, implausible, inasmuch as the overwhelming state of opinion in Israeli politics appears to be implacably hostile to such an incorporation. There are fairly straightforward reasons for this hostility.

Although accurate population figures are hard to come by, best estimates are that a unitary state would have a population approximately evenly divided between Jews and non-Jews. This means that there would be a non-trivial possibility of a government dominated by Palestinians and their allies (such as some of the non-Jewish populations of the current state of Israel, or some progressive Jews). If this is *not* in fact a possibility, then one would have to wonder why Palestinians would cooperate in the construction of a unitary state: why would they simply allow themselves to be incorporated into a state over which they could have no control? If a Palestinian-led government *is* in fact a possibility, then one would have to wonder whether the existing Israeli political system would accept any scenario in which this might come to pass: it would mean an effective end to the notion of Israel as a state of the Jewish people, and could well threaten many of the perquisites and privileges that Jews have enjoyed in the current state of Israel.

So if a single state implies the possibility of a Palestinian-led government, it is hard to imagine most current Israeli political actors accepting such a single state. And if they were forced into such a single state, it is equally hard to imagine current Israeli political actors acquiescing before the creation of a Palestinian-led government. The reason, once more, is the patent lack of confidence on the part of Israelis in the willingness and ability of a Palestinian leadership to respect the rights of Israelis and Jews—whether because

they do not trust the leaders or because they believe the leaders cannot control their more extreme constituents.

The same logic applies in the other direction. If a single state implies a purely Israeli/Jewish-led government with full sovereign rights over all citizens, including Palestinians, then prospects for the latter would appear dim. The entire Palestinian population would effectively be treated in ways equivalent to that of the existing Israeli Arab population, a prospect that is clearly unacceptable to Palestinians outside the state of Israel.

Again, the central problem here is that neither side has confidence in the willingness or ability of the other side to respect its rights, whether as a majority or as a minority. And because even within a unitary state a majority can in fact severely impinge upon the rights and privileges of a minority, neither side has an incentive to place itself in a position where it could find its power and influence irretrievably, irreversibly reduced.

It might be objected that within a single state, especially one with an established democratic constitution, it will be possible to safeguard the rights of minorities and to ensure that those political forces not in government are able to influence policy enough to ensure that their interests not be ignored. In principle this is accurate. After all, Israeli politics has remained more or less democratic despite the quite substantial differences of opinion among groups in Israeli society.

However, in practice there are plenty of reasons to believe that the fundamental changes that would be associated with the creation of a unitary Israeli-Palestinian state would profoundly change the very nature of Israeli politics, and of Israeli political norms. Certainly it does not appear that Israeli commitment to democratic norms has extended to the country's treatment of the population of the occupied territories; it does not seem likely that incorporating that population into the Israeli state would change the situation.

So there would seem to be little reason to anticipate that relations between Israelis and Palestinians would be changed by the creation of a single state including both peoples. The fundamental conflicts of interest would persist. And, more important in the light of the theoretical principles discussed here, the project would almost certainly be derailed by the profound inability of either side to credibly commit to making and following through on vital commitments without which truly democratic single state could not function.

CONCLUSION

Both theory and evidence suggest that the central reason for the bitter and protracted nature of the Israeli-Palestinian conflict is a particularly virulent form of the commitment problem endemic to all such conflicts. Both sides would like to arrive at a compromise that would allow an end to the militar-

ized dispute. However, such a compromise of necessity requires that each side make changes to their policies that could, if undertaken unilaterally, weaken them. And neither side appears to believe that the other will definitively carry out commitments it makes verbally to change policies as agreed upon. This classic commitment problem makes it difficult or impossible for political leaders in both Israel and the Palestinian Authority to make the concessions necessary for a negotiated settlement.

Whether the two peoples are in one state or two—or three or more—will not change this underlying dynamic. The only thing that can conceivably lift the warring parties out of the trenches and toward a meaningful cooperative settlement is something that makes the parties' commitments credible enough to one another that they can move forward in an atmosphere of trust. This trust can exist, or decay, within a single state or across national borders. Peace will only come once each principal to the conflict is able to create confidence in the seriousness and reliability of the other side to carry out promises as agreed upon.

NOTES

1. The author thanks Andrew Coe, John Ehrenberg, and Robert Schub for helpful comments and suggestions.

2. I should make clear from the outset that my only qualification for this task is my knowledge of international relations. Although I have followed Israeli-Palestinian relations closely for years, I am no expert on the subject. This is why my discussion of the conflict itself remains at the level of abstraction, about the possibility of applying what we know about enduring conflicts to this particular instance.

3. Fearon 1995 is a classic statement. Powell 1999 brings together many analogous insights; Powell 2012 extends the argument to include states concerned about changes in the power balance. Walter 2009 surveys applications to civil war.

4. Kydd and Walter 2002 suggest that there may be uncertainty about the strength of extremists on both sides, so that both masses and political leaders are wary of the true intentions of the other party. While extremists have been successful in disrupting progress toward a settlement, it seems to me unlikely that this is due to any underlying uncertainty about where the mass of political preferences lies on either side.

5. Coe 2015 develops the implications of such divergences in levels of economic development for war and peace.

6. One possibility is that individuals or groups have an actual preference for, say, an independent judiciary; another is that the initial agreement leads the sides to make investments, either economic or political, that are costly to reverse. There are many other possible explanations.

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Chapter Five

Reclaiming Human Rights

An Alternative Approach to the Israeli-Palestinian Conflict¹

Micheline Ishay and David Kretzmer

INTRODUCTION

“The future belongs to those who believe in the beauty of their dreams,” Eleanor Roosevelt reminds those who have lost faith (Schlup and Whisenhunt 2001). Today, few Israelis and Palestinians can imagine a hopeful future, as many have lost track of their guiding stars, their dreams drowned in sorrow and anger. After decades of missed opportunities and futile peace talks, a great number of Israelis believe that a political settlement with Palestinians is not achievable or sustainable. They seem to have concluded that their best hope is to prolong the status quo, postponing an arrangement with the Palestinians *ad infinitum*. They claim that legitimate negotiating partners have not been available since 2007, noting the division between Fatah and Hamas. The Arab uprisings, which began in 2011 and produced civil wars across the Middle East, reinforced Israel’s foreign policy of stability, or extended crisis management, and the 2015 elections further demonstrated that Palestinian issues remain sidelined.

There are other Israelis, fewer in number, who regard the postponement of the Palestinian issue as a dangerous political oversight—one that will, according to Israeli former intelligence chief Ami Ayalon (2015), only hasten the crisis of Israeli democracy and Jewish national identity. The bottom line, from this perspective, is that no democratic country can deny the civil, political, and socio-economic rights of a people subject to its control without eroding its legitimacy as a democratic state. Perhaps the nuclear rapproche-

ment between Washington and Tehran will provide a reshuffling of the regional power deck, paving the road for less belligerent activities in the region. Sustainable peace, however, will rely on more than a few rays of sun shining through the clouds of war. We need clear and viable strategies for pugnacious storms to subside.

The contributors to this volume have offered many different strategies, some more viable than others. Against both partitionists (advocating a two-state solution) and unionists (favoring one state), this chapter supports a hybrid approach, one that allows for the sovereignty of two states in a confederative framework. We concede, however, that like all other conceivable partnerships, this arrangement faces challenges.

To enrich the debate, we propose a comprehensive human rights approach. While recent work shows a growing interest in human rights, references to this issue remain incomplete (highlighting too often the importance of one cluster of rights at the expense of another), and fail to account for interim human rights milestones needed in the transition to a final peace settlement. Whatever the ultimate political settlement will be, human rights need to be institutionally safeguarded throughout the process of transition. This chapter will outline a human rights approach that should be incorporated in the move toward a confederative structure.

We begin by defining and developing the neglected argument for both a comprehensive and interim human rights approach. Second, we briefly review entrenched obstacles associated with ideal forms of one- or two-state solutions to justify a hybrid position, and third, we explore the institutional protection of human rights, focusing on a confederative structure. Let us now turn to the centrality of human rights.

THE CENTRALITY OF HUMAN RIGHTS

From the very first days of Israel's creation, its leaders declared that the nation "will be based on freedom, justice and peace, as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex; it will guarantee freedom of religion, conscience, language, education and culture; . . . and it will be faithful to the principles of the Charter of the United Nations" (Declaration of Establishment 1948). In 1991, Israel acceded to several human rights conventions, including the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. In 1992, the Knesset passed the Basic Law: Human Dignity and Liberty, which declared, *inter alia*, that "all persons are entitled to protection of their life, bodily integrity and human dignity" (Section 4).

Despite these noble aspirations and commitments, Israel has remained an occupying power since 1967,² depriving Palestinians of the political, civil, social, economic, and cultural rights promised to its own citizens. Life in Gaza and the West Bank is far removed from the ideals envisioned by the Universal Declaration of Human Rights, which stated: “it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law.”

Past approaches to peace have regarded human rights as little more than a marginal concern (Bell 2000). There are a number of explanations for this oversight. In the first place, Israelis and Palestinians have diametrically opposed narratives relating to the causes of the conflict and the events that led to the present impasse. These different versions of history lead to different understandings of the human rights issues, with each side regarding itself as the true victim of human rights violations. Focusing on specific human rights may force both sides to confront these opposing narratives, which they have so far refused to do.

Israeli decision-makers, in particular, have urged at best a purely pragmatic or at worst an extreme nationalist approach to the peace process, leaving aside issues of justice and remedies for past human rights violations. For them, placing human rights at the center of negotiations might have been regarded as a concession to the Palestinians. Israeli leaders may also have feared that a human rights discourse would have placed the most delicate and difficult issue—the refugee question—at the center of the negotiations. In their mind, that would have prevented any possible agreement. They would also claim that the Palestinian leadership has not been known for its human rights record, except when it comes to using the discourse of human rights as a tool to discredit Israel. Placing a full spectrum of human rights concerns in the center of negotiations may have required Palestinian leaders to accept norms that they have not practiced in their relationship with their own people, let alone in their relationship with others.

Ultimately, as negotiations were always directed toward separation between the two peoples, the protection of human rights was treated as an internal matter for each side. This is reflected in the only human rights provision in the agreements between Israel and the Palestine Liberation Organization. Article XIX of the Agreement on the Gaza Strip and Jericho Area (May 4, 1994) states:

Human Rights and the Rule of Law

Israel and the [Palestinian] Council shall exercise their powers and responsibilities pursuant to this Agreement with due regard to internationally-accepted norms and principles of human rights and the rule of law.

Recently, after gaining non-member observer state status in the UN General Assembly, Palestine has acceded to the major human rights conventions. As Israel is also a party to those conventions, this might create an opening for a new, shared emphasis on the rights, needs and aspirations of all, with both Israel and Palestine formally accountable to the international community (Montell 2015).

After so many years of promoting their own political programs in the midst of conflict, Israelis and Palestinians have not developed a sense of their common destiny in this troubled region of the world. The universal protection of human rights should provide both sides, and outside forces interested in promoting peace in the area, with a common goal. To reach it, each side will have to recognize the historical plight of the other, and each side will have to make hard compromises. Naked power that is insensitive to issues of justice and human rights can never settle the conflict in a way that will command legitimacy over the long run. Likewise, institutional mechanisms or power-sharing models must first delineate shared principles before attempting to enforce them. For any solution to be truly viable, those shared principles are best articulated in the language of universal, inalienable, individual, and collective rights.

Universal, Inalienable, and Indivisible Rights

Human rights are rights held by individuals simply because they are part of the human species. They are rights that belong equally to everyone regardless of sex, race, religion, ethnicity, nationality, or economic background. They are universal in content and recognize no borders.

An important contribution of the first Commission on Human Rights, under the leadership of Eleanor Roosevelt, was the affirmation that human rights are both inalienable and indivisible. The notion that countries might embrace some fundamental rights, but not others, was rejected. Of the five families of rights articulated in the 1948 Universal Declaration of Human Rights (security, civil, political, socio-economic, and cultural), none can be asserted over the others (Ishay 2008). Likewise, the rights of one person or group cannot be preferred over the rights of other persons or groups. If human rights are indeed universal, one cannot be selective in their affirmation or defense.

Fragmented views of human rights have contributed directly or inadvertently to the rise of particularism, including religious fundamentalism (prevalent among both Israelis and Palestinians). States that have neglected social and economic rights have encouraged fundamentalist groups to fill the void by providing their own social services, thereby bolstering their popular support. Those that have emphasized social and economic rights at the expense

of civil and political rights have often created an environment of opacity and corruption that silences the grievances of citizens.

Reconciling Group and Individual Rights

The Universal Declaration of Human Rights integrates security, civil, political, economic, and cultural rights in a coherent package. By 1966, when the two International Covenants were adopted, group rights were recognized and articulated in Common Article 1: “All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.”³

Recognition of group rights inevitably raises the possibility of a clash between them and individual rights. In divided societies, group rights capture the collective concerns of national, ethnic, religious, and linguistic groups. Those who have been oppressed or subjected to systematic discrimination and persecution yearn for self-determination. Hence, existential fears of group vulnerability and collective demands for political independence and cultural autonomy need to be addressed as an essential component of universal rights, particularly in situations of conflict. However, even when the desire for self-determination constitutes a collective response to colonialism, oppression, occupation, persecution, or genocide, its exercise does not ensure the protection of individual rights. In many states that were established in order to allow a people to exercise its right of self-determination, violations of individual rights remain extensive. In societies still locked in conflict, there may be no way to resolve these tensions without external involvement. To adjudicate competing claims of self-determination or to establish effectively a full complement of collective and individual rights may require the incorporation of some supranational body in the process (a point that will be further developed in the section “Building the Human Rights Architecture for a Confederative Solution”).

Human Rights as a Standard for Transition

Even if one can envision a framework for peace that reconciles competing visions of rights, the implementation of those rights should not be postponed to the final stage. Promotion of the full spectrum of human rights must also be an essential feature of transitional processes, with no sequential formula privileging one set of rights over another. After all, the different families of rights are both equally important and inter-dependent. For instance, security is doubtless central to progress in all other realms of human rights. At the same time, creating sustainable economic opportunities may contribute significantly to long-term security. Neither complex democratic institutions nor developed and equitable economies can be built overnight, especially given

the wide disparity between Israel and Palestine in these realms. Nevertheless, as an alternative to prioritizing one dimension of rights (e.g., security, free markets, or elections), a comprehensive approach should not set aside any cluster of rights for some imagined future propitious moment. Instead, we argue for an evolutionary process toward peace in which the seeds of security, economic cooperation, and political freedom are nurtured simultaneously and incrementally. In our estimation, neither the one- nor the two-state proposals will succeed in accomplishing this goal.

ASSESSING ONE- AND TWO-STATE SOLUTIONS FROM A HUMAN RIGHTS PERSPECTIVE

Both partitionists, who advocate the two-state approach, and unionists, who favor the one-state approach, can marshal isolated aspects of human rights in support of their views. A partitionist approach will focus on the centrality of group rights to self-determination, security, and culture. The first and most obvious advantage of this approach is that it allows both Israeli Jews and Palestinian Arabs to exercise their right to self-determination in external form through political independence (Basharat 2014; Oz 2015; Sharon 2015; Smooha 2002).

A unionist approach, on the other hand, emphasizes individual rights, which should never be sacrificed in order to cater to group or religious rights. In a unitary state, the group affiliations of individuals would be privatized. In accordance with a French or a South African model, under which the only common denominator recognized by the state is citizenship, ethnic, religious, or national identities would be the private affair of citizens (Abu-Odeh, et al. 2001; Abunimah 2006; Farsakh 2011; Jamal 2016; Lustick 2015; Tilley 2005).

Without enumerating the long list of obstacles, recurrent problems continue to hinder either approach. Israeli settlements on the West Bank, doubling in number over the last two decades, have punctured the feasibility of a Palestinian state with adjacent borders. A West Bank unification with Gaza seems equally daunting, as Palestinian Islamists remain in political rift with the Palestinian Authority. The growing economic gap between two adjacent states could become a permanent security hazard for both Israelis and Palestinians.

A one-state solution also remains politically and viscerally challenging. Given memories of the persecution that engendered Zionism, few Israeli Jews would agree to become a vulnerable minority in a unified state. Simultaneously, many Palestinians are frightened by the prospect of a Jewish hegemony using an already powerful state to reinforce its interests. Years of conflict have resulted in deep psychological barriers and collective distrust.

With a widening gap in educational and economic skills between the two peoples, one can only anticipate prolonged social and economic strife, a phenomenon also witnessed in post-apartheid South Africa.

Given such chronic obstacles confronting both unitary and partitionist approaches, it is understandable why so little has changed, and why those who continue to stall or sabotage the peace process succeed so easily, year after year. Both options are incomplete, each securing only a portion of the human rights corpus. Any solution will remain inadequate if it does not incorporate interim processes and institutional mechanisms built upon a comprehensive human rights framework. As an example of how this might work, the following section outlines possible interim processes around the mechanism of an eventual confederative structure.

BUILDING THE HUMAN RIGHTS ARCHITECTURE FOR A CONFEDERATIVE SOLUTION

Unlike a federation, which involves a constitutional division of power in a single state between central and regional governments, a confederation is comprised of two or more sovereign states that have agreed to allocate defined powers to a supranational institution. (The best modern example is the European Union.) Recently, the concept of a confederation as a possible structure for the relations between Israelis and Palestinians has gained traction in the media and within various intellectual and political circles.⁴ In a recent interview with the Israeli newspaper, *Yediot Ahronot*, even the Israeli president, Reuven Rivlin, suggested that in the absence of open borders between Israel and its neighbors, a borderless Israeli/Palestine confederation should be explored (Rivlin 2015; see also Avnery 2013; Bell 2015; Ellis 2015; Har-El 2013; Lake 2015; Yiftachel 2013).

Unfortunately, within the wide literature on power sharing and confederation, the central place of a comprehensive human rights approach, particularly throughout times of transition, is too often neglected. When these models do invoke human rights, for example, in the establishment of autonomy regimes within a state, their proposals “do not leap ready-made out of the Universal Declaration or the Covenant . . . to the contrary, one must argue boldly and inventively to demonstrate that important provisions of human rights law can be interpreted to lend qualified support for some forms of autonomy” (Steiner 1991, p. 1547; see also Wippmann 1998). We maintain that human rights standards are central: they must direct transitional processes and inform more permanent cooperative arrangements, which should be mediated by international partners.

The presence of international partners is necessitated by the tremendous mutual distrust between Israelis and Palestinians, which during multiple cy-

cles of violence easily causes security imperatives to trump other human rights concerns, further exacerbating distrust and stalling efforts toward peace. Without interim efforts toward broad human rights progress, a sustainable Israeli-Palestinian agreement may never get off the ground. How can we build such interim human rights efforts that will not be derailed by violent spoilers from either side? Short of a final confederative structure, some legitimate entity must have the authority to monitor, protect, and promote human rights. While the idea of international involvement may initially be met with suspicion, with neither side trusting an international broker to be impartial and understand its concerns, it is difficult to envision tangible human rights progress without a legitimate *tertius gaudens*.

However, it would be up to the international community to allay these fears and persuade the two sides that such involvement would be beneficial to all. Given the present political impasse, rather than demanding that the parties return to the negotiating table to reach an agreement on all the well-known issues, states really interested in advancing a political settlement should place the emphasis on both sides' obligations to respect and ensure human rights. They should propose to the parties a mechanism for monitoring human rights, which would include representatives of each side together with international presence of some well-respected outsiders.

By ensuring that the parties take steps to further protect human rights, this entity could both mitigate human rights violations in the occupied territories and help anchor a Palestinian state from a democratic and human rights standpoint, enabling it to become a full partner in an eventual confederative structure. A confederative structure presumes the existence of at least two states, and working toward a confederation would necessarily involve the creation of a Palestinian state. It would be important for the two goals—promotion of human rights and the establishment of a legitimate Palestinian sovereign state that could join a confederation—to be devised in tandem. Even as specific disputes, including interminable fights over land and water, take longer to settle, enhanced protection of human rights might provide the trust and security needed for a confederative agreement.

Whatever the shape of a final confederative structure, its human rights obligations will demand several key provisions in the agreement between the two sovereign entities. First, there will have to be a commitment from all levels of government, within the entities and within the confederal institutions, to respect and ensure the human rights enshrined in the international conventions to which both Israel and Palestine are parties. Second, a Confederal Human Rights Commission should be established that conforms to the Paris Principles on National Human Rights Institutions (1993). Third, a human rights tribunal should be established to consider complaints from individuals who claim that their rights have been violated and that they have exhausted domestic remedies. In order to strengthen the Human Rights Com-

mission and the Human Rights Tribunal and to lessen the chances that they become an arena for power struggles between Israelis and Palestinians, consideration should be given to the incorporation of international elements, whether individuals chosen for their expertise and experience in human rights, or representatives of certain democratic states.

In short, from initial pressure on both sides to move beyond current impasses, to the creative process of developing an integrated rights-based approach, to the design of an overseeing mechanism to guide the transition to a more permanent solution predicated upon human rights, any initially fragile alliance between Israelis and Palestinians will need the strong and consistent engagement of an international coalition to back their efforts. The next section discusses major human rights issues that need to be addressed in a confederative structure.

Civil and Political Rights

While civil and political rights are addressed in both unionist and partitionist models, they are incomplete and need a third party's involvement. Under a partitionist approach, protection of human rights lies entirely within the jurisdiction of each state. This creates serious challenges for protecting the rights of minority groups, freedom of religion, and women's rights. How does one ensure the equality of all persons, given the political dominance of one people in each state? How does one prevent incitement to ethnic, religious, and racial discrimination and hatred, prohibited under the International Covenant on Civil and Political Rights? One can anticipate frequent allegations that one state or the other is not meeting its human rights obligations.

The unionist approach seemingly avoids these dangers through a democratic constitution with a strong bill of rights, perhaps along the lines of the South African Constitution. However, the experience of other ethnically divided societies does not inspire much confidence that even the most carefully conceived constitutional protections would effectively guard the rights of all individuals and groups in the face of group tensions and hostility (Rabushka & Shepsle 1972).⁵

A hybrid, confederative model, involving both constitutional protection and supranational supervision, has a better chance of effectively protecting the civil and political rights of individuals. Both states would be parties to all major international human rights conventions, and their sovereignty would be limited by human rights constraints. The confederal human rights institutions we proposed above would help to ensure that these constraints are respected, thus strengthening the chances that the rights recognized in those conventions and the constitution would become a living reality.

Economic and Social Rights

As we have seen, the protection of social and economic rights presents a major obstacle in both partitionist and unionist solutions, given the significant inequality between the two peoples and the insecurity it would likely generate. The absence of a viable local economic infrastructure originally forced West Bank and Gaza Palestinians into the role of cheap transient workers in Israel. When most Palestinian workers were later excluded from Israel, the resulting high unemployment and mobility restrictions contributed to increased violence (Ishay 2011). Palestinians, more than ever, found themselves at the mercy of the charity of foreign state donors and humanitarian organizations (Arnon 2007; Hanieh 2003; Samara 2000).

To avert violence induced by economic despair, a hybrid approach, strengthened by supranational arrangements, would need to narrow existing socio-economic gaps between the two peoples. It will realize this by focusing on two economic trajectories: one targeting the developmental challenges confronting Palestinians as a group, and the other providing opportunities for the most disadvantaged within each side (Naqib 2003). The need to transcend grievances of historically disadvantaged nations and groups has long pointed toward collective rights approaches to economic development. The dual challenge of combining an integrating free market with protection of the initially disadvantaged is as old as the “infant industries” arguments of Alexander Hamilton and Friedrich List (who sought paths for the United States and Germany, respectively, to close the industrialization gap with the British). The same strategy is represented today by the provisions for preferential treatment for developing countries built into the margins of the global free trade regime and in American affirmative action policies (Weingast 1995). This approach recognizes that human rights are not merely ideal outcomes to be somehow realized in the distant future, but must inform each step in an evolving supranational arrangement.

Security Rights

The main object of political Zionism was for Jews to gain control over their own destiny and security. Notwithstanding attempts to argue otherwise, the Jews never enjoyed full equality in Muslim states (Bat Ye’or 1985; Stillman 1979), and the insecurity of religious minorities under Islamist governments hardly encourages confidence that, were the Jews to become a minority, they would enjoy adequate protection. Rhetoric from Palestinian and Arab media, along with documents like the Hamas Charter, has not allayed Jewish fears (Hamas Charter 1988; Wistrich 2002). Palestinians on the West Bank and in Gaza have very different security concerns. Having been subject to oppres-

sion, domination, and occupation, they neither will nor should agree to the continuation of a situation in which they are dominated by a militaristic state.

A two-state solution would seem to allow both peoples to maintain their own individual and collective security. However, a simple separation would leave the Palestinians utterly unable to balance the overwhelming military advantage of Israel, just as Israel could remain subject to bombardment by militants acting in civilian areas, prompting a resumption of such disastrous military actions as the “Operation Protective Edge” in Gaza. At the same time, the unionist claim that a single state with a Palestinian majority could reliably guarantee security for all of its citizens requires a leap of faith that few Israeli Jews will be prepared to take.

A hybridist vision would side with partitionists in supporting group rights to national security, but it would place security for Jewish Israelis within the broader context of human rights for all. All agreements regarding the Israeli-Palestinian conflict have put the onus on the Palestinians to increase Israeli security before the realization of Palestinian political and economic aspirations, as in the Oslo agreement: “[t]he Council will establish a strong police force, while Israel will continue to carry the responsibility for defending against external threats” (Declaration of Principles 1993). The same point was forcefully reiterated in the Wye Plantation Agreement, which demanded that the Palestinians combat terrorism in cooperation, where needed, with the Israelis (Wye River Memorandum 1998). Similarly, in the Road Map, Phase I comprised steps aimed at “ending Palestinian violence” (UN Road Map 2000). Starting to build a democratic Palestinian state was set aside until Phase II, and only in Phase III would steps be taken to flesh out the Road Map’s generalities about cooperative economic development, the status of Jerusalem, the fate of the settlements, and the refugee question (Levy 2008; Naor 1999; Peri 2005).

Making the achievement of Israeli security a first and separate step, with Palestinian political and economic rights relegated to some distant point in a barely charted “roadmap,” may well have contributed to a vicious cycle of growing extremism and ever-harsher counter-measures, giving apparent confirmation to both sides’ darkest interpretations of the other’s ultimate objectives. While security understandably comes first in the minds of Israeli Jews, security arrangements can only be sustainable if political, economic, cultural, and security rights for both sides are also addressed. The protection of fundamental rights is an essential component of security, not a prize to be gained only after Israeli security has been ensured.

Consistent with the supranational framework envisioned above, what mix of independence and integration would be desirable? In terms of domestic security, it makes sense for police forces to reflect the demographic realities of their jurisdictions. Israel has long recognized the right and need for Palestinians on the West Bank to enforce public order and safety within their own

neighborhoods and cities. However, thought should also be given to the establishment of joint police units responsible for inter-communal policing. A joint unit trained, and possibly commanded, by European Union law enforcement personnel, could serve as a beginning. Other civilian services, in which both sides have an equal interest in success, may follow suit. With European Union support and international training, some integrated emergency response teams are already in place (Euromed 2014). However, as the efforts of both Israeli and Palestinian paramedics are hindered by continuing belligerence (Palestinian Red Crescent 2015; Zeff 2015), the more thorough cooperation afforded by a formal joint organization of services would be immediately beneficial to both sides.

The question of external security will remain a pressing issue for Israelis. Since it is obviously unrealistic at the present time to conceive of a joint military force, the external security of the confederation would almost certainly be Israel's responsibility, with the rights of both peoples protected. Whether this would change at some time in the future would depend on the success of the model in changing the relationship between Israelis and Palestinians, as well as on developments in the region and their implications for Israel's security.

Refugees and the Right of Return

A solution to the Palestinian refugee question will have to be an integral part of any political settlement, whatever its final form. Most Israeli Jews, even those who have long favored the establishment of a Palestinian state within the pre-1967 borders, oppose the return of Palestinian refugees to Israeli territory as incompatible with the right of Israeli Jews to self-determination. In a partitionist model, refugees would have the right to return to the Palestinian state. Article 28 of the Palestinian Basic Law already states that no Palestinian shall be prevented from returning to the homeland. One could envisage a Palestinian "law of return" granting Palestinians the legal right to enter Palestine, reside there, and acquire Palestinian citizenship. Many Palestinians outside of Israel proper might find this agreement unacceptable, claiming that it involves violation of their claimed individual right to return to the homes of their parents, grandparents, or great-grandparents.

In theory, the right to return would pose no problem in a unionist model, since both Palestinians and Israelis would have access to the whole territory. But the prospect of return to such a state would weaken even further the negligible support for such a model among Israeli Jews, as it would guarantee that within a short period of time they would become a minority in that state.

In a hybrid confederative approach, the conflicting narratives of rights could be connected to the issue of settlements. Israeli resistance to the return

of Palestinian refugees to Israel itself, which rests on the right of the Jews to self-determination in their own state, cannot go hand in hand with the demand that all settlements remain in the West Bank. Tying together these issues under a hybrid model may help to forge imaginative solutions that could involve removal of some settlements, and acceptance of some refugees in Israel (Peled & Rouhana 2004). In other words, if Palestinians must concede to some degree the right of return, Israel would have to make reciprocal concessions in the area of group rights, such as withdrawal from settlements, economic integration and development, etc.

CONCLUSION

While a one-state solution is widely rejected on both sides, the two-state solution has thus far proven to be a mirage, vivid enough to propel endless futile efforts. Notwithstanding some of the achievements of the Oslo process, endless discussions and negotiations over borders, refugees, settlements, and the status of Jerusalem have not drawn the parties nearer to a political solution to the conflict. A new approach would focus on both transitional and final aims promoting a settlement that will protect the rights of all persons: Jews and Arabs, Israelis and Palestinians. It requires steps that recognize the interdependence of security, sustainable economic development, and political freedom for these two peoples.

At present, both pure two-state and one-state models are unrealistic. No person sensitive to human rights, however, could support an indefinite continuation of the present situation, in which Palestinians living under occupation are denied fundamental rights. The real question then becomes the establishment of a hybrid alternative that would offer adequate protection to the group and individual rights of Jews and Arabs who live side by side. Admittedly, when asked how such a model would effectively work in the existing political and social context, any preliminary answer is certain to expose new difficulties. In contrast to both the two- and one-state solutions, however, a confederative model based on the centrality of human rights provides an alternative, which could ensure enduring peace. It offers an agenda for continuing research and a discussion, in which security, political, economic, cultural, and civil rights can be addressed synergistically. To the extent that Israeli Jews and Palestinians are reluctant to initiate such a rights-based dialogue, outside parties, who have been involved in thus far futile negotiations, could and should play a positive role.

Overall, the framework discussed in this chapter is not a blueprint for a comprehensive settlement of the conflict. It is not meant to address fully all specific areas of contention that have been a stumbling block in all negotiations between the parties: Jerusalem, settlements, and return of the refugees.

The framework relies on the need to advance protection of group and individual rights for all—standards that represent not just moral criteria, but also constraints on what is practical and durable in the peace process. Universal protection of human rights offers a common starting point and a common goal, one that can provide hopeful direction toward overcoming the present impasse. Eleanor Roosevelt’s recognition of the importance of working toward a hopeful future is still shared by some Israelis and Palestinians. With David Grossman, this chapter concludes with the conviction that “[we] cannot collaborate with despair” and with the late Palestinian poet, Mahmoud Darwish, it affirms: “hope is neither something tangible nor an idea. It’s a talent” (Cooke 2010; Darwish 2009).

NOTES

1. The authors would like to thank David Goldfischer, Jeffrey Isaac, Claus Offe, and Robert Pyne for invaluable comments, suggestions, and/or editing, and Adam Jepsen for his diligent research assistance.

2. The modes of occupation have changed over time, and following the disengagement from Gaza, many claim that Israel is no longer an occupying power there. Yet, the essential features of control have remained the same: the lives of the Palestinians remain subservient to Israeli interests (Gordon 2008; Kretzmer 2013; Ophir, Givoni, & Hanafi 2009)

3. Article 1, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights.

4. Serious work on such a model of governance has been done in Israel by a group called “Two states and one homeland.” <http://2states1homeland.org/> (accessed November 25, 2015).

5. Almost twenty years after apartheid, the president of the 2.2-million-member Congress of South African Trade Unions said, “We still have racial unemployment, racial poverty and racial inequality. Our country is still in white hands” (Cohen 2013).

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Part II

Two States

Chapter Six

Not Exactly Apartheid

The Dynamics of Settler Colonialism and Military Occupation

Honaida Ghanim

While similarities exist between the Israeli regime and Apartheid South Africa, the central argument presented here is that the two situations are not identical. However, principles of segregation and domination on the basis of collective identity are pervasive in both. What distinguishes Israel's military occupation from other repressive regimes, including apartheid, is the notion of temporariness. I contend that implementation of military occupation, driven by national security motives, creates a new permanent settler colonial reality. While there is a fundamental contradiction between the idea of temporary military occupation and the permanence of settler colonialism, the state of Israel has resolved the contradiction by embracing a paradigm of "desertion." Desertion, in this context, means that Israel neither withdraws from the occupied territories nor annexes them. Rather, the state embraces and promotes a situation of permanent temporariness which enables it to hold onto Palestinian land without applying its laws to the area's Palestinian residents—at least not in such a way which would require a drastic change in the residents' status. Application of this paradigm has allowed Israel to expand its presence in the West Bank through settlement building while, simultaneously, excluding those areas from Israeli law.

Israeli colonial expansion into the occupied territories has, de facto, unified all of the areas of Mandatory Palestine to create a single binational space. This arrangement is similar to that which existed prior to the war of 1948; then as today, two ethnic groups lived separately in the geographic area (mandatory Palestine) west of the Jordan River. However, today, Jewish

Israelis exercise full control over the Palestinian populations in these areas. Also, whereas previously Palestinians were a single inter-connected unit with a uniform set of “rights” and status, today they are fragmented into sub-groups which are oppressed and subordinated through and the application of differentiated mechanisms of control. Due to rampant settler colonization in these areas, establishment of a Palestinian state in the territories occupied in 1967 has become virtually impossible. Paradoxically, however, this expansion has unintentionally created a window of opportunity for a solution to this protracted conflict: de-colonization of mandatory Palestine and the establishment of new democratic platform for all its residents.

INTRODUCTION

On the eve of the 1948 war, some two million people lived in Mandatory Palestine. Of those, about two-thirds were Palestinian. About half of these were expelled during the war to neighboring countries and territories. According to data from late 1949, approximately 160,000 Palestinians continued to live in what became the State of Israel (established on 78 percent of the total area of Mandatory Palestine); this was some 10 percent of the pre-war population which had resided in the area of the newly established state (Ozacky-Lazar 2002; Ozacky-Lazar, et al. 2006). Over the years, and particularly with the annexation of East Jerusalem, the percentage of Arabs to Jews within Israel proper increased to 20 percent. Nineteen years after the establishment of the state of Israel, in 1967, Israel took over the remainder of the territory of Mandatory Palestine, and turned the entire area west of the Jordan River into a single territorial unit exclusively under colonial Jewish control. Today, 5.8 million Jews and 5.6 million Palestinians live in what is, de facto, a binational reality (Israel’s CBS 2012; Palestinian CBS accordingly). In referring to Jewish control of Palestinians and their subordination to Israeli authority, Meron Benvenisti (2010) describes the current situation as unequal, aggressive, and hierarchical. Accordingly, Jews sit at the top of the pyramid of control and, from this vantage point, dominate state institutions. Subordinate to them are Palestinians who are conveniently divided into three sub-groups: those holding Israeli citizenship, Jerusalem Palestinians who mostly have the status of permanent residents, and West Bank and Gaza Palestinians who live under a combination of Israeli control and partial autonomy under the Palestinian Authority (PA) or Hamas, respectively.

In a somewhat controversial move, this chapter will consider these three Palestinian groups as a single unit. Many will argue that a distinction must be made between areas in Israel proper where Palestinians enjoy citizenship rights (albeit in a “Jewish and democratic” state) and between territories which came under Israeli control in 1967 and where, theoretically, a political

process is in place to arrange their status. However, making such a distinction ignores Zionism's colonial line and history which culminated in the establishment of a Jewish state with an Arab minority in 1948. The price paid by Palestinians in its establishment was high; it was achieved through ethnic cleansing and expulsion of the majority of the Palestinians who had lived in the area, turning them into refugees (Al-a'arif 1951–1956; Ghanim 2009; Khalidi 1959, 1961; Pappé 2006). Palestinian ties to the area were erased as traditional Palestinian names were changed to Hebrew biblical names (Benvenisti 2000). Furthermore, Israel's settler colonization regime expanded to include the remainder of mandatory Palestine. During the Jordanian period, for example, East Jerusalem was six square kilometers whereas, following annexation, it was expanded to sixty-five square kilometers. This massive expansion was possible only due to the inclusion of land confiscated from twenty-eight Palestinian villages (Ma'an 2010). At the same time, Israel instituted a clear policy of Judiazation¹ in order to transform the city's demographic character (Cheshin, Hutman, & Melamed 1999). Thus, slowly but surely, Israel directly and indirectly promoted the same rationale of settler colonialism applied in the pre-1948 period but this time in territories occupied in 1967.

Irrespective of developments in the political sphere, in practice, Israel has never renounced or discontinued its policy of colonization. The Oslo Accords were meant to end the occupation and result in the establishment of a Palestinian state. Nevertheless, Israel continued colonization of the occupied territories while ostensibly also working toward peace. Indeed, settlement activity multiplied in nearly every part of the occupied territories during the post Oslo period. Such activity has served to physically erase the boundary (the Green Line) meant to distinguish between inside and outside, between normal and exceptional, between Israeli territory which was established in 1948 (and imagined as normative) and the territories occupied on 1967 which have been held in a kind of ongoing exceptional, temporary, and liminal state (Shenhav 2010) for nearly forty-seven years.

No less importantly, this process has had a profound impact on the legitimacy afforded to Israel proper. As extensive colonization has erased the physical boundary between Israel and the occupied territories, it has simultaneously and indirectly normalized and made normative areas inside the Green Line. As 1967 recedes from memory, so too does Zionist colonialism; today, the central narrative is not colonialism, rather military occupation and settlements. Debate within Israel has also fueled this process as it focuses on the legitimacy afforded to settlements located beyond the Green Line and the establishment of a Palestinian state without critically examining the events of 1948. In other words, the occupation and subsequent colonization of lands acquired in 1967 has become a kind of rite of passage from settler colonial Israel to occupying state of Israel (Ghanim 2010; Shenhav 2010).

As the settler colonization enterprise and its expansion into the occupied territories has made the Green Line increasingly irrelevant, it has also served as a mirror unto Israeli society in what Shenhav (2010) refers to (in a parody of the Zionist left) as “beautiful Israel.” In Shenhav’s conception, colonization of the occupied territories actually reflects back or shadows the same Zionist colonial enterprise which brought about the establishment of the state of Israel. In Jungian psychology (Jung 1938, p. 131), the shadow serves as an archetype for the aspects, features, and urges that a person seeks to reject and repress; it is a kind of emotional holding space for features that the conscious mind attempts to hide. Assuming that the settlement enterprise is the shadow of the Zionist colonial enterprise, this can explain the Zionist left’s anger and opposition to the settlements. The anger, in this context, is an attempt to suppress or forget aspects of the past which may be difficult, conflictual, or otherwise generate ambivalence. Taking this analogy further, the building of the separation wall can be understood as an attempt to recreate an imaginary line separating “Beautiful Israel” from its shadow. Accordingly, it creates a division between the normal inside and the exceptional outside. Irrespective, the continued colonization, along with the establishment of the separation wall, has come to symbolize a regime which is organized and employs methodology similar to that of apartheid.

Two factors are relevant here. First, Israel is ethnically mixed inside. The 17 percent of Israel’s citizens who are Palestinian reject the definition of Israel as a Jewish and democratic state as the “Jewish” definition, by its nature, places them in an inferior position vis-à-vis Jewish Israelis. Palestinians within Israel made this clear through the writing and publication of the “Future Vision Documents.”² Endorsed by prominent Palestinian intellectuals and politicians, these documents highlighted a trend which began to emerge in the late 1980s among Palestinian citizens in Israel: the requirement to turn the state into a state for all of its citizens and, irrespective of the establishment of a Palestinian state in the occupied territories, unwillingness to compromise on this demand (Ghanim 2009).

Secondly, the 1967 territories have become binational. At the close of 2012, approximately 650,000 Jewish settlers lived in the West Bank and East Jerusalem³ (Applied Research Institute - Jerusalem 2015). The population of settlers grew by 4.3 percent in 2011,⁴ and between 1972 and the end of 2010, it had doubled over forty times. Its growth and expansion was implemented under Israeli military rules, with the uses of various military decrees and practices of land confiscation from its Palestinian owners. For now, settlers are almost one-fifth of the population in the West Bank. Settlers reside in 140 settlements; mostly in large settlement blocs such as Gush Etzion, Ariel, and East Jerusalem. One can imagine a solution that includes dismantling small settlements, but it is hard to conceive of any Israeli government willing to evacuate Ariel, Gush Etzion, or Neveh Ya’akov.

In the process of planting the Israeli settlement in the Palestinian occupied territories, two different realities have been created: one for Jews and the other for Palestinians. In the absence of a political solution acceptable to Palestinians, and in light of the mix of Jews and Arabs between the river and the sea, the separation wall, rather than separating, illustrates the extent to which the Israeli regime promotes its colonialist aims the occupied territories. Similar to apartheid regimes, the wall has become a symbol of policies of segregation and domination along ethnic lines between residents of the same geographical area. For example, a Jew, irrespective of what side of the wall he lives on, can maintain his Israeli citizen and the rights there within. He can continue to build “outside” while simultaneously being considered “inside.” However, the location of the Arab citizen (as opposed to the non-citizens in the west Bank as either “inside” or “outside”) is of crucial importance. For example, whereas Jewish residency is secure,⁵ the residency rights of Palestinians Citizens residing in the West Bank can be revoked⁶ based on the claim that they live abroad. Even more absurd, this applies to Israeli citizens residing in areas such as Psagot—a settlement established on lands belonging to Al-Bireh but expropriated by the Israeli authorities. Thus, the separation wall—a symbol meant to demarcate inside/outside—not only relates to geography, but also the people within those geographical areas.

Israelis frequently argue against the validity of the apartheid comparison due to the temporal nature of the current situation. They hold a widely shared assumption that a resolution will come about through peace negotiations. However, this argument is flawed as it assumes that the events of 1967—and the subsequent military regime imposed on Palestinians in “the territories”—are the source of the problem. In their conception, the temporary nature of Israel’s occupation—which came about through a kind of historic accident—can’t be used to determine Israel’s character. Rather, Israel must be defined according to its “normative” character within the Green Line. This argument deliberately ignores the state’s colonial history and the ethno-national hierarchy which was created following its establishment, on the ruins of the Palestinian people. It also doesn’t address the Law of Return’s⁷ role in institutionalizing this hierarchy, a law which established a state where all Jews are welcome while simultaneously preventing the return of tens of thousands of refugees driven out of their homes in 1948. Lastly, the argument is further weakened by changes in the social and political landscape in Israel recently and the attendant spike in Jewish nationalism. Indeed, all of these factors have further pushed Palestinians to the social, political, and economic margins of Israeli society.⁸

Thus, the crux of the debate is the extent to which the current reality is actually temporary. If, in fact, occupied-occupier relations are temporary, perhaps one could rightly argue that this is not apartheid. Taking this argu-

ment further, let's assume that the segregation, domination, and preference of one ethnicity over another in population management is the by-product of occupied-occupier relations and not of an essentially colonial regime driven by rationales similar to that of systems of apartheid. Accordingly, how is it possible to explain settlement expansion and policies which encourage geographic and demographic transformation while simultaneously conducting a peace process meant to bring about a permanent outcome? The two are inherently contradictory; the peace process reinforces the temporal nature of the situation while policies on the ground promote the permanent (racist) reality of apartheid. The situation is even more tragic given that the tools being employed in the name of "peace" are the least likely to bring about the stated goal. Instead, the outcome is being pre-determined by unilateral imposition of a structural change in the space—particularly though continuing colonization. Accordingly, Israel is working to advance a binational reality which precludes the establishment of the intended state. Indeed, it is clear that settlement blocs are anything but temporary, rather a permanent fact on the ground.

Moving away from the argument that the situation is temporary, actions promoting permanence have actually led to a new reality. The implementation of policies which are inherently colonial in the occupied territories have brought the sides to a strategic turning point: ironically, it has reunified Mandatory Palestine and created a binational reality similar to that which existed prior to the war of 1948. As such, the colonial roots of the conflict have been exposed and laid bare. Until now, two primary strategies have been proposed to contend with this conundrum: continuing to perpetuate a bloody conflict or seeking to de-colonize the binational regime. The solution of choice—which is widely shared by the Israeli mainstream—has been to apply more and more force in an effort to convince the Palestinians to give up and surrender under conditions which reinforce Israeli superiority. Supporters of this endeavor have, so far, managed to douse the flames that inevitably flare up. Perhaps this will lead to a kind of "peaceful" outcome based on the establishment of a Palestinian state "within temporary or permanent borders." However, it will not address or resolve the question of the status of Palestinians within Israel, nor will it provide an appropriate solution for the return of Palestinian refugees. And, it will certainly not address the fundamental colonial nature of the state following its establishment in 1948.

RAMALLAH–BET-EL JUNCTION: A PANORAMIC VIEW

As one approaches what is today referred to as the Ramallah–Bet-El junction, one passes a road that formerly connected the villages surrounding Ramallah. While prior to the Second Intifada this road was open to everyone,

since that time, only Israeli citizens (mostly settlers) and permit holders are allowed to use it. At the entrance to the road, a large sign, in Hebrew, welcomes visitors to Bet-El. The smaller print below shares the notion that “In Bet-El We Think Life.” The text is overlaid on a background of a green hill filled with blooming red anemones. On the opposite side of the street one finds another large sign which has a picture of a blond toddler wearing the knitted skullcap common to settlers and seated in the back seat of a car. The caption underneath admonishes the driver: “Do not remove your eyes from the road.” A foreign visitor to the area would not think twice upon encountering this combination of childhood and warmth, emphasized by flowers and a green hill. Except that the text is exclusively in Hebrew. Moreover, upon glancing in the direction of Bet-El, behind the green trees, one sees the edge of a watchtower peeking out—in all likelihood placed there to promote the settlement’s security.

Jewish Israelis making the twenty-five minute trip from Bet-El to Jerusalem, who heed the admonition to keep their eyes on the road, will feel completely at home. Not only because they believe they are at home, but because road signs tell them this is so. The network of thoroughfares connecting Bet-El to Jerusalem, and the signs which accompany them, are designed and constructed such that one needs to work very hard to see the Palestinian villages scattered throughout the area. Arabic signs and billboards are almost completely absent. This is intentional; the area has been redesigned to shape and influence the consciousness of those who use the road—Jews. Were it not for the Hizma checkpoint (the only checkpoint between Bet-El and Jerusalem) and the junction at the Jaba’-Hizma road, which is an entry way for Palestinians arriving from the Qalandya checkpoint on their way to Bethlehem, Jericho, and Hebron, one could easily believe that they were in the vicinity of Tel Aviv. Indeed, the endless flow of road signs from Bet-El to Jerusalem reflects a Jewish reality.⁹ The Hizma checkpoint is, of course, meant to screen and profile those passing through it: drivers who “look Arab” are asked to show identification and their cars are carefully searched; those who look Jewish are afforded nothing more than a glance and then pass straight through.

The Palestinian experience of driving through the West Bank stands in stark comparison to the one experienced by Jews. Rather than a smooth and uninterrupted trip, Palestinians are met with a maze of barriers—a system which could be called “segmentation and blockade.” Unlike the view of warmth and innocence which greets the visitor to Bet-El, upon nearing Ramallah, one encounters a sign in three languages which instructs the driver to “Stop here and wait for soldiers’ instructions.” Another sign, with a red background, outlines the required code of conduct at the checkpoint: prepare your papers, turn off headlights, turn on the light inside the car. For VIPs such as diplomats, employees of international and humanitarian organiza-

tions, as well as Palestinian holders of VIP passes, entrance to the city involves passing through a special checkpoint entitled the District Coordination Office checkpoint. Despite serving a population that has undergone special vetting, it is a military checkpoint in every way including the adjacent concrete guard tower. Segregation is even present here: one lane is allocated to employees of international organizations while Palestinian vehicles (even if they are VIPs) must use a separate lane.

Similar to the way in which the roads are organized, security arrangements in each location reflect the orientation of the Israeli government toward those who live there. While I haven't personally been to Bet-El, in all likelihood, the settlement has an electric gate at the entrance manned by a guard who checks all who enter; the settlement's perimeter is surrounded by a security fence with other security measures in place and active twenty-four hours a day. Ramallah, on the other hand, is a normal, beautiful, and vibrant city filled with restaurants and cafes where Palestinians live and work. However, it is also dominated by checkpoints and under the cover of darkness it is the site of frequent army raids intended to capture "wanted" individuals and occasional targeted killings.

Palestinians' movement is controlled by Israelis. The simple act of attempting to enter and leave Ramallah, for instance, reminds Palestinians, on a daily basis, who holds the power. The Israeli army can declare a closure on the city at will, turning it into a huge prison. This is not only theoretical; it happened hundreds of times during the second Intifada. Furthermore, residents of West Bank are only permitted to leave Palestine with permission from the Israeli authorities. In fact, the Israeli General Security Services (the Shabak) has banned dozens of Palestinians from entering Israel proper or traveling abroad.¹⁰ Furthermore, residents of Ramallah must hold a permit issued by the Israeli authorities in order to enter occupied East Jerusalem; visiting the Gaza Strip is completely out of the question. As should be clear, Ramallah is completely isolated from other Palestinian cities; entry and exit is at the whim of officials in the Israeli security establishment.

Inside Ramallah, the PA is responsible for sanitation, internal security and policing, and other common municipal functions. Furthermore, the PA cooperates with Israeli security officials in coordinating security matters and in order to prevent activities that Israel defines as terrorist or hostile. In short, Israel plays the role of master of the house while placing the PA in the position of subcontractor. Israel holds the keys to the house and supervises its inhabitants while the Palestinians maintain cleanliness and order.¹¹ While the Palestinian population is partially subject to the control of the PA, crucial decisions are made by the Israeli security establishment whose military may tighten or loosen its grip but ultimately remains in charge.

Not only does the Israeli military deal with matters of security, it also provides cover for continued takeover of Palestinian lands. Due to the exten-

sive military presence, Jews are able to build settlements and acquire land without worrying about Palestinian “violence.” By mid-2011, 136 settlements—124 in the West Bank and 12 in Jerusalem—had been established with the aid and assistance of the security establishment and the support of Israeli authorities. An additional one hundred outposts were also erected (settlements which haven’t received official recognition by the state of Israel). Of particular interest is the geographical distribution of the settlers. The West Bank is divided into three different areas: Area A, under PA control, which comprises 18 percent of the West Bank and includes major cities such as Ramallah; Area B which covers some 20 percent of the West Bank (civically controlled by PA and security by Israel); and Area C, some 62 percent of the West Bank which is under full Israeli control. About 95 percent of Palestinians live in Areas A or B, some 38 percent of the land in the West Bank. Figures published by Dr. Muhammad Shtaya¹²—a former member of the Palestinian negotiating team and currently a member of the Fatah Central Committee—demonstrate that in 2011 settlers comprised 70 percent of the population in Area C (311,431 settlers), close to triple the number of Palestinians residing in these same areas. Indeed, out of the 2.58 million Palestinians in the West Bank, only 5 percent (less than 129,000), reside in area C. In other words, the majority of Palestinians are concentrated in only 38 percent of the West Bank, with the rest of the area (62 percent) open for settlement expansion and residence by settlers.

In summary, inside the West Bank one finds exclusively Jewish and exclusively Arab spaces. Indeed, there are exclusively Jewish spaces inhabited by settlers who are Israeli citizens and entirely subject to Israeli law. Alongside these Jewish spaces are Palestinian spaces which are segmented and subordinate to Israeli military rule. Jewish and Palestinian spaces are separated by fences and barriers in order to prevent and/or regulate interaction.

IS THIS APARTHEID?

This chapter seeks to address the extent to which the situation is similar to or different from apartheid and the internal dialectics of settler colonial occupation, and its relation to the apartheid rationale.

Apartheid has been defined as a regime based primarily on “forced separation and formal inequality between groups on the basis of collective identity” (Abercrombie, Hill, and Turner 2001; Yiftachel, 2009). According to this definition, an apartheid regime exists in the occupied territories as the regime in place that promotes enforced separation between the two populations while implementing practices and policies which favor Jewish settlers. Nevertheless, as outlined below, some distinctions must be made between

apartheid and that of the settler colonial occupation which is currently being implemented.

Settler colonial occupation is constituted at the intersection of the military occupation rationale of temporality and the structural settler colonialism rationale of elimination of the native and replaces them with new sovereign community. In this context, the apartheid that occurred is just a passage state, to facilitate the realization of the colonial enterprise.

De Jure Apartheid and De Facto Apartheid

In contrast to South Africa, Israel hasn't officially adopted apartheid. Israel doesn't clearly and unambiguously entrench racial segregation in law. Israelis and those that represent the institutions of state commonly argue that "security reasons underlie Israel's separation policy."¹³ In other words, Israel's position is that it is forced to implement such policies and actions in order to protect its citizens.

However, "security needs" is a broad concept that doesn't always stand the test of reality and, even worse, may in fact serve as a cover for colonialist motives. A case in point is the rationale behind the construction of Highway 443. In the 1980s, land belonging to Palestinian villages was expropriated in order to divert the former route of the road to run outside Palestinian villages. The order enabling expropriation of these lands was issued by the military governor. The Palestinian landowners challenged this decision in Israel's Supreme Court. The military governor, in his position as a respondent on behalf of the state, argued that the expropriation would serve the entire population of the region, including those same Palestinians whose land was expropriated against their will. The Supreme Court accepted this argument and dismissed the petition. The rationale for this decision, as stated in the ruling, is as follows:

Under these circumstances, the Military Governor is qualified to make basic improvements and long-term plans for the benefit of the local population. . . . They did not make a mistake in preparing the national roads plan: the transportation needs of the local population are growing, so it isn't realistic to maintain the current situation of the roads. Therefore, the military governor was authorized to prepare a transportation plan that considers current and future developments. . . . The fact that the plan was made in cooperation with Israel doesn't justify its rejection, provided that it is intended to serve the local population.¹⁴

However, this road—established in part to serve residents of the aforementioned Palestinian villages—was declared off limits to them following the outbreak of the second Intifada. In accordance with military order, they are not permitted to use it; rather, it is exclusively accessible to Israelis.¹⁵ In 2007, the Palestinian landowners again petitioned the Supreme Court claim-

ing that the military order was illegal because the road was built on their lands and was meant to serve them. Commander of the Central District Gadi Shamni replied on behalf of the state explaining that the road was closed following numerous incidents where Palestinians shot at Israelis from on or near the road. This was true; during the Intifada, the road became a death trap for Israeli passengers. The problem in this case is not with the facts, but rather with the conclusion derived from them. Based on the logic underlying the initial expropriation of land—that the road was meant to serve the locals who, in fact, owned the land—instead of closing the road to the Palestinians, the obvious conclusion would have been to prohibit Israelis from using the road. The initial decision to confiscate the private land of individuals in order to improve their quality of life, and then the subsequent decision to prohibit the same population of landowners from using a road built on their land, clearly demonstrates who the intended beneficiary of these decisions are. It appears, then, that manipulation and discrimination are employed in order to promote colonial aims under the guise of security.

This example demonstrates that unlike in South Africa, apartheid in Israel is not *de jure*; rather, it is *de facto*. Israel claims that security interests rather than racial segregation guide decision-making; however, in practice, particularistic Jewish interests over shared interests or universal values underlie the policies and practices of separation. Implementation and maintenance of this complex system of separation requires a complicated security and defense apparatus which, in Israeli political jargon, is characterized as “security needs.”

The Rationale of the Settler Colonialism

The rationale behind apartheid diverges from that employed by the colonization enterprise in the occupied territories¹⁶ in some important ways. Apartheid is anchored in indigenes exploitation, on one hand, and in the belief of the superiority of the white race, on the other. In comparison, ideological arguments underlie the Zionist settler colonial enterprise; indeed, it is grounded in the divine promise of the “Land of Israel,” while supported and justified by security arguments. Illustrating this principle is a large sign located at the entrance to the Giva’at Assaf (adjacent to Bet-El) outpost, east of Ramallah, which notes that: “We have returned home. Here at Bet-El, 3800 years ago, the land of Israel was promised to the people of Israel by the creator of universe. Due to the strength of this promise, today we are in Haifa, Tel Aviv, Shiloh and Hebron.” This argument, cloaked in the language of divinity, describes the Jews’ right to the land as beyond question. What applies to Haifa (emptied of the majority of its Arab residents in 1948) applies equally to Bet-El and the Giva’at Asaf outpost. Logically, then, those who subscribe to this belief system believe that the fate of Arab residents of

the occupied territories should be identical to that of Palestinians expelled from Haifa in 1948. Indeed the argument that “I have a right to be here, in place of you” applies equally in both cases. This varies from apartheid which is based on native’s exploitation rather than replacement.

To be able to establish their settlement, the settlers seek to control their settler colonialism projects. A number of researchers have investigated settler colonialism underpinned by replacement motivations. Patrick Wolfe wrote, “the colonizer come to stay: invasion is a structure, not an event” (Wolfe 1999, p. 2). Wolfe elucidates that, “The primary object of settler-colonization is the land itself rather than the surplus value to be derived from mixing native labor with it” (Wolfe 1999, p. 163).

Contrary to imperial or economical motivated colonialism, settler colonialism is about replacing the natives, Veracini writes (*ibid*) that allowing the colonized to stay and exploiting their labor is different than trying to get them to leave. The first maximizes the resources of region to the benefit of a specific group, whereas the second views the local people as an obstacle to be removed or neutralized (Morgense 2011). Building on this point, Wolfe argues that, “Settler colonialism is inherently eliminatory but not invariably genocidal” (Wolfe 2006, p. 389). Thus, the difference between South Africa and Zionist colonialism in Palestine is that the South African case was based on labor exploitation whereas the latter is based on dispossession. The first case sees the natives as a source of cheap labor that can be exploited for profit or economic gain; the latter sees them as an obstacle in the way of realization of a specific ideology and in need of neutralization.

In the Palestinian case, this neutralization can and has been realized through a number of strategies. Firstly, massive expulsion and ethnic cleansing occurred in 1948 (Al-Aref 1951–1956; Khaldi 1959, 1961; Pappé 2006). Lastly, the authorities have adopted policies that aim to alter the demographics of a given location; prominent examples include the “Judaization” of East Jerusalem, the creation of settlements in Palestinian space in the West Bank, and also attempts to settle Jews in predominantly Palestinian areas inside Israel proper, such as the building of towns and cities in the Galilee on the land of indigenous Palestinians.

The Rationale of Rule and Exception: Constitution versus Military Orders

The situation of South Africa in comparison to that of Palestine also varies in terms of legal entrenchment. In South Africa, ethnic Africans’ inferior citizenship was entrenched in the constitution and, while viewed as repugnant by many, was regarded as a normative aspect of the state. Military occupation, while problematic, is considered to be legitimate under international law as long as it is temporary and exceptional. International law assumes that

hostilities, conflict, and war may initially result in the conquest and subsequent occupation of territories and that these areas would be subject to military control until a more permanent regulation of their status can take place. Assumed to be temporary and exceptional, these occupied territories are managed via a series of commands and decrees that are not entrenched constitutionally or legally. In a normative country, agents of enforcement such as soldiers or police are tasked with mediating between the law and the population. Eventually, with the abolishment of racist legislation, the role of these law enforcement agents would be transformed from a tool of oppression to one of maintenance of safety. However, in a situation of prolonged military occupation, power is means to an end and an end in itself, and population management is a by-product of that system. Such power becomes extensive and widespread and, rather than being an expression of law enforcement, is actually meant to send a message of who is in control and who makes the decisions; the source of authorization of use of power becomes the power itself.

Occupied territories are transformed into a forum for showcasing power and control; the soldier on the ground, who is, for all intents and purposes, a small cog in a huge system, takes on massive proportions in the eyes of the controlled. To the contrary, the practicalities of implementing apartheid or any other kind of racist regime against the will of the ruled necessarily results in conflict. In cases of resistance or conflict, as in the example of apartheid, the state recedes into the background while the military establishment is tasked with restoring order under emergency rule. Thus, in a military occupation, the state ceases to exist. Therefore, the only way to maintain control and demonstrate dominance is through the application of raw power. The result is necessarily bloody; racist legislation justifies oppression on the basis of race; the black is inferior to the white and less valuable, therefore it is moral to “discipline” him. In case of military occupation, moral justifications aren’t necessary for oppression since, unless the aim is oppression, for the most part, the oppressed fall outside the framework of the law.

In both cases, of course, the result is an oppressive reality characterized by violation of the most basic human rights. As described by Althusser (2006, pp. 76–77), occupation can be viewed as “ad hoc”: it lacks past or present. Apartheid, on the other hand, is viewed as the regime of the present and future. In both cases, the execution of military order and the racist law relies on the tyranny and oppression of entire populations. When referring to tyranny, as Althusser notes, the regime is the “rule of absolute equality that puts all of the population in the same homogeneity” (Althusser 2006, p. 76). There is absolute equality, not because they constitute a whole—as in the case of the white or the Zionist settler—but simply because they equal nothing. For this reason, many have concluded that the occupation of the West Bank and the Gaza Strip is far worse than apartheid.

The Rationale of Availability

This rationale is based on the notion of limitless flexibility in a situation where everything is temporary. In the space afforded by this limitless flexibility, structural changes can take place. Furthermore, the argument of addressing “immediate needs” falls within this paradigm. This enables the occupier—in this case, the Israeli regime—to create rules and regulations that restrict entry to certain areas, expropriate lands, or declare various areas closed military zones. Put together, “immediate needs” in a situation of “temporality,” enables the more permanent alteration of the use of physical space and demography. Thus, despite the “temporary” nature of the military occupation, colonization, land expropriations, restrictions on freedom of movement, and other rights violations have increased. Rather than putting an end to colonization and the settlement enterprise, the “peace process” has become a cover for it and has even allowed it to increase.¹⁷ On the other hand, assuming that everything is temporary and reversible, the Palestinians haven’t really demanded an end to settlement construction. Indeed, when everything is negotiable, theoretically there are no facts on the ground. However, the sad result has been that negotiations have been conducted for their own sake (Butler 2011; Khalidi 2011). As expressed by the Palestinian researcher Mouein Rabbani in *The London Review of Books*: “the so-called peace process is working precisely as designed, to give political cover to Israeli colonization” (Rabbani 2011).

Military orders and decrees, in absence of laws governing a normative regime (with the notable but questionable exception of Supreme Court supervision), give Israel substantial leeway to maneuver within the occupation. On the international stage, the world has called on Israel to withdraw from the occupied territories. However, with the exception of East Jerusalem and the Golan Heights, which were annexed to Israel, these resolutions have been ignored. When faced with the prospect of granting the occupied civil rights—rights which would adversely affect Israel’s demographic balance between Jews and non-Jews—Israel prefers to leave the Palestinian population in a permanent state of limbo. In this lacuna, where neither annexation nor withdrawal have taken place, the settlement enterprise has entered. Through various proxies, the state of Israel has laid claim to Palestinian land. This is selective and inconsistent: the temporary paradigm is applied to the people while the principle of permanence is applied to the land. Otherwise, how can Israel explain its demand to hold on to large settlement blocs in a permanent solution. These two seemingly contradictory approaches help to explain the logic underlying Israel’s behavior: willing to negotiate but unwilling to freeze settlement construction, calling for a sustainable peace but undermining it at its very foundations. Through application of the “permanent-tempo-

rary” paradigm and creation of a new political reality, Israel walks a fine line between colonial occupation and international law.

ONGOING TEMPORALITY: TAKE THE DOWRY, DUMP THE BRIDE

In a Labor party meeting held three months after the 1967 war, former Israeli Prime Minister Levi Eshkol turned to Golda Meir, then Secretary General of the party, and said “I see . . . you like the dowry, but not the bride” (Gordon 2008, p. 1). This metaphor, taken from terminology related to marriage, describes the dilemma facing Israeli leadership. Similar to other such colonial situations, the colonizer desires the land but doesn’t want to have to deal with its inhabitants. To resolve this quandary, Israel adopted a strategy of management: keeping the dowry but dumping the bride. This facilitated maintenance of a “temporary” occupation for decades, all the while benefiting from land and other resources through creation of a colonial framework. While the dowry—Palestinian land—was tempting, the bride—the Palestinian people—were a heavy and repugnant burden.

Upon first glance, it seems that there is no way around this conundrum. Marriage is a package deal and a wedding without a bride is inconceivable. Indeed, marriage for the man is desirable only because the woman has something to offer—whether beauty or a generous dowry. However, in order to benefit from the dowry, another scenario presents itself: an endless state of limbo characterized by alienation between bride and groom. There is no annexation and no withdrawal, and the line between permanent and temporary is blurred. Thus the occupier benefits from the land while rejecting the adverse consequences that come with being responsible for its people.

Thus, Israel’s occupation is characterized by a state of endless waiting, suspended somewhere between the temporary and the permanent. As noted, international law, dominant legal norms, and even Israel’s own statements following Oslo reinforce the temporary nature of the occupation. On the other hand, Israel marches ahead with the settlement enterprise as if there is no political process. To paraphrase Rabin’s famous statement, “We will negotiate as if there is no terror and fight terror as if there are no negotiations.” Israel is “Building settlements as if there are no negotiations and negotiating as if there are no settlements.” Irrespectively, Israel exploits the grey area between marriage and divorce, shaping an occupation which maximizes takeover of land while minimizing responsibility for its indigenous residents. Furthermore, this liminal period facilitates each person’s understanding of the situation in accordance with their own biases and preferences. Thus, Israel can say everything and mean nothing, speak of peace while

waging war, build settlements yet discuss human rights. This situation benefits one side alone—the powerful.

CONCLUSION

The Zionist colonial settler enterprise culminated in the establishment of the state of Israel in 1948 and the expulsion of half of the Palestinians living in Mandatory Palestine. In the post-1967 period, it has expanded to include all of Mandatory Palestine, hence turning the land west of the Jordan River, *de facto*, into a one binational space.

Meant to be temporary, this colonial project—where an entire population is held under military occupation—looks very permanent. Seemingly, there is a contradiction between colonialism (which, as noted by Wolfe 2001 is not a technical error or event, rather a structure) and occupation which is supposedly temporary. In fact, in the Palestinian case, the two exist simultaneously; this duality encompasses the temporary and the permanent, the occupation and the colonization, the event and the structure. Adoption of the paradigm of “desertion” has made this duality possible; accordingly, the occupier benefits from the dowry without taking responsibility for the bride. Within this sphere of non-resolution, and under the guise of temporariness, dozens of Jewish settlements have been built in areas occupied by Israel in 1967, and today, they house hundreds of thousands of Jewish settlers. A space, which, in the past, was predominantly Palestinian, has, under Israel’s control, become nationally mixed.

Currently residing in the occupied territories are two unequal populations that are physically segregated and overseen by two different systems of rule. One holds full citizenship and benefits from civic rights, whereas the second is subject to the whims of a civil administration which they did not elect, but rather was established by the Israeli occupying forces. However, the Zionist settler colonial enterprise has expanded the binational reality—which already existed in Israel proper—to all of Mandatory Palestine. The sides have now reached a tipping point; the current situation west of the Jordan River resembles that which prevailed on the eve of war of 1948 when the two groups, indigenous and migrant, lived in a single territorial unit. While ethnic cleansing, which took place in the context of the 1948 war, resulted in a Jewish majority, the aftermath of the 1967 has been characterized by a protracted dispute with changes taking place on the ground. The ethnic cleansing which occurred in 1948 would not be an option today. Historic changes have actually opened up a space for discussion of the roots of the conflict—a return to the question of settler colonialism rather than military occupation.

By viewing the settler colonial enterprise in the occupied territories through the prism of the historic ethno-national colonial Zionist enterprise,

the discussion—and possible solutions—can focus on de-colonization of the entire area, as opposed to creation of a Palestinian state on only part of the region. Indeed, establishment of a Palestinian state in the West Bank, at best, represents a temporary solution where quiet and a situation of non-violence is not sustainable long term. This is because this solution does not address the underlying issues: the settler colonial nature of the Israeli National Project, the rights of indigenous people expelled in 1948 and those who remained behind, the colonization of space and continued expropriation of land, and Jewish domination of the political arena under the guise of a Jewish and democratic state.

NOTES

1. I will not go into detail here regarding the colonialist practices that Israel adopted in the post-1967 era aimed at altering the region's geographic and demographic composition nor will I detail the practices taken which are intended to strangle Palestinian existence. For more on this, see MA'AN Development Center, "Means of displacement: Charting Israeli's colonization of East Jerusalem." MA'AN Development Center, February 2010; OCHA, "The planning crisis in East Jerusalem: Understanding the phenomenon of 'illegal' construction," April 2009. The press release can be found here: <http://jfp.com/?p=2042> and the full report can be downloaded here: www.ochaopt.org/documents/ocha_opt_planning_crisis_east_jerusalem_april_2009_english.pdf.

OCHA, "The humanitarian impact of the West Bank barrier on Palestinian communities: East Jerusalem," June 2007. A report on the impact of the barrier can be seen here: <http://www.ochaopt.org/documents/Jerusalem-30July2007.pdf> for here: http://www.ochaopt.org/documents/ocha_opt_jerusalem_report_2011_03_23_full_english.pdf. OCHA, "East Jerusalem: Key humanitarian concerns," March 2011. More information on East Jerusalem, including education and planning, can be found on the website of the NGO Ir Amim: <http://www.ir-amim.org.il>. You can also look at the website of the NGO Btselem: <http://www.btselem.org/English/Jerusalem>. The Center for the Defense of the Individual also publishes information, mainly relating the policy of quiet transfer through residency revocation. The link (in Hebrew) is http://www.hamoked.org.il/TopicSearch.aspx?tid=main_11.

2. The Future Vision Documents are four documents that were put together by leading intellectuals and public figures of Arab citizens of Israel between 2005 and 2007. The documents call for the state of Israel to shed its Jewish identity and become "a state of all its citizens." The document caused a great deal of controversy, even among more liberal Jewish Israelis.

3. According to The Applied Research Institute, "Elements dictating the future of the peace process," at <http://goo.gl/2ZEopW>.

4. Data on the number of the settlers in West Bank is varied according to the political interest of the source. While settlers institutions give the highest numbers, exceeding 750,000 settlers, Palestinian sources gave a modest number of 550,000. For settlers sources, see Danny Dayan, May 11, 2013; Haaretz, <http://www.haaretz.co.il/opinions/premium-1.2157891>; and also www.inn.co.il/News/News.aspx/231835. The numbers do not include settlers in the Golan Heights (some eighteen thousand Jews). For the Palestinian sources, see <http://www.nad-plo.org/etemplate.php?id=11&more=1#4>.

5. The National Insurance Institute defines a resident of Israel as one "whose center of life is in Israel; for example, his fixed residence, the place where his family lives, the school where his children learn, and his main place of work." A person who claims residency has to prove that this definition applies to them. See http://www.btl.gov.il/Insurance/Living_abroad/Pages/default.aspx.

6. I'm referring to revocation of residency rights of Arab Israeli citizens who live in the West Bank, as opposed to Jerusalemites who hold permanent resident status. This revocation involves denial of all social rights, on the grounds that they live abroad.

7. The Law of Return was enacted by the Israeli Parliament (Knesset), on July 5, 1950 (https://en.wikipedia.org/wiki/Law_of_Return#cite_note-2). The law declares the right of every Jew to come to Israel. The Law of Return was modified in 1970 to extend the right of return to non-Jews with a Jewish grandparent and their spouses.

8. For legislative trends, see Shehadeh 2010.

9. Psagot, Ofra, Nabulus, Jerusalem, Pisgat Ze'ev, Givat Asaf (handwritten as this is an outpost), Oz Zion Asaf (handwritten as this is also an unauthorized), Tapuah Junction, Kochav Yaakov, Taybeh, Jerusalem, Geva Binyamin, Ma'ale Michmash, Ma'ale Efraim, Rimoni, Jerusalem, Kochav Yaakov, Psagot, Psagot Visitors Center, Binyamin Regional Council, Jerusalem, Tel Aviv, Sha'ar Benjamin, Nahal Michmash, Jerusalem, Jerusalem-Tel Aviv 443, Hadassah Mount Scopus, Jerusalem and Jericho, Hizma and Jericho, and finally placed near the checkpoint Hizma the sign: Hizma Junction.

10. According to data presented in a petition to court filed in 2006 by HaMoked (The Center for the Defense of the Individual), the Association for Civil Rights and Physicians for Human Rights, the number of applications denied for security reasons, in the West Bank alone, stood at 180,000. To see the petition (Hebrew), go to <http://www.hamoked.org.il/items/8470.pdf>.

11. Article 6 of the Declaration of Principles, signed on September 1993 between the Palestine Liberation Organization and the state of Israel, stated that the Palestinian Authority would be responsible for education and culture, health, social welfare, direct taxation, and tourism. The text of the agreement can be found here: <http://www.heskem.org.il/sources-view.asp?id=613&meid=43>.

12. East Jerusalem is not included in this data. For data according to Muhammad Shtayyah which was cross checked with the Palestinian Central Bureau of Statistics, see http://www.shathaia.com/index.php?option=com_content&view=article&id=14221&Itemid=53.

13. Because of an alleged "separation for security reasons," Israel calls the barrier a "security fence" rather than a "separation wall."

14. Quoted from HCJ 393/82 Jam'iat Iscan Al-Ma'almon v. Commander of the Israel Defense Forces in the Area of Judea and Samaria, (4) 785, p. 811.

15. In June 2007, residents of the six villages near Route 443, represented by the Association for Civil Rights in Israel, petitioned the High Court of Justice to open the road to Palestinians. The petitioners contended that closing the road infringed on the human rights of Palestinians, violated a previous judgment of the court, exceeded the authority of the military commander, and improperly discriminated against Palestinians. In 2009 the High Court ruled, by majority vote, that the total ban on Palestinian travel on the segment of the road running through the West Bank must be lifted. The court gave the army five months to formulate a different solution for protecting Israelis traveling on the road. The army proposed new traffic arrangements that still exclude Palestinians from the road, rendering the judgment meaningless. These include establishment of two new checkpoints—next to the Ofer army base and next to Maccabim—where, according to the army's announcement, a careful check will be made of Palestinian vehicles wanting to use the road (see Btselem, "Route 443—West Bank road for Israelis only," http://www.btselem.org/freedom_of_movement/road_443).

16. The same applies to the entire Zionist settlement enterprise, but here I have chosen to focus only on the colonial settlement.

17. The same applies to the entire Zionist settlement enterprise, but here I have chosen to focus only on the colonial settlement

Chapter Seven

The One-State Delusion¹

Assaf Sharon

So Abram said to Lot, “Please let there be no strife between you and me, nor between my herdsmen and your herdsmen, for we are brothers. Is not the whole land before you? Please separate from me; if to the left, then I will go to the right; or if to the right, then I will go to the left.”—Genesis, 13

Separation is a natural reaction to conflict. And yet, as the conflict between Palestinians and Israelis intensifies and reconciliation drifts further from reach, partition is increasingly disparaged and the single-state option is more conspicuously championed by intellectuals and activists. As the case often is with emotion-stirring debates, progress is inversely proportional to intensity, as arguments and counterarguments are rehearsed more than reexamined.

The main arguments can be classified into three distinct types: arguments against partition, arguments advertising the virtues of one-statism (or binationalism),² and arguments stressing its faults. To assess these arguments, it must first be clarified what they are about, as even the subject of debate is often muddled. Many people think that in some future time, after the dust will settle and the citizens of the two states—Israel and Palestine—will be occupied more with economic opportunities and regional interests than with national aspirations (not to mention revenge), a western European kind of confederative arrangement is likely to evolve. Such long-term projections, shared by many two-staters, are not what the one-state debate is about. The question is whether one-statism should be adopted as a political program instead of the currently dominant two-state framework. The debate concerns the fundamental political question: what is to be done?

The one-state option is supported by arguments of two types: negative arguments disparaging the two-state solution and positive arguments, extolling the virtues of a single, binational state in historic Palestine. When sub-

jected to critical scrutiny, these arguments are found to either miss the mark or aim at the wrong target altogether. The case against partition is tenuous—more an expression of moral outrage and of political desperation than the conclusion of sound argument, while praise for one-statism is facile and misguided. As a political program, I will argue, it is no more than a delusion, and a dangerous one at that.

THE ARGUMENT AGAINST PARTITION

Arguments against the two-state solution fall into two types: moral arguments claiming that it is morally unacceptable and pragmatic arguments claiming that it is not feasible.

One version of the moral argument against partition is in effect an argument against the moral permissibility of the State of Israel as such. Some critics maintain that nation-states are in general reprehensible, but this, besides facing immense theoretical difficulties, does not constitute any special reason to oppose partition, certainly as long as the world and the region are organized into nation-states. Others hold that the notion of Jewish national self-determination in particular is to be rejected (e.g., Karmi 2009; Sand 2009). Many of the arguments against the right of Jews to national self-determination rest on spurious premises and invalid inferences, as has been noted by a number of scholars (Gans 2008, 2013; Bartal 2011; Penslar 2012). And even if some of these arguments were valid with respect to early Zionism (e.g., that Jews lacked key features of nationhood such as common language and territory), they do not apply to contemporary Israeli Jews. In the context of the debate about partition, the right of Israelis to national self-determination cannot be coherently denied without denying the same right to Palestinians. This suffices to render this line of argument not only normatively dubious, but also politically futile.

The more challenging version of the moral argument against partition holds that a Jewish state is not unjustifiable in principle, but that Israel's existence is inextricably entangled with infringements of basic human and collective rights of Palestinians and thus cannot be defended. While partition will result in the establishment of a Palestinian state alongside Israel, it will not remedy the injustices of the 1948 war. Proponents of this position maintain 1) that the refugee problem cannot be satisfactorily resolved without allowing for the return of all Palestinian refugees to their erstwhile homes, and 2) that the establishment of a Palestinian state on 22 percent of historical Palestine (namely, the West Bank and Gaza) will not redress the grievances of Palestinian citizens of Israel. In a typical statement, As'ad Ghanem (2009, p. 128) criticizes advocates of partition because they “do not have a clear vision to what extent this solution will be relevant to the solution of the

results of the Palestinian *Naqba* or the 1948 war, including the refugee problem.” This argument touches the core of the Jewish-Arab conflict and should not be dismissed lightly.

But it should not be overstated either. The partition of historic Palestine into two states will not undo the wrongs of 1948. But this does not entail that partition is unjust. For one thing, even if the institution of a Palestinian state does not in and of itself address the issues of refugees and of Arab Israelis, other measures may complement it to do so (Zreik 2011, p. 803). No conclusive argument has been offered for why a one-state arrangement is the only means of addressing these issues. Furthermore, remedying the past is only one consideration among many in the determination of a policy’s moral desirability. More often than not, past wrongs cannot be fully rectified, certainly not without bringing about new wrongs, often of greater magnitude. The just strategy is frequently the best one that is attainable under the circumstances at the lowest cost. The moral argument against partition at most shows that it will not bring about perfect justice, or the greatest justice among the hypothetical alternatives. It does not show that partition is unjust given the alternatives actually available.

In fact, when analyzed from the perspective of feasibility, the two arguments against the justifiability of partition—that it does not address the two core issues of refugees and of the Arab citizens of Israel—run counter to each other. The more severe the discrimination and political exclusion of Israeli Palestinians, the bleaker the prospects of a single democratic state premised on genuine parity. Underscoring the nationalist and exclusionary attitudes of Jewish Israelis and the policies of their state amplifies the challenge for one-statism. And the more radical the change required by the single-state option, the higher the barriers and the more intense the opposition to it is likely to be. But I shall return to questions of feasibility later. My point for now is that even those who consider binationalism more desirable than bistatism have no reason to oppose the latter option if it alone is practicable.

But it is precisely the practicability of partition that is questioned by the other type of arguments against the two-state solution. Unlike the moral arguments against partition, which turn on its undesirability, pragmatic arguments aim to show that partition is not practically attainable, that “the political events over the years have made the ‘two state solution’ no longer viable” (Ghanem 2009, p. 121). It is no wonder that after forty-six years of unrelenting occupation and three decades of failed negotiations, the tendency to announce—or celebrate—the death of the two-state solution is making some headway among commentators and activists. But at the same time, past failure is no proof of future impossibility.

Edward Said, one of the early prophets of one-statism, argued that partition is impossible as the lives of Israelis and Palestinians are so inextricably intertwined and due to the projected demographic parity (Said 1999a). The

first claim has been falsified by the events of the last two decades and the second simply does not support the conclusion, which is probably why these arguments have not really caught on. More recently it has become popular to speak of “the one-state reality” created by Israel’s “de-facto annexation” of the West Bank, which “no longer allows a just two state solution” (Shenhav 2012, p. 22). But this terminal conclusion is too decisive to be supported by what is no more than a metaphor. Annexation is a legal term; land cannot be annexed de facto because annexation requires the assent or at least the acknowledgment of relevant parties and nobody—not the international community, certainly not the Palestinians and not even official Israel—regards Gaza and the West Bank as annexed. The occupants of the West Bank and the Gaza strip have not been naturalized in Israel and they are not subject to Israeli law but to the laws of its military occupation. It is true that one entity controls all the land between the river and the sea and that this entity is a state, but this does not entail that this area constitutes a single state. Certainly it does not entail that this control is irreversible.

The issue, then, is not the status of the occupied territories, but the physical reality, the notorious “facts on the ground.” The main argument of partition skeptics is that the two-state solution is dead due to the supposed irreversibility of the Jewish settlements in the West Bank. Detractors of partition plans often argue that “Israel’s policy of ‘creating facts’ on the ground was the single most effective foil to these plans. It put the creation of a sovereign, viable Palestinian state out of reach, and thereby spelled the end of the two-state solution” (Karmi 2009, p. 222). This claim has been making the rounds for more than thirty years. In 1982, Israeli historian and former deputy mayor of Jerusalem, Meron Benvenisti, warned that it was already “[five] minutes to midnight” with respect to the two-state solution because of settlement expansion (Lewis 1982). There can be no doubt that the ceaseless construction of settlements has been a major obstacle for an agreement and a constant source of frustration for those who seek it. But it is wrong to conclude that they are irreversible. In 2003, Tony Judt wrote that “the two-state solution . . . is probably already doomed,” warning that “many of [the] settlers will die—or kill—rather than move.” Less than two years later, Israel removed the settlements in the Gaza strip. Despite mass protest, the eviction of thousands of settlers from Gaza took less than a week. No one died and no one killed anyone.

The idea that settlements are physically irreversible is no more valid today, when settlers number fifty thousand, than it was in 1982 when they were no more than a few scores. To see this, it is enough to note some basic facts about the physical reality of the settlements and their economic circumstances. Approximately 85 percent of settlers live in what is now known as “settlement blocs,” extending over less than 6 percent of the West Bank, most of which can be swapped for other territories. Nearly all settlements

outside these blocs have fewer than two thousand residents. With respect to nearly every aspect of life—from water to phone service, from security and education to transportation and employment—settlements rely on the services provided by the State of Israel. Nearly every company and service in the West Bank—from public transport and cellular service to health care and banking—operate under statute or military decree, which can be rescinded just as easily as they were enacted, making their indispensable operation there impossible. Moreover, life in the geopolitical absurdity of the settlements is objectively costly, which makes it completely dependent on special subsidies. The high costs of establishing and maintaining small, widely dispersed communities in hostile surroundings means that settlements depend for their subsistence on profligate funding and services provided by the State of Israel. With respect to household subsistence too, the settlements are far from being self-sufficient, having developed no substantial local industry, commerce, or agriculture. More than two-thirds of settlers work inside the Green Line and of those who work in the settlements, the percentage of government and municipal employees is extremely high. While the Israeli welfare state erodes, benefits and government subsidies to settlements proliferate. Transportation, education, and housing are all cheaper for Jews beyond the Green Line. Withdrawal of these benefits and services would make life in the settlements barely possible and quite possibly unbearable for most settlers. As a leading Israeli geographer put it: “the settlement system established over many years through huge investments, is in fact geographically shaky, inconsistent with the logic of spatial planning, and therefore has little chance to maintain a lasting, independent existence. . . . The collapse and disintegration of this system is only a matter of time” (Efrat 2011, p. 91).

Ironically, the political argument entailed by these facts, often voiced by detractors of partition, directly undermines the irreversibility thesis. The more severe critics of Israel’s occupation have long criticized the tendency to regard the settlements as an unrestrained aberration imposed on the State of Israel, as it were, against its will by an extreme minority element, namely the settlers. A systematic analysis of the settlement enterprise—its history, economy, administrative apparatus, and legal status—shows that it is not the independent project of an unruly avant garde. As Eldar and Zertal (2005, p. xvii) write in their detailed analysis of the settlement enterprise: “The expansion of the settlements would not have been possible without massive aid from various state institutions, without legal sanction, and without the expedient and affective ties woven between the settlers and the military. The settlements flourished not only with the authorities’ seal of approval but also with official encouragement and at the government’s initiative.” But this truism, endorsed by virtually all proponents of irreversibility, directly undermines this thesis. Stressing the complicity of the state, its institutions and leaders in the creation and maintenance of the settlements and the occupation

makes the case for their reversibility. The settlements are reversible precisely because they are and always have been, to a considerable degree, a state project. The pervasive dependency of settlements on government support means that, despite successful efforts of their proponents to create the opposite impression, their undoing is more a matter of political will than of brute force. If Israel decides to pull the plug, the settlement enterprise will crumble like a house of cards.

Despite the tendency to couch their arguments in terms of geopolitical irreversibility, the strongest practical arguments that oppose partition are still concerned with the political—not the so-called facts on the ground. The more one delves into Benvenisti's claims, for example, the clearer it becomes that the brunt of this argument is and has always been about *politics*: Due to shifts in the political balance of power, Israeli society will not be able to generate the *political will* necessary for overturning the settlement project. Nahum Barne'a, a prominent Israeli journalist, recently said that "the existing reality [in the West Bank] does not allow for the establishment of another state. The reality has changed." When called upon to explain his claim that the two-state solution is dead, Barne'a said: "the political cost [of separation] . . . is apparently too high." Ghada Karmi wrote that "disengaging from the West Bank in terms of security, water and infrastructure would be so formidable as to make an Israeli government of any persuasion unwilling to do it," and Virginia Tilley stated that "Only a political will of iron . . . could reverse the present trajectory" (Tilley 2005, p. 52). Concluding that "the two-state solution is now no more than fantasy," John Mearsheimer (2012, p. 135) explained that "it is difficult to imagine any Israeli government, having the political will, much less the ability, to dismantle a substantial portion of its vast settlement enterprise and create a Palestinian state in virtually all of the Occupied Territories including east Jerusalem." The issue, then, is one of political will, not of physical possibility.³

Undoubtedly, creating the political will necessary for removing settlements is a big challenge, but this is no argument for giving up on partition in favor of a single state. In fact, the political argument undermines the one-statist conclusion no less than the two-statist option it targets. To the extent that the issue is one of political will, there is no reason to ascribe better prospects to the single-state option than to the two-state framework. The binational idea is anathema to the vast majority of Israeli Jews, whereas partition is consistently favored by a substantial—if tragically ineffectual—majority of the Israeli population.⁴ The fact that no major Palestinian political faction has adopted binationalism is equally telling. Public opinion polls show that most Palestinians are still inclined to favor an independent state over its alternatives,⁵ and many of them—Islamists and nationalists—ideologically reject binationalism or a shared democratic state. The international community, too, is virtually unanimous in its support for the two-state solu-

tion. To the extent that the problem concerns political will, then, there is no reason to ascribe better prospects to the single-state option than to the two-state framework. In fact, as far as the prospects of generating political will go, partition fares considerably better than its alternatives.

Another kind of pragmatic argument against the possibility of partition is indirect. According to this line of argument, the fact that partition has not prevailed, despite decades of attempts, suggests that it never will. According to Leila Farsakh (2011, p. 60), “the strongest argument for the one-state idea today probably lies in the fact that, from a practical political point of view, a two-state solution has been tried for the past [twenty] years and failed.” Middle East scholar and long-time supporter of the two-state solution Ian Lustick recently called the idea “an illusion,” summoning as his justification the fact that “the last three decades are littered with the carcasses of failed negotiating projects” (Lustick 2013). The crux of this argument is that since all previous attempts to reach two states fell short, the solution itself must be unattainable.

But this induction falls victim to a prevalent fallacy: the confusion of means with ends. Repeated failures to reach a desired goal can cast doubt on its practicability only if the best means have been exhausted. The historical, and therefore contingent, failure of the peace process to reach its declared goal can only count as evidence of the impracticability of the two-state solution if we can guarantee that the process itself had been largely flawless. But few observers of Middle Eastern affairs can honestly avow to that. As a matter of fact, the peace process has been so flagrantly flawed, that finding fault in the proposed solution—namely, the formula of two states for two peoples—amounts to *de facto* exoneration of Israeli intransigence, Palestinian mistakes, and American mismanagement of the peace process. Raif Zreik (2011, p. 801) rightly says that “if the [two-state solution] is unattainable due to the existing imbalance of power, then one should strive to redress this imbalance, not necessarily to alter the political program itself.” The same goes for the insistence on bilateral, direct negotiations, unbalanced American mediation, and a host of other flaws of the process which can and should be rectified.

THE VIRTUES OF ONE STATE

The “one-state solution,” then, cannot be justified by default, that is on the basis of the unjustifiability or impracticability of its alternative—the two-state solution. Since one-statism is not the only (just or practicable) solution, it must be shown to be the better solution. One way to establish the superiority of one state is what can be called the quick route. A Western-style, democratic, multi-ethnic (or binational) state, in which everyone is treated

with equal respect and granted equal rights and opportunities is better than two ethnocentric, nationalist states in which minorities are discriminated against and resources are unequally divided. This is the quick argument for the preferability of one state.

In taking the quick route, virtually all proponents of the single state commit a distinct fallacy: confusing virtues with preconditions. An institution is not justified by desirable prerequisites which must obtain independently, but only by desirable consequences to which it is the best means. Thus the abstract virtues of a single state entail nothing if they depend on the disappearance of the conditions that make it necessary in the first place. Yet it is just such virtues that one-staters celebrate. Azoulay and Ophir (2013) write: “Equal citizenship for Jews and Palestinians will encourage—perhaps even oblige—both the government in the transformed regime and its citizens to go beyond a conception of citizenship as an asset of privileged individuals. . . . Such equality will enable the state to free itself of the logic of ethnonationalism.” Ali Abunimah (2006, p. 109) says that “The main attraction of a single-state democracy is that it allows all the people to live in and enjoy the entire country while preserving their distinctive communities and addressing their particular needs. It offers the potential to deterritorialize the conflict and neutralize demography and ethnicity as a source of political power and legitimacy.” This is getting things backwards. In order for a single democratic state to be viable, the conflict must be deterritorialized, and demography and ethnicity need to be neutralized, (among other things). Equal citizenship *requires* an egalitarian, non-ethnocentric civic conception, it doesn’t just enable it. But once all these goodies are obtained, whether Israelis and Palestinians split two states or share one would become a minor issue.

Another way of getting things backwards is giving theory precedence over reality. Support for one-statism is disproportionately prevalent among academics and intellectuals. It is no wonder then that arguments in its support sometimes seem more committed to theoretical constructions than they are attuned to political realities. Analyzing Zionism as a colonial, or settler-colonial, enterprise, many one-staters conclude that solving the problems created by the establishment of the State of Israel requires undoing Zionist colonialism. Colonial regimes, they reason next, have ended in one of three ways: eviction of the colonizers (as in the Algerian case), elimination of the colonized (as in the North American case), or the institution of a democratic state for both (as in the South African case). The first two are neither desirable nor practical, so the only remaining option is the institution of a single democratic state.

This argument rests on the false assumption that the best way to solve a problem is to undo its causes. Furthermore, the colonial, or settler-colonial, framework is at best partial. The Zionist settlement in Palestine had some colonial features (the organized settlement of members of an ethnic or racial

group in an area populated by another group not with the intention of assimilating, but of forming a new sovereign entity). The settlement in the West Bank and Gaza after 1967 had still more colonialist features (e.g., a colonizing sovereign state). But both also differ in obvious ways from paradigmatic colonial examples.⁶ The South African case in particular is only an imperfect analog—although there are some stark structural similarities between the two cases, they entail neither that their evolution has been similar, nor that their resolution ought to be the same. Blacks under apartheid were regarded as part of South Africa, not as an external enemy. White Afrikaners wished to maintain their political and economic privilege by dominating and exploiting South Africa's black population, not to get rid of it. The African National Congress, on its part, opened its Freedom Charter of 1955 with the unabashed declaration: "South Africa belongs to all who live in it, black and white." Nothing of the kind exists in the Palestinian-Israeli case. If anything, the fact that democracy was a possible path for South Africans and is not, as I will argue, for Israelis and Palestinians suggests that these cases ought to be treated as more disparate, not that they should be stuffed more strongly into the same theoretical splint. Imposing the model to insist that what worked in one case must work in the other is reasoning backwards.

Another argument for the single-state option is that, unlike partition, it will address the inequality of Palestinian citizens of Israel by dismantling Jewish privilege and the plight of the refugees by allowing their return into historic Palestine. Some proponents of binationalism add a more equitable distribution of resources to the list of its advantages. Even if a Palestinian state was to be erected in the West Bank and Gaza strip, they argue, it would be impoverished in comparison with Israel and enjoy a smaller share of the land's resources. In a single state, "Palestinians would be like immigrants to a wealthy metropole rather than nationals of a poor third-world country" (Abu Odeh 2001).

Whether these hopeful expectations, even in their modest versions, lend support to binationalism as a political program depends on the details of the proposal and on its feasibility. Advocates of one state have been thin on details and unconvincing on feasibility. The fact that a single state is consistent with resolving the problem of the refugees or with an egalitarian distribution of resources is not enough. It has to be shown that it can actually achieve these ends, which requires some level of concrete detail. But as soon as these ideas are cast into palpable formulas, they encounter unassailable difficulties. Even if refugees are allowed to return, it is doubtful whether many of them will be able to exercise this right (see Abu Odeh 2012, p. vii–xvii; Zreik 2011, p. 798–99). Certainly, they will not be returning to their (or their ancestors') villages and towns, and will not reclaim their lost possessions. The mechanism for ensuring equal distribution of resources remains elusive, and judging by the example of South Africa favored by one-statists,

this is no small challenge even in a single state. Descriptions of the binational state typically remain very general and sketchy, lacking substantive detail on constitutional and institutional arrangements, particularly with respect to core issues like immigration, distribution, and security. As Salim Tamari (2000, p. 87) wrote, binationalism “is a slogan, not a program.” Indeed, “the shift toward the one-state solution is a shift from the world of politics to the world of ethics” (Zreik 2012, p. 130).

Under current conditions, this is a dangerous shift. While few attempts have been made to flesh out in detail what a single state would look like constitutionally, institutionally, politically, culturally, militarily, and so forth, the opponents of democracy have not missed the opportunity. Unsurprisingly, the only one-staters who are happy to flesh out their plans are Israeli right-wing advocates of non-partition motivated not by genuine democratic commitment but by nationalist expansionism.⁷ Opponents of partition who fail to articulate concrete proposals run the risk of playing into the hands of their right-wing rivals. Given the balance of power in Israel, it is likely that if non-partitionist proposals are adopted and employed they will assume the non-democratic features devised by the right and not the democratic character desired by the left. It was appreciation of this reality that led Yasser Abed Rabbo to reject binationalism because it will make Palestinians “second-class citizens in one state.”

But even if the normative virtues associated with one state by its advocates were valid, and even if they could flesh out a detailed plan, the value of all this would still depend on feasibility. Yet feasibility is questionable, not only for lack of detail about the political arrangement, but primarily due to the absence of any account of the mechanism by which it is to be reached. Some years ago, Ian Lustick criticized an advocate of one state that he “seems to studiously avoid thinking about any of the real problems facing single-state solutions, and to have substantially exaggerated elements of the situation that would seem conducive to it” (Lustick 2001). This criticism can be generalized to many one-staters. At least the second charge can now be leveled against Lustick himself (Lustick 2013). Many terms are being tossed around: “cantonal,” “federative,” “confederative,” “dual states,” “parallel states,” and more. None of them manage to circumvent the inescapable prerequisites of parity and cooperation. In every proposal, the key elements of sovereignty—constitutional arrangements, central economy, and security—must be agreed upon and shared. None of the proposals on offer specify how this can be attained given the entrenched mutual animosity and desire for separation and self-rule.

Even if some formula can be found that satisfies most of the needs and enough of the desires of both sides, implementing it is a separate challenge. Even the optimistic among one-staters do not suggest that their advocacy will convince Israeli Jews to dismantle the Jewish state and replace it with a

binational democracy, or persuade Palestinian nationalists and Islamists to recognize the collective rights of Jewish Israelis in historic Palestine. One can deride the anxieties expressed by Israeli Jews as a mere disguise for the desire to maintain privilege, or portray them as manipulative means of control manufactured by power elites, but none of this will make them go away. Even those who fail to see the solidity of the experiences in which these anxieties and concerns are grounded must meet the formidable challenge they pose for shared sovereignty. Talk of privileges and superiority might animate activists and junkies of moral indignation, but it does not eliminate the substantive challenge. The willful relinquishing of control over security by Israelis is simply not in the cards and is not expected to be any time soon, whether one respects the motives behind it or scoffs at them. Palestinian acceptance of the indigenous status of Jews in historic Palestine is also not forthcoming.

The strategy proposed in light of this reality is to force Israel to capitulate through international political, moral, and economic pressures. But there does not seem to be any feasible plan about how to generate pressure of the magnitude required. And if generating significant pressure was possible, it could be employed to advance a Palestinian state no less and probably more effectively than to promote one state, as the latter idea is bound to face vigorous opposition from both sides. If such opposition suffices to thwart partition, as one-staters typically claim, how does it not get in the way of a shared state?

A NON-EXISTENT PLACE

Confronted with these practical difficulties, advocates of binationalism revert to talk about it as “an ideal,” or an abstract conceptual “possibility.” Shenhav (2012, p. 164) says that he is presenting “a utopian position imagining reality released from the shackles that ground it.” Azoulay and Ophir (2013, p. 251) see their project as an exercise in, as they put it, imagining a “new utopian horizon.” This is an interesting choice of metaphor, as “horizon” denotes an apparent reality, not an actual one, and “utopia,” as George Orwell warned, “doesn’t mean ‘a good place,’ it means merely a ‘non-existent place.’”

But going utopian is a glorified excuse for neglecting political realities and constraints. Azoulay and Ophir do not say how their desired “separation of nation and state” is to be precipitated; Shenhav doesn’t tell us how Palestinians will be swayed to give up “the narrative of destruction and redemption” and Jews to give up “the land regime that gives Jews exclusive preference”; Karmi offers no account of how the single democratic state will be brought about; Tilley doesn’t specify what will entice Israel to allow unlimit-

ed return of refugees; and Abunimah doesn't explain what will cause Hamas and Islamic Jihad to dispense with their credo.

But most troubling is the fact that none of them address the risks. One of these is what Noam Chomsky (2013) recently called "the only realistic alternative to the two-state settlement," namely prolonging the status quo of occupation and dispossession.⁸ But in fact Chomsky is wrong to think that this is the *only*, or indeed the worst, possible consequence of dispensing with partition. I have already mentioned the binational alternative favored by the Israeli right—a polished version of the status quo with Palestinians as subjects of Israeli rule but not its citizens. And there is still a greater risk.

Proponents of one-statism typically belittle or utterly ignore the concern for security, by which I don't mean merely the challenge of sharing the monopoly over the means of coercion, but also the more prosaic concern for minimizing violence. This is unsettling not only for the Hobbesian reason that security is the fundamental concern of government in general, but because it is also the main rationale for partition. In fact, non-partition was a reality for most of the previous century. The very idea of partition only gained prominence with the report of the Royal Palestine Commission appointed to investigate the riots of 1936. Tellingly, the commission admitted that it could not meet its terms of reference—"to remove the grievances" of the rival communities and "prevent their recurrence"—because "The disease is so deep-rooted that in the Commissioners' firm conviction the only hope of a cure lies in a surgical operation." The Commission recommended partition because "There can be no question of fusion or assimilation between Jewish and Arab cultures. The National Home cannot be half-national, . . . Arab nationalism is as intense a force as Jewish" and "Neither of the two national ideals permits of combination in the service of a single State." It is absurd to suggest that decades of bloody conflict somehow mitigate this judgment.

One-staters like to reminisce about *Brit Shalom*, a group of Jewish intellectuals who advocated binationalism in the 1920s. Yet one of *Brit Shalom*'s central arguments was that if binationalism would not be pursued, ethnic strife was inevitable and then the path to mutual recognition and coexistence would dissipate. Hans Kohn thought this irreversible reality obtained with the riots of 1929, upon which he left not only *Brit Shalom*, but Zionism as a movement and Palestine as a home. Others, like Kohn's friend Robert Welch, did not regard the riots as the end of binationalism. *Ihud*, the successor of *Brit Shalom* headed by Martin Buber and Judah Magnes, continued to advocate binationalism through the 1940s. But with the establishment of the State of Israel in 1948 and the Israeli-Arab war that ensued, most advocates of binationalism thought it was too late. Their rejection of partition as impracticable appeared to have been falsified and their warning of a violent trajectory seemed to have already materialized. After numerous more wars,

terror attacks, and military operations, almost five decades of repressive occupation, dispossession, and humiliation, two violent uprisings, countless clashes and attacks, even true believers must admit that the kind of binationalism advocated by Brit Shalom is no longer viable for precisely the reasons they warned about.

Achieving “a democratic state of all the people living within the Mandatory Palestine/Eretz-Israel borders” (Ghanem 2009, p. 121), that is, a stable, shared political arrangement that equally protects the rights and promotes the interests of both Jews and Arabs, can only succeed if it is premised on true parity. Such parity requires mutual recognition and acceptance of both people’s indigenous status in the land. It requires, at some level, a sense of shared identity and of a joint project. The thought that these conditions can be willingly endorsed by Palestinians and Israelis under the current circumstances, or the circumstances that can be expected to prevail in the foreseeable future, as Palestinians continue to be occupied by Israel and to violently resist its occupation, is at best naive.

If the dominant powers in Israel suffer from overestimation of the strife between the two peoples, conveniently concluding that the conflict is unresolvable, supporters of one state often seem to suffer from the equally problematic opposite fallacy of underestimating it. A century of conflict leaves a mark. Decades of bloodshed, humiliation, and dispossession and the hatred and fear they breed are not washed away by political fiat. Only extreme credulity can expect generations-old hostility to transform with the imposition of historical justice for the refugees and Palestinian citizens of Israel; that “With the outstanding issues thus resolved, no cause for conflict between the two sides would remain” (Karmi 2009, p. 231). As if history, ideology, religion, culture, and psychology will all metamorphose as soon as “justice” is enacted.

Optimism about the potential co-existence of Palestinians and Israelis seems particularly unwarranted as binational and multi-national arrangements are becoming strained in many countries. In Belgium, the United Kingdom, Canada, Spain, and numerous other places, national and ethnic identities are pushing against existing political arrangements. Group identities and aspirations for self-determination grow strong enough to challenge the cohesion of these thriving developed countries, even without a background of violence and occupation. Countries that have experienced violent conflict have either split into separate states, such as former Yugoslavia, or suffer perpetual ethnic strife, like Lebanon and Iraq. Given the deep-seated animosity, profound distrust, and fundamental religious, political, and social divides between Palestinians and Israelis, civil war is no less probable than reconciliation.⁹ In fact, a sober evaluation of the conditions in both societies—the levels of hostility, the support or at best indifference to violence toward the other side, not to mention the utter lack of meaningful aspiration

for reconciliation and coexistence—unequivocally indicates that violence is a real threat. For Israel-Palestine, Balkanization and Lebanonization are at least as likely as successful democratization. The victims of such a scenario will be everyone, Palestinians no less than Israelis. Probably more.

The standard response in the Jewish mainstream to the idea of a single binational state is to regard it as spelling the doom of Zionism. Seeing it as no more than a scheme “to take power from those who have effectively achieved their “right to national self-determination” and, as an inevitable demographic consequence, invest power in a population for whom endorsement of “constitutional liberalism” is at most a tactic rather than an expression of conviction” (Fein 2001), they conclude that “a binational state is not the alternative for Israel. It is the alternative to Israel” (Wieseltier 2003). South Africa, in their perception, is merely a layover on the road to Algeria, or worse—to Auschwitz. This reaction is bolstered by the attitude of some of the proponents of binationalism who do little to disguise the fact that they see it as a clever scheme for eliminating the Jewish state. But it is not likely to persuade even non-antagonistic supporters of one-statism. The challenge one-staters have to meet, and the one stressed here, are the very real risks to the people of both communities.¹⁰ In fact, given the disparity in arms and means, the toll of the violence that is likely to ensure the scenario one-statists crave can be expected to befall Palestinians even more than Israelis. Regardless of one’s views about Jewish national self-determination, promoting one-statism without addressing these risks is not just naive, it is reckless.

CONCLUSION

Advocating a single state between the Mediterranean Sea and the Jordan River is undeniably the latest trend among activists and pundits. Yet the justifications for this view and, in fact, its precise content, remain quite feeble. Both variants of the moral argument and the different versions of the pragmatic argument against partition fail. The claim that Jews in the nineteenth and early twentieth centuries had no right to national self-determination is theoretically dubious and politically irrelevant as it entails very little about the rights of contemporary Israeli Jews. The claim that settlements are not reversible is unsubstantiated and rests on a faulty analysis of their circumstances and makeup. And the failure of past negotiations to establish two states entails very little about the prospects of partition through a more apt process and under more balanced conditions.

A host of factual claims, though true, merely muddle the issue. The fact that Israel controls all of historic Palestine (“de facto annexation,” or “the one-state condition”), the fact that there are many settlements (“irreversibility”), the fact that Israel’s current leadership shuns partition, the fact that

previous negotiations aimed at partition have failed—all true, but irrelevant to the viability of partition.

Many of the claims targeting the desirability of partition are also wide of the mark. A Palestinian state will not redress the plight of the refugees, it will not compensate for the loss of property in 1948 or for the suffering and dispossession endured over five decades of military occupation; it will not guarantee an equitable distribution of resources between the two states, nor will it ensure economic prosperity or a functioning democracy in either; and it won't end the discrimination of Palestinian citizens of Israel, or eliminate the ethnocentric and racist trends in Israeli society. All this is true, but beside the point.

A Palestinian state is still the most feasible means for ending the military occupation of the Palestinians in the West Bank and Gaza. Ending the occupation means dismantling the oppressive system of control that has been in place since 1967 and replacing it with another form of government. Preferably this will be a form of self-rule, hence a Palestinian state. This will not redress all the wrongs and it will not resolve all outstanding issues. But why allow the currently unresolvable issues of 1948 hold hostage those that were created in 1967? Especially since resolving the latter will arguably create conditions more amenable to addressing the former.

In the face of intractable dispute, the philosopher Frank Ramsey (1925, p. 115–16) advised that truth might lie “in some third possibility . . . which we can only discover by rejecting something assumed as obvious by both the disputants.” The assumption one-staters share with many two-staters is the holy trinity of the conflict: that the three core issues—refugees, Palestinian citizens of Israel, and the occupation—must be regarded as one. This is a false theology.

What has been failing for decades, I propose, is not the two-state solution—which has never been tried—but the fusion of the three issues and the insistence that they have to be solved all together and at once. It is a fallacy to think that because they have a common cause (assuming this is in fact the case), they must have a common solution. Trying to solve too many problems at once may undermine progress on any of them.¹¹ The final resolution and full reconciliation between Jews and Arabs may not be attainable at this time, for many of the reasons noted by one-staters. But changing the balance of power and constructing a better mechanism of negotiations can certainly increase the likelihood of ending the occupation. Orthodox insistence on the trinity risks squandering this possibility and holding the end of the occupation hostage to solving the historic conflict.

The futuristic vision of a single political entity encompassing all of historic Palestine and providing a homeland for both Jews and Arabs can certainly be imagined, analyzed, and debated. But a programmatic one-statist alternative is a dangerous delusion. As an impracticable, marginal idea, it drains

much needed political energies and resources. As a political agenda, it is precarious. Failing to address the very tangible risks their program involves, the temerity of one-staters warrants Vaclav Havel's (1995) warning: "when meeting with utopian intellectuals, we should resist their siren calls. If they enter politics, we should believe them even less."

NOTES

1. This chapter builds on research and analysis on which I have collaborated with Avner Inbar. I am also grateful to Alon Harel, Avital Sharon, Dror Yinon, Levi Specter, and Yonatan Ilievitzky for their helpful comments.

2. My subject in this chapter is proposals calling for a single state, taking together those advocating a binational state and those advocating a secular democratic state, which for other purposes, as Edward Said stressed, must be distinguished from each other (Said 1999b).

3. Raif Zreik is exceptionally forthright about this in his "One State or Two States: An Anatomy of Discourse" (Zreik 2012).

4. Public opinion polls consistently show 60 to 75 percent support for a two-state solution among Israelis. A recent poll published by Ha'aretz found that a one-state with equal political rights for Palestinians enjoys the support of only 10 percent, whereas 27 percent support partial annexation of the West Bank (area C) and less than a third who support giving annexed Palestinians full political rights (Hasson 2014). Earlier polls by The Israel Democracy Institute showed between 6 to 22 percent support for binationalism (presumably this includes support for non-egalitarian forms of binationalism) (Heler 2012).

5. A poll conducted by the Palestinian Center for Policy and Survey Research and the Hebrew University of Jerusalem in 2013 found that 53 percent of Palestinians support a two-state solution ("Most Israelis . . ." 2010). The Palestinian Center for Policy and Survey Research's data from June 2014 also indicates that 31 percent of Palestinians support a binational state and 68 percent oppose it, while a poll conducted at the same time by the Washington Institute for Near East Policy found only 11 percent support for one state among Palestinians (Pollock 2014). In 2005, Tilley prophesied that "within both Jewish and Palestinian politics, a major shift is brewing" toward the single-state idea. Almost a decade later one-statism remains marginal in both societies.

6. For a nuanced take on the relation between Zionism and colonialism, see Penslar (2001).

7. Two recent plans have been proposed by prominent Israeli right-wingers. The first, called "Peace in the Land," has been propounded since 2006 by former Yesha Council director Adi Mintz; the second, which in many ways is an updated version of the first, has been put forward more recently by the Head of the Jewish Home party (associated with the settlement movement), Naftaly Bennet, as "The Israeli Stability Initiative: [a practical blueprint for] managing the Israeli-Palestinian conflict." Both programs reject the two-state partition and acknowledge the need to grant Palestinians under direct Israeli control full citizenship to avoid accusations of apartheid, while retaining the expansionist agenda. According to both, nearly all Palestinians will be citizens of a Palestinian "autonomy" practically dominated by Israel.

8. A striking display of how one-statism can lead to the endorsement of unacceptable arrangements is Sari Nusseibeh's (2011) recent proposal to adopt the model of East Jerusalem for the West Bank and Gaza. For criticism, see Inbar and Sharon (2011).

9. In a statement typical of one-staters, Ali Abunimah (2006, p. 174) writes: "Before us we have two models of Israel-Palestinian coexistence: one between citizens within Israel, and another between occupier and occupied," completely neglecting the possibility of violent civil strife.

10. Tony Judt (2003) unconvincingly says "The security of Jews and Arabs alike would need to be guaranteed by international force."

11. Salim Tamari (2000, p. 87) wrote with respect to the idea that binationalism can end the occupation and remedy the status of Palestinian citizens of Israel: "To merge the two problems

into a single struggle for binationalism is likely to undermine both possibilities and prolong the resistance against them.”

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Chapter Eight

To What Extent Reconciliation?

*An Analysis of the Geneva Accord between Israelis and
Palestinians*

Yoav Kapshuk

I approached Arafat and found out that he did not wish to solve the problem of 1967, but rather, the problem of 1947. –Ehud Barak

INTRODUCTION

The Geneva Accord, signed in 2003 by key Israeli and Palestinian figures, proposes a model for a permanent agreement for the end of the Israeli-Palestinian conflict. Compared to models containing similar principles for a permanent accord for the end of the conflict (whether formal, such as the Clinton Parameters, the Taba Summit or former Prime Minister Olmert's proposal to Palestinian Authority Head Abu Mazen, or whether voluntary, such as "the People's Voice" [Hamifkad Haleumi], or the Arab Peace Initiative), the Geneva Accord is the most detailed and comprehensive, and is unclassified. Therefore, it is the most suitable for an in-depth analysis. The question that remains is, to what extent does a model like Geneva constitute an accord of reconciliation that can bring an end to the conflict in present-day reality? The main argument in this article is that the Geneva Accord does not constitute a model for a permanent reconciliation agreement in the Israeli-Palestinian conflict; nevertheless, the Geneva accord includes parts that may form a preliminary basis for a reconciliation agreement that are worth pursuing.

In this section, I will outline the main points in the chapter: what constitutes a reconciliation agreement and why it may be capable of bringing the

Israeli-Palestinian conflict to an end; next, I will explain why I have focused on Article no. 7 in the Geneva Accord, which deals with the right of return of the Palestinian refugees; and finally, I will demonstrate how an analysis of the Geneva Accord shows that it does not constitute a model for a reconciliation agreement. To conclude, I will discuss the contribution of this chapter to the research on the attempts at resolving the Israeli-Palestinian conflict.

Reconciliation theories: There are various ways to deal with conflicts between ethnic or national groups. Three main ones are conflict settlement, conflict resolution, and reconciliation (Kelman 2008; Rouhana 2004, 2011). Reconciliation, as opposed to the previous two, involves addressing components such as historical justice, the disclosure of truth pertaining past wrongdoings, acknowledgment of historical responsibility by the perpetrator, mutual recognition by both parties to the conflict, and redistribution of resources. I have chosen reconciliation as the basis for an agreement for the end of the Israeli-Palestinian conflict because the history and identity of both peoples are intertwined in an inseparable way in the common territory of Mandatory Palestine (Peled & Rouhana 2004). I have chosen reconciliation for it is the alternative that takes into account the “challenges raised by long-standing historic injustices that embed themselves in people’s identities and in particular that embed themselves in identities built around relations of antagonism and conflict between dominated and stigmatized” (Bashir 2011, p. 5). Unless these principles are scrutinized for their plausibility, only a superficial solution will be attained, based on the balance of power between the sides, and in several instances, the conflict is perpetuated (Rouhana 2004, 2011).

Most studies on reconciliation in general and the Israeli-Palestinian conflict in particular regard reconciliation as a process. In this sense, reconciliation is a continuous, gradual, in-depth process, which reaches beyond the routine formal agreement—to a change in “motivations, goals, beliefs, attitudes, and emotions” as well as the feelings of the people regarding to conflict (Bar-Tal & Bennink 2004, p. 23; Bloomfield, Barnes, & Huyse 2003; Galtung 2004; Kriesberg 2002; Lederach 2001). Reconciliation can be also understood as an outcome, end-state (Bar-Tal & Bennink 2004, p. 15; Bloomfield 2006, pp. 6–7). It is also considered as a distinguish stage that may begin only after the peacemaking stage was successfully completed (Auerbach 2013; Bar-Siman-Tov 2013, pp. 32–33; Ramsbotham, Woodhouse, & Miall 2011, pp. 12–16). Alternatively, it is possible to interpret reconciliation in the sense of a formal peace agreement, as will be done in this chapter: a reconciliation agreement cannot postpone the resolution of the components of reconciliation to the future, but rather, it should tackle them in its contents. For instance, it must include a description of the historical truth with regard to the conflict, detailing the past wrongdoings and include their recognition by the perpetrator.

The issue of the 1948 refugees: I have chosen to analyze Article 7 in the Geneva Accord, which deals with the issue of the refugees, since, of all controversial issues in the Israeli-Palestinian conflict, the 1948 war and its consequences underlies the identities of Israelis and Palestinians alike. The two peoples regard the right of return to the refugees as having a decisive influence on their national existence in the present as in the future (Ju'beh 2002). As for the Palestinians, the centrality of the issue of the refugees is reflected in that 1948 marks the central event in the current history and identity of the Palestinian people. This is the disaster—Nakba, in Arabic—of the disintegration of the Palestinian society; for them, only “acknowledgment of the right of return is seen as an acceptance in principle of the fact that the Palestinians are a people with national rights” (Khalidi 1992, p. 31). From the point of view of the Jewish Israeli society, the possibility of return of refugees raises an existential fear. The term “right of return” gives rise to deep negative feelings in Jewish public opinion: it evokes “destruction of the state,” “national disaster,” “massacre of Jews,” and even “holocaust” (Zakay, Klar, & Sharvit 2002).

The Palestinian standpoint, which regards the acknowledgment of the right of return as the basis for their recognition as a people with national rights, along with the Israeli position that regards the return of Palestinian refugees as a “national disaster,” can co-exist in the framework of reconciliation, with the help of a component of justice that focuses on the desirable future relations between the parties, called transitional justice (Teitel 2002, 2005). In this manner, a distinction is made between acknowledgment and implementation of the right of return (Peled & Rouhana 2004). On the one hand, Israel will recognize the right of return to its sovereign territory—signifying the recognition of historical responsibility for the Nakba; on the other, the extent of implementation of this right will be determined during negotiations where the demographic fears of the democratic Jewish-Israeli society are taken into account (Dudai, 2007; Peled & Rouhana 2004). The distinction between recognition and implementation proposed above will be one of the main components in the analysis of the Geneva Accords, in order to investigate the extent to which it is suitable to a reconciliation agreement.

Analysis of the Geneva Accords: The initiators of the Geneva Accords acknowledged the importance of the Palestinian refugee issue for the end of the conflict and thus devoted a significant part to it: Article 7. The significance of this issue is also expressed in the first section of Article 7, which states that the refugee issue must be resolved in a comprehensive and just manner. The start of the second section of Article 7—which mentions, among other things, United Nations Resolution 194, which determines that the refugees are entitled to return to their homes—also constitutes a development, in comparison to interim agreements. However, a textual analysis of

the continuation of this section will show that it actually cancels out the relevance of this resolution.

Moreover, in the remaining sections of Article 7, exceptions aside, there is no expression of reconciliation components such as justice, truth, and historical responsibility; there is no description of the manner by which hundreds of thousands of Palestinians were turned into refugees, their stories, or their current situation; there is no discussion of Israel's historical responsibility for the issue of the refugees, which is reflected in the fact that Israel constitutes a secondary party in the provision of compensation in the refugeehood situation. Similarly, throughout the agreement, there is no recognition by Israel of the right of return, not even in the section where it is agreed that a small number of refugees would be allowed to return to Israeli territory.

Furthermore, I contend that even the section titled "reconciliation programs" does not fulfill the requirements of a reconciliation agreement: it calls for the elucidation of the reconciliation components in the future (as opposed to tackling them in the agreement proper); the wording does not even hint at the 1948 war events and its consequences. The last section of Article 7, despite my critique, constitutes a preliminary basis for a reconciliation agreement that is worth elaborating on.

Contribution of the study to the research literature: The Geneva Accords attracted much attention in op-ed articles as well as on the web (for instance, Behar and Warschawski 2003; Levin 2003), but very few academic analyses, none of which approaches the Accords in the light of reconciliation theories, as this chapter intends to do.¹ Likewise, while there are studies dealing with reconciliation in the Israeli-Palestinian conflict, the majority of these studies deal with reconciliation as a process or outcome that may occur beyond and after a formal peace agreement was achieved (Auerbach 2013; Bar-Simantov 2013; Bar-Tal and Bennink 2004, p. 14). Although there is some research that addresses reconciliation as a goal to attain (e.g., Rouhana 2004, 2011), there is a dearth of studies that scrutinize reconciliation components in formal peace agreements such as the Geneva Accords, as I will proceed to do in the following sections. In the concluding section, I will discuss the importance of this chapter in the current context of the second decade of the twenty-first century and explain how the conclusions drawn from this chapter could challenge the civil society, the leading figures in the society, and the international community regarding the Israeli-Palestinian conflict.

PRINCIPLES FOR A RECONCILIATION AGREEMENT

A reconciliation accord is apt to be signed subsequent to a prolonged reconciliation process. Alternatively, such an agreement can be reached when the parties recognize the need for a reconciliation and sign an agreement that

details the steps in that process. In the first part of this section, I will distinguish between reconciliation and other types of agreements, as well as the advantages accrued from reconciliation. I will then present the central issues that must be included in the framework of reconciliation.

Unlike conflict resolution, a reconciliation agreement is not based upon an existing balance of power between states; rather, a reconciliation accord will include—in addition to deep-seated factors in the conflict—a reference to the historical responsibility of each party to the conflict, to the truth regarding past wrongdoings, to the kind of justice that should constitute the new structure of the relationship between the sides, and to social and economic aspects. Reconciliation is therefore referred to as “Positive Peace” by several researchers (Bashir, 2011; Crocker 1999; Ramsbotham, Woodhouse, & Miall 2011; Rouhana 2004, 2011).

Central to reconciliation is the issue of justice. Justice can be interpreted in several ways, among them 1) retributive justice: the collective punishment of the perpetrator party or of its individuals (Aggestam & Bjorkdahi 2013, p. 3; Little 1999, pp. 65–66); and 2) restorative justice: repair actions for past injustices and ending of discriminatory acts or acts of oppression, or compensation for past wrongdoings (Kriesberg 2002; Little 1999, pp. 67–68; Menkel-Meadow 2007). Before describing the type of justice I chose, it is important to mention that many scholars often claimed that justice is an elusive and subjective concept; therefore, the discussion of issues pertaining to justice in a negotiation is bound to give rise to additional disagreements between the parties, thus perpetuating the conflict (e.g. Bar-Siman-Tov 2013; Bland, Powell, & Ross 2012, pp. 270–72; Roberts 2006, pp. 56–57). However, even if such claims are correct, by skirting the issue of justice, parties can, at best, reach a superficial solution to the conflict—a solution based on the balance of power between the sides—while the conflict often persists (Bhargava 2000, p. 53; Lind 2008, p. 3; Rouhana 2011, p. 305). The type of justice I will be relating to in my analysis is “Transitional Justice.” The virtue of transitional justice lies in its attainability. Unlike absolute justice, which is currently used to achieve a balance between violated rights and compensatory measures, transitional justice focuses on the practical outcome that is being sought. The purpose of transitional justice is to affirm and restore the dignity of those whose human rights have been violated while considering the perpetrators’ state and strength (Peled & Rouhana, 2004; Teitel 2002, 2005).

The second issue in reconciliation is historical truth, especially its disclosure and publication. In the course of conflict, the perpetrator attempts to mask the offenses committed, which results in information gaps between the parties. This discrepancy between the versions of events leads to anger and resentment by the victimized side, further aggravating the conflict. In order to overcome this situation, a reconciliation accord must encompass a discus-

sion on the historical truth, especially regarding the wrongdoings and crimes committed by the perpetrators. The significance of reconciliation in which the historical truth is detailed lies in the agreement by both sides on a common definition regarding the past (Crocker 1999, pp. 46–47; Dwyer 1999, pp. 89–91; Lambourne 2009, pp. 39–40; Rouhana 2011, p. 298). Such a principle is reflected in Nepal’s Comprehensive Peace Accord:

Both sides agree to set up a High-level Truth and Reconciliation Commission through mutual agreement in order to investigate truth about people seriously violating human rights and involved in crimes against humanity, and to create an environment of reconciliations in the society. (Nepal’s Comprehensive Peace Accord, article 5.2.5.)

In addition to justice and truth, a central issue to reconciliation is to assume the historical responsibility, especially the perpetrator, for past injustices committed. The admission of past wrongdoings involves the recognition by the parties of their respective histories, where their versions of the conflict are described (Barkan 2002, 2005). The absence of such recognition causes the collective memory on both sides to continue to disrupt the attempts at reconciliation (Bar-Tal & Bennink 2004; Bashir 2011, pp. 129–31). The importance of assuming the historical responsibility lies not only in the confirmation of the “victimization experience” of the victimized party, but also in determining future measures required to redress the past injustices so as to ensure that such wrongdoings will not be repeated (Bhargava 2000; Kriz 1997, p. 127; Lind 2008, p. 3; Rouhana 2001). Taking historical responsibility is a necessary condition for mutual recognition between two parties. The significance of such recognition lies in “considering the other as an equal entity, entitled to a legitimate human existence” (Jamal 2001, pp. 333–35). Mutual recognition expresses mutual trust in which the perpetrator admits its responsibilities and expresses regret for its past actions while the victimized side forgives and takes steps toward the abatement of the anger and hatred (Barkan 2002, 2005; Jamal 2001; Kriesberg 2002; Lind 2008; Subotic 2011).

A reconciliation agreement should also refer to social and economic aspects. It must include compensation reparation or restitution. According to the reconciliation literature, there is a direct connection between the process of providing compensation reparation or restitution and the assuming of historical responsibility for past injustices (Barkan 2002, 2005). Other social and economic aspects are redistribution of resources and claims for equitable economic development (Mani 2008), distributive justice (Lambourne 2009, p. 41; Miller 2008), or “distributive reconciliation” (Aiken 2010, p.171).

An example of assuming historical responsibility and of providing compensation or restitution can be taken from the Guatemalan Agreement on the Identity and Rights of Indigenous Peoples:

Recognizing the particularly vulnerable situation of the indigenous communities, which have historically been the victims of land plundering, the Government undertakes to institute proceedings to settle the claims to communal lands formulated by the communities and to restore or pay compensation for those lands. (The Agreement on the Identity and Rights of Indigenous Peoples, 31/03/1995, article F7)

A reconciliation agreement may also include the issue of mutual learning within both conflicting societies. In the framework of formal peace agreements, reconciliation must ensure that members of both societies will undergo “peace education” aimed at the development of new skills such as sensitivity to the needs of the other, empathy, critical thinking, openness, and similarly, basic values and new societal beliefs which include the elimination or assuagement of fears, mistrust, hatred, and delegitimization of the other party (Cole 2007; Bar-Tal 2000; Bar-Tal and Bennink 2004).

In summary, a reconciliation agreement must include the consideration of all the components mentioned above, namely, justice, truth, historical responsibility, mutual recognition, social and economic aspects, and mutual learning of a peace education. The consideration of these components must be focused and unambiguous (i.e., rather than hazy allusions), specific statements should be included concerning the historical past and past wrongdoings, as well as regarding the future measures to be adopted. For instance, a reconciliation accord is not satisfied only by a call for mutual learning and peace education, but rather, it is necessary to include the detailed contents required in the framework of such a process.

THE PALESTINIAN REFUGEE ISSUE: THE CRUCIAL ELEMENT OF THE CONFLICT

The roots of the Israeli-Palestinian conflict can be found at the end of the nineteenth century, with long-lasting influences to this day. However, the central event in the conflict was the 1948 war and its consequences; a war in which hundreds of thousands of Palestinians were displaced or fled, and were not permitted to return after the war (Nasrallah 2002; Shafir 1996). The numbers of Palestinian refugees who were displaced or fled is subject to discussion: The United Nations Relief and Works Agency for Palestinian refugees estimates the number of refugees in the year 1950 to be circa 914,000 (United Nations Relief and Works Agency n.d.); the Resource Center for Palestinian Residency and Refugee Rights adds another 257,000 refu-

gees who were not included in the United Nations Relief and Works Agency lists for various reasons (Resource Center for Palestinian Residency and Refugee Rights 2002); others, such as Morris (1991, p. 399) and Tuvy (2008, p. 21) estimate the numbers to range between 600,000 to 760,000 refugees. However, leaving aside the number of refugees, the sides do not disagree on the point that Israel barred their return: Israel acted in accordance with a definite government resolution, Israel also destroyed the Palestinian villages abandoned, military rule was instated, and the refugees were prevented from crossing the borders (Morris 1994; Shenhav 2010).

This section focuses on the position of the parties regarding the Palestinian Refugee issue and the implications of the 1948 war, the most central being the right of return. Next, both parties' positions will be analyzed in a possible reconciliation agreement.

The Refugee Issue and the Palestinian Viewpoint

The consequences of the 1948 war have been disastrous—"Nakba" in Arabic—for the Palestinians: Nakba is the tragedy of the destruction of the Palestinian settlement, the loss of the Palestinian homeland, the effacement of Palestinian culture and society, and the displacement of hundreds of thousands of Palestinian residents (Khalidi 1992; Sa'di 2002; Zochrot 2008). Nakba turned as many as 78 percent of the Palestinians who lived within the borders of Mandatory Palestine into refugees, of whom only 160,000 remained within the borders of the State of Israel and became its citizens. The centrality of the refugee issue is expressed in the fact that the year of 1948 signifies the main date in Palestinian current history: "That year, a country and its people disappeared from both maps and dictionaries" (Sanbar 2001, p. 87). The loss of their homes, land, and the displacement from their place of residence are perceived by the Palestinians as a historical injustice (Khalidi 1992).

Therefore, in the opinion of many Palestinians, the Nakba—the process of turning them into refugees and the disintegration of their society—constitutes the formative event for the Palestinian people, whose identity revolves around exile and displacement: the Nakba is the dominant element in the Palestinians' identity, an element that symbolizes "the disintegration of society [and] the frustration of national aspirations" (Rubinstein 1995; Sa'di 2002, p. 175). According to the Palestinians, the historical responsibility for the Nakba and for the historical injustice they have suffered lies with the Zionist enterprise: "Acknowledgment of the right of return is seen as an acceptance in principle of the fact that the Palestinians are a people with national rights, among them the natural right to live in their ancestral homeland" (Khalidi 1992, p. 31).

However, the Palestinian position on the issue of the return must be analyzed under a complex lens: on one hand, even though over six decades have passed since the Nakba, the issue of the refugees constitutes the core of the Israeli-Palestinian conflict, and only the recognition by Israel of the refugees' right of return to their place of residence will bring an end to this conflict (Abu-Sitta 2008/2009; Hassassian 1995); on the other hand, the Palestinians realize full well the threat and anxiety raised by the very mention of such a solution.

Therefore, it is often claimed that Israel must recognize and accept, in principle, the requirement of the right of return of the Palestinians and their descendants to the sovereign territory of Israel; at the same time, it is also clear to the Palestinians that the manner in which this is to be accomplished is subject to negotiation (Khalidi 1998). These ideas were expressed by the leader who brought the Palestinian Cause to the world's attention, Yasser Arafat, who "understand[s] Israel's demographic concerns and understand[s] that the right of return of Palestinian refugees, a right guaranteed under international law and the United Nations Resolution 194, must be implemented in a way that takes into account such concerns" (Arafat 2002).

Still on the issue of the refugees, Nabil Sha'ath, the head of the negotiating team for the Palestinians in the 2001 Taba Summit, stated that Israel must take responsibility for the right of return, a right to be granted to each and every refugee and his or her descendants, although its implementation depends on negotiations with Israel: "you cannot deprive the Palestinians of the right to return. We have to center on the issue of the implementation of that right as an agreed solution to end the conflict between us. There has to be a win-win situation" (Eldar 2002, p. 18). Sha'ath suggests thinking about the right of return "in a much broader context because it is return within a peace process." According to Sha'ath, the Palestinian refugees are entitled to return to Haifa and Jaffa; however, when the issue is addressed in the framework of the negotiations, it is not sure that the Palestinian refugees will choose this option (Eldar 2002, p. 22).

The opinions voiced on the Palestinian side—that they are aware and ready to take into account the Israeli apprehensions regarding the return of hundreds of thousands of refugees—concur with research that analyzed refugee behavior in various conflicts throughout the world. In most cases, the number of refugees who return to their original homeland is significantly smaller than the number of those who choose to resettle in their host countries or elsewhere. The reasons for the low rate of return are varied: one pertains to the global work market and the lack of economic security in post-conflict areas; an additional reason originates in the social change the refugees underwent in exile: a long-term refugee status brings to the establishment of new links in the host countries. Villagers become urbanites; women

are empowered, compared to those in their original homelands (Hanafi 2008, pp. 26–27).

The Israeli Perspective on the Palestinian Refugee Issue

The demographic issue constitutes the basis for the Israeli position. According to this position, the return of Palestinian refugees to territories within the 1948 boundaries will threaten the Jewish character of the state and will lead to a significant change in society. The very possibility of return of refugees incites an existential fear in the majority of Jews living in Israel. The reason for this fear is that the addition of millions of civilian Palestinians to the country will transform Israel from a Jewish State into a state of all its citizens. Therefore, both the Jewish and the Palestinian sides see the issue of right of return as having utmost influence on their existence as a nation in the future (Ju'beh 2002; Peled & Rouhana 2004).

In the initial years of the existence of the State of Israel, its position on the issue of the refugees was more moderate, mainly due to international pressures. In June 1948, the government of Israel decided that the refugees would not be allowed to return to their homes. The government was, nevertheless, willing to compensate them for their abandoned properties. The proposal for compensation was presented at the 1949 Lausanne Convention (a convention summoned by the Committee for Reconciliation on the issue of Israel). Moreover, under United States pressure, Israel agreed to the return of about one hundred thousand refugees to its territory. This proposal did not satisfy the Arab delegations and the convention ended in failure, for, among other reasons, Israel's efforts to abort it (Fried 2002; Tuvy 2008).

In the following conventions, Israel rejected various proposals based on UN 194 Resolution, which determines that it is necessary to allow refugees who wish to return to their homes to do so. In these conventions, much like in previous years, Israel vetoed and refused to take part in any discussion on its responsibility for the problem of the refugees as well as to recognize the right of return to its territory (Marx 2001).

According to Yossi Beilin, who, among other functions, acted as the head of the Israeli team of negotiations on the issue of the right of return during the Taba Summit, "There will be no right of return to Israel. This is the most important thing for Israelis and they cannot accept any solution which does not include this" (Eldar 2002, p. 15). Beilin's declarations regarding the Israeli public's uncompromising position on the issue of the right of return are expressed in a survey conducted among Jewish Israeli citizens in the course of the year 2002. From an analysis of the answers, it was found that the very mention of the notion of "right of return" produces deep negative emotions in Jewish public opinion. As to the question on the implementation of this right, most responders replied that it would bring about various trage-

dies, such as “destruction of the state,” “national disaster,” “massacre of Jews,” and even “holocaust” (Zakay, Klar, & Sharvit 2002).

During the Oslo Process, Israel refused to deal with the 1948 war and its implications. This is expressed by Ehud Barak, who was Israel’s prime minister at the time of the Camp David Summit: “I approached Arafat and found out that he did not wish to solve the problem of 1967, but rather, the problem of 1947” (Shavit 2008).

Despite the centrality of the Nakba events in the lives of Israelis as well, “This is a hushed event which does not get much space in Israeli society: physical evidence continues to be erased, the names of the Palestinian villages are missing in the places and maps, and even the memory of Palestinian life that existed here, hardly gets any attention in the Israeli public discourse” (Zochrot 2008). In addition to the change in the names, Palestinian history was eclipsed and denied in other ways such as by planting pine forests “aimed at covering the remains of hundreds of Palestinian villages destroyed in 1948” (Gordon 2010).

In the next section, I will analyze the Geneva Initiative by applying the principles of a reconciliation agreement. The positions of both sides, presented above, concerning the refugee issue, may perhaps be resolved in the framework of a reconciliation accord, provided a distinction is made between the *recognition* by Israel of the right of return to its sovereign territory—akin to assuming historical responsibility for the Nakba—and the question of the *implementation* of this right, where the demographic fears of the Jewish-Israeli society will be taken into account (Dudai 2007; Peled & Rouhana 2004).

THE GENEVA ACCORDS: A RECONCILIATION AGREEMENT?

The Geneva Initiative is a model for a permanent accord to mark the end of the Israeli-Palestinian conflict. This initiative came into being in the early 2000s, subsequent to the failure of the Camp David Summit in July 2000. It is based on the understandings reached between the Israeli and Palestinian sides during the “Taba talks,” which took place in January 2001, in the wake of the Al-Aksa Intifadah, shortly before the end of Prime Minister Ehud Barak’s term of office. The basis for the Taba understandings—and hence for the Geneva Model as well—is the “Clinton Parameters,” presented to the Israeli and Palestinian negotiating teams at the White House in December 2000 and forwarded to the Israeli government by the then Ministry of Interior & Foreign Affairs Shlomo Ben-Ami (Beilin 2004, pp. 30–31; Shavit 2001).

The Geneva Initiative was signed about three years later, in October 2003, and counted with the participation of numerous key Israeli and Palestinian figures, with Yossi Beilin and Yasser Abed-Rabo on the Israeli and

Palestinian sides, respectively, conducting most of the negotiations between the parties from the 1990s up until the Taba Summit. These factors—this initiative, based on the Clinton Parameters and the Taba talks, as well as the figures that signed it and led the Oslo Process—position the Geneva Accord as a model for a permanent agreement in the Israeli-Palestinian conflict, sought by the Oslo Process initiators (Beilin 2001, 2004).

In a letter accompanying the signature of the initiative, the sides stated that a model had been reached for a permanent agreement between Israel and the Palestinians that would resolve in a definitive manner the Israeli-Palestinian conflict (Beilin 2004, pp. 169–71). The principles of the initiative are the establishment of a Palestinian State to be based on July 4, 1967, lines, with one-on-one reciprocal changes that would enable Israel to annex the settlement blocs and the Jewish neighborhoods built beyond the Green Line; Jerusalem would be the capital of both cities, with the Temple Mount under Palestinian sovereignty and the Western Wall under Israeli sovereignty; there would not be a recognition by Israel of the right of return or of the historical responsibility for the Nakba (Geneva Accord 2003).

This initiative, according to the signatories of the accompanying letter, constitutes “proof to the fact that in spite of all the pain involved in the concessions, it is possible to reach a historical compromise that would meet the essential national needs of each party” (Beilin 2004, pp. 169–71). Was this really a historical reconciliation agreement? Is the Geneva Initiative indeed a model for a permanent agreement of reconciliation between Israel and the Palestinians? In this section, I will answer these questions by focusing on one article in the Initiative concerning the issue of the Palestinian refugees: an issue that constitutes, as mentioned above, the main disagreement between the two sides. My conclusion will be that the Geneva Initiative, as a model for a permanent accord, does not fulfill the requirements for a reconciliation agreement. Yet, there are parts in this initiative that can constitute a preliminary basis for a reconciliation agreement, which I will recommend to expand.

The beginning of Article no. 7 in the Geneva Accords, which deals with the Palestinian refugees, is devoted to emphasizing “the importance of the problem of refugees.” Israel and the Palestinians recognize that “*an agreed resolution of the refugee problem is necessary for achieving a just, comprehensive and lasting peace*” (Geneva Accord 2003, Article 7.1i). The will to reach “comprehensive and lasting peace” demonstrates that the parties understand that it is important to reach an agreement on the controversial issues, so that peace is not temporary, but rather, “lasting.” The main topic of disagreement is, as said before, the issue of the refugees, and the sides seem to be aware that overlooking this issue is not possible. Likewise, the wish to reach “just” peace, regarding the issue of the refugees, is likely to suggest that the

Geneva Accords will bring to bear the principle of justice that is one of the central principles in a reconciliation agreement.

However, the mere writing of the words “just peace” is not sufficient to confront the issue of the refugees in a deep and just manner. In order to reach “just peace,” it is necessary to address the justice principle from a practical and significant stand in the agreement itself so that it is at the core of the understanding (Rouhana 2001, 2004). In this case, the grounding on justice should include the examination of the events that brought about the issue of the refugees, which will necessitate probing into the 1948 war, as well as mentioning it in the Accord itself. The signatories should bear the burden of proof and as we proceed in the analysis of the initiative, I will show that they do so only to a lesser extent.

The second part of Article 7.1 also acknowledges that the solution to be agreed upon by the parties when facing the refugee issue “*will also be pivotal in the stability and development in the region*” (Geneva Accord 2003, Article 7.1ii) (i.e., the parties recognize the importance of the solution to the refugee issue to the future of the relations and the stability in the region). It follows that the parties are aware that in case the refugee issue is not resolved in a just and comprehensive manner, there will not be a “lasting” peace that will hold for a long period of time and lead to the stability and development of the region. Both parts of Article 7.1 testify to the acknowledgment by both parties of the importance of an in-depth examination of the refugee issue in order to agree on a just, comprehensive, and lasting solution. However, an examination of the remaining items shows that these issues are not indeed dealt with in depth, as I will now demonstrate.

Cumbersome Formulation

Article 7.2 mentions the United Nations Resolutions 194, 242, and the Arab Peace Initiative regarding the refugee issue:

The Parties recognize that UNGAR 194, UNSC Resolution 242, and the Arab Peace Initiative (Article 2.ii) concerning the rights of the Palestinian refugees represent the basis for resolving the refugee issue, and agree that these rights are fulfilled according to Article 7 of this Agreement. (Geneva Accords 2003, Article 7.2)

On the one hand, the mention of the UN Resolutions, especially Resolution 194, which determines that the Palestinian refugees are entitled to return to their homes, is a significant development compared to the interim agreements signed during the Oslo Process, where this Resolution was not mentioned. On the other hand, the wording of the item is cumbersome, perhaps intentionally, due to Israel’s unwillingness to hold an in-depth discussion on the Palestinian refugee issue. There seems to be no other plausible explana-

tion for the absence of any reference to the contents of these Resolutions. Moreover, why isn't there any reference to the highly significant statement mentioned in Resolution 194, according to which "refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date" (General Assembly Resolution 194, December 11, 1948).

It seems that the reason for the cumbersome wording and for not detailing the contents of this specific UN Resolution is the signatories' will, especially on the Israeli side, to obliterate these resolutions by a mutual agreement that the rights of the refugees will be "fulfilled according to Article 7 of this Agreement." Had the parties omitted these resolutions, especially UN Resolution 194, it would be reasonable to claim that the Geneva Initiative ignores them. However, the very mention of these resolutions, albeit along with the agreement that the implementation should be "according to article 7" in the Geneva Accords—which appears in Article 7 proper—makes it difficult to criticize the Geneva Accords for overlooking past resolutions on the issue of the refugees.

The meaning of the choices made by the initiators of the Geneva Accords, namely, that the fulfillment of the rights of the Palestinian refugees would be "according to Article 7 of this agreement," is, in fact, a cancellation of the validity of all previous resolutions on the issue of the Palestinian refugees that were mentioned in Article 7; in other words, the mention of UN Resolutions 194 and 242, as well as Article 2.b in the Arab Peace Initiative, without any detailing of its contents—together with the determination that only Article 7 of the Geneva Accords would be relevant to the issue of the refugees—are actually the absolute annulment of these resolutions regarding the refugee issue in the Israeli-Palestinian conflict. Hence, the headings of these resolutions were mentioned in order to make it possible to eschew them in a sophisticated manner. Accordingly, the acceptance of this article by the Palestinians is synonymous to their renouncing the various resolutions agreed upon along the years regarding the refugee issue, more specifically, UN General Assembly Resolution 194.

Compensation

Article 7.3.i in the Geneva Accords, deals with compensation to refugees:

Refugees shall be entitled to compensation for their refugeehood and for loss of property. This shall not prejudice or be prejudiced by the refugee's permanent place of residence. (Geneva Accords 2003, Article 7.3i)

The problem with this article is that it does not specify who is to compensate the refugees. The reconciliation literature attaches great importance to the compensating party, since there is a direct connection between the pro-

cess of providing compensation and the assuming of historical responsibility for past injustices (Barkan 2002, 2005). However, throughout Article 7.3—and throughout the whole agreement—there is no mention of the reasons for the existence of the refugee issue; neither Israel’s responsibility for the problem nor the wavering of this responsibility are discussed. This avoidance of the issue means that the elucidation of justice is being set aside and entails a gross deviation from the principles of reconciliation. Such a deviation is also present in the articles where the compensating parties and the compensating measures are discussed—Articles 7.9 and 7.10. In these articles, Israel is not mentioned as responsible for the injustice for which the refugees are entitled to compensation.

The first item in Article 7.10 pertains to Israel’s marginal place in the mechanisms of compensation in the refugeehood situation:

A “Refugeehood Fund” shall be established in recognition of each individual’s refugeehood. The Fund, to which Israel shall be a contributing party, shall be overseen by the International Commission. (Geneva Accord 2003, Article 7.10i)

Aside from the importance of the compensation for the refugeehood situation, the essence of Article 7.10i lies in that Israel does not play a major role in the provision of this compensation; Israel was supposed to be part of a much larger mechanism—called “The Refugeehood Fund”—subject to inspection by the International Commission (a body including states and international organizations), to be established for the purpose of providing compensation. The fact that Israel is only a contributing party to the compensation mechanism, rather than its central one, testifies to its non-acknowledgment of the responsibility for the creation of the Palestinian refugee issue. Acknowledging and taking historical responsibility for past injustices, as said before, constitute important principles in a reconciliation agreement.

Article 7.9 deals with compensation for Palestinian property abandoned and confiscated in the 1948 war. According to Article 7.9, the issue of compensation for property is to be determined by the International Commission, responsible for effecting all the aspects of the agreement. The total sum to be agreed upon by the signatories as compensation “*shall constitute the Israeli ‘lump sum’ contribution to the International Fund*” (Geneva Accord 2003, Article 7.9iii).² Although additional participants in the compensation measures are not mentioned, Article 7.9 should have clarified unambiguously that Israel would be the exclusive party to bear the cost of compensation for Palestinian property. Israel must be the exclusive party responsible for financing this compensation, once it is reaping benefits from this property since it took over by means of war in 1948. In the initial years of its exis-

tence, as said before, Israel agreed to compensate the refugees for their abandoned property, but the Palestinians rejected it (Fried 2002).

The next statement in Article 7.9iii, according to which “*No other financial claims arising from the Palestinian refugee problem may be raised against Israel,*” arises from Israel’s desire that the agreement should bring about the removal of the burden it carries since the establishment of the state, the burden of responsibility for the refugee issue. This statement—and similarly Article 7.7, entitled *End of Claims* (to be dealt with later)—is one of the few statements throughout the agreement that suggests that Israel is responsible for past wrongdoings and injustice brought upon the Palestinians. In other words, Israel’s desire that the agreement should include a commitment that it will not be sued in the future for issues concerning the refugees may well testify to the state’s connection to this issue and in a more subtle way, to its responsibility.

The Right of Return: Recognition vis-à-vis Implementation

After dealing with the compensation for property and the refugeehood situation, I will proceed to discuss the main article regarding the refugees’ right of return (Article 7.4). Beforehand, I would like to point out that the positions of both sides concerning the refugee issue, presented in the previous section, may be resolved in the framework of a reconciliation agreement—by means of the principle of transitional justice—through the distinction of the right of return into two different planes: 1) the acknowledgment by Israel of the right of return to its sovereign land, or, assuming the historical responsibility for the Nakba; 2) the implementation of this right to an extent to be determined by negotiations between the parties, where demographic fears of the Jewish-Israeli society will be taken into account (Dudai 2007; Peled & Rouhana 2004).

As presented in the following, it seems that Article 7.4 took into account Israeli demographic fears concerning the question of the implementation of the right of return to its sovereign land. Therefore, if this article had also included Israel’s recognition of the right of return to its sovereign land, it would have met the principle requirements of reconciliation. However, this acknowledgment is not an integral part of Article 7.4, which determines that the Palestinian refugees will be entitled to choose their permanent place of residence according to the following possibilities:

1. The state of Palestine, in accordance with clause a below.
2. Areas in Israel being transferred to Palestine in the land swap, following assumption of Palestinian sovereignty, in accordance with clause a below.
3. Third Countries, in accordance with clause b below.
4. The state of Israel, in accordance with clause c below.
5. Present Host countries, in accordance with clause d below.

- a. PPR options i and ii shall be the right of all Palestinian refugees and shall be in accordance with the laws of the State of Palestine.
- b. Option iii shall be at the sovereign discretion of third countries and shall be in accordance with numbers that each third country will submit to the International Commission. These numbers shall represent the total number of Palestinian refugees that each third country shall accept.
- c. Option iv shall be at the sovereign discretion of Israel and will be in accordance with a number that Israel will submit to the International Commission. This number shall represent the total number of Palestinian refugees that Israel shall accept. As a basis, Israel will consider the average of the total numbers submitted by the different third countries to the International Commission.
- d. Option v shall be in accordance with the sovereign discretion of present host countries. Where exercised this shall be in the context of prompt and extensive development and rehabilitation programs for the refugee communities

Priority in all the above shall be accorded to the Palestinian refugee population in Lebanon. (Geneva Accords 2003, Article 7.4)

This article rejects the refugees' right of return to their places of residence until 1948 (unless they lived in territories that were transferred from Israel's sovereignty to that of the Palestinian State's in the framework of a Peace Agreement). In spite of the beginning of the article, which determines that the refugees will exercise "a conscious choice" of their permanent place of residence, only options i and ii regarding permanent residence (i.e. the refugee's choice to return to the area under the Palestinian State's sovereignty) can be realized in full according to the refugee's will and choice.

The other options—the resettlement of the refugees in third countries, in Israel, or in current host countries—will be at these countries' discretion. This condition enables Israel to absorb a small number of refugees, especially when it declares that "*Israel will consider the average of the total numbers submitted by the different third countries to the International Commission*" (Geneva Accord 2003, Article 7.4). The significance of this statement lies in that it removes all responsibility from Israel concerning the refugees in that the latter is granted a status equal to that of the other countries—the third countries, according to the agreement—that will agree to absorb a percentage of the refugees.³

Preliminary Step Toward Reconciliation

Although this analysis generally demonstrates that the Geneva Accord peace model does not fulfill the requisites for reconciliation agreement in the Israeli-Palestinian conflict, there are several items in this Accord which constitute a preliminary step toward reconciliation. These items are concentrated in

Article 7.14 under the title *reconciliation programs*. This article states the following:

1. The Parties will encourage and promote the development of cooperation between their relevant institutions and civil societies in creating forums for exchanging historical narratives and enhancing mutual understanding regarding the past.
2. The Parties shall encourage and facilitate exchanges in order to disseminate a richer appreciation of these respective narratives, in the fields of formal and informal education, by providing conditions for direct contacts between schools, educational institutions and civil society.
3. The Parties may consider cross-community cultural programs in order to promote the goals of conciliation in relation to their respective histories.
4. These programs may include developing appropriate ways of commemorating those villages and communities that existed prior to 1949. (Geneva Accord 2003, Articles 7.1).

Article 7.14 contains principles of reconciliation, as suggested in the title; however, it pertains to a future reconciliation, rather than tackling the issue directly in the agreement itself. The postponement of the discussion on the principles of reconciliation to the future stands in opposition to the Israeli requirement that the Palestinians declare an end to the conflict and to the claims, as determined in Article 7.7.

Furthermore, the first three items in Article 7.14 encompass words like “historical narratives” or “mutual understanding.” Indeed, these words reflect the reconciliation discourse, which should be included in a reconciliation agreement, and their meaning is vital for reconciliation, but they are almost empty if the agreement does not actually deal with the conflicting narratives or acknowledge them publicly.

However, there is only one item—the last one in Article 7.14—that really refers to the past and is fit to be included in the framework of a reconciliation accord: “*these [reconciliation] programs may include developing appropriate ways of commemorating those villages and communities that existed prior to 1949.*” Nevertheless, even this statement is a bit obscure, as it does not specify which communities have ceased to exist since 1949.

It seems that the words in the statement: “villages and communities that existed prior to 1949” were carefully selected so as to skirt the events of 1948 and their consequences: firstly, it is not by accident that it is not mentioned that the villages and communities in question are Palestinians. Secondly, the words “existed prior” do not carry the same negative connotation as the words “destruction,” “devastation,” or, in Arabic, “Nakba,” words that, if added to the agreement, would have pointed to Israel’s responsibility for the fact that “a country and its people disappeared from both maps and dictionaries” (Sanbar 2001, p. 87).

In conclusion, the analysis of the Geneva Accord demonstrates that the Geneva Accord peace model does not fulfill the requisites for reconciliation between Israelis and Palestinians. Notwithstanding, there are several items which constitute a preliminary step toward reconciliation. These items should be developed and cultivated in order to reach an agreement of reconciliation in the Israeli-Palestinian conflict. In the concluding section, I will discuss the importance of this analysis for today's situation in Israel/Palestine. I will focus on its significance in prompting various factors toward reconciliation in the Israeli-Palestinian conflict.

CONCLUSION

This chapter analyzed the Geneva Accord, signed by Israelis and Palestinians in 2003, in the light of reconciliation theories taken from the conflict resolution literature. The analysis focused on the central point of dispute, namely, the question of the right of return of Palestinian refugees from the 1948 war. I contend that the Geneva Accord does not constitute a model for a permanent reconciliation agreement; nonetheless, it contains parts that could constitute a preliminary basis for a reconciliation agreement that are worth developing. This part will discuss the importance of this study to the current reality of the second decade of the twenty-first century; finally, I will make recommendations for future research.

The importance of the analysis of reconciliation components in past agreements and of the discussion on reconciliation agreements—between Israelis and Palestinians (as done in this chapter), as well as in similar conflicts—may present challenges to civil society as well as the leadership. Placing the reconciliation agreement as a goal or as “light at the end of the tunnel,” may, in turn, prompt and encourage elements in the civil society to set the process of reconciliation in motion, leading eventually to the signing of an agreement. Likewise, the notion of reconciliation as an agreement may be a move that points out the importance of a courageous leadership that acts in the objective interests of society, even if unpopular. The notion of reconciliation as an agreement is suitable to the times and the region, where long-term actions (as a reconciliation process) are not suited to the behavior patterns of the present leadership (as a result of public demands for short-term solutions). The signing of a formal reconciliation agreement by both sides' leaderships (as opposed to signing interim agreements such as Oslo A and B), even without wide public support, may motivate the civil society from both sides to initiate a reconciliation process.

Setting the reconciliation agreement as an objective—both for civil society and the leadership—seems like an insurmountable hurdle at 2016, when no significant negotiations were held between Israel and the Palestinians;

when the Palestinians are still divided between Hamas-controlled Gaza Strip and Palestine Liberation Organization–controlled West Bank; when the Jewish-Israeli public becomes more and more right-wing. However, as I will detail below, there are several arguments that demonstrate that the discussion of reconciliation through an analysis of the Geneva Accords may be important and relevant in our times:

1. Although the peace supporters (“the peace camp”) are very few, the principles for a permanent agreement that they believe in and are found in models like Geneva, are accepted by a significant portion of the Israeli public, as well as by the moderate right, the center and left wing parties (Olmert’s “Package” 2008; Palestinian Center for Policy and Survey Research 2011; Telhami & Kull, 2012). Hence, it would be desirable that these sectors, who perceive models such as Geneva as a basis for the end of the conflict, become acquainted with the main argument in this chapter, which contradicts their perceptions.
2. The argument in this chapter may be important to the international community as well, with the United States at the head. They perceive models such as Geneva as a basis for reconciliation. It is possible that in a near or distant future, the Israeli-Palestinian conflicting parties will be compelled to act in accordance to unambiguous dictates of the international community. If and when this happens, it would be wise to adopt the criticism of the Geneva Accords presented in this chapter so that a permanent agreement reached in the future by international pressure includes at least components of reconciliation.
3. The criticism presented in this chapter is likely to prompt civil parties in Israeli and Palestinian societies to initiate a reconciliation process so that the permanent agreement includes the reconciliation components and/or leads civil society to lay revised models for the permanent agreement on their leaders’ desk, thereby influencing public opinion.
4. In recent years, more and more public figures and researchers claim that the option of two states is no longer feasible and that the solution to the Israeli-Palestinian conflict may reside in some form or other of one state encompassing the area of Mandatory Palestine: from the Mediterranean to the Jordan River (e.g., Arens, 2010; Benvenisti, 2007; Herman-Peled and Peled, 2011; Sheizaf, 2010). In case reality leads the parties down this path, every form of a single state (federation, confederation, liberal democratic secular state, etc.) will need to take into account the pertinent components of reconciliation that should be included in a permanent agreement to end the conflict (for articles where various patterns of “one state” are proposed for the

resolution of the Israeli-Palestinian conflict, see Faris 2013 and Kapshuk 2012).

An important question worthy of future research subsequent to this study—regarding the various forms of one-state solution between the sea and the river—is how the reconciliation principles discussed in this chapter may be expressed in each of the frameworks of the proposed one state. In other words, how a reconciliation agreement may be integrated in the notion of a binational state or the notion of a federation, a confederation, or a liberal democratic secular single-state. Another recommendation for a future study is the comparison between the elements of reconciliation in the Geneva Accord and those in similar models of permanent agreements between Israel and the Palestinians. For instance, it would be possible to compare between official and voluntary models, or between the various models, relative to the time of their signature. Such a comparison is likely to enrich the research on the possibilities of a resolution of the Israeli-Palestinian conflict by means of reconciliation.

NOTES

1. For an unpublished academic article analyzing the Geneva Accords, see Brynen 2004. For a consultation of both articles that address the Geneva Accords as part of a broader approach to the attempts to solve the conflict, see Golan 2004; Nabulsi 2004.

2. For an analysis and critique of the mechanism responsible for implementing the provision of compensation in the Geneva Accords, as well as other mechanisms mentioned in the agreement regarding the refugee issue, see Brynen 2004.

3. In order to evaluate, from an informal standpoint, the lack of recognition by Israel of its responsibility on the issue of the refugees, it is possible to examine the Hebrew Internet site of the Geneva Initiative, where Israel is mentioned as “one of the third countries that will participate in the efforts to rehabilitate the refugees” (Geneva Accords n.d.). This statement does not concur with the written agreement. Whether it is an intentional misstatement or inattention, the wording aimed at the Israeli public on the site of the Initiative is more similar to an attempt to market a product than to a genuine attempt to cope with past injustices. Moreover, the definition of Israel as “one of the third countries” is problematic because it contradicts the definition of Israel as one of the two parties to the agreement.

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Chapter Nine

One Country Two States

*Planning the Alternative Spatial Relations between
Palestine and Israel From Back to Back to Face to Face*

Rassem Khamaisi

INTRODUCTION

When a dispute emerges between two sides over land issues, or over any other object, where each side claims to have evidence and sound arguments, and the judge has difficulty in reaching a judgment, the best decision is to divide the disputed object equally between the two sides in what is commonly known as a “Suleiman Court-Judgment.” Such judgment can be applied to many of the territorial conflicts found in the world, today in south Sudan and, earlier, in Cyprus, Ireland, Czechoslovakia, and Pakistan (Jassal & Ben-Ari 2007). As a result of these divisions, new nation-states were established and stability was attained. Yet in cases where one side feels injustice in the division, this division creates an ethno-national and/or geopolitical conflict, such as what happened in Historic Palestine (Lustick 1993). The conflict over Palestine between the Arab Palestinians and Jewish Zionists over one country, where every side claims it is its homeland, led to the United Nation’s decision in 1947, attempting to implement the traditional Suleiman court. As a result of this division, Israel as nation-state of the Jewish people was established in 1948, yet Arab Palestinians did not accept the terms on which their nation state is to be established upon, thus leading to a sixty-seven-year long geopolitical and national conflict that still awaits a resolution.

Despite the numerous plans and suggestions that have emerged for the division of the country since the mid-1930s, the Israeli-Palestinian conflict has not produced an acceptable geopolitical solution or ethno-national con-

ciliation. Today several proposals circulate to create a compromise between the Palestinians and Israelis, such as the two-state solution, one democratic state, a binational state, or even a tri-national state that includes Jordanian land (Hilal 2007). The need to accommodate such variables as the size of the population and localities, the distribution of the people according to the ethno-national affiliation, power relations between groups, and control of resources (territory, water, cultural landscape), all create dilemmas which complicate the division of the country in a way that will create two stable and sustainable citizenship nation-states. The core question is how to do the division of the country in a way that will satisfy the national aspiration for equal human and citizenship rights in the two states. The national identity of Palestinians and Israelis, respectively, embraces religious, cultural and emotional historic narratives, and ancient or modern justifications of their relationship to the country and to the idea of establishing their own nation state (Gerner 1994). Most of the stakeholders involved in the conflict seek territorial compromises and recognize the need to establish two states, Palestine and Israel, living side by side in peace in Mandate Palestine, as an available and realistic solution. For instance, according to the Palestinian Center for Policy and Survey Research held March 30, 2010, 71 percent of Israelis and 57 percent of Palestinians support the “two-state solution,” namely the establishment of an independent Palestinian state alongside Israel. While the third outline for a political settlement is a two states for two peoples solution, with joint political institutions which will lead eventually to a confederation of the two states. Only 30 percent of Israelis and 26 percent Palestinians supported this solution (Palestinian Center for Policy and Survey Research 2010). Nevertheless, there remains a large dispute over the nature and the character of the two states, the demarcation of separation borders, and such other fundamental issues as majority and minority relations, mutual recognition and cooperation, territorial exchanges, and resources allocation and control.

The main aim of this paper is to present a critical discussion of the issue of Mandate Palestine becoming a single country divided into two nation-states as a step toward citizenship states, and how to create a geopolitical division of the country, one which does not abolish the cultural, emotional, and physical attachment to place and enables accessibility to all parts of the country after the division. We will explore also the potential for spatial planning in Israel and Palestine and the change from a process characterized by denials and disregard to one that facilitates recognition and continuity by securing the right of citizenship equality in each state. Alternative spatial planning considering functional borders beside geopolitical borders can change the relationship between the two states from “back to back” to a “face to face” orientation, supportive of a permeable geopolitical border region with a functional cross-border between the two states. The argument of this chapter is that a country’s geopolitical division and separation for establish-

ing two nation-states is a step toward citizenship states and functional cooperation. Thus, securing the socio-cultural and functional attachment to place can be reached in parallel to a geopolitical division and could contribute to more acceptance between the two parties. Moreover, it would save resources, secure coordination, sustain the environmental issues in the Tran- and cross-border area (Ali 2003), reduce tensions, change the existing colonial occupation, and alter the potential asymmetrical development of the two states in the one county. Some questions could be discussed: how can (former) rival national movements and two neighboring states reach a consensus over spatial planning? What kind of institutional mechanisms may advance such a consensus? How could two rival narratives and socio-cultural attachments to places be maintained side by side? What are the main fields and issues that demand such planning, and what are the crucial sites in Israel/Palestine which are most needed? This chapter will try to discuss these questions.

THEORETICAL FRAME

Country is not a synonym for *state*. Establishing a state requires a country, but a country could include an area, space, or places which are still not managed by a state (Yiftachel 2002). The *nation-state* concept emerged in the seventeenth century and is connected to establishing geopolitical entities that are ruled by governors and institutions that manage or serve people living in a territory-homeland operating as interest groups (Latham 2000; Malesevic 2006). Country includes the space, the ethno-national people, and the place that can be managed by the state. Thus, the state is created after the country and the state is determined in the country after an agreement on borders. This notion was part of the emergence of modernism notions and theories. Traditionally, states are defined by five main components: a *land territory* with borders; *resident people/permanent population*, with internal ethno-national belonging and loyalty; a *government or institutions* to rule and manage the people; an *organized economy* in the territory; and a *circulation system* (Glassner 1993; Short 1993). State borders are determined and demarcated as part of the acceptance or recognition by different stakeholders and interest group and as a result of power relationships. In the Arabic language *state* is translated as *Daulaa*, *Mdena* in Hebrew, which can be understood as spatially non-fixed and alterable, whereas in English, *state* is a relatively permanent institution, which denotes a place where a ruling authority and justice/sovereign governor system exists. Most importantly, the Arabic notion of *Daulau* is distinct from *Belad*, or country, and the Hebraic concept of *Mdena* is not synonymous with *Eretz*, a country. The country institution includes narratives, emotional and religion relations, a deep historical sense of belonging, territorial continuity, and cultural and environmental character-

istics, as opposed to the “State” with its dimensions of ruling, management, institutions, and socio-economic structure which function in determining territorial borders and serve ethno-national affiliated groups who share aspirations (Kimmerling 1985).

Traditionally, states are established as a result of gaining sovereignty and recognition of nationhood and by identity-building and/or self-determination within a territory with demarcated borders. Some states have a homorganic people who belong to the state; others have a heterogenic population that belongs and is affiliated with different ethno-national groups, which creates within the state majority/minority relations. The creation of homorganic or heterogenic structures within the state’s inhabitants or citizens is a result of boundary demarcations, colonial processes, or demographic changes including immigration. Historically, the dividing countries and determining the borders of the new states, in many cases, has not considered ethno-national distributions and socio-ecological environments, and this led to a fragmentation of these systems between neighboring states. In other cases, individuals and groups of immigrants enter the state and begin to form a new ethnic group as a minority within the state.

Today, most of the states that are established as nation-states have a majority/minority situation, and the diversity between the states depends on the size of the minority/ies, their origin, and their aspirations. Majority/minority aspirations and relations in the modern nation state have various dimensions, which have been summarized by Mikesell and Murphy (1991): one is the movement toward either more recognition, access, and participation, or toward separation, autonomy, and independence. A separation of an ethno/cultural-national group which shapes a new identity may lead to a demand for self-determination, independence in a new state by dividing the country, and the creation of a new state and borders. This happened in Europe and the Middle East after the First World War. Many factors affected the decisions of the majority and the minority to select aspirations that were most appropriate to their situation and status—such as the nature of the relationship, the size and the growth rate between them, the location and distribution of the effected populations, the nature of the surrounding powers, future expectations, and narratives.

After establishing a new nation-state as a result of separation and the self-determination of an ethno-national group, what are the relations between neighbor states? Is it to be based on continued confrontation or on a change to mutual recognition and cooperation, and whether they planned the process of separation to include future cooperation! In the past, the pattern has been to first establish the state and gain sovereignty and recognition, and only later consider and plan possible cooperation (Axelrod 1997). Today, lessons from the past regarding the creation of states by dividing countries and planning the separation by mutual recognition are available. In this context, the tradi-

tional notion of vesting full sovereignty in the nation-state needs to be reframed to fit the new era of globalization and post-modernism (White 2006) and to include recognition of the fact that most of the traditional borders are permeable. Also we have to acknowledge that many states have borders that are demarcated without consideration to the ethno-national and socio-cultural communities. In many cases, we discover communities that belong to the same people who live on both sides of the border. In other cases, neighboring states begin to develop cooperation alongside the borders as a result of a change in socio-economic relations. In these latter cases, the communities begin to establish cross-border planning and development (Blatter & Norris 2000; Brunet-Jailly 2004). These various cases give us an insight into how the Historic Palestine country could be divided and a new state established after separation from Israel or the ending of the occupation and decolonization of the existing Israeli regime and gaining sovereignty, with mutual recognition, and a cooperation that respects dual but differing narratives between two states in one country (Kelman 2011).

The main theoretical and practical challenge in producing a spatial alternative is how to deal conceptually with changing the traditional relation between nation and state. Creating spatial alternatives requires surpassing traditional paradigms, which corrects consumption, explanation/understanding, and production of the space related to citizens. Therefore, there is a need to reframe our discourse and produce alternative processes and institutions which lead to spatial alternatives. Our assumption of following the tradition modern notion of nation-state, including its tools of sovereignty and discourse, can't lead us to spatial alternatives in settlements such as the Palestinian-Israeli conflict. The reframing includes passing from modernism to post-modernism in dealing with space-nation relations. In this sense, there is a need to change the discourse from just territorial and sovereignty to functional and interests; permeable and open boundaries replacing closed boundaries; cooperation, coordination, and complementarities with the neighbor states, including tradeoffs based on the advantages; and from situations of back-to-back neighbor states to face-to-face behaviors of institutions and individuals. This reframing constitutes a base for a spatial alternative, which this chapter tries to discuss.

A COUNTRY WITH EXCEPTIONALITY IN AFFILIATION— HISTORIC OVERVIEW

It is right to say that every county has unique characters from the point of view of its affiliated people, but Palestine has exceptionality due to four main factors. First, location: Palestine is located in the middle of the old world and connects the three old continents as it is a gate to the Middle East. Second,

history and continued human inhabitation of the county: During its long history, many empires and governors have passed through and ruled the country, each leaving a part of its civilization and acquiring a sense of belonging to the country. Third, it is home to the three monotheistic religions (Judaism, Christianity, and Islam), which define and recognize it as “Holy Country.” Fourth, the country consists of one environmental unit, densely populated with two distinct urban systems of ethno-nation groups living in asymmetric duality. These four factors led to a mutable situation in the country, one which remains until today. The country has had a number of names, reflecting different narratives and historical eras, such as Canaan, Philistine, Palestine, Jund Palestine, Eretz Israel, Zion, Terra Santa, and The Holy Land. Within the country exists a tier of tangible and intangible heritage of diversity and archeology, which impact the geopolitical realities and the sense of belonging in the country.

The dispute over the country includes the historic narrative of the homeland belonging. Both the Palestinians and Israelis based their claim of establishing a nation-state on historic affiliation to the country (Gerner 1994). A brief review of the long history of the country shows that the origin of the Palestinian people has been traced by some Arab historians to one or two indigenous tribes first conquered and then displaced by the Israelites during Biblical times (al-Dbag 1988). More reliable, however, and based on solid archaeological evidence, is the peoples’ link to the Islamic religion as a foundation of national identity, dating back to the Arab Islamic conquest of the land around 638 AD (Farsoun & Zacharia 1997; Gerner 1994; Khalidi, et al. 1991; Kimmerling & Migdal 1993; Quandt, Jabber, & Lesch 1973; Said 1981). Islam calls Palestine sacred, referring to it in the Koran as “al-Ard al-Muquaddasah/al-Mobaraka” (the Holy Land). Except for a period under the rule of the Crusaders (1099–1291), the indigenous people of Palestine were exposed to Arab Islam under Moslem rule for a period of over 1,300 years (638 AD to 1918), until the beginning of the British Mandate that followed the end of World War I (e.g., see Kamrava 2005; Khamaisi 2010).

Before the establishment of the Israeli state, the Palestinians had developed cosmopolitan cities from whence the modern Palestinian national identity emerged and developed along the coast (Jaffa, Haifa, Acre, and Ramlah) as well as among the cities in the mountainous areas (al Quds-Jerusalem, Nablus-Shcham, al-Khalel- Heboran [the Arabic and Hebrew name for Hebron]), and in many rural localities. In the past, according to the Jewish history and narrative, the Israeli Kingdom was concentrated in the mountainous area of Palestine. This is ironic since most of that territory is located in West Bank and not in Israel, and a large number of the localities where the Palestinians assert a strong attachment are located in the coastal area where the Israeli state is located today.

The Zionists movement began to colonize the country with the help of colonial nations such as Britain which held the Mandate over Palestine from 1920 to 1948. During this period, the ground was paved to fulfill the Balfour Declaration, which was given to the Zionist leaders in 1917 for “the establishment in Palestine of a national home for the Jewish people .” Based on the narrative of emotional connection, the Zionist movement sought to establish a new nation-state. The Arab Muslims argued that this land is a *Wakf* (an Islamic religious endowment). This is the turf that the Christians called the Holy Land and over which they waged the Crusade to capture Palestine. In this country, the three monotheistic religions each believe that they have a religious, ideological, and emotional relation. This phenomenon adds a unique dimension to the geopolitical conflict. In addition to geography, demography, and ideological claims and calculations, the religious and symbolic belongingness intensifies the dilemmas and complexity of the geoconflict between the Israelis and the Palestinians and imposes some external involvement in determining the past, present, and future of the country (Hasson 2010).

IMPOSED COUNTRY DIVISION

Ethno-national demographic changes and conflict since the beginning of the twentieth century led to the development of several plans and suggestions to divide historic Palestine, where there were a number of plans on the agenda of different Palestinians and Israelis political groups (Hilal 2007). In 1948, as a result of war, Palestine was divided into three territories: one is where the new state of Israeli was established (about twenty-one thousand square km, which comprises 78 percent of the country); the second is what is known today as Gaza Strip (GS; about 365 square kilometers) and was under Egyptian rule; and the third is what is known today as the West Bank (WB; about 5,655 square kilometers) and was under Jordanian rule. According to these three territorial entities, the border line known today the Green Line was determined. It was demarked as the Armistice lines between Israel and the Arabs as accepted in Rodeus in 1949 (Khamaisi 2008) (see Figure 9.1). There is no territorial continuity or connection between GS and the WB. Every area abides to a different regime to be managed under until solving what became to be known as the “Palestinian Question” (Khalidi 1997, 2006).

In 1967, and as a result of war, the rest of the Palestinian territory (hereafter PT) (WB including East Jerusalem, and GS) was occupied by Israel (Efrat 2010). Israel decided to annex East Jerusalem (about seventy-one square kilometers) and instated it under its sovereignty, giving the Palestinian residents in East Jerusalem special status of “permanent residents,” but



Figure 9.1. Palestine/ Earet Israel One country (see aerial photo), to imposed division by outside power. UN resolution no. 181, 1947.

not citizenships. This action is part of the Israeli strategy and policy to gain more land with limited Palestinians to secure Jewish majority (Masalha 1997). Within PT 1967, Israel initiated and implemented colonial policies, which included land confiscations, building Jewish Israeli colonies/settlements, and controlling the movement of Palestinians by military and civic components via an implementing a soft and hard sophisticated Matrix of Control which reigned over the population, the territory, and the institutions.

As a result of the 1948 and 1967 wars, the imposed territorial divisions of Palestine created three main categories among Palestinians: 1) Arab Palestinians residing in Israel (so-called Arab Palestinians in Israel), comprising about 1.4 million, and continuing to live in their former villages and towns (e.g., Nazareth) as indigenous communities and are today citizens of Israel (Central Bureau of Statistics [CBS] 2015); 2) Palestinian residents of the PT, about 4.55 million inhabitants by the end of 2014 (about 2.79 million in the WB and about 1.76 million in GS) (Palestinian Central Bureau of Statistics [PCBS] 2014); and 3) the Palestinian Diaspora (El-Shatate) residing in other countries of the Middle East and elsewhere, numbering about 5.43 million (PCBS 2014, p. 253). Most if not all are united by a tenacious, albeit thus far not successful, demand to return to a sovereign country ruled by Palestinians. Although these three Palestinian sub-groups all consider themselves part of a common Palestinian people, they tend to evince differing attitudes about the region's geopolitical issues and rights to a homeland and self-determination.

Today the division is limited to the PT occupied in 1967. This division was a result of the peace talks and interim agreements between the Palestinians and Israeli leaders, which began officially after signing the Oslo agreement in 1993. The WB and GS were divided into three areas: A, B, and C. This jurisdictional division was created in 1995 under the Oslo II agreement. Area A is comprised of the urban centers only. These areas are under the Palestinian National Authority's (PNA) administrative and internal security responsibility, and formulate about 18 percent of WB. Area B includes the built-up areas of large Palestinian villages and formulates 22 percent of WB; it has remained under Israeli military occupation, but the PNA owns responsibility for administration of services and civilians. Area C, which comprises about 60 percent of WB, remains under full Israeli civil and military administration (see Figure 9.2) (Mosalam 2011). Through these actions, Israel managed to dodge its responsibilities according to international laws and conventions, which created a situation of a "luxury occupation" serving Israeli interests, meanwhile Palestinians continue to suffer from the occupation. On the other hand, Israel continued building and expanding Israel colonies and settlements (Hareuveni 2010), and enjoying free movement and accessibility, whereas Palestinians' movement is constricted unless Israeli permits are granted. The existing division of the three sub-areas today in the WB created another level of fragmentation in the PT. Adding the apartheid system to the

equation, two separate road systems have been created, where one is used solely by Israelis and the other by Palestinians (Barsala 2007).

The process of determining the borders of the county was either imposed by external power, came as a result of war or violence, or through unilateral actions carried out by Israel such as the disengagement/withdrawal from GS in 2005. Still both sides claim that all the country belongs to one side and deny the right and permanent existence of the other side based on historical,

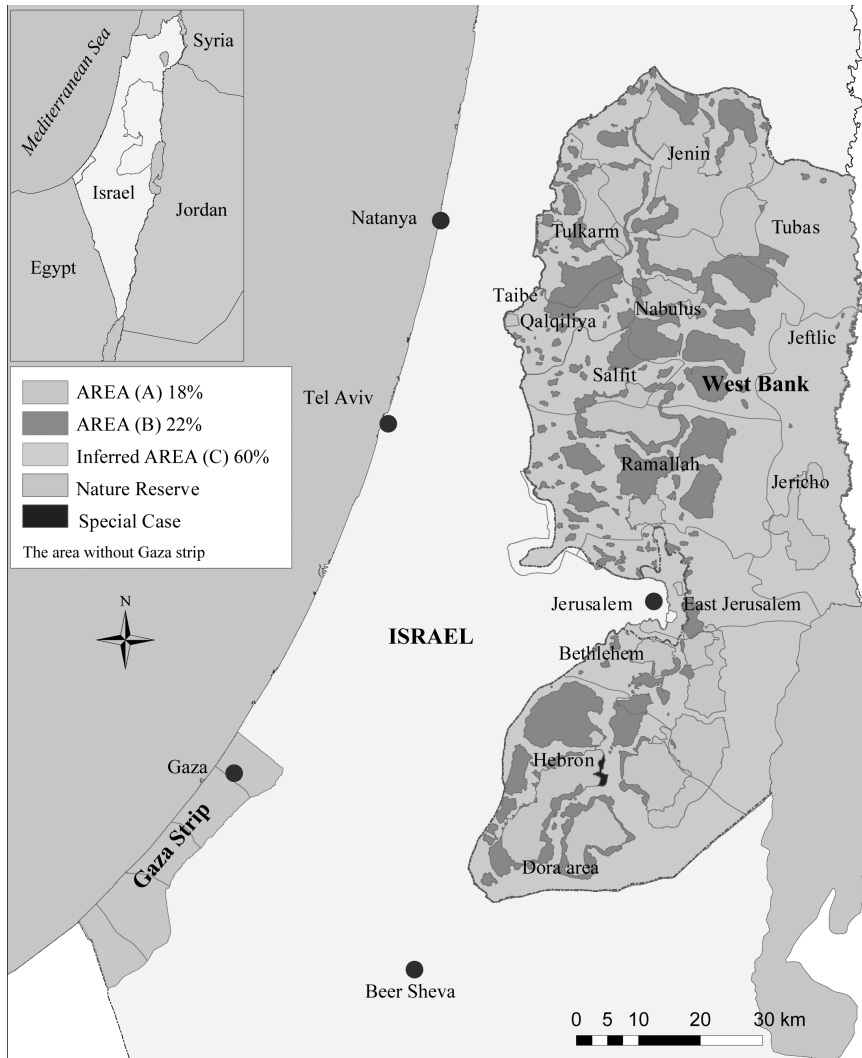


Figure 9.2. Fragmented and Division of West Bank and Gaza

religion, and ethno-national justifications. The two sides, despite the asymmetry justification between them, continue to survive and feel threatened.

CURRENT SITUATION CHALLENGES IN BUILDING THE STATE

Whereas several factors are affecting the ability of the state to achieve its objectives, such as size and location, where size is measured in physical size, population size, and economic size compared to the location, there are absolute or relative locations (land-locked or open) or locations in the middle of different countries (Short 1993, pp. 118–21). Moreover, the form of the state and the degree of its boundary stability have an effect on the formation and shape of the borders and the nation's formal structure of the state and on crystallizing its own planning zoning and strategy (Khamaisi 1999; Suisman, et al. 2005). The claimed PT, and the way of establishing new nation state on it, is a small and fragmented area. Despite the differences, Israel State and PT sizes are both categorized as very small states (Glassner 1993, pp. 61–71).

By the end of 2014, about 12.9 million were living in Mandate Palestine (including Israel and PT), where 50 percent are Israeli Jewish and the rest are Palestinians (CBS 2014, p. 86). The country witnessed a rapid population growth and urbanization process. The Palestinians have a large and rapidly growing population. In 2014, the average annual population growth was 2.9 percent compared to 1.9 percent in Israel. The PT has a high population density, placing it near the top of the world's highest density nations (Suisman, et al. 2005, p. 10). In 2014, the general density was about 765 persons per square kilometer. When the density in WB was about 493 persons per square kilometer, compared to about 4,822 persons per square kilometer in GS (PCBS 2014, p. 26), compared to 366.2 persons per square kilometer in Israel (CBS 2015).

The urban and rural system of Palestine is characterized with a large number of localities. Today in PT there are about 537 localities (121 urban and the rest rural) and about 1,186 localities (233 urban and the rest rural) (CBS 2010, p. 86). In both areas, Israel and PT, a rank-size of localities exists showing a semi-normal hierarchy, with two concentrations in PT, in Gaza, and in East Jerusalem urbanized regions (Khamaisi 2007). The area along the suggested future border between Israel and PT, and where Israel built the separation wall, functions as periphery and in some cases a fringe of Israel and PT.

The difference between the PT and Israel exceeds to other realms like landscape and topography, housing conditions, open lands, relative advantages, potential capacities, and economic activities (Khamaisi 2010). Since the beginning of Israeli closures over the PT, after the first intifada in 1987, and particularly after the second intifada in 2000 and building of the separa-

tion wall in 2003, surrounding most of WB territory and completely annexing the GS, Israel was no longer able to function as a working field for the Palestinians. Despite the material, economic, structural, and functional differences in the country and imposed territorial division and demarcation boundaries, there are some similarities such as diversity within every region and attachment to places in all of the country. However, both sides planned were without consideration to the geopolitical separation and following back-to-back notion.

SPATIAL PLANNING FROM BACK TO BACK TO FACE TO FACE

The Israelis and Palestinians planned their geopolitical territory, which includes part of the country, and ignored the closed neighboring area which comprised the nature continuity, excluding planning parts of the bypass road system which served Israeli settlements in WB. Despite the Israeli occupation of the PT 1967, the planning system in Israel was separate from the planning system which was established by the Israeli occupation to control Palestinians' development and facilitated Israeli settlements in PT (Coon 1992). Since establishing the PNA in 1994, a new Palestinian planning system was founded to manage the spatial planning in the Palestinian towns and villages. Therefore, today there are four official planning systems and institutions (Israel, Israeli civil administration/military governor in Area C in WB, PNA in Area A and B in WB, and PNA in GS) working in the country without coordination, and mostly in contradiction. Additionally, unofficial planning institutions function alongside the official ones, planning and building settlements by the Jewish Agency and Israeli Land Foundation. Multiplicity in planning creates barriers for planning the cross-border infrastructure, environment, and landscape in the area divided by the borders and separation wall including Jerusalem area. Israel initiated planning a cross-border project on the Jordanian and Egypt border (Kliot 1997), and little attention was given (such as joint industrial zones) for planning the future borders between the two states, Palestine and Israel.

The planning systems prepared a plan to manage the development. Since the middle of the 1990s, Israel prepared and authorized a general national outline plan, known as NOP 35, authorized by the Israeli government in 2005, and it is now under law. The plan was placed to guide the Israeli spatial development in year 2020, when the Israeli population will be nine million. In addition to this official plan, the Israeli government prepared and authorized a number of district outline plans and a regional master plan. Mostly, these plans gave little attention to what is to happen on the other side of the future border in the Palestinian statehood.

Until the founding of the PNA in 1994, the PT had suffered from full Israeli planning domination. Since the establishing of the PNA, security, public, and finance institutions were established with the development of local government and planning system. Today the governmental ruling functions and symbols exist such as the constitution, flag, national anthem, president, elected legislation council, ministries, judgment system, and security system. Some of these state components were shaped before PNA was established in PT, others began after 1994. Besides building institutions, the main role of PNA is to rebuild the society, reorganize the urban system, and develop the economy. The role of the Palestinian thirteen governments, which began to function since the establishing of PNA, was to work parallel to one another. First, they had to function to manage peace talks, end Israeli occupation, and create international relations and eco-political recognition and support. Second, provide community services, manage the citizens' life, and plan the space and place. The process of planning and development of the PT put the PNA under several challenges, which can be summarized as follows:

- How to reorganize the urban system including creating an urban core to enable sustainable development and facilitate viable state conceding its shape and physical structure?
- Which economic development sectors contribute to achieve the relative and competitive advantages considering the demographic structure, the available resources, and the country heritage?
- Where and how to create a territorial contiguity and linkages between the two parts of PT and GS, which is the coastal part, and WB, which is the internal and mountains part (CEP 1992)?

The limitation of Palestinian sovereignty on the ground of all of the PT, and continuity of Israeli control of Area C, which comprises about 60 percent of WB, which includes Israeli settlements expansions alongside territorial fragmentation of the PT by Israeli existence and spatial control, are all fundamental limitations and barriers that did not allow and give the opportunity to the PNA to deal with the reorganization of spatial alternative planning challenges on national and regional levels.

The peace building according to the interim agreements erected barriers before the acceleration of the urban system reorganization and establishment of national facilities such as airports, ports, industrial estates, new towns, governmental zones, etc. (Khamaisi 1998, 1999). Despite the number of barriers, functional, spatial, economic, and institution plans were prepared to respond to the above questions. The proposed plans, "Suggested Guidelines for Comprehensive Development" (CEP 1992), "The Regional Plan for the WB Governorates 1998," "Regional Plan for Gaza Governorate 1998" (Min-

istry of Planning and International Cooperation 1998), “The Arc: A Formal Structure for a Palestinian State” (Suisman, et al. 2005), and “Ramallah, Al-Bireh and Beitunya Metropolitan Area, 2009” (PNA 2009) assumed the border of the Palestinian State as the Green Line of 1967. These plans are not statutory plans, but constitute a national and regional spatial policy that guide local statutory plans for towns and villages. These plans did not take into consideration the planning in Israel and related it as back to back, including the two important sites where at least the statehood of Palestine and the State of Israel should coordinate the planning and development (i.e., in Jerusalem area and in the corridor or safe passage, which needed to create a territorial contiguity between two parts of PT, WB, and GS).

These plans form a base to guide the development and population growth of about 6.6 million inhabitants in PT in 2020. This population growth is based on natural increase and assuming an influx of perhaps of six hundred thousand returnees (Suisman, et al. 2005, p. 2). The plans suggests development of urbanized axis connecting the urban centers (Khamaisi 1999) and development of a core and urbanized region in Jerusalem area including Ramallah metropolitan (Khamaisi 2006, 2007; PNA 2009a). The urban and rural localities and communities and governmental agencies consider these plans informal. These plans are consisted of a frame of local plans, reorganizing the sub-regional plans and governmental plans.

In both plans, Israel and PT predict the population in the area of Mandate Palestine will be about fifteen million (today about 12.9 million). The Palestinian population will be about 55 percent (including Palestinians in Israel). These situations led to the presentation of a few suggestions to settle the territorial conflict such as two state solution, binational state, and democratic state (Hasson 2010; Hilal 2007). In the two-state solutions, the location of the borders, the nature of the border, the nature of the two states and the power relation between them, and how to deal with the ethno-national structure of every state are issues that are still being disputed. Some of the ideas were mentioned to back the UN plan 1947 (Elmusa 2007); others suggested the Green Line be the border (Khamaisi 2008; Shenhav 2010).

The solution of two states was a result of conflict; today, most of the states support this solution, including Palestinian Liberation Organization and Israel. Despite all of that, there are a few points that should be considered in the Israel and Palestine spatial alternative plan. These points can be summarized as follows:

1. The country of Palestine is a one geographical and environmental unit which has an internal continuity and diversity, without divisions fragmenting and truncating the country.
2. The imposed geopolitical division and closed border state created by the separation wall, which strengthening the back-to-back situation, is

- not accepted by the Palestinians and some of the Israelis, and some are in favor of and support the existence of two states with possible accessibility and free movement between them.
3. The two peoples acquire a sense of belonging and attachment to all space of the country, this articulated through the discourse, the narratives, and distribution of the peoples (indigenous, immigrants, organic localities, and colonies).
 4. The division of the country into two states is for creating a “nation-state” to serve its citizens, and in every state there will be relations of majority/minority and religion, ethnic, and cultural diversity.
 5. Every state has its added value and advantages which are accessible and at the disposal of the counter-state.
 6. There is need to use a joint/shared functional space, despite the political separation such as industrial and employment estates, parks and open space, water, sewage, solid waste system, and road and transportation systems (Hansen 1981).
 7. Every state acquires advantages and variations, which constitute the basis for possible continuity and exchange and tradeoff.

Considering these points in defining and demarcating the borders, the following questions come to light. What are the natures and forms of the spatial relations that must exist between the two states? How can joint spatial planning deal with the new reality of two states in one country? The changes in spatial planning in every political entity denies or ignores the other, and considers mainly internal spatial organization and management to spatial alternative planning including recognition and continuity, raising and addressing issues of trans- and cross-border planning and development, and learning from other international experience such as the ones between Mexico and the United States, between Canada and the United States, and in the European continent (Blatter & Norris 2000; Brunet-Jailly 2004; Haber 2012; Khamaisi and Khshbon 2014; Peña 2002, 2005, 2010). Today and in the future, there are some spatial components and problems that could be solved and others that can be managed enabling reaching a win-win situation between the two states. Below is a short description of planning dilemmas that created a complexity in demarcation of the borders in the county for establishing two states and dealing with trans-border accessibility and cross-border development in such a situation as Palestine and Israel, where adapting the notion of a citizenship state in the future for geopolitical division and recognition of cultural afflation and attachment to places and space to one country will contribute a greatly for settling the rooted long geopolitical and ethno-national conflict.

FROM BORDER LINE TO BORDER REGION

Spatial alternatives could be beginning with defining, planning, and managing the borders from closed to permeable border. The claimed Green Line as accepted borders between Israel and Palestine cuts the country and fragments Palestinians and Israeli localities networks. Between these localities, there are relations such as linkages between Palestinians and Arab Palestinian towns in Israel and its hinterland. Building the separation wall did not completely end the relative relations and attachments between the two Palestinian urban and rural systems. Arab Palestinians continue to visit and consume in Palestinian cities such as Tolkarem, Qulqilia, and Jenin where they feel ethno-cultural attachment to the place and people. The Israeli settlers are commuting through the WB to Israeli urban centers through the apartheid checkpoint and apartheid systems on the “border/checkpoint” established and kept functioning by the Israelis. Opening this border since the Israeli occupation in 1967 to PT until the second intifada, and particularly after building the separation wall, shows that it could sustain the life in this region, and many of the functional economic and socio-cultural activities, and in some cases infrastructure and environments, can be accomplished through cross-borders such as the sewerage system in Qulqilia region. The border line should take into consideration the existing density population (Palestinians and Israelis) living alongside these borders. Thus, the planning concept relating to the border is suggested to be changed from the existing situation of “back-to-back” planning to a situation of “face-to-face” planning, and from dealing with demarcation border line and creation of buffer zones, to developing a border region and developing a connector and meeting zone. In situations of small and narrow states, it is important, from a reorganizing the urban and rural system and ranking the size in Palestine and Israel point of view, to avoid creation of Palestinian and Israeli weak periphery and/or fringe alongside the border line. Developing the border region could contribute to developing the Palestinian urban axis and core in Ramallah-East Jerusalem (Khamaisi 1999, 2006) and Israeli urban core in the Tel Aviv area, and reduce the tension and socio-economic gaps and disparity between the core and borders region (see Figure 9.3).

Establishing and building viable states with territorial continuity, where every state articulates and pronounces ethno-national and cultural aspiration and equal citizenship rights of its citizens’ identity, changes the priorities of the population from a concentration on narratives and claims to situation of building and development, beside sustaining belonging to the citizenship. In order to reach the establishing and building Palestinian state, there should be a geopolitical separation and gaining of full Palestinian sovereignty according to the traditional model of state building, while simultaneously both sides should plan and develop the future mutual functional cooperation and coordi-

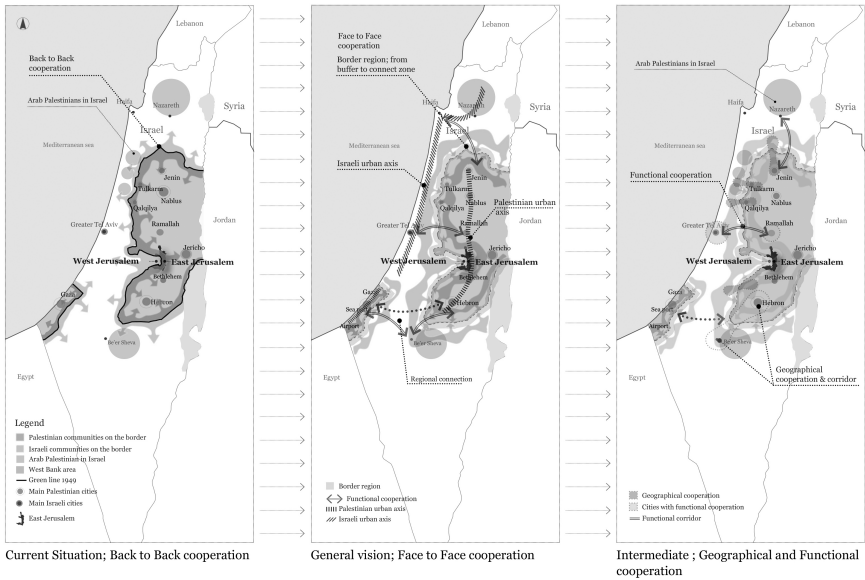


Figure 9.3. Transformation from exist situation of spatial planning and behavior relation based on “Back to Back”, to vision of “Face to Face” with territorial and functional coordination, cooperation and complementary in one county two state.

nation. The notion of dealing with “border region” development according to the principle of common interest comprises an important parameter of daily meeting and stability between the Palestinians and Israelis. We are aware of existing economic gaps and disparities between the Palestinians and Israelis, which could lead the border region to a situation of imperialism or Israeli patronage. For prohibiting a possible situation of imperialism, the two sides should consider developing mutual mechanisms and tools to avoid the reality of imperialism such as situations where Israel claims ownership of the place, the capital, and gains most benefits, while the Palestinians are the workers.

The border region includes al-Quds/Jerusalem area, which should be divided politically and be a capital of the two states, but open functionally. The existing urban fabric and the uniqueness of the Jerusalem urban region calls for preparing a special plan on how to create a political division and functional sharing, cooperation, and coordination through cross-border, with securing free accessibility and attachment to ethno-cultural and religions places in the city.

RECOGNITION EXISTING IN LOCALITY DISTRIBUTION

The process of building Zionist colonies in Palestine began in the end of the nineteenth century. This colonizing process led to changes in the urban and rural network in Mandate Palestine, and led to imposed ethno-national division of the country by foreigner powers in 1947. After the war of 1948, these divisions were viewed as illegal and non-legitimate by the indigenous Palestinians. According to the Zionist narrative, however, this colonization was part of the revival of the Jewish existence in what they claimed to be their “fathers land.” During the war, the Zionists did a spaceside and urboside for the Arab Palestinians though the displaced and depopulated about 418 Palestinian localities and exiled about 750,000 from their homeland and forced them to seek refuge in the neighboring Arab countries including PT (Falah 1996; Golan 1997; Khalidi 1992). The processes of building Israeli colonies resumed and continued after the occupation of the rest of Mandate Palestine, based on Jewish narrative and claim of ethno-cultural attachment to place in WB from the bible period. Ironically, Israel claimed and recognized the right of the Jewish Zionists to return to the place that they say they have cultural attachments to before more than 2,500 years ago and built new Jewish settlements, whereas it refuses to recognize the returnee right of the Palestinians who were forcefully pushed into exile about forty or sixty years, who still have keys to their homes and have strong cultural attachments to the organic place. This double standard is unjust, based on power relations, and does not lead to possible conciliation.

The conciliation between the Palestinians and Israelis on the base of two-state solutions, with the Green Line as a political border, leads to the recognition of the Israeli settlements in Israel which were colonies and non-legitimate before 1948. The process of building Israeli settlements accelerated starting in the 1990s, and today more than 0.55 million Israeli settlers live in more than 140 urban and rural localities in WB, including East Jerusalem. According to Israeli plans, it is expected that the number of settlers will increase to be about 0.7 million in 2020. Some of them are living in the Israeli settlements based on ideological and cultural motives, others based on socio-economic and life quality motives. On the other hand, about 1.4 million Palestinian indigenous people live in Israel and are distributed in about 140 urban and rural localities, and are expected to grow to about two million in 2020. Today there is a dual Palestinian and Israeli urban and rural system. Even in WB, an apartheid localities system exists. Despite the differences between them, some of the Israeli politicians try to be symmetric, which the Palestinians do not accept. But if the notion of a nation-state leads to a two-state solution, which means establishing a Jewish state and an Arab Palestinian state, the issue of population transfer or populated territory exchange will be placed on the negotiations table as part of redetermining the geopolitical

borders considering the ethno-national affiliation distribution, which expands the dilemmas and complexity in geopolitical conciliation between the Palestinians and Israelis.

Accepting and adapting the notion of a liberal democratic citizenship state, Palestine and Israel, in which equal rights of the citizens are secured and the ethno-national and cultural belongings in every state are considered, could reduce the dilemmas and complexity in dealing with population transfer. From the Palestinians and international legitimacy and law perspectives, the Israeli settlements are illegal and non-legitimate. However, the geopolitical conciliation of the Palestinian-Israeli conflict is not based on legitimacy as the only criteria to manage settling the conflict; there are ethics, morality, and honesty. The history inequity that the Palestinians suffer from as a result of the catastrophe of 1948, and the aggression and the apartheid system established and managed injustice toward of the Palestinians in WB including planning activities (Coon 1992), cannot be solved by mutual non-humanity solutions and geopolitical arrangements which lead to personal and family suffering. Considering this principle, the arrangement of two states based on citizenship in one country considering the cultural attachment enable more freedom and opportunity for the individual and collective to do a tradeoff in managing the conflict conciliations, which could lead to spatial alternative relations.

CORRIDOR: CONNECTION BETWEEN WEST BANK AND GAZA

Another crucial topic that needs to be discussed in implementing the solution of two states is territorial continuity, which will have a direct impact on the developing a face-to-face planning and spatial alternative. Several proposals have been advanced about the connection to Gaza, following a course known as “the route of safe passage” (e.g., see CEP 1992; Falah & Newman 1996; Khamaisi, 1998, 2010; Newman & Falah 1995; Suisman, et al. 2005). Some envisage an elevated bridge/road about forty-seven kilometers in length, connecting Beit Hanun in Gaza to Dura in the WB, at a cost of ten billion dollars in late twentieth-century currency (Eldar 1999). Others proposed solutions that are advertised as less costly connections, including a traditional road (two hundred million dollars) or road lined by a security fence similar to that currently being erected by Israel along parts of its borders with the PT. The latter feature might add some two hundred million to three hundred million dollars to the cost of proper road building (Khamaisi 2010; Suisman, et al. 2005, p. 392).

The challenge of territorial linkage is essential in securing and sustaining a viable state. Terms such as “territorial contiguity,” “territorial continuity,” “territorial connectivity,” “a viable state,” and “safe passage” are commonly

employed in references to the future state of Palestine, which will comprise of two territorial areas (Weiner & Morrison 2007). The awareness for the importance of territorial linkage was presented in the UN partition plan of 1947 to Jewish state and Arab sponsors the creation of territorial contiguity through “Junctions,” which allow free flowing between the state territories. Before 1967, there was no special passage established between the WB and the GS. According to the Oslo interim agreement between Israel and the Palestinian Liberation Organization, they relate to WB and GS as one territorial unit, which led to the signing of “Gaza-Jericho first” agreement, which includes a corridor and safe passage to enable accessibility. Since 1991, Israel prohibited free movement between GS and WB without a permit.

This controlled movement changed to closure between the GS and WB and within the WB after the second intifada in early 2000 (Barsala 2007). Today there is no Palestinian movement between GS and WB, and every territorial unit functions as a separate political, institutional, and economical unit, despite having the same aspiration to be reunified politically forming a claimed Palestinian State. The Israeli withdrawal (disengagement) from GS in 2005 and Hamas victory in the national elections in 2006 led to an international boycott on the Palestinian government led by Hamas and blockade to GS since 2007. The political conflict and split between Hamas and Fatah have led to a territorial dimension. Hamas’s rule is concentrated in the GS, whereas Fatah’s rule is concentrated in the WB. This situation has further contributed to the complexity of the geographical separation between the GS and the WB.

Throughout the permanent status negotiations between the Palestinians and Israelis, the Safe Passage was usually perceived as compensation to the Palestinians for not receiving 100 percent of the WB. Elements of the international community view the Safe Passage proposal as necessary for the maintenance of the territorial integrity and viability of a future Palestinian state, and the Quartet has explicitly stated that the WB and Gaza must be connected in any future Palestinian state. Throughout the years, different proposals regarding the safe passage have been presented, such as a surface road, elevated bridge, or a sunken road (Israel/Palestinian Center for Research and Information 2005). The Israelis are aware that the safe passage and all other arrangements for connecting GS with the WB are one of the strongest cards they hold regarding permanent status negotiations. Israel postpones the issue of connection between GS and WB for this reason and has additional concerns between the Safe Passage and Israel’s intrusion of Palestinian air space. Israel could leverage the safe passage card to the largest extent in order to protect its interests in the permanent status negotiations.

The territorial connection could be elevated, sunken, on the surface, rail-road, or a mixture of these different solutions. The solution should consider various topics such as borders, sovereignty, security, operations mainte-

nance, cost, customs, and the environment. From a technological perspective, there is a visible solution, but the dilemma of the selected solution relies on the ability of both parties to build trust and reduce phobias. Under the current situation, the dilemmas of securing territorial contiguity include the building of a safe passage, which enables free accessibility has further added to the geopolitical dilemmas of border solution and enabling a viable Palestinian state. Prohibition of creating territorial contiguity between GS and WB leads to other scenarios including continuing the separation, which has led to establishment of a semi-Palestinian state in the GS. This has worsened after the Israeli disengagement in GS and existing political split between Hamas and Fatah compromising any hope of territorial continuity in the future Palestinian state.

From technical point of views, there are a few solutions to connect GS with WB. For instance, "The Arc" is an innovative transportation system along which people and goods will flow throughout the new state. The Arc would link Jenin in the northern WB to Gaza City and Gaza Airport" (Suisman, et al. 2005, p. 5). The linkage between WB and GS can be materialized through a corridor as suggested according to the Arc plan or according to the development of urbanization strategy (Khamaisi 1999). We are aware of the mutual implications of this corridor on Israel and Palestine territorial contiguity and sovereignty. Yet in order to employ the idea to secure a win-win situation, it could be done through rent, tradeoff, or leasing land. In interim periods, the Palestinians can use the existing road systems as safe passages until a location for the corridor can be defined and the infrastructure of the linkages is build.

CONCLUSION

Establishing and producing a spatial alternative requires new rules to the game and thinking out of the box. The Palestinians and Israelis still discuss their possible geopolitical solutions through traditional notions and discourse. Both sides still want to fulfill their nation aspirations in the same country. In such a situation, the Jewish Zionist state was established, and today, Israel puts pre-conditions to peace negotiations with the Palestinians to recognize it as Jewish nation-state. Based on that, the traditional modern geopolitical nation-state sovereignty may not be appropriate for the context of a Palestinian country for a political division yet sharing functionally and establishing two states. They need to find solutions that consider the geopolitical post-modern divisions for establishing and building nation-states as a step for developing a citizenship state and later lead to a binational or co-federal state in one country. This division, however based on face-to-face alternative spatial planning, has to consider the socio-cultural attachment to

the place in the other state, given none loses their homeland. This consideration is a first step for future transformation of the nation-state to citizenship state. Both parties are not yet ready to jump to such a status and situation of the citizenship state, before reaching and developing a sustainable and viable nation-state. The bordering process based on the Green Line between Palestine and Israel to divide the one country should consider cross-border development and relation between the two states. For that, preparing joint spatial plans for the country, considering a permeable border region and reducing the gap between the states is needed.

For securing a stable demographic, democratic and geographic division, and behavior, it should create a recognition which is based on geopolitical separation and division, but functional cooperation and coordination. The long conflict between the Palestinians and Israelis created an irreversible new reality of ethno-national demographic structure and distribution. This long geopolitical conflict on controlling and belonging to the same homeland needs to fulfill Suleiman court. Ironically, this conflict led to a situation of knowing the others and could develop common interest between them to benefit from the geopolitical division. Implementing the traditional concept and notion of nation-state and sovereignty on global economy and divided small homeland, where density population in mixed ethno-national homeland belonging and attachments to place, needs to reframe in the Palestinians and Israelis separation and division into connection and cooperation.

To fulfill the spatial alternative, there is a need to produce alternative spatial planning that challenges existing paradigms, notions, and institution systems. The alternative planning, which challenges and may be resisting to traditional notions and paradigms, needs to reframe the relation between nation and space (territory) for producing a spatial alternative and reallocate the resources, the public space, and the landscape within the state and between the states. Thus, a face-to-face planning approach is key, which translates the alternative challenge planning in situation of concept of country vis-à-vis state, which leads the inhabitants' status from nation-state to citizenship state as part of the post-modern notions for building spatial alternatives.

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Part III

The One-State Alternative

Chapter Ten

The Way Forward in the Middle East

Horit Herman Peled and Yoav Peled

INTRODUCTION

On September 3, 2015, various media channels in Israel reported on a violent event in which five American yeshiva students drove mistakenly into a demonstration held by Palestinian youths in the Jabel Johar neighborhood of Hebron. The ultra-orthodox students were en route to worship at the “Cave of the Patriarchs” in the heart of the city. However, their GPS navigational program misdirected them and they ended up in Jabel Johar—a well-known enclave of Palestinian resistance to the Israeli occupation. Driving themselves into the ongoing demonstration, the crowd stormed the car and attacked its occupants. Two of them were slightly wounded. Faiz Abu-Hamadiah, a Palestinian resident of the neighborhood, managed to rescue the five from the agitated crowd and escorted them to his house, risking himself and his family. When asked for an explanation, Abu-Hamadiah answered that “This is my worldview. . . . Either you are human, or you don’t do it and then you aren’t human.”¹

The city of Hebron occupies a particularly momentous place in the collective memory of Israeli Jews and in the ideology of right-wing Jewish nationalists, because of the events that took place there in August 1929. Historian Hillel Cohen has subtitled his book, *1929*, “Year Zero of the Arab-Israeli Conflict” because, among other reasons, “in Jewish historical memory the riots of 1929 became emblematic of Arab savagery, serving as ostensible proof that Arabs thirst for Jewish blood” (Cohen 2015, p. xx). The events, called by Jews “riots” and by Arabs an “uprising” against British-backed Zionist settlement, cost the lives of about 350 Jews and 160 Arabs. In Hebron itself, where the age-old Jewish community consisted mostly of defenseless

pre-Zionist ultra-Orthodox families, sixty-seven Jews were murdered (Cohen 2015, pp. 122–65).

In an article published in *Haaretz* on September 12, 1929, sixteen-year-old Zmira Mani, a Jewish resident of Hebron, related what she had experienced on Saturday, August 24:

Father went to the door and saw Abu-Eid Zeitoun. He held in his hand a stick, his waist was belted with a sword. Two Arab men stood behind him. Later I learned that they were his brother and his son. Glimpsing at their swords I envisioned my certain death. So I rushed towards the staircase leading to the roof, willing to throw myself down. However, while climbing the stairs someone pulled me back, and I saw my parents escorted downstairs, shielded by the swords of my father's two acquaintances. My parents urged me to follow them and trust Abu-Eid, our rescuer, who held me in his arm and in the other held his sword.

Descending the stairs I almost stepped over a body. Head disheveled, riven shirt, exposed chest and belly, and rolled down pants. For a fraction of a moment I recognized the critically wounded man as our neighbor, Rabbi Abraham. His head rested on the last step, covered with blood and his limbs were convulsing. A rounded dagger was wedged in his stomach and as I looked backwards again I saw the familiar face of the Arab porter who frequently carried oil cans to our house pulling out the rounded dagger from Rabbi Abraham's stomach. Then I saw spilled intestines.

Abu-Eid hid us in his basement while he continued to save more Jews: The Gorgy family, Rabbi Nissim Kashtiel's family and Simcha Levy, whom he found roaming the street after witnessing the murder of her husband Aharon Levy and the abuse of her daughter. Covered with blood, disarrayed and traumatized, Abu-Eid sheltered her with all of us.

I peeked through the door's keyhole and saw Abu-Eid's brother carrying blankets, clothes and other necessities. Our neighbor recognized her blanket and clothes from her basement.

About two hours later the owner of the house, followed by his brother, his son, and police officers, accompanied us to the police station, where we joined the other Jewish survivors. (Mani 1975)

In another incident on the same day, Abu-Shaker Amru, member of a prominent Mount Hebron family, saved the family of Rabbi Jacob Joseph Slonim by lying on the threshold of their home and not moving even after he was stabbed in the leg by the rioters. "The Rabbi's family is my family," he yelled, "Kill me! I shall not move!" Other Arabs also tried to protect Jews of Hebron with their bodies, mostly without success. In Jerusalem, during the same outburst of violence, a Jewish grocer was able to save the wife and children of his Arab neighbor, Ali Abdallah Hassan, by taking them into his home after their home had been broken into by Jewish rioters (Cohen 2013, pp. 149, 260–61).

On July 31, 2015, Molotov cocktails were thrown into the home of the Dawabsha family in the small town of Duma near the city of Nablus in the West Bank. Three family members were burned and killed: Ali, the toddler, died in the blaze, and the other members of the family, both his parents and his brother, were rushed to one of the largest hospitals in Israel in critical condition. However, the parents, Riham and Sa'ad, died and the only survivor of the family was four-year-old Ahmed. A Jewish West Bank settler and a minor whose identity has not been disclosed are standing trial for the attack (Barel 2015; Levinsohn 2016).

The death of the mother of the family, after enduring her burn wounds for over forty days, kindled a fundraising effort on behalf of Ahmed, the surviving son, organized by a Jewish group, Tag Meir. By the end of October that year, one of the key activists in that organization, Richard Lakin, was murdered, stabbed and shot by a Palestinian youth on a bus, on his way home from a doctor's appointment. Enduring his wounds for almost two weeks, he finally succumbed (Lakin Avni 2015).

Victims and victimizers end up in a hospital, a neutral space where identities are suspended in time and space. The body injured as a consequence of social identifications lies stripped in an arena, yearning to be mended. Professor Ahmed Eid, a Palestinian, is head of General Surgery at Hadassah Medical Center on Mt. Scopus in Jerusalem. As a physician, he saves the lives of Jews stabbed or shot by Arabs and of Arabs stabbed or shot by Jews. "My oath is to tend to the sick and save the human being, whoever he is," he says.²

These few illustrations reveal a ranging terrain of interlaced chaotic social engagements overflowing with paradoxes and contradictions. Although they exist on the margin of the century-old Israeli-Palestinian conflict, they point to the possibility that humanity may prevail. It is the contours of that possibility that we wish to explore in this chapter.

THE CONTROL SYSTEM

In a book chapter published in 1989, the late Baruch Kimmerling characterized the political entity encompassing Israel and the occupied Palestinian territories as a "control system." He defined "control system" as

A territorial entity comprising several sub-collectivities, held together by purely military and police forces and their civil extensions (e.g., bureaucracies and settlers). When the "field of power" is much larger than the "field of authority" . . . a control system is formed. These sub-collectivities are stratified according to their ability to gain access to force, political power and diverse rights, but mostly according to the shared benefits of the entire system. The

central component differentiating between situations such as internal colonialism, deeply divided societies . . . etc. and the control system is the ruling sector's virtually total lack of interest and ability in creating a common identity or basic value system to legitimize its use of violence to maintain the system, or in developing other kinds of loyalties toward force and power. (Kimmerling 1989, p. 266)

A control system “engenders a dual value system, characterized by totally different rules of the game, cultures and institutional arrangements applied in different spheres of activity for various components of the . . . system” (Kimmerling 1989, p. 267).

Of all the policy options open to Israel for dealing with its control system—partition of the territory between two states, formal annexation of the territory while expelling its Palestinian population, granting them Israeli citizenship or keeping them as non-citizen subjects—Kimmerling predicted that the most likely outcome would be continuation of the status quo. This, he foresaw, would lead to “the institutionalization of the process transforming the Israeli control system into a *Herrenvolk* democracy, without its racist dimension, in which part of the population enjoys full political and civil rights and part is denied them” (Kimmerling 1989, p. 280).

Now, twenty-five years and one peace process later, Kimmerling's prediction has been borne out. As Henry Siegman has noted, like many others, “the question can no longer be whether the current impasse may lead to a one-state outcome; it has already done so” (Siegman 2012; cf. Lustick 2013). Already in 2007, Meron Benvenisti concluded that after forty years of Israeli control over the entire area of Israel/Palestine,

this land has witnessed the emergence of a geography, an economy and demographic and social processes that no longer enable a division into two separate sovereignties. The alternatives are simple and cruel: Either one people controls the other, dooming them both to eternal violence, or else a way must be found to live in a partnership based on shared sovereignty. (Benvenisti 2007)

Thus, as Oren Yiftachel has argued,

“Israel proper” [as defined] by its pre-1967 borders . . . simply does not exist, since it is impossible to define “Israel” as a spatial unit, and it is difficult to define the boundaries of its body-politic. . . . Israel operates as a polity without borders. This undermines a basic requirement of democracy—the existence of a “demos.” (Yiftachel 2006, pp. 96–97)

Historically, all attempts at partitioning Mandatory Palestine between Jews and Arabs resulted in an increase in the level of violence. The first partition plan, proposed by the British Peel Commission in 1937 (and involving the transfer of a large number of Palestinian Arabs from the would-be

Jewish state), brought about the second, much more violent phase of the Arab Revolt that had begun in 1936 (Kelly 2015; Morris 2001, pp. 144–51). The UN partition plan of 1947 (UNGA Resolution 181) brought about the 1948 war and the Nakba, while the Oslo Accords of 1993 resulted in the Second Intifada and in the adoption of a much more violent mode of control of the Occupied Territories by the Israeli government (Gordon 2006). Any renewed attempt at partitioning the country would most likely result in even higher levels of violence.

In view of these facts, the standard arguments against the so-called one-state solution, based as they are on the desire of both Jews and Palestinians for national self-determination and on the political unfeasibility of this solution (Behar 2011, pp. 360–62; Morris 2009; Sharon, in this volume; Zreik, in this volume), are immaterial: The one state is already here, and people's wishes are not going to change that reality.³ Moreover, even if a two-state solution could be effected, it would not solve the problem of a significant segment of the Palestinian people: Israel's Palestinian *citizens*, comprising about 20 percent of Israel's population. Since the removal in 1966 of the military regime that was imposed on them in 1948, they have lived as second-class citizens of the Jewish state (Farsakh, in this volume; Ghanem 2001; Jamal 2007; Peled 1992; Peleg and Waxman 2011; Rudnitzky 2014, pp. 37, 40–42).

We, therefore, are not going to reproduce here the many arguments that have been marshalled in favor of the one-state solution.⁴ Our purpose in this chapter is only to address the question that in our view is the most crucial one: Will the one state that already exists be a legitimate state or remain a control system?

DUAL SYSTEM OF LAW

In 2012, a committee appointed by the Israeli Government to examine legal issues connected with the establishment of Jewish settlements in the West Bank, headed by a retired Supreme Court Justice Edmond Levy, declared the West Bank *not* to be under Israel's belligerent occupation, "a term meant to apply to short periods of occupation." The committee listed the following reasons for its conclusion:

Israel's occupation of the territory has already lasted for several decades and its end is not in sight; the territory was taken from a state (the Kingdom of Jordan) whose sovereignty over it had never been solidly legally established; Israel has a claim for sovereign rights over the territory.

Therefore, the committee determined, the issue of settling Israeli citizens in the West Bank is not to be considered in the framework of international law, but in the framework of Israel's domestic law only (Levy 2012, pp. 6–13).⁵

The Levy committee report is a blatant expression of what Amnon Rubinstein, already in 1988, called the “enclave law” that prevails in the Occupied Territories (Rubinstein 1988; see also Association for Civil Rights in Israel 2014; Benvenisti 1990). Under this dual system of law, the Palestinian residents of the West Bank are subject to an amalgam of Jordanian law and Israeli military orders, whereas the Israeli settlers, as well as their settlements, are subject to Israel's civil law. The result is a combination of territorial and personal law under which Palestinian residents of the West Bank not only do not enjoy any citizenship rights but also live under a much harsher system of law, in areas ranging from traffic law through planning and building law to criminal law, than their neighbors, the Israeli settlers. Thus, as far as the Palestinian residents of the West Bank are concerned, the area is clearly under belligerent occupation, whereas for the Israeli settlers, and for any piece of land they may want to lay their hands on, the West Bank is part of Israel.⁶

As Kimmerling noted, this legal anomaly, under which two population groups live under two different systems of law within the same territory, is characteristic of control systems. In this chapter, we wish to argue that the only way to turn this control system into a legitimate state is to establish in the entire area between the Mediterranean and the Jordan River one secular, non-ethnic, democratic political entity ruled by uniform law with equal citizenship rights for all. In other words, we would like to argue for the constitution of a new demos, made up of Jews and Palestinians and defined by common citizenship, which will be represented, politically, by a secular, democratic state. We are aware, of course, of the immense obstacles and difficulties facing such a project, some of which will be elaborated below. But the great advantage of a political program designed to bring this solution about would be its shifting of the grounds of the Israeli-Palestinian conflict, from an ethno-national confrontation to one over civil rights and equal citizenship. Conceivably, this could change the nature of the conflict from a zero-sum to a positive-sum game.

The normative basis for the establishment of a non-ethnic secular state in the entire area of Mandatory Palestine can be found, on the Israeli side, in the unfulfilled promises of Israel's Declaration of Independence, while the experiential basis can be found in the experience of Israel's Palestinian *citizens*. The Declaration promised that the state being established “will be based on freedom, justice and peace as envisaged by the prophets of Israel; it will ensure complete equality of social and political rights to all its inhabitants irrespective of religion, race or sex.” It also promised “the Arab inhabitants” of the state “full and equal citizenship and due representation in all its provi-

sional and permanent institutions.” Written in the midst of war, and ignoring the borders stipulated by the UN Partition Plan, the scope of the territory in which the Declaration would apply was not specified. It is not inconceivable that in the minds of at least some of its framers the State of Israel being founded was to include the entire area of Mandatory Palestine and a significant number of “Arab inhabitants” (Shahar 2002, p. 570).

As is very well known, the state being founded in 1948 was not defined by the Declaration as a democratic state. As a matter of fact, the democratic attribute of the state did appear in one of the stages of the drafting of the Declaration but was taken out by Moshe Sharett, the Foreign Minister-to-be, at a later stage (Shahar 2002, pp. 564–565, 568, 2014). It should be noted that the UN Partition Plan for Palestine, which provided the legal basis for the establishment of the State of Israel in international law, called upon both states it envisaged to adopt democratic constitutions in which “no discrimination of any kind shall be made between the inhabitants on the ground of race, religion, language or sex.” The plan also required that all current citizens of Palestine (except for those living in Jerusalem, which was to come under international jurisdiction) will be granted citizenship and “enjoy full civil and political rights” in whichever of the two states they may reside. In other words, the Declaration abided by the provisions of the UN Partition Plan, to which it was obligated under the terms of the plan itself, but avoided the use of the term “democracy.” This is understandable in view of the fact that the state being founded was defined as a *Jewish* state, “open for *Jewish* immigration and for the Ingathering of the Exiles” (emphasis added), and a Jewish state could not be fully democratic if it included within the boundaries of its sovereignty a numerically significant non-Jewish population (Peled 2014, chapter 4 and sources cited there).

However, while falling short of the ideal of liberal democracy, the State of Israel has remained true, to a certain extent, to the universal values espoused by the biblical prophets. Since 1966, it has enabled its Palestinian citizens to integrate, albeit not on an equal basis, into the mainstream of society, educationally, economically, and politically. Thus, while significant educational, occupational, housing, and income gaps still exist between the Jewish and Palestinian sectors of society, the latter, that in 1948 was 80 percent illiterate, now includes a solid middle class and professional stratum and is represented in the Knesset by the third largest faction in the house (Ali 2013; Gharrah 2015; Or 2003; Rudnitzky 2014, pp. 53–60). To illustrate, in 2012 24 percent of employed Palestinian citizens were in the top three occupational categories—academic, professional, and managerial (compared with over one-third among employed Jewish citizens)—and 56 percent of Palestinian households had a private automobile in their possession (compared to 64 percent of Jewish households) (Gharrah 2015, pp. 47, 83).

The partial integration of the Palestinian citizens in the society has been reflected in their political behavior, which has been uniformly non-violent and law-abiding. This in sharp contrast to the behavior of the non-citizen Palestinians in the occupied territories (and, of course, that of the Israeli state in the occupied territories). Thus, while since 2000 thousands of Palestinians and hundreds of Israelis have been killed in confrontations between Jews and the Jewish state and non-citizen Palestinians in the West Bank and Gaza, no more than seventy Palestinian citizens and only three Jewish citizens have been killed in politically motivated confrontations between the two sides since 1948. As Nadim Rouhana explained, in the context of the first Intifada: “the Arab [citizens’] leadership made clear that the Arabs in Israel would act only within the law. It was argued that their status is different from that of other Palestinians and therefore, that their efforts would be expressed differently” (Rouhana 1989, p. 47). Furthermore, the Palestinian citizens’ increasing political confidence since 1966 was fed, according to Rouhana, “by the sense of security that their status as Israeli citizens provides, as well as their formal equality before the Israeli law” (Rouhana 1989, p. 54). However, violence from across the Green Line could spill over into the sovereign State of Israel and involve Palestinians who are citizens of Israel. A few cases of this kind have happened during the violent outburst that began in October 2015, resulting, by the time of this writing, in the death of at least one Jewish and one Palestinian citizen.

A STATE OF ALL ITS CITIZENS

The experience of Israel’s Palestinian citizens, we believe, can provide a clue to the potential consequences of extending Israeli citizenship and equality before the law to the Palestinian residents of the occupied territories. Avraham Burg, former speaker of the Knesset and chairman of the Jewish Agency Executive, whose mother was saved by Palestinians in Hebron in 1929, has proposed a plan that can serve as a reasonable first step toward implementing this idea:

- Every person who lives (or has the status of a resident) between the Jordan River and the Mediterranean Sea shall be assured equal personal, political, economic, and social rights. These rights include the right to protection and security; equal treatment without regard to sex, race, ethnic origin, or religion; freedom of movement; ownership and possession of property; the right to bring a lawsuit to court; and the right to vote and hold elected office.
- The collective rights of Jewish Israelis and Palestinians—linguistic, cultural, religious, and political—shall be ensured in every political setting. It is

understood that neither side shall have exclusive sovereignty over any part of the land between the Jordan River and the Mediterranean Sea (including exclusive ownership of land, exclusive access to natural resources, and so on).

- All remaining exclusive rights possessed solely by Jewish Israelis, including ownership of land and access to natural resources, shall be abolished. All resources—material and political—shall be redistributed on the basis of principles of affirmative justice.
- The right of return of the Palestinians is an integral part of UN Resolution 194. The implementation of this resolution shall take into account the existing reality. The moral and political injustice of dispossessing the Palestinians in the past shall not be remedied by creating new injustices.
- The new political institutions shall make democratic immigration and citizenship laws. However, Jews and Palestinians who live in the diaspora will be able to receive immunity in situations of danger (according to UN resolutions) and will have special status in the process of obtaining citizenship in comparison with any other ethnic or national group (Burg 2014; cf. Said 1999).

Burg's proposal avoids dealing with one crucial issue that will have to be dealt with before extending full citizenship and equality before the law to all residents of Mandatory Palestine—the relations between state and religion. Both Israeli and Palestinian societies have been going through profound and extensive processes of religionization. These processes have been probably fed by, but also contributed to, the continuation and intensification of the conflict between the two groups. On both sides, political parties that are committed to their respective religions as political programs have been the most extreme in their positions and most prone to violence in their tactics. Allowing such parties to assume governmental power would guarantee that the bold, almost revolutionary program Burg (and us) is proposing would end in failure. To prevent such an eventuality, and, no less importantly, to safeguard the equal rights of women in the society, a strict, dual-sided separation between state and religion must be embedded in the state constitution. This would mean, among other things, denying religious courts, of all religions, the authority in matters of family law they now enjoy as a legacy of the Ottoman Empire, as well as any official status vis-à-vis the state or access to state budgets. While the state should guarantee freedom of religion, as Burg proposes, it must not involve itself in any religious issue or institution and must forbid religion-based political parties from contesting elections.

As a first step toward the separation of state and religion in the future secular democratic state, the disentanglement of the two could begin in Israel itself. According to *A Portrait of Israeli Jews*, the 2009 Guttman Center report on the religiosity of Israeli Jews, while 61 percent of those over the

age of twenty believe that public life should be conducted in accordance with Jewish religious traditions (up from 49 percent in 1999 and 44 percent in 1991), a clear majority favor the operation of shopping and entertainment outlets on Saturday, including public transportation, and 51 percent favor, or do not object to, the introduction of civil marriage (Guttman 2012, pp. 58–60; cf. Ben-Porat 2013). In a survey conducted by the Central Bureau of Statistics in the same year, 62 percent of Jewish respondents over the age of twenty were in favor of instituting civil marriage in Israel and 57 percent were in favor of separating the state from religion (Triger 2012, p. 13). Since the exclusive jurisdiction enjoyed by religious courts over marriage and divorce is the most significant practical manifestation of the non-separation of state and religion in Israel, the fact that over half of the Jewish population would not mind seeing that monopoly done away with indicates that support for non-separation in the Jewish public may be quite soft.⁷

The separation of the state from religion would require fundamental changes in the political, legal, and educational systems of Israel and would undoubtedly encounter fierce opposition from Jewish religious and nationalist quarters. It would also not guarantee, of course, that religious antagonism and fanaticism, as well as religiously legitimated violence, would not continue to flourish in civil society. But the historical evidence suggests that the intensity of inter-religious rivalry subsides once the resources of the state are no longer at stake in the competition between different religious communities in the society.

CONCLUSION

Already in 1999 Edward Said wrote:

The question, I believe, is not how to devise means for persisting in trying to separate [Jews and Palestinians] but to see whether it is possible for them to live together as fairly and peacefully as possible. . . . I see no other way than to begin now to speak about sharing the land that has thrust us together, sharing it in a truly democratic way, with equal rights for each citizen. There can be no reconciliation unless both peoples, two communities of suffering, resolve that their existence is a secular fact, and that it has to be dealt with as such. (Said 1999)

In the time that has passed since the publication of Said's article, the reality of one state has become irreversible. As Said believed, and as we have argued in this chapter, shared equal citizenship is the key to a fair and peaceful common life for the two "communities of suffering" in Israel/Palestine.

The transformation envisioned by Burg and Said, and argued for by us in this chapter, will not come about, if at all, without an intense, potentially violent, political struggle. Powerful Jewish forces would certainly oppose the loss of Jewish domination and the Jewish character of the state, and various Palestinian groups may oppose this transformation precisely because of the prospect that it may result in a resolution of the Jewish-Palestinian conflict. Objective problems would also abound, not least among them the questions of the Palestinian refugees, the Law of Return, the country's land regime, and many more. However, similar transformations have occurred in other parts of the world, with varying degrees of success, and the academic literature on reconciliation and transitional justice has a lot to offer by way of political, legal, and cultural measures that could potentially ease the transition to what Rajeev Bhargava has called a "minimally decent society" (see Kapshuk, in this volume). Moreover, the experience of Israel's Palestinian citizens indicates that the existence of political space in which a minority can struggle for its rights within the framework of the law serves as a powerful incentive to avoid the use of violence. Most importantly, since the current status quo is not sustainable in the long run, and since the option of the two-state solution is no longer there, the proposal contained in this chapter offers some hope for the future.

NOTES

1. <http://www.timesofisrael.com/palestinian-gets-death-threats-for-saving-us-jewish-youths/>; <http://www.nrg.co.il/online/1/ART2/722/870.html>; <http://www.haaretz.co.il/news/politics/1.2724484> (all accessed November 1, 2015).

2. <http://news.walla.co.il/item/2897883> (accessed November 1, 2015).

3. In a September 2015 poll by the Palestinian Center for Policy and Research, the main Palestinian polling organization, 51 percent of respondents in the West Bank and Gaza opposed the two-state solution and 65 percent believed it is no longer practical. At the same time, only 30 percent supported the one-state solution as presented in this chapter (Palestinian Center for Policy and Research 2015; cf Rudoren 2014). Among Israeli Jews, in the same month 46 percent believed the two-state idea was dead, while 50 percent believed it was still alive. (Belief in the death of the two-state solution was positively correlated with right-wing party affiliation and negatively correlated with left-wing party affiliation.) Israel's Palestinian citizens were much more pessimistic: 57 percent believed the two-state solution was dead and only 35 percent believed it was still alive. A total of 46 percent of Israeli Jews believed the two-state solution would be better for Israel, whereas 36 percent believed that about the one-state solution. Among Palestinian citizens of Israel, the equivalent figures were 64 percent to 22 percent, respectively (Israel Democracy Institute 2015).

4. Several prominent right-wing Israeli nationalists have also advocated their own versions of the one-state solution which, they claim, can still remain a Jewish state (see Sheizaf 2010; Farsakh, in this volume).

5. In September 1967, the Legal Counsel to the Israeli Foreign Ministry, Professor Theodor Meron, averred, in a top secret memorandum, that settlement of Israelis in the newly occupied territories would violate Article 49 of the Fourth Geneva Convention (Meron 1967).

6. Even in Area A, the urban areas where over 90 percent of the West Bank Palestinians reside, and where the Palestinian National Authority ostensibly practices autonomous rule over both civil and security affairs, the authority of the Palestinian National Authority derives from

the sovereignty of the Israeli military commander over the entire West Bank. The military commander can intervene in all Palestinian National Authority decisions that, in his view, pertain to the security of the area (i.e., to the security of the Israeli settlements in the area) (Association for Civil Rights in Israel 2012, pp. 10–12). In September 2015, the High Court of Justice determined that the military commander may have the authority to requisition land even in Area A (High Court of Justice 5256/11).

7. In the 1991 Guttman report, 51 percent of Jewish respondents supported the separation of state and religion or did not object to it (Guttman 1993, p. 89). The question was not asked in this form in either 1999 or 2009.

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Chapter Eleven

The One-State Solution and the Israeli-Palestinian Conflict

Palestinian Challenges and Prospects

Leila Farsakh

Since the collapse of the Oslo peace process in 2000 and the eruption that same year of the Al-Aqsa intifada, the prospects for a two-state solution to the Israeli-Palestinian conflict have grown increasingly bleak. The doubling of the Israeli settler population in the West Bank and East Jerusalem between 1993 and 2009 to over 494,000 settlers, the construction of a 709-kilometer separation wall that cuts into Palestinian land in the West Bank, which once completed would incorporate 11.5 percent of it into Israel, and the institutionalization of more than ninety-nine Israeli checkpoints that cut Palestinian areas into over twelve disconnected geographic areas, have killed the prospects for any viable sovereign Palestinian state. This reality has been further aggravated by Israel's 2009 war on Gaza, the rift between Hamas and Fatah, and the failure of the international community to push the stalled Israeli-Palestinian negotiations toward fulfilling the 2003 "Road Map" to peace, which endorsed the idea of the Palestinian state as the only solution to the conflict.

In view of this impasse, a growing number of scholars and political activists have been calling for the alternative of a one-state solution in all of Palestine, inclusive of Jewish Israelis and Palestinians. Since 2009, a number of major conferences took place across the globe to discuss the prospects and viability of one-state solution. Numerous books and articles have been published over the past few years advocating this idea, as well as vehemently opposing it (Abunimeh 2006; Benvenistif 2007; Klug 2007; Makdisi 2007; Sussman 2004; Tilley 2005).¹ The Palestinian civil society-led campaign

calling for Boycott, Divestment, and Sanctions (BDS) against Israel, which began in 2005, is gaining ground among political activists for the Palestinian cause in Europe, South Africa, and North America. These activists argue that Israel has created an apartheid reality that can only be dismantled by promoting a democratic one-state solution (Murray 2008). Within the Palestinian community, a number of politicians have threatened to reconsider this option if Israel fails to give the Palestinians a viable and independent state (see Saeb Erekat, Palestinian Chief Negotiator, quoted in Bronner 2004).

The aim of this chapter is to analyze the extent to which the one-state solution is or can become a clear political movement for the Palestinian people, one which can enable them to achieve their rights that the two-state solution failed to protect. This question seems all the more pressing today as the one-state solution is an old idea that was often found morally attractive but politically unfeasible. First proposed by Judah Magnes, Martin Buber, and Brit Shalom in the late 1920s and 1930s as a way to enable Jews and Arabs to live in a binational state in Palestine, it was rejected by both Zionists and Palestinians for compromising their national rights. Although it was presented to the United Nations Special Committee on Palestine in 1947, and then reformulated by Fatah in 1969 and the Palestine Liberation Organization (PLO) in 1971 under the slogan of a democratic state in Palestine inclusive of Jews, Muslims, and Christians, the one-state idea did not find political support among the international community. It continues to be rejected by the majority of Israelis who claim sole Jewish sovereignty over Palestine (Morris 2009). It is thus inevitable to ask how advocates of the one-state solution can meet this opposition and turn their ideal into a concrete political movement that can galvanize local and international support. This is especially challenging given that supporters of the one-state solution have not yet formed a clear political party or cohesive political movement.

This chapter focuses on the challenges to the creation of a one-state movement among the Palestinian people.² It argues that there are three fundamental challenges. First, the difficulty of redefining the Palestinian cause in terms of a struggle for equal political rights rather than for a state per se. The one-state solution forces a re-evaluation of the “state” paradigm as a framework for defining the Palestinian struggle for self-determination and as the solution to the Israeli-Palestinian conflict. This is by no means an easy task, since it is not yet clear how a movement based on the achievement of political rights within the whole of historic Palestine can meet Palestinian national and individual political rights. It is also unclear how such a movement would address the question of Jewish Israeli political and civil rights in Palestine, and at what cost. The second challenge for the one-state movement is to frame the solution it offers in realistic, rather than utopian terms. This, in turn, necessitates addressing the present power structures and legal frameworks available, both domestically and internationally, which remain favor-

able to the two-state solution. Third, building a one-state movement entails identifying and nurturing the kind of leadership and grassroots activism that can mobilize support for this idea among the various Palestinian constituencies and examining the extent to which it can impact, if not change, the present Palestinian leadership.

FROM STATEHOOD TO EQUAL RIGHTS

The first major step toward building a Palestinian and Arab movement for the one-state solution lies in resituating the Palestinian struggle for self-determination within a “rights” paradigm. It requires that the Palestinian political movement and its leadership shift its political goals from establishing an independent Palestinian state toward the achievement of equal political rights within a single polity. This is a particular challenge given the central role that the “state” paradigm has played in defining the content of the Palestinian cause and serving as its vehicle. It is all the more difficult considering that all Palestinian political parties today continue to adhere to the concept of a Palestinian state as the aim of their struggle and solution to their plight. This is the case for Fatah and the PLO at large, the parties to the left—the Popular Front for the Liberation of Palestine, the Democratic Front for the Liberation of Palestine, and the People’s Party—and Hamas (Mishal 2008).

The creation of a Palestinian state has been the framework for defining Palestinian self-determination since 1971, when the Eighth Palestinian National Council adopted the idea of a democratic state in all of Palestine, and not just liberation, as its aim. Echoing Fatah’s proposal of 1969, the democratic state represented the first Palestinian attempt to come to terms with the reality of Jewish presence on the land, rather than negate it, albeit within a nationalist Palestinian paradigm. It envisaged a “free and democratic society in Palestine for all Palestinians whether they are Muslims, Christians, or Jews” (Gresh 1988). Yet by 1974, the PLO, under Yasser Arafat’s leadership of Fatah, started to drift away from this idea as an attainable aim. They instead aimed for “setting up a patriotic, independent fighting people’s regime in every part of liberated part of Palestine,” a “national authority” that will carry on the liberation process and establish a “democratic Palestinian state” (“Palestinian National Council Resolutions, June 1974” 2008). Although the boundaries of this state were not specified, by 1974 the PLO had insinuated its implicit willingness to accept the principle of a Palestinian state on part, rather than the whole, of Palestine.

This de facto abandonment of the one-state objective was largely the result of pragmatic political calculations. Diplomatically, there was no response to such a vision from the Israeli establishment, which had always

refused it (Pappe 2008; Shlaim 2000). The international community, moreover, has, ever since 1947, envisaged partition, rather than a single united state, as the solution to the Israeli-Palestinian conflict. United Nations General Assembly Resolution 181, supported by a two-thirds majority on November 29, 1947, clearly stipulates the creation of an Arab and a Jewish state in Palestine as the only means for resolving competing national claims over the land by the Zionist and Palestinian national movements. UN Security Council (UNSC) Resolution 242 in 1967, which has been the basis for all Arab-Israeli peace negotiations ever since, stipulated the acceptance of the Jewish state by its Arab neighbors in exchange for land and peace. Within the PLO, some argue, Fatah—which took the lead in talking about the one-state idea—was not genuinely interested in it (Hussein 2008). It was, rather, concerned with establishing its power among the Palestinian political movements and putting the PLO on the international map as the sole legitimate representative of the Palestinian people. Regionally, the PLO under Arafat was determined to assert the independence of Palestinian decision-making from Arab countries' interference and their manipulation of the Palestinian cause for their own national and political gains. Arafat wanted to ensure that the PLO alone had the sovereign right to negotiate on behalf of the Palestinians, while being excluded from any peace negotiations which were based on UNSC Resolution 242. The quest of a Palestinian state was central to asserting this independence and affirming Palestinian national, not simply individual, rights.

The idea of the Palestinian state fulfilled four core functions for the Palestinian political struggle. First, it became the vehicle for asserting Palestinian self-determination. It made the Palestinian problem not a refugee problem in need of a humanitarian solution as UNSC Resolution 242 stipulated, but rather a political cause for national liberation.³

Second, it provided the framework for organizing and channeling Palestinian resistance. Since 1964 and more so since 1969, the PLO leadership has worked on setting up the institutions of the Palestinian state before territorializing it (Sayigh 1997). The PLO, with its various political institutions, political parties, electoral structures, and economic services, acted like a state in exile. The fighters in Lebanon and Jordan in the 1960s and 1970s, as much as the Palestinians resisting in the West Bank and Gaza, found in the PLO their political expression as well as their protector, and in the dream of the Palestinian state, however loosely defined, the meaning of their struggle for return to their homeland and their liberation.

Third, the independent Palestinian state became the means for fulfilling desired rights, including the right of return, political rights of citizenship long denied in the West Bank and Gaza Strip as well as in the Arab world, and economic rights of growth and development. The concept of a Palestinian state on part of Palestine ensured Palestinian sovereignty, even if it would have compromised Palestinian territorial rights and would have been unable

to provide justice to the refugees displaced in the 1948 and 1967 Arab-Israeli wars. This sovereignty was key, since it provided the means for ingathering all the refugees (even if only on part of historic Palestine), independence from manipulation by other Arab countries, protection of national and individual rights, and ensuring that Palestinians could live with dignity.

Fourth, the concept of the Palestinian state became the price for the Palestinian compromise with Israel. It was the only currency the PLO could use in an international system that was constituted of nation-states and of nations' rights to self-determination, and which declared that the only solution to the Arab-Israeli conflict is partitioning Palestine. In 1988, the PLO proclaimed "the establishment of the State of Palestine on our Palestinian territory with its capital holy Jerusalem" but accepted the principle of land for peace by officially recognizing Israel and UN Resolutions 242 and 181. Although the boundaries of the state it declared then remained undefined, it was understood to be in the West Bank and Gaza. The state that the PLO sought to territorialize through the Oslo peace negotiations since 1993, albeit on part of historic Palestine, was considered the best it could get given the regional and international juncture at which it found itself. While it excluded the Palestinians inside Israel from its polity and did not ensure full justice to all refugees, it promised to end Israeli occupation, ingather the exiled (or some of them), provide individual political rights for those without citizenship rights, and protect Palestinian national identity.

However, the Oslo peace process did not promise, nor create, a Palestinian state. It did not end the occupation; it simply redefined it (Hammami & Tamari 2008). The Oslo years allowed the establishment of Palestinian autonomy with limited and truncated territorial jurisdiction, over less than 22 percent of the West Bank. It created a Palestinian Authority with functional jurisdiction over 93 percent of the Palestinian people but with no sovereignty. Over the past seventeen years, this authority proved to be more concerned with security than with accountability, with policing than with citizenship. Since the Al-Aqsa intifada, Palestinians saw further expansion of Israeli settlement housing by over 4 percent per year, the doubling of the settler population to over 494,000 Israelis in the West Bank and East Jerusalem in 2009, the construction of the 709-kilometer separation wall, and the imposition of ninety-nine permanent checkpoints and 300 to 459 temporary obstructions which have deepened Palestinian territorial and social fragmentation and destroyed any possibility for a viable Palestinian state to emerge.⁴ The present negotiations remain stalemated with continuing Israeli settlement construction and seem unlikely to provide the Palestinians with a contiguous state over more than 58 percent of West Bank, given Israel's insistence on the demilitarization of the Jordan valley, sovereign control over east Jerusalem, and the construction of a separation barrier.⁵ Many observers, ranging from respected academics to former President Jimmy Carter, have argued

that the outcome of the Oslo interim agreement was an apartheid reality, not independence. It created unviable Palestinian Bantustans that are more analogous to the South African autonomies of the Apartheid era than to the dream of national independence (see, among others, Carter 2006; Farsakh 2005; Murray 2008; Siegman 2010).

Yet, while the dream of a Palestinian sovereign independence evaporates, it is far from evident that the one-state idea can replace it and galvanize a mass movement. For it to become the locus of Palestinian political struggle, the one-state idea needs to fulfill the four key functions that the idea of the Palestinian state performed for the cause so far. In other words, it needs to become a coherent political project, not just an ideal, one that can protect Palestinian rights, provide a vehicle for Palestinian political organization and resistance, and offer viable legal and political strategies that address concretely the domestic and international challenges it faces.

THE ONE-STATE SOLUTION AND POLITICAL RIGHTS

Palestinian proponents of the one-state project, such as Ghada Karmi, Karma Nabulsi, and Mustafa Barghouti, argue that it is morally “superior” or more “legitimate” than any other solution because it allows for the re-invigoration of the concept of popular sovereignty to protect political rights (Karmi 2007; Nabulsi 2009). Unlike the Oslo peace negotiations, which focused on those living in the West Bank and Gaza, the one-state solution would include all Palestinian political constituents, be it those in the diaspora or those inside Israel. It is better placed to fulfill Palestinian rights, both political and civil, than the two-state solution, as it acknowledges and protects the “right of return,” as mandated by United Nations General Assembly Resolution 194, allowing the possibility for Palestinian refugees to return home.⁶ It would also acknowledge the rights of those Israelis and Jews living on the land. According to Omar Barghouti, the one-state solution provides relative justice, as it “enables victims to live with their victimizers on an equal basis, despite all the injustices of the past” (Barghouti 2008).

The strongest argument for the one-state idea today probably lies in the fact that, from a practical political point of view, a two-state solution has been tried for the past twenty years and failed. The PLO’s historic compromise of 1988, which recognized Israel’s existence, failed to territorialize the Palestinian state. Moreover, the demographics of Israel-Palestine suggest that the one-state reality already exists, but one that is more analogous to the apartheid system of control than one that might set the stage for a viable two-state solution or democratic single state. In 2008, 5.6 million Jews were living in Israel/Palestine, equal to the number of Palestinians living in it (3.9 million in the West Bank and Gaza and 1.7 million living inside Israel)

(World Bank n.d.-a). By 2015, Palestinians will be a majority in Israel/Palestine, given their higher population growth rate (2.7 percent compared with 1.8 percent in Israel) (World Bank n.d.-b), making the question of their lack of real political rights increasingly troublesome both to the Israelis and the present Palestinian leadership.

Meanwhile, it is not clear that either the Palestinians or the Israelis are particularly ready for co-existence within a single state. Israelis, both within the mainstream political establishment and the society at large, reject the one-state solution. They fear that it will negate their Jewish identity and feel a need for their own state that would protect them from a resurgence of anti-Semitism. Benny Morris, among others, considers the one-state idea a means to eliminate the Israeli people and their culture, fearing that Arab demographic growth will make Israelis effectively a minority in historic Palestine (Morris 2009, pp. 140–60). Palestinians, at the official and the grassroots levels, have also expressed doubts about the feasibility of the one-state option because of the vehemence of the Israeli opposition, and more so out of fear of Israel's economic and political domination over the Palestinians within a single state.⁷

These fears appear to be validated by the latest statements from prominent figures among the Israeli Right that have come out in favor of the one-state solution, provided that the result be a Jewish state (Sheizaf 2010). *Likud* Knesset speaker Reuven Rivlin maintains that “it’s preferable for the Palestinians to become citizens of the state than for us to divide the country.” Moshe Arens, the prominent *Likud* Defense and Foreign Minister of the 1980s, argues that “we already [are] a bi-national state.” While many worry about the demographic implication of the binational option, Tzipi Hotovely, the youngest *Likud* Knesset member, argues that a “bi-national danger” is preferable to a Palestinian state. “In the bi-national process we have a degree of control, but the moment you abandon the area to the Palestinian entity, what control do you have over what will happen there?” Members of the settler movement in the West Bank, both from within the *gush Emunim* as well as *Yesha*, have started formulating plans that would provide Palestinians with citizenship rights in a dual- or triple-stage process over a period of a decade or two. Rather than fear or disengage from the Palestinian demographic conundrum, the Israeli Right is tackling the issue in a way that ensures Israeli control. As Hotovely put it, “I want it to be clear that I do not recognize national rights of Palestinians in the Land of Israel. I recognize their human rights and their individual rights, and also their individual political rights—but between the sea and the Jordan there is room for one state, a Jewish state” (Sheizaf 2010).

While the plans of the Israeli Right are still considered unrealistic, they reflect how the one-state idea can be hijacked and entail the capitulation, rather than the fulfillment, of the Palestinian right to self-determination and

national identity. Advocates of the democratic one-state solution counter this challenge by arguing that such proposals by the Israeli Right prove the “apartheid character” of Israeli plans. Their strategy so far has been to re-frame the debate over the nature of the Israeli-Palestinian struggle and to explain the superiority, and justice, of their “one-state” version. This inevitably entails explaining how their one-state project can meet Palestinian and Israeli nationalist concerns while protecting their individual political rights.

POLITICAL AND LEGAL STRATEGIES

So far, proponents of a democratic one-state solution have focused their attention on devising strategies to dismantle the structure of Israeli domination rather than engage with Israeli nationalist concerns. They have relied on two kinds of mobilizing strategies that seek to challenge the international consensus on the two-state solution and fight Israeli annexation schemes. The first strategy entails academic and grassroots activism that seeks to portray Israel as an apartheid state, arguing that Israel is a colonial state that is dispossessing Palestinians of their land and economic resources as well as discriminating against them inside and outside Israel’s 1948 borders (see, among others, BDS Movement 2010; Carey 2001; Davis 2004). This activism seeks to educate the international community about the parallel between Israel’s “matrix of control” and the South African apartheid regime in an attempt to get the international community to hold Israel accountable to international law. The Palestinian call for Boycott, Divestment, and Sanctions launched by over 170 civil society organizations in the West Bank and Gaza in 2005 is central to this activism and has been gaining ground internationally⁸ as well as within certain Israeli academic circles (Giroa 2010). It is part and parcel of an effort to cause a paradigm shift in thinking about the conflict from being composed of two national groups seeking territorial separation to being a single colonial structure that can best be dismantled by creating a democratic state for all of its citizens. In other words, it is a struggle for equal rights for all, Israelis and Palestinians, not statehood per se.

The second line of action is a legal strategy. From attempts to get the European Union to boycott products from Israeli settlements to discussions of the constitution of the democratic state, “one-state” proponents have been drawing on various international legal documents, from the Fourth Geneva Convention and the UN Convention against the Crimes of Apartheid, to UN Resolution 194, among others. They find two legal documents particularly relevant as they make their political case for a democratic one-state solution, and thereby also address the question of how individual and collective rights of people living in Israel/Palestine today can be accommodated.

The first document is Fatah's declaration in 1969 and the Palestinian National Council Resolution of 1971, which called for the creation of a democratic state in which Jews, Christians, and Muslims could live together on equal basis in historic Palestine. While this model was not expanded upon in the following years, it was not explicitly rejected by the PLO declaration of independence in 1988. It remains attractive today to the general Palestinian public.⁹ This resolution, however, fudges the question of Jewish national rights rather than addressing them directly. While it recognizes the right of Jews living in Palestine, it repudiates Zionism and fundamentally envisages Palestine as an Arab state. It does not explain how it will deal with the question of Jewish self-determination or the reality of an Israeli society that has been in place for over sixty years. In this respect, this proposal risks not being much different from that of the Israeli Right, insofar as it prioritizes one national identity over the other.

In an attempt to escape this conundrum, proponents of the secular democratic state today argue that while they reject Zionism, they do not negate cultural and ethnic differences. They advocate a secular, democratic state based on a "one person, one vote" model that prioritizes individual rights, and leave it to private forces and constitutional mechanisms to define the means to express and protect Israeli and Palestinian national identities (Barghouti 2008; Bisharat 2010). The problem, however, is that they do not always accord enough attention to the impact of demographic realities on the political rights of different communities living within one polity and ignore the risk that one group, by its sheer demographic size or expansion, can compromise the individual and group rights of the other group and turn it into an endangered minority. As Liv Grinberg puts it, "without the conditions for deep mutual recognition between the two communities, formal democratic institutions cannot guarantee political stability . . . a democratic state without additional political institutions could enhance the politicization of religion and the polarization of extremist ethno-national trends" (Grinberg 2010, p. 49).¹⁰

The second legal document that supporters of the one-state option draw upon is the United Nations Special Committee on Palestine Minority Report in 1947. This report proposed the creation of a federated state with full citizenship for Jews and Arabs and a bicameral parliament, one based on proportional representation and the second based on equal ethnic representation, thereby protecting individual and communal rights of those living in Palestine. This proposal received 50 percent of the United Nations General Assembly vote, but then was shelved. Today, a few law professors are trying to resurrect it to make it legally, as well as politically, attractive for Palestinians and Israelis (Bisharat "Between utopianism," 2008; Lynk 2010). Variations of this binational model appeal particularly to leftist Israelis (Benvenisti 2007; Yehuda Shenhav, as quoted in Sheizaf 2010) and have been supported

by Palestinians of Israeli citizenship such as Azmi Bishara, among others, who suggest that Israeli identity, rather than Zionism, needs to be recognized as much as Palestinian culture and identity (Ghanem 2007). These advocates envisage a single state along the lines of the Belgian or Swiss models, a federated or confederated state that protects Israeli and Palestinian cultural and political institutions and gives them their autonomy within a single state. They seem to suggest that with the appropriate constitution and gradual, creative approaches, national and individual rights can be protected.

So far, though, there is no Palestinian consensus on whether the one-state option should be binational or secular democratic, largely because there is no agreement on how far to engage with present Israelis and their ethnic concerns. Historically, the Palestinian national movement has never seriously considered how to cooperate with Israeli Jews to bring about a single state (Gresh 2010). Today, this is all the more difficult given the reality of occupation. Except for the Palestinian citizens of Israel, few Palestinians so far are now interested in reaching out to Israelis, let alone addressing their fears, the way that the African National Congress did in South Africa when it worked with white activists to dismantle the apartheid regime. Most Palestinian activism for the one-state solution inside the West Bank and Gaza considers that the only way to combat Zionism and its strong institutions, both in Israel and internationally, is to fight it, not engage with it or find the “liberal” forces within it, for that would be self-defeating (Barghouti 2009). They are willing to accept non-Zionist Jews, but so far have not coordinated any official or explicit political alliances with grassroots organizations in Israel calling for equality, such as the work of *Zochrot*, Israeli Physicians for Human Rights, and Israelis for Boycott, Divestment, and Sanctions, among other groups. They expect Israeli “one-state” supporters to do their share of mobilizing within their communities rather than calling on Palestinian support in this regard.

REGAINING THE INITIATIVE: WHO CAN TAKE THE LEAD?

Another major challenge for the one-state movement is to identify the leadership that can steer it. The present Palestinian political leadership, while not immune to the one-state idea, has not endorsed it. A number of senior Fatah figures, such as Saeb Erekat, Ahmad Qura'i, and Nabeel Shaath, have used the “one-state” idea as a threat in the face of Israel's intransigence on withdrawal from the occupied territories (Bronner 2004; Qurei 2008). However, no one has taken it up as a serious political program. Palestinian parties to the left, such as the People's Party (formerly the Communist Party), the Popular Front for the Liberation of Palestine, or the Palestinian Initiative (*al-Mubadara*) under Mustafa Barghouti, have been tempted by it. They have focused

on the importance of enhancing civic participation in framing the struggle and defending citizens' rights.¹¹ Yet, they are mainly active in explaining why and how Israel has killed the two-state solution, rather than defining what the one-state solution is, let alone campaigning for it.

Hamas, on the other hand, has long declared that its aim is the return of the land and destruction of the Zionist entity (Hroub 2000). Since the 2006 Mecca Reconciliation Agreement, it accepted the idea of a Palestinian state within the borders of 1967 with full sovereignty. Khaled Mishal, the head of Hamas's political bureau, maintained that Hamas does not accord much attention presently to the shape and nature of this state (i.e., whether it will be Islamic) as long as it entails the end of the occupation (Mishal 2008, pp. 63–68). Its acknowledgment of Israel is thus implicit. Its main priorities now are not the one-state solution, but rather reconciliation and power-sharing with Fatah, as the March 2009 negotiations in Cairo revealed. Its attention is focused mainly on asserting itself as the main Palestinian political party of resistance and in proving itself capable of controlling and managing Gaza on its own since 2007. According to Ghassan Khatib, it is Hamas, not the one-state movement, which will dominate Palestinian politics and change its direction for the coming years (Khatib 2008).

Fatah finds itself presently at a very difficult juncture, as its legitimacy is weakened in the face of Hamas, especially after the Gaza war (International Crisis Group 2008). During the Sixth Fatah National Convention, held in Bethlehem in August 2009, the delegates were concerned with the direction the party should take vis-à-vis the Oslo negotiation process, the question of armed resistance, and of relations with Hamas, not with the one-state option. The generational struggle within the party between the old guards and the young cadres for more effective presentation was partly resolved with the latter being more represented in the main Fatah organ, but it is still too early to say how far they are redirecting the party away from the struggle for a Palestinian state. What has been noted is that the young Fatah cadres in the West Bank at least have started an internal debate on whether to adopt the one-state solution as a political project (PASSIA Meetings 2008).¹² While many are in favor of it and assert how Fatah has been at the lead of the one-state idea, no one has yet articulated it as a political project. Both young and old cadres cannot yet envisage a political struggle for citizenship and equal rights before first obtaining their own Palestinian state.

Activists for the "one state," however, do not agree and seek to impact the leadership by calling on it to return to what Karma Nabulsi calls the "Palestinian Principles" [*al-Thawabit al-Filastiniyya*]. According to Nabulsi, the first step toward making the one-state project center-stage in Palestinian politics is to unify the fragmented Palestinian body politics. It requires a return to the "Palestinian Principles" that she discusses, and necessitates reviving the PLO as well as reconstituting the concept of popular sovereignty

as its *modus operandi*. She further argues that this can only happen by placing the “right of return” at the core of the Palestinian struggle and by reaffirming the role of refugees in defining and leading the Palestinian cause, as they did in the 1970s and 1980s (Nabulsi 2009).

The reform of the PLO has long been on the political agenda, particularly since its *raison d’être* was put into question with the creation of the Palestinian National Authority in 1994. The failure of Arafat to maintain the autonomy of the PLO and his authoritarian style led to its demise as a central political forum for Palestinians. Yet, most political parties remain attached to it since it is the only entity which represents all Palestinians inside and outside the occupied territories. Moreover, the PLO and not the Palestinian Authority is the Palestinian negotiation party to Oslo or any future agreement. However, most attempts so far to revive the PLO have focused on how to include Hamas within it. While there are concerns for reviving the organization institutionally and politically, there has been little serious consideration by any of the present parties, including Hamas, on how to bring a more effective representation and voice to the refugees as much as to the Palestinians inside Israel. It is still unclear how the PLO can take up the mantle of the one-state solution before it first reactivates itself as the forum for Palestinian politics. This will depend on the ability of the various Palestinian constituencies to push the political leadership toward adopting the one-state project as their political platform and strategy.

PALESTINIAN CITIZENS OF ISRAEL

The most important Palestinian constituency framing the Palestinian struggle today in terms of equal political rights and not statehood *per se*, and thereby laying the foundation for a democratic one-state solution, is inside Israel and increasingly in the diaspora. Azmi Bishara’s (2005) campaign within Israel calling for a state for all of its citizens has been key in changing the terms of the Palestinian struggle to a struggle for equal rights rather than simply national self-determination. It has helped mobilize the Palestinian youth in Israel as well as various grassroots, legal, and academic institutions to campaign for full equal rights. This can be seen in the work of *‘Adala, Mada Al-Carmel*, and the Haifa Declaration, among others, who seem to implicitly call for their right to a binational state.¹³

In a sense, the Palestinian citizens of Israel are best placed to lead the one-state movement, in view of the historical juncture that the Palestinian cause has reached. The trajectory of the Palestinian cause can be traced as one in which the refugees took the lead in articulating the Palestinian right to statehood and return in the 1960s through the 1980s and formed the core of the PLO until they were superseded by the Palestinians in the West Bank and

Gaza. The latter moved center-stage with the eruption of the first intifada in 1987 and the Oslo process that sought to territorialize the state in the confines of the West Bank and Gaza. Yet, as the Palestinian state project has been transformed into an aid-dependent Palestinian Authority fragmented and constrained in its ability to defend the Palestinian cause, it seems inevitable that the only alternative for protecting Palestinian rights and representing all of its constituents is a solution based on equal rights in all of historic Palestine. The Palestinian citizens of Israel are the best placed to articulate the Palestinian cause in those terms and to lead it by virtue of their experience with the Israelis over the past sixty years.

It is not clear though, whether the Palestinian citizens of Israel are willing or able to take a leadership role, given the fierce opposition they receive from Israel and the failure of the present Palestinian leadership to incorporate them. The institutional links with the PLO as much as with the Palestinian political parties have always been weak, if they have existed at all. The incidents of October 2000 in which thirteen Palestinian citizens of Israel were killed for demonstrating in support of Al-Aqsa intifada show the danger of their identification with larger Palestinian concerns. Attacks on Bishara and *Tajamu'*, which led to the former's exile, have shown the danger of campaigning for a binational state and left many Palestinians inside Israel without leadership. It still remains to be seen how a new leadership can emerge and what strategies it can forge to ensure its survival given the discrimination and intimidation that Palestinian citizens of Israel continue to face ("Extremist Settlers" 2010).

THE PALESTINIAN DIASPORA

Palestinians in the West, activists, students, and academics have been the most vocal for the one-state solution. Edward Said is probably the most remembered among diaspora Palestinians for advocating the one-state solution in the 1990s (Said 2000). Many others have since developed the debate and reached larger audiences all over the globe. The most important grass-roots organizational work for the one-state solution has been among students and activists in the United Kingdom as much as in Canada, and increasingly in continental Europe, and finally in the United States. Following the example of South Africa's Anti-Apartheid Movement, these activists have relied on three important strategies that are central for any successful one-state movement. First, they emphasize the apartheid nature of Israeli rule in order to show how the one-state solution is the only way out of the present dispossession. Second, their work is based on collaborative initiatives that include Jews and Israelis, Arabs and Palestinians. They thus show the centrality of reaching out to the other side, the Israeli as much as the Arab and Westerner,

and the feasibility of such outreach once outside the occupied territories. Third, they rely on civil disobedience campaigns. The student sit-ins in numerous British and some American universities during Israel's latest war on Gaza recentralized the Palestinian cause internationally. The "Israel Apartheid Week" campaign that started at the University of Toronto in 2004 was, by 2009, a major international event that included over forty universities in over twenty countries in North America, Europe, and Asia. Most have adopted the call for a BDS campaign, with its three aims of the "right of return," an end to the occupation, and an end to discrimination inside Israel, refocusing the struggle on political rights rather than on statehood.

THE OCCUPIED TERRITORIES

Various forums within the West Bank and Gaza are starting to talk about the one-state idea as an inevitable option for the Palestinian political struggle today (Jarbawi 2008; The Palestine Strategic Study Group 2008).¹⁴ The few polls conducted on this question in the occupied territories find that over 40 percent of the Palestinians today are in favor of the one-state solution, defined vaguely as entailing Jews, Christians, and Muslims living together (Center for Development Studies 2006). The nationality and constitution of this state still remain vague, for most Palestinian activism inside the West Bank and Gaza remains focused on combating the occupation, not on defining its end result. What is new in this activism is its increasing reliance on civil grassroots action, rather than militarism. This can be seen in the Campaign to End Israel's Apartheid Wall, the weekly demonstrations against the separation wall in Ni'lin, Budrus, and Bil'en, and in the BDS campaign. Although BDS does not take a position on the one-state solution, this campaign has become an effective organizing tool for refocusing the Palestinian cause worldwide on the issue of Palestinian rights rather than statehood *per se*. It has succeeded in calling attention to Israel's violation of Palestinian rights and framing these violations in an apartheid framework of analysis, as well as inducing international companies to withdraw their business from Israel.¹⁵ However, unlike the South African Anti-Apartheid experience, the BDS movement in the West Bank and Gaza does not attempt to work with what they term the "enlightened colonizers." So far, it has shown no interest in engaging Israelis; its proponents maintain that only successful international sanctions will make "Israelis lose their privilege, face the colonial nature of Zionism," and eventually join hands with the Palestinians for the sake of justice and equality (Barghouti 2009).

THE REFUGEES

Refugees represent the most supportive constituency for the one-state movement, and the largest numerically. Yet they are not at the forefront of articulating the debate for the one-state solution or defining the meaning of national and individual rights in a democratic state. It is an activism that is grass-roots-based and concerned with opening spaces for popular representation. The most vocal among them are in Lebanon and Jordan and to some extent in the West Bank and Gaza. Most of their campaigning for the one-state solution is in Lebanon and passes through their defense of the right of return. A number of initiatives have taken place in Lebanon by voluntary organizations and political activists seeking to link refugees together by overcoming geographical obstacles. Their ability to revive the PLO has so far remained limited.

MOVING FORWARD, MOVING BACK

Although the one-state idea has not broken the international consensus on the two-state solution, it offers new ways to move beyond the present stalemate. The problem, though, is that the stalemate might last for quite a long time, given that the main political actors, both within Israel/Palestine and the international community, are not pushing for a resolution, and have not been swayed by the one-state option. The Obama administration continues to talk about a Palestinian state, but has so far been unwilling to put any pressure on Israel to end all settlement construction, remove the separation barrier on Palestinian land, or deal with the myriad of checkpoints and bypass roads. Chief U.S. negotiators, such as Aaron Miller and Robert Malley, see a long-term interim solution which would postpone indefinitely the most difficult issues such as Jerusalem and refugees. Many seem to think that “a non-violent status quo is far from satisfactory,” as Shlomo Avineri put it, “but it’s not bad” (Gresh 2010). That might be the case from an Israeli point of view, but many fear that Israel plans to link Gaza to Egypt and the West Bank to Jordan, consolidating the dissolution of the Palestinian cause rather than its resolution.

In view of this situation, some observers are calling for creative interim institutional designs that can address the present concerns of Israelis and Palestinians. Some question the utility of territorial sovereignty in the present context of globalization and call for the creation of parallel states in a form of a “condominium” (Mossberg 2010, pp. 40–45; Witkin 2011). Others are proposing new institutional designs that can include the positive elements of both the one-state and two-state options. Lev Grinberg suggests the creation of an Israeli-Palestinian union which includes a shared administration based

on parity. Rather than negate the present Palestinian and Israeli nationalist and security concerns, such a union would include two separate democratic nation-states bound by an economic union and seven federated provinces or states that enjoy some relative autonomy (Grinberg 2010, p. 49).

While all these proposals are interesting, they presume good will on the part of Israel and a willingness to accept Palestinians as equal, let alone dismantle its structure of domination. They show yet again that building a one-state movement in Palestine requires a serious reconsideration and debate over the concept of statehood, citizenship, and identity. The experiences of the independent Arab states, as well as of the limited Palestinian autonomy have clearly shown that statehood and sovereignty per se do not guarantee political rights. What needs to be developed and fought for is the notion of equal political rights as citizens and the institutional means to protect these rights, no matter what kind of state polity these fall under. This is not easy, since the nature of the state shapes the nature of political rights that people acquire in it. Yet, the one-state movement is unlikely to succeed before leading, and resolving, a society-wide discussion on what it means to be Palestinian and Israeli in a new state. It inevitably needs to address, rather than negate, the continuous presence of the Israeli-Jewish culture and how to live with it. As the example of the anti-apartheid struggle in South Africa demonstrates, any call for an inclusive state cannot avoid addressing the rights of the “other.”

Most of the Palestinian debate on the one-state solution, while inclusive of Jews, avoids engaging with the complexity of Jewish identity and history. It clearly repudiates Zionism, but it seeks to incorporate the Jewish person as a neutral repentant entity. There is little discussion of what to do with the Israeli culture that has developed over the past sixty years or with the Jews that care about their language and their culture who want to remain in Palestine as Hebrew speakers (and who do not identify as Palestinian). The binationalists argue that these people have a place in the one-state entity as long as they accept the democratic game. The secular democrats are either silent or expect the Jews to become de facto Palestinians. There is little discussion of what the identity of this new state will be, implying that it is either going to be Arab-Palestinian, or at best left open. As Islamic parties’ constituencies expand in the Arab world and Palestinians increasingly define their identity in religious rather than national terms, one wonders how the one-state movement can have any resonance in the Palestinian and Arab “street.”

In my view, two central debates need to take place for the one-state movement to gain momentum. The first is an open discussion on identity and a free open space to understand Israeli culture in its Western dimensions as much as its Arab roots which it often negates. It can start by rehabilitating the concept of the Arab Jew, albeit with the understanding that cultural identities are historically determined and always in flux. Such rehabilitation can enable

the average Arab and Palestinian to see the Jewish people as part of the broader Arab heritage, not as an alien, Western product, and thus as somebody to live with, not to expel. The one-state movement can start by rediscovering the role that Jewish people have played in Arab society and politics in critical, rather than dismissive or romantic terms. There is an urgent need to learn and diffuse knowledge about the role of Jews in the Arab national independence movement in the twentieth century and in their opposition to Zionism, as much as to reexamine the role of Arab societies and governments in ostracizing long-established Jewish communities in a number of Arab countries, be it in Iraq, Yemen, or Egypt (Levi 2008; Shatz 2008). Building bridges with increasingly vocal, if still mainly academic, Israelis of Arab descent who are not shy of challenging their state and want to re-engage with their Arab heritage can only help the movement both within the Arab world as much as with Israelis. Building alliances with Israeli organizations and individuals, irrespective of their Western or Arab heritage, and who are above all critical activists against Zionism and advocates of “one state” is a necessity (e.g., *Zochrot*, Physicians for Human Rights, etc.).

The second debate that needs to take place is about multi-culturalism in Israel as well as in the Arab world and within Palestinian society, and how to reinvigorate the present Arab identity with the cosmopolitan character that it once had. Rehabilitating the cosmopolitan nature of the Palestinian Arab identity is key to moving forward as much as fostering channels for effective political participation and protection of equal citizenship rights in a binational or secular democratic state. It is all the more necessary in the global world in which we live today. The starting point of the debate has to be an agreement on both sides of the need to dismantle Zionism as a colonial project. However, if it is to flourish, the one-state movement cannot focus on the negation of Israeli culture, or on a primordial Islamic identity and Arab nationality which historically have always been porous.

CONCLUSION

This chapter has explored the extent to which the one-state solution can become a clear Palestinian political project, rather than a slogan, which can help rebuild the Palestinian body politic and keep the Palestinian cause center-stage in international politics. It has shown that while the one-state movement is growing, it is not yet a cohesive political force or an organized political movement. So far, it is made up of intellectuals and activists, in Israel/Palestine as much as in the diaspora, each working in their own locality and trying to reach out to others. Palestinian activism for the “one state” so far appears more concerned with asserting Palestinian rights and keeping

the Palestinian cause visible, rather than seeking to convert Israelis to their cause.

The challenges facing the one-state idea remain huge, not least of which are vehement Zionist opposition, lack of international support, and the reluctance of Palestinian leadership. The one-state protagonists have so far been forthcoming in addressing the first challenge facing the one-state debate: the importance of redefining the Palestinian struggle in terms of rights, not simply statehood. When it comes to impacting the present Palestinian leadership, one-state supporters hope that the loudness of their voice will be heard, or rather, are waiting for a new leadership to emerge from the ashes of Oslo and the Palestinian leadership's defeat. In terms of defining their legal and political strategy, they are still debating the options while supporting a grassroots boycott movement. They have avoided addressing the nationality of this one state, as they are inconclusive on whether it should be binational or secular democratic. Many still do not want to discuss the question of Israeli national/political rights within a single state, a question that needs to be addressed openly and critically if the movement is to gain momentum.

In this respect, however, there is much to learn from South Africa's anti-apartheid struggle, in terms of discourse as much as in strategy. The South African struggle emphasized equal political rights, when the white government and many blacks were pushing for separate development and Bantustans that would be declared "sovereign states." It emphasized working across the board, for a state for all of its citizens. Above all, it showed that while reconciliation and collaboration with the previous oppressor does not entail loving your partner, it does necessitate respecting the equal rights of the other. These lessons must be internalized by the advocates of a one-state solution if they are to have any hope of overcoming Israeli occupation and colonization. Developing the ability to address the difficult issues of identity, equal rights, civic responsibility, and political power is also a prerequisite for building a one-state movement that can surmount the serious domestic, regional, and international challenges it faces.

NOTES

1. See also the "One State Declaration" on www.electronicintifada.org. For opponents of the one-state solution, see Morris 2009.

2. While it is also important to analyze the prospects for establishing such a one-state movement within Israel, time and space limits restrain the possibility of covering this dimension; it will be taken up in a follow-up paper.

3. UNSC Resolution 242 does not mention the word Palestinian and only calls for a "just solution to the refugee problem," not specifically one based on UN Resolution 194 (read UNSC Resolution 242, at www.domino.un.org). The drafters of this resolution envisioned an Arab-Israeli solution wherein the Arab states would speak for the Palestinians and resolve the question of land and refugees through a possible return of the West Bank to Jordan and the Gaza Strip to Egypt.

4. Data from B'tselem, *Restriction on Movement*.
5. Various maps of the separation wall are available at http://www.nad-plo.org/listing.php?view=maps_wall; also see "Israel Offering" 2008.
6. According to official estimates, there are 6.8 million Palestinian refugees who fled or were expelled from their homes in 1948, of which 4.3 million are registered with the UN Relief and Works Agency for Palestine Refugees. See *BADIL* 2006.
7. Findings based on a series of interviews conducted with political official and grassroots organizations in the West Bank, March–July, 2008.
8. So far, major supermarkets in Italy, the United Kingdom, and Norway have announced their boycott of Israeli produce from the settlements. Deutsche Bank, a global financial institution, as well as the Norway State Pension Fund, Sweden's largest pension fund Foersta, and Denmark's Danske Bank divested from Elibit systems, a large Israeli technology company. Culturally, a number of known figures openly called for boycott of Israel or canceled visits to official cultural events in Israel (e.g., Ken Loch, Judith Butler, Naomi Klein, Roger Waters, Nigel Kennedy, and Vincenzo Consolo). See BDS Movement 2010.
9. See results of poll conducted by the Center for Development Studies 2007.
10. See also Bisharat 2010, which addresses this challenge by proposing a number of constitutional guarantees and mechanisms for reconciliation that protect and respect individual and collective rights.
11. See statement by *Al-Mubadara*, <http://www.almubadara.org/new/english.php>.
12. Based on fieldwork data collected by the author during a Fatah internal meeting, Ramallah, May–June 2008. See Also PASSIA Meetings 2008.
13. See, for example, www.mada-research.org/archive/haifaenglish.pdf.
14. Based on fieldwork data collected by the author.
15. See PACBI and BDS campaign websites at www.pacbi.org and www.bdsmovement.net.

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Chapter Twelve

A One-State Solution?

*From a “Struggle unto Death” to “Master-Slave”
Dialectics*

Raef Zreik

An observer of the debates conducted among Palestinian intellectuals over the one-state solution (OSS) in Palestine/Israel will have perceived a surge of interest in these discussions in recent years. In this chapter, I investigate the reasons for this mounting interest and attempt to introduce a number of distinctions and parameters into the debate in order to create some order within it an increasingly imperative task if these discussions are to proceed in a constructive manner.

In the first section of the chapter, I seek to ascertain the source of the impetus for a revival of the OSS¹; I also outline a typology of the arguments commonly evoked in favor of the OSS, exploring its allure for Palestinians. The second section aims to determine what, if the OSS is indeed “the solution,” is the problem that it purports to solve, and in what sense it constitutes a solution to that problem. In this section, I claim that many of the arguments deployed in support of the OSS are misplaced and do not truly represent an answer to the actual problems facing the Palestinians. My main line of reasoning is that the existing criticisms of the Oslo Accords and their perceived failure should not inexorably lead the Palestinians to abandon the two-state solution (TSS) and adopt the OSS, as this solution is not necessarily more just (although it might be), nor is it incontrovertibly more realizable. In the third section, I argue that support of the OSS nevertheless represents a compelling option for the Palestinians, but for reasons other than those usually put forward by its advocates. Its value lies not in the disputable fact that it is a better “solution,” but rather in that it provides the means for altering present

relations between Palestinians and the Israeli state, empowering Palestinians and supplying them with tools for their struggle. Understood in this way as a means rather than a final solution, the OSS has the potential to change the fundamental parameters of the problem, reformulating the present by perceiving it through the prism of an imagined future. The evocation of the OSS shifts the Palestinian position from a struggle unto death against the Israelis to a master-slave dialectics with them. This shift turns Palestinian weakness into strength, puts limits on Israeli power, and furnishes the Palestinians with a plan and agenda for struggle, which they currently lack.

In evoking Hegel's terminology, I refer to the Hegelian reading of the development of the struggle for recognition as a model for the Israeli-Palestinian relationship. As we know, the Hegelian Subject is unlike the Cartesian Cogito: he does not recognize himself monologically, but rather through a dialogical engagement with the external world. At the first stage of the struggle, the Subject confronts an object and practices his will over it, either destroying or consuming it. In doing this, however, the Subject does not confront the desire of another subject. Rather, he practices his desire against an object that lacks any desire. The subjugation of an object does not bring satisfaction to the Subject, and leads him to continue his search for recognition by confronting another desiring subject like himself; for to be human according to Hegel, as Kojève put it, "man must act not for the sake of subjugating a thing, but for the sake of subjugating another desire . . . a desire that tries to be satisfied by being recognized by another desire" (Kojève 1969, p. 40).² In this confrontation, the Subject struggles to win recognition through the annihilation of the other subject the Other. In this struggle unto death, the Subject asserts itself by a total war of negation against the Other, which Hegel calls "abstract negation." Here again, however, the Subject discovers that the absolute annihilation of the Other denies him the satisfaction of recognition; he needs the existence of the Other in order to establish himself as Subject. This realization leads him to the crucial move: to what Hegel calls "negation from consciousness," in which the Subject does not annihilate the Other, but rather incorporates him into a unity which includes both the Subject and the Other: he enslaves him. Through this act, the subject "supersedes in such a way as to preserve and maintain what is superseded" (Hegel 1977, pp. 114–15). By establishing a master-slave relationship, the moment of victory over the Other is eternalized. Each day, the Master can look anew into the eyes of his slave and remind himself that he has prevailed.

Hegel's struggle for recognition continues as the Master, again dissatisfied with recognition from a slave, goes on to seek a mutual recognition. For my purposes in this chapter, however, the critical move is the one described above: the shift from the struggle unto death (which Hegel calls "trial by death" [1977, p. 114]) with another subject, to the moment of enslavement. In this scenario, the act of enslavement can be understood as the drafting of a

contract: the victorious side of the struggle grants the defeated side his life; in return, the loser relinquishes his freedom by becoming the winner's slave. This contract completely transforms the nature of the relationship between the two sides from one governed by pure, unlimited force to one subjected to moral imperatives. As long as the Slave is a slave, the Master can't simply annihilate him at random, since that would constitute a breach of the contract into which he entered of his own free will. The Master is, of course, physically able to do whatever he likes, as there is no one to stop him, but the contract engenders a moral sphere that puts limits on the Master's power by delegitimizing such an act. The move away from a struggle-unto-death relationship to a master-slave one subjects the Master to new rules that were absent in the earlier stage; he enters a normative sphere with its own gravitational force. The power of the Slave is thus paradoxically expressed precisely by his full surrender. Through this act, he manages to put limits on the power of the Master. Although the Master himself is the one who initiated the new relationship, once it has been set up, it takes on a life of its own and the creator becomes subjected to his own creation.

The Hegelian structure serves me as a sort of metaphor, or model. In drawing on such an analogy, I am not claiming that in the Israeli-Palestinian struggle, one side aims at physically annihilating the other neither Israel (by the Palestinians), nor the Palestinians (by Israel). I evoke Hegel's narrative in order to shed light on the difference between a conflict that takes place between two distinct unities (a struggle unto death) and one that redefines the struggle as taking place within a single, larger unit that contains both sides (a master-slave dialectic), and the way in which this conceptual shift subjects the struggling parties to a new normative order. It is one of the contentions of this paper that both the first Intifada, and to an ever greater degree the second Intifada, are akin to the struggle unto death, a mode which has reached an impasse. The OSS offers the Palestinians a means for shifting relations to those found in the master-slave model. By evoking the OSS, the struggle is relocated and transferred into the unity with the Israeli entity through redefining the unity itself instead of struggling against it. In comparison with other political struggles, this move leads away from the Algerian model and toward the South African one. The South African model suggested an "exit option" for the whites that enabled them to stay within the polity and thus envisioned a future "we" beyond the apartheid regime; the Algerian model, on the other hand, did not offer any way in which the future Algeria could incorporate French and Algerians together.

THE REVIVAL OF THE ONE-STATE SOLUTION

The OSS has recently become the focus of a flurry of intellectual discussion. Articles are being written, conferences are being held, and talks are regularly delivered by an array of intellectuals: Jews and Palestinians, Americans and Europeans.³

In referring to this trend, I make use of the word “revival” to denote the fact that the idea is not completely new, although the way it is being presented in current debates is undoubtedly different from previous conceptions. During the Mandate period, a group of Jewish intellectuals supported a binational state in Palestine for Jews and Palestinians, most notably Yehuda Magnes and Martin Buber. Palestinians at that time supported a single state in which Jews would be granted certain rights as a minority religious group, but not as a national group. With the establishment of Israel in 1948, and following the clear and decisive victory of Ben-Gurion’s separatist line for an independent state for the Jews, the OSS disappeared from the Jewish-Zionist agenda. The idea next surfaced following the establishment of the Palestinian Liberation Organization (PLO) in the 1960s, again, not in the form of a binational solution, but rather as a democratic, secular state. In subsequent years, the PLO apparently abandoned the OSS in favor of a TSS, a shift that was expressed in its Declaration of Independence of 1988, and more explicitly in the Oslo Accords. Thus the proposition itself is not novel for either side. What is new in recent debates is that the single state is now being formulated by Palestinian intellectuals in terms of a binational solution, one that acknowledges the nationalist claims of both Jews and Palestinians. As such, in a move parallel to that taken by the Oslo Accords, it represents a clear recognition on the part of the Palestinians of the national aspect of the Jewish existence in Palestine, while nevertheless rejecting the TSS. From the Jewish standpoint, the main difference between the one-state option supported by Magnes and Buber lies in the context: while Buber and others demanded a binational state at a time when the Jews had nothing in their hands and a binational state would therefore have been considered a great achievement, Jewish intellectuals demanding a single binational state today are doing so against the background of what appears to be the absolute victory of Zionism in establishing and consolidating a Jewish state. In light of these reservations, one may speak of a “revival” of the OSS in a limited sense only⁴; the OSS that is being discussed these days comes against a completely different geopolitical reality, to the point that one can hardly speak of a revival, but rather of the OSS as a new solution.

Much of the momentum behind recent Palestinian support for the OSS stems from the abject failure of the Oslo process in paving the way toward the implementation of the TSS. The Oslo Accords, which were based to a large extent on the TSS, did not lead Israel to lay foundations that would

allow for the establishment of two separate states. In fact, just the opposite has happened: since the signing of the Accords, Israeli settlements in the West Bank have expanded exponentially, the West Bank has been severed from the Gaza Strip, bypass roads have been paved that riddle the West Bank, and water resources have been confiscated. All these developments have dashed lingering hopes of an Israeli withdrawal from the West Bank. The dismantling of the settlements is increasingly relegated to the realm of fantasy; Israel and its expansionist policies have obliterated the borders of 1967, *de facto* reunifying Palestine as a single entity and reviving the pre-1948 arrangement of two groups living in one territory that constitutes a single geopolitical entity.⁵ Israel's settlement policy thus represents an "overkill" of the victory of 1967 through its incorporation of the Palestinians in the West Bank into Israel.⁶

This leads us to one of the major arguments against the TSS, that it has simply become "impossible." This impossibility can be understood in several ways. In the more common, political sense, it has become impossible to imagine how the political situation in Israel could allow the government to evacuate the settlements.⁷ These are no longer an appendage to the body of the state, or an exceptional, temporary phenomenon: Israel has been an occupying power for the last forty-two years, while previously it existed as a non-occupier for a mere nineteen years. The state can thus no longer recognize itself without the occupied territories, and any withdrawal would have to entail a deep ideological shift within Israeli society. Observing Israeli society today, the prospect for such internal dynamics can scarcely be discerned. The political sense of impossibility further implies that it is almost unimaginable that the Americans or the international community would be willing to put sufficient pressure on Israel, forcing the state to evacuate the settlements and withdraw from the occupied territories (Tilley 2003).

Besides these political considerations, there is another sense of impossibility that relates to the overall nature of the dispute and the facts on the ground. The conflict is intrinsically a communal conflict between two groups, not a conflict between an occupying state and an occupied people. As such, the possibility of segregation has become increasingly impossible to sustain: the settlements are spread throughout the body of the West Bank, and the two communities are intertwined and inter-dependent to the point that any surgical attempt to separate is bound to fail.⁸ The impossibility of partition goes deeper still and touches on the geographical and topographical nature of Palestine and its water resources. As Meron Benvenisti (2007) once put it, this country will not tolerate a border in its midst; it cannot bear two sovereigns between the sea and the river.⁹

One might add to these arguments the impossibility of an economically viable Palestinian state. Any Palestinian state established within the existing

balance of power and given the current limitations would be wholly dependent on Israel and therefore unfeasible (Tutunji & Khalidi 1997).¹⁰

Beyond the claim that the TSS has become practically unrealizable, another fundamental incentive for the shift toward support for the OSS lies in the fact that many Palestinians virtually equate the TSS with the Oslo process itself, and the failure of Oslo automatically denotes the bankruptcy of the TSS. Moreover, particularly within Palestinian intellectual circles, the Oslo process is perceived as not only having failed to achieve the aims and aspirations of the Palestinian people in terms of sovereignty, statehood, and the return of the refugees (Farsakh 2005; Said 2004), but also as having destroyed the very tools for struggle. By creating the semblance of a peace process, the struggle itself has become less open to articulation, resistance has been delegitimized, and the Palestinian leadership has crumbled away. The Palestinians now find themselves, a decade and a half after the Oslo Accords, not only without statehood, but also without a liberation movement, as the PLO has been supplanted by a bizarre entity named the Palestinian Authority (PA). The PLO, it is true, was not declared dead, never buried; formally, it still exists. However, it no longer represents the Palestinian population of the world: there is currently no mechanism through which the people themselves elect its members. Rather, it has come to be a symbol, representing the historical PLO, while the focal point of Palestinian politics has shifted from the PLO to the PA. Prior to the signing of the Oslo Accords, the Palestinian question was at least alive, and Palestinians had a vocabulary with which to express their demands alongside a political agenda. Much of this vocabulary has now been lost.

This leads toward a further crisis of representation, trust, and confidence, which serves as additional impetus for Palestinians to abandon the TSS and revert to supporting the OSS. The main figures associated with Oslo, most of whom are now key figures in the PA, have come to be viewed by many Palestinians as a corrupt elite that acts as sub-contractors for Israel, and as having failed to lead the struggle for independence, sovereignty, and freedom (Ghanem 2001, chapter 6). Many have lost all credibility in the eyes of their people. The latest war on Gaza, during which the leadership of the PA adopted a political stance that was perceived as effectually providing justification for the Israeli war as they publicly ascribed blame to the victims, demonstrated this fact beyond doubt (Ghanem 2011),¹¹ and reflected a crisis of discourse and leadership that has created a pressing need to transcend both. The recent leak from the negotiation table, published by Al Jazeera,¹² has only added to the growing mistrust. Anger toward the current leadership and the demand for its replacement is often expressed as a demand for a change in the platform and vision promoted by the current leadership. Thus the demand to adopt new solutions is closely tied to the desire for a change in leadership and expressions of mistrust in the leadership of the PA.

Another argument for the adoption of the OSS is rooted in a discourse of realizability. One of the strongest contentions deployed by the advocates of the Oslo process and the TSS is that, despite the fact that this solution was not sufficiently sensitive to the demands of justice, it represented what was actually achievable given the imbalance of power between Israel and the Palestinians. It was offered as a pragmatic solution, indeed, the only feasible solution. Now, however, it has become apparent that even this minimal solution is not in fact achievable. If so, goes the argument, why should the Palestinians continue to bind themselves to it?¹³ Since the TSS is not realizable and given that its “realizability” was its most compelling feature, overriding its injustice and considering the fact that there is no other alternative solution currently on the table that is feasible in the foreseeable future, then why not support a solution that is more receptive to the demands of historical justice?

Indeed, the OSS is widely viewed from a Palestinian perspective to be the more just solution, due to several considerations. First, the TSS apparently cannot deal seriously with two main segments of the Palestinian people: the Palestinians inside Israel and the Palestinian refugees. The commonly held view of the TSS assumes that Israel will continue to be the state of the Jewish people, representing their right for self-determination, thereby leaving the Palestinians of Israel in the position of unwelcomed citizens in a state that openly declares that it is not theirs.¹⁴ The demands upheld by Palestinian refugees, too, apparently cannot be satisfied within the framework of the TSS: the capacity of a small Palestinian state to absorb refugees will be extremely limited, allowing for the return of only a small number. Moreover, many Palestinian refugees seek to return to their previous home their historical environment not merely to their “state,”¹⁵ an aspiration that the TSS will not be able to accommodate. In contrast to the Jewish demand for a collective return to a homeland and territory, the Palestinians are demanding to return to a concrete, individual, private home, a plot of land, a property. The concept of “return” and the implementation of this right make sense, primarily on the personal, private level, only if each Palestinian refugee can choose where to return to within Israel/Palestine. The logic of two states, the rationale of national self-determination, stands in tension with the individual logic of the Right of Return, and the rhetoric of national self-determination as a group right does not capture the full nature of the Palestinian experience and demands. The OSS seems to provide a better solution for both these groups by offering a more comprehensive and inclusive outcome for them; one that would allow the Palestinians to reunite as a people.

Secondly, the OSS maintains the territorial integrity of historical Palestine as a single entity, and through that unity erases all artificial boundaries that have fragmented the Palestinian people. A solution that offers the Palestinians only 22 percent of their historical land in the best-case scenario (the

area included in the West Bank and Gaza) with no access to the sea (except in Gaza) does not satisfy the demands of justness and leaves the Palestinians largely cut off from their homeland and from one another. The TSS allows the Jews to unite while splintering the Palestinians.

While the arguments above are based on a sense of historical justice, other arguments deployed in support of the OSS, and its justness, are based on ideas of distributive justice rather than historical justice, looking toward the future rather than the past. These arguments claim that the OSS gives the Palestinians a better chance of achieving their rights and their share of the collective good as citizens of the binational state.¹⁶

In order for justice-based arguments to carry any weight, however, they need to address not only Palestinian concerns, but those of Israeli Jews as well. The OSS must give compelling reasons that appeal to both sides, ones that cannot simply be rejected in good faith. I will not at this point draw on the arguments commonly put forth by a majority of Israelis as to why the OSS is not a just solution from their point of view,¹⁷ nor will I strive to undermine the validity of these arguments. I would like, instead, to evoke an existential argument that is upheld by many Israelis against the OSS. This argument states that there is no good reason why Israelis should agree to shift from a sovereign state, in which Jews form the majority and exercise full control over their own security, borders, demography, and fate, over to a situation in which they share this majority status and control with Palestinians, even with the rest of the Arab world (given that Palestinians are Arabs and thus have close relations with the surrounding Arab world), freely and willingly putting their faith in constitutional arrangements and guarantees. Such arrangements may prove ineffective, and the stakes are too high to take such a risk; thus, while the OSS clearly stands to improve the status of the Palestinians, who take only a limited risk by adopting this solution, it represents, so the argument proceeds, a high risk for Israeli Jews.¹⁸

Since the OSS inherently requires persuasion and political debate, as by its nature it is a solution that suggests a future vision for the Jews as well as for the Palestinians, advocates of the OSS cannot avoid engaging with this mode of argument. In this chapter, I will initiate, but not exhaust, such a discussion. Two main points can be broached at this stage for further debate. One is that it is, to a large degree, a myth that the security of Israel can be guaranteed by Israel alone. Without the enormous international support that pours into Israel from the West, primarily from the United States, Israel would be unable to maintain its current status within the region.

The second point is that the conclusion that any change involves an increase in risk is only partly true, since the extension of the status quo and growing enmity toward Israel within the region and from the international community also presents a risk. Indeed, the status quo is never static; change is inevitable and one cannot simply take refuge in the “present.”

Another line of reasoning could be evoked, which claims that Israeli Jews ought to take an interest in the OSS on the grounds that it is more responsive to Jewish interests in Israel/Palestine in the long run. It allows all Jews who wish to live in the West Bank to do so and to have access to the entire territory of Palestine/Israel. Rather than living in a smaller country with a Jewish majority, they would instead live in a larger country in which Jews account for only half of the population. Thus the OSS would allow them to be attached to all of Eretz Yisrael and its religious sites, at the cost of less sovereignty and less Zionism.

Moreover, the argument might claim that considering the fact that, given demographical developments, Israel is gradually becoming a binational state within the Green Line in any case and is already *de facto* in the process of losing its unique character as a Jewish state, the TSS will eventually lose its attraction for the Jewish people.¹⁹ Considering this, the TSS apparently offers the Palestinians a state of their own while leaving Israel to slowly transform into a binational state. If the binational logic has become an incontrovertible reality, then it would be preferable from a Jewish perspective for this binational state to stretch over the whole area of Palestine/Israel. However, such a conclusion clearly undermines the Zionist project of maintaining a Jewish state, and at this stage a vast majority of Jews rejects this logic. In the current state of affairs, most Israeli Jews, if they were forced to choose, would most probably opt to live in a state that was limited in its territory, but nevertheless maintained a Jewish majority and Jewish sovereignty.

An additional line of argument, taken up by some Jews, contends that any compromise that does not tackle the roots of the conflict will not endure but, rather, will only invite the next eruption of violence. Since the core of the Palestinian problem lies in 1948 and the creation of the refugee issue, the solution must address that problem. According to this view, if Jews do not want to experience their presence in Israel merely as colonial settlers, but to be accepted as natural inhabitants of the region and normalize their existence within it, then they must first take full responsibility for Israel's actions in 1948, which includes the establishment of a binational state for both nations.

BETWEEN THE FAILURE OF OSLO AND THE ONE-STATE SOLUTION

These are all valid arguments for the adoption of the OSS, taking into consideration both Palestinian and Israeli concerns. In this section, however, I would like to tackle several of the assumptions underlying the momentum of recent support for the OSS, in order to show that the failure of Oslo should not automatically render the TSS unworkable, and the total failure of the Palestinian leadership should not inevitably lead to the abandonment of the

TSS. Moreover, the problems that face the TSS should not necessarily commit us to the OSS.²⁰ There is a gap between the failures of Oslo and adoption of the OSS that needs to be breached before the OSS can be crowned as the more successful alternative. In order to address this gap, several questions need to be raised: is it possible to concur with most of the aforementioned arguments without endorsing or not fully endorsing the OSS (at least not for now)? Is there any logical, conceptual, or political open space between the failure of the Oslo process and the OSS? And does rejecting the former inexorably lead one to the latter?

The proposition that the TSS is unfeasible at the present moment does not, to my mind, consequently lead us to adopt the alternative solution. One could argue, instead, that if the TSS is unattainable due to the existing imbalance of power, then one should strive to redress this imbalance, not necessarily to alter the political program itself. According to this reading, the Palestinians failed to achieve their goals not because of ineptitude or because they were advocating the wrong solution (the TSS), but simply because they lacked the power to do so. If the problem is reformulated in this way then the solution, for the Palestinians, may lie in their acquiring more power, and therefore, in contemplating the means for acquiring it. In this regard, one may argue that the OSS solves a different problem from that which currently afflicts the Palestinians, and that it simply looks for answers in the wrong place. The political debate is not, and should not be, exhausted by either the OSS or the TSS exclusively. Politics, in part, entails contemplating means and developing strategies for achieving goals. Politics concern the “how” (the means) and not only the “what” (the goals). This understood, one might argue against Oslo and its aftermath not from the standpoint of the OSS, but rather from that of the TSS; rather than criticizing the TSS through Oslo, reevaluating Oslo precisely because it did not lead, and could not have led, to a just TSS. This shift of perspective is therefore an invitation to contemplate the means rather the ends.

Although it is now clear that the so-called peace process, which began in Madrid and proceeded to Oslo, did not lead the Palestinians toward their goal, namely, an independent Palestinian state, but instead allowed Israel to expand its settlements and create even more facts on the ground, one could nevertheless disagree with the way in which the whole process has been conducted without also adopting the OSS. One might argue, for example, that, in contrast with the process of negotiations launched by Oslo, the only way to achieve a TSS is through military resistance that is limited to the occupied territories, while refraining from such actions inside Israel proper. The same is true of dissatisfaction with the current Palestinian leadership and the so-called peace process. One could conceivably demand the replacement of the entire leadership without committing oneself to a shift in the position from the TSS to the OSS. The aim of all the foregoing examples and argu-

ments is to fragment and disintegrate what appears to be a single question into a series of different questions, and thus avoid any reductionist approach to the problem that collapses three different questions into one: Should the Palestinians replace the current Palestinian leadership? Should the Palestinians adopt new tools for their struggle, in place of the path of negotiation? Should the Palestinians change their goal from a TSS to OSS? These are three different questions. Analytically and politically, these questions must be kept apart.

Once the OSS has been severed from its assumed identity with the failed Oslo Accords, it must demonstrate two things before it can be adopted as a worthy option: first, that as a solution it is more just than the TSS, and second, that it is not more utopian than the TSS. At this stage, I will bracket the issue of justness. The second point amounts to arguing that the balance of power within which the TSS is attainable can also provide the conditions for the success of the OSS. Hence the imbalance of power is not, so the argument posited by supporters of the OSS might proceed, in and of itself an influencing factor in determining which option is preferable, since in both options the imbalance is in any case strongly tipped against the Palestinians, in the same manner and to the same degree. If this is the case, so the argument goes, then all solutions seem equally feasible, and what remains for the Palestinians to discuss is essentially the justness of the solution and not its realizability or other issues of power relations. The OSS is a more just solution, ergo one should support it.

I have reservations about this line of argument, and I contend that there is a conceivable balance of power that would enable the establishment of a Palestinian state in the West Bank and Gaza, but would not allow for the OSS. If Israeli Jewish public opinion is a part of the balance of power (and I believe that it is), then while a TSS is liable to divide Israel politically along one fault line or another, the OSS would surely unite it in opposition against it. In certain ways, the TSS represents a rift within Zionism between those who support a smaller Israel as opposed to a greater Israel, but the OSS solution would imply the ideological defeat of Zionism and total transformation of the meaning of the Jewish existence in Palestine.²¹ This shift would require a profound change of identity for most Jews in Israel, and it is not clear that the possible political compromises can wait until such a change occurs. Presumably a distinction can be made between what is mandated politically, and what one might hope for in the long run. Certain political compromises can and must be made despite ideological differences; they cannot wait till these ideological differences are solved.

Those who support the OSS are very aware of the drastic changes it would require. According to one advocate of the OSS:

It follows that, in a democratic secular state, the very concept of Jewish statehood (and, implicitly, the scope of Jewish nationalism) would have to change quite radically. National rights and privileges on both sides would have to be guaranteed by subsuming them into Israeli national privileges. Benefits now legally restricted to Jews (commonly by attaching them to military service and less directly to the Law of Return), such as housing loans, education loans, public-sector employment and so forth, would have to be reconceived and resources redistributed. Land use some 93 per cent of Israel is at present reserved for Jewish use would have to be reconfigured. Housing would have to be formally detached from exclusive Jewish occupancy (and the “Jewish-only” character of the settlements would have to evaporate). The long-established role of the Jewish Agency, which administers Jewish national resources and privileges in Israel, would have to be re-examined. Electoral politics and Knesset representation would also be transformed, to permit legislative debate on the basis of equal ethnic standing. Alterations to the Basic Laws, or the creation of a secular constitution, could ensure that Israel continues to safeguard Jewish lives and rights, providing the sanctuary which many Jews in Israel and abroad remain anxious to preserve. But the same basic law would have to ensure Muslim, Christian and, indeed, agnostic/atheist rights, and eliminate, at least juridicially, any institutionalized hierarchy on ethnic or religious lines. Such a transition would require years of debate and struggle and a political will now glaringly absent. Truth commissions and/or a general amnesty might eventually surmount the legacy of violence and hatred, but as in all such aftermaths, the process will take generations. (Tilley 2005)

One may wonder whether such a change, which effectually involves turning the Jews into a minority within the new state, has more or less chance of coming to fruition than the dismantling of the settlements. I am not arguing for the latter, but questioning the assumption of the feasibility of the former.

This leads us to address the second point that needs to be assessed before abandoning the TSS for the sake of the OSS: the superior justness of the OSS. Contrary to common assumptions, it is not obvious that the OSS is by definition more capable of solving the problem of the refugees. The refugee problem can only be solved through formal, detailed arrangements to be agreed upon between the parties, and the OSS does not by necessity provide better conditions for such arrangements. The nature of these arrangements hinges on the balance of power between the two groups in both cases; it is not solved by the logic of either “solution.” For instance, one can conceive of a TSS in which no limits are placed on the number of refugees permitted to return to the Palestinian state, as well as aversion of the OSS in which the numbers of returning refugees are capped. The idea that the OSS will replace the logic of nationalism with a civic-liberal rhetoric (and as a result the Jewish majority would not take into account demographic considerations) according to which the only significant category is citizenship seems a little too rosy. At this stage, at least, I do not foresee the disappearance of demographic/nationalist rhetoric and language with the dawning of the one state.

Just as one must be aware of the limits and the problems created by nationalist/collectivist rhetoric, so, one must acknowledge, too, the limits of liberal discourse.

There is much to be said of other aspects of the justness of the TSS compared with the OSS; in this short chapter, I will allude to two major points. The first is that it is possible to think of the TSS in a fresh manner that transcends the 1967 borders, expanding the repertoire of options available to the Palestinians before they shift from the TSS to the OSS. One could suggest, for example, a partition that allocates more lands to the Palestinian state (for instance, 40 percent instead of 22 percent, and access to the sea) in a way that both responds to the future needs of the Palestinians (distributive justice) and redresses past historical injustices (corrective justice). One way or another, the TSS could conceivably be formulated according to a rationale other than that of the Oslo process to make it more responsive to Palestinians' demands and aspirations. If Israel does not treat the 1967 borders as sacred, then there is no reason for the Palestinians to do so. Hence the logic of the TSS allows more room for intellectual maneuver than one tends to think.

The second point, which is often overlooked in these debates, relates to the role played by justice in any potential solution. Justice is considered a moral parameter, to which any solution must pay its dues. Justice, however, can be understood in various ways. Here I would like to "unpack" the concept of justice, and to distinguish between three conceptions of the term. The first distinction I make is between "corrective justice" and "distributive justice."²² Corrective justice aims to rectify and compensate for the harm or the loss that person A causes to person B. As such, it is interested in the "historical" facts, in the question of what happened, who caused the harm, and whether he or she can be held responsible. Corrective justice is indifferent to power relations and to the relative wealth of the parties involved. This form of justice requires that if A causes damage to B's car, A is responsible and therefore must compensate B for the damage. Corrective justice requires this compensation, even if A happens to be an extremely poor person and B is Bill Gates, and the act of compensation will cause A to starve, while it will be utterly negligible to the wealthy Gates. Corrective justice thus only looks back, not forward to the future and to the fair distribution of wealth. For that purpose, we must evoke another concept of justice: "distributive justice." This concept aims at achieving a just distribution of means, one that provides each person in society with a certain minimum. In many ways, distributive justice is more inclusive and forward looking. These days, the Palestinians can formulate their demands in terms of both categories of justice: corrective (since they used to own most of the land and the resources and as such can deploy the language of entitlements) and distributive (in the sense that they are at a disadvantage and disposed of resources, and as such they can use the

language of need). Any discourse of justice must have both conceptions in mind.

I would like to add a third conception of justice that is sometimes referred to as “transformative justice” or “transitional justice.”²³ Here I prefer to use another term for this type: “political justice.” In contrast to corrective justice that aims to restore a status quo that has been violated by one of the parties, and also distinct from distributive justice that aims to create a fairer distribution of resources of wealth within a certain given community, political justice aims to reconstruct the conceptual framework itself, the new “we,” to constitute a new polity, a new context for relations from which we can proceed to speak of corrective and distributive justice. This is obviously not an intuitive justice in the way that corrective justice is, and clearly it entails traces of forgiveness, transcendence, and overcoming to the point that one may question the use of the term justice at all (Shaap 2006, pp. 620–26).

By making these distinctions between the various demands that fall under the general term “justice,” the TSS could conceivably be tailored to respond to the moral imperatives of justice no less than the OSS. In addition, while justice is a critically important factor, one must take other factors into consideration as well; happiness, human flourishing and well-being, and high living standards are, for instance, also important values that need to be taken into account in any proposed solution.

THE PROMISE OF THE ONE-STATE SOLUTION

Despite my arguments in the previous section against the abandonment of the TSS, I will now outline an alternative argument in favor of the OSS that focuses on means, not on ends. I believe that the OSS is nevertheless a compelling option for the Palestinians, not in the sense of a solution as much as a path and an invitation to articulate the conflict in new terms. As such, its principal advantage may lie in the fact that it suggests new means of struggle for the Palestinians and new ways to articulate their demands, rather than provide a final solution (at least not for the near future). Evocation of the OSS could potentially alter the current power relations, transforming Palestinian weakness into strength, and imposing limits on Israeli power. These are qualities that are absent from the dynamic and logic of the TSS. In this sense, the OSS allows the Palestinians to revive their political struggle, renewing a path that has been rendered effectively impossible by the Oslo Accords. This, I believe, makes it a worthy option for Palestinian support.

This type of move, a reformulation of the present through a vision for the future, is an unarticulated implication of any proposed solution. Looking back, one of the main consequences of the TSS has been that the idea itself shifted the struggle over to the law and logic of war. The TSS adopts a

collective-national rhetoric of separation, in which each entity is treated as if it were an independent state with the obligations that independent states incur under international law.

The subjects/citizens of one state or entity can make no claims on the other state, and neither state bears duties toward the subjects/citizens of the other. The rhetoric of national self-determination takes the politics of difference to its limits and creates boundaries that signify the limits of the legal and ethical responsibilities of states. Thus the rhetoric of difference, in the best-case scenario, is a prelude to indifference, and, in the worst-case scenario, to war the language spoken by “states” in conflict. Military power is employed against other “states”; states that lie across borders. The image of the border is intrinsic to the image of war and is in dire need of the national-separatist logic. This need explains the logic of the unilateral withdrawal from Gaza and the separation wall. In fact, Israel’s war on Gaza could not have been imagined or accepted by the Israeli public and the international community without the logic of Oslo in general, and the rhetoric of two states in particular. The national-separatist logic, the logic of boundaries and separate entities, allows the language of war to emerge as the most common currency and enables Israel to make effective use of its military superiority.

It is small wonder, therefore, that the Israeli right wing has discovered the advantages of treating the PA, and subsequently the Gaza Strip, as separate, sovereign political entities. In this way Israel can have it “both ways”: it can continue to exercise *de facto* control, exploiting whatever resources it requires and dictating access by land, air, and sea to the Palestinian territories, while concomitantly absolving itself of the responsibilities of an occupying power. This reasoning also sheds light on the ambivalent attitude of Israel toward the PA. For Israel, the PA both exists and does not exist. It must exist in order to portray the image of another, separate state, thereby releasing Israel of any responsibility toward the Palestinians, while at the same time it must not exist, in the sense that Israel continues to act as the only real sovereign. The outcome of this contradictory approach is that the PA exists, but only as a weak and sickly body. It must remain “hospitalized,” a patient under treatment, neither in the process of recovery nor critically ill. The PA plays an intermediary role between Israel and the Palestinians that masks the fact that the lives of Palestinians are wholly dependent on and controlled by Israel. In this respect, the power of the OSS lies in its potential to unmask the present, reconceptualizing it as a struggle between two communities under the control of the Israeli state. The proposed “solution” or vision of the OSS is in fact a means by which Palestinians and Israelis, as well as the rest of the world, can be made to see the present reality through the lens of the future. Rather than suggesting a solution (the OSS) that is deduced from an analysis of the current reality (apartheid), the opposite move is taking place: we understand reality against the background of an imagined future.

One of the most potent advantages of the OSS is therefore that it proposes other forms of struggle that may have the effect of neutralizing the supremacy of Israeli military power. The OSS invites a different language from that of war, one that generates a centripetal force and a single gravitational field in which priority is given not to the collective but to the individual. This can be imagined as a struggle that is inclusive, individualistic, and universal, one akin to the South African struggle for “one person, one vote,” which was essentially a civil rights struggle based on a belief in the equal worth of human beings: a classic liberal struggle.²⁴ The OSS has the potential to transform the Palestinian struggle into a struggle for civil and human rights within one entity, be it named Palestine, Israel, or otherwise. This kind of struggle presupposes a certain degree of living-together, assumes a future sense of “we” that transcends the current dichotomies of “us” and “them,” and individualizes the struggle, universalizes it, and even humanizes it. Thus the struggle is not conceived of as a struggle unto death between two separate entities, but rather as a struggle for equal rights within a single entity. It is not governed by the laws of war but by the codes that dictate the relation of the state to its citizens. This civic struggle places far more demands on Israeli Jews than the demand for a separate state, since it obliges them to forego their right to comprise a demographic majority. Equally, it also makes greater demands on the Palestinians because, once the struggle is won, they must live with their former adversaries and must find the ability to articulate a sensible and reasonable vision for the future, and must be able to articulate a sense of a future “we” already know. A formula needs to be developed in advance to allow the two groups to live together, one that has not been contemplated in wars of independence in the classical sense.

The OSS, and the modes of struggle for equal civil rights associated with it, makes possible the combination of a radical solution (that brings together all Palestinians and Jews into a single state of equals), with a peaceful means of achieving that end (a civil rights movement). Regarding the relationship between means and ends, Palestinian politics have long marched along parallel lines: those who were maximalist in their political goals were usually the most militant, while those who promoted a minimal, pragmatic solution were generally in favor of more peaceful, less violent means. The OSS may present an opportunity to forge a new alignment of radical goals with peaceful means and might have the power to turn the Palestinians’ weakness into their main strength, neutralize the imbalance of power, and shift the conflict from a struggle unto death to the dialectics of a master-slave relationship.

NOTES

1. In this chapter, I assume a certain conception of the OSS, though one might conceive of at least three such solutions. The first solution would be some sort of Arab Palestinian state

(probably also Muslim) that would be tolerant of the existence of non-Arabs, but whose Arab identity would be recognized in the public sphere. The second solution would be a secular civic state that foregrounds individual equality and treats issues of national identity as private matters. In this state, Jews would be acknowledged as a group only in religious terms. The United States serves as an example of such a secular civic state. The third solution would be a binational state that grants equality both on the civic-individual level and on the collective-national level to both groups, Jews and Palestinians, providing public recognition for both. Canada and Belgium are models of such a binational state. For the purposes of this chapter, I deal mainly, but not exclusively, with the last solution, as I take it to be the most serious option for reasons that cannot be addressed in this paper due to limitations of space

2. I also benefited from Taylor 1975, pp. 148–55.

3. See, for example, the declaration of the one-state solution made by Palestinians and Jewish intellectuals in 2007 London at <http://www.counterpunch.org/onestate.html>. Recently, two major conferences have been held on the topic in North America, one in Boston (for details see <http://onestateforpalestineisrael.com/>), and the other in Toronto, hosted by the University of Toronto (for details see <http://www.yorku.ca/ipconf/index.html>). One can also find an entry on the topic on electronic encyclopedia Wikipedia, at http://en.wikipedia.org/wiki/One-state_solution. See also the recent two books on the subject: Abunimah 2006; Tilley 2005. For some of the other leading names associated with this debate see, for example, Abu Odeh 2001/2002 and a reply by Tamari 2001/2002; Barghoti 2004; Benvenisti 2007; Covel 2007; Crami 2008; Elazar 2003; Farsakh 2007; Ghanem 2002; Judt 2003; Pappé 1999; Said 1999, 2000; Tarazi 2004.

4. For a history of the idea, see Charters 1994; Gendzier 1975; Goldstein 1988; Hermann 2005; Magnes 1930.

5. With, of course, the crucial difference that the unified entity now falls under Israeli control, whereas prior to 1948 it was under the authority of the British Mandate.

6. In this context, the unilateral withdrawal from Gaza and the construction of the separation wall should be seen as two different Israeli attempts to exclude, contain, and keep the Palestinians “out” in a manner that allows Israel to remain inside the Palestinian territories but prevents the Palestinians from being “inside Israel.” Among the major objectives in building the wall was to halt this “unifying logic” and reconstitute the territories as a separate entity that lies “out there,” beyond the borders of the state.

7. For the purpose of this chapter, I proceed on the assumption that the creation of a real, independent, and sovereign Palestinian state, not a noncontiguous set of cantons, would require the evacuation of most, if not all, settlements.

8. Benvenisti (2007) did much to develop this line of argument. Although one can argue against Benvenisti that there was a time when this country did, in fact, sustain a border in its midst the seventten years between 1948 and 1967, still I think Benvenisti has a point on three accounts: one, that the elimination of the border in 1967 was not an accident, but was bound to happen sooner or later; two, that the West Bank between 1948 and 1967 was not really an independent state, but rather a part of Jordan and only as such could it sustain itself; and three, that the current situation, in terms of the interdependence of the various parts of the country and the population boom, is vastly different from the reality of 1948.

9. For more on this argument see Shavit 2003. Hanegbi argues in this interview, “If you want a Jewish sovereignty you must have a border, but as Zionist thinker and activist Yitzhak Tabinken said, this country cannot tolerate a border in its midst” (Shavit 2003, p. 94). Benvenisti makes the same argument: “The model of division into two nation-states is inapplicable. It does not reflect the depth of the conflict and does not sit with the scale of the entanglement that exists in large parts of the country. You can erect all the walls in the world here, but you won’t be able to overcome the fact that there is only one aquifer here and the same sea. You won’t be able to overcome the fact that this country will not tolerate a border in its midst” (Benvenisti 2007, p. 95).

10. See mainly the discussion on whether the Palestinian state can follow the Singaporean model (pp. 43–46). For an elaborated discussion, see Abed 1990. See also the Rand Palestinian State Study Team 2005.

11. Copy with the author.

12. For details of the documents from the Palestinian negotiation team, see <http://english.aljazeera.net/palestinepapers/>.

13. See, for example, for the list of challenges to the TSS, Sussman 2004.

14. For a review of the status of the Palestinians in Israel see Rouhana (1997) for a socio-political review of their status; Yiftachel (2006) for a model that situates Israel as an ethnocracy regime rather than one of democracy; Kretzmer (1990); Saban (2010) for a legal analysis; and Kedar (2001) for the process of land dispossession from the Palestinian citizens by the state of Israel.

15. In this regard, one should clearly distinguish between different categories of refugees. The first distinction is one between those who still are living in refugee camps in Palestine itself, like those in the refugees camps around the Palestinian cities of Jalazoon, Duhesheh, and other refugees who are outside Palestine. Then, between those who are outside Palestine, one needs to make at least one distinction between those who are still living in refugee camps in the neighboring Arab countries and those who settled in other Western countries.

16. This forward-looking argument has been developed, for example, by Abu Odeh (2001/2002).

17. For general support and justification of the idea of Jewish state and its compatibility with liberalism and human rights, see Gavison 1999, p. 44; Rubinstein and Yakobson 2009.

18. This argument is supposed to be based only on issues of lack guarantees and the high-risk nature of the solution, regardless of issues of substantive justice. Thus one may agree that on the level of principle and as a matter of justice the OSS is a just solution for both people, and still think that as long as there is instability in the Middle East, the OSS demands a level of risk that most Israeli Jews cannot afford to take. For a development of this argument, see Gans 2008 (see mainly chapters 3 and 4). Gans does not justify the right of Israel to continue to exist as a Jewish state on the basis of the right to self-determination, since the right to self-determination could be fulfilled within a binational state or as a matter of cultural autonomy within a state. For Gans, the only justification rests on the ongoing war and lack of security, and as such the justification has an “expiry date.” It is to these sorts of arguments that I am referring in this chapter.

19. See more on this argument in Shavit 2003.

20. For a recent argument in support of the TSS despite the obstacles it faces see, for example, Pressman 2009.

21. However, an important caveat is that Israeli public opinion is not deeply divided over this issue today. Many of those who are considered members of the so-called peace camp in Israel are in favor of the TSS in a limited sense, and the majority approves of Israel retaining the bulk of the major settlements blocs and the settlements located in the vicinity of Jerusalem, and of continuing Israeli control over water resources, borders, and air space in a way that calls into question the entire TSS. Indeed, this uncompromising stance explains why the TSS has been appropriated by both the Israeli right under Ariel Sharon and the American right under former President George W. Bush. Nevertheless, it is possible that in certain regional and international circumstances pressures may be brought to bear on Israel to compel it to accept the TSS. Such pressures would deeply divide Israeli society, and the advocates of partition may be able to prevail in other circumstances.

22. For a short and clear exposition of the distinction in legal theory, see Weinrib 1991.

23. For these concepts, their meaning, and history, see Tietel 2003.

24. On the comparison between South Africa and Palestine, see Heribert and Moodley 2005; Yiftachel 2001.

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Chapter Thirteen

Past and Present Perfect of Israel's One-State Solution

Moshe Behar

Caged in a minuscule china store are a cat, a dog, and an elephant. Their lives are fraught with tensions, hazards, and risks. As a consequence, the cat and the dog engage each other to debate the situation and devise paths to secure dignified life for all. Their exchanges are scrutinized also by observers who split every hair to four to weigh prospects for a functioning coexistence. Notwithstanding his dominance over the store, the elephant and his reasoning are rarely considered thoroughly. This, I submit, metaphorizes the post-1993 one-state/two-state debate on Palestine/Israel (hereinafter 1S2S). Whereas the neglected elephant in the china store is Israel's ruling Zionist Right, the cat and dog represent the non-Zionist one-state school and the left-Zionist two-state school who "own" the 1S2S debate. In what follows, two complementary propositions are explained.

The first is that there never really was a consequential pre-1948 Zionist constituency—nor a post-1948 Israeli-Jewish constituency—that supported a two-state partition in the Lilliputian 26,320 square kilometer territory comprising Mandatory Palestine from the Jordan Valley to the Mediterranean Sea. Anti-partition was certainly the historical Palestinian stand as well. The second proposition is concurrent: the breathtaking one-state vision for this territory—in its dominant forms of a liberal or binational state—seems equally unlikely to materialize. Standard 1S2S solutions appear remote because the sole empirical/material process that does unfold in this territory since 1919 is what I term Israel's one-state solution (i.e., *ceaseless consolidation of Zionist-Israeli domination over the whole territory comprising mandatory Palestine*). If my propositions are found modestly plausible, then the implication may well be this: in the foreseeable future this territory stands little

chance to be partitioned viably—or democratized along liberal lines—as wishfully hoped by left-Zionists and non-Zionists respectively. Instead, pathways likelier to transpire are two: *either* 1) further velvet, forceful, or violent cleansing of Palestinians, particularly if some regional confrontation outbreaks resembling the 1948 or 1967 wars (Israel/ISIS, Israel/Iran, etc.); *or* 2) expansion *into* the West Bank of the ethnocracy that presently rules the pre-1967 territory west of the Green Line. I close with a brief reflection on the four asymmetric forces—Israel, the Palestinians, Euro-America, and the Arab world—that theoretically can generate some degree of liberal democratization between the valley and the sea.

CONTEXT AND ORGANIZING TERMS¹

The post-1993 debacle emerging from the Oslo peace process gave rise to a 1S2S debate on the Palestine/Israel question. Discussions have appeared in such forums as *Race & Class* (1995), *Middle East Report* (1996), *News from Within* (1997/1998), *Journal of Palestine Studies* (1998–2000), *New York Times* (1999), *Boston Review* (2001/2002), *New York Review of Books* (2003), *London Review of Books* (2003), *KEDMA* (2004), *The Arab Geographer* (2005), *New Left Review* (2006), (the Israeli) *Left Bank* (2007), the *Palestine-Israel Journal* (2007), and *The Public Sphere* (2012), among others. Cities/municipalities have hosted conferences that discussed the 1S2S puzzle, including Jaffa–Tel Aviv (1996, 2008, 2009), Basel (1997), Bethlehem (2003), Bilbao (2003, 2004), Nazareth (2005), Geneva (2006), Bil’in (2007), Madrid (2007), London (2007), Haifa (2008, 2009), Toronto (2009), Boston (2009, 2010), Dimona (2010), and others. The innumerable texts on the 1S2S question include books, articles, non-scholarly essays, manifestos, op-eds, pamphlets, and blogs.² Long is the list of scholars who have felt compelled to add their perspective to the expanding 1S2S fray—or who may have been dragged in somehow—including Noam Chomsky, Edward Said, John Mearsheimer and Stephen Walt, Tony Judt, Judith Butler and Michael Walzer, among others.

In practice, 1S2S exchanges have set boundaries between “acceptable” and “unacceptable” contentions that protagonists can add to the continuum. Accordingly, a “One-Stater” denotes an individual who advocates for some configuration of a *single, democratic state* encompassing the whole territory of Mandatory Palestine. Those advocating for a single *non-democratic state* are disregarded as party to the proverbial 1S2S debate. Conceptualized in its standardized terms, the 1S2S exchange rarely involves individuals advocating for—say—a *single* “Jewish and democratic” state across Mandatory Palestine (ignore momentarily whether this amounts to a contradiction in terms). Similarly circumvented are parties advocating for a *single* Muslim/Islamic

state; a Muslim Brotherhood–inspired unitary Caliphate in Israel/Palestine is disregarded as fruitful party for 1S2S exchanges.

Matters are ten-fold muddier conceptually and politically when attempting to make sense of who is a “Two-Stater.” As elaborated below, it is chiefly as an outgrowth of Ariel Sharon’s 2005 implementation of the “Disengagement Plan” from the (still Israeli-occupied) Gaza Strip that the riddle of “who is a Two-Stater” became incredibly complex. While the crystal-clear pre-1988 Palestinian-Arab opposition to the idea of a two-state partition was neither articulated nor practiced too prudently—the Zionist opposition was as vehement, yet cunningly concealed and practiced, from 1919 to 2005; since then it is easier to detect this opposition, provided that one is not willingly blind. The reminder explains chronologically historically representative moments in this century-old evolution.

1919 TO 1923

As debated today, the Palestine/Israel question is one of few outgrowths of the disintegration of the Ottoman Empire’s Arab-Asian parts during World War I (i.e., the territories that nowadays comprise Saudi Arabia, Iraq, Syria, Lebanon, Jordan, and Israel/Palestine). To make fuller and better sense of the twenty-first-century 1S2S debate, there is little choice other than to rewind to 1919. Like members of many collectivities worldwide utterly convinced that they historically deserve national self-determination (in the form of a Wilsonian post-imperial independent nation-state), Zionists traveled to the Paris Peace Conference to present their case. Headed by Dr Haim Weizmann (1874–1952), the delegation submitted a three-page document that concluded with literal description of the topographic border locations for the proposed territory of the Jewish state. Figure 13.1 translate these into a visual map.

Although neglected, this map constitutes “Point Zero” for all official post-Ottoman territorial aspects pertaining to the Palestine/Israel question to this day. In the necessary retransplantation of this 1919 map in the liberal scholarly mind of 1S2S debaters, all should internalize two points: the first is the boundaries of the envisioned Zionist state; the second is that they were officially submitted by the most moderate Zionist constituency (i.e., the left-Zionist labor movement). It is not coincidental that one hundred years later this map brings to mind Israel’s most militant ultra-Zionist settlers.

In 1920, the newly established League of Nations devised a Four-State solution to the Arab territories that for four hundred years were part of the Ottoman Empire. Britain’s anti-Ottoman Hashemite ally gained its independence immediately in Arabia (that did not yet become Saudi). The League next entrusted Britain with two mandates over the bordering territories Mesopotamia/Iraq and of greater Palestine (of both banks of the Jordan Val-



Figure 13.1. Topographic visualization of the territory for the Jewish state included in the Zionist submission to the League of Nations, 1919

ley). Fourthly, the League entrusted France with the united territory of Syria/Lebanon.

That unambiguous borderlines between these formerly Ottoman provinces were lacking had mounted now British-French frictions. Consequently, the British Secretary for the Colonies Winston Churchill (1874–1965) convened in Cairo (in March 1921) a meeting of English and Arab experts to assess post-Ottoman complexities including 1) the general dilemma of British-controlled territories vis-à-vis French-controlled ones and 2) the fate, and precise territorial composition, of the Iraq and Palestine mandates. The meeting's main conclusions were to offer the Iraqi throne to Emir Faisal (son of Sharif Hussein ibn Ali al-Hashemi) and the emirate of Transjordan to his brother Abdullah. It was during that occasion that the territory referred to by melodramatic contemporaries as “historic Palestine” or “historic Eretz-Yisrael” was demarcated too. Churchill's experts drafted a clause that was later added (as Article 25) to the final/binding text of Britain's Palestine Mandate; its final version read:

In the territories lying between the Jordan [valley] and the Eastern [Iraqi] boundary of Palestine . . . the Mandatory shall be entitled . . . to postpone or withhold application of such provisions of this mandate as he may consider inapplicable to the existing local conditions.

Article 25 enabled the British to slice 75 percent of Palestine's mandated territory, georegionally erect the monarchy of (Trans) Jordan as a fifth post-Ottoman state-entity, and award it to the Hashemites too. Britain officiated this modification in 1922, and it was authorized by the League of Nations in 1923.

This foundational chapter is largely lost on the left-Zionists/non-Zionists who inhabit the 1S2S debate. For them, “historic Palestine/*Eretz-Yisrael*” means the post-1923 demarcation stretching west of the Jordan valley. That explains why post-1993 texts discussing the 1S2S conundrum refer to this territory exclusively. They additionally conceptualize it as if it was, or remains, a secluded island (Behar 2011a) and—by logical extension—regard 1948 or 1967 as their debate's “Point Zero.”

That, however, is not the view of the neglected elephant ruling the Israeli/Palestinian china-store: the 1919–1923 chapter is not as lost on Israel's Zionist Right. The pre-1948 Zionist right—and the post-1967 Israeli right—resist the 1S2S debate's frame of reference. For them 1923 has always been important since it—*alone*—embodies the concept of partition: 75 percent of the territory the League designated for the Jewish National Home was taken away. That is the foundation for the Israeli Right's view that no (additional) partition shall ever take place west of the valley since, as the slogan goes, “Jordan is Palestine.” Recall the unofficial—and conveniently forgotten—

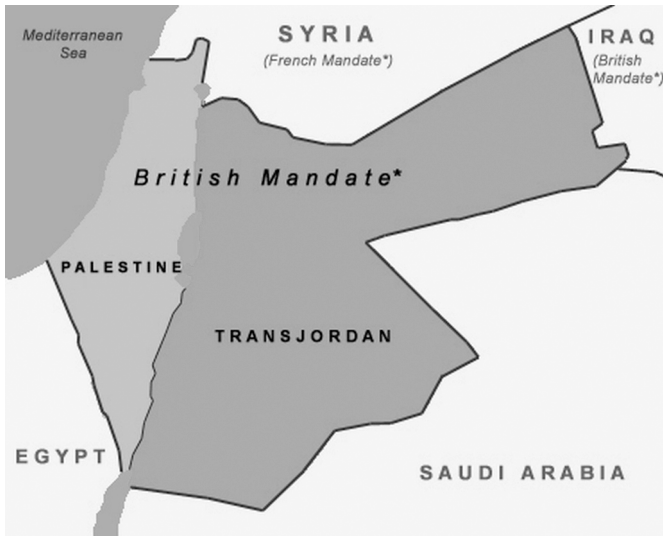


Figure 13.2. Territorial breakup of the 1920 Palestine Mandate through the 1923 formation of the Emirate of Transjordan.

anthem of the revisionist Zionist movement Betar, that Ze'ev Jabotinsky (1880–1940) penned in 1930. Titled “The East Bank of the Jordan,” it reads:

As a bridge is held up by a pillar
 As a man is kept erect by his spine
 So the Jordan, the holy Jordan
 Is the backbone of my Israel.

Two Banks has the Jordan –
 This is ours and, that is as well.

Though my country may be poor and small
 It is mine from head to foot.
 Stretching from the sea to the desert
 And the Jordan, the Jordan in the middle.

Two Banks has the Jordan –
 This is ours and, that is as well.
 My two hands I have dedicated to the homeland,
 My two hands to sword and shield.
 Let my right hand whither
 If I forget the East Bank of the Jordan.³

That the Likud party is Betar’s offspring is a truism; yet the formidable array of post-1967 Israeli parties and constituencies situated to the Likud’s

right are Betar outgrowths as well. Even Ariel Sharon and Tzipi Livni of the now-defunct “centrist” party Kadima (2006–2015) are products of revisionist-Zionist consciousness; in 2015 Livni joined to co-found and co-head the oppositional, nominally left “Zionist Camp” party (formerly Labor). Revisionist Zionism, in effect, metastasized left and right. Lest 1S2S analysts persist in wishfully thinking that these 1919 to 1923 years are “historical”—and thus irrelevant to the twenty-first century—it is worth fast-forwarding to the present already now merely for illustrative purposes.

In 2012, Prime Minister Benjamin Netanyahu appointed a three-member committee, headed by former Israeli Supreme Court Justice Edmund Levy, to study the legal status of “unauthorized West Bank outposts” and decide whether Israel’s broader presence in the West Bank should be considered occupation. The eighty-nine-page “Levy Report” (official name “Report on the Legal Status of Building in Judea and Samaria”) concluded that Israel’s West Bank presence is not an occupation and settlements are therefore legal under international law. It recommended that Israel legalize unauthorized outposts and produce guidelines for orderly settlement construction.⁴ The legal-political contentions of the “Levy Report” chiefly rest on 1923 Palestine.

Snobbish two-state left-Zionists and one-state non-Zionists remain scornful of the Levy report; their working assumption appears to be that shutting one’s eyes means that elephants in china stores disappear. The 1S2S constituency could have engaged with the report. Contrary to its reasoning, it could have noted for example at least one of its inconsistencies *in its own terms*: how come that the report’s right-Zionist authors permit themselves to 1) legally override the concept of partition as stipulated in UN General Assembly Resolution 181 of 1947 while utilizing Palestine’s 1923 legal chapter yet they simultaneously 2) *refrain* from applying identical logic to 1923 itself, namely, that it should be also overridden by a more thorough legal return to the League of Nations foundational 1920 decree? Based on Levy’s reasoning, why should contemporary Israel have legal title to the West Bank alone but not to the East Bank too? In its hunger to devour the concept of partition, why does the Zionist right revert solely to 1923 rather than be truer Zionist and slide all the way to 1920? Be the answer as it may, the dog and cat debating the 1S2S quandary seem pre-occupied with themselves or each other; the elephant nearby remains exterior to their exchange. Yet the elephant’s slogan is oftentimes also “two states for two peoples”—just on both banks of the Jordan Valley. Verbatim sections of Israeli bodies promoting this are in Behar (2011b, appendix B).

1937 TO 1939

If 1S2S debaters are amnesic vis-à-vis the foundational 1919 to 1923 chapter, 1937 is vaguely remembered. That is because the principal notion of a two-state solution—in the form of slicing Lilliputian Palestine into “Arab” and “Jewish” states—is linked to the publication of the four-hundred-page report by the British Royal Commission headed by Lord Peel. The report’s conclusions thus open:

“Half a loaf is better than no bread” is a peculiarly English proverb; and, considering the attitude which both the Arab and the Jewish representatives adopted in giving evidence before us, we think it improbable that either party will be satisfied at first sight with the proposals we have submitted for the adjustment of their rival claims. For Partition means that neither will get all it wants. (p. 394)

The proposed Jewish State was to include 20 percent of Palestine. Since nearly half of those living within this slice were Palestinian-Arabs, the Commission recommended a voluntary transfer of 230,000 Palestinians out of their Galilee homes. The envisioned Arab state was to include a Jewish minority comprising 10 percent of the population—ergo lesser need for a symmetric transfer, although several hundred Zionists would have been urged to relocate into the Jewish State.

Contemporary left-Zionists conveniently forget that Peel’s partition was rejected outright by all Zionist Revisionists, Religious Zionists, some of the General Zionists, and most sections within the dominant left-Zionist Labor movement. Hosting nearly five hundred delegates, the Twentieth Zionist Congress, which convened in Zurich in August 1937, rejected—effectively unanimously—the Peel plan. It was solely due to the strategically brilliant leadership of David Ben-Gurion (1886–1973) and Weizmann that the Congress eventually “empowered the Executive to enter into negotiations with a view to ascertaining the precise terms of His Majesty’s government for the proposed establishment of a Jewish state” (Protocol, p. 227). Put differently, the Congress accepted the idea to form a Jewish State and simultaneously insisted on a major border expansion for its size while rejecting Peel’s foundational diagnosis that the British Mandate had proved unworkable. The congress demanded the Mandate’s full realization (i.e., establishment of a “Jewish National Home” in Mandatory Palestine as decreed by the League in 1923).

Such scholars as Flapan (1987), Teveth (1985), Masalha (1992), Morris (2001), and Segev (2000) amassed evidence that the Zionist consideration of partition was nominal-tactical. It resulted from the Zionist structural weakness in 1937: although Jews (non-Zionist orthodox and Sephardic Jews included) already comprised a sizable 27 percent minority of the population,

they owned 6 percent of the land (Friedman 1984, p. 113). As one of the Congress's most *moderate* delegates, Ben-Gurion delivered publically the most *conciliatory* Zionist position vis-à-vis Peel's report:

The proposed Jewish State—even if all the necessary and possible corrections [we demand] be implemented—is not the Zionist aim. It is impossible to solve the Jewish Question in the territory proposed. *However, the proposed state can constitute a critical stage on our way to fulfilling Big Zionism (ha-tsiyonut ha-gdola)*. In the shortest time possible this state will make possible in *Eretz Yisrael* the tangible Jewish force that will ultimately bring us to our historical Zionist destination. . . . Precisely as I do not view the proposed Jewish State as the final solution for the problems faced by *Am Yisrael* so I do not see the proposed partition as a final solution of the *Eretz Yisrael* [Palestine] question. Correct are those arguing that the territory comprising Mandatory Palestine cannot be partitioned since it constitutes a single entity not only historically but also naturally and economically. The East Bank [Transjordan] was cut-off [fifteen] years ago. Can't everyone now see that this dismemberment was a disaster for the East Bank more than it was for the territory of Mandatory Palestine? (Ben-Gurion 1938, p. 207)

Purportedly left-Zionist moderate Ben-Gurion added:

The [1922] British Mandate should be understood as the first stage; the [proposed 1937] Jewish State will constitute the second stage; *yet it will not be the last stage*. There are no eternal political arrangements. We live in a dynamic, changeable world. In the face of all present and future changes we hold a singular testing criterion: the rapid growth of Jews in *Eretz Yisrael* and the strengthening of their independent force. That's the sole pathway to transform Palestine into *Eretz Yisrael*. If the power and capabilities of the present British Mandate to deliver this objective are weaker/smaller than the power and capabilities of the [sovereign] Jewish State [proposed by Peel]—I choose with no hesitation the proposed state over the present Mandate: that is the case even if the Mandate's territory is considerably larger than the proposed state. (Ben-Gurion 1938, pp. 72, 76, 209, emphasis in the original)

As early as in 1937, differences between Zionism's left and right arms were over tactics more than substance. While the phrase the “Phased Plan” (خطة المراحل) in Palestine/Israel studies is linked to the Palestine Liberation Organization exclusively, it actually typified more the *longue durée* activities of the Zionist movement (to this day actually).

It is worth reminding that some three decades after Ben-Gurion's 1937 words were spoken and published, Palestinian Marxist Naef Hawatmeh—of the Democratic Front for the Liberation of Palestine—would start entertaining “phased gradualism” similar to that of Ben-Gurion, yet with little success (Hawatmeh 1974; Quandt, Jaber, & Lesch 1973, pp. 103–07). With profound agony, a “gradualist” Ben-Gurionist approach emerged in 1974 during the

twelfth gathering of the Palestine National Council in Rabat: “The [Palestine Liberation Organization] will employ all means, and first and foremost armed struggle, to liberate Palestinian territory and to establish the independent national authority for the people over *every part* of Palestinian territory liberated” (“Political programme” 1974, p. 224, italics added). Yet Palestinian endorsement of the *principle* of partition remained extraneous to this ten-point program. This changed fourteen years later in Algiers, with 253 Palestine National Council delegates voting for, 46 against, and 10 abstaining. As explained by Palestine National Council member Edward Said:

I myself agree with the policy articulated. . . . I voted enthusiastically for a realistic and above all clear policy. . . . The struggle for Palestine has always been, as Weizmann once said, over one acre here, one goat there. Struggles are won by details, inches, specifics, not only by big generalizations, large ideas, abstract concepts. (1989, p. 13)

Said (1999) would modify his diagnosis following Oslo’s two-state debacle. Be these Zionist/Palestinian temporal juxtapositions as they may, Ben-Gurion’s instrumental approach to the concept of partition—like that of the entire Zionist leadership since 1937—was clearer in private and/or confidential communications and writings. My contention is thus this: it is this steady Zionist reasoning that must not be brushed aside if one is to make clearer sense of the views and deeds of the elephant in the Israeli/Palestinian china store (i.e., Israel’s Zionist right) that does not greatly differ from Ben-Gurion’s Zionist left.

The Palestinian/Arab response to the 1937 partition was more candid than the Zionist and, as such, less wise *strategically*. Peel’s proposal to terminate the British (Jewish) Mandate and establish a Palestinian-Arab state over four-fifths of Palestine yielded the opposite pacifying outcome than the British had intended. Peel’s partition turned the 1936 non-violent resistance of a prolonged general strike into a forceful revolt. Space constraints disallow here an analysis of the momentous months between July 1937 and May 1939, when the British Parliament approved the MacDonal White Paper (Hughes 2009; Kanafani 1972; Swedenburg 2003). Suffice it to say that in terms of historical magnitude and human/material losses, these critical twenty-two months were historically and proportionately more costly to the Palestinians than Black September of 1970 or the Second Intifada (September 2000 to the 2009 Gaza onslaught).

As a consequence of those fierce objections, the British withdrew Peel’s plan. Their revolutionary 1939 White Paper was then issued and disclaimed any intention to create a Jewish state. It instead proposed to terminate the mandate, restrict Jewish migration (to an additional total of seventy-five thousand Jews in a five-year period), and establish a single Arab state within

a ten-year period (1949). The Arab State was to include within it a *non-statist* Jewish National Home (for an absolute final total of six hundred thousand Jews). From a contemporary vantage point, it is worth bearing in mind that left and right Zionists rejected in 1939 this non-Zionist one-state as zealously as they rejected it in 2015—yet from a radically weaker material and demographic position and with zero atomic bombs at hand.

Via the Arab Higher Committee, the Palestinians also rejected the 1939 one-state plan since it neither granted them immediately the independence they demanded, nor barred Jewish migration completely. This may historically constitute the most glaring Palestinian path *not* taken, particularly given that in 1939 many countries did not (yet) enjoy full liberation or *non-nominal* independence—including India, Jordan, Lebanon, Syria, Iraq, Egypt, and Algeria, among others.

1947 TO 1948

Owing to space constraints; the fact that 1947/1948 Palestine/Israel is discussed extensively, and that there exist innumerable Zionist and anti-Zionist spins over 1947/1948, I can only present four telegraphic remarks:

1. In July 1947, UN Special Committee on Palestine's "Minority Plan" for the creation of *one federated state* in Mandatory Palestine was rejected outright by Palestinians and Zionists alike; contrary to the entrenched view, Palestinians in 1947 did not only oppose territorial percentages of *any* possible partition but, more crucially, the extension of any (*sub-state*) collective rights for the 33 percent Jewish minority within a single Arab state.
2. Following the November 1947 UN General Assembly Resolution 181, rank-and-file Jews associated with Labor Zionism indeed danced hora enthusiastically; yet they certainly did *not* celebrate partition but solely the international sanction of a Jewish state.
3. Members of the Zionist-Israeli elite/leadership—and of not only the Zionist right—never thought that the 1947 partition plan constitutes Zionism's final resolution. To illustrate, in late 1948 Abdalla Hasan al-Sha'abi was charged in Israeli court in illegal trading. His defense rested on this argument: even if his (alleged) misdeeds happened, they factually took place *outside* the territory allocated to the Jewish State by the United Nations. In January 1949, the court ruled: "The State of Israel rests first and foremost on Natural and Historical Rights of the Jewish People. Consequently, the [1947] borders decided by the UN do not in fact determine Israel's borders" (quoted in *Haaretz* 1949).

The court plagiarized the phrasing/reasoning embedded in Israel's Declaration of Independence of May 14, 1948.

4. Testimonial to Israel's flirtatiously deceitful historical relationships with the concept of partition is that to this day, pre- and post-1977 Israeli governments choose to leave Israel's borders undefined.

1967 TO 2005

The hegemonic conception of “two states for two peoples” is a post-1967 construct and, as such, effectively rendered obsolete the 1947 partition. This conception was chiefly formulated by Israel's non-Zionist left—foremost the Communist Party—in concert with (far) left Zionist constituents (including *HaOlam Hazeh-Choac-Hadash*, *Ratz*, and *Sheli*). The two-state notion originating from these leftist quarters consisted of twin-Siamese ingredients: Israel's recognition of the Palestinian right for national self-determination—in the form of a sovereign state in the 1967 Occupied Palestinian Territories (OPT)—in exchange for peace. Back in the 1970s, the idea was simple as hardly any Israeli endorsed it. Israelis subscribed to the (Golda Meiric) view that the Palestinians did not constitute a separate national collectivity—let alone one deserving an independent state. As recently as during the 1987–1990 *Intifada*, Israeli soldiers were instructed, foremost by Defence Minister Yitzhak Rabin, to remove Palestinian flags put up by protestors (leading to the electrocution of youngsters forced to remove symbols of sovereignty from electricity poles). Israel additionally criminalized peaceful meetings between Israelis and Palestine Liberation Organization members, punishable even if taking place outside Israeli jurisdiction.

Up until September 1993, when the Oslo Accords were signed, the notion of an independent Palestinian state remained an anathema to Israeli Jews and their elected representatives. Under Labor and Likud governments, Jewish expansion into the OPT continued unabated. Appropriation of Palestinian land (including privately owned) and settlement construction never ceased, notwithstanding the contravention of Article 49 of the Geneva Convention. These policies continued throughout the Oslo process and during the 2010 settlement “freeze” that never was. As the most authoritative study put it (with aerial photographs), “on the ground, there is almost no freeze or even a visible slowdown, despite the fact that legal construction starts have been frozen for eight months. It also means that the Government of Israel is not enforcing the moratorium” (Peace Now 2010).

Discursive modification to Israel's leftist notion of “two states for two peoples” accompanied the 2005 Gaza Disengagement and the formation of the Likud-light Kadima Party by Ariel Sharon. Since that juncture, more Israelis embraced the two-state conception, yet only heuristically. Benjamin

Netanyahu first verbalized the idiom “Palestinian State” on June 14, 2009, during his Bar-Ilan University speech that responded to the address Barack Obama delivered a week earlier at Cairo University:

If we get a guarantee of demilitarization, and if the Palestinians recognize Israel as the Jewish state, we are ready to agree to a real peace agreement [and] a demilitarized *Palestinian state*. . . . Whenever we discuss a permanent arrangement, Israel needs defensible borders with [West and East] Jerusalem remaining the united capital of Israel. (Emphasis added)

Three weeks later—on the occasion of his 2009 government’s one-hundredth day in office—Netanyahu declared: “we have managed to form national agreement on ‘two states for two peoples’” (Bengal 2009). Israel’s post-2005 development (i.e., “We’re [nearly] all Two-Staters now”) had two outcomes. The first, that manifested itself during the 2009 election, was the erosion of the Zionist left’s traditional party, Meretz, the prime Israeli organ that promoted the two-state notion between 1993 and 2005. The second outcome was the toxic complication of the standard discussion of the “two-state solution.”

Beyond its discursive title, post-2005 conceptions of “two states for two peoples” became devoid of meaningful socio-political substance. Suffice to cite here the official positions of 1) Israel’s leading opposition party Kadima from 2009 to 2015, and 2) the Labor Party (which changes its name repeatedly to ones embodying nationalist echoes with the hope that fresher masks can generate electoral changes). Methodologically, it makes most sense to highlight these oppositional parties precisely because they are located to the *left* of Netanyahu’s Likud, always allied with openly anti-“two-state” parties to its Zionist right.

BANTUSTAN CONCEPTIONS OF “TWO STATES”: LEFT-ZIONISM AND BUSH/OBAMA

Kadima’s 2009 election manifesto, which was never made available in English, stipulated:

Departure Point for the Political Program: the Jewish people have a National Right to the whole *Eretz Yisrael* [i.e. the whole territory of post-1923 Mandatory Palestine].

Guiding Principles for Negotiations: maintaining Israel's existence as a National Jewish state necessitates that [Israeli Jews] accept the principle that the end of conflict will assume the form of two states living side by side in peace and security *based on the existing demographic reality* . . .

Any future Palestinian state must (i) be free from terror, (ii) exist peacefully and amicably next to Israel and (iii) be disarmed. The Palestinians must be completely and wholly free from terror *before* the eventual establishment of

their state. [How, and who is, to determine when Palestinians reach this heavenly bar? These conditionalities were Kadima's *carte blanche* for perpetually deferring resolutions involving Israeli "concessions" M.B]

Israel's borders will be decided in final negotiations based on these principles: (i) inclusion of areas [in the West Bank] required for Israel's security; (ii) inclusion of places considered holy in Judaism and important as national symbols, foremost Jerusalem; (iii) maximum inclusion of Jewish settlers with emphasis on settlement blocks. (Kadima Manifesto 2009, emphasis added)

So much for the "two-state" notion of Israel's principal opposition party, led by feminist Tzipi Livni, adored by world powers. Effectively identically, the analogous section from the (also untranslated) manifesto of Kadima's arch-rival Labor Party, headed then by Ehud Barak, stipulated:

[Labor's aim is] to secure Two-States for two peoples living peacefully side by side. The border will be determined in bi-lateral negotiations. [West Bank] Settlement blocks will *remain* under Israeli sovereignty while settlements outside will be evacuated according to the accord agreed. Jerusalem—including *all* its existing [Eastern] Jewish neighbourhoods—is the eternal capital of Israel and will so remain. Special arrangements will be concluded to govern the Old City and the Holy Basin to express their importance and uniqueness to the three religions. Jewish holy sites shall remain under Israeli sovereignty. The Labor Party will work to secure international recognition of Jerusalem as Israel's capital. (Labor 2009)

The Kadima–Labor Bantustan conception prevailed among U.S. administrations as well with no meaningful European or Arab challenge. On April 11, 2004, George Bush assured Israel:

in light of new realities on the ground, including already existing major Israeli population centres, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities.

No Palestinian input was solicited before the release of this diplomatic watershed. Similarly, on June 4, 2009 Obama declared in Cairo:

The [United States] does not accept the legitimacy of *continued* Israeli settlements. This construction violates previous agreements and undermines efforts to achieve peace. It is time for these settlements to *stop*. (Emphasis added)

Obama's thirty words plagiarized Bush's formulation: he consciously chose to call only for freeze on *further* settlement construction while remaining mute on 1) Israel's existing settlements let alone 2) *any*

settlement *dismantling*. Settlement building never ceased during Obama's eight-year rule.

These globally floating "two-state" deceptions necessitate an outline of what two-state notion scholars can regard as minimally meaningful for non-trivial (read: non-deceitful) 1S2S discussions. I suggest these ingredients: 1) willingness to remove the West Bank Wall in accordance with the 2004 advisory opinion on the matter by the International Court of Justice; 2) formation of a Palestinian State comprising a politically united Gaza Strip and West Bank (23 percent of Mandatory Palestine) along the 1949 armistice line with most of East Jerusalem as its capital; and 3) minor adjustments/land-swaps, possibly in principle, provided they are agreed upon by a representative Palestinian body elected democratically by, at minimum, OPT Palestinians. For the sake of analytical simplicity and minimalism, I deliberately exclude from this two-state notion all issues pertaining to Palestinian refugees residing outside Israel/Palestine and to Israel's Palestinian citizens. My contention: any individual or organized body worldwide unable to subscribe to this minimalist set of ingredients must be ousted as party for non-deceitful 1S2S exchanges.

POST-2005 KNESSET AND PARTITION

Given the global two-state cacophony, my contention is best stated plainly: Israel's elected decision-makers are uninterested in *any* modestly viable two-state partition. Their rejection of such schemes includes the 2002 Arab Peace Initiative, the 2002 Nusseibeh-Ayalon Plan, the plan drafted by Israelis and Palestinians of the 2004 Geneva Accord, or the scheme I devised above. Israel's rejections are *material*, and not merely discursive or in-party manifestos. They are empirically visible to see for all who are not willingly blind to the actions Israeli governments have continued to undertake since 1993 in the West Bank and East Jerusalem.

Accordingly, examination of actions by of Israeli parties (vis-à-vis such subjects as settlement/"outpost" construction, appropriation of private Palestinian land, or the 2005 Talia Sasson Report on Israel's governmental policies vis-à-vis the settlements) reveals this: out of the 120 Knesset members (MKs) elected in 2009, 14 (12 percent) supported minimally substantive two-state frameworks. The remaining 106 MKs (88 percent) all rejected any viable two-state plan. The fourteen who supported modest "two-state" arrangements belonged to *al-Qā'ima al-'Arabiyya al-Muwahhada* (United Arab list—Ta'al, four MKs); *al-Jabhah al-Dimuqrātiyyah lil-Salām wa'al-Musāwah* (Hadash, four); *al-Tajamu' al-Watani al-Dīmūqrati* (Balad, three); and the New Movement/Meretz (three). Out of these, precisely

four *Jewish* MKs (3 percent of the Knesset) supported modest two-state schemes.

Israel's remaining 106 MKs were divided as follows socio-politically: Labor (thirteen MKs), Kadima (twenty-eight), United Torah Judaism (five), at most one-third of the Likud (nine out of twenty-seven), one-quarter of Yisrael Beytenu (four out of fifteen), and one-quarter of Shas (three out of eleven) (i.e., sixty-two MKs [under the best-case scenario]) have supported rhetorically (read deceitfully) a two-state framework; in *actual* terms, they supported the establishment of a (demilitarized) Palestinian reservation/Bantustan encircled by a greater Israel controlling some 85 percent of Mandatory Palestine. The problem: there are few human beings, Palestinians included, who would mistake a cage for a sovereign state.

Israel's remaining forty-four MKs were more candid and mirrored better the electorate at large. Thirty-nine were affiliated officially with the Knesset's *Eretz Yisrael* Lobby that rejects any two-state solution (Meranda 2010; Yesah 2010). They belonged to seven different parties *including Kadima* (out of twelve represented in the Knesset). These MKs opposed publically any two-state scheme (a Palestinian Bantustan included). They advanced instead what I termed Israel's one-state solution (i.e., fuller consolidation of Israeli-Jewish domination over the whole territory west of the Jordan valley). Other MKs elected in 2009—including Gilad Ardan, Gideon Sher, Israel Katz, and Benjamin Netanyahu—remained unaffiliated with this lobby due to tactical reasons and not because they disagreed with the affiliated MK colleagues. They were ultimately all located near the openly annexationist secular and religious bodies that deal with these issues (Behar 2011b, appendix B). Not only that this Knesset composition did not change during Israel's 2014 elections; a further slide occurred toward the anti-partition Zionist Right.

One societal matter that should be spotlighted is the countless statistical/positivist polls indicating that Israeli Jews support a “two-state solution.” Scholars interested in material socio-politics rather than straw men should doubt these polls: they rarely detail to their interviewees the features of the (theoretically abstract) Palestinian “state,” nor detail what it would necessitate territorially from the perspective of even the most “moderate”/“conciliatory” Palestinians. I maintain that even a whisper by the pollsters—to their otherwise statistically sound sample—of the phrase “East Jerusalem” as part of a future Palestinian state would alter these polls' standard outcomes. Existing polls are conducive to the deceiving image official Israel strives to project globally (i.e., an enlightened Israeli state/society eager for a peaceful “two-state” settlement). These dubious polls are propagated internationally while settlement activity continues domestically. Rereading Ben-Gurion's 1937 words cited above can assist to comprehend Israel's approach to partition between image and reality. If my propositions are sensible, then one

conclusion transpires: stimulating as the 1S2S exchange is, in practical terms it remains esoteric once juxtaposed with ongoing material politics. I address the exchange's one-state party before tackling its two-state counterpart.

First, Israeli Jews are unwilling to entertain schemes for a singular (de-Zionized/anti-Zionist) state west of the Valley. In the coming years, this (Zionist) state of affairs/mind is unlikely to change as much as *all* one-state schemes require—implicitly or explicitly—as a necessary prerequisite for their own realization. As Tilley (2005, p. 206) correctly observed, “the UN partition plan of 1947 . . . by no means precludes Israelis and Palestinians to form one-state if they wish to do so.” Yet love or detest it, Israelis do not “wish to do so.” Wisely or foolishly or morally or abhorrently on their part, they deem the possibility of their re-minoritization too risky for their individual and national future and collective standing in the Middle East or the world.

Second, Palestinian support for a secular-democratic state remains lagging (Palestinian Center for Policy and Survey Research: pre-2012 reports)—let alone a sufficiently *organized* one capable of affecting reality materially rather than verbally/ideationally. It remains unclear whether Hamas supporters shall engage as comprehensively as needed in bottom-up efforts to actualize plans for one secular/democratic state. It is doubtful whether Israeli and Palestinian societies are embedded with enough substantive *democrats* and/or *seculars* capable of collectively installing—let alone sustaining—in the midst of present-day Middle East a *secular-democratic* entity. If anything, Israel/Palestine seems an integral part of the non-democratic Middle East.

Third, there are reliable data indicating that most secularly oriented OPT Palestinians adhere to the (far-flung) vision they consider more probable (i.e., realization of a Palestinian state on nearly all the 1967 OPT alongside Israel). Owing to space constraints, the reasons behind this tendency cannot be discussed here (Avnery 1999; Tamari 2000). Among the Palestinian diaspora—and to a lesser extent Israel's 1948 Palestinians—many support the notion of a Palestinian return to a single state. Yet the power of these constituencies to materialize these visions seems frail (Machover 2013).

Lastly, global society—including majorities within Euro-American civil societies—continues to support vigorously 1) the United Nations as an authoritative institution pertaining to all its resolutions, 2) existing international law, and 3) the International Court of Justice's authority and rulings. These are representative global bodies that accept and promote legally and unconditionally the (1947) notion of partition and—by logical-political extension—the foundational idea and existential legitimacy of a Jewish state (particularly after Europe's genocide of Jews and others). Adore or detest these variables with which all one-state schemes are entangled, no scholarly observation can brush them aside (unlike a political-advocacy engagement).

Turning to the endangered species of non-deceitful schemes for two-state partition, equally formidable barriers transpire. First, the combined net-weight of Israeli Jews supporting one-state or viable two-state solutions is negligible. Therefore, if the United States, European Union, United Nations, and the world continue to leave Israel to its own devices—as has been the case since Dwight Eisenhower’s 1956 intervention to roll Israel back from the occupied Sinai—then little prospects exist for the emergence of a Palestinian state capable of satisfying even the most “moderate/generous” Palestinians.

Furthermore, consider the (improbable) case of a vigorous American and/or international involvement—including one led by a “progressive” American such as Bernie Sanders possessing power over both the Senate and the House of Representatives (as was incidentally Obama’s case from 2008 to 2010). Even then it remains doubtful whether a Palestinian state capable of meeting the minimalist Palestinian demands could emerge: the post-1956 record lends no support to a scenario whereby Euro-America, Asia, and Africa force an Israeli government possessing atomic bombs to dismantle enough settlements and withdraw enough settlers to meet the requirements of even the most “moderate” Palestinian leadership (including for face-saving reasons). The global community has failed thus far to deliver a settlement *freeze* in the West Bank—let alone in East Jerusalem that Israel annexed unilaterally, although unlawfully, in 1980. Recall that also then, a Likud-led Knesset (under Menchem Begin’s premiership) passed the “Jerusalem Law” by a ninety-nine to fifteen margin against the vote of the UN Security Council, a law proposed by a minuscule opposition party located to the *right* of Begin’s Likud. So what explained the numerical outcome of that 1980 vote? “Each of the two major parties, the Likud and the [‘oppositional’ Labor-included] Alignment, had its reasons for adhering to the national consensus” (Yishai 1985, p. 47). Thirty-five years later, Israel’s colonization of East Jerusalem is deeper and the “National Consensus” around it firmer. A legitimate Palestine state cannot emerge if (occupied) East Jerusalem is left out of it.

As schemes for a non-Zionist one-state and a viable left-Zionist two-state seem unlikely to transpire soon, what then may be more likely? Reflection on such hazardously speculative end requires first to identify what *does* take place concretely/tangibly over Israel/Palestine’s ground.

ISRAEL’S ONE-STATE SOLUTION

Israel’s Zionist policies have remained simple, focused, and continuous before and after 1993: “another goat, another acre” and “maximum territory, minimum Arabs, maximum settlers.” These remain the factual driving force

underlying Israeli politics (rather than, say, the 1S2S debate). Accordingly, during Israel's single most leftist Labor-ruled period of 1992 to 1996, Jewish settlers increased by 25 percent from 246,400 to 308,700 (Behar 2002). In 2015, some six hundred thousand Jews live east of the Green Line.

Refraining dryly from wishful thinking, Israel's one-state project involves a steady drive to minimize the number of Palestinians in Jerusalem/West Bank by violent, forceful, or velvet-bureaucratic means (B'Tselem 2010). Palestinian misery is not coincidental but aims to increase emigration. Military orders 1649 and 1650 of October 13, 2009 (HaMoked, 2009) legally define *all* West-Bankers as "infiltrators" who may be jailed and deported. Israel's expansion of its one-state enterprise is calm, methodical, and empirical and, as such, seems more probable to transpire relative to its 1S2S alternatives. I can think of two pathways for Israel's one-state solution: "more cleansing" and "deeper ethnocracy."

Pathway 1: More Cleansing

Professor Benny Morris is Israel's most eminent historian of the conflict. His contextualization of the *Nakba* conjuncture of cleansing should not be disregarded dismissively:

Israeli Arabs are a time bomb. Their slide into complete Palestinization has made them an emissary of the enemy among us. They are a potential fifth column. In both demographic and security terms they are liable to undermine the state. . . . If Israel again finds itself in a situation of existential threat, as in 1948, it may be forced to act as it did then. If we are attacked by Egypt . . . and by Syria, and chemical and biological missiles slam into our cities, and at the same time Israeli Palestinians attack us from behind, I can see an expulsion situation. . . . If the threat to Israel is existential, expulsion will be justified. . . . If [Ben-Gurion] was already engaged in the [1948] expulsion, maybe he should have done a completed job. I know that this stuns the Arabs and the liberals and the politically-correct types. But my feeling is that this place would be quieter and know less suffering if the matter had been resolved once and for all. If Ben-Gurion had carried out a large expulsion and cleaned the whole country—the whole land of Israel, as far as the Jordan valley. It may yet turn out this was his fatal mistake. If he had carried out a full expulsion . . . he would have stabilized the state of Israel for generations. (Shavit 2004)

Morris had in mind Israel's Palestinian citizens rather than the West Bank's more vulnerable stateless-occupied-subjects. I posit that elements of cleansing simply seem likelier than the always-deferred mirage of a viable two-state partition. The *Nakba*'s pinnacle cleansing materialized in 1948 during a *regional* military confrontation (Shlaim 1995), as was the 1967 *Naksa* ("set-back") that resulted in further displacement of Palestinians and Syrians (BADIL, 2004; Bowker, 2003; Segev, 2007). The Israeli state is always prepared

for war; it maintains complete ease in face of armed resistance and violent confrontations; it is non-violence and peace that Israel finds hard to deal with. War also tends to minimize, bridge, and “heal” Israel’s intra-national cleavages. Israeli society is exceptionally obedient and well trained for confrontations which are viewed as “natural” phenomena as “mowing one’s grass.” It seems far from fanciful to suggest that should a heightened regional confrontation erupt—such as Israel/ISIS or Israel/Iran—enough Palestinians could find themselves as displaced as many Syrians are right now, yet in a conjuncture that shall probably resemble those of 1948 and 1967. Insignificant attention was paid when Israeli police publically exercised a massive transfer scenario on October 7, 2010 (Israel’s Broadcasting Company 2010), or when Israel provocatively bombed a Syrian nuclear facility on September 6, 2007.

Development of regional confrontations need not constitute necessarily full-blown cleansing, as understood by maximal-literal conceptions of forced expulsions (Tilley 2005, pp. 6–7; Van-Crevelde 2002); it could still affect sufficiently consequentially the conflict’s present demography, geography, and socio-politics in a way that shall ultimately be conducive to Israel’s version of a one-state solution. Israel’s hunger is for territory without the Palestinians living on it. Whether displacement or semi-cleansing take place amid hazes of a regional war, they will not meet more than symbolic opposition from within Israel or from pro-Israel Christians and Jews in Euro-America. That shall undoubtedly be so if elements of cleansing materialize during a war with a comparatively sizeable number of Israeli victims and physical harm. When 1S2S discussions mention the Geneva Convention, it happens in the context of illegal settlement activity exclusively. But legal minds of Israel’s ruling right additionally remember that the Convention and international law generally afford sovereign states ample rights to defend citizens and territory. Under confrontations that include Israeli victims and harm, it is considerably easier to defend politically—and frame legally—acts of cleansing as defensive measures. Bombs on Tel Aviv can actually be very useful in facilitating disproportionate Israeli aggression. Under conditions of regional war, it is unlikely to meet more than symbolic international opposition at the level of States.

Non-Zionists and left-Zionists desiring 1S2S solutions find it easier to comprehend 1948 and 1967 as “historical” sections in university courses. They find it analytically challenging to conceptualize the Nakba as an *ongoing process* (rather than a finite, past, historical *event*). 1S2S debaters exhibit an optimist propensity in thinking wishfully that the “civilised world” would not allow a *Nakbaic* scenario involving cleansing to materialize. It is evidently easier and more gratifying to debate a (viable) two-state or one-state solutions. In suggesting that “the time has come to think the unthinkable,” Tony Judt (2003) drafted a binational thesis that uplifted the gloomy

mood of many. I solely suggest here that it is as critical analytically to think the (so-called) unthinkable in Judt's *opposite* direction, and be sceptic of meta-historical convictions that scenarios somewhat more intense than "standard" ones cannot unfold. It was perhaps *because* of his following 2008 words that on February 16, 2015, Netanyahu appointed Gadi Eizenkot Chief Commander of Israel's army:

What happened in [Beirut's] Dahiya quarter in 2006 will happen in every village from which Israel is fired on. . . . We will apply on it disproportionate force and cause great damage and destruction. From our standpoint, these are not civilian villages, they are military bases. . . . This is not a recommendation. This is a plan. And it has been approved. (Report 2009, p. 254)

Such variables as the deep-frozen Arab Spring, the fragmentation of Arab society, and the horrible intra-Arab violence play neatly into Israel's individual and global standing. Within this context—and under some intense regional confrontation—would it really be too hard for Israel's ruling right to destabilize the (already fragile) monarchy of Jordan and assist in its further "Palestinianization"? All are permitted to mock these propositions as fanciful. But all must concurrently answer this: does a scenario of a viable two-state partition—let alone of a single non-Zionist democratic state—seem more likely? I do not think so.

Pathway 2: Is Israel the Only Ethnocracy in the Middle East?

The United States, United Nations, European Union, and the official world accept the thesis that "Israel is the only democracy in the Middle East." Being a democracy is a prerequisite for a membership in the Organization for Economic Co-Operation and Development (OECD). In 2010 Israel was admitted to OECD by a unanimous vote of its thirty-one member-states (including Turkey, Mexico, Chile, Ireland, and Spain, that 1S2S commentators often view as Israel's critics); this vote on Israel's admission took place just eight months after the United Nations published its "Goldstone Report" on Israel's 2009 Gaza onslaught.

The *scholarly* discussion about Israel differs. One of its debates is whether Israel is best conceptualized as an "ethnic democracy," "ethnocracy," "ethnic state," or "apartheid state." Since this exchange exceeds my mandate, I can only indicate that in dealing with the 1S2S puzzle, it is best to define Israel within the 1949 Green Line as an ethnocracy (and occupying state east of it):

Ethnocracy is an expression of nationalism that exists in contested territories where a dominant ethnos gains political control and uses the state apparatus to ethnicize the territory and society in question. Ethnocracies are neither demo-

cratic nor authoritarian (or “Herrenvolk”) systems of government. The lack of democracy rests on unequal citizenship and on state laws and policies that enable the seizure of the state by one ethnic group. They are not authoritarian, as they extend significant (though partial) political rights to ethnic minorities. (Yiftachel & Ghanem 2004, p. 647)

Some regional contextualization may come in handy. While Lebanon may nominally merit the definition a thoroughly dysfunctional consociational democracy, and post-2014 Egypt an authoritarian military state, the (pre-ISIS) Arab states surrounding Israel/Palestine seem best conceptualized as “non-democratic ethnic states” (i.e., non-democracies where one domestic ethno-religious group effectively controls the state [Hashemites in Jordan, Allawis in Syria, struggling Sunni/Shia over dismembered post-ISIS Iraq]). It is possible that Israel is able to globally get away with many of its anti-Palestinian deeds precisely because its neighbors often perform worse. It is unclear, for example, if Palestinians under ethnocratic Israel are in a more dire socio-political position than Palestinians under Arab (Lebanese/Syrian/Iraqi) domination. Be that as it may, it is plausible to suggest that while Israel is clearly not the sole ethnocracy worldwide, it does appear the only ethnocracy in the Arab Middle East. It seems more likely than 1S2S schemes that Israel’s ruling right shall opt to modify Israel into a worse ethnocracy than it already is. That can occur in two ways.

1. The Zionist right shall annex most, or all, of the (biblical) West Bank in a manner similar to the Zionist left’s annexation of territories occupied in 1948 that UN General Assembly resolution 181 assigned to the Arab state (that never materialized). This path means that Israel’s present “Jewish and Democratic State” model governing the territory west of the Green Line shall be stretched eastwards up to the valley. Under this path’s best-case scenario, West Bankers shall be granted individual rights similar to those of Israel’s Palestinian citizens. That will automatically yield a worse form of ethnocracy because Israel’s Jewish/non-Jewish ratio will change from seventy-five/twenty-five to roughly fifty-three/forty-seven.⁵ Right-wing Israeli settlers and politicians who expressed such ideas include Israel’s president Reuven Rivlin and former defense minister Moshe Arens.
2. The second scenario that can potentially transpire under this one-state path is certainly gustier, yet still seems more probable than standard 1S2S schemes. Here, full-fledged individual citizenship shall *not* be extended to West Bankers by the Zionist right but instead something legally resembling the present status of Palestinians in East Jerusalem, the American “Green Card,” or the British “Indefinite Leave to Re-

main” (i.e., legally permanent-resident statuses that are nonetheless short of voting rights in national elections) (Glick 2014; Nisan 2011).

That is how weak and skewed the 2015 situation of Palestinians appears to be when the right-wing elephant in the Israeli/Palestinian china store is considered as seriously as the 1S2S cat and dog are. As things thus presently stand, it is not only unlikely that the breathtaking one-secular-democratic state shall materialize; a viable two-state scheme seems equally remote. While 1S2S exchanges mostly take place on a non-materialist speculative or verbal level of ideas, doctrines, ideology, journalism, blogs, academic conferences, and hopes, Israel's one-state enterprise remains the sole material process that does unfold since 1919 or 1967 or 1993. Examined next to it, the 1S2S exchange appears hypothetical and abstract. Each material inching in the direction of Israel's one-state solution makes it less probable for standard 1S2S solutions to emerge. 1S2S debates additionally mushroom from a tacit consent that conceptualizes Israel/Palestine's existing demographic composition as effectively constant. Given the great demographic changes that have typified the conflict since 1919, this assumption may well be scholarly problematic. From the dominant vantage point of Israel's right, it is believed that a “demographically corrective” cleansing could defer far enough the possibility that such solutions as those prescribed by 1S2S adherents will transpire. Therefore, the existing balance of forces appears to render the pathways “more cleansing” or “deeper ethnocracy” more probable than 1S2S schemes.

CONCLUSION: WHO CAN GENERATE LIBERAL DEMOCRATIZATION?

There are four alternatives to Israel's one-state solution (in the form of “more cleansing” or “deeper ethnocracy”) that Israel's ruling right does not favor: a two-state partition, a single unitary-liberal state, a federated binational state, or a confederation. These options represent degrees of (possible) liberal-democratic modification for everyone between the valley and the sea. I can think of four asymmetric power-containers that can *theoretically* generate such liberal-democratic modification:

1. **Israel.** As explained, since 1919 little other than bold and less-bold shades of Zionist/Israeli right exist. Israel's phantom-left cannot generate much. It is additionally hard to identify any game-changing incentive that could lead to modification emerging from *within* Israel's ongoing policies.

2. **The Palestinians.** They are a nominal power-container. Liberal-democratic modification of the status quo is unlikely to emerge from within Palestine alone, or from the Palestinian people generally. That is chiefly a consequence of the Palestinians' structural inability to amass by themselves a Vietnamese/Algerian-type of power to counter Israel's social, military, economic, and technological force.
3. **Euro-America.** That is undoubtedly the single most potent power-container that can principally generate change over what is after all an economically dependent Israel. Still, liberal-democratization throughout Israel/Palestine is unlikely to be delivered by a benevolent Western remote control; that is the case in relation to both 1) Western *states*—that occupy center-stage in analyses of the Eurocentric two-state school and 2) the symbolically pro-Palestinian Western *civil society*—that occupies *in toto* the Eurocentric, and non-Arab-centered, analyses of the one-state school. Recalling Apartheid South Africa may assist here.

Apartheid was toppled first and foremost as a consequence of decades of organized mobilization by a *domestic* triangular-force comprising the African National Congress, the Congress of South African Trade Union, and the South African Communist Party (organs that have no Palestinian/Arab equivalents). With all due respect to Western civil society, ending Apartheid would *not* have materialized without the non-sectarian counter-power that this triangle amassed from *within*. Whereas boycotts by Western civil society may have well been the icing on the cake, the cake does remain what it was: South African domestic-democratic activism. Pro-Palestinian forces within Western civil societies are certainly committed to their cause; yet the fact remains empirically simple irrespective of whether one likes it or not: they are not that powerful and had modest achievements since the 1960s activism of the New Left.

Short of a disastrous regional war, a sufficiently vigorous international intervention in Israel/Palestine—such as the sole one that thus far *did* take place back in 1956—seems unlikely to emerge; such action may well *follow* the emergence of, say, a regional war involving cleansing—yet it presently does not seem likely to *precede* such development. It is worth pointing out that if Israel shall manage to establish new “facts on the ground” following cleansing acts, then their full reversal will take many years to achieve even for such subsequent international force (if at all that is).

4. **The Arab world.** The Arab world and its thoroughly underutilized human “capital” strike me as the sole potential reservoir for a counterweight to Israel's social, military, economic, and technological force. The derailing of the democratic Arab Spring—coupled with the social

fragmentation of Syria, Iraq, and (pro-Israel) Egypt—seem to mean that many years shall be needed before such Arab power could become sufficiently consequential vis-à-vis the Israel/Palestine question. Only a *democratically inclined* Arab force can potentially challenge Israel: such non-democratic Arab development as ISIS only strengthens (indirectly) Israel's position and standing vis-à-vis the Palestinians.

Prospects for liberal-democratic change between the sea and the river are therefore modest given the existing balance of these four forces. The conclusion is odd indeed. A truly game-changing development—whose source I *cannot* identify—could theoretically modify the existing matrix in two opposite directions: 1) sufficiently harsh, state-based international sanctions over Israel (boycott and divestment hardly dent) or 2) cleansing of Palestinians. Absent such game-changing development potentially leading to these two outcomes, the prospects for a non-Zionist one-state or a viable left-Zionist two-state seem less probable than the pathway of Israel's one-state solution whereby the ruling Zionist-right elephant shall grant West Bankers individual rights similar to those of Palestinian Jerusalemites or Israel's Palestinian citizens.

NOTES

1. We thank Taylor & Francis for permitting to cite sections from Behar 2011b.
2. This body of writings is extensive; a sample includes Abunimah 2006; Avnery 1999; Benvenisti 1995; Bisharat 2008; Davis 2006; Falah 2005; Gavron 2004; Ghanem 2009; Gorni 2006; Hilal 2007; Karmi 1998; Sussman 2004; Tamari 2000; Tilley 2005; Tutunji & Khaldi 1997; Unger 2008; Usher 1995; Yakobson & Rubinstein 2009.
3. Unofficial translation to English by *Zionist Freedom Alliance* at <http://web.archive.org/web/20070928015519/http://www.zfa.org.il/articles/jabotinsky.html> (accessed November 1, 2015).
4. The other two members were Israel's former ambassador to Canada and former Foreign Ministry legal adviser Alan Baker, and former deputy-president of the Tel Aviv District Court Tchia Shapira.
5. Due to racially informed demographic considerations, even the Zionist Right is unlikely to annex Gaza. In effective non-legal terms, Gaza shall probably be treated as *corpus separatum* of sorts.

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Chapter Fourteen

Toward a Shared Vision of Israel and Israel/Palestine

Oren Barak

INTRODUCTION

The document “The Future Vision of the Palestinian Arabs in Israel” (below: the document), which was published in 2006 by the National Committee for the Heads of the Arab Local Authorities in Israel,¹ calls for a fundamental change in the position of the Palestinian Arab community in the State of Israel.

In conceptual terms, the document—which relates only to Israel in its pre-1967 borders and not to the Palestinian territories that Israel occupied during the 1967 war—advocates a transition from a relationship characterized by control of the Palestinian Arab community by the Jewish community in the state to a relationship based on power sharing between the two communities.

In this chapter, I discuss the document based on the general theoretical approach known as conflict regulation, which, as I suggest, serves as the document’s theoretical basis. I then focus on two major patterns of inter-communal relations that this particular approach to conflict identifies: control and power sharing. This is followed by an analysis of the document itself and what I consider to be the main difficulty that it raises. Finally, I suggest how members of both communities in Israel—Jews and Palestinian Arabs—can move toward a shared vision of the state and, more broadly, how Israelis and Palestinians can also move toward a shared vision of Israel/Palestine.

PATTERNS OF CONFLICT REGULATION: POWER SHARING OR CONTROL?

Studies that address ways to cope with inter-communal conflicts, that is, conflicts that are waged between rival ethnic, national, religious, linguistic, and socio-economic groups, can be divided into three main categories or approaches: conflict management, conflict resolution, and conflict regulation (Barak 2005). Elsewhere, I provide a detailed comparison of these approaches, focusing, among other things, on their theoretical underpinnings, main characteristics, and policy prescriptions (Barak 2005). Here, however, I will only mention that whereas the two former approaches to conflict hold that inter-communal conflicts can (and should) be resolved, the third approach posits that such conflicts are intractable, and that in order to reduce the hostility between the parties and prevent the outbreak of violence between them, ways must be found to regulate the conflict.

Historically, conflict regulation theories and practices emerged in the late 1960s and early 1970s in the wake of the devastating consequences of several attempts of nation building in the Third World in the period after 1945. Recognizing that the forced assimilation of some communities (especially tribal, ethnic, and national groups) by the state and its institutions is liable to result in inter-communal conflicts in divided societies (see, especially, Connor 1972), some researchers began to reconsider the idea of the nation-state and the concept of the melting pot in divided societies, and to contemplate other types of relationships and political arrangements between their various communities (Lijphart 1977).²

Several noted failures of conflict regulation settlements, especially in Cyprus in 1963 and in Lebanon in 1975, as well as criticism leveled at some of these mechanisms (Barry 1975; Horowitz 1985; Lustick 1979, 1997), caused theories of conflict regulation to be sidelined for some time.

However, since the end of the Cold War, theories of conflict regulation have reemerged, and political settlements which are based on these theories saw a steady increase (Lijphart 1998). Indeed, recent decades have seen conflict regulation mechanisms implemented in conflict zones in many parts of the world, including, among other places, Lebanon in 1989, Northern Ireland in 1998, and the Balkans since the mid-1990s (Barak 2003; McGarry & O'Leary 2004; Roeder & Rothchild 2005).

In the next two sub-sections, I briefly present two of the major conflict regulation mechanisms, power sharing and control, that are discussed and debated in the scholarly literature on inter-communal conflicts in divided societies.³

Power Sharing

Among scholars who specialize in conflict regulation, there are some who argue that the best way to regulate conflicts between the various communities in divided societies, while maintaining internal stability and democratic procedures and practices, is to recognize that there are a number of communities in the state, and to ensure that representatives of all these communities take part in decision-making processes that affect their lives. Accordingly, theories of power sharing offer to establish political mechanisms that will ensure that members of all communities in the divided society will be able to influence decision-making processes in the state.

Scholars who propose political settlements based on power sharing in divided societies posit that in these societies the political system does not need to conform to the majoritarian model of democracy, which is characterized by constant competition between a government and an opposition. Instead, the political system in divided societies should seek to institutionalize the pluralism inherent in society using a political settlement that is agreed upon by the prominent leaders in all communities.

Political settlements based on power sharing include, primarily, government by a “grand coalition” in which representatives of all communities of society participate, and three complementary tools: mutual veto, which is designed to protect the vital interests of the minority (or minorities); proportionality in representation, appointments, and the distribution of public funds; and autonomy to the various communities in society (Lijphart 1977).

Control

Unlike scholars who describe, and at times also prescribe, political settlements based on power sharing, other scholars who also specialize in conflict regulation maintain that in many cases the relationship between the various communities in divided societies is characterized by control of one community by another.

According to these scholars, control exists when one community in the divided society mobilizes its superior coercive power in order to enforce political stability by limiting the political actions and possibilities of another community (or communities) in the state. These scholars argue that when the control of the subordinate (or subaltern) community by the dominant community is effective and does not encounter significant resistance, such relationships can be maintained over time, thereby regulating the conflict between the various communities (Lustick 1979).

It should be emphasized, however, that whereas scholars who deal with power sharing conflicts both *describe* the application of this conflict regulation mechanism in some cases and *prescribe* ways to implement it in others,

scholars who are interested in control do not propose such arrangements and, while appreciating their stabilizing effects, generally propose their elimination.

“THE FUTURE VISION OF THE PALESTINIAN ARABS IN ISRAEL”

Let us now examine the document “The Future Vision of the Palestinian Arabs in Israel” using the conflict regulation approach presented earlier.

Very early in the document, members of the Palestinian Arab community in Israel make an explicit claim to establish a political settlement based on power sharing in the state:

[w]e call for a Consensual Democratic system that enables us to be fully active in the decision-making process and guarantee[s] our individual and collective civil, historic, and national rights. (Document 2006, p. 5)

Later in the document, it is explained how a power sharing settlement, referred to as a “consensual democratic system,” would be attained:

The State has to acknowledge that Israel is the homeland for both Palestinians and Jews. . . . The two groups should have mutual relations based on the consensual democratic system (an extended coalition between the elites of the two groups, equal proportional representation, mutual right to veto and self administration of exclusive issues). (Document 2006, p. 11)

The idea that political mechanisms ought to be established that will ensure that all communities of the divided society in Israel will take part in decision-making processes that affect their lives can thus be found in the document. In fact, all four elements of power sharing settlements mentioned by their proponents appear in the document one after the other.

But what about the recognition of the existence of different and indeed distinct communities in the state? As we have seen, the document posits that “[t]he State has to acknowledge that Israel is the homeland for both Palestinians and Jews.” But the document does not contain an acknowledgment by the Palestinian Arab community that the Jewish community has any links to the state. In fact, according to the document:

Israel is the outcome of a settlement process initiated by the Zionist-Jewish elite in Europe and the west and realized by Colonial countries contributing to it and by promoting Jewish immigration to Palestine, in light of the results of the Second World War and the Holocaust. After the creation of the State in 1948, Israel continued to use policies derived from its vision as an extension of the west in the Middle East and continued conflicting with its neighbors. Israel

also continued executing internal colonial policies against its Palestinian Arab citizens. (Document 2006, p. 9)

In other words, the document suggests that the establishment of the State of Israel does *not* reflect a basic need of the Jewish community in the state; rather, is it the result of considerations and actions of external actors—Jews and non-Jews. It should be added that even when the document does relate to the identity of the Jewish community in Israel, the emphasis is the socially constructed character of this identity:

The Zionist movement used religious and secular terminologies to convince the Jewish people and the world of its right over historic Palestine. Terms from the torah such as the “holy land” and “land of Israel” were and are still used. These were mixed with secular sayings such as “a land without a people for a people without land.” They were like a fuel that operates the Zionist cart and unite the “Jews of the Diaspora” and link their future to Palestine. (Document 2006, p. 16)

This constructed nature of the identity of the Jewish community in Israel stands in stark contrast to the “primordial” nature of the Palestinian Arab community in the state, as described in the document:

We are the Palestinian Arabs in Israel, the indigenous peoples, the residents of the States [*sic*] of Israel, and an integral part of the Palestinian People and the Arab and Muslim and human Nation. (Document 2006, p. 5)

And elsewhere in the document one reads that:

There are two facts that must be taken into consideration in crystallizing the legal status of the Palestinian Arabs in Israel:

1. The Palestinian Arabs in Israel are the indigenous people of the country and their historic and material relations with their homeland emotionally, nationally, religiously and culturally.
 2. They are an integral vital and inseparable part of the Palestinian People.
- (Document 2006, p. 12)

Between the two communities in Israel, the Jews and the Palestinian Arabs, an asymmetry thus stands out both in terms of political power and in terms of collective identity: Whereas the Jewish community enjoys superior political power vis-à-vis the Palestinian Arab community, the affinity of the Palestinian Arab community to the state is stronger than that of its Jewish community.

In theoretical terms, the document thus seeks to establish a political settlement based on power sharing between Jews and Palestinian Arabs in Israel, thus putting an end to the asymmetrical power relations between the two

communities, which can be described as a system of control of the latter by the former.

However, in view of the asymmetry in the identity of the two communities, the Jews and the Palestinian Arabs, which is also emphasized by the document, one can expect that the removal of the asymmetry in power between the two communities would only be a partial solution to their conflictual relationship.

TOWARD A SHARED VISION OF ISRAEL AND ISRAEL/ PALESTINE

Creating a stable relationship between the Jewish and Palestinian Arab communities in Israel requires, among other things, a fundamental change in the asymmetrical power relations between the two communities in the state. Such a change should include the annulment of the system of control of the Palestinian Arab community by the Jewish community and both its formal and informal components (Lustick 1980; Yiftachel 2006). But equally important is for the two communities in Israel, the Jews and Palestinian Arabs, to acknowledge that the land that they share belongs to both.

One way to attain this goal is for the two communities, the Jews and the Palestinian Arabs, to formulate a *shared vision* of Israel which would be based on a historic compromise between them. According to this compromise, the Jewish community in Israel will agree to share power with the Palestinian Arab community in Israel, and to establish a political system that would express this principle, replacing the system of control which has been in place in the state since its independence in 1948. The Palestinian Arab community in Israel, for its part, will recognize that the country also belongs to the Jewish community and that it, too, has a firm connection to it.

What incentive would both communities have for reaching such a compromise? First of all, such a settlement is, without doubt, preferable to the status quo, which, as the document suggests, is unacceptable to the Palestinian Arab community in Israel, but also to the desired outcome that the document presents, which many Israeli Jews reject and which, as shown above, actually seeks to eliminate one asymmetry (in power) while creating another (in identity). Second, formulating a shared vision for Israel may help alleviate tensions between the two communities in Israel, which reached their apex in October 2000 and have witnessed grave crises ever since. Last but not least, a settlement between Jews and Palestinian Arabs in Israel, if successful, can facilitate the achievement of other settlements down the road, including with regard to the definition of the state's identity and the conditions for joining the political community.

The last issue that I would like to raise here is the possible effects that a shared vision for Israel, formulated by its Jewish and Palestinian Arab communities, may have on the Israeli-Palestinian conflict in general. Such a settlement, if successful, can serve as a model for Israelis and Palestinians in Israel/Palestine, whose relationship can also be based on the two principles of inter-communal power sharing (preferably within the framework of a federation or a confederation), and recognition by the two communities that the country belongs to both of them.

On this level, too, a compromise seems to be preferable to all other options: First, "Greater Israel," which is no more than a cover for a binational state under Jewish hegemony. Second, "Greater Palestine" which is a mirror-image of the former concept but from the Palestinian side. Third, the establishment of a full-fledged binational state in Israel/Palestine where no community would officially be hegemonic, but where the "double asymmetry" in power and identity between the two communities would persist, making it difficult to achieve long-term political stability. It goes without saying that a historic compromise between Israelis and Palestinians is better than continued violence between them.

CONCLUSION

This chapter has suggested that Jews and Palestinian Arabs should grab the bull by the horns and articulate a shared vision for both communities in the State of Israel, which would establish a more just and stable relationship between them. It is hoped that such a shared vision would prevent the Jewish community from deepening its system of control over the Palestinian Arab community in Israel, which only increases the latter's hostility toward the state and toward the hegemonic Jewish community, and that it would help tame radical elements within the two communities who attempt to mobilize their members, a process that could culminate in inter-communal (and possibly intra-communal) violence and lead to the demise of Israeli democracy.

NOTES

1. All quotes are from The National Committee for the Heads of the Arab Local Authorities in Israel 2006. Several other documents were published at that period and all present similar arguments. See Adalah 2007; Jabareen 2007; Mada al-Carmel 2007.

2. Some scholars who adhere to conflict regulation approaches adopt a "constructivist" approach toward the formation and endurance of collective identities, whereas others can be considered as "primordialists." But what is more important is that all of these scholars consider the various communities in the divided society to be basic and indeed robust social categories.

3. Other mechanisms of conflict regulation are federation, confederation, and political autonomy. However, such mechanisms usually rely on historical traditions and can work optimally when there is an overlap between certain communities and specific regions. Other examples of conflict regulation mechanisms are affirmative action and efforts to promote representa-

tive bureaucracy (i.e., a situation in which the various communities are represented in the public administration and not merely in the political system).

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Chapter Fifteen

Neither One nor Two

Reflections about a Shared Future in Israel-Palestine

Lev Grinberg

INTRODUCTION

The two-state solution (TSS) became the shared imagery of Jews and Palestinians immediately after the mutual recognition in September 1993, and the symbolic shaking hands between Rabin and Arafat in the White House. The old enemies since 1948 declared that they will put the arms aside and negotiate a peace agreement. The imagination of a separate Palestinian State started crystalizing after the Palestine Liberation Organization (PLO) declaration of an independent state (in November 15, 1988 [Ibrahim 1988]) in the West Bank and Gaza Strip, recognizing de facto the State of Israel in the 1949 armistice borders (usually called 1967 borders, or the Green Line).

In order to imagine the establishment of two states living in peace as a “solution” to the one hundred-year conflict, two basic elements were indispensable: mutual recognition of the national movements and recognized borders. Although imagination is an essential element of any significant political change, it is not enough. It necessitates implementation, namely, transformation of images into real facts, and the reality contradicted the imagined TSS. The main reason of the tension between reality and the collective imagination is that Israel never recognized its own borders, and attempted to continue its territorial expansion; it had the power to do it, and the international tacit completion.

Here are the two main conceptual obstacles to fully comprehending the failure of the peace process and constant deterioration of the Israeli-Palestinian relations since 1993: the assumption that Israel is a state, despite the constant blurring of its borders, and the assumption that two states can be

established as a “solution” to a very complex conflict. Until the moment of writing this chapter (and probably a long time after that) most of the Israeli, Palestinian, and international official actors speak about the political process in extremely misleading terms: “resume negotiations,” “peace process,” “two-state solution.” Our first analytical step is to recognize that none of these words have a real political meaning.

Obviously the first group that recognized that the two states was a fiction, a smoke screen, were Palestinians who initially supported the mutual recognition and the establishment of a separate state (Hillal 2006; Karmi 2007; Khalidi 2006). Given the failure of the TSS, the option that emerged was the so-called one-state solution (OSS). In 2010, the *Journal of Palestine Studies* published two essays under the title “Thinking Outside the Box: Alternatives to the One- and Two-States Solutions,” which suggested new ideas how to combine two nation-states with coordinated shared institutions. Mathias Mossberg (2010) suggested a very original idea of parallel sovereignty, with two nation-states ruling the whole land. My paper (Grinberg 2010b)¹ suggested a more conventional idea using the metaphor of the European Union in order to combine two territorial states with shared institutions called Israeli-Palestinian Union (IPU).

Since then two binational groups of experts have worked to suggest concrete answers to an array of crucial questions and problems emerging from the ideas of parallel sovereignty and a union. Both groups were apparently not aware of each other, and recently published books with very similar titles: *One Land Two States* (Mossberg & LeVine 2014) and *Two States in One Space* (Goldenblatt & Boutteau 2014)² (the “2in1” projects). The second project is based in Israel/Palestine and is connected with a binational peace movement which is organizing meetings all over the country in order to spread the idea (Yiftachel 2015). The most surprising support to the combination of two states and one came, unexpectedly, from the President of Israel Reuven Rivlin.³ Rivlin is a very popular figure, although with no effective political power, an ideological supporter of the Revisionist idea of the Big Land of Israel (*Eretz Israel Hashlema*). In an interview, he raised the idea that we cannot divide the Land of Israel, but one democratic state is also not the proper way to have a Jewish state, hence we need to start thinking about a confederation.

Although the prospects to discuss the idea of a confederation or union are definitely not favorable now, it seems that there is growing recognition that the present violent situation is unsustainable, and the establishment of two separate nation states is not plausible. This chapter aims to present the idea of the IPU and develop the analysis of crucial obstacles which, in my opinion, have been insufficiently treated until now. The first part of the paper presents a critical analysis of the Israeli-Palestinian relations; it discusses the Israeli control regime of five different Palestinian communities, and shows why the

TSS and OSS are not suitable institutional containers of the complex social conflicts. The second part briefly presents my initial ideas for an IPU and analyzes the fundamental issues: demography, citizenship, institution building, the economy, and security. The third part discusses the pre-conditions necessary to start thinking out of the box, mainly how to start dismantling the “permanent-interim” situation, and the type of international intervention needed to end Israeli expansionist policies.

THE ISRAELI CONTROL REGIME: REVISITING MODELS AND METAPHORS

Social scientists use models and metaphors aiming to simplify complex realities and comprehend them. Comparisons to similar cases are very useful in order to make generalizations and building tools of analysis of complex social situations. The problem is obviously that no social situation is identical to others, and the use of comparisons might mislead and confuse, instead of providing a better understanding. In this part, I’ll discuss the comparison of Israel/Palestine to South Africa and Algiers and the corresponding “solutions”: one state and two states. Before discussing the problematic comparisons, I’ll describe the peculiarities of the Israeli control regime of the Palestinians, which is the basis of any discussion of possible ways to get rid of it.

One Dominant State Apparatus and Four Subordinated Palestinian Communities

The complex regime controlling the Palestinians is not a premeditated system, neither intentional, rather it is the outcome of various historical junctures.⁴ A very peculiar sequence of events led to the fragmentation of the Palestinian people and the institutionalization of a very sophisticated control regime based on multiple forms of subjugation and very effective divide and rule system. The first historical moment is obviously 1948 (Naqba), with the partition of Palestine and the exodus of the Palestinian refugees (Hijra). Following the 1967 war and the expansion of the Israeli territorial domains the pre-war borders (the “Green Line”) were legally maintained, creating a clear distinction between two “types” of Palestinians, with different regimes of subjugation, economic integration, territorial segregation, and political discrimination. This point must be clear: the “Green Line” is not a border that demarcates the sovereign State of Israel and the legal restrictions to a military occupation regime (Azoulay and Ophir 2012; Kretzmer 2002); the Green Line is necessary in order to create a dual regime of domination of two subtypes of Palestinian Arabs, the citizens and non-citizens (Grinberg 2008). The “Green Line” doesn’t make a legal difference for Jewish citizens of Israel; all citizens are subject to the Israeli jurisdiction and entitled to the

Israeli political and social rights. This duality is probably the greatest obstacle not only to the TSS, but also to the idea of two states in one land, which are not resolved, in my opinion, by the *2in1* projects. I'll discuss the implications of the blurred borders for future citizenship formulas in the next section.

The initial duality of 1967 was rapidly upgraded by the creation of a third sub-group in the control regime following the annexation of East Jerusalem to the State of Israel. The expansion of Jerusalem municipality borders created a special sub-type of discrimination for Palestinian Jerusalemites: since then they got Blue Israeli identity cards, they were allowed to vote in municipality elections (despite their refusal) and were entitled to social security rights. The Jerusalemites enjoy not only social benefits, but also since 1993 have more freedom to move within Israel compared to other Palestinians living in the West Bank and Gaza; after building of the separation wall, they are more integrated in the economic and community life. These developments, I will argue, created not only new tensions in Jerusalem, but also new political opportunities. The shared rule of Jerusalem is, probably, the easiest issue for all *2in1* models.

The next two historical turning points that shaped the present multi-discriminatory regime were the military redeployments in response to Palestinian resistance, aiming to reshape and improve the tools of domination: 1) the 1993 Oslo Accords following the first Intifada, and 2) the Gaza “disengagement” in 2005 following the second Intifada. The Oslo Accords established the Palestinian Authority (PA) to control the cities in the West Bank and Gaza. The PLO was allowed to establish some form of self-rule within the cities (Area A), while their movement out of the cities is checked by the Israeli military controlling the surrounding rural areas (Area B) administrated by the PA.

The Oslo Accords succeeded to effectively neutralize the first Intifada in a joint control regime coordinated with the Palestinian authority, mainly by the security forces. The political result of the mutual recognition and the establishment of the PA became, from a practical point of view, a very effective co-optation of the Palestinian leadership (Grinberg 2013; Weinberger 2006). Despite the security coordination, the easy penetration of the relatively open borders facilitated Palestinian violent resistance, becoming the main obstacle to maintain the control of the West Bank. The idea to build a “security fence” was already raised in 1995, following terrorist attacks in Beit Lid; however, it was rejected, precisely because it was expected to demarcate the 1967 borders (Grinberg 2010a, pp. 79–80).

In response to increasing terrorist attacks in 2002, the Israeli government started to build an eight-meter high cement wall, aiming to erect an impassable physical obstacle (Arieli and Sfarid 2008). The so-called separation fence is not a tool to separate Jews from Arabs (as Peace Now pretends) but a

tool to expand the regime of limited movement of Palestinians, and separate between different groups of Palestinians. One of the most salient effects was the separation of Palestinian Jerusalemites from the West Bank, and their imposed integration in the city, in addition to their relatively free movement to Israel. In other words, given the continued violent resistance the implementation of Oslo worsened the situation of the Palestinians, mainly limiting their freedom of movement compared to the pre-1987 situation. As I'll argue, this is probably the most urgent step to be taken both in order to relief the pain of Palestinians and to reactivate their economy.

The fourth sub-regime of subjugation was created in order to improve the control of Gaza and reduce the Jewish blood toll of the occupation there. As a result of the military redeployment, the additional sub-group of Palestinians created is the Gaza inhabitants due to the unilateral domination of the Gaza Strip borders by the Israel Defense Forces, imposing physical limitations on the movement of the population and trade. This sub-type is the worst in terms of Israeli control, the limitations imposed on the population, and the illegitimacy of Israeli rule. The Palestinians developed two main tools to overcome their strangulation: 1) the underground connection with the world through the tunnels to Egypt that became to only mean of free movement and trade⁵; and 2) the "over-ground" resistance by rockets. However, the strangulation has been worsened by the President Sisi regime closure of most tunnels in 2014 (Grinberg 2015b).

The incredible success of the Israeli strategy of territorial expansion, separation of populations, segregation, and discrimination has created a regime where four different groups of Palestinians are discriminated in very different ways and have very different political demands from the State of Israel, preventing the consolidation of the Palestinian people and the emergence of one unified political leadership. Assuming that a national community is defined by their unanimous political claim of sovereignty over a delimited territory, the Palestinian nation faces serious obstacles to articulate its collective national goal. The reason is that it is effectively divided into five different "sub-nations," living under different discriminatory regimes and with different political goals and demands (the fifth group is the refugees dispersed all over the Middle East). In the absence of one type of domination (either Apartheid or "occupation"), the Palestinian political leadership is divided; it has three formal organizations and elected leadership—inside the 1967 borders, in the West Bank, and in Gaza—whereas the Jerusalemites and refugees have no autonomous organization and leadership.

As I showed here, the complexity and sophistication of the regime is not the outcome of a well-designed plan of the first Zionist colonial settlers in Palestine; rather, it is the result of tragic sequence of events shaped by power struggles between Israeli superior military power and Palestinian resistance. However, the result of this sequence of events was the constant displacement

and dispossession of Palestinian Arabs from their private homes and lands, and their collective disarticulation as a political community. While these two outcomes may be interpreted a posteriori as the goals of Zionist colonization, the regime created can be better understood as the outcome of discrete historical events that led to the present fragmentation of the Palestinian people.

Nor Apartheid neither Occupation

The Israeli regime is sometimes compared to the South African Apartheid and sometimes to the French occupation of Algiers. However, the multi-discrimination regime of control is not similar to Apartheid and neither to a colonial domination apparatus overseas; it is a much more complex and sophisticated regime of divide and rule, which prevents a unified Palestinian peoplehood. The names we give to socio-political phenomenon represent how we understand the problem, but the term insinuates also what the solution may be. We can look at the terms used to name and criticize the Israeli regime and their direct linkage to specific “solutions.”

The use of the term Apartheid emphasizes that Israel discriminates all Palestinian Arabs, including the pre-1967 borders of the sovereign Jewish state. The term is related to the vision of one democratic state with equal citizenship in the whole area of “Israel/Palestine” (Azoulay and Ophir 2012; Tilley 2005; Yiftachel 2006). Indeed, if the control regime is based on the binary division of Jews/Arabs, the strategy to end discrimination is relatively simple: demanding universal citizenship and one citizen, one vote. South Africa is not only the metaphor, but also the path to be followed.

In the same way, we can understand the use of the term occupation. The definition of the problem as the “occupation,” namely the military regime in the West Bank and Gaza, also ignores the complexities of the control regime, mainly the discrimination of Palestinian citizens of Israel (Shenhav 2010). If the problem is the occupation, the creation of a Palestinian state in the occupied territories, removing Israeli settlers, could be the solution and the strategy to follow by peace supporters. Here the goal is not democracy and equal rights, rather peace between two separate nation-states. In this case, Algiers is both the metaphor and the historical example to be followed. The political scientist Ian Lustick (1993) published a comparative research with Algiers precisely the same year of mutual recognition, suggesting that the removal of one hundred thousand settlers a few kilometers west is much easier than forcing one million French Pied Noirs crossing the Mediterranean back to France. This is, in my opinion, the most salient difference with Algiers: the lack of the sea, a physical obstacle that prevented France from annexation of parts of Algiers. Physical obstacles like seas, lakes, rivers, and mountains are usually very effective to delineate borders; this is not the case in Israel/Palestine.

I have discussed elsewhere the lack of appropriate terms able to comprehend, criticize, de-legitimize, and change the very complex and sophisticated regime which I called “the thing without a name” (Grinberg 2009a). The absence of proper terms able to comprehend the control regime is both an outcome of the lack of clear strategy to struggle against it, but it is also an obstacle to develop a strategy of resistance. The oversimplification and reduction of the Israeli regime to Apartheid or occupation prevents the full comprehension of the Israeli control regime, it fails to de-legitimize it properly, and disables its opponents to design a political vision of the future in an alternative regime, able to contain conflicts by dialogue.

Why Not Two, Why Not One?

Although the most popular vision of the future is the idea of two separate nation-states, since October 2000 the OSS is gaining popularity, mainly due to the enormous disappointment caused by the “peace process” (Hillal 2006; Karmi 2007; Khalidi 2006; Tilley 2005). I’ll analyze here serious flaws in both visions; my intention is to explain why both solutions seem unlikely to succeed. In the next section, I’ll explain why a combination of both may be a better idea, and what are the crucial problems to be solved by the combined formula.

The TSS is based on the European model of nation-states, and the OSS is based on the European model of liberal democracy. Neither model reflects the economic, political, cultural, and military realities in Israel/Palestine, nor does either offer a viable transition from the current control regime. Moving from the present reality to one of the two models seems extremely improbable, likely to create tension, and unable to contain it after implementation.

The two-state model assumes a return to the pre-1967 borders (within minimal agreed territorial swap) and creation of a Palestinian state in the West Bank and Gaza, connected by a passage that traverses Israeli sovereign territory. The most concrete, comprehensive, and detailed document for the TSS is the Geneva Initiative.⁶ The TSS presumes a recognized border that separates both states, and military forces that can control the borders and protect the citizens. The demarcation of borders and their effective defense seem to be an almost impossible mission, given the geographic mix of populations, mainly in the Jerusalem area, but also in the West Bank (see Figure 15.1). The most radical compromises proposed by the Israeli negotiators on Jerusalem never solved the question of mixed areas and certainly not the question of sovereignty over the holy sites on the Temple Mount (see Ben-Ami 2005; Sher 2006). The basic problem in creating two separated states is the indivisibility of the land due to its small size; proximity of houses, cities, and towns; and the dependence on shared roads, air, water, airports, seaports, and shores (Weizman 2007). The physical indivisibility of Jerusalem and the

holy places resembles the symbolic indivisibility of the Holy Land in the eyes of Jews and Muslims. For both, the land is one (i.e., Israel is Palestine and Palestine is Israel).⁷ The holy places for both religions are located all over Israel/Palestine, and agreed free access to them is a necessary condition for the containment of religious tensions, and detaching religion from nationalism.

There are, in my opinion, two additional major obstacles to the TSS: democracy and security. The TSS assumes that Israel is the state of the Jews, and recognition of Israel as such has already been raised in the negotiations. The problem is that 18 percent of Israeli citizens are Palestinian, and they cannot accept their inferior and discriminated status, even if the PLO signs the agreement. That means that the TSS maintains the national conflict within the borders of the Jewish state, which will be unable to contain it by liberal democratic means of individual rights.

Security is the most important problem in the Israeli discourse, mainly due to the traumatic past of the Jews in Europe and the Holocaust. This fact is recognized by both *2in1* projects.⁸ As I have argued elsewhere, the myth of eternal and ahistorical insecurity, which was initially deconstructed by Rabin's discourse, was re-constructed and transformed into a national myth since 2000 (Grinberg 2010a). In my opinion, it is indeed very unrealistic to assume that Israelis will allow their Palestinian neighbors to create a military force able to confront the Israeli military, even if it is defined as "non-offensive defense."⁹

In all negotiations, a de-militarized Palestinian state is the first and most imperative Israeli pre-condition, which has been already accepted by the Palestinian negotiators. The main problem with this apparent mutual understanding is that, given expected tension in the future, Israel might re-occupy the Palestinian state. What is even more likely to happen is that the Palestinian state will never reach the level of independence the Palestinian people expects, and the Palestinian opposition will have wide popular support to violent resistance against Israeli domination. After withdrawal from the occupied territories and continued Palestinian violence, it is not unreasonable to assume that a revisionist political movement can win the elections claiming the military reoccupation of the Palestinian lands of the "independent" state (the mythological Land of Israel).

Apparently the majority of the Israelis and Palestinians stick to the TSS given the mutual hostility and mistrust, and the illusion that each national community can have its own separate state and get rid of the "other." However, Israelis and Palestinians live in one shared land and no peace can last without accepting this basic fact, and without mutual recognition of the rights of the "other" (Goldenblatt & Bouteau 2014; Mossberg & LeVine 2014). The mutual illusion of separation expresses the national will to accomplish their respective right of self-determination, but this is not a sufficient lever-

age to produce the expected outcome of two independent states. The illusion became in itself a real obstacle to progress toward a political process of a realistic institutional design (Lustick 2013).

The additional problem is, obviously, that the OSS has even more chance of failing. The clearest obstacle is precisely that both national communities still prefer to remain autonomous, independent, and undetermined by the other. Today both national communities are defined by their mutual hostility. In conditions of mutual recognition, the most positive transformation we can expect is a political change toward self-determination based on each side's autonomous history and culture, instead the present hostility and fear. The idea of one liberal state can be very attractive in principle, but could also be dangerous if implemented, considering the history and memory of the conflict and the incapacity of democratic institutions to contain it. The most extremist nationalists will easily obstruct this by using violence and mobilizing the tribal feelings of fear toward the other.

One democratic state will exacerbate the demographic race and strengthen mutual demographic fears. Instead of opening political space to new agendas, identities and issues in civil society that are shared by Jews and Palestinians, the OSS will perpetuate national mobilization against each other, neutralizing potential political space of shared interests.¹⁰

The OSS seems to be raised mainly to emphasize the anti-democratic nature of the actual one state defined as a Jewish state and violently imposed by the Israeli military, neglecting the political rights of the occupied population. As properly stated by the political sociologist Arendt Lijphart (1977), in deeply divided societies formal unitary democratic institutions are not a guarantee of political stability. On the contrary, given the past and present hostile and violent relations between Israelis and Palestinians, we can only expect that formal democracy might exacerbate the tension and mistrust, becoming one of the sources of conflict, encouraging demographic race and disputes over migration (the Palestinian right of return versus the Jewish law of return). One democratic state without mutual recognition of additional political institutions is expected to enhance the politicization of religion and the polarization of extremist ethno-national trends.

The conclusion of the huge literature on conflict resolution, management, and regulation—which developed since Lipjart's critique of democracy—suggests two main recommendations: 1) There is a need to design institutions according to the features of the local political situation aiming to contain current and future expected tensions. 2) In order to initiate a process of negotiations over future institutions and mechanisms designed to containing conflicts and crises, there is a need to create preconditions of trust and incentives to enter such a process. The next two sections will discuss these indispensable needs: first, I will discuss the local features of the conflict and

possible institutions to contain tensions; then, I will discuss how to create the preconditions to start negotiations.

INSTITUTIONAL DESIGN: THE ISRAEL-PALESTINE UNION

Looking beyond the present impasse, a major effort of institutional design is required to create political frameworks capable of containing expected crises by agreed upon rules that produce representation and dialogue. These institutions must embody the positive aspects of both the OSS and TSS and overcome their obstacles. These institutions must combine elements of consociation, confederation, condominium, and federative institutions. Some ideas have been already developed by the *2in1* projects, others by economic and security experts; I'll resume the principles of my original IPU proposal, and later discuss some central questions that seem to me the most problematic and necessitate more creative thinking.

Both *2in1* projects agree that there is a need to establish one shared political framework and two nation-states. The metaphor and example I suggest is the European Union, with sovereign territorial states, independent legal systems, and citizenship, a custom union with central professional administration. My proposition is that the shared institution (the IPU), should be based on 1) parity representation with mutual veto power; and 2) an agreed mechanism of international mediation and arbitration. The parity principle aims to neutralize the Israeli concern with the democratic threat. The international arbitration aims to neutralize Palestinian concern with Israeli dominant position; the intention is to revert one of the great obstacles of the Oslo Process: the initial success of Israel to condition the signature of the Declaration of Principles on the complete absence of a mechanism of international mediation and arbitration as demanded by the Palestinians (Savir 1998). The IPU institutions located in Jerusalem will consist mainly of a professional bureaucracy (like the European Union in Brussels) strongly assisted in the first steps by experienced international professionals (most recommended from the World Bank and European Union).

My original proposal of IPU (Grinberg 2010b, pp. 49–50) was relatively simple: to separate everything that can be divided and to have shared rule of everything that cannot be divided. The separate governments of the two national states would administer legislation, the court system, police, land ownership and jurisdictions, local government, education, health, tourism, culture, religion, sports, etc. The IPU government would administer infrastructures, communications, water, power, energy, transportation, ecology, and Jerusalem. The sacred places and the old city of Jerusalem should be administered by an international council representing the three religions with holy places in the area.¹¹ This schematic logic obviously necessitates expan-

sive research and further extensive political negotiations in order to crystalize into concrete institutions. Even the efforts of the *2in1* projects are just initial and tentative steps toward indeed professional and political elaboration. Instead of the conflict resolution idea of “constructive ambiguity,” I want here to briefly discuss unambiguously fundamental problems that seem to me of crucial importance.

Demography and Decision-Making

The most crucial fear of both sides is the demographic growth of the other group, exacerbated by the existence of huge diasporas and national aspirations of “returns.” One of the main tasks of the IPU shared administration based on parity and mutual veto would be to erase the demographic fears fanned by democracy—namely, Jewish fears of the Palestinian right of return and Palestinian fears of Jewish immigration, territorial expansion, and displacement. However, parity and mutual veto might prevent the smooth decision-making process of the shared institutions; hence in order to overcome this obstacle, agreed mechanisms of international mediation and arbitration will be needed. Hopefully, the sides will reach enough experience, trust, and cooperation in order to make the arbitration mechanisms unnecessary, in the future.

Citizenship Dilemmas

The question of citizenship, namely who will be the citizens of each state, is not satisfactorily solved, in my opinion, by either *2in1* project. The agreed assumption in both projects is that all Israeli Jews and Palestinian Arabs will be citizens of the union and of one of the nation-states; they will have freedom to move all over the Land, including residency rights. This formula solves apparently both crucial issues in dispute: the Jewish settlers can stay in their home, being Israeli citizens, and Palestinians refugees may return, being Palestinian citizens, even if they live within the 1967 borders. However, this apparent creative “solution” contains unresolved questions. Will the Palestinian citizens of Israel be denied their present citizenship and become “residents” and citizens of the Palestinian state? The flipside question is also crucial: will the Israeli settlers be citizens of Israel or Palestine? In other words, will citizenship be based on territory or identity? The present blurred borders, Israeli expansion, and mix of populations in both sides of the Green Line makes the citizenship dilemma acute, and neither of the binary principles, geography or identity, seems to me satisfactory.

Surprisingly, the simplest question is the citizenship of the returning refugees, mainly because they are neither residents nor citizens. Except the returning refugees, who are expected to be citizens of Palestine, both *2in1*

projects have a constructive ambiguity approach. Both raise the option to allow the citizens to decide what citizenship they prefer, or to determine citizenship according to national affiliation. The problem is that citizenship is not only a symbolic issue of national boundaries, or an objective issue of geographic borders, but it is also and mainly a very practical matter of rights. It is expectable and reasonable that present Israeli citizens, Jews and Palestinians, will not agree to yield their citizenship, given the simple fact that Israel is already a functioning state, with developed institutions and public services. I can guess that some Palestinians in Jerusalem and elsewhere in the West Bank would prefer Israeli citizenship, if allowed, exactly for the same reasons. The social rights of Jerusalemites are a clear example, and the present “solution” is very satisfactory for them: they have Israeli social rights and Palestinian political rights. I’ll suggest here that this practical “solution,” which eventually developed in various historical junctures,¹² may be a starting point to discuss possible formulas to the citizenship question.

The *Two States in One Space* project (Goldenblatt & Boutteau 2014) suggests making a distinction between citizenship and residency, while citizens of one national state may be residents in the other state. The *One Land Two States* project (Mossberg & LeVine 2014) suggests that citizens will have their state affiliation disconnected to their territorial location. Due to the importance and complexity of the issue, and its practical and institutional implications, I would like here to launch a very tentative discussion of a possible way to face the problem. I suggest making a distinction between three concepts—state, nation, and social citizenship—in order to find viable institutional and practical solutions to the complex situation.

The state is defined by sovereign physical control of a delimited territory,¹³ whereas national and ethnic identities refer to feelings of cultural and historical belonging of a delimited community (see Anderson 1991; Smith 1991). Social rights are historical accomplishments of the working class and reflect universal solidarity inclusiveness. The first two concepts have inclusive limits which exclude “others”: the state has physical borders and the nation symbolic boundaries. This is precisely the reason that deep ethnic divisions cannot contain their conflicts with unitary formal democracy. The Israeli-Palestinian case-specific problem is that Israelis already have their state and citizenship, and are entitled to political and social rights in both sides of Israel/Palestine; only the Palestinians under occupation don’t have their own state and rights.

In order to deal with the complexities of blurred borders and inter-penetrated populations created by the Israeli control regime, I’ll suggest here a three-layered formula, referring to citizenship principle, national affiliation, and social rights. My suggestion is that no one will lose their present rights, including social rights, and the Palestinians will gain expanded political and social rights. This means that Israeli citizens will be everyone that already

has Israeli citizenship, and Palestinian citizens will be everyone that has no citizenship today, or were registered as subjects of the Palestinian authorities entitled to vote in the 2006 elections. In short, this will be the citizenship principle: Every citizen of Israel will continue being citizen of Israel, and all Palestinians denied citizenship and political rights until now will be citizens of Palestine. Israeli citizens residents in Palestine will be expected to recognize the Palestinian state sovereignty and commit to obey its laws; otherwise, they will be denied residence rights.

The proposed citizenship principle creates, however, two additional problems that must be properly treated: 1) Palestinian citizens of Israel cannot express their national identity within the Jewish State; and 2) the State of Israel cannot provide services to Israeli residents of Palestine, because it cannot violate Palestinian sovereignty. Here are my suggestions how to face both basic problems, creating the two necessary additional layers to the citizenship principle: the national collective identity and universal social rights.

1. *National collective identity.* I suggest facing the problem of national identification by using consociation concepts, which detach identity from territory. My suggestion is that Palestinian citizens all over Israel/Palestine will establish a shared "Palestinian Congress" that will be responsible to administer various aspects of their shared collective identity: education, culture, religious services, and probably sports too. The "Palestinian Congress" will include Palestinian representatives from all the regions in Israel/Palestine, providing an appropriate solution to the demand to recognize the minority rights of the Palestinian citizens of Israel too. This is the national identity principle that complements the citizenship principle. It is also complementary of the Jewish national institutions, namely the Jewish State and the World Zionist Congress.
2. *Universal social rights.* My suggestion here is to extend the present rights of East Jerusalemites to all citizens of Palestine. That means political rights in the new Palestinian State, social rights similar to the Israeli citizens, and freedom of movement all over Israel/Palestine. This schematic proposal has obvious economic and security implications, and must be implemented gradually. The most important element here is that all Palestinians will be entitled to social rights, in a form of compensation to the economic backwardness provoked by fifty years (or more) of occupation and de-development, and for the social security and pension funds paid by Palestinian workers in Israel since 1967. In order to make this principle viable from a financial point of view, international financial support is an essential precondition.

Economic Catch-Up

A major motivation of Israelis and Palestinians in the initial peace negotiations was economic: Israelis wanted to participate in the globalized economy and Palestinians wanted stable jobs, investments, and growth (Hass 1999; Savir 1998; Shafir & Peled 2002). Ultimately, Israelis achieved their goals, but the Palestinians did not (Farsakh 2005; Roy 2001). If the economic policy and institutions of IPU are improperly designed and implemented, they could easily undermine the political support for the agreements and ultimately derail the whole process. All economic arrangements and agreements would have to aim at closing the economic gap through state intervention and at counter-balancing the power of Israeli technology, financial institutions, and industry. The dominant economic position of Israeli elites helps them benefit from the “free markets,” disregarding if these are “free trade zones” or “custom unions” (Grinberg 2008, 2015a).

The economic policy must be designed to counter-balance the economic gaps, strongly supported and maintained by the interest of Israeli employers, producers, and import companies. These interests are the main factor that presently obstructs the development of the Palestinian economy simply by preventing investment and enforcing the purchase of Israeli products.¹⁴ All the regulations that prevent the development of Palestinian economy should be removed immediately, even before signing the non-belligerence/Hudna agreement, as a trust-building first step proposed in the next section.

Closing economic gaps is one of the main goals of the IPU administration. The central administration would collect taxes and allocate them within an equalizing logic, namely collecting progressive taxes according to the wealth of the distinct classes and regions, and re-distributing them according to the needs of the citizens.¹⁵ The present social security system must be expanded to cover all citizens in Israel and Palestine; in order to do so, it would need massive international support, aiming to close the gap between Israel and Palestine financial capacities and reserves. All these policies and institutions would have to be very well planned at the technical, professional, and administrative levels, and would need the advice of international institutions, mainly from the World Bank and the European Union.

The main problem is how to facilitate the Palestinian catch-up after years of constant growing inequality. The present imposed custom union has contradictory implications for the catch-up: the fact that one united economic system already exists—including custom collection and one currency—is positive, but the Israeli complete control of the borders and imposition of rules and their own customs on Palestinians is obviously the biggest obstacle to close the gap. As I already argued elsewhere, the withdrawal from Gaza was unilateral precisely due to the interest of powerful economic elites in Israel to continue controlling the movement of products, preventing cheap

imported products to arrive at West Bank markets, which may attract also Israeli consumers (Grinberg 2008, 2015a).

Here lies, in my opinion, the most complex political and technical problem of catch-up. While the Palestinians could benefit from a free trade zone agreement (Aix Group 2004), the meaning is to cancel the present custom union and establish rigid borders between the two states. This change might undermine some of the benefits of the present custom union and also contradicts the idea of a shared land with “soft” internal borders and freedom of movement. Indeed, economic sovereignty for the Palestinians, and their ability to determine their own custom and tax rates, could encourage economic development, but will work on the opposite direction of shared institutions and expanding cooperation.

Custom union and free trade zones are two contradictory principles; the first needs open internal borders and strict control of external borders, the second closes internal borders and opens the external borders. However, my suggestion is to attempt some merger of both systems in the first period, in order to facilitate and encourage Palestinian development. The idea is that a new economic protocol will be elaborated with the assistance of international experts. The new protocol will attribute the Palestinian state economic sovereignty to determine differential custom levels over some agreed specific products. These products will be allowed to enter the Palestinian state but will be controlled and forbidden to sell within the territories of the State of Israel. Individual citizens of Israel will be allowed to buy these products in the state of Palestine for individual use, but not with commercial purpose to sell them inside Israel. I am aware that these arrangements might create problems of control, but the expected benefits to the main goal of Palestinian development seem to me much more important than the technical obstacles.

Uneven Security Power

This is apparently the most complex issue. When we look back to the history of violent deterioration since 1993, it is clear that violence is the most efficient mean to sabotage any political agreement. It is highly improbable that a peaceful solution could survive without the disarmament of all civilians, Jews and Palestinians (Goldenblatt & Boutteau 2014, p. 225). This process of civil disarmament must be gradual, due to the present distrust, it must be agreed in advance by all parties, and would progress while building increasing trust.

The most crucial obstacle, however, is the Israeli superior military power, and the Israeli security fears demanding the establishment of a de-militarized Palestinian State. The de-militarized Palestine is a common formula already agreed in previous negotiations, from Taba to the Geneva Initiative. However, without an effective protection of a special International Peace Keeping

Forces, there is an imminent danger of losing control of violence during crises provoked by extremist groups in both sides aiming sabotage the compromises. I'll discuss this challenge in the next section. However, the most encouraging fact is that both security services have already experienced cooperation and have an evident interest in continuing and expanding cooperation aiming to prevent crises and losing control of the events. As the security chapter (chapter 6) of the *Two States in One Space* book suggests the establishment of a "permanent joint crisis prevention committee" is necessary. In my opinion, the International Peace Keeping Forces might have an important contribution in times of crisis management.

NECESSARY PRE-CONDITIONS

Interim Period—Dismantling the Colonial Apparatus

The seeds of the deterioration of the "peace process" were already present in the unbalanced terms of the Declaration of Principles. The "temporary" Israeli dominant position during the "interim period" of three years became a permanent situation, improving the Israeli control system, now legitimized by the PLO compliance. The advantages of the Oslo Agreements to the Israeli control regime were eloquently described by Advisor Joel Singer (Rabin's legal advisor in the Oslo negotiations) in an interview following the Likud electoral win in 1996, and Netanyahu's election as prime minister. Singer's intention in the interview was to explain that the "interim peace agreements" suit the goals of the Likud as well as the Labor party:

The agreement leaves us with the territory and them with the populated areas, which neither the Likud nor the Alignment [Labor] wanted to control—and it even leaves them with the dirty work of patrolling the cities and refugee camps. The final status agreement will be what you want it to be. And during the interim period, most of the unpopulated areas remain in your hands, all the faucets and fuses are yours, and they take care of security. . . . We are the strong side and they are the weak, in a clear and obvious way. To go from Gaza to Judea–Samaria, you have to come through us. To get in, you have to come through us, the tax and customs money they get from us. We didn't want to establish a mechanism for conflict resolution by a third party, because when there's a strong versus a weak partner, the third party tends to take the side of the weak. (Haaretz, August 18, 1996, p. 4a)

Singer mentions here the most important elements of the Israeli regime of domination of the West Bank and Gaza since 1994: the total control of Palestinian everyday life and the dependence of the Palestinian Authorities on the Israel Defense Forces, the complete detachment of the interim period from the final settlement negotiations, and the neutralization of "third-party"

potential intervention. I will argue here that in order to enter a political process that will dismantle the Israeli control system, these are the three elements of the Oslo Accords that must be reverted: 1) an active and authoritative intervention of a third party is necessary in order to balance the uneven power relations; 2) a new interim agreement must be designed aiming to reduce Palestinian dependency on Israel and expanding their autonomous control of the economy and everyday life; and 3) the interim agreements must be linked to a new vision of the final status, improving security to both sides and facilitating economic development, both aiming to encourage cooperation and future compromises.

Agreements are based on the present political context, on the political legitimacy of the leaders to negotiate, to compromise, and to implement the agreement obligations. After more than twenty years of fictitious “peace making” and unprecedented violence, the political context is completely adversary to all forms of final settlement—TSS, OSS, IPU, confederation, or federation—and no leader has the legitimacy as well to change the atmosphere instantly and build a peace coalition as Rabin and Arafat did. In these conditions, conventional diplomatic efforts to reach a final settlement agreement are doomed to fail or might produce agreements that will not be implemented or even deteriorate the present situation.

In order to facilitate creative political processes of negotiation and compromise, it is urgently needed a break in the violent atmosphere, an interim agreement of non-belligerence/Hudna¹⁶ to start a period of some normalcy, calm, and trust. The goal of such an agreement is to reduce violence and create security conditions to facilitate mobility, investment, and economic development. All these are essential pre-conditions for the readiness of Palestinian and Israeli civil societies and political actors to start re-thinking the future and produce new ideas and opening political space for institutional design.¹⁷ I am aware that in the present conditions, even the terms of an interim agreement will be very difficult to accept, given the mutual distrust. Palestinians are completely disappointed with Israeli interim agreements that never led to improvement but to worse conditions. Israelis don’t believe that military redeployments can lead to ending Palestinian violent acts of resistance. Hence some form of international facilitation-mediation-enforcement would be necessary, as I’ll explain in the second part of this section.

The goal of an interim non-belligerence/Hudna agreement is to revert the principle of the Oslo Accords, namely the idea that the agreement must improve Israel’s dominant position vis-à-vis the Palestinians. The interim period must start a process of dismantlement of the Israeli dominant position in the West Bank and Gaza Strip before a more comprehensive agreement on the future institutional arrangements. The interim steps would be designed to induce future cooperative negotiations, relations, and institutions. The agreement must be designed taking in consideration the complex multi-discrimina-

tory regime and create an improved situation for the four Palestinian sub-types: citizens, East Jerusalemites, West Bankers, and Gazans. Even if the implementation of the refugee rights is not agreed in these first steps, some symbolic acts toward veteran refugees, mainly in Syria and Lebanon, can be done in order to start building trust and signaling that this is a legitimate issue for further negotiations and agreements.

The non-belligerence/Hudna agreement must start a gradual process of expanding cooperation between Israelis and Palestinian bureaucracies, not only between “security forces,” and must include also civil society actors at almost all levels and spheres. The goal is to start dismantling gradually the Israeli control system and unilateral imposition of its interests, building alternative tools of coordinated control. In sociological and political terms, the process designed would be a process of gradual de-colonization, taking into consideration the protracted dependency relations.¹⁸

Hudna/non-belligerence Principles

The fundamental principles of the non-belligerence/Hudna agreement should be:

First Steps

- a. A complete cease of fire will be declared and the gradual starting of disarmament of all civilian and para-military forces.
- b. An agreement to end the Gaza blockade will be signed opening the borders to Egypt and Israel, creating a passage to the West Bank and opening the Gaza Port.

Future Intentions

- c. Both sides will declare that all disputes will be subject to negotiation and solved by dialogue without using violence or unilateral means.
- d. The Green Line will be recognized as the basis for future negotiations.
- e. A declaration will announce the intention to establish in the future shared institutions based on parity and mutual veto in order to administer various public services.

Coordination and Cooperation

- f. Shared committees to coordinate security and economic activities will be established, with technical assistance of international advisors.
- g. A mechanism of mediation and arbitration of disputes will be agreed.

Dismantlement of Israeli Dominant Position

- h. All contacts between Israeli soldiers and Palestinian citizens would be cut off, replacing the Israel Defense Forces with international peace keeping forces.
- i. Israeli construction in the West Bank and East Jerusalem will be halted.
- j. Israeli citizens living in the West Bank willing to move to the 1967 sovereign borders will be encouraged to do so by a reparation law.

Economic Catch-Up

- k. Opening external borders (Egypt and Jordan) to movement of people and merchandise, free passage between the West Bank and Gaza Strip, and free movement within these areas. Border controls will be installed by Egypt, Jordan, PA police, the International Peace Keeping Force, and Israeli custom civil servants.
- l. Encouragement of capital investment in the Palestinian economy, and investment in infrastructures, canceling all the limitations unilaterally imposed by the Israeli government.
- m. Signing an initial economic protocol of Palestinian customs and taxes independently enacted and collected by the Palestinian authorities.

International Mediation

The first and most important factor before negotiations start is international determination to put an end to the violent relations between Israelis and Palestinians, bringing both sides to discuss international initiatives. This determination doesn't exist when this chapter is being written; on the contrary, after eight years of "peace mediation" by a U.S. administration that demanded from Israel to stop building in the territories the settler population grew from 250,000 (2005) to 373,000 (2014), and the Israeli government didn't stop building in the settlements. However, the dynamics in the Middle East may lead in certain constellations to an international will to end violence in Israel/Palestine and put a real effort in bringing the sides to an agreement. Such development may take place also among the Israeli and Palestinian public opinions and political leadership.

Given its economic, military, and political dominant position, the Israeli government succeeded in 1993 to impose on the Palestinians conditions that they would not accept otherwise. Israel maintained its dominant position in the interim period, preventing any real need to negotiate and dialogue future changes. The Israeli negotiating team prevented a mechanism of third-party mediation, believing that a third party was expected to support the Palestinian claims (Savir 1998). Indeed, the international participants in direct negotiations—both the Norwegians in Oslo and U.S. diplomats later on—were effectively neutralized and failed to mediate the gaps between the sides. Their attitude was what conflict resolution call "facilitators of direct meet-

ings,” instead of active mediation and brokerage, hence helping the Israeli side to impose its will due to its dominant position (Khalidi 2013; Malley & Agha 2001; Meital 2006; Weinberg 2006).

In order to reach an agreement aiming to dismantle the Israeli control system, a very different approach of international mediation is necessary. Direct negotiations facilitation when Israel doesn't even stop building in the occupied territories is counter-productive. An active brokerage is needed, consciously oriented to counter-balancing Israel's power. Israeli economic dependency on Europe and the United States might be used as one of the leverages persuading the Israeli government and public opinion that it cannot continue ignoring the international public demand to end the occupation. Just direct negotiations cannot produce a substantial compromise by Israeli negotiators; moreover, if a Palestinian negotiator accepts Israel's conditions due to Palestinian weakness and dependence (as Arafat did in 1993), the implementation of the agreement is doomed to fail because Palestinian resistance will reject or sabotage the compromise.

From 1992 to 2008, different U.S. administrations have supported the position of the Israeli moderates in the best case (Bill Clinton) or even converged with the most extremist Israeli government (George W. Bush). The only moments in which international intervention played a positive role in Israeli peace negotiations, namely counter-balancing Israel's powerful position, was in its relations with Arab states. The first moment took place in 1978, when President Jimmy Carter exerted pressure during the peace negotiations between Menachem Begin and Anwar Sadat in the Camp David Summit, and the second moment took place in 1991, when George H. W. Bush (the father) forced the Israeli government to participate in the Madrid Conference, using financial and diplomatic pressure. In both cases, these interventions directly influenced internal Israeli politics, empowering actors supporting peace and compromise. In the Israeli-Palestinian arena, the need for intervention is much more urgent, and obviously depends on international context and not only on local developments.

Since the election of Barack Obama as the new president of the United States, new expectations of pressure on the Israeli government to negotiate a peaceful agreement with the PLO mounted. But Obama's failure even to halt Israeli building in the West Bank created further skepticism on the U.S. mediating capacities (Khalidi 2013). International pressure on Israel is indeed a necessary precondition in order to balance its power vis-à-vis the Palestinians; however, if the pressure is to implement the TSS, I am afraid it is doomed to fail again. It might enhance the Israeli tendency to impose unacceptable conditions on the Palestinians and later blaming them for the failure, as Ehud Barak did at end of the Camp David Summit in July 2000.

CONCLUSION

This chapter seeks to update and improve my original proposal to combine two states and one within what I've suggested to call IPU (Grinberg 2010b). This update takes into account both the deterioration of Israeli-Palestinian relations and also the development of the idea since 2010, mainly by the *2in1* projects (Goldenblatt & Boutteau 2014; Mossberg & LeVine 2014). I analyze the present control regime and discuss the deficiencies of the TSS and OSS given the Israeli superior position and hostile relations in the first section. I discuss in the following section some crucial problems combining two separate nation-states and one shared state, and in the final section I suggest the urgent need of an interim period of calm aiming to create the necessary atmosphere to start thinking about alternatives to the TSS.

The second section is dedicated to openly discuss major problems that have not been satisfactorily developed by the *2in1* projects due to certain "constructive ambiguity." I propose a relatively simple formula for the main obstacles combining two states in one. My suggestion is that all Israeli citizens, Jews and Palestinians, will maintain their citizenship, and the Palestinian inhabitants of the occupied territories will become citizens of the new state of Palestine. In addition to their new political rights, they will be attributed rights similar to the Palestinian residents in East Jerusalem: free movement within Israel and social rights. At the institutional level, in addition to the establishment of two separate states, two new institutions will be established: 1) the shared IPU based on parity and international arbitration; and 2) a Palestinian Congress based on national identity.

The third section takes into consideration the unfavorable atmosphere of violence, suggesting an interim agreement of non-belligerence/Hudna, aiming to create the necessary pre-conditions of trust, security, and prosperity, emphasizing the need of strong international brokerage and the establishment of an International Peace Keeping Force. The fundamental elements of a non-belligerence/Hudna agreement discussed in the third section are the entrance of an international peace force to the occupied lands, allowing free movement to Palestinians and economic development, and ending the expansion of Jewish settlements. The explicit goal of the non-belligerence/Hudna agreement is to provide the Palestinians a better quality of life, freedom of movement, and self-determination; the Israelis will get improved security and legitimization in the international community and the Middle East.

I would like to emphasize here that the general goal of negotiations must not be the establishment of two states or one, but to abolish Israeli supremacy all over the land, to recognize equal individual and collective rights of Jews and Palestinians, and to build viable political institutions capable of containing expected disputes in the future. This chapter was motivated by the recognition that the gigantic political change toward serious discussions of IPU

institutions cannot take place under the present circumstances of violence, Israeli military and economic domination, and blockade of Gaza. An interim non-belligerence/Hudna agreement must be reached in order to change all these and to facilitate creative and constructive negotiations. Only after such an agreement is signed, Palestinians and Israelis may start feeling some relief and reconstruct trust, and a new future can be imagined. Only then we can start thinking how to build a shared future in Israel/Palestine.

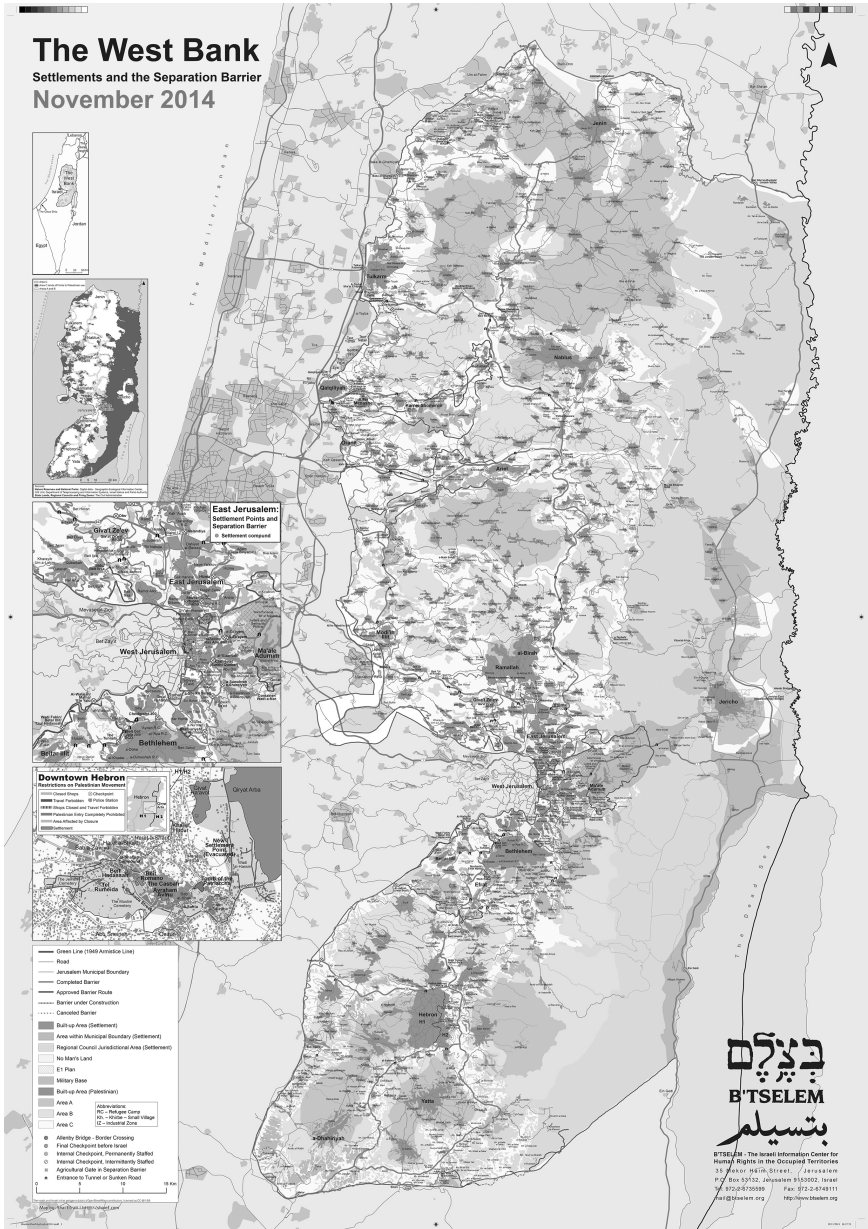


Figure 15.1.

NOTES

1. The paper was published first in Arabic by MADAR, edited by Honeida Ghanem (Grinberg 2009b), and a different corrected version was also published in Hebrew (Grinberg 2012).

2. I would like to emphasize that I didn't take part in this project despite the fact that they use the term Israeli-Palestinian Union and very similar concepts to my initial paper. The initiative was taken by Dan Goldenblatt, when he was the co-chair of the Israel/Palestine Center for Research and Information. I was invited to participate, but due to personal reasons I couldn't join the project.

3. Haaretz, 3/12/2015 (<http://www.haaretz.com/israel-news/1.689949>)

4. For the theoretical approach to history as a sequence of events and eventful sociology, see Brubaker 1996; Sewell 1996.

5. See MERIP's special issue No 261 "Illicit Crossings": <http://www.merip.org/mer/mer261>.

6. See <http://www.geneva-accord.org/mainmenu/english>.

7. This is the shared assumption by both *2in1* projects: Goldenblatt and Boutteau 2014; Mossberg and LeVine 2014.

8. Both projects include a chapter written by security experts that explain the sensitivity of security for the Israelis; however, Mossberg and LeVine (2014) include a chapter on the need to recognize Palestinian security needs (Agha and Khalidi, chapter 5).

9. See chapter 5 in Mossberg and LeVine (2014) written by Agha and Khalidi, and also Agha and Khalidi (2006).

10. On the violent deteriorations of ethnic divided societies following democratization see Mann 2005.

11. This idea is based on the Jerusalem chapter 3 in Goldenblatt and Boutteau 2014, pp. 100–24.

12. In 1967, following the annexation of Jerusalem, and in 1996, when Jerusalemites were attributed political rights to vote in the Palestinian elections.

13. My formulation here of "sovereign physical control" is based on Weber's (1948, p. 77) definition of the state as "human community that (successfully) claims the monopoly of the legitimate use of physical force within a given territory." I don't refer here to the use of violence because it is the subject of further discussion later on.

14. For the regulations that prevent Palestinian investment, see, for example, "Who Profits" report on the regulations of the Pharmaceutical industry at <http://www.whoprofits.org/content/captive-economy-pharmaceutical-industry-and-israeli-occupation>.

15. In my 2010 paper, I suggested also a federal division of provinces or districts and implementing the German Federal Financial Equalization system (*Finanzausgleichsgesetz*), which transfers resources from rich areas to the poor regions.

16. The concept of Hudna is "derived from the original verb form *hada'a*, which means to be quiet, or to become quiet . . . (it) is an agreement to stop a fight or a war for a limited period of time. Hudna is not permanent and does not imply a potential for stable peace in the far or near future" (Zayed 2007). The concept is closer to truce or armistice than simple cease fire.

17. For an expanded discussion of the built in contradiction between violence and opening political space, see Grinberg 2010a chapter 2.

18. In my first analysis of the DoP Oslo agreements (Grinberg 1994), I argued that the main failure of the agreements is the complete absence of a de-colonization process.

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Chapter Sixteen

Between One and Two

*Apartheid or Confederation for Israel/Palestine?
Transcript of Address to the Conference “One State
between the Mediterranean Sea and the Jordan River — A
Dream or Reality?”*

Oren Yiftachel

Let me start with a word of appreciation: this is one of the first volumes produced by Israeli (not only) academics to discuss seriously and openly the issue of alternative political geographies for Israel/Palestine. Most leading scholars on the subject have consistently treated Israel as existing unproblematically in its pre-1967 boundaries. For most Israeli scholars—including critical analysts—the Palestinian territories rarely exist as part of the Israeli polity. At best, they mention “the occupation” as an external problem influencing Israeli polity and society. This is despite the rapid integration of the West Bank with “Israel proper” and the gradual disappearance of the Green Line, at least for the Jewish populations (see, among others, Azoulay & Ophir 2008; Bar Tal & Schnell 2013; Gans 2008; Gavison 2012; Newman 2010; Schnell & Leuenberger 2014; Shafir & Peled 2002; Smoocha 2002; but see Grinberg, 2007; Kimmerling 2001 for notable exceptions). The courage to openly discuss the possibility of a one-state solution deserves highlighting as it represents the real academic spirit that has been under strong attack by successive nationalist-colonial Netanyahu governments following the right’s 2009, 2013, and 2015 election victories.

As I have argued elsewhere (Yiftachel 2006, 2012; Yiftachel & Ghanem 2004; Yiftachel & Roded 2015), there are various factors that prevent a viable resolution of the conflict. These include Jewish colonialism in the

West Bank, which prevents and hinders the establishment of a viable Palestinian state as a foundation for a Zionist-Palestinian reconciliation; the protection of the existence of all states (including Israel) by international law; power of the Israeli state, coupled with Western legacy of the holocaust; the strength of Zionist nationalism in Israel and abroad; and the colonial fragmentation of the Palestinians into distinct political and legal entities. These factors have created a structural situation in which neither the “two states for two peoples” scenario nor the one-state template provides a reasonable framework for addressing the need to de-colonize Palestine and to reach Zionist-Palestinian reconciliation.

Consequently, I will argue that we need to create a third space—conceptually and politically—that leads to creation of an Israel-Palestinian confederation. This arrangement is the most suitable for creating a geopolitical foundation for a viable peace, since it provides a framework for the two states to realize their respective rights to self-determination, while protecting socio-ethnic minorities, as well as accounting for the territory’s complex geography and history. The inhabitants of the confederation will maintain a joint economy and benefit from freedom of movement between the two entities. An autonomous, jointly governed capital will be established in the Jerusalem region.¹ An Israel-Palestine confederation could also end Israel’s colonial grip over Palestine, secure Israel’s existence, and protect human rights for all its citizens.

My point of departure is the futility of the two-state solutions currently “on the table.” Since the Oslo Accords, in the framework of purported discussions on establishment of a Palestinian state, Israel has done almost everything it could to destroy that possibility, principally by deepening the Jewish colonization and restricting development of a national Palestinian leadership. “The peace process” has thus provided a smokescreen for Israeli colonization of Palestine. Under the current settings, should a Palestinian state be established, it would be highly dependent on Israel, yet segregate from it; it will be geographically split with little control on external borders, thus lacking real political or economic sovereignty. Such a state is likely to become a source of constant instability. This being the case, continued discussion of the two-state solution in its present format is a certain recipe for continuation of the conflict, rather than a path for its resolution.

The confederation framework proposed below unsettles the problematic dichotomy dominating the political debate between proponents of the one- and two-state solutions. By sanctifying the final format, the dichotomy prevents the development of a more nuanced and serious discussion of the various possibilities to move toward a new political geography of reconciliation. The confederation model, on the other hand, is more open and flexible, and has served in several other conflict regions as a stabilizing framework.

CONFEDERATIONS AT A GLANCE

It is time to clarify briefly what I mean by confederation. There are several definitions, all sharing the notion of a political, legal, and territorial framework facilitating cooperation between sovereign states, held by a covenant or treaty. Confederation, and the concept of “confederacy” underlining it, denote a process of political integration “from below,” in contrast to a federation, which is constructed “from above.” In a confederation, the states, which retain their sovereignty, allocate powers “upward” to create the “higher” body to govern joint affairs. On the other hand, in a federation, powers are delegated from the central sovereign body (government, parliament) to the states or provincial sub-units. Hence, in a confederation, as opposed to federation, the states maintain veto power on the existence and nature of the joint political framework (see Mabry, et al. 2013).

However, research on the confederation model is insufficient, and the historical record of this solution is uneven. Let us elaborate on a few known success stories.

The European Union is the most famous and ambitious confederation “in the making.” The European Union is an incredible precedent: strong nation-states with a chauvinist past of nationalist wars and racist global colonialism, which have given up some of their sovereignty for the sake of a supra-national entity. Despite inevitable problems, mainly around economic management, the impressive political success of the European Union—now the most peaceful region in the world—has provided a major geopolitical foundation for the long era of international cooperation and prosperity.

In this context, the process of building the confederation is crucial: the European Union began with a small group of six states and a “thin” layer of joint institutions; it began with the intent of instituting uniform trade laws on the import and export of coal and steel, and later created a common economic community. On these modest foundations, an enormous political organization was later built, one that institutes confederation arrangements between Estonia in the east to Portugal in the west.

In the past, Switzerland and Canada were established as confederations after ethnic wars that to some extent resembled the Zionist-Palestinian conflict. In those cases, a strong ethno-national group gained control over weaker groups, but rather than continue to oppress them, offered a framework of mutual self-determination, and a decentralized form of government, by way of compromise and cooperation.

In recent decades, Belgium, too, has transformed (unofficially) to a model resembling a confederacy: the Walloons and the Flemish enjoy self-determination and self-rule in almost all spheres of life. Brussels—possibly in a status similar to Jerusalem, with local, national, and global significance—is a shared autonomous capital region. In Bosnia-Herzegovina, vicious ethnic

conflict was only halted and stabilized following establishment of the Dayton confederation framework in which the Serbs, Bosnians, and Croats enjoy autonomy and separate territory while operating a joint economy and security apparatus, with a strong European umbrella. The last two examples are far from ideal, but their confederal system, which combines separate ethno-national existence with joint management of the space, enables them to create a non-violent democratic space after generations of bitter ethnic conflicts.

The list of confederations throughout history is not long. Poland and Lithuania had extensive confederation agreements that evaporated with the rise of the Soviet Union. For many years, Norway was part of a confederation with Sweden, and later with Denmark. The United States began as a confederation of thirteen states, and Egypt and Syria created the United Arab Republic (a union of the two states) in the 1950s. The United Arab Emirates created confederations, albeit not democratic. Benelux and Czechoslovakia were confederations that were replaced by the European Union.

The confederation model, therefore, exists in practice, though it is not widespread. It has succeeded in stabilizing ethno-national relations, following a period of conflict and war, and in regions where spatial ethnic and national separation is difficult. It is thus an appropriate approach for introduction into the debate on the political future of Israel/Palestine.

The key to these models appears to be a combination of 1) the end to oppressive or colonial relations between the groups, 2) freedom of movement throughout the entire space, preventing ethnic segregation, 3) statutory and political self-determination for the different groups in various regions, and 4) establishment of a “layer” of joint governance management and administration of the whole.

ISRAEL/PALESTINE—POLITICAL GEOGRAPHY

Before discussing how to reconstruct the political future of Israel/Palestine, let us briefly examine a few questions about the structure of the past and present: What is the political geographic status of the territory we are discussing? How can we conceptualize in a credible way its transformation over the last century? What is the current political regime in Israel/Palestine, and how did it come into being? Without answers, progress would rest on shaky grounds. Just like in medicine, diagnosis must precede treatment. So, what are the dominant views on our political geography?

One, and possibly the most common, view at the international level portrays the Israel/Palestine space as a site of struggle between two national movements. This symmetrical approach views Israel as a legitimate homeland of a Jewish nation in which it exercises its sovereignty “like all other

nations” after generations of persecution in its diaspora. A similar view is applied to the Palestinians, whose homeland is considered to be the West Bank and Gaza. The main manifestation of the conflict appears in this view to be a long-term borders dispute assuming the imminent establishment of a Palestinian state. This approach gives the conflict the symmetry of “Israelis versus Palestinians” by treating Israeli control of the “occupied” (more accurately of course “colonized”) Palestinian territories as “temporary,” and by commonly overlooking the Nakba, including the mass expulsion of hundreds of thousands of Palestinians in 1948, the destructions of over four hundred villages, and the ongoing oppression, discrimination, and control over of the land, development, and politics of the Arab-Palestinian minority within Israel. This attitude, which is characteristic of the Zionist left, some Palestinians, and most of the international community, maintains that a stable solution can be achieved in the form of two nation-states on the basis of the 1967 borders.

A different perspective held by most Zionists (in Israel and around the world) who see Israel/Palestine primarily as the historical-religious homeland of the Jewish people recognized by the international community. The process of settling and controlling Palestine is considered a “return” to the “promised” homeland, and a realization of the “Jewish historical right.” It is achieved by a “natural” course of events free of ethical problems, and with almost no mention of the rich Arab history of the land or the rights of the previous inhabitants. The return is to the entire homeland, between Jordan and the sea—a territory belonging to the Jews, and to the Jews alone. Minorities in this view can coexist with Jews, as long as they accept Jewish political supremacy.

In addition, the mainstream Zionist view links the need for Jewish sovereignty to recent history of the Holocaust European anti-Semitism, Arab ill-treatment of Jews in the Mideast, and profound Arab and recently Islamic rejectionism and violent opposition to Jewish nationalism. Most Zionists do not ignore that Jewish immigration and settlement created problems for Arabs, but blame Arab intransigence and aggression. At the same time, they refuse to recognize Palestinian historical rights to the land and deny Israeli responsibility for the problems created by the founding of the state and its discriminatory policies. Recently, as a result of political pragmatism, some mainstream and rightist Zionist leaders became willing to recognize certain Palestinian collective rights, though these rights do not amount to sovereignty in the colonized territories or full civil and communal equality. Any discussion on questions of return of the refugees, the events of the Nakba, or the Jewish character of the state are taboo and cannot be seriously discussed or challenged in rebuilding the political future of the land.

The prevalent Palestinian perspective, on the other hand, views the space between Jordan and the sea as one political entity, referred to as “Palestine,”

which was legally created by the British Mandate. However, the newly created would-be state was immediately and unjustly offered to, and settled by, Jewish colonizers. This state was later cruelly partitioned in a process accompanied by ethnic cleansing, turning most Palestinians to refugees. According to this perception, Mandatory Palestine was supposed to become an independent Arab state like Iraq, Syria, Lebanon, and Egypt, but was ultimately divided among various predators—Israel, Jordan, and Egypt. After 1967, the entire land remained in the hands of one conqueror: Israel. The prolonged denial of Palestinian rights, so this perspective holds, has occurred with the support of Western imperialist powers.

While this perspective concurs with much research on the history of Israel/Palestine, it also has some glaring blind spots and denials. For example, it conveniently ignores the plight of Jews in Europe and the Arab world (without which one cannot understand their flight to Palestine and their resilience over the last century), it scoffs at the historical and religious connection of Jews to the land, it overlooks the disastrous 1947 Arab rejection of the opportunity to establish an internationally recognized Palestinian state, and it hardly deals with the use of incessant terrorism against Israel. These factors are taboo in the Palestinian narrative, as much as the Nakba and present colonialism are taboo among Zionists.

Today, moderate Palestinians view the struggle for a Palestinian state in the West Bank and Gaza Strip and for civil equality in Israel as worthy politically, but not as attaining historical justice or genuine reconciliation. The current official Palestinian struggle is viewed by moderates as protecting “the crumbs” left from “historical” (Mandate) Palestine for the Palestinians, rather than historical correction. Meanwhile, and due to the low status accorded to the creation of a small, fragmented Palestinian state at the best-case scenario in this struggle, the one-state solution is rapidly gaining popularity. This political geographic vision is gaining popularity among Palestinians on both the Islamic right and the secular left. The increasing support, and the unlikely alliance it brings from such distant political wings, is due to the potential of the one-state future to achieve justice and historical correction for the Palestinians. However, as elaborated later, both camps tend to ignore that historical justice must consider now a powerful factor that did not exist in the 1940s—the existence of the state of Israel, and the rights attached to such an existence.

My analytical framework offered here seeks to be precise and not polemical in discerning the political geography of the conflict, for which, it appears, one has to combine both of these perspectives. Israel/Palestine is indeed a land of religious and historical attachment to Jews, and that Zionism addressed this belonging in modern-political and territorial terms. Zionism, which was a movement of a small minority of the Jewish people until the 1930s, correctly identified the destructive potential of anti-Semitic racism

and sought to create a safe haven for Jews in the historical or religious homeland. Historically, European and later most Arab Jews were stripped of their rights, evicted, and in Europe became victims of massive genocide, before they became Zionists. Hence, apart from small groups of Zionist ideologists, most of the Jews who came to Israel had no alternative. One can thus observe historically that Jews were actually “expelled to their ancient homeland.” This observation, somewhat ironically, is ignored by both Zionist ideologists, who wish to make us believe that Jews always longed to return to Zion, and most Arab researchers and narratives, who wish to portray Jews as “normal” objectionable colonialists.

As a side comment, and with a touch of sad irony, one can observe that the state created for the quintessential nation of refugees—the Jews—has now created the new quintessential nation of refugees—the Palestinians. Consequently, and again with sad irony, the state aimed to become a safe refuge for the Jews created by Zionism has now turned to be the arguably most dangerous place for Jews in the world.

Zionism managed to create in the reconstructed Jewish homeland, a strong viable ethno-national community, albeit one that is fragmented unevenly along lines of ethnicity, religion, and class. These fuel continuous sets of conflicts between Jews that are not likely to abate in the coming decades. Yet, Zionism managed to plant in Zionist Jews a real and legitimate sense of homeland belonging, while politically realizing the right to self-determination of the Jewish-Israeli nation created anew in the country, out of the ashes of one of the world’s darkest periods.

Significantly, however, these observations do not contradict the Palestinian perspective that the conflict over Israel/Palestine is also the result of a clash between a Jewish colonizing society, whose relentless aim is to Judaize the land, and oppress, evict, and dispossess its indigenous Palestinian population. The literature defines colonialism as an organized expansion of a group into new territory, generally accompanied by conquest, settlement, appropriation, and exploitation of local population and resources. The current Jewish regime in Israel/Palestine fits this definition. It was established on the foundational process of Jewish expansion, settlement, and appropriation, while receiving the general support of world powers, primarily Britain and the United States, which served for long periods as a kind of empowering “metropole” for the Zionist colonization project. Thus, the Zionist-Palestinian conflict is both a clash between colonizers and indigenous peoples, and between two nations battling over the same territory. Although this is not the main focus of the chapter, it needs to be mentioned that the conflict is also a clash embedded within capitalist economic relations that see massive resources transferred from Arabs to Jews over the last century. The transformation of wealth has added a strong socio-economic factor to the national and

colonial conflicts. Any progress toward a solution must take into account these deep structures.

Importantly, over the past century the nature of the Zionist project has also changed in significant ways. Until 1947, it could be conceptualized as “colonization by refugees” that developed through the immigration of Jews who were forced out of their previous states due to persecutions and racism. To be sure, there was a small nucleus of ideological Zionists who came voluntarily, but the majority became Zionists only once their lives in their original homeland became unbearable. Zionist colonization in that period was advanced by using all the loopholes existing under Ottoman and especially British rule—by purchasing and receiving land, erecting settlements, and building a military force and a fledgling national community.

During the 1947–1949 war, Zionism conducted widespread ethnic cleansing against the warring Palestinians—a strategy which sadly was not out of line with international norms of the period. Over the next twenty years, the Zionist project became one of “internal colonialism,” which included the oppressive Judaization policy of Israeli sovereign territory within the Green Line. After 1967, it changed shades again and became almost classic “external” colonialism in which the state settles its citizens beyond its sovereign borders and seeks to appropriate the new settled territories. Simultaneously, Israel deepened its liberal-democratic character, primarily for its Jewish population on both sides of the Green Line. This factor aided in building a broad Jewish consensus around defining the state as a “Jewish and democratic,” while ignoring the ongoing dispossession and discrimination of the Arab citizens living inside the Green Line, most conspicuously the Bedouins in the south, as well as the millions of disenfranchised Palestinians in the colonized territories.

Finally, in the past two decades, the regime between Jordan and the sea has been transforming into a new stage, which I have termed “oppressive consolidation.” Since the Oslo Accords, Israel has sought to stabilize the situation by slowing its expansionist settlement and focusing on “enclavation” of the Palestinians. This was partially achieved through strategic withdrawals—from Southern Lebanon, from Areas A and B in the West Bank, and in 2005 from Gaza and parts of the West Bank. In doing so, it has shown a certain willingness to allow the existence of a quasi-Palestinian state that would grant a degree of self-determination to the Palestinians, while legitimizing Jewish control over most of the land between Jordan and the sea. To this we can add the proposals for a Palestinian state made by Barak and Olmert, and most significantly by Netanyahu in his 2009 Bar-Ilan speech and several statements following the 2013 and 2015 elections, vowing to advance toward a situation of “two states for two peoples,” whereby a demilitarized Palestinian state within unknown boundaries and excluding the Hamas would come into being after recognizing Israel as a Jewish state.

During the 2015 elections campaign, Netanyahu made a significant retreat from this vision by declaring that “If I am elected, there shall be no Palestinian state,” but under international pressure he quickly retracted this statement and declared again his willingness to advance the path for a two states. It should be mentioned that Netanyahu’s statements on the two-state solution are opposed by the majority of the Likud’s members of Parliament, and were never approved by the party, whose charter still denies the right of the Palestinians to statehood.

The present geopolitical stage therefore marks the weakening of Jewish colonialism in the face of international condemnation, Arab resistance, and the shrinking of direct Israeli rule. Some exceptions to this trend are the ongoing establishment of “outposts” (small unapproved settlements) in the West Bank or new Jewish villages in the Galilee and Negev, and Jewish pressure for presence in Temple Mount, but the overall picture is of selective withdrawals within an overall political status quo. This stabilizing stage is taking place alongside accelerating globalization, rapid economic development, and the deepening of liberal tendencies of most Jewish secular groups. However, the consolidation has not changed the structure or ideology of Jewish control over the entire space between Jordan and Sea. Rather, at this stage, Israeli moves constitute only a change in the *methods* of control over the Palestinians, from direct to partially indirect, that is, from controlling all territory and populations, to allocating these responsibilities to well-controlled Palestinian and international bodies, while locking up the Palestinians in small territorial areas, thereby minimizing the friction with the Israeli state, army, or Jewish settlers.

One of the most blatant expressions of the colonization and Jewish control has involved the issue of land. Israel has been laboring for sixty years on what Sandy Kedar has called “judicial land redemption,” in which it has registered more than 93 percent of the state’s territory and nearly one-half of the land in the West Bank as “state land.” As a result, the Palestinians, who constitute about one-half of the population between Jordan and Sea, control only some 15 percent of the land area. Inside the Green Line, the situation is worse: the Palestinians constitute 18 percent of the Israeli population but control only 3 percent of the land. This is the tip of the iceberg of deep and structural Judaization, which has created intense pressures and tensions. These arise not only because of the prolonged dispossession, but also because the state has become an entity representing almost exclusively its Jewish citizens at the expense of other groups.

The regime that underlies all the geopolitical stages can be conceptualized as “ethnocracy,” and it has ruled for six-and-a-half decades inside the Green Line and for nearly five decades between Jordan and the sea. The cultural and economic details of this regime are laid out at length in my books and articles, but here I would like to emphasize that now in Israel/

Palestine there is one regime: an ethnocracy that controls, in various means, diverse populations, consistently giving preference to the Jewish groups, while “ranking” the other groups according to their cooperation, acceptance, or rejection of the Zionist project.

However—and here I begin my argument with those who favor the one-state solution—it is necessary to distinguish between *regime and state*. Although there is one regime with sovereign powers vested in Israel and its institutions, there is not one state as claimed by the supporters of one state—since about half of the inhabitants are not, and apparently will never be, citizens. These people live under military rule or in a temporary status of one kind or another. In any event, the current regime and political structure promotes no political program that will bring all the permanent inhabitants of the area under one law, citizenship, or culture, as is customary in a modern state. In other words, the Israeli-Jewish regime that exists between Jordan and the sea does not necessarily result in the establishment of a single state. Other possibilities exist, including a confederation, as detailed below.

Furthermore, “beneath” the political geography of one colonial regime there are, according to international law, two states: Israel and Palestine. This was reinforced by the well-known 2004 decision of the International Court of Justice in The Hague regarding the separation barrier, and numerous decisions of the UN Assembly and of the Arab League for the establishment of Palestine, which is yet to be fulfilled but receives the support of nearly all the international political and legal institutions. The territory between Jordan and the sea is home to two robust national movements that seek to realize their right to self-determination. Therefore, the Jewish ethnocratic regime between Jordan and the sea is not viable and cannot, at this stage, constitute a normative or legal basis for a joint state. We shall return to this later.

This analysis leads me to understand the geopolitical situation in Israel/Palestine as comparable to regimes in which part of its territory is under colonial control, and thus illegitimate, while other parts are under legitimate sovereignty. This is a more complex view of the situation, comparing Israel/Palestine to, for example, the case of Britain in Ireland until 1921, the French in Algeria until the early 1960s, Jordan and the West Bank until 1987, and, recently, the situation in Serbia and Bosnia and Kosovo, Morocco and the Western Sahara, Armenia and Nagorno-Karabakh, and more recently Russia and the Crimea. In the past, solutions to such partial colonial conflicts generally arose when the regime retreated from territories it held illegitimately and remained in control of its legitimate sovereign lands. In none of these cases, however, did the illegitimate occupation of territory lead to a *threat to the existence of the mother state*. This threat is implied by the one-state proponents, who claim that Israel’s colonization of the West Bank is not only irreversible but makes the existence of Israel itself untenable. Using a colloquial expression, they throw out the baby with the bath water.

Yet, the analysis offered above is too “clean,” since it is hard to make a clear distinction between the different stages and territories through which the Israeli regime has developed, and neatly classify them as legitimate or otherwise. This situation must trigger warning lights, inasmuch as the current regime continues to institutionalize the colonial situation in the West Bank, in the form I have recently termed “liberal colonialism” (Yiftachel 2013). The distinction between both sides of the Green Line is becoming even fuzzier, since Israel is also colonizing and Judaizing parts of its own legitimate territory, particularly the Negev and the mixed cities, in a process of “internal colonization.”

The result of the above processes is the gradual institutionalization of “separate but unequal,” and a structural process of “*creeping apartheid*” unfolding in the past decades. Naturally, Israel does not declare that such a process is in the making and continues to flag the hollow definition of a “Jewish and democratic state,” and the putative “temporary” nature of the occupation.

Yet, the situation of the West Bank can no longer be described as “occupation” with any credibility. Occupation is characterized in international law as military, external, and temporary, whereas Israel’s control over the region is becoming increasingly civil, permanent, and internal to the Israeli polity (through the full integration of settlers in Israeli politics). At the same time, Israel enacts statutes separating Jews and Arabs in Israel, in most fields of life, such as immigration, religious autonomy, prohibition of civil marriage, separate education systems, local government, and military draft, while separating the two groups from Palestinians in the colonized territories. Thus, without formal declaration, the Israel regime is, one step at a time, institutionalizing a “separate and unequal” system. Such a regime classifies populations according to their ethnic origins and place of residence, and endows each group a different system of control and privileges. In other words, as noted, a quiet but continuous and “thickening” process of “*creeping apartheid*” (for details, see Yiftachel 2012).

This situation, needless to say, poses serious structural danger identified by many oppositional groups and movements, which have nonetheless remained unable to stop it. The confederation framework offered here has the potential to challenge the dangerous process by introducing a new and equalizing logic for the management of two states in the homeland common to both nations.

RETURN OF THE ONE STATE

In conjunction with these structural changes, the one-state idea, which was of course seriously discussed during the 1930s and 1940s, arose again. The

books by Mazin Qumsiyeh, Ali Abunimah, and Virginia Tilley, published a few years ago, sparked a flood of writing on the subject. The one-state solution claims to guarantee an honorable way out of the contradictions described above. Proponents of the idea argue that Israel's control in the occupied territories (reflected by Jewish settlement, military deployment, land nationalization, and massive infrastructure development) is *irreversible* and no longer enables establishment of a viable Palestinian state.

The alternative to two states, then, is to treat Mandatory Palestine as one “natural” political unit that will enable all its inhabitants to live in equality and hence in peace. The framework would, the proponents contend, eliminate one of the main obstacles in the conflict—the question of the refugees. The entire land of Israel/Palestine would be open to those evicted and their descendants. The other contested questions—the settlements and Jerusalem, for example—will be easier to resolve in the one-state strategy, which will neutralize the zero-sum ethnic competition over territory, resources, and power that now characterize the relations between the sides.

The one-state idea has various possibilities. The democratic version offers a secular-liberal, binational, or multicultural state. The nationalist brand offers a Jewish or Arab ethnocracy with a sizeable minority which is awarded a degree of autonomy; the religious versions offer a state governed, interchangeably, by the Muslim Sharia or Jewish Halacha.

On the face of it, the one-state framework is highly appealing. It is based on important ethical arguments; it is comprehensive, inclusive, and even elegant. It treats the political territory created by the British empire and the League of Nations as the basis of a future regime, and properly contends that for almost one hundred years later, with the exception of only nineteen years, the whole country was under one regime (though they do not give proper weight to the fact that, in the course of the nineteen-year period, the legitimate sovereign state of Israel was established).

Proponents of the plan also correctly identify the area between Jordan and the sea as the imagined homeland and hence object of belonging and national aspiration of both Jews and Palestinians. Somewhat ironically, the land considered as “sacred homeland” by Muslims and Jews was actually drawn up by British and French Christians, with only partial correspondence to the religious or historical spatialities of Jews and Palestinians. Nevertheless, the new “geobody” created in Palestine/Israel has indeed gained a status of cherished homeland. A quick look at the Palestinian and Zionist maps, symbols, narratives, and publications repeatedly indicate the image of the entire land of Israel/Palestine as a single unit to which the two nations belong.

The attractive one-state horizon has spread rapidly. In recent years, it has been the most “fashionable” proposal among Arab academics and a small number of Jews, primarily outside Israel. Among the Palestinians supporting the idea are notable researchers including Nur Masalha, Ghazi Falah, Nadim

Rouhana, George Bisharat, As'ad Ghanem, Ali Abunimah, Mazin Qumsiyeh, Omar Barghouti, Samira Esmeir, Ghada Karmi, Leila Farsakh, Huneida Ghanem, Islah Jad, Saree Makdisi, Azzam Tamimi, Nura Erekat, and Jamil Hilal. It is also interesting to note those who have not supported the idea: Salim Tamari, Rima Hammami, Rashid Khalidi, Saleh Abd al-Jawad, Sari Hanafi, Manuel Hassassian, and Beshara Doumani—all prominent thinkers who have refrained, for the time being, to openly hop on the one-state bandwagon.

The popularity of the idea among Palestinians is not surprising. It fits well with the long history of Palestinian opposition to partition and to recognition of a Jewish political entity in Israel/Palestine, fueled from the outset with some elements of political Islam. This stance stood until 1988, when the mainly secular Palestine Liberation Organization accepted the UN partition decision and recognized Israel. However, a large part of the secular Palestinian public, especially outside the West Bank, has moved to support the one-state idea. In addition, since the rise of Hamas in the 1990s, and its victory in the 2006 elections, and with the general rise of Islamic mobilization and violent clashes in the Middle East, the Islamic agenda is again salient in Palestinian politics and with it the one-state idea. Most Islamic movements view all of Israel/Palestine as sacred *Waqf*, which must be liberated, sooner or later, peacefully or violently. Therefore, the one-state agenda fits well with these deep currents in Palestinian spatial imagery and aspiration.

Support for the one-state idea exists to a much lesser degree among Jews. It includes a few notable researchers such as Meron Benvenisti, Yehouda Shenhav, Neve Gordon, Ilan Pappé, Haim Bereshit, Gabi Piterberg, and, recently, Yoav Peled. Less important are those who are not proponents, since most Jewish researchers continue to support two states, or even one Jewish state between Jordan and the sea, possibly with a few Palestinian enclaves. There is also international support for the idea, including among prominent researchers who have written extensively on the Zionist-Palestinian conflict, such as the late and influential Tony Judt, Ron Greenstein, and Judith Butler. Here, too, a number of prominent researchers oppose the idea, some of them critical researchers such as Ian Lustick, Joel Migdal, Norman Finkelstein, and Noam Chomsky.

CRITIQUE: APOLITICAL POLITICAL GEOGRAPHY

Like most thinkers supporting social and political justice, I agree with many of the aims and values of the proponents of a democratic one-state solution—equality, the creation of a common space for peace and trust, historical justice, and the peaceful reintegration of Israel and Palestine. The state, according to most progressive theorists, is a modern political entity whose goal is

the improvement of human life. A state, in and of itself, is not a worthy goal unless it advances human welfare. Yet, given the geopolitical, ethical, and legal settings in Israel/Palestine, and particularly the existence of Israel, the path to reconciliation and acceptance cannot, I contend, be achieved by a one-state program, but through gradual integration by means of two sovereign entities, within a confederal framework, as elaborated below.

The main problem of one state is, ironically, that the idea is *apolitical*: it does not adequately deal with the political, legal, and violent forces existing in the system it seeks to change—first and foremost the existing (Israeli) state. None of the texts I have read offered any explanation why and how Israel would allow itself to be replaced by a new political entity, which would completely change its identity and dramatically reduce the power of its dominant elites. A serious political analysis seeking to bring about change needs to deal with the validity and strength of the apparatuses it aspires to topple. The one-state strategy simply ignores this need.

Let us remember that following the establishment of the United Nations, the right of a state to exist under international law is inalienable. So is its right to territorial integrity and self-determination. These are the very arguments that make Israeli colonialism in the Palestinian territories illegal, as it prevents realization of the Palestinian right to self-determination. It also makes the uprooting and oppression of indigenous Palestinians inside Israel illegal and unacceptable to existing international norms. But the same international law also ensures the legitimacy of the existence of the Israeli state, with which the one-state framework clashes. This is a serious flaw in a campaign that seeks to bring about political change within an existing political system of international relations.

PRECEDENTS

Using a historical and comparative perspective, the type projected for Israel/Palestine by the one-state solution is without precedent in the present UN-led era. The historical record shows that only three unifications of two states have been enduring since 1945: North and South Vietnam, East and West Germany, and the less successful example of North and South Yemen. Each of these cases, we readily see, involved union of states populated by the same culture and national identity, previously split as a result of imperial policy. The merger came about with the consent of the peoples in the two uniting states. In contrast, there has never been a successful union of two states of different ethno-national character in the UN era (in which existence of nation-states is strongly protected), certainly not after a century of bloody conflict. True, Palestine is not an existing state as yet, but given its status in

international law as state-in-the-making, the improbability of its unification with a rival ethno-national collectivity appears highly unlikely.

Historical trends point in the other direction; partitioning, splitting, and devolution of multi-ethnic states have been more common in world politics in our era than ever before. Since the founding of the United Nations in 1945, thirty-five states have officially split (not including liberation from a colonial/imperial state, which occurred in some sixty other cases). The partitions occurred in a number of principal waves:

1. The anti-colonial wave and its aftermath, which led to division of the colonies from metropolitan states, and later to divisions within the new states themselves, such as in India-Pakistan-Bangladesh, Korea, Ethiopia, Singapore-Malaysia, Algiers, and Cyprus.
2. The post-Soviet wave, in which primarily the Soviet Union, Yugoslavia, and Czechoslovakia were divided; at the same time, a number of states in Asia and Africa were established, among them East Timor and Eritrea.
3. The “ethnic-conflict” wave of recent years, in which new state-like entities (official or semi-official) have seceded following bitter ethnic fighting, such as Kosovo, Montenegro, Abkhazia, Ostia, Iraqi Kurdistan, Kashmir, Gaza, and South Sudan.

One-state proponents, then, seek to run counter to the grain of history and create an entity that is without precedent, in which an ethnic state merges with a neighboring rival nation. The lack of precedent does not by itself prevent the one-state option, but one may still ask: why should the first such unification occur in Israel/Palestine? Is it reasonable that a state comprised almost completely of (Jewish) refugees and their descendants following genocide be the first to give up its cultural and ethnic dominance? It appears like one-state proponents are not attuned enough to the almost sacred status of the Israeli-Jewish state in the eyes of most Jews, given their recent historical trauma and the nature of Zionist response to that trauma. In other words, it is hard to imagine any nation giving up its sovereign power, let alone imagine Israeli Jews acting in this way.

IRREVERSIBILITY?

Another common argument of one-state proponents describes the Israelization of the West Bank as irreversible. Indeed, there are now some 250 settlements and outposts. Between them towns have been founded, infrastructure laid, and industrial areas created, all of which annexed de facto large sections of the West Bank to Israel.

Yet, the irreversibility thesis is problematic. It is built on an ethnocentric mind set, which assumes a priori that every area on which Jews reside will remain under Jewish sovereignty, and that every Jew must continue living under Israeli rule. This mind set fits well with the assumptions of the Israeli colonial regime in the occupied territories, but contradicts the long experience of liberal democracies, where minorities live among a majority having a different culture. Also, a recent report of B'Tselem (2013) shows that the gross built-up area of the settlements covers less than 2 percent of the West Bank. The rest of the settlement area is comprised of very general municipal boundaries, planned expansion industrial areas, agriculture, and military zones—all of which can easily become Palestinian. So, despite the attempts of settlers and their supporters to destroy the Palestinian national space, the situation is not irreversible.

I do not ignore the bloody history of conflicts between the settlers and the Palestinians, but I also do not negate the possibility of co-existence with some of the settlers, if they accept Palestinian sovereignty and give up their weapons. The confederation framework proposed here makes it easier for them to do this, in return of Palestinian guarantees for their safety and community.

The irreversibility thesis also assumes that, if no Palestinian state is established, a one state will emerge by default. The experience of the past four decades puts a question mark over this assumption. If a Palestinian state is not established, Israel will most likely continue to administer the area, possibly allotting crumbs of sovereignty to Palestinian groups in areas that will continue to function as “Palutustans” (Palestinian Bantustans). *The real option, then, appears not between one state and two, but between reconciliation (based in part on continuing Israeli sovereignty) and deepening apartheid.* It goes without saying that sovereignty does not negate Israel’s obligation to ensure full rights of the Arab-Palestinian national minority, as well as the rights of other significant ethnic communities, the foremost being the Haredi (ultra-orthodox) community.

Finally, a question of discourse: one-state proponents wish to change the boundaries of the political debate and depict the establishment of a Palestinian state as an arbitrary attempt to *partition* the country, echoing fears that draw on the trauma the Nakba events. This view again ignores the fact that, under current circumstances, establishment of a Palestinian state on all the colonized territories would be, first and foremost, an act of *decolonization* and not partition. This course of action also leaves open the possibility of recognizing Israel inside the Green Line as a legitimate political entity, after eliminating its colonial components, and upon granting equal citizenship to all minorities.

BETWEEN SOUTH AFRICA AND SERBIA

Another important element of the comparative discourse revolves around the similarities and differences between Israel/Palestine and South Africa. One-state proponents often compare the two cases, for a good reason. As explained above, illegal apartheid conditions have clearly developed in recent decades in Palestine/Israel, albeit through different historical processes and geographies than the paradigmatic case of South Africa.

However, geopolitical analysis indicates a significant structural difference: South Africa was created as a single, recognized state that became a member of the United Nations, which at some stage stripped the citizenship of its black citizens. The blacks demanded a return of full citizenship in their own state, which eventually was achieved by the move to democracy. In contrast, the juridical geopolitical foundation of Israel/Palestine rests on two states, and Israeli citizenship was never granted, and hence never revoked from the Palestinians outside the Green Line. Since apartheid regimes come in various versions, just like all other regimes (democracies, theocracies, monarchies, etc.), it can be also imagined that the end to apartheid can be achieved through *different political horizons*—in South Africa it was one united state, while in Israel/Palestine it is two (confederated) states in compliance with international law.

A less talked-about similarity to the South Africa case can be found with respect to neighboring Namibia, a territory over which South Africa received an international mandate in 1920. When the mandate ended, South Africa refused to leave and imposed apartheid laws on the colonized territory. South Africa fought to put down the Namibian uprising that broke out in 1973 with international backing. In a situation that resembles the regime over Palestinian territories, the whites living in Namibia received full rights, and were even represented in South Africa's parliament, while the blacks were denied political and civil rights. Following the long period of rebellion and the release of Nelson Mandela, South Africa left colonized Namibia, which became independent in 1990.

Patterns of recent Serbian control over neighboring territories can also show some important similarities. For several generations, Serbia attempted to dominate surrounding states and regions. Territories held and settled by Serbs outside the Serbian state included sections of Bosnia, Croatia, Montenegro, and Kosovo. Following the breakdown of Yugoslavia, and a series of serious conflict, Serbia gradually retreated from these territories, shrinking to its recognized borders, and ending the "separated and unequal" conditions. The end to Serbian colonial rule was then not equal citizenship in one "greater Serbia" but rather independence to the various states in which Serbs have settled during previous decades. As noted above, the most relevant case for Israel/Palestine is Bosnia, in which a confederation of Serbian, Bosniak, and

Croatian entities has been established under UN and European Union supervision, with the effect of stabilizing the conflict and laying the foundation for long-term peace.

POLITICAL GEOGRAPHY OF MORALITY

Proponents of the one-state solution justifiably base their arguments on ethical considerations of historical justice and human rights—all highly worthy in the shaping of desirable political future. But at the same time, they tend to ignore countervailing ethical arguments regarding the dissolution (some may say, disappearance) of a state like Israel, seriously violates the rules of international morality as they exist in the present global political-legal international system. In addition, Israel is not “just another” state, but a political entity created by and for refugees after massive genocide against the Jews. Under such circumstances, it is hard to imagine the one-state plan, which threatens the existence of Israel in the eyes of many, as a serious option for peace.

Furthermore, in most future political frameworks based on a one-state solution, most notably the 2007 London One-State Declaration, which most proponents of the idea have signed, there is no recognition of the Jews’ right to self-determination (except in the writings of Assad Ghanem and Nadim Rouhana). The leading thinkers in this sphere, George Bisharat, Ali Abunimah, Omar Barghouti, Mazin Qumsiyeh, Saree Makdisi, and Virginia Tilley, as well as the late Edward Said, relate generally to the future state as non-sectarian, secular, democratic, or multi-cultural. The collective rights of Jews, for example, in the one-state declaration, arise only from a number of references to “the concerns and fears of the Jews” as a protected religious (or ethnic) minority, or as a protected community (perhaps in accordance with the *dhimmi* tradition in Islam). This raises strong ethical concerns particularly in the present reality of continues verbal and terrorist attacks against Jews, mainly by strengthening Islamic movements in and around Palestine/Israel. Hence, the one-state framework, regardless of its rhetoric of human rights and “justice to all,” *significantly denies existing and legitimate political right gained by Israeli Jews*. I am not referring to Jewish *privileges* which should be revoked in the name of democracy, but to the basic right of self-determination within a recognized state. Have the one-state theorists considered if this denial as morally justifiable?

Another moral issue concerns the following question: is it ethical to demand that Israel loses its state identity for the sake of merging with a nation with which it is in a bitter conflict? A generous interpretation would consider it a naïve demand, showing a lack of historical awareness. A more sinister interpretation would consider it an attempt to undermine the foundation of

Israeli-Jewish existence. Needless to say, these comments should never be understood as approval for the immoral acts committed by Israel: expulsion, ethnic oppression, colonial settlements, and the prevention of Palestinian self-determination. But a distinction must be made between a critical analysis of Israel's criminal policies and its very existence, particularly when dealing with peace and reconciliation.

A personal piece of history would shed light on another problematic aspect of the one-state strategy. In the 1960s and 1970s, my father had extensive ties with Palestinian Arabs in the Galilee. He had a particularly close relationship with the Shufani family in M'ilya, to which he went for weddings and other family occasions. The family had an elderly uncle who would talk at length about his pre-1948 travels to Beirut and Damascus. I remember how he would sigh, again and again: "*Lesh fi hadol al-hudood?! Rajj'uni li 'lbilad a-sham!*" ["Why do these borders exist?! . . . take me back to 'greater Syria' [the area of Palestine-Syria-Lebanon, which was once a seamless regional political unit]."] This longing for an open Middle East is of course shared by many. Yet politically, this is a nostalgic hope, not to say illusory, detached from juridical and territorial settings of our times. Hoping to erase structural or legal elements that came into being since 1945 with the emergence of modern states is not a political program or serious analysis, but wishful thinking. Even the forces of economic mobility, globalization, and trans-border cultural flows have not weakened the importance of borders in today's violent and unstable Middle East.

Similarly, in this context, the Jewish researchers sympathetic to one-state solution, often quote the heritage of Brit Shalom—the organization of intellectuals active during the British Mandate that worked to prevent partition. Without delving into the fascinating writings of leading Brit Shalom scholars such Judah Magnes, Martin Buber, and Hugo Bergman, we must note a significant temporal and contextual difference between discussion on a Jewish state *before* the founding of an independent Israeli state, and the discussion on its existence *after* the state was established. At present, the one-state solution must entail the negation of Israel's existence as an independent state, whereas for Brit Shalom and other Jewish opponents of partition, this moral dilemma did not exist.

Further, in order to cause geopolitical change, good ideas are not sufficient. For most prominent scholars who deal with the links between theoretical writing and political recruitment, such as Antonio Gramsci, Franz Fanon, Henry Lefebvre, or Jan Paul Sartre, the effective intellectuals must first courageously expose unjust and oppressive reality. Yet, second, the intellectual must also create a political avant garde that can be *translated into action in the political arena*. The intellectual is active in the public arena in the discourse of producing ideas and tools for transformation, liberation, and the ending of oppression. But these are developed within the spheres of social or

political systems. That is, they challenge the institutional powers and the resources through which skewed power relations are determined. Where only esoteric or theoretical thoughts are aired, Gramsci argues, the intellectual becomes marginal, mired in the bubble of hollow discussions. There is a danger that such intellectual activity would actually serve the hegemony that continues to rule unchallenged in the political and economic reality.

Granted, it is hard to assess, in real time, the ability of new ideas to break into the political field. I am convinced that most writers at the forefront of the one-state strategy believe that their efforts are politically influential and direct us to a better future. Still, since we are involved in a debate about the foundations of the existing geographic-political-legal systems, within which we all work, ideas that seek to make the existence of a legitimate state redundant appear too remote from political or legal feasibility, and hence from the ability mobilize Israelis and Palestinians in the civil or political fields.

ATTITUDES TOWARD PRESENT STRUGGLES

By its nature, the one-state movement does not take part in contemporary struggles on both sides of the Green Line. Although most of its leading figures certainly oppose all types of oppression, they are in a dilemma since it is harder for them to battle against the expansion of Jewish West Bank settlements, for example, if on the horizon they share a geopolitical goal with these settlements—the prevention of the two-state solution.

Therefore, is there not a danger that the one-state movement would actually assist, with its relative indifference to contemporary Palestinian struggle for sovereignty, in strengthening the oppressive status quo? Wouldn't the demand for a new political framework enable continuation of Palestinian suffering? Wouldn't the intellectual journey toward one state harm the struggle for a Palestinian state and equality for the Palestinian minority inside Israel? These are complex questions that proponents of one state must address.

Take the “vision documents” charted by leading Palestinian organizations inside Israel in 2006 and 2007 such as the National Committee of the Heads of Local Authorities, the Haifa Declaration, and Adalah.² These made an uncompromising demand for civil equality and collective rights for Palestinians within Israel, and caused much uproar for demanding (rightly) an end to Jewish hegemony. The documents mentioned the present state of Israel (without the colonized territories) as the political framework, and the basis for their struggle, and hence, as a legitimate entity. But, over the course of just a few years, some of the writers of the vision documents have changed their opinion and now support a one-state solution, meaning that they advo-

cate the establishment of a new political domain and negate their own recent call.

Another problem is that most democratic proponents of the one-state solution ignore the geographical congruence of the one-state solution with the messianic visions for the future of Israel/Palestine, especially Jewish settlers and colonial political parties, and Hamas. The growing volume of writings on a future democratic one-state solution focuses on human rights and a benign transition to an all-inclusive democracy. They ignore, however, the very possible scenario that once a single political unit is established from Jordan to the sea, the democrats and liberals may be pushed aside in favor of fundamental religious powers from each nation, vying to fulfill their messianic visions. The rise of more radical Islamic movements in recent years, particularly ISIL, and the political events in Egypt following the revolution are a clear indication to the need to address such scenarios. The leading writers in the field, such as Ali Abunimah, George Bisharat, As'ad Ghanem, Mazin Qumisiyeh, Virginia Tilley, Nadim Rouhana, Yehouda Shenhav, and Meron Benvenisti, almost overlook completely this dire possibility.

Reinforcing this is Hamas's victory in the 2006 Palestinian elections and its steadfast opposition to recognize Israel. Some of the talk is tactical, but some represent deep Palestinian and Islamic aspirations. How can one ignore Hamas's plan to turn Israel/Palestine—the framework sought by the one-state proponents—into a Sharia state? Would it be possible to separate between Hamas's vision and the vision of the liberal Palestinians for the same one state? Wouldn't the possibility of one state increase support for Islamic parties' vision among Palestinians?

Let us not forget that in Israel, too, strong political elements (led by the ruling Likud and most religious parties) seek to use the same territorial unit, between Jordan and the sea, to create a "greater" Jewish state—ethnocratic or religious. From an ethical perspective, are the advocates of a democracy between Jordan and the sea ready for the possibility that religious or neo-colonial entities gain control over Palestinian or Israeli politics, as they have done in other Middle Eastern states?

FEASIBILITY

Moving from conceptual to practical discussion, it is hard to imagine the one-state solution gaining serious momentum. It is of course a type of "default" destination, hanging over Israel's unending colonial rule, but not a major political mobilizer, for several reasons. First, as already noted, its proponents do not answer the key question: Why would the Jews forgo Israel as the state of the Jewish/Israeli nation? Since approval of Israeli citizens is vital for a democratic process that leads to one state, what sensible or utilitarian reason

can be raised to convince Israeli Jews that one state will benefit them when it will almost certainly, sooner or later, have an Arab majority? I leave aside the weighty ethical question of the legitimacy of ethnic considerations in democratic politics. Rather, I ask a practical question, the answer to which is, I believe, clear. In addition, opinion surveys taken even among Arab-Palestinian citizens of Israel indicate that, despite the dissatisfaction with the ethnocracy and oppression in Israel, a stable and large majority prefer the two-state solution. Is it not obvious, then, that most Israelis would prefer, if they had to choose between annexation of the settlements and the continued existence of the state, to shrink geographically rather than become the state of “Israstine”?

Furthermore, as it stands now, there is not one official political body, Palestinian or Jewish, that has adopted, as a political framework, the concept of one *democratic* state (some religious groups support one state, but not a democratic one). This is understandable, since the framework for discussion so far has been based on the idea of two states as the action plan of the left, and a meeting point for the political elites opposing Israeli control in the occupied territories. However, I may also add that the lack of a meaningful movement toward the two-state solution, some twenty years after the Oslo and Cairo Accords, raises serious doubts about the simplistic partition in the “standard” two-state option. The confederation option offered below addresses and arguably overcomes this weakness.

Still with practical considerations, what do the one-state proponents demand from the Israeli regime? Dissolve the Knesset and establish a substitute parliament? And if so, is the Knesset—the sovereign body—expected to dissolve itself? Is the Zionist Knesset supposed to repeal all the Basic Laws and amend the Zionist Declaration of Independence? Will the Zionist state give up its control over the armed forces? Over legislation? Over immigration? Such steps are necessary for a one-state solution, but appear remote, to say the least.

Furthermore, will the immediate demand be to grant citizenship to four to five million Palestinians and millions of refugees? Will this action be taken by the same Knesset that enacted the racist Citizenship Law? To remind you, with an anecdote, even Nawal al-Uqbi, wife of Nuri, my Bedouin neighbor who was born in Beit Fajjar, cannot obtain citizenship after years of marriage to an Israeli citizen. What will convince the ethnocratic Zionist sovereign to take such actions? Possibly, international pressure can assist, but, as I noted previously, it is highly likely that most Israelis would prefer retreat or continuing “temporary” colonial rule to losing Jewish sovereignty, and to admitting millions of Palestinians as citizens.

To be sure, Israel acts in a deceptive and cynical manner typical to colonial states. It continues to colonize the West Bank, thereby preventing the establishment of a Palestinian state, and simultaneously shedding crocodile

tears over the purported threats to the “fragile and endangered” Jewish state. Here, too, it is clear to most thinking persons that this is self-deception, and that Israel’s colonial rule and “creeping apartheid” are not sustainable and must end. However, the battle against Israel’s wrongdoing, and in favor of Palestinian rights, must be based on the legitimate foundation of international law, according to which Israel is a recognized state, confined to its legitimate borders.

BACK TO CONFEDERATION?

Let us return to the concept of confederation. The need for such a horizon begins with the justifiable fear of one-state proponents that the Palestinian state will never be established and if it does, will not gain genuine sovereignty. It appears that if it ever comes to being, Israeli (and U.S.) policies and demands will devoid it from controlling many aspects of its sovereignty—such as all borders, security, imports, or water. The deep split between Fatah and Hamas and between the West Bank and Gaza contribute further to Palestinian weakness and the grim prospects of establishing a Palestinian state.

The classical two-state path is also threatened by structural deficiencies in the citizenship of Palestinians in Israel, undermined by an alienating Judaizing state, and by prolonged periods of discrimination and oppression. It is also pressured by their natural inclination to support their brethren in the colonized territories. This persistent tension is a complex challenge to the internal strength of the Jewish state. The cracks have widened significantly in the Negev, where Israel attempts to remove many unrecognized Bedouin villages, which sit on their ancestral lands, thus deepening the polarization between Jews and Arabs inside the Green Line. It appears as these structural difficulties can be better addressed, neither by one state, nor by two, but by development of a *third space*—conceptually and politically—located between these options. Such a space combines elements of the other two options, but does not violate the principle of Israeli and Palestinian sovereignty. The confederation option overcomes many of the geographic and security complexities and the complicated historical and community settings in the shared homeland.

Confederation enables progress by maintaining the logic and significant symbolism of two sovereign spaces for two national communities, while developing a “layer” of joint institutions administrating key joint (and relatively technical-legal) matters, such as environmental protection, external security, economy, transportation, labor migration, or protection of human rights. The confederation model creates a single economic market and freedom of movement for purposes of employment, tourism, trade, and gradually also residence for all within the confederated space. The model complies

with international law—and can rely on the legal-geographic foundation of two states. On this basis, progress can be made to create a functioning system that will not only be economically beneficial for the two nations, but also advance historical justice for Palestinians and Jews.

The confederation framework, aided by international support, will enable the two sides to move toward reconciliation. It will be easier for each side to proceed from Point A (the existing colonial ethnocracy) to Point B (reconciliation and establishment of a Palestinian state), when both sides observe Point C (the confederation arrangement). In such a setting, the two sides provide each other invaluable assets: Israel accepts Palestinian sovereignty (that is, the full legal, security, and political authority of Palestinian government on the entire West Bank and Gaza) and allows freedom of movement in the entire homeland and propels rapid economic development. The Palestinians provide Arab legitimacy for the Jewish Israeli self-determination, Jerusalem as the Israeli capital, and contain future violence and terror. Hence, the sovereignty and security of each nation will be profoundly assisted by the existence of joint arrangements that will ensure for coming generations not only their political rights, but also development, water, infrastructures, natural resources, environmental quality, and personal security. In other words, realization of full citizenship, security, and development for Israelis entails also realization of those benefits for of Palestinians, and vice versa.

In more detail, the confederation model is based on two sovereign entities in the 1967 internationally recognized borders, in which the laws of Israel and Palestine would apply accordingly. This is accompanied by the establishment of an autonomous and shared capital region in metropolitan Jerusalem/al-Quds (the Capital Region). The Israeli-Palestinian Confederation Council (probably under a different name such as Council of “The Union” or “The Treaty”), elected by citizens of the two states, will be created and empowered to set policies on agreed—and initially fairly narrow—subjects. Inhabitants of the two states will be guaranteed freedom of movement throughout, for purposes of employment, leisure, trade, and tourism, and gradually, through mutual agreement on each step, also long-term residency.

Another possibility, raised now and then, is to bring Jordan into the arrangement and develop the Israeli-Palestinian-Jordanian space of joint management of economic, security, and environmental matters. Given the complexity and sensitivity of the proposed setup, and past failures to advance confederations with Jordan, it appears that at this stage Jordan will be left out of the equation.

The confederation model is flexible enough to assist the resolution of “core issues” in the Zionist-Palestinian conflict—regarding the refugees, Jerusalem, settlements, and the Arabs in Israel—in a way not addressed by any of the other proposed solutions. As for the Palestinian right of return, let us remember that officially Israel already recognized the right when it was

accepted into the United Nations in 1949. However, the situation has clearly changed since, and it is one of the most sensitive issues for reconciliation. The confederation idea allows Palestine to absorb all the returnees, as is the norm in most refugee programs which typically repatriate refugees with “their” nation-state.

Yet, the freedom of movement in the entire homeland, which is a key element of the plan, provides a right of return to the entire land, in a manner never suggested by any other two-state framework. This means that the return into Israel Proper will be exercised by free will with residency (rather than leisure or work) dependent on mutual agreement and conducted in gradual steps. Because returnees will receive Palestinian citizenship, they will not threaten the nature of Israeli society, as currently feared by many. This also holds for Israeli immigration into Palestine, which will be gradual and agreed upon.

The refugee issue may even offer an opportunity for promoting historic reconciliation: in the name of a new symmetry, Israel will allow immediate residency to Palestinian returnees in a number equivalent to the amount of Jewish settlers remaining in Palestine. Israel’s absorption of these refugees will be based on criteria the Palestinians set, which may include, for example, giving priority to refugees from Lebanon, who suffer from harsh living conditions, and to persons born in Palestine prior to 1948.

Regarding West Bank Jewish settlements, the confederation model, governed equally by Palestinians, would allow West Bank (government-approved) Jewish settlements to remain, provided they disarm, pay for their land, and accept Palestinian sovereignty. The objective is to prevent a deep crisis in Israel of mass uprooting which will not only cause internal Zionist strife and regional violence that could easily derail the reconciliation process, but also prevent a form of new injustice for many who were born in the approved settlements.

Moreover, and without ignoring the explosive potential and dangers of this move, we can note that the settlement impact on the West Bank, when brought to its real proportion, is not insurmountable. A 2013 report by B’Tselem, which I mentioned earlier, found that the built-up area of the settlements covers just 1 percent of the land area of the West Bank, and the settlements’ built-up surrounding areas, which include necessary infrastructures, cover an additional 2.5 percent. In principle, the public infrastructure (roads, industrial areas, purification facilities, and so forth) that was built for the settlements will be transferred to the Palestinian state and made available for the use of its inhabitants.

Presumably, as a result of the establishment of Palestinian sovereignty over the settlements, a large proportion of their settlers will leave the West Bank, and Israel will have to make plans for absorbing them. Upon Palestinian consent to allow settlers to remain in their homes, a significant number of

them, most likely in the largest cities and towns, will stay and become residents or citizens of the Palestinian state, reducing the shock to Israeli society and sending an important message that a new page in Israeli-Palestinian relations has been turned. The ability of a Palestinian state to protect a small Jewish minority will also be a positive step toward genuine reconciliation. Such a move will also make redundant the ceaseless attempts by Israelis to offer border changes and land swaps. Such moves constantly stir fears and conflicts over attempts to annex large areas of the West Bank in exchange to areas inside Israel, at times including Palestinian citizens. It is far more just and sustainable to keep the internationally agreed borders (of the UN-approved 1967 line) and change the legal and political arrangements than in effect attempting to repartition the West Bank.

Simultaneously, the confederation plan is likely to promote the democratization of Israeli and Palestinian regimes. Israel should be redefined as belonging to the Jewish-Israeli nation as well as the Palestinian minority, which will receive full rights of a national minority. Democratization of the space must also ensure full and equal citizenship including a fair share of the state's resources and budgets, return of confiscated land, recognition of all the Bedouin villages, proportional Arab representation in public institutions, and cultural and educational autonomy. The status of the Arab-Palestinian minority in Israel is crucial to stability of the system, not only because the minority is entitled to these rights, but because internal ethnic conflicts can easily undermine political systems, as has occurred around the world—from Turkey to Thailand, Sri Lanka, Ireland, Cyprus, Spain, Georgia, Iraq, and to India and Sudan, and most recently in Syria and Yemen.

Returning to a point already mentioned, the confederation of union plan brings back into life the political framework of UN Resolution 181, of 1947, which was called at the time “partition with economic union” and proposed Jerusalem as an autonomous region. True, at the time, the resolution appeared hostile to the Palestinian people and imposed on them harshly without their consent. However, in an historic reversal, the confederation scheme allows Palestinians, about seven decades later, to regain most of their political rights, while advancing toward cautious and responsible reintegration of the Israeli and Palestinian economies and living space. This historical reversal symbolically began on November 29, 2012, precisely sixty-five years after the original UN decision, when the same UN Assembly responsible for the 1947 decision decided to award Palestine the status of “a non-member state.”

To repeat, Resolution 181 is one of the only resolutions regarding Israel/Palestine that *was endorsed by both sides*—by the Zionists in 1947 and by the Palestinians in 1988. It is worthwhile quoting from the declarations of independence of the two peoples, which relate to the UN resolution in question. The Israeli Declaration of Independence, of 1948, declares:

by virtue of our natural and historic right and on the strength of the resolution of the United Nations General Assembly, hereby declare the establishment of a Jewish state in Eretz-Israel, to be known as the State of Israel.

The Palestinian Declaration of Independence answers it, forty-one years later:

historical injustice was inflicted on the Palestinian Arab people . . . following upon UN General Assembly Resolution 181 (1947). . . yet it is this Resolution that still provides those conditions of international legitimacy that ensure the right of the Palestinian Arab people to sovereignty.

In addition to UN resolutions, the confederation solution will jumpstart what I referred to in my writings as a process of “gradual binationalism,” the vital element for moving our land into a de-colonized and democratic stage on both sides of the Green Line. The two sovereign states, the autonomous Jerusalem region, as well as other urban regions, such as Haifa, Nazareth, and Beersheba, would be binational and multi-cultural.

There is no room in this chapter to discuss the inevitable problems in implementing the confederation governmental structure, beyond a brief mention. These begin, first and foremost, with security arrangements, and the management of state violence and terror, which requires a lecture of its own. Other key problems will involve the management of increased Palestinian and Jewish movement across the land, and particularly the absorption of Palestinians in the Israeli labor markets and some living spaces, as well as the relaxation of hostile relations between remaining Jewish settlers and Palestinians in the West Bank. The management of Jerusalem based on equality will also be a major challenge. The many inevitable difficulties can be countered by three key points. First, the confederation framework is flexible and the depth of cooperation is likely to gradually strengthen over time, as security and relations between the sides improve. The confederation model is typically characterized by decentralization, enabling the existence of autonomous regions and diverse and multicultural forms of government, which is suitable for Israeli and Palestinian societies, composed of many different cultural and regional communities. One promising possibility, raised by attorney Hassan Jabarin, is drafting and adopting a democratic overarching constitution between Jordan and the sea as a foundation for administering Israel and Palestine. Such a constitution will ensure the right to self-determination of the two peoples and also the rights of the individual citizen and of the minority communities, on both sides of the border. The political structure, if based on viable foundations, will lead to the gradual integration of the Israeli-Palestinian space, possibly leading, later down the road, to the making of a federation.

Second, the proposed model allows for a gradual decentralization of many aspects of governance into regional or metropolitan spaces, which would reflect the high degree of urbanization in Israel/Palestine. The urban scale is promising for re-inventing the country's politics, as it neutralizes the "burden" of historical, religious, and territorial issues, so dominant in other scales. We can picture, for example, such functioning metropolitan regions around Nazareth-Karmiel, Haifa, Nablus, Ramallah, Gush Dan, and Beersheba, along with the autonomous metropolitan region of Jerusalem/al-Quds. Urban spaces are generally open and encourage movement and mixing; they can introduce more direct, inclusive, and democratic forms of government less dependent on fixed identities; they can reorient public discourse to present future issues, rather than burdening history and identity.

Third, confederation opens the possibility for novel and original thinking that may rekindle the hope for peace which has been all but extinguished over the past decade, particularly because of Netanyahu's belligerent reign over Israel and to a lesser extent, Hamas's rhetoric and action. The framework proposed here provides a better answer to the core issue of the conflict more than the other proposed solution. This is achieved without impinging on Israeli or Palestinian sovereignty, which still forms the basis for global political-geographic order.

Yes, the confederation path sounds utopian, for the time being. Yet, it enables us to imagine and plan a third space, post-colonial and democratic, between the polarized and unachievable one- and two-state solutions. It also allows the mobilization of wide public support among both Israelis and Palestinians, unattainable by all other political agendas. Under a confederated union, Israel and Palestine will be able to advance toward de-colonization and real reconciliation, for which generations of Palestinians and Israelis have been yearning in their shared homeland. The path to realizing this horizon may be best captured by the gentle words of the poet Yehuda Amichai, "the two of us together, and each one alone."

POSTSCRIPT: THE MAKING OF A MOVEMENT

The ideas expressed in the chapter have already become a platform for a nascent Israeli-Palestine political movement titled "two states, one homeland" (<https://www.facebook.com/2states1homeland>). The movement works in a grassroots mode and has grown rather fast during 2015. Dozens of small local meetings and two larger conferences have established it as the only Palestinian-Israeli joint movement that makes a fresh and promising proposal to break the deadlock on the political level and the "creeping apartheid" on the ground. The movement's official publication has articulated the following points, which form the blueprint for Palestinian-Israeli Union:

- *One homeland.* Palestine/the land of Israel is one historical, geographic, and cultural unit; it is a joint homeland for the two peoples who hold strong ties to all its parts.
- *Two states.* Two independent, sovereign, and democratic states will exist in the land according to the 1967 borders fulfilling the right of the two peoples for self-determination.
- *Immigration and citizenship.* The two states have the right to determine immigration and citizenship within their boundaries, including the naturalization of Palestinian refugees in Palestine and diaspora Jews in Israel.
- *Open borders.* The borders between the two states will be open with free cross-border movement. Citizens of the two states will be allowed to reside in the neighboring state, as long as they live in peace with their neighbors. The opening of borders will occur gradually and by mutual agreement.
- *Palestinian Arab citizens in Israel.* The Palestinian Arab citizens in Israel will be guaranteed a status of national minority and appropriate representation in state institutions. If a Jewish minority is created in Palestine, it will enjoy similar rights.
- *Joint institutions.* A “Palestine-Israel union” will be established with joint institutions for the management of common concerns such as security, environment, natural resources, and economy; a special court will safeguard human rights of residents of the two states.
- *Jerusalem.* Jerusalem will not be divided and become a united city and capital of the two states; the city will be governed by a special Palestinian-Israeli urban regime.
- *Remedying injustices.* The injustices caused by the conflict, past and present, including refugee rights, will be remedied according to international decisions, without causing new injustices.

NOTES

1. A similar political plan, with somewhat different geographical borders, was laid out in UN Resolution 181. Despite the political opposition at the crucial time, both sides ultimately accepted the resolution.

2. See <http://www.adalah.org/uploads/oldfiles/newsletter/eng/dec06/tasawor-mostaqbali.pdf>.

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Chapter Seventeen

Beyond Traditional Sovereignty Theory in Conflict Resolution

Lessons from Israel/Palestine

Amal Jamal

INTRODUCTION

The main objective of this chapter is to discuss alternatives to partition in Israel/Palestine through the idea of shared sovereignty and thereby contribute to the old/new debates concerning the tension between the theoretical and practical dimensions of conflict resolution. A central argument of the chapter is that despite the prevailing idea of partition, which is viewed as the basic condition for establishing two states—one Jewish and one Palestinian—there is no proof that partition has better chances of success or higher moral ground compared to the democratization of the control system which has existed for nearly five decades in the entire territory of Mandatory Palestine. Likewise, there is no proof that Israeli attempts to force a repartition based on the current balance of power have a better chance to succeed compared to one-state solution, as demonstrated by the attempt to partition Mandatory Palestine based on the 1967 borders. Therefore, when thinking about conflict resolution, there are good reasons to reconsider partitioning the disputed land and whether it complies with the Israeli-Palestinian reality of a two-state idea, when Jews and Palestinians live in areas that can hardly be separated and in case they are, the human cost is going to be probably higher than in the case of other solutions.

Simultaneously, this chapter questions the sustainability of the current status quo, in which the expanding Israeli occupation continues to empty Palestinian demands for self-determination from any substantial meaning,

since it is not able to overcome the shifting demographic balance between Jews and Palestinians between the Mediterranean Sea and the Jordan River. This reality, which is sustained under martial law and the use of force, contradicts the principle of partitioning Palestine while at the same time prevents the development of alternatives to partition, such as one or another type of common political arrangements between Jews and Arabs, based on parity and equality on the individual and collective levels. This political and demographic situation dictates several difficult alternatives that must be considered thoroughly in order to decide which is preferable. These alternatives vary from a continuation of the current situation to deportation—or even genocide—with the partition or one-state solutions in between.

The difficulties with partitioning the land encourage us to look for alternatives. The one-state solution has been heavily discussed as the most attractive alternative (Tilley 2005). However, the existing Israeli control system, with no equality or democracy for the two peoples living “together,” demonstrated that the one-state solution does not necessarily mean an agreed upon solution for the conflict. One state can also be an apartheid state, which is based on a structural subordination of one side to the other. It is argued that since the current situation is not sustainable and since there is no real partition of the land in sight, any treatment of the protracted conflict must be based on rethinking the meaning of sovereignty in such a context. The sovereignty concept implemented in this reality refers to the classic concept that focuses on an exclusive higher authority, dominating order and forces subordination over the land and the population, as described by Bodin (1992) or Hobbes (1998). It is argued that the sovereignty concept appropriate for the context this chapter deals with is ought to be dynamic, differential, and transformative, as one can subtract from Rousseau (2008) or from Derrida (2005).

The following discussion is based on the right of nations to self-determination, which is applicable to both national groups currently living in the territories of Mandatory Palestine, but does not commit itself a priori to institutional models dominating the current political and academic discourses. It nonetheless takes into consideration indispensable conflict resolution principles such as inclusivity, parity, and equality, and proposes a differential solution, namely a solution that addresses the needs of different communities within each of the conflicting nationalities in a suitable way. Such a solution is post-national, making shared sovereignty a necessary condition to cope with the complex reality in Israel/Palestine.

This differential solution would combine administrative separations based on national and intra-national identities with certain authorities at the international level. Sovereignty over the whole conflicted land would be dynamic, differential, and shared. The suggested differential solution is not a necessary outcome of the difficulties to implement the two-state solution, but it is

definitely an option raised by the complexities of the current situation, which is a one-state reality that is neither democratic nor peaceful. It is important to note that the failure of the two-state solution does not make a solution based on shared sovereignty the only valid option, but it does require consideration of self-determination for both conflicted nationalities in a shared entity, making the idea of shared sovereignty a viable moral option. The shared sovereignty formula is not necessarily synonymous with a one unitary state; it can be federative, confederative, or a combination of both on various levels. Any solution based on the idea of traditional sovereignty seems not to be probable, whereas a solution based on transformative sovereignty seems to be plausible.

CONFLICT RESOLUTION IN THEORY AND PRACTICE

The literature on social, national, and ethnic conflict resolution suggests several models for dealing with diversity and conflict. On one end of the scale, we see assimilative, inclusive, and general solutions, based on the attempt to create equality between the individuals and groups in society. The result is the creation of a joint political entity and a cultural melting pot in an attempt to disintegrate the various groups and create a joint cultural, social, and political identity for all of the individuals in the society. This model, which took republican as well as liberal forms, is the basis for the modern state as foreseen by important political thinkers like Thomas Hobbes, Jean Bodin, John Locke, Thomas Paine, Jean-Jacques Rousseau, Friedrich Hegel, and more. At the institutional level, the state has full sovereignty over all its citizens, who enjoy equality and respect diversity and differences as parts of the social structure and the governmental, cultural, and social division. Accordingly, the relations between the state and its citizens are individual, and there is no reference to collective social entities at the legislative or administrative level. This state belongs to all of its citizens: it holds every individual in society as equal before the law, and each one is free to connect and merge with different groups, new as well as old. The liberal state's role is to provide *de facto* legal protection to every individual in the society, in order to allow them to form alliances, exchange opinions, conduct discussions, manage conflicts, and reach agreements as they see fit. The state is nothing but the reflection of the general will, which is generated out of the will of individuals and coalitions, created out of discussions and alliances. This state is based on free will and agreement, all its power and force are generated out of its citizens' will, which is expressed in a constitution and in periodic elections. While this model of a citizen's state is ideal and appropriate, it has never been realized in its pure form. Even states which declare themselves the most civil and equal, like France, the United States, and the United Kingdom,

cannot realize their own vision in full. The civil state model ignores the conflictual economic reality and its possible influence over the chances of various groups to influence their political reality. The transformation of a conflictual reality to a civil, equal, and free one is utopian, which is hardly imagined even in “successful” states, such as the United States, Canada, or Australia (Havemann 1999; Kymlicka 1995).

At the opposite end of the scale, we find solutions based on partition between the conflicted groups and an institutional separation in different states. This solution generates from the premise that the conflicted groups are, in fact, already well-crystallized political entities. These groups, national or cultural, strive to maintain their existence and to determine the political solution to the conflict according to their perception that they are better off when being fully sovereign. Therefore, this solution is based on partition and on setting social and geographical boundaries between the conflicted groups. This solution is based on equality as well, but here it is a separate equality, according to the popular belief that “good fences make good neighbors.” It is a simple solution that enforces the various social identities and controls them through their own laws and institutions. This way, every group has an independent state in which it can make decisions, conduct discussions, and act upon its will. This has been the leading model in international politics since the beginning of the twentieth century and was realized in the partition of India-Pakistan-Bangladesh, Ethiopia, Singapore- Malaysia, Cyprus, Yugoslavia, Kosovo, Sudan, and others.

The partition solution seems simple and clean. Its aim is to separate the conflicting parties and over time to create a balance of powers which will maintain the status quo. Yet historical experience shows that in most cases in which partition was implemented because of ethnic or national conflict, the conflict was not resolved, but rather managed in a way that lowered the violence level without eliminating the chances for future eruption, as seen in the conflict between India and Pakistan over Kashmir and the conflict in Cyprus (Lustick 1997; McGarry & O’Leary 2004; O’Leary & McGarry 2007).

Since partition usually involves giving up parts of the homeland, it faces strong opposition by various political forces. These forces become, in many cases, destabilizing elements that act against the partition’s aims (Kaufman 1998). Furthermore, there is no truth in the assumption that the partition resolves the challenges raised by the deep cultural and valuational differences, which stands at the core of the conflict (O’Leary, 2006b). The aim to create internal homogeneity in each side isn’t always realized, and in some cases it even creates new conflicts, as in the cases of India or Ireland (Horowitz 1985; O’Leary 2006a).

Between these two extremities we can find several intermediate options, and we would like to focus on one intermediate model that combines both

ends: a unified political entity that maintains the various groups' identities and their right to self-determination. This model includes different examples and sub-models, among them a binational state, multi-cultural state, consociational state, federation, confederation, and a state that combines various elements of each, as seen in Switzerland, Belgium, Spain, or Canada. Of all the above-mentioned solutions, this is the most difficult model to implement, if only for being an intermediate solution that attempts to put together institutional and legal combinations, which often contrast and sometimes even contradict each other. Furthermore, the model is based on compromises and the willingness to go for a reconciliatory solution, replacing antagonistic power relations with agonistic political culture. This does not mean that the parties abandon the conflict completely and resolve it on every level, but it entails broad agreement over the rules of the political game, seeking to prevent a war by proxy between the various groups. Thus, it is obvious that in order to succeed, this intermediate solution must rely on the various elements of the social structure, such as national, ethnic, cultural, and class identity, and take into account the need to match the political structure to the aspirations of the various social and cultural groups in the state. Although this may not be sufficient and may not lead to full reconciliation, as in Belgium, still it enables better mechanisms to deal with differences than in cases where separation was enforced.

The main pillar of the intermediate model is the conflicted groups' mutual willingness to give classical concepts of sovereignty and the use of military power to solve differences. In this type of state, the political culture must be based on mutual trust, dialogue, persuasion, and compromise. Another important element is a state of mind that allows partnership in certain areas with the right to maintain distinctness in other areas of life. The multi-layered structure is an essential element of the model, which allows each group and individual to acknowledge the fact that the state and its various elements belong to them, and that they can play a part in them with no obstruction or condition, in an environment of diversity, free speech, and partition based on mutual agreement. This model is differential; it is similar to the model offered by Otto Bauer in late nineteenth-century Austria, the current Spanish model, or the Canadian model created after the constitution's amendment in the 1980s.

According to the intermediate model, the state is a hybrid entity with many different faces, adaptable to the various conditions, ambitions, and interests, and it is based on tolerance and acceptance of the other, change, and adaptability. This type of state is the antithesis of all forms of religious fundamentalism, as well as orthodoxy, xenophobia, conservatism, and belief in salvation by higher powers. This state embraces the differential citizenship model, in which the affiliation with the state and the affiliation with a group, national or other, exercise a dialectic and synthetic connection; both iden-

tities nourish and overlap each other constantly out of mutual recognition. It encourages recognition based on the added value of diversity, sharing, openness, and discussion. It is a state ruled by law, which acknowledges the rights of equality and freedom while enforcing its sovereignty and maintaining order and harmony within diversity. It is a state of tolerance, creativity, and innovation, but also a state of order, government, honoring of commitments, and diversified existence of the various groups in it.

This model cannot be implemented in the current situation, as can be seen by examining the conflict today. The violent Israeli military rule and the divided Palestinian society eliminate any possibility for accepting the intermediate solution. Furthermore, the international balance of power and the leaders' interests of both sides prevent any real discussion in the plausibility of a solution based on a joint political entity. Yet, as seen in the past, history is stronger than humans' will, and life is larger than billboards. The many developments on the disputed territory, among them the eruption of violent conflicts and the declining chances of other solutions, require immediate rethinking of solutions based on partnership. Who had imagined that the apartheid regime in South Africa would dissemble as quickly as it did? Despite the differences between South Africa and the Israeli-Palestinian conflict, and the fact that South Africa was recognized as one state while Israel and Palestine are seen as two separate political entities, we must learn the lessons of this case as well as others, especially since the partition principle has encountered obstacles that, in many ways, eliminate the justifications for its implementation.

The political reality in the region suggests that the plausibility of the two-state solution for the Israeli-Palestinian conflict is fading away. This invites us to think about constructive alternatives, much better than what the current conflictual reality potentially entails, such as apartheid, expulsion, or genocide.

THE ONE STATE RECONSIDERED

The political reality on the ground in Israel/Palestine is a one-state reality. This has been the case since 1967. Despite the fact that Israel has veiled this reality with the theory of temporariness and enlightened occupation, the Israeli government has been the *de facto* sovereign and led a policy that promoted the demographic expansion of Jewish settlements in almost all areas occupied in 1967. Therefore, the fear of the one-state idea and the critique against it is a defensive measure that hides the fact that those who are most critical of it are exactly those who promote it on the ground.

One-state solutions have been discussed during various stages of the conflict since the beginning of the twentieth century, and even before the Pales-

tinian Nakba (Heller 2003). At the time, the idea was raised by Jewish thinkers who discussed alternative options, among them a political entity in which Jews will enjoy special status and a Jewish state in which Palestinian Arabs will enjoy a special status, and which will be managed through cooperation and distributive justice, based on mutual recognition (Arendt 2007; Buber 1983; Magnes 1948). The one-state formula was proposed by the ethical liberal and humanist left in the Zionist movement. This formula was viewed by the Zionist establishment, dominated by the Labor Movement, as endangering the entire Zionist project.

Palestinian thinkers also suggested this solution in various stages. In the 1960s and 1970s, a Palestinian state was suggested in which Jews will enjoy constant immunity and a special status without sovereignty (Hourani 1990). Following the 1967 occupation, when the whole Palestinian homeland fell under Israeli sovereignty, the one-state solution was raised once again by Palestinian organizations and mainly the Fatah. The one-state formula, which originated in the Democratic Front for the Liberation of Palestine, never gained wide support and after the initial enthusiasm, it was replaced by the two-state solution as the better way to reach Palestinian sovereignty (Jamal 2005).

The one-state model was edited out of the official political Palestinian discourse under international pressure when the Palestine Liberation Organization (PLO) was forced to give up the idea of freeing Palestine in exchange for its recognition as the sole representative of the Palestinian people. As early as 1972, the Palestinian National Council implied that it would be willing to accept the partition principle and establish a Palestinian state in the territories occupied by Israel in 1967. By 1974, it was clear that the Palestinian leadership deserted the dream to free the entire territory of Palestine and accepted the partition principle (Jamal 2005). Yet, since then, the one-state solution has reappeared as an integral part of the political discourse in Israel and among the Palestinians, and we must examine the key reasons for that reappearance.

First, one-state\control system has existed in the territories of Mandatory Palestine for forty-seven years, since 1967 (Kimmerling 2001). Until 1987, when the first Intifada broke out, we've seen an expedited process of incorporating the occupied territories into Israel. This reality has gone through many changes since 1987, yet the basic fact of one state between the sea and the river hasn't changed, which the Israeli security, monitory, legal, and judicial systems are dominant. Second, the failure of the Oslo Agreements turned the National Palestinian Movement's original claims—liberation and return—into meaningless ones, and turned the Palestinian people's representative—the PLO—into a marginal player in the region. The hopes raised by the 1993 peace process, which was unimaginable until that moment, were shattered when Israel strengthened its control over the Palestinian occupied

territories and continued the oppression and dispossession policy toward the occupied Palestinian population. The partition of the West Bank territory into separate units while leaving most of the land under full Israeli control, the creation of “semi-sovereign” Palestinian enclaves in the big cities, and the widening gap between the West Bank and Gaza Strip, which eventually resulted in two hostile governments, fragmented even more the Palestinian effort to establish a state. This reality, in the Palestinian areas occupied in 1967 and especially the erosion of the Palestinian leadership’s ability to control its own destiny, has all but eliminated the applicability of a two-state solution.

The third reason for reconsidering the one-state solution is the deadlock created over the last few years, and mainly the new negotiation terms set by Israel, which require the Palestinians to recognize Israel’s Jewish nature as a prerequisite. This deadlock causes many people to reconsider the conflict’s origins and the necessity to confront its causes. Many Israelis are now becoming more and more aware of the challenging conflict’s origins, which are rooted in the results of the 1948 war rather than 1967, and of the need to deal with the Palestinian refugee problem and the right to return, even when objecting the re-installation of any back in their homeland. On the other hand, many Palestinians now recognize the Jewish reality created in their homeland, albeit their objection, and realize that they must regard the existential needs and the national aspirations of millions of people. The Israeli reality is perceived as wrong and unjust, but they recognize the distinction between Zionism and Judaism and between the Israeli reality and its militarist manifestations. The combination of these opposites generates a way of thinking that aspires to break the boundaries of the current political situation and examine new alternatives—institutional or constitutional. This state of mind is reflected in Israeli thinking and even more so in the Palestinian one (Azulay & Ophir 2010; Raz-Krakotzkin 1993; Shenhav 2010; Said 1999; Zureik 2013).

The fourth factor is the strategic and political concept prevalent in Israel—the argument that the Israeli territory must be based on the Jordan River as an essential security border (Shabtai 2010). This security concept goes hand in hand with the ideological-messianic conception of the hegemonic political block in contemporary Israel, which perceives the West Bank as an integral part of the unpartitionable “fatherland” (Shuval 2010). Despite the ambiguity regarding the permanent borders and the official Israeli statements, the West Bank territories are included *de facto* inside of the Israeli domination space. Israeli settlements and infrastructure are scattered all over the West Bank territory (Weizman 2007). Thus, any compromise is not only giving away parts of the fatherland but is also seen as an existential security risk that should not and could not be adopted (Simchoni 2006).

The fifth factor is the structural contradiction inherent in the wish to preserve the Jewish state while controlling millions of Palestinians deprived of their rights as second-rate citizens. The current hegemonic project, based on the combination of neoliberal pioneering and militarist ethnonationalism, seems more and more like the ethnic imperialism, well described by Hannah Arendt in her book *The Origins of Totalitarianism* (2004). The Israeli leadership aspires to maximize the territory which is under Jewish control and owned by Jews, while minimizing the number of Palestinians in these territories or creating control mechanisms that enable constant supervision over the Palestinian population's territory with no direct contact. At the same time, they maintain a political, financial, and structural subordination of the Palestinians to the dictation of the hegemonic party and an Israeli dominance over the natural resources, airspace, and electromagnetic space, thus creating a constant emergency situation that "exposes" the Palestinians to the politics of "bare life" and validates daily their state as enemies and aliens in their own homeland.

Against this background, the Israeli political left's opposition to the settlements in the West Bank challenges the legitimacy of the Jewish settlement in Palestine as a whole. The Israeli political right claims that if Zionism is based on the historical claim of returning to the fatherland, there is no difference between areas west of the Green Line and areas east of it. Obviously, the nationalist right's objective is to justify the settlements project in the areas occupied in 1967 by establishing the lack of difference between the justifications of Zionist settlements before 1948 and those after 1967 (Taub 2010). This internal Israeli debate points to the severe crisis inherent in the political, ethical, and moral logic of Zionism.

The Jewish reality in the territories acknowledged as part of Israel can be justified based on one of two fundamental concepts: the logic of power (i.e., the Jews won the war and they must maintain their achievements by force, if they want to avoid any risk for their national and personal existence [Dayan 1981; Gans 2010; Yaniv 1992]), or the logic of transitional justice, which is based on the idea that the current situation, though it may be based on historical injustices and moral errors, forces us to consider the heavy prices involved in reinstating the past reality (Kymlicka 2008; Waldron 1995). According to the latter attitude, there is no option, realistically or morally, to reconstruct the past, since the price paid by innocent people will be unbearable. Therefore, in figuring out the solution, we must acknowledge past injustices without creating new ones, equally calamitous. This logic is not unjust, but it doesn't solve the current situation, in which the liable party continues to cause injustice. Currently, the liable party also refuses to reach a historic compromise which will acknowledge past wrong doings and will strive to correct them, as done in several historic reconciliation processes

such as South Africa, Northern Ireland, New Zealand, Australia, etc. (Hansen 2011).

Additionally, widespread though sometimes hidden debates inside Israeli society deal with the usefulness of the Zionist ideology: does it provide a safe haven for the Jewish people, or rather result in a domination over another people and constant conflict, while in the meantime we see the development of new threats, which will lead to an all-out war and the use of mass destruction weapons by Israel (as in the biblical story of Samson)? This question is more relevant than ever in the face of the military technological development in Israel's neighboring countries. Of course, these debates are limited to small parts of the Israeli public; most Israelis support the status quo and enjoy the state's unjust distribution of natural resources (land) and material ones (money transfers and subsidies). Still, the disputes and the unease in certain sections of the Israeli society, mainly among the humanist-moralist camp, are expanding. As supporters of nationalistic ideologies, led by the settlers in the West Bank, gain strength in Israel's power centers, the moral and humanistic considerations that justified and still justify the establishment of the state of Israel as an expression of the Jewish people's right to self-determination are eroding (Gabison 2002). While Israel expands the use of its military power in an attempt to impose its will over the disputed territories locally and regionally, the number of voices questioning the nature of the Jewish state and its moral ground keeps rising (Azulay & Ophir 2008; Paled & Peled 2013; Shenhav 2010). Some scholars who deal with the Israeli-Palestinian conflict argue that Israel subverts the justifications for its own existence and creates a reality that contradicts the legitimacy given to Israel upon its establishment (Peled & Peled 2013). Israel's continuous insistence to maintain its Jewish nature while expanding its territory and controlling the Palestinian people creates an irresolvable conflict that will eventually lead to the loss of legitimacy and destruction of the institutional structure maintaining it.

These tensions and contradictions in the Jewish state's project, along with a massive Palestinian population that suffers inferior socio-economic conditions and frequent rights violations, all bring up the need to consider unconventional ideas and models of solution. The political deadlock opens the door for considering solutions that aren't necessarily consistent with the formula of partition, separation, and two states. Solutions of this type are still at initial stage, but they penetrate deeply and shake the moral foundations of the existing Jewish state.

We may add that the one-state idea gains supporters among Palestinian politicians and scholars because it addresses two fundamental issues that have no answer under the two-state solution: the refugees and the Palestinian citizens of Israel. In negotiating the two-state solution, it was made clear that the Palestinian refugees' right of return will be limited to the borders of the

future Palestinian state in the West Bank and in Gaza Strip, and will not enable 1948 refugees to return to the lands from which they were deported or escaped during the Nakba. Many Palestinian refugees reject this possibility, which in their view is doubly unjust: the refugees have lived under inhuman conditions for many decades, and now they are required to give up their original settlements and reside in strange places to which they have no emotional connection. New generations of refugees continue to be an important factor influencing the official Palestinian considerations and limiting the leeway of the Palestinian negotiators.

Furthermore, the two-state solution fails to answer the national aspiration of the Palestinian minority in Israel (Jamal 2014). The state of Israel never opened effective political representational opportunities for its Palestinian citizens. For many years, they were treated based on the friends\foes formula, and the relationship with them was based on their posing a potential threat to the Jewish state just because of their Palestinian identity. Even if a full integration of the Arab citizens was not possible, the state never actively attempted to transform the relationship from an antagonistic one, based on constant suspicion and animosity, to an agnostic relationship, which is based on limited and legitimate disputes within the political arena.

Throughout the years, the Arab political elite have openly strived to convert the relationship with the Jewish state from antagonistic into agnostic, as can be seen by examining the political behavior of the Arab public and the emergence of significant political camps, which accept the Israeli political system while disputing its nature and its internal policy and attempting to change them from within (Jamal 2007, 2011). Yet, Israel's past and present policy has always been one of discrimination, neglect, exclusion, and delegitimization of the Palestinian minority. This policy indicates that the state, and especially the dominant security forces, insisted on perceiving its relationship with the Palestinian minority as relations between enemies, even if it was never officially stated (Or, 2003). Statements that refer to the Arab citizens as a "strategic threat," according to current Prime Minister Benjamin Netanyahu and former Shabak Chief Executive Officer Yuval Diskin, represent a dominant state of minds among the Israeli political and security elite (Kaspit & Haleli 2007). This concept sentences the Palestinian citizens to an inferior status in the Jewish state, which will not be tolerated for long. In the meantime, their affinity with the rest of the Palestinian communities is getting stronger.

In recent years, there is a growing feeling that Israel policies do not effectively differentiate between the Palestinians in the occupied territories and its Palestinian citizens, when it comes to land, housing, and security, despite the fact that the latter are citizens. The differences that do exist are more of dosage and level than substance (Hendel 2011; Jamal 2011; Weizman 2007). The policy of territorial expansion, the narrowing and fragmenta-

tion of the Palestinians' territories, building artificial barriers between their settlements, controlling their natural and financial resources, and leaving them to their fate while inflaming their internal conflicts all happen in both places (Jamal 2011). Though these policies take place under different legal justifications and authorities, they are almost identical in effect.

The Israeli policy and strategy are better understood when we examine the Israeli control system not vertically, through acceptable distinction between the territories of Israel and those of the West Bank and Gaza Strip, but rather horizontally, regarding the whole land as one territory divided into two layers, one homogeneous—Jewish—and one fragmented—Palestinian (Jamal 2011). The normalization of the Jews' lives, achieved through homogenization of their living territories, brings about fragmentation of the Palestinians' lives in their settlements. Furthermore, this process is based on control and monitoring mechanisms which allow naturalization of the Jews' lives and alienation of the Palestinians'. In addition to Israeli leaders' statements that the two-state solution will eliminate the Israeli Arabs' collective rights, since their national rights will be exercised through the Palestinian state, the two-state solution will most probably not transform equality into a guiding principle in Israel. As a result, the Palestinian citizens' structural subordination will continue, together with constant deprivation, exclusion, and control. This situation encourages rethinking among the intellectual, civil, and political Palestinian elite; one that departs from the concepts of partition and separation and turns toward synergetic and integrative solutions. While this thinking may be only in initial stages, it is honest and penetrating, and takes into account the moral constraints as well as the realistic ones.

Finally, we should add the many international influences on the re-emergence of the one-state solution, especially the collapse of the apartheid regime and the successful establishment of a democratic multi-national state in South Africa. This process, together with the changes in the policies toward indigenous peoples in many immigration states such as Canada, Australia, New Zealand, Ecuador, etc., re-raised the one-state solution as an ideal model. While the bloody collapse of Yugoslavia, Czechoslovakia's fragmentation into two states, and the rising tension between Flemish and Walloons in Belgium all raise doubts concerning this model, the practical challenges of partitioning populated territories, especially when the sovereign state insists on expanding its control over indigenous populations, as seen in the case of Israel, drive many to perceive integrative solutions rather than segregative ones as preferable in certain circumstances. The European Union's short history, after centuries of bloodshed, also generates rethinking of the political situation in Israel/Palestine. Despite the differences between the European model and the Israeli-Palestinian one, the establishment of financial and political joint institutions presents a constructive model for dealing with long and deep-rooted conflicts. Building on seeds of peaceful existence between

Jews and Palestinians in certain areas could form an initial stage in transforming the entire land of Israel/Palestine into one-state-to-come.

POSSIBLE JUSTIFICATIONS FOR A SHARED SOVEREIGNTY SOLUTION

We can justify shared sovereignty solutions by two different ways: First, by eliminating the alternatives and mainly the partition principle, which is the basis of the two-state solutions; and second, by emphasizing the advantages of the shared sovereignty principle. Justifications of both types can be manifested in theory as well as practice. Table 17.1 will be followed by a detailed explanation which reflects the discussion on both levels.

Disadvantages of the Two-State Formula

In principle, the partition idea is reasonable as long as both parties involved in the conflict are willing to accept it and neither pays a heavy price for it. Complications are created when this idea deprives a large part of the population, living in its own homeland, of connection and access to parts of the homeland which are controlled by the other group. The partition then denies basic rights of those people, who lose a large part of their social fabric and the connection to their affiliation group, which becomes part of the other

	Disadvantages of Partition\Two States	Advantages of Shared Sovereignty\One-State-to-Be
Theory	<p>The partition doesn't guarantee the basic rights for all sections of the population from both sides.</p> <p>It deprives many Palestinians of the right for self-determination.</p> <p>It fixates the Palestinians' fragmentation, which was forced on them.</p> <p>The solution of two sovereign states in a land coveted by both national groups is a constant source of friction and conflict.</p>	<p>Shared sovereignty can guarantee the rights of everyone involved.</p> <p>It is better suited for the historic and cultural context of both sides of the conflict in the disputed territory.</p>
Practice	<p>The partition is not implemented de facto and is used to promote the hegemonic Israeli project.</p> <p>Israel has accepted this formula only when it became impossible to implement.</p>	<p>The one state in fact has existed for almost five decades, and all we have to do is transform it into a more just one.</p> <p>One state resolves the issue of exclusive territorial domination of each side according to the current power relations.</p>

side. In this case, they are forced to choose between two difficult and depriving possibilities. Additionally, the partition suggested today solidifies the Palestinian people's fragmentation and favors the current power relations, which gives Israel the upper hand, while the borders of the suggested partition are not necessarily just. No one talks of absolute justice, yet the deprivation of large portions of the Palestinian society of its cultural and historical connection to its homeland and of its natural resources goes against the principle of distributive justice. The 1947 partition, which was rejected by the Palestinian leadership at the time, was perceived as unjust toward the historical connection between the Palestinian people and its homeland and its demographic weight in it at the time (Khalidi 2006). Partition does not address the conflict's origins and cannot enable the Palestinian refugees to return to the areas from which they were deported during the war.

Partition is a source of constant friction, since the just claims of some of the parties involved in the conflict remain unanswered and some are even violated and rejected because of it. For example, Palestinians living in Israel will be deprived of any right to self-determination, thus making them subtenants their own homeland. Though partnership-based solutions might infringe on the rights of certain population groups, it will not infringe on their basic, fundamental rights, as partition might. Shared sovereignty-based solutions acknowledge the right to self-determination of all sections of the population from both nationalities.

Israel tends to ignore sections and conditions of the partition principle that are related to the issue of borders and the demographic structure within its control system. Over time, Israel has created a negative, inherent link between the rejection of the 1974 partition plan by the Palestinian leadership and the Palestinians' right to self-determination in their homeland. The decision made by the Palestinian leadership is presented as some sort of justification for the continuation of the current situation, in which Israel controls territories that are designed to be a part of the Palestinian state, according to 1947 partition as well as the borders of June 4, 1967. This claim is an essential element in the insistence over Israel's Jewish nature and Jewish exclusive control over the state's natural and financial resources. The same claim, with minor changes, is a basic element in the Israeli control over the Palestinian territories occupied in 1967. Sentences like "we left no stone unturned" and "there is no partner for peace" are nothing but a current version of the statements made by Israeli leaders throughout the years, which can be summarized by Abba Eben's claim: "the Palestinians have never missed a chance to miss a chance." This is a fundamental belief covered by practical justifications that justify the continuation of the current status quo.

In practice, partition wasn't helpful in dealing with most of the world's conflicts, and it even worsened or solidified them, despite the no-war state in some of them. The partition into two states didn't resolve the conflict in cases

where the partition did not meet the expectations of the conflicting parties, even in cases where two states have been established, as we can see in the cases of Kashmir and Sudan.

The two-state solution is built on partition and separation of sovereignty, based on the widespread belief that both peoples are willing to give up their dream of control over the whole disputed land. It is based on partition according to the borders of June 4, 1967, which accumulated various meanings over time. This is the basis for the Israeli-Palestinian peace negotiations, which are used as a fighting ring over geopolitical and demographic borders. But partition is not probable because some very powerful elements from both sides resent it and therefore set obstacles for its implementation (Feige 2007; Zartal & Eladar 2004).

The Israeli policy of expanding the Jewish settlements in the West Bank suggests there is no acceptance of the partition principle, as conceived by the United Nations and re-described in the Israeli-Palestinian negotiation or recently in the Clinton Parameters. Simultaneously, a large number of Palestinians reject the suggested partition because it holds a double injustice (Khalidi 2006). First, partition according to the borders of June 4, 1967, means that the Palestinians would get 22 percent of what they perceive as their homeland, while the Jews would get 78 percent. Second, even if Israel continues its control pattern for a future partition, it would be set according to the Israeli interests, entailing control of the mountain areas, strategic roads, natural water reservoirs, and the airspace of the Palestinian territories (Hareuveni 2010). This complicated situation requires weighing the chances for successful partition as well as its justifications against those of the one-state solution, which has become a common subject for discussion in many academic and cultural stages. We must openly admit that the demographic and strategic reality, which brought forward the two-state formula, has changed completely. The idea of partition and a Palestinian state in the occupied Palestinian territories has been accepted officially by Israel only in recent years, when the Israeli policy in the West Bank had already eliminated the realistic possibility of establishing a Palestinian state in these territories.

Demographics are especially important, and it is not merely a question of numbers. When examining the changes in the residents' mentality and ambitions, we must take into account the population's distribution in the territories under Israeli control. Palestinians reside in most parts of Palestine, and the similarities in mentality and ambitions of most sectors have increased in recent years. These facts are stronger than the Israeli government's aim to split the various Palestinian groups inside Israel from those in the occupied territories, especially as the Israeli citizenship is losing its meaning, leaving it in name only (Jamal 2011). Despite the fact that formal Palestinian politics remain loyal to partition, the changes in society demonstrate the strength of socio-cultural convergence.

The fact that Israel treats its Palestinian residents as second-class citizens raises questions concerning the plausibility of the “Jewish and democratic state” formula in which Israel prides itself (Jamal 2011; Peled 2007). This continuous treatment, since 1948, suggests that the formula of two democratic nation-states has not been realized and that it is probably impossible under the current power relations structure between the different groups, because of the Jewish state concept, which is supported among the Jewish population in Israel. The basis for this concept is the premise that Israel is, first and foremost, the state of the Jewish people, and only then the state of its Jewish citizens. The Jewish state is a substantial concept; the state is perceived as an agent of the Jewish people that promotes its national and ethnocultural identity. This identity is composed of Jewish religion and biological ethnicity. While the concept of the Jewish people’s state contradicts inherently the meaning of civil sovereignty and drains democracy of any meaning, the concept of the state as the agent of a nationality and an indrawn ethnocultural identity robs the Palestinians’ citizenship of any real content (Jamal 2007). We must recall here that the two-state formula completely ignores the existence of a large Palestinian minority within Israel, with national aspirations and rights that will have to be addressed by any just solution. The two-state solution offers no answer to the national aspirations of Israel’s Palestinian citizens. Furthermore, this solution ignores the historic and social connection between Israel’s Palestinian citizens and the Palestinian refugees and their right to return to their homeland. It ignores the changes in the Palestinian society and the rise of strong players who oppose the two-state solution, like Hamas, which has managed so far to veto the partition principle.

Justifications for Shared Sovereignty\One State

It is necessary to remember that there is more than one formula for shared sovereignty or the one-state-to-be. We must distinguish between the unitary or federal model of a liberal state, which doesn’t recognize collective rights, like the United States or France, and one state as a reflection of self-governing of different national or cultural groups, which maintain wide autonomy and cooperate at the governmental level like Spain, Canada, Switzerland, India, etc. Though these models are both considered “one state,” they are widely different and their histories are different. They originated in separate political circumstances and are not always suitable for dealing with the challenges presented before them, especially when it comes to conflicted reality, as has been for many years in Spain or in Canada. These models inspire constructive thinking over the Israeli-Palestinian conflict solution, yet they are significantly different and raise doubts concerning the realistic chances of success of a joint political entity for two conflicted peoples, while large

proportions of the population in each side refuse to recognize the other's right to exist, as a legitimate national player.

In light of these facts, when thinking about solutions for a joint political entity in a conflict situation, we must focus on complex models of shared sovereignty, like in Spain, Canada, or Northern Ireland. Furthermore, the joint political framework cannot trump the right for internationally recognized self-determination of both conflicted parties. This issue poses great moral difficulties and transforms any possibility of changing the current situation into an existential threat for the dominant national group. The shared sovereignty solution must not be used to exterminate the existing state. This way of thinking will not only set a dangerous precedent; it is also impossible, and it will not gain international support. Shared sovereignty must be based on agreed upon transformative process that does not manipulate or trick each of the parties. It is a long process that is based on mutual recognition, integration, and inclusion, rather than compulsion, control, or exclusion. The use of affirmative terms, which legitimate the current dominant self-perceptions that are mutually exclusive, will impede not only the practical transition from the current situation of occupation, exclusion, and marginalization into a shared sovereignty under one state; it will even block the development of new mental horizons and theoretical consideration of the situation, as we can see today. For this to become possible, we have to think in regional terms. A regional inclusion process, in which the joint political entity will become a part of a larger regional union in the eastern Mediterranean, modeled after the European Union, will have to be considered.

In light of all that, the first justification for the shared sovereignty is derived from the advantages of the one-state, both in principle and in practice, while emphasizing the cooperation between the groups in a differential structure, which addresses the rights and the aspirations of both sides. In this regard, we can discuss justifications focused on the Jewish and Palestinian populations and their relative territorial affiliations, as well as justifications focused on the long duration of the conflict. When thinking of both human collectives, we find that the shared sovereignty solution is the least unjust out of all the possible solutions, and therefore it is better suited morally and ideologically to the situation. It addresses the needs of most parties involved in the conflict; it is more complex, and thus more suitable to the complex relations between the parties and their national demands. This solution requires mental transformation and mutual acceptance and forgiveness, which may not be easy to achieve, but these are all required by the two-state solution as well, and therefore don't impair the justification for the shared sovereignty solution.

A solution based on shared sovereignty is founded upon the values of partnership and cooperation and the principles of justice and equality. It sanctifies freedom and creativity rights of all citizens, as demanded by the

thinkers of political order and social philosophers, starting with Plato's *Politeia* and Aristotle's *Nicomachean Ethics*, following with *The Virtuous City* by Al-Farabi and ending with *A Theory of Justice* by the American philosopher John Rawls. The shared sovereignty model that is required in the Israeli-Palestinian context is more institutionally complex than what was described by those thinkers; yet in principle it is moral and democratic, and combines both theoretical models presented in the previous chapter. The shared sovereignty solution combines the desire for national affiliation with the desire to maintain separate cultural attributes, while distinguishing the freedom of conscience and the desire to maintain unique social values from the general administrative order, which includes all citizens equally. This solution is based on the foundations of transformative justice and the principles of mutual transformative recognition, which creates joint habitats and demands joint managing of power and a moral obligation which is shared by both sides and their various elements.

A shared sovereignty solution, which is founded upon the right to self-determination for both peoples living in the joint geopolitical habitat and the required differential political structure, will enable more individuals from both sides to realize their collective dreams and aspirations and feel a sense of belonging and personal safety. After all, both sides have national aspirations over the whole territory of Mandatory Palestine; many Jews consider the West Bank territories as part of their fatherland, and many Palestinians consider the coastal cities as their homeland. Of course, there are many others, of both sides, who favor partition, but they are led by habit, fear, and suspicion rather than by an objective and clear moral consideration. The bloody conflict between the groups generated mistrust and a basic lack of recognition of each other's rights, and forced both sides to agree to a compromise, which is not necessarily honest and true. When considering only the moral aspects of the conflict, without taking into account the reality in the field, we can see that the shared sovereignty solution addresses the needs of the largest numbers of individuals from both sides. In principle, the moral factor makes the shared sovereignty solution better justifiable than any other solution, in which each side is forced to give up irreplaceable parts of its homeland.

Another theoretical justification involves the conflict itself. Since there is no resolution in sight, we must weigh the conflict's human and material price against the prices of transforming the current occupation structure into a one-state structure. This consideration relies on the fact that the two-state partition hasn't been implemented until now. In the current situation, after almost five decades of Israeli occupation, domination, and settlement in the territories that are designed to be parts of the Palestinian state, the price of democratizing the Israeli control system is more reasonable than an actual partition, in light of the current demographic conditions.

We must remember that the meaning of partition today is different from its meaning in 1947 or in 1967. While Israel insists on its historical connection to all parts of Mandatory Palestine, and the Palestinians stick to their wish to return to their homeland, the conflict becomes a factor that prevents both sides from realizing their ambitions. Assuming that the Israeli hegemonic project will not be able to last for long and that we are deteriorating toward apartheid, the price of democratization of the current political structure is the most moral and just solution to the Israeli-Palestinian conflict. Sharing the territories of the joint homeland and the joint equal sovereignty will uproot one of the conflict's fundamental causes and legitimize both groups, enabling them to enjoy security, tranquility, and affiliation without feeling the need to constantly reassure their existence and legitimacy at the expense of the other side. The availability of future possibilities is one of the most important factors in transforming both sides' behavior and plans. The relations between Israelis and Palestinians will not be able to transform and reach a new level until both sides are granted legitimacy to their existence and respect toward their unique national and cultural properties (Peled & Rouhana 2004). A long-term thinking along just and moral lines may expedite structural and personal changes which will, in turn, bring a better future solution to the more than a century old bloodshed. In this context, transforming the nature of Israeli sovereignty and adjusting it to the new reality seems especially justifiable if it entails legitimation to a Jewish control over various life realms of the Jews as part of the shared sovereignty. Instead of managing the conflict, this solution is based on the conflict's transformation and reconciliation, which will, in time, transform the conflicted parties and promote mutual acceptance. Through this kind of solution, the parties will be transformed simply by attempting to encounter the daily challenges of a joint existence; this existence is built on mutual trust and recognition, which should be manifested at the institutional level.

Practically, one state has existed for almost five decades in the territories of Mandatory Palestine, which was supposed to be a host for two states. This situation does not guarantee the rights of both conflicted peoples, and it is not likely to change soon. The Israeli hegemony deepens its control in the land and performs structural changes that would enable the continuance of its dominance throughout the region (Weizman 2007). Therefore, there is a need as well as moral obligation to find a way to make the current political situation more just and democratic. Granting the Palestinian residents an Israeli citizenship will not create justice for both sides; only a change in the political structure and the creation of a new structure, in which both peoples will have self-determination and share their fate, in the form of a joint political structure, can encounter the real challenges which lie ahead. Shared sovereignty can be implemented in a democratic federative state, in which all citizens

enjoy equal rights and which acknowledges the collective rights of both conflicted groups.

The shared sovereignty solution under one democratic state will eliminate the current state of domination and racial and military discrimination, and will be founded on equality and freedom as the moral pillars of joint existence. It will also relieve both sides, and mainly the dominated one, of immoral, inhumane acts from which it has suffered long enough, including indiscriminating killing and violation of basic human rights. While the current balance of powers forces us to focus our attention on the Palestinian suffering, we should also consider the situation of the Israeli Jews, who are concerned with existential threats. They are also concerned with moral issues, since the existential threats feed the Israeli war machine, which encourages sovereign behavior and which undermines the moral foundations of Jewish existence in the Arab region.

Influential public figures in the Israeli society try to denounce the settlers in the West Bank as people who defile Israel's "real" and good reputation, in an attempt to clear Israel's conscience and present its moral ground internally and around the world, while trying to maintain what they claim to be the "true" humanistic and moral message of Zionism. These efforts gain little support, because the hunger for colonialist expansion based on racial ideas is still dominant among the public and the leadership in Israel. These facts are reflected in opinion polls¹; they force an inhumane situation on Palestinians and create moral and ethical constraints that raise doubts regarding the integrity of the Jewish moral code. These constraints dispute the rationale of Jewish political existence in its current form. The infringement of another collective's rights undermines not only this rationale, but it also undermines the infringing entity and its fundamental right to exist. Israel cannot dominate over another people while boasting its morality and purity of arms. This inherent contradiction creates schizophrenic distortion that is translated into a continuous, collective feeling of insecurity. This insecurity is reflected in the brutality of the Israeli war machine: the Israeli attempts to present the clashes with the Palestinians' part of a war are nothing but distortion of reality. The Palestinians never had an organized army like the Hagana and later the Israeli Defense Forces. The latter acts most of the time against disorganized militias or an unprotected civilian population. This fact is especially true when we focus our attention on Israel's attitude toward the Palestinian population that remained within its territory after 1948 and toward the Palestinian population which fell under its occupation after 1967. These two groups are under complete Israeli military control and have no ability to develop any military defense force of any kind. Furthermore, the use of certain procedures that are forbidden by international law, like "targeted killing," "surgical operation," "human shield," "neighbor procedure," and "price tag," not only undermines the legitimacy of the perpetrators themselves, but it challenges

the ethics of the existing control structure and raises doubts as to the ethics of the political entity for which they act.

Disadvantages of the Shared Sovereignty\One-State

One possible disadvantage of a shared sovereignty solution for the Israeli-Palestinian conflict is a situation in which the Palestinian right to self-determination will not be materialized and the equality principle will not be implemented. The principle of equality must be the pillar of the relations between the Jewish and Palestinian populations, individually as well as collectively, and therefore must be manifested in the official-institutional as well as the unofficial levels. Yet, the official institutionalization of this principle through a joint constitution does not guarantee equality. The socio-economic gaps between the Israeli and Palestinian societies, along with the privileges now granted to the Jewish population, might create a structural inequality, in which Palestinians will still be dominated by the Israeli Jews. If we consider transformation from the current occupation into a shared sovereignty with no interim period, we must assume that this transformation will be based on the current principles and power relations. The existing power and influence gaps in the Israeli-Palestinian reality will be institutionalized at the unofficial level, and may expand the Israeli colonial dominance over many post-colonial instruments, based on control of fortune, information, technology, administrative abilities, and science.

A second disadvantage has to do with the right to self-determination and the desire to control the joint fate, especially under the current conflict. The self-determination principle has been, for many years, almost synonymous with national sovereignty. Though many international legal experts and political philosophers dispute this interpretation, it is nonetheless dominant in international relations (Cassese 1999). Therefore, the partition principle has become the common solution for inter-communal conflicts worldwide (Hannum 1996). This principle reflects the fundamental desire of national groups to control their own destinies and overcome mutual suspicion with other groups. The manifestation of these relations is even more extreme in Israel/Palestine compared to other parts of the world. The relations are based on a strong mutual delegitimation, which deepens mutual suspicions and challenges the possibility of joint control systems. Therefore, both national groups are trying to achieve separate self-determination, which is presented both as a right and as a practical solution. The joint state solution might infringe on the right of both groups to exercise their self-determination and their cultural autonomy in their own nation-state. Obviously, the two-state solution is less favored by Palestinians than by Jews, who enjoy privileges under the current status quo.

Another disadvantage of shared sovereignty is linked to the wide gap between Palestinians' and Israelis' concepts of suitable ways of life. This gap is meaningful not only because of the differences between Jews and Palestinians, but also because of the difference between the Western cultural orientation of most Jews versus the Eastern traditional orientation of most Palestinians. While both groups are not homogeneous, their cultural orientations are distinctly different. The Israeli state presents itself as an integral part of the Western world. While there are large traditional sectors in the Israeli society, Israel's culture and its dominant leaders are mainly Western. Most Israelis, among them the more traditional ones, see themselves as part of the Jewish-Christian culture which is centered around Western Europe and North America, while most of the Palestinian population is traditionally Muslim and sees itself as part of the Arab and Islamic world. There is a lot of tension between these two civilizations, a fact that will impose difficulties on any attempt to find cultural common ground for establishing the joint constitutional entity. While cultural and political gaps had previously existed in other parts of the world that went through political and institutional transformation after extended periods of conflict—as in the case of post-World War II Europe, which has witnessed a prolonged unification process for six decades—the journey is complicated and is based on strong centripetal forces that don't exist in the Israeli-Palestinian context today.

OBSTACLES AND CHALLENGES OF SHARED SOVEREIGNTY

The shared sovereignty solution encounters several practical obstacles that must be faced using the underlying ideals of the integrative solution, through democratic debate and persuasion.

The *first factor* is the existing balance of powers; the upper hand belongs to the expanding Zionist project, which dedicates all its financial, technological, and political resources to solidifying the current hegemonic situation. Over the years, Israel has managed to expand its borders, to split and crush the Palestinian leadership, and to oppress the Palestinian people. Israel's long-term success encourages continuation of the same policy, although with some changes and through different mechanisms, as we can see with the expansion of settlements in the West Bank under the pretense of "peace" negotiations. The security and military establishment is widely supported among the Israeli public, a support that is a stumbling block for any resolution of the conflict, be it the widely accepted two-state solution or even more so, the one-state solution, which is perceived as a threat and an attempt to delegitimize Israel in its current form.

The *second factor* is the sense of trauma, fear, and suspicion rooted in the Israeli collective historical memory (Bar-Tal 2007). This memory is deliber-

ately invoked and even highly intensified through the Israeli education system. The sense of fear, which is rooted in real events but is politically manipulated, creates doubt, mistrust, and hesitation toward any attempt to change the current status quo, which guarantees the Jews' control over their destiny and their collective and individual safety (Bar-Tal 2007). We must mention that the rise of political Islam, the spreading of religious feelings among the Palestinian society and in the Arab world, and the discussions about Islamic expansion and "total victory" highly intensify the Jews' fears and significantly contribute to their solidarity and their support in the government, a fact that is reflected in the complete disappearance of the Israeli left (Lahat 2004). Thus, a major obstacle for the shared sovereignty solution is fundamental statements by Arabs and Palestinians, which are manipulated to their full extent by Israel in an effort to maintain the status quo.

The *third factor* is linked to economy and welfare, namely the significant gap between the living standards in Israel and among the Palestinians. Israel is not only a nation-state; it is a collective economic project with significant colonial attributes, which has managed to invest its human and financial resources in world economics and achieve one of the highest gross national products in the world, thus enabling a high living standard, equal to those of developed Western societies. The Palestinian society, however, has a poor economic infrastructure, based on limited resources. Therefore Israelis, as a collective and as individuals, perceive any political situation that threatens their material wealth and their economic status as a direct deprivation of the advantages they have gained over time and a reduction of their current living standards. A shared sovereignty solution will require re-distribution of resources, sharing national income and reduction in gross domestic product; all of which act against the dominant interests and ideology of the Israeli society and the financial interests of most of Israel's Jewish citizens. There is, as we can see, a basic conflict of interests between Israelis, who strive to maintain the current situation, and Palestinians, who strive to change it. International guarantees cannot ease the gaps between the two parties, as could be learned from the euphoric period of Oslo negotiations, when the main benefactors of the negotiations were the Israelis and small Palestinian elite (Ben Porat 2006).

The *fourth factor* is the emergence of Palestinian leaders who are willing to accommodate the dominant political concepts of the Zionist political order. The Palestinian leadership strives for an independent sphere of control and domination first and foremost, even if they have to give up important aspects of the national Palestinian demands, like the right of return. The Palestinian leadership is trapped by partition and the two-state solution. It is fully dependent on international diplomatic and financial support. We should mention that the PLO had raised the one-state solution in the past as a bargaining chip, haphazardly and without any real research, thus enabling

Israel to denounce it, using the arguments of delegitimization and lack of recognition, which made the PLO give up the one-state formula in favor of two-state partition under international pressure. The one-state formula is still widespread among the Palestinian political leadership in the West Bank and within 1948 borders, and lately it was even expressed by some of Hamas leaders in Gaza Strip. Through the Oslo Agreements and the establishment of the Palestinian Authority in the territories occupied since 1967, the Palestinian leadership legitimized the partition of the land in an effort to establish a separate political and military entity. This created an absurd situation, in which the Palestinian authority became an enclave within the Israeli control system, and the security of the Israeli settlements became indirectly a responsibility of the Palestinian police and leadership. The continuing efforts to establish an independent Palestinian state, in spite of the political, demographic, and security developments over the past two decades, impede the attempts to change the Palestinian public opinion, though the one-state solution became a popular subject among Palestinian scholars and cultural figures in the occupied territories, within Israel and in the Palestinian diaspora.

The *fifth factor* is international support of partition and denunciation of any political plan which might be interpreted as de-legitimacy of the Israeli state as formed after the 1948 war. Despite some criticism toward the settlements in the occupied territories, European countries, the United States and Canada, as well as other important countries like China, Japan, India, and South Korea, have complex diplomatic and financial relations with Israel, thus supporting its policy in effect. Europe is Israel's biggest economic partner and its second largest export market after the United States. Major European countries, as well as the United States, support Israel politically, diplomatically, and militarily, and stomp any attempt to challenge its legitimacy in international institutions. This support blocks any political plan which isn't supported by Israel and enables Israel to indirectly strengthen or at least consider the persistence of the settlements project. Despite some criticism of Israel's policy in the occupied territories, the United States and Europe avoid serious measures that would stop the settlement expansion and promote partition. Their stance contributes to the continuous camouflage, in which Israel allegedly accepts the partition principle, while in fact creating a one-state reality, which the United States and Europe refuse to acknowledge. This denial precludes any efforts to promote a just solution to the conflict.

The *sixth factor* is the possible opposition by the Palestinian refugees, who still dream of returning to their original villages. The one-state solution, which must be based on agreement in order to succeed, will prerequisite a compromise on this issue. Many of the Israeli settlements founded since 1948 and to this day are built on the remains of the Palestinian villages, which were emptied of its population mostly as a result of a frightening policy and preventing their return in various Israeli Defense Force operations

between April and December 1948 (Kadman 2008). Any desire by the Palestinian refugees to return to their original villages will not only be opposed, but also raise a moral dilemma for those who strive to achieve a just solution for the Palestinian problem. The other side of the coin of return is a new human injustice that does not meet basic international principles and policies today (Kymlicka 2008).

All these factors together create a tangled web of obstacles, which prevents the one-state solution from becoming a realistic political plan, despite the fact that this is a good and moral solution for the Israeli-Palestinian conflict. Since there are many appealing and deterring elements to this plan, it must be promoted as an acceptable concept and a possible ideal solution before moving on to examining realistic options for its future implementation. We must expand the reference base for this idea, to examine it deeply and analyze its advantages and disadvantages compared to other experiences such as South Africa, Canada, or Spain, while taking into account the region's special characteristics. In addition, an extensive effort must be made on both sides of the conflict, especially since we see today many Jewish thinkers who present new justifications for the Jewish national state (Gabison 2002; Gans 2008), especially since Israel began losing part of its legitimacy in growing circles worldwide. The fear of delegitimization causes a handful of Jewish thinkers to reconsider the one-state solution. Of course, the Palestinian secular leadership must also be persuaded to give up the two-state plan, and the religious leadership, represented by Hamas, must be persuaded to accept the idea of one secular, multi-cultural, and multi-religious state, since "freedom of religion" and "freedom from religion" are two of the most important elements of social and political co-existence. Furthermore, the Palestinian people as a whole must be persuaded that the shared sovereignty solution is not normalization of the Israeli control over all of Mandatory Palestine, and it does not legitimize the political plans of the nationalistic right wing in Israel in recent years. The Palestinian refugees must be persuaded that this solution will enable their return to Palestine, though not necessarily to their original settlements, if these places are now settled by Jews. This clarification will prevent the creation of new injustices while fixing past injustices, thus avoiding a renewed intensification of the conflict.

CONCLUSION

The above analysis presents the special difficulties and complexities of the Israeli-Palestinian conflict. The partition plan was never realized. The two-state formula seems unrealistic in the short term, but as we have seen, so is the one-state formula. Additionally, the status quo creates a state of apartheid and therefore it is volatile. As a result, we should or even must consider

creative ideas that might extricate us from the current situation. No immediate relief is in sight; yet creative thinking may help raise ideas which might stir the imagination of the peoples in conflict, even if today these ideas are considered blasphemy. One thing is clear: these new ideas must be post-nationalistic. A new understanding of sovereignty is necessary if we are to transform the intractable reality and prevent drifting into apartheid or genocide.

The idea of shared sovereignty is a long-term plan for compromise. Since it raises many objections in the current reality, it will have to go through many variations and stages. One of the possible stages may be a partial, gradual, and temporal separation between Palestinians and Israelis, as long as it is merely temporary and a part of an ongoing reshuffling process of the entire situation in Israel/Palestine. Opening this plan up to discussion through persuasion, arguments, and justifications is an integral part of its promotion. It goes without saying that Israelis will not be willing to risk their security, especially while they enjoy privileges that ensure their high standard of living at a relatively low cost. Nonetheless, people will not be reluctant to enhance their privileges, even if others may benefit from the process. If the idea of shared sovereignty is framed in beneficial terms, it may enable us to pave the first stone in a long path toward resolving the conflict, which sounds imaginative at this stage but could be real in the future.

NOTE

1. The Peace Index is performed by the Tami Steinmetz Center for Peace Research in Tel Aviv University and reflects widespread views on these issues. See <http://www.peaceindex.org>.

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Conclusion

Out of the Darkness

John Ehrenberg

When Shakespeare has Antonio tell Sebastian that “what’s past is prologue,” he’s presenting his characters with the opportunities conferred by free will. But opportunity often comes with danger, and *The Tempest* reminds us that history is a harsh judge when things go wrong. Would Sebastian kill his sleeping father because he’s interested in his future subjects’ welfare? Would he do it for the sake of his own glory? Did he have the chance of making a free choice as a free man? Did he really have a choice at all, or was his imagined freedom no more than a self-serving illusion? Was there more at stake for him than his own greed, vanity, and ambition? Does history set the context for the present, or *is* it the present simply dressed up in different clothing? Does the past allow us to improve upon its lessons and tell a greater story than what it offers? Or is it a trap that condemns us to repeat the same old mistakes, subjecting ourselves and our children to a dreary cycle of accomplishment and failure, improvement and regression, trial and error?

The Tempest was Shakespeare’s final play, and it’s as if he had distilled all the lessons from his earlier work and brought them to bear on that one moment when Sebastian has to decide what to do. But Antonio’s words ask an important question in inverted form, and we are confronted with the challenge—indeed, the necessity—of transcending our past every day. But we’re not doing a particularly good job of it, largely because we’re not thinking right. From the deadly peril of climate change to suffocating levels of inequality to tens of millions of refugees and unending assaults on living standards, it seems as though we’ve been moving backward and have become less able to confront daunting challenges with every passing day.

The newspaper seems to mock us every morning. The magnitude of the problems we face seems matched only by the inability of our political systems to even recognize them, much less deal with them in a responsible way. Corrupt, paralyzed, irresponsible, undemocratic, and generally incompetent, our leadership is more a sad reminder of lost opportunities than an agency for renewal.

Nowhere does this seem more true than with the subject of this book. The Israelis and the Palestinians seem to stumble along like blind automata, content with—or unable to break from—a situation that seems unsustainable but which endures nonetheless. The breakdown of the Oslo-inspired “peace process” has stopped movement toward its preferred two-state solution but has not generated a realistic discussion of a different political arrangement. Everybody seems locked into place, repeating the same old platitudes for public consumption while continuing the old dance with supporters and enemies alike. Palestinian failure to find a way to break the impasse mirrors Netanyahu’s conviction that no solution is possible and that Israel faces nothing more than a management problem. The Palestinians act like time is on their side. The Israelis act like they can go on like this forever. Neither is right, but the situation doesn’t change. The rush of events always threatens to break down the stalemate as a lack of both imagination and courage strengthens the rejectionists on both sides and erodes the international community’s interest in the whole matter.

Deadlock makes it more important than ever to keep an open mind to new possibilities. This book has presented different ways of thinking about state structures and has proposed new ways of conceptualizing old issues in the process. Genocide, conquest, and dispossession are common enough in human affairs, and reactions to injustice have ranged from stoic refusal to accept the unacceptable to truth commissions and paths toward reconciliation. Paralyzed thinking leads to paralyzed inaction. Now more than ever, it is essential to think about old problems in new ways.

Hard choices await, and sooner or later they will demand attention in a more serious and honest fashion than is presently possible. Rhetorical nods to negotiation that disguise Israeli land-grabbing and expulsion on the one hand and futile, isolated Palestinian resistance on the other will have to yield to a hard-nosed process of negotiation and mutual compromise that is outside the realm of possibility for the moment. Everyone seems exhausted by the iron hold of the past and cynical about the possibility of any forward movement. Political failure is the handmaiden of a lack of imagination and of courage. New thinking is essential, and this book is an effort to stimulate some honest accounting with the past and point the way toward a break with an unworkable present.

The whole “peace process” is stuck, and one of many reasons is because everyone is stuck in the hazy glow of the Oslo Accords. The paralysis of

thought raises an interesting question: Since the basic outline of a “two-state solution” is well known and widely accepted, why don’t the parties make a deal? If the answer lies in the organizational imperatives of different actors, perhaps it would make sense to move toward an intermediate policy based on human rights that could address the hatred and sense of grievance with a strong, international commitment to universal standards and impartial treatment. Would such a regime modify the Israeli and Palestinian convictions that they have acted honorably and that it is the other side that routinely violates human rights and turns its back on the basic principles of justice? Can the geographic and historical facts that the two peoples are inextricably linked together be translated into workable norms, institutions, commitments, and behavior? Can mutual recognition of each participant’s historical plight set the conditions for mutual compromise? Can recognizing legitimate grievance make possible a regime of mutual respect? Is a two-state solution the only reasonably pragmatic possibility?

If Israel’s “facts on the ground” have effectively rendered Oslo moot, does that place a one-state solution or a confederation on the table? Is it possible to conceptualize a single secular, democratic state founded on uniform law and universal citizenship? Under what conditions, if at all, would Israeli Jews accept being a minority in such an arrangement? Would the Palestinians be prepared to give up their project of a national state in return for civic and political equality in a single binational state? Would broad international support for such a project be available? Is the future that of one side dominating and controlling the other, dooming both to eternal violence and visceral hatred, or can a formula be found to permit both communities to live together without sacrificing their national aspirations?

If neither the two-state option nor a single state is remotely possible, would a confederation that incorporated elements of both allow for building a minimal level of trust while holding the two communities at arm’s length? Would it offer a satisfactory future to the Israeli Palestinians? Could it incorporate mechanisms of autonomy that would protect both communities while organizing elements of cooperation so as to build an infrastructure of power sharing? Can the knotty geographical issues be resolved, given the “facts on the ground” and the very different historical, religious, and emotional narratives so precious to Israeli Jews and Palestinians alike? Can a confederation recognize that each community has substantive connections to the land and legitimate claims on the other?

Or, since neither side seems capable of shedding past positions and moving toward a workable compromise, does it make sense to invest a lot of energy in this problem any longer? Does all the hyperventilating make it impossible to identify interests and forge compromises? Do fundamental ideological claims about identity illuminate or obscure the real issues at stake? Is it possible to distinguish between old claims that urgently require

attention and those that are thoroughly discredited and demonstrably false? Is the dispute about right and wrong, oppression and privilege, civilization and barbarism, peace and terrorism, tribalism and cosmopolitanism—or is it about political legitimacy and elementary courage?

There are probably no answers to these questions at the moment, but they need asking anyway. Taken together, they illuminate how difficult and intractable this dispute has been and how far away from a solution we seem to be. For the moment, neither side trusts the other enough to make any difference whether one thinks about two states, one state, or a confederation. The Israelis might try to impose a solution through massive expulsion and expropriation. The Palestinians might try to impose a solution through massive resistance and an armed rising. Given Israel's growing isolation and her preponderance of power, either eventuality would be catastrophic for both. Given the semi-hysterical tone of the debate and the automatic support for this or that participant, any effort to encourage a discussion of realistic possibilities can help people think about this issue in a mature fashion. As it stands now, the existing discussion is a real obstacle to resolution and yet another example of how political and religious forces can mangle a serious discussion of serious issues. The chapters in this volume might help lower the temperature.

The choices that await are not just ideological or theoretical. Real, practical solutions are going to have to be found for extraordinarily complicated problems. Each side is going to have to move away from familiar positions that serve only to complicate matters and prevent progress. For the Palestinians, this means abandoning failed tactics, forging political unity between Gaza and the West Bank and between different organizations, building political strength, curbing the militias, isolating and defeating the rejectionists, dealing with the Palestinians inside Israel, replacing a corrupt and incompetent leadership with one that has the active support of the population, and developing a credible negotiating position that does not rest on the fantasy of destroying an overwhelmingly powerful Israel. Armed struggle has failed, international law has not brought an end to the occupation, and diplomacy has not worked. Even as the Palestinian leadership says it has moved to a "post-Oslo" stance and is embracing a more unilateral and international approach to raise the costs of the status quo, any sort of final settlement is going to require negotiating with Israel and securing the support of the United States.

The choices are no less fundamental for the Israelis. One option is dismantling the settlements and dealing with the explosive domestic repercussions, returning to the 1967 state borders in which Jews constitute a clear majority, and remaining a nominally democratic Jewish state with a Palestinian minority of second-class citizens. This is the international consensus and it remains popular with the Israeli public. But it is actively undermined by

settler aggression, governmental intransigence, foreign meddling, and American acquiescence. On the other hand, Israel can continue to occupy the West Bank indefinitely with increasing tension between its military-backed settlers and an increasingly uncooperative Palestinian majority. A third option is to keep control of the occupied territories and look for an opportunity to drive the Palestinian population into exile.

This book has introduced readers to the great variety of views about the current impasse. The truth of the matter is that neither the Israelis nor the Palestinians have a viable way out of the current situation. Israelis remain divided about choosing between a Jewish state and a democratic one, preferring to pretend that they live in both. Parallel Palestinian divisions cannot conceal the fact that they do not have the power to achieve their goals without Israeli cooperation. For Americans, the two-state solution, no matter how improbable it is, is the only alternative on the table. Under the circumstances, everyone pretends that it is the only way out. But lip-service to negotiations cannot conceal the dead end in which all parties find themselves. One thing seems clear: the situation cannot be managed indefinitely, if only because “management” means forcible repression and endless violence. For Israel, military force can do no more than protect the population, stave off attack, and prevent annihilation. This might be possible in the short run, but it is no solution to instability and war. For the Palestinians, force always hardens the situation, turns direction over to those least interested in a solution, intensifies hatred, and contributes to further military weakness and political incapacity. For both sides, the status quo is a guarantee of increasing violence, an embittered conviction of victimization, and a narrowing horizon of peace. In a situation as fraught and as frozen as this, new thinking is urgently required.

Convinced that the problem cannot be resolved, both sides sit tight and wait. For what is not clear.

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