

From Vision to Reality: Tangible Steps toward a Two-State Solution

Gilead Sher

Introduction

Israel is the only country in today's world facing an existential threat. Against the background of dramatic changes in the Middle East, especially in the Arab world, the Iranian nuclear threat has pushed other important issues, including the Israeli-Palestinian conflict, off the political and security agenda. At the most recent annual INSS conference "Security Challenges of the 21st Century," for example, held on May 29-30, 2012, senior government ministers and other speakers, among them several who until recently were very senior officials, devoted most of their remarks to this issue. At the same time, many speakers at the conference reiterated the Zionist vision of a democratic Jewish national state. Prime Minister Benjamin Netanyahu again called on Palestinian Authority chairman Mahmoud Abbas to join him at the negotiating table without preconditions. "Today I would like to speak about peace," Netanyahu said. "Unfortunately, the strong and I must say, natural desire of our people to extend our hand in peace is not always answered by governments in our region." He urged Abu Mazen, "Don't miss out on this opportunity to extend your hand in peace."¹ His words echoed the basic guidelines of the current government: the government will promote the political process and promote peace with Israel's neighbors, while maintaining Israel's defense, historic, and national interests.²

An INSS research group studying the Israeli-Palestinian question called for taking advantage of possibilities to renew the dialogue between the Israeli government and the Palestinians, at least on transitional arrangements. The team also noted that if this attempt to

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reach understandings with the Palestinians fails, Israel must begin gradual, controlled, and measured implementation of unilateral steps, while examining the effect of any one step before moving on to the next. In essence, this approach advocates simultaneous progress along two tracks: cooperation with the Palestinians through negotiations, and an independent process relying solely on Israel's own decisions. No one disputes that ideally an agreement to bring about a separation from the Palestinians will be an outgrowth of negotiations between the parties, but it is proposed that preparations be made for a situation in which negotiations, if renewed, do not yield the desired results.³

This article will deal with "how," rather than "what": how to actually create a reality of two national states, the democratic nation-state of the Jewish people and a national state of the Palestinian people. The discussion addresses the Israeli-Palestinian political process, and does not deal with Israeli Arabs.

The Zionist Vision and Israel's National Interests

Proclaiming "the right of the Jewish people to national rebirth in its own country," Israel's Declaration of Independence affirms: "This right is the natural right of the Jewish people to be masters of their own fate, like all other nations, in their own sovereign State."⁴

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Today, achieving the Zionist vision of a national home for the Jewish people requires a political solution to the Israeli-Palestinian conflict. The correct, moral basis for the continued existence of the State of Israel as the democratic state of the Jewish people will be anchored in a determination of Israel's borders that includes separation from the Palestinians. In a permanent settlement to be achieved by negotiations between the parties, borders will be delineated, and as a consequence of this, as stressed by Netanyahu in his speech before the US Congress in May 2011, it will be necessary

to remove Jewish communities: "The status of the settlements will be decided only in negotiations. But we must also be honest. So I am saying today something that should be said publicly by anyone serious about

peace. In any peace agreement that ends the conflict, some settlements will end up beyond Israel's borders."⁵

Since the peace process began two decades ago, the policy of all Israeli governments has stressed an end to the Israeli-Palestinian conflict solely through negotiations. This article does not propose deviating from this policy. However, as a default option, in tandem with efforts towards negotiations and with actual talks, the infrastructure for unilateral measures that will lead to separation from the Palestinians should be prepared. This order of priorities in Israel's policy must first and foremost be explained to the Israeli public, and it should be clarified ahead of time to the Palestinian leadership and the international community.

The following are a number of strategic advantages of this approach, which under appropriate circumstances make it possible to carry out Israel's independent measures:

- a. It will ensure a strong democratic Jewish majority under the State of Israel's jurisdiction, and reduce the inherent threat to the Zionist vision of a bi-national state.
- b. It will facilitate the building of an effective strategic deterrent.
- c. In the future, it will make it possible to institute permanent borders for the State of Israel that are likely to promote international recognition of Jewish Jerusalem's status as the capital of Israel.
- d. Finally, deployment along the line of the security fence line or any other feasible route decided by the government, and removal of the settlements east of this line, will strengthen – if only temporarily – Israel's international status.

It should not be assumed that separation – whether as a result of an agreement, even if partial or gradual, or as a result of Israel's unilateral measures – will free Israel of the threats against it. It is likely, however, to create a new and optimistic horizon for the Zionist vision. It may also enable the country to devote most of its efforts and resources to dealing with internal problems, civilian involvement, and renewed growth and development, while focusing on closing socioeconomic gaps and building a just society. In this context, Israel would allocate economic resources currently used to maintain the civilian presence in Judea and Samaria to absorption of those who will be relocated, and to significant improvements in the educational and welfare systems as a key to creating equal opportunity.

A New Paradigm for the Political Process: Creating a Two-State Reality

It is now essential to formulate a new paradigm for the political process that will give the parties a sense of progress and hope, and facilitate a rapid return to negotiations, based on UN Security Council Resolutions 242 and 338 – in other words, borders based on the June 1967 lines that include territorial swaps. In parallel to the effort to renew and maximize the political dialogue, Israel's interests require an independent political initiative by the Israeli government. This policy must be tightly coordinated in advance with the international community, headed by the US, as the main part of preparing for a regional reality of two states for two peoples. This policy should be tested specifically when Israel is not subject to pressure from violence and terrorism.

The alternative proposed here is based on constructive unilateral measures. These can come from Israel and/or from the Palestinians, and in certain cases, can be mutually coordinated.⁶ In the present case, a unilateral measure is constructive if it does not contradict the vision of two states for two peoples – and even more so if it effectively promotes a reality of two states – and if its direct results do not obstruct a return to negotiations. Again, it is essential that any specific measure – along with the idea as a whole – be coordinated with the international community. Constructive unilateral measures make it possible to moderate the conflict by gradually creating a reality of two states, and are not contingent on a renewal of negotiations or progress in negotiations. They are designed to proceed in tandem with the ongoing commitment to undertake all possible efforts to negotiate a permanent settlement, or at least to achieve transitional arrangements (such as a partial agreement, phased agreement, interim agreement, and so on).

Some of the leading constructive unilateral measures that Israel should consider include:

- a. A construction freeze east of the security fence and in the Arab neighborhoods of Jerusalem. In line with the policy of Israel's current government, construction in the settlement blocs and the Jewish neighborhoods in the Jerusalem region can be continued.⁷
- b. Putting a voluntary evacuation-compensation law into effect for Jewish residents living east of the fence. This will assist those who

wish to move to within the Green Line or to the settlement blocs, whether or not an agreement is reached with the Palestinians, while giving them appropriate compensation for their property.

- c. Preparing a national plan for absorbing Jewish residents returning to Israel's recognized and safe borders, with or without an agreement. The plan will include elements of urban, employment, economic, security, psychological, and social planning.

The internal political feasibility in Israel of adopting the proposed approach is an open question that lies outside the scope of this article. At the same time, it is not desirable to wait until the last minute to prepare matters that any government in Israel must address, even in a situation in which an agreement is reached through negotiations. On the day when Jewish residents of Judea and Samaria are called on to relocate to what are determined to be the State of Israel's borders, whether through negotiations or by an independent and non-contingent decision by Israel, it will be too late to properly plan their return. It is therefore proposed to begin these national preparations now.

Proposed Security Preparations

The Palestinians and many others in the Middle East and the Arab world are liable to interpret a unilateral and independent Israeli measure as an act of weakness by Israel. That is what happened after Israel withdrew from Gaza in 2005 and from Lebanon five years before that.

At the same time, this concern does not in itself negate the entire concept. If Israel acts independently, after having made a well-considered, maximum effort in the negotiating channel, it will be clear to everyone that Israel is trying to strengthen its security and determine its borders for the sake of preserving its character as a democratic Jewish state. Judicious and controlled implementation of non-contingent separation will convey strength and increase deterrence, thereby reducing potential propaganda damage.

The security deployment plan should take into account the worst scenarios from Israel's standpoint, including increased motivation by Palestinian and Islamic elements to attack Israel, with the Palestinian Authority being unwilling or unable to prevent it. The preparations must include a demonstration of power, prevention of smuggling and infiltration, prevention of high trajectory fire, and deterrence. Israel

will declare in advance how it will respond to missile and rocket fire against its territory, which will earn understanding in advance from the international community for Israel's responses.

Because the proposed measures do not include mandatory removal of Jewish residents, the IDF will in any case remain in the area where Jewish communities are located as well as in sites that have been voluntarily evacuated, and will maintain its freedom of action. As the process progresses and broader civilian separation is achieved, the IDF will continue to remain in the territories evacuated by Jewish residents, in contrast to the withdrawal from Gaza and northern Samaria in August 2005. Israel will announce that it reserves absolute and non-contingent freedom of action in the evacuated territory, despite the civilian-political separation, in the event of violent action by Palestinians.

Civilian deployment along the demarcation line of the security fence (or any other feasible route chosen by the government) will take place according to a predetermined timetable. It will be made clear that Israel's entire policy is driven by choice and for the sake of its interests.⁸ In the context of civilian separation, Israel must reserve for itself, or for a third party acceptable to it, control of the border crossings between the Palestinian Authority, Jordan, and Gaza, and control the level of security checks there in order to prevent the supply of weapons to Palestinians who support terrorism.

It is further proposed that only after the withdrawal of Israeli forces, following a long and monitored period of quiet, will Israel give positive consideration to the presence of an international force in the evacuated territories. This will prevent the creation of a governmental-security vacuum and avoid the serious mistake made in Gaza in 2005.

Internal Dialogue and Legitimacy

The civilian public constitutes the most important element for a leadership working to build confidence, and is the element that legitimizes both the process and the agreement or decision ultimately achieved. In other words, the citizens of Israel, and in particular, the sectors that stand to be affected most from the negotiation results, are of critical importance in the process. Along with the Jewish residents of Judea and Samaria, these groups include people of lower income and participants and activists in the social protest, who can be expected to oppose giving budgetary

preference to the residents of the evacuated settlements at a time when many others face a difficult economic situation. It may be especially important to heal the rifts with the religious Zionist community, including the many serving as commanders in the IDF. Serious preliminary discussion is necessary in order to build confidence through an internal empathetic and respectful Israeli dialogue. This would help earn substantial legitimacy for a government measure in the most basic democratic sense – exactly what then-Prime Minister Sharon lacked in the withdrawal from Gaza and northern Samaria in 2005.

The Economic Aspect

Assuming that any blueprint for an agreed political settlement or separation initiated by Israel will require the removal of up to 100,000 Jewish residents, current opinion surveys indicate that 27 percent of the residents designated for removal would likely leave voluntarily.⁹ For the sake of this analysis, we will assume that fewer are involved – possibly 20,000. At most, therefore, 5,000 families are involved, and the cost of their evacuation will be less than NIS 10 billion.

It is assessed that voluntary evacuation and absorption planned in advance are likely to greatly reduce the cost, which will be spread over a number of years. To the extent that the measure is coordinated between Israel and the international community, headed by the US, it is especially likely that funding could come from a combination of: special American aid; long term government bonds marketed overseas; and long term government bonds marketed in Israel to be purchased primarily by the pension and provident funds. This financing can be spread out over 30 years or more.

The budgetary costs of the evacuation will not compete with budget spending in other areas such as education and welfare, or even defense: as in the 2005 disengagement, budget spending will be beyond the fiscal constraint established in the Foundations of the Budget Law (in professional jargon, the “box”), and this budget supplement will apply only to the relevant years and will then expire.¹⁰

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According to Central Bureau of Statistics figures, specific civilian spending on the Jewish communities in Judea, Samaria, and the Golan Heights averaged \$215 million annually in 2004-10,¹¹ i.e., \$1.5 billion over seven years. This is designated spending, in addition to the government support and participation in expenditures for Israeli citizens within the Green Line. At the same time, the American government deducted \$2.3 billion from the guarantees granted to Israel for investment by the Israeli government in construction in Jewish communities outside the Green Line. This deduction gives an idea of the extent of construction in the territories directly or indirectly encouraged by the government.

Voluntary evacuation also has considerable economic advantages, reflected in savings on budget costs required to maintain the communities to be removed, a hoped-for improvement in the geopolitical situation, and an expected upgrading of Israel's credit rating. The cost of voluntary removal can therefore be regarded as an economic investment with additional returns.

The estimated budget required for a full removal of 100,000 people is several dozen billion shekels. This estimate does not include the cost of redeployment for the security forces.¹² It also does not include compensation that must be paid for businesses, farms, industrial buildings, and public buildings, and generating alternative jobs. If an agreement is reached with the Palestinians in negotiations, it can be assumed that some of these costs will be deducted from the total cost of implementing the agreement.

Absorption and Resettlement

Absorbing the Jewish residents evacuated under a settlement, or according to an independent decision by the Israeli government, must be done with consideration and respect for the population. These Israeli citizens will pay a heavy personal and communal price in giving up their life's work and ideology. Thus, a change in the discourse between the government and the Jewish residents of Judea and Samaria is likely to increase active support by people who favor a two-state solution by making them see relocation as a unifying step of building social strength and not as abandonment of an important Israeli sector, and thereby make it easier to deal with the complex challenge of this removal.

According to senior economists,¹³ the task of absorbing 100,000 people moving back within Israel's accepted borders is entirely within the country's capability. Despite the different circumstances and context, the country and the economy have in the past absorbed large waves of immigrants with great success. Over three million immigrants have been absorbed since Israel was established. In the early 1950s and the early 1990s, Israel absorbed 200,000 immigrants per year. The absorption of other waves of immigration, such as tens of thousands of Ethiopian Jews, whose absorption was especially costly, also indicates that the task is not impossible. Israel's GDP and population were much smaller than they are today, and the economy suffered from severe problems at that time.

Contrary to a predicted housing shortage for the evacuated families and communities, there is in fact a planning surplus in construction space between the Haifa and Beer Sheva lines, excluding Tel Aviv, from which planning permits can be issued for 200,000 housing units. Assuming that the Jewish residents are removed over 2-3 years, and assuming that at most 20,000-25,000 families are involved, the volume of housing units in question lies within the framework of detailed planning that is sufficient to provide a solution for them and for other population groups in the country. Preparing and extending the planning surplus, while removing various barriers, will add a considerable number of housing units to this inventory, even without the Negev and the Galilee.

Legislation

Legislation is called for that allows those living east of the security fence to redeem their homes, under state auspices, in exchange for an alternative home within the borders of the State of Israel. This law will assist those Jewish residents who are willing to move but are unable to do so because their home has no real value. The state will not move other civilians into the abandoned homes. Defense forces can be housed in them.

Just like the political measures, the fact that a law is enacted will represent an Israeli initiative that does not depend on a Palestinian partner or progress in the political process. Thus, while leaving the door open to negotiations, Israel will strengthen the international community's belief in its willingness to reach a settlement, without paying any price in security. Those who relocate voluntarily will have long term resettlement

prospects that will enable them to choose whether they wish to live under Israeli sovereignty or elsewhere.

Why is such a law necessary now? Given the lessons learned from the disengagement in 2005, it is clear that early passage of the law is likely to encourage Jewish residents living in isolated communities to recognize that they will eventually have to leave and thereby do so voluntarily. The consequences of the withdrawal will be spread over a longer period, the number of Jewish residents forced to move during a political settlement or other national decision will be smaller, and the entire process would presumably be less traumatic for the Jewish residents of the settlements and the public as a whole.

Referendum

Since decisive measures affecting the future of Israel are involved, it appears that a decision on these measures will have to be taken in general elections, by special Knesset majority, or in a referendum. Israel has never had a referendum, and there is great concern that the use of this tool is liable to take advantage of the lack of a sophisticated mechanism of checks and balances in the political system, thereby damaging Israeli parliamentary democracy.¹⁴ In November 2010, the Knesset enacted a law entitled the “Referendum Law.”¹⁵ The criticism heard then focused on the

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risk that in the absence of legislation such as a basic law establishing a mechanism and conditions in advance, and requiring normative safeguards and decision by a special majority, a referendum is liable to become a tool of the government or strong interested parties.¹⁶ Adopting the referendum as a regular mechanism in a basic law mitigates concern about manipulation by interested parties, because at least some rules of the game are set independently of the subject, time, and place.

Such a basic law is necessary to regulate the matter of referenda in general. A Referendum Law as a basic law constitutes the only framework in which referenda will be held in Israel. It is suggested that before the government or the Knesset decides to hold a referendum, it will submit the proposal for a referendum to the Attorney General, who will decide

whether the proposed referendum conforms to the legal definition. Once approved by the Attorney General, the proposal will be sent to government or the Knesset for a decision. The referendum results will be binding on the government and the Knesset.

Conclusion

By promoting a reality of two states in a non-contingent manner, Israel will deliver a message that it does not see its future in territories east of the fence, without jeopardizing its security during and after the transition stages. Should negotiations resume and progress, it is proposed that they be held on the basis of agreement that what has been agreed will be implemented. This will replace the formula used by the parties in negotiations for a permanent settlement – “Nothing is agreed until everything is agreed” – and facilitate attainment of transitional arrangements and partial, gradual agreements. In this way, it will be possible to progress on core territorial and security issues without discussion of Jerusalem and the Palestinian refugees holding up progress.

In the absence of a substantive diplomatic dialogue, however, and at a time decided by Israel, given the trend of events towards a bi-national state, it is proposed that Israel take constructive unilateral measures that advance its long term national interest. With proper advance coordination, while clarifying Israel’s intentions to the Palestinians, it is hoped that the Palestinians will recognize that Israel does not oppose the establishment of a Palestinian state. Furthermore, continued construction in the settlement blocs will deliver the message that it is best for all concerned to resume negotiations, because in their absence, a reality of two states whose common border is the route of the security fence or any similar route decided by Israel, which is currently unacceptable to the Palestinians, will take hold.

The international community is likely to adopt the proposed plan, and encourage the parties to progress thereby. The Palestinians are also likely to win support from the international community for constructive unilateral measures of their own. The Israeli public will receive a clear message from its government concerning the urgent and essential need for a two-state solution. The absorption plan will call on the Israeli public to assist the Jewish residents of Judea and Samaria relocating within Israel’s recognized borders, and begin to heal the split in Israeli

society resulting from the many years of dispute concerning the Jewish communities in Judea and Samaria. Diaspora Jewry will be convinced of the strength of the Zionist enterprise, and Israel will ensure its future as a democratic Jewish state secure in its borders.

Notes

- 1 Prime Minister Benjamin Netanyahu's speech at the INSS conference "Security Challenges of the 21st Century: Israel's Search for Opportunities in a Turbulent Region," May 29, 2012, <http://www.pmo.gov.il/English/MediaCenter/Speeches/Pages/speech290512.aspx>.
- 2 <http://www.pmo.gov.il/PMO/Government/Policy>.
- 3 See in this volume Shlomo Brom, "Israel and the Palestinians: Policy Options Given the Infeasibility of Reaching a Final Status Agreement." I was a member of the INSS working group that dealt with the Israeli-Palestinian arena and in that capacity contributed to the analysis of policy options.
- 4 <http://www.mfa.gov.il/MFA/Peace%20Process/Guide%20to%20the%20Peace%20Process/Declaration%20of%20Establishment%20of%20State%20of%20Israel>.
- 5 http://www.mfa.gov.il/MFA/Government/Speeches+by+Israeli+leaders/2011/Speech_PM_Netanyahu_US_Congress_24-May-2011.htm.
- 6 In contrast, consideration of unilateral steps by Israel has been criticized by other INSS researchers. See, for example, Shmuel Even, "Israel's Strategy of Unilateral Withdrawal," *Strategic Assessment* 12, no. 1 (2009): 29-45.
- 7 On this subject, see Alan M. Dershowitz, "A Settlement Freeze Can Advance Israeli-Palestinian Peace," Gatestone Institute, July 5, 2012, <http://www.gatestoneinstitute.org/3150/settlement-freeze>.
- 8 According to the public opinion poll conducted by Rafi Smith for the Blue White Future movement in early June 2012 (as yet unpublished), 71 percent of those questioned said they supported the idea of voluntary removal in exchange for compensation, and support of the principle was widespread among most sectors, excluding those with a right wing conviction. Most of the public – almost 8 out of 10 of those expressing an opinion – agree with the principle that the IDF should remain in Judea and Samaria until a final peace agreement with the Palestinians is reached, and this support exists among all population sectors. A similar ratio of about 8 out of 10 noted that the State of Israel should prepare for absorbing Jews currently residing east of the separation fence in order to facilitate the measure, if and when it is decided.
- 9 This section is based on a position paper (January 2012, as yet unpublished) by former Ministry of Finance Director General Yarom Ariav and former senior Bank of Israel official and advisor to the Governor of the Bank of Israel Avner Halevy. On the public opinion survey, see a study by the Macro

- Center for Political Economics headed by Dr. Roby Nathanson (May 2012, as yet unpublished).
- 10 This mechanism was acceptable to the rating agencies, international institutions such as the International Monetary Fund, and the World Bank, as well as to the American Department of the Treasury.
 - 11 For example, see Local Authorities in Israel 2010, Publication No. 1498 of the Central Bureau of Statistics, June 28, 2012.
 - 12 For the sake of comparison, in the removal of Jewish communities from Gaza and northern Samaria, the Ministry of Finance initially estimated the cost of the proposed government law at NIS 2.8 billion. Following the Knesset debate, the Ministry of Finance revised the cost of the law passed to NIS 3.8 billion. At a later stage, NIS 400 million was added to this estimate, following a High Court of Justice ruling that accepted some of the arguments by the Jewish residents. The estimate here is based on similar proportions, with the necessary changes, and according to a real estimate of the construction, planning, management, building and development fees, and land costs.
 - 13 Prof. Amir Barnea and Yarom Ariav, interview with Shalom Yerushalmi, *Maariv*, April 12, 2012.
 - 14 Preface by Asher Arian to Dana Blander and Gideon Rahat, "Policy Paper No. 20 – Referendum: Myth and Reality" (Jerusalem: Israel Democracy Institute, 2000). Prof. Arian emphasized, "For all its faults, the parliamentary system is the system used in Israel, and the parliament is the framework in which we will continue to make the vast majority of decisions regarding our laws and our common life, now and in the future. We should seek ways to reinforce this system instead of weakening it through decisions designed to circumvent the Knesset."
 - 15 Administration of Rule and Justice Law (cancellation of application of law, jurisdiction, and administration) (Amendment), 2010, Law Code 58.
 - 16 For example, see Ron Klein, "Laws in Brief – December 2010," legislative note: Administration of Rule and Justice Law (cancellation of application of law, jurisdiction, and administration) (Amendment), 2010, [http://law.huji.ac.il/upload/ron_referendum\(1\).pdf](http://law.huji.ac.il/upload/ron_referendum(1).pdf); and Zeev Segal, "Referendum Law: A Revolution of Doubtful Legality," *Haaretz*, November 23, 2010, <http://www.haaretz.co.il/news/law/1.1231293>.