

Jewish Peace Lobby

Twenty-fifth Anniversary Report

1989-2014

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JPL's Work

2014/2015

During the spring of 2014 the bilateral negotiations between the Government of Prime Minister Netanyahu and the PLO ground to a halt, despite intense efforts by US Secretary of State Kerry. Then during the summer there was an intense and extended military conflict between Israel and Hamas forces based in Gaza, marked by massive, but largely ineffectual rocket attacks against Israel and extensive destruction and civilian casualties in Gaza inflicted by Israeli forces. When a cease-fire was finally achieved both sides claimed success. Among the Palestinian population there was a major increase in support for Hamas. All in all, it was another year of setbacks for those seeking to end the Israeli-Palestinian conflict.

The only ray of hope emerges from Prime Minister Netanyahu's decision to seek early elections. These are scheduled for mid March 2015, and present polling indicates that the race will be close, with Likud (Netanyahu) and the newly named Zionist Camp (Labor under Herzog, plus Livni) separated only by one or two percentage points. It is possible that the next government will be a center-left coalition with Herzog as Prime Minister. If that happens, then it can be expected that serious negotiations will quickly resume and that the US will deeply engage, hoping to see an agreement reached prior to the end of President Obama's second term.

If on the other hand, Prime Minister Netanyahu emerges as the head of new government, there is virtually no chance that a comprehensive peace agreement will be negotiated. This assessment is shared by Israeli, Palestinian and American officials.

During the course of 2014 JPL efforts centered on two areas:

- **The United Nations:** In New York, Professor Leonard Grob represented JPL in extensive efforts throughout the year. Our focus was on attaining a Security Council Resolution that would provide comprehensive and forceful parameters for ending the conflict, what we referred to as a "New 242" -- a resolution that would powerfully update the historic UNSC Resolution 242 of 1967. [See "Waiting for France to Act on the Middle East" below]. Ultimately what emerged was a disappointing resolution drafted by the Palestinians. It did not receive the necessary nine votes within the Security Council, and if it had, it would have been vetoed by the United States. Secondarily, at the UN we continued to promote our idea for a UN Commission which would develop a comprehensive peace treaty for ending the conflict -- what we refer to as "UNSCOP-2" -- with echoes of the historic United Nations Special Committee on Palestine which developed the proposal adopted by the UN in 1947 for the partition of Palestine.

- **Track-2:** During the course of the year, JPL organized and facilitated a track-2 group of leading Israeli and Palestinian figures. We held two meetings in a European capital, and more are contemplated. Central to our discussions were two intractable issues of the conflict, the Palestinian refugees and the demand that the Palestinians recognize Israel as a Jewish state.

New ideas and approaches surfaced during the meetings, and in the right environment, these could make a contribution to a negotiated settlement.

At the current moment, all attention is on the upcoming Israeli elections. If a central-left coalition emerges, JPL will engage with American, Israeli and Palestinian officials, offering ideas that will contribute to resolution of the key final status issues. If Prime Minister Netanyahu secures another terms, JPL will focus on possible limited agreements of a constructive nature, such as setting a date for the beginning of the end of the occupation. And we will continue to promote constructive steps that can be taken through the United Nations.

JPL Highlights: 1989 – 2014

JPL was organized in 1989 to promote policies that would contribute to ending the Israeli-Palestinian conflict. Our very creation challenged the idea that there was only one point of view coming from the American Jewish community. From the outset, JPL has taken positions that were quite controversial in the Jewish community (at the time) -- that Israel should negotiate with the PLO or that the two-state solution was the only way to achieve lasting peace in the Middle East. Once radical, these positions are now mainstream.

Since 1989, JPL's role has evolved. At the outset, we focused on the U.S. Congress, and presented an alternative point of view, much like J-street does today. Over time we came to see that we could best contribute by focusing on policy innovation, and by presenting new ways of dealing with the key elements of the conflict, as well as new ideas for the peace process.

Today we engage not just with American decision makers, but with Israeli, Palestinian and European officials as well. We stand out as a source of creative thinking on the conflict, and have addressed our ideas not just to leaders but to the general public in Israel, Palestine, Europe and the United States.

Highlights of JPL activity include:

1989 -- JPL lobbies Congress in support of a resolution calling on the Shamir government to re-open West Bank schools. A letter endorsing this position is signed by 50 Rabbis.

1989 -- JPL sends Prime Minister Shamir a letter signed by over 200 American Rabbis calling on the Prime Minister to accept the principle of "exchanging land for peace."

1990 -- In Congressional testimony JPL proposes an escrow account into which a portion of U.S. economic (not defense) aid to Israel, equivalent to what is spent on expanding West Bank settlements, will be held until settlement activity is halted.

1990 -- JPL proposes the creation of a Peace Fund by the United States to support joint Israeli-Palestinian educational, cultural and humanitarian activities.

1990 -- The Senate Appropriations Committee endorses JPL's Israeli-Palestinian cooperation idea and recommends that \$350,000 be made available for these purposes in fiscal 1991.

1991 -- JPL lobbies Congress for a resolution urging the Shamir government to halt settlement expansion, the Arab states to end the boycott of Israel, and the Palestinians to end violence.

1991 -- JPL testifies before the House Appropriations Committee and urges making loan guarantees to Israel conditional on a halt to settlement activity. JPL also calls for the activation of a United States rescue effort if the situation of Soviet Jews deteriorates.

1992 -- JPL testifies before the Senate Appropriations Committee again urging loan guarantees to be made conditional on a halt to settlement activity. Testimony carried by C-SPAN.

1992 -- JPL organizes a letter to the Democratic candidates for the nomination for President urging them to vigorously oppose the Likud settlement drive. The letter is signed by 267 Rabbis.

1992 -- JPL testifies before the Platform Committee of the Democratic Party calling for opposition to settlement expansion. Carried by C-SPAN.

1993 -- Months before the Gaza-first approach of the Oslo Accords become known, JPL calls for a Gaza-first approach to Palestinian statehood, and holds a symposium on Gaza-first approaches for the Washington policy community.

1994 -- JPL holds a forum for the policy community in Washington on the issue of Jerusalem.

1994 -- JPL develops a proposal for using the loan guarantees to provide substantial incentives to promote the return of settlers in the territories~ back to Israel proper. Co-authored by Jerome Segal, William Quandt of the Brookings Institute and Khalil Jahshan of the National Association of Arab Americans the proposal appears in the Washington Post, and the Jerusalem Post. Subject of news stories in Israel.

1994 -- In response to Clinton Administration failure to provide 1994 funding for the Palestinian-Israeli Cooperation Program, JPL delivers a petition signed by over 800 Rabbis to President Clinton.

1994 -- JPL campaigns to save the Palestinian-Israeli Cooperation Program. Eight Senators write to the President.

1995 -- JPL wins Clinton Administration support for \$500,000 for the Palestinian-Israeli Cooperation program.

1995 -- JPL puts forward a new and far reaching proposal on economic (not defense) aid to Israel and the Palestinians which would place the \$1.275 billion in economic aid into a Fund for Israeli-Palestinian Peace. It could support projects such as a joint Israeli-Palestinian University, water conservation. and desalination projects in Israel, a Palestinian Youth Service Corps, a Jewish, Christian and Islamic institute for religious understanding based in Jerusalem and providing public education. JPL proposal appears in The Los Angeles Times and in the Hebrew daily Ha'aretz.

1995 – Dr. Segal meets with Foreign Minister Shimon Peres and presents a proposal for a Palestinian state to be established within the short term. It would exercise sovereignty over Gaza, and pending the results of negotiations, administrative authority within the West Bank. Peres expresses interest and asks Segal to present it to Arafat. Segal meets with Arafat. Arafat is suspicious that Peres seeks to keep the Palestinians from sovereignty in the West Bank.

1996 -- JPL organizes a letter from American Rabbis to President Clinton, urging that he communicate both to Yasser Arafat and Prime Minister Netanyahu that they have "obligations to peace" -- specifically in the areas of fighting terrorism and in exercising restraint in settlement building. The Rabbis urged the President to make clear that "if they fail in these obligations to peace, continued economic (not defense) assistance from the United States would not be forthcoming." 250 Rabbis signed the letter which was widely covered in the Israeli and American press.

1997 -- JPL adopts a new position calling for sovereignty over Jerusalem to be shared between Israel and a future Palestinian state. 1

1997 -- JPL organizes an open letter from 150 Rabbis to Prime Minister Netanyahu urging him to refrain from construction at Har Homa (in East Jerusalem). Letter is published in the Jewish press.

1998 -- JPL wins backing by the House and Senate Appropriations Committees for \$500,000 for Israeli-Palestinian people to people cooperation.

1998 – Dr. Segal's article arguing the security and moral basis for sharing Jerusalem with the Palestinians is carried in ten Jewish papers around the country.

1998 -- JPL begins organizing a Rabbinic Call for a Shared Jerusalem with the objective of opening a serious discussion of the Jerusalem issue within the American Jewish community.

1999 -- JPL speaks to over one thousand rabbis about sharing Jerusalem and over 300 sign the Rabbinic Call. The Call gets widespread attention including a story in the New York Times.

1999 -- JPL attains report language from the Appropriations Committees calling for continuation of the Israeli-Palestinian Cooperation program.

1999 -- JPL's ten years of work in the area of Israeli-Palestinian Cooperation contributes to Administration decision to vastly expand U.S. commitment in this¹ area.

2000 – Dr. Segal's book, Negotiating Jerusalem, is published. Negotiating Jerusalem was written in conjunction with top Israeli and Palestinian social scientists and is the most in depth study ever made of the attitudes and values of Israelis and Palestinians towards Jerusalem. It undercuts the common wisdom that Jerusalem is not negotiable. JPL is asked by the NSC to provide ideas on how to resolve the Jerusalem issue. Some of this material is used by NSC to brief President Clinton prior to the Camp David negotiations. We are told that during the negotiations President Clinton referred to the data presented.

2000 – In August, following Camp David, Dr. Segal, accompanied by the U.S. Ambassador to Egypt, Dan Kurtzer, meets with President Mubarak's national security advisor to present the "Sovereignty Belongs to God" option for dealing with the Temple Mount. Dr. Segal also meets with members of the Israeli and Palestinian negotiating teams.

2001 – JPL organizes an open letter signed by 100 Rabbis which affirms that Judaism does not require exclusive Israeli sovereignty over the Temple Mount. The statement is reported in the Israeli and American press.

2001 – Following the election of Ariel Sharon as Prime Minister, JPL organizes a second letter, also signed by 100 Rabbis. Addressed to President Bush and Prime Minister Sharon, the letter calls on Israel to not expand the Jewish neighborhoods in East Jerusalem, even if negotiations are postponed.

2001 – The Israeli daily, Haaretz, publishes Dr. Segal's article, “A Choice Based Approach to the Right of Return,” which explains how it is possible to show respect for a Palestinian right of return, but balancing it with Israel’s right to remain a Jewish state.

2001 – The Palestinian daily, Al Quds, publishes Dr. Segal’s article, “Reflections on Palestinian Strategy,” in which it is urged that the Palestinian end the violence of Intifada II, and instead put forward a proposal which details solutions to the key issues that they would accept as an end to the conflict.

2002 – With the establishment of a new position, JPL Israel Representative, JPL centers its daily work in Jerusalem rather than in Washington D.C.

2002 – JPL organizes a letter to President Bush from former Israeli Foreign Minister Shlomo Ben-Ami, former Chief of Staff of the IDF, Amnon Lipkin-Shahak, and former Absorption Minister, Yuli Tamir. The letter calls on the Bush Administration to put forward a fully detailed final status agreement and then to “vigorously encourage” both sides to sign it.

2002 – The New York Times published Dr. Segal’s article laying out “Externally Directed Separation,” in which the U.N. Security Council would determine the permanent borders between Israel and the State of Palestine. Related articles are published in the Israeli and Palestinian press.

2003 – JPL, working with the Steinmetz Center of Tel Aviv University, undertakes polling of the Israeli public and finds that 65% of Israeli Jews support the proposal that the United States would come forward with a fully developed treaty proposal and then try to build support for it.

2003 – An Israeli-Palestinian Track II group, with respect to which Dr. Segal was an active participant/advisor, produces a Vision Document which formulated a shared vision of how to end the conflict. This was used to brief numerous figures in Israel, across the political spectrum.

2003 – JPL organizes a Rabbis’ letter to President Bush and Members of Congress in which 100 rabbis voice their support for the Ben-Ami letter calling for a detailed US peace proposal. JPL staff presents this approach to numerous Congressional offices.

2004 – JPL develops a policy proposal which would build upon the support among Israelis for unilateral withdrawal. On the JPL proposal, this withdrawal would not be limited to Gaza, but would include almost all of the West Bank and provide a one-to-one territorial exchange for areas Israel retained. On the proposal, Israel would take this unilateral move provided that the UN Security Council would recognize the resulting boundary as Israel’s permanent border with

Palestine, and would recognize Israel as a Jewish State within that border. Essentially the UNSC would serve as a intermediary between Israel and the Palestinians and Arab states.

2004 – JPL polled Israelis on the above proposal and found Israeli Jews supported it 54% to 30%. JPL presented the idea extensively to Knesset members and EU representatives in Jerusalem. JPL assisted Knesset Member Reshef Cheyne place an oped in the Boston Globe in support of this approach.

2004 - JPL published in Al Quds, a proposal under which the Palestinians themselves would respond unilaterally when Israel completes its withdrawal from Gaza. Under this proposal the PLO would proclaim a Palestinian state with sovereignty over Gaza, the West Bank and East Jerusalem. Within Gaza it would establish de facto sovereignty, and on this basis seek admission to the UN. It would then unilaterally announce a cease fire, and state its willingness to accept the Geneva Accord as a basis for ending the conflict, subject to any agreed modifications reached by Israeli and Palestinian negotiators.

2005 – In the face of the Sharon government’s refusal to enter into negotiations with the Palestinians, JPL further refined its proposal for Full Unilateral Withdrawal, and presented its plan to top Israeli officials, including Deputy Prime Minister Ehud Olmert; leader of the Labor Party, MK Amir Peretz, and former head of the Shin Bet, Ami Ayalon.

2005 – JPL further develops its proposal for coordinated unilateral action by the PLO once Israel withdraws from the Gaza Strip. The revised formulation emphasizes an assertion of sovereignty under the 1988 Declaration of Independence issued by the PLO in Algiers. This step would be taken only if Israel agreed to open negotiations on giving the State of Palestine full air, land and sea access to the Gaza Strip. Dr. Segal presented this approach to Palestinian President Mahmoud Abbas, and subsequently to the Negotiations Support Unit of the PLO.

2005 – The Israeli daily, Haaretz, publishes Dr. Segal’s article, “The Missed Opportunity,” which called attention to the unappreciated significance of the Palestinian Declaration of Independence of 1988, which accepted that Israel was created under international law as a Jewish state, and identifies Palestine as “the land of the three monotheistic faiths.”

2006 - The electoral victory of Hamas in the Palestinian legislative elections, and the absence of a charismatic leader such as Arafat, created a fundamental problem for any peace process: Who can sign for the Palestinian people? In a series of articles published in the Palestinian press, Dr. Segal advances the idea of process in which Palestinian President Abbas will negotiate, but that any treaty agreement would be submitted to the Palestinian public for ratification in a referendum.

2006 – A document developed by Palestinian prisoners similarly calls for a ratification-by-referendum framework that would allow a peace process to go forward. JPL develops a proposal whereby Hamas’ support for this approach would be linked to steps by the EU to lift the boycott of the recently elected Hamas government. JPL presents this approach to EU diplomats.

2006 – Dr. Segal (not under JPL auspices) meets with Prime Minister Haniya (Hamas) to explore possibility of institutionalization within the legal framework of the Palestinian Authority of this ratification-by-referendum approach. Haniya asks Dr. Segal to transmit a

letter to President Bush, which he then dictates. Dr. Segal transmits the letter which proposes a long-term truce with Israel.

2007 – At the request of EU diplomats, JPL prepares a memo for the EU on linking ratification-by-referendum to a lifting of the boycott of the Hamas government. This position paper is circulated within the EU at the highest levels, but is overtaken by events when Hamas forces take over Gaza.

2008 - Focus of our work were meetings in Israel undertaken by JPL's Israeli representative, Ofer Zalsberg. These included meetings with: Former IDF Chief of Staff Moshe Yaalon, MK General (ret.) Yitzhak Ben Israel (Kadima), MK Haim Oron (Chair of Meretz Party), MK Otniel Schneller (Kadima), Amb. Oded Ben Haim (Director, Palestinian Affairs Division, Ministry of Foreign Affairs), Strategic Advisors to Defense Minister Ehud Barak and to Infrastructure Minister Binyamin Ben Eliezer, Issa Kassasieh (Deputy Chief of Staff, Palestinian President), Ashraf Ajrami (PA Minister of Prisoner Affairs), Fadwa Shaer (General Director of NGO Department, Palestinian Ministry of Interior), Amb. Petr Stegniy (Russian Ambassador), Amb. Semadeni Andrea (Swiss Ambassador to the PA), Ana Gallo Alvarez (Deputy Head of Mission, Office of the Quartet Representative), The Egyptian Deputy Ambassador and the Russian, German, French, European Union and United Nations Political Counselors.

We have also engaged various members of ultra-orthodox and national-religious leadership including Rabbi Shlomo Pappenheim (Former Spokesperson of Haredi/Ultra-Orthodox Community), Rabbi Azriel Ariel (Yesha Council Board Member) and Adi Mintz (former Yesha Council Director).

Publications included: “The Palestinian Right of Return and Israel’s Right to Exist as a Jewish State,” Al-Quds, July 2008; “Israel Needs Tough Love,” Haaretz, May 2008.

2009 - In January 2009, Dr. Segal addressed a wide group of Israel and Palestinian NGO’s in a forum in Jerusalem. The topic was “President Obama and the Israeli-Palestinian Conflict.”

With a focus on Common Homeland, refugees and constructive use of the UN, JPL held numerous policy briefings. Dr. Segal met with: Palestinians: Salam Fayyad, Prime Minister of the Palestinian National Authority; Ahmed Qurie (Abu Ala), Former Prime Minister and Chief Negotiator, Member of the PLO Executive Committee; Nabeel Shaath, Former Minister, Negotiator and current Member of the Fatah Central Committee; Riad Malki, Foreign Minister; Ali Khasan, Minister of Justice; Mustafa Barghouti, Former Minister and Negotiator, General Secretary of the Palestinian National Initiative; Michael Eitan, Member of Knesset (Likud) and Minister of Government Services; Shaul Mofaz, Member of Knesset (Kadima), Former Minister of Defense and Former Chief of Staff; Ophir Pinez-Paz, Member of Knesset, Former Minister, Labor Party; Israel Hasson, MK, Former deputy head of the Shin Bet; Eran Etzion, Head of Policy Planning Division, Ministry of Foreign Affairs; Avi Gil, Former Director of the Ministry of Foreign Affairs, Senior Advisor to President Shimon Peres.

Publications included: “The Palestinian Declaration of Independence of 1988,” Haaretz, December 2009.

2110 -- JPL pursued its focus on a) refugees b) alternatives to bilateral negotiations c) alternative ways of thinking about two-states. Publications included, "A Different Way of Thinking about the Two-State Solution," Philosophy and Public Policy Quarterly, (Winter/Spring 2010), "Declare a Palestinian State," International Herald Tribune, February 24, 2010, "An Alternative Approach to the Two-State Solution," Al Quds, February 13, 2010. Meetings were held with refugees in West Bank refugee camps, and with key figures including: Nabeel Shaath, Former Minister, Negotiator and current member of the Fatah Central Committee, Nasser Kidwa, Former PLO Representative to the United Nations, current member of the Fatah Central Committee, Azzam el Ahmed, Advisor to President Abbas; Danny Ayalon, Deputy Minister of Foreign Affairs; Matan Vilnai, Deputy Minister of Defense; Yosef Kuperwasser, Deputy Director General, Ministry of Strategic Affairs.

2011 -- The Common Homeland perspective was presented to a variety of Israeli and Palestinian audiences. The jury is still out on whether this approach can gain wider acceptance, but we are encouraged. Dr. Segal did three public presentations on the Common Homeland when he visited at the end of the year. In addition high level meetings were held with Shimon Peres, President of Israel; Ron Dermer, Special Assistant to Prime Minister Netanyahu; Eran Lerman, Deputy Director, National Security Council, Office of the Prime Minister; Salem Fayaad, Prime Minister of Palestinian Authority; Saeb Erekat, Chief Negotiator, PLO; Nabil Shaath, Head of Fatah Commission for International Relations; Ahmed Qurei, PLO Executive Committee. Focus included JPL work on refugee issue.

Publications included: "The UN as a Venue of Opportunity," Haaretz, September 23, 2011. "Palestinian Strategy and the UN" Al Quds, June 15, 2011; "Palestinian Unilateralism: Step-2 and Israeli Strategy," Haaretz, (Hebrew edition) May 27, 2011.

2012 -- JPL work focused on new approaches to the peace process that would place central importance on the United Nations. A highlight of our activity was the publication in the **New York Times** (Global Edition) of an op-ed calling for a UN Commission that would draft a final status treaty that would be acceptable to a majority of the Israeli and Palestinian public. In this Dr. Segal was joined by three highly distinguished co-authors: Shlomo Ben-Ami, former Foreign Minister of Israel, Javier Solana, former High Representative for Common Foreign and Security Policy of the European Community, and Thomas C. Schelling, winner of the Nobel Prize for his work on conflict and cooperation. Our work at the United Nations, led by Professor Leonard Grob, has greatly expanded. At the UN we have not only pursued our UN Commission proposal, but have been deeply engaged in the discussions surrounding the Palestinian effort to upgrade the status of Palestine to that of a non-member observer state. One highlight of our work at the UN this year was a joint presentation, hosted by the Norwegian government, by Drs. Segal and Grob to diplomats from ten Western countries.

2013 -- JPL developed and refined ideas both with respect to the peace process and with respect to final status issue. Important meetings were held with top figures in the US administration and with EU diplomats at the UN. Focus included several briefings we provided at the State Department on new ways of responding the Palestinian refugees issue. At the UN many meetings were devoted to the UNSCOP-2 idea. JPL's UN efforts were led by Professor Leonard Grob.

Publications included: "Palestinian Refugees and a Jewish State," Foreign Policy, December.

2014 - JPL convened a Track-II group in London that brought together high-level Israeli and Palestinian figures to explore new approaches to the conflict. Particular attention was paid to the so called "1948 issues" -- Palestinian refugees and recognition of Israel as a Jewish State. Two meetings were held and more are contemplated.

JPL was deeply engaged at the UN, with a focus on a possible UN Security Council resolution that would provide comprehensive parameters for a final status agreement.

Publications included: "Waiting for the French," Le Figaro, Nov. 24, 2014.

[French translation of this article appeared in Le Figaro November 24, 2014]

Waiting For France to Lead on Middle East Peace

Jerome M. Segal

Just seven weeks ago, following a meeting with Palestinian President Mahmoud Abbas, Francois Hollande, the President of France announced, "We will have a resolution, to be presented to the Security Council, that will say very clearly what we expect from the peace process and what the solution to the conflict must be." With the United States both exhausted from its efforts to bring Israeli-Palestinian peace and fully absorbed with Syria, ISIS and negotiations with Iran, this announcement of French leadership was welcome news.

Hollande's announcement, coming at a joint press conference with Abbas, suggested that Hollande had secured Palestinian support for a hard-hitting, but balanced Security Council resolution which would specify the politically difficult compromises both Israeli and Palestinian leaders would have to accept in order to end the conflict. If this is true, if the Palestinians are prepared to unambiguously accept firm guidance from the UN Security Council, this would place the ball squarely in the court of Israeli Prime Minister Netanyahu. If he too said "yes," we would have the basis for a new peace process, and if he said "no," his responsibility for the continued impasse would be clear, both within Israel and to the international community.

What happened next, however, was surprising. Rather than a French resolution being introduced at the United Nations, the Palestinians began circulating their own resolution. And rather than a balanced set of parameters for permanent status negotiations, the Palestinian resolution is totally one-sided. Its key provisions are:

- The full withdrawal by Israel from all of the Palestinian territory occupied in the 1967 war.
- The completion of this total withdrawal within two years.
- Jerusalem as the capital of two states.
- Resolution of the refugee issue to be based on UN General Assembly Resolution 194.

The first of these, withdrawal from *all* of the West Bank, if enacted, would mean a Security Council change in the long-standing withdrawal framework articulated in Security Council Resolution 242, which merely called for withdrawal from "territories occupied." Not a bad idea in itself, but one-sided.

The second, completion of this full withdrawal within two years, demonstrates no responsiveness to Israeli security concerns, and Israel's determination to maintain a military presence along the Jordan River.

The third, Jerusalem as the capital of two states, is thoroughly reasonable, but rejected by Israel.

The fourth, resolving the refugee issue on the basis of General Assembly Resolution 194, if enacted by the Security Council, would, in Israeli and Palestinian eyes, elevate the status of the Palestinian "right of return" in international law. Exactly what is not needed, if we are seeking to end the conflict.

Given that the Palestinian President does not believe peace is possible with the current Israeli government, that he expects the US to veto any Security Council resolution that presses Israel, and that he faces enormous domestic pressure given Hamas' skyrocketed popularity in the wake of the recent Gaza conflict, his restatement of Palestinian positions is not surprising. But where is the balanced French resolution, the resolution that will spell out the hard truths to both sides?

Specifically, where is the French resolution that in addition to telling Israel that it must share Jerusalem and withdraw from all of the West Bank (with agreed on land swaps), goes on to tell the Palestinians that Israel's status as a Jewish state (with protection of the rights of all citizens) was authorized by the United Nations from the very outset in the 1947 Partition Resolution, and remains in place today. And further tells the Palestinian that Israel has legitimate security concerns that will require demilitarization of a Palestinian state and a long-term Israeli military presence on the Jordan River. And finally, speaks the hard truth about refugees, that any major return of refugees to Israel is not practicable, and will not be part of a peace agreement.

So far there is no sign of the promised French resolution that would clearly state "what is expected from the peace process" and "what the solution to the conflict must be." One explanation for caution by the French is that they expect to meet strong rejection of their efforts from the United States. In this they are wrong. The Obama Administration is not closed to the idea of a powerful, balanced Security Council resolution. It is just exhausted and overloaded.

Jerome M. Segal directs the Peace Consultancy Project at the University of Maryland. He is the lead author of Negotiating Jerusalem (2000).

[Appeared in Arabic in Al-Ayyam, April 8, 2012]

UNSCOP: A New Strategy for Achieving Independence

Jerome M. Segal
University of Maryland

Palestinians face a very challenging strategic problem. While one or another tactic might be appropriate at a given moment, decades of struggle have made clear that in the end, without negotiations it will not be possible to create a Palestinian state based on the 1967 lines, with Jerusalem as its capital and some measure of justice for Palestinian refugees. Palestinians lack the power to impose this reality and the international community will not do so. The problem however is that there is no Israeli partner. There is no prospect for meaningful negotiations between the PLO and the Netanyahu government. Further, no new Israeli government is on the horizon. Netanyahu is enormously popular inside Israel, and is very likely to be re-elected to a second four year term as Prime Minister. And if that weren't enough, the attention of the world is focused elsewhere; President Obama is focused on winning re-election, and even if re-elected, he is deeply frustrated by the conflict and may decide to focus his energies elsewhere.

In response to this impasse a wide variety of policy options have surfaced, including popular resistance, dismantling the Palestinian Authority, abandoning the two-state solution, accepting a state with provisional borders, launching an intensified diplomatic and legal campaign against Israel, expanding international boycott and divestment efforts, and yet other ideas, all of which are inadequate.

In considering this array of options, it is important to not embark on a road that will make things worse by:

- Triggering a downward spiral that leads to an extended violent confrontation.
- Permanently alienating the Obama Administration.
- Strengthening the Israeli right-wing.
- Undermining Palestinian state-building efforts and the Palestinian economy.

Rather, Palestinians need a strategic option which will:

- Safely get us through the next twelve months, giving time for the Americans to elect their President, and for regional uncertainties to attain some clarification.
- Bring international attention back to the Palestinian issue.
- Focus attention and creativity on the key final status issues that have long been neglected, such as Jerusalem and refugees.
- Strengthen the Israeli left and center-left.

- Connect the Palestinian issue to Israel's concern about how the Arab Spring may affect its relations with neighboring Arab countries.
- Ensure that when negotiations resume, Palestinian will do so from a position of strength, with greater international support, especially in Europe and the United States.

A new option is needed, one that can achieve these objectives and can be pursued without American or Israeli agreement. I call it UNSCOP-2 because the work of UNSCOP, the United Nations Special Committee for Palestine, in 1947, is the closest precedent for what is needed today.

In May of 1947, the General Assembly established UNSCOP and directed it to report back to the General Assembly with recommendations for resolving the Palestine question. UNSCOP was formed from a group of neutral nations, none of which were permanent members of the UN Security Council. The Special Committee came to Palestine to hear from both sides. It held hearings, and David Ben Gurion testified, as did Chaim Weizman, who became Israel's first President. Menachem Begin sought to testify, but viewed at the time as a terrorist, UNSCOP refused to allow him to do so. UNSCOP also went to Europe where it heard from Jewish refugees from the Holocaust. It then returned to New York, debated, and developed two different reports about how to resolve the Palestinian question. The majority report called for the two-states solution, an Arab and a Jewish state, with an international status for Jerusalem. It detailed the specific boundary line that was to be the border between the two states. In November of 1947, the UNGA adopted the Majority Report, embedding it in the historic Partition Resolution (UNGA 181).

In 1947 the Palestinian leadership made a fundamental mistake by boycotting UNSCOP, and a further mistake by not accepting the Partition Resolution. Today the tables are turned. UNSCOP-2 can be a Palestinian initiative, one that will promote Palestinian independence. And it can proceed even if, as is likely, it is boycotted by the Israeli government. Here is how it might proceed:

1. At the request of one or more of the Arab states, the United Nations General Assembly will re-establish UNSCOP. It would be composed of countries that are friendly to both Israel and the Palestinian people. It would be headed by an international figure of the highest prestige, possibly a former American statesman or Senator, but acting in his own capacity, not as an American official.
2. Taking the Arab Peace Initiative as its terms of reference, UNSCOP will be directed by the General Assembly to formulate a detailed draft treaty that would end the Israeli-Palestinian conflict. Possibly this would be highlighted as Phase 2 of the Arab Peace Initiative, thus connecting Israel's future relations with Arab states (e.g. Egypt) to the Palestinian issue.
3. Specifically, UNSCOP, in the spirit of the Arab Spring, would be directed towards the two peoples, not the two governments. It would be directed to formulate an agreement which would be acceptable to a majority of both the Israeli and the Palestinian people.

4. To carry out its mandate, UNSCOP would come to the region for a high profile process that might take several months. It would listen to the two peoples with participation from across all parts of civil society, including Palestinian refugees in Palestine and in Diaspora camps, and Israeli groups generally not heard by peace processors. Perhaps it would be televised. It would not only hold hearings, but undertake public opinion research, and study the record of past Israeli-Palestinian negotiations, in particular, the progress made at Taba and in the Olmert-Abu Mazen round. It would also hear from negotiators on both sides, should the Israeli government not boycott its work. In particular, it would be open to new ideas for dealing with the most difficult issues, such as refugees.

5. UNSCOP would then return to New York, and develop a fully detailed draft treaty, which it would report to the General Assembly for further action.

6. Rather than seeking to impose this treaty on both sides, the UN would call on Israel and the PLO to renew negotiations taking the UNSCOP proposal as the starting point. The negotiations would last for ninety days, and the two sides would seek to determine if they can agree on any mutually acceptable improvements.

If Israel agrees to resume such negotiations on this basis then we will have made enormous progress towards finding a just solution to the conflict. This however is unlikely. Rather, we can expect that this time it will be Israel that will boycott UNSCOP, and most likely Israel will refuse to enter negotiations based on the UNSCOP draft treaty. If this happens, then the UN General Assembly will have to decide its next step.

One possibility is that the UNSCOP proposal will be formally adopted by the General Assembly just as occurred in 1947. This will only be the second time in the history of the conflict that the United Nations would be endorsing a specific detailed solution. Were this to happen, depending on the content of the new resolution, the PLO could reverse what happened in 1947. This time the Palestinians could say "yes" to a specific solution to the conflict, one supported by almost all of the countries of the world. And if UNSCOP does its work properly, even though rejected by the Israeli government, this proposal will be accepted by a majority of the Israeli people as well as a majority of the Palestinian people. Here it is important to note that the most recent survey of the Israeli public shows that 58% supports the creation of a Palestinian state along the 1967 lines (with swaps) and with a capital in Jerusalem.

Getting this far, of course, does not bring a new government in Israel, and it does not remove settlers, or end the occupation. However, it will establish an international consensus on how the conflict should be resolved. It will bring to the region an international mission at a time when Israeli settlement activity is largely ignored. It will generate new ideas for resolving the hardest issues. It will replace the vagueness of the Arab Peace Initiative with a detailed UN Plan that can be offered to the Israeli people as the key to making peace with the region. And it will make clear to the Israeli people, that the primary obstacle to ending the conflict is its own government. Whatever happens next, it will leave the Palestinians in a much stronger position than they are now.

How to Bring a Unified Palestinian State into Existence

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In Israel today there is a growing sense of vulnerability. This new vulnerability has produced an enormous shift in how the Israeli public views peace talks with the Palestinians, in particular, how it views withdrawing from the West Bank. While today's Qassams from Gaza have done relatively little damage, future Qassams from the West Bank that land on the runways of Ben Gurion airport are an entirely different story. This could immobilize Israel. No Israeli leader will withdraw from the West Bank unless he is confident that there is little danger of that sort.

Just prior to the Lebanon War, Kadima came to power on the basis of a plan to unilaterally withdraw from much of the West Bank. At that time, it was felt that Israel could simply place a wall where it wished and walk away, indifferent to who was in power on the other side. Today, the unilateral withdrawal concept is dead. The lesson of Gaza, the lesson of the Qassams, is that for Israeli security, it matters a great deal who is power in Palestine and what kind of relations they have with Israel.

The extent of this shift was captured recently in an article by Benyamin Netanyahu when he wrote against negotiating with Abu Mazen on the grounds that turning territory over to a weak government was the functional equivalent of unilateral withdrawal.

The implication for the peace process of this transformation is that in the future the issue of implementation will be much more important than it was in previous negotiations. Regardless of what is agreed to in a peace treaty, implementation will be slow and performance-based. For Palestinians this creates a significant problem. A process that is performance-based is open ended, and an open-ended process runs the risk of never ending. Thus PLO negotiators are calling for a fixed timetable for ending the occupation. From an Israeli point of view, this is asking them to end the occupation by a specific date, whether or not the Palestinian partner has the will and capability of controlling the evacuated territory. And this they will not do.

To Israelis, it all seems reasonable. All they are asking for is a process which tests Palestinian intentions and capabilities in the area that Israelis call “security cooperation.” The problem, however, is that in the context of an on-going occupation, what the Israelis call “security cooperation” is what many Palestinians, reasonably skeptical of Israeli intentions, call “becoming the police of the occupation.” Especially in the context of the intense rivalry between Fatah and Hamas, it is highly unlikely that a Fatah-led government would actually meet any security cooperation test, as defined by Israel. Indeed, to do so over any extended period of time in which the occupation continues, would be to participate in its own de-legitimization in the eyes of most Palestinians.

So this is the dilemma: Even if there is a genuine Israeli commitment to ending the occupation, Israel will insist on an implementation process filled with tests that no Palestinian government can pass.

There is a solution to this problem, and interestingly it is a solution that offers a path through which Palestinians can re-establish the West Bank and Gaza as a single political entity, under a single Palestinian government. Here’s how it might work:

1. Agreement is reached between Israel and the PLO on a set of parameters for final status negotiations. Presumably these will resemble those proposed by President Clinton in Dec. 2000. One important modification would be that any land swaps be on an equitable 1 to 1 basis, thus ensuring that the future Palestinian state would have a territory equivalent in size to 100% of the West Bank and all of the Gaza Strip.
2. Final status negotiations would then begin on all of the issues. If agreement can be reached on all of the issues, then a comprehensive end of conflict/end-of-claims treaty is signed by Abu Mazen as head of the PLO and brought to a referendum by ratification by the Palestinian people. However, if agreement on Jerusalem and refugees cannot be reached, but an agreement on the permanent boundaries of the Palestinian state can be reached, then this limited agreement on permanent boundaries is separated from the other issues and brought to a referendum. If Jerusalem remains under negotiations, the final status map would show a dotted line running through Jerusalem signifying that the city will be divided but putting off the exact line until the conclusion of the Jerusalem negotiations track. The treaty on Permanent Borders would provide for the establishment of a Palestinian State and mutual recognition between the two states. However, it would not be an end of conflict/end of claims treaty. Rather it would be “more than a Hudna, but less than end of conflict.” Because the Jerusalem and refugee issues would remain for further state-to-state negotiations, enactment of the treaty on Statehood and Permanent Borders would not satisfy the “normalization of relations” clause of the Arab Peace Initiative. This would remain as an incentive for Israel to remain engaged on Jerusalem and refugees.

3. The treaty on Statehood and Permanent Borders would utilize the distinction between “de facto” sovereignty (which means that a government actually functions on the ground as a sovereign), and “de jure” sovereignty, (which means that a government is recognized as the rightful sovereign over a territory, whether or not it actually controls it). The treaty would have the following implementation features:

- a. As soon as the treaty was ratified by a referendum, Israel would withdraw from an identified portion of the West Bank. This would be a region where the PLO actually exercises a monopoly of power on the ground.
- b. As soon as Israel withdraws from this initial area, the PLO would announce that the State of Palestine, proclaimed by the 1988 Declaration of Independence, now for the first time exercises de facto sovereignty over part of Palestine.
- c. Acting as interim President of the State of Palestine, Abu Mazen would dissolve the PA, and the draft Constitution of the Palestinian state would become an interim Constitution, replacing the Basic Law of the PA.
- d. The State of Palestine would affirm as the area of its de jure sovereignty, all of the Gaza Strip and all of the territory within the agreed permanent boundaries.
- e. Israel would recognize the State of Palestine as the de jure sovereign of all of the agreed territory.
- f. Israel would immediately begin the process of dismantling settlements within all of the area of de jure Palestinian sovereignty. This process would have to be completed within a fixed time period, and would not be subject to performance-based tests.
- g. Israel would be committed to withdrawing militarily from all areas of the State of Palestine, where the government of the Palestinian state was able to actually exercise de facto sovereignty. The key mark of sovereignty being a monopoly of force, Israel would be committed to withdrawing from any area in which the Interim Government of the State of Palestine was the sole Palestinian entity with weapons.

h. A third party from the international community would be established to adjudicate disputes and to assess whether or not the State of Palestine had gained the required monopoly of force.

i. With respect to the Gaza Strip, Israel would be committed to lifting the air, land and sea blockade of Gaza, as soon as the State of Palestine exercised control over Gaza.

4. Hamas, Fatah and the Palestinian State

- With respect to the referendum on the treaty, Abu Mazen would call on Hamas to permit the referendum to be held within Gaza, under the supervision of the Palestinian Elections Commission. Further, it would call on Hamas to affirm that if the referendum is approved (treating the West Bank and Gaza as a single entity) that this would constitute ratification of the treaty, and it would become binding law which all individuals and organizations must obey. In the Prisoners' Document as well as in the Mecca Accord, Hamas accepted that negotiations would be conducted by the PLO and that such treaty would be binding if ratified through a referendum. Thus, Hamas might permit the referendum in Gaza. Because Hamas could urge that the treaty be rejected, it would have an indirect way of influencing the terms of the treaty even though it was not participating in the formal negotiations.

- If the referendum passes, Abu Mazen would appoint an interim government of the State of Palestine. This government would be in power only until election of both the President and Legislature of the State of Palestine could be held. Participation in the Interim Government would be open to Hamas members provided that they accepted the Treaty on Statehood and Permanent Borders as binding, and recognized the State of Palestine as the de jure sovereign over Gaza and the West Bank.

-- Once the Interim Government is established, it would call on Hamas to turn over power in Gaza to the State of Palestine. This would mean that Hamas would relinquish its role as an armed faction. Individuals could be incorporated into the army of the State of Palestine, but this would be under control of the State. If Hamas turned over power in Gaza, Hamas would be recognized as a legitimate political party, and it could compete for all offices in the elections of the State of Palestine.

-- Once the State of Palestine establishes itself as the de facto sovereign over Gaza, Israel would, by terms of the treaty, be required to lift the air, sea and land blockade. Failure to do so would be an act of war under international law. Israel, in signing the treaty, would be fully aware that the immediate lifting of the blockade of Gaza would be required as soon as the State exercises de facto sovereignty in Gaza.

-- Because Israel has no settlements in Gaza and no military personnel or bases in Gaza, and because Palestinian sovereignty over Gaza poses fewer risks to Israel than Palestinian sovereignty over the West Bank, a truly liberated Gaza could emerge within a relatively short period of time.

-- If the State of Palestine proved itself effective in governing Gaza and exercising a monopoly of power (e.g. eliminating armed groups, Qassam attacks) this would in fact be a

strong demonstration that it could similarly control all the territory of the West Bank, and thus would play an important role is speeding up the full Israeli military withdrawal from the West Bank.

-- If contrary to the above scenario, Hamas initially refuses to recognize sovereignty of the State of Palestine, and refuses to relinquish control of Gaza, and refuses to disarm, then the State would expand its sovereign control only in the West Bank. Once Israel has fully withdrawn from West Bank territory, the credibility of the Treaty on Permanent Borders will have been established, as well as the credibility of the new State. Under those circumstances, when the State renews its call on Hamas to recognize the State as the sovereign over Gaza, relinquish power in Gaza, and allow for the real liberation of Gaza, it is inconceivable that Hamas will say "No."

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A Blueprint for a New Beginning in the Mid-East

The New York Times
February 17, 2002

Jerome M. Segal

COLLEGE PARK, Md.—From the beginning, the Bush administration rejected President Bill Clinton's objective in the Middle East. America went from actively seeking to end the Israeli-Palestinian conflict to turning away from mediating peace negotiations to trying to manage escalating violence. Such efforts are not likely to succeed, and even if it were possible to manage the violence for a time, the world needs something more. The United States has a responsibility to aim higher.

The Bush administration is correct in its assessment that there is no possibility today, or in the near future, that the two parties will negotiate a comprehensive peace on their own. This holds true even if a temporary cease-fire might be wrested from both sides. There is, however, an alternative approach that should be considered. It would put the focus on ending the Israeli occupation in the West Bank and Gaza not through bilateral negotiations, but through an external authority, namely, the United Nations Security Council.

The Security Council, with American leadership, could prescribe the central elements of a territorial settlement that the adversaries could be made to accept right now. Discussion of the Jerusalem and Palestinian refugee issues, which now have no solutions within reach, would be postponed for three years.

On what basis might the Security Council assert its authority over territory and statehood? Upon the collapse of the Ottoman Empire, authority over historic Palestine was assumed by the League of Nations; this passed to the United Nations after World War II. The Security Council retains the authority under international law to determine who has sovereignty over the West Bank, Gaza and East Jerusalem. This is an authority the United Nations had in 1947 when it called for partition of Palestine into two states with Jerusalem in a zone outside the sovereignty of either. It is an authority that has never been relinquished.

With United States support, the Security Council could move to settle the territorial dimension of this conflict in line with Security Council Resolution 242, which spells out the "land for peace" principle. Here is how the process could work, step by step.

The Security Council would present the Palestine Liberation Organization with concrete conditions for the establishment and recognition of a Palestinian state and its admission into the United Nations:

- Recognize Israel as a Jewish state, one that is sovereign within the borders established by the Security Council plan, with negotiations on Jerusalem postponed.
- Pledge not to enter into any defense or assistance treaty with any state not at peace with Israel, and until a bilateral agreement with Israel is achieved, import no weapons.

- Agree to international inspectors under American leadership with Israeli participation to verify that all these conditions are carried out.

- And agree that the Palestinian state will demonstrate a monopoly over force within its territory. This would require disarming and possibly disbanding nonstate actors, like the Tanzim, Hamas and Islamic Jihad.

When these conditions were accepted, the Security Council would require Israel to submit, within 90 days, a plan for withdrawing from the future state of Palestine. These would be the requirements for Israel:

- Withdraw from all of the Gaza Strip and from a minimum of 95 percent of the West Bank and provide, on a one-for-one basis, a territorial swap for areas it proposes to retain.

- Retain no lands that prevent the territorial contiguity of the State of Palestine or access to Jordan.

- Within evacuated areas, provide for the full evacuation of Israeli citizens. Transfer evacuated settlements to the State of Palestine in good condition, with the understanding that the value of the housing and infrastructure will count as a credit in any ultimate plan for compensation of Palestinian refugees.

After reviewing Israel's withdrawal plan and perhaps amending it, the Security Council would direct the withdrawal within 12 months. When this is completed, the Security Council would affirm that the territorial dimensions of Resolution 242 have been fulfilled, with Jerusalem excepted.

The Security Council would then call for bilateral negotiations on remaining issues like economic and security cooperation and water rights, with settlement of the Jerusalem and refugee rights and compensation questions delayed for three years.

The refugee issue would then be taken up in negotiations between two sovereign nations, within the context of Israel as a Jewish state. For Jerusalem, "what is Arab shall be Palestinian; what is Jewish shall be Israeli" would be the guiding principle for negotiations conducted under the auspices of the Security Council.

It is quite possible, of course, that the P.L.O. would refuse to meet the conditions necessary to get the process started. That would leave us where we are today, with one great difference: The onus for the continued occupation would fall squarely on the P.L.O. The Security Council plan would stand in place awaiting a Palestinian leadership willing to abide by its provisions.

As for Israeli cooperation, there is no doubt that the Israeli government led by Ariel Sharon would not welcome this assertion of authority by the Security Council. However, if the P.L.O. did accept Israel as a Jewish state and did agree that this plan would end the territorial

dimension of the conflict, it would be quite difficult for even Mr. Sharon to reject a Security Council directive that had American backing. If he did, the coalition within Israel would be likely to dissolve, and the next elections would essentially be a referendum on ending the conflict.

President Bush's leadership has been embraced by the international community during the war on terrorism. If he pushed forward on this kind of Middle East solution, he might be surprised to find how many Israelis are ready for American leadership and are prepared to recognize that they and the Palestinians can only achieve peace with the help of the outside world as arbitrator.

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The Palestinian Peace Offer

Ha'aretz

October 1, 2001

Jerome M. Segal

Great import has been attributed to the absence during the entire Camp David-Taba period of any Palestinian proposal that would have ended the conflict. It has been argued that while the Palestinians might have had legitimate problems with former Prime Minister Ehud Barak's offer, if they had been serious partners in the quest for peace, they would have come back with their own counter-offer.

When former Foreign Minister Shlomo Ben-Ami (Ha'aretz, September 14, 2001) was asked in a recent interview, "Didn't the Palestinians make a counterproposal?" he responded: "No. And that is the heart of the matter. Never, in the negotiations between us and the Palestinian, was there a Palestinian counterproposal. There never was and there never will be."

What makes the Ben-Ami interview remarkable, is that Ben-Ami actually provides specific details of a Palestinian offer. True enough, it did not come with whistles and bells and a sign saying "Counter-Offer to End the Conflict." But it was clearly there.

The starting point is to recall the formal Palestinian position going into the negotiations. As far back as 1988, the Palestinians accepted the two-state solution. They not only reversed their position on the original 1947 Partition Resolution, but they accepted Resolution 242, which calls for a permanent peace and directs its attention to Israeli withdrawal from territory occupied as result of the 1967 war, but does not mention territory beyond the partition plan allocation that Israel acquired as a result of the 1948 war.

The Palestinian position on 242 is that it requires Israel to withdraw from all of the territories occupied as result of the war. This would require Israel to withdraw to the Green Line, and to relinquish all of East Jerusalem, including the Old City. As is well known, Resolution 242 was ambiguous, speaking only of withdrawal by Israel from "territories occupied in the recent conflict." It never says "all of the territories." The Palestinians bolster their position by pointing to the preamble of 242 which stresses "the inadmissibility of the acquisition of territory by war." But this is insufficient. There is no right answer as to what 242 requires - the ambiguity was deliberate. But the point is, the Palestinian opening position is not absurd. Indeed, given that Egypt and Jordan secured total withdrawal, the political necessity for Palestinians to at least aim at total withdrawal is quite predictable, even if unrealistic.

The second pillar of the Palestinian formal position was UN General Assembly Resolution 194, which "resolves that the 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."

The resolution does not speak of a "right of return" but Palestinians, not surprisingly, claim that it established or expressed such a right. Moreover, they maintain that it applied to all of the descendants of the 1948 refugees. Here too, their position is not absurd, but if they were not prepared to compromise on the idea that millions of refugees would actually return, then they were not seriously engaged in an effort to negotiate an end the conflict.

Ben-Ami makes clear that the Palestinians moved in very fundamental ways away from these opening positions, despite their long held reluctance to relinquish what they see as the international law case for their claims. Specifically, here's what Ben-Ami has told us:

1. On territory, the Palestinians proposed that Israel should withdraw from 97.66 percent of the territory. This would allow Israel to annex areas that contain the majority of the settlers, even if less than the 80 percent of settlers that Clinton proposed. In exchange for the 2.34 percent annexed, there would be a territorial swap. Here the Palestinians wanted a one-for-one swap. Whether this Palestinian proposal asks too much of Israel's internal politics or not, it is a real counter-offer that abandons their view of 242, in order to allow Israel to mollify most of the settlers. Yes, what they propose squeezes the settlers quite hard, but in truth, they are more right than wrong. Israel should have never allowed the settlements and it is hard to see why the Palestinians should be more than minimally accommodating. As for their insistence on a one-for-one swap, this hardly seems unreasonable, even if unpleasant for Israelis to contemplate.

2. On Jerusalem, the Palestinians agreed that Israel would not have to withdraw from all of East Jerusalem, but would retain under Israeli sovereignty, all of the Jewish neighborhoods built since 1967 (such as Gilo). To Israelis this might not seem like much of a concession, but research into the attitudes of the Palestinian public (See Negotiating Jerusalem, by Segal, Levy, Katz and Said) shows that agreeing to Israeli sovereignty over the Jewish neighborhoods has been acceptable only to a minority of Palestinians. Most Palestinians are prepared to accept a different idea, that the Jewish neighborhoods be controlled by Israel, but under Palestinian sovereignty. Accepting Israeli sovereignty over a major part of East Jerusalem is a very clear concession from the Palestinian point of view, and is similar to what Clinton proposed.

3. With respect to the Old City, the Palestinians abandoned their demand for full Israeli withdrawal, and instead accepted that Israeli would be sovereign over the Jewish Quarter, including the Western Wall. The issue of the Armenian quarter remained unresolved, but clearly, the Palestinians were in a compromise mode.

4. With respect to the Temple Mount, the Palestinians retained their claim for Palestinian sovereignty, but were willing to enter a formal agreement that they would not excavate without Israeli agreement. This of course, represents a limitation on their sovereignty, and is very close to one of Clinton's formulations which affirmed "Palestinian sovereignty over the Haram and Israeli sovereignty over the Western Wall, and shared functional sovereignty over the issue of excavation under the Haram and behind the Wall such that mutual consent would be required for any such activities." The Palestinians rejected the theoretical notion of "shared functional sovereignty" but in practice, accepted it.

5. On refugees, Ben-Ami is somewhat vague. The Palestinians, while insisting on the identification of return to Israel as one of the options open to refugees, appear to have accepted the principle that the actual return would be limited to a specific number. Ben-Ami is not sure of

what numbers the Palestinians proposed, but mentions 150,000 per year for ten years. If this number is accurate, coming to a total of 1.5 million returnees, it is totally untenable. Ben-Ami indicates that Yossi Beilin responded with a total of 40,000. Clearly, they were far apart, but the principle that there is no unlimited right of return appears to have been conceded. This discussion of the size of the cap came very late in the day. We do not know if it could have been bridged. It is quite possible that even if the negotiations had gone on for several more months, this gap would not have been closed. But it is very likely that it would have been significantly narrowed, and that, in the end, the Palestinians would have settled for some substantial but not demographically impossible number.

In reflecting on whether the above constitutes a genuine counter-offer, it is important not to confuse that question with whether the Palestinian proposal was tenable within Israeli politics. Clearly it was not politically tenable. But then, the Israeli offer was probably untenable within Palestinian politics. We will never know whether continued negotiations would have lead to an agreement. But it is hard to see why the Palestinian proposal - one that allows most settlers to remain, allows Jewish neighborhoods to remain in East Jerusalem, accepts Israeli sovereignty over the Jewish quarter of the Old City and the Western Wall, agrees to an Israeli veto over excavation, and in principle accepts that the actual return to Israel cannot be unlimited - is somehow proof of Palestinian determination to destroy Israel.

The fact that this conclusion has been drawn, points to a continued problem in the mind set of many, the insistence that meeting the demands of Israeli politics is the criteria for judging whether a Palestinian proposal represents a genuine offer to end the conflict. The Israeli public would have been far better served if the Barak government had turned to Israelis and said: "Here is the price the Palestinians are asking for peace - we have rejected it because it is more than we are willing to pay."

A CHOICE-BASED APPROACH TO THE RIGHT OF RETURN

Ha'aretz, February 1, 2001

In recent weeks, some of the best minds on the Israeli left (including Amos Oz, AB. Yehoshua and David Grossman) issued an open letter to the Palestinian leadership in which they forcefully stated that they would never agree to the return of the refugees to within the borders of Israel. Instead, they affirmed that “the refugees will have the right to return to their homeland, Palestine, and settle there.” For the best minds, this was not their best thinking. By introducing “the right to return to their homeland, Palestine,” the signers appear to be rejecting the key Palestinian demand for recognition of their right to return to Israel. In doing this, they reinforce the conflation of two quite different matters: the Palestinians’ right to return and their actual return. Rather than merging these two, it is important to sharpen an awareness of the distinction.

Unfortunately, the open letter perpetuated a dangerous misunderstanding of the deadlock in the negotiations. The Palestinian leadership is not seeking the return of millions of refugees to Israel. This, they understand, is quite impossible. They are seeking a “choice-based” approach which will provide the refugees with a variety of structured options, of incentives and disincentives, such that only a few will actually choose to return to Israel. In a choice-based approach, the Palestinian leadership will be able to turn to the refugees and say “Yes, you have a right to return to Israel, but you also have many other options which may be more attractive. You decide.”

For the Palestinian leadership, this would protect them from the charge of having sold out the refugees, of having abandoned Palestinian rights. From an Israeli point of view, if it were possible to give the Palestinian refugees a menu of choices and have almost all of the refugees opt not to return to Israel, this too is the best option.

Consider the alternative: suppose it is possible to get the PLO to sign a statement saying that the right of return has been abandoned or translated into a right to return to the State of Palestine. What meaning does this have to the million refugees already living in the future State of Palestine? Inevitably, the focus of all refugees will be on what was denied. The PLO leadership will be significantly discredited; Hamas and others will still affirm the right of return; international lawyers will point out that such rights are individual rights that no state can abandon in the name of individuals; and future generations will still struggle for their right of return.

In short, the most convincing way to end the conflict is some variant of a choice-based approach in which Palestinians have the right to return but instead choose compensation and resettlement elsewhere.

But is it possible? How could the choices be such that almost all Palestinians would choose to not return? And how could Israel be protected against an “illogical” decision by millions of Palestinians that they want to return, even if other alternatives look better? These are the central questions now facing the negotiations.

Israelis can reasonably say to Palestinian refugees, “Yes, we recognize a right of return, but it is not an absolute right. It is qualified by our rights as well, our right to self-determination. Because Israel has a right to exist as a Jewish state, and because your population has grown so

massively, we insist on a framework for regulating the exercise of rights of refugees to return.”

Saying this to the Palestinians does not constitute a great concession. Such rights are universally recognized for all refugees. Yet this allows Israel to accept a right of return “in principle.” Could Palestinians accept this? It is a possibility that needs further exploration.

Here is an interesting fact. In 1988, meeting in Algiers, the PLO issued the Palestinian Declaration of Independence, one of the foundational documents of Palestinian nationalism. Within this declaration, they for the first time recognized the 1948 UN Partition Resolution (181) as an element of international law. Most strikingly, within this declaration, the Palestinians explicitly characterized Resolution 181 as having called for “two states, one Arab and one Jewish.” Implicitly this was an acceptance of the fact that Israel's Jewishness is enshrined in international law.

Thus, it is quite possible that the Palestinians could enter into a mutual exchange of rights-recognition. Israel would recognize a right of return, and Palestinians would recognize that Israel has a right to choose to remain a Jewish state, and thus a right to regulate the implementation of the right of return. Even if the Palestinians do not formally recognize Israel's right to choose to remain a Jewish state, it is possible to agree on mechanisms of implementation.

The temptation is to impose a total cap; to say, for instance, that only 100,000 or 200,000 refugees can ever return. The problem here, however, is that a fixed cap seems to fly in the face of giving all refugees some option of returning. As an alternative to a total cap, it is possible to say that the rate of returning refugees must be such as to not alter the character of Israel as a Jewish state. The rate could be a negotiated formula.

The existence of a regulated rate of return means that if more Palestinians seek to return than this number allows, they have to wait in a queue. The more who seek to return, the longer the queue and thus the longer the wait. This in turn means that choosing the option of returning to Israel becomes less and less attractive compared to resettlement elsewhere, accompanied by immediate access to a major financial package for assistance and compensation.

This approach can be strengthened by giving priority to the 1948 refugees as opposed to their adult children. From an Israeli point of view, the return of some refugees is more threatening than the return of others. The least threatening are the actual 1948 refugees, as opposed to their adult children and grandchildren. A child of 15 in 1948 is today 68 years old. This elderly and dwindling population is well past childbearing age. Their return, accompanied by minor children in the rare cases where they exist, poses no long-term impact on Israeli demographics. Similarly they pose no security threat.

Surely as a matter of justice, priority should go to these elderly refugees. The total number of living 1948 refugees is quite limited. Of the 300,000 or so refugees living in Lebanon, not more than 30,000 fall into this category. Subject to some regulation of the rate of return, Israel can extend an option to all of the actual 1948 refugees to return. It will find that relatively few decide to do so because of their age and dislocation from adult children and grandchildren.

Other approaches exist as well. The key point is to recognize that a choice-based approach which protects the Jewish character of Israel is a far stronger basis for lasting peace than any other alternative. It is worth trying to negotiate.

ON THE TEMPLE MOUNT, GOD IS THE KEY:
SOVEREIGNTY OVER JERUSALEM RELIGIOUS SITES BELONGS TO GOD

Ha'aretz, July 27, 2000

Israel is prepared to formalize the status quo on the Temple Mount, where day-to-day administration is in Muslim hands. The problem is that from an Israeli perspective, the status quo includes Israeli sovereignty and Palestinian administration. While Palestinians have never accepted Israel's claim to sovereignty, this issue has remained dormant. But in the context of a Palestinian state, any international treaty covering administrative control will inevitably engage the sovereignty issue.

Who has underlying sovereignty over the plateau itself? To whom does it belong? If this question is always answered in a traditional way—either Israel is sovereign, or Palestine is—then there will be no solution.

An alternative approach is needed, one that formally disposes of the sovereignty issue, making it possible for administrative matters to be purely administrative—important, but not of vital symbolic meaning. A possible solution lies in a suggestion made several years ago by the late King Hussein—that the two sides should stop arguing over sovereignty and agree instead that ultimate sovereignty belongs to God.

What makes this approach so interesting is that it resonates powerfully among Palestinians of all political and religious orientations. When Palestinians were asked what they thought of this approach to the holy sites in Jerusalem, 64 percent indicated their support. Among those who identify with Islamic fundamentalist parties, the figure soared to 77 percent, and among the very religious it was 88 percent.

What these numbers suggest is that in this simple phrasing—sovereignty over Jerusalem's religious sites belongs to God—there is the making of a stable framework, a symbolism to last generations.

The fact that there is an approach to the Temple Mount-Haram al Sharif that has wide support, even among those most resistant to any agreement in other areas, should be translated into political support among Jewish Israelis. Research has shown that the single greatest determining factor in any willingness of Jews to accept a compromise on Jerusalem, is whether a peace agreement will bring genuine and lasting peace. “Sovereignty belongs to God” holds that promise. It is a phrase that will resonate with Muslims throughout the Islamic world, especially in Iran.

Cynics may say, “fine, sovereignty belongs to God - but whose God?” This is exactly the point. Judaism, Islam and Christianity all affirm there is only one God. The Torah presents God as the sovereign of both the children of Isaac and those of Ishmael. In Genesis, God makes a covenant with Hagar that from Ishmael will also come a great nation.

The point is, there is great potential within the religious traditions for reconciliation between both these peoples. A settlement of the Jerusalem question that underlines this ancient belief in a common God—in common ancestors—has a power it would be foolish for negotiators to ignore.

MAKE U.S. AID A TOOL FOR PEACE

Los Angeles Times, July 17, 1995

Despite tens of billions of dollars spent by the United States over the last two decades in the name of peace in the Middle East, U.S. economic assistance has made at best a minor contribution to ending the Israeli-Palestinian conflict.

We are now providing to Israel and the Palestinians \$1.275 billion in economic assistance per year, an enormous sum for a combined population of 7 million, roughly \$900 per family. If money can contribute to peace, it should have made a mark here. The reason it has not is that the vast bulk of this money, the \$1.2 billion a year for Israel, unlike U.S. aid efforts elsewhere in the world is completely unprogrammed. The funds are not directed at supporting any specific peace promoting activity, program or policy. Rather, as mandated by Congress, the money is simply an annual cash transfer delivered directly to the Israeli treasury.

In principle, U.S economic assistance could make a major investment in peace by funding certain promising initiatives, such as:

- Provision of financial incentives to settlers in the West Bank and Gaza, to encourage them to relocate within Israel proper.
- Programs of interaction between Israelis and Palestinians in the arts, music and literature, as well as in science, medicine and the environment.
- A complete revamping of the educational systems both in Israel and the West Bank and Gaza to build a new generation of peacemakers.
- Major infrastructure projects in Gaza and the West Bank that would provide sorely needed employment.
- A Gaza-West Bank rail line to help relieve the isolation of Gaza.
- Major efforts in water conservation and agricultural redirection in Israel that would over time reduce Israeli demand for water, thus easing the competition for this key resource.
- A Palestinian national service corps that would channel the energies of young Palestinians into constructive avenues of service to their society.
- A university under Israeli and Palestinian administration, with students and faculty from the entire region, directed at building a peaceful, democratic Middle East.
- An Israeli-Palestinian peace corps, bringing young people together to work in both societies and around the world.
- An institute for Jewish, Christian and Islamic understanding, based in Jerusalem, to provide training and public education.
- Economic relief to offset loss of income associated with the closure of Israel to Palestinian laborers.
- The fuller integration of the Arab citizens of Israel into Israeli society.

Very little along these lines has been undertaken. The Administration has no legal authority to provide Israel with less than its standard annual check, or to require that the funds be used for any purpose whatsoever. Yet, unprogrammed, it does little good even for the Israelis. Contrary to the views of some of Israel's neighbors, U.S. aid is not what keeps the Israeli economy afloat. Israel today has a per capita gross domestic product of roughly \$14,000 per person; the economy is vibrant and expanding by around \$5 billion a year, several times the

amount of U.S. assistance.

Essentially, the \$1.2 billion U.S. payment to the Israeli treasury does two things. It provides Israel with the funds to repay interest and principal on old loans to the United States (incurred before the program was converted to a grant basis), and it provides Israeli taxpayers with some relief, allowing the government to tax a bit less or spend a bit more.

Of the \$75 million a year we are providing to the Palestinians, much of it has been diverted from long-term investment plans to covering the daily operating expenses of the Palestinian Authority.

Congress should consider a more useful allocation of the \$1.275 billion. That which is needed to repay old debts to the U.S. government should be rerouted into the U.S. Treasury (roughly \$800 million and declining each year) and the remainder, \$400 million plus, should be placed in a fund for Israeli-Palestinian peace. As the old Israeli debt is paid down, this component would increase. The State Department should be empowered to allocate these funds to competing peace-promoting proposals.

Israel has no higher national interest than promoting peace and security. This interest is now entwined with the success of Palestinian moderates in delivering politically and economically. Yet Israel is constrained from fully pursuing that interest.

Consider: Responding to terrorist attacks, the Israeli government has severely limited the Gaza Palestinians' access to jobs in Israel. Unemployment in Gaza is more than 50%, a breeding ground for discontent. If Israel seeks full separation then, in principle, it could provide major investment resources for long-term job creation within Gaza. But politically, this is unthinkable. A society that has seen its citizens blown to bits in a bus and has seen Palestinians in the street celebrating the deed is not about to provide hundreds of millions for Palestinian job development. But while this is politically unthinkable for Israel, it is just what the United States should be doing with U.S. money and doing it no less for the Israelis than for the Palestinians.

Because our government has virtually no say over how our aid dollars to Israel are used, and because aid to the Palestinians lurches from crisis to crisis, our aid makes only a minor and diffuse contribution to peacemaking. To do better, our political leaders in Congress and the White House will have to have the political courage to say, "This is America's money, and this is what we want it used for."

FROM RITUAL TO RECONCILIATION: TRUE PEACE DEPENDS ON ACKNOWLEDGING JUSTICE IN THE PALESTINIAN CAUSE

JEROME M. SEGAL

The Washington Post, September 19, 1993

The enormity of recent events in the Middle East comes not from the substance of the accord that was reached, but from the fact of mutual recognition between the state of Israel and the PLO. The exchange of letters of recognition, the agreement of Israeli Prime Minister Yitzak Rabin and PLO Chairman Yassir Arafat to a face-to-face encounter, the handshake on the White House lawn, were symbolic interactions, possessing elements of a reconciliation ritual.

Mutual recognition was possible five years ago, when Arafat met the stated conditions for opening the U.S.-PLO dialogue. At that time the PLO renounced terrorism, accepted U.N. Resolutions 242 and 338 and acknowledged Israel's right to "exist in peace and security." A few days ago, in his letter of recognition to Rabin, Arafat repeated these three commitments and added further that the PLO will oppose all acts of violence, will work to resolve all permanent status issues through negotiations and will seek the necessary changes in the Palestinian Covenant.

But the real difference between then and now lies not in what the PLO pledged. It is that this time there was mutuality—an Israeli partner that said in turn that "the government of Israel has decided to recognize the PLO as the representative of the Palestinian people." What made this possible was the change in Israel's security situation resulting from the demise of the Soviet Union, the defeat of Iraq in the Gulf War, the recognition of the danger that radical fundamentalist forces would supplant the PLO and, of course, the election of a Labor government in Israel.

Viewed as a symbolic reconciliation, the ritual we witnessed remains incomplete. Reconciliation rituals take different forms across cultural traditions. The most straightforward occurs when there is agreement on who has been wronged and who did the wrongdoing. Then there can be the public enactment of apology, an offer of restitution and public forgiveness expressed through an act such as the taking of a meal in the home of the wrongdoer. Such moral consensus and cleansing has, of course, not been achieved. And the long conflict between Jews and Palestinians in the Middle East has sufficient moral complexity that something of this sort is indeed impossible.

When moral consensus is not possible, recognition of the moral integrity of the other can substitute. Parties can reconcile with an awareness that the other has a point of view and a mutual recognition that it is possible that decent people would see and understand the world from that point of view. But nothing of this sort has yet been achieved. Israelis and Palestinians retain, relatively intact, their own understanding of the conflict and unchanged perception of the conduct of the other.

What is so hard for most Jews, especially American Jews, to understand is that from the Palestinian point of view, the morality of the conflict is relatively simple—the land was theirs, the Jews seeking to escape harms done them by Christian Europe gained the blessing of the ruling imperialist states to come and take from the Palestinians what was theirs. The Palestinians

fought back.

On this level, there has been neither significant change in Palestinian thinking, nor in Jewish recognition of the fact that it was natural and understandable that Palestinians would see the conflict in these terms.

Occasionally, but very rarely, one can hear Palestinian or Arab voices that break with this consensus. King Hassan of Morocco has said that the Jews have always lived in the Middle East and just as there always was a Jewish quarter within Arab communities, it is fitting that there be a Jewish state within the larger array of Middle Eastern states. And it is not unknown for a Palestinian to say, “We of all people should have welcomed our Jewish cousins back to the land given what they had suffered.” But these are isolated expressions.

On the Israeli side, at least among scholars, there has been over the years a very deep re-thinking of the history of the conflict. Certainly the self-serving mythology of “a land without a people, for a people without a land” has been swept away. But only on the far left do Israelis acknowledge that, even if ultimately necessary and justifiable, the basic Zionist enterprise involved an injustice to the indigenous people.

Typically in international relations, peace does not require that adversaries agree on who was right and wrong, nor if sum agreement is not forthcoming, must they share a sense of the moral complexity of their struggle. But the Jewish-Palestinian conflict is rather different. These two peoples will continue to live intermingled with each other regardless of citizenship. Jerusalem is a city of dual nationality. Palestinian citizens of Israel constitute a significant part of the population, and Jewish settlers may continue to live in the West Bank even when it becomes a Palestinian state.

The basic fact about this conflict and about the peace that may emerge, is that the Palestinians have lost their struggle to prevent the taking of a land that they experienced as their own. For the Jewish people that long struggle has been a great success—the return to the land of ancient ancestors, the re-attainment of Jewish statehood after nearly 2,000 years of statelessness, the achievement of a prosperous and democratic society. For the Palestinians, the triumphs of the Jewish people have, thus far, been at their expense.

A great deal of what has always appeared to the outside world as the irrationality of the PLO is perhaps better understood as an effort to bear this asymmetry of outcome and power without loss of dignity. This quest for dignity lies at the heart of the Palestinian demand for independent statehood, and it would be foolish to believe that the conflict has any chance of being ended if this is not forthcoming in the next few years.

But I would argue, that something more is needed, some change in the way the victors, the Jewish people, understand what has happened. There are many voices today saying that it is a mistake to re-open the past, and that what is needed is to look forward, to draw the next generation into peace on the basis of prosperity. And certainly economic development is important. Yet in the end it will not be adequate.

To turn away from history is to turn away from countless loved ones and ancestors who have died and suffered over the decades. To build peace solely on the basis of pragmatism and self-advantage, is to carry the attitudes of a throw-away society into our human connectedness. What is needed is something more, something based on our capacities for reflection and self-criticism and human understanding. It is needed by Jews as well as Palestinians, and in the end,

it will be needed for lasting peace

GAIN U.S. LEVERAGE ON THE SETTLEMENTS

JEROME M. SEGAL

Los Angeles Times, June 18, 1990

One year ago, Secretary of State James A. Baker III called on the Israeli government to "lay aside the vision of Greater Israel, stop settlement activity and reach out to the Palestinians as neighbors who deserve political rights." The Bush Administration pressed the Shamir government to put forward a peace initiative and embraced the plan that emerged. Baker sought to lead Prime Minister Yitzhak Shamir into a process that would develop a life of its own and ultimately result in Israeli withdrawal from the West Bank and Gaza.

Shamir, a lifelong advocate of Greater Israel, has proved too agile. His new government, no longer saddled with a Labor partnership, has directly challenged the United States with a pledge to "strengthen, expand and develop" settlements in the West Bank and Gaza. It is against this policy that the United States must define its relationship to the new reality in Israel.

The issue of settlements is not merely one of many issues. It is the issue. It goes to the absolute core of the Israeli-Palestinian conflict: Who will ultimately possess the land? The new Israeli government, which rejects the land-for-peace formula of United Nations Resolution 242, is squarely set on de facto annexation of the West Bank territory that Israel has occupied since the 1967 war. This is a formula for a wider conflict with disastrous potential.

What can the United States do?

Words will not be enough. The United States has long stated its opposition to settlements. The Carter Administration branded them illegal under international law. The Reagan Administration termed them an "obstacle to peace." And the Bush Administration has consistently called on Israel to halt settlement activity. None of this has ever made much impression.

A few months ago, when Israel was seeking \$400 million in housing loan guarantees, Baker announced that Administration support would require a settlement freeze. This linkage was a major departure. But the Administration quickly retreated when it became obvious that Congress would balk.

The President is well aware of the centrality of the settlement issue; for him, the question is one of political costs and benefits. The White House cannot win in Congress on any linkage of settlement to aid unless the President is willing to wage a major campaign. If this means fighting a unified American Jewish community, the President will not do it. There was not a major Jewish organization in the country that supported Baker's effort to link settlements to aid.

In discussing this issue on Capitol Hill, it is clear that privately there is widespread sympathy for a tougher position but absolutely no willingness to take on the political firestorm that such a battle would entail. The truth is, it couldn't be won. There are no forces in American politics that could prevail against the united opposition of American Jewish organizations on the issue of aid. The irony is that most American Jews do not favor the settlements; rather, they fear that linking settlements to aid might snowball into a broad erosion of America's basic commitment to Israel.

To move forward, what is needed is a way of taking a forceful stand on settlements that is not—and will not be seen as—anti-Israel. The President should seek from Congress the authority to establish an Israeli trust fund—an account held in trust for the people of Israel—and to put into it the appropriated monies that are equivalent to what Israel spends on the expansion of settlements. This would include both direct expenditures and hidden subsidies. The effort would not be to cut aid to Israel, but rather to set some aid aside until such time as the country adopts a permanent freeze on settlement expansion.

The President might also be authorized to make disbursements from the trust fund to support the scores of dedicated Israeli organizations outside the government that promote human rights, democratic values and Arab-Israeli communication.

There is no guarantee, of course, that even this measure would produce the desired impact, but it would be a major step forward in establishing American credibility in the eyes of both Israelis and Palestinians.

As it cannot happen without at least some support from the American Jewish community, the emerging question with respect to future American policy is: To what extent will American Jews distinguish support for Israel from support for the policies of the Shamir government?

THE PLO MUST DEAL WITH THE TERRORISM ISSUE

JEROME M. SEGAL

Al-Fajr, April 1988

Let me start by saying a word about US law. It's now the law of the United States that no official or representative of the United States Government may recognize or negotiate with the PLO or representatives thereof until the PLO accepts Security Council Resolutions 242 and 338, recognizes Israel's right to exist and "renounces the use of terrorism." The law goes beyond the pledge made to Israel by former Secretary of State Kissinger in 1975. The Kissinger pledge only dealt with Resolutions 242 and 338 and Israel's right to exist. It was silent on the issue of terrorism.

In June 1987, I was part of a small delegation of American Jews that met with PLO Chairman Yasser Arafat and other PLO leaders in Tunis. One of the things we talked about were some of these conditions for US recognition of the PLO. In these discussions, it was I who insisted on talking about the issue of terrorism. We had what I thought were very constructive discussions with Chairman Arafat. These are difficult things to talk about, and certainly difficult things to talk about in public. But I am going to do that today and hope that what I say makes some sense.

First of all let me say that in those discussions with Chairman Arafat we were not representing typical Jewish or American organizations. For instance, the organization I represented, the Jewish Committee for Israeli-Palestinian Peace, is quite unusual in the American scene. For five or six years we had been actively engaged in the issue of Israeli-Palestinian peace and we have a fairly clear platform. We support a safe and secure Israel. We support a Palestinian right to self-determination, including the right to establish an independent state that would live alongside Israel. And we call upon both the United States and Israel to negotiate with any representative of the Palestinian people including the PLO. Furthermore, we have been quite actively engaged in these matters, and at the time of the meeting some of us were lobbying in the United States Congress to defeat the legislation to close the PLO office in the United States.

So we came to our discussions with Chairman Arafat from a position, I think, of some credibility. And I believe this, perhaps, made it possible for us to be taken seriously when we addressed the issue of terrorism.

A few points about terrorism in the Middle East context are in order.

- First of all, as former Israeli head of military intelligence Yehoshafat Harkabi has said, there has been a "terrorization of thought" about the Middle East. The issue of terrorism has assumed unreal proportions; it has dominated thought and prevented clear thinking from an Israeli point of view about Israel's interests and well-being.
- Terrorism has never been a major threat to the existence of Israel. The Israelis faced real threats when they were engaged in serious wars against serious armies. Terrorism has never represented that kind of threat.
- The Israeli leadership itself contains, as all of us know, individuals themselves with terrorist backgrounds. For instance, Prime Minister Shamir was a leader of the Stern Gang.

- There have been more civilian deaths among Palestinians from Israeli actions, whether terrorist or otherwise, than anything one can say in reverse. In this conflict, the Palestinians, mostly innocent civilians, have been the primary victims.
- The issue of terrorism has been manipulated and has been used to avoid talking about the main issue, which is the denial of legitimate Palestinian rights.
- And finally the whole discussion is shot through and through with double standards and hypocrisy.

All this being said, I think it remains the case that Arab-Americans, Palestinians and the PLO have to address the terrorism issue. And it has to be addressed more adequately than it has been thus far.

There is a great deal of nonsense said about terrorism. For instance it is said that “one man’s terrorist is another man’s freedom fighter.” This is nonsense. There are many ways of carrying on a fight for freedom. Not all liberation struggles employ terrorism.

Let me start with a definition. It is very hard to come up with a perfect definition of anything. As a philosopher, I know this very well. In fact one of the things we can say with some confidence is that after 2500 years of philosophy, no philosopher has ever come up with the perfect definition of anything. There is no perfect definition of terrorism, but we don’t need one.

By and large for our purposes the following seems, to me at any rate, to work fairly well. I put it this way. A terrorist act is an act “which as a way of achieving a political or military goal, purposely harms or endangers civilians who are going about the everyday business or ordinary life.”

Another way of defining something is by example. Here are some examples of terrorism:

- Attacking civilians in airports
- Hijacking buses
- Taking civilian hostages
- Air attacks targeted on civilian populations
- Rolling barrel bombs down into crowded marketplaces.

These are all fairly self-evident examples of terrorism.

Now, why is this issue central? My real belief is that, frankly, unless this issue is dealt with there is no basis for a lasting peace in the Middle East. It is possible that there will be a settlement, but ultimately I don’t think there can be a lasting settlement, a stable settlement or a lasting peace. In fact I think that the situation we are in right now is particularly dangerous because we are heading towards what is becoming essentially a war between two peoples, rather than a struggle against a particular government’s policy.

Let me approach the terrorism question from a different angle. Consider one of the other conditions the United States has set down for negotiations with the PLO, that the PLO recognize Israel’s right to exist. (And let me say immediately that I believe that Israel’s right to exist is as firm as that of any other state.) Yet I must admit that this is actually a very strange condition to find in international relations.

The United States could have required that the PLO announce a willingness to make a lasting peace with the State of Israel. Or it could have been required that the PLO explicitly

abandon any aim of destroying the State of Israel. And if the conditions had been phrased in these ways, we in the United States could have argued over whether such declarations should be preconditions for negotiations or should be the outcome of negotiations. But at least we would know what we are talking about.

But what exactly is the right to exist? Whose right is it? Is it the right of persons? Of a people? Or is it the right of states? Do states have rights to exist? This is a strange use of language. Is there any tradition in international law, moral thought, or political thought, that goes in-depth into the issue of rights of states to exist? It is a strange phrase.

Does it mean the right of a state to come into existence? Or is it the right of a state to continue to exist once it is in existence? Under what conditions does a state have that right? When does it gain that right? When does it lose that right? If the right to exist is a right to come into existence, then presumably it is a right held by non-existent potential states. How many potential states are there in the world that have that right? It's a very strange phrase and a strange idea. Basically there is no body of accepted political or moral thought that adequately grounds the demand that a right to exist be recognized; unless, of course, one understands that demand as merely a round-about way of demanding that the PLO explicitly abandon a particular objective—the objective of destroying the State of Israel.

The point is that a "right to exist" when applied to a state is an obscure notion. It's an interesting notion, and something that philosophers can play with. But it is somewhat hard to understand why such an obscure term has found its way into international diplomacy and American law.

Yet, there is another way of looking at it that tells us a great deal about what is going on, and will help us understand why the terrorism question is so important.

Six million Jews died because their right to exist was challenged as individuals. Genocide denied to the Jewish people as a whole the right to exist. These facts echo and remain a tearing wound in the consciousness of every Jew in the world. It is part of our historical memory and for many of us, our personal memory. And it will be part of the historical memory forever.

It is this right of individual persons to exist and of a people to exist which is the deep psychological grounding of talk about any state's having a right to exist.

Now what is the relation of this to terrorism and the PLO? Is it propaganda? Is it merely transplanting the Holocaust experience into a Middle Eastern context? Is it untrue to say that the right of the Jewish people in Israel to exist, as a people or as individuals, has been challenged? Perhaps.

But there is a tremendously important symbolic connection between terrorism and the Holocaust. And it must be dealt with.

Terrorism asserts the primacy of the project, of the struggle, of the cause over the everyday existence rights of ordinary people. It denies that there are any valid limits to how one wages a just fight, or pursues a just cause. It says that all means are permissible. The renunciation of terrorism is a recognition that certain kinds of means are not allowed, even in a just struggle. This is analogous to the notion of war crimes. Basically we are saying that even in war there are certain things that are not permissible.

The terrorist purposely kills ordinary people, not for anything they have done, but because killing them is deemed useful. The terrorist refuses to recognize that ordinary people have a right to exist which he is not morally permitted to deliberately violate.

For the remnants of a people who survived the Holocaust, terrorism is not a phony issue.

For Jews inside Israel and outside, it reverberates with the most traumatic events in human history.

Let me talk about the PLO position on terrorism. The PLO position is found most clearly in the Cairo Declaration on Terrorism that Chairman Arafat issued in 1985.

When I met with Chairman Arafat I discussed this Declaration. I did this for several reasons. First, as I have argued, the issue is important. But secondly, I see this as an issue on which the PLO can act. It can take some unilateral steps that will advance the Palestinian cause and speak to Jewish fear at the same time.

The terrorism issue is not a card. There is no terrorism card to be played. It is both a moral issue and an issue of common sense. Terrorism is not a help to the Palestinian cause. If anything has demonstrated this, it's been the Revolution of the Stones. It has been the decision not to employ guns in the West Bank and Gaza. It has been the demonstration that the tactics of struggle which are most removed from the taint of terrorism, are the most successful.

Now, if we look at the Cairo Declaration, we find that there are some terrific things in it that have been ignored. It contains some basic advances that many people, even people quite familiar with this issue, are not familiar with. First of all the Declaration contains a blanket condemnation of all acts of terrorism. It reads, "the PLO announces its criticism and condemnation of all acts of terrorism." This is exactly correct. It is a renunciation of terrorism. Secondly, the Declaration signaled the seriousness with which the PLO intended to approach the matter. It reads, "Beginning today, the PLO will take all measures to deter violators." This is tremendously important. It indicates that a real change was supposed to come starting in 1985 with respect to implementation of the policy. Chairman Arafat was saying that the Declaration was more than a verbal renunciation; measures would be taken to make sure that it was followed. This commitment was critical in order that the renunciation be credible.

Then the Declaration goes on to assert that the Palestinian people have a right to resist occupation. And this is valid and I have no problem with it. But then, a very problematic turn is made. In speaking about the right to resist occupation, the Declaration asserts a right to resist "by all available means." With the insertion of this phrase "all available means" the Declaration becomes contradictory. Either all acts of terrorism are condemned as the first part of the document says, or, all available means are permissible in struggling against the occupation. You cannot have it both ways. If all available means are permissible then terrorism is permissible as a means of resistance. If all acts of terrorism are condemned, then there is a limitation on permissible means even when resisting occupation.

Then the Declaration takes an even more unfortunate turn. It says "events underline the certainty that terrorist operations committed outside Palestine hurt the cause of the Palestinian people." By making this point about terrorism outside Palestine, and by failing to make a similar point about terrorism inside Palestine, the Declaration left itself open to the charge that it was saying that terrorism outside is condemned and forbidden but terrorism inside is permissible. And this, indeed, is how the Declaration has been interpreted inside of Israel and inside of the United States. It is why the Declaration basically failed as an adequate renunciation of terrorism.

Now, I made these points to Chairman Arafat. And I must say he seemed to understand very clearly exactly what I was saying. He understood the need to be more explicit and forthcoming on this issue. And he indicated that some further steps would be taken to clarify PLO opposition to all acts of terrorism. And he said more generally, something that was tremendously important and heartening, that he recognized that basically, Israeli public opinion

was the key to making progress in this struggle.

When I left Tunis, I was hopeful that some kind of response, a new statement of policy, would be forthcoming. It wasn't. But that of course wasn't the most important thing. The most important thing is that the Palestinian struggle continued to mature on the tactical level. This was especially true with the uprising. The focus on stones. The decision not to use guns. The peace ship. The fact that in response to the killing of three PLO officials in Cyprus, no retaliation was taken in Europe. It seemed as if efforts to provoke Palestinians into terrorism had failed.

But then there was the terrorist attack on the Negev bus. And since the attack to this day, (March 11, 1988) the PLO office in New York "will neither confirm nor deny the press claim that the PLO carried out that attack.

Now to me that's incredible. Almost as incredible as the attack itself. But on the other hand, it's very hopeful. It means that there is still a certain kind of potential. If this conference acts, and if some of the people here with influence act, I think it's possible to affect the official PLO position with respect to that attack, and to limit the harm that has been done.

Now, I am not going to go on much longer. I want to just say a few more things. I think we are living in very precarious times. There is a great deal of euphoria in the West Bank and Gaza. It's a teenage euphoria. I see it as something not tempered by political and historical maturity. A great deal of progress has been made but there are a lot of false illusions about what it means. I think the gains that have been made could be lost overnight. And it will happen if there is an escalation of the violence.

Ariel Sharon gets up daily in the Knesset and boasts that he knows how to end the violence and he doesn't understand what the army's problem is. An escalation of the violence will play into his hands.

There are a couple of lessons from Jewish history that are worth noting.

- One, that there is no bottom to the horrors that one people can inflict on another. Don't restrict your imagination: never believe that you have already experienced all the evil that is possible.
- And secondly, remember that the world will not save you. Don't rely on world public opinion, don't rely on public pressure, and if you are Palestinian, don't rely on the Arab states. When you face hell you are going to face it alone.

Two facts must be squarely faced:

- The first is that objectively the terrorist is the enemy of the Palestinian people. Whatever his subjective intentions are, he undermines and harms the cause. And I think at this point he is one of its most serious enemies. There has to be some recognition of this objective reality and a response to it by responsible people who care about where this cause is going.
- And secondly, it must be faced that a leadership that cannot enforce a policy against terrorism or at least totally divorce itself from acts of terrorism, will not lead the Palestinian people to self-determination. It simply will not happen.

It's late in the day to address this issue. But I believe Arab-Americans and Palestinians must speak out. You must not whisper and refuse to speak out publicly. The situation is

analogous to that faced by Jewish critics of the Israeli government. Politics is public: it has to be done publicly. What is whispered does not exist.

Imagine what the impact would have been in Israel, and what it would have been around the world, if after the attack on the Negev bus, for 24 hours, no stones were thrown and instead the Palestinian youth had marched silently under the banner, “Terrorism Is Not Our Way.”

I call on you and I call on the Anti-Discrimination Committee, as soon as possible, before this convention is out, to condemn terrorism. Set it in context, condemn the Israelis for what they are doing, but condemn terrorism and condemn the attack on the Negev bus.