

AFTER OSLO: RETHINKING THE TWO-STATE SOLUTION

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EXECUTIVE SUMMARY

With the Oslo peace process effectively dead, prospects for a two-state solution to the Israeli-Palestinian issue may soon follow suit. Although territorial partition remains theoretically possible, the success of Israel's settlement enterprise along with the Palestinian Authority's continued decline and possible collapse threaten to eliminate chances for a viable Palestinian state once and for all. Moreover, the precarious political consensus that has helped to keep the two-state solution alive within Israeli, Palestinian, and even American politics for nearly two decades is now collapsing on all sides. Given the likely demise of the traditional partition model, the time has come to begin looking seriously at the full range of potential solutions—as distinct from outcomes—including confederation and even binationalism.

While the option of a single state (one person, one vote) may be ideal from an egalitarian point of view, given Israeli opposition and the persistence of two distinct national movements, it remains, at present, nonviable. Confederation models are useful in that they allow both peoples to exercise self-determination and national self-expression without physical or territorial separation. Despite the various practical and theoretical shortcomings of confederation, its real value may be less as an alternative to the two-state solution than in providing new ways of thinking about two states—by expanding the universe of possible options and negotiating tools available to the two sides. Given the highly inequitable and unsustainable nature of the current one-state reality and dwindling prospects for a traditional two-state solution, it would be irresponsible not to explore the full range of potential solutions.

INTRODUCTION

The Israeli-Palestinian peace process is dead—not “comatose” or on “life support,” just plain dead. Indeed, the Oslo process that began in 1993 had already exhausted itself before President Donald Trump's arrival in the White House in January 2017. Trump's decision in December 2017 to recognize Jerusalem as Israel's capital, overturning seven decades of U.S. policy and international consensus, was merely the fatal blow in a process that had been dying a slow death for more than a decade. The question now is whether the death of the

peace process also portends the demise of a two-state solution and, if so, what alternatives there might be. For nearly two decades, the conventional wisdom in Washington and most of the international community has held that peace between Israelis and Palestinians could only be achieved through the creation of two independent states, Israel and Palestine, living side by side in peace and security. However, physical as well as political developments over that time period have all but foreclosed the possibility of a clean territorial division of the land. The likely demise of the traditional partition model

makes it imperative to begin exploring alternative solutions, including rethinking some of our basic assumptions regarding borders, sovereignty, and citizenship.

COLLAPSING PILLARS

The broad contours of a two-state solution have been known since President Bill Clinton laid out his parameters for a permanent status agreement in December 2000. The Clinton Parameters envisioned an independent Palestinian state based on the 1967 borders encompassing all of Gaza and roughly 95 percent of the West Bank, plus mutually agreed upon land swaps, including a sovereign Palestinian capital in East Jerusalem.¹ Sovereignty over the highly contentious Al-Aqsa Mosque/Temple Mount compound would be divided between Palestine and Israel. Only a limited number of Palestinian refugees would be allowed to return to Israel with the bulk being resettled in the Palestinian state. Subsequent negotiating rounds—in 2001, 2008, and 2013–14—were more or less in line with these principles. Although a two-state solution remains theoretically possible, the practical and political pillars of the classic two-state model have collapsed or are collapsing.

This is mainly due to the enormous success of Israel's settlement enterprise. On the eve of the 1993 Oslo Accords, there were roughly 250,000 Israeli settlers living beyond the Green Line. After a quarter century of “peace processing,” that number now stands at more than 640,000. Roughly two-thirds of the Israeli settler population is concentrated in and around East Jerusalem. While such physical realities are theoretically reversible, in the absence of meaningful American or international pressure, Israeli leaders have little or no incentive to remove upward of 150,000 Israeli settlers from the West Bank or transfer parts of Jerusalem to Palestinian

sovereignty—the minimum requirements for a viable and contiguous Palestinian state. Indeed, the domestic political and financial costs for any Israeli leader or government that attempted to do so would be more or less prohibitive.

At the same time, the future of the Palestinian Authority (PA), the most tangible expression of a future Palestinian state, looks bleaker than ever. The PA has been plagued by a precipitous drop in international donor aid, which now stands at nearly half of what it was in 2013, along with a budget deficit of around \$800 million.² Adding to the PA's financial woes, Congress has enacted further aid cuts that could eliminate roughly half of the \$215 million in economic assistance to the Palestinians.³ Meanwhile, the 11-year-old division between Mahmoud Abbas' Fatah-dominated government in the West Bank and the Hamas-ruled Gaza Strip has paralyzed Palestinian institutional politics, eroded the legitimacy of the Palestinian leadership, and added a new layer of instability to an already volatile conflict. Since the 2007 split, the PA has had no functioning parliament or even a meaningful political opposition to answer to, leaving President Abbas to rule by decree. As his sphere of control continues to shrink both physically and politically, Abbas has grown increasingly authoritarian and paranoid, jailing critics and lashing out at would-be rivals and challengers, both real and imagined.

While the international community remains officially wedded to a two-state solution, the issue has taken a backseat to other priorities like the Syrian civil war, the global refugee crisis, and the threat posed by Iran and its allies. This applies to many of Washington's Arab allies like Saudi Arabia as well, for whom the Palestinian issue no longer seems to be a pressing priority or is an impediment to security and economic ties with Israel.

1 Bill Clinton, “The Clinton Parameters: Clinton Proposal on Israeli-Palestinian Peace,” (meeting minutes, Washington, DC, December 23, 2000), http://ecf.org.il/media_items/568.

2 Juha Kahkonen and Yan Sun, “West Bank and Gaza,” (Washington, DC: International Monetary Fund, March 2018), <http://www.imf.org/~media/Files/Publications/CR/2018/west-bank-and-gaza-030918-report-to-ahlc.ashx>; Gregg Carlstrom, “How Israel Won the War and Defeated the Palestinian Dream,” *Newsweek*, August 29, 2017, <http://www.newsweek.com/israel-palestinians-war-occupation-gaza-west-bank-trump-kushner-abbas-two-656304>.

3 Michael Wilner, “Palestinians Slam Congress's Passage of Taylor Force Act,” *Jerusalem Post*, March 24, 2018, <https://www.jpost.com/American-Politics/Palestinians-slam-Congresss-passage-of-Taylor-Force-Act-546958>.

Meanwhile, the precarious political consensus that has kept the two-state solution afloat since the 1990s is already collapsing on all sides. In Israel, a majority of Prime Minister Benjamin Netanyahu's ruling coalition openly opposes the creation of a sovereign Palestinian state in the West Bank and Gaza Strip, while Israel's parliament, the Knesset, seems to be inching toward annexation.⁴ While polls still show a plurality of Israelis support the goal of two states, the Israeli public is more concerned with economic matters and external threats from Iran than with resolution of the Palestinian issue.⁵

Even in the occupied territories, the Palestinian constituency that has traditionally been the most supportive of an independent state in the West Bank and Gaza, a slim majority of Palestinians now opposes a two-state solution.⁶ A growing number of Palestinians, particularly those who came of age during the Oslo years, are abandoning the goal of an independent state in favor of a struggle for equal rights in a single state. Among those who have lost faith in the "Oslo generation" is Tareq Abbas, the son of the Palestinian president. "If you don't want to give me independence, at least give me civil rights," the younger Abbas told *The New York Times*. "That's an easier way, peaceful way. I don't want to throw anything, I don't want to hate anybody, I don't want to shoot anybody. I want to be under the law."⁷

In Washington, support for a two-state solution is no longer a matter of bipartisan consensus. "So I'm looking at two-state and one-state, and I like the one that both parties like," President Trump told journalists assembled in the Oval Office during a press briefing with Netanyahu a few weeks into his presidency.⁸ While many saw it as a throw-away line or a sign of the president's steep learning curve, Trump's Jerusalem declaration and other policies suggest there is more to it. While previous American administrations had steadily chipped away at the basic principles undergirding the peace process, including U.N. Security Council Resolution 242 and the "land for peace" formula, the Trump administration has been less shy about tipping the scales in Israel's favor and more explicit in attempts to rewrite the basic ground rules of the peace process.

In addition to taking Jerusalem "off the table,"⁹ Trump has yet to express unambiguous support for Palestinian statehood or for ending Israel's occupation, as each of the last three U.S. presidents have done. The Trump administration has instead said that the United States would support a two-state solution "if agreed to by both sides,"¹⁰ thus giving Israel a veto over whether Washington should support an independent Palestinian state—a major shift in U.S. policy. Meanwhile, leaked details of the administration's much-anticipated peace

4 Luke Baker, "Netanyahu non-committal on Palestinian Statehood as he heads to U.S.," *Reuters*, February 13, 2017, <https://www.reuters.com/article/us-usa-trump-israel-idUSKBN15S188>; Jonathan Lis, "Netanyahu Blocks Settlement Annexation Bill From Coming to a Vote," *Haaretz*, February 12, 2018, <https://www.haaretz.com/israel-news/netanyahu-blocks-settlement-annexation-bill-from-coming-to-a-vote-1.5809143>.

5 "Palestinian-Israeli Pulse: A Joint Poll," (Tel Aviv, Israel and Ramallah, West Bank: Tami Steinmetz Center for Peace Research and Palestinian Center for Policy and Survey Research, August 2017), <http://www.pcpsr.org/en/node/696>.

6 "Public Opinion Poll No-67," (Ramallah, West Bank: Palestinian Center for Policy and Survey Research, April 2018), <http://www.pcpsr.org/en/node/725>.

7 Jodi Rudoren, "A Divide Among Palestinians on a Two-State Solution," *The New York Times*, March 18, 2014, <https://www.nytimes.com/2014/03/19/world/middleeast/a-divide-among-palestinians-on-a-two-state-solution.html>.

8 Donald Trump and Benjamin Netanyahu, "Remarks by President Trump and Prime Minister Netanyahu of Israel in Joint Press Conference," (press conference, Washington, DC, February 15, 2017), <https://www.whitehouse.gov/briefings-statements/remarks-president-trump-prime-minister-netanyahu-israel-joint-press-conference/>.

9 Donald Trump (@realDonaldTrump), "...peace treaty with Israel. We have taken Jerusalem, the toughest part of the negotiation, off the table, but Israel, for that, would have had to pay more. But with the Palestinians no longer willing to talk peace, why should we make any of these massive future payments to them?" Twitter, January 2, 2018, <https://twitter.com/realdonaldtrump/status/948322497602220032?lang=en>.

10 Donald Trump, "Statement by President Trump on Jerusalem," (speech, Washington, DC, December 6, 2017), <https://www.whitehouse.gov/briefings-statements/statement-president-trump-jerusalem/>.

plan point to something much less than a fully sovereign Palestinian state.¹¹ The decision by the State Department to drop references to the West Bank and Gaza Strip as “occupied territories” from its annual human rights report suggests that occupation denial is coming alarmingly close to being normalized at the official level.¹² For its part, the Republican Party expunged references to a two-state solution from its 2016 platform while declaring that it “reject[s] the false notion that Israel is an occupier.”¹³ Despite the growing prevalence of such views, the discourse of occupation denial and Israeli triumphalism that seems to have taken hold on both the Israeli and American right fails to address the political and demographic realities on the ground, and may ultimately prove to be equally problematic for Israel.¹⁴

Today, only one state—Israel—controls all of the territory between the Mediterranean Sea and the Jordan River, with a population that is more or less evenly divided between Arabs and Jews. On one side are roughly 6.5 million Israeli Jews with full citizenship rights living on both sides of the 1967 line, and on the other an almost equal number of Palestinian Arabs with varying degrees of legal and political rights.¹⁵ The latter includes approximately 1.5 million Palestinian citizens of Israel who face institutional discrimination in various facets of life.¹⁶ Around 350,000 Palestinians in occupied

East Jerusalem live as de facto residents of Israel but without formal citizenship rights.¹⁷ Another 2.7 million Palestinians live under the jurisdiction of the Palestinian Authority in roughly 39 percent of the West Bank.¹⁸ At the bottom of the totem pole are roughly 2 million Palestinians in the Gaza Strip, which despite being governed by the Palestinian militant group Hamas, is still under Israel’s effective control and whose movement in and out of the impoverished coastal enclave remains severely restricted.¹⁹ Indeed, if the West Bank and Gaza are not occupied, the only other way to understand Israel’s continued control over millions of people while denying them basic citizenship rights would be as a form of apartheid.

EVALUATING POSSIBLE SCENARIOS

General observations and criteria

In thinking about the range of possible scenarios and options, it is important to bear in mind a few basic principles. The first is the critical distinction between outcomes and solutions, as such. That there is international consensus on the need for a two-state solution does not change the fact that Israelis and Palestinians live in a one-state reality. Secondly, power dynamics matter. Israel has the ability to shape or impose outcomes in ways that Palestinians do not. How viable or sustainable such unilaterally imposed outcomes may be is, of

11 Anne Barnard, David M. Halbfinger, and Peter Baker, “Talk of a Peace Plan That Snubs Palestinians Roils Middle East,” *The New York Times*, December 3, 2017, <https://www.nytimes.com/2017/12/03/world/middleeast/palestinian-saudi-peace-plan.html>.

12 Amir Tibon, “Under Trump, U.S. Human Rights Report No Longer Calls West Bank ‘Occupied,’” *Haaretz*, April 21, 2018, <https://www.haaretz.com/us-news/.premium-under-trump-u-s-no-longer-calls-west-bank-occupied-1.6013432>.

13 “Republican Platform 2016,” (Washington, DC: Republican National Convention, 2016), https://prod-cdn-static.gop.com/media/documents/DRAFT_12_FINAL%5b1%5d-ben_1468872234.pdf.

14 Jerome S. Kaufman, “A Long Overdue Solution to the Perennial Israeli-Arab Conflict,” *Israel Commentary*, May 7, 2017, <http://israel-commentary.org/tag/palestinians-will-have-to-pass-through-the-bitter-crucible-of-defeat/>.

15 “Israel in Figures: Selected Data From the Statistical Abstract of Israel,” (Givat Shaul, Jerusalem: The Central Bureau of Statistics, 2017), http://www.cbs.gov.il/www/publications/isr_in_n17e.pdf; Yotam Berger, “Figures Presented by Army Show More Arabs Than Jews Live in Israel, West Bank and Gaza,” *Haaretz*, March 26, 2018, <https://www.haaretz.com/israel-news/army-presents-figures-showing-arab-majority-in-israel-territories-1.5940676>.

16 “Arab Minority Rights,” The Association for Civil Rights in Israel, <https://www.acri.org.il/en/category/arab-citizens-of-israel/arab-minority-rights/>.

17 “East Jerusalem: Fact and Figures 2017,” (Tel Aviv, Israel: The Association for Civil Rights in Israel, May 2017), <https://www.acri.org.il/en/wp-content/uploads/2017/05/Facts-and-Figures-2017-1.pdf>.

18 “Indicators,” Palestinian Central Bureau of Statistics, State of Palestine, http://www.pcbs.gov.ps/site/lang_en/881/default.aspx#Population.

19 “UN: We still consider Gaza ‘occupied,’” January 19, 2012, video, <https://www.youtube.com/watch?v=KYEjDR6Xpgo>.

course, another matter. In broad terms, therefore, a solution is an outcome that is deemed acceptable to both sides of the conflict and that is reasonably equitable in nature—that is, one that is not premised on the domination, subjugation, or expulsion of one group by another. In other words, an equitable solution necessarily is one that affords the right of self-determination to all people in the Holy Land, whether Jews or Arabs, regardless of the political or demographic configuration. Ideally, since neither Israeli nor Palestinian societies are as of yet post-nationalist in orientation, such a solution should also allow (or at least not deny) Israelis and Palestinians a measure of national self-expression. Finally, a solution should be reasonably sustainable over time—that is, not likely to induce a desire by the disadvantaged side to overturn it. The defining feature of any outcome or solution is sovereignty—in terms of which party exercises it and where, and whether it is on a de facto or a de jure basis.

Non-solution outcomes

Despite the protracted nature of Israel’s occupation, now more than half a century old, the prospect of Israel maintaining permanent or indefinite control over millions of stateless Palestinians while denying them citizenship and other basic rights is a recipe for continued conflict and instability and is ultimately unsustainable. In his valedictory speech, former Secretary of State John Kerry summed up the dilemma facing the two countries: “How does Israel reconcile a permanent occupation with its democratic ideals? How does the U.S. continue to defend that and still live up to our own democratic ideals? Nobody has ever provided good answers to those questions because there aren’t any.”²⁰

This dilemma has led some on the Israeli center/left to propose partial remedies, such as a unilateral evacuation from portions of the West Bank, similar

to Israel’s “disengagement” from Gaza in 2005.²¹ Under such a scenario, Israel would retain overall security control over the West Bank, including its borders and natural resources. However, the Gaza experience proved to be traumatic for both sides. From Israel’s standpoint, a unilateral evacuation, even one that is coordinated with the PA, promises considerable pain while offering very little gain. A decision to evacuate tens of thousands of settlers from lands many Israelis regard as the biblical heartland would meet stiff resistance from pro-settlement elements in the Knesset and could well bring down any Israeli government that attempts it. Such a scenario also provides no guarantee that evacuated areas would not be used as a launching ground for attacks on Israelis. Such a plan would have even less appeal for Palestinians, for whom the prospect of expanding PA jurisdiction by a few square kilometers is unlikely to offset the risks to their strategic interests: consolidating Israel’s de facto annexation of the major settlement blocs and the Jordan Valley while further isolating Palestinian East Jerusalem, most likely permanently. In any event, separation without a division of sovereignty, or attempting to give up responsibility for the Palestinian population without relinquishing control, amounts to a variation of the status quo.

Annexation of parts of the West Bank is another scenario that seems to be gaining ground among Israelis, though it is equally fraught with complications for Israel. Israeli education minister and leader of the pro-settlement Jewish Home Party, Naftali Bennett, has called for annexing Israeli settlements and up to 60 percent of the West Bank.²² The remaining areas, made up of disconnected pockets under Palestinian jurisdiction, would remain under overall Israeli control. It is unclear whether the roughly 250,000-300,000 Palestinians now living in the areas would

20 John Kerry, “Speech on Israeli Settlements,” (speech, Washington, DC, December 28, 2017), <http://time.com/4619064/john-kerrys-speech-israel-transcript/>.

21 Ari Rusila, “Constructive Unilateralism: Leftist Approach to Israel-Palestine Conflict,” *Peace and Collaborative Development Network*, September 16, 2015, <https://pcdnetwork.org/blogs/constructive-unilateralism-leftist-approach-to-israel-palestine-conflict/>.

22 Jeremy Sharon, “Bennett: We Will Annex ma’aleh Adumm First And Then All of Area C,” *Jerusalem Post*, January 2, 2017, <https://www.jpost.com/Arab-Israeli-Conflict/Bennett-We-will-annex-Maaleh-Adumim-first-and-then-the-rest-of-Area-C-477236>.

be granted full Israeli citizenship or something more akin to the separate and unequal status of Palestinians in East Jerusalem. Either way, the “bantustanization” of the West Bank would likely only fuel parallels with apartheid South Africa.

POSSIBLE SOLUTIONS

Partition

Dividing the Holy Land into two sovereign states, which theoretically satisfies both groups’ desire for self-determination and national self-expression, has long been the preferred option in the wider international community, dating back to the 1937 Peel Commission.²³ It has also been the most elusive. Despite the existence of a broad international consensus around the goal of creating two states based on the 1967 borders, in accordance with U.N. Security Council Resolution 242, repeated attempts to negotiate such an outcome have consistently come up short. While many have come to think of the partition model as one in which each side gets “half a loaf,” the parties—or at least influential constituencies among them—have been more inclined to view it as negotiating over “half a baby.” The only other basis for territorial division with any grounding in international law would be United Nations General Assembly Resolution 181, the 1947 Partition Plan, although neither side seems inclined to reopen this file at the present time.²⁴

One state with equal rights

At the other end of the sovereignty spectrum is the option of a single state with equal citizenship rights for both Israeli Jews and Palestinian Arabs. The idea of binationalism is less alien than it seems. The original “Jewish state” envisioned by the U.N. Partition Plan in 1947 included nearly equal numbers of Arabs and Jews.²⁵ The Israeli military regime that governed the country’s Arab citizens until 1966 also provides a precedent for the transition from military rule to enfranchisement of Palestinians within its borders. Moreover, with Arabs today comprising a fifth of its population, Israel is in many respects already a binational state—even as its politics are becoming increasingly exclusionary and illiberal.²⁶

Despite its egalitarian nature, however, the one-person-one-vote model is not politically viable, at least at present. While it would allow both Jews and Arabs the right to self-determination, it is difficult to see how a one-state solution would overcome the competing (and often mutually exclusive) nature of their respective nationalist narratives. The vast majority of Israeli Jews continue to oppose the integration and enfranchisement of millions of Palestinians, which would effectively end the Jewish character of the state.²⁷ Among Palestinians, the most prominent advocates for a one-state solution have traditionally been found in the diaspora, an important Palestinian constituency, but one which has never had a stake in either the Oslo process or in the two-state model.²⁸ Although growing

23 League of Nations, Report of the Palestine Royal Commission (Peel Commission), C.495.M.336.1937.VI., (November 30, 1937), <https://unispal.un.org/DPA/DPR/unispal.nsf/561c6ee353d740fb8525607d00581829/08e38a718201458b052565700072b358?OpenDocument>.

24 “The Plan of Partition and end of the British Mandate,” in *The Question of Palestine: Brochure* DPI/2517/Rev.1, (Geneva: The United Nations Department of Public Information, March 2003), 9-15, <http://www.un.org/Depts/dpi/palestine/ch2.pdf>.

25 United Nations Conciliation Commission for Palestine, “Historical Survey of Efforts of the United Nations Conciliation Commission for Palestine to Secure the Implementation of Paragraph 11 of General Assembly Resolution 194 (III),” A/AC.25/W/81/Rev.2, (October 2, 1961), <https://unispal.un.org/DPA/DPR/unispal.nsf/0/3E61557F8DE6781A052565910073E819>.

26 Jacob Kennedy, “Israel’s Increasingly Illiberal Politics,” *International Affairs Review*, October 5, 2016, <http://www.iar-gwu.org/content/israel%E2%80%99s-increasingly-illiberal-politics>.

27 Gil Hoffman, “Huge Majority Opposes One-State Solution Between Israel, Palestinians,” *Jerusalem Post*, February 16, 2017, <https://www.jpost.com/Arab-Israeli-Conflict/Huge-majority-opposes-one-state-solution-481801>.

28 Yousef Munayyer, “Let’s Talk About a One-State Solution Where Israelis and Palestinians are Equal,” *Time*, February 17, 2017, <http://time.com/4675067/israel-palestinians-one-state-solution-trump/>.

numbers of Palestinians in the occupied territories are embracing the idea as well, there is not yet an organized political movement or actor pushing in that direction on the Palestinian scene. This may have to do with the fragmented nature of Palestinian politics writ large, and thus could very well change in the coming years. For the time being, however, even Hamas, which has a long history of violent opposition to the Oslo process and which rejects any recognition of Israel, has steadily come to terms with a Palestinian state in the West Bank, East Jerusalem, and Gaza Strip.²⁹

Confederation

There is another set of options that may offer a reasonably equitable solution to the conflict, but which has largely been overlooked by American policymakers. The idea of some form of shared sovereignty, or confederation, offers a potential way around some of the most difficult challenges posed by either hard partition or strict binationalism. The basic idea behind confederation is that it is possible to divide sovereignty in the Holy Land without physical or territorial separation. The key to such confederal models, such as the Israeli-Palestinian Creative Regional Initiative's (IPCRI) "Two States in One Space" proposal or the "Two States, One Homeland" project, rests on the concept of creating open borders between Israel and Palestine in which citizens of both states enjoy full freedom of movement, and even residency, in the whole of the land between the River and the Sea.³⁰

The main advantage of the confederation approach lies in its recognition that both peoples, Israelis and Palestinians, continue to maintain an attachment to both sides of the 1967 border. Confederation also opens up the possibility of new solutions to some of the most intractable issues of the conflict.³¹ For one, Palestinian refugees wishing to return to their former homes or villages could live in Israel as legal residents while gaining citizenship in a Palestinian state in the West Bank and Gaza, thus fulfilling their dream of return without altering Israel's demographic balance. The prospect of open borders would also allow some settlers (for example in highly disruptive settlements like Maale Adumim or Ariel) to reside in a Palestinian state while maintaining their citizenship in and access to Israel, thus reducing the political and financial costs associated with a largescale evacuation by Israel while minimizing damage to the contiguity of Palestinian state. The idea of open borders also helps to avoid many of the practical problems arising from a territorial division of Jerusalem, particularly in the highly contentious Old City and its surroundings.

Once again, there are precedents from which to draw. For instance, the 1947 partition plan, the original two-state solution, envisioned a territorial division "with economic union."³² Similarly, during the Taba negotiations of 2001, the two sides discussed the option of an open city in Jerusalem, although they had different definitions of what that would mean.³³ Indeed, the status quo of a Palestinian Authority operating under indefinite Israeli occupation is itself a mixed model of sorts—albeit on a highly inequitable and unsustainable basis.

29 See, for instance, "Hamas accepts Palestinian state with 1967 borders," *Al Jazeera*, May 2, 2017, <https://www.aljazeera.com/news/2017/05/hamas-accepts-palestinian-state-1967-borders-170501114309725.html>; Eyder Peralta, "Hamas Foreign Minister: We Accept Two-State Solution With '67 Borders," *NPR*, May 17, 2011, <https://www.npr.org/sections/thetwo-way/2011/05/24/136403918/hamas-foreign-minister-we-accept-two-state-solution-with-67-borders>.

30 "Two States in One Space: A New Proposed Framework for Resolving the Israeli-Palestinian Conflict," (Jerusalem: Israel Palestine Creative Regional Initiatives, November 2014), https://issuu.com/ipcri/docs/two_states_in_one_space; "Two States One Homeland, Together and Separate: One Land, Two States New Horizons for peace between Israelis and Palestinians," *A Land for All*, <http://www.alandforall.org/en>.

31 See, for example, Omar M. Dajani, "Divorce without Separation? Reimagining the Two-State Solution," *Ethnopolitics* 15, no. 4 (August 2016): 366-379, <https://www.tandfonline.com/doi/abs/10.1080/17449057.2016.1210347?journalCode=reno20>; Dahlia Scheindlin and Dov Waxman, "Confederalism: A Third Way for Israel-Palestine," *The Washington Quarterly* 39, no. 4 (Spring 2016): 84-94, <https://www.tandfonline.com/doi/abs/10.1080/0163660X.2016.1170482>.

32 U.N. General Assembly, Resolution 181 (II), Future Government of Palestine, A/RES/181(II), (November 28, 1947), <https://unispal.un.org/DPA/DPR/unispal.nsf/0/7FOAF2BD897689B785256C330061D253>.

33 "The Taba Negotiations (January 2001)," *Journal of Palestine Studies* 31, no. 3 (Spring 2002): 79-89, <http://www.jstor.org/stable/pdf/10.1525/jps.2002.31.3.79.pdf>.

To be sure, the challenges and shortcomings associated with confederal models are not insignificant. With many more “moving parts” to connect, confederation would be considerably messier and more difficult to negotiate than either the traditional two-state or one-state models. In addition, confederation assumes a much greater level of trust and goodwill between the parties than presently exists. Indeed, the prospect of allowing Israeli settlers to remain in their present locations raises difficult challenges for both sides. Israelis would be reluctant to entrust the safety of their citizens to any Palestinian government; likewise, Palestinians would have a hard time legitimizing Israeli settlers and settlements, whose presence was established through coercive means and very often on confiscated Palestinian land. In the end, the question of how to manage security, which would require even more intensive cooperation than exists today under the Oslo framework, particularly in light of the massive power asymmetry between the two sides, may pose the biggest challenge in finding a workable confederation model.

In the end, the real value of confederal models may be less as an alternative to the two-state solution than in providing new ways of thinking about two states. Despite its many shortcomings, confederation can help expand the range of possible options and negotiating tools available to the two sides—particularly at a time when physical realities have all but foreclosed the classic two-state model and political conditions do not yet allow for an egalitarian, one-state option. Wherever one stands on the conflict or how best to resolve it, there is little doubt that the traditional Oslo framework that has guided American and international policy for the last quarter century has become obsolete. In addition to engaging in a full and frank discussion on how and why the peace process failed, it is high time for U.S. policymakers and the broader international community to begin exploring the full range of possible solutions, including binationalism and confederation.

While it may be hard to imagine a political environment in which either of these options becomes politically viable, it was not so long ago that the same could be said of the two-state solution. Indeed, with prospects for a traditional two-state solution growing dimmer by the day, it would be irresponsible not to.

Indeed, the more we insist on framing the debate in strict binary terms as a choice between partition and binationalism, the more attractive the latter will seem as an alternative solution. In other words, in order to salvage the possibility of a two-state solution we may first need to abandon it on some level.

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