The End of a Two-State Settlement?

Alternatives and Priorities for Settling the Israeli-Palestinian Conflict
Muriel Asseburg and Jan Busse

On the occasion of their joint government consultations in February 2016, Prime Minister Benjamin Netanyahu and Chancellor Angela Merkel stressed that this was not the time for making major progress in the Israeli-Palestinian peace process, given the instability in the Middle East. However, merely adhering to a two-state settlement as a mantra without taking any concrete steps to implement it effectively reinforces the one-state reality under Israeli dominance. Ultimately, this will make settling the conflict impossible. Popular support for a two-state solution is waning on both sides. While at present alternative one-state or confederate models have even slimmer chances of being realized, Germany and the EU should nevertheless explore the creative and constructive aspects of these models, which would enable the two sides to maintain their national identities as well as realize their individual and collective rights. Their priority, however, should be to alter the cost-benefit calculation of the parties to the conflict, so as to generate the political will for bringing about a settlement at all.

Since the 1947 UN partition resolution, large parts of the international community as well as the most important representatives of the parties to the conflict and their populations have come to adopt the two-state paradigm as their preferred option for lastingly settling the Israeli-Palestinian conflict. The UN Security Council explicitly confirmed this approach in its Resolution 1397 of March 2002.

The cornerstones of a two-state settlement have long been defined. US President Barack Obama formulated them in his first speech to the UN General Assembly in September 2009; the E3 (Germany, France, United Kingdom) presented them to the UN Security Council in February 2011. They comprise a territorial settlement on the basis of the 1967 borders, with agreed land swaps; security arrangements that take into account the needs of both sides; a solution to the refugee issue that is both just and acceptable to the conflict parties and the main host nations; and Jerusalem as the capital of both states. The 1993 Israeli-Palestinian Declaration of Principles (or Oslo I) were a decisive step in that the Palestine Liberation Organisation (PLO) formally recognized the State of Israel. In turn, Israel formally recognized not a Palestinian state, but at least the PLO – and thus the Palestinians' right to self-determination. Since

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then, Israeli-Palestinian negotiations and unofficial talks have worked out detailed approaches for settling all areas of conflict.

Yet today, the positions of the parties are far apart on all final-status issues – noticeably further apart than in previous negotiations. Under international pressure, Prime Minister Netanyahu did commit in principle to a two-state solution in a 2009 speech at Bar Ilan University. In his 2015 electoral campaign, however, he explicitly promised his voters that no Palestinian State would be created during his mandate. His government has yet to commit itself to a two-state approach; several ministers reject it explicitly and demand Israeli sovereignty over at least parts of the occupied Palestinian territories. They put forward not only security reasons, but also historically and religiously based claims to "Judea and Samaria".

By contrast, the leadership in Ramallah has adhered to its quest for Palestinian statehood and the two-state approach. Whenever Palestinian politicians have referred to dissolving the Palestinian Authority (PA) and instead campaigning for equal citizens' rights in one state, should no progress be made in the peace process, this has merely been a threatening gesture. Even so, like their Israeli counterparts, they no longer expect bilateral negotiations to lead to an acceptable conflict settlement. Both conflict parties therefore rely first and foremost on unilateral steps to realize their respective interests and only maintain a minimum level of cooperation in managing the conflict.

Consolidation of a one-state reality

Meanwhile, a one-state reality has long taken shape in the area of the former British Mandate of Palestine (for details see *SWP Comments 21/2014*). Israel might only have annexed a part of the Palestinian territories that it occupies – East Jerusalem – but it also has extensive control over the rest. The foundations for this situation were laid in the Oslo Accords of 1993 to 1995, despite

the fact that these were only meant to be valid for a five-year interim period leading to an independent Palestinian State. The Accords essentially limit the PA to self-adminsitration and keeping internal order in the largely unconnected Areas A and B (enclaves totalling around 38 percent of the West Bank). Since the Second Intifada, Israel has also reserved the right to carry out its own military operations and arrests in Area A. In Area C of the West Bank (around 62 percent), the Accords provide for extensive Israeli control over security; civil order; and construction as well as land and resource use (see also the map in UNOCHA, *Humanitarian Atlas 2015*, http:// www.ochaopt.org/documents/atlas_2015_ web.pdf, p. 4). At the same time, the Oslo Accords give Israel control over the Palestinian territories' air space and sea and land borders during the interim period. This is still the case today. Israel only gave up control over the border between the Gaza Strip and Egypt in mid-2007. Last but not least, the Oslo Accords cemented Israel's dominance over Jerusalem and the Palestinian economy, especially trade, currency and access to resources.

Moreover, throughout the Oslo process all Israeli governments – regardless of their political affiliations – forged ahead with building settlements in the Palestinian territories. In summer 2005, the Sharon government only evacuated the settlements in the resource-poor and ideologically insignificant Gaza Strip – which is not considered part of the historic homeland of the Jewish people. As a result, around 350,000 settlers now live in about 125 settlements among some 2.89 million Palestinians in the West Bank. In East Jerusalem, there are some 200,000 settlers in 12 settlements. An additional 10,000 settlers live in about 100 outposts. These are illegal under Israeli law as well, but they are increasingly legalized retroactively, removed only temporarily, or else rebuilt on a different site after being removed.

A complex system has thus evolved between the Mediterranean Sea and the river

Jordan, under which inhabitants enjoy – or are deprived of – different rights depending on their citizenship, place of residence (Israel, West Bank, Gaza Strip, East Jerusalem) and ethno-religious identity. Today, the area controlled by Israel no longer has a Jewish majority. Of the around 12.6 million people living there, around 6.2 million are Jews and 6.3 million Arabs (Palestinians and other Arab minorities). In the coming years, demographics are likely to change further in favour of the Arab share, especially as large waves of Jewish immigration, as were seen in the 1980s and 1990s, are not to be expected.

Waning support

A two-state settlement is becoming increasingly unlikely. The financial and political costs of implementing it rise with every settlement unit needing to be demolished and with every settler needing to be evacuated and compensated. At the same time, the occupation and the construction of settlements are increasingly fragmenting the Palestinian territories – and thus the territory that would be available for a Palestinian state. Other factors contribute to the problem: the construction of settlement infrastructure and the separation barrier; the isolation of East Jerusalem and the blockade of the Gaza Strip; and a complex system of checkpoints, separated streets and permits. In addition, the split between Fatah in the West Bank and Hamas in the Gaza Strip, which has led to the creation of two government and security apparatuses and two legal systems, is endangering the creation of *one single* Palestinian state.

As a result, populations in Israel and the Palestinian areas have increasingly abandoned the two-state approach. While this formula enjoyed majority support among both the Israeli and Palestinian populations in polls from the mid-2000s onwards, support has noticeably waned in both societies since then. According to the Palestinian Center for Policy and Survey Research (PCPSR), in December 2014 a two-

state settlement was rejected by a majority (51 percent) of the Palestinians surveyed for the first time. By December 2015, the rejection rate had reached 54 percent. In addition, two-thirds of those surveyed no longer thought the approach viable because of settlement construction. The same trend has been shown among the Israeli population. According to a poll by the Harry S. Truman Institute of the Hebrew University in Jerusalem, support in Israel for a two-state settlement stood at 51 percent in June 2015. A year earlier, it had been at 62 percent. Clearly, many Israelis share the assessment that a two-state settlement is no longer realistic. They also do not expect it to bring about peace.

In both societies, frustration over the failure of the peace process is also accompanied by seeing one's own side (only) as a victim, by demonizing the other side, by becoming increasingly radical and by endorsing violence. This finds expression in concrete acts of violence, such as the (knife) attacks by Palestinian perpetrators and the so-called price-tag attacks by Israeli settlers (attacks meant to signal that measures running contrary to settler interests have a price). Around 30 Israelis and 150 Palestinians have died in the latest escalation of violence from October 2015 to the end of March 2016. Even though this escalation – described by many observers as a "third intifada" – has so far not assumed the shape of an organized uprising, the lack of a political horizon (US-mediated talks broke down in April 2014) is jeopardising the conflict management agreed upon in Oslo.

Radicalisation has been acompanied by an erosion of democratic values. According to the Israel Democracy Institute, in 2015 a quarter of the Jewish Israelis polled rejected equal rights for non-Jewish Israelis. Almost 40 percent saw a strong leader who was not subject to democratic controls as the solution to Israel's problems. In the Palestinian territories, the decreasing popularity of the leaderships in both Gaza and Ramallah (not least because of the lack of progress made in ending the occupation) has prompted

further restrictions on political freedoms. In any case, the Palestinian political system is democratic in name only (even if one discounts the occupation). At the same time, an opinion poll carried out by PCPSR in September 2015 found that the creation of a democratic political order was the top priority for only 9 percent of Palestinians. They attached more importance to ending the occupation (48 percent); realizing the right of return (30 percent); and Islamizing society (13 percent). Fuelled by the conflict, the domestic political developments in both polities thus also run contrary to the international expectation that a two-state approach would lead to the creation of two *democratic* states.

On both sides, confrontational methods of conducting the conflict (violence, boycott, legal recourse, internationalisation vs. military approaches, settlement drive, collective punishment, sealing-off and blockade) are increasingly seen as having no alternative. Moreover, the Israeli opposition offers no credible alternatives that might lead to a two-state settlement. Opposition leader Isaac Herzog's plan for separation from the Palestinians, which he presented in early 2016, stems from the same siege mentality as Netanyahu's policies. As a consequence, there is a risk not only of a renewed confrontation between Israel and the Gaza Strip, which is likely to be even more violent and destructive than the last one, but also of a further erosion or even collapse of the PA caused by an escalation of the current violence into an armed uprising, a worsening of the PA's financial crisis, or violent Palestinian infighting for the succession to President Abbas (born 1935).

Alternatives to the two-state model

In light of the growing doubts about the viability of a two-state settlement, both the Israeli and the Palestinian side have in the past few years developed alternative approaches to dealing with the conflict. These include one-state models that provide for Jewish dominance, proposals for a binational state, and concepts for a confederation of two independent states.

A Jewish-dominated state

In Israel, supporters of a one-state approach can especially be found on the right of the political spectrum. Its supporters claim ownership of the West Bank for religious-ideological motives. For instance, the former foreign and defence minister Moshe Arens and President Reuven Rivlin (both Likud) reject a two-state settlement and instead promote annexing the West Bank and granting its Palestinian population civil rights.

Naftali Bennett, the leader of the extreme-right settler party The Jewish Home, education minister and member of the security cabinet, likewise rejects a Palestinian State. In his "Stability Plan" presented in 2012, he advocates the unilateral annexation of the West Bank's Area C and the Israeli settlements. The Palestinians living in Area C would receive full civil rights in Israel. Bennett's plan, however, not only seriously underestimates the number of Palestinians concerned – he puts them at 50,000 while the UN's 2014 estimate is 300,000 – it also grants the Palestinian populations of Areas A and B only autonomous self-administration.

These and similar proposals for settling the conflict that emanate from the Israeli right thus represent a formalisation of the one-state reality. They stipulate keeping different sets of rights – albeit to varying degrees – including preferential treatment for Jews over Palestinians. They reject Palestinian statehood on principle. Palestinians in the annexed areas would be granted Israeli citizenship and individual civil rights, but as a collective, they would have only limited political rights. In other words, this approach aims not at a binational state, but at a Jewish-dominated one-state model, in which Israeli sovereignty would be formally extended to parts of the occupied territories. It is also striking that these proposals

explicitly or implicitly exclude the Gaza Strip. For only without the Gaza population (of around 1.85 million at the end of 2015, according to the Palestinian Central Bureau of Statistics) would it be possible to maintain a demographic Jewish majority in such a state in the medium term. In the same vein, such proposals also categorically exclude the right of return for Palestinian refugees.

A democratic binational state
Alongside these ideas, there are proposals for a one-state settlement, or for a binational state, that stipulate the same rights for Israelis and Palestinians. Except for the international contributions to the debate, these proposals stem from a relatively small minority of post-Zionist Israelis. For instance, the former Labour Party politician and speaker of the Knesset, Avraham Burg, sees the low probability of a two-state settlement as an opportunity for promoting a state based on equality, justice and freedom for Israelis and Palestinians. For the Israeli historian Ilan Pappé, such a one-state formula represents the only possibility of ending the discrimination against the Palestinian population of Israel and the Israeli occupation, and of enabling Palestinian refugees to return to their homeland.

The Israeli sociologist Yehouda Shenhav has also argued in favour of a one-state approach. For him, the main problem with a two-state settlement is that in focusing on the occupation that started in 1967, it neglects the injustices committed in and resulting from the 1948 war. Moreover, the eviction of settlers would create new injustices. He therefore supports a consociational democratic system within a single state. A central element of the political order would be a joint Israeli-Palestinian constitutional court.

Additionally, ever more Palestinian intellectuals and activists – in contrast to the nationalist factions of the PLO – are taking a stance for a one-state settlement. For instance, Edward Said, the literary

theorist who decisively marked the international debate on Palestine before his death in 2003, argued as early as 1999 for the creation of a binational state as an alternative to the Oslo peace process. He underlined the multiple interdependencies between the two sides, making partition practically impossible; and he did not think that it was viable to assert Palestinian national self-determination in a separate state because of Israeli claims to the territory. Instead, he considered equal civil rights for Israelis and Palestinians to be the decisive foundation for an effective coexistence in one state.

In 2011, the Palestinian philosopher Sari Nusseibeh – the PLO's former representative in East Jerusalem, long-standing President of Al Quds University there, and longtime supporter of a two-state settlement – argued in favour of an Israeli annexation of the occupied territories, in what was a provocative thought experiment for Palestinian society. In his scenario, Palestinians would initially be second-class citizens with civil but not political rights; establishing full civil rights in one state would, for Nusseibeh, significantly improve their living conditions compared to life under occupation. The Palestinian academic and activist Ghada Karmi advocates a one-state approach for different reasons. She considers the quest-for Palestinian statehood a delusion, and therefore backs the struggle for equal rights, not least to lay bare the injustices of the occupation.

In his 2006 book *One Country*, the Palestinian-American journalist and activist Ali Abunimah suggests a one-state solution based on eight principles: equal treatment for all male and female citizens and respect for civil, political, social and cultural rights; the founding of a union of two national communities with equal rights; preserving the linguistic and cultural traditions of both nations; religious freedom and neutrality of the state towards religious communities; accepting forms of inclusive identity that transcend the borders of national communities and overcome identities that

are based on rejecting the other side; recognising special relationships with the respective diaspora communities; giving the state special responsibility for protecting the holy sites of the three monotheistic world religions and guaranteeing access to them; promoting economic opportunities, social justice and a dignified life for all citizens as well as reparations for victims of earlier injustices.

Whilst the above proposals for a one-state settlement differ in the details, they share a number of characteristics: In particular, they provide for a binational, democratic and secular state for Israelis and Palestinians, in which both collective and minority rights enjoy effective protection. They thus fundamentally differ from such one-state approaches as promoted, for instance, by Hamas in its charter, where the whole country is considered an "Islamic endowment" *(waqf)* that God has entrusted to Muslims. While Jews would be allowed to live in it as well, they would neither have equal status nor collective political rights. It is interesting to note that in the past decade Hamas has taken a pragmatic turn towards the two-state paradigm and de-facto coexistence with Israel.

Confederate models
There are, however, also innovative approaches that go beyond a one- or two-state approach. In this context, confederate models are of particular relevance. In 2004 the Israeli anthropologist and human-rights activist Jeff Halper proposed a two-step plan for solving the Israeli-Palestinian conflict. His approach is based on the realisation that the conflict's core problems can only be solved on the regional level. First, he suggests creating a viable sovereign Palestinian state on the basis of the 1967 borders. Then a regional confederation consisting of Israel, Palestine and Jordan (as well as Syria, Lebanon and possibly other states such as Egypt in the long-term) would be established. Laws concerning the whole "Middle East Union" would be passed by a

confederate parliament, which would have to take into account the individual rights of citizens of the Union, regardless of where they live. To solve the refugee issue, Halper suggests giving the Palestinian population the possibility of choosing within the framework of the Union whether they want to acquire Palestinian citizenship or the citizenship of their host country. Within the Union there would be freedom of movement, residence and employment. In this scenario, Palestinian refugees could return to Israel without receiving Israeli citizenship. Their presence would thus not be a challenge to the character of the Israeli state. In parallel, Israeli settlers could live in the West Bank under Palestinian sovereignty.

In November 2014, the Israeli-Palestinian non-governmental organisation IPCRI (Israel-Palestine: Creative Regional Initiatives) presented the most comprehensive plan yet for a confederation. It was elaborated with the participation of Israeli and Palestinian representatives from the political sphere, academia and civil society, and provided for the creation of two independent, sovereign and democratic states on the basis of the 1967 borders. The two states would form a political and economic union, with joint economic and social institutions and a High Court for Human Rights. Borders between the two states would be open; and their citizens would enjoy freedom of movement and, eventually, freedom of residence as well. Jerusalem would be an open city, and the capital of both states. This would solve three crucial problems: first, Jerusalem would not be divided; second, Palestinian refugees would be allowed to return; and third, Jewish settlements in the West Bank would not have to be evacuated.

A further innovative approach is the project intiated by the Swedish diplomat Mathias Mossberg in 2008. The project proposed a model of "parallel states", both of which would extend over the entire territory of Israel and Palestine. Sovereignty over this area would be divided, and primarily be defined not along territorial lines

but based on citizenship. In this way, Israel could keep both its Jewish and largely democratic character as well as its settlements. At the same time, a Palestinian State could be founded and Palestinian refugees be given the right of return to this state. Some tasks would be carried out jointly by the institutions of the two states, others separately by each state. There would be a permanent mechanism for solving disputes and problems. Economically, the two states would enter into a union. Legally, each state would be responsible for its respective population, but there would also be areas of joint or harmonized jurisdiction.

Realistic alternatives?

Given the political realities today, one-state models do not offer a viable approach to the conflict. Implementing the Israeli right's one-state proposals would merely cement existing power relations and ignore the Palestinians' right to self-determination – and would thus not bring about peace. One-state approaches based on equality and agreement face several obstacles: the dominance of nationalism in both societies; the existence of irreconcilable identities; and the profound mistrust between the two sides. They would therefore need to be preceded by a paradigm change in Palestinian society, to replace the struggle for national self-determination with one for equal rights. From a Jewish-Israeli perspective, a one-state solution based on equal rights runs counter to political Zionism, which enjoys nearly unanimous support among Jewish Israelis. It remains especially unclear how Jewish Israelis would be persuaded – against a background of historical persecution and a dwindling demographic majority – to give up the status quo, including vested rights and privileges, for an experiment with uncertain outcomes. This is true regardless of the fact that proponents of a one-state approach such as Abunimah do provide for political mechanisms that would ensure a balanced representation in political institutions, and suggest

forms of government that guarantee collective cultural and political rights – for instance, by introducing a federal system with extensive autonomy for the federal states.

Accordingly, clear majorities of both populations have rejected one-state approaches. According to a September 2015 poll by the Israel Democracy Institute, around 36 percent of Jewish Israelis agree with annexing the West Bank, but almost 60 percent are against granting full civil rights to the Palestinian population of the annexed areas. In June 2013, a joint poll by the PCPSR and the Truman Institute found that about two-thirds of the Palestinian as well as the Israeli population rejected a one-state settlement with equal rights for Jews and Arabs.

In contrast, confederate models offer a compromise that might make it possible to preserve national identities and collective rights, and to simultaneously open up paths of cooperation. Yet confederate models – regardless of whether they relate exclusively to Israel-Palestine or to the neighbouring states as well – are ultimately based on two states. In that sense, they are faced with the same obstacles to implementation as conventional two-state approaches – at least for as long as sovereignty and territoriality remain intertwined.

Conclusions

A two-state settlement to the Israeli-Palestinian conflict is the central point of reference of international politics. German and European policies should actively counter the dwindling chances of such an approach being realized and the consolidation of the one-state reality. That would be crucial to prevent the continuation and entrenchment of the unlawful situation linked to the occupation, which is about to celebrate its fiftieth anniversary. In that context, it is also useful to discuss alternative solutions and sound out to what extent their creative elements could contribute to overcoming obstacles to conflict resolution.

Yet the main problem is not the substance of a two-state settlement, but the

lack of political will for realizing any settle-ment, whatever its details, and for making the necessary compromises. The question that must be prioritized by German and European politics is therefore how to gen-erate the necessary political will on the part of the parties to the conflict, instead of merely referring, mantra-like, to a two-state settlement. Current approaches – such as the initiative for an international Middle East conference being promoted by France, or a report to be published by the Middle East Quartet (representing the USA, Russia, the UN and the EU) with recommendations for solving the conflict – might well be first steps towards changing the cost-benefit analyses of the political elites, but they are unlikely to suffice. Concrete and binding measures will also be required: parameters for a negotiated settlement stipulated by the Security Council; a robust mediation; a readiness to back the implementation of any deal with substantial security guaran-tees and a security presence; but also spell-ing out concrete sanctions in case of non-cooperation.