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## Parallel states: A new vision for peace

**A new idea of citizenship is needed for peace in Israel and Palestine; Obama can't repackage failed strategies.**

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**Two parallel states, Israel and Palestine, should be established, with jurisdictions extending to Israelis and Palestinian citizens whether they lived in Israel proper, the West Bank, or Gaza, scholars say [AFP]**

President Obama's much-anticipated Middle East policy speech last week has drawn fire from many quarters, none more so than politicians and commentators involved in the Israeli-Palestinian conflict on one or the other side.

Obama's bluntness has shocked some Israelis and their supporters, who long assumed that when push came to shove the United States would acquiesce to the facts Israel has created in the West Bank through its establishment of over 120 settlements since 1967. The President knocked the wind out of their sails by reiterating US support for the 1967 borders as the basis for any final peace deal. The Palestinian state, he declared, "should be... sovereign and contiguous [and] based on the 1967 lines with mutually agreed swaps, so that secure and recognised borders are established for both states."

An equally important but much less noticed element of Obama's speech was his desire to return the negotiating process squarely to the dynamics that governed the Oslo era negotiations that collapsed with the outbreak of the

al-Aqsa intifada in September 2000. He did this from two perspectives: First, the idea of borders roughly aligning to 1967 with land swaps is essentially the position to which the two sides were allegedly close to agreeing before the negotiations broke down at Camp David in July of 2000.

Second and more broadly, the process Obama outlined marks a return to the strategy of a "phased" solution that defined the ill-fated Oslo process, where interim agreements on less difficult issues were supposed to enable a "final status" agreement that resolved the most difficult issues.

### Out of phase

As we know from the subsequent history of the conflict, the phased process failed miserably. And yet President Obama has redrafted the concept by arguing that the two sides should agree to "territory and security" first, and then later return to the more difficult issues of "Jerusalem and refugees", essentially dividing final status issues into yet another subdivision, of semi-final and really final status issues. Indeed, a recent "simulation" of such a "security-borders" first scenario conducted by the Brookings Institution's Saban Centre could only consider such a programme if it "defined away" the likelihood that **no such agreement** would be possible without also addressing Jerusalem and refugees from the parameters of the simulation.

Similarly, vis-a-vis Jerusalem a **simulation of possible land swaps** by the Washington Institute for Near East Policy had to deal "only with areas outside the Jerusalem municipality as defined by Israel" in order to be conceivable merely on paper. Neither report considered Palestinian security concerns at all, and the Saban simulation admitted that most of the conceivable provisions for a security-borders agreement would challenge Palestinian conceptions of sovereignty in irresolvable ways. Indeed, the only way the Palestinian Authority (PA) could "get a state and sovereignty over territory" would be if it was "willing to accept infringements on its sovereignty which undermined its legitimacy among its own people".

Broadly, there are four reasons why a phased solution will work no better today than it did almost two decades ago, each one relating to one of the President's own four elements of a proposed solution.

First, it is extremely difficult to imagine how Israel, having establishing such a comprehensive matrix of control over the West Bank-settlements, bypass roads, security corridors, military zones and the security wall - can ever withdraw from enough territory to allow the establishment of a territorially contiguous Palestinian state. Indeed, successive Israeli governments, even during the Oslo process, worked hard to create the facts on the ground that would render such an outcome moot.

Second, even if Israel could disengage from most of the West Bank, the ring of Israeli settlements surrounding East Jerusalem, a finger of which sticks deep into the West Bank, will be almost impossible to dismantle. Yet without doing so, it will be impossible to include East Jerusalem as the capital of a Palestinian state, without which no Palestinian would ever agree to a final settlement.

The third problem concerns the President's definition of security, which is focused almost entirely around Israel's perceived needs. The reality is, however, that Palestinians have suffered far more threats to their physical security than have Israelis during the last forty-five years. The legitimate needs of all Palestinians, in and outside the Occupied Territories, to be free of the risk of routine Israeli incursions, attacks, confiscation and destruction of land and property, constant humiliations, and other defining motifs of the occupation are as legitimate as the need of Israelis to be free from rocket attacks and suicide bombings.

Fourth, the issue of Palestinian insecurity leads to refugees, among the most insecure categories of existence possible. The protests along Israel's borders from the West Bank, Syria and Gaza on May 15 demonstrate the continued salience of the refugee issue among Palestinians. Contrary to what Israelis, Americans and some Palestinian leaders would like to believe, they will not easily relinquish their right of return, something Israeli conservatives intuitively understand, as they point out that Jews held on to their right for almost 2,000 years.

By returning to failed strategies of the past, President Obama is likely ensuring the failure of his courageous



**Previous rounds of negotiations have stumbled on issues including the partition of Jerusalem and the return of Palestinian refugees [Reuters]**

attempt to bring the two sides together towards a common future. There is a way, however, for the United States to take the lead in working towards a two-state solution, albeit one that looks very different from the type Mr Obama is presently imagining. We believe that a new vision, based on shared sovereignty, power and cooperation, offers a more viable path towards resolving the conflict.

The language of sharing rather than division has long been associated with a binational or even one-state solution that have both been dismissed because their implementation would effectively mean the end of Israel as a Jewish state. But sovereignty and control can be shared while retaining a two-state structure that allows each side to secure and preserve its unique identity. Specifically, two states could be established in parallel over the same territory, both covering the whole area between the Mediterranean and the Jordan River.

**Parallel states**

Termed a "parallel states" solution, this concept has been developed over the last four years by a team of Israeli, Palestinian and international scholars, policymakers and even protagonists in the conflict. It is built upon a new understanding of sovereignty that breaks the previously exclusive link with territory, and reorients the basis of identity, citizenship and rights away from land and towards the relation between the state and the individual citizen. Citizenship would follow the citizen wherever she or he may live within the territory of Israel/Palestine, not the territory itself.

Building on existing institutions and frameworks of the Government of Israel and the Palestinian Authority, two parallel states, Israel and Palestine would be established, whose jurisdictions would be extended to Israelis and Palestinian citizens whether they lived in Israel proper, the West Bank, or Gaza.

As sovereignty would no longer be tied to territory, demography would no longer determine the viability of each state, and Jews and Palestinians, and indeed, members of the Diasporas of both societies, could in theory live anywhere within the space of Israel/Palestine without disturbing the basic ethnic composition, and thus character, of either state.

A parallel states structure addresses the core Israeli concerns of remaining Jewish and democratic, while allowing most if not all Israeli settlers to remain in place (although the boundaries of such settlements would be limited to their built up area rather than the much more expansive areas allotted to them under Israeli occupation). At the same time, it addresses the Palestinian need to implement the right of return for Palestinians throughout historic Palestine and be secure on their land.

Moreover, a parallel state structure would allow Israelis and Palestinians to retain their national symbols, have political and legislative bodies that are responsible to their own electorate, and retain a high degree of political independence. Put simply, the contours of political authority and security would be shared by the two states in a manner that guarantees the long-term secure existence of each community, something the Oslo era two-state solution could never achieve.

External security would have to be coordinated in a common security envelope and with a joint Israeli-Palestinian security and defence policy. Internal security would require a close cooperation, as is the case already today, but on a more equal basis.

Economic cooperation could be expanded, and with the help of the international community the Palestinian economy could be brought up to a higher level, so a meaningful and mutually beneficial exchange could take place.

This is particularly important, because the Oslo peace process, while billed as an economic as much as political peace, in fact exacerbated the structural imbalances and inequalities between Israel and the Occupied Territories, in particular through the policy of closures of the Territories that almost destroyed the Palestinian economy.



**It will be difficult to convince Israelis and Palestinians to embrace the concept of parallel states [EPA]**

Jurisdiction could be separate in some areas, harmonised in other and unified in yet some other areas. Parallel jurisdiction is not a novel legal concept and has several international precedents that can serve as models for

cooperation between Palestinians and Israelis.

### **Difficult but possible**

In the short and medium term the two states could agree to territorial division with extraterritorial jurisdiction and shared sovereignty over certain areas such as Jerusalem, settlements and border areas. This is both a more realistic and positive kind of phased solution than the Oslo model resuscitated by President Obama.

Many if not most of the elements of a Parallel States solution have precedents in attempts to resolve other ethnoterritorial conflicts. Yet it cannot be denied that the scenario as a whole would be an innovation in world politics and in international law, and difficult to implement. But in difficult times you have to do difficult things, and the alternative of another round of a doomed process with continued land grabs going on simultaneously is hardly encouraging.

What is clear is that the Oslo era two-state solution was born out of a twentieth century notion of sovereignty that, at least in the case of Israel/Palestine is neither viable nor particularly desirable in the "New Middle East" Oslo's architects imagined their peace process heralded. Almost two decades later, the region has finally moved towards a new era, but led by ordinary people rather than leaders who more often than not have frustrated rather than helped to realise the legitimate political, economic and cultural aspirations of their peoples.

In the context of the Arab Spring, a parallel states process might just hold the key to helping Israelis and Palestinians join the region-wide push towards peace, democracy and justice in the fullest, and fairest, way possible.

*UPDATE: Several comments have questioned the precedence and viability of harmonising the legal systems of the two states in a parallel states scenario. Within our research, the most useful example of how various levels of jurisdiction can be shared is the European Union, where the rapid integration of the member states has transferred traditionally national legislative and judicial powers to supranational bodies, diminishing the importance of national boundaries and territorial sovereignty for the benefit of the exercise of transnational freedoms and rights for citizens within the Union. In many - but certainly not all areas - a common European Union legal and political framework has emerged, which has softened the concept of territorial sovereignty, shifting the law to a more flexible and personal realm of application. Within the Israeli/Palestinian scenario, there would have to be significant harmonisation of both criminal and civil codes in the same manner as has occurred within Europe, where harmonisation of penal codes began in 1975. Not only has harmonisation of EU legal codes been a "current topic in criminal law literature" for a long time, it is considered by scholars as "one of the most important areas of cooperation among member states". The legal experts on our team believe that while harmonisation would present many challenges, it is certainly not a deal breaker or even the most difficult component of a parallel states scenario to actualise.*

**For more information, please visit the [Parallel States Project website](#).**

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