

Strategic ASSESSMENT

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Support for Israel in a Changing America

| Owen Alterman and Cameron S. Brown

The End of the American Era in the Middle East?

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**Dividing the Land, Not the People: Lessons from the Givat
HaUlpana and Migron Evacuations** | Gilead Sher and Liran Ofek

**A Palestinian State: Legal Implications and
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Strategic ASSESSMENT

The purpose of *Strategic Assessment* is to stimulate and enrich the public debate on issues that are, or should be, on Israel's national security agenda.

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Abstracts

Support for Israel in a Changing America / Owen Alterman and Cameron S. Brown

Changing social and demographic trends in America will likely influence US public opinion toward Israel. This article identifies several social and demographic trends that recent polling data suggests will be particularly important for the future of public opinion toward Israel: the partisan and generational gaps in support for Israel, the decline in religiosity, the rise of Latinos, and American Jewry's changing face. Explaining each trend and assessing how it is likely to affect US public opinion toward Israel, the article proposes recommendations as to how Israel and its supporters should react to changing American demographics, in other words, what can be done to maximize US public support, which is a critical pillar of the US-Israel relationship and as such, a crucial strategic asset.

The End of the American Era in the Middle East? / Yoel Guzansky

In recent years, the US administration has announced its intention of adopting a policy of "pivoting" toward East Asia, and this policy has been reflected in a series of military, economic, commercial, and diplomatic initiatives. In this vein, President Barack Obama and senior administration officials have confirmed that the United States seeks to play a leadership role in Asia in the coming years. This article's main argument is that the drive to allocate resources and attention to other areas, coupled with domestic economic constraints and proven difficulties in implementing its policy in the Middle East, does not necessarily indicate a United States abandonment of the region. On the contrary: in light of a number of basic conditions and major interests that influence American considerations, the United States is expected to continue to play a major role in regional security.

Dividing the Land, Not the People: Lessons from the Givat HaUlpana and Migron Evacuations / Gilead Sher and Liran Ofek

Separation from the Palestinians within the two-state political framework, either as a result of a bilateral agreement or a unilateral Israeli decision,

will require mass evacuations of Jewish settlements in the West Bank located outside the large settlement blocs, even in the face of opposition by settlement residents and others. In order to preserve national unity, it is necessary to prepare now for the contingency and implications of such evacuations. This essay examines evacuations of two settlements in terms of the conduct of the various parties. Alongside the lessons to be learned from the 2005 disengagement, analysis of these two evacuations affords additional insight into the issue of mandatory withdrawal from settlements, and invites conclusions regarding practical implementation of extensive evacuations in particular and resolution of domestic conflicts in general.

A Palestinian State: Legal Implications and Significance for Israel / Pnina Sharvit Baruch

On November 29, 2012, the United Nations General Assembly voted to grant Palestine the status of non-member observer state. Legally speaking, such a decision cannot create a state because recognition of statehood is declarative rather than constitutive. Nonetheless, on a practical level, the growing recognition of Palestine as a state by many important states, as well as the UN General Assembly, will ultimately influence whether or not such a state exists, and will therefore in the long run also have a direct impact on Israel's freedom of conduct in the Palestinian arena. This article analyzes the legal implications of Palestinian statehood for the domestic arena, i.e., relations between Israel and the Palestinians, and on the international arena, and concludes that legal ramifications of the establishment of a Palestinian state seem to be limited, at least during the initial stage. Nevertheless, as long as there is no progress in the negotiations between the sides, the pressure on Israel to allow more freedom of action to the Palestinian authorities and to curtail its own activities in the territory of the Palestinian state is likely to increase.

Sanctions against Iran: Not Painful Enough / Ephraim Kam and Shmuel Even

The sanctions imposed on Iran since the summer of 2012 are painful and palpable. Nevertheless, thus far the sanctions have yet to achieve their main purpose – to alter the regime's behavior on the nuclear question. This article seeks to analyze the effect of the sanctions on Iran, and to assess the regime's response to Iran's deteriorating economic situation.

The main conclusion is that while the sanctions are having an impact on Iran's economy, they are still not severe enough. Current signs indicate a willingness to negotiate and possibly agree to a technical compromise, but without foregoing the substance of the nuclear weapons program. If the conditions do not change, the US administration should promote additional measures in order to intensify the pressure on the Iranian regime. One possibility for generating effective pressure on Iran is an economic blockade against it.

Setting a Clear Red Line in Israel's Legal Narrative toward Iran / Roy van Keulen

The threat arising from Iran's nuclear program has led to many discussions on the military feasibility and the strategic desirability of a possible strike by Israel on Iran's nuclear facilities. However, against the background of the complex and abstract nature of the Iranian nuclear threat, a thorough discussion of the legal justifications for such an act of self-defense is notably absent. This article attempts to launch this discussion by proposing a new legal narrative. With the legality of self-defense dependent upon the normative restraints of necessity and proportionality, the article will draw from domestic law systems and apply the findings of the domestic analogy to the system of international law, and thereafter argue why Israel has a right to anticipatory self-defense against Iran's nuclear program before the program reaches a zone of immunity.

D-Day+1: Strategies for the Day after an Attack on Iran / Ron Tira

Describing the application of military force against Iran as an "attack" or an "operation" is misguided. The first strike wave would be nothing more than a catalyst for the military and political struggle that would take place in the months thereafter. The purpose of this essay is to examine possible strategies that Iran, Israel, and the United States might adopt after a military strike on Iranian nuclear assets. The essay also seeks to outline the core constraints and considerations of the respective sides and assess them as they evolve dynamically, relative to the steps of the other sides. Rather than an isolated military episode, therefore, what is at stake is a long war of many moves and counter moves, and Israel must

prepare for this war fully understanding its nature, circumstances, and unique characteristics.

Regional Proliferation and the “Arab Spring”: Chemical Weapons in Libya and Syria / Benedetta Berti and David Friedman

The process of regional change sparked by the so-called “Arab Spring” may in the long term lead to a more democratic and prosperous Middle East, but in the short term virtually all regional states have had to cope with an increasingly volatile and unstable political and security environment. This article analyzes the impact of the Arab revolutions and the post-transition instability on regional proliferation of nonconventional weapons, looking specifically at chemical weapons (CW). The focus is on Libya and Syria, countries known for possessing or having possessed nonconventional programs. The article examines the history and status of these countries’ CW programs, while assessing the effect of the Arab upheaval on both Libya’s and Syria’s capacity to secure their CW. Finally, the study discusses the impact of these trends on regional as well as Israeli security.

Russian Foreign Policy in the Middle East: No Change in the Offing / Olena Bagno-Moldavsky

Russia’s current foreign policy in the Middle East will likely follow a similar course in the future: its actual presence in the region will remain limited, while issues related to the Middle East will continue to occupy an important place in its diplomatic rhetoric. This argument is based on four premises. First, the Foreign Policy Concepts of 1993, 2000, and 2008 suggest a departure from messianic philosophy. Second, the collection of doctrines enacted over the last decade to regulate Russia’s conduct abroad all bear an imprint of Vladimir Putin’s political philosophy, which endorses “pragmatic nationalism.” The third reason is the relative insignificance of the region for Russia. Finally, Russia’s freedom of action is curbed by various domestic constraints, and thus it cannot afford to be more militarily involved in the Middle East.

Support for Israel in a Changing America

Owen Alterman and Cameron S. Brown

For Israel and its supporters, the shouts from the floor of the September 2012 Democratic Party convention should raise eyebrows. The party's first draft platform omitted the traditional declaration that Jerusalem "is and will remain the capital of Israel." That change sparked criticism from pro-Israel activists, and the Democratic leadership scrambled to amend the platform via voice vote. Yet to the visible surprise of the session's chairman, Los Angeles Mayor Antonio Villaraigosa, three times the "nay" votes were loud enough to call into question whether he had the two-thirds majority necessary to amend the platform.¹

In the much larger picture of the November election, an incumbent president was reelected despite mediocre approval ratings, a sluggish economy, and opposition to his flagship legislation on health care.²

These two observations are associated with several substantial social and demographic changes that are transforming America. When Bill Clinton was elected in 1992, only 4.3 million Latinos went to the polls. By 2000, when George W. Bush won the presidency, just under six million Latinos voted. In 2012, an estimated 12.5 million Latinos cast ballots – nearly triple the number from two decades ago.³ Changes in religious affiliation, or more precisely, the growing lack of any affiliation, have been even more dramatic. In 1972, 7 percent of Americans said they had no religious affiliation. That figure grew to 15 percent by 2007, and today stands at nearly 20 percent.⁴ Finally, the generation gap in voting is wider now than in the past several decades, with younger voters solidly supporting Democrats and older Americans voting Republican.⁵

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The 2012 elections demonstrated the power of these trends and how they have become decisive factors in determining US election results. And Americans are starting to notice. In the aftermath of the elections, Washington's public intellectuals, both Democratic and Republican, have pointed to shifting demographics as critical to the future of partisan politics. By the same token, America's social and demographic trends, which are likely to continue, seem set to undermine the longstanding, solid, bipartisan support for Israel in US public opinion – a critical pillar of the US-Israel relationship.

This article examines how social and demographic trends are likely to affect US public support for Israel. We identify several such trends – the partisan and generational gaps in support for Israel, the decline in religiosity, the rise of Latinos, and American Jewry's changing face – and assess how each is affecting US public opinion toward Israel. We find that the first three trends (partisan and generational gaps and declining religiosity) look set to chip away at support for Israel in the years to come, while the growth in numbers of Latinos could work to strengthen support. Finally, the changing nature of American Jewry will pose a further challenge that Israel and the Israel advocacy camp will have to manage. The article concludes by making recommendations as to how Israel and its supporters can stay ahead of these curves and maintain Israel's strong public standing in the decades to come.

The Partisan Gap in Support for Israel

While once an American's party affiliation said little about his attitude toward Israel,⁶ times have changed. In a poll conducted during Israel's November 2012 Operation Pillar of Defense, 80 percent of Republicans voiced support for Israel, as opposed to only 51 percent of Democrats. When the sample is divided into conservatives and liberals, the difference is even sharper. Some 77 percent of conservatives supported Israel, with only 6 percent opposed. By contrast, for self-identified liberals, the numbers were 37 percent in support and 27 percent opposed.⁷

In our analysis of Pew survey data,⁸ we found that those who identify with the Democratic Party were 13.8 percent less likely to approve of current levels of US support for Israel than Republicans, and 12.3 percent more likely to say the US supports Israel "too much."⁹ When we controlled for respondent age, income, education, race, religion, and attendance at religious services (independently or concomitantly), this partisan gap

remained unchanged.¹⁰ Young Democrats are less supportive than young Republicans, for example, and Democrats with no religious affiliation are less supportive than their Republican counterparts.¹¹ In other words, that disputed vote at the Democratic convention, whatever its proximate cause, gave voice to a sentiment among a segment of party loyalists.

Particularly fascinating, self-identified “independents” who lean (and thus usually vote) Democratic are less supportive of Israel than are self-identified Democrats. Democratic-leaning independents were almost 23 percent less likely to support Israel than Republicans (and 15 percent less than the average American).¹² As above, even when respondent age, income, education, race, and religion were taken into account, these Democratic-leaning independents were still 20 percent less likely to support Israel than Republicans (and 11.5 percent less than the average American). Nearly identical results emerged from an analysis of those who thought the US supported Israel “too much”¹³ (figure 1).

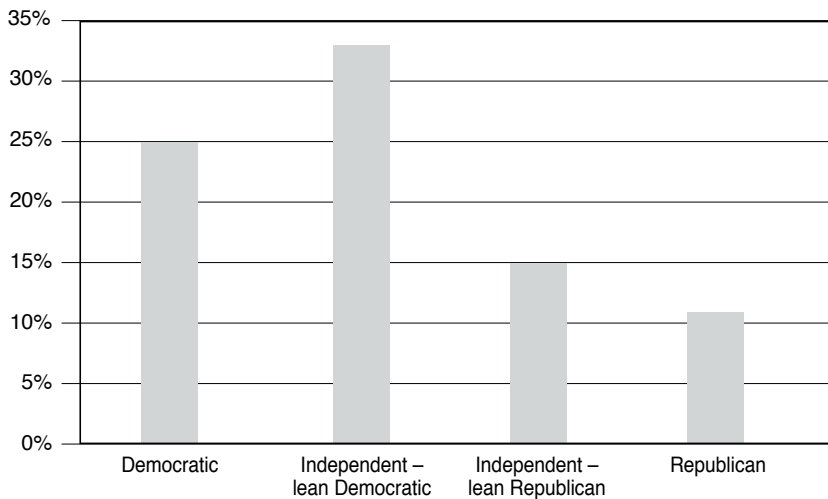


Figure 1. Agree US supports Israel “too much”

This partisan gap in support for Israel has not escaped attention. Observers have credited a variety of theories, from growing liberal wariness toward the use of force (and connecting that to Israeli use of force)¹⁴ to the more fundamental trend of widening polarization in US politics.¹⁵ Whatever the underlying cause, the basic result is clear: the partisan gap is real, and it has grown.

The Generational Gap

A second, highly pronounced trend is the generational gap: so-called “millennials” (18-30 year-olds) are substantially more likely to be critical of Israel than older generations, particularly “baby boomers” (born 1946-1964) and the “Silent Generation” (born 1925-1945), though largely the case for the Generation X (between the baby boomers and the millennials) as well. As shown in Figure 2, this gap largely holds across political affiliation. As in the analysis of the partisanship above, controlling for a host of other factors did not change this gap at all. Democratic millennials, for example, are less supportive of Israel than Democratic baby boomers.

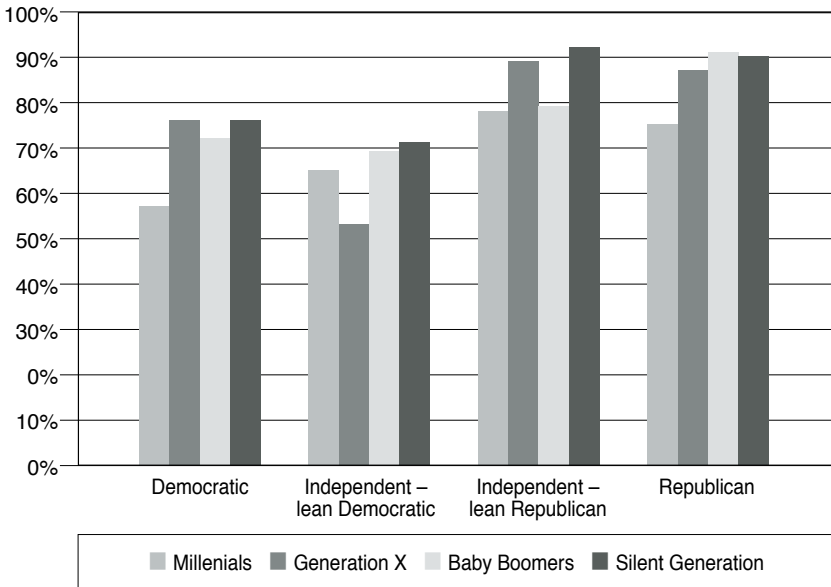


Figure 2. Party Affiliation: Agree with US support of Israel or think not supportive enough

When examining religious affiliation, we found this generational shift to be particularly strong among self-identified Protestants. This said, support among self-identified “born again” Christians has been less affected (figure 3).

Two alternate explanations could account for the data: either a shift in public opinion is actually taking place, or perhaps younger generations are usually less supportive of Israel and become more supportive as they grow older. To address this question, we compared our findings to

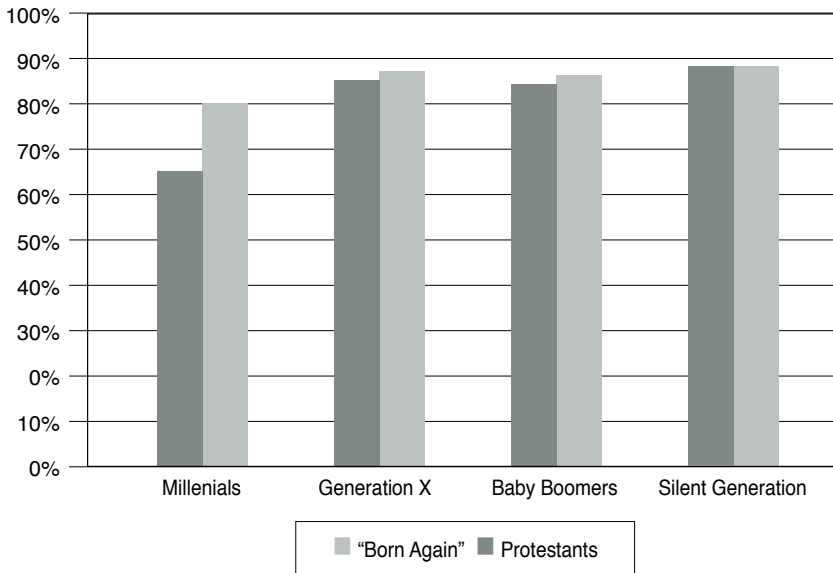


Figure 3: Religious Affiliation: Protestants and “born again” Christians who agree with US support of Israel or think not supportive enough

two joint nationwide CBS/*New York Times* polls from October 1977 and April 1978 (figure 4).¹⁶ Interestingly, the generational gap then was the opposite of the generational gap today: retirees (65 and older) were least supportive of Israel, with 18-29 year-olds the most supportive. Again, this pattern was substantial and statistically significant regardless of other factors (i.e., race, religion, party affiliation, ideology, and education).¹⁷

This suggests that the first explanation is correct: generations seem to develop views toward Israel that guide their opinions throughout their lifetimes. If so, the relatively less pro-Israel positions held by today’s millennials are unlikely to fade over time, just as their elders have maintained robust support for Israel over the past 35 years.

The Decline in Religiosity

America is often thought of as a religious country, at least in comparison to a supposedly “godless” Europe. The American reality, though, is more complex. Religiosity in America is declining at a substantial rate, impacting on US support for Israel.

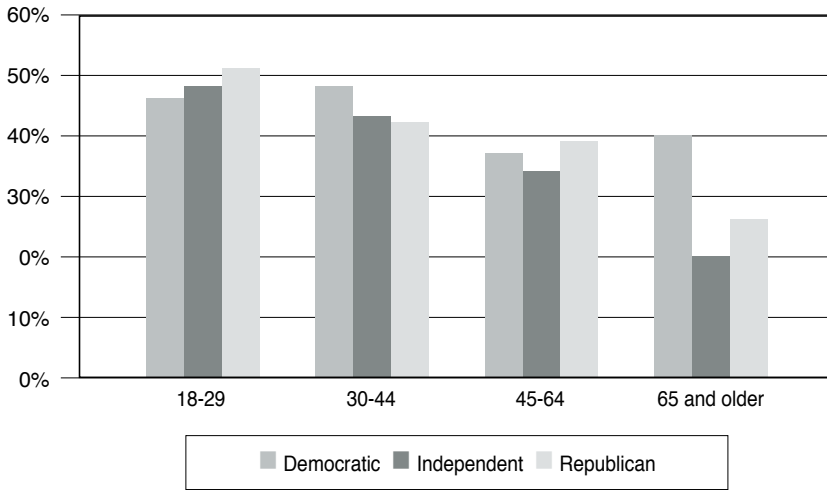


Figure 4. Party Affiliation: Agree with support for Israel (April 1978)¹⁸

White Protestants, for centuries the social and demographic backbone of America, have declined from 39 percent of the US population in 2007 to 34 percent in 2012. During the same period, the percentage of so-called “nones” – those who have no religious affiliation – rose sharply, from 15.3 percent to 19.6 percent.¹⁹ (This category of “nones” includes atheists and agnostics, though most are those who simply respond that they have no religious affiliation.) Largely, the trend is not one of individual Americans abandoning religion; rather, generational evolution is responsible for the change, with older, more religious Americans being replaced with younger, less affiliated individuals. Indeed, looking at data from polling respondents, “nones” are by far the youngest of all religious groups; consequently, this trend may well accelerate in the generation to come (figure 5).²⁰

This stark demographic shift is a cause for concern for Israel, or at least a potential cause for change in an Israeli outreach strategy that has prioritized evangelicals in recent decades. American Protestants are more likely to be pro-Israel than the average American, with “born again” Christians particularly supportive.²¹ On the other hand, in statistical analysis of the polling data and as charted in figure 6, compared to Protestants, “nones” are 23 percent less likely to support Israel and 19.5

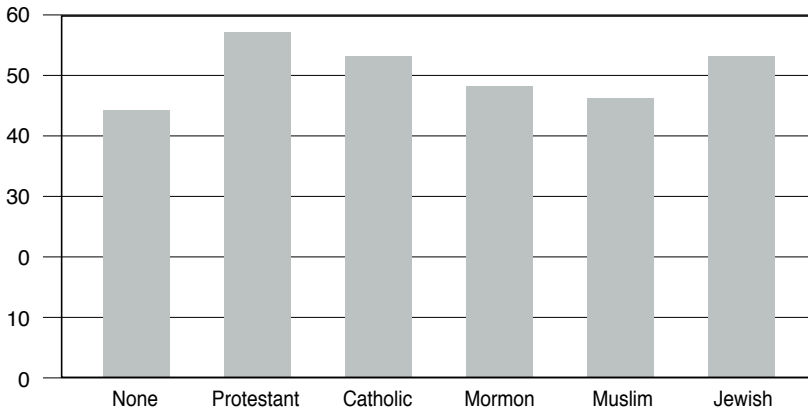


Figure 5. Average respondent age, by religion

percent more likely to say the US is “too supportive” of Israel.²² Among this group, atheists show particularly weak support (42 percent more likely respond “too supportive”), followed by agnostics (25 percent more likely), and those who identify as “nothing” (15 percent more likely).²³

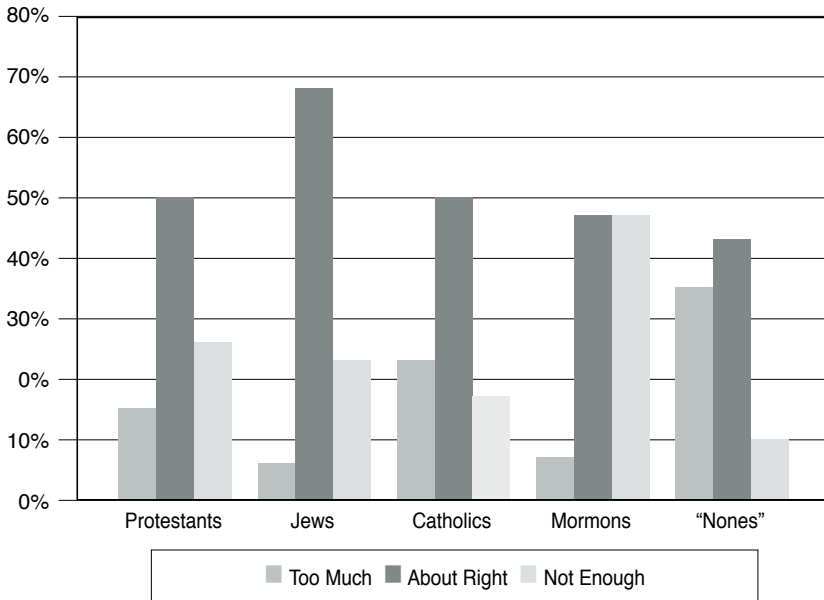


Figure 6. US toward Israel: Too supportive, not supportive enough, or about right?

Demographic movement away from Protestantism and toward those with no religious affiliation could lead to a weakening of support for Israel over time. Given that “nones” are the fastest-growing religious cohort in America, and that they account for more than a quarter of Democrats (27 percent), Israel and its supporters must learn how to engage them.

The Rise of Latinos

Of the emerging demographic trends in the United States, none has received more attention than the rise of Latinos. An estimated 52 million Latinos live in the United States (just under 17 percent of the total population); of these, 51 percent were born outside the United States. Most of this group is composed of Mexicans who immigrated (often illegally) to the United States in recent decades.²⁴

Unlike many other countries, the United States grants automatic citizenship to “all persons born or naturalized in the United States,”²⁵ even if the person’s parents arrived illegally. These Latino children, themselves US citizens, are reaching voting age in ever-rising numbers. With an estimated 800,000 Latinos now turning 18 every year, this sector is expected to account for 40 percent of the growth in the number of eligible voters in 17 years.²⁶ While rates of participation for Latinos remain significantly lower than those for whites or blacks (50 percent versus 66 percent and 65 percent, respectively), the sheer overall numbers of Latinos are making an ever more substantial impact on US elections.²⁷

The growth in numbers (and consequently, power) of Latinos has not escaped an American Jewish establishment always wary of trends that could change attitudes toward Jews and Israel.²⁸ National organizations such as the American Jewish Committee (via Instituto Latino y Latinoamericano del AJC, Project Interchange, and others), Anti-Defamation League (through Hispanic/Latino and Latin American Affairs initiatives), and Jewish Institute for National Security Affairs (via Latin-Jewish Alliance Program) have responded with active initiatives. At a local level, communities in Los Angeles, San Diego, Texas, and South Florida have also engaged in Latino outreach.²⁹ Interest in these initiatives will likely grow in parallel with Latinos’ growing clout.

At first blush, US Latinos appear almost identical to the average American in their support of Israel. Yet Latinos are on average younger and more Democratic-leaning than the average American. In other words, given Latinos’ other demographic characteristics, we would expect them

to be less supportive of Israel than average. However, when taking into account the three factors discussed previously, Latinos are actually 7.4 percent more likely to support Israel than the average American,³⁰ and the figure rises to nearly 9 percent when adding controls for income, education, and church attendance.³¹

The growing presence and electoral power of Latinos, then, is likely a positive trend for Israel, especially as they are now identifying or leaning Democratic by large margins.³² Consequently, this group could become a new component of the future pro-Israel coalition among the Democratic base. Nevertheless, Israel and its supporters will need to act to solidify support as this community gets its footing and begins to take a greater interest in foreign affairs.

American Jewry's Changing Face

The stereotypical American Jew has generally been an upper-middle class Ashkenazi suburbanite who sends his or her kids to Hebrew school at the local Reform or Conservative synagogue and who loyally sends support (and a check) for the latest "emergency campaign" for Israel. These are the Jews who fill the hall when members of the Israeli elite come to speak and whose kids are often the subject of Israeli satire.³³

These American Jews still exist, but their numbers are in deep decline. The most recent – and thorough – proof came with the landmark June 2012 report by demographer Steven M. Cohen and others on New York's Jews.³⁴ Although nationwide figures presumably differ from the New York numbers, previous studies suggest the broad trends are likely similar.³⁵ On the one hand, assimilation and low birthrates among the non-Orthodox have continued apace (possibly consistent with the overall decline in American religiosity). Meanwhile, high birthrates among Orthodox Jews (particularly the ultra-Orthodox or "haredim") have begun to have a demographic impact. Taken together, these trends have hollowed out what was long the core of American Jewry: affiliated, non-Orthodox suburbanites. In the New York area, the percentage of Jewish households affiliated with the Reform and Conservative movements fell from 70 percent in 1991 to 42 percent in 2011. Meanwhile, Orthodox affiliation rose from 13 percent to 20 percent, and "other" (corresponding in part to the "nones" in studies of American religion) rose from 15 percent to 37 percent.³⁶

American Jewry's changing face is critical for the broader US-Israel relationship because it is precisely these disappearing American Jews who spearheaded the effort to generate support for Israel among the public and its political representatives. For example, while the American Israel Public Affairs Committee (AIPAC) has done much to diversify the pro-Israel camp ethnically and religiously, nearly all of AIPAC's board of directors, staff, and major donors remain Jewish. This should not be seen as a failure; on the contrary, Israel and the Zionist movement have long cultivated a special bond with the Diaspora. It seems natural and appropriate that Jews lead pro-Israel political efforts, even if others join them.

At the same time, demographic changes within American Jewry will have an impact on pro-Israel organizations, and in turn, on the very foundations of support for Israel in American public opinion. For example, Orthodox Jews, many of whom express strong attachment to Israel, will likely take on more leadership roles, a process that has already begun among the modern Orthodox.³⁷ Lithuanian (i.e., non-Hasidic) haredim are another potential reservoir of leaders, especially given their high levels of attachment to Israel, high birthrates, and reasonably high levels of income and education.³⁸

While stepped-up Orthodox involvement will be essential for maintaining Israel's public opinion standing over the long term, it still raises several key questions. First and most critically, how will pro-Israel forces address this growing disparity between its core leadership (which will be more religiously observant) and a less religiously affiliated America? Likewise, Orthodox Jews voted overwhelmingly in 2012 for Mitt Romney,³⁹ contributing to the boosted Republican share of the overall US Jewish presidential vote in 2012 from 22 percent to 30 percent.⁴⁰ Yet if the challenge will be to maintain support for Israel among Democrats, how will a Republican-leaning leadership reach out?

Over the long term, the decline in the number of affiliated, non-Orthodox Jews can also be expected to stunt the demographic force of traditional American Jewish liberalism (and limit the prospects for groups such as the left wing Israel-oriented J Street). One could imagine American Jewish liberals serving as Israel's bridge to the rising demographic groups of a changing America, but that bridge stands to become ever more rickety.

Conclusions and Recommendations

Overall polling numbers on US pro-Israel sentiment – with their near-record high of 63 percent support – could induce a false sense of security in Israel.⁴¹ Looking behind the numbers, the composite of the social and demographic trends paints a starker picture: an increasingly non-religious America, whose youngest generation of voters is significantly less supportive of Israel than its oldest, and whose Jewish community looks set to become more religiously inclined even as the general American population seems headed in the opposite direction.

It is important to note that the three main trends working against Israel (partisan, generational, and religious) are not simply describing the same cohort. Each factor has an impact (of roughly 13-17 percentage points) almost entirely independent of the others, meaning their impact on Israel's public standing is compounded. So, for example, an older (Silent Generation), white, Protestant Republican would most likely (79 percent) say he or she supports the US stance on Israel. However, a white, millennial, Democratic "none" would be unlikely (33 percent) to support the US stance on Israel.

Israel and its supporters cannot return a young generation to the Protestant pews, cannot dictate to non-Orthodox American Jews to have more children, and more broadly, cannot magically restore the America of the 1990s. Israel must take US demographics as it finds them. How, then, can the challenge posed by this demographic change be met?

In particular, Israel and its supporters will need to maintain grassroots support among Democrats. Shifts in public opinion among the Democratic base have yet to translate into declining support on Capitol Hill, which remains as strong as ever. The question, then – one of the signal unanswered questions of the US-Israel relationship – is when, and to what extent, declining support for Israel among Democratic voters will affect the voting and rhetoric of Democratic legislators. The answer to this question will be determined in no small part by how successful Israel and its supporters are in reconstructing and energizing a pro-Israel coalition within the Democratic base.

Part of this effort will of course mean stepping up engagement with segments of the population that are on the rise. Continued focus on university campuses seems justified as a key tool for closing the generation gap. With Latinos, engagement efforts are well underway, especially by American Jewish organizations. The Israeli government

must build on these efforts and take full part in the outreach, not only through diplomats posted in the United States but through politicians and policymakers based here in Israel. The Ministry of Foreign Affairs seems aware of the needs and is already stepping up its efforts dramatically, including through thirteen Spanish-speaking local elements tasked with building connections between Israel and Latino communities.⁴² On a recent visit to South Florida, Deputy Foreign Minister Danny Ayalon – himself a Spanish speaker – met with Latino community leaders and gave an interview to US Spanish-language media.⁴³

Far more challenging will be the engagement of “nones.” The rising disaffiliation from religion may be part of a growing disaffiliation from social institutions writ large, a trend made famous by scholar Robert Putnam’s *Bowling Alone*. “Nones,” therefore, might not only be unreachable through churches; they might be less affiliated with all manner of community groups as well.

If so, pro-Israel forces must allocate more resources toward improving their understanding regarding where this cohort gets its information and, most importantly, from whom it takes its political cues.⁴⁴ Perhaps, for instance, this sector might best be engaged by shifting part of pro-Israel groups’ efforts from mass media to niche media, reaching a smaller target audience but with more precision and effect. If true, then instead of encouraging leading Israel advocates to publish opinion pieces in leading national newspapers, these advocates should be encouraged to write and appear more in media, whether social media, other internet media, or niche television broadcasts, that reach these “nones” on a more targeted basis. Again, this strategy’s first step must be internalizing research on where this diffuse demographic gets its information and how it forms opinions. While outreach efforts toward Latinos seem better developed, strategies for reaching “nones” are perhaps even more important – and more challenging.

Finally, pro-Israel forces must come to terms with changing American Jewish demographics. The shrinking core of affiliated, non-Orthodox Jews threatens to chip away at the backbone of the pro-Israel community. How to supplement this leadership group, whether with the increasing numbers of America’s modern Orthodox and Lithuanian haredim, passionate non-Jewish Americans, or greater involvement of secular Israelis (wherever they live), will be a central question of the coming decades. In this regard, the Israeli government should try to include more

Lithuanian haredi and Hasidic representatives in its many forums and meetings between Israeli and American Jewish leaders.

Meanwhile, because liberals and “nones” are unlikely to be very receptive to these groups, winning their support will require working with and through left-leaning organizations. For the American pro-Israel establishment, which has prized solidarity, this presents a challenge. AIPAC, as an illustrative case, came of age in the 1950s, a time of centralization in American society and politics, whether in its three television networks, three auto companies, three strong and distinct Jewish denominations, two distinct racial groups, or two strong political parties that worked collaboratively together in Washington. Today’s America is far more fragmented, both cause and effect of some of the trends described in this article.

How, then, can the industrial age organization of the pro-Israel advocacy apparatus meet the challenges of a post-industrial America? Many American Jews have long argued that a single organization can no longer speak for all supporters of Israel. Our point is different: in an era of increased polarization and social fragmentation, we doubt any single organization can effectively influence opinion in all segments of the American public. Indeed, on the ground, the past decade has seen a proliferation of pro-Israel groups, whether the left wing J Street, the right wing Emergency Committee for Israel, or the one-man operations of donors and activists like Sheldon Adelson. Our point is that this may be a blessing.

Of course, centralization enables pro-Israel forces to take advantage of economies of scale and exert strength in numbers. One solution to these opposing pressures is to distinguish between a Washington-oriented lobby such as AIPAC, for which the cost-benefit analysis may favor centralization, and grassroots-oriented advocacy groups, for which targeting and nimbleness could prove especially helpful. For these advocacy groups, one possibility is to move more toward a coalition model, where different bodies speak for different segments of pro-Israel activism and speak to different audiences in the US public. One type of coalition model has already emerged at the campus level through the Israel on Campus Coalition. On a larger scale, a central body would have coordination authority and some control over funding to the constituent groups. Of these groups, one could bring together pro-Israel liberals interested less in the self-expression offered by J Street’s grassroots

arms (to voice dissent on some Israeli policies) and interested more in the challenge of building positive feelings toward Israel among fellow US liberals. The coordinating body could retain prestige and clout even as devolution of authority to formalized constituent groups would enable more effective targeting in messaging. Regardless of organizational structure, the battle for the Democratic Party's future support for Israel will have to be fought and won by supporters from within the party's own ranks.⁴⁵

Finally, if over the course of the next several decades American public opinion regarding Israel will likely become more divided, Israel's policymakers should consider the strategic implications. Much can be done to maximize support for Israel among Americans, which could include changes in Israel's policy toward its neighbors. Beyond that, Israeli leaders must consider what else the country can do, independently of gaining US public support to the fullest, to buttress the US-Israel relationship and/or to maintain Israel's wider geopolitical standing. The challenge is to maximize US public support, where much can be done, and then to identify other political and geopolitical strategies to compensate for any incremental decline in public support.

Notes

The authors thank Rachel Beerman and Tamar Levkovich for their determined research assistance, and Daniel Maliniak, Justin Levitt, and the *Strategic Assessment* editorial board for their comments.

- 1 Scott Wilson, "Democrats Restore to Party Platform Language on Jerusalem," *Washington Post*, September 6, 2012.
- 2 Rasmussen Reports polled on this question weekly, and support for repeal consistently beat opposition to repeal by 10-20 percentage points. See http://www.rasmussenreports.com/public_content/politics/current_events/healthcare/health_care_law.
- 3 Pew Hispanic Center, "An Awakened Giant: The Hispanic Electorate Is Likely to Double by 2030," November 14, 2012, http://www.pewhispanic.org/files/2012/11/hispanic_vote_likely_to_double_by_2030_11-14-12.pdf.
- 4 Pew Forum on Religion & Public Life, "'Nones' on the Rise: One-in-Five Adults Have No Religious Affiliation," October 9, 2012, http://www.pewforum.org/uploadedFiles/Topics/Religious_Affiliation/Unaffiliated/NonesOnTheRise-full.pdf, pp. 9, 14.
- 5 Pew Research Center for the People & the Press, "The Generation Gap and the 2012 Election," November 3, 2011, <http://www.people-press.org/2011/11/03/the-generation-gap-and-the-2012-election-3/>.

- 6 Amnon Cavari, "Religious Beliefs, Elite Polarization, and Public Opinion on Foreign Policy: The Partisan Gap in American Public Opinion toward Israel," *International Journal of Public Opinion Research*, published online January 27, 2012, p. 3.
- 7 CNN/ORC International poll, November 19, 2012 (conducted November 16-18, 2012), <http://i2.cdn.turner.com/cnn/2012/images/11/19/rel17a.pdf>.
- 8 Our analysis is based on data from a Pew Research Center political survey released in March 2012, which dealt with a number of foreign policy issues. The randomly selected nation-wide sample of 1503 includes use of cell phones and landlines. Margin of error is +/-2.2 percent. For more, see Pew Research Center for the People & the Press, "March 2012 Political Survey," March 3, 2012, <http://www.people-press.org/2012/03/03/march-2012-political-survey>. While the data is a bit dated, it is the most recent of its kind that is publicly available. Moreover, although the campaign itself may have shifted opinions over the course of its final months, based on historical survey data, we believe the campaign itself is unlikely to have caused a major shift, as opinions on these matters tend to change little over time. A methodological note: all results regarding support for Israel were derived using probit regression (the dependent variables being dichotomous) and we report marginal effects. "Support Israel" includes those who agree with present levels of US support or believe the US does not support Israel enough. "Don't know" and those who think the US supports Israel "too much" are coded as zero. For our analysis of "too much," all other answers (including "don't know") were coded as zero. In this respect, our "support" variable does include an assumption that current American support is perceived as being pro-Israel. Given that the "too much" and "support" findings mirrored each other throughout, we believe this is justifiable.
- 9 This is significant at the $p < 0.001$ level.
- 10 The numbers rose to 14.7 and 13.9 percent, respectively. This is significant at the $p < 0.001$ level. We ran regressions with factors added independently and jointly, and the change on the substantial effect was minimal while statistical significance remained exceedingly high. Even controlling for ideology had minimal effect.
- 11 Regression tables for all trends discussed in this article are available from the authors upon request.
- 12 This is significant at the $p < 0.001$ level and is robust to age, income, and education. Frequency of church attendance reduces the finding by 2 percent, but remains statistically significant.
- 13 This might seem obvious, but often differences can occur based on the number of "don't know" respondents.
- 14 Jonathan Rynhold, Presentation, "Democrats, Liberals and the American Attitude to Israel and the Middle East," June 18, 2012, available at <http://www.youtube.com/watch?v=JW9for7rZ8I>. Our own analysis of polling data also supports this theory.

- 15 Cavari, pp. 5-8.
- 16 Raw data is available at CBS News/New York Times Polls, 1977-1978 (ICPSR 7818), <http://www.icpsr.umich.edu/icpsrweb/ICPSR/studies/7818>.
- 17 The results from the two surveys were nearly identical on the issues discussed here, and in general, differences were mild.
- 18 The question actually read: "Some people think the United States should pay more attention to the demands of the Arabs, even if it means antagonizing Israel, while other people think the United States should give its strongest support to Israel, even if it means risking an Arab oil boycott. If these were the only two choices, which should the U.S. do? Pay more attention to the demands of the Arabs, or give our strongest support to Israel?"
- 19 Pew Forum on Religion & Public Life, "'Nones' on the Rise: One-in-Five Adults Have No Religious Affiliation," p. 13.
- 20 Based on our analysis of Pew data. Note: The overall average age of Americans is lower, in large part because it includes those under 18 years of age, a group not included in the surveys.
- 21 We found Protestants were 11 percent more likely to be supportive of Israel than the average American, though when controlling for party affiliation, age, education, and income the number dropped to 6 percent. Self-described "born again" Christians were 13 and 9 percent more likely to be supportive than the average American. When we controlled for how frequently one attends church, the numbers dropped by 1-2 percent, but remained statistically significant.
- 22 This is highly significant ($p < 0.000$). When we controlled for how regularly one attended his/her place of worship, the finding remained highly significant, although the number dropped to just under 17 percent.
- 23 Statistically speaking, these results are robust to controls on party affiliation, age, education, and income. That said, the percentages are several points lower when these factors are included.
- 24 According to the US Census Bureau, 54 percent of the foreign-born Latinos surveyed hailed originally from Mexico. "Pew Hispanic Vote to Double," Appendix B.
- 25 U.S. Constitution, Amendment XIV, Section 1.
- 26 Pew Hispanic Center, "An Awakened Giant: The Hispanic Electorate Is Likely to Double by 2030," p. 6.
- 27 Data for 2011 is based on US Census Bureau estimates at <http://www.census.gov/popest/data/national/asrh/2011/tables/NC-EST2011-03.xls>. Data for 1992 and 2000 is based on US Census Bureau estimates at <http://www.census.gov/popest/data/national/totals/1990s/tables/nat-srh.txt> (released January 2, 2001).
- 28 The most comprehensive study to date on the subject is Matt A. Barreto and Gary M. Segura, "Familiarity, Commonality, Attitudes and Perceptions of Latinos toward US Jews and Issues of Concern to the Jewish Community in Five US Cities: A Project of the AJC – Findings and Analysis," American

- Jewish Committee/Latino Decisions, April 11, 2012; http://faculty.washington.edu/mbarreto/ld/ajc_final.html. The study found that many Latinos answer “don’t know” when asked whether US support for Israel is too high, appropriate, or too low. Among Latinos, those with higher incomes, more education, and those who were third-generation Americans were most likely to be supportive of Israel. The survey, however, raises methodological concerns. Framing effects may be at work, as the “don’t know” responses were far higher (52 percent) than those of Hispanics in the Pew survey (16.6 percent) for the same question. First asking numerous questions about Jews and anti-Semitism may have made respondents more wary than usual in answering questions about Israel. Additionally, looking at Latinos in five cities, four of which have sizable Jewish populations, cannot be considered a representative sample of Latinos in the United States as a whole. Due to these concerns, we have not used this data in our analysis here.
- 29 Examples include the Anti-Defamation League’s ¡Celebrate! Program, and the American Jewish Committee’s “Grupo de Trabajo de Líderes Judíos Latinoamericanos.”
- 30 This is significant at the $p < 0.05$ level. When these same factors are taken into account, African-Americans and Asian-Americans are not statistically different from whites.
- 31 Significant at the $p < 0.05$ level. Including self-reported ideology has no impact on the results.
- 32 This is highly significant ($p < 0.001$), even when controlling for other demographic factors.
- 33 For an example with English-language subtitles, see the clip from the television series *Eretz Nehedert* (“A Wonderful Country”), <http://vimeo.com/35660324> (aired January 23, 2012).
- 34 Steven M. Cohen, Ron Miller, and Jacob B. Ukeles, *Jewish Community Study of New York: 2011 - Comprehensive Report* (New York: UJA-Federation of New York, June 2012), p. 19, <http://www.ujafedny.org/jewish-community-study-of-new-york-2011/>. In addition to the five boroughs, the report surveyed the Jewish population in Long Island and in Westchester County. The survey did not include Jews in New York’s Rockland County or in New Jersey or Connecticut.
- 35 Recent thorough data on the nationwide American Jewish population is not available. Due to criticism of the 2000-2001 National Jewish Population Survey, the Jewish Federations of North America decided not to conduct its usual decennial study in 2011. That decision has since been reversed, with the federation system receiving a \$1 million challenge grant to conduct another study. If the campaign succeeds in raising another \$1 million by September 2013, then the study will go ahead. Either way, the final results of the new study will not be available for several years. For more information, see Helen Chernikoff, “New National Jewish Population Survey in the Works,” *Jewish Week*, November 13, 2012, <http://www.thejewishweek.com>.

- com/news/breaking-news/new-national-jewish-population-survey-works; Gary Rosenblatt, "How Many U.S. Jews, And Who Cares?" *Jewish Week*, October 25, 2011, http://www.thejewishweek.com/editorial_opinion/gary_rosenblatt/how_many_us_jews_and_who_cares
- 36 Cohen et al., p. 121.
- 37 Some have called for an even greater role for the modern Orthodox. See Gary Rosenblatt, "A Community Pulling Apart?" *Jewish Week*, June 12, 2012, <http://www.thejewishweek.com/editorial-opinion/gary-rosenblatt/community-pulling-apart>.
- 38 Cohen et al., pp. 214-16, 218-20, 224. As detailed in the study, New York's Lithuanian haredim and Hasidim have very different demographic profiles. The Lithuanians (called "yeshivish" in the study) have similar birthrates to Hasidim but significantly higher levels of income and education. Lithuanians' levels of attachment to Israel are also higher than those of Hasidim, though attachment levels of Hasidim, with the exception of anti-Zionist sects such as Satmar, are also reasonably high. *Ibid.*, p. 224.
- 39 "The City Vote, Precinct by Precinct," *New York Times*, November 23, 2012, <http://www.nytimes.com/interactive/2012/11/24/nyregion/the-city-vote-precinct-by-precinct.html>.
- 40 Ron Kampeas, "Fighting over Every Percentage Point: Arguing about the Jewish Vote and Exit Polls," *Jewish Telegraphic Agency*, November 7, 2012, <http://www.jta.org/news/article/2012/11/07/3111381/fighting-over-every-percentile-arguing-about-the-jewish-vote-and-exit-polls>.
- 41 Perhaps the best source for tracking these trends over time is at Gallup. See Elizabeth Mendes, "Americans Continue to Tilt Pro-Israel," *Gallup* website, March 2, 2012, <http://www.gallup.com/poll/153092/Americans-Continue-Tilt-Pro-Israel.aspx>.
- 42 Itamar Eichner, "Ayalon Returns from US Trip and will Meet with the Minister who Ousted him," *Yediot Ahronot*, December 11, 2012, <http://www.ynet.co.il/articles/0,7340,L-4318514,00.html>.
- 43 *Ibid.* Ayalon's language skills are listed on his Knesset website.
- 44 For the leading study of how uninformed citizens form political opinions and make political decisions, see Samuel L. Popkin, *The Reasoning Voter: Communication and Persuasion in Presidential Campaigns* (Chicago: University of Chicago Press, 1991 and 1994).
- 45 Even a leading voice on the right (the executive director of Christians United for Israel) has argued that pro-Israel outreach to liberals is best done by liberals. See David Brog, "The Failure of the American Jewish Left," *Middle East Quarterly* 20, no. 1 (2013), <http://www.meforum.org/3358/american-jewish-left>.

The End of the American Era in the Middle East?

Yoel Guzansky

“As a Pacific nation, the United States will play a larger and long-term role in shaping this region and its future.” President Obama, the Australian Parliament, November 2011

In recent years, the US administration has announced its intention of adopting a policy of “pivoting” toward East Asia, and this policy has been reflected in a series of military, economic, commercial, and diplomatic initiatives. In this vein, President Barack Obama and senior administration officials have confirmed that the United States seeks to play a leadership role in Asia in the coming years.

Assessments that the US strategic center of gravity is shifting to East Asia are well grounded, and their underlying rationale is spelled out in the US security strategy of January 2012. Although the range of administration initiatives and declarations about directing resources eastward at the expense of other areas is not new, it is worthwhile to examine their influence on the Middle East, a region in which the standing of the United States has been challenged over the past few years. Iran’s continuous progress toward a nuclear weapon, the erosion of US influence in Iraq, the difficulty in influencing events in Syria, the Arab monarchies’ doubts concerning the reliability of the United States, questions regarding the future of US relations with Egypt, and even the cooling of relations with Israel have indicated to some that the United States is increasingly hard pressed to advance its policy in the region. To others, these are signs of a superpower in retreat.¹

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This article's main argument is that the drive to allocate resources and attention to other areas, coupled with domestic economic constraints and proven difficulties in implementing its policy in the region, does not necessarily indicate an American abandonment of the Middle East. Rather, in light of a number of basic conditions and major interests that influence American considerations, demand constant monitoring, and suggest US willingness to intervene when necessary, the United States is expected to continue to play a sizable role in regional security.

Looking Eastward

Prior to President Obama's visit to Australia in November 2011, senior officials in the US government announced that the main focus of US policy would no longer be what it had been previously, but would instead concentrate on the challenges of the twenty-first century, specifically, Asia and the Pacific Ocean. US Secretary of Defense Leon Panetta even stated that by the end of the current decade, the bulk of the US naval force would be stationed in the Pacific Ocean for the purpose of balancing China's growing power.² Secretary of State Hillary Clinton also addressed the American need to invest efforts in Southeast Asia – economic, diplomatic, strategic, and others – stating that the next decade would be the “Asian decade.”³

The United States has begun redistributing forces, boosting capabilities, cultivating old connections, and creating new partnerships, all with the goal of reassuring its friends and allies that they will not be abandoned to the growing strength of China⁴ – and all the while working to prevent their being dragged into an undesirable military conflict with Beijing, their main economic partner. There are also a number of conditions that are likely to increase the tension in US-China relations, particularly China's policy in its immediate surroundings (as expressed, for example, in the territorial conflicts in the South China Sea) and beyond.⁵

The Pacific Basin has always been a special interest area for the United States. The current American measures, both on the declarative and the practical level, including its pivot to the east, are a response to China's growing power and the resulting threat to its neighbors, and to the assertive – if not aggressive – policy it has adopted in recent years.⁶ For its part, the United States wishes to demonstrate that it will not surrender its status and economic interests in the region, which it traditionally views

as its back yard, and that it will not allow China to turn the region into its exclusive area of influence.

The concern that the Middle East may become less relevant to US national security is rooted in several issues, including the boom in local energy production in the United States and Canada and the corresponding high likelihood that Washington can wean itself of its dependence on Middle East energy;⁷ the apparent reduced threat from al-Qaeda;⁸ and first and foremost, the claim that it is better for the United States to turn its attention and devote its resources to the more significant challenge in Asia.⁹ Yet while the difficulties the United States has encountered in implementing its policy in the Middle East may have enhanced its drive to invest in other areas, this does not translate into an abandonment of the arena.

The first visit by President Obama (along with the entire upper echelon of the US administration) after his November 2012 reelection was to Southeast Asia,¹⁰ undertaken in order to substantiate the pivot to the east and demonstrate that the economic and security ties in the region are critical to the future of the United States. This visit may have been intended to signal that the administration's attention and most of its work in the next four years would be devoted to the region. It is also possible that the President sees an opportunity to leave his mark on Asia and the Pacific region and thereby establish his legacy, especially given the difficulties in doing so in other areas. However, as this visit also showed, long term considerations are often postponed in the interest of short term crises in other regions, such as the Middle East, which strengthens the claim that at least in the foreseeable future, US involvement in the Middle East will not decline.

Between Iran and the Arab Spring

A US policy focused away from the Middle East would be a significant deviation from the policy that has existed over the years. It is possible that this change began during the Obama administration's first term, manifested in reduced efforts to promote the Israeli-Palestinian peace process; the ongoing difficulty in preventing Iran from obtaining nuclear military capability; an Iraq that is increasingly outside the US sphere of influence; and the search for a path toward an expedited exit from Afghanistan, despite the doubtful preparation and skills of local security forces to insure stability.¹¹ The Obama administration has also made do

with “leading from behind” in Libya and has hesitated to invest actively in ousting Bashar al-Assad from Syria, which has, according to most estimates, prolonged the civil war. A potential consequence of these developments may be the preparation by both America’s allies and its enemies for a post-American era in the Middle East, with some acting as if it has already arrived.

When President Obama took office, two main objectives were to boost United States acceptance – if not popularity – in the Middle East, and to withdraw US forces from the region, first from Iraq, and later from Afghanistan. Early in his first term, Obama promised the Muslim world a fresh start, but at the start of his second term, the Arab nations remain gripped by anti-American feelings. In fact, from the outset the Obama administration’s “reset” policy toward the Muslim world was greeted with skepticism not only because it lacked clear and defined policy goals, but also because of the difficulty it faced in order to meet the high expectations generated.

In reality, there was not much new in US policy toward the Middle East under Obama other than what appeared to be a tougher policy toward Israel, especially on the issue of settlements, and an attempt, mainly rhetorical, to placate the Muslim world. What was new, if anything, was the attempt to engage with rogue actors, such as Iran and

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Syria, and to promote multilateral action. The Sunni world refused Obama’s request to make any conciliatory gesture toward Israel in order to encourage the peace process, and not only were Arab leaders unimpressed with the President’s policy, but they may even have perceived it as an expression of weakness. The limited political, economic, and security activism of states in the Sunni Muslim camp, particularly in the face of the Iranian challenge, was more connected to the possibility that fundamental interests of these states were in danger than it was a response to American overtures.

The United States still declares that it is committed to the idea of promoting democracy in a region that is perhaps the least democratic in the world, but in fact, during President Obama’s first term, it focused primarily on the attempt to withdraw US forces from Iraq, precisely at the

time that the democratic experiment in the country was under challenge. The United States is also currently considering an accelerated timetable for withdrawal from Afghanistan. At the same time, it is endeavoring to minimize the damage to its interests and is distancing itself from attempts to establish governance and strengthen Afghani state institutions against the Taliban challenge. While the events in the Arab world have caused the United States to return, even if primarily on the declarative level, to a commitment (abandoned at the end of President Bush's second term) to the pursuit of political freedom and to human rights, such a stance appears to distance it even further from its remaining regional allies, and especially from the monarchs, particularly the Saudi royal family, who fear deep and rapid changes in their societies.¹²

In his second speech to the Arab world ("Cairo 2," May 2011), President Obama declared that promoting reforms in the Arab world is a primary goal of his administration. It is possible that because he was criticized for maintaining a double standard – using military force (under the NATO flag) against the Qaddafi regime, while calling weakly to Bahrain to maintain freedom of expression, for example – he shifted his priorities, at least publicly. In his speech Obama did not mention key states such as Saudi Arabia, which have remained the cornerstone of what remains of the pro-American Arab camp. The United States cannot allow itself to lose Saudi Arabia, which may be the reason that the entry of Saudi forces into Bahrain in March 2011 was not met with any US condemnation of note.¹³

As a result of US policy regarding the "Arab Spring," Arab leaderships that have remained intact despite the unrest are more skeptical than in the past of the backing they would receive from the United States should there be a domestic threat to their rule. This skepticism will make it difficult for them to embrace US policy in the region and propel them to think twice before taking risks for the United States, especially in connection with Iran. Therefore, Barack Obama's reelection has been coolly received in the Arab world, along with the hope of a significant change in foreign policy in his second term. In particular, Arab states would like to see

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the United States abandon its passive stance and adopt a more vigorous approach vis-à-vis the Assad regime and toward Iran.¹⁴

The wave of revolutions in the Arab world accelerated the decline of American influence in the region because it toppled rulers who were US allies, but also because it jolted relations with the regimes that remained intact. Furthermore, the rise of new regimes does not ensure smooth relations with the United States. Even though, for example, President Obama backed the masses that took to the streets to demonstrate in Egypt against President Husni Mubarak (after failing to support similar events in Iran two years previously), US relations with the new president, Mohamed Morsi, are not particularly good. While the democratic elections in Egypt were welcomed by the United States, they brought to power a movement and a president whose commitment to democratic values is uncertain at best. President Obama has stated explicitly that while the United States, whose main lever for influence on Egypt remains economic (with 1.7 billion dollars per year in military and civilian aid), does not consider Egypt an enemy, neither does it see it as an ally.¹⁵

There is no question that both America's friends and enemies in the Middle East will interpret the new eastward-bent strategic focus as a further retreat from American centers of influence in the Middle East, and specifically, as a weakening of the US military option against Iran and an expression of America's lack of support for the pro-Western regimes that have remained in place. The United States is aware of such attitudes, and therefore is initiating both declarative and practical steps in order to assuage the concerns of its allies. To this end, it has increased its military presence in the Gulf, signed enormous deals with Arab Gulf states, and dispatched high ranking officials to the region, while giving prominence to these measures.

The Centrality of the Middle East

The desire of the United States to relinquish some of its global commitments reflects an isolationist tendency with deep roots in American history. In recent years, those in the United States who argue that the country must concentrate its efforts on domestic issues, even at the expense of America's global interests; share the defense burden with US allies; and take part only in wars of last resort, have grown stronger.¹⁶ Nevertheless, and even if there is a diminution in its status in the Middle East, the United States is not deserting the region. Moreover, not only

has the United States not ceased dealing with Middle East affairs; those who are in charge of shaping US foreign policy, which sometimes seems reactive, confused, and full of contradictions,¹⁷ devote most of their time to the Middle East – even if it often seems that the time invested in handling the ills of the region is inversely proportional to the amount of influence the United States currently wields there.¹⁸

There is a wide gap between greater emphasis on the Pacific region and disengagement from the Middle East. This is not a zero sum game, and the United States can be involved in these two major arenas at the same time. Furthermore, the United States still has a number of major interests in the Middle East that continue to play a significant role in US policymaking and stand to influence the future course of American action in the region.

The Energy Market

The global energy map is changing, especially because of the boom in oil and gas production in the United States through use of advanced technologies. This change is likely to bring about a reduction in dependence on Middle East oil, and therefore, less dependence than in the past on oil producing states (especially since the United States is already no longer dependent on imports of natural gas and coal). US oil production has risen in the past four years by 25 percent. Moreover, the International Energy Agency (IEA) expects that the United States will surpass even Russia and Saudi Arabia and become the largest oil producer in the world.¹⁹

At the same time, the notion that the United States will be completely independent of Middle East oil is far from reality. While the United States today produces 60 percent of its oil consumption and is expected to supply all of its energy needs by the end of the next decade, even then it will continue to be dependent on the global economy, which is liable to be harmed and to harm the United States as well if oil sources in the Middle East do not continue to supply the demand of states such as South Korea, Japan, India, and China. For example, the Persian Gulf alone has 54.4 percent of the total proven global oil

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reserves and 40.5 percent of all proven global gas reserves.²⁰ Therefore, even if the United States were not dependent on energy from the Gulf for domestic consumption, it would remain dependent on the stability of the global energy market and would need to continue to maintain free access to Persian Gulf oil. The importance of the United States on this issue was illustrated when in early 2012, in contrast to its stance on the Iranian nuclear issue, it asserted that freedom of navigation in the Strait of Hormuz is a red line.²¹ The United States also has special relations with the Gulf states and a history of activity in the region, and these are influenced by factors other than the need for energy and for access to the Gulf economy, and require an American presence in the region.

Nuclear Proliferation

When President Obama entered office, one of the major goals he set for himself was to promote the idea of global disarmament.²² In practice, however, he has encountered significant setbacks in achieving this goal: Iran is seeking to become a nuclear power, and Pakistan is an unstable nuclear power that could transfer nuclear technology to other states in the region, or even lose control over its nuclear arsenal. In addition, if Iran obtains nuclear weapons, this is liable to lead to further proliferation in the region, with other states likely to aim for military nuclear capability. The United States was and remains the largest external power in the region and is the only power capable of safeguarding Pakistani nuclear weapons, serving as a counterweight to Iran's power, and attempting to prevent further nuclear proliferation. It is for this reason that the US connection with the greater Middle East in the context of nuclear nonproliferation remains essential.

The Peace Process

To stress the commitment of the new administration to the Israeli-Palestinian peace process, President Obama appointed his Middle East envoy, George Mitchell, only forty-eight hours after being sworn into office in January 2009. Obama called this issue a "national security priority" for the United States.²³ However, American efforts to promote the peace process over the past four years have not borne fruit, in part due to American conduct on this issue. It is reasonable to assume that there will be renewed American interest in the Israeli-Palestinian peace process during Obama's second term, when he is free of electoral considerations

and potential American pressure levers on Israel are more significant. The argument that progress toward a political settlement between Israel and the Palestinians will make it easier to implement US policy in the Arab world in general, and toward Iran in particular, still bears much weight in the United States.

Israel

America's relations with Israel are traditionally defined in terms of moral obligation, common cultural and political values, and joint strategic interests. Nevertheless, a trend with potential negative impact on relations is connected to an image of a weakened Israel. Israel is no longer perceived by many in the United States as an asset, and in recent years various critics have even gone so far as to depict it as a burden. However, Israel remains an important partner for the United States in dealing with terror threats and evolving military threats, and the militaries of the two countries share intelligence and combat doctrines. Israel remains a loyal and stable ally that through joint development efforts also contributes to US defense industries.

The Terror Threat

In the United States, the terror threat is considered to be lower than it was eleven years ago. Nevertheless, a US withdrawal from the Middle East would not put an end to anti-American jihadist terror. On the contrary, it appears that radical Islamic forces seek to enter the vacuum created by fall of old Arab regimes. Al-Qaeda in Yemen is already defined by the United States as the most dangerous of the organization's affiliates.²⁴ In addition, the attack on the US consulate in Benghazi, Libya, which killed US Ambassador Christopher Stevens, illustrates the extent to which the post-revolutionary transition period has only increased the threat posed by al-Qaeda, including in the Maghreb, and has strengthened al-Qaeda's affiliates in Iraq and Syria.

Weapons Sales

The United States is continuing its attempt to strengthen its allies in the region. The most blatant expression of this policy is that it provides these states with access to advanced American weapon systems that are intended to help them face the Iranian threat. The sale of US-produced weapons and weapon systems is a way to increase American influence

and is a significant consideration for the United States, especially in light of the state of the US economy. The scope of US weapons sales in recent years, intended mainly for the Gulf states, is unprecedented. Thus, for example, from 2008-11, deals with Saudi Arabia and the United Arab Emirates totaled 70 billion dollars.²⁵ The United States is also planning to provide some of the Gulf states with a large number of advanced fighter jets such as F-15-SA, sophisticated aerial defense systems such as THAAD, and even precision guided munitions. However, the Gulf states' willingness to confront Iran actively also depends on their confidence in the US government's commitment to support them – a commitment that will affect American considerations prior to an attack on Iran.

Conclusion

“After two wars that have cost us thousands of lives and over a trillion dollars, it's time to do some nation-building right here at home.” President Obama, the Democratic National Convention, September 2012

The greater Middle East is the least stable region in the world, and it will likely remain so for many years. Transferring the American diplomatic and military center of gravity to East Asia will not add to its stability. Furthermore, while the economic and security challenges posed by the Pacific region are mostly long term, the challenges posed by the Middle East appear more immediate.

Indeed, the Middle East is the major front in dealing with anticipated dangers to the United States, and emerging trends in the region will increase its importance as a critical arena for US national security. What is not clear is how effective the US strategy of the past four years, or the strategy currently forming, is in confronting these challenges. Whether some of the trends described above stem from President Obama's political doctrine or are connected to the economic situation in the United States, or whether they are a response to the American frustration toward his policy, the US administration is conveying the message that the Middle East is no longer at the top of its priority list. The fact that the anticipated change in such priorities will take place over a decade, however, has a somewhat blunting effect, and does not mean that the Middle East will not remain on the list. Although other regions may be given greater consideration, and American interests and concerns in the

region remain despite its waning influence, to assume this is tantamount to complete abandonment is an overreaction. Nevertheless, even a shift from the top of the priority list is a dramatic change that is liable to have long term consequences for Israel, as the US constitutes a central pillar of its national security.

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Dividing the Land, Not the People: Lessons from the Givat HaUlpana and Migron Evacuations

Gilead Sher and Liran Ofek

Introduction

The two-state political framework presumes that borders between the two nation states of Israel and Palestine will ensure the future of Israel as a democracy that preserves a Jewish majority for generations to come. According to recent surveys, at least 65 percent of Israelis support this principle.¹ The separation from the Palestinians, either as a result of a bilateral agreement or a unilateral Israeli decision, will require mass evacuations of Jewish settlements in the West Bank located outside the large settlement blocs, even in the face of opposition by settlement residents and others. In order to preserve national unity, it is necessary to prepare now for the contingency and implications of such evacuations.

For decades the Israeli government has avoided taking a clear cut stance on the settlements in the West Bank, and at first glance the issue hardly seems to be the most burning item on the public agenda. However, at political crossroads – like the disengagement or negotiations with the Palestinians – the issue rises fully to the surface and shapes the worldviews of influential circles in society.² The government's abstention from taking a position affects Israel's ability to define national values and defend, promote, and use them when faced with political and strategic constraints from within and without. The question is whether or not Israel is able to resolve this issue without descending into an internal conflict or without inciting delegitimization against it on the international arena.

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The United States and the international community view the settlements as a hindrance to peace, and on this basis criticize Israel harshly. From the domestic Israeli perspective, the Israeli settlements in the West Bank often reflect a clash of two different worldviews, each of which has a different narrative in terms of the nature of the regime, the status of the rule of law, the borders of the state, and society's desired norms. This clash places ethical and normative challenges on the doorstep of the Israeli government, the IDF, and the defense establishment, including subversion and the refusal to carry out orders. The tensions between the groups are liable to spill over into actions similar to the "price tag" phenomenon – a local threat with far-reaching implications.

The issue of the settlements, and in particular those outside of the large settlement blocs, often generates practical friction and represents a clash of values, as follows:

- a. The settlements reflect the tension between social groups on issues of borders, national identity, and independence (legitimacy of the government).
- b. They affect the distribution of national resources on security, economic, and social issues.
- c. They obligate the security establishment to formulate policy and responses in the face of extremist actions of one kind or another.
- d. It appears that the fear of a civil war is not viewed as a threat to governance in Israel. First of all, Israel is deemed a stable nation capable of confronting most points of friction between various sectors.³ Second, events such as the sinking of the *Altalena* (1948), Land Day (1976), the evacuation from Sinai (1982), the October riots (2000), and the disengagement (2005) prove that rival groups within Israel have not opted for separation or civil war,⁴ and demonstrate rather that during internal conflicts in Israel rival groups try to curb tension and temper friction.

A mass evacuation of settlements located outside the large settlement blocs and home to about 100,000 people will be necessary if future Israeli governments will seek (or be required) to implement a two-state solution. In order to avert domestic divides, the government must now seriously consider how to engage with the settlers on new terms and change the discourse with them, in order to expand public support for the two-state solution, define the evacuation as a unifying move rather than the abandonment of an important part of the Israeli population, and justify

enforcement and removal by force should these become necessary. In fact, the day the residents of the settlements are required to move to within the borders of the State of Israel – however these are defined – will be too late to properly plan their relocation and start the necessary national preparations.

The disengagement from the Gaza Strip and northern Samaria in 2005 exposed systemic flaws in many areas, especially related to acknowledgment of the legitimacy of government action and the democratic process. For various reasons, there was no dialogue between the government and the settlement residents to explain to them the rationale for the government's decision and help them confront the difficult challenge of abandoning their homes and communities on the basis of a government decision. The Israeli public did not receive a clear message from its government about the urgent, critical need for the disengagement, and was not asked to help the evacuees or mend the ensuing rifts in society. There was no suitable national multi-system preparation to help rehabilitate the civilians who were removed from their homes, preparation that should have included planning in the urban, employment, economic, communal, educational, psychological, and social spheres. The absorption of the evacuees forced to leave their homes lacked the empathy of the public at large and encountered a complex, exhausting bureaucracy.⁵ The security preparations were also deficient and failed to consider the outcome of the security vacuum created the moment the IDF withdrew fully from the Gaza Strip.

Two additional areas evacuated in the seven years since the disengagement, albeit on a smaller scale, were the Givat HaUlpana area of Beit El and the Migron outpost. Unlike with the 2005 disengagement, where most evacuees were relocated within the Green Line, residents were evacuated to nearby locations in Judea and Samaria. This essay examines the two evacuations in terms of the conduct of the various parties, including the political system, the media, and the state institutions and authorities. Alongside the lessons to be learned from the 2005 disengagement, analysis of these two evacuations affords additional insight into the issue of mandatory withdrawal from settlements, and invites conclusions regarding practical implementation of extensive evacuations in particular and further thought about resolution of domestic conflicts in general.

The Evacuation from Givat HaUlpana

From Construction to Evacuation

The Givat HaUlpana neighborhood made headlines in 2008 because of a petition to the Supreme Court, but the story began 12 years previously. In 1996, a terrorist attack near Beit El ended with the shooting deaths of Ita and Ephraim Tzur. After the murders, the Beit El Yeshiva Quarter Development Society received a promise from Prime Minister Benjamin Netanyahu and Defense Minister Yitzhak Mordechai that a neighborhood commemorating the victims would be built in that location. In fact, two neighborhoods were constructed: Maoz Tzur and Givat HaUlpana.

Construction began in 1998, although one of the plots was only bought in June 2000, in the midst of the construction work.⁶ State authorities questioned the transaction; according to the police, the actual owner was not involved in the deal. Moreover, the plots, which seem to have been falsely registered, were sold as state land.⁷ Therefore, as early as 2000, the state issued the first injunctions to stop construction and demolish the buildings already built, but these injunctions were not enforced.

The Legal Front

Subsequent work on the land prompted the Palestinian owners to appeal to the Israeli justice system. The NGO Yesh Din (Volunteers for Human Rights) petitioned the Supreme Court in the owners' name, demanding that the injunctions to stop work and demolish existing structures be enforced. The petitioners asserted that work at the site was illegal: the land was registered with the Land Registry Office, meaning their ownership of the land was indisputable; no government decision had been made about the site; and planning for the site was insufficient to acquire construction permits. Moreover, according to the petitioners, the Civil Administration was aware of the illegal construction as early as 2006, if not before.⁸

The state sided with the petitioners: it recognized the construction as illegal and added that the Beit El Yeshiva Quarter Development Society did not receive approval for the land purchase. In February 2011, the government also decided on a framework to end construction at the site on the basis of policy considerations, whereupon the Supreme Court was willing to give a one-year extension for the injunctions to be enforced. A few days before the end of the one-year extension, the state asked

the court to reconsider the petition. The court rejected the request and instructed the state to evacuate the houses by July 1, 2012.⁹

The Political Front

The Supreme Court's decision angered several government ministers and Knesset members, resulting in two bills being placed before the parliament. One bill proposed that any building constructed in Judea and Samaria with the help of any government agency whatsoever should be considered as having been constructed on state land. If it can be proved that the land is private, the owners will be able to demand compensation for the value of the land before construction.¹⁰ A second bill proposed to limit the period of time for demanding evacuations from buildings built on private land to four years. Afterwards, owners would only be able to demand compensation for the value of the land.¹¹

The discussion of the first bill elicited a great deal of acrimonious verbiage. The evacuation was described as persecution; some of the left wing MKs were accused of hating Jews; and the Supreme Court was called a dictatorship.¹² Eventually the bill was removed from the Knesset agenda. The following week, the Prime Minister decided on evacuating the buildings, thereby siding with the Attorney General's office and the State Attorney's office to oppose the attempt to enact laws to circumvent a Supreme Court decision. Some government ministers announced they would vote in favor of other bills to circumvent the court, even at the cost of being dismissed from the government.¹³

A discussion of the second bill took place on June 6, 2012, during which some MKs claimed that such a law would prevent the demolition of the houses at Givat HaUlpana and in other settlements in the future. Minister Benny Begin asserted the proposed legislation was problematic, as it defied a Supreme Court decision and was liable to place the state and the settlements in direct conflict with one another. This bill too was removed from the Knesset agenda.¹⁴

The Civilian Front and the Evacuation

The residents of the Givat HaUlpana neighborhood and their supporters began a public relations campaign in favor of legislation to circumvent the Supreme Court ruling. As part of this campaign they set up a protest tent and launched a hunger strike. Rabbi Zalman Baruch Melamed, head of the Beit El Yeshiva, called for "a resolute struggle, dedication, and

willingness to sacrifice,” and members of his inner circle promised the struggle would be worse than the one over the evacuation of Amona and would be joined by all who were faithful to the Land of Israel.¹⁵ These calls reached an attentive audience: independent ad hoc groups made plans to block access to Beit El and fortify the buildings in contention. In addition, a pamphlet called “A Practical Guide to Saving the Outposts and Hilltops in the Holy Land” called for “price tag” type acts of retaliation against IDF bases and Arab villages “to destabilize the security situation of the establishment.”¹⁶ As part of the “price tag campaign,” cars in Neve Shalom were set on fire.

Preparations for violent resistance to the evacuation occurred alongside negotiations with government representatives. The sides arrived at an understanding that in exchange for a non-violent evacuation, 300 new housing units would be built in Beit El; the disputed houses would be moved and reconstructed at a different site; and hundreds of housing units would be built throughout the West Bank. The formula proposed to the ministers by Rabbi Eliezer Melamed (the son of Rabbi Zalman Baruch Melamed) and others was simple: a public statement that ten homes would be constructed for every house evacuated in exchange for ensuring that the evacuation went smoothly. When the agreement was signed, the neighborhood residents said that the very fact of the evacuation was a failure, but they were willing to evacuate because they were peaceful people and feared a violent evacuation.¹⁷ The evacuation of the Givat HaUlpana homes began on June 26, 2012, and was completed two days later without incident.

The Evacuation of Migron

Migron’s story is similar to the Givat HaUlpana story in several regards: the way the settlement was established, the legal process, the state’s decision, and the residents’ conduct. Migron was built illegally in March–July 2002, without permits or approved plans. At first the IDF authorized settlers to erect a cellular antenna on private Palestinian land, subsequent to which the area was fenced in and a guard booth and electrical system were built with the approval of the relevant authorities. Soon thereafter it was decided – this time without authorization – to pave an access road and place prefabricated housing units there.¹⁸

The first petition to the Supreme Court on Migron was submitted in June 2006 by Peace Now, representing the Palestinian landowners, and

requested the court to instruct the state to evacuate Migron on the basis of “trespass and intrusion on private land without permission.”¹⁹ The state admitted the settlement was built illegally and agreed to evacuate it, but only on the basis of voluntary evacuation.²⁰ In other words, Migron would be evacuated in exchange for fair and appropriate compensation that would provide for the residents’ travail and allow them to maintain their routines of life and places of employment as much as possible after the evacuation. The stages of the agreement were formulated over the next few years, and in 2009 the state decided to move Migron to Geva Binyamin (Adam) north of Jerusalem. The Defense Ministry approved the construction of 1,450 housing units there, 50 of which were to be reserved for former Migron residents.²¹ The Migron residents, however, rejected the plan and insisted that the only site acceptable to them as both a temporary and permanent solution was Givat Hayekev adjacent to Migron.²² Construction work in Givat Hayekev was begun in April 2012.

The defense establishment offered residents help in moving their belongings while also preparing for a forced evacuation, if necessary. The key challenge lay in keeping right wing extremists away from Migron and interfering with the evacuation.²³ Concern that the evacuation would lead to “price tag” incidents prompted restraining orders issued against radical activists the day before the scheduled evacuation. Although the evacuation went smoothly,²⁴ the defense establishment failed to prevent “price tag” incidents, including graffiti and car firebombings. Also after the evacuation, the entrance doors to the Trappist Monastery in Latrun were set on fire and defamatory graffiti was spray-painted on the monastery’s walls. These acts of vandalism were followed by severe public condemnations, with the residents of Migron themselves declaring, “This is a prohibited action representing moral depravation.”²⁵

Lessons from the Two Case Studies

Insights

Channeling the disagreement of values to a legal framework reduced the friction but intensified the public and political debate. The fact that the media and the political system entered the fray exacerbated the tension. The government, the most important meta-player in the process, opted for a short term arrangement, which saw the formulation of a legal solution to a specific problem. The affair also demonstrated that dialogue is an effective tool for formulating consensual solutions.

By contrast, there was no attempt to deal with long term challenges, which are much more complex, and no policy on fundamental questions was formed. The solutions that left the evacuees in the West Bank will be impracticable in an evacuation of a larger scale, whether it is the result of a unilateral Israeli decision or a political settlement.

The Circumstances

The buildings in Givat HaUlpana and Migron were erected on private land, whose ownership was registered at the Israel Land Registry, and therefore the legal dispute occurred in the proper legal setting and the solution – evacuation – was made on the basis of law. The settlements evacuated were not built on Israel state land and were therefore subject to international law, which forbids the establishment of settlements on private land for non-security purposes. The state accepted this principle in the 1979 Elon Moreh ruling, which had instructed the state to evacuate the settlement because it was not built on the basis of security considerations.²⁶ On the other hand, these areas form part of the Land of Israel and, in the opinion of some of the settlers, the government has no authority to evacuate them and forfeit the land because of the sanctity of the Land of Israel.²⁷

From this perspective, while the evacuation of the settlements was debated through the narrow lens of the law, the issue reflects a clash of values between the state's authority and religious commandment. Subordinating the moral disagreement to a legal procedure reduced the intensity of the friction, helped by the attempt to settle the dispute on the basis of precedent and rulings (the Elon Moreh ruling and property rights) as well as spreading the legal process over a number of years, thereby obviating the necessity of Israeli society to confront opposing worldviews head-on.

The Actors

The Givat HaUlpana and Migron residents viewed their efforts to prevent the evacuation as a failure. Some of them linked the failure to the trauma of the 2005 disengagement – “the expulsion,” in their terminology – and the 2006 evacuation of Amona. The evacuation of Gush Katif and the four settlements in northern Samaria sparked a crisis in the religious Zionist community, and many settlers were impelled to reconsider their allegiance to the State of Israel versus the Land of Israel.²⁸

The most hawkish and messianic of the settlers claimed that Israeli democracy was now passé. Benny Katzover and Daniella Weiss said that “Israeli democracy has done its job and must now dissolve and turn the key over to Judaism,” and when Jewish religious law replaces the laws of the state there will be no more evacuations; thanks to the settlements it will be possible to maintain the integrity of the land and expel any non-Jewish “robber” from it.²⁹

Moving the dispute to the Supreme Court intensified the public and political debate and thereby invited participation by two additional meta-actors – the media and the political system.³⁰ Although they were not themselves parties to the dispute and did not have to pay any personal price, they were quick, as is their wont, to take the disputes out of their original contexts and reframe them in order to advance an agenda. They have often exacerbated tensions and heightened disagreement, and in general, the political system is the most prominent meta-actor in this context.

The evacuation of the settlers clashed with the worldview of several Knesset members and was liable to affect the support they received from their constituents. Therefore, some took the rhetoric on the issue to an extreme, declared their willingness to slight the rule of law, and turned a debate on a Knesset bill into a struggle between the “good guys” (the government, the right wing political parties, and the settlers) and the “bad guys” (the left wing political parties, the Supreme Court, the Palestinians, Peace Now, and Yesh Din).

Unlike these MKs, the government resorted to the principle of containment of differences while setting a threshold of tolerable damage. The government has encouraged the settlement enterprise and strengthened it at the expense of negotiations with the Palestinians, and is therefore the target of international criticism. On the other hand, it has tried to avoid violent situations such as the Amona evacuation and “price tag” incidents, as well as actions that are flagrant violations of the law. The legal system operated in a similar manner and provided a legal solution to a particular dispute. The conduct of both systems served as a pressure valve to contain tensions and reduce specific friction, but did not confront the real challenge: to solve an internal conflict for the long term in order to keep it from escalating.

Most of Israel’s secular Jews, traditionalists, and Arab population are additional actors. The question of the settlements in the West Bank does

not preoccupy them in their daily lives, but for many the settlements are a manifestation of inequality in terms of budgets, housing subsidies, and assistance given to the evacuees at taxpayer expense.³¹ This sense is heightened by the doubts and even opposition among some settlers to Israel's identity as a democracy. Most of the Israeli public does not view the settlers' actions as a direct threat to its way of life, but the desire of a minority of settlers to have religious law override secular law may make large segments of Israeli society into objects of delegitimization, defiance, and even violence.

The Interaction

The tension between conflicting perceptions exposed by the two incidents is liable to be aggravated in a situation of mass evacuation. The deterioration in relations between social groups as a result of evacuations will almost certainly damage Israel's resilience in internal and external arenas. This concern behooves the state to examine and formulate a national, systemic response while there is still time. The most important conclusion of studies on internal conflicts in a range of situations is that dialogue is an effective tool in creating consensual rules for shaping a shared solution.

Concluding Remarks

This essay has analyzed the Givat HaUlpana and Migron evacuations, which exposed some of the internal domestic tensions among state authorities and parts of Israeli society. These incidents did not escalate into violent physical crises, like some similar incidents in the past. The executive and judicial branches assuaged the tension, but formulated only local solutions rather than long term policies.

Issues linked to future evacuations of settlements bear the potential for high intensity domestic conflict, liable to assume major proportions if large scale evacuations are called for as the result of a political settlement or an unconditional government decision. At such a time, contrary and hostile worldviews will emerge that will challenge the central authority's ability to contain the inner tensions and deal with them. Such a flare-up is liable to have severe ramifications for Israel's national security.

The explosiveness of the settlement issue stems from its situation at the intersection of the three major rifts in Israeli society: the national (Jewish-Arab), religious, and political. This point of intersection is where

national values converge, including the country's national identity (a Jewish state versus the democratic nation-state of the Jewish people), the state's physical borders, and its governance system.

Many of the prominent actors portrayed in this essay use ideological and political disagreements on the evacuation of the settlements for their own purposes, and some are also willing to take it to the extreme. The essay reviewed the specific balancing and moderating functions of the judiciary (the Supreme Court) and the executive (the government). It showed that each branch, according to its mandate and the tools at its disposal, served as an arena of confrontation where the positions of the various actors interfaced in an effort to find a suitable balance between them. Moreover, both those who were directly involved (the settlers and the Palestinians) and the other actors ultimately accepted the rules of the game in these arenas and obeyed the solution that was formulated. It is thus possible to claim that Israel's governmental structure has so far been able to contain tensions stemming from ideological or political disagreement. Considering the growing polarization of Israeli society and a possible scenario of mass evacuations, it is clear that the judiciary and the executive will be critical in moderating the rising tensions, as indeed they have been in the particular cases reviewed here. It is doubtful, however, whether under acute circumstances and without comprehensive preparations ahead of time they will be able to prevent deterioration to inter-Israeli hostilities and, in a gloomy scenario, even further to the point of civil war.

The role of the government is especially important. It must promote national interests while also balancing internal tensions. The government would do well to embark on a future-oriented preemptive policy, to prevent an ideological-political dispute over settlement evacuations from turning into an open conflict. The key tool to implement such a policy is a deep, empathetic domestic dialogue seeking the common denominator among the contending groups. It must therefore take place among all groups in society and between them and the authorities. In addition, it must deal with Israel's long term national interests and must allow the government to adopt a proactive, independent policy.

The governments of Israel over the last two decades declared their support for the two-state solution and worked – some more so and some less so – to implement this principle, whether through negotiations or unilaterally. This strategic principle ensures a Jewish majority in an

effective democratic form of government and curbs the risk to the Zionist vision inherent in the form of a bi-national state and Arab insistence on the right of return. Mass evacuations of settlements beyond the large settlement blocs will be necessary if future governments of Israel seek (or will be forced) to implement in practice the derivative of the two-state principle. On the basis of lessons learned from the disengagement from the Gaza Strip, the day that settlers are called to return to the other side of Israel's borders, however they are drawn and whether through negotiations or by Israel's independent, unconditional decision, will be too late to plan their return in an appropriate manner and start the national preparations required.

To prevent a domestic flare-up, the government must seriously consider changing its dialogue with the settlers, partly to expand public support for the two-state solution and to shape the evacuation as a unifying step rather than as the abandonment of an important segment of Israeli society. This will make it easier to deal with the challenge of the evacuation. Absorption of the evacuated settlers must occur empathetically and honestly, out of consideration for them and their dignity. At the same time, the government must send messages to the rest of the public about the critical need for implementing the two-state solution and extending fair, effective assistance to the evacuees returning to the land under full Israeli sovereignty. These steps will help mend the social rifts that are the result of longstanding disagreement over the settlements.

A similar requirement to build trust based on dialogue and candid communication applies at the international level: Israel's policy must be closely and substantively coordinated with the United States. Regained confidence between Israel and the international community should allow, in turn, for resumption of negotiations with the Palestinians so as to reach at least partial or gradual arrangements with no preconditions affecting borders, security, the economy, and statehood; after these are achieved negotiations would continue on the two issues at the core of the conflict – Jerusalem and the refugees. Trust in Israel would be similarly enhanced once the Israeli government starts preparing ahead of time for unilateral steps on the domestic level that depend solely on Israel's initiatives and decisions so as to proactively advance a regional reality congruent with its declared policy. In this context, one may mention steps such as preparing a national program for integrating the evacuated settlers;

freezing construction east of the security fence and in Jerusalem's Arab neighborhoods; passing a law on voluntary evacuation, compensation, and absorption of Israelis living east of the fence; and planning the IDF's stay in the settlement areas and sites willingly evacuated so as to preserve operational freedom of action there.

Conducting an empathetic discourse with the settlers and other groups is currently not high on the government's agenda and little urgency is attributed to it. However, dialogue between those holding contradictory worldviews and positions is, no matter how complex, both crucial and possible. Such a dialogue, as part of a preemptive, dynamic and multidisciplinary policy designed to strengthen the legitimacy of the state and its actions and prevent a domestic conflict, requires rethinking traditional tools of conflict resolution taken from the fields of diplomacy and international relations. This is an effort that would require the participation of sociologists, political scientists, behavioral experts, psychologists, anthropologists, intellectuals, statespersons, public representatives, mediators, military personnel, security personnel, and the police. This is indeed a complex and complicated effort but it pales in comparison with the threat stemming from internal tensions, a threat no less potent than an external threat seeking to impact on national territory. Should evacuation by force be necessary, a comprehensive effort of discourse and internal preemptive preparation will lend legitimacy to the entire process.

Preventing a violent clash between hostile groups based on contradictory values requires additional study and analysis and an examination of the need to use integrative intellectual approaches, such as critical thinking and tools for analysis and policy planning, and the integration of methodologies familiar from conflict resolution. This will allow development of a deep, empathetic discourse to emerge and help mitigate loci of internal friction, and even possibly prevent the outbreaks of such conflicts.

Notes

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A Palestinian State: Legal Implications and Significance for Israel

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Background

On November 29, 2012, the United Nations General Assembly voted to grant Palestine the status of non-member observer state.¹ Legally speaking, such a decision cannot create a state because recognition of statehood is declarative rather than constitutive; theoretically, it therefore remains necessary to determine whether Palestine meets the required criteria for the existence of a state.² Nonetheless, on a practical level, the growing recognition of Palestine as a state by many important states, as well as the UN General Assembly, will ultimately influence whether or not such a state exists, and will therefore in the long run also have a direct impact on Israel's freedom of conduct in the Palestinian arena.

This essay does not examine whether or not Palestine meets the criteria for statehood, nor the date from which one might say such a state exists. Rather, its working assumption is the existence of a Palestinian state (albeit not recognized by Israel), and it focuses on the legal ramifications of such a situation.

The moment a state is founded, the basic right accorded it is sovereignty: the freedom to exert a range of authorities within its territory, including legislative, executive, and judicial powers, as well as freedom from control of another state.³ Furthermore, a sovereign state enjoys freedom of action in the international arena, a status distinct from that of a non-state entity.

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States are obligated to respect the sovereignty of other states. Interference in their internal affairs or otherwise operating in their territory without their consent is prohibited. International law also forbids the threat or use of force in relations between states in a way that harms their territorial integrity or political independence.⁴ In the case of an armed attack against it, a state has the right to self-defense. The incursion by one state into the territory of another is usually seen as equivalent to an armed attack, even when no use of force is involved.

Alongside rights, statehood also confers obligations. First and foremost is the state obligation to prevent the use of its territory to commit actions harming other states or international peace and security in general.⁵ Moreover, states bear a responsibility toward their citizens and residents, and must see to their needs and protect their rights.

The legal ramifications of the existence of a Palestinian state must be examined in two arenas: domestic and international.

Legal Ramifications on the Domestic Arena

Addressing the ramifications of a Palestinian state for the domestic arena (i.e., relations between Israel and the Palestinians) requires analyzing two aspects – the implications with regard to the exercise of Palestinian authorities in the area and the impact on the exercise of Israeli authorities therein. This analysis requires answering two preliminary questions: first, what is the status of the Interim Agreement (and other agreements) between Israel and the Palestinians,⁶ and second, what is Israel's legal status in the West Bank and the Gaza Strip.

The Agreements between Israel and the Palestinians

Given the fact that substantial and essential parts of the agreements between Israel and the Palestinians are no longer observed, it can reasonably be claimed that these agreements are no longer in force. Furthermore, even if they are still valid, each side has the right to abrogate them by means of a unilateral declaration at any time, given the fundamental violations by both sides. According to this approach, that some of the agreement's provisions are still being observed is merely an indication of the status quo created between the sides, but is not necessarily a basis for inferring the agreements' legal validity.

Nonetheless, the more accepted approach at present appears to be that given that the sides still refer to these agreements in their mutual

relations and neither has tried to abrogate them, the agreements are still in force and at least those parts that are still observed in practice have binding legal status. There is significance to the fact that the agreements are widely accepted as binding by the international community.

Assuming, then, that the agreements are still legally binding, does the establishment of a Palestinian state change their status?⁷ On the one hand, one could claim that a Palestinian state simply fills the shoes of the Palestinian Authority (PA), and as such is bound by all of the latter's obligations.⁸ On the other hand, one could also argue that once a new and distinct entity has come into being, it cannot be bound by agreements made before its establishment.⁹

One must bear in mind that the question of the agreements' status goes beyond the legal realm, as serious political considerations will ultimately affect the positions of both sides in this regard.

Israel's Legal Status in Territories of the Palestinian State

The accepted position in the international arena is that as a result of the capture of the West Bank and the Gaza Strip in 1967, Israel has acquired the status of occupier. This is by virtue of these areas coming under Israel's effective control as a result of the armed conflict.¹⁰ By contrast, some assert these areas are not "occupied," but "disputed territories," based on the fact that these territories were not subject to the sovereignty of any state and that their status and borders were never defined.¹¹

Over the years, Israel has in practice applied the laws of occupation with regard to these territories, and this approach is reflected in many judgments of Israel's Supreme Court.¹² Under the laws of occupation, the occupier bears responsibility for the welfare of the residents of the occupied areas. At the same time, the occupier is allowed to impose its authority over this population, including by deploying military forces in order to maintain security and public order. The occupying force also has governing authority in all areas of life, including legislative, executive, and judicial authority.

Even after the establishment of the PA and the transfer of some parts of the territory to its control,¹³ most of the international community continued to view the West Bank and the Gaza Strip as occupied, including areas from which the IDF had redeployed and does not enter, such as Area A in the West Bank and even the Gaza Strip.¹⁴ While good arguments can be made that since the 2005 disengagement Gaza is no

longer occupied by Israel, many contend that it remains occupied given Israel's ongoing control of Gaza's external perimeter (ignoring the fact that Israel does not in fact control the Gaza Strip's land border with Egypt), the Gaza Strip's dependence on Israel, and the political linkage between the Gaza Strip and the West Bank.¹⁵

The question that arises then is, how does the establishment of a Palestinian state affect Israel's status in the territories, especially in the West Bank? According to the position of the Levy Committee report, Israel has a sovereign right to be present in these areas and therefore clearly the founding of the Palestinian state cannot in and of itself impinge on Israel's rights and authority there. It is doubtful that this claim will gain support in the international arena. Nonetheless, even according to the position that sees Israel as the occupying force in all or part of these areas, there are several reasons why the existence of a Palestinian state would not necessarily affect Israel's status in the territories.

First, there is a solid basis for claiming that the territory of a Palestinian state can be said to exist only in those areas that are in practice under effective Palestinian control, because effective control and governance over a particular area are among the conditions for the existence of a

The status of the Palestinian territory is not determined by legal considerations alone, although they provide a framework for discussion. The decisive considerations are political, in both the internal Israeli arena and the international arena.

state. All other areas (i.e., all of Area C, most of Area B, and obviously East Jerusalem) remain, as before, under Israeli control. Furthermore, even if the territory of the Palestinian state is thought to include all of the areas occupied in 1967, one still cannot conclude that this nullifies the Israeli occupation of the entire territory. The Palestinian state is established while under the control of another state – Israel – already operating in that territory, whether by virtue of prior agreements or otherwise. An analysis of Israel's status in the territory where a Palestinian state is established must take into consideration the reality on the ground on the eve of the founding.

Therefore, a possible conclusion is that Israel will continue to be considered an occupier, at least with regard to the areas under its de facto control. The main consequence would be that while currently the occupation is of territory not belonging to another state, it would now be

considered as the occupation of part of the Palestinian state (at least in the view of those recognizing that state).

Parenthetically, it should be noted that the question of the extent to which the establishment of a Palestinian state will affect the categorization of the situation in the Gaza Strip depends on whether or not the said state will have any real authority there. This question in turn depends on the essence of the relations between the central government of the Palestinian state and the government controlling the Gaza Strip.

Of course, the issue of the territory's status is not determined by legal considerations alone, although they provide a framework for discussion. The decisive considerations are political, in both the internal Israeli arena and the international arena.

Exercising Palestinian Authority in the Territory

According to existing agreements, the PA is currently restricted from exerting certain forms of authority, such as security in Areas B and C, authority over infrastructures in Area C, authority over airspace, and authority over Israeli citizens. Furthermore, the PA has no authority whatsoever in East Jerusalem. In the economic sphere, the PA is subject to Israel's import policies and customs and tariffs. In addition, Israel oversees the population registry and the granting of Palestinian residency. The legal force of these restrictions depends on the current validity of the agreements and their status after the establishment of the Palestinian state. If the stipulations of the agreements are no longer binding, whether because today they are no longer valid or because they lose validity upon the establishment of the Palestinian state, only the restrictions stemming from the above analysis on the status of the territory will apply to this state.¹⁶

Theoretically, once a Palestinian state is established, its authorities should have greater freedom of action than today and be exempt from existing restrictions. Thus, for example, a Palestinian state would be free to establish its own army or choose to invite foreign armies onto its territory; it could attempt to extract mining resources independently; it would be able to set up telecommunications systems while ignoring existing restrictions on frequencies; and so on. In addition, a Palestinian state could try to impose its authority on Palestinians in Area C beyond what is stipulated by the agreements (e.g., with regard to infrastructures). Similarly, it could try to impose its authority on Israelis in its territory,

e.g., arresting Israelis committing crimes there, in contravention of stipulations in the current agreements. The Palestinian state could also try to enforce its legislation and exert governing authority on East Jerusalem. It could also decide to mint its own currency and adopt an independent economic policy. Naturally, such measures would carry economic consequences with them, given the Palestinian economy's dependence on the Israeli economy.

As far as exerting authority in areas under Israeli control while deviating from the status quo (e.g., exerting authority over security in Area C), Israel could maintain that even if it can't base its claims on the agreements, it still has authority in the territory by virtue of the laws of occupation (or by virtue of its inherent rights to the territory), whether because the Palestinian state does not extend to territory outside of Palestinian control, or whether because it is the occupier of the new Palestinian state. Accordingly, Israel has the right to prevent other elements (including the occupied state) from exerting their authority insofar as that authority would clash with Israel's authority as occupier. Nonetheless, with the passage of time, and assuming that the status of the Palestinian state grows stronger, the impact of the Palestinian state's claim to realize its sovereignty and exert its authority on issues and in areas currently under Israeli control is likely to intensify.

Furthermore, there are authorities that when exercised, constitute the realization of political sovereignty without conflicting with the

There would be far more potential legal claims against Israel on the international arena than at present, based on the claim that the rights of the Palestinian state are being violated.

occupier's authority. A classic example is in the realm of citizenship. Currently there is no concept of "Palestinian citizenship," only "Palestinian residency." The test of residency is one of fact, while the right to determine who is granted citizenship is one of state authority. Thus, the Palestinian state theoretically would be able to extend citizenship, without restriction, to both residents as well as to people who are currently non-residents. Citizens usually have a vested right to enter the state of which they are citizens, and arguments could therefore be made against Israel should it try to

prevent the entry of citizens who are not residents when they come to an international border crossing under its control. Nevertheless, Israel would be able to argue that it is only obligated to allow entry to residents

of the occupied territory, and not to new citizens simply by virtue of their citizenship.

Needless to say, the practical implementation of the various forms of authority could be a source of friction. Practically speaking, Israel could stop most of the measures toward the realization of its sovereignty that the Palestinian state may strive to realize. The way in which the international arena regards such steps taken by Israel would depend on political considerations, going beyond the scope of legal analysis.

Exerting Israeli Authorities in the Territory

Among the features of state sovereignty is the principle of non-intervention, which prohibits other states from operating in the state's territory or imposing governmental authority on it without its consent. From the moment a Palestinian state is established, the imposition of Israeli authority in its territory (including its airspace, naval space, and electromagnetic field) without some basis, such as an agreement or the laws of occupation, would violate Palestinian sovereignty. Use of force in the territory of the Palestinian state might be considered an act of aggression prohibited by international law and invoking the right of self-defense. Nonetheless, there are three essential caveats to this conclusion:

- a. Inasmuch as any contentious activity is carried out according to agreements, if these agreements are indeed still valid they constitute the authoritative source for such activity, which is therefore not forbidden.
- b. If the territory of the Palestinian state is accepted as limited to areas that are under its control in practice, then Israeli activity in the rest of the territory (e.g., Areas B and C) in no way contravenes the principle of Palestinian state sovereignty or the state's right to territorial integrity, and the entire discussion focuses on activity in the territory under its effective control (generally Area A and perhaps some of Area B).
- c. Israel will apparently continue to wield authority in the territory of the Palestinian state by virtue of its status as occupier (or by virtue of rights to the territory, according to the Levy Committee). Accordingly, exerting part of its authority in the territory, both in the security field and in the civilian realm, would not necessarily be considered a violation of the sovereignty of the newly established state, but rather the continuation of the realization of authority it had before

the establishment of the Palestinian state, which continues to exist because of Israel's enduring practical control of the territory.¹⁷

The third claim may also be presented with regard to Israeli activity in Area A, if it continues to be considered as occupied by Israel. Nonetheless, Israel may have more restrictions there than at present. Such restrictions also exist in the Interim Agreement, which in principle prohibits the entry of Israeli military forces into Area A and the application of Israel's authority there (except in very limited fields). However, since 2002, these constraints have not been observed, and it is therefore doubtful whether the mere fact of the establishment of a Palestinian state would bring them back to life.

As for carrying out security operations in Palestinian territory, a claim might be made that this impinges on the integrity and sovereignty of the Palestinian state, and could therefore be justified only on the basis of Israel realizing its right to self-defense. Against this assertion stands the claim that there is an ongoing state of occupation that entails the right to use force in certain circumstances. But beyond this, according to Israel's position, it is involved in a longstanding, ongoing armed conflict and therefore has the right to use force as long as it adheres to the laws of warfare. Since the situation is not that of a transition from a state of peace

to a state of war, the rules regulating the question of when it is allowed to use force (*jus ad bellum* rules) do not apply. The right to use force cannot therefore be restricted to cases of self-defense.

In practice, despite the legal analysis above, assertions could be made against Israeli security activities in the territory that would be considered part of the Palestinian state, and Israel is liable to find itself accused of violating the sovereignty and territorial integrity of the new state in contravention of the United Nations charter. Therefore, in the long term, the establishment of a Palestinian state could limit Israel's activities in the territory, at least in terms of allegations made on the international arena.

Alongside its sovereign rights, the establishment of a Palestinian state would also engender responsibility for activities taking place in or from its territory, although no international forum for enforcing the fulfillment of that responsibility exists.

The establishment of a Palestinian state will also increase the pressure on Israel to reduce the manifestations of the occupation, especially displays of authority undermining the status of the Palestinian

state in non-security contexts, such as the exploitation of resources in the occupied territory, pumping water, and so on. Indeed, the laws of occupation already limit Israel's freedom of action in these areas, because the status of the occupier is that of a trustee who must use the resources of the territory on behalf of the local population and for the sake of the occupation only (and not for the sake of the occupying state), and there are various bodies, including human rights organizations, monitoring these issues.¹⁸ Still, the Palestinian state would presumably see itself as being in a better position from which to make demands in this field. It may also enjoy more convenient access to international forums and judicial instances.

Accordingly, the pressure on Israel to allow the Palestinian state to realize its sovereignty in the external envelope (i.e., the border crossings on land in the West Bank, aerial and maritime zones, including the electromagnetic sphere) is liable to increase. In addition, any activity connected to the establishment of new Israeli settlements or the expansion of existing settlements – currently an object of much international criticism – is liable to be seen as a violation of the sovereignty of the Palestinian state that cannot be justified on the basis of the laws of occupation and legal pressure may be expected to increase on these issues as well.

Legal Ramifications on the International Arena

The UN General Assembly voted to bestow on Palestine the status of non-member observer state.¹⁹ It is important to note that there is no essential difference between a “member” and a “non-member” observer, and the change is primarily symbolic.

Nonetheless, internationally, there are implications for an entity being considered a state. For example, there are various international bodies in which only states can be members, such as the International Civil Aviation Organization; similarly there are treaties to which only states can be a party. If the Palestinian state joins multilateral international treaties to which Israel is a party and other international organizations of which Israel is a member, it could invoke obligations on Israel toward the Palestinian state by virtue of these treaties and by virtue of obligations incurred by membership in international organizations. In aviation, for example, this could require recognition of Palestinian airspace, or in telecommunications, the allocation of frequencies to the

Palestinian state. The practical ramifications of Palestinian membership in international treaties and organizations depend in large part on how the international arena conducts itself on these issues and the pressure it exerts on Israel to revise its current conduct.

A Palestinian state would also be able to make bilateral treaties with various states, whereupon claims could be made against Israel, should Israel take any action to undermine the possibility of realizing those treaties. Furthermore, the Palestinian state could conclude military treaties with other states and join existing allegiances.

A Palestinian state would be also able to enjoy full diplomatic relations with other states (the PA already maintains diplomatic relations with many nations), and one may assume that other official embassies will open in the Palestinian state. As a result, friction could arise over Israel's attitude to diplomats trying to enter Palestinian territory through border crossings controlled by Israel. The legal difficulty would arise primarily with regard to diplomats of countries with which Israel itself has diplomatic relations. Legally, Israel would have an easier time refusing the entry of representatives of states with which it has no diplomatic relations.

The bottom line is that there would be far more potential legal claims against Israel on the international arena than at present, on the basis that the rights of the Palestinian state are being violated. Israel's lack of recognition of this state would not preclude such claims (similar to the claims raised over the years against Arab nations for violating Israel's rights, even though they do not recognize Israel).

A Palestinian state would also be able to appeal to the International Court of Justice (ICJ) in The Hague. However, the court's authority in proceedings between nations depends on the consent of all the nations party to those proceedings. Therefore, Israel could not be forced into a proceeding against its wishes.

The situation is different, however, with regard to the International Criminal Court (ICC). The Palestinian state would probably be able to join the court's statute,²⁰ and even before joining, it may be able to give it ad hoc consent to investigate all war crimes it claims have been committed in the West Bank and the Gaza Strip. The PA already submitted such a request in January 2009, which referred to all actions taken since July 2002 (when the court's statute went into effect).²¹ The opinion of the court's previous prosecutor, who rejected the request, implied that the

General Assembly's recognition of a Palestinian state could serve as the basis for validating this Palestinian request in the future.²²

Should a request by a Palestinian state for such an investigation be accepted, the prosecutor and the International Criminal Court would have to decide whether or not to start investigations and proceedings against all those who have acted in that territory – Israelis and Palestinians – for their actions there.²³ The ICC prosecutor and the court itself have the discretion to decide whether or not to begin such an investigation into alleged war crimes. According to the principle of complementarity (one of the court's underlying principles), if a nation's legal system is both willing and able to genuinely investigate such allegations, as Israel's is, there may be good cause for the court to decline a case's admissibility.²⁴ One of the crimes included in the Rome Statute – in addition to war crimes and crimes against humanity – is "the transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population to the territory it occupies."²⁵ By virtue of this paragraph, the Palestinians would be able to request that the ICC take up the matter of the Israeli settlements in the West Bank (including the Jewish neighborhoods in East Jerusalem). However, it is highly doubtful that the ICC would want to take up so politically loaded an issue as the settlements. Nonetheless, it is clear that a Palestinian state joining the statute would open the door to the possible involvement of an external court on very sensitive matters.

Another legal aspect of the establishment of the Palestinian state has to do with a possible confrontation between Israel and Palestinian security forces: if such a conflict occurred, the Palestinians could demand the right to be considered prisoners of war. One ramification of this is the inability to try them for their mere participation in hostilities. On the other hand, a Palestinian state would also be required to grant Israeli soldiers prisoner of war status, should they fall into Palestinian hands.

The Responsibility of the Palestinian State

The existence of a Palestinian state would also mean it is responsible for what happens in and from its territory. Therefore, if it fails to prevent hostile activity from its territory or harms Israeli interests in any other illegal manner, Israel would be able to make claims against it. Nevertheless, no international legal mechanism exists that would automatically allow proceedings or the imposition of sanctions against

a state failing to uphold its responsibilities. The only channel of action through which to deal with such issues is the political-diplomatic channel.

Conclusion

The state's basic right is sovereignty, meaning the right to act and enforce governing authority freely and independently, and prohibiting other states from operating in its territory without its consent.

The implications of the existence of a Palestinian state domestically, i.e., on relations between Israel and the Palestinians, will depend on whether or not the agreements signed previously between Israel and the Palestinians will be considered valid. They will also depend on Israel's legal status in the territory, and whether or not it is still considered an occupying force of the established Palestinian state. Based upon the agreements between the sides (inasmuch as they are considered to be in force), and upon Israel's status in the territory (if it is still considered the occupier or otherwise seen as having sovereign rights therein), the freedom of action of the Palestinian state would be restricted and Israel would retain freedom of action even after the establishment of the new state. Nonetheless, a Palestinian state would have a stronger status than the PA does at present, and this status would allow it to make further claims against action taken on its territory, especially with regard to the exploitation of its resources and Israel's settlement policy there. In addition, the stronger the international status of a Palestinian state grows, the more the pressure leveled on Israel will grow to allow the Palestinian state to exercise its authority and limit Israeli activity.

A Palestinian state would be able to join international organizations and treaties. The practical meaning of this depends on the way the organizations choose to act toward Israel and the extent to which they would try to use practical tools to put pressure on Israel, such as threatening sanctions, in order to realize the rights of the Palestinian state (e.g., allocating telecommunications frequencies and recognizing Palestinian airspace). Furthermore, a Palestinian state would be able to enter into bilateral treaties with other states, including military treaties, and would likewise be able to strengthen and upgrade its diplomatic relations with other nations.

A Palestinian state may also be able to join the Rome Statute of the International Criminal Court and give its consent to the court to investigate war crimes committed in its territory – by all relevant parties

– since July 2002 (when the court was convened), including regarding the settlements issue. However, the court has the discretion to decide whether or not to investigate and is not automatically required to do so once a request is made.

The establishment of a Palestinian state could also invite the demand to bestow prisoner of war status on members of Palestinian security forces, should they be detained in the course of an armed conflict with Israel.

Alongside its sovereign rights, the establishment of a Palestinian state would also engender responsibility for activities taking place in or from its territory, although no international forum for enforcing the fulfillment of that responsibility exists.

The legal ramifications of the establishment of a Palestinian state would therefore seem to be limited, at least in the initial stage. The main effect would be felt in the international arena and the field of international criminal law. Nevertheless, even with regard to the situation in the territory itself, as long as there is no progress in the negotiations between the sides, the pressure on Israel to allow more freedom of action to the Palestinian authorities and to curtail its own activities in the territory of the Palestinian state is likely to increase.

Notes

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- 2 For an analysis of the conditions of statehood, see Malcolm Shaw, *International Law*, 6th ed. (New York: Cambridge University Press, 2008), ch. 5, pp. 195-234. For a discussion on recognition, see ch. 9, pp. 445-86.
- 3 *Ibid.*, pp. 489-92.
- 4 This basic principle is enshrined in the UN Charter, Chapter 1, Article 2(4).
- 5 The rules governing state responsibility are covered in “Draft Articles on Responsibility of States for Internationally Wrongful Acts,” in: *Report of the International Law Commission on the Work of its Fifty-third Session*, UN GAOR, 56th Sess., Supp. No. 10, at 43, UN Doc. A/56/10 (2001), available at http://untreaty.un.org/ilc/texts/instruments/english/commentaries/9_6_2001.pdf. Also see UN Security Council Resolution 1373, stating that nations are obligated to “prevent those who finance, plan, facilitate or commit terrorist acts from using their respective territories for those purposes against other States or other citizens,” Resolution 1373, SC Res 1373, UN SCOR, 56th sess., 4385th mtg., UN Doc S/RES/1373, September 28, 2001.

- 6 The agreements under discussion are the Israeli-Palestinian Interim Agreement about the West Bank and Gaza Strip, September 28, 1995, <http://www.knesset.gov.il/process/docs/heskemb1.htm>, and other agreements derived from it. For particulars and a description of these agreements, see the Foreign Ministry's website at <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Israel-Palestinian+Negotiations.htm>.
- 7 On a similar issue, of state succession, there are different legal approaches. See, e.g., Shaw, *International Law*, ch. 17, pp. 956-1009.
- 8 Formally speaking most of the agreements were signed between Israel and the Palestinian Liberation Organization (PLO) and the PA is not a party to them, but neither side attributes any special meaning to this fact.
- 9 A separate question is whether the founding of a state justifies the abrogation of agreements. One could certainly argue that the very fact of the founding of Palestine is a violation of the Interim Agreement, which stipulates that the sides must refrain from taking unilateral steps changing the status quo on the ground, and therefore the door is now open for Israel to abrogate the agreements because of this violation or to engage in certain violations of its own as counter steps. This essay does not examine Israeli reactions of this type.
- 10 The definition of occupation appears in Regulation 42 of the 1907 Hague Convention, *1907 Hague Convention IV Respecting the Laws and Customs of War on Land*, available at <http://www.icrc.org/ihl.nsf/full/195>.
- 11 The committee on the status of construction in Judea and Samaria, headed by retired Justice Edmond Levy, recently referred to this position. The committee was established in early 2012 by the Israeli government to make recommendations on the regulation of illegal Israeli construction in that area. The committee report, published on June 21, 2012, stated that Judea and Samaria should not be considered occupied territory (discussion in Paragraphs 5-9), <http://www.pmo.gov.il/Documents/doch090712.pdf>.
- 12 See, e.g., Supreme Court 1661/05, "Gaza Shore Regional Council Versus Israeli Knesset," PD 59(2), 481, 2005, pp. 558-59. While the Levy Committee report determined in a brief sentence that the laws of occupation do not apply to these areas on the basis of its above-mentioned position, it did not clarify which laws do apply there.
- 13 The Interim Agreement divides the territories into Areas A, B, and C. The distribution of authority in each of the areas was determined by Articles 11, 13, and 17 of the agreement and is detailed in the agreement's appendices.
- 14 See, e.g., the determination by the International Court of Justice in The Hague in its opinion on the legality of the security fence: "Legal Consequences of the Construction of a Wall in the Occupied Palestinian Territory," July 9, 2004, Para. 78, <http://www.icj-cij.org/docket/files/131/1671.pdf>.

- 15 For a discussion about the different positions, see Pnina Sharvit Baruch, "Is the Gaza Strip Occupied by Israel?" in Alan Baker, ed., *Israel's Rights as a Nation-State in International Diplomacy*, 2011, <http://www.jcpa.org/text/israel-rights/kiyum-sharvit-baruch.pdf>; Yuval Shany, "Law Applicable to Non-Occupied Gaza: A Comment on Bassiouni v. the Prime Minister of Israel," *Israel Law Review* 42, no. 1 (2009): 101-16; Sari Bashi, "Disengaged Occupiers: The Legal Status of Gaza," *Gisha Legal Center for Freedom of Movement*, 2007, <http://www.gisha.org/UserFiles/File/Report%20for%20the%20website.pdf>.
- 16 Even if one accepts the position that the agreements in general are binding on the Palestinian state, it can be argued that some of their stipulations, which are incongruent with the essence of a state (as distinct from a non-state entity such as the PA) are not inherited by the Palestinian state and are therefore not binding on it.
- 17 As noted above, as the occupier of the territory, Israel may also have the right to restrict the activity of others, including elements representing the Palestinian state, if their activity compromises the realization of Israel's authority as occupier.
- 18 In this context, see the discussion about the exploitation of resources in the West Bank in the Supreme Court Petition 2164/09, "Yesh Din v. The Commander of the Israeli Forces in the West Bank et al," <http://elyon1.court.gov.il/files/09/640/021/n14/09021640.n14.htm>.
- 19 The appeal to the General Assembly followed the failed attempt to become a UN member following the lack of Security Council support for this measure.
- 20 "Rome Statute of the International Criminal Court," July 17, 1998, 2187 UNTS 3 (henceforth "Rome Statute").
- 21 Ali Khashan, "Declaration Recognizing the Jurisdiction of the International Criminal Court," Palestinian National Authority, Ministry of Justice, January 21, 2009, <http://www.icc-cpi.int/NR/rdonlyres/74EEE201-0FED-4481-95D4-C8071087102C/279777/20090122PalestinianDeclaration2.pdf>.
- 22 "OTP Report on Preliminary Examinations," April 3, 2012, <http://www.icc-cpi.int/NR/rdonlyres/9B651B80-EC43-4945-BF5A-FAFF5F334B92/284387/SituationinPalestine030412ENG.pdf>.
- 23 As part of an investigation, the actions of all parties are investigated, and therefore the investigation would also relate to the Palestinian side. The investigation could only relate to what was done within the territory of the state. It is unclear if the investigation could be retroactive and relate to actions done before the state's establishment.
- 24 Rome Statute, Articles 17-19.
- 25 Rome Statute, Article 8(2)(b)(viii).

Sanctions against Iran: Not Painful Enough

Ephraim Kam and Shmuel Even

The sanctions imposed on Iran since the summer of 2012 are painful and palpable. The Iranian regime, the economic institutions, and the ordinary citizen cannot ignore the burden of the sanctions in various spheres. Nevertheless, thus far the sanctions have yet to achieve their main purpose – to alter the regime’s behavior on the nuclear question, and impel Iran to accept an arrangement that will ensure that it does not obtain nuclear weapons. It appears that the regime still hopes that its nuclear program will reach the decisive point before the sanctions do.

This article seeks to analyze the effect of the sanctions on Iran, and to assess the regime’s response to Iran’s deteriorating economic situation. The main conclusion of the analysis is that while the sanctions are having an impact on Iran’s economy, they are still not severe enough. Although there is a chance that their severity will make Iran willing to compromise on its nuclear program, the signs right now indicate a willingness to negotiate and possibly agree to a technical compromise, but without foregoing the substance of the nuclear weapons program.

If the conditions do not change, the US administration should therefore quickly and actively promote additional measures in order to intensify the pressure on the Iranian regime. One meaningful possibility for generating effective pressure on Iran is an economic blockade against it, similar to that imposed on Iraq following its invasion of Kuwait in 1990. At the same time, Iran can be offered benefits if it changes its policy. A technical analysis of the economic situation in Iran shows that while it could withstand such a blockade for quite a few years, the price would be quite high. The blockade would aggravate Iran’s economic

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problems and cause hundreds of billions of dollars in damage in just a few years, accompanied by a steep drop in the standard of living, and withstanding it would not necessarily prevent a military confrontation with the US. It is essential that the Iranian leadership comprehend the price tag if it persists in driving its nuclear weapons program forward. While economic distress could possibly generate unrest and internal pressure that could force the regime to change its policy on the nuclear issue without a blockade, to date this has not happened, and the nuclear program is progressing rapidly. It is therefore best to apply sanctions in full force in order to increase the chances of thwarting Iran's nuclear weapons program.

The Array of Sanctions Imposed on Iran

The US began imposing sanctions on Iran shortly after the Islamic Revolution. Following the takeover of the American embassy in Tehran and the seizure of hostages in November 1979, the US banned imports of oil and oil products from Iran, froze Iranian government assets in the US, and halted most exports and credit allowances to Iran. Some of these sanctions were eased in the following years, but they were tightened again after 1984, primarily in order to stop Iran's involvement in terrorism. These sanctions included a complete ban on imports of Iranian goods to the US, controls on exports of certain American goods to Iran, and an effort to block loans by international financial institutions to Iran.

The sanctions became even more stringent in the mid 1990s, with the goal of halting Iran's nuclear weapons program and military buildup. The initiative to impose most of these sanctions came from the US Congress, while the administration sought to soften them due to opposition from European governments and economic organizations. Eventually, however, the administration too came to regard sanctions as a key tool in the effort to motivate Iran to abandon its nuclear program.

The pressure exerted on Iran, as well as the American effort to impose sanctions on other countries (mainly Iraq, in 1990-2003), indicates that the aim of imposing sanctions on Iran is as follows:

- a. To exact a high economic and internal price in order to generate heavy pressure on the regime that will outweigh the benefits of obtaining nuclear weapons. From the US administration's perspective, sanctions on Iran are long term and will not be removed even if and when it obtains nuclear weapons.

- b. To harm Iran's military capability by disrupting its import of essential components in weapons development and production and by reducing the available resources for its military buildup.
- c. To create as broad-based a consensus as possible, both within the US and internationally, for exerting pressure on the Iranian regime; this consensus is also important should the US decide on a military strike against Iran. In this respect, it is important for the administration to demonstrate to the American public and the international community that it has exhausted all the non-military possibilities before turning to the military option
- d. To weaken Iran as much as possible before adopting military measures against it.

In the context of the sanctions against Iran, the Clinton administration, beginning in 1995, forbade American companies to help develop the Iranian oil sector, completely banned trade with Iran and any American exports whatsoever to Iran, and barred American institutions from providing financial services to Iran. All purchases of Iranian oil by American companies have been stopped since 1995-96, and it was also decided to impose sanctions against non-American companies investing in the Iranian energy sector.¹

The sanctions enforced against Iran during the Clinton and Bush administrations were accompanied by disputes between the American administration and European governments – not to mention disputes with Russia and China – that were in no hurry to adopt the American sanctions and sought to soften them. Nonetheless, in 2006-10 the UN Security Council imposed four sets of sanctions on Iran with the support of not only European countries, but also Russia and China. Support for these sanctions was obtained only after they were eased significantly, and the sanctions imposed therefore did not seriously inconvenience Iran. The Security Council sanctions included a ban on movement of certain Iranian individuals outside Iran, control of suspicious shipments to Iran, a ban on sales of important weapon systems to Iran, and a ban on sales to Iran of technology and materials linked to weapons of mass destruction.

For several reasons, until the summer of 2010 the sanctions had no significant effect on Iran's economic situation. First, it is extremely difficult to formulate a broad-based international consensus for applying effective sanctions, given the heavy economic and political interests of various countries in Iran. The countries objecting to the sanctions were

primarily East Asian countries – countries that depend on Iranian oil in ever-increasing quantities (most Iranian exports of crude oil are currently to East Asia). Russia also has economic and political interests in Iran. This situation significantly detracts from the ability to enforce effective sanctions. Second, Iran has been subject to strict sanctions since 1979. Over this long period, it has built a system of straw companies, forged connections with foreign companies, and created other means to bypass a large part of the sanctions. Iran found partners for violating the sanctions in countries and companies thinking about the post-sanctions period, under the assumption that the more they help Iran in its troubles, the more preference they will receive in business in the future. This is an important consideration, given Iran's key position in the energy field. Third, even in the most severe case, the sanctions do not apply to food, medicine, and humanitarian aid, since they are not supposed to put human life at risk. This loophole can be exploited on a large basis to deliver various goods to a country that is subject to sanctions.

The Change during the Obama Administration

Since the summer of 2010, and even more so since the summer of 2012, the sanctions imposed on Iran were significantly tightened under the leadership of the Obama administration.² The administration realized that the sanctions imposed on Iran until then were ineffective and had not led Iran to change its position on the nuclear issue, and understood that Iran's steady progress toward nuclear weapons capability would quickly leave the US with two difficult alternatives – a military strike against Iran, which it wished to avoid, and acceptance of a nuclear Iran. The administration was also concerned that unless it took more drastic measures against Iran, Israel would launch a military strike against Iran – a scenario it sought to avoid.

The change that took place during this period was in two aspects. First, the new sanctions imposed on Iran were much more severe than those preceding them, and they primarily targeted Iran's most sensitive points – its energy sector and the banking, financial, and trade sectors. Second, European countries, which previously objected to participation in the sanctions, began to close ranks in imposing sanctions that were almost as strict as the American sanctions.

The tightening of sanctions against Iran began in the oil sector. In July 2010, the Obama administration imposed sanctions on the sale

of fuel products to Iran and on the sale of equipment and services that would help it produce or import fuel products, such as equipment for upgrading its oil refineries. Furthermore, while until 2010 the American administrations hesitated to confront non-American companies operating in Iran, the Obama administration undertook an effort to deter international companies from continuing to do business with Iran. In November 2011, the US decided to impose sanctions on non-American companies selling equipment and services to Iran, which in effect were enabling Iran to maintain and develop its oil and gas sector and expand its production of petrochemical products. In July 2012, the administration issued an order banning the purchase of oil and oil products from Iran and transactions with the Iranian national oil company. The following month, sanctions were added against ships transporting Iranian oil and parties taking part in joint projects with Iran underway outside Iran in the energy sector.

An important step in intensifying the sanctions against Iran was the European Union (EU) decision in early 2012 to terminate the agreements for buying Iranian oil by July 2012, and to refrain from signing new agreements with Iran. Iranian sales to European countries accounted for 20-25 percent of its total oil sales, and thus this constituted a significant measure. The EU also decided to bar insurance for shipments of oil and petrochemicals from Iran; to halt trade with Iran in gold, precious metals, and diamonds; and to freeze the assets of Iran's central bank and the assets of Iranian companies linked to arms deliveries to Syria.

At the same time, the Obama administration redoubled its efforts to isolate the Iranian banking system, headed by the Iranian central bank, which is the conduit from the international banking system for Iran's oil royalties. Already in 2006, the US administration forbade American banks from handling indirect transactions with the Iranian central bank through non-Iranian banks, after the administration accused the Iranian central bank of financing Iran's WMD program and transferring funds to Hizbollah. The American effort succeeded in persuading dozens of non-American banks to stop conducting financial transactions with Iranian banks. In November 2011, the administration issued regulations imposing sanctions on

The administration is considering even more severe sanctions against Iran, but it is possible that the current level has already accomplished as much as sanctions can possibly achieve.

non-American banks conducting transactions with Iran's central bank, and the bank's assets in the US were blocked in February 2012. The US administration's efforts to isolate Iran from the international banking system were reinforced by the participation of additional countries in the effort: in November 2011 the UK and Canada announced that they would no longer do business with Iranian banks, and transactions between European and Iranian banks were later banned.

The Iranian Economy: Basic Figures

Familiarity with some basic figures on the Iranian economy is necessary in order to understand the significance of the sanctions imposed on Iran. Iran has 79 million people, and is one of the world's richest countries in natural resources. Its 2011 GDP was estimated at \$990 billion in terms of purchasing power, or \$474 billion according to the official exchange rate.³ Iran's oil fields contain 151 billion barrels of oil – some 10 percent of the world's total proven oil reserves. In addition, Iran also has 17 percent of the world's gas reserves.⁴ In 2012 Iran produced an average of 4.3 million barrels of oil per day (including liquid gas). Its domestic oil consumption is estimated at 1.8 million barrels of oil per day.⁵

Iranian exports in 2011 were estimated at \$110 billion. Its primary export destinations were China – 21 percent; Japan – 9.1 percent; Turkey – 8.8 percent; India – 8.1 percent; South Korea – 8 percent, and Italy – 5.3 percent. In this context, Iranian trade with the Far East stands out. Iran's exports of goods in 2011 were estimated at \$74 billion. The main categories of its imports were machinery and spare parts for industry, food, home consumer goods, raw materials, and technical services. Iran's principal sources for its imports were the United Arab Emirates – 30.9 percent; China – 17.4 percent; South Korea – 7.1 percent; Germany – 4.8 percent; and Turkey – 4.2 percent.⁶

Iran's foreign currency balances at the end of 2011 were estimated at \$80 billion, more than a year's worth of imports, compared with \$75 billion at the end of 2010. Its external debt was estimated at \$18 billion, less than 4 percent of the GDP. Total Iranian government budget spending for 2011 was equivalent in value to \$100 billion, and its budget deficit was estimated at 2.4 percent of the GDP.⁷

Except for the high unemployment rate and inflation, the Iranian economy finished 2011 in a good state thanks to high global oil prices, which rose in part due to the tension with Iran (the price of crude "light"

Iranian oil stood at an average of \$108 a barrel).⁸ The stepped up sanctions against Iran, which began in the second half of 2012, are leaving their mark on the Iranian economy, but are still not reflected in the known macroeconomic data for its economy.

The Effect of the Sanctions on Iran

In contrast to the sanctions against Iran of previous years, the impact of the sanctions imposed in 2012 was felt strongly in various areas. First, the oil embargo by the EU and the isolation of Iran's central bank damaged Iranian oil sales. Iranian oil exports, which stood at 2.5 million barrels daily in 2011, dropped by one million or more barrels a day by the final third of 2012. Oil and oil products account for some 70 percent of the government's revenues, and therefore the decline in exports had a negative impact. While the value of Iran's exports of oil and oil products rose significantly in recent years as a result of higher oil prices, since August 2012 Iran has lost \$2.5-4 billion a month. The drop in oil exports also reflected Iran's failure to find alternative markets to replace those it lost, in part because of increased oil production by Saudi Arabia, Iraq, Kuwait, and the United Arab Emirates. It is possible that Iran may attempt to boost its oil exports by lowering prices.

Second, many international companies, including non-American, are voluntarily leaving the Iranian market and cutting their investments in Iran, mainly from the energy sector. To the extent that this trend continues, the efficiency and output of the Iranian economy will fall, because Iran will likely have to deal with companies with less expertise, meaning that it will have trouble deriving maximum production from its existing oil fields. The sanctions against the Iranian banking sector have also left a mark: Iranian banks are experiencing difficulty in providing basic services such as cash transfers, and Iranian companies are finding it difficult to pay foreign suppliers. For their part, suppliers are refusing goods and replacement parts to Iranian companies, for example, in the auto manufacturing industry, which is contributing to

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higher unemployment. As a result, Iran's difficulties are growing in both imports and exports.

Third, since early 2010, several fuel suppliers have announced that they would stop supplying fuel products to Iran. According to several estimates, sanctions have cut Iran's imports of fuel products by 75 percent since July 2010. In response, Iran has increased its internal production of fuel products and has planned to invest tens of millions of dollars in upgrading its refining capabilities, but it is unclear whether this effort will prove successful.

Fourth, the tighter sanctions against Iran caused a drop in the value of the Iranian rial in September-October 2012. Its value among money changers in the domestic market fell from 13,000 rials to the dollar in September 2011 to 28,000 in September 2012 to 40,000 rials to the dollar in October 2012. The fall in the rial's value damaged public confidence in the Iranian government's economic policy, and caused a slowdown in trade, as commercial traders are unsure how to price their goods. As a result of this steep devaluation, the public fears a drop in the value of savings, and some Iranians are buying foreign currency and gold in order to preserve the value of their savings, thereby further aggravating the situation. The Iranian government has had to impose limits on taking foreign currency out of the country, and Iranian students studying abroad are hard pressed to pay for their studies and are forced to return to Iran.

Fifth, the sanctions imposed on the Iranian banking sector, the import difficulties, and the drop in the value of the rial have brought about a substantial rise in the prices of many basic commodities in Iran. The government states that the inflation rate is 25 percent, but some believe it is much higher. In this situation, it is difficult for the Iranian government to maintain its policy of subsidies for the poorer classes, because the real value of the subsidies declines with the value of the currency, and as a result the purchasing power of many Iranians falls as well.

The Iranian Response

The deteriorating economic situation in Iran encompasses many prominent sectors. Iranian leaders have been forced to publicly admit that the sanctions are harming the Iranian economy, and have also begun to take a series of measures to curb the economic damage.

Iran regards sanctions as a key effort to not only influence its position on the nuclear issue, but also – and primarily – to destabilize the Islamic

regime, or even to overthrow it. Iran perceives the sanctions as the main element in a “soft war” that includes efforts to isolate it politically and cyber attacks. In August 2012, after the US Congress approved a series of new sanctions against Iran, Revolutionary Guards Commander Mohammad Ali Jafari asserted, “The main threat to Iran is the soft war... the Revolutionary Guards must defend the country and its citizens against the acts of hostile countries seeking to harm Iran through soft means.”⁹

Thus far the decline in Iran’s economic situation has not sparked open unrest among the Iranian public, except for a limited demonstration in Tehran in October 2012 following the drop in value of the rial that was dispersed by the police without difficulty. According to newspaper reports, however, many businessmen and citizens blame the government for the economic crisis and the fall of the rial, and some of the blame is aimed at President Ahmadinejad. The President’s critics in parliament claim that he is vacillating and acting ineffectively. The Deputy Speaker of the parliament even stated that the government had no shortage of money, and could inject it into the market for a prolonged period. Ahmadinejad himself admitted that the economic situation had worsened, but said it was due to the sanctions, aided by internal parties, and not the government’s economic policy.

It is clear to the Iranian regime that the worsening of the economic situation is liable to lead to an outbreak of internal unrest, and it therefore quickly adopted a series of counter measures. First, Iran is making an effort to expand the circle of its oil customers and find new customers in East Asia, as well as to increase its sales among its existing customers – primarily China and India. Its success thus far, however, appears limited. Iran could have found compensation for the loss in oil revenues through a global price rise, but increased production by other countries – among them Saudi Arabia, the small Gulf states, Iraq, and Libya – has thus far prevented a steep rise in oil prices, mostly because these countries, especially Saudi Arabia, are selling oil to countries that have cut their purchases from Iran, thereby preventing a price increase. Iran is also trying to bypass the restrictions imposed on it in the oil sector by flying foreign flags on Iranian oil tankers or by changing their names, but many such attempts at deceit have been disclosed. In addition, Iran is trying to work with small banks that do not do business with the US and wish to profit from the vacuum left by the US and Europe.

Second, the Iranian government is attempting to change the consumption habits of the Iranian public by announcing a “resistance economy.” Because Iranian imports have risen by double digits since 2005, the government has begun to take steps to rein in non-essential consumption, while seeking to encourage internal production rather than the import of various goods. Internal production, however, is made more difficult by the sanctions and restrictions on purchases of raw materials, which have caused the closure of factories in Iran. At the same time, the government announced that in order to save foreign currency, it would not provide foreign currency for the purchase of luxury goods such as cars and cellular telephones, and importers of these goods will have to purchase foreign currency at a much higher exchange rate.

Implications

The Iranian economy has a high degree of autonomy. This is reflected in a low ratio of imports to GDP, a relatively large agricultural sector, a low proportion of debt, high balances of foreign currency in comparison with imports, and a balanced budget. In addition, Iran finished 2011 in a good position, apart from its high unemployment and inflation rates. Despite the much stiffer sanctions in 2012, the degree of damage that they have caused Iran is much less than that generated by the economic blockade of Iraq in 1990.

These figures explain why despite the sanctions and Iran’s worsening economic situation in 2012, the Iranian regime has shown no real inclination to date to make its position on the nuclear issue more flexible. All it has done is express its willingness to renew negotiations and send signals that it would be willing to compromise on one element or another of the nuclear issue, provided that the sanctions are removed and Iran’s right to enrich uranium is recognized – meaning that it would reserve the option to continue its march toward nuclear weapons.

The Iranian leadership has presumably taken a decision in principle not to forego its nuclear ambitions, even if the economic situation becomes even worse, under the assumption that if it achieves nuclear weapons capability, the rules of the game will change in its favor. In that case, two factors could presumably change its position and make it more flexible: one, if external pressure generates sufficient internal pressure and unrest liable to jeopardize the survival of the regime. This has not occurred to date, but further deterioration in the economic situation might encourage

this scenario. The second factor is if the regime concludes that the US administration is liable to stage a military strike against Iran in the belief that even harsher sanctions would not soften the Iranian position on the nuclear question. This requires first and foremost a demonstration of determination and readiness for quick escalation on the part of the US.

Will the current array of painful sanctions achieve its goal and lead to a material change in the position of the Iranian regime? The answer to this question is as yet uncertain, but the conditions likely to prove decisive are known. They include:

- a. The severity of the sanctions: The administration is considering even more severe sanctions against Iran, but it is possible that the current level has already accomplished as much as sanctions can possibly achieve. European countries agreed to participate in the current wave of sanctions, which is an important achievement, but it is not clear whether they will agree to go further. Russia and China will probably persist in their refusal to adopt more severe sanctions.
- b. The effect of the sanctions on the Iranian economy: There is no doubt that Iran is feeling the weight of the sanctions, but the fact that they have not yet caused a real change in the Iranian position on the nuclear issue probably indicates the economy's resilience, which leaves the Iranian regime room to maneuver.
- c. Iran's determination not to surrender on the nuclear issue, even if the sanctions become more severe: As much as it is within its control, the Iranian regime is likely determined not to agree to a strategic concession on this issue. This is probably the most critical condition at stake, and the Western governments will have to consider what else can and should be done to influence Iran's determination.
- d. The possibility of an outbreak of internal unrest in Iran as a result of economic distress may well force the regime to change its position. The likelihood of this occurrence is unknown even to the regime itself, but it is aware that the potential for unrest has existed in Iran for years. There is still some time to weigh the effect of the sanctions imposed on Iran in recent months. If, however, it emerges that the burden of the sanctions is insufficient to achieve success on the nuclear issue, it will be necessary to consider upgrading to a higher level of sanctions. In the framework of heightened external pressure led by the US, the option exists of enforcing an economic blockade of Iran, as was done in Iraq in 1990. That blockade included a naval embargo and no-fly zones over Iraqi

territory. This is a complex and difficult move, with an aspect of a war measure deviating from the realm of sanctions and “soft war,” but it is less drastic than a military strike against Iran. The advantage of a blockade, as opposed to sanctions, is that it can be physically enforced by a coalition of forces headed by the US, without the need for agreement on the part of many countries not to trade with Iran; these countries will simply be prevented from conducting such trade. There is no doubt that obtaining a UN Security Council resolution in favor of a blockade of Iran is a difficult challenge for the US, given the expected opposition by various countries, principally Russia and China.

Economic analysis indicates that a blockade would undoubtedly upset Iran’s economic situation: the GDP would shrink, the industrial sector would be severely damaged, imports would plummet, Iran would lose tens of billions of dollars a year in foreign currency revenues, the government would have to implement a double-digit percentage budget cut and cancel many projects, and the standard of living would drop precipitously. Nevertheless, technically Iran has the ability to withstand a blockade for a prolonged period, if it continues to evince determination and manages to maintain its unity and internal cohesion. In this case, it would have to implement deep cuts in the state budget and imports, so that its foreign currency reserves would be able to survive, as did Iraq under Saddam Hussein. It appears that the Iranian economy is far more resilient than the Iraqi economy was in 1990, and that Iran is less dependent on oil exports than Iraq was in 1990.

The question is not whether Iran has the ability to hold out against sanctions and even a blockade, at least until it obtains nuclear weapons capability. The question is whether the Iranian leadership, along with the population, will agree to pay such a high price in order to continue the development of nuclear weapons. True, the current economic damage is not necessarily the most important parameter likely to affect decision making in Iran; the Iranian leadership’s expectations concerning the Western countries’ determination to halt its nuclear program by any means necessary play a more important role. For this reason, a rapid escalation in measures against Iran is likely to have a greater effect than a gradual escalation. Heavy pressure on the Iranian economy does not guarantee achievement of the goal, but it would significantly improve the

chances of success, and an economic blockade is therefore likely to be an essential measure.

An economic blockade of Iran is liable to hurt the global economy. Iranian oil exports account for only 3 percent of global oil consumption, but other oil producers are currently nearing their peak production, and oil prices are highly sensitive to changes in supply. A much graver risk is a broader disruption of oil exports from the Persian Gulf, since Iran is liable to adopt military measures that will affect these exports in response to a blockade against it. Such a measure is liable to cause another steep rise in oil prices that will further detract from global economic growth.

Accepting a nuclear Iran, however, is much more dangerous to the global economy than the price incurred by severe sanctions against Iran, or even by a military strike. The Persian Gulf is home to more than half of the world's proven oil reserves, and as long as no suitable substitute has been found for oil, the world will depend on this region as a principal source of energy. Iran is known as an aggressive player in the oil market, and as such pushes for higher prices, in contrast to Saudi Arabia and the Gulf kingdoms, which believe that this strategy angers large oil consumers and expedites development of alternative energy sources, thereby in the long term harming the oil producing countries themselves. If and when Iran obtains nuclear weapons, it is liable to attempt to dictate new rules of the game in the global oil market, and it will be only a small step from there to use of the oil weapon against the free world.

Notes

- 1 Kenneth Katzman, *Iran: US Containment Policy*, Congressional Research Service, Washington, DC, August 11, 1984, pp. 8-15.
- 2 Kenneth Katzman, *Iran Sanctions*, Congressional Research Service, Washington, DC, October 15, 2012; Eskander Sadeghi-Boroujedi, *Sanctioning Iran: Implications and Consequences*, Oxford Research Group, October 9, 2012.
- 3 CIA, *World Factbook*, 2012 (CIA site: December 18, 2012).
- 4 OPEC, *Annual Statistical Bulletin*, 2012, pp. 22-23.
- 5 BP, *Statistical Review of World Energy 2012*, p. 8.
- 6 CIA, *World Factbook*, 2012.
- 7 Ibid.
- 8 OPEC *Annual Statistical Bulletin*, 2012, pp. 83.
- 9 "Soft War on Iran is Biggest Threat to Country, Gen. Mohaamad Ali Jafari Claims," *Huffington Post*, August 3, 2012, http://www.huffingtonpost.com/2012/08/03/soft-war-iran_n_1739448.html.

Setting a Clear Red Line in Israel's Legal Narrative toward Iran

Roy van Keulen

The threat arising from Iran's nuclear program has led to many discussions on the military feasibility and the strategic desirability of a possible strike by Israel on Iran's nuclear facilities. However, against the background of the complex and abstract nature of the Iranian nuclear threat, a thorough discussion of the legal justifications for such an act of self-defense is notably absent. This article attempts to launch this discussion by proposing a new legal narrative that argues why Israel has a right to anticipatory self-defense against Iran's nuclear program before the program reaches a zone of immunity.

Anticipatory Self-Defense in International Law

Any discussion on the use of force within the framework of the United Nations starts with Article 2(4) of the UN Charter, which provides that, "All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations."¹ This prohibition on the use of force is the general rule to which the right to self-defense is the exception.

Article 51 of the UN Charter on self-defense provides that "Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations."² Because of the relationship between the prohibition on the use of force and the self-defense exception to this prohibition, it

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is understood that self-defense can only be invoked when it meets the normative restraints of necessity and proportionality.³

In the temporal sense, there are four distinct types of self-defense.⁴ In order of decreasing chronological proximity to an armed attack, these are: reactive self-defense; interceptive self-defense; preemptive self-defense; and preventive self-defense.⁵ Reactive self-defense is the undisputed type of self-defense that a state may invoke in response to an armed attack that has already occurred. Interceptive self-defense may be invoked in response to an incipient armed attack that perhaps has not yet occurred but is underway in an ostensibly irrevocable way.⁶ Preemptive self-defense is a type of anticipatory self-defense to which a state is considered to have an “inherent right” and may be invoked in response to an “imminent threat.” Preventive self-defense is another type of anticipatory self-defense invoked in order to prevent a shift in the balance of power in the more distant future, but for which there exists no imminent threat.

Because the right to self-defense is dependent upon the normative restraints of necessity and proportionality, it is understood that the more distant the threat, the more difficult it is to argue that self-defense is in fact necessary. After all, over time a potential aggressor state may choose to change its course, and as a result, use of force may not be necessary. There therefore exists a consensus of sorts that preemptive self-defense can be legal in the international law system under certain circumstances, whereas preventive self-defense is thought to relate to threats too far into the future to argue convincingly for its legal necessity.

The Vital Interests Determining Necessity and Proportionality

Since the legality of self-defense is dependent upon the normative restraints of necessity and proportionality, it is important to focus on what constitutes such “necessity and proportionality.” To this end, the article will draw from domestic law systems and apply the findings of the domestic analogy to the system of international law.⁷

In virtually every domestic law system, there exists a prohibition on the use of force and a right, under certain circumstances, to use self-defense as an exception to this prohibition.⁸ A comparison of these law systems provides two valuable insights into the logic behind the admissibility of self-defense. First, the right to self-defense in domestic law systems seems to revolve heavily around the necessity and proportionality in defending

one's vital interests.⁹ Interests are considered vital when they relate closely to a person's rights to life, liberty, and property. If a vital interest is realistically threatened, which in turn threatens a person's life, liberty, or property, then a person is allowed to act in self-defense.¹⁰ Second, the necessity and proportionality of such self-defense seems to be heavily influenced by the strength of the legal order in which the person lives.¹¹ In other words, if a legal order proves to be ineffective in maintaining peace and security, then the person whose vital interests are threatened may possibly invoke self-defense at an earlier stage than would be the case in a strong legal order and perhaps also use more force to deter the aggressor from future misconduct. Even though in strong legal orders these tasks of prevention and deterrence might be performed by the state, in weak legal orders these tasks largely remain in the hands of the potential victims themselves. The logic behind both these insights is that if a person (even implicitly) accepts the social contract that prohibits him from using force, then this contract can never justify or be tantamount to a suicide pact.

By using the domestic analogy for the international legal order, one finds that the question whether a state is allowed to use self-defense also depends heavily on the necessity to protect its vital interests. For the state, these interests relate closely to its rights to sovereign existence, political independence, and territorial integrity.¹² When the vital interests of a state become realistically threatened, which in turn threatens these rights, then that state may invoke self-defense to protect these interests. Additionally, since the capability of the international legal order to protect these vital interests – for example, through the UN Security Council mandate – has proven to be largely unreliable, the protection of a state's vital interests therefore remains largely in the hands of the states themselves.

Although this linkage – whereby the right to self-defense is in part a function of the protection provided (or not provided) by the Security Council – is not without its critics, it is important to note that even the International Court of Justice (ICJ) has recognized this principle, albeit implicitly. In the ICJ Nuclear Weapons Opinion, the Court concluded that even though the use of nuclear weapons would

Preemptive self-defense does not merely apply to the imminence of an armed attack. The right to self-defense includes a right, under certain circumstances, to invoke self-defense to maintain a defensible situation.

ostensibly be in conflict with the principle of proportionality, the Court could still not conclude that it would be impermissible for a state to use a nuclear weapon in self-defense if its very survival were at stake.¹³ This reasoning seems to indicate that just as the social contract in domestic law systems can never be the framework for a suicide pact, neither can the UN Charter in effect mandate a suicide pact for a state in the international law system.

On the Right to Maintain a Defensible Situation

Because the protection of states' vital interests largely remains in the hands of the states themselves, states may need to invoke self-defense at earlier points in time.

This principle was clearly evidenced in 1967 with the Six Day War. Prior to the Six Day War, tensions rose steadily between Israel and the Arab states, specifically, Egypt, Iraq, Jordan, and Syria. Israel's adversaries mobilized troops near Israel's borders, signed a mutual defense pact, and formed a joint military command. The purpose of these events was expressed clearly by President Nasser of Egypt, who said in a speech two weeks before the war: "We intend to open a general assault against Israel. This will be total war. Our basic aim will be to destroy Israel."¹⁴ Given the continued buildup of enemy forces and the already overwhelming asymmetry in forces, Israel was de facto allowed by the international community to initiate the war by destroying the Egyptian Air Force, thereby ensuring air superiority and maintaining a defensible situation.¹⁵ Had Israel not struck first, then the

An Iranian nuclear weapon constitutes a positive danger to Israel's rights to political independence and to its sovereign existence.

continued buildup of enemy forces would for all purposes have come necessarily to equate a victory for Israel's adversaries. In such a scenario, Israel would have effectively already surrendered to the will of its adversaries before the first shot was even fired. Given the clear intentions of Israel's adversaries, such a scenario would have been an insurmountable threat to Israel's right to political independence and sovereign existence.

At the same time, it was doubtful whether an actual armed attack was imminent at the point in time of Israel's first strike. Rather, the line seems to have been drawn at a sufficient level of threat. This, according to Michael Walzer, who is credited with the most authoritative interpretation on the

admissibility of preemptive self-defense, should cover three aspects: “a manifest intent to injure, a degree of active preparation that makes that intent a positive danger, and a general situation in which waiting, or doing anything other than fighting greatly magnifies the risk.”¹⁶ Walzer detailed that “states may use military force in the face of threats of war, *whenever the failure to do so would seriously risk their territorial integrity or political independence*. Under such circumstances it can fairly be said that they have been forced to fight and that they are victims of aggression. *Since there are no police upon whom they can call, the moment at which states are forced to fight probably comes sooner than it would for individuals in a settled domestic society.*”¹⁷ This explanation acknowledges that the “imminence” requirement for the admissibility of preemptive self-defense does not merely apply to the imminence of an armed attack, but also to the imminence of threats “with which no country can be expected to live.” In other words, the right to self-defense includes a right, under certain circumstances, to invoke self-defense to maintain a defensible situation.¹⁸

The Indefensible Situation of a Nuclear Armed Iran

The Six Day War demonstrated that under certain circumstances, self-defense may be invoked to maintain a defensible situation, and even if an armed attack is not imminent but an indefensible situation is imminent. Furthermore, we have seen that there are threats with which no state can be expected to live when there exists a manifest intent to injure, an active degree of preparation that makes that intent a positive danger, and a general situation in which waiting, or doing anything other than fighting greatly magnifies the risk. These four criteria of intention, preparation, positive danger, and last resort will be applied to the Iranian nuclear threat.

The intention of Iran toward the State of Israel has been expressed clearly by President Ahmedinejad, who stated in the 2006 World Without Zionism conference that Israel must be wiped from the map.¹⁹ Although there has been some discussion regarding the exact translation of this phrase, when placed in the context of other statements made by the Iranian regime, it becomes apparent that the intentions toward Israel are the same as the intentions of Israel’s adversaries prior to the Six Day War, namely the destruction of the State of Israel. Furthermore, the view that Iran would not eschew the use of force in the pursuit of this goal is

supported by Iran's continued political, monetary, and military support for terrorist organizations such as Hamas and Hizbollah. This support has been of such degree that some legal scholars have even argued that it has become impossible to distinguish between Iran's official forces and its forces by proxy, and that Iran and Israel are therefore functionally already in a state of war.²⁰ Although this latter view may be somewhat far fetched, given the fact that Iran is the only state that calls for the destruction of another state and given the fact that Iran is the largest state sponsor of terrorist groups that not only share but also actively pursue this goal day in day out, Iran's intentions toward Israel are unequivocally clear.

Iran has also undertaken an active degree of preparation that translates its intent into a positive danger. Iran is currently in possession of a full nuclear fuel cycle, meaning that it has all the facilities in place to carry all of its nuclear intentions from start to finish. Furthermore, the IAEA has issued numerous reports that state that it is not possible for the IAEA to conclude that Iran's nuclear program is exclusively for peaceful purposes. The main unresolved issues outlined in these reports are the alleged studies into the potential weaponization of nuclear fuel, and activities at the Parchin R&D facility that indicate hydrodynamic experiments and activity at the Arak heavy water production plant, which Iran claims is not operational. Iran has rejected all of these claims and has attempted to divert the attention toward its nuclear enrichment plants at Natanz and

Fordow, where its enrichment activities take place under the supervision of the IAEA.

This civilian part of Iran's nuclear program must not, however, distract from the degree of active preparation that Iran has undertaken toward the creation of a nuclear weapon. If one were to connect the dots of Iran's nuclear activities, both declared and undeclared, then it becomes clear that Iran is very close to completing the nuclear weapon puzzle. Although there are several other factors that add to the nuclear weapon threat –

mainly Iran's refusal to adopt the Additional Protocol or to adhere to UN Security Council resolutions that have negated Iran's right to continue enriching uranium – there is enough evidence to conclude that the only piece of the puzzle still missing in order for Iran to have a nuclear warhead

An imminent threat with regard to the Iranian nuclear threat thus needs to be interpreted as the imminence of a zone of immunity, which in turn needs to be assessed militarily.

that can be fitted on its Shehab 3 missiles is the required Weapons Grade Fuel (WGF). Moreover, this final step can be achieved much faster now that Iran has started enriching uranium to 20 percent, since the further enrichment from 20 percent to WGF proceeds much faster than the jump from 3 percent to 20 percent, and due to the ever-expanding amount of operational centrifuges that are housed in Iran's heavily fortified enrichment facilities.

The positive danger Israel faces is that Iran will further enrich the stockpiled 20 percent enriched uranium to WGF to fuel a nuclear weapon that can be used to hold Israel at gunpoint. Especially combined with Iran's expressed intentions toward the State of Israel, such a scenario would constitute a threat with which no country can be expected to live. After all, even if Israel were to have the possibility of nuclear retaliation and second strike capability, if it were struck by a nuclear weapon at the right place, there would be little to defend for or defend with. Israel in this sense is a one-bomb country. Moreover, there exist serious doubts as to whether the Iranian regime could be deterred by potential (nuclear) retaliation. The differences between Israel and Iran in size of country and size of population, combined with a seemingly different rationale, mean that such an inherently asymmetrical situation would be indefensible for Israel. Furthermore, if Iran manages to "bring a gun to a knife-fight" then such a situation is also indefensible because it provides a nuclear umbrella for Iran, its proxies, and its allies. If Iran would attain a nuclear weapon, there would be little standing in its way to conduct attacks with conventional weaponry, backed by the threat of a nuclear strike. Similarly, Iran could use the threat of a nuclear strike in a potential future conflict between Israel and Hamas or Hizbollah or even arm them with a nuclear weapon directly. Finally, other states that have previously considered using other types of WMD against Israel but have refrained from doing so due to a perceived Israeli nuclear threat will feel less deterred if they know that Israel is held at gunpoint by Iran.

All of these threats, both direct and indirect, together constitute an indefensible situation for Israel that, in the domestic analogy, will cause it to either be shot with the nuclear bullet or kicked and stabbed with conventional weaponry until it bleeds to death. Either way, an Iranian nuclear weapon constitutes a positive danger to Israel's rights to political independence and to its sovereign existence.

The Last Resort for Israel

Given, therefore, that an Iranian nuclear weapon constitutes an indefensible situation for Israel, it becomes important to pinpoint *when* exactly there is a “situation in which waiting, or doing anything other than fighting greatly magnifies the risk.” In other words, where should Israel draw the red line in its legal narrative toward Iran to prevent it from taking the final step?

Two attributes concerning nuclear weapons (programs) must be reiterated here. First, because of the magnitude of destructive power of nuclear weapons, there exists a fundamental difference between nuclear weapons and conventional weaponry (and even other types of WMD). Although the exact level of deterrence a nuclear arsenal has will be determined by the number of nuclear weapons, their location, dispersion, and protection, nuclear weapons have a fundamentally different effect on risk analysis than non-nuclear weapons. Because of this attribute and because there is no police upon whom Israel can call, even the first Iranian built nuclear weapon will fundamentally change the equation for Israel in determining whether it should attack Iran in order to prevent the expansion of its nuclear arsenal.

Second, it is possible for Iran to build up its nuclear program to such a degree that it creates a situation in which a nuclear weapon – and thus a positive danger to Israel’s political independence and sovereign existence – will essentially be a *fait accompli* before the first actions have been taken that are unequivocally aimed at the creation of such a weapon (such as enrichment beyond 20 percent). Although there have already been numerous actions by Iran that make its intentions toward the creation of a nuclear weapon clear beyond any reasonable doubt, the international community has consistently responded to these actions with fading interest, thereby allowing Iran to continue on its collision course toward the creation of a nuclear weapon. However, similar to how Israel, prior to the Six Day War, did not have to accept the continued buildup of enemy force until the point where victory of its adversaries would be a *fait accompli*, neither does Israel have to accept the continued buildup of Iran’s nuclear program until the point referred to as the zone of immunity. After all, such a situation by its very definition would constitute an indefensible situation. An imminent threat with regard to the Iranian nuclear threat thus needs to be interpreted as the imminence of a zone of immunity, and therefore needs to be assessed militarily.

Prime Minister Netanyahu declared that the red line to prevent the creation of this zone of immunity lies at a stockpile of 240 kg of 20 percent enriched uranium, since such an amount could be quickly further enriched to create enough WGF to fuel the first bomb. Although it can be severely questioned whether such a one-dimensional approach actually provides Israel with enough opportunity to maintain a defensible situation, considering the speed and level of secrecy with which Iran can create WGF as well as redundancies created by the amount of heavily fortified enrichment plants, the number of centrifuges they house, and the amount of lower enriched uranium they store – or whether Iran's nuclear program will have entered a zone of immunity before that point, thereby irrevocably threatening Israel's very existence – it must be concluded that acting in self-defense after this red line is crossed would be the very definition of using force as a last resort.

Notes

- 1 Charter of the United Nations, Article 2(4).
- 2 Charter of the United Nations, Article 51.
- 3 This principle has been affirmed and reiterated in a number of ICJ judgments, including the Nicaragua case, the Nuclear Weapons Opinion, and the Oil Platforms case.
- 4 Different legal scholars have used different terms to describe the same events. The categorization listed in this article is based on the categorization made in Tom Ruys, *“Armed Attack” and Article 51 of the UN Charter* (New York: Cambridge University Press, 2010), pp. 253-54.
- 5 The right to self-defense can only be invoked when the threat posed, or the attack which has occurred, meets additional criteria for attributability and gravity. However, due to the brief and non-legal nature of this article, these criteria will not be discussed here in-depth since the temporal issue is the most controversial with regard to the Iranian nuclear threat.
- 6 Yoram Dinstein, *War, Aggression and Self-Defense* (New York: Cambridge University Press, 2011), pp. 200, 204-5.
- 7 Article 38(1)(c) ICJ Statute allows for the “general principles of law recognized by civilized nations” to be used as a source of international law. Given the pervasive presence of the principles of necessity and proportionality in domestic law systems, these principles and their addendi can be said to constitute such general principles of law.
- 8 Peter Hagganmacher, “Self-Defense as a General Principle of Law and its Relation to War,” in Arthur Eyffinger, Alan Stephens, Sam Muller, eds., *Self-Defense as a Fundamental Principle* (The Hague: Hague Academic Press, 2009), pp. 3-7, 9-11.

- 9 Ibid.
- 10 Ibid.
- 11 Ibid.
- 12 E.g., Article 1 Definition of Aggression, Principle f(b)(d) Declaration on Friendly Relations, Declaration 1(7) Declaration on the Non-Use of Force.
- 13 Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion of 8 July 1996, para. 97 <http://www.icj-cij.org/docket/files/95/7495.pdf>.
- 14 UN Doc. S/PV. 1348, June 6, 1967, par. 150.
- 15 Although the admissibility of preemptive self-defense in the Six Day War has not been without its critics, all attempts to brand Israel as the aggressor, either in the UN General Assembly or UN Security Council, were rejected.
- 16 Michael Walzer, *Just and Unjust Wars* (New York: Basic Books, 2006), p. 81.
- 17 Ibid., p. 85, emphasis added.
- 18 Another acknowledgment of the right to maintain a defensible situation can be found in UN Security Council Resolution 242, which mentions the principle of “respect for and acknowledgment of the *sovereignty, territorial integrity and political independence* of every State in the area and their *right to live in peace within secure and recognized boundaries free from threats or acts of force.*”
- 19 “Ahmadinejad: Israel Must be Wiped Off the Map,” *IRIB News*, October 26, 2005.
- 20 E.g., Alan Dershowitz, “Israel Has the Right to Attack Iran’s Nuclear Reactors Now,” *Huffington Post*, March 16, 2011, http://www.huffingtonpost.com/alan-dershowitz/israel-has-the-right-to-a_b_836764.html.

D-Day+1: Strategies for the Day after an Attack on Iran

Ron Tira

Describing the application of military force against Iran as an “attack” or an “operation” is misguided. The first strike wave would be nothing more than a catalyst for the military and political struggle that would take place in the months thereafter.

The purpose of this essay is to examine possible strategies that Iran, Israel, and the United States might adopt after a military strike on Iranian nuclear assets. To this end, the essay presumes that: (a) Israel has attacked Iran and caused moderate damage to the nuclear program, with tolerable losses to the attacking force; (b) the attack was carried out without the consent of the United States; and (c) the attack took place before Iran acquired the capabilities required to assemble a nuclear weapon. The essay also seeks to outline the core constraints and considerations of the respective sides and assess them as they evolve dynamically, relative to the steps of the other sides.

Four components created the fundamental strategic dynamic that has allowed Iran’s nuclear program to progress as far as it has: first, Iran succeeded in representing impressive military posturing that exceeds its real capabilities and enhanced its deterrence; second, Iran adopted a “patient” approach to nuclearization, i.e., steady expansion of its know-how and manufacturing infrastructures without breaking out to the actual development of a warhead; third, the United States preferred to reduce the costs and risks to itself rather than realize its stated policy objectives;

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and fourth, Israel hesitated to apply force, in part out of concern of military retaliation by Iran and its allies and America's political response.

The goal of Israel's strategy should be to terminate the said fundamental dynamic by undercutting these components. An Israeli strike would be designed to place Iran on the horns of a dilemma and prevent it from continuing along its current and – from its perspective – effective path. Whatever the techno-tactical outcome of the strike, Iran would at that point be unable to avoid making difficult, less than optimal decisions in at least two realms: one, against whom to retaliate and how, and two, whether to continue toward nuclearization with the same patient approach or whether to break out immediately toward nuclear weapons.

The first wave of strikes on Iran's nuclear program, then, is meant to force it to choose between abandoning the effective courses of action it has used to get to where it is today, and clinging to these same courses of action, yet in a new reality in which they will be less effective. Strikes need not necessarily destroy centrifuges; all they must do is undermine the effectiveness of Iran's strategy.

At the second stage after the strikes, Iran will naturally seek to present a counter strategy by which it will nonetheless be able to continue creating the political and strategic conditions it needs to complete its nuclear program. This essay contends, however, that Iran will find it challenging to formulate an effective counter strategy, and that any alternative it chooses will be less effective than its current approach.

At the third stage, Israel will try to exploit Iran's strategy in order to deny Iran the conditions it needs to complete its nuclear program. The new strategic dynamic that will emerge is intended to allow the Western powers to initiate new political processes, hitherto impossible, to dismantle the Iranian nuclear program. At that time, the political processes would be characterized by contradictory attributes. They would be characterized on the one hand by the advantage inherent in the fact that Israel's goals are in this case congruent with those of the international community, and on the other hand, by the disadvantage inherent in the international community's tendency to look for quick and easy exits from crises, inter alia, by applying pressure to the side more susceptible to it.

These stages and processes may take months, during which Israel might be required to resort to repeated applications of force intended

to prevent Iran from rehabilitating its deterrence, outdo any military success Iran might have in retaliatory moves, serve as ongoing pressure for the developing political process, and counter any proposed exits from the crisis that are incongruent with Israel's vital interests.

One cannot rule out the possibility that after an Israeli strike on Iran, contingency plans would remain unused and the three relevant sides would reassess their strategies, with their strategic constraints and core interests surfacing much more vividly than before.

Iran's Retaliation Dilemma

The fundamental strategic dynamic that allowed Iran to move forward with its nuclear program thus far relied on Iran's posturing as being undeterred by confrontation, while Israel and the United States were perceived as deterred by such a possible conflict. Indeed, to date Iran's adversaries have taken steps involving limited risks only, such as diplomacy, sanctions, and a covert campaign. America's clinging to its consistent, predictable course of action – another round of talks, more sanctions, the movement of forces in the Gulf, and covert activities – has served only to erode its strategic credibility and taught Iran not to fear steps beyond the range of challenges Iran has already taken into consideration and is prepared to deal with. The naming of Chuck Hagel as candidate for Secretary of Defense provided further reassurance for Iran's perception that no strategic surprises are to be feared.

Another important indication of the nature of the balance of deterrence (or lack thereof) may be found in comparisons with similar cases in the past, when Israel attacked nuclear programs in earlier stages of development than Iran's.¹ But in the Iranian case, it seems Israel has already allowed the most effective timing for an attack to elapse, at least in terms of the physical effect (to distinguish from the strategic effect) Israel could expect to gain.

Therefore all that Iran had to do was to ignore or adapt to its adversaries' limited steps and rely on them not to escalate into a direct confrontation.

Military strikes need not necessarily destroy centrifuges; all they must do is undermine the effectiveness of Iran's strategy. The techno-tactical analyses arguing that a military operation would only delay Iran's nuclear program by two to four years are therefore essentially irrelevant.

The day after Israel's first wave of strikes, Iran will no longer be able to rely on unrealized or unexecuted means of national power – such as the representation of force or deterrence – and will have to choose between admitting it sustained a blow to which it cannot retaliate effectively and using tangible, actual, and effective force.

Some argue Iran would find it useful to adopt the role of victim that doesn't retaliate, but for Iran, victimhood – a synonym for weakness – is unhelpful, considering its grand strategy. Iran strives for regional hegemony, labors to become the most dominant foreign force in Iraq and Lebanon, and takes part in violent struggles from Syria to Yemen. A core component of its grand strategy is its surrounding satellites – states, ethnic groups, and sub-state actors – that play on Iran's team precisely because of its power. Therefore, should Iran adopt the stance of the weak victim, its attractiveness to these satellites would be severely compromised. In effect, then, if Iran avoids taking effective military action, it risks damaging its status and ability to realize its regional ambitions.

Moreover, should Iran be struck and fail to retaliate effectively, it would implicitly confirm that the military route is the most effective one in stopping its nuclear program. A situation in which non-military efforts prove to be ineffective in stopping the Iranian nuclear program but military efforts prove to be effective is intolerable for Iran. As it cannot afford a situation in which its adversaries conclude that the military route is more effective, Iran will have to make them pay a steep price for an attack. This is true regardless of the actual damage to Iran's nuclear project: even if only a modest part of the program is degraded and reconstruction takes no more than a few months, it would still be impossible for Iran not to react. A failure to retaliate would only show that a more extensive strike in the future, which would degrade the program more extensively, might be sustained without a significant cost exacted from Iran's adversaries.

In order to continue making progress in its nuclear program and ward off undesired post-attack political processes, Iran will have to rehabilitate its deterrence, which will be undercut by a strike of any scope (irrespective of the techno-tactical outcome of the strike). It will have to apply effective, actual force to demonstrate its ability to rebuff any attempt by the international community to uproot its nuclear program.

But what are Iran's options for the application of effective force? Its first dilemma is against whom to retaliate. Iran could choose to target

Israel alone or opt to retaliate more extensively, i.e., also against the United States and its vital interests in the region. Retaliating against the United States entails several problems: Iran would force the United States to join in the fighting and force it to cross the political and psychological barrier of avoiding the use of force against Iran. From that moment onwards, the road to escalation is short, from naval battles in the Strait of Hormuz to attacks on Iranian nuclear and regime targets. Once Iran itself crosses the highest escalation threshold – attacking Americans or disrupting shipping in the Strait of Hormuz – it will have no further degrees of escalation with which to deter the United States from using as much force against Iran as it sees fit. Furthermore, action against the United States would expose the limits of Iran’s abilities, as the actual show would fall far short of the apocalyptic image Iran has fostered over the years. Opening shipping lanes through military force is well within the core competence of the US Navy. And a high intensity direct American-Iranian confrontation also bears no resemblance to the attrition inflicted indirectly by Iran’s proxies on the American forces in Iraq.

The United States is capable of preventing Iran from acquiring nuclear weapons,² and it does not have to hunt down every last hidden component of the nuclear program. It can do so by causing Iran to alter its policy. The techno-tactical analyses arguing that a military operation would only delay Iran’s nuclear program by two to four years³ are therefore essentially irrelevant. The United States’ primary actions may center on applying force to the most vital pressure points – Iran’s energy industry, the Revolutionary Guards, and regime cogs – in order to persuade Iran to reverse its policy of acquiring a nuclear bomb. After the imposition of a change in policy on Iran, consequential arrangements about centrifuges and nuclear infrastructures would follow. Were the United States to attribute as much urgency and importance to the Iranian nuclear challenge as Iran itself does, it would be able to impose its will. The only superpower in the world is capable of forcing a policy change on a nation with a GDP similar to that of Argentina, where one in seven citizens is illiterate, and where some of the principal weapon systems were procured from the Johnson and Nixon administrations.

On D-Day+1, Iran will have to devise a way to combine between rehabilitating its deterrence and finding an effective approach to advance the nuclear program.

Therefore, it seems it would be preferable for Iran to single Israel out for retaliation, but neither is this alternative particularly effective. On its own, Iran can retaliate against Israel in only a limited way with some 300 moderately accurate long range missiles.⁴ It would likely not use all 300, but would keep some in reserve for future contingencies. Therefore, and taking into account interceptions by the Arrow and Patriot anti-missile systems and problems related to intelligence and accuracy, Iran's own direct retaliation would not exceed more than a few dozen hits. While this retaliation would be painful, it is hardly the Armageddon some have projected following an Israeli strike. Moreover, such an Iranian retaliation would not overshadow the strike on its nuclear facilities; on the contrary, it would be liable to puncture Iran's image as a regional power, possibly causing it more harm than not retaliating at all.

Furthermore, an Iranian retaliation against Israel alone would be a convenient outcome for the United States because it would mean that there was damage, even if limited, to Iran's nuclear program, yet at the same time, an Iranian retaliation against the United States was avoided, a global oil crisis was averted, and the global economy was not rocked. This would undermine Iran's deterrence, which in turn would enable steps that had previously been impracticable. Therefore this course of action

is also not without problems for Iran, especially because Iran's deterrence is not aimed at Israel alone but is intended to be multi-directional.

Another Iranian dilemma concerns the intensity of the retaliation. The limitations of Iran's capabilities in high intensity situations have already been mentioned. A low intensity retaliation would probably involve terrorist attacks around the world and engagements in shipping lanes, sporadic missile fire at Israel, and other forms of harassment. But a low intensity response is effective only to a limited degree: first, to a certain extent Israel and the world have grown inured to such attacks, and it is doubtful that more of the same – e.g., attacks on embassies – would

be able to overshadow a strike on Iran's nuclear installations. Second, for a low intensity retaliation to affect the political campaign that would necessarily ensue after the strike on Iran, it must be unprecedented in

What is at stake is not an attack or operation similar to the 1981 mission against the Iraqi nuclear reactor or, as foreign sources have reported, the 2007 attack on the Syrian reactor. This time what is at stake is a long war of many moves and counter moves.

terms of impact and would have to be carried out within a relatively short period of time, i.e., during the weeks and months of the political campaign. But experience has shown that when Iran and its proxies attempt to carry out attacks under time pressure, the result is often far from effective. There is also no guarantee that it would necessarily tip the political campaign in Iran's favor. There is no obvious causal link between a global wave of terrorism inspired and directed by Iran and a shift in international political dynamics, whereby the West accepts Iranian nuclearization.

Hizbollah's Strategic Dilemma

Hizbollah can ostensibly compensate for Iran's limited ability to act on its own against Israel. However, Hizbollah is a hybrid creation fraught with structural tensions. On the one hand, it was built and financed to serve as an expeditionary force of sorts for Iran's missile echelon. It was founded precisely to deter Israel, and if deterrence fails, Hizbollah's purpose is to engage Israel with large stockpiles of rockets. On the other hand, Hizbollah strives to be the authentic representative of the Shia on the Lebanese domestic political scene, and has indeed become a major shareholder in the Lebanese state and a member of the Lebanese government.

It is unclear if Israel knows how to deny Hizbollah of its ability to fire rockets in what Israel deems to be an acceptable cost and time. Hizbollah is currently deployed in some 160 urban areas⁵ and is embedded in the Lebanese civilian population. But strategically, this is a double-edged sword and the challenge is mutual: in any future campaign, Israel – even if the purpose of its use of force is to degrade Hizbollah's launchers – might have to reach those urban areas either with firepower or ground forces, whereupon the collateral damage to the Lebanese state would be intolerable.

Hizbollah therefore must choose its dominant identity: that of an Iranian proxy or a patriotic Lebanese player. Depending on the answer, it will have to decide whether to retaliate symbolically to an Israeli strike on Iran or to live up to its original purpose and retaliate with full commitment to Iran. There is no way to know what Hizbollah will choose. Its broad set of considerations includes the possibility, for example, of the Sunni Muslim Brotherhood taking control of the western part of the Fertile Crescent, including Syria. Hizbollah's assessment may be affected by

the very fact of the attack on Iran and its results. Should an attack be perceived as successful and Iran's continued ability to finance Hizbollah is in doubt, and should Iran find it challenging to formulate a counter strategy for imposing its will on its adversaries, Hizbollah may hesitate to continue gambling on the Iranian horse. The larger the crack in Iran's posturing and the more decisive Iran's adversaries appear to be, the more it is probable that within the range of possibilities, there will also be a possibility that Hizbollah will opt for a minor retaliation.

Back to the Iranian Dilemmas: How to Go Nuclear

Another component in the dynamic enabling Iran to reach its current advanced stage in the nuclear program has been its patient approach.⁶ Iran invested heavily in developing and expanding its nuclear infrastructures but was in no rush to develop an actual nuclear warhead. This approach entails two advantages: one, the danger it poses is perceived as distant and amorphous and therefore appears to give Iran's opponents more options than the immediate application of military force, and two, its nuclear program is seen as irreversible and impossible to uproot since once the know-how is assimilated and Iran develops highly redundant infrastructures, the utility of a military attack appears limited (at least for those focusing on the techno-tactical aspect).

The day after the strike, Iran will have to decide whether to continue its patient approach, which proved valuable thus far, or to change tack and break out to nuclear warhead development. Both alternatives are problematic. If Iran continues its patient approach, and the operating assumption of this essay is that the nuclear program was moderately damaged, the conclusion is that is worthwhile striking the program again. If Iran is passive and continues its previous patient approach even though the military strike has set its program back to a degree, further strikes are likely to delay the program that much more, making the military an effective way of rolling back the Iranian nuclear program. This conclusion is hardly favorable for Iran.

If Iran changes its approach and decides to break out toward nuclear weapons, its own actions would reduce the United States' options. Under such circumstances, the United States would find it hard not to take immediate military action against Iran. Once a crack in Iran's deterrence has emerged following Israel's strike, Iran can no longer – as it did in the past – rely on its representation of power, and it will also be

counterproductive for Iran to challenge the United States so bluntly by breaking out to nuclear weapons development. This conclusion holds even if the Israeli strike is carried out contrary to Washington's wishes.

Does Iran Have an Effective Strategy for D-Day+1?

On D-Day+1, Iran's objective will be to resist changes in the strategic dynamics and rebuff new international processes designed to dismantle its nuclear program. To this end, Iran will have to devise a way to combine between rehabilitating its deterrence and finding an effective approach to advance the nuclear program.

On the moderate end of the alternatives spectrum is the possibility that Iran will abstain from retaliating and cling to its patient nuclearization approach. As noted above, this strategy is not effective from Iran's perspective because it creates incentives for further strikes and reduces Iran's value in the eyes of its allies and its deterrence against its adversaries.

At one degree of escalation above that option, Iran retaliates against Israel and attempts to keep the United States out of the crisis. To achieve this, it must maintain its patient nuclearization approach. From Iran's perspective, this alternative would seem to be the least of all possible evils, but it too entails several flaws. First, Iran's own means of retaliation against Israel are limited and it is far from certain they will be sufficient to rehabilitate Iran's deterrence. Second, Iran will have to rely on Hizbollah to retaliate on its behalf, but Hizbollah has its own complicated set of considerations and there is no way of knowing how it will eventually act. Third, damage to the West will be minimal and therefore Iran's supposedly multi-directional deterrence will be undercut. Finally, Iran will retain its patient approach to nuclearization, but with rolled back capabilities due to the strike. This situation, combined with the lack of a multi-directional retaliation, will demonstrate to the West that Israel's strike was an effective gambit against Iran's nuclear program and thereby introduce the possibility of starting new processes previously considered impracticable.

At the high end of the alternatives scale is Iranian retaliation against the United States, combined with a breakout to nuclear arms. In this scenario, Iran barely leaves the United States any choice but to join the fighting. In a direct, high intensity confrontation, the superiority of the United States is absolute, and the United States would be able to inflict

damage on the Iranian state and the pillars of the regime to the point of persuading the leadership there to reverse its policy on nuclearization.

Israel's Strategic Dilemmas

The main achievement of Israel's first wave of strikes on Iran's nuclear facilities would be the very fact of the attack itself, and its challenge to the fundamental dynamics that allowed the Iranian nuclearization process to crystallize in the first place. Such a strike would be designed to open the door for political processes to reverse Iran's nuclear policy that were not previously possible.

Israel's first challenge is how to maintain its achievement in the months that these follow-up processes take shape. To that end, it must demonstrate stamina and perseverance not only on the military front, but on the diplomatic, domestic, political, and economic fronts as well. The campaign in Iran is not a sprint ending with the first wave of strikes, rather a marathon requiring ongoing endurance and staying power.

International diplomatic dynamics are characterized by inconsistency: on the one hand, there is the propensity to move toward the goals at the consensus of the international community. This drive is convenient for Israel in this context, as Israel and the international community share similar goals. Moreover, regarding the Iranian nuclear challenge – unlike many security challenges in the past – Israel is capable of clearly articulating its political goals. In the fog and friction of international crises, the player that can clearly articulate what it wants benefits from a distinct advantage.

However, the dynamics of international diplomacy have another, less convenient tendency for Israel: the fierce desire to end crises as soon as possible while reducing costs and risks, by looking for the easiest way out or by pressuring the player more susceptible to pressure, irrespective of its positions. Both Israel and Iran will therefore want to seem to be more determined and less prone to pressure. Thus, an ongoing, repeated Israeli military effort is critical in order to achieve a number of goals: to prevent Iran from rehabilitating its deterrence in the months of negotiations following the first wave of strikes; to overshadow any Iranian military achievements during that time; to serve as an ongoing means of applying pressure by the international community in its attempt to dissuade Iran from continuing its nuclear enterprise (whether at the request of the international community or despite its reservations); and to demonstrate

the capacity to resist proposals to end the crisis without taking into sufficient consideration Israel's vital interests.

Israel must therefore maintain the ability to strike Iran repeatedly and effectively. Israel must also accumulate enough political capital to reinvest in the expected prolonged political campaign. To do so, it must come up with an initiative with regard to the Palestinians (no matter how remote the chances for success), initiate a thaw in relations with Turkey, try to forge a closer relationship with the new Egyptian regime, and work at fostering some coordination with Saudi Arabia. Israel must strengthen the narrative that a nuclear Iran is a threat not only to Israel but also to the Arab world and Turkey.

Israel's strategic dilemmas on D-Day+1 will be affected by how Iran decides its own dilemmas. In the most extreme scenario, in which Iran reacts retaliates against the United States as well and breaks out toward nuclear arms, Israel could possibly step aside to allow the United States to take the lead in conducting the crisis. However, Israel would face more intricate dilemmas should Iran act in a more restrained manner. For example, it would be more difficult to initiate an effective, concrete international political process on the Iranian nuclear issue if Iran retaliates only against Israel and maintains its patient approach to nuclear arms development. In such a case, Israel could put forward the following argument: (a) the first wave of strikes on the Iranian nuclear program damaged it to some degree or another yet did not cost the West much; (b) Israel proved it is possible to roll back Iran's nuclear program by military means, but the rollback depends on future strikes; (c) the strike exposed a crack in Iran's deterrence and the fact that no international apocalypse occurred as a result has cost Iran a vital card. Consequently, the conditions are ripe to launch a more effective political follow-on process than before.

Israel's most acute dilemma would occur should Iran choose to retaliate against Israel alone but at the same time break out toward nuclear arms. The question then would be: will the United States immediately take all the measures at its disposal to stop Iran from developing nuclear warheads. (The question would be even more acute if the narrative becomes that it was the Israeli attack that drove Iran to break out toward nuclear weapons.) In such a case, Israel would have to work in two directions: continue its strikes on Iran at higher degrees of escalation and persuade the international community of the need to act

immediately and effectively. In cold strategic terms, the fact that nuclear arms in Iranian hands are intolerable has nothing to do with the question of who is “responsible for Iran’s nuclear breakout.”⁷

Regarding the Hizbollah dilemma, Israel must wait for Hizbollah to reveal its intentions before deciding on its strategy against the organization. The organization will have to choose between serving Iran’s interests (thereby causing intolerable damage to Lebanon) and serving Lebanon’s interests (turning its back on Iran). Hizbollah will also have to assess whether Iran can present an effective counter strategy or it has turned a page and started to lose power, and thus weigh betting on the Iranian card or hedging its risks. Should Hizbollah decide to reduce its retaliation to the bare symbolic minimum, Israel will be wise to accept the implicit offer to contain the crisis. Intentions need not be revealed verbally; firing hundreds of rockets “only” at the northern border area of Israel could be indicative of Hizbollah seeking to contain the crisis. Israel must take note of this. In such a case, Israel as well as the United States and Saudi Arabia would have to examine the possibility of signaling to Hizbollah alternatives to its being an Iranian proxy.

The Strategic Dilemmas of the United States

Beyond all the position papers prepared for the American administration, on D-Day+1 the world will experience a new reality and the United States will have to reexamine four variables:

- a. What are America’s vital interests on the Iranian issue?
- b. What are the costs and risks it is willing to incur in order to defend those interests, and has the strike changed its calculation on this question?
- c. Has the strike created new opportunities or changed the strategic equation in any way?
- d. What attitude should the United States take toward Israel, which embarked on the strike without prior American approval?

The United States has a clear interest in keeping nuclear arms out of Iran’s hands. This is its stated policy objective and it has been amply explained by the President and various members of the administration.⁸ Moreover, Iran is the most significant actor undermining the Pax Americana in the Middle East, thus threatening the vital interests of the United States and its allies. Should Iran have nuclear weapons, it will become impervious to direct threats and its radiation of national power

will be enhanced. Iran will then represent a grave threat on the nuclear level⁹ and will be more daring on the conventional level and in its use of sub-state proxies. Other actors will seek to forge closer relations with it, while the fear of Iran will set off a multilateral nuclear arms race in one of the least stable regions of the world. Furthermore, an Iran that achieves nuclear arms in spite of adamant declarations by the United States that it will not allow this to happen will accelerate the waning of America's strategic credibility.

Analysis of America's behavior since the extent of the Iraqi quagmire became clear reveals that often, in cases of tension between realizing its foreign policy objectives and shouldering the pertinent costs and risks, the United States prefers to give up on its policy objectives as long as it limits the costs and risks it incurs. However, the Iranian and Israeli strategies are liable to impose costs and risks on the United States beyond its intents. Because both states will focus on protecting their most vital interests, and in certain respects their existential interests, the minimal cost and risk threshold of the game is liable to be higher than what the United States is currently willing to contemplate. Once it acquiesces to this reality, new courses of action will crop up.

The new dynamics that will be take shape on D-Day+1 must, almost by definition, change the United States' strategic calculations. No matter what choice Iran makes – continuing its patient nuclearization approach but with reduced capabilities following the strike, breaking out to nuclear weapons, retaliating against the United States and its vital interests, or avoiding doing so despite having been attacked and having its nuclear program suffer a setback – these choices will introduce new factors into the American equation. Almost any choice Iran makes is liable to work against it in America's calculations.

The United States is liable to punish Israel as an ally that imposed on it a new reality it did not want. But the United States will also have to separate its accounting with Israel from its accounting with Iran. Even if it does punish Israel, the United States would still have a clear interest in keeping nuclear arms out of Iranian hands. It would be irrational of the United States not to maximize the advantages and opportunities afforded by the strike to promote America's own policy goals just because the strike occurred against its wishes, even if it concurrently punishes Israel for having carried it out.

The United States will also have to weigh the following extenuating circumstances: first, it would be hard to punish Israel for having pursued goals similar to the goals of America's own stated policy and having acted to defend interests identical to American vital interests as publicly stated by American officials. The United States may perhaps differ with Israel on the method but not on the definition of the problem, goals, and end state arrangements. Second, it would be hard to punish Israel should the attack prove to be an effective means of promoting said shared Israeli and American interests. And third, should the attack be carried out with outstanding tactical excellence, it would be hard to oppose it politically, because public opinion tends to fall for tactical excellence.

Competition between Strategies

A first strike by Israel on some of Iran's nuclear facilities is not a manifestation of an Israeli strategy. Much more than preoccupation with the physical, technical world, strategy does not deal with isolated moments in time but rather with dynamics over time. In recent years, the root dynamics have been such that they allowed Iran to make efficient progress toward realization of its nuclear ambition. The purpose of the first wave of strikes would therefore be to challenge the existing root dynamics.

Iran has relied on a deterring image that far exceeds its actual capabilities, on a patient approach to nuclearization, on America's reservations about involvement in yet another international crisis, and on Israel's concern regarding both Iran's military retaliation and America's diplomatic response. In this case, Iran's strategy can be thrown off balance by taking an operational step that would place Iran on the horns of a dilemma. The operational opening stage is designed to force Iran to choose between abandoning its current effective courses of action and clinging to them in a new reality in which they will be less effective than before. Iran will not be able to avoid making tough, less than optimal decisions, and these will represent a new factor in the strategic equations of the other players. Hizbollah will also be forced to choose between sacrificing Lebanese interests and sacrificing Iranian interests. The strategy toward Iran is meant to shape new dynamics and equilibriums that would gradually develop in the months after D-Day.

Iran will of course try to put forward a counter strategy and force the dynamics in a direction more convenient to it. The international

community too is liable to surprise by pursuing easy ways out of the crisis that do not address the fundamental challenge or making propositions that endanger Israel's vital interests, all of which will force Israel to demonstrate ongoing stamina and carry out follow-up military and other steps that must be well orchestrated along the timeline.

Accordingly, it is clear that what is at stake is not an attack or operation similar to the 1981 mission against the Iraqi nuclear reactor or, as foreign sources have reported, the 2007 attack on the Syrian reactor. This time what is at stake is a long war of many moves and counter moves, and Israel must prepare for this war fully understanding its nature, circumstances, and unique characteristics.

Notes

- 1 Iraq and, according to media reports, the attack on a nuclear installation in Syria.
- 2 Ron Tira, "Yes They Can: The US Can Prevent Iran from Acquiring the A-Bomb," *Infinity Journal*, IJ Exclusive, May 2012.
- 3 James Dobbins, Dalia Dassa Kaye, Alireza Nader, and Frederic Wehrey, "How to Defuse Iran's Nuclear Threat," *Rand Review* 36, no. 1 (2012); speech by Secretary of Defense Leon E. Panetta at the Saban Center, December 2, 2011; "Weighing Benefits and Costs of Military Action Against Iran," *The Iran Project*, New York.
- 4 See the INSS Military Balance database on Iran, [http://www.inss.org.il/upload/\(FILE\)1317902891.pdf](http://www.inss.org.il/upload/(FILE)1317902891.pdf). This essay does not discuss the Iranian option of attaching biological or chemical warheads to these missiles.
- 5 Gabi Siboni, "The Challenges of Warfare Facing the IDF in Densely Populated Areas," *Military and Strategic Affairs* 4, no. 1 (2012):5, [http://www.inss.org.il/upload/\(FILE\)1339051538.pdf](http://www.inss.org.il/upload/(FILE)1339051538.pdf).
- 6 Amos Yadlin and Yoel Guzansky, "Iran on the Threshold," *Strategic Assessment* 15, no. 1 (2012): 7-14, [http://www.inss.org.il/upload/\(FILE\)1337250215.pdf](http://www.inss.org.il/upload/(FILE)1337250215.pdf).
- 7 Just as it is not relevant that the United States is to "blame" for the election in which Hamas rose to power in the Gaza Strip, for Mubarak's fall and the rise of the Muslim Brotherhood in Egypt, or for the circumstances that made Iran the most dominant foreign actor in Iraq.
- 8 President Barack Obama speech at AIPAC Policy Conference, March 4, 2012; See also President Obama's interview to the *Atlantic*, March 2, 2012.
- 9 Ron Tira, "Can Iran be Deterred?" *Policy Review* No. 169, Hoover Institution, Stanford University, October 1, 2011.

Regional Proliferation and the “Arab Spring”: Chemical Weapons in Libya and Syria

Benedetta Berti and David Friedman

Since December 2010, the Middle East and North Africa (MENA) region has undergone tremendous social and political change. The so-called “Arab Spring” has in some states led to the demise of old authoritarian regimes, as in Libya and Egypt, and in other states to ongoing internal conflict and instability, as in Syria. While in the long term the process of regional change may lead to a more democratic and prosperous Middle East, in the short term virtually all MENA countries have had to cope with an increasingly volatile and unstable political and security environment.

This article analyzes the impact of the Arab revolutions and the post-transition instability on regional proliferation of nonconventional weapons,¹ looking specifically at chemical weapons (CW). The focus is on two countries, one where the Arab awakening has led to regime change (Libya) and one sustaining a prolonged internal conflict (Syria). Both countries are known for possessing or having possessed WMD programs. As such, the article examines the history and status of these countries’ programs, while assessing the effect of the revolutions on both Libya’s and Syria’s capacity to secure their CW. Finally, the study discusses the impact of these trends on regional as well as Israeli security.

A Look at the Syrian and Libyan Programs

Once thought of as the exclusive domain of superpowers and first world nations, since the 1960s and 1970s nonconventional weapons have gradually become part of the arsenals of a number of developing countries.

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In the case of Libya, several factors motivated Muammar Qaddafi in the 1980s to attempt to develop a biological and chemical weapons program. First, Qaddafi felt that these weapons represented a way to balance Libya's military inferiority when compared to a number of its regional neighbors, including Egypt (which had also developed a chemical weapons arsenal) and Israel, with its conventional and alleged nuclear military power. Second, Libya's armament occurred in the context of a regional race, as during the same period other nations, including Syria and Iraq, were also acquiring nonconventional weapons. Moreover, Qaddafi's calculation was that the successful acquisition of chemical weapons would give him and his regime immunity against any attempt to topple it.

During the 1980s, the Qaddafi regime started building three central chemical weapons facilities.² The first, Rabta, near Tripoli, was an industrial complex called Pharma-150, and had the capacity to produce 10,000 pounds a day of chemical weapons such as mustard gas and nerve agents.³ In tandem, Libya built two additional facilities,⁴ both of them well fortified against aerial bombings. While developing chemical weapons, the country also started investing in delivery systems, especially ballistic missiles.⁵

During the 1990s, as the international community stepped up its efforts to stop CW proliferation, increasing attention was devoted to the seemingly growing Libyan arsenal. Western countries, led by the United States, were particularly concerned about the trend, especially given Libya's support of international terrorism. In this context the US forbade companies operating on American soil from helping Libya's armament.⁶ In 1993 Libya, like Egypt and other Arab nations, announced that it would not join the Chemical Weapons Convention (CWC), arguing that chemical weapons disarmament could only occur as part of a comprehensive ban on WMD in the region, which was not possible until Israel agreed to give up its alleged nuclear program.

In 2003, Libya and Great Britain embarked on secret negotiations designed to normalize relations between Libya and the international community. As a result, in October 2003, Libya allowed British and American inspectors to visit its military facilities and labs to verify Libya's chemical and other nonconventional weapons programs.⁷ Then, in December of that year, Libya announced it was abandoning all WMD programs and that it intended to join all the existing international

conventions.⁸ Until that point, Libya had never revealed or admitted the existence of nonconventional weapons programs, while consistently claiming its activities were civilian and intended for peaceful purposes.

To this day it is not exactly clear what motivated Qaddafi to take this dramatic step. However, it is likely that the growing international pressure against both nonconventional weapons and state support for international terrorism in the aftermath of 9/11 played a role in pushing Qaddafi to relinquish his CW program. In addition, the 2003 US invasion of Iraq and the rapid downfall of Saddam's regime made Qaddafi wary of future external interference in Libya, leading him to forfeit his WMD program in exchange for the insurance the West would not topple his regime. Moreover, Qaddafi likely recognized that the CW program was far from having reached the point where it could grant him immunity against external intervention or coups, and thus preferred to accept the political bargain.

By 2004 Libya submitted a partial declaration on its chemical weapons storage facilities to the UN Organisation for the Prohibition of Chemical Weapons (OPCW).⁹ Libya declared 3,500 aerial bombs intended to disperse chemical weapons, along with 24.7 metric tonnes (MT) of sulfur mustard and 1,390 MT of precursor chemicals.¹⁰ The OPCW began to inspect and verify all the declared stockpiles, finding that Libya's manufacturing capabilities were far more modest than what had been assumed, and that its arsenal was in terrible condition, in terms of security, materials quality, and maintenance.

Once it joined the CWC, Libya embarked on efforts to change its image, and it became very active in the organization. It called on other nations in the region to follow in its footsteps and abolish biological and chemical weapons. In practice, however, the program to destroy Libya's chemical weapons proceeded fairly slowly, despite the assistance from the United States and Italy. While the aerial bombs were destroyed immediately after Libya joined the convention, the process of destroying the sulfur mustard and precursor chemicals lagged behind.¹¹ On the eve of the revolution, Libya requested an extension to complete the destruction of its chemical weapons.¹²

Syria's interest in nonconventional weapons apparently began in the 1970s. There is evidence that before the Yom Kippur War in 1973, Egypt provided Syria with its initial CW capability.¹³ At the outset of the program, in the early 1970s, Syria bought chemical material and ballistic missiles

abroad, but after a while the country developed its own manufacturing capabilities with foreign assistance. Indeed, in the early 1980s, Hafez al-Assad began to show an interest in developing nonconventional weapons motivated both by Syria's security concerns with respect to Israel and its desire to balance Israel's significant advantages in conventional weapons and achieve some level of strategic deterrence against Israel's alleged nuclear weapons. Moreover, cognizant of Israel's aerial superiority, the Assad regime chose to develop its ballistic missile capabilities for the launching of its biological and chemical weapons.¹⁴

Syria is currently believed to have one of the largest and most sophisticated operational arsenals of chemical weapons in the world,¹⁵ based primarily on nerve agents. This group represents the most advanced form of military chemicals materials. The main agent is sarin (also known as GB), an extremely toxic and volatile agent. The Syrians are also thought to have persistent VX, even more toxic than sarin.¹⁶ The launch mechanisms include aerial bombs and shells, but the chief strategic weapons are ballistic missiles (Scuds and its derivatives as well as the SS-21) capable of reaching every part of Israel. Much less is known about the country's biological weapons program, with disagreement as to whether the country has developed an offensive biological weapons capability.¹⁷ The components of Syria's chemical weapons structure are dispersed over a large number of sites throughout the country, while the regime is believed to run four production facilities.¹⁸

Until recently, the Syrian regime never acknowledged the existence of its CBW program and arsenal, despite the fact that during Hafez al-Assad's years in power many claims were made that Syria had "a secret weapon" or "an appropriate response" to Israel's military advantage. During the CWC talks and in other international forums, the Syrian position was that as long as Israel refused to destroy its nuclear weapons, Syria would reserve the right to arm itself with chemical weapons and not destroy such weapons if it had them. In an infamous January 2004 interview, Syrian President Bashar al-Assad reiterated that his country had a right to defend itself, adding that "it is not difficult to get most of these weapons [CBW] anywhere in the world and they can be obtained at any time."¹⁹ The Syrian position remains firm to this day; it opposes joining the CWC and coordinates its political stance with Egypt.

Implications of the Arab Awakening for CW in Libya and Syria

By the time the Libyan revolution drew to a close, the OPCW estimated that Libya was still in possession of roughly 45 percent of its sulfur mustard and 60 percent of its raw ingredients (precursor chemicals), whose existence had been declared but not yet destroyed.²⁰ The CW arsenal did not play a role during the revolutions, and despite rumors to the contrary,²¹ Qaddafi did not resort to chemical weapons, a choice likely influenced both by political considerations as well as by his knowledge that the weapons were not fit for operational use.

With the end of the old regime and the creation of the Libyan National Transitional Council (NTC), the new authorities announced that it identified additional chemical weapons stockpiles the Qaddafi regime had failed to declare.²² When in January 2012 the OPCW inspected Libya for the second time since the revolution, it confirmed that Qaddafi had an undeclared stockpile of chemical shells.²³

The fact that the regime had not disclosed the existence of these two sites raised additional concerns over the existence of other undeclared CW. In addition, there was concern that components of the arsenal might have fallen into the wrong hands, namely, terrorist groups both within Libya and abroad. To date, however, these concerns have not proven founded. The post-Qaddafi UN inspections of the declared sites confirmed that no weapons components went missing during the revolution. The same is not true for the rest of Qaddafi's arsenals. For example, the United States estimates that out of Qaddafi's 20,000 estimated man-portable air defense systems (MANPADS), only 5,000 have been recovered and secured.²⁴ Needless to say, the smuggling of Qaddafi's arsenal represents a serious regional, as well as global, proliferation challenge.

Since first assuming power, the NTC repeatedly stressed its commitment to working with the UN to dismantle the remains of the nonconventional arsenal, and the subsequently elected Libyan government has maintained the same position. The international community has been highly involved in efforts to recover and secure Qaddafi's arsenal, both financially²⁵ as well as by through technical cooperation and assistance.²⁶ The new Libyan authorities have shown eagerness to coordinate and cooperate with the OPCW, as well as with the UN Support Mission in Libya and with individual countries offering assistance, including the United States and Iraq.²⁷

The situation in Syria is far less secure, as unlike the case of Libya, the initial protests met with extensive and indiscriminate brutality by the Syrian government, and have evolved into a bloody internal war between the Assad government and the opposition forces. Moreover, with the government seemingly unable to break the ongoing stalemate and repress the opposition, and with the opposition slowly gaining ground and eroding the regime's supporting base and capabilities, the international community has become more and more concerned about Syria's CBW arsenal.

The first main concern is that the Assad regime, increasingly desperate and fighting for survival, may choose to resort to CW use against its own people. Although this scenario is predominantly internal, the open use of CW would have broader destabilizing consequences at the regional level. Until now, Assad has understood that the use of these weapons would constitute crossing the only real red line imposed on him by the international community, and as such, he has continued to play by the rules of the game. However, as the conflict escalates further and his position deteriorates, this scenario can simply not be discarded.

Assad and his entourage have waved the banner of CW to warn against external intervention. For instance, a senior official in the Assad regime announced that if Syria were to use any chemical weapons, it would do so only against foreign elements. This statement was in itself significant because it represented the first Syrian admission that it in fact possessed chemical weapons (though this announcement was later denied by claiming that it was "taken out of context").²⁸ Even so, this "revenge scenario," whereby Assad would turn its CW outwards toward countries like Israel or Turkey in order to deflect attention from the internal conflict and "punish" the international community, seems unlikely given the cold-blooded rationality employed by the regime until now.

Second, Israel in particular has voiced concern that an increasingly desperate Assad regime may transfer some of its nonconventional weapons to Hizbollah. This option also seems unrealistic, at least until the regime is engaged in an all-out war with the opposition and has the interest of maintaining strict control of its entire military arsenal. However, if the regime felt with absolute certainty that its demise was imminent and inevitable, then it could potentially attempt such a transfer. The international community should take this scenario extremely

seriously, which would significantly boost the capabilities of Hizbollah, an already powerful non-state armed group.

A third source of international anxiety has been the ongoing chaos raging in Syria. Accordingly, there is a concern that the government may lose control of its CBW arsenal, with the weapons landing in the hands of the rebels. The international community is especially concerned about local jihadist groups obtaining access to Syria's chemical arsenal. In the past the anti-Assad opposition forces assured that they would secure the chemical arsenal, as in the Libyan case, but with the conflict escalating and becoming ever more brutal, this scenario also raises concerns.²⁹

To deal with the risks associated with Syria's CW, the international community, led by the United States, has closely monitored the events unfolding in Syria, taking a number of diplomatic as well as practical measures. Both the United States and Israel view the possibility of the CW falling into the wrong hands as a grave risk and have made preparations for the possibility of preventing dangerous entities from getting their hands on components or parts of the biological and chemical weapons.³⁰

First, these preparations have focused on increasing surveillance of the sensitive sites. The US is reportedly working together with Israel, Jordan, Turkey, and NATO to closely monitor activities at all known CW sites.³¹ Second, at the diplomatic level, several nations, including the United States and most recently Turkey, have warned Assad of dire consequences should he dare use his chemical weapons, either domestically or externally.³² The Israeli government has also drawn its own red lines and issued strongly worded warnings that any change for the worse from Israel's perspective in the chemical weapons situation would force the country to take drastic steps, including embarking on a military attack.³³ Moreover, the international community has urged Assad to increase the security of his arsenals, reacting positively to the report that Assad had removed some of the nonconventional weapons from the areas more affected by the war.

Third, the US has also invested in operational plans to intervene directly and either seize control of the sites and secure them or destroy them by military attacks. Since early 2012, it has been reported that the United States conveyed to Syria's neighbors – Iraq, Jordan, Lebanon, and Saudi Arabia – its willingness to assist and help coordinate activities that could prevent proliferation of nonconventional weapons from Syria.³⁴ Specifically, ongoing plans focus on how to secure the CW arsenals in

the aftermath of the seemingly inevitable collapse of the Assad regime. The shaky post-revolutionary transition period that would likely follow the fall of the regime is indeed seen by a number of concerned parties – from the United States, to Israel, Turkey, and Jordan – as the most perilous scenario. In addition, the blueprint used to secure CW in Libya may prove inadequate for Syria. In fact, the country's arsenal is far more extensive, well-maintained, and sophisticated; its chemical agents are believed to be already weaponized; the CBW arsenal is believed to be highly dispersed; and it may include an offensive biological program.

All these elements make the challenge of recovering and securing Syria's CW far greater than in the case of Libya. An aerial military campaign to destroy the sites would be massive and costly, risking a high number of casualties on the ground as well as at the environmental level. Moreover, it also risks falling short of identifying and destroying Syria's entire CW arsenal. At the same time, securing the sites from the ground would be complicated, requiring both superior intelligence and a high number of troops deployed on the ground. Recently, it was reported that the US would need as many as 75,000 ground troops to secure all of Syria's weapons.³⁵

Another related concern regards the timing of an eventual military operation in Syria: here the international community seems to lack precise knowledge of the state of the CW, with periodic reports of alleged transfer of weapons between sites. Similarly, it is extremely difficult to determine with certainty whether Assad is indeed taking steps to secure his arsenal, or whether he is acting to increase its operational readiness, as recently asserted by US Defense Secretary Leon Panetta.³⁶ As such, the international community faces a serious dilemma as to if and when to intervene on the matter of Syria's CW. This predicament is only worsened by the ongoing deterioration of the conflict in Syria. Also, recent reports indicating the regime is employing Scud missiles against the opposition confirm the gravity of the situation on the ground.³⁷

So far, the international community's (only) red line against relying on nonconventional weapons has apparently deterred the regime from relying on these weapons. However, in the past months, the international community appears increasingly concerned that diplomatic pressure against Assad may not be enough. The recent UN declarations that it will be provide anti-CW protection gear to the United Nations Disengagement

Observer Force Zone deployed on the Golan Heights seem to confirm this notion.³⁸

CW in Libya and Syria: Threat Assessment

One of the unintended byproducts of the ongoing regional process of mass-scale unrest and mobilization against the established authoritarian regimes has been an increase in the degree of volatility and instability of the MENA region. The implications of this trend for regional security are not negligible, especially when it comes to assessing the effect on regional proliferation of nonconventional weapons.

However, not all regional cases are alike. In the case of Libya, the country's CW program – largely outdated and in a state of advanced deterioration even before the anti-Qaddafi revolution begun – was already monitored and destroyed under the auspices of the OPCW. In addition, since the collapse of the old regime, the new authorities have been coordinating and cooperating with the international community on retrieving and securing the remnants of the CW arsenal. As such, the threat of proliferation of CW has been dealt with adequately, although the proliferation of other parts of Qaddafi's arsenal, including anti-aircraft missiles, still represents a serious problem as well as a substantive challenge to regional security.

The case of Syria, on the other hand, seems to present a far greater challenge, given the more extensive, sophisticated, and dispersed nature of Assad's arsenal. The international community's strong calls against employing CW have deterred Assad from resorting to this option. As such, it is important for the international community to continue to make unequivocally clear to Assad that tapping CW will immediately lead to direct external intervention and to the collapse of his regime.

However, as the situation on the ground continues to deteriorate, diplomacy alone may not be enough to deal with Syria's CW threat. Moreover, guaranteeing the safety of the nonconventional arsenal will prove increasingly difficult the more the conflict spins out of control. The same problem will also apply to the likely shaky post-Assad transition period.

Therefore, the international community must continue to monitor the unfolding of the events in Syria very closely, as well as devising post-regime change contingency plans to recover and secure or destroy the weapons. Interestingly, identifying and securing Assad's CW is one of

the few truly shared interests of all of Syria's neighbors – from Jordan, to Iraq, Lebanon, Turkey, and Israel – as well as of the international community at large. There should therefore be international as well as regional coordination on this topic. Similarly, the international community should reach out to the opposition forces, as in a post-Assad era they would become an important partner in securing CW and preventing proliferation. On this, the case of Libya and the active role the local interim authorities took in tackling the chemical weapons should serve as a positive example.

Notes

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Russian Foreign Policy in the Middle East: No Change in the Offing

Olena Bagno-Moldavsky

Russia's current foreign policy in the Middle East will likely follow a similar course in the future: its actual presence in the region will remain limited, while issues related to the Middle East will continue to occupy an important place in its diplomatic rhetoric. Russia views the Middle East (defined here in narrow geographic terms as an area that encompasses Egypt, Israel, Syria, Lebanon, Jordan, and the Palestinian territories) as a low cost tool for boosting its international standing and securing additional common ground in its relations with Arab partners.

This argument is based on four premises. First, three Foreign Policy Concepts¹ (FPCs, of 1993, 2000, and 2008) suggest a departure from messianic philosophy. Second, the collection of doctrines enacted over the last decade to regulate Russia's conduct abroad – military doctrines, national security concepts, and foreign policy concepts – all bear an imprint of Vladimir Putin's political philosophy, which endorses "pragmatic nationalism." The third reason is the relative insignificance of the region for Russia. Finally, Russia's freedom of action is curbed by various domestic constraints. It cannot afford to be more militarily involved in the Middle East as an independent player because on the home front it deals with negative demographics, a significant and growing proportion of Muslim citizens, a commodity-driven economy of insufficient diversification, and a slow pace of modernization in the military complex.

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Setting the Stage

Russia's interest in regional developments in the Middle East has ostensibly intensified. It was among the 138 members of the UN General Assembly that voted in favor of upgrading the Palestinians' status to a non-member observer state. Along with French and Swiss experts, Russian toxicologists were sent to examine evidence of polonium in Yasir Arafat's remains. During Operation Pillar of Defense, Russian Minister of Foreign Affairs Sergey Lavrov informed the Special Representative of the Palestinian Authority and member of the PLO Executive Committee Saleh Raafat "on the multifaceted efforts made by Russia ...to normalize the situation."² The Russian Ministry of Foreign Affairs recently issued a statement that urged the convention in 2013 of a conference on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction and their means of delivery (WMDFZ). The conference was previously postponed, and Russia reminded the other sponsors (the US and UK) that it was "committed to its commitments and the mandate" to schedule the Helsinki conference on the establishment of a WMDFZ in the Middle East. Russia supported the Syrian government, stressing that "Assad's exit from power cannot be imposed from abroad."³ Earlier this year UN Ambassador Vitaliy Churkin vetoed a UN Security Council resolution that threatened sanctions against Syria, Lavrov aired critical remarks on NATO's operation in Libya,⁴ and Vladimir Putin criticized the West for behaving in the Middle East "like an elephant in a china shop."⁵ Some Western analysts have interpreted these moves and Russia's heightened activity in the Middle East as a sign of increasingly chilled relations with the West.

Does this mean that Russia is preparing to increase its presence in the Middle East? How does Putin's return to power influence Russia's relationships with its Arab and Israeli partners? This article addresses these questions, focusing on the continuity of principles outlined in three Foreign Policy Concepts and providing examples from relations between Russia and the regional actors. Following Putin's return to the presidency, conservative political circles resumed discussions of Russia's global ambitions, inter alia in the Middle East. In fact, however, the strong overtones in diplomatic messages appear against the background of consistent, predictable, and stable foreign policy initiatives pursued by Russia in the Middle East. At the same time, continuity should not be equated to an absence of a certain dynamic. From being entirely reactive,

Russia's foreign policy in the region has turned to moderately proactive, but its major goals – multipolarity and economic opportunism – are unlikely to change in the future.

The Foreign Policy Concepts of 1993, 2000, 2008

When Boris Yeltsin approved Russia's first Foreign Policy Concept in 1993, the country lost interest in the Middle East. The document was a product of its time, stressing a foreign policy of accommodation, retrenchment, and risk-avoidance in bilateral relations with states beyond the borders of the former USSR. Of the nine "vitally important interests" identified in that text, only one referred to the world outside the borders of the former USSR. The document was criticized for the lack of clarity,⁶ but in any case, the Middle East was mentioned there only briefly and in the context of settlement of the Arab-Israeli conflict.

In 2000, the Putin administration adopted the new Foreign Policy Concept, the Military Doctrine, and the National Security Concept.⁷ The need for refocusing foreign policy goals emerged primarily from the failure of the Yeltsin administration to build an equal partnership with the West and the US.

Although presented as an ontologically new document, the FPC of 2000 re-emphasized the principles that Sergei Stankevich, foreign policy advisor to Yeltsin, and the camp of "pragmatic nationalists" offered to Yeltsin back in 1992: "Foreign policy with us does not proceed from the directions and priorities of a developed statehood. On the contrary, the practice of our foreign policy... will help Russia become Russia."⁸ Thus, the new concept rebranded Russia as a country that is uniquely capable of harmoniously unifying many different elements in its search for Eurasianism – the term especially favored by President Putin. It suggested that Russia implement the tactics of pragmatic opportunism and at the same time perform the mission of a conciliator that maintains a multilateral dialogue of "cultures, civilizations, and states."

In 2008 Dmitry Medvedev approved the amendments to bring the previous Concept up to date. The new document is more sophisticated in style, and addresses new threats such as wars in cyberspace and

From being entirely reactive, Russia's foreign policy in the region has turned to moderately proactive, but its major goals – multipolarity and economic opportunism – are unlikely to change in the future.

nonconventional terrorism. These changes, however, do not affect the essence of the text, which reemphasizes the same foreign policy goals. Stankevich's idea of helping "Russia become Russia" also appears in Medvedev's Concept. All three documents envisage Russia as a Rosetta stone of sorts, i.e., a key to understanding and dialogue between the West and the East. Following the advice of pragmatic nationalists from the early 1990s, Foreign Policy Concepts cultivate Russia's image as a country that is said to possess the qualities of an ultimate mediator equipped to reconcile the conflicting values of Eastern and Western worldviews in a search for Eurasianism.

Eurasianism in Practice

Eurasianism is to be understood as neither a goal in itself nor a rejection of the West, particularly as multipolarity is the fundamental goal of Russian foreign policy. To achieve multipolarity in the current configuration of world power, Russia must promote cooperation with the East.⁹ Eurasianism is a message that Russia is no longer prepared to put up with a role of a junior partner, particularly in that some Eastern partners such as China and Iran treat it as an equal, and some states, such as Syria, position it in a senior role. To some extent, Eurasianism is a reaction to the neglect that the West, broadly defined, expressed toward Russia in the 1990s.

The new focus on the East has been reflected in diplomatic initiatives launched by Vladimir Putin during his second term and continued by his successor. In a first visit since Nikita Khrushchev's tour in 1964, Putin visited the Middle East in 2005 and declared a willingness "to develop a better understanding of the Arab world." In 2009 Medvedev addressed the League of Arab Nations in Cairo, and referred to Obama's offer of a friendship between the West and the Muslim World with, "Russia does not need to seek friendship with the Muslim world: Our country is an organic part of this world."¹⁰ This quote encapsulates Putin's rhetoric, derived from and reflected in the Foreign Policy Concepts.

Thus as opposed to the Soviet period, Moscow no longer aims at exporting its values through economic and military help. The analysis of the Foreign Policy Concepts suggests that Russia's approach is exactly the opposite. The Kremlin is ready to deal with any political actor if that will promote objectives that "pragmatic nationalists" set up for Russia in 1993.

Domestic Constraints

Unlike in Soviet times, the Middle East is no longer a high priority region if compared to Central Asia, member states of the SCO (Shanghai Cooperation Organization), the CIS (Commonwealth of Independent States), or other former Soviet republics. The Middle East was important during the Cold War, but modern Russia has other priorities. Russia's leadership realizes that objective domestic socio-demographic and economic conditions do not allow resorting to activities beyond essential diplomatic involvement in the region.

Three graphs can help illustrate the situation.¹¹ Figure 1 suggests an unstable GDP growth rate that reflects dependence on the export of raw materials and the world oil prices. Figure 2 presents military expenditures as a percentage of the GDP, and illustrates that Russia's campaign of upgrading its military complex faces an uncertain future. Figure 3 shows negative demographics that are unlikely to change in the foreseeable future, this against the background of a growing Muslim population (the only group in the Russian Federation that has a positive birth rate).

Putin reflected on this idea when commenting on the proposition that Russia should return itself to "superpower" status: "We are not imposing; if we are not welcome, we don't insist. Why should we? Our top priority is to help our country develop...once the growth rate of our economy makes it possible for us to boost our defense and ensure our security, we will automatically acquire such a status and such a standing in the world."¹² This remark is a key to understanding Putin's political philosophy: foreign policy will not change unless favorable domestic conditions are achieved. The objective assessment of Russia's economic indices suggests that the challenges that it now faces will likely persist in the coming years, thus precluding a shift in foreign policy.

Throughout the decade of the Putin-Medvedev engagement in the Middle East, Russia searched for multilateralism and exercised pragmatic opportunism. A brief analysis of Russia's bilateral relations with major Middle East actors (Egypt, Syria, Israel, and the Palestinian leadership) supports the argument that Russian foreign policy in the region will not change any time soon.

Egypt

Putin gave a face-lift to Russian-Egyptian cooperation in 2005, but it was clear to both sides that Russia's role in the region was secondary to

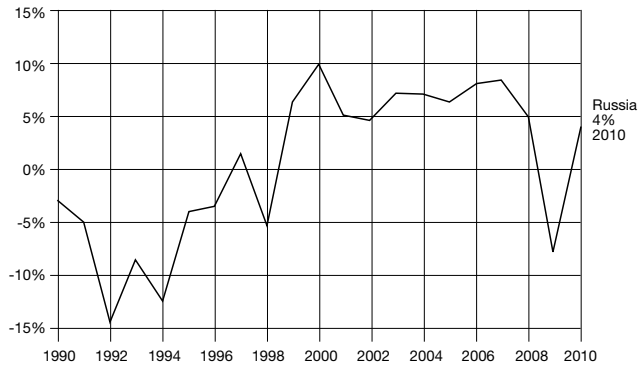


Figure 1. GDP Growth Rate

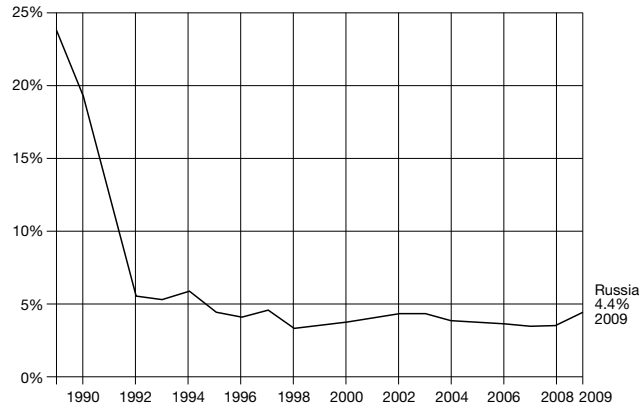


Figure 2. Military Expenditure as a Percentage of GDP

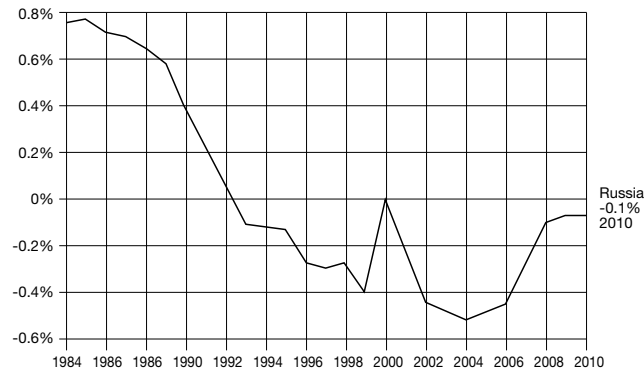


Figure 3. Population Growth Rate

America's and nothing would alter that balance in the foreseeable future. Political cooperation centered predominantly on the Arab-Israeli conflict. Against this common political background, Egypt and Russia cooperated successfully in the economic sphere; in 2010 the trade volume between the countries was 3.46 billion dollars, which is comparable with Russia's trade volume with Iran. In the last decade Russia's leading producers of natural gas (Novatek) and oil (Lukoil) entered the Egyptian market. The trade volume plummeted following the Arab upheaval, but Russian energy companies are poised to return.

Prior to Mubarak's overthrow Moscow called for a peaceful settlement of the domestic uprising. However, once his defeat appeared inevitable, Moscow immediately welcomed the creation of a "strong and democratic Egypt."¹³ Recently, Lavrov invited Mohamed Morsi to Moscow, reiterating that the Kremlin was ready to cooperate on trade, industry, and science as well as on Syria and the Palestinian issue.¹⁴ Moscow, like the US and other West European countries, strives to establish good relations with new leadership in the motherland of the Great Sphinx.

Syria

Commercial, military-industrial, and diplomatic ties with Damascus serve Moscow's interests, though Syria under Bashar al-Assad has never been a vital strategic asset for Russia. In the UN Russia has acted to deny diplomatic cover to avoid a repeat of the Libyan scenario, but it has also made clear that no guarantees and no refuge on Russian soil will be provided to President Assad.¹⁵ Backing the current Syrian leadership serves the goal of multipolarity and allows Moscow to assume the role of a key arbiter, but Russia is ready to welcome any political force that may seize control of Syria.

President Putin revived relations with Damascus during his second term, when Bashar al-Assad initiated the rapprochement to cope with Syria's increasing international isolation.¹⁶ During the Medvedev administration these ties intensified further, and Russia has since adopted a proactive approach to the Syrian crisis. Security Council resolutions against Syria were vetoed; Russian delegations (headed by Lavrov, the head of the Foreign Intelligence Service Mikhail Fradkov, and other high ranking officials) made repeated visits to Damascus, and Syrian officials have visited Moscow on a regular basis.

These efforts can be interpreted as unequivocal support for the regime. However, from Russia's standpoint Assad is no more than a convenient ruler. He provided Russia with its only naval base in the Middle East (Tartus), which serves to restore a tarnished image of the Russian navy that now has few ships regularly deployed on the open seas. Syria is the seventh largest client of the Russian defense industry. In the sphere of military trade, from 2003 to 2010 realized contracts with Syria constituted \$1.5 billion. Although the figure is not high, the market potential is estimated around \$3-4 billion in future contracts. New contracts to be realized until 2014 make up another \$600 million, not including new "quick contracts" signed by Rosoboronexport in June-December 2011.

However, a purely economic interpretation of Russia's stance on Syria overlooks more essential diplomatic interests. Disagreement over Syria places Russia in the center of international diplomatic bargaining, indirectly serving the purposes of Eurasianism (e.g., it strengthens Russia's position vis-à-vis Iran).

Russian-Turkish dialogue on the Syrian issue is a case in point that illustrates Russia's stance on Syria – a convenient but by no means strategic partnership. Putin visited Turkey early in December expressing discontent over Ankara's request to NATO for the deployment of Patriot missiles on the border with Syria. He commented that Turkey and Russia disagree¹⁷ on the methods of how to regulate the situation in Syria, but emphasized that their "assessment of the situation completely coincides."¹⁸ Putin made it clear that the Syrian issue is of lesser importance compared to the growing economic and energy cooperation between the countries.

Similar to its conduct in Egypt, Moscow has kept all its options in Syria open. Russian diplomats meet both Syrian opposition groups and Baathist officials. Undoubtedly, Assad was a preferred partner, but Moscow is preparing the ground for dealing with any political force that may wrest power from the regime.

Throughout the decade of the Putin-Medvedev engagement in the Middle East, Russia searched for multilateralism and exercised pragmatic opportunism. Analysis of Russia's bilateral relations with major Middle East actors supports the argument that Russian foreign policy in the region will not change any time soon.

Israel and the Palestinians

The Russian leadership capitalizes on the Israeli-Palestinian issue, seeing it as a low cost opportunity for gaining international recognition and forging relations with Muslim partners in the greater Middle East and Central Asia. Addressing the Arab League, then-President Medvedev commented on the issue of the Arab-Israeli and Israeli-Palestinian conflict. "The key to overall normalization in the Middle East is the Palestinian issue and ending the occupation of Palestinian and other Arab land."¹⁹ On the ground, Moscow advances multipolarity via UN-backed diplomatic actions to reduce the US influence on Israeli-Palestinian relations.

As part of this strategy the Russian Federation supported the upgrading of the Palestinians' status to a non-member observer state at the UN, following its previous support for the Palestinian bid for membership in UNESCO. Lavrov presents these moves as natural because the embassy of the State of Palestine has existed in Moscow since January 1990, which means that the Kremlin does not face any legal, moral, or diplomatic dilemmas while supporting international initiatives of the Palestinian leadership. The Russian leadership meets with Palestinian President Abbas on a regular basis (in 2010-12 Medvedev saw Abbas in Jordan, in Sochi, and in Gorky). Hamas representatives were also hosted in the Kremlin.²⁰

Moscow wants to strengthen its status as a conduit with Hamas, but the recent escalation in Gaza showed that the truce that ended Operation Pillar of Defense was primarily a product of Egyptian and American pressures, while Russia's role remained marginal. The Gaza crisis showed that Moscow is failing in positioning itself as a meaningful mediator, and its place in the current hierarchy of actors involved in the conflict remains peripheral, restricted to diplomatic initiatives in the international organizations. It is clear that the Kremlin will use any low cost diplomatic opportunity to upgrade its position, though the current government in Moscow does not even try to challenge relations between major actors in the region (e.g., between Hamas and Egypt or Israel and the US). It realizes the limitations of its power (the trade volume between Israel and the US is approximately 20 times larger). Instead, Moscow concentrates on using the diplomatic platform

Compared to other regions, the Middle East is obviously of secondary importance to Russia.

around negotiations to increase its political leverage (e.g., the Putin administration will continue to promote the Moscow Peace Conference). Thus the facilitation of talks will be viewed as a goal in itself, while feasibility of achieving tangible results is seen from the Kremlin as being of secondary importance. It does not trouble Russia that the approach leaves poor chances for the genuine resolution.

In its relations with Israel, Russia is likely to continue supporting international initiatives interpreted in Israel as confrontational. At the same time, it will cooperate with Israel in economic and cultural spheres. For example, Israeli specialists from hi-tech, biotechnology, and nanotechnology industries are invited to work in the Russian Silicon Valley Skolkovo project, and numerous cultural initiatives have been launched. However, economic cooperation between Russia and Israel is unlikely to become a significant factor in the bilateral relations given the reliance of the Russian economy on the export of raw materials and the overall lack of interest by Israel in working together in the military sphere.²¹

Moscow's current approach sees the Israeli-Palestinian issue in the classical spirit of *realpolitik* as a matter to be exploited for its own political and, ultimately, economic advantage. The Israeli-Palestinian peace process is thus a good illustration of Russia's pragmatic opportunism. Therefore, attempts to discuss peacemaking initiatives by Moscow²² will likely resume in 2013, along with the calls to schedule the Helsinki Conference on the establishment of a Middle East WMDFZ.

Conclusion

Russia's foreign policy in the Middle East under the new Putin administration will be consistent with the present policies that advance multipolarity and promote mercantile interests. On the ontological level Russia has renounced the Soviet messianic ideology. Major foreign policy documents already reflect Putin's political philosophy, and provide clear guidelines for conducting opportunistic foreign policy in the Middle East. Although the economic situation in Russia is no longer described as a "crisis," it remains meager and constitutes an objective constraint. The actual results of a well-advertised campaign for technological modernization are yet to be seen. Russia lacks economic means to conduct a great power style of politics in the region. Its economy predominantly depends on the energy market, which means that the country will seek

energy contracts with all the interested parties in the Middle East. Finally, current developments in the Middle East, despite their dramatic public appeal, are not within the circle of Moscow's essential interests. If compared to other regions (e.g., CIS, Central Asia, EU), the Middle East is obviously of secondary importance for Russia. It allows practicing multipolarity and advancing some economic interests, but compared to the developments in its "essential sphere of interests,"²³ Russia is much less sensitive to the changes in this region.

Notes

- 1 The Foreign Policy Concept (FPC) is a basic document that spells out the principles that guide Russia's foreign policy.
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- 6 Lilia Shevtsova, *Yeltsin's Russia: Myths and Reality* (Washington, DC: Carnegie Endowment for International Peace, 2000).
- 7 The Military Doctrine and the National Security Concept assign more power to the Security Council and less to the Defense Ministry, rebuff the politics of NATO enlargement and military intervention, and recognize the need for structural and technological modernization of the Russian military forces.
- 8 Sergei Stankevich, March 28, 1992, quoted in James Richter, "Russian Foreign Policy and the Politics of National Identity," in Celeste A. Wallender, ed., *The Sources of Russian Foreign Policy after the Cold War* (New York: Westview, 1996), p. 69.
- 9 "East" is defined broadly and includes but is not limited to Central Asian countries and Russia's partners from BRIC (Brazil, Russia, India, and China) and SCO (Shanghai Cooperation Organization).
- 10 The Institute of Religion and Policy, "Russia: Part of the Islamic World," June, 23 2009, www.i-r-p.ru/page/stream-event/index-23456.html.
- 11 The graphs are generated from the Google Public Data Archive.
- 12 Interview to the three Russian TV channels, October 17, 2011, <http://ria.ru/politics/20111017/462204254.html>.
- 13 Twitter by Dmitry Medvedev. See <https://twitter.com/#!/MedvedevRussiaE/statuses/36407375581683712>.

- 14 "Egyptian President Mursi to visit Russia," Andalou Agency, November 6, 2012, <http://www.aa.com.tr/en/rss/97219-egyptian-president-mursi-to-visit-russia>.
- 15 Vladimir Isachenkov, "Russia Won't Host Syria's Assad, Foreign Minister Says," *Huffington Post*, December 22, 2012, http://www.huffingtonpost.com/2012/12/22/russia-syria-assad_n_2352209.html.
- 16 Russia supported UNSC Resolutions 1559 and 1636, which criticized Syria's occupation of Lebanon. However, they also voted in favor of several resolutions initiated in 2002-4 by Syria, Sudan, Pakistan, and South Africa (vetoed by the US) that condemned Israel.
- 17 The tensions grew in mid-October when Turkish F-16 fighter jets forced a Damascus-bound plane en route from Moscow to land in Ankara's international airport. The Turkish authorities checked the cargo on board the plane, claiming that it was intended for military purposes. Russian diplomats raised objections but the incident was downplayed during Putin's visit.
- 18 "Putin Warns Deploying Patriots in Turkey will Raise Tensions," Channelnewsasia, December 4, 2012, http://www.channelnewsasia.com/stories/afp_world/view/1240902/1/.html.
- 19 Medvedev's address to the Arab League in Cairo, 2009.
- 20 In May 2011 Lavrov hosted the Palestinian delegation in Moscow See "Russia's Top Diplomat Set for Talks with Hamas, Fatah Leaders in Moscow," *Rianovosti*, May 23, 2011, <http://en.rian.ru/world/20110523/164169127.html>.
- 21 The two exceptions to this were an agreement on military cooperation signed in Moscow in September 2010 between Defense Ministers Anatoly Serdyukov and Ehud Barak, and a \$400 million contract signed in 2009 to acquire the UAV systems (drones) from Israel.
- 22 On the other hand, it is unlikely that these initiatives will be welcomed by other international actors because the US is likely to remain passive during the election year.
- 23 For example, Russia is much more sensitive to issues related to the Trans-Caspian Gas Pipeline that reduces Europe's dependence on Russian energy.



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