



The Confederation Alternative for Israel and Palestine

FEBRUARY 3, 2020 – DAHLIA SCHEINDLIN

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American policy on Israel and Palestine has long been stymied by contradictions. In particular, the United States professes a goal of fostering peace, but enables the processes that perpetuate conflict. This contradiction is at the heart of Washington's sharp loss of credibility as an honest broker in the Israeli–Palestinian conflict, a loss that damages U.S. standing in the Middle East at large.

A progressive U.S. foreign policy toward Israel and Palestine should close the American credibility gap. The United States must recommit itself to Israeli–Palestinian conflict resolution, and back its position with a series of decisive, concrete steps to get there—notwithstanding a complex political environment on the ground as well as in the United States. These steps are essential conditions needed to advance the overall policy.

The lack of clarity about American goals has left a void. Long spells of inaction by the United States removed any restraint on Israel's right-wing political leadership in recent years. Even more recently, Donald Trump's new plan for the region gives a green light to Israeli maximalism and unilateral annexation of certain areas—which undermines conflict resolution and sets a dangerous example for the international system. Trump's endorsement of the Israeli right suggests that if the United

States has now clarified its vision for Israel and Palestine, it has decisively moved in the wrong direction. Further, during a long phase of minimal U.S. direction but heavy support for the Israeli right, Israel has been able to move forward with a destabilizing project of annexation of the West Bank and permanent separation of Gaza, seeking to destroy the project of Palestinian self-determination and statehood. In order for any renewed peace process to be meaningful rather than yet another formula for failure, Washington must first stop and reverse the damage wrought by the Trump administration, and rebuild the United States' role as an honest broker between the parties.

Next, the United States must prove that it is changing course relative to the past, by closing the long-standing gap between rhetoric and policy. This will mean taking action—including putting conditions on aid—to prevent Israel from advancing its annexation of land designated for a Palestinian state, and from undermining Palestinian self-determination.

Additionally, the United States can contribute to empowering Palestinian leadership. This has a double benefit. A forward-thinking Palestinian leadership with legitimacy among its people is essential for progress on any peace with Israel, and it is also essential for improving Palestinian livelihood.

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Relatedly, the United States should also encourage Israel to support the Palestinian leadership, and thus bolster that leadership's credibility at home. Both the United States and Israel should help strengthen the institutions of Palestinian democracy, where possible.

With both parties better prepared to revive the process, the United States should be bold about redefining and updating the conflict-resolution framework that it supports. A revised paradigm should include the self-determination of two peoples, in a constitutional framework that allows for shared security and economic policy; a shared rather than divided Jerusalem; greater freedom of movement and residence; and equality for all people of the region. The United States should continue, as it long has, to support Israel's right to defend itself. But it must also recognize Palestinians' equal need for safety and security, and the additional urgency of gaining full freedom of movement and livelihood free of military rule.

Regional dynamics currently undermine the chances of a successful resolution of the Israeli-Palestinian conflict. The opposite is equally possible, however; a calmer region could bolster negotiations between Israel and Palestine. De-escalation of the military conflict between the United States and Iran would lead to more productive regional circumstances, which could in turn reduce regional tensions that have come to be perceived as a Sunni-Shia competition. Israel is heavily engaged with Iranian-backed militias; that conflict has marginalized any discussion in Israel of Israeli-Palestinian peace. To contest the threat it perceives from Iran, Israel forges regional alliances with other Arab states that further bypass the Palestinian issue.

Finally, American leadership must make its case. It is essential to sharpen and amplify the arguments behind U.S. policy, to increase buy-in from American progressives and the more cautious members of the Democratic and otherwise liberal mainstream Jewish community. To the extent possible, harmonizing conceptual arguments with Jewish, pro-Palestinian, and other progressive activists, in the United States and in the region, will affect public discourse and attitudes more broadly.

Despite attempts of other countries to lead on the peace process in recent years, the United States remains the only power capable of sufficiently influencing the parties to advance toward peace. Conversely, continued U.S. confusion on peace will leave the field open to other actors who might well take the lead in the future, including Russia or China.

Despite the discussion that will follow the release of the Trump administration's Middle East peace plan, which some of its boosters have called "the deal of the century," little will change in the dynamics between Israel and Palestine. Although three years in the making, the plan was developed in defiance of the views of the key stakeholders in the Middle East and Europe whose support would be necessary in order to implement any peace deal. As a result, Trump's proposal is unlikely to fundamentally change the peace process and may well make the situation worse.¹ The Trump administration has shown no appetite to deal with the long-standing problem of Washington's policy contradictions on Israel and Palestine, and the urgent need to rebuild a path toward future conflict resolution, reflecting current realities. There is not likely to be a serious change in the American approach until a new president succeeds Trump in one year or in five, at which point any serious progressive commitment to equal rights and statehood in Israel and Palestine will have to contend with the new dynamics and constraints created by Trump's policies. This report explains these deeper issues, examines the specific policy goals outlined above, and provides context and detail for their implementation.

Defining the Goal

The broad goal of a progressive foreign policy on Israel and Palestine is to advance conflict resolution through a strategy that is clearly articulated and commensurate with political realities in Israel and Palestine.

For too long, the contradictions of U.S. policy have obscured whether it really has a coherent vision, and what that vision might be. In other words, the first strategic step is to get a strategy.

The first innovation of a progressive U.S. policy on Israel and Palestine should be to understand that resolving the conflict in a manner agreed by both Israel and Palestine, as a final status or end-of-claims framework, is in the interest of both parties—and in the American interest. The political framework must ensure Palestinian self-determination, and protection of human, civil, and political rights in general. Unilateral Israeli annexation of West Bank land must cease. The security needs of both sides must be addressed, and routinized violence against civilians on either side must end. Both sides have a right to their national character, as well, through mutual self-determination that cannot be challenged following the end of the conflict, other than through internal social and political debates.

Since the presidency of George W. Bush, American leaders have professed commitment to the two-state solution.² Yet since the "roadmap for peace" that was finalized in 2003, the United States has lacked a full-fledged policy for reaching this goal. Washington's attempts to lead negotiations have been stymied by domestic constraints and outright contradictions. The special nature of the United States-Israel relationship has left Washington heavily influenced by Israel's decade-old right-wing leadership, which openly opposes the two-state solution.³

Both the United States and Israel have subordinated Israeli-Palestinian peace to other regional considerations, including the war in Syria. Israel has prioritized Iran as a more urgent threat that diminishes the urgency of resolving the conflict with Palestine, despite (or because of) the strong connections between Iran and the local conflict, manifested by Iran's support for Hamas.⁴ Further, the United States-Israel relationship has always reflected a highly militarized approach to foreign policy in general; friendship between the two is in part measured by the size of military aid—such as the \$38 billion, ten-year deal reached under the presidency of Barack Obama—alongside virtually automatic political support for Israeli government policy.⁵ These dynamics can contradict the U.S. role in fostering peace, and prevent the United States from using the leverage it has employed in other conflict-resolution cases.

The Trump presidency may appear to represent a radical break from American policy supporting a two-state solution, since Trump has supported Israeli positions on settlements, sovereignty, and annexation. In fact, however, Trump has mainly affirmed processes that Washington has tolerated or enabled for years. Trump's administration has withdrawn rhetorical support for the two-state solution, but meaningful investment in a two-state solution had already atrophied. Past presidents officially endorsed a two-state solution, but as Israel repeatedly took actions that undermined such a solution, those presidents were passive—and at times even actively complicit. Moves to undermine a two-state solution include Israel's years-long expansion of settlements, with a settler population now exceeding 600,000; its nearly unquestioned sovereignty over the Golan Heights; and its singular dominance in Jerusalem.⁶ These processes began long before 2016.

Thus, as Israel hurtles toward absorbing Palestine into a single Israeli-dominated state in perpetuity, the main impact of Trump's policies has been to simultaneously embolden Israel and unshackle it from political constraints.

The deep dissonance and inconsistency in American policy has obscured Washington's actual vision of final status vision. Peripatetic and incoherent policy in the Trump presidency is not unique to the Israeli-Palestinian issue. But Trump is also not the first to obscure the true nature of American policy on Israel and Palestine. Decades of incongruity in U.S. policy toward Israel had already weakened Washington's credibility among regional actors. A progressive approach should close the gap between American words and deeds. It should leverage the special relationship between the United States and Israel to put an end to the inconsistency between rhetoric and action, rather than acquiescing to an Israeli right-wing approach.

Terms such as "two-state solution" devolve into empty slogans if Washington continues to state a policy without advancing the contextual and holistic steps—including using American leverage—to make it a reality. The following policies can revive the chances of peace, and demonstrate American leadership to reach it.

Reversing the Damage

To have any chance of success, a progressive foreign policy on the Israeli–Palestinian conflict must halt the damage done by the Trump administration, and, to the extent possible, reverse it.

This damage falls into two main categories: the collapse of any residual trust in the United States as an honest broker; and direct American support, in principle, for Israeli annexation. When possible, American policy should first reverse previous positions that have deepened either problem. The United States must take steps to increase trust, while working to stop Israeli annexation—whether by putting conditions on support or through diplomatic pressure. Although the peace process is moribund and the two-state paradigm is nearly dead, the prospects could get still worse if these issues are not addressed.

There are two main reasons why restoring trust and ending Israeli annexation are so important. First, under the Trump administration, the flow of American “gifts” to the Israeli leadership—recognizing Israel’s annexation of the Golan Heights from Syria, moving the U.S. embassy to Jerusalem, deeming that settlements do not contradict international law—have been so devastating to the Palestinian position that its leadership has essentially cut high-level contact with the U.S. government.⁷ The United States cannot foster or lead negotiations under these conditions.

Second, for the sides to negotiate, there must be resources left in place (territory, for example) to negotiate about. But annexation has accelerated during the Trump presidency, and conditions that would make negotiations possible are being destroyed almost daily.⁸

Trust and conditions on the ground are related. Each new gift of the Trump administration has undermined the possibility of two states on the ground and cemented Israel’s superior political standing, while pushing Palestinians away from any future peace process.

Ironically, each of the concrete negative steps outlined above has revealed an equally clear antidote. A progressive policy can demand that the United States, at the very least, clarify that unilateral annexation within the West Bank is intolerable, just as such annexation is prohibited, by international law, for any other country. As this report contends below, the United States should make powerful arguments about why annexation is intolerable. Washington should reassert that settlements are a violation of international law, and affirm American commitments to international treaties such as the Fourth Geneva Convention (which bars the transfer of civilian populations into occupied areas).⁹ Even these declarative acts can provide a strong signal to the Palestinian leadership that the United States is serious about becoming a balanced negotiator.

The United States recognized Jerusalem as the capital of Israel in 1995; but there are obvious diplomatic signals that can temper the impact of the Trump administration’s decision in 2017 to relocate the embassy from Tel Aviv to Jerusalem.¹⁰ In reality, it will take years for the embassy to complete the physical move, and nearly all operational functions still take place in Tel Aviv. A more symbolic measure would be bringing ceremonial functions—which have largely moved to Jerusalem—back to Tel Aviv. The United States can announce that the physical move is on hold. On the microscopic level of the debate, this seemingly technical measure will send a signal to the relevant parties.

Clarifying that the United States does not blindly dole out gifts to Israel regarding Jerusalem means that Jerusalem is still part of the negotiation between the parties rather than an issue that has been predetermined in Israel’s favor. Such a gesture from the United States would be another way to mitigate the power imbalance between Israel and the Palestinians in negotiations, and thus maintain the conditions for a future solution.

The link is perhaps clearest of all with regard to settlements. Settlement expansion sabotages the peace process in multiple ways. It is the manifestation of a simple ruse: de facto annexation without declaration. It erodes the territory available for a Palestinian state, and in some locations, is

becoming irreversible. As such, ending settlement expansion is an essential condition for peace. Yet no American administration has used its leverage to limit settlement expansion since roughly 1992. Thus, on settlements, American policy must go beyond reversing the damage of the Trump era. Washington should use its leverage to restore the possibility of Palestinian self-determination, with concrete action to slow and stop settlement expansion.

The clearest way to block settlement expansion is by revisiting how American military aid to Israel is used. Linking American aid to political policy is charged. Yet it is needed to bring Israel back into a genuine peace process. The next section examines the possibilities and precedents for leveraging American power through financial support.

Leading Israel Back to Peace

The United States has provided Israel with such a high level of support over decades—including economic aid, military aid, political support, and international backing—that incentives are not sufficient to convince Israel to change course. However, there is also a substantial American precedent for using sticks with Israel, and not just carrots. In light of the Israeli government’s accelerated move away from a negotiated resolution, Washington must convey that it will use its weight to bring Israel back on track.

The United States can establish a position of oversight over American aid, to prevent its use in ways that contradict U.S. law or policy. A progressive policy can calibrate steps to ensure and limit how aid is used, by demanding transparency at a minimum, or for a tougher approach, conditionality of usage.

The logic of enforcing oversight for such aid is hard to dispute, since settlements so directly sabotage the goal of peace, yet are heavily enabled by American support for the Israeli military. Even the term “settlement” is shorthand for a sprawling project that includes neighborhoods, population, army presence, and supporting infrastructure—accompanied by ever-more suffocating restrictions on Palestinians. These

actions add up to annexation, and the United States enables it.

Therefore, it makes little sense to continue what the Jewish American journalist Peter Beinart has called the “blank check” approach that enables Israel’s de facto annexation of Palestinian land.¹¹ Weakening Israel’s military capacity for further expansion—through aid conditionality—tackles one of the most destructive contradictions of U.S. policy.

There are a number of additional advantages to greater oversight of the use of American funds, ranging from legality to effectiveness, and an increasingly supportive political context within the United States. As a calibrated approach, it has gradations representing the severity of pressure. This calibrated approach allows for a gradual element in the highly sensitive American political environment. For example, the mildest version of oversight involves simply demanding transparency about the use of funds to ensure compliance with American law.

The most recent agreement for American military aid to Israel is the “Memorandum of Understanding” (MOU) signed by Obama in 2016, which provided unprecedented levels of military funding. According to the MOU, the aid is to be used for defensive purposes only. The question of defense, of course, lies at the heart of the dispute—which actions truly serve Israel’s legitimate defense needs, and which exacerbate the conflict without contributing to defense. It is legitimate for the United States to question the suspected misuse of funds or arms. Further, there are precedents for doing so: the administrations of Jimmy Carter, Ronald Reagan, and George W. Bush (one Democrat and two Republicans) all questioned whether American military aid was being used appropriately, or whether Israel had violated terms of its agreement.¹²

Questioning the use of aid is easier than actually suspending it—American law leaves loopholes for overriding constraints on aid or military equipment transfer based on misuse.¹³ All the same, just calling into question Israel’s usage is a signal that would be clearly understood in Israel.¹⁴

There is a robust legal basis for restricting foreign military aid if there is a suspicion it is being used by forces committing “gross violations of human rights.”¹⁵ The Leahy law—which is actually two laws, sponsored by Senator Patrick Leahy, and first passed in 1997—was applied to the State Department as amendments to the Foreign Assistance Act of 1961, and to the Department of Defense.¹⁶ The legislation was formulated to apply when there is credible information that a recipient country is committing human rights violations, leading to suspension of aid. A “remedial” provision allows restoration of aid if the recipient country takes measures against such violations—though the remedial provision has been poorly implemented, and is rarely used in practice.¹⁷ The law has not been applied to Israel, although in recent years there have been rumors and actual requests to consider its applicability.¹⁸ Applying “Leahy vetting” relates to human rights violations rather than Israel’s political course, but this actually represents an advantage: it would ensure that a progressive foreign policy applies U.S. law consistently, in line with examinations of other recipients of American foreign aid. The message conveys consistency and expresses the progressive commitment to human rights in general. Overall, it could also contribute to balancing out the power dynamics—which are currently so asymmetrical—between the conflict parties, showing Israel that there are limits to its power over Palestinians.

In the same vein, there are already pending U.S. bills that would prohibit American aid to Israel from being used for human rights violations, such as child detention under military rule. There are calls to end aid put to use for the destruction of homes that Israel undertakes for so-called administrative reasons, primarily when Palestinians lack the proper planning permits—which in practice are almost impossible to obtain.¹⁹ A recent report showed that over the last three years, 98.6 percent of Palestinian building requests in Area C of the West Bank, controlled by Israel, were rejected.²⁰ “Administrative demolitions” are different from home demolitions as a punitive measure against terrorism suspects, perpetrators, or their families (a practice that is also controversial).²¹ As with Leahy vetting, the measures proposed in these bills relate to human rights standards

rather than political goals, but could still have an important impact.

Tougher forms of financial pressure could also be effective, and have in fact been used in the past for political aims. Some rely on mechanisms not covered by the MOU. For example, in 1992, George H. W. Bush—another Republican president—withheld loan guarantees precisely to deter settlement construction.²² The loan guarantee program for Israel has been in place since 1972; it provides a special U.S. fund to back Israeli borrowing from banks under favorable terms.²³ The program is essentially a U.S. government insurance policy against default, considered an indirect form of foreign aid. Similar guarantees have been applied to other countries; the loan guarantee program for Israel actually stipulates that Israel is to use the funds for areas within the 1967 lines.²⁴ There are precedents for more broad-ranging threats for political aims: Dwight D. Eisenhower simply threatened to “end all aid” to prevent annexation of Gaza in 1956, and in 1975 Gerald Ford delayed military aid, and said he was “reassessing” economic aid, to advance partial Israeli withdrawal from the Sinai.²⁵

The approach of aid conditionality is increasingly supported in progressive Jewish communities. The progressive lobby group J Street formally advocates aid transparency.²⁶ Commenting on J Street’s emerging position, Nathan Guttman, a veteran Israeli journalist covering U.S. affairs, captures how the demand for transparency and accountability in American foreign aid addresses the historic contradiction in U.S. policy (and activism): “The days of being progressive on all issues except Israel are over, as are the times when a Democratic politician could remain part of the party’s left wing by simply vowing their support for a two-state solution and sending out the occasional press release condemning Benjamin Netanyahu’s policy du jour.”²⁷

To summarize, greater oversight over how funds are being used, through transparency and conditionality measures, offers several benefits: It helps the United States comply with its own laws, and contributes to reducing the power asymmetry between Israel and the Palestinian leadership by demonstrating U.S.-led constraints on Israeli behavior.

In certain forms, revising financial oversight expresses a progressive commitment to human rights. But the less symbolic, more direct impact can be to limit Israel’s ongoing settlement expansion itself, even if due to symbolic signals rather than the actual loss of funds. All slowdown of settlement expansion contributes to future Palestinian self-determination.

Bringing Palestine Back to the Table

No negotiation can take place, no peace agreement can be signed, and no future implementation will be successful under the current conditions. Palestinian leadership is famously divided; the Fatah-led Palestinian Authority, which the international community considers the legitimate leadership, faces a profound loss of legitimacy among its people. The United States cannot invent ideal partners for peace, nor can any outsider create puppet-leaders or become state-builders. But Washington can take pragmatic steps to strengthen the kind of Palestinian leaders who wish to reach a negotiated solution. The United States can also support better Palestinian internal governance, which can boost the popular legitimacy of the Palestinian leadership for a future peace process. Additionally, the United States can use its influence on Israel to provide incentives and rewards for improved Palestinian governance. In sum, the United States should help Palestinian partners emerge.

For roughly two decades, Israel has clung to a rallying cry of “no partner,” a concept Ehud Barak coined following the failure of the Camp David Accords. To be sure, the Palestinian leadership has made missteps over the years, or decisions that can be debated in hindsight. At times, it has resorted to violence against Israeli civilians.

But the best potential Palestinian partner—the Fatah-led Palestinian Authority—which has committed to negotiations and a two-state solution, and maintained security cooperation with Israel since the Second Intifada, has achieved no genuine concessions or rewards in exchange for its policies.²⁸ The opposite: Netanyahu takes pains to hammer home that Palestinian president Mahmoud Abbas incites terrorism. The Israeli leader also delegitimizes the

Palestinian Authority through similar accusations, and his government has passed sweeping measures to withhold taxes that Israel collects for the Palestinian Authority—putatively, to reduce support for families of convicted terrorists, but in practice a measure that punishes all of Palestinian society under the authority’s control.²⁹ By contrast, Israel has actually been rewarding Hamas, at least since 2005, with various policies, ranging from the disengagement from Gaza to Netanyahu’s arrangement to allow large funds for Hamas through Qatar, in return for a ceasefire.³⁰ Under Netanyahu, Israel also negotiates indirectly with Hamas over adjustments in the severity of its ongoing closure measures in Gaza. Together, these measures build Hamas’s credibility in the eyes of Palestinians. The Qatari financial deal also lowers Hamas’s dependency on the Palestinian Authority—further undermining social and political reunification.

Both Hamas and Fatah bear responsibility for their debilitating political split, but Israel has worked hard to put Gaza and the West Bank on these separate political trajectories. Israel can argue it had “no partner” at Camp David, but Israel has done a great deal to perpetuate a no-partner situation ever since. The United States should act to undo that.

Still, the Palestinian leadership also has responsibility. The United States should recognize that responsibility by investing in a stronger, unified Palestinian political community, and boost actual Palestinian agency.

Strengthening Palestinian leadership is not a retaliation against Israel—it is a contribution to peace. Improving Palestinian governance internally can boost the credibility of the local leadership. Such a policy course must avoid reversion to the troubled “state-building” models of the United States in the Middle East from earlier decades. But focused, concrete policies can contribute to the modest, locally led goal of better governance and leadership—a goal Palestinian people share.

Washington can adopt a multipronged strategy to strengthen Palestinian society and leadership. The United States should restore aid to Palestinian institutions, which was, in effect, completely cut under the Trump administration, including

direct funding for the Palestinian Authority to support security services, as well as hospitals, peace programs, infrastructure, good governance, and civil society.³¹ Aid can be restored for the causes deemed most urgent, possibly as a reward for incrementally improving standards of governance and democracy. Washington can work with Israel to relax movement restrictions and economic constraints, to show that change is possible and better governance pays off for Palestinian leaders, in two ways: by earning Israeli concessions, which in turn can increase domestic legitimacy.

Such a policy would step up investment in the Palestinian economy, including education, training, and nurturing cooperation with Israel in high-tech, by building on existing programs.³² To some extent, this approach overlaps with the economic plan that the Trump administration unveiled in Bahrain in June 2019. There is no need to reject the plan's concrete ideas, which include infrastructure and education investment improvement, private-sector initiatives, and other beneficial socioeconomic measures.³³ What will change is the misguided notion that cash can replace political liberation.

A New Version of an Old Solution

Even if U.S. efforts eventually succeed in bringing both parties back to the table under better conditions for conflict resolution, negotiations for a two-state solution are still almost certain to fail, because the basic paradigm for solving the conflict is outdated. To cut through the obstacles of the past that prevented a two-state solution, and motivate the parties toward the end goal, the United States should encourage a revised paradigm for resolution that is updated and reconceptualized to suit reality. A loose association of two states, based on freedom of movement, porous borders, residency rights and a shared Jerusalem—a confederation approach, in political science terms—holds the most promise. This approach is among the many alternate models that have been proposed by scholars, analysts, and activists, sometimes from opposing ideological camps.

Despite two decades of failure since Camp David, or twenty-seven years (starting from the Oslo process that

began in 1993), the progressive community has stuck closely to the two-state solution as the paradigm for peace.³⁴

However, the main terms of the two-state solution were developed twenty years ago, under political and physical conditions that no longer exist. At that time, there was a Palestinian leader, Yasser Arafat, who enjoyed sufficient public support to advance major compromises; and an Israeli leader, Ehud Barak, who was at least prepared for significant concessions, such as dividing Jerusalem, that no current (or even future) Israeli leader seems willing to entertain. There were fewer settlements, and less entrenched Israeli infrastructure in the West Bank relative to the present. Today, circumstances will make physical separation far more wrenching, and politically nearly impossible.

Further, any realistic political plan must take an unflinching look at what went wrong after so many rounds of negotiation failure. Analysis often focuses on negotiation dynamics and personalities—bad decisions or bad intentions, the blame game, facilitator missteps. But a progressive policy should confront fundamental ideological differences on the core issues themselves. Understanding the ideological chasm between the sides on borders, settlements, refugees, security, and Jerusalem will help refine the right solution. Doing so also suggests different approaches that can be more appealing to both leaders and the public.³⁵

In recognition of this problem, activists, academics, and policymakers have developed a range of alternatives based on hybrid concepts, such as confederation, cantons, and federations.³⁶ These plans, or at least the specific relevant adjustments to the old two-state idea, should be incorporated into the political framework chosen for resolution.

Of these concepts, the confederation approach offers the closest approximation of two states. It provides national self-determination for both peoples, while providing better solutions for daily life, with incentives and concessions to each side that did not exist in the earlier model. Although there are two territorial states, the porous border concept does not compromise security, but rather allows freedom of movement for law-abiding people as a default, with security

suspects restricted as exceptions. This is a conceptual concession offering each side full access to the other—something neither side (at least civilians) enjoys today. Additionally, however, it also contributes to economic development and reduces the most suffocating restrictions on daily life, which primarily affect Palestinians.

The confederation approach allows citizens of one side to live as permanent residents on the other, subject to limitations of feasibility, absorption capacity, and national character. The constitutional provision for residency opens new solutions for the return of some number of Palestinian refugees to Israel—one of the most sensitive and explosive points of disagreement—in a way that can assuage Israeli fears and encourage acceptance. The same mechanism can significantly decrease the number of settlers subject to forced evacuation—some of whom have lived in their communities for two generations. Settlers located in areas slated for evacuation include the most hardline spoiler community on the Israeli side, with the political power in Israel to sabotage a deal. The option to remain in a state of Palestine, with full security coordination and open border crossings, can ease settler resistance.

Keeping Jerusalem shared and open to both communities would, first of all, avoid the intense disruption to livelihood and economy that would be the immediate impact of division, especially for Palestinians. A shared capital would nurture nascent social overlap in Jerusalem among young generations of Palestinians and Israelis, rather than tearing apart the populations and entrenching ethnic divisions in the future.³⁷

This approach is predicated on a hybrid of respecting national identities, while encouraging cooperation to manage the interdependence that already exists. From a progressive perspective, it is far more natural to encourage open borders and cultural overlap, rather than a model predicated on ethnic segregation—which was never truly realistic. The political impossibility of fully dividing the Israeli and Palestinian populations is a major reason that the old approach to the two-state solution has never borne fruit.

In hindsight, one of the biggest mistakes of the Oslo years was constructive ambiguity, which led to the deeply disparate trajectories of each side. Yet the opposite danger is to rigidly cling to a paradigm that has become a slogan rather than substance, which all sides know will never be reached.

Recalibrating the Regional Dimension

The United States' broader Middle East policy involves calculations that are well beyond its relationship with Israel, or the issue of Israeli–Palestinian peace.³⁸ However, the regional dynamic in the Middle East can either support peace, or perpetuate the current direction, undermining a solution. In the development of U.S. Middle East policy, progressive leaders should seek an approach that contributes to conflict resolution in Israel and Palestine.

One critical dimension of such an approach is the impact of Israel's position on Iran. Israel's right-wing leadership has maintained a confrontational and belligerent attitude toward Tehran, and prioritized the threat of Iran over conflict resolution with the Palestinians. In general, as long as the Middle East is divided—or is perceived to be—along a competitive binary of Iranian-allied forces and Sunni Arab states (or, put differently, a “Shia crescent” versus the Gulf and Saudi Arabia), Israel is able to bolster its emerging alliances with the latter group of countries. This lowers the urgency of resolving the conflict at home, since Israel is successfully cultivating ties with regional powerbrokers while bypassing the Palestinians.

If the Iran nuclear deal (the Joint Comprehensive Plan of Action, or JCPOA, from which the United States withdrew in May 2018) should fully collapse, it would only exacerbate the belligerent relationship between Israel and Iran, and the binary divide in the region. Further, the American withdrawal from the JCPOA has hardly contributed to Israeli security. Since May 2018, Iran has announced several moves away from the JCPOA in response to U.S. actions, beginning with advancing uranium enrichment.³⁹ In November 2019, Iran announced it would reactivate the Fordow nuclear plant for uranium enrichment.⁴⁰ Following the assassination of

Qassem Soleimani in January 2020, Iran again announced that it would no longer hold itself to JCPOA restrictions.⁴¹

A progressive foreign policy should seek to transform confrontational relationships and break down binary alliances in the Middle East. The United States should seek to rebuild the international coalition that led to the JCPOA, which was designed to help bring Iran in from the cold, rather than bully it through sanctions or actions that brought the sides to the brink of war in January 2020. A more moderate Iran may one day be in the making, judging by the actions of its citizens, which would be good for Israel and for the United States. Washington should support rather than stymie that process.

Making the Case

Finally, a progressive policy needs to communicate the essential argument and reasoning behind its newly articulated goals. The core argument of the past—that a two-state solution is good for the parties and advances stability and security—has lost force in the face of reality. The right-wing leaders of both Israel and the United States point to a decade of stability without peace, dismissing three wars in Gaza as necessary maintenance alongside relative overall security for Israelis. Israel's relationships both with major new global partners and the traditionally recalcitrant Arab countries of the Middle East are burgeoning in the midst of the deterioration of the two-state solution. Israel itself is flourishing in terms of economic growth and global integration.

However, there are highly compelling reasons for making peace a core element of a progressive American foreign policy. A final important strategic goal is to make these reasons the key framing for U.S. policy and interests. The basic internal coherence of U.S. policy should be repeatedly conveyed within elite communities and to progressive civil society advocates, and filtered to the public through the media. Messaging should shift the debate away from a focus on settlements as the root of the problem, to a focus on annexation—a larger goal for which settlements are merely a vehicle. As this report has argued, the United States should explicitly oppose settlements in order to uphold

the international law against annexation—one of the most important rules of the global system.

It is valuable to bring the full meaning of the rule against annexation back into the debate. The prohibition against conquering territory by force has helped make the world a safer place since World War II, and contributed to the overall decline of conventional war. Focusing on the international prohibition against conquering territory by force—annexation—places the logic behind a progressive U.S. policy on Israel in the context of greater global priorities. Open annexation, even partial, puts Israel in the company of Russia following its seizure of Crimea, and Moscow's mission creep in both Eastern Ukraine and Georgia. By nurturing a solution that rejects annexation, the United States is actually defending Israel against the severe measures the international community has taken to punish violators in some other cases.⁴²

The next core argument that must inform American policy is that Palestinians and Israelis are equals. Both have the right to self-determination, and the United States will commit itself to protecting the rights of both. This simple principle has not always informed America's policy, but it should be indisputable in progressive circles, and broadly embraced in the American ethos in general.

Israel has been and remains a key U.S. ally. The two countries' relationship provides a good model, and a progressive U.S. policy should seek to create more such allies in the Middle East—including Palestine—rather than more opponents.

At the same time, supporting peace will facilitate vital American relationships with other Arab countries of the Middle East. Those relationships will be stymied by the aggravating factor of the Israeli–Palestinian conflict, if it continues. In fact, the same argument holds for Israel itself, as it attempts to cultivate relationships with Middle Eastern countries, and integrate more deeply into the region.

Palestinian national self-determination is the only path to satisfactory resolution to the conflict. If Israel completes annexation or successfully dismembers Palestinian society,

the only route to peace will be full citizenship, civil rights, and enfranchisement for Palestinians, within Israel. Since neither side accepts this scenario, independence for Palestine is the only other option, and confederation provides the best way to achieve it.

Finally, it is appropriate to preempt the charge that Israel is being singled out for condemnation—by understanding that this is not true when it comes to a progressive U.S. policy. First, it should be clear from history that the United States rejects any genuine singling out of Israel for unfair treatment. Additionally, however, it should be clear that the United States treats other cases of unilateral annexation, occupation, long-term or permanent denial of self-determination, and human rights violations with the same approach advocated in this report: a commitment to conflict resolution, and scrutiny of aid to prevent abetting those activities. Strong communication should underline the fairness of the progressive approach by incorporating other examples, past and present, to dispel the charge and keep discussions pragmatic.⁴³

This report has outlined several broad priorities for a progressive U.S. policy toward Israel: recommitting to a peace-oriented strategy; putting muscle behind the commitment to bring Israel to the table; bolstering Palestinian leadership and society to strengthen negotiations; revitalizing the peace paradigm; mitigating regional belligerence; and making a strong case for these policies for American society and voters. All these priorities are interdependent. In a deeply challenging context for peace, none of them can realistically be achieved in isolation, nor would they be sufficiently effective without the other supporting factors. A progressive U.S. policy needs to be focused, holistic, and consistent. Ideally, it should also inspire.

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Notes

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