

# Obama, Trump, and how a decent, well-intentioned, fair-minded person could be against the two-state solution

by Andrew Pessin



Last week's [statement](#) by President Trump's press secretary Sean Spicer, read by some as essentially endorsing Israeli settlement to date of Judea and Samaria (also known as the West Bank), has triggered a predictable storm of commentary over the fate of the "two-state solution" to the Israeli-Palestinian-Jewish-Arab-Muslim Conflict (as I prefer to call it). This storm comes on the heels of the recent frenzy of international efforts to save that solution from its allegedly imminent demise, itself triggered by the final weeks of the Obama administration. For the record, I am myself entirely in favor of such a "solution"—were it to be reached by mutual agreement between Israelis and Palestinians and were it in fact to be an end to the conflict. Indeed how could any decent, well-intentioned third party *not* be in favor of the two-state solution on those terms? Two states, two peoples: it seems so obviously *fair*. Thus it's no surprise that so many such parties, on the Jewish side in particular—J Street and college students among them—endorse it as their official

positions, and so many fall into a fever when events occur that seem to threaten it.

The problem, however, is that too many fair-minded parties want to *compel* this “solution” in one way or another.

Why is this a problem? Because for a fair-minded person, committed to the existence of a Jewish state, the two-state solution is conceptually unstable to the point of incoherence. The reason is simple: there just is no principled way for a fair-minded person to distinguish the territory of the Jewish state proper (that she supports) from that of the future Palestinian Arab state. Or in other words: either all of the currently Israel-controlled region between the Jordan River and the Mediterranean Sea will turn out to be “occupied” Palestinian territory, or none will be.

Consider the options.

We could start with the boundaries demarcated by the original British Mandate. That Mandate—informed by the 1917 Balfour Declaration, codified at the 1920 San Remo conference, given international legal status by the League of Nations in 1922, subsequently reaffirmed by the United Nations Charter—guaranteed the right of Jews to live in the entire territory. Those rights have never been formally or legally superseded. There is no basis for demanding a partition there.

We could skip ahead to the borders of the 1947 U. N. partition proposal. But that proposal was rejected by the Arabs, who invaded the nascent Jewish state immediately after its establishment and then lost the war, leaving behind the broader 1949 armistice lines. To demand that Israel subsequently revert to the narrower 1947 U. N. borders would mean that the Arabs lost nothing in starting that dreadful war—a war that resulted in the deaths of over 6000 Jews (1% of the Jewish population) and many thousands of Arabs, and produced hundreds of thousands of Arab refugees. This “do

over" approach to international relations is not only unprecedented but would also unfairly penalize Israel for the Arabs' decision to go to war in the first place, as well as absurdly minimize the disincentive for any country or people to starting a war in general—for if they lose the war, they can then demand the very thing they rejected to start the war in the first place.

Or perhaps to put this quite differently: Israel simply won the extra territory fair and square, in the course of defending itself from attack.

Fortunately there aren't many now calling for the 1947 partition borders. The far more popular partition candidate among the fair-minded is those 1949 armistice lines, also known as the "Green Line" or the "1967 borders." At least since the Clinton Parameters of 2000 these have been seen by many as the basis from which to negotiate the two-state solution. And these have the advantage, from the fair-minded perspective, of additional U. N. imprimatur: these were the "borders" Israel possessed upon its admittance to the U. N. in 1949, and it is a return to these "borders" (or something close to them) arguably envisioned by the 1967 U.N. Security Council "land for peace" Resolution 242 after the Six Day War.

That is a point in favor, but there are much stronger points against.

For one, Resolution 242 demanded Israeli withdrawal "from territories" occupied in the 1967 conflict, its drafters deliberately choosing not to say "from [all] *the* territories." Given that Israel has since returned some 95% of the territory occupied in 1967—not to mention that 242 also acknowledged each state's right to live within "secure boundaries," which the 1949 lines were not—there's just no 242 basis for demanding Israel's return to the 1949 lines.

Moreover, these 1949 lines are not and never were "borders."

They were armistice lines, i.e. lines separating the fighting forces, and in fact the Arab nations explicitly rejected their serving as borders because doing so would amount to recognizing the existence of the Jewish state. These were merely the lines where the Jews managed to stop the invading Arab armies from their first war of extermination against the Jewish state and its Jewish inhabitants. In 1967 Israel successfully fought off a “second round” of extermination by Jordan and other Arab armies, in so doing capturing the additional territory of Judea and Samaria (also known as the West Bank). To now demand that Israel revert to the earlier 1949 “borders” is not merely to endorse the absurd “do over” approach mentioned above, but also to reward the Arabs for the progress they made in their *first* war of extermination by giving them title to the land they captured then—when the proper response would be to *penalize* them for starting both wars in the first place. It amounts to penalizing the Israelis instead—and Israeli Jews in particular—for successfully defending themselves against multiple attempts to exterminate them.

Perhaps put differently, again: Israel won *this* extra territory fair and square too, in the course of defending itself from attack.

Now those who disagree with these arguments may do so because they believe the Arab invasions and attacks, in both 1967 and 1948, were legitimate in the first place. This in turn likely rests on the belief that the initial establishment of the Jewish state in 1948 was itself illegitimate, even an act of aggression perhaps. That may well be, but it is irrelevant here—for this position obviously cannot be held by fair-minded two-staters who support the existence of a Jewish state, for it amounts to denying *any* legitimate Jewish sovereignty in the region.

Indeed this point reflects the key point: that it is very difficult to make any relevant principled distinctions between

the territories captured in the 1948 and 1967 wars. From the Israeli side, both wars were legitimate defensive wars against aggressive Arab wars of extermination; from the Arab side, Israel's illegitimate expanding control over all territories has come about only by force. One important practical difference is that in 1948 many more Palestinian Arabs fled or were expelled from the relevant territory than in 1967, but if anything that only reinforces the Arab perspective that no Jewish sovereignty is legitimate: in 1948 Jews gained control via "ethnic cleansing" and after 1967 they have perpetuated control via "apartheid." But from the Israeli side this makes no relevant difference: not only do they reject the charges of ethnic cleansing and apartheid, but historical, moral, and legal considerations justify Jewish sovereignty over the whole region, and indeed Jews lived throughout the whole region prior to the Arabs' first war of extermination in 1948. And while there are surely legitimate logistical and moral concerns about maintaining Israeli sovereignty over a significant Palestinian population in Judea and Samaria, that does not mean that Israel's sovereignty over the region, earned as a result of wars against it and independently justified as described, is itself illegitimate.

In short, whatever justifies Jewish sovereignty over part of the territory also justifies it over the entire territory; or if Jewish sovereignty over the one part is illegitimate then it is illegitimate everywhere: it's all or none. The fair-minded two-stater who supports the existence of a Jewish state has no relevant basis on which to draw the specific line demarcating that state.

That the demand for the two-state solution is conceptually unstable in this way can be seen in the tortuous ways in which it is often presented and debated. To consider just one representative example, there is much discussion on campuses and elsewhere these days over boycotting Israel commercially, culturally, academically, etc. Here, typically, arch anti-

Israelists seek expansive boycotts of the entire country while fair-minded two-staters, if they advocate boycott at all, typically advocate restrictive boycotts only of the “settlements” beyond the Green Line. Indeed, prominent fair-minded two-staters openly expressed just that position in the [New York Review of Books](#) last October.

But that declaration instantly provoked objections from the opposing parties. The anti-Israelists [complained](#) that “moral consistency” requires making no distinction between boycotting “settlements” and boycotting “Israel.” Not only is Israel the entity that “illegally built and maintained” those settlements, they argued, it is also guilty of other “serious violations of international law,” including its denial to “Palestinian refugees, the majority of Palestinians,” their “U. N.-stipulated rights” (including the “right of return”). Israel’s sin is not merely in “settling” Judea and Samaria with Jews, in other words, but in exerting Jewish sovereignty *anywhere* between the River and the Sea.

Some on the pro-Israel side, meanwhile, promptly [objected](#) that the fair-minded boycotters had, by virtue of their Green Line distinction, placed sites such as Jerusalem in the category of “occupied” Arab territory, including the Western Wall and the Jewish Quarter of the Old City—sites to which Jewish historical and moral claims could hardly be more legitimate, in addition to the legal claims sketched above. The same is of course true for such important Biblical sites as Hebron and, while we’re at it, the rest of Judea and Samaria.

These replies came from the sharply opposing parties, but there is something they share: that no meaningful or principled distinction can be made between Israel proper and the “occupied” territories.

Legitimate Jewish sovereignty is all or none.

Interestingly this point in fact was made some decades

ago—long before the Clinton Parameters or even Oslo, when partition became the dominant trope of the fair-minded—by the late Edward Said, the long-reigning dean of academic anti-Israelism. In his 1984 essay, “Permission to Narrate,” Said responds to Noam Chomsky’s book *The Fateful Triangle* with these remarks:

There is also some confusion in the book, some inconsistency at the level of principle. The normative picture proposed by Chomsky ... is that Palestine should be partitioned into two states ... But it isn’t clear to me how you can recognize that Zionism has always excluded and discriminated against Arabs—which you oppose—and yet maintain that Jews do have a communal right to settlement from abroad in Palestine. My point is that here you must more explicitly define ... in what way your definition of those rights is not like that of those Zionists who simply disregarded the fact of Arab inhabitants already in Palestine. How can you formulate the right to move people into Palestine despite the wishes of all the already present native Palestinians, without at the same time implying and repeating the tragic cycle of violence and counterviolence between Palestinians and Jews? (45)

Though there is some nuance here the basic point again is clear: there is no essential difference between Jews who “settle” in Israel proper and Jews who “settle” anywhere else between the River and the Sea. But to demand a principled “two-state” solution, a Jewish state and a Palestinian Arab state, requires making that distinction.

Said says something else of interest in that essay. In leaving the problem above unresolved, he says, Chomsky is led to

his pessimistic view that ‘it is too late’ for any reasonable or acceptable settlement. The facts, of course, are with him: the rate of Jewish colonization on the West Bank has passed any easily retrievable mark, and as

[various] anti-Likud Israelis have said, the fight for Palestinian self-determination in the occupied territories is now over—good and lost ... In having accepted the Zionist first principle of a right to settle Jews in Palestine ... Chomsky almost unconsciously takes the next step of assuming that the Palestinian struggle is over ...

This was 1984, thirty-three years ago, and nine years before the Oslo Accords—and when the Judea-Samaria Jewish population was only a fraction of what it is today. There are surely many lessons here, but I mention only three.

(1) What looks over may not in fact be over.

(2) One reason that it was not over then, according to Said, is that the Palestinians demanded not merely an end to the 1967 “occupation” but continued to challenge the “Zionist first principle of a right to settle Jews in Palestine”—*anywhere* between the River and the Sea. This attitude continues among many anti-Israelists to this day, and must be kept in mind by all fair-minded third parties weighing in on the Israeli-Palestinian-Jewish-Arab-Muslim Conflict.

(3) As for those fair-minded, whose intentions surely are pure: The two-state solution may not be over, understandable pessimism notwithstanding, for it is not the partition idea itself that is incoherent. Rather, it is the *demand* for it, the coercion, the compulsion, the boycotts that cannot be justified, as explained above. If Israelis and Palestinians themselves were to reach an un-coerced agreement on partition, there could be nothing more legitimate than that, and no fair-minded third parties should oppose it.

But the preceding considerations suggest a new strategy must be pursued, if one hopes to get the parties to such an agreement. For attempting to *compel* Israel not only simply has not worked de facto, but it cannot be justified in principle and therefore cannot work. Any such new strategy must at



minimum recognize that any Israeli territorial withdrawal is not the “righting of a wrong” but in fact an incalculably major voluntary concession—and so must be met by concessions of similar stature on the Palestinian Arab side. Rather than the failed strategy of demanding from Israel that it make the first, unilateral concessions, then, it might be worth trying the new strategy of demanding the first concessions from the Palestinians instead.

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