

Chapter 2

A State with a Palestinian Autonomy

The model: Israel is a single state on the entire territory of Israel and the West Bank (and potentially the Gaza Strip) that includes within it a Palestinian autonomous area (see Figure 2).

The main idea: Avoiding the division of the land while preserving the identity of the State of Israel as a Jewish and democratic country and providing the Palestinians with the possibility of self-rule by an autonomous Palestinian government (the Palestinian autonomy) in a defined area within the state.

Figure 2. Palestinian autonomy



1. The territorial division

The territory of the Palestinian autonomy will need to be clearly defined. It can be assumed that it will comprise areas currently administered by the PA (Area A and B), but it could also include additional territory, such as parts of Area C, where there are Palestinian economic assets, such as agricultural land or quarries. The addition of sources of income to the autonomous territory will make it less dependent on the central government of the state.

The territory of this autonomy should be contiguous, have clear borders, and should not have any enclaves of Jewish settlements. This will ensure the transfer of more powers to the Palestinian autonomy and enable it to administer its affairs with minimal intervention by the central government. Contiguity will also make it possible to demarcate a physical boundary between the territory of the Palestinian autonomy and the rest of the state and to establish crossing points to control the entry and exit of people and/or goods.

If the territory of the Palestinian autonomy is not contiguous, then the physical boundaries around the Palestinian areas will create an untenable reality that will encumber movement and could create friction. To resolve this problem, it is possible to define non-contiguous borders for the Palestinian autonomy on the conceptual level without creating an actual physical border. However, it would then be impossible to control the movement of people and/or goods between the Palestinian autonomy and the rest of state.

2. The status of the settlements

For creating a contiguous autonomous territory, a number of Israeli settlements will have to be moved, although most of them could be left in place. To prevent any evacuation of settlements, it has been suggested that separate concentrations of the Palestinian population could each become autonomous. This is, however, a problematic solution since it essentially implies autonomy only on the municipal level, therefore rendering the idea of independent Palestinian autonomous rule devoid of much substance.

Giving up on the idea of a physical border around the Palestinian autonomy will facilitate leaving all the Jewish settlements in place—including those surrounded by the autonomous Palestinian area—as enclaves that are not part of the autonomy while also permitting Palestinian enclaves to remain within the territory of the rest of the state but as part of the autonomy. A lack of territorial contiguity will make it difficult for the autonomy's government to exercise some of its powers.

In the process of determining the boundaries of the Palestinian autonomy, it will be necessary to find a solution to the Jewish settlement in Hebron, as well as places that are holy to Judaism that fall within the boundaries of the autonomy.

3. The status of Jerusalem

Jerusalem will remain the capital of Israel. The Palestinian neighborhoods in East Jerusalem may become part of the Palestinian autonomy. In contrast, it can be assumed that the Old City in Jerusalem, including the holy places, will not be included in the Palestinian autonomy. Perhaps arrangements can be devised that will give the Palestinian autonomy some kind of status within the Muslim holy places.

4. Aspects of citizenship and residency

Since the Palestinian autonomous area will be part of the State of Israel, its residents will become permanent residents of the state, having freedom of movement within the state and other rights, such as the right to work anywhere in the state and to receive social welfare benefits. In addition, they will have the right to request citizenship from the state.

Denying the residents of the Palestinian autonomy the rights that accompany permanent residency in Israel, or blocking them from attaining Israeli citizenship, would clearly violate Israel's democratic character. This would mean that within the territory of the state, there could be an enclave of residents who are "second class" and have only limited rights; such enclaves exist only in non-democratic countries.

5. Governmental authority

The government of the Palestinian autonomy will be given as much authority as possible. The guiding principle in dividing the powers between the central government and the autonomy will be the extent to which maintaining common standards and harmony within the state in a given field of operation is essential. Should the territory of the autonomy not be contiguous, then it will be more difficult to transfer certain domains, such as transportation, to the responsibility of the autonomy.

The ultimate authority on issues that relate to the entire state will remain in the hands of the central government. This will include external security, foreign relations, macroeconomic policy, immigration policy, and other issues related to the national level, as well as areas of interface between the autonomous Palestinian area and the rest of the state, such as environmental protection and public health. The central government will have the residual power; namely the power over any authorities that are not defined as being possessed by the Palestinian autonomy.

The Palestinian autonomy will have its own government and institutions. It will have legislative, executive, and judicial authority in all facets of life within the autonomous area, including infrastructure and internal security. It will also have enforcement agencies, such as police, civilian inspectors, and courts.

It will be necessary to define the division of authority between the Palestinian autonomy and the state on all levels. For example, there will be a need to determine the relationship between the courts of the territorial autonomy and those of the rest of the state and whether Israel's Supreme Court will have the authority to hear appeals over decisions made by the autonomy's courts.

It will be essential to determine—on the state level—the bodies and mechanisms that will interface with the Palestinian autonomy, including, for example, a government ministry and executive bodies. Furthermore, the residents of the autonomous area should have representation in the various state bodies, ranging from the Knesset, the courts, and governmental departments, particularly regarding issues that have implications also for the autonomous area. Israel will also have to expand the official use of the Arabic language to meet the needs of its new residents.

The government of the Palestinian autonomy will either be elected by the residents of the autonomous area, or chosen by some other method, such as by agreement reached among Palestinian representatives and the central government. Should elections be held, they would represent a realization of democratic principles as the residents themselves would choose their own government. If the government is merely the heir to the PA and no additional elections take place, then this will conflict with applying democratic values within the Palestinian autonomy.

If the autonomy's government ceases to function for any reason, the government of Israel will need to ensure the normal functioning of the autonomous territory, since it is part of the state. In such a situation, there may not be any alternative to establishing institutions on behalf of the central government that will operate directly within the autonomous Palestinian area, at least until the government of the autonomous territory is again fully functional.

6. Palestinian involvement in government

The question arises as to whether it will be possible to prevent residents of the Palestinian autonomy from participating in the elections for the central government and instead allow them to participate only in elections for the government of the autonomous area without detracting from their status as citizens of the state in any other respect. The problem with this idea is that although residents of the autonomous area will have a say at the level of the Palestinian autonomy, the government of the state will still be regulating many issues that pertain to them. Thus, not allowing them to participate in elections for the central government means denying them the right of representation at the state level.

It may, perhaps, be possible to create a government structure that allows the residents of the autonomous territory to be represented in the central government by representatives of the Palestinian autonomy, rather than by voting directly for the central government. These representatives of the autonomous area can be involved in decisions made by the central government that are relevant to the residents of the autonomy, including decisions regarding external borders, economic policy, and other issues in which the autonomous territory and the rest of the state must interface.

7. Freedom of movement within the state

As residents of Israel, and certainly as its citizens, the Palestinians will have freedom of movement within the state. If there is a physical boundary between the autonomous area and the rest of the state, it will be possible to control this movement, although without restricting it in any significant way.

In considering the freedom of movement, Palestinian residents will be able to relocate to areas outside the autonomous area; however, it could be decided that such a move should not change their status, at least for some defined period. In other words, an individual from the autonomous area will continue to be considered a resident of the Palestinian autonomy, for example, in terms of the right to vote in elections for the Palestinian autonomy and in being subject to rules that pertain in-persona to the residents of the autonomy. This logic will apply analogously to residents of the state who are not residents of the autonomous area but who wish to relocate to the autonomous area.

Israel will have full control over the external borders and the international transit points and will determine who can enter and exit the state.

8. The refugee issue

Israel will be able to prevent the entry of Palestinian refugees from abroad into the state. One possible condition for Palestinian acceptance of this model may be the absorption of a certain number of refugees in the Palestinian autonomous area.

To the extent that it will be possible to relocate from the autonomous area to the rest of the state, some descendants of the 1948 refugees who live in this area may attempt to exercise the “right of return” to their family’s place of origin, as described in the analysis of the unitary state. Any attempt to prevent this is liable to create additional friction.

9. Security aspects

Criminal enforcement in the Palestinian autonomous area will be handled by the police force of the Palestinian autonomy. It will be necessary to define the nature of this force and the scope of its powers. A mechanism

will be needed for coordinating the force's activity with that of the central government's security forces.

The security forces of the central government, including the Israel Police and the ISA, will have the power to handle criminal and security issues that have implications outside the Palestinian autonomous area, which includes operating within this area when needed.

The question of whether the residents of the Palestinian autonomous area should be allowed to join the state's security forces, including the Israel Police and the IDF, will need to be determined.

Given that the residents of the autonomous area will have freedom of movement within Israel, there will be a potential security risk, especially due to the absence of continuous activity by the state's security forces within the autonomous area. Another challenge will be providing security to Israeli settlements if these remain as enclaves within the autonomous area.

10. Social aspects

The formation of one state will significantly intensify the interaction between the Palestinian and Jewish societies, especially as a result of the freedom of movement. Although the existence of the autonomous area will allow each society to continue to manage its own affairs, supporting effective reconciliation processes between the peoples will be imperative for the model to stabilize over time. Reconciliation is a particularly serious challenge, given the deep hostility and the disparities between the two peoples. To the extent that the residents of the autonomous area feel that they are in an inferior position relative to the rest of the state's citizens, this will have a detrimental impact on the chances of achieving a successful reconciliation process.

11. Economic and civil aspects

The government of the Palestinian autonomy will be able to exploit the natural resources in the autonomous area and to regulate the economic, infrastructural, and civil aspects of the autonomy, as long as it does not conflict with the authorities retained by the central government of the state.

All of Israel will be a single economic unit with the necessary standardization, particularly on issues requiring harmonization, such as indirect taxation, monetary and fiscal policy, official standards, intellectual property, environment, public health, agriculture, communications, and energy. This means that the regulation of these domains will be at the state level and will apply in the autonomous area. Therefore, the inclusion of the Palestinian autonomy in decision making in these matters will have practical importance for it, beyond its fulfilling democratic values.

If a physical boundary exists between the autonomous area and the rest of the state, a certain amount of supervision over the flow of goods may be possible. Without such control, retaining competition would rely on adequate enforcement within the autonomous area.

The Israeli central government will have overall responsibility for the autonomous area, as it will be an integral part of the state. This will include ensuring that the government of the Palestinian autonomy provides for the needs of its residents and that their fundamental economic and civil rights are guaranteed.

Significant economic disparities between the autonomous area and the rest of the state will lead to tension, frustration, and instability. Large-scale investment will be required to narrow these gaps.

12. Preserving the Jewish character of the state

The model is meant to preserve the Jewish identity of the State of Israel while the Palestinian identity will find expression within the framework of the autonomous area; this can be anchored constitutionally. Nonetheless, if the Palestinians are able to influence the decisions of the central government, they may try to undermine the Jewish character of the state. Moreover, the very existence of such a large Palestinian minority in the state will affect its Jewish character on a practical level, and it is also expected to create pressure that could lead to a gradual change in its character.

13. Preserving the democratic and the liberal character of the state

To preserve the democratic nature of the state, the Palestinians must be granted full and equal citizenship. Since the Palestinian autonomous

area will be an integral part of the State of Israel, it will be subject to commitments made by the state in the international arena. It will also be required to honor the fundamental values of the state. Should the government of the Palestinian autonomy not honor basic human rights, such as the rights to gender equality, a fair trial, or freedom of expression, there will be tension between Israel's obligations—domestically and internationally—to guarantee these rights throughout its territory and its desire to minimize its intervention in the internal affairs of the autonomous area.

14. Implications for Israel's Arab citizens

When determining the territorial extent of the autonomous area, it must be decided whether to include Arab localities that are currently located within the State of Israel. Such a move would be contingent upon the consent of the residents of those localities.

The model poses a dilemma for the Arab citizens of Israel, whether they should maintain the existing trend of connecting with Israeli society or join their Palestinian brethren in the autonomous Palestinian area.

15. Implications for the Palestinian Authority

The establishment of the Palestinian autonomy could be based on the currently existing PA. However, this would require a significant change in the status of the PA. Instead of an independent authority that represents the Palestinian people in dealing with the government of Israel and presenting itself as a “state” on the international level, it would have to accept the status of an autonomous government and operate under the Israeli law and the ultimate authority of the government of Israel.

The likelihood that the PA would agree to such a model as a permanent solution to the conflict, which means giving up full sovereignty, is low. If the PA refuses to serve as the government of the autonomous area, the appointment of alternative officials will be necessary, either as elected officials or as appointees of the central government. Finding such officials will be a major challenge, to put it mildly.

The model makes it possible to leave the Palestinian police intact as the police force of the Palestinian autonomy. This will be the case

primarily if the PA maintains its status as the government in the autonomous area. However, since the police in the autonomy are meant to focus only on policing and law enforcement, and in order to prevent the existence of a semi-military Palestinian force, the structure of the Palestinian police will require changes, including the relinquishing of weapons and equipment in their possession that are not appropriate for their new role.

The implementation of the model will require the PA to discontinue its diplomatic representation in various countries and international organizations and to instead operate under Israel's Foreign Ministry. However, it may be possible to allow the Palestinian autonomy a certain level of representation within specific international frameworks. International cooperation on this issue depends on the extent to which the establishment of the Palestinian autonomy has the consent of the Palestinian public and is perceived as a legitimate model.

16. The Gaza Strip

If Gaza is included in the model, it will become part of Israel. If a single autonomous Palestinian area is created, arrangements will be needed to connect the autonomous areas of the West Bank and the Gaza Strip, particularly if there is a physical border around the autonomous area. If Gaza is considered a separate autonomous area, then it will have its own government. In such a case, different arrangements could be established for Gaza, especially since it is easier to maintain a physical border between it and the rest of the state. However, the above analysis of the rights of the residents of the autonomous territory will also apply to the residents of Gaza, notwithstanding the existence of a physical boundary or not. In other words, they will enjoy freedom of movement and the right to work in all parts of Israel. They will also have the right to become citizens of the state and to benefit from the full rights of citizenship.

By including Gaza within the state, the Israeli government will be responsible for what happens in the Gaza Strip, including the obligation to provide for the needs of its residents.

17. The creation of the Palestinian autonomy

The establishment of the Palestinian autonomy will require annexing the entire West Bank (and potentially the Gaza Strip) to Israel and adopting a legal framework that will create and define the autonomy. This legal framework will be entrenched by Israeli basic laws that enjoy constitutional status. This will constitute a fundamental change in the structure of the state, one that justifies a referendum or elections on this issue.

The question arises as to whether the Palestinian autonomy can be established without an explicit agreement with the Palestinian leadership. On a theoretical level, the autonomy could be established unilaterally; however, on a practical level, it is impossible to implement such a model—which is based on the idea of Palestinian self-rule—without the consent of Palestinian representatives. In particular, if the PA and its bodies are expected to serve as the basis for the government of the autonomous area, then it will be crucial to negotiate the agreement with the PA.

The establishment of the Palestinian autonomy will lead to far-reaching legal transformations. In the autonomous area, Palestinian law could continue to apply in relation to matters within the autonomy's jurisdiction, although significant adjustments to the new reality will be required. In all other spheres within the jurisdiction of the central government, and also in the territory of the West Bank, which will fall outside of the autonomous area, Israeli law will be fully applied. Transitional arrangements will be necessary, as well as implementation mechanisms to adapt to the new legal situation. This includes, for example, an arrangement that will enable the registration of land located in the West Bank (and potentially in Gaza) within Israel's land records.

If the PA cooperates with this process, its existing institutions will need to be modified and adjusted. Should the PA not cooperate, new institutions must be created within the autonomous area.

It will be necessary to establish institutions in Israel, such as a government ministry and executive bodies that will be responsible for coordinating with the autonomous area; military and security frameworks will no longer be responsible for this coordination.

18. The feasibility of achieving a state with a Palestinian autonomy

It will be difficult, if not impossible, to implement the autonomy model without Palestinian consent. The adoption of the autonomy model as a final settlement of the conflict requires the Palestinians to give up their national aspirations for establishing their own state. The chances of this happening are slim. If the Palestinians are not granted full citizenship rights and full equality within the state, the likelihood of their consenting to the idea becomes even more miniscule. At the same time, however, the majority of the Israeli Jewish public would likely oppose an agreement in which the Palestinians gain full rights in a way that could lead to positions of power in the state.

19. The chances of success as a permanent solution to the conflict

Since the model does not fulfil the national aspirations of the Palestinians, it is difficult to imagine that they will acquiesce to it as a permanent and final solution to the conflict. Without their agreement, tensions will remain on the national level. Feelings of frustration will create a potential for hostility and violence. This concern will increase if the Palestinians feel that they do not have full rights and if they continue to face difficulties in their integration within the state as well as significant economic disparities.

The model creates one state with a large Palestinian minority (which will grow even larger if Gaza is also included). The idea that it will be possible to restrict this population to only the territory of the autonomous area is problematic. It contradicts democratic values and also raises practical difficulties, given that the feasibility of creating a physical boundary between the autonomous area and the rest of the state is questionable. The freedom of movement that the Palestinian residents of the autonomy will enjoy throughout the state inevitably will lead to friction between them and the Jewish population, as well as security threats from potential terrorist elements among them who do not accept the existence of the state.

Preserving Israel's democratic character will require giving the Palestinians political rights and the ability to influence the decisions of the central government, at least on issues affecting them. Their political

power might enable them to participate in strategic decisions in ways that do not align with the worldview of the Jewish majority. Such a situation could lead to strife between the two societies.

If the Palestinians are forced to accept the autonomy model but refuse to accept it as the end to the conflict, then Israel may find itself in a confrontation with the Palestinians within this autonomous area. Furthermore, even if the residents of the autonomous area do not pose a real threat to Israel, Israel could face a confrontation with Gaza—if it is not part of the state—or with other countries in the region. In this case, and particularly in the event of a confrontation with Gaza, the residents and the government of the Palestinian autonomy might support Israel's adversaries, or could be suspected of doing so, which would likely lead to additional tension.

Since the autonomous Palestinian territory will be part of the State of Israel, and all Palestinians will be residents of the state, Israel will be obligated to ensure that their needs are sufficiently met. This will create a huge economic burden on the state, given the poverty in that territory relative to Israel. This burden will become even greater if Gaza is included in the autonomy. Furthermore, if the government of the Palestinian autonomy ceases to function, full responsibility for the entire territory will fall on the government of Israel.

The inclusion of Gaza within the state, even as a separate autonomous area, will significantly increase the number of Palestinians in Israel, and the complexity of the situation in Gaza will undermine the state's stability. Yet leaving Gaza outside the boundaries of the state means that the conflict will not be fully resolved, and it will remain a focus of ongoing instability that will challenge the relations between Palestinians and Jews in the state.