

BEYOND THE TWO STATE SOLUTION

A Jewish
Political Essay

YEHOUDA
SHENHAV

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polity

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**FOREWORD: YEHOUDA
SHENHAV'S *BEYOND THE
TWO-STATE SOLUTION***

In his book *Beyond the Two-State Solution*, Yehouda Shenhav makes an unusual and unsettling argument. It is an argument that targets the Israeli left in the English-speaking world and those who take their heed of them. Shenhav argues that what appears on its face a “progressive” position on the question of Israel and Palestine, is in fact censorial and duplicitous. The Israeli left’s sanctimonious insistence in the face of the Jewish settlers of the West Bank that the settlements were illegal and that the proper borders of Israel are those of 1967, is nothing short of an ideological maneuver. The purpose of the maneuver is to obfuscate the fact that Israel itself is nothing short of a huge settlement project that was founded upon the displacement of hundreds of thousands of Palestinians and the systematic expropriation of the land they left behind.

The ideological maneuver is accomplished, according to Shenhav, through a shift in terminology from “The Green Line” to “The 1967 borders”: “The Green Line” signified the borders Israel fell upon in 1949 following the 1948 war,

but after the 1967 war when Israel occupied the West Bank and Gaza, these very same borders came to be called “The 1967 borders.” They were the same borders but they were now called something different. This transmutation in sign from “Green Line” to “1967 borders” in the language of the left is premised on a moral distinction: the 1948 war and the outcome it yielded was legitimate – not so with 1967 and the occupation/settlement in its aftermath.

The translation of Shenhav’s book into English is a welcome intervention because it is not just the Israeli left that doesn’t want to “touch” 1948. The Jewish left and its allies in the US also insist, often vociferously, on dating Israel’s injustice to 1967. Any Palestinian who has attempted to enter coalition politics with the progressive forces in the US on the question of Israel and Palestine feels the heavy-handed, almost authoritarian manner in which such moral distinctions are made. There is a demand by one’s allies that one should forget 1948, that one should split one’s own diasporic experience, one’s uprooting, one’s trajectory over time, so that it tracks that of the moral judgement of the Israeli left. Many of us Palestinians, who have attempted (and stubbornly refuse to despair of) such coalition politics, whether on the streets, in activist organizations, in media interventions, in academia as activist students or professors, have had the experience of “stepping on someone’s toe” by evoking 1948 – the very hint of it, it would seem, causes a meltdown of sorts, a denunciatory rage, a charge that we have misunderstood our well-deserved and “self-inflicted” banishment, that we should just get on with the international (read “Western”) consensus, that the national(ist) division premised on theirs in 1948, ours in 1967, is a just and rightful one; in short, a demand that we should “put up and shut up already” about 1948.

In the academic literature in the US, the situation is just

as dire, and the defense of the moral distinction as tight. In legal scholarship, for instance, the farthest to the left on the political spectrum one can get is a law review article that denounces Israeli occupation of the “territories,” declares the “transfer of the occupier’s nationals to the occupied territories” as violating international law, and demands the dismantlement of the “settlements” and the “return to the 1967 borders.” Such an author might marvel at the Israeli occupation’s tenacity: an occupation that has stumped the International Law of Occupation with its duration, persistence and the legal adroitness and resourcefulness of its administrators and national apologists; and one that has, ironically enough, by transferring half a million of its own nationals into the occupied “territories,” proven itself absolutely correct in denying it’s an “occupation.”

From this position on the left, one can only move to the right. The progressive author insisting on “withdrawal from territories occupied in 1967” is then dragged into a debate with the apologist for Israel. Such an apologist would insist that these territories could not be considered occupied in any legal sense since no legitimate sovereign authority controlled them when they were occupied by Israel in 1967. This was no-man’s-land, according to the apologist, and therefore the rule prohibiting transfer of population doesn’t apply. This was no man’s land and therefore there was no rush for the Israeli authorities to leave. This was no-man’s-land and therefore the humane and humanitarian standards limiting the conduct of the occupier vis-à-vis the occupied population do not apply, though the Israeli authorities could choose to follow them out of generosity, rather than by rule of law. The author might go as far as adopting the Israeli term “Judea and Samaria” in referring to the “territories,” thereby completing in sign what the author had made in argument.

Then there is the never-failing argument about “security” and “terrorism,” with reference to which everything from building a fence, to dismembering territory through checkpoints, to waging a war on Gaza, to passing a discriminatory legislation, to building yet another settlement, is justified – a discourse that “confuses cause and effect” as Shenhav so rightly puts it.

From left to right, no robust political position exists in the US that would be based on the injustice of 1948. One can appreciate, in this light, the radical-ness of Shenhav’s insistence on evoking politically the injustices of that year. It would seem by doing so he is pushing the left to be more left.

But Shenhav might not be too pleased with this characterization of the politics of his project. As you reach the last part of his book, you find that he aims at nothing less than confusing the political spectrum of left to right altogether on the issue of Israel/Palestine.

Shenhav doesn’t just charge the Israeli left with selective morality (obscuring 1948 and highlighting 1967), he also contends that the move to settlements in the territories that the Israeli left finds so objectionable was in large part a convenient resolution of an ethnic/class conflict internal to Israel (among its Jewish population) that the ruling elites welcomed and in which their victims found comfort and respite. The “Third Israel” – Mizrahim, ultra-orthodox Jews and poor Russians – found “migrating” to settlements in the new land an escape from racism and marginality in Israel proper, and their racial superiors (the Ashkenazi) found in such migration an easy solution to the social and economic crisis that had intensified over the past three decades due to Israel’s adoption of neo-liberal economics. In fact, Shenhav stresses that the settlement project has been most profitable for the ruling elites of Israel – the left being members of

this class – in the most convenient and self-serving ways. It has, on the one hand, allowed the elites to profit economically from building the settlements while waxing eloquent and nostalgic for an Israel that was morally unburdened by their existence. They have built walls and highways to protect the settlers while blaming them for obstructing the way to a two-state solution. They have provided military support for the settlers while decrying their increasing political influence in Israel.

If the Israeli left is duplicitous, and the settlers – a good part of them, at least – are migrants from oppression, then, surely, one should get off one's moral high ground and develop some sympathy for the latter. This would only complete the "flip" that Shenhav started by describing the Israeli left as not so left. In this case, then, the right, classically sympathetic towards the settlements, might not be so "right."

Shenhav points, for instance, to the ways in which Mizrahi participation in the administration of the occupied territories given their mastery of the Arabic language – his own family, of Iraqi origins, being an example – was liberating for them. It provided opportunities for upward mobility for this community, otherwise doomed to manual labor or lower-rung jobs inside Israel, through managerial work in the military administration of the territories. It has also allowed them to interact with other Arabic-speaking people who have experienced, as migrants from the Arab world to Israel, a diminution in value of their Arabic language and culture by the general Ashkenazi public.

He also points to the deconstructive sensibility of some of the settlers themselves who bring to light what the Israeli left keeps hidden through its moral high ground: there is no real difference between the settlement project in the occupied territories and the settlement project that is Israel proper, those settlers would insist. Indeed, some settlers, as Shenhav

points out, are far more attached to the land of Israel than the state of Israel itself, and would rather share the land with the Palestinians from sea to river, including returning refugees, than be forced out of biblical “Judea and Samaria” to go to live in the state of Israel. If the left is not so left, then surely the right is not so right and there is some left to be gleaned from its positions?

Of course, Shenhav is perfectly aware that, even if there are understandable reasons for settlers to move to the West Bank, they have done so at the expense of the Palestinians. Some Jews win more than other Jews in this ongoing settlement project called Israel, but there is this one consistent loser: the Palestinians. Shenhav doesn’t argue with that at all; he is happy to accede that not only has the Ashkenazi Jew built his empire on the grand larceny of Palestinian land in the aftermath of 1948, but also his brethren less-esteemed Jews were complicit in no less of a crime in the West Bank, even if they were running away from sibling tyranny. Still Shenhav wants us to sympathize with at least some of the settlers; even more, he’s arguing that those settlers should just stay put!

That the settlers should stay comes as a surprising twist in Shenhav’s otherwise on-its-face-radical argument insisting on the injustice of 1948. At this point in your reading, you will start to move uneasily in your chair!

If you had, especially as a Palestinian, imagined a land-free-of-the-Jews, even if it were a fragment of Palestine, on which you could project your Volksgeist, and call it a state, or if you were a progressive Jew who had always thought that a just solution would necessarily require “unsettling” the settlers, evacuating the settlements, so that *you* would have a land to attach your Volksgeist to, Shenhav doesn’t offer such a place. That settlers should stay – a classically right-wing position – acquires with Shenhav a different

political resonance, though what kind takes a bit of work to comprehend.

Shenhav's argument for settlers to stay is premised on an implicit trade-off: recognition of Nakba and the return of refugees. Settlers should stay in all the areas in Palestine, from river to sea. No areas of Jewish habitation should be disturbed, no matter what the historic inequities. That is Shenhav's position, for which the return of refugees is traded. But if this is so, where would the refugees return, you might ask? Everywhere else is Shenhav's answer. Why? Because a wrong cannot be remedied by another wrong. "Villages that were destroyed and resettled by Jews will not be destroyed again," he declares.

Instead:

new communities may be constructed – in the Galilee, in the Negev and in the West Bank and Gaza. The refugees' resettlement will be on individual basis (for example, in big cities like Haifa) or on communal basis, by rebuilding some of the destroyed communities on new sites. The building of new sites will be based on a general outlined plan negotiated by the two peoples, and the redistribution of space will not harm the existing and already settled population. The refugees will be rehabilitated and afforded broad-based affirmative action. Those who will choose not to return will receive financial compensation. The eradicated communities will be mentioned in all official signposting. Some communities will retain their mono-national characters if they request it.

Such a proposal would require, according to Shenhav, that Palestinians give up, on the one hand, "the narrative of destruction and redemption" and replace it with the idea of return as a "multivalent process." On the other, it would

require of the Israelis giving up “the land regime that gives Jews exclusive preference.”

But it is not just the idea of prohibiting the undoing of a historic wrong through the commission of another that inspires Shenhav’s proposal. It is something far more affirmative than that. Shenhav is inspired by what he calls “consociational democracy,” which he describes as “a model of partnership that presupposes the national and religious rights of both peoples, which will be expressed through dividing the space into smaller national spaces and into religious and secular communities, canton/federation-like.” The presence of historic wrongs – no empty land to inherit, as Zionism had claimed, but a land encumbered by a people who had to be expelled so the land could be inherited – all this doesn’t deny that Jews *also* have “national and religious rights” to the land, and it is in accommodation to these rights, as well as to those of the Palestinians, that Shenhav proposes a form of joint-living-based “consociational democracy” as a solution.

Shenhav’s solution is an intermediate one, between a one-state solution – which he opposes because it “does not consider the fact that most of the population of the area concerned is both religious and nationalist,” irreducible to a “homogeneous public with individual interests” – and a two-state solution which ignores the fact that the respective communities’ nationalist and religious interests are spread across the whole land of Palestine and cannot be coercively divided through arbitrary borders. This is an interesting proposal that I would like to briefly un-pack to determine whether the political “flip” which Shenhav has attempted can be done. I will do so by asking how it would line up with the interests of the Palestinians.

How the Palestinians, the biggest losers in the drama of Jewish settlement of Palestine, would fare under Shenhav’s

consociational democracy is an interesting question. We don't really have much to go on by way of a proposal from Shenhav, merely a sketch and an outline. But whether one is discussing a one-state, two-state or consociational democracy, the distributional consequences for Palestinians in relation to Jews simply depends on the details of the institutional structures being proposed and the extent to which they respond to historical inequities by opening up the current regime. After all, the current Oslo regime could very well be described as "consociational democracy" that is premised on an idea of "joint sovereignty," which Shenhav makes much of. The trouble of course, is that under Oslo, land, wealth and power are tilted so much to one side at the expense of the other – so that one, the Jews, gets a "surplus" in nationalism and sovereignty, and the other, the Palestinians, a gross deficit of both.

Shenhav does propose an amendment of the land regime to remove the in-built preferences for Jews, to allow for land the refugees can return to. He, however, conditions transfer of land to considerations of keeping Jewish communities "undisturbed" as communities. This is a general formula premised on a kind of balancing, and, depending on how it is legally and institutionally worked out, could either turn out badly for the Palestinians (giving them little in return for stamping Jewish settlements with legality) or turn out well for them (the reward for recognition of legality of settlements would be well worth their while).

It would seem to me that there are two primary challenges to Shenhav's consociational democracy model. The UN Resolution 194 (December 11, 1948) grants the Palestinians right of return to properties they lost in 1948, a right that they can exercise by returning to their actual homes wherever these might be, and if they choose not to, they are entitled to compensation for the "loss or damage to [such]

property.”¹ If this is the case, why would Palestinians accede to a regime, such as the one proposed by Shenhav, that would limit the exercise of that right to a “chosen” few (in the cities) and balances its exercise with the consideration of not disturbing the Jewishness of established communities? Even if they accede to not returning to those properties, would they be able to rent them out to their current Jewish occupiers? Can they become landlords in Jewish cities? If so, do they have the right to sell those properties and buy others inside Jewish cities? In other words, if they themselves cannot physically inhabit and reside in Jewish communities, can they become investors and capital owners in them? This question is deeply related to the second challenge.

If returning refugees can only reside in “Palestinian” communities, and the current structural relationship – spatial and economic – of Palestinian to Jewish communities is the outcome of the latter swallowing up and appropriating the material and symbolic resources of the former over a long period of time, to what land exactly is the returning refugee returning? To be cramped along with other fellow Palestinians in the Galilee? To replace the Jews in competition for land spaces claimed by the Bedouins in the Negev? To the towns and villages outside the ones they had lost in 1948, as outsiders looking in? Hadn’t their relatives who survived 1948 done that already?

If the contemporary structure will remain in general unperturbed in the name of preserving the Jewishness of

¹ The Resolution resolves “that the refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible”: UN General Assembly Resolution 194 passed on December 11, 1948, (Article 11).

current communities, wouldn't the returning refugees simply become themselves the new settlers of Palestine, this time settlers in an essentially Jewish state? But unlike the Zionist settlers who came to Palestine unimpeded by law or custom, would they not find themselves bumping against the limits of the Jewishness of the Jewish communities, by law, custom and history? Wouldn't they be better off staying where they are, settlers in Lebanon, Syria and Jordan – at least there they are settlers in a land cohabitated by fellow Arabs?

If, realistically speaking, the only spaces available for them to settle are the hills of the West Bank not already claimed by Jewish settlers, where they can dig roots in a community they can claim organic bonds with and an economy they can participate in as “owners” and not just as workers, wouldn't Shenhav's consociational democracy have essentially reverted to a “two-state” solution with “large land swaps???”

In the end, Shenhav's consociational democracy, an attempt at flipping the current line-up of left to right, simply depends on the “quality” of return this form of democracy offers the Palestinians.

Lama Abu Odeh
January 5, 2012

ACKNOWLEDGMENTS

Although this book is based on academic sources, it is essentially a political essay that seeks to reach a broad audience and make a political statement. I wrote it with strong political passion and I would therefore like to spell out my political motivations in writing it. As a Jew of Iraqi origin living in Israel, I am concerned with the state's non-democratic practices towards the Palestinian population under Israel's control, including those holding Israeli citizenship. I am deeply concerned with the violation of the political rights of the Palestinians, but no less so with the future political rights of the Jews themselves. I believe that the combination of a persistent foundational state of emergency and blatantly racist legislation – which grows more restrictive and bare-faced day by day – poses a threat not only to the Palestinians, but also to the very existence of the Jews in the Middle East. For this reason, I wish to unpack the Jewish–Israeli discourse on the conflict, to highlight the dangerous political zones within which it roams, and offer an alternative politi-

cal vision in which the rights of both Jews and Palestinians are intertwined and co-determined.

By and large, Jewish thought on the Israeli–Palestinian conflict is fixated on binary and banal oppositions of “right” and “left” and draws simplistic lines between “good” and “bad,” “hawks” and “doves.” While criticism regarding the violence of the Jewish right wing has been heard, the ideas promoted by the left are still considered, progressive and liberal. Yet I believe that, although the liberal left harks back to seemingly progressive ideals, its views and practices often reinforce, rather than weaken, Israel’s non-democratic rule. It is for this reason that I turn a critical spotlight on the ideas and practices that the liberal left clings onto. In particular, I argue that the so-called “two-state solution” in the form proposed by the Israeli liberal left not only is unrealistic, but in essence is based on false assumptions that sustain and reinforce the non-democratic Israeli regime and mask the essence of the conflict. Instead, I offer a different vision for Jewish political thought, which is not based on state terror or Jewish supremacy. My suggestion to leave most of the settlements intact – which seems contradictory to my position, since I believe these settlements are war crimes – becomes clearer, I hope, throughout the book.

The ideas presented in this book were developed in the course of my interaction with many others in the last twenty years. I have had the privilege of the company of wonderful friends, colleagues, students and fellow activists, from whom I learned a great deal. In 1999–2010, I edited the Jerusalem Van Leer Institute’s journal *Theory & Criticism*, and I benefited tremendously from both the writers and reviewers of the journal. Some of the ideas comprising the book were initially spelled out in my editorials during this period. I would like to thank the Jerusalem Van Leer Institute for providing a canopy under which the journal’s complete political freedom

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INTRODUCTION AND OVERVIEW: THE CRISIS FACING ZIONIST DEMOCRACY

For over two decades the Israeli liberal bloc has attempted, with massive international support, to implement the two-state solution: Israel and Palestine, partitioned on the basis of the Green Line, which would serve as a territorial signifier for the resolution of the conflict. This solution has been advanced in various imagined adaptations – “disengagement,” “border corrections,” “including/excluding settlement blocs.” Yet even as the two-state idea traveled through European and North-American capitals as an enticing solution, in the political practice of the Middle East it has remained a remarkably hollow slogan. In fact, all the spectacular peace summits – from Oslo to Camp David, from Taba to Annapolis – ended in failure. The widely accepted explanation for the failure in Israel has been the lack of a Palestinian partner to end the conflict.

In this essay, I offer a different interpretation. I suggest that the two sides use different historical languages which do not converge: the language of 1967 and the language

of 1948. For the majority of Israelis, 1967, the year of the “Six-Day War,” is the watershed around which they shape their memory of the conflict as well as the vista for its resolution. On the other hand, the majority of Palestinians – including those who support the two-state principle – interpret the conflict and define the political horizon for its resolution through the lens of the 1948 war. Examining the solution through the language of 1967, whilst denying the 1948 question, eliminates the chances for sincere dialogue with the Palestinians and does not offer a genuine solution to the Israelis, denying as it does the core issues pertaining to the conflict. This is the main reason for the failure of the Oslo Accords, a procedural mechanism that sentenced the historical origins of the conflict (e.g. the Palestinian refugees, the Jerusalem question, the problem of the Jewish settlements) to oblivion. The Israelis will need to muster the courage to deal with the 1948 question – it will not disappear without recognition. To achieve that, many segments of the society in Israel will need to abandon the 1967 language as well as its border perception based on the “Green Line.” As I argue below, the Green Line is a cultural myth, harnessed to advance the economic-political and cultural interests of a broad liberal Jewish stratum of society in Israel. This is the source of the paradox: the principal obstacle for a shift in the historical language resides with the liberal classes frequently referred to as “leftist,” who have a significant impact in shaping and offering solutions to the conflict.

This liberal “left” offers an outlook on the conflict derived from a cultural and politico-economic position which is both sectorial and conservative. In fact, among the Jewish political right there has long been broad agreement that the 1948 war is the pivotal question which needs to be addressed – rather than concealed. Consequently, a renewed thinking about a solution to the conflict calls for redrawing the Israeli politi-

cal map – including reshaping the conventional distinction between “left” and “right” – in a manner which may produce surprising new alliances. These are the tasks I undertake in this essay.

In a broader perspective, I wish to offer an option for alternative Jewish political thinking. I refer to it as “Jewish” because I write it as a Jew, who holds Jewish political privileges, who is concerned about the future of the Jewish collective in the Middle East and fears that the present path may lead to the annihilation of the Palestinian people and to collective Jewish suicide. Instead of counting on the violence of the nation-state as Zionism’s primary mechanism of emancipation, we should return to the discussion about political rights of the Jews themselves, which started during the emancipation in Europe.¹

My proposition to lay the ground for political thinking based on the 1948 paradigm is not, therefore, an attempt to deny the Jewish collective its right to self-definition. It is rather the opposite: I propose returning to a historical and epistemological time which will enable the formulation of a new political theory and ensure the position and future of Jews in the region. The Jews will need to formulate a new political vision which will take into consideration other peoples in the region, and at the same time define political rights for themselves.

A LINE DRAWN WITH A GREEN PENCIL

The Green Line is the eastern armistice border determined in 1949, at the end of a war between Israel and its Arab neighbors: Jordan, Egypt, Syria and Lebanon. It served as an administrative borderline of cease-fire and a snapshot of the status quo at the end of the 1948 war. The line was termed “green” because it was drawn with a green pencil on