

Policy Product

The Political Objective of Convergence: Realignment or End of Occupation?

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Executive Summary

This document analyzes Israel's policy options for the implementation of the Convergence Plan based on of three elements:

- The basic assumptions behind Convergence;
- Alternatives for the strategic objective of Convergence;
- Policy options for implementing those alternatives.

It appears that the original goal of Convergence, i.e. the unilateral demarcation of Israel's permanent borders, is not attainable at present. Yet the basic rationale behind the Convergence – ending control over the Palestinians – is still valid.

The Re'ut Institute maintains that Israel could promote the goal of ending control over the Palestinian population by unilateral means, if it revises the political objectives of Convergence.

The two alternative political objectives are:

- **“Realignment”** – reducing Israeli presence in the West Bank without any change in the political status of the PA in general, and the territories from which Israel will withdraw in particular. The practical model of this alternative is the withdrawal from Northern Samaria (8/05); the relevant legal model is the Third Redeployment referred to in the Interim Agreement.
- **“End of Occupation” / “End of Responsibility”** – ending the state of occupation in the territories from which Israel shall retreat and removing Israel's responsibility for them. According to this alternative, the political status of the PA will be upgraded by transferring powers and authorities from Israel to the PA, in order for the latter to assume full responsibility for its territories and population. Under certain circumstances, it is likely that in order to achieve this political objective, Israel will have to recognize the PA as a state even if it does so unilaterally.

The practical difference between these two objectives will be manifested in four clusters of issues: security, territorial, economic-civil and political.

If Israel is aiming to end its occupation and responsibility, it would need to ensure the existence of a Palestinian “address” that will be able to take responsibility over territories from which Israel will retreat, including the prevention of terror activities from these territories.

In the foreseeable future, there will be no Palestinian address without the participation of Hamas.

Therefore, in order to achieve the political objective of ending occupation, Israel will need to deal – whether directly or indirectly - with the PA even if it is controlled by Hamas.

The Objectives of the Convergence Plan and the Assumptions Upon which It Is Based

The original political goal of the Convergence Plan was to demarcate Israel's permanent borders¹ - In the absence of a Palestinian Partner, the international community, (led by the USA) was assumed to provide legitimacy for the unilateral demarcation of Israel's permanent borders, which were close to the ones designed in the Clinton Ideas, and were to include settlement blocks within Israel's territory.²

Permanent borders are unattainable – Currently it seems that Israel would not be able to achieve this objective, since permanent borders require a bilateral Israeli-Palestinian agreement and international recognition.³ These two requirements are not met.⁴

However, the inability to unilaterally determine permanent borders does not undermine the basic rationale behind the Convergence Plan. Although the scope and method for the implementation of Convergence have not been defined yet, it seems that the basic assumptions upon which the Plan was designed are still valid:

- **Ending control over the Palestinians is an existential interest for Israel** - Continuing Israel's control over the Palestinian population in Gaza and the West Bank undermines the future of Israel as a Jewish Democracy.⁵ Therefore, it is in Israel's interest to separate itself from the Palestinians. Currently this understanding is embodied in the principle of the Two-State Solution.⁶
- **Withdrawing from urban centers is not enough; Israel needs to end occupation and relinquish its responsibility** – Within the framework of the Oslo Process, Israel has withdrawn from densely populated Palestinian areas (Area A) and the Palestinian Authority (PA), responsible for providing services to its residents, has been established. However, since Israel maintained control over the external perimeter, it was still considered an "Occupant" carrying responsibility for the population.
- **There is No Palestinian Partner** – No entity on the Palestinian side has both the "will" and capacity to sign and implement an agreement with Israel which would end Israel's control

¹ These aims were defined by Prime Minister Olmert on a number of occasions during the period between the publication of the idea of Convergence (3/10/06) in the Israeli and US press and his meeting with President Bush (5/24/06) Verter, **Haaretz**, 3/10/06). A month later, PM Olmert stated in an interview with the Wall Street Journal that Israel's goal will be the creation of "an internationally recognized permanent border" (see Leggett, **Wall Street Journal**, 4/12/06). He repeated his position in an official notice that was given during a discussion on the status of Israeli citizens evacuated from Gaza on 6/26/06. see <http://www.pmo.gov.il>

² See the concept Permanent Status Agreement; and I. Rabinovich, **Waging Peace**, (Princeton, 2004) pp. 156-158

³ Following responses from the international community, it seems that the government retracted its initial statement regarding shaping Israel's permanent borders. In a speech given by Prime Minister Olmert after meeting US President Bush (5/24/06), he did not mention permanent borders in the context of the Convergence Plan, but referred to shaping "Israel's security border".

⁴ Some Palestinians accept the idea of two-state solution on the basis of the June 4th 1967 borders, but would not agree to the annexation of settlement blocks without a return. The international community also objects to an Israeli attempt to unilaterally dictate the borderline.

⁵ The One-State Treat stems from the ability of various elements to combine armed struggle with political measures aimed at establishing one predominantly-Palestinian political entity between the Jordan River and the Mediterranean.

⁶ See Policy Product: No Easy Way to End Israel's Control over the Palestinians.

over the Palestinians, be it a Permanent Status Agreement, an Interim Agreement, or an agreement on the establishment of a Palestinian State with Provisional Borders (PSPB).⁷

- **The world would not object to actions taken to end Israel's occupation** – Over time, the international community would not object to Israeli measures, even unilateral ones, which would reduce Israeli presence in the West Bank and diminish occupation.

The Re'ut Institute contends that the one-state threat still prevails. In recent years this threat derived from the Palestinian discourse calling for equal rights in a bi-national state. Currently, it is manifested in the Palestinian discourse calling for dismantling the PA.⁸

Additionally, the Re'ut Institute claims that Israel may still strive towards ending its control over the Palestinian population through unilateral steps. Yet, in order to do so, it would need to **revisit the political objective of the Convergence Plan**.

New Organizing Idea for Convergence

The Re'ut Institute identifies two alternative political objectives serving to end Israel's control over the Palestinians:

1. **"Realignment"** – According to this alternative, the objective of the Convergence Plan is to **reduce Israeli civilian and military presence in the West Bank without changing the political status of the PA in general, and the status of the territories from which Israel withdraws in particular**.

The PA will remain a non-state political entity administratively responsible for its territory, and the international community will continue to consider it an occupied territory. Israel would maintain its control over the external perimeter and many other civilian and economic facets of the PA, and would be considered an "occupier" responsible for the West Bank.

The practical model relevant to this alternative is the withdrawal from Northern Samaria during the Disengagement (8/05). The legal model relevant to this alternative is the concept of Third Further Redeployment provided for in the Interim Agreement (9/95).⁹

2. **"End of Occupation" / "End of Responsibility"** – According to this alternative, the political objective of the Convergence Plan is to end Israel's occupation of the territories from which it withdraws (east of the separation barrier) and removing its responsibility for it (hereinafter: "End of Occupation"). However the international community would still consider the territories between the June 4th 1967 lines and the Convergence line as occupied.

In other words, Israel would transfer to the PA political, economic, civilian and security powers and authorities, so that the PA would then carry full responsibility to its territory and population.¹⁰ Under certain circumstances, it is likely that in order to achieve this political objective Israel will have to recognize the PA as a state, even if it does so unilaterally.¹¹

⁷ On the issue of the Palestinian partner see Model of Israeli-Palestinian Partnership.

⁸ See Point of View: Is the PA about to Be Dismantled?; and Fundamental Early Warning: Palestinian Elections – towards Constitutional Dysfunction.

⁹ The organizing idea for this objective is similar to that at the basis of the Third Phase of Further Redeployment under the Interim Agreement (9/95): transferring responsibility for Gaza and the West Bank to the PA, except for settlements, security zones and areas relating to Permanent Status. This redeployment was not to affect any outstanding issues, including the political status of the PA and Israel's over-arching responsibility. For further details see the website of [Israel Ministry of Foreign Affairs](http://www.mfa.gov.il).

¹⁰ See Concepts: Occupation, End of Occupation, Responsibility and End of Responsibility.

¹¹ See Concept: Unilateral Recognition

The practical model relevant to this alternative is the Disengagement from Gaza and the Rafah Agreement. However, there is no legal model relevant for this alternative.¹²

Watershed line – presence on the external perimeter of the PA – The practical difference between the two alternatives is Israel's presence on the external perimeter of the PA. Such presence, or its absence, will determine the extent of Palestinian economic, military, civilian and political independence.

Moreover, the differences between the two alternatives will be manifested in the following clusters:

- **Security Issues** – The independence of Palestinian security forces and Israel's military control over the territory of the West Bank and the external perimeter.
- **Territorial Issues** – The scope of territory under Palestinian control, its land, aerial and nautical borders, the connection between Gaza and the West Bank and the access from it to other countries.
- **Civil-Economic Issues** – The powers and authorities of the Palestinian Authority regarding internal and international aspects of the economic and civil spheres.
- **Political Issues** – The political status of the Palestinian Authority and its degree of independence vis-à-vis Israel and the international community.

Within the frame of these clusters, the scope of the two alternatives can be described as follows:

Scope of "Realignment"

1. **Security Issues** – The persistence of current military reality, in which Israel controls the external perimeter and large parts of the West Bank, while the powers of Palestinian security forces are limited to the maintenance of internal public order.
2. **Territorial Issues** – The range of territory Israel withdraws from shall be determined unilaterally based solely on Israeli considerations.
3. **Civil-Economic Issues** – Israel does not need to change existing civil and economic arrangements. Yet Israel may still take actions to dismantle the Customs Envelop.¹³
4. **Political Issues** – Realignment will not affect the basic premises of Israeli-Palestinian relations. The international perception of occupation will continue while at the same time the PA should be fully responsible for its residents.

Additionally, achieving the objective of realignment will not depend upon international recognition.

Scope of "End of Occupation" / "End of Responsibility"

1. **Security Issues** – Israel will have no permanent presence in the West Bank and any Israeli military action in Gaza or the West Bank will be based upon the right to self defense.¹⁴ In

¹² The absence of a political model relevant for ending Israel's occupation of the West Bank stems from the "sui generic" situation created on the ground, which is unique in terms of international law. In most other instances of occupation, there was a sovereign state, which took responsibility for the area after the withdrawal of the occupying power. See M. Shaw, **International Law**, 5th ed. (Cambridge: Cambridge University Press, 2003), pp. 422-424

¹³ The Customs Envelope arrangement, created in the Oslo Process, stipulates a unified regime of customs and indirect taxes for Israel, Gaza and the West Bank. Under this arrangement, Israel collects customs on behalf of the Palestinians and transfers their share after deducting commission. In addition, a mechanism for settling indirect taxes was established.

¹⁴ According to international law, every state carries inherent rights and duties. Concerning security issues, every state holds the monopoly for the use of power within its territory, has the right to maintain an army and internal

addition, in order to end the state of occupation, Israel will need to allow at least one direct border crossing between the West Bank and Jordan.¹⁵

2. **Territorial Issues** – This objective requires a certain extent of contiguity within the territory of the PA, and the absence of Israeli control over some section of the border between Jordan and the West Bank. Moreover, this objective requires recognition of Gaza and the West Bank as a single territorial unit.¹⁶
3. **Civilian-economic Issues** – Ending occupation will require rescinding the existing restrictions on Palestinian civilian and economic independence, including allowing for Palestinian membership in international economic organizations, transferring the population registry to Palestinian control and dismantling the Customs Envelope (unless the Palestinians request otherwise).¹⁷
4. **Political Issues** – This objective necessitates measures, some unilateral and some coordinated with third parties, designed to upgrade the political status of the PA – in Gaza and the West Bank as a single territorial unit. Generally, these measures refer to rescinding the restrictions on the international status of the PA stipulated in the Interim Agreement, such as the prohibition to establish foreign diplomatic representations in the PA and Palestinian representations abroad.¹⁸

Convergence and the One-State Threat – Ending Israel's control over the Palestinians is perceived as crucial for assuring the Jewish and democratic nature of the State of Israel. Realignment will allow Israel to maintain its military control, but will not diminish the one-state threat, since the current occupation status quo will be maintained. However, reaching the objective of ending occupation will represent a substantial progress toward a two-state solution.

Convergence and the sequence of Israeli-Palestinian Political Process – The Disengagement from Gaza and the Convergence Plan have been presented as measures matching the outline of the Roadmap. Indeed there seems to be no contradiction between the objectives of Realignment or end of occupation and the structure of the Roadmap. However, the objective of Realignment prepares the ground for returning to the structure of the Oslo Process. In this scenario the Convergence may be considered the "Third Redeployment" stipulated in the Interim Agreement, following which Permanent Status negotiations are to be resumed.

In contrast, upgrading the political status of the PA in an effort to end occupation, to the point of unilaterally recognizing a Palestinian state with provisional borders, may serve as a transition to the 2nd phase of the Roadmap. However, this would be done prior to the fulfillment of the Palestinian obligation to dismantle the terror infrastructure, as stipulated in the 1st phase of the Roadmap.

Policy Options

As aforementioned, achieving the objective of realignment is not conditional upon Palestinian consent or international cooperation. Ending occupation, on the other hand, requires:

security forces and enjoys the right to self defense. In addition, every state is obliged to prevent attacks carried out from within its territory against other states. See Damrosch et al, **International Law: Cases and Materials**, West: 2001, pp. 1004-1006

¹⁵ See Fundamental Early Warning: Militarized Palestinian State.

¹⁶ The principle of Gaza and the West Bank as a Single Territorial Unit is stipulated in the Interim Agreement.

¹⁷ For further elaboration see Fundamental Early Warning: The End of the Era of the Israeli-Palestinian Customs Envelope.

¹⁸ See Concepts: Upgrading the Political Status of the Palestinian Authority and Unilateral Recognition.

- International legitimacy for unilateral Israeli withdrawal and recognition of Israel's claim that following the Convergence it is no longer an occupier in Gaza and the West Bank;
- Upholding Israel's right to self-defense based on its right to a reasonable degree of protection from terrorist activity.

What are the Difficulties Facing Israel in Ending Occupation?

There will be no de-jure recognition of end of occupation – Convergence is likely to be implemented unilaterally. Moreover, following Convergence Israel is expected to maintain control over territories east of the "Green Line" (June 4th 1967 border) and to infringe on the sovereignty of the Palestinian entity for purposes of self defense.

Therefore, it is likely that many states will not formally acknowledge the end of Israel's occupation. Furthermore, there is no organized international mechanism for declaring the end of an occupation as a result of a unilateral withdrawal and without the establishment of a new state that would fill the political vacuum.

Nonetheless, Israel can create a "no occupation reality", which will lead to explicit recognition of some states and the implicit recognition of others in the PA's (and not Israel's) responsibility for Palestinian population and territory. Such recognition can be induced by upgrading the diplomatic status of the PA, encouraging official Palestinian membership in international organizations or inviting the PA to establish diplomatic representations.

The need to prove that there is no Palestinian partner – The perception of Abu Mazen as a potential Palestinian partner to a political process hinders international support for a unilateral move.¹⁹

Anarchy and absence of an address²⁰ - Israel's ability to gain international recognition of ending its responsibility for the West Bank will be severely compromised in the event that the PA collapses. Hence, the existence of a Palestinian address is crucial for achieving the objective of end of occupation.

Withdrawing under fire; Ethos of struggle²¹ - Palestinian armed resistance is likely to continue throughout and following Convergence, focusing on territory which remains disputed.²² Currently, Israel has no military solution for the shooting of Qassam rockets from Palestinian territory. Therefore, the PA is the only address capable of preventing such incidents.

Palestinian address crucial from ending occupation – the conclusion from this analysis is that the existence of a Palestinian address is an essential, albeit insufficient, condition for achieving the political objective of ending occupation. It is required both for the purpose of containing armed resistance against Israel and for preventing the deterioration into anarchy on the Palestinian side.²³

No Palestinian address without Hamas – Hamas' electoral victory (1/06) and the establishment of Haniyeh's government (3/06) created a new political reality in the PA in which Hamas plays a central role in the Palestinian political system, holds the majority of representatives to the Palestinian Legislative Council (PLC) and controls the government. As long as the make-up of the

¹⁹ The Reut Institute defines a Partner as a political address which has the "Will" to participate in a political process

²⁰ An address is a political entity with delivery capability, i.e. Carrying Capacity to make and implement decisions and Responsibility for its political conduct.

²¹ See Concept: Ethos of Struggle

²² See Concept: Basic De-Legitimization of Israel

²³ See Point of View: No Convergence without a Palestinian Address.

PLC does not change, any government established in the PA would require Hamas' support. If elections for the PLC are held again in the near future, Hamas is likely to maintain its power.²⁴

Israel and the Convergence: between a rock and a hard place – Therefore striving for end of occupation requires Israel to allow Hamas and Fatah to reach political understandings that would create a Palestinian address, under the condition that such address would cease terror activities in Israel's territory.

Hamas' acceptance of the three demands placed upon it by Israel and the international community²⁵ would constitute the ideological surrender of the movement, and is hence unlikely. Therefore, if Israel continues to insist on a strict interpretation of these demands, it may undermine the creation of an effective Palestinian address.

Recently, Israel has taken actions that have undermined the effective control of the PA government to the point of paralysis. This policy is manifested, inter alia, in the formation of an international coalition which poses an economic and political boycott of the Hamas-led government and in the arrest of Hamas ministers and PLC members. The continuation of this policy may result in complete governmental paralysis of the PA, which will prevent the existence of a Palestinian address.

End.

²⁴ A survey carried out by JMCC points out that the Palestinian public supports Hamas. 45% believe that Hamas is sincerely attempting to deliver its election promise of change and reform (Issacharoff and Rubinstein, **Ha'aretz**, 7/4/06). See also Point of View: No Palestinian Address without Hamas.

²⁵ The three demands placed by the Quartet are: Recognizing Israel, reaffirming existing agreements and ending violence ([Quartet Statement](#), 3/30/06)