

The Interdisciplinary Center Herzliya
Lauder School of Government, Diplomacy and Strategy
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Territorial Exchanges and the Two-State Solution for the Palestinian-Israeli Conflict

Working Paper

Submitted for the Herzliya Conference,
January 21-24, 2006

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For the last 70-odd years, the dominant golden rule of efforts to devise a fair and durable settlement of the Jewish-Arab dispute over the Land of Israel (or Palestine, for that matter) has been partitioning the land between the two peoples. True, there were always the maximalists who wanted dominion over the entire land. Among the Arabs and the Palestinians, that position has always been stronger and historically more pronounced; indeed, it persists to varying degrees to this day. Among the Jews, in contrast, the maximalists have always been in the minority and the official position of all authorities has been to pragmatically accept partition. Over the years, the concept of partition, or what would be called today “the two-state solution,” has become the internationally accepted key for the resolution of the Palestinian-Israeli dispute.

Today, most Israelis and the international community back the two-state solution. The necessity – in fact, the inevitability – of partition has drawn its strength from the observable fact that both the Jewish and the Palestinian societies are bent on exercising, and advancing, their distinct identities to the point of national self-determination. Embedded in the partition concept, therefore, is the cultural and ethnic divide between the two peoples. By now, the idea is accepted by most Palestinians; some of them view it as a base for a long-lasting solution to the conflict while for others it represents a transitional stage before the eradication of Israel as a Jewish state.

During the last decade, plans for implementing partition have given rise to the mechanism of land swaps, meaning the exchange of sovereignty over territories: swapping of territories with their population; swapping of empty territories; and swapping of empty territories in exchange for populated ones. The concept of land swapping is more accepted than other ideas that have been raised as a solution to demographic problems since it refers to a shift of sovereignty and does not involve the physical transfer of people out of their homes. All land-swap plans use the 1949 armistice lines – which divided the British Mandate territories west of the Jordan River between Israel and the Arabs – as a geographic starting point for negotiations

and as a benchmark for each side's territorial extent. Their appeal lies in demographic developments that have created settlement blocs that are nearly uni-ethnic. Geographically, these blocs are situated in such a way that they could be attached either to Israel or to a Palestinian state. The various land-swap plans proposing a tradeoff of territories aim to increase ethnic homogeneity and to preserve each side's basic territorial reach. In this context, land swaps allow for an exchange of sovereignty over contiguous population blocs – Jewish population blocs in the West Bank proximate to the armistice line, and Arab population blocs west and north of the armistice line. For example, the Gush Etzion and Ariel blocs, and towns in the Jerusalem district, could be exchanged for the towns and surroundings of Umm El-Fahm, Ara'ra', Barta'a, Qalansuwa, Taybe, Tira and Kafr Kassem.

Intrinsic to the partition concept, therefore, is the cultural/ethnic divide. Sometimes referred to as the demographic criterion, it has always been the corollary to the partition formula. That is to say, the guiding principle for partition proposals and the delineation of borders was cultural and ethnic division. Demography was to shape geography. And the procession of peace proposals that have been tabled over the years clearly reflects this reality.

In historical terms, the Land of Israel was already partitioned demographically quite early in the game. Transjordan-Palestine, the part of Palestine east of the Jordan River, was given by the British to the Arabs under the rule of the Hijazi Emir Abdullah, and Jewish settlements were subsequently prohibited there. That proved to be easy. While the Jewish leadership in Palestine at the time did present historical claims to Transjordan as well, as an integral part of the Jewish patrimony, there were hardly any Jews residing there at the time and the local population was Arab. The first partition of Palestine was, therefore, easily applied and a new Arab state was established partly over Palestinian land, the Emirate of Transjordan, or as it is known today, the Hashemite Kingdom of Jordan.

Successive partition plans following the establishment of Transjordan related therefore only to the remaining part of Palestine/ the Land of Israel, west of the Jordan River, populated by both Jews and Arabs. Some of the Jewish towns and cities have been there since time immemorial; others were established with the arrival of

immigrants. The existing Arab population in those areas also swelled over the years with the arrival of Arab migrants, many of them attracted by new economic opportunities created by the Jewish settlements.

This, however, did not lead to peaceful coexistence. Rather, violent friction ensued, verifying the assertion that was to become a recurring theme for decades to come: The population ought to be separated, ultimately creating two states – one Jewish, Israel, and the other Arab, later to be called Palestine. Interestingly enough, the 1937 Peel Commission even recommended population transfers, since according to its suggested borders, there would be almost the same number of Jews and Arabs in some territories designated for the Jewish state, such as Haifa.

At the outset, a recurring pattern emerged. The international community, or whichever power dominated at the time, proposed a partition; the Jews, agonizingly but pragmatically, accepted the principle of partition, while the Arabs and the Palestinians rejected it. Obviously, the reason for the Arab and Palestinian rejection was that accepting partition implied recognizing the legitimacy of Zionism as a national movement eligible for Jewish statehood in the Land of Israel. In the past two decades, this pattern has changed with the gradual acquiescence of the Arabs, and more recently the Palestinians, to accept the two-state formula. As mentioned earlier, not all Palestinians accept the idea as a permanent solution to the conflict. Hamas, for example, perceives the two-state formula as a transitional stage before taking over the entire territory from the Jordan River to the Mediterranean.

Since there has never been a Palestinian state, and either armistice lines or arbitrarily drawn lines based on interim agreements have substituted for borders, partition proposals based on land exchanges have gained currency, as a means of facilitating demarcation of the final borders according to demographic principles. In fact, Israel and its Arab neighbors have agreed to land exchanges in the past, notably in the cases of the 1949 armistice agreement and the 1994 peace treaty between Israel and Jordan. These land swaps were based on functional considerations: transportation concerns of the 1950s and agricultural concerns in the Arava, respectively. Current discourse is characterized by proposals based on geo-demographic partition, hence making land swaps necessary.

The idea of partition received additional support in the wake of the second *Intifada*, which disillusioned many Israelis regarding previous ideas of integration or other types of condominiums or multinational federated structures, and produced a large majority that views disengagement, separation and partition as the more realistic solution to the conflict.

The natural growth rate of the Palestinian population (almost double that of the Jewish population) spurred support on the Palestinian side for a one-state solution – a secular democratic state, dominated by the Palestinians because of their sheer numerical superiority with Jews as a minority. The legitimacy of a Jewish state, so constituted, has been a premise of the international community for almost a hundred years, and Israel will fight to preserve its independence as such. It is precisely to preserve its Jewish and democratic character that Israel is willing to withdraw from more than 90 percent of the West Bank, despite the profound attachment that many Israelis have to these parts of their patrimony and several security interests that warrant keeping those areas.

The “Basic” Land Exchange Deal

Swapping of territories according to their demographic characteristics provides the two-state solution with long-lasting foundations. The current geo-demographic boundaries apparently will transform the “two states for two peoples” concept to a two states for one people reality. Geographers and experts who deal with demographic issues have warned against that political consequence for many years. The beginning of peace negotiations between Israel and the Palestinians in the 1990s led experts to attach their demographic forecasts to geo-political plans for partition that include exchanges of land and its population.

Geographers and demographers, some of them Israeli scholars, have put forward various proposals for land swaps. Prof. Gideon Biger, of Tel Aviv University's Geography Department, published in 1996 a scheme proposing partition between two states, one wholly Jewish and the other, wholly Arab. The proposal suggested a land exchange between Israel and Palestine in which Israel would transfer to the Palestinians the "Triangle area" from Kafr Kassem in the south to Barta'a in the north

with its populations. In return, the Palestinians would transfer to Israel areas in the Jordan Valley. Biger also considered population transfers beyond the land exchanges specifically allowing for the Jewish population residing in non-contiguous settlements in the West Bank to resettle in Israel, in return for Israeli-Palestinians and Bedouin living in the non-contiguous Galilee and Negev to resettle in the Palestinian state.

The most outspoken Israeli advocate of demographically motivated land exchanges has been Haifa University's Prof. Arnon Sofer. His proposal, which received much attention in Israel, is that as part of a final settlement between Israel and the Palestinians, 450,000 Arabs now living under Israeli sovereignty – particularly the Arabs of East Jerusalem and the Arabs of the "Triangle" – would be placed under Palestinian sovereignty without any of them having to leave their homes. Sofer explained this by noting the contiguity of Jerusalem and the "Triangle" to the Palestinian state, as opposed to the situation of the Arabs of Galilee.

Within the context of this land swap idea, symmetry and reciprocity should allow for an exchange of sovereignty over contiguous population blocs – Jewish population blocs in the West Bank proximate to the armistice line, vis-à-vis Arab population blocs west and north of the armistice line. Specifically, the functional equivalence of the Gush Etzion and Ariel blocs and towns in the Jerusalem district would be the towns and surroundings of Umm El-Fahm, Ara'ara, Barta'a, Qalansuwa, Taybe, Tira and Kafr Kassem. (See map 1)

In fact, these Palestinian towns were under Jordanian rule from the end of the British Mandate until 1949. A secret territorial exchange deal between Israel and King Abdullah of Jordan placed these towns under Israeli sovereignty because of Israeli security needs at the time. But since a deal struck by one leader would be as legitimate as a deal struck by others, the deal of April 1949 could be undone in the future. The final border between Israel and Palestine should genuinely reflect the demographic reality.

In 2003, the demographer Prof. Sergio DellaPergola, of the Hebrew University, advocated a land swap similar to Sofer's plan, calculating the likely long-term demographic implications of such a swap. According to his study, Jewish majority in

the State of Israel, even after withdrawal from the Golan, West Bank and Gaza, while retaining greater Jerusalem, would be 79 percent in 2010, 77 percent in 2020 and 74 percent in 2050, i.e., Israel would retain a solid yet receding Jewish majority well into the second half of that century. By performing the land swap as proposed by Sofer, that majority would be significantly higher throughout the period, i.e., 86 percent by 2010, 84 percent by 2020 and 81 percent by 2050. In other words, the land swap proposal has great potential to solidify and preserve the character of Israel as both Jewish and democratic well into the end of this century. In 2004, DellaPergola too reiterated what his colleagues from Tel Aviv and Haifa universities were arguing: Only such a land exchange formula could assure Israel's long-term viability as it was originally constituted and recognized by the world community.

This assertion underlines what has essentially become consensual in Israel, at times explicitly and at times implicitly, along the full Israeli political spectrum – left, center and right – to the exclusion of non-Zionist groups. It should therefore be no surprise that senior politicians such as former infrastructure minister Avigdor Lieberman from the right wing and former transportation minister Ephraim Sneh from the center-left endorse proposals of swapping land with almost no physical transfer of people. Lieberman supports the idea as a unilateral action that provides a base for long-lasting regional stability, not necessarily negotiable peace. Lieberman, who adhered in the past to Israeli sovereignty over the West Bank, might be considered as the most dramatic example of the overwhelming support for the land and population swap idea among the Jewish population and its political leaders.

The idea of exchanging sovereignty over territories with their population has been supported by other prominent public figures. Admiral (ret.) Ami Ayalon, former head of the Shin Bet security agency, maintained that his six-point program negotiated with Palestinian Prof. Sari Nusseibeh contains the kind of flexibility that would allow for mutually agreed land exchanges of the kind proposed above. The author and former Israel Defense Forces deputy chief of staff, Maj. Gen. (res.) Uzi Dayan, together with Prof. Yehezkel Dror and Moshe Atar of Israel's Zionist Forum, proposed in 2002 a list of actions to be taken in order to ensure a Jewish majority in Israel. The list also included the possibility of land and population swapping as part of their final status proposal.

Prof. Shlomo Avineri, former director general of the Ministry of Foreign Affairs and a distinguished professor at the Hebrew University in Jerusalem, has argued in favor of that idea. Prof. Benny Morris of Ben-Gurion University of the Negev, a well-known Israeli expert on the Palestinian issue, went in a sense even further than exchanging sovereignty over territories to affirm physical transfer of people. Since the riots among Israeli Arabs in year 2000, following the outbreak of the Intifada in the West Bank and Gaza, Morris has held a very pessimistic view about the possibility of future peaceful coexistence, maintaining that the current demographic mixture will lead inevitably to a brutal war. Interviewed in mid-2004 by *Haaretz*, Morris supported demographic separation as moral solution to prevent an otherwise unavoidable war, a solution which in absolute terms is more humanistic than any other option.

A public opinion survey conducted by the Hebrew University in December 2004 showed that public support for land swaps according to Sofer's outline is increasing. That poll tested the option of land swaps in the context of a final-status agreement. It showed that 55 percent of the general public supports the idea, compared with 47 percent in 2003. No wonder therefore that Lieberman captured that trend and has promoted his support for the option of swapping, even unilaterally, the Triangle area for strategic areas in the West Bank and south of Jerusalem. Lieberman founded a new political party based almost on a single issue – land swaps.

This trend inevitably generated a counter-reaction. For example, in an op-ed published in 2005, Col. (Res.) Shaul Arieli, formerly Barak's peace negotiations planner, argued against swapping Umm El-Fahm. Arieli, while supportive of the mechanism of land swaps, argues very strongly that a swap which includes only the Triangle area or part of it will actually cover less than 130,000 Palestinians, which will not create a significant demographic change. Arieli also argues that since 1948 the Palestinian residents of Israel have developed a national identity that is distinct from the Palestinians in the West Bank.

Attitudes among the Palestinians seem to be mixed, with a significant segment of Palestinian society rejecting the idea. Palestinians associated with the Palestinian Authority had been relatively more open-minded to the possibility of a deal along

demographic lines. Some of them argue, mostly in private, that it should be part and parcel of the grand pact of the final and comprehensive final-status agreement. Also, they believe that if such a package were accompanied by adequate economic incentives, it would become a plausible option. Some Palestinians believe that such a land swap would have meaningful benefits for them: They would receive Arab Jerusalem and could resettle refugees closer to their native land.

But not all Palestinians are supportive of the swapping idea, mainly those who live in Israel. Actually, the Israeli Palestinians are more vocal in their objection toward such a deal. While some local leaders came out in support, most Israeli Arab community leaders have rejected the proposals. Public opinion polls taken in 2002 by Israeli-Arab newspapers showed that only a minority – about a third – supports land swaps. The attitudes within the Arab minority in Israel are equally, if not more, reserved about Israel's Jewish character. The majority of Israeli Arabs would like to see Israel alter its constitutional foundations and evolve into a binational state, erasing most of the Jewish attributes of the state. Israeli Arab Knesset members, for example, openly exhibit their rejection of Israel's national symbols and other expressions of Israel's Jewish character. Essentially, the majority of Israeli Arabs would very much hope to see the Jewish majority of Israel decline, causing the state to lose its *raison d'être* as a Jewish state, as it was originally established and internationally recognized.

There are no updated data regarding that issue, but surveys held in 2002 and 2003 have shown that the most pronounced antagonism toward Israel's Jewish character and constitution, coupled with the strongest radical Islamic attitudes, happens to be found in the very same towns designated for exchange under the plans for territorial swaps along demographic lines drawn by Sofer and Biger. Surveys have shown that almost half of the Israeli Arab residents in those areas oppose Israel's continued existence as a Jewish state, and a significant number of them espouse fiercely radical Islamic ideology.

With this kind of pronounced Palestinian nationalism, and the deep ideological, religious and political alienation from Israel, the aforementioned territorial exchanges would, therefore, not only achieve greater ethnic and cultural homogeneity of the two states, but would also provide political stability and closer political and ideological

homogeneity in the respective states. This would allow many Israeli Palestinians, expressing proud Palestinian nationalism, to manifest their identity as members of the majority in their own state, where they can fully realize their right to self-determination.

At times, it is argued that Israeli Arabs would always prefer the virtues of the Jewish democratic state to Palestine. However, one should not fail to see the trend toward further democratization within the Palestinian state-to-be. In fact, it is the declared objective of the international community to see that Palestinian statehood would be bestowed only if, and when, it is to be democratic and viable. That being the case, Israeli Arabs desirous of living in a democratic society may find it less disconcerting to accept Palestinian sovereignty and to become full citizens of the nascent democratic Palestinian state.

Thus, and despite Israeli Arab declarations against the land swap, the areas that best fit the logic of disengagement among the peoples, namely partitioning the land and exchanging territories in accordance with political and cultural considerations, are those contiguous to the northern and northwestern West Bank.

Needless to say, land exchanges are conceivable only in the context of a final-status agreement between Palestine and Israel, and endowed by most potent international legitimacy. Moreover, it appears that without such agreed territorial exchanges, a final agreement may be not attainable.

On some of the aspects of the land exchanges that would present themselves in the context of such a deal, international treaty and customary laws are not conclusive. There is sufficient variance in international law to afford the kind of flexibility required to consider such an arrangement legally acceptable, assuming that an Israeli-Palestinian comprehensive final status agreement is reached. The major international principle related to this issue is that inhabitants should not find themselves stateless, which, of course, will not be the case. A second paramount consideration in international law is that attachment to the land takes precedence. This, however, should not be considered contradictory to the establishment of two nation states. Arab desires to depart from that logic, seeking to make an exception of the areas contiguous

with the Palestinian state, would in a way undercut the claim to self-determination and raise doubts about the honesty of their willingness to accept Israel's right to exist as a Jewish state.

Some argue that when faced with the possibility of being subjected to Palestinian sovereignty, Israeli Arabs would choose to preempt such an outcome by invoking their Israeli citizenship and relocating to what is to be the Jewish state. That argument cynically assumes that these Israeli Arabs, who so frequently asserted their deep attachment to their native towns and villages, would prefer the economic opportunities and social support provided by Israel, and cavalierly pack up and leave their native Arab residence to move into predominantly Jewish areas. Such a move would make a mockery of the Palestinian demands that Palestinian refugees – for instance, in southern Lebanon – return to villages and towns they left nearly 60 years ago, several dozen miles southward in the Galilee. The refugees would lose the legitimacy for such demands if their brethren insist on leaving their homes, opting for Israeli citizenship and avoiding Palestinian sovereignty.

The likelihood that Israeli Arabs residing in the areas to be transferred to Palestinian sovereignty will leave their domicile and move to Israel proper is very low. The economic advantages of such individual relocations would be limited – most Israeli Arabs work in their place of residence. But more importantly, a final-status agreement imperatively will change Israel's approach to its Arab citizens. As Prof. Shlomo Avineri put it in an op-ed published in 2004: "If they want to remain in Israel, this would have implications for their commitment as citizens." A territorial swap arrangement is likely to ensure that Israeli Arabs assuming Palestinian sovereignty would not lose whatever social welfare benefits they acquired as Israeli citizens. Compensations, or other forms of payments, would probably be coordinated with the Palestinian state authorities, thereby reducing the economic disincentives associated with the change of sovereignty.

To this day, Israeli Arabs are exempt from military or national service in Israel, which is assuredly a major burden that comes with citizenship. Relief from military service amounts to a substantial economic benefit. Following a final status agreement and partition, Israel is much more likely to insist that all its citizens would genuinely enjoy

equal rights and obligations. Under such circumstances, Israeli Arabs should have no qualms in fulfilling their duty by serving in the Israel Defense Forces, because the likelihood that they would have to confront their brethren on the other side would be significantly lowered.

Thus, the Israeli Arabs residing adjacent to the north and northwest West Bank will be faced with the two options. In the first, they can choose to live in their own state, staying in their own homes and work places, among their own people with whom they speak their own language. The second and opposite option would mean leaving their homes, moving into Jewish areas, thus consigning themselves to the status of a permanent national minority in a land that has another national language and culture, and yet sharing the burden of Israeli citizenship commitments.

From a domestic legal standpoint, it goes without saying that the land exchange would become the law of the land. The final-status agreement would have to be approved by the Israeli Knesset, in order to become democratically binding. It stands to reason that no aspect of the deal would be contrary to Israeli law, or else the Supreme Court would intervene. Just as the Gaza disengagement plan worked its way through the legal and parliamentary process, resolving any civil and human rights issues that arose, so will the Israeli-Palestinian final status peace agreement, which in all likelihood will have to resolve issues that are even more complex. For example, the fact that thousands of Israelis who now reside in territories that ultimately will be relinquished to the Palestinian state would have to be uprooted, possibly by force, and transferred to Israel, is by far a more drastic act than relinquishing territory to the Palestinians with the towns and inhabitants intact. Under any circumstances, it is clear that the entire process would have to be conducted with strict adherence to Israel's own democratic laws, including those that protect the civil and human rights of all concerned.

It also should be mentioned that "lite" versions of the swapping idea, which do not include population swap, have officially been raised and discussed by Israelis and Palestinians. In January 2001, President Clinton set forth what is broadly considered the most authoritative set of principles for a future bilateral partition between Israel and Palestine. President Clinton proposed that the Palestinian state should include

somewhere between 94-96 percent of the West Bank territory with a land swap of 1-3 percent and other territorial arrangements to compensate for the land Israel will annex for its settlement blocs. The criteria for drawing such maps are: 80 percent of the settlers in blocs; territorial contiguity for both sides; and minimizing annexation and the number of affected Palestinians.

President Bush further elaborated these criteria in his letter to Prime Minister Sharon in April 2004:

in light of new realities on the ground, including already existing major Israeli population centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice line of 1949... any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities.

The Grand Land Swap

The land swap formula proposed above, Sofer's idea, which is also the one most commonly considered, albeit sometimes tacitly, is the one most consistent with the overriding rationale of a two-state solution – one wholly Arab, the other mainly Jewish. Thus, partition would be carried out in accordance with the principles of territorial contiguity, cultural/ethnic homogeneity, and minimum transfer of peoples. That is why such a land exchange can be described here as the basic land swap.

However, when looking at the broader context, that of a final and comprehensive settlement of the Arab-Israeli conflict, and when taking into account other dimensions of demography, such as socio-economic rather than merely political and cultural considerations, then another land exchange formula presents itself, one which is not only bilateral but actually multilateral. The expanded land swap includes the basic deal detailed above, but adds to it a regional multiparty dimension.

Hebrew University's former provost, the geographer Prof. Yehoshua Ben-Arieh, put forward such a regional land swap plan. According to his plan, Israel would transfer to Egypt some 200-500 sq. kilometers in the Negev contiguous to the Sinai Peninsula, along with a corridor across the Negev, creating a land bridge between Egypt and Jordan; Egypt, in return, would transfer to the Palestinians an area double in size in the northern Sinai, contiguous to the Gaza Strip, significantly increasing the territorial

reserve in the most densely populated area in the world; in turn, the Palestinians would agree to Israeli sovereignty over areas of commensurate magnitude in the West Bank. The latter would then include not only the contiguous Jerusalem neighborhoods and settlement blocs, but also additional territory with no Palestinian inhabitants along the Jordan River and nature reserves in the Judean desert and on the Dead Sea shore. (See map 2)

The primary justification for this wider land swap deal is that it would enhance the economic and social viability of the Gaza part of Palestine and would benefit Israel, which might then be willing to relinquish the area in the Negev, which is comparatively of lesser value than the area retained in the West Bank. That Palestinians and Israelis will significantly benefit from such exchange is undeniable.

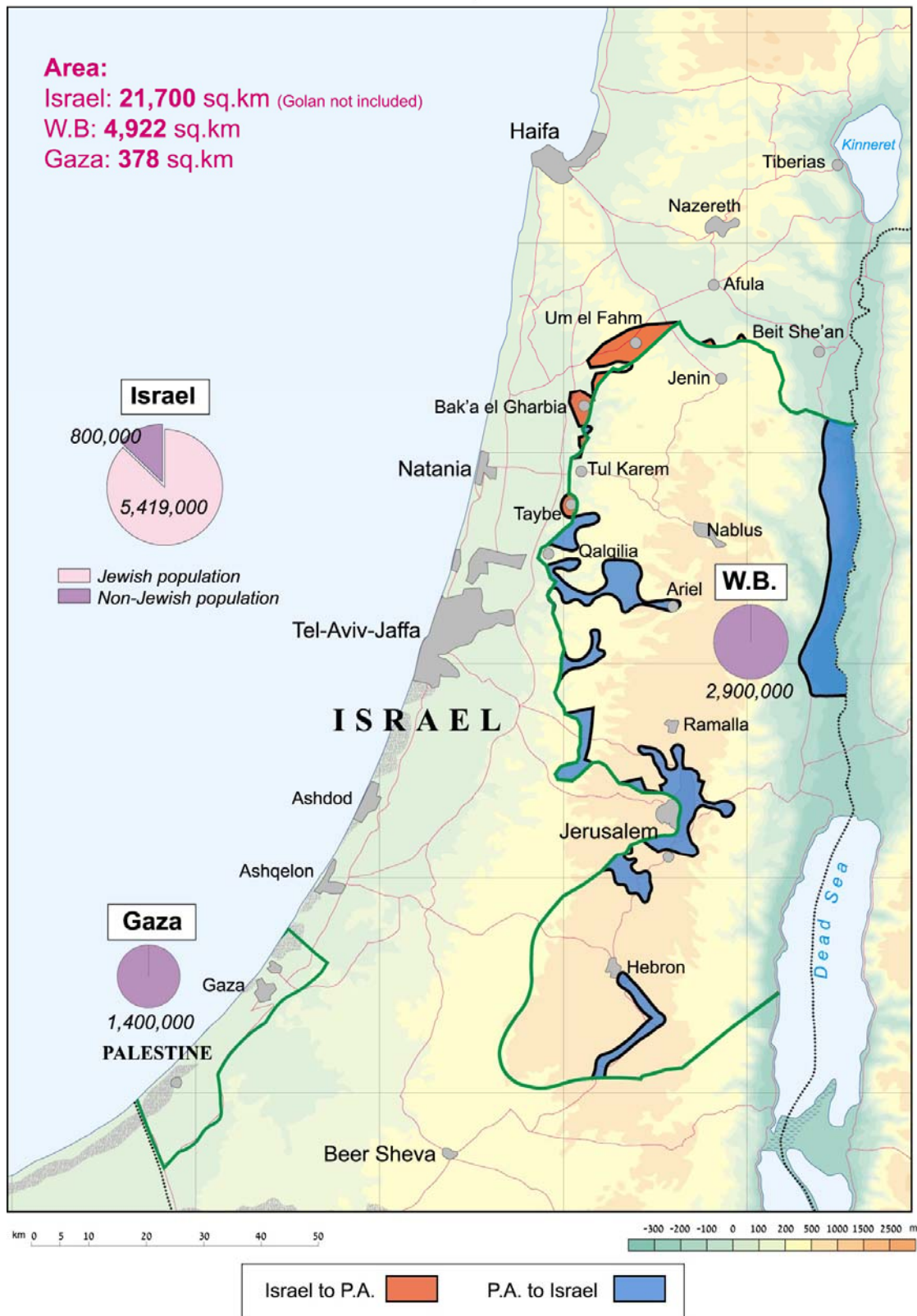
Whether Egypt would also benefit is another matter. It is not self-evident that the land Egypt would receive would be more valuable to it than the land it would cede; neither is it obvious that the trans-Negev corridor linking Egypt to Jordan is a mutual interest of these two states. But, if Egypt could make a substantial contribution to a grand settlement of the Israeli-Arab conflict by a mere land exchange in which it does not lose anything and potentially even gains, this should certainly merit serious consideration on its part. The Egyptian aspiration to achieve a regional power status in the Middle East could be an incentive to demonstrate such flexibility, for which it might also gain more than sheer prestige.

The idea has been informally examined with senior American, European and Middle Eastern diplomats and officials, who found the wide land swap deal creative and promising and more in tune with the kind of vision necessary for a genuine resolution of the conflict and the creation of a viable Palestinian state. Some Egyptians have pointed out that serious consideration of this proposal is not yet opportune. The Jordanian position is still unclear. But a final settlement of the Arab-Israeli dispute is something that still requires much work and certainly will take some time. It should be hoped that by then, Egypt, too, might demonstrate the flexibility practiced, for example, by Saudi Arabia and Jordan in the 1960s or by Jordan and Syria recently and implement a territorial exchange, which is beneficial to all, but most of all, to the Palestinians.

Thus, now is the time, when people are looking beyond the Gaza disengagement and raising questions as to the future direction of the peace process, to give serious consideration to the land-swap concept. Current trends endanger the long-range robustness of any solution that does not include demographic aspects. Whether in their bilateral forms or their multilateral expanded ones, the land-swap formulas should no longer be considered or dealt with as though they were a hidden agenda of one party or another, or a semi-official plan of others, but rather treated as an operative option whose time has come.

Map 1

Israel-Palestinian Authority Land swap תכנית חילופי שטחים בין ישראל לרשות הפלסטינית



Map 2

Israeli-Palestinian-Egyptian land Swap חילופי שטחים: ישראל-מצרים-פלסטין

