

Religion, Politics, and American Foreign Policy in the Middle East

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ABSTRACT

In the United States, religion and politics are intertwined. This entwinement helps to explain America's strong and unwavering support for Israel. Jewish-Americans, virtually across the board, are strong supporters of Israel, despite strong disagreement over a solution to the Israeli-Palestinian conflict.

The influence of Jewish-Americans on American foreign policy in the Middle East is primarily by way of Jewish strength in the Democratic party. Not only do Jewish-Americans strongly support Democratic candidates in all elections, but all but one of the disproportionately high numbers of Jewish Senators and Representatives in Congress are Democrats.

The Republicans are also strong supporters of Israel, because many conservative Christians, an important component of Republican voters, believe that Jewish control of the "holy land" will bring about a "second coming of Christ." "Finally, the overwhelming majority of Americans, religious and non-religious, support Israel, because it is a democratic state, and because they have a favorable opinion of Jewish-Americans, and at best a mixed opinion about Arab-Americans and Moslems. in general.

The main thesis of the presentation is Jewish-American support for Israel, combined with their support of the Democratic Party, can help President Obama in his efforts to achieve a solution to the Israeli-Palestinian conflict. The Jewish-American members of Congress, and the liberal part of the American-Jewish community that favors a solution can provide a degree of cover for the President. This degree of cover, reflected in assuring the Jewish community and the rest of the Nation, that the President is a "strong supporter of Israel," may serve to deflect criticism of the President from those from the conservative part of the Jewish community and from Christian conservatives, and may make any solution that the President succeeds in bringing about politically acceptable to the American public.

INTRODUCTION: RELIGION AND POLITICS IN THE UNITED STATES

In order to understand the relationship between religion and politics in the United States, we must first understand the importance of religion in American life. By every measure, such as church membership, contributions to religious organizations, and as I will discuss shortly, religious-based positions on public issues, Americans appear to be more religious than their counterparts in other western democracies.¹ The churches may be empty in England, France, Italy and other western

¹ A 2008 survey by the Pew Forum on Public Life found that "religious affiliation in the U.S. is both very diverse and extremely fluid. In the survey of more than 35,000 Americans age 18 and older, 51.3% identified themselves as Protestant, 23.9% as Catholics, 1.7% as Mormon, 2% as other Christian denomination, 1.7% as Jewish, and 3.2 % as "other religion," including Moslem, Buddhist, and Hindu. Only 16.1% identified

European countries, but they are full every Sunday in the United States. So are Jewish synagogues Friday evening and Saturday morning, Islamic mosques on Friday, and Buddhist and Hindu temples whenever they hold services. Religious freedom is a highly protected constitutional value in the United States,² and the strong constitutional protection of religious freedom may have contributed to some extent to the religiousness of the American people today.³ In any event, we are, as Supreme Court Justice William Douglas observed some 60 years ago, and as is equally true today, “a religious people whose institutions presuppose a Supreme Being.”⁴ In recognition of this religiousness, the American President typically ends a major speech with “God Bless the United States of America,” and many other public officials frequently invoke God in their speeches as well.⁵ In the United States today then, religion is very important to large numbers of Americans, and for this reason religion would be expected to play an important role in American politics.⁶

The important role of religion in American politics is reflected first in the fact that religious adherents and religious institutions try to advance their religious beliefs and their religious values through political activity. Their right to do so is protected by the First Amendment’s guarantees of

themselves as unaffiliated, and of these, only 4% identified themselves as Atheist or Agnostic. PEW FORUM ON PUBLIC LIFE, “U.S. Religious Landscape Survey,” June 23, 2008.

² See generally Robert A. Sedler, “The Constitutional Protection of Religious Liberty in the United States,” OXFORD FORUM ON PUBLIC POLICY, vol. 2010, no. 5, <http://www/forumonpublicpolicypapers.htm>. vol. 2010, no. 5.

³ The French ban on Islamic head scarves and other religious symbols in French public schools, see Elaine Sciolino, “Ban on Head Scarves Takes Effect in a United France,” NEW YORK TIMES, Sept. 3, 2004, p.A8 and the prohibition on women wearing facial veils in public, see Maia De la Baume, “Enforcing Veil Ban, the French Have stopped 46 Violators,” NEW YORK TIMES, May 12, 2011, p. A8, would be simply unthinkable in the United States, as violating the First Amendment’s guarantees of religious freedom and freedom of expression. Problems with women wearing the facial veil have only arisen with respect to drivers’ license photographs and testimony in judicial proceedings. In these situations, the requirement that women appear unveiled would seem to be a justified restriction on their religious freedom. But these situations apart, there is full recognition of the right of schoolchildren to wear head scarves and other religious symbols and of the right of Islamic women to wear facial veils.

⁴ *Zorach v. Clauson*, 343 U.S. 306, (1952).

⁵ The Supreme Court has held that in light of historical practices, it is constitutionally permissible for legislative bodies to begin their sessions with prayer, *Marsh v. Chambers*, 463 U.S. 783 (1983). Both Houses of Congress, all the state legislatures, and many municipal councils do so.

⁶ In the current 112th Congress, 56.8% of the Senators and Representatives identified themselves as Protestant, 29.2% identified themselves as Catholic. 7.3% identified themselves as Jewish, and 2.8% identified themselves as Mormon There are 2 Moslem and 3 Buddhist Members. *No Member claimed to be unaffiliated with any religion*. The importance of religion in American politics is strongly confirmed by this statistic, showing that every Member of Congress claims some religious affiliation. The Pew Forum on Religion & Public Life, “Faith on the Hill: The Religious Composition of the 112th Congress,” February 28, 2011, [http://pewforum.org/government/faith-on-the-hill-the-religious-composition-of-the-112th congress](http://pewforum.org/government/faith-on-the-hill-the-religious-composition-of-the-112th-congress).

freedom of speech and religious freedom, and I would submit that religious people and religious institutions are acting in accordance with constitutional values when they try to advance their religious beliefs and values through political activity. Just as other citizens should lobby Congress and their state legislatures to advance their agendas, religious adherents and religious institutions should urge Congress and state legislatures to adopt laws that advance their religious beliefs, such as advocating for laws prohibiting abortion or laws allowing abortion, or advocating for laws imposing the death penalty or advocating for abolition of the death penalty, Similarly religious adherents should support what they consider to be a “just war” under their religious beliefs, or should oppose any or all wars if their religious beliefs condemn war as involving the killing of human beings. And likewise, religious adherents and the clergy should urge voters to vote for those candidates who support their religious-based positions on issues of public policy. In short, in the American constitutional system, religious adherents and religious institutions have the constitutional right to advocate for public policies that advance their religious beliefs and to urge voters to vote for candidates that will support those public policies. Similarly, it comes within the constitutional guarantee of the free exercise of religion for members of the clergy to remind their adherents of the tenets of their faith, and to contend that, as a matter of religious belief, their adherents should support or oppose certain public policies and should vote for candidates who support or oppose those policies.⁷

For the same reasons, it is appropriate for candidates for public office to seek the support of religious groups—as they seek the support of any other group—on the ground that they support the policies advocated by particular religious groups. It is appropriate for candidates for public office to seek the support of Catholics and fundamentalist Christians on the ground that the candidates oppose

⁷7. Federal and state taxation laws grant a tax exemption for “religious, charitable and educational institutions.” As a condition for the tax exemption, the exempted groups cannot engage in partisan political activity and cannot urge voters to vote for or against a particular candidate for political office. However, they can strongly criticize candidates whose positions they oppose, or praise candidates whose positions they favor, so long as they do not expressly and specifically urge voters to vote for or against a particular candidate. And of course, individual members of the clergy, like any other person, can speak out in favor or against a political candidate. *See e.g.* the discussions of the role of Jewish rabbis in Presidential elections in Samuel N. Gordon, “Rabbis for Obama: The Role of Rabbinic Leadership in the 2008 Presidential Campaign,” *CCAR JOURNAL: THE REFORM JEWISH QUARTERLY* 99, Summer, 2010; Paul A. Djupe & Anand E. Sokhey, “American Rabbis in the 2000 Elections,” *42 JOURNAL FOR THE SCIENTIFIC STUDY OF RELIGION* 573 (2003). And a study of voting patterns in the 2000 Presidential election maintains that “race and religious commitment were the key determinants of whether one voted for Republican George W. Bush or Democrat Al Gore.” Sheryl Henderson Blunt, “Partisanship in the Pews,” *CHRISTIANITY TODAY*, April 2, 2001, p. 29.

abortion or same-sex marriage or stem cell research involving embryos. It is likewise appropriate for candidates for public office to seek the support of religious groups by emphasizing other religious values, such as social justice, which is common to all religions, as reflected in the Papal encyclicals or the biblical command to “feed the hungry and clothe the naked.” To use Protestant Evangelicals as an example, the conservative candidates can appeal to them by emphasizing their opposition to abortion or same-sex marriage while liberal candidates can appeal to the same Evangelicals by emphasizing their advocacy of social welfare programs. And when it comes to Jewish voters, who are concentrated in the major metropolitan areas of most of the largest states, including New York and California,⁸ the candidates vie with one another to emphasize their strong support for Israel. As we will see, the strong support for Israel also plays well with fundamentalist Christians and for many other Americans, and has been the determinative factor driving American foreign policy in the Middle East.

American politics revolve around a strong two-party political system, and religion, along with ethnicity, is a significant factor for many Americans in determining party identification as Democratic or Republican. Pollsters and political analysts frequently survey and report on religious and ethnic voting patterns. White Protestants tend to vote Republican, and the tendency to vote Republican is even stronger among Evangelicals. The Catholic vote is divided and trends to one party or another at different points in time. The Jewish vote is overwhelmingly Democratic.⁹

Of Americans who report their religious identification, approximately half identify as

⁸ According to the United States Census Bureau, in 2009, Jews comprised a measurable percentage of the population of all of the largest states except Michigan and Texas: California - 3.3%; Florida - 3.3% Illinois - 2.2%; Massachusetts - 4.3%; New Jersey - 5.8%; New York - 8.3%; Pennsylvania - 2.3%. U.S. Census Bureau, STATISTICAL ABSTRACT OF THE UNITED STATES 2011, “Population,” 62, Table 77

⁹ Voting on religious lines interacts with voting on ethnic lines. African-Americans vote Democratic even at a higher rate than Jews. The Hispanic and Asian-American vote is predominantly Democratic. And within religious groups, the more observant members tend to vote Republican while the less observant members tend to vote Democratic. The Pew Research Center study of voting on religious lines in the 2008 election reached the following three conclusions: (1) The basic structure of faith-based politics was very similar in the 2008 and 2004 elections; (2) the Democrats and Barack Obama made their largest gains among religious “minorities” - groups that can best be described as minorities either, in ethnic, racial or religious terms; (3) The Democrats made only modest gains among white Christian groups. The study used exit polling to put together a bar graph of the vote in the 2008 Presidential election that defined the basic structure of faith-based politics with affiliation, ethnicity/race and religious worship attendance. The bar graph revealed the following voting patterns: (1) Black Protestants voted Democrat at a rate well over 90%; Jews, Hispanics and other racial minority Catholics voted Democrat at a rate approaching 80%; Members of Non-Christian faiths, Seculars and Unaffiliated Believers voted Democrat in the 70% range; Less Observant White Catholics and Hispanic and Other Minority Protestants voted majority Democrat; the voting was even among

Protestant and approximately one quarter identify as Catholics.¹⁰ While white Protestants tend to vote Republican and the Catholic vote tends to be divided,¹¹ the numbers of white Protestants and the numbers of Catholics are so large that both religions are well represented among Members of Congress of both parties.¹² The Jewish population, by contrast, is relatively small, around 5 million, or 1.7% of the total population.¹³

However, the Jewish population ranks very high in terms of income and educational levels, and is in a position to exert influence in many areas of American life disproportionate to its overall population numbers. One such area is politics. The Jewish vote is overwhelmingly Democratic, and Jewish voters are concentrated in the major metropolitan areas of most of the largest states. In addition, Jewish donors contribute and raise large sums of money for the Democratic Party and Democratic candidates. There are a number of reasons why the Jewish vote is overwhelmingly Democratic. As with other immigrant groups in the United States, such as the Irish and the Italians, Jews were concentrated in the nation's largest cities, and these immigrant groups were welcomed into the Democratic Party in the early part of the twentieth century. During World War II, Jews strongly supported President Franklin D. Roosevelt, who was seen as the focal point of resistance to Nazi

Less Observant White Minority Protestants. At this point, the voting went Republican in ever increasing numbers among Weekly Attending White Mainline Protestants, Weekly Attending White Catholics, Mormons, Orthodox and Other Christians, Less Observant White Evangelical Protestants, and reaching well over 80% among Weekly Attending White Evangelical Protestants. The study goes on to analyze these voting patterns in greater detail. Pew Research Center, "A Look at Religious Voters in the 2008 Election," Feb. 10, 2009, <http://pewresearch.org/pubs/1112/religion-vote-vote-2008-election>. See also the discussion of religious voting in the 2008 Presidential Election in Amy Frykholm "Discerning the Faith Factor (Interview with Pollster John Green)," CHRISTIAN CENTURY, October 21, 2008; Mark Silk, "The Faith Factor," CHRISTIAN CENTURY, December 2, 2008.

¹⁰ See note 1, *supra*.

¹¹ See note 8, *supra*.

¹² In the 112th Congress, 69% of Republicans are Protestant, and 25% are Catholic. 43% of Democrats are Protestant and 34% are Catholic. See The Pew Forum, "Faith on the Hill," *supra*, note 6.

¹³ The Union for Reform Judaism is the largest Jewish religious body in the United States, with approximately 1.5 million members. It is liberal in its view of the Jewish religion, emphasizing Jewish values, while at the same time respecting Jewish tradition, but adapting it to the modern world. The next largest body is the Conservative Movement, which adheres to tradition and ritual, but is making some efforts at modernization. The smallest body is the Orthodox Movement, which adheres strictly to tradition and ritual. Because of religious strictures against contraception, Orthodox families tend to be large, and the Orthodox population is growing at a faster rate than the Reform or Conservative population. But it is still relatively small compared to the Reform and Conservative populations. A considerable number of American Jews identify as Jewish and may participate in Jewish organizations and Jewish community activities, but are secular or humanist in their religious beliefs.

The author is Jewish, and some of his observations about the Jewish population and its influence in many areas of American life are based on personal knowledge and experience.

Germany. These historic patterns of voting Democratic continued in succeeding generations. In addition, many of the traditional Jewish values such as *tsedachah* (the obligation to provide for those in need) and *tikun olam* (“repair the world”) translate in the political area into liberal social and economic policies. Thus, it is accurate to say that large numbers of American Jews are politically liberal, even though their relative wealth might cause them to be more conservative.¹⁴ It is for all of these reasons that the Jewish vote is overwhelmingly Democratic.

By the same token, in no small part because of their relatively higher income and educational levels, Jews are active in political life and are in a position to seek and attain elective office. Although Jews make up no more than 1.7% of the total population, 12 of the 100 Senators, or 12%, and 26 of the 435 Representatives, or 6%, are Jewish. With the exception of one Representative, who is a Republican, all of the Jewish Senators and Representatives are Democrats.¹⁵

RELIGION AND STRONG SUPPORT FOR ISRAEL

Without regard to ideology or political identification, American Jews virtually across the board, are strong supporters of Israel. What this means is that they are strongly supportive of Israel’s right to exist as a Jewish state in the Middle East, it is right to resist hostile incursions from its Arab neighbors, and its right to defend itself against terrorist attacks. American Jews also contribute large sums of money to a host of institutions and organizations within Israel and lobby Congress for American economic and military aid to Israel. American Jews travel to Israel in large numbers often as part of a “mission” organized by Jewish community agencies and synagogues. It is fair to say that Israel looms large in the consciousness of many American Jews, and that the well-being of Israel is of great importance to the American Jewish community.¹⁶

¹⁴ American Jews have the highest income level of any of the traditional religious groups. 46% of Jews report income levels of \$100,000+, and 29% report income levels between \$50,000 and \$99,000. Only 14% report income levels of less than \$30,000. Among members of Mainline Protestant Churches, 21% report income levels of \$100,000+, and 33% report income levels between \$50,000 and \$99,000. 25% report income levels of less than \$30,000. Among Catholics, 19% report income levels of \$100,000+, and 30% report income levels between \$50,000 and \$99,000. 31% report income levels of less than \$30,000. For the total United States population, 18% report income levels of \$100,000+, 30% report income levels between \$50,000 and \$99,000, and 31% report income levels of less than \$30,000. The Pew Forum on Religion and Public Life, “Income Distribution Within U.S. Religious Groups,” January 30, 2009, <http://pewforum.org/Income-Distribution-Within-US-Religious-Groups.aspx?print=true>.

¹⁵ See note 6, *supra*.

¹⁶ It is certainly true, as one study has maintained, that American Jews’ connection with Israel declines with each subsequent generation. For example, the study reported that only 60 per cent of American Jews under 35 believed that caring about Israel was an important part of being Jewish, compared with 80% of those over

The Government of Israel strongly encourages American Jews to identify with Israel in a number of ways. It arranges “briefings” for American Jews traveling on a “mission” to Israel. It sends representatives and speakers to programs in Jewish communities and national meetings of Jewish organizations. It facilitates fundraising among American Jews for institutions and activities in Israel. And it never ceases to remind American Jews that if they should choose to leave the United States for Israel—the term is make *aliyah*—they are entitled to Israeli citizenship the moment they set foot in Israel.

Precisely because the well-being of Israel is of great importance to the American Jewish community, American Jews take a strong interest in the Arab-Israeli conflict and its current manifestation with respect to the peace process between Israel and the Palestinians. The divisions in Israel over a resolution of Israel’s conflict with the Palestinians are reflected in divisions among American Jews. First there is what may be called the ‘hardline’ position of Likud and the current Netanyahu government in Israel. While the Netanyahu government is purportedly committed to a two-state solution, it insists vehemently that Israel cannot return to its pre-1967 borders, that Israel’s security must be the paramount consideration in the peace process, that in any final agreement with the Palestinians, Israel will keep most of the West Bank settlements, that Israel will not give up any part of Jerusalem, that there can be no “right of return” of the Palestinian refugees to Israel, and that Israel must maintain a military presence in the West Bank in the area near the Jordan border. The Netanyahu government has also asserted that the major problem preventing an agreement for a two-state solution is that the Palestinians are unwilling to accept the existence of Israel as a Jewish state. And while the Netanyahu government has said that it is willing to negotiate with the Palestinian Authority without preconditions—such as that Israel stop expanding the settlements and end settlement activity—it does not seem very concerned that negotiations take place. As long as the present situation continues, the Netanyahu government does not have to create tensions among the

the age of 65. And just 54% of the under 35 group reported being “comfortable” with the idea of a Jewish state, compared to 81% of those 65 and older, 74% of those 50-64, and 64% in the 35-49 age group. See Allan C. Brownfeld, “Debunking Israel Lobby, Study Shows Growing Alienation of American Jews from Israel,” 26 THE WASHINGTON REPORT ON MIDDLE EAST AFFAIRS 69, December, 2007. However, despite the age-based differences in connection with attitudes toward Israel among American Jews, when it comes to challenges to Israel’s right to exist as a Jewish state in the Middle East or to resist hostile incursions from its Arab neighbors or to respond to terrorist acts, American Jews virtually across the board are strong supporters of Israel. And this support is reflected in the actions of Jewish organizations and the larger Jewish community.

settler and “Greater Israel” parts of its coalition that do not want to give up any part of the West Bank and are not supportive of a two state solution.¹⁷

Among American Jews the “hardline” position is advanced by the American Israel Political Action Committee (AIPAC), the largest pro-Israel lobbying organization in the United States. While AIPAC purportedly supports the policy of the Government of Israel, it is much more supportive of that policy when it is the policy of Likud than when it is the policy of Labor or Kadima. AIPAC constantly points out the obstacles to a settlement with the Palestinians from the Israeli standpoint, and like the Netanyahu government, it insists that Israel’s security must be paramount and that the Palestinians are unwilling to accept the existence of Israel as a Jewish state. AIPAC’s position finds favor with a lot of the older American Jews, who may remember Israel’s founding and the War of Independence and who certainly remember the 1967 and 1973 Arab-Israeli wars.¹⁸

At the other end of the political spectrum in Israel is what may be called the Israel Peace Movement, such as Peace Now, which strongly favors a two state solution that would see Israel giving up the West Bank settlements and possibly East Jerusalem in exchange for a Palestinian commitment

¹⁷ This is my opinion of the position of the Netanyahu government. The matter is discussed more fully in connection with the recent Obama-Netanyahu interaction, *infra*, notes 43-57, and accompanying text.

¹⁸ AIPAC characterizes itself as America’s Pro Israel Lobby. AIPAC defines the United States-Israel Relationship as follows: “Israel and the United States have shared a special bond since the establishment of the modern Jewish state in 1948. Since President Harry Truman provided Israel with critical international legitimacy by recognizing the state a mere 11 minutes after its establishment, American presidents and lawmakers from both parties have continued to stand by Israel, a fellow democracy and America’s closest ally in the Middle East. The two countries have developed a resilient friendship - based on shared values and interests - that transcends which political parties are in power either in Washington or Jerusalem.” http://www.aipac.org/For_Hill_Staff/IssueArchive_19344. For a discussion of AIPAC’s “pro-Israel” activities from a critical perspective, see Allan C. Brownfeld, “Debunking Israel Lobby,” *supra*, note 16. The article quotes from an article in the Sept./Oct 2007 issue of Tikun, a liberal Jewish publication, by Rabbi Michael Lerner, who argues that the pro-Israel lobby - AIPAC, the Conference of Presidents of Major Jewish Organizations and a “host of others” - is “bad for the United States, bad for Israel, and bad for the Jews.” It is bad for the United States, he says, because it “identifies the best interests of the U.S. with those of the Israeli right-wing, and that right wing engages in activities against the Palestinian people in particular and against neighboring states, which have inflamed global public opinion not only against Israel, but against the U.S.” It is bad for Israel, because it “strengthens the hands of the most right-wing forces in Israel while reinforcing the view that the U.S. is going to back their intransigence and militarism and that hence, they have a blank check to do whatever crazy and self-defeating scheme they come up with” “Israel will some day face a reckoning from Arab states and from the peoples of the world for the gross arrogance and insensitivity of their government’s policies, and people will some day look back at the Israel lobby in the U.S. and realize that it was destructive to Israel’s long-term survival interests.” It is bad for the Jews, because it “strengthens idolatry in the Jewish world by reinforcing our tendencies to believe in power and domination rather than in love, compassion and open-heartedness.”

to Israel's security. The American Jewish counterpart to the Israel Peace Movement is J Street, which describes itself as the "Political Home of the Pro-Israel, Pro-Peace Movement." J Street tries to act as a counterweight to AIPAC, although its membership and resources are much smaller.¹⁹

In the middle of the political spectrum in Israel are the Kadima and Labor parties, which have indicated a willingness to give up some of the West Bank settlements and have tried unsuccessfully to negotiate a two-state solution with the Palestinian Authority.²⁰ Their failure to do so, coupled with the Palestinian *intifada*, and suicide bombers from the West Bank and rocket attacks from Gaza, have brought a concern for security to the forefront in Israel and have propelled Netanyahu and the Likud coalition to power. But the leaders of the Kadima and Labor parties continue to support a two-state solution. Correspondingly, there is strong support for a two-state solution from the liberal part of the American Jewish community, and this support is reflected in the position of the Union for Reform Judaism. The policy position of the Union, set forth in a number of resolutions over the years, is that there should be a two state solution, with borders as close as possible to the pre-1967 borders, with adjustments for the built-up areas around Jerusalem.²¹

While American Jews virtually across the board are strong supporters of Israel, American

¹⁹ J Street took out a full page add in the New York Times of May 13, 2011, to reprint an add that ran in Israeli newspapers and that was signed by "prominent Israelis." In the add, the signers stated: "We, the undersigned, therefore, call upon any person seeking peace and liberty and upon all nations to join us in welcoming the Palestinian Declaration of Independence, and to support the efforts of the citizens of the two states to maintain peaceful relations on the basis of secure borders and good neighborliness. The end of the occupation is a fundamental condition for the liberation of the two peoples, the realization of the Israeli Declaration of Independence and a future of peaceful coexistence."

²⁰ Ehud Barak of the Labor Party became Prime Minister in 1999. During the last months of his term in 2000, President Bill Clinton advanced a proposal for a settlement that apparently was supported by Barak. However, it was rejected by President Yasir Arafat of the Palestinian Authority. The negotiations broke down, and violence erupted. For a contemporary discussion of the Clinton-Barak proposal and the events surrounding the breakdown of the negotiations and the aftermath .See Deborah Sontag, "And Yet So Far: A Special Report; Quest for Mideast Peace: How and Why It Failed," NEW YORK TIMES, July 26, 2001, p. 1. The Clinton-Barak proposal is discussed critically by former President Jimmy Carter, who contended that Arafat could not accept the proposal and survive. See Jimmy Carter, PALESTINE PEACE NOT APARTHEID, Simon & Schuster, New York, N.Y., 2006, pp. 150-154. See also, "Times Topics, People, Barak, http://topics.nytimes/top/reference/timestopics/people/b/ehus_barak/index.html.6/21/2011. In 2008, Prime Minister Ehud Olmert and President Mahamoud Abbas of the Palestinian Authority undertook negotiations for a settlement, but were unsuccessful. See Bernard Avishai, "A Separate Peace," THE NEW YORK TIMES MAGAZINE, February 13, 2011, p. 36.

²¹ See e.g. Resolution, "Middle East Peace: The Urgent Need for Leadership," As Adopted by the Union for Reform Judaism Board of Trustees," June 13, 2009. http://urj.org/about/union/governnande/reso//?syspage=article&item_id=17840. The author was a member of the Social Action Commission of the Union for Reform Judaism from 2003-2009.

Jews, like the Israelis themselves, are divided over the best means of resolution of the Israeli-Palestinian conflict. However, it is fair to say that the focus of American Jews, like the focus of the Israelis, is almost entirely on what is in the best interests of Israel. With relatively few exceptions, the strong supporters of a two state solution among American Jews and Israelis contend that Israel, as a democratic and Jewish state, cannot continue to exercise control over the Palestinians in the West Bank, and that ending the Israeli occupation of the West Bank is necessary to Israel's remaining a democratic and Jewish state. And for this reason, they contend that it is in Israel's best interests to abandon the West Bank settlements and to help bring about a viable and independent Palestinian state.

However, for the most part, I do not see any "pro-Palestinian" concern among American Jews. I think that many of the American Jews who strongly support a two-state solution also, like myself, put much of the blame for the Arab-Israeli conflict on the Arab states that tried unsuccessfully to destroy Israel from the time of its creation in 1948, through the 1967 and 1973 wars, and that refused to try to make peace with Israel thereafter. And while there is some sympathy among American Jews for the plight of the Palestinians living under the Israeli occupation, this is outweighed by their hostility (and incredulity) directed toward the Palestinian suicide bombers and terrorist attacks. Again, the American Jews who support a two-state solution, as a large number of them do, do so because they believe that this is in the best interests of Israel.

Because American Jews virtually across the board are strong supporters of Israel, American Presidents, Senators, and Members of Congress seeking "the Jewish vote" are highly motivated to take actions that will be seen by American Jews as supportive of Israel. While American Jews overwhelmingly vote for Democratic candidates, Republican candidates hoping to make inroads into the Jewish vote try to "out-Israel" their Democratic opponents. In every Presidential election in recent years, for example, Jewish Republicans have taken out adds in Jewish publications asserting that the Republican candidate is more "pro-Israel" than the Democratic candidate. A lot of this was done in the 2008 Presidential election, and while it may have resonated a bit among older American Jews, President Obama still emerged with 78% of the Jewish vote. The President's recent assertion that the starting point for peace negotiations between Israel and the Palestinians was the 1967 borders with mutually agreed upon swaps was challenged by Prime Minister Netanyahu, and immediately afterwards, Republican candidates for the 2012 Presidential nomination accused the President of

“throwing Israel under the bus.”²² Most assuredly, in the 2012 elections, the Republicans will again accuse President Obama of being “soft on Israel.” However, I would predict this effort will not have much impact on American Jewish voters, and that in 2012, as in 2008, the Jewish vote will be heavily in favor of President Obama.

In addition to American Jews, Evangelical Christians are also strong supporters of Israel, and for many of them this support is based on a specific religious reason. It is part of fundamentalist Christian doctrine that Jews must control the Holy Land so that they can be converted to Christianity, and that when the Jews in the Holy Land convert to Christianity, there will be a second coming of Christ.²³ Those Evangelicals who do not necessarily share this “second coming” view can also find a religious reason for strong support of Israel, based on the belief that God has a covenant with the Jewish people and with Israel, so that Christians have a religious mandate to “honor and cherish the Jewish people” and so to support Israel.²⁴ Evangelical Christians are a key Republican constituency, and Republican candidates speaking to Evangelical and other fundamentalist Christian groups always emphasize their strong support for Israel. As part of this strong support for Israel, they avoid any talk of a two-state solution, and emphasize Israel’s security needs and the problem of “Arab terrorism.”²⁵

In addition to American Jews and Evangelical Christians, it is fair to say that with respect to

²² See the discussion, *infra*, note 47, and accompanying text.

²³ This doctrine is explained at length with biblical citation, in Roy H. Schoeman, *SALVATION IS FROM THE JEWS*, Ignatius Press, Fort Collins, Colo., 392 pp., 2003. See also Deborah Caldwell, “The Rapture Factor: Why Conservative Christians Love of Israel Is Intertwined with the Battle of Armageddon,” <http://www.beliefnet.com/Faiths/Christianity/2002/06/The-Rapture-Factor.aspx>.

²⁴ See Ed Lasky, “Splitting the Evangelicals from Israel,” http://americanthinker.com/2007/01/splitting_the-evangelicals_fro.html.

²⁵ See Tobin Grant, “Want to Fire Up Conservatives? Cheer on Israel,” *CHRISTIANITY TODAY* Politics Blog, June 13, 2011, http://blog.christianitytoday.com/ctpolitics/2011/06/want_to_fire_up.html This article reports on Republican Presidential candidates speaking at the Faith and Freedom Conference, which took place after the Obama-Netanyahu interchange, discussed, *infra*, notes 43- 57, and accompanying text. The authors says that : “It is no secret that some of the strongest backers of Israel are Christian conservatives in America, a trend on full display last week at the Faith and Freedom Conference. Among all the issues mentioned by speakers, few, if any, received the amount of enthusiastic support as calls to strengthen American support for Israel.” The Republican Presidential candidates castigated President Obama for saying that negotiations should begin along the 1967 borders. Representative Michelle Bachman called this statement “a shocking display of betrayal of our greatest and friend and ally Israel.” Governor Tim Pawlenty said that, “We need a President of the United States who stands shoulder to shoulder with our great friend Israel and makes sure that there is no delight between the United States and Israel.” The author observed that, “The support for Israel hinted as Christian Zionism, with speakers saying that Israel was granted their land by God and should exist as a Jewish state.” See also Donald E. Wagner, “The Alliance Between Fundamentalist Christians and the Pro-Israel Lobby: Christian Zionism in U.S. Middle East Policy,” in *HOLY LAND STUDIES*, The Continuum Publishing Group Ltd 2004, London, England, 2004

the Arab-Israeli conflict and a settlement between Israel and the Palestinian Authority, the overwhelming number of Americans would come down on the side of Israel and would want the American government to be strong in its support of Israel.²⁶ Israel has been portrayed correctly as the only truly democratic state in the Middle East; it has also been portrayed as America's only true friend and only reliable ally in the Middle East. There are never anti-American demonstrations in Israel, as there are with some frequency in Arab countries, and anti-American demonstrations do not sit well with the American public. Moreover, Americans generally have a positive image of Jews and a very negative image of Arabs. This negative image of Arabs existed before 9/11, and after 9/11, it has carried over to Muslims of any nationality. Indeed, at the present time, we are witnessing a manifestation of anti-Muslim animus in the United States, and there is much concern on the part of civil libertarians with protecting the civil liberties of Muslims in America and in preventing acts of discrimination against them. The anti-Muslim animus in the United States was demonstrated recently by opposition to the location of a mosque in the vicinity of Ground Zero,²⁷ and by opposition to the

²⁶ While Israel's military actions in Lebanon in 2006 and in Gaza in 2009, were subject to a substantial degree of criticism outside of the United States, this was not the case in the United States, where, according to a survey by the Pew Research Center for the People and the Press, there was "strong general support for Israel." In response to the question, "Who do you sympathize with more, Israel or the Palestinians," the August, 2006 result was 52%-11% in favor of Israel, and the January, 2009 result was 49%-11% in favor of Israel. In response to the question, "who was most responsible for the outbreak of violence on Lebanon/Gaza, more than three times the number of people blamed Hezbollah/Hamas, 42%-12% in August, 2006, and 41-12% in January, 2009.. While smaller majorities approved of Israel's military actions in Lebanon/Gaza, by a 2-1 margin, the respondents said that in both conflicts Israel has "not gone far enough" or responded "about right" than said that Israel "has gone too far."The Pew Research Center for the People and the Press, "No Desire for Greater U.S. Role in Resolving Conflict: Modest Backing for Israel in Gaza Crisis, January 13, 2009.

²⁷ In the summer of 2010, a proposal surfaced to build an Islamic Center with a mosque in New York's lower Manhattan about 2 blocks from Ground Zero of the 9/11 attack on the World Trade Center. The proposed Islamic Center and mosque generated a great deal of controversy on the ground that an mosque so close to Ground Zero would be "insensitive" to the families of the victims of the 9/11 attack. While the opponents claimed that their opposition to the mosque was not "anti-Muslim," a lot of "anti-Muslim" sentiment came to the fore in that debate. The controversy abated after a while, and plans for the proposed Islamic Center have moved forward, although construction will be years away. For a sampling of the commentary on what has been called "The Mosque at Ground Zero," see Margot Adler, "Developer: Plans for N.Y. Mosque Moving Forward," NATIONAL PUBLIC RADIO, May 5, 2011, <http://www.npr.org/2011/05/05/135951856/developer-plans-for-n-y-mosque-moving-forward>; Jeff Jacoby, A Mosque at Ground Zero? BOSTON GLOBE, June 6, 2010, http://www.boston.com/bostonglobe/editorial_opinion/oped/articles/2010/06/06/a_mosque_at_ground_zero; Javier C. Hernandez, "Giuliani Says Mosque Near Ground Zero Is Offensive," NEW YORK TIMES, August 19, 2010, <http://cityroom.blogs.nytimes.com/2010/08/19/giuliani-says-mosque-near-ground-zero-is-offensive>; Paul Vitello, "Amid Furor on Islamic Center, Pleas for Orthodox Church Nearby," NEW YORK TIMES, August 23, 2010, <http://nytimes.com/2010/08/24/greek.html?ref=parks51&pagewanted=print>.

building of a mosque in some other American communities.²⁸

It is also fair to say that in the United States there is no Arab-American counterweight to the strong support of Israel that I have described above. Not only is the Arab-American population relatively small and concentrated in areas such as Dearborn, Michigan, but as I have observed Arab-American community organizations and civil liberties groups, their focus has been on the interests of Arab-Americans in the United States. I have seen little if any effort on their part directed bringing about a more balanced approach to the Israeli-Palestinian conflict on the part of the American government.²⁹

AMERICAN FOREIGN POLICY AND UNWAVERING SUPPORT FOR ISRAEL

For all of these reasons, American foreign policy in the Middle East is a policy of unwavering support for Israel. The United States has vetoed virtually every resolution in the Security Council that was expressly or impliedly critical of Israel,³⁰ and it is not questioned that any effort in the Security

²⁸ See Doyle McManus, "The Right to a Mosque: A Local Issue Has Attracted Outside Intervention," LOS ANGELES TIMES, May, 19, 2011, p. A17; Annie Gowen, "Far from Ground Zero, Other Plans for Mosques Run into Vehement Opposition," WASHINGTON POST, August 23, 2010, p. A1; Laurie Goodstein, "Across Nation, Mosque Projects Meet Opposition," NEW YORK TIMES, August 7, 2010, p. 1. The anti-Muslim animus is also reflected in efforts directed at the non-existent issue of prohibiting the use of Sharia law in American courts. See e.g., Niraj Warikoo, "Islamic Law Accusations Set Off Legislative Frenzy," DETROIT FREE PRESS, April 21, 2011, p.8a; Aziz Huq, "Defend Muslims, Defend America," NEW YORK TIMES, June 20, 2011, p.A25. In addition, with Republican control of the House of Representatives, Peter King of New York became the Chairman of the House Homeland Security Committee, and he has started to hold hearings on what he has called "Muslim radicalization." In the first hearing, King attacked Muslim-American organizations and their leaders as "soft on terrorism." See Michelle Boorstein, "U.S. Muslim Groups Split on Hearing's Impact," THE WASHINGTON POST, March 12, 2011, p. B01; Niraj Warikoo, "Local Muslims Slam Hearings as Unbalanced," DETROIT FREE PRESS, March 11, 2011, p. A3. King has now held a second round of hearings on the "radicalization of the Muslim-American community," this one dealing with "the threat of Muslim-American radicalization in U.S. prisons." See Richard A. Serrano, "Partisan Divide at Hearing on U.S. Radicals," CHICAGO TRIBUNE, June 16, 2011, p. 28; Bryan Maygers, "Rep. Peter King Announces Second Round of Muslim Radicalization Hearings," HUFFINGTON POST, June 11, 2011, http://www.huffingtonpost.com/2011/06/10/peter-king-muslim-hearings_n_874874.html.

²⁹ The leading Arab-American civil liberties organization, the American-Arab Anti-Discrimination Committee regularly adopts resolutions that call on the American government to use its influence to require the Israel to withdraw from "all occupied Arab territories" and condemns the Israeli occupation of the West Bank and the "siege" of Gaza. It also "condemns terrorism" and calls on the American government to "take a more comprehensive approach to fighting extremism and terrorism which includes adopting a fair and even-handed foreign policy towards the middle-east." See e.g., American-Arab Anti-Discrimination Committee Board Resolutions, June, 2010, <http://adc.org/aboutus/board-of-directors/2010-board-resolutions/>.

³⁰ The latest veto, cast on February 18, 2011, was of a resolution calling for a halt to Israeli settlement building in the West Bank and condemning the settlements as illegal. See Neil MacFarquhar, "Lone 'No' Vote by U.S. Blocks Security Council Censure of Israeli Settlements," NEW YORK TIMES, Feb. 19, 2011,

Council to impose any kind of sanction against Israel would be vetoed by the United States.³¹ The strength of unwavering American support for Israel is illustrated by the recent invitation to Prime Minister Netanyahu to address a joint session of Congress, an honor very rarely accorded to foreign leaders.³² A number of commentators have contended that the unwavering support for Israel by the United States contributes to “anti-Americanism” in Arab and Muslim countries.³³ Perhaps it does,

p.A4. Following the veto, Prime Minister Netanyahu issued a statement, saying that, “Israel deeply appreciates the decision by President Obama to veto the Security Council Resolution.” See HAARETZ NEWS AGENCIES, “Israel ‘deeply appreciates’ U.S. Veto on UN Resolution Condemning Settlements,” <http://haaretz.com/news/diplomacy-defense/israel-deeply-appreciates-u-s-veto-on-un>, February 2, 2010. Another commentator has observed that since 1990, the United States has cast more Security Council vetoes than any other Council Member, many of them favoring Israel. See Deborah Hastings, “U.S. Often Uses Security Council Veto for Israel,” ASSOCIATED PRESS, COMMON DREAMS.ORG, <http://www.commondreams.org/headlines03/0311-10.htm>, March 11, 2003. The Jewish Virtual Library has compiled a list of 43 “U.S. Vetoes of UN Resolutions Critical of Israel,” from 1972 to 2011. The more recent U.N. vetoes, in addition to the resolution calling for a halt to settlement building, were three resolutions calling for Israel to halt its Gaza operations, two in 2006, and one in 2004, condemning Israel for killing Ahdad Yassin, the founder and leader of Hamas, and two 2003 resolutions, one seeking to bar Israel from extending the security fence, and one flinedemanding that Israel halt threats to expel PLO leader Yasser Arafat. JEWISH VIRTUAL LIBRARY, “U.S. Vetoes of UN Resolutions Critical of Israel,” <http://jewishvirtuallibrary.org/jsource/UN/usvetoes.html>, 2011.

³¹ Congress typically is hostile toward any United Nations action that appears to be directed against Israel. When a United Nations Commission headed by South African Jurist Richard Goldstone issued a report strongly criticizing Israel for causing civilian casualties in its 2008 attack on Hamas in Gaza, Members of the House of Representatives passed a resolution charging that the report was “irredeemably biased and unworthy of further consideration or legitimacy.” See Glenn Kessler, “Congress to Weigh in on UN’s Gaza Report; House Resolution Calls the Findings ‘Irredeemably Biased,’” WASHINGTON POST, October 31, 2009, p.A9. When the Palestinian Authority announced plans to seek United Nations membership in September, see the discussion, *infra*, notes -, and accompanying text, the House of Representatives passed a resolution threatening to cut off aid to the Palestinian Authority if the Authority persisted in its request. See Carol Giacomo, “Mideast Countdown,” THE NEW YORK TIMES, SR, July 10, 2011, p. 11.

³² See note 50, *infra*. The invitation was extended by the Republican Speaker of the House of Representatives, John Boehner, which may be seen as another effort by the Republican Party to try to undercut the Jewish vote for Democratic candidates. The invitation would also sit well with Evangelical Christians, a core constituency of the Republican Party.

³³ In John J. Mearshimer & Steven M. Walt, THE ISRAEL LOBBY AND U.S. FOREIGN POLICY, Farar, Strauss & Giroux, New York, N.Y., pp.484 2007, the authors who are respectively Professors at the University of Chicago and at Harvard University, contend the Jewish lobby - a coalition of organizations and individuals that lobby for Israel, including AIPAC, the Conference of Presidents of American Jewish Organizations, and the Anti-Defamation League - pushes American foreign policy in directions that “jeopardize U.S. national security .” They maintain that the lobby has made American policy on Israel so one-sided that it fuels Moslem terrorism against the United States, fosters the spread of nuclear weapons in the Arab states, and puts at risk American’s energy supplies from the Persian Gulf. The book is critically reviewed with respect to the alleged influence of the “Israel Lobby” by Leslie Gelb, the President Emeritus of the Council on Foreign Relations, in the NEW YORK TIMES REVIEW OF BOOKS, p.18, September 23, 2007. As to the influence of the “Israel Lobby,” see also Jeffrey Goldberg, “Israel’s ‘American Problem,’” NEW YORK TIMES, May 18, 2008, p.wk 13. Anthony H. Cordesman, the Arleigh A. Burke Chair in Strategy at the Center for Strategic and International Studies issued a paper entitled, “Israel as a Strategic

although it may be observed that “anti-Americanism” also results from American support until very recently and to still to a large extent for traditional and repressive ruling elites in Arab and Moslem countries. Be that as it may, domestic political considerations control, and they mandate unwavering support for Israel regardless of any “anti-Americanism” it may produce in the Arab world.³⁴

At the same time, American foreign policy ever since the Arab-Israeli 1967 war has been for a peaceful solution to the Arab-Israeli conflict and for an end to Israeli occupation of the West Bank. In addition, the United States has not recognized the Israeli annexation of East Jerusalem, and unlike the many nations that maintain their embassies in Jerusalem, the United States does not, and instead maintains its embassy in Tel Aviv.³⁵ Once Jordan abandoned its claim to the West Bank, which it had occupied since the end of the first Arab-Israeli war in 1949, and designated the Palestine Liberation

Liability?, in which he contended first that American ties to Israel are not based primarily on American strategic interests, but instead are moral and ethical, based on a reaction to the horrors of the Holocaust and America’s failure to help German and European Jews before it entered World War II, and are a product of the fact that Israel is a democracy. He goes on to say that while America’s commitment to Israel will not be abandoned, “the depth of that commitment does not justify or excuse actions by an Israeli government that unnecessarily make Israel a strategic liability when it should remain an asset.” In particular, according to Cordesman: “It does not mean that the United States should extend support to an Israeli government when that government fails to credibly pursue peace with its neighbors. It does not mean that the United States has the slightest interest in supporting Israeli settlements in the West Bank, or that the United States should take a hard-line position on Jerusalem that would effectively make it a Jewish rather than a mixed city. It does not mean that the United States should be passive when Israel makes a series of strategic blunders - such as persisting in the strategic bombing of Lebanon during the Israeli-Hezbollah conflict, escalating its attack on Gaza long after it had achieved its key objectives, embarrassing the U.S. president by announcing the expansion of Israeli building programs in east Jerusalem at a critical moment in U.S. efforts to put Israeli-Palestinian peace talks back on track, or sending oflinecommandos to seize a Turkish ship in a horribly mismanaged effort to halt the ‘peace flotilla’ going to Gaza.”Cordesman concludes with the admonition that, “Israel should be sensitive to the fact that its actions directly affect U.S. strategic interests in the Arab and Muslim worlds, and it must be sensitive to U.S. strategic concerns as the United States is to those of Israel.”Anthony H. Cordesman, *Israel as a Strategic Liability?* <http://csis.org/publication/israel-strategic-liability>, June 2, 2010. The Cordesman paper is analyzed in Helene Cooper, “What to Do About Israel?” *NEW YORK TIMES*, June 6, 2010, pp. WK1.

³⁴ Interestingly enough, commentators such as Mr. Cordesman, who finds American support for Israel rooted in ethical considerations and share values, fail to discuss the significance of domestic political considerations in the unwavering American support for Israel. They are far stronger than ethical considerations and shared values in explaining that support.

³⁵ In 1995, Congress directed that the American Embassy in Israel be relocated to Jerusalem, but allowed the President to postpone the move for 6 months on grounds of national security, which every President has done. *See e.g.* Reuters. “Bush Delays Shift of Embassy from Tel Aviv to Jerusalem,” *PHILADELPHIA DAILY NEWS*, Dec. 18, 2001, p. 53. The latest suspension by President Obama took place on June 3, 2011. <http://whitehouse.gov/the-press-office/2011/06/03/presidential-memorandum-jerusalem>. The law may also violate separation of powers, since it can be contended that the President’s unquestioned power under Art. II, sec. 3 to recognize foreign government gives the President alone the power to decide where to locate an American Embassy.

Organization as the “sole representative of the Palestinian people,” the focus of American foreign policy has been on a peace agreement between Israel and the Palestinians. Little purpose would be served in the present paper in discussing the abortive efforts to bring about such an agreement, beginning with the 1993 Oslo Accords, continuing with the failed Clinton-Barak 1998 peace proposal, and other efforts taken thereafter.³⁶

Instead, I want to move to the present time and to discuss the possibility of the United States, under the leadership of President Obama, taking the initiative and contributing to an agreement between Israel and the Palestinian Authority for a two-state solution, an end to the Israeli occupation of the West Bank, an independent Palestinian state, and security for Israel.

THE UNITED STATES AND THE ISRAELI-PALESTINIAN PEACE PROCESS

The Government of the United States and the Government of Israel are necessarily locked into a symbiotic relationship. Israel is heavily dependent on the United States for military assistance and for support in the United Nations and in the international arena. It also relies on the financial support provided by American Jews. For these reasons the Israeli public expects the Government of Israel to maintain very good relations with the United States and expects the Israeli Prime Minister to avoid doing anything that would antagonize the American President so much that would cause the American President to announce a “break” with Israel. At the same time, the domestic political considerations in the United States that we have discussed at length demand that the United States maintains very good relations with Israel and be “steadfast” in its support of Israel. These considerations also constrain the American President in the President’s dealings with the Israeli Prime Minister and caution the President against being so frustrated or antagonized by the Israeli Prime Minister that the President would announce a break with Israel. The result is that the dealings between the American President and the Israeli Prime Minister take the form of push and push back, push and push back. Both parties are careful not to miscalculate how much pressure and resistance each can put on each other, and both must take into account the political realities the other faces.³⁷ In the final analysis, however, it is my view that the American President can “push harder” and perhaps lead the Israeli Prime Minister toward a course of action that the Israeli Prime Minister would like to avoid, but feels

³⁶ See note 20, *supra*.

³⁷ For a discussion of the tension in the relationship between President Obama and Prime Minister Netanyahu, see Helene Cooper, “Turning Point for 2 Leaders with Mistrust,” *NEW YORK TIMES*, May 20, 2011, p. 1

compelled to accept. I will try to demonstrate this process with respect to President Obama's taking the lead to try to bring about a two-state solution to the Israeli-Palestinian conflict.

At the present time, negotiations between Israel and the Palestinian Authority are stalled. Despite overtures and promises from the United States, Prime Minister Netanyahu resumed construction in the West Bank settlements after the expiration of the self-imposed moratorium. President Abbas of the Palestinian Authority then stated that he would refuse to participate in negotiations until settlement construction ended. Netanyahu refused to end settlement construction and called for "negotiations without conditions."³⁸ Since the two sides are at impasse, there are no meaningful negotiations, and none appear likely in the foreseeable future.

Instead, the Palestinian Authority has stated that when the United Nations General Assembly reconvenes in September, it will seek to obtain a resolution admitting the "State of Palestine" to United Nations membership. It has also stated that it will not abandon its plans to seek United Nations membership for a Palestinian state unless meaningful negotiations are underway between Israel and the Palestinian Authority. But since the Palestinian Authority has said that it will not enter into negotiations as long as settlement construction continues, and since Prime Minister Netanyahu has said that settlement construction will not stop, it would seem that the Palestinian Authority will follow through on its pledge to seek membership in the United Nations for a Palestinian state.³⁹

The Palestinian Authority has been building support for such a resolution, and it would be likely to be adopted by an overwhelming vote in the General Assembly. However, under the United Nations Charter,⁴⁰ the Security Council must recommend the admission of a state to membership before the General Assembly can vote on its admission. This means that the Security Council controls entry to United Nations membership. There can be no doubt that United States can use its veto in the Security Council to block a resolution for membership of the Palestinian state in the United Nations. Since the General Assembly would not be able to vote on admission of the Palestinian state to United Nations membership, that effort will fail. The most that the General Assembly could do would be to

³⁸ See Isabel Kershner, "Israel to Step Up Pace of Construction in West Bank Areas," *NEW YORK TIMES*, March 14, 2011, p. A4; *HAARETZ NEWS AGENCIES*, "Israel 'deeply appreciates' U.S. Veto on UN resolution condemning settlements," *supra*, note 30.

³⁹ See Ethan Bronner, "In Israel, Time for Peace Offer May Run Out," *NEW YORK TIMES*, April 3, 2011, p. 1.

⁴⁰ United Nations Charter, Art. IV.

recognize the existence of the Palestinian state and give it observer status in the United Nations.⁴¹ Again, the unwavering support for Israel by the United States will prevent a Palestinian state from becoming a member of the United Nations, and Israel will not be put in the position of occupying land belonging to a fellow United Nations member, at least some of which it has stated that it intends to keep in a final settlement with the Palestinian Authority.

At the same time, there has been a strong movement for significant change in many parts of the Middle East, with the overthrow of the regimes in Egypt and Tunisia, and likely in Yemen, an effort to overthrow the regime in Libya, assisted by NATO airpower, and demonstrations in Bahrein and Syria, which the governments have resisted with brutal force. The United States has responded to these cataclysmic events in seemingly inconsistent ways and is trying with some difficulty to assert a leadership role in the region.⁴²

It is in this context, that Prime Minister Netanyahu came to the United States in May to meet with President Obama and to address a joint session of Congress. Both the Prime Minister and the President also gave addresses at the national AIPAC convention. The stage was set for the “push and push back, push and push back” process characterizing the relationship between the American President and the Israeli Prime Minister that I described earlier.⁴³ And that is indeed what happened.

President Obama went first. On May 19, 2011, a day before Prime Minister Netanyahu was to arrive in Washington, the President gave a speech at the State Department, in which he stated that the pre-1967 borders, with mutually agreeable land swaps, presumably to adjust for some of the West Bank settlements, should be the starting point for peace negotiations between Israel and the

⁴¹ See Neil MacFarquhar, “Security Council Debate Offers Preview of Palestinian Bid,” *NEW YORK TIMES*, July 27, 2011, p. A 10. According to this report, the Palestinian Authority has not yet decided to seek full membership, which would be vetoed by the United States in the Security Council, or to petition the General Assembly for an upgrade from observer status to enhanced observer status, which is now held only by the Holy See. See also the discussion of Palestinian activity in the United Nations in relation to peace proposals in Mark Landler, “As U.S. Steps Back, Europe Takes Bigger Role in Mideast Peace Push,” *NEW YORK TIMES*, July 21, 2011, p. A10.

⁴² This movement has not yet spread to the Palestinians in the West Bank. It has been observed that, “At a time when the entire world, including President Obama, is applauding nonviolent popular protests from Cairo to Tehran, it would put Israel in an acute dilemma about how to react if tens of thousands of Palestinians started organizing protests in the West Bank, or marching on Israeli settlements, or on Jerusalem demanding an end to the Israeli military occupation.” Helene Cooper, “The Quiet Mideast Corner (Surprise),” *NEW YORK TIMES*, June 12, 2011, WR, p. 1.

⁴³ See Mark Landler & Helene Cooper, “As Uprisings Transform Mideast, Obama Aims to Reshape the Peace Debate,” *NEW YORK TIMES*, May 18, 2011, p. A5; Ethan Bronner, “Israeli Leader Outlines Points of Negotiation Before U.S. Trip,” *NEW YORK TIMES*, May 17, 2011, p. A4.

Palestinians.⁴⁴ While this proposition has long been assumed by American policymakers and Israeli and Palestinian leaders, it had never been stated so positively by an American President. The Netanyahu government had been informed that President Obama was going to make this statement, and strongly objected to it. Supposedly, Mr. Netanyahu held an “angry phone call” with Secretary of State Hillary Rodham Clinton on the morning of the President’s speech, in which he demanded that the President’s reference to the 1967 borders be cut from the speech. Israeli officials continued to press the point until right before the President arrived at the State Department, and the President made some changes in the text that delayed his appearance by 35 minutes. The speech itself was a 45 minute address that set forth a framework for the disparate American responses to the revolutions and conflicts in the Arab world in the wake of the “Arab Spring. The statement about the pre-1967 borders as the starting point for peace negotiations between Israel and the Palestinian Authority came toward the end of the speech.⁴⁵

Prime Minister Netanyahu’s response was that Israel could not return to its pre-1967 borders, saying that they were “indefensible,” but completely ignoring President Obama’s qualification of mutually agreed land swaps. As he was boarding the plane to Washington, the Prime Minister said that he had expected President Obama to reaffirm prior American commitments to Israel, which he said, “relate to Israel not having to withdraw to the 1967 lines, which are both indefensible and would leave major Israeli population centers in Judea and Samaria [the biblical name for the West Bank, according to Likud and the Settler Parties] beyond those lines,” a clear reference to the Jewish settlements in the West Bank. On the preceding Monday, Netanyahu said in the Israeli Parliament that Israel needed to hold on to the large settlement blocs in any future two-state solution with the Palestinians.⁴⁶

President Obama’s statement that the pre-1967 borders, with mutually agreed land swaps,

⁴⁴ This part of the speech was quoted in The Caucus, the Politics and Government Blog of the New York Times as follows: “The United States believes that negotiations should result in two states, with permanent Palestinian borders with Israel, Jordan and Egypt, and permanent Israeli borders with Palestine,” Mr. Obama said. “We believe the borders of Israel and Palestine should be based on the 1967 lines with mutually agreed swaps, so that secure and recognized borders are established for both states.” Michael D. Shear, “Republicans Pounce on Obama’s Mideast Speech,” <http://the-caucus.blogs.nytimes.com/2011/05/19/obamas-mideast-speech-draws-republican-fire>

⁴⁵ See Mark Lander & Steven Lee Myers, “Obama Seeks End to the Stalemate on Mideast Talks,” NEW YORK TIMES, May 20, 2011, p. 1.

⁴⁶ See Ethan Bronner, “Israel Icily Greeted Call by Obama for ‘67 Lines,” NEW YORK TIMES, May 20, 2011, p. A9.

should be the starting point for negotiations between Israel and the Palestinians was immediately seized on by Republicans running for President in 2012. Mitt Romney said that Obama has “thrown Israel under the bus.” Tim Pawlenty said that the President’s insistence on a return to the pre-1967 borders was a “mistaken and very dangerous demand.” Romney also accused the President of “dictating negotiating terms to our ally.”⁴⁷ Some Democratic leaders, while avoiding direct criticism of the President, in their speeches before AIPAC, also avoided saying that the pre-1967 borders should be the starting point of negotiations between Israel and the Palestinian Authority.⁴⁸

In a speech to AIPAC Sunday, May 20, President Obama made clear what he meant by “1967 lines with mutually agreed swaps.” He stated: “By definition, it means that the parties themselves—Israelis and Palestinians—will negotiate a border that is different than the one that existed on June 4, 1967. That’s what ‘mutually agreed-upon swaps’ means. It is a well-known formula to all who have worked on this issue for a generation.” And he insisted that, “there was nothing particularly original in my proposal.”⁴⁹

Now it was Prime Minister Netanyahu’s turn. On Tuesday, May 24, in a rare honor accorded to a foreign leader, the Prime Minister had been invited by John Boehner, the Speaker of the House to address a Joint Session of Congress.⁵⁰ The fact that he had been accorded this honor testifies to the

⁴⁷ See Michael D. Shear, “Republicans Pounce on Obama’s Mideast Speech, *supra*, note 24; Phillip Elliott, “Potential GOP Candidates Criticize Obama’s Approach,” BOSTON GLOBE, May 20, 2011, p. 8.

⁴⁸ See Peter Wallstein, “Obama Under Fire on Israel,” WASHINGTON POST, May 25, 2011, p. A13.

⁴⁹ *Id.* The pre-1967 borders have been referred to as the Green Line. The Green Line was drawn at the Rhodes armistice talks in 1948 that ended the conflict between Israel and the Arab states, following Israel’s declaration of independence. According to one Israeli commentator, the Green Line “had always been regarded as nothing more than an artificial line of separation eventually to be reworked,” and that “[f]or most Israeli leaders in 1967, the occupation of the West Bank was a sign that the future territorial order would be vastly different from the one they had lived with for the previous 19 years.” See David Newman, “A Green Line in the Sand,” NEW YORK TIMES, January 9, 2007, p. 19. Professor Newman goes on to say that in 1967, the Green Line was removed from all official maps, atlases and school books, but that in reality the Green Line remained the administrative boundary, separating Israel from the West Bank, with one law for the Jewish and Arab citizens of Israel and a quite different law for the Palestinian residents of the West Bank. Even Israeli settlers who moved to the West Bank were subject to the military authorities and not Israeli law, to show that Israel had not extended civilian law to the West Bank. Professor Newman then observes that in the past decade, “for most Israelis, the Green Line has once again become the line separating the relatively safe roads of Israel from the danger of the West Bank,” and that “[f]ew Israelis, other than the settlers, venture beyond it, even when doing so would make their route shorter.” The West Bank separation barrier has been constructed in large sections along the Green Line, and in 2007, Israel’s Education Minister ordered that the Green Line border be reintroduced in all texts and maps in the Israeli school system. He concludes that, “The Green Line is the default boundary, and it has finally been recognized anew by the Israeli government.”

⁵⁰ See Helene Cooper, “Diplomatic Race Over Peace Plan for Middle East,” NEW YORK TIMES, April 21,

fact that American foreign policy in the Middle East is a policy of unwavering support for Israel. As the New York Times observed, “With elections coming up next year, the lawmakers appeared eager to demonstrate their support for Israel as part of an effort to secure backing from one of the country’s most powerful constituencies, American Jews,” and “Mr. Netanyahu received no many standing ovations that at times it appeared that the lawmakers were listening to the speech standing up.”⁵¹ In the speech, the Prime Minister stated that the 1967 borders were not “defensible,” that “new boundaries would need to incorporate large blocs of Jewish settlements in the West Bank, and that any peace deal would have to include an Israeli Army presence along the Jordan River.” He went on to say that, “Jerusalem will never again be divided,” and that, Israel would not negotiate with the Palestinians until Palestinian President Abbas and the Fatah Party abandoned the recently negotiated agreement with Hamas. Finally, noting that he had said, “I will accept a Palestinian state,” he called upon President Abbas to say, “I will accept a Jewish state,” which would mean that Palestinians would not have any right of return to Israel.⁵² By contrast, President Obama’s speech dealt only with the borders of Israel and the Palestinian state, reflecting the view that this issue should be dealt with first and that only afterwards should the parties try to deal with the more difficult issues of Jerusalem and the future rights of Palestinian refugees.⁵³

Not surprisingly, the Palestinian leadership completely dismissed Prime Minister Netanyahu’s statements as not leading toward any solution. A spokesman for President Abbas stated: “Not only is he saying no Jerusalem and no return of refugees and keeping his soldiers along the Jordan, but he is demanding that we tear up our accord with Hamas. We will never accept an Israeli presence in the Palestinian state, especially along the Jordan River.”⁵⁴ The following Sunday, May 29, 2011, the Arab League’s Peace Process Committee met in Qatar, and pledged to request membership for the “State of Palestine” at the United Nations General Assembly meeting in New York in September, 2011.

2011, p.1

⁵¹ See Helene Cooper & Ethan Bronner, “Netanyahu Gives No Ground in Congress Speech,” NEW YORK TIMES, May 25, 2011, p. 6.

⁵² See *Id.* In a speech before AIPAC on the previous day, Prime Minister Netanyahu said that, “We will be very generous on the size of a future Palestinian state . . . We recognize that a Palestinian state must be big enough to be viable, independent and prosperous . . . and that some settlements will end up beyond Israel’s borders.” See David Horowitz, “Preaching, Eloquently to the Choir: The PM Told Congress Everything He Thinks Obama Should Be Telling America and the World,” JERUSALEM POST, May 25, 2011, p. 1. These comments on the size of a future Palestinian state were not repeated in the Prime Minister’s speech before Congress the next day.

⁵³ See Peter Wallerstein, ‘Obama Under Fire on Israel,’ *supra*, note 48.

⁵⁴ See Helene Cooper & Ethan Bronner, “Netanyahu Gives No Ground in Congress Speech,” *supra*, note 51

Palestinian President Abbas, in his opening remarks to the meeting, said that there were “no shared foundations” for peace talks with Prime Minister Netanyahu, and that seeking United Nations recognition for a Palestinian state was his only option.⁵⁵ But, as discussed earlier, because the United States will use its veto in the Security Council to block the admission of the Palestinian state as a United Nations member, the most that recognition by the United States General Assembly would mean is that the Palestinian state would have enhanced observer status at the United Nations. This will have no effect on the ground and will not bring an end to the Israeli occupation of the West Bank and a two-state solution any closer to fruition.⁵⁶

There the matter stands at the present time. There are no negotiations between Israel and the Palestinian Authority, and none are likely to take place before the United Nations General Assembly Meeting in September.⁵⁷ The matter is further complicated on the Palestinian side by the fact that Fatah and Hamas are trying to enter into a power-sharing agreement, and Hamas insists that it will never recognize Israel. The position of Hamas buttresses the position of the Netanyahu government that it cannot negotiate with the Palestinian Authority, since Hamas will be a part of the Palestinian Authority. The fact that Hamas is a part of the Palestinian Authority creates complications for the United States (and some European nations) since the United States refuses to deal with Hamas as a “terrorist” organization.⁵⁸

THE FINAL ANALYSIS: PRESIDENT OBAMA AND A HOPE FOR A RESOLUTION

In the final analysis, of course, a two-state solution to the Israeli-Palestinian conflict depends on an agreement between Israel and the Palestinian Authority. Realistically, however, the only way that such an agreement could be reached is with the active intervention of the United States. Such active

⁵⁵ See Ali Sawafta, “Arab League to Seek U.N. Seat for Palestinians,” CHICAGO TRIBUNE, May 30, 2011, p. 14.

⁵⁶ See the discussion, *supra*, notes 39-41, and accompanying text.

⁵⁷ However, one commentator sees the possibility of negotiations. According to this commentator, “Intensive efforts are underway to stave off a Palestinian bid for United Nations membership in September, with diplomats trying to lure Israeli and Palestinian leaders back to negotiations on the basis of President Obama’s formula of a state based on the 1967 lines with mutually agreed land swaps.” Ethan Bronner, “Ahead of U.N. Vote, Mideast Talks Are a Possibility,” NEW YORK TIMES, June 25, 2011, p. A9 For a more optimistic view of negotiations prior to the Obama-Netanyahu engagement, see Jeffrey Goldberg & Hussein Ibish, “Good News From the Middle East (Really),” NEW YORK TIMES, January 26, 2011, p. A23.

⁵⁸ See Ethan Bronner, “Palestinians Cancel Talks in Dispute on Premier,” NEW YORK TIMES, June 20, 2011, p. A4.

intervention can take place only after the 2012 Presidential election and only if President Obama is reelected.⁵⁹

Ever since the Oslo Accords in 1993, the policy of the United States government has been that the United States will work with Israel and the Palestinian Authority to implement the provisions of the Oslo Accords, resolve the Israel-Palestinian conflict, and bring about a two-state solution. It is fair to say, however, that most of the time, this policy has not been a high priority objective. Toward the end of his term, President Clinton made a strong effort to bring about an agreement between Palestinian President Yasir Arafat and Israeli Prime Minister Ehud Barak, but the effort failed, and an *intifada*, replete with suicide bombers and terrorist attacks from the West Bank, was underway, and was met in turn with increased Israeli security controls and restrictions on Palestinian movement in the West Bank.⁶⁰ This situation contributed to the election of Prime Minister Netanyahu in Israel, and a diminution of Israeli support for a two-state solution.⁶¹ After President George W. Bush was elected in 2000, the United States government went through the motions of encouraging Israel and the Palestinian Authority to arrive at an agreement, but did not press the matter very strongly. The horrific events of 9/11, the war in Afghanistan, and above all, the war in Iraq, dominated American foreign policy in the Middle East. There was little concern on the part of the Bush Administration with a resolution of the Israeli-Palestinian conflict.

Upon taking office in 2009, President Obama undertook a major shift in American foreign policy in the Middle East. The Obama Administration sought to reach out to the Arab world and to Moslem nations everywhere, emphasizing that the United States wanted to have good relations with Arab and Moslem nations and that it was supportive of economic development and a movement toward democracy in the region.⁶² As part of the new American foreign policy in the Middle East, President Obama tried very hard to bring Netanyahu and Abbas together, but the effort failed when Netanyahu refused to extend a settlement freeze and Abbas in turn refused to enter into negotiations

⁵⁹ Based on the relative inaction of the United States during the Presidencies of George H.W. Bush and George W. Bush, and the comments of Republican Presidential candidates attacking President Obama's statement on the 1967 borders, *see* note 47, *supra*, it is highly unlikely that a Republican President would make a strong effort to bring about a resolution of the Israeli-Palestinian conflict.

⁶⁰ *See* note 20, *supra*.

⁶¹ *See* "Times Topics: Ehud Barak," NEW YORK TIMES, January 18, 2011, http://topics.nytimes.com/top/reference/timestopics/people/b/ehud_barak/index.html.

⁶² *See* Rod Nordland, "Fighting Terror without Weapons: A Measured Obama Gains a Muslim Hearing while bin Laden Rails," THE INTERNATIONAL HERALD TRIBUNE, June 8, 2009, p. 2.

with Netanyahu until the settlement freeze was restored.⁶³ At the same time, however, Obama acted within the framework of strong American support for Israel, as illustrated by the United States vetoing Security Council resolutions that were critical of Israel.⁶⁴

In my opinion, President Obama believes that a settlement of the Israeli-Palestinian conflict and the resultant two-state solution would strongly advance American interests in the Middle East. The settlement would be brought about with American “assistance,” which would demonstrate to the Arab world and Moslem nations that the United States understood the aspirations of the Arab and Moslem people and was committed to a peaceful and prosperous Middle East. I will not try to discuss here the foreign policy ramifications of a settlement or what might be the mutually acceptable terms of a settlement. These matters are beyond the scope of the present paper. Rather, I will return to politics and religion, and discuss why I think that President Obama is in a position to try to pressure Netanyahu and Abbas into reaching a settlement.

I use the term “pressure” with particular reference to Prime Minister Netanyahu. In my opinion, Netanyahu is not committed to a two state solution, and is essentially satisfied with the *status quo*. Under the status quo, he is not required to give up any of the West Bank that Israel now occupies, including the more remote settlements, and is not required to make any change in Jerusalem as an “undivided city and the eternal capitol of Israel,” or to pay any attention to the Palestinian refugees. On the other side, I think that President Abbas would like to have a peace agreement, an independent Palestinian state, and an end to the Israeli occupation of the West Bank. But, he knows that he would have difficulty, especially in the face of opposition from Hamas, in persuading the Palestinian population to recognize Israel, to give up the emotionally-laden demand of a “right of return,” for the some four million Palestinian refugees, and in all probability, to give up a claim to all of East Jerusalem. Insofar as President Obama would apply “pressure” to President Abbas, it is a “pressure” of “cover” and “excuse.” President Obama would have to persuade President Abbas that whatever he has succeeded in “pressuring” Prime Minister Netanyahu to “give up” in order to achieve a settlement represents the “best deal” for the Palestinians, and that President Abbas can assure the Palestinian that the United States supports an independent Palestinian state, and will provide significant financial

⁶³ See the discussion, *supra*, notes 38-39, and accompanying text.

⁶⁴ See the discussion, *supra*, notes 40-41, and accompanying text.

assistance to it. The focus then will be on the “pressure” on Netanyahu.

President Obama is not likely to undertake any major initiative to bring about an Israeli-Palestinian agreement until the 2012 Presidential election is over, and he has been reelected. In every Presidential election, the Republican candidate tries to cut into the Jewish support for the Democratic candidate by asserting that the Democratic candidate is “soft on Israel” while the Republican candidate is “strong on Israel.” This effort was not very successful in 2008, when President Obama received 78% of the Jewish vote, but there is no doubt that the Republican candidate will try this argument again in 2012.⁶⁵ President Obama would not want to give the Republican candidate any opening with Jewish voters and with American voters generally by undertaking a major initiative to bring about an agreement. So, if there is going to be a major initiative by an American President to bring about an agreement, it will have to await the reelection of President Obama. If President Obama is not reelected, it is highly unlikely that the new Republican President will undertake that initiative.

Since President Obama would be constitutionally prohibited for running for a third term,⁶⁶ he need not take domestic political considerations into account when he would be trying to pressure Prime Minister Netanyahu and President Abbas into reaching an agreement. I have previously discussed the “push and push back” relationship between an American President and the Israeli Prime Minister with respect to matters such as the resolution of the Israeli-Palestinian conflict.⁶⁷ Because President Obama does not have to take domestic political considerations into account, he can push Prime Minister Netanyahu harder and can resist Netanyahu’s push back with greater force. Most importantly, because he is a Democrat and because all but one of the Jewish Senators and Representatives are Democrats, they are likely, at least publicly, to be supportive of the President’s efforts to bring about an Israeli-Palestinian settlement. So, the President can present a united front with the Jewish Senators and Representatives in support of his efforts to bring about the settlement.

By the same token, and for the same reason, the leaders of the mainstream Jewish organizations, including AIPAC, are also likely to either publicly support the President or at least refrain from criticizing him. This is illustrated by the reaction to the President’s statement that the

⁶⁵ President Obama’s statement that the pre-1967 borders, with mutually agreed land swaps, should be the starting point for negotiations between Israel and the Palestinian Authority, was strongly attacked by Republicans running for President in 2012. *See* the discussion, *supra*, notes 47-48, and accompanying text.

⁶⁶ Under the 22nd Amendment to the Constitution, no person may serve a total or more than two terms as President.

⁶⁷ *See* the discussion, *supra*, note 37, and accompanying text.

pre-1967 borders, with mutually agreed land swaps, should be the starting point for negotiations between Israel and the Palestinian Authority.

There was no sweeping attack on the statement by AIPAC or other conservative Jewish organizations. They did not take out advertisements criticizing the President, and the New York Times reported that: “Obama’s supporters include prominent Israel backers, including Lee Rosenberg, President of AIPAC, and Alan Solow, chairman of the Conference of Presidents of Major American Jewish Organizations. Both have walked a fine line, reassuring skeptics while conveying concerns to their friend in the White House.”⁶⁸ And, Representative Debbie Wasserman Schultz, who is the new national Democratic Party chair, and who represents a South Florida district with a large Jewish population, issued a written statement: “As a Jewish member of Congress who cares deeply about preserving Israel as a Jewish, democratic state, I am proud that President Obama spoke forcefully about continuing the United States’ strong and stalwart support of Israel.”⁶⁹

So, if President Obama pushes back hard, and tries to pressure Prime Minister Netanyahu and President Abbas into reaching an agreement, he will have the support of the Jewish Democratic Senators and Representatives. He will also have the support of liberal Jewish groups, such as the Union for Reform Judaism and J Street, which strongly favor a two-state solution, based on the pre-1967 borders.⁷⁰ He will also have the support of prominent Israeli backers who are the leaders of major Jewish organizations. More importantly, it is unlikely that there will be any overt opposition from any significant part of the Jewish community.

The other side of the equation is that President Obama cannot push too far and would not want to do so. For example, he would not support any Palestinian “right of return” to Israel, and would be very cautious with respect to a Palestinian presence in East Jerusalem. But he could and would push hard on land swaps for the near in settlements and the abandonment of the more remote settlements. The result may well be that President Obama, with the support of Jewish Democratic Senators and Representatives, and his electoral support of Jewish voters, will succeed in helping to bring about an

⁶⁸ See Peter Wallstein, “Obama Under Fire on Israel,” *supra*, note 48.

⁶⁹ *Id.*

⁷⁰ See the discussion, *supra*, notes 20-21, and accompanying text.

agreement between the Israeli Prime Minister and the Palestinian President and a resolution of the Israeli-Palestinian conflict, with two states living side by side in peace and security.