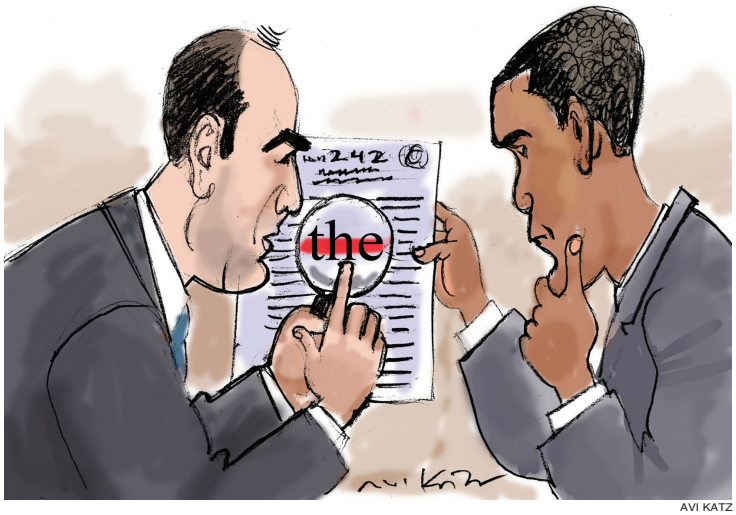


VIEWPOINT

Gilead Sher

Start with 242, Not 1967

WHEN US PRESIDENT Barack Obama declared that the 1967 borders should serve as the basis for negotiations between Israel and the Palestinians, he deliberately undermined a 44-year-long international adherence to United Nations Security Council Resolution 242. Although the phrase he used, "1967 lines plus land swaps," may indeed reflect an eventual delineation of boundaries between Israel and a Palestinian state, it is a false starting point, which, from the outset, puts the onus on Israel and constrains the range of negotiation.



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Resolution 242 was passed under Chapter VI of the UN Charter directly after the 1967 Six Day War, and it set out principles for the withdrawal of Israeli armed forces from "territories occupied in the recent conflict." Importantly, the resolution refers to territories, not "the" territories. The omission of the definite article was intentional, and has played a significant role in framing the assumptions and expectations of all parties involved since 1967.

Resolution 242 was drawn up by the British government. Lord Caradon, UK ambassador to the UN at the time, stated the following:

"We didn't say there should be a withdrawal to the '67 line; we did not put the 'the' in. We did not say all the territories, deliberately. We knew that the boundaries of '67 were not drawn as permanent frontiers; they were a cease-fire line of a couple of decades earlier. We did not say that the '67 boundaries must be forever; it would be insanity."

Then-British foreign secretary George Brown added: "I have been asked over and over again to clarify, modify or improve the wording, but I do not intend to do that. The phrasing of the Resolution was very carefully worked out, and it was a difficult and complicated exercise to get it accepted by the UN Security Council. Before we submitted it to the Council, we showed it to the Arab leaders. The proposal said 'Israel will withdraw from territories that were occupied,' and not from 'the' territories, which means that Israel will not withdraw from all territories."

The American position was identical. Arthur Goldberg, then-US ambassador to the UN declared:

"Does Resolution 242 as unanimously adopted by the UN Security Council require the withdrawal of Israeli armed forces from all the territories occupied by Israel during the 1967 war? The answer is no. In the resolution, the words "the" and "all" are omitted. Resolution 242 calls for the withdrawal of Israeli armed forces from territories occupied in the 1967 conflict, without specifying the extent of the withdrawal. The resolution, therefore, neither commands nor prohibits total withdrawal..."

The Palestinians, however, have steadily been distancing themselves from 242. Nabil Sha'ath, a top Palestinian policymaker, declared in a July 2002 interview in the London-based "Al-Hayat" daily:

"Whether a state is announced now or after liberation, its borders must be those of 4th June 1967. We will not accept a state without borders or with borders based on UN Resolution 242, which we believe is no longer suitable."

So it seems bizarre that Obama should suddenly adopt a divergent Palestinian position at the expense of a resolution that has provided the fundamental guiding principles for Middle East peacemaking for decades.

I negotiated for a permanent-status agreement at Camp David in 2000 and Taba in 2001 on behalf of the government of Israel. After years of intense exchanges on the core issues of Jerusalem, the holy sites, the refugees, territory, borders, settlements and security, we know what a final agreement will ultimately look like. Since the early 1990s, every political initiative for ending the conflict has led to the same fundamental solutions.

However, the basis of all these negotiations had always been UN Security Council Resolution 242 and the subsequent UNSCR 338 passed in 1973. All the agreements signed to date between Israel and the PLO are based on those two resolutions. Obama's ill-judged endorsement of the 1967 lines plus land swaps formula effectively denies the starting point of decades of diplomacy and undermines the foundation of future negotiations.

We know that powerful, cruel spoilers will do their best to avoid compromise. Memories, fanaticism, terrorism and Jihadist fundamentalism often triumph over reason. Therefore it is crucial that the negotiating process be unfettered by statements, which alter the fundamental understandings that have guided it. If allowed to emerge, the hoped-for endgame will be two states for two peoples: an independent, non-militarized Palestinian state living side by side with Israel, on the basis of UN Resolutions 242 and 338.

Attorney Gilead Sher, a practicing lawyer, who also teaches conflict management at the Universities of Pennsylvania and Tel Aviv, was prime minister Ehud Barak's chief of staff and Israel's co-chief negotiator with the Palestinians at the Camp David summit in 2000 and the Taba talks in 2001.