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Peace, but not at any price

Shammai Engelmayer

Much has been written about the as-yet-to-be-revealed political/territorial aspects of the U.S. proposal for an Israeli-Palestinian peace agreement, even though no one yet knows what will be in it. There have been some discouraging hints, however.

The unveiling of the plan, said to be two years in the making, has been postponed time and again. Reportedly, the most recent delay is White House uncertainty over whether to release it before or after Israel’s Knesset election on September 17 (the same reason given for withholding it in April). If true, this could be a most telling hint because it suggests the plan contains territorial concessions Israel’s right wing cannot live with; revealing it now could hurt Prime Minister Benjamin Netanyahu’s re-election chances.

In the past, administration officials offered similar hints. The projected plan, as the Jerusalem Post reported last year, may include “several significant provisions that will pose political challenges” to Netanyahu. Israel’s Channel 10 went further. It reported last year that Trump may pressure Netanyahu into accepting those provisions. Trump, as Channel 10 reported it, said he was prepared to get “tough with Bibi” because “I gave Bibi a lot” by moving the U.S. embassy to Jerusalem. He apparently also hinted that U.S. aid to Israel could suffer if Israel does not accept his plan. That Netanyahu is susceptible to pressure from Trump was evident last week when he reversed Israel’s decision to allow Reps. Ilhan Omar and Rashida Tlaib to visit Israel. He barred the two lawmakers less than an hour after Trump tweeted that he should do so—a move criticized by Republicans as well as Democrats, and even by Aipac.

There is, of course, no argument regarding territorial concessions that would convince Israel’s secularist nationalists, who reportedly now have growing support among Republicans in Congress, according to news reports last week. They will not accept an Israel that does not encompass all the land on both sides of the green line. After all, it is on the West Bank that so much of our history played out. When we prayed for 2,000 years to return to our homeland, we had more in mind east Jerusalem, Hebron, Bethlehem, and Nablus (Shechem), not west Jerusalem, Haifa, Caesarea or Eilat.

For the religious right, the argument goes deeper: Jewish law forbids giving up even a single dunam of the Land of Israel, for any reason. Many cite the Sifrei commentary to Deuteronomy (see chapter 12, paragraph 80) to support their position. The commentary states that settling the Land of Israel is of greater merit than all the other mitzvot combined—so much so, as is said elsewhere, that Shabbat may be violated to do so (see below).

That our sages of blessed memory actually meant that settling the Land of Israel tops the list of mitzvot, however, is questionable. They often used such hyperbole to underscore the importance of a mitzvah. Other mitzvot similarly designated are tzitzit (see the Babylonian Talmud tractate Shevuot 29a), Torah study (see BT Shabbat 127a and Mishnah Peah 1:1), and tzedakah (see BT Bava Batra 9a).

Granted, halachah is not monolithic and open to interpretation. One thing is not open to interpretation, however: We are commanded to settle the Land of Israel—all of it, not just a piece of it.

As noted above, so important a mitzvah is this that Shabbat may be violated in some way in order to purchase property there. According to the BT Bava Kama 80b, a member of the Bar Pappa family decreed, “the deed of sale may be written even on Shabbat.”

This offended other sages, who attempted an amendment by referencing a ruling made by another sage, Rava, in a different context. Because “a person’s agent is as himself” (see BT B’rachot 34b and elsewhere), asking a non-Jew to do work on Shabbat is rabbinically prohibited. It is permissible in this case, however, they said, because the mitzvah of settling the Land takes precedence.

The “Rava amendment” failed to satisfy two of the most authoritative codifiers of Jewish law who often take opposing views: Rabbi Joseph Karo (author of the Shulchan Aruch), and Rabbi Moses Isserles (the Rema, author of a halachic gloss to Karo’s work). Ruled Karo, “It is permissible to acquire a house in the land of Israel from a non-Jew on Shabbat and to sign and register it.” (See Shulchan Arukh, Orach Chaim, 306:11.)

The Rema agreed, but only if the document was written “in their language,” meaning a language other than Hebrew, because writing on Shabbat in a language other than Hebrew “is only a rabbinic prohibition.” Thus, it may be set aside because of the biblical imperative to settle the Land.

This scandalized Rabbi Yechiel Epstein, author of a commentary on the Shulchan Aruch, who wrote that a “grave error” by the printer of the Shulchan Aruch, and that Karo and Isserles meant to adopt the “Rava amendment.” (See his Aruch haShulchan, Orach Chayim 306:22.)

In any case, all agree that settling the Land of Israel is important enough to set aside even some rabbinically imposed Shabbat rules.

On the other hand, there is biblical evidence to suggest that giving up territory may not be a sin at all, if what is received in return is worth the price. Solomon traded 20 cities in the Galilee for the building materials he needed to complete the Temple and his own palace. The biblical text offers no condemnation (see 1 Kings 9:11-14). Certainly, if land can be traded for cedar wood (and the additional 120 gold talents Tyre gratuitously added later), it can be traded for peace, because the preservation of human life is the goal of peace—and the preservation of life outweighs nearly all the other commandments, as will be explained below.

For the price to be worth it, however, the “peace” offered must be a true peace, and that seems unlikely given statements by Palestinian Authority President Mahmoud Abbas and others. In April, before the last anticipated rollout of the plan, Nabil Shaath, an Abbas adviser, said of it, “I don’t expect it to have anything worthwhile….I will reject it if it is really what I expect.”

Consideration must be given, however, to two sins halachah has always insisted are paramount, as discussed in previous columns. These sins are pikuach nefesh (threat to life) and sh’fichut damim (the needless spilling of blood). Sh’fichut damim is why David was denied the honor of building the Temple, according to David himself; his hands, he said, were too sullied with blood (see 1 Chronicles 22:8).

Pikuach nefesh, not putting lives in danger, is considered to be pre-eminent in Judaism, and not just hyperbolically. Almost nothing—not even Shabbat or kashrut—takes precedence when life is at risk. Here, the religion-oriented spokesmen for not trading land for peace offer a simplistic and wholly unrealistic (even absurd) solution: If the Arabs in the territories will not live in peace, throw them out. Then, there would be no pikuach nefesh.

This argument ignores the almost certain violent response from the Arab world (which would involve both pikuach nefesh and sh’fichut damim), and the condemnation and reprisals that will come from the rest of the world (which also would lead to pikuach nefesh and possibly sh’fichut damim).

For many on the extreme religious right, however, such things are of no concern. At work for them is a premise that always ended in disaster for us in the past and something halachah itself specifically forbids: reliance on a miracle. Says the Talmud, “anywhere that the danger is established one may not rely on a miracle” (see BT Kiddushin 39b). The religious nationalists truly believe that if they start the war, God will finish it in our favor. It did not work for the Zealots in the year 66 or Bar Kochba in the year 130. And for those who argue that it did work in modern times, 1967 especially, please note that the war that began in 1948 is still ongoing.

There is only one legitimate consideration for Israel in deciding whether to sign a peace agreement with the Palestinians: whether its security concerns are more than adequately met. Only if the planners and strategists of the Israel Defense Forces are fully satisfied with an agreement—not the politicians in Jerusalem or Washington, not the ideologues, not the religiously rigid, but the people charged with winning every war because losing one is not an option—only then may an agreement be signed and implemented. That is enough of a hurdle to overcome.