



# The Israeli-Palestinian Diplomatic Process over Time







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# Preface from the S. Daniel Abraham Center for Strategic Dialogue

After the onset of Secretary of State John Kerry's diplomatic effort in the summer of 2013, we came to realize that there are two primary obstacles to the success of the peace initiatives:

Most of Israeli society did not believe that the initiative would succeed. At least part of the skepticism was due to the fact that the public was largely unaware of the growing diplomatic rapprochement between the sides in the course of the earlier negotiations on the core issues.

Israel demanded that the negotiations be held "without preconditions" instead of resuming the negotiations where they left off under Prime Minister Olmert. This negatively impacted on Palestinian confidence regarding Israel's consistency in resolving the core issues.

In light of this, the S. Daniel Abraham Center's steering committee came to the conclusion that Israeli society, and especially Israeli policy-makers and public-opinion leaders, are in need of a document that would sketch all the rounds of negotiations between the State of Israel and the PLO, from the early 1990s through Secretary of State Kerry's initiative of 2013-14. Such a document would serve as a basis for understanding the past and promoting diplomatic advancement in the future.

In the fall of 2013, we turned to the Friedrich-Ebert-Stiftung with whom we worked with in the past on the Palestinian issue and other topics, in order to collaborate in this important project. In light of the importance of the project, FES Israel Office Director Dr. Werner Puschra and FES Project Manager Judith Stelmach decided to significantly support the project's implementation. We thank the FES for its cooperation, support, joint planning and for making the project feasible.

At the beginning of 2014, we approached three researchers and asked each one to analyze a specific angle of the diplomatic process. We asked Mr. Elias Zananiri, political and media consultant who has followed the political process for many years, to analyze the Palestinian positions in the course of the various negotiations. We asked Colonel (ret.) Shaul Arieli, researcher of the Israeli-Palestinian conflict who served as head of the Negotiating Administration in former Prime Minister Ehud Barak's office, to analyze the Israeli positions over the years. We also asked Mr. Dan Rothem, senior research consultant in the Washington-based S. Daniel Abraham Center for Peace in the Middle East, to examine American mediation over the years.

This project was the last research venture to be initiated by Dr. Reuven Pedatzur, former director of the center, who met an untimely death in a car accident in April 2014. Reuven was supposed to serve as the project's scientific editor and also contribute the closing summary section which would analyze the researchers' chapters and propose operative suggestions on the basis of the study.

After Reuven's tragic death, we decided to move ahead with the project in spite of the tragic circumstances. We approached our colleague and friend, Colonel (ret.) Dr. Ephraim Lavie, Director of the Tami Steinmetz Center for Peace Research at the Tel Aviv University, and asked him to serve as the scientific editor of the project. We know that Reuven would have agreed with this choice.

Dr. Lavie consented and, despite the very short time-frame involved, took on the role as scientific editor. He also contributed a very important chapter to the project, in which he discusses the conclusions of the researchers and offers operative recommendations to policy makers. We thank Ephraim Lavie for his willingness to assume such a project under unfortunate circumstances; his work involved numerous meetings with the researchers and many hours of devoted, cooperative work with them.

We hope that this publication will demonstrate the significant diplomatic rapprochement that has been reached by the sides in the core issues since the 1990s. We hope that this work will serve as an important tool for decision-makers in future attempts to reach a permanent agreement with the Palestinians.

We offer our heartfelt thanks to Friedrich-Ebert-Stiftung, researchers and scientific editor who contributed greatly to the success of the project.

**Brig. Gen. (ret.) Dr. Ephraim Sneh**

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# Preface by the Friedrich-Ebert-Stiftung Israel

When Dr. Reuven Pedatzur, of blessed memory, and Elie Friedman from the S. Daniel Abraham Center for Strategic Dialogue at Netanya Academic College came to see us at the Friedrich-Ebert-Stiftung Israel and suggested this research project, our first reaction was disbelief that such an analysis had not been done before. The fact that ever since 1991 Israel and the Palestinians have been engaged in countless rounds and types of negotiations without reaching an agreement until today, virtually cries for a thorough investigation of the process, and even more for knowledgeable advice.

The publication at hand presents three perspectives of the same process: the Israeli, the Palestinian, and the American. The papers show the changes in approach and understanding which took place over time in the negotiating teams, but also among the American mediators. They also show how on some issues the negotiating parties managed to reach a broad understanding, while on other issues the differences remained. But the two main conclusions to be drawn from the analysis at hand are:

During all these years the parties largely failed to see things through one another's eyes, and therefore, were unable (if not unwilling) to understand the necessities of one another.

The parties set out to negotiate without having the ultimate objective in mind, namely reaching a lasting peace agreement with the result of two independent, sovereign states living side by side peacefully as a strategic goal.

Under these circumstances we must not wonder about the disappointing outcome.

Dr. Reuven Pedatzur, who has been a friend and a partner to the Friedrich-Ebert-Stiftung for many years and untimely passed away in April 2014, was a critical voice motivated by his profound love for and loyalty to his country, about whose future he was deeply concerned. This research project was especially important to him, hoping that its results will help to find new paths in the negotiations between Israel and the Palestinians which will eventually lead to lasting peace between the two peoples and to prosperity for all. The latest hostilities between Israel and the Hamas, the terrible pain and grief on both sides, the hopelessness on both sides are another proof for the necessity of a real solution of the conflict – better sooner than later. We at the FES Israel share Dr. Pedatzur's aspirations and hope that the publication at hand will contribute to a better understanding of the mistakes and misunderstandings of the past and the imperatives of the present and the future.

**Dr. Werner Puschra**

**Director, Friedrich-Ebert-Stiftung Israel**

# The Diplomatic Process between Israel and the PLO from the Madrid Peace Conference until Today

## The Israeli Positions on Four Core Issues: Borders, Security, Jerusalem and Refugees

Shaul Arieli

### The Israeli perspective and positions in the diplomatic process between Israel and the PLO

1. The objective of this document is to survey and present the State of Israel's agreements and positions in the course of diplomatic negotiations with the PLO from the Madrid Conference in 1991, through the Oslo process and Road Map, until the shuttle diplomacy of American Secretary of State John Kerry.
2. The survey presents the agreements that were signed between the State of Israel and the PLO in a series of official agreements, as well as the Israeli positions in negotiations which did not involve signed agreements.
3. The Israeli agreements and positions are presented in three main categories:
  - Agreements – Declaration of Principles, interim agreements (Gaza and Jericho, the Hebron Protocol, the Wye Memorandum).
  - The negotiations for a permanent agreement – the Madrid conference, Camp David summit, the Taba talks, the Annapolis conference, and the Kerry shuttle talks.
  - Proposals and programs – the Clinton Parameters, the Arab League initiative and the Road Map for peace.
4. Similarly, the Geneva Agreement is presented. Despite the fact that it is not an official document, it is the only document drafted by the two parties as a permanent agreement and it addresses all the issues involved. Many people view it as a possible model for a permanent agreement between Israel and Palestine.
5. The survey only covers the “core issues” of the conflict: borders, security, Jerusalem and refugees.
6. The relative weight of the issues (and the extent of their coverage) varied in the course of the negotiation process for two reasons:
  - Some were discussed only in talks on a permanent agreement.
  - Most of the talks devoted the bulk of their time to the core issues of borders and territory, including the settlement issue.
7. The negotiation processes between Israel and the PLO took place in various channels, sometimes even simultaneously. Also, in each channel separate talks took place between different persons from each side. The participants of the talks from both sides were briefed by different leaders, and were required to report back only to them. As a result, differing positions were occasionally expressed by the same side in the same time period.
8. The changes in the Israeli positions did not develop in a linear fashion; sometimes the Israelis regressed back to old positions. This is because the underlying negotiation principle was that “nothing is agreed upon until everything is agreed upon.” Thus sometimes a compromise position was only presented as part of a comprehensive “package deal” of “give and take” in the four issues.



### The Madrid Conference – 1991

After the First Gulf War, the United States renewed its attempts to reach peace arrangements in the Middle East while exploiting the inter-Arab situation that was created with the end of the war. In brief, the US proposed a procedural framework for convening a peace conference for the Middle East. The proposal recommended that Israeli-Palestinian negotiations be conducted in the conference on a two-tier solution to the conflict between them. In the first stage, autonomous self-rule would be established for an interim period of five years, and negotiations on the permanent agreement would begin in the third year of the interim period. The Madrid conference was jointly convened by the presidents of the United States and the Soviet Union. These

invited representatives of the governments of Israel, Syria, Jordan, Lebanon and Egypt as well as of the United States, the Soviet Union and the European Union. The Palestinians were represented in the conference as part of the Jordanian delegation. The parties accepted the invitation and the conference was held in Madrid, capital of Spain, from October 30 to November 1, 1991.

While the initial preparations were underway for convening the Madrid conference in 1991, the involved parties began to realize that the question of Jerusalem and its Arab residents could not be ignored. Thus Israel presented two pre-conditions for its participation in the conference. First, that East Jerusalem Arabs would not be included in the joint Jordanian-Palestinian delegation. Second, that the Jerusalem issue be omitted from the conference agenda and from the terms of the interim arrangement while in fact, most of the conference discussions would focus on the interim arrangement.

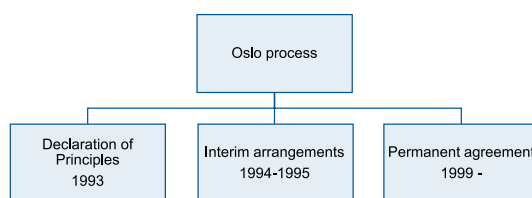
In actual fact, the negotiations did address the East Jerusalem issue indirectly, took place in Jerusalem, and East Jerusalem Arabs were usually included among the Palestinian participants. Between April and November 1991 American Secretary of State James Baker met with a delegation of three representatives, two of them from Jerusalem: Hanan Ashrawi and Faisal Husseini. The Palestinian delegation's center of activity was in East Jerusalem, in the Orient House. Due to the Palestinian delegation's connection to the PLO "outside" the delegation actually represented the PLO; the Orient House turned into a kind of local branch of the PLO's "foreign ministry."

While the conference itself did not have immediate results, it contributed its share toward the peace process that began a year later. As explained by Saeb Erekat, who was tasked with negotiating with Israel on behalf of the PLO, "We went to Madrid under the umbrella of a Jordanian-Palestinian delegation. On the one hand we weren't the PLO, on the other hand we received orders from Arafat and others in Tunis... Unwillingly and under coercion, Shamir gave the seal of approval to the 'terms of reference' of the peace process (Security Council resolutions 242 and 338). Without Madrid, we never would have gotten to Oslo. He didn't understand what we understood – that things would develop naturally, and that those who would try to stop the process would disappear."<sup>1</sup>

Immediately after the conference, a channel was opened in Washington for direct talks between Israel and a joint Jordanian-Palestinian delegation that ostensibly did not include the PLO (although it was clear to everyone involved that the PLO pulled the strings). The first five rounds of talks in Washington took place at a time that the Likud, headed by Yitzhak Shamir, made up the government. The talks dealt mainly with procedural issues, and Israel refused to discuss

territorial concessions. Israel was only willing to consider a limited autonomy plan for the Palestinians.

Yitzhak Rabin replaced Yitzhak Shamir as prime minister but the change of leadership had no effect on the atmosphere of the talks. Then-Foreign Minister Shimon Peres said, "As the negotiations with the Palestinian delegation advanced, so did the pullback from the agreement. More and more, the negotiations felt like one long press conference in which each side tried with all its might to prove to its bosses that it is firm as a rock and nothing will move it from its place. The Palestinian delegation was literally torn to pieces between the contradictory instructions and responses it received. The orders from Tunis were uncompromising. True, the leadership did not directly participate in the talks, but it determined the Palestinian position as if it was an internal ideological discussion, one of the sides negotiating with itself."<sup>2</sup>



## Declaration of Principles – 1993

In 1992, Yitzhak Rabin was re-elected to the premiership of the Israeli government after he received 44 mandates in the elections held on June 23. Until the previous elections in 1988, the well-known position of Rabin and the Labor party regarding additional peace agreements can be summarized in the following three principles:

- There will be no return to the borders of June 4, 1967.
- No Israeli settlements will be evacuated from territories that Israel would return as part of any future agreements.
- No kind of dialogue will be held with the PLO.<sup>3</sup>

The Labor party elections platform for the 13th Knesset created an opening for other possibilities: "The Labor party bears a vision of a new Middle East in which there will no longer be war or terrorist acts; tremendous economic resources will no longer be devoted to an armament race. We will live in a Middle East in which peace will reign, which will enjoy a common market with regional systems of water irrigation, tourism, transportation, media and of cooperation in the spheres of energy, culture and science."<sup>4</sup>

The beginning of Rabin's second tenure as prime minister was focused on the talks that took place in Washington between Israeli delegations and the Palestinians, on the background

<sup>1</sup> Akiva Eldar, "The peace process in the eyes of Saeb Erekat [Hebrew]," Ha'aretz, on the Walla! Site, January 14, 2006.

<sup>2</sup> Shimon Peres, *The new Middle East* [Hebrew] (Tel Aviv: Steimatzky, 1997), p. 17.

<sup>3</sup> In May 1989, when Rabin served as defense minister, he initiated a diplomatic initiative which he tried to realize via a peace agreement with Jordan.

<sup>4</sup> Archives of the Labor party, in Hebrew: <http://www.archavoda.org.il/AvodaArch/matza/index.asp>.

of the escalation of the Intifada in the territories. At the time, Rabin strove to initiate an economic and physical separation from the territories.<sup>5</sup>

In this context, then-Deputy Foreign Minister Yossi Beilin initiated a secret negotiation channel between Israel and the PLO, in order to extricate the negotiations in Washington from the impasse it had reached. This is described by then-Foreign Ministry Director General Uri Savir who said, "In the course of 1992, Beilin hooked up with a Norwegian social sciences researcher, Terje Rod Larson. The two brought about the beginnings of informal talks on January 20, in Norway, between two Israeli professors (Yair Hirschfeld and Ron Pundak) and three PLO men (Ahmed Qurie, Hassan Asfour and Maher El-Kurd). The goal of these talks was to formulate an unofficial document with a "Declaration of Principles" for establishing peace in the future between Israel and the Palestinians.<sup>6</sup>

The negotiations that took place mainly in Norway led to the signing of the Declaration of Principles by the two sides in Washington on September 13, 1993, under the heading of "Declaration of Principles on Interim Self-Government Arrangements." On the one hand, it was decided to begin a process that would lead to diplomatic separation, resulting in the rise of a Palestinian state with limited sovereignty. On the other hand, the captains of the process understood that for a rather long interim period, some kind of integrative economic framework [with Israel] had to be formed. The Paris Protocol was signed in 1994, stating that Israel would support the Palestinian Authority until the latter would reach economic independence. Eventually Rabin came to support this solution from the concern that harsh, sustained economic distress among the Palestinians would collapse the political foundations of the entire Oslo process.<sup>7</sup>

Nevertheless, even then it was clear what the ultimate goal of the Palestinians was. Yoel Zinger, who served then as legal advisor of the Foreign Ministry, said, "There is no doubt that the Palestinians' goal is the establishment of an independent state, and it even seems that they prefer a confederation with Jordan while cultivating joint interests with Israel."<sup>8</sup>

The Declaration of Principles dealt mainly with the withdrawal of Israel from the territories of Gaza and Judea and Samaria, and the establishment of a Palestinian Authority for self-rule

5 Rabin said the following to the Knesset on April 8, 1993. "The goal of this closure is to create, not in one fell swoop, maximum severance, without any connection to the question of a diplomatic process... in my opinion, an opportunity has arisen to solve additional problems in the Israeli economy and society... I look forward and believe that it is possible to implement the instruments that we have started to adopt in a phased process, because it is impossible to do it with one stroke. It is impossible to change things that took root over 25-26 years..." [Hebrew] Foreign Ministry, Yearbook of Official Documents 1994, Jerusalem, 1996, pp. 414-415.

6 Uri Savir, *The Process* [Hebrew], (Tel Aviv: Yedioth Ahronoth/Hemed, 1998), pp. 17-18.

7 Dan Shifan, *Disengagement: Israel and the Palestinian Entity* [Hebrew], (Tel-Aviv: Zmora Bitan, 1999), pp. 50-51.

8 Savir, *Ibid*, p. 51.

in the region for an interim period that would last no more than five years. The objective was to reach a permanent agreement between the sides on the basis of Security Council resolutions 242 and 338.<sup>9</sup>

On September 9, 1993, as part of an exchange of letters between Yitzhak Rabin and PLO Chairman (since 1969) Yasser Arafat, Israel recognized the PLO as the representative of the Palestinian people and announced its decision to begin negotiations with Arafat as part of the peace process in the Middle East. Arafat, on his part, recognized Israel's right to exist in peace and security. He committed himself to the peace process in the Middle East and the peaceful resolution of the conflict between the two parties; he committed himself to refrain from using terror and other violent activities; he repeated his acceptance of Security Council resolutions 242 and 338; and committed himself to bring the necessary changes in the Palestinian charter for approval of the Palestinian National Council, mainly the articles that invalidate the existence of the State of Israel and other articles that contradict the commitments included in Arafat's letter to Rabin.<sup>10</sup>

Moreover, it was decided that the negotiations on the permanent agreement between the State of Israel and the representatives of the Palestinian people would begin as soon as possible, and not later than the beginning of the third year of the interim agreement. These negotiations would encompass all the other issues: Jerusalem, the refugees, settlements, security arrangements, borders, relations and cooperation with other neighboring states, as well as other relevant topics. A two-day discussion, headed by Yitzhak Rabin, was then held in the Knesset on the government's announcement regarding the agreement. On September 23, 1993 a no-confidence motion in the government regarding the signing of the agreement took place. Sixty-one Knesset members voted against the motion and fifty voted in favor. Eight MKs abstained from voting and one MK was absent.

## 1. Territory and borders

The Declaration of Principles (DOP) determined that the negotiations would lead to a "permanent agreement based on Security Council resolutions 242 and 338." In addition:

"The two sides will arrange and sign an agreement regarding the withdrawal of Israeli forces from the Gaza Strip and the Jericho area within two months of the date that this DOP takes effect. Immediately after signing the Gaza-Jericho agreement, Israel will rapidly withdraw Israeli military forces from the Gaza Strip and Jericho areas according to schedule, and within a period of no longer than four months after the signing of this agreement."

9 English Knesset site: [https://www.knesset.gov.il/process/docs/oslo\\_eng.htm](https://www.knesset.gov.il/process/docs/oslo_eng.htm)

10 Foreign Ministry site <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/israel-plo%20recognition%20-%20exchange%20of%20letters%20betwe.aspx>





## 2. Security

The sides agree that:

“In order to ensure public order and internal security for Palestinians in the West Bank and the Gaza Strip, the Council will establish a strong police force. Meanwhile, Israel will continue to assume responsibility for providing defense from external threats, as well as overall security of the Israelis to ensure their internal security and public order.”

## 3. Jerusalem

The declaration stipulated that Jerusalem would be discussed in the negotiations on the permanent agreement, as a separate issue. Nevertheless, it was decided that the Palestinian residents of Jerusalem would have the right to participate in the Palestinian elections in accordance with an agreement between the sides.<sup>11</sup>

Regarding the Palestinian Authority institutions: Arafat demanded that these be situated in Jerusalem while Israel demanded that they operate from Jericho and Gaza. Foreign Minister Shimon Peres wrote a letter to Arafat and to the Norwegian Foreign Minister that “I wish to confirm that the Palestinian institutions of East Jerusalem (...) are of great importance and will be preserved. (...) Needless to say, we will not hamper their activity; on the contrary, the fulfillment of this important mission is to be encouraged.”<sup>12</sup>

## 4. Refugees

The DOP stated that the refugee issue would be discussed in the negotiations on the permanent agreement.

- Maintaining the security of Israelis and Palestinians.
- Protecting Israeli settlements and movement of Israelis in the Gaza Strip area.
- Protecting the international borders.
- Preventing terror against Israel
- Enforcing the law, preventing acts of violence on the street and maintaining the public order.<sup>14</sup>

After the negotiations that began on October 13, the first Interim Agreement was signed on May 4, 1994 in Cairo between Israeli Prime Minister Yitzhak Rabin and PLO Chairman Yasser Arafat. The signing ceremony was in the presence of the United States, Russia and Egypt as witnesses.<sup>15</sup> According to the DOP, this agreement should have been signed on December 13, 1993; the postponement of five months was a sign of things to come regarding implementation of the time schedule that was set in the DOP.

The essence of the territorial aspects of the agreement:

1. The two sides affirm their allegiance to mutual recognition and commitment as expressed in the Letters of Recognition from September 9, 1993 that were signed between Prime Minister Rabin and PLO Chairman Arafat.
2. They re-confirmed the understanding that the interim arrangements regarding self-rule, including the arrangements related to the Gaza Strip and the Jericho region in this agreement, are an inseparable part of the peace process in its entirety, and that the negotiations regarding the permanent status will lead to the implementation of Security Council resolutions 242 and 338.

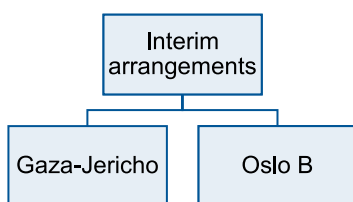
The withdrawal of IDF forces from the Gaza Strip and the Jericho area:

- Evacuation of military bases and other permanent facilities.
- Handing them over to the Palestinian police.
- IDF redeployment in settlements and in the area of military facilities.

3. The Gaza Strip<sup>16</sup> area was divided into three different jurisdictions:

- Territories under the Israeli civil administration (the settlements and the industrial region in Erez) – 43 square kilometers [26 square miles].
- Territories under Israeli security jurisdiction (the Muasi area and the lateral axes) – 20 square kilometers [12 square miles]
- Territories under Palestinian jurisdiction – 300 square kilometers [186 square miles].

## The Gaza-Jericho agreement (“Cairo”)



Israel's main preparations before the first agreement were with regard to security issues. The IDF, which had not been at all involved in the negotiations on the DOP, now quickly went to work to prepare the main points regarding the new security situation before the start of the talks.<sup>13</sup> The IDF addressed the following security needs and considerations in the agreement:

11 The formulated agreement is displayed on the foreign ministry's site: <http://www.mfa.gov.il/MFA/Peace+Process/Guide+to+the+Peace+Process/Declaration+of+Principles.htm>

12 Jerusalem Institute for Israeli Studies Peacemaking in Jerusalem - A task team report, (Jerusalem, 2000).

13 The first discussion was held in the IDF's Planning Branch already on September 8, when the negotiations became public but before the DOP was signed. One month later, on October 8, the head of the Operations Division published the main points of the new operational view.

14 From the minutes of Security Committee discussions No. 2 headed by Maj. Gen. Yom Tov Samia (November 4, 1993).

15 The Knesset site: [http://knesset.gov.il/process/docs/cairo\\_agreement\\_eng.htm](http://knesset.gov.il/process/docs/cairo_agreement_eng.htm).

16 363 square kilometers [140 square miles].

4. According to the terms of agreement, Israel was to make these changes within three weeks. And Israel did complete the process within two weeks.<sup>17</sup>

In the course of 1994, a security fence was erected around the Gaza Strip. It was built along the Green Line without evacuation of any settlements; instead, a complex "security envelope" was created for these settlements. It had no impact on the diplomatic negotiations underway at that time regarding the interim agreement.

## Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip

Before the negotiations on the interim agreement, Head of Central Command Ilan Biran created a program for the interim period, as mandated by the DOP; he did this because no clear diplomatic directive existed at the time. This program was called "Additional Step",<sup>18</sup> and was based on the following working assumptions:

- A scenario regarding a potential eastern front (Jordan, Syria, Iraq and expeditionary forces).
- Possible scenarios in the development of the Israeli-Palestinian process.

The plan was assembled from 6 territorial segments to provide security coverage for external and internal security threats: the Jordan Rift valley,<sup>19</sup> the Jerusalem "envelope,"<sup>20</sup> the "seam line,"<sup>21</sup> strategic sites,<sup>22</sup> operative routes,<sup>23</sup> Israeli settlement blocks and their infrastructures. The plan was based on eight principles for Israel's redeployment. The territorial principle states that "the Palestinians' cities and rural spaces will be territorially delimited according to the principle of 'maximum demography in minimal territory'."<sup>24</sup> In other words: the deployment concept was to transfer the least possible territory to the Palestinians according to the agreements, and to add to this territory in future agreements. This plan translated into a map that extended over 40% of the West Bank area, leaving the other 60% for potential transfer to the Palestinians in the interim period.

17 In that time period, I served as officer of the Northern Brigade in the Gaza Strip.

18 In the 1994-1997 period, I served as Head of the Administration of Hues of the Rainbow 2 (interim agreement) under the command of General Ilan Biran and General Uzi Dayan.

19 A strip that extends from the north (Mehola) to the south (Ein Gedi) from the Jordan River to the eastern slope of Samaria (the Alon Road), and from south of Jericho to the Haheetekim cliffs that are west of Road 90.

20 A triangle with the following vertexes: Modiin Illit, The Good Samaritan, the Etzion Bloc/Betar Illit.

21 A strip 5-10 kilometers [3-6 miles] wide along the Green Line on its eastern side.

22 Like Baal Hazor, Mount Eval and more.

23 Such as the Alon Road, the Cross-Samaria Highway, 1 East, and more.

24 Shaul Arieli, "Rainbow of colors" (Keshet Tzevaim Planning Cell) in the Central Command – summary of a multi-disciplinary project in the Territorial Command, October 1995.

## 1. Territory and borders

The agreement determined three categories of regions in the West Bank: Area A that included all the West Bank cities except for Hebron; Area B that included the Palestinian villages and smaller hamlets; and Area C in which remained the Israeli settlements and army installations.

The agreement stipulated that prior to elections to the Palestinian Council, Israel would redeploy its military forces in accordance with the attached map (2.9% to Area A, and 23% to Area B). After the establishment of the Palestinian Council, Israel would redeploy its military forces three more times in accordance with the DOP. In other words, designated military sites would be re-deployed in three stages in six-month time intervals. Thus the redeployment would be completed within eighteen months from the day the Council is established.

## 2. Security

It was determined that:

In order to ensure public order and internal security for the Palestinians in the West Bank and the Gaza Strip, the Council will establish a strong police force. Meanwhile, Israel will continue to bear responsibility for protection from external threats from air and sea, including responsibility for protecting the borders with Egypt and Jordan. Israel will also be responsible for the comprehensive security of Israelis and Israeli settlements, for ensuring their internal security and public order, and for maintaining the necessary forces to adopt the requisite steps to carry out these responsibilities.

The Palestinian Authority will assume responsibility for public order and internal security in the A and B areas. Nevertheless, in Area B Israel will assume primary responsibility for the security of Israelis dealing with the threat of terror. Cooperation and liaison apparatuses were determined on various levels and rules were created regarding a number of unique areas such as Hebron, the Muasi in the Gaza Strip, safe passage and more.

## 3. Jerusalem

The interim agreement determined the voting arrangements of East Jerusalem residents for the Palestinian parliament. It was agreed that voting would take place in the postal branches in East Jerusalem under international supervision.<sup>25</sup>

## 4. Refugees

The refugees were not discussed in the interim agreements.

Rabin delivered a speech to the Knesset on October 5, 1995 regarding ratification for the interim agreement. In his speech, Rabin presented, for the first time, his perspective regarding a permanent agreement conforming to the interim agreement map:

25 Article 6 in Appendix 2 of the Interim Agreement. For information about the voting arrangements, see: Hillel Cohen, *The Rise and Fall of Arab Jerusalem 1967-2007* [Hebrew], (Jerusalem: The Jerusalem Institute for Israel Studies, 2007), pp. 158-181.

" . . . Our view of the permanent solution is that the territory of the State of Israel will include most of the territory of Eretz Israel as it had existed under British mandatory rule. Side by side will be a Palestinian entity that will be the home of most of the Palestinian residents living in the Gaza Strip and the West Bank territory. We want this entity to be less than a state and that will independently administer the lives of the Palestinians under its rule. The borders of the State of Israel, during the permanent solution, will be beyond the lines that existed before the Six Day War."<sup>26</sup>

A short time after ratification of the agreement in the Knesset on November 4, 1995, Rabin was murdered by a Jewish assassin, member of the right-wing national religious sector, at the end of a large demonstration against violence and in favor of the peace process.

### The Hebron Protocol – 1997

The Likud movement and those who headed it opposed the Oslo process. Former Prime Minister Shamir argued that Jews are not allowed to concede any part of their historic homeland, and viewed the Oslo agreement as the ruination of the entire Zionist process. He called the option of evacuating Jewish settlements by Israeli soldiers as, ". . . if they murdered their mothers or fathers, their very history."<sup>27</sup>

Prime Minister Netanyahu, like former Likud premiers Yitzhak Shamir and Menachem Begin, viewed the conflict differently than did Rabin. Netanyahu felt that "the conflict is not about certain tracts of land but about the entire land; the conflict is not territorial but existential. The issue under discussion is not where exactly the border demarcations will be, but the very national existence of Israel. They do not want a Palestinian state side-by-side with Israel, but a state instead of Israel."<sup>28</sup>

Netanyahu repudiated the establishment of a Palestinian state with the argument that "a PLO state that is transplanted 15 kilometers [9 miles] from the beaches of Tel Aviv will constitute a clear and present danger to the Jewish state." Netanyahu felt that the PLO policy was really a "doctrine of stages" (or "phased plan") with the objective of destroying the State of Israel, not coming to an arrangement with it. The decisions taken by the PLO in 1988 were only intended to appease the US, and the Palestinian willingness to negotiate was only "to return it [Israel] to the narrow borders that existed prior to the Six Day War. Afterwards, they will renew their offensive from these borders to destroy the Jewish state." Netanyahu said that "the autonomy plan under Israeli control is the only alternative to avert the dangers inherent in the 'peace' plan of the Oslo agreement" (Netanyahu, 1995).

26 <http://www.mfa.gov.il/mfa/mfa-archival/1995/pages/pm%20rabin%20in%20knesset-%20ratification%20of%20interim%20agree.aspx>

27 Ha'aretz, April 1, 1994 [Hebrew].

28 Netanyahu, with Ari Shavit, *Partition of the Land* [Hebrew] (Keter, 2005), p. 150.

Netanyahu was elected premier after running against Shimon Peres on May 29, 1996,<sup>29</sup> on the background of terror attacks led by the Hamas movement. After the election Netanyahu hurried to announce that "we have to lower expectations" among the Palestinians toward the continuation of the negotiations with Israel. What this meant in practice was a policy of "foot-dragging" that dragged out the process begun in Oslo.

Following Netanyahu's decision to open the northern entrance to the Western Wall's tunnel in September 1996, Yasser Arafat called on the Palestinian people to respond to this step. The two sides experienced three days of fighting from the night after Yom Kippur September 23, until September 27, 1996. One of the results of these events was renewal of the negotiations on Israel's redeployment in the city of Hebron – a deployment that had not yet been completed.

The Hebron Protocol regarding the IDF's redeployment in Hebron was an accessory contract to the Interim (Taba) Agreement that was signed on January 15, 1997 between the Netanyahu government<sup>30</sup> and the PLO. The Protocol divided Hebron into two regions: H1 which would come under Palestinian control, and in which Palestinian police would have a similar status as that in Area A. H2 would remain under Israeli control, and Israel would retain sole jurisdiction and responsibility for internal security and public order. In addition, Israel would continue to assume responsibility for the overall security of Israelis.

### The Wye River Memorandum – 1998

The interim agreement stipulated that Israel would redeploy its forces three additional times; this mainly involved transferring jurisdiction over West Bank territories from Israel to the Palestinian Authority. The exception was certain territories associated with issues that were to be discussed later on, in the permanent agreement talks. In actual fact, no additional redeployment was carried out by the IDF by the end of 1998, and Netanyahu refrained from holding significant discussions on the subject with the Palestinians.

Under the pressure inflicted by President Clinton and his administration, and after negotiations in Maryland which lasted ten days, the Wye River Memorandum was signed on October 23, 1998 by Prime Minister Netanyahu, PLO Chairman Arafat, and United States President Clinton. The ceremony was held in the presence of Jordanian King Hussein, after meetings were held with delegations from Israel, the PLO and the United States regarding the first and second additional redeployments (further redeployments – FRD). Israel obligated itself to transfer 13% of Area C to the Palestinian Authority: 12% to the B Area and 1% to the

29 Peres had inherited Yitzhak Rabin's premiership for half a year, after Rabin's assassination.

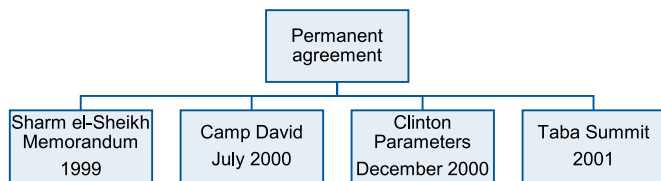
30 Former Chief of Staff Dan Shomron signed the agreement on behalf of Israel.

A Area. The Palestinians agreed to set aside 3% of these tracts for nature reserves.<sup>31</sup>

The two underlying considerations that led Israel to set these percentages are as follows: security considerations - retaining the so-called "security spaces" under Israel's full control, and settlement issues – retaining space for future development of the Israeli settlements and safeguarding all their relevant traffic arteries.<sup>32</sup>

In actual fact, Israel transferred only 2% of Area C to B. Similarly, the status of 7.1% of Area B was changed to A.

## Negotiations over the permanent agreement



### Sharm el-Sheikh Memorandum

Ehud Barak was elected to the premiership in May 1999 (from the Labor party), thus replacing Netanyahu. Barak then decided to renew negotiations on the permanent agreement with the PLO. At first he wanted to "refresh" the Wye River Memorandum and conclude a Framework Agreement on Permanent Status (FAPS) with the Palestinians before reaching a Comprehensive Agreement on Permanent Status issues (CAPS). This, however, did not happen; instead, a Memorandum was signed on September 4, 1999, with PLO Chairman Arafat, in the presence of American Secretary of State Madeleine Albright, Jordanian King Abdullah II, and Egyptian President Hosni Mubarak. According to the Memorandum, it was agreed that a determined effort would be made to craft a framework agreement on the permanent agreement by February 13, 2000 and that the comprehensive, final arrangement would be formulated by September 13, 2000.<sup>33</sup>

Later on, the Memo addressed the implementation of the Wye Memorandum regarding the first and second additional redeployments and set a time schedule for transferring territories from Area C and from Area B to A.

- A. On September 5, 1999 to transfer 7% from Area C to Area B.
- B. On November 15, 1999 to transfer 2% from Area B to Area A and 3% from Area C to Area B.
- C. On January 20, 2000 to transfer 1% from Area C to Area A and 15% from Area B to Area A.

<sup>31</sup> English Knesset site: [https://www.knesset.gov.il/process/docs/wye\\_eng.htm](https://www.knesset.gov.il/process/docs/wye_eng.htm)

<sup>32</sup> In this time period, I served as Deputy Military Secretary for the Defense Minister. I coordinated the Palestinian issue.

<sup>33</sup> English Knesset site: [https://www.knesset.gov.il/process/docs/sharm\\_eng.htm](https://www.knesset.gov.il/process/docs/sharm_eng.htm)

Ultimately, Israel did not transfer these territories to the Palestinian Authority. All the "additional redeployments" that Israel had committed itself to (as part of the interim agreement) were not realized. Today Areas A and B extend over only 40% of the West Bank territory.

## Pre-Camp David – 1999-2000

### 1. Territory and borders

The Israeli outlook was based on creating a reality that (it thought) would make the agreement worthwhile to both sides, even if the Palestinians would need to make territorial concessions on behalf of Israel as the result of the existing asymmetry. The Israel dilemma stemmed from the fact that it really wanted West Bank territories, while rejecting the Palestinians living there. Therefore, Israeli policy was to try to separate from the Palestinians but to remain in control of those territories uninhabited by the Palestinians. The Israeli government had no empathy for the Palestinian point of view. The discourse and priority-list was based on Israeli interests alone. The "win-win" viewpoint of Oslo was not implemented.

Barak's stance when he began his term as prime minister was that the territorial issue would be resolved by a "just partition of the Judea-Samaritan territories."<sup>34</sup> Barak felt that the goal of the agreement is the following: "an agreement that leads to the end of the confrontation and conflict in actual fact, between the two peoples – the Israeli and Palestinian – permanently and perpetually, including all national demands of each side or a minority with national aspirations, based on relations of peace, mutual respect, economic welfare and security, with mutual recognition of the legitimate political rights of each side, and based on the recognition of the existence of two separate entities on the territory of Eretz Israel."<sup>35</sup>

Israel created the following list of needs and interests:

- **Security**

1. Protecting Israel from threats from the east.
2. Protecting Israel from terror threats originating either within or by way of Judea, Samaria and Gaza.
3. The security of the settlers in the Judea, Samaria and Gaza region, and the Israelis traversing these areas (in the transitional period).

- **Others**

1. Water whose sources are in the Judea-Samaria region.
2. Economic arrangements
3. Control over Israelis and their assets in the Judea, Samaria and Gaza regions.

<sup>34</sup> When Barak began the premiership, he appointed me to head the administration of negotiations on the permanent agreement and of implementing the interim agreement in his office.

<sup>35</sup> Project portfolio for the negotiations between Israel and the PLO, October 20, 1999.

4. Historic sites that are holy to the Jewish people.
5. Electrical and communications infrastructure sites.
6. Airspace.
7. Electromagnetic space.
8. Environment protection

Later on, the following basic Israeli positions were hammered out:

- End of the conflict.
- Not to rule over a foreign people.
- Physical separation between the entities.
- Israel will not return to the 1967 lines.
- A united Jerusalem under Israeli sovereignty.
- Most of the settlers in the main settlement blocs will remain under Israeli sovereignty.
- Demilitarization of the territory west of the Jordan River from a foreign army and heavy weapons.
- Rights to the water sources in the Judea-Samaria region.
- No return of refugees to the territory of the State of Israel.

Furthermore, Israel delineated (for the first time) what it viewed as Palestinian needs and interests:

- Control over the entire Arab population in the Judea, Samaria and Gaza region, including East Jerusalem.
- A Palestinian entity that is territorially contiguous with the Arab world.
- An exclusive, reliable land connection between Gaza and the West Bank.
- Direct access to harbor, air and naval services.
- Living areas for development and for absorption of refugees.
- Control over lands and water.

The following are the rest of the basic, anticipated Palestinian positions:

- Establishment of an independent Palestinian state on all of the West Bank and Gaza Strip territories (the 1967 lines).
- East Jerusalem as capital of Palestine.
- Evacuation of all of the settlements.
- Full Palestinian sovereignty over internal and external security.
- Solving the refugee problem in accordance with the UN resolutions, headed by resolution 194 that gives the refugees the option of choosing between "return" and compensation.
- Full rights over the water in its sovereign territory.

Therefore, the work of the Negotiations Administration focused on finding solutions and answers to the interests of both sides.<sup>36</sup>

Prime Minister Barak understood the importance of the territorial aspects of negotiations and, therefore, started off the talks with a discussion on this issue. But instead of approaching the subject in a way that would increase the chances of reaching an agreement, his strategy reversed precedents that had already been created. Thus from the very first moments of the negotiations, Barak's approach fostered distrust between the sides.<sup>37</sup>

The Israeli side could have chosen one of two paths: the first option is that the territories are a trust held by Israel, and in exchange for a comprehensive peace, Israel would withdraw completely from them and an independent Palestinian state would be established side by side with the State of Israel. The second option would be to treat the territories as of disputed status regarding issues of control and sovereignty, thus the solution is to partition the territory between the two sides. In other words: Israel had to decide whether the June 4, 1967 lines constitute the basis for demarcating a border between two independent states that would sign a permanent arrangement and a peace agreement. The alternative was to completely annul the validity of the 1967 lines, to distance the Israeli government from previous agreements in which resolution 242 was deemed relevant to the Israeli-Palestinian dialogue, eschew any mention of a Palestinian state, and instead to discuss the establishment of a Palestinian "entity."

Barak's strategy vis-à-vis the Palestinians was erroneous, and held the seeds of the resultant blow-up. Instead of putting the principles of the solution on the table in the early stages (mainly with regard to self-determination and territory), thus giving the Palestinians incentive to advance in the negotiations, Barak chose the latter option and in addition, adopted foot-dragging and Oriental-bazaar type negotiation tactics. Barak did not even try to deal with the paradox he created. On the one hand, he again ratified the Wye Memorandum of September 1999 which stated the goal of negotiations is to lead to a permanent agreement based on Security Council resolution 242. Yet on the other hand he accepted the controversial stance of Israel's legal advisor to the government who held that resolution 242 is not relevant to the territories of Judea, Samaria and Gaza and that the territories are not "occupied" but "disputed" territories. Therefore, Israel's opening offer to the Palestinians was a permanent agreement based on Israeli withdrawal from the Gaza Strip and from 55-60% of West Bank territory. Moreover, many months into the negotiations, the prime minister absolutely barred the Israeli negotiation team from referring to a "Palestinian state", only an "entity." This was despite the fact that Barak knew that members of his own team were opposed to this approach.

<sup>36</sup> Ibid.

<sup>37</sup> In June 1999, one month after he was elected, Barak in effect unilaterally "froze" the Wye Memorandum that had been signed by his predecessor, former Prime Minister Benjamin Netanyahu.

Recommendations were also heard from highly placed Israeli diplomatic sources in Barak's environs; in practice, these sources were cut off from the behind-the-scenes happenings regarding Palestinian statecraft. These pundits argued that "we can cut a deal with the Palestinians that includes a Palestinian state in all of Gaza and only 80% of the West Bank territories, with Israeli annexation of 20% of the territory without territorial exchange. Alternatively, a state in all of Gaza and on 70% of the West Bank, with an Israeli annexation of 10% without territorial exchange. This leaves 20% for future discussion."

On the other hand, other Israeli diplomatic sources as well as sources in the intelligence system made it clear that the Palestinian leadership did not have much territorial negotiating room in which to maneuver. Arafat's precondition for signing on a deal was based on receiving 100% of the territory, with agreement for territorial exchange designed to answer special needs of the Israelis and the reality that developed on the ground (the settlements) over more than thirty years of occupation. The Israeli political system did not internalize the fact that as far as Arafat and his leadership were concerned, the Palestinian side had already made their substantive, fundamental territorial concession in Oslo. In the Oslo agreement, the Palestinians had, for the first time, signed a document stating that Palestinian self-determination – in other words, statehood – would be expressed via implementation of Security Council resolution 242; in other words, only in the West Bank and Gaza Strip territories.

Concrete territorial negotiations started with the meetings of the first team heads for negotiating the permanent agreement. At the beginning of 2000, several rounds of contacts took place between the delegation headed by Ambassador Oded Eran<sup>38</sup> and that headed by Yasser Abed Rabbo. Eran showed the Palestinians a schematic map (which did not facilitate a more detailed view), with Israel's opening proposal. The map included three areas: a "brown" region, divided into three cantons stretched out on less than 60% of the West Bank, on which the Palestinian "entity" was supposed to be founded. A "white" region of about 15% was to be annexed to Israel; this would include contiguous settlements in the West Bank including width strips that split Western Samaria from the Green Line until the Jordan River, and the Jerusalem area from Maale Adumim to the Dead Sea. Finally, there was the "green" region including about 25% that would be held by Israel under a "special status," allowing Israel to surround the Palestinian entity on all sides. This would also create "fingers" and "islands" of control over places not included in the annexed territories. Some examples are: Hebron, Kiryat Arba, Gush Dolev, Talmon, and the Jordan Valley settlements.

38 The Palestinians were forced to wait about three months for the appointment of Oded Eran, after Gilead Sher was forced to vacate his seat at the recommendations of the legal advisor to the government.

## The Stockholm channel – 2000

About four months were wasted until Barak decided to bring attorney Gilead Sher (a close confidante) back to the negotiation table together with the talented and enterprising Minister (and professor) Shlomo Ben Ami. These two men, together with a small number of assistants, constituted a working group that viewed things more progressively than did the prime minister. In retrospect, we see that while these two negotiators did have some influence over Barak, they were ultimately unsuccessful in leading him to cross the Rubicon and make critical decisions in the territorial negotiations. The beginning of May 2000 marked a breakthrough in the negotiations between the sides and the establishment of an official but covert backchannel that later became known as the "Stockholm channel." The secret talks, which at first commenced in the Jerusalem area and then continued in Sweden, led to substantial progress in all the subjects of dispute including, of course, territorial issues. This time, Israeli permission was given to discuss a potential Palestinian state (not just an "entity"). Another example of progress was Israeli acceptance of the Palestinian "100% minus" formula (in other words, 100% of the territories minus what was needed for Israel's essential needs) and on the other hand, Palestinian readiness to appropriately address some of Israel's needs.

### 1. Territory and borders

Barak's inclination was to retain his "three zones" standpoint, namely the "brown," "white" and "green" zones. He was ready to compromise by postponing the final-status fate of the "green" zone to a future date, at least five years after the signing of the agreement. Already at this point the head of the IDF's Military Intelligence (MI) branch presented the MI view: that the Palestinians were likely to accept an Israeli territorial annexation that did not exceed 5-6% of the West Bank.<sup>39</sup> Barak ignored this position and, just before leaving for Stockholm, instructed his team to offer the Palestinians a state on only 77% of the area, with an Israeli annexation of 13-15% without territorial exchange and an understanding that the fate of the remaining 8-10% would be negotiated at a future date after the signing of an agreement. In actual fact, the map presented to the Palestinians showed 76.6% of the area for the Palestinians, 10.1% in Israel's hands under a special status, and 13.3% of the area to be annexed by Israel.<sup>40</sup> When the Israeli team started to present the aforementioned plan to the Palestinians they were greeted by an angry negotiating partner; the Palestinians argued that Israel had returned to square one of the negotiations. Abu Alaa's response was, "this kills our desire to continue," and repeated the pragmatic Palestinian stance that "the 1967 lines constitute the border ... We will be willing to make minor adjustments in these borders, so long as they [i.e. the adjustments] are reciprocal and absolutely equal in quality

39 Gilead Sher, *Just Beyond Reach: The Israeli-Palestinian Peace Negotiations 1999-2001* [Hebrew] (Tel Aviv: Yedioth Ahronoth/Idanim, 2001), p. 85.

40 *Ibid.*, p. 86, 90.

and area.” Hassan Asfour added that they are willing to make changes but not willing to accept unilateral annexation, while Abu Ala stated that there was no justification for the Palestinians to receive less than 100% of the territory. They made it clear that the “100% deal” might include Israeli annexation of the settlement blocs in the West Bank and Jewish neighborhoods in East Jerusalem.<sup>41</sup>

After their return to Israel, the Israeli negotiation team reported the results to the prime minister. One of Barak’s instructions following the debriefing was to prepare new maps in which the settlements of Beit El and Ofra, as well as Baal Hazor and Psagot, would be connected to the territories that would be annexed to Israel as settlement blocs.<sup>42</sup> The Palestinians viewed this as an Israeli geographic panhandle extending from the Jerusalem area to the eastern edges of Ramallah, when in actuality this panhandle is connected to the geographic bloc on the south, creating an area that not only blocks East Jerusalem, but also the cities of Al-Bireh and Ramallah. This annexation makes very little geographic or territorial sense; instead, it seems to express the desire to placate the settlers of Beit El and Ofra, known as the traditional ideological heart of the Gush Emunim movement.

The territorial gaps remained deep and substantive during the subsequent meeting held in Sweden on May 20, 2000. The Palestinian team reiterated its stance: that the Palestinians would under no circumstances agree to an Israeli annexation of 13%. They would also not accept the Israeli concept of dominance over territory by means of “special arrangements” (the “green” zone); from their point of view, this is merely another form of Israeli annexation. The Palestinians repeated and clarified the stance they had adopted in the Beilin-Abu Mazen agreement that the settlers remaining in Palestinian territory can remain as individuals and not as communities. They would be Israeli citizens under Palestinian sovereignty with special arrangements in fields such as education, culture and the like.

Five days earlier, the prime minister delivered a political statement in the Knesset that had been previously ratified by the government. The prime minister announced a change of status of three villages in the Jerusalem area (Abu Dis, El Azaria and Eastern Swahara): these had changed from status B to status A. This, he said, was not a substantive change; mainly it meant that the responsibility for security of the villages was being transferred to the Palestinian police, which was already situated in the area of the villages. Meanwhile, harsh demonstrations broke out on that very day as the Palestinians throughout the territories marked the nakba (calamity in Arabic) of the establishment of the State of Israel in 1948. Tension on the ground continued for a number of days; two “days of fury” (May 19-20) were declared by the Palestinians with severe rioting and numerous casualties, totaling about a hundred wounded Palestinians and a number of wounded Israeli soldiers. In response, Barak ordered the negotiation team to return from Sweden

<sup>41</sup> Ibid, p. 87, 90, 91.

<sup>42</sup> Ibid, p. 93.

and announced his nullification of the decision to transfer jurisdiction over the three villages. In fact, jurisdiction over the three villages was never transferred to the Palestinians.

Palestinians argue to this day that this decision made by Barak epitomizes his negotiation style, which was – they felt – merely pretty words and empty promises, when in fact he never took action to back up his supposedly positive intentions. In this context they criticized a public statement made by Barak: he called himself the only prime minister who did not transfer territories to the Palestinians, in contrast to Rabin, Peres and Netanyahu. The Palestinians perceived this statement as being arrogant at best, and as reflecting Barak’s strategy at worst.

During the first three days of June, a reinforced “Stockholm Team” was convened for a number of lengthy sessions in Jerusalem. The Palestinians held fast to their positions on territorial and other issues. Abu Ala repeatedly emphasized to Minister Ben Ami that “Arafat wants an agreement.” He reiterated that a 13% annexation is much too excessive and asked the Israelis to come up with a more moderate offer, based on the fact that the Israeli settlements in the West Bank do not constitute more than 2% of the territory. “Present a more realistic approach regarding the settlement blocs, and offer land swaps.”<sup>43</sup> The Israelis responded by criticizing the Palestinians for not making any concrete proposals regarding the territorial issue.

The disparity between the size of the built-up settlement areas, constituting less than 2% of the West Bank territory, and the territory size that Israel demanded to annex, was an issue that plagued both sides throughout the negotiations. The gap began to close only six months later, when Clinton’s Parameters were disseminated. The dispute was rooted in two opposing views: Israel aspired to annex as much area as possible even in the absence of unequivocal national interests, while the Palestinians aspired to drive the Israelis out of as many areas as possible, without taking into consideration the Israeli need to retain not only the large number of settlements in the West Bank, but also to include them in blocs with room for urban expansion and with convenient connecting roads for transportation.

Still, both Ben Ami and Gilead Sher understood that the Palestinians had to present a deal to their people based on the absolute number of 100%. Ben Ami and Sher knew that they had to reach a preliminary agreement regarding the land-swap principle that would make it easier for the Palestinians to agree to an Israeli annexation of settlement blocs. However, the prime minister was not willing to internalize this message. Barak, whose opening bid to the Palestinians was the 50:50 ratio of the West Bank area, clung to his “golden formula” (so called by the team) that included Israeli annexation of 650 square kilometers [251 square miles] of the territories. This was presented by the Israeli side in Camp David as an Israeli retreat from 89.5%, and without land swaps. Barak derived the adjusted percentage not from the West Bank

<sup>43</sup> Ibid, p.112.

area, as was customary, but from the total West Bank and Gaza Strip territories; ostensibly, that is how he reduced the percentage.

A few weeks before Camp David, the Israeli team met Arafat in Nablus with the purpose of sweetening the pill and preparing for the summit. Ben Ami explained to Arafat that while the Israeli starting point had previously stood at only a 50% withdrawal from the territories, now it reached 87% with the promise that Israel would withdraw immediately from 76% of said area. Ben Ami added that even the 13% that Israel wanted to annex, was still subject to negotiations. Arafat did not respond. When the Israeli team debriefed Barak of the meeting, Barak clarified that Israel must try to hold onto the Jordan Valley for thirty years. He said that once in every decade, they would investigate the feasibility of transferring parts of the Jordan Valley to the Palestinians.<sup>44</sup> This meant that, for all intents and purposes, the Palestinian state would be reduced to a mere 75%.

After the Stockholm discussions and before the Camp David summit, Israel attempted to narrow the gaps between them and the Palestinians by decreasing the preferred Israeli annexation from 13% to 11%. This change, which seemed substantive to the Israeli side, had no impact on the Palestinians. In their view, the Israeli position was still excessive, especially since Israel continued to cling to its demand that an additional 10%, mostly in the Jordan Valley, would be held by Israel for an indefinite amount of time. According to Ben Ami, Abu Ala agreed to an annexation of only 4%.<sup>[45]</sup>

Yet Israel's Military Intelligence head and Intelligence Officer to Camp David held more realistic assessments regarding the Palestinian position. These evaluations were known to the Israeli decision makers, thus making their position regarding negotiation leeway on the territorial issues even more distorted and puzzling. The MI head and Intelligence Officer both agreed that "we can reach an agreement with Arafat under the following conditions: A Palestinian state with [Arab] East Jerusalem as its capital; sovereignty over the Temple Mount; 97% of the West Bank and one-to-one land swaps with regard to the remaining territory; plus some kind of formulation that includes Israel's acknowledgement of its responsibility for the refugee problem and its willingness to accept 20 or 30 thousand refugees."<sup>46</sup> Furthermore, according to General Malka, a few weeks prior to Camp David he reviewed Arafat's positions for the Cabinet and said that "there is no chance that Arafat will compromise on 90% of the territories, not even 93%." According to Malka, Barak's response was "You say that he won't accept an offer of 90%? I don't agree with your assessment." Malka remained adamant and told the prime minister that "there is no chance that he'll go for it." General Malka adds that

44 Ibid, pp. 140-142.

45 Oded Granot, Maariv, April 6th 2001, "From Shlomo Ben-Ami's Journal" [Hebrew].

46 Amos Malka, former Chief of the IDF Intelligence Branch, Ha'aretz, June 2004, in an interview with reporter Akiva Eldar [Hebrew].

"Barak viewed himself as an expert who needs no intelligence evaluations since he was Mr. Intelligence himself, he thought that he was smarter [than everyone else]. Later it was more convenient for him to explain away his failure by giving a distorted description of reality."<sup>47</sup>

## 2. Security

In the course of Israeli-Palestinian negotiations on the permanent agreement (Oslo process 1999-2001), the Israeli security position on the need to remain in control of territory underwent a revolution. In the negotiations conducted during Ehud Barak's tenure as prime minister, Israel still insisted on adhering to Yitzhak Rabin's view as expressed in Rabin's Knesset speech of October 1995; "We view a permanent solution [as involving] a Palestinian entity which is less than a state. [...] The security border of the State of Israel will be located in the Jordan Valley, in the broadest meaning of that term."<sup>48</sup>

Thus, the Jordan Valley was included in the territory that Israel demanded to annex in all the maps presented to the Palestinians and Americans in the negotiation rounds, including the Camp David summit (2000). The Israel delegation defended this demand using security considerations, mainly with regard to potential threats from the east including concern regarding the smuggling of weapons into the West Bank. But when the Palestinians argued that the Israeli demand regarding the Jordan Valley was merely an attempt to annex territory under guise of security, the width of the "security space" in the Valley narrowed as the talks progressed. The Israeli demand for sovereignty in the Jordan Valley was exchanged for a transitional military presence in only part of the Valley.

At the end of May 2000, an Israeli document was formulated that addressed the security issue in the following principles and words; "Demilitarization of Palestine from military forces. It is recommended that Israel agree to international guarantees for the national security of Palestine. Authorization for the establishment of military sites for Israeli military deployment. The number of sites and their surface area will be limited. Establishment of a supervisory apparatus to oversee the understandings that had been summed up."<sup>49</sup>

## 3. Jerusalem

The talks about the future of Jerusalem were finally begun in March 2000, during Ehud Barak's tenure as prime minister (he was elected to the position in May 1999). In May 2000 the Israeli government and the Knesset approved a status-change for four Arab villages close to Jerusalem (Abu Dis, Al Azariya, and Arab a-Sawahara A-Sharqiya) from the status of Area B to Area A. However, Barak ultimately never carried out this move due to pressure from the following factions

47 Ibid.

48 <http://www.mfa.gov.il/mfa/mfa-archive/1995/pages/pm%20rabin%20in%20knesset-%20ratification%20of%20interim%20agree.aspx>

49 Sher, Ibid, p. 104.



within the coalition: Shas, the Mafdal and Yisrael B'Aliya (the last two left the coalition before the Camp David summit).

Before the Camp David summit in July 2000, Barak still clung to the proposal for a permanent agreement with the Palestinians in which a unified Jerusalem would remain under Israeli sovereignty. Due to this avowed position, the Israeli government did not conduct any discussions on Jerusalem even as discussions began on other issues in the permanent agreement. Thus, Israel finally discussed the Jerusalem issue only at the Camp David summit.

Barak instructed Israel's representatives at the talks not to conduct substantive negotiations on Jerusalem and to postpone it "to the very end." He argued that a substantive discussion on Jerusalem "is likely to blow up the [peace] process in terms of the public discourse in Israel." Barak asked them not to document their positions regarding Jerusalem and not formulate drafts or documents on the subject.<sup>50</sup>

Nevertheless, the Jerusalem issue rose in the Stockholm channel<sup>51</sup> though only in general outline form. In the talks, Israel proposed the following solution: that the borders of Jerusalem would be extended beyond the present municipal boundaries until Maale Adumim in the east, Givat Ze'ev in the north and the Etzion Bloc in the south. Then, the enlarged city would encompass two capitals: Jerusalem and Al Quds. Each sub-municipality would administer its neighborhoods and the Old City would have its own "special regime."<sup>52</sup>

The preparatory document of the negotiating team toward the summit said that within the Jerusalem domain (the city and its environs) would be Israeli areas (Jerusalem), Palestinian areas (Al Quds), and grey areas in which special arrangements would be established. A special polity would run the Historic Basin. There will be mutual recognition of the right of each party to declare its areas of Jerusalem as capital.<sup>53</sup>

We see that at this stage of Pre-Camp David contacts, Israel searched for solutions that would not entail conceding its sovereignty within Jerusalem's municipal borders. Some suggested solutions were: enlarging the city's borders; agreeing to postpone discussions on the subject; or creating special arrangements that would not involve changes in the city's sovereign status. However, in a June 2000 talk with

50 Sher, *Ibid*, p. 121; Ben Ami, *Ibid*, p. 88.

51 This was a back-channel for talks between Shlomo Ben Ami and Abu Ala; later on, Gilead Sher and Hasan Asfour joined them. It was called the Stockholm channel because the talks took place from May 2000 in Harpsund in Sweden. The first round of talks in Sweden took place from May 11 to May 17, 2000. The second round started on May 20 but was halted in the context of the violence that broke out in the territories ("Days of Rage"), and the third, and last, round took place in Israel starting from June 1 of that year. While the talks themselves were covert, their existence became public knowledge at an early stage.

52 Sher, *Ibid*, p. 114, 81; Ben Ami, *Ibid*, p. 39. For more information about this viewpoint, also see: Danny Yatom, *Secret Partner*, [Hebrew] (Tel Aviv: Yedioth, 2009), pp. 376-378

53 Sher, *Ibid*, pp. 103-104.

American representatives just before the Camp David summit, Ben Ami and Sher hinted at the possibility that the Palestinian capital could also include "outer" Arab neighborhoods in East Jerusalem such as Tzur Bahar, Shuafat and Beit Hanina. Ben Ami proposed that these neighborhoods would be under Palestinian sovereignty, while Sher proposed to leave the sovereignty issue of these areas open.<sup>54</sup> According to this proposal, the "inner" neighborhoods would remain under Israeli sovereignty, but the Palestinians would receive certain powers. Regarding the "room for flexibility" on Jerusalem, Barak told Clinton on July 1, 2000 that he would agree to Palestinian sovereignty over only the part of Abu Dis that is within the municipal domain of Jerusalem, and over Shuafat. Barak emphasized that he would only make this concession if this issue was the last remaining barrier to reaching an agreement.<sup>55</sup>

#### 4. Refugees

The Israeli government and the PLO leadership entered negotiations on the question of the refugees, only after signing the Oslo Agreement in September 1993. The refugee issue was quickly postponed to the later discussion stage on the permanent agreement, and first appeared on the negotiation table only in the year 2000. During the negotiations, the leaderships of both sides addressed the issue much more pragmatically than the general public. The statements aired in public – mainly by the Palestinian side – were far more intransigent regarding the right of return and its realization in actual practice.

Regarding the refugee narrative: the Palestinian leadership declared that if Israel would recognize the right of return and ask forgiveness, or express remorse for its part of the dynamics that caused the refugee problem, then the Palestinians would be willing to acknowledge the reality created afterwards, including the existence of Israel as a legitimate and sovereign state. The Israelis, on their part, feel that any recognition on their part of the Palestinian right of return is tantamount to accepting responsibility for resolving the refugee problem. Even if this right would not be realized in practice in the first stage, the very recognition implies the end of Israel as a Jewish state.

The PLO representatives attempted to make a distinction between recognition of the right of return and its actualization on the ground, in a way that would not threaten the Jewish majority in Israel. Israeli representatives tried to ignore the right of return completely and instead focus on the practical aspects of the solution: absorption of refugees outside Israel, whether in the Palestinian state or their current residences,

54 Ben Ami, *Ibid*, p. 112-113.

55 Martin Indyk, "American Peace [Hebrew]" (Tel Aviv, Am Oved, 2009), p.299. Meridor says that Barak told him (in their July 8, 2000 meeting) that he was willing to accept "certain concessions on Jerusalem, [the transfer of] Arab neighborhoods and unhampered Palestinian access to the Temple Mount, which would also come under their control in practical matters without our relinquishing sovereignty." See: G. Weitz, "Final moments of dialogue: Meridor diaries, [Hebrew]" Ha'aretz, July 29, 2011, p. 18.

or paying compensation. The two leaderships agreed that any solution would be realized via an international apparatus.

At the initiative of Yossi Beilin and Abu Mazen in 1995 (a year before the agreed-upon date for holding official talks on the permanent agreement), the following suggestion was made for resolving the right-of-return issue: the Palestinians would accept the fact that it would not be possible to implement what they view as their rights to return to their homes; the Israelis would recognize the physical and emotional suffering inflicted on the Palestinian refugees; and both sides would seek the establishment of an international organization, headed by the Swedish government, that would deal with the compensation issue. Israel would contribute to an international fund that would compensate the refugees and also would continue absorbing certain refugees who fall into special humanitarian categories, such as reuniting families.

The negotiation team formulated the following document just before the Camp David summit in 2000:

"We propose the following deal for your consideration:

Responsibility issue – a joint far-sighted statement focusing on the need to resolve the refugee problem, versus Israel's unilateral statement of recognition of the suffering caused by the 1947-1949 war and its willingness to take part in solving the problem.

Israel will allot a specified sum of money that will be spread over a number of years. The funds of the custodian of absentees' property will constitute the financial seed/money of the solution. The Palestinians will pledge to refrain from any further demands.

Return – From among the refugees who will seek to realize their right to return to Israel, Israel will absorb a small number each year on a humanitarian basis, subject to its sovereign judgment. Rehabilitation/emigration programs will be offered to the rest of the refugees.

Israel and the Palestinians will convene a new donors' conference on the refugee issue, with the goal of reaching the sum of 20 billion dollars."

## The Camp David summit, 2000

President Clinton acceded to Prime Minister Barak's pressure to convene the Camp David summit. This was despite Arafat's arguments that the gaps between the sides were still too great for a summit of leaders. The Camp David Summit<sup>56</sup> for Peace in the Middle East was held from July 11 to July 25, 2000 and headed by United States President Bill Clinton; Israeli Prime Minister Ehud Barak; and PLO Chairman, Yasser Arafat.

<sup>56</sup> Parallel to the talks that took place in Camp David and dealt with the core issues, negotiation was also held between the Israeli and PLO delegations in the nearby town of Emmitsburg, on general issues.

## 1. Territory and borders

The following were Barak's positions: The Palestinians would not receive 100% of the territory. At the beginning of Barak's premiership, a negotiations-outline was prepared internally in the administration in his bureau, but he refused to describe the goal of the negotiations as something like, "two states west of the Jordan." Instead, Barak initially wanted to word the objective as a "just division of the Judea-Samaria territories between the sides." Therefore, he rejected the principle of the 1967 lines. Minister Ben Ami followed Barak's lead when he announced to the Palestinian team, in the presence of President Clinton, that "we cannot comply with the demand to agree to the principle of the '1967 lines,' and then talk afterwards."<sup>57</sup>

While Ben Ami agreed with Barak, he was surprised to see Barak's negative response to the American working paper based on the 1967 lines. "His response was unnecessarily hysterical, and mainly counterproductive," in Ben Ami's words. Ben Ami also suggested to Barak that they give the Americans a "deposit" on the 1967 lines issue, in the spirit of the "Rabin Deposit" regarding the Golan Heights, but Barak opposed this idea as well.<sup>58</sup>

The disparity between the sides on the territorial issue was enormous. Colonel (ret.) Ephraim Lavie (head of the Military Intelligence Palestinian Research Unit) transmitted the following clear, lucid picture of the Palestinian stance to the decision-makers: "Arafat and the Palestinian leadership intend to make the most of the diplomatic process with the goal of reaching the two-state solution, according to the fixed, well-known Palestinian diplomatic stance accepted by the PLO in 1988: a state in the 1967 lines, including Arab Jerusalem,<sup>59</sup> on the basis of Security Council resolutions 242 and 338." At the time, the MI emphasized that "the territorial subject is the substantive issue in Palestinian eyes, while the right of return is their important bargaining chip vis-à-vis Israel."<sup>60</sup>

Israel's opening proposal that was placed on the discussion table at Camp David included annexation of 13% and retention of another 10% of territory (Jordan Valley) for a large number of years. In other words, this allowed for a Palestinian state on about 77% of the West Bank territory and most of the Gaza Strip. Before the teams sat down to discuss the territorial issue, Barak guided his people in a way that directed the discussions straight into a crisis. His unequivocal summary was, "No territorial exchanges."<sup>61</sup> As aforesaid, some members of the Israeli delegation understood

<sup>57</sup> Granot, "From Shlomo Ben Ami's diary, [Hebrew]" Ma'ariv, April 6, 2001.

<sup>58</sup> Shlomo Ben Ami, "A Front without a Rearguard: Voyage to the peace process borders". [Hebrew] (Tel Aviv: Yedioth Ahronoth, 2004), p. 143, 154.

<sup>59</sup> This refers to Eastern Jerusalem. Until 1967, Eastern Jerusalem extended only over six square kilometers [2.3 square miles] and included the Old City.

<sup>60</sup> Colonel (rel.) Ephraim Lavie, in an interview with Yoav Stern [Hebrew], Ha'aretz, June 13, 2004.

<sup>61</sup> Sher, Ibid, p. 160.

that without territorial exchange, there was no chance of reaching an agreement. Professional studies had already been prepared outside the walls of the Prime Minister's Office to locate relevant territories within the Green Line that could be transferred to the Palestinians. These delegation members mistakenly believed that Barak was saving this "concession" for the eleventh hour of the negotiations.

But Barak was adamant. The discussions on the territorial issue ran aground over and over, in the very first week it was discussed. "It is no wonder that the discussions on territory blew up in the end. We had no ammunition with which to set the wheels of negotiations in motion. We were not qualified to propose a formula based on the 1967 lines, nor with regards to the eastern border, in other words the Jordan valley."<sup>62</sup> According to Ben Ami, Barak felt that a demonstration of "strong nerves" would ultimately break the Palestinians, and "that was the decisive mistake of this summit and of Barak's entire peace-making concept."<sup>63</sup>

Ben Ami addresses the famous meeting in which "President [Clinton] turned the table on Abu Ala" and blamed the Palestinians for "lack of good faith." Ben Ami admits that at that meeting, the Israelis presented a new map "with a regression in comparison to our previous maps. Ehud added another 3% annexation to this map and stuck in annexation 'fingers' in the heart of the West Bank in order to include Kedumim, Eli, Beit El and Ofra. I had misgivings about the map that I presented, though of course I carried out Ehud's orders." Meanwhile, Ben Ami wrote in his journal, "I don't know where Barak is going with this. Does he want to torpedo all our chances for peace? What kind of brilliant strategy is this?"

Also, throughout the entire summit, Barak held onto one demand that was incomprehensible not only to the Palestinians, but to the Israelis as well. For some reason, he insisted on annexing a small portion of the northern Gaza Strip, instead of leaving the Strip completely.<sup>64</sup> Even Gilead Sher wrote in his book that the demand "was unnecessary and peculiar, in my opinion."<sup>65</sup>

Four days before the end of the summit, the Israeli team presented a map to the Palestinians<sup>66</sup> in which 77.2% of the territory was earmarked for immediate transfer to the Palestinians, another 8.8% was territory that would be transferred after a number of years, leaving 13.3% for Israeli annexation. Some tenths of a percent still remained debatable. In actual fact, this position was more uncompromising than what had been told earlier to the Palestinians, though the Palestinians were told orally that the annexation would "only" include 11-11.5%. According to Minister Dan Meridor who participated in the summit, "the maps presented at Camp

David left 17% in our hands. Afterwards there was talk about 10.5%. The most far-reaching proposal was 10.5%." In his opinion, "even this was too minimal, and I'm not ready for territorial swaps."<sup>67</sup>

Yet after the fact, the version presented by Israeli spokesmen held that Barak had offered a Palestinian state on 95% of the territory with territorial compensation of 5%, or alternately 97% with another 3% compensation. This is tantamount to re-writing history. Barak himself said in a press interview at Camp David that he agreed to transfer between 90-91% of West Bank territory to the Palestinians and to a land swap of 1% within the Green Line. He also said that he never agreed to transfer the Jordan Valley.<sup>68</sup> Nevertheless, Barak's last official proposal to President Clinton was a Palestinian state on 89% of the territory with an elevated passageway (or corridor) that would connect the Strip and the West Bank.

In his book "Secret Partner", Danny Yatom writes that Barak's proposal to Arafat via President Clinton was "no less than 11% of the territory, in which 80% of the settlers live, would be annexed to Israel. In addition, no sovereign Israeli territory would be transferred to the Palestinians (land swaps)... Israel would control about a quarter of the Jordan valley for a few years in order to ensure its control over the passageways between Jordan and Palestine."

A day before the end of the summit, the Israeli side still clung to the official position it held from day one. The last version presented to President Clinton again included annexation of 650 square kilometers [251 square miles], and the principle that there would be no land swaps. This gap between Barak's stance and the Palestinian compromise position was so great that there really was no room to maneuver in the negotiations.

## 2. Security

In general, the following statement sums up Israel's final position at Camp David: "Security arrangements are based on the assumption that the Palestinian state will be demilitarized. For a few years, Israel will control about a quarter of the Jordan Valley, in order to ensure Israeli control over the passageways between Jordan and Palestine."

The following statement summarizes the security arrangements formulated at Camp David:

- The sides agreed to Israeli early warning stations on hilltops; the Palestinians asked for the presence of American representatives as well as Palestinian liaison officers on the station sites.
- The sides agreed that there will be one air surveillance. Israel would retain authority and responsibility for aerial space security, and these will, in any event, prevail over civilian authority. The Palestinians emphasized their demand that their commercial flights not be adversely affected, and that their airport continue to function.

<sup>62</sup> Ben Ami, *Ibid*, p. 155.

<sup>63</sup> *Ibid*.

<sup>64</sup> This refers to an area in the northern edge or tip of the Gaza Strip, which included the settlements of Nisanit, Elei Sinai and Dugit.

<sup>65</sup> Sher, *Ibid*, p. 167.

<sup>66</sup> Sher, *Ibid*, p. 203.

<sup>67</sup> Interview with Dan Meridor [Hebrew], *Ha'aretz* supplement, March 21, 2003.

<sup>68</sup> Barak's interview with *Newsweek* and *The Washington Post*, as quoted in Yedioth Ahronoth [Hebrew], July 15, 2001.

- The Palestinians essentially accepted the principle of demilitarization, but demanded that the designation would be “the Palestinian state will have limited armament” and not “a demilitarized state.”
- The sides agreed to the posting of an international force in the Jordan Valley. The Palestinians emphasized that they wanted it to be an American force.

### 3. Jerusalem

There were ups and downs in the flexibility demonstrated by the Israeli side in its proposals for solutions in Jerusalem.

On July 15, Barak outlined for Clinton his proposal to resolve the Jerusalem conundrum. According to his proposal, the city would remain under Israeli sovereignty and the Palestinian capital would arise in the villages of Abu Dis and Anta. The Arab neighborhoods of East Jerusalem would receive a certain amount of municipal autonomy, and the Old City would remain under Israeli sovereignty but would have a ‘special regime’ (religious custodianship or trusteeship). Barak made it clear to the Americans that if a document proposing Palestinian sovereignty in Jerusalem would be presented, he would leave the summit.<sup>69</sup>

On July 16, Barak revealed to Clinton new areas of flexibility; these created a significant turnabout in the traditional Israeli stance regarding Jerusalem. Barak proposed that the outer Palestinian neighborhoods in East Jerusalem would be under Palestinian sovereignty. In the inner Palestinian neighborhoods, Israeli sovereignty would be maintained but the neighborhoods would receive self-rule jurisdiction in the fields of planning, construction, and law enforcement. The Old City would be divided as follows: the Muslim and Christian quarters would be under Palestinian sovereignty while the Jewish and Armenian quarters would remain under Israeli sovereignty. The Temple Mount would remain under Israeli sovereignty but the Palestinians would receive guardianship of the site. A transportation solution would be found to enable movement from the outer neighborhoods to the Haram, without passing through Israeli territory. The proposal even included the possibility for Jewish prayer on the Temple Mount. Barak suggested to Clinton to raise his proposal to the Palestinians and present it as an American idea.<sup>70</sup>

Barak presented his most generous, final offer of the Camp David summit in a meeting with Clinton. As Danny Yatom testifies, Barak offered the following proposed solution to Clinton to transmit to the Palestinians: the Temple Mount would remain under Israeli sovereignty, but with a type of Palestinian custodianship and permission for Jews to pray on the Temple Mount. Arafat would receive sovereignty over the Muslim Quarter and the Church of the Holy Sepulcher in the Old City. Clinton could also offer him the Christian Quarter, while the Jewish and Armenian quarters would remain under Israeli sovereignty. The outer Muslim neighborhoods would receive

<sup>69</sup> Yatom, *Ibid*, pp. 378-381.

<sup>70</sup> Indyk, *Ibid*, pp. 316-317; Yatom, *Ibid*, p. 395.

Palestinian sovereignty, and the inner Muslim neighborhoods would remain under Israeli sovereignty, but under a special polity; the neighborhood administrations would receive municipal jurisdictions from the Israel sovereign. Appropriate transportation would be created to allow the Muslims in the outer neighborhoods to attend prayers on the Temple Mount without passing through Israeli sovereign territory.

When Clinton returned to Camp David, Barak announced the withdrawal of his Jerusalem proposal after Arafat rejected it, and declared a turnaround in his (Barak’s) position. Barak did not change his position regarding the outer neighborhoods but he announced that he would not agree to Palestinian sovereignty in the Old City, though he would exhibit a certain amount of flexibility regarding certain inner neighborhoods.<sup>71</sup>

### 4. Refugees

There was almost no progress made at Camp David on the refugee conundrum. Israel refused wholesale absorption of all the refugees, though displayed willingness to a limited absorption of 10-12 thousand refugees. By the end of the summit, no kind of agreement was reached between the sides: not regarding the depiction of how the problem began, not regarding compensation, nor the number of refugees that would be absorbed in Israel.

## Between Camp David and Taba – end of 2000

### 1. Territory and borders

These negotiations continued for a few months and included 18 peaceful, detailed work meetings that involved exchanges of advanced drafts; this led the sides closer to an agreement. In actual fact, negotiations headway was made in all areas, in relation to the end-point of the Camp David talks.

In the middle of December, the dialogue began to gather momentum. The two leaders, Arafat and Barak, seemed determined to reach an arrangement. At first, Barak continued to insist on the annexation-formula of 650 square kilometers [251 square miles], because this formula allowed for the annexing of 80% of the Israelis (without East Jerusalem). However, in the peace cabinet meeting on December 18, 2000, a day before the delegations left for another round in Washington, Barak already expressed a more realistic position. He said, “We must strive toward a 95% territorial formula.”<sup>72</sup>

The talks took place in the US Bolling Air Force Base. This time, the person to set the tone in the Israeli team was Minister Ben Ami, who presented a more flexible Israeli position than

<sup>71</sup> Ben Ami, *Ibid*, pp. 210-212; Indyk, *Ibid*, p. 326. Barak told Ben Ami that he wanted to carry out a tactical regression in his position so that Arafat would pay a price for his recalcitrance. Ben Ami proposed that Barak should reconsider his agreement to Palestinian sovereignty in the Christian Quarter, but to offer, in exchange, Palestinian sovereignty in the Arab neighborhoods outside the city walls (Ben Ami, *Ibid*, pp. 210-211).

<sup>72</sup> Sher, *Ibid*, p. 352.



what the other team members were inclined to do. This created severe tension within the Israeli delegation, to the point where one of the Israeli team members “resigned.” Ben Ami held a more far-sighted view than the other team members – at least with regard to territorial issues – although in retrospect, even he was not far-sighted enough. The map that caused clashes within the team displayed an Israeli annexation of only 5.5%, but without land swaps.

## 2. Security

In general, Israel's positions regarding defense issues – demilitarization, sites for emergency deployment and strategic sites – did not change in the course of this period from the positions it held in Camp David. One issue in which there was a dramatic change, was with regards to the Jordan Valley: Israel no longer demanded control of the Valley.

## 3. Jerusalem

The sides continued to negotiate even after the Camp David summit failure. They made progress in resolving the Jerusalem issue in 25 meetings that took place in Israel and abroad. Most of the meetings dealt with annexation of Jewish neighborhoods into Israel, while Israel continued to refuse to include them in its calculations of annexed territory. Regarding the Old City, the Israeli position proposed a “special regime” so as not to partition the city. However Israel emphasized that if Jerusalem would be divided, it should be done according to a 2:2 ratio (the Christian and Muslim quarters to the Palestinians, the Jewish and Armenian quarters to Israel).

It is interesting to note that it was during this time period that the substantive debate regarding Temple Mount sovereignty became clear: the goal of each side was to forestall sovereignty of the other side, rather than maintaining it itself. Israel agreed to concede its sovereignty but wanted to ensure that nothing would be done to harm the ancient Jewish antiquities holy to the Jewish people, and to show that Israel does not waive its connections to the Temple Mount. The following is the formulation proposed by Shlomo Ben Ami in the round of talks that took place in the American Bolling Air Force Base on November 19, 2000. “The Palestinian State recognize the holiness of the site to the Jewish people, as well as the centrality of the site in the history, tradition and identity of the Jewish people. Therefore, the Palestinians commit themselves not to conduct excavations on the Haram site or below it so as not to harm the holy place of the Jews. Similarly, out of recognition of those values, the Jews will be allowed to pray on the mountain in a delineated area that will be agreed upon. This agreement, as well as the statement that accompanies it, will be verified by the Organization of the Islamic Conference” (the Palestinians rejected this outright).

## 4. Refugees

The Israeli stance regarding the refugees did not change. One change should be noted: that Barak was willing to

classify all the agreements, as implementation of the UN General Assembly's resolution 194.

## The Clinton Parameters

On Dec 23, 2000, towards the end of the negotiating round at Bolling, President Clinton invited the two delegations to the White House. There he presented the “Clinton Parameters.”

### 1. Territory and borders

President Clinton believes that the parties “should work on the basis of a solution that provides between 94 and 96 percent of West Bank territory to the Palestinian state with a land swap of 1 to 3 percent.”<sup>73</sup> This was in addition to territorial arrangements such as a “permanent safe passage” between the West Bank and the Gaza Strip. President Clinton suggested that the sides should also consider swaps of leased land. Creative solutions exist that would resolve needs and worries of the Israelis and Palestinians in this field. The President felt that the parties should outline a map that would meet the following principles: territorial contiguity; minimize the annexed areas; minimize the number of Palestinians who would be affected by the annexation.

### 2. Security

Clinton attempted to balance Israel's security needs with honoring Palestinian sovereignty. His proposal, as described by Gilead Sher, included the following elements:

- The key to the issue is an international presence that could only be removed from the area if both sides agree to its removal. This force will also be responsible for supervising the implementation of the agreement between the two sides.
- According to the President's best judgment assessment, the phased Israeli withdrawal would take place within 36 months. In parallel, the international force would effect a phased deployment in the same area.
- At the end of this period, a small Israeli presence would remain in fixed military locations in the Jordan Valley for an additional period of 36 months, under the authority of the international force. This period could be reduced in the event of positive regional developments that would diminish the threats on Israel.
- Early warning stations: Israel would maintain three early warning stations (EWS) in the West Bank, in the presence of a Palestinian liaison. The EWS would be subject to discussion after ten years (according to the Palestinian version: once every ten years), and any change in their status would require bilateral agreement.

<sup>73</sup> Indyk, *Innocent Abroad*. Appendix D – The Clinton Parameters. In other words, Israel would receive 3% without territorial exchange. In addition, more land swaps would be possible ranging from 1-3% for which Israel would compensate the Palestinians in a 1:1 ratio. Thus ultimately, the Palestinian state would extend over 97% of the territory.

- Zones for state-of-emergency deployment: the President understands that the sides intend on preparing a map of the deployment territory and the routes to it. A “state of emergency” is defined as the existence of a clear and present danger to Israel’s national security, a military threat necessitating activation of a national state of emergency. The international force would be notified of any such decision.
- Airspace: The Palestinian state would gain sovereignty over its own airspace, but the two sides must prepare special arrangements for Israeli training and operational needs.
- The President understands that Israel’s position is that Palestine should be defined as a “demilitarized state,” while the Palestinian side proposes that it be called “a state with limited arms.” The President proposed a compromise: that the state be defined as a “non-militarized state.” In addition to a “strong security force,” the Palestinian state would have an international force for border security and deterrence purposes.

### 3. Jerusalem

(1) Ethnic partition of Jerusalem: “What is Arab, to the Palestinians; what is Jewish, to Israel.” Arab neighborhoods will be part of Palestine, and Jewish neighborhoods beyond the Green Line (such as Ramot, Gilo, Armon Hanatziv and the Shuafat Ridge) will be in Israel.

(2) “Vertical” partition of the Temple Mount: What is above-ground (the Al Aqsa and Dome of the Rock mosques, and the courtyard between them) would be under Palestinian sovereignty. Everything underground (the underground cavity under the Muslim mosques, in which relics of the Jewish Temple may be buried) will have a special status that will honor the Jewish connection to the site.

Clinton proposed two alternatives for the Temple Mount: In the first alternative the Palestinians would receive sovereignty over the Haram, and Israel would receive sovereignty over either ‘the Western Wall and the space sacred to Judaism of which it is a part’ or ‘the Western Wall and the holy of holies of which it is a part.’ There would be a firm commitment by both not to excavate beneath the Haram or behind the Western Wall. In the second alternative, the agreement could provide for Palestinian sovereignty over the Haram and Israeli sovereignty over the Western Wall and for ‘shared functional sovereignty over the issue of excavation under the Haram or behind the Western Wall.’

(3) A special regime in the Old City: this regime would facilitate free access and passage without fences or passport control.

The Christian and Muslim quarters would be part of Palestine. The Jewish quarter, like the Western Wall, would be in Israel. The Armenian quarter would be divided in a way that would allow for passage within Israeli sovereignty in a corridor from Jaffa Gate to the Wall. The rest of the quarter would be under Palestinian sovereignty.

According to then-Foreign Minister Shlomo Ben Ami, President Clinton did not expressly address the question of the “Holy Basin,” i.e. the entire area outside the Old City that includes the City of David and the Tombs of the Prophets on the road to the Mount of Olives.

### 4. Refugees

Another clarification of the refugee question appeared in President Clinton’s proposal of December 2000. That proposal suggests that Israel acknowledge the “moral and material suffering caused to the Palestinian people by the 1948 war, and the need to assist the international community in addressing the problem.” The refugees will be given five alternatives for absorption:

- In the Palestinian state.
- In territories that Israel will transfer as part of the land exchange.
- Rehabilitation in their current host countries.
- Third-party countries willing to absorb them.
- A limited number in Israel, if Israel agrees to accept them.

Priority would be given to refugees in Lebanon. Both sides would agree that United Nations General Assembly Resolution 194 has been implemented. It would be clarified that the right of return of the refugees cannot be realized freely in Israel proper, but that the Palestinians would have right of return to historic Palestine or “their homeland.” The agreement would clearly mark the end of the conflict and its implementation would put an end to all claims.

On December 28, the government of Israel ratified the Clinton Parameters as a basis for continuation of the negotiations with a majority of ten supporters vis-a-vis two dissenters and two abstainers. This was contingent on similar Palestinian agreement.<sup>74</sup> Furthermore, the government expressed the following reservations:

- The territory offered to the Palestinian state does not allow for retaining 80% of the settlers on the territory of the State of Israel
- The security-related parameters differ from the Israeli position
- Israel wants a “special regime” for the Holy Basin
- The refugee-return issue needs further clarification
- The parameters neglect to address additional, important issues regarding the permanent status agreement between the sides.

<sup>74</sup> Sher, *Ibid*, p. 369; Ben Ami, *Ibid*, p. 387; Indyk, *Ibid*, p. 357. Two ministers opposed the proposal (Roni Milo and Michael Malchior) and two abstained (Ra’anan Cohen and Matan Vilnai). For more information about the discussion in the government, see: Ben Ami, *Ibid*, pp. 387-391.

## Taba 2001

In the time-period that elapsed between Camp David and the Taba summit in January 2001, the considerations that shaped the Israeli standpoint changed dramatically. Barak felt that it would not be possible to find a partner on the Palestinian side who would agree to leave large swaths of the West Bank under Israeli control based on security considerations relevant to events of conflict. Therefore, Israel's new positions with regard to the border line no longer placed special weight on what had been defined as Israel's "vital interests," such as security spaces, control over water, control of strategic traffic arteries and control of areas that command Ben Gurion airport's runways and landing routes. In other words, all these needs would be fully resolved by other means, and not by 'Israeli boots on the ground.' Instead, the emphasis shifted to settlement considerations – the need to include as many Israelis as possible living beyond the Green Line, under Israeli sovereignty.

The last stage of negotiations took place in Taba and started on January 21, 2001. This was only a few days before the Israeli election date for the premiership. The two sides arrived at the talks, equipped with President Clinton's Parameters.

### 1. Territory and borders

In general, the Israelis tried to stretch the terms of the agreement beyond the upper limit of 6% annexation and below the lower limit of 3% territorial compensation. The first Israeli map included an 8% annexation, in other words a Palestinian state on 92% of the territory.

The Israeli demand (from the Camp David period) of possession without annexation of hundreds of additional square kilometers for a thirty-year period now disappeared from the discussion table. Nevertheless, the Palestinians responded angrily that the percentages were higher than Clinton's Parameters and that the annexed area included numerous Palestinian villages. The Palestinians demanded that the sides hammer out a map that would include a 5% annexation, as a compromise between the low and high numbers in Clinton's Parameters. The Israeli side refused and clung to the 8% map. While one part of the delegation sided with Barak's more inflexible mandate, the sides negotiating in another room began to progress in the territorial issue. New ideas brought the two positions closer, but before anything could develop, Barak was summoned. Barak, who was updated by his representatives in the team, instructed Ministers Shahak and Ben Ami not to deviate below the bar of 8% Israeli annexation. At this point, the two had already showed the Palestinians the 6% map.

### 2. Security

The sides went to Taba on the basis of the Clinton Parameters, even though they had many reservations on them. The maps presented by Israel no longer included the demand for Israeli sovereignty over any part of the Jordan Valley. Now the dispute focused mainly on the following points:

- IDF deployment region in an emergency: the Israeli side wanted to retain five active emergency posts in Palestinian territory (the Jordan Valley). The Palestinians agreed to two posts at most, conditional to a specific date on which Israel would be committed to dismantle them. Similarly, the Palestinian side demanded that these two stations be operated by an international force and not by Israel. The Israeli side informally expressed willingness to examine how a multi-national force could resolve the concerns of both sides.
- The Palestinian side refused to allow deployment of Israeli forces on Palestinian territory during emergencies, but was willing to consider ways in which the international force could take on this role, especially in the context of efforts at regional security cooperation.
- Number of military sites: The Israeli side demanded three early warning stations on Palestinian territory. The Palestinian side agreed to the continued operation of the early warning stations, subject to several conditions.
- Division of the electromagnetic spectrum: The Israeli side recognized that the Palestinian state would have sovereignty over its electromagnetic space, and said that while it would not try to limit commercial use of this space by the Palestinians, they (the Israelis) did want to receive control over it for security needs. The Palestinian side wanted full sovereignty over the electromagnetic space, but agreed to accommodate reasonable Israeli electromagnetic needs, as part of cooperation in accordance with international rules and regulations.
- Airspace cooperation: The two sides recognized the sovereignty of the Palestinian state over its airspace. The Israeli side agreed to accept and honor all Palestinian rights of civil aviation according to international regulations, but aspired to a unified aerial control system under overall Israeli control. Israel also asked for access to the Palestinian airspace for military operations and training exercises. The Palestinian side agreed to examine models for cooperation and coordination with regards to civil aviation, but did not agree to give Israel overall airspace control. The Palestinian side rejected the Israeli request for military training and military activity in the Palestinian airspace, and argued that such a request is not consistent with the neutrality of the Palestinian state. They argued that they could not give Israel this privilege while withholding it from neighboring Arab states.

### 3. Jerusalem

The Israeli delegation headed by Foreign Minister Shlomo Ben Ami presented maps in which the Jewish neighborhoods in the east of the city remained under Israeli sovereignty. According to Israel's proposal, a special regime would exist in the Historic (Holy) Basin, meaning that the religious-administrative status quo would be retained in the holy sites. This would include division of the functional sovereignty in the Old City according to quarters (neighborhoods): the

Armenian and Jewish quarters under Israel, the Muslim and Christian quarters under Palestine.

A discussion was also held in Taba on the connection between the two parts of the city. The Palestinian side suggested that Jerusalem be an open city, without inner physical partition, and inspection points outside the two capitals. Israel suggested an open city on a more limited geographic space that would include the Old City and part of the Holy Basin, but the Palestinians opposed this and emphasized that they would agree to an open city only if its borders would overlap Jerusalem's municipal borders. The Israeli representatives raised another option of a "flexible border regime" that would dispense special ID cards to residents of Jerusalem and Al Quds, allowing them free passage between the parts of the city.<sup>75</sup>

#### 4. Refugees

Thus the sides began another round of talks in Taba, on the basis of Clinton's Parameters. Yossi Beilin and Nabil Sha'ath conducted the negotiations on the refugee issue. The Palestinian representative opened the talks and emphasized the centrality of the refugee question and the condition of the refugees in Lebanon. He noted – while quoting many Israeli studies – Israel's part in creating the refugee problem. Beilin, on his part, reminded Sha'ath of the fact that the Arabs rejected the Partition Plan and resolution 194 that was passed before the end of the war, and also Israel's proposal in the Lausanne Conference of 1949 to absorb 100 thousand refugees.

In light of the gap in the narratives regarding responsibility for creating the refugee problem and regarding the right of return, the following solution was decided: Each side would provide a concise description of the sequence of events in its eyes, and its respective interpretation of resolution 194, while agreeing that the realization of resolution 194 would be subject to the Clinton Parameters. The additional meetings in Taba were devoted to discussing ways in which the resolution could be implemented. These discussions were more practical and also addressed the option of absorbing refugees from Lebanon in Palestine or in third-party states willing to absorb them.

Regarding pre-1967 Israeli territory it was said that housing could be built on the territories that would be handed over to the Palestinian state as part of territorial exchange. Israel would continue to consider family reunification in special humanitarian cases. The sides also touched upon principles for compensation that would be donated by the nations of the world and also given to the states that absorbed the refugees. They also talked about the connection to compensation for Jews evicted from Arab countries, who were forced to forfeit their assets. It was agreed that UNRWA would close down within five years.

<sup>75</sup> Menachem Klein, *The Geneva Initiative* [Hebrew] (Jerusalem: Carmel, 2006), pp. 140-141; Sher, *Ibid.*, pp. 355, 313, 410.

The Taba talks were stopped on January 27, 2001 and the delegations went their separate ways without coming to agreement. At the end of this round of negotiations, drafts were exchanged between the sides and some kind of agreement was formed regarding the sequence of events. Almost full agreement was achieved regarding the principles for resolving the problem. The financial compensation to be underwritten by Israel was set aside for the permanent status agreement stage, while the symbolic number of refugees that Israel would be willing to accept remained for the leaders to decide, towards the signing on a framework agreement.

#### Arab League's 2002 Peace Initiative

A year after Taba, the diplomatic process ground to a halt on the background of the Second Intifada and the September 11, 2001 terror attacks on the United States. The Arab Peace Initiative was publicized in March 2002 at the Beirut Summit of the Arab League (also known as The Council of Arab States at the Summit Level at its 14th Ordinary Session). Its main points are as follows:

“Reaffirming the resolution taken in June 1996 at the Cairo Extra-Ordinary Arab Summit that a just and comprehensive peace in the Middle East is the strategic option of the Arab countries, to be achieved in accordance with international law, and which would require a comparable commitment on the part of the Israeli government.

Having listened to the statement made by his Royal Highness Prince Abdullah bin Abdul Aziz, crown prince of the Kingdom of Saudi Arabia [today's king of Saudi Arabia], in which his highness presented his initiative calling for full Israeli withdrawal from all the Arab territories occupied since June 1967, in implementation of Security Council Resolutions 242 and 338, reaffirmed by the Madrid Conference of 1991 and the land-for-peace principle, and Israel's acceptance of an independent Palestinian state, emanating from the conviction of the Arab countries that a military solution to the conflict will not achieve peace or provide security for the parties, the council:

1. Requests Israel to reconsider its policies and declare that a just peace is its strategic option as well.
2. Further calls upon Israel to affirm (the following demands):
  - a. Full Israeli withdrawal from all the territories occupied since 1967, including the Syrian Golan Heights, to the June 4, 1967 lines as well as the remaining occupied Lebanese territories in the south of Lebanon.
  - b. Achievement of a just solution to the Palestinian refugee problem to be agreed upon in accordance with U.N. General Assembly Resolution 194.
  - c. The acceptance of the establishment of a sovereign independent Palestinian state on the Palestinian territories occupied since June 4, 1967 in the West



Bank and Gaza Strip, with East Jerusalem as its capital.<sup>76</sup>

3. Consequently, the Arab countries affirm the following:
  - a. Consider the Arab-Israeli conflict ended, and enter into a peace agreement with Israel, and provide security for all the states of the region.
  - b. Establish normal relations with Israel in the context of this comprehensive peace.
4. Assures the rejection of all forms of Palestinian repatriation which conflict with the special circumstances of the Arab host countries.<sup>77</sup>
5. Calls upon the government of Israel and all Israelis to accept this initiative in order to safeguard the prospects for peace and stop the further shedding of blood, enabling the Arab countries and Israel to live in peace and good neighborliness and provide future generations with security, stability and prosperity.
6. Invites the international community and all countries and organizations to support this initiative.
7. Requests the chairman of the summit to form a special committee composed of some of its concerned member states and the secretary general of the League of Arab States to pursue the necessary contacts to gain support for this initiative at all levels, particularly from the United Nations, the Security Council, the United States of America, the Russian Federation, the Muslim states and the European Union.”

The Israeli government never officially addressed the Arab League proposal, but in general it rejected it. Israel views the Initiative as an attempt to force it to a full withdrawal to the 1967 lines including Jerusalem and the absorption of the Palestinian refugees.

The League's Initiative is ratified every year. On April 30, 2013 the Arab League published an announcement regarding its agreement in principle to adopt peace negotiations on the basis of the 1967 lines with territorial exchanges. This announcement was made at the conclusion of discussions in Washington attended by government officials, including the following personages: Obama's Vice President Joe Biden; Secretary of State John Kerry; Secretary General of the Arab League, Nabil al-Arabi; and Qatari Prime Minister Hamad bin Jaber Al Thani. The Qatari prime minister said that the League was willing to accept these principles in order to facilitate Washington's two-state plan.

## Road map – 2002

On the background of the great violence during the Second Intifada, the Road map for peace was launched as a

<sup>76</sup> <http://www.molad.org/images/upload/files/The-Arab-Peace-Initiative-Final.pdf>

<sup>77</sup> This article was inserted at the demand of Syria and Lebanon that asked not to leave the Palestinian refugees in their respective countries.

diplomatic plan to resolve the Israeli-Palestinian conflict. It was presented as realization of the vision introduced by US President George Bush (the son) in his June 24, 2002 speech.<sup>78</sup> The plan is a performance-based and goal-driven road map for resolving the Israeli-Palestinian conflict, with clear phases, timelines, target dates, and benchmarks under the auspices of the Quartet. The destination was a final and comprehensive settlement of the Israel-Palestinian conflict by 2005.<sup>79</sup>

### Phase I: Ending terror and violence, normalizing Palestinian life, and building Palestinian institutions

1. Unconditional and immediate cessation of Palestinian violence.
2. Resumption of security cooperation between the sides.
3. Comprehensive Palestinian political reform.
4. Israel takes all necessary steps to help normalize Palestinian life.
5. Israel withdraws from Palestinian areas occupied from September 28, 2000.
6. Israel freezes all settlement activity, consistent with the Mitchell report.

### Phase II – Goals

1. International conference to support Palestinian economic recovery.
2. Establishment of a Palestinian state with provisional borders.
3. Arab states restore links to Israel.
4. Revival of multilateral engagement on regional issues: water resources, environment, economic development, refugees and arms-control issues.
5. Approval of a new constitution for the democratic, independent Palestinian state.

### Phase III– Goals

1. International recognition of a Palestinian state with provisional borders and launching a negotiation process for a final, permanent status arrangement.
2. Continued progress on the reform agenda.
3. Continued effective security activity.
4. Negotiations for a permanent status agreement on the basis of Security Council resolutions 242, 338 and 1397.
5. The Arab states accept full normalization of relations with Israel.

Israeli Prime Minister Ariel Sharon announced his support of the plan in his address to the Third Herzliya Conference in 2002. The Israeli cabinet discussed the plan on May 25, 2003 and accepted it, subject to 14 reservations. In

<sup>78</sup> <http://www.ynet.co.il/articles/1,7340,L-1962713,00.html> [Hebrew]

<sup>79</sup> <http://www.un.org/News/dh/mideast/roadmap122002.pdf>

the reservations submitted by Israel on the Road map, it stated that “there will be no pursuit of issues connected to the permanent agreement.” In actual fact, the sides did not continue to implement the plan beyond the first stage.

## The Geneva Initiative – 2003

The Geneva Initiative is a proposal for an Israeli-Palestinian permanent agreement crafted by unofficial teams, headed by Yasser Abed Rabbo and Yossi Beilin, under the supervision and support of the Swiss government. The document was signed in October 2003 and is based on the Clinton Parameters of December 2000.<sup>80</sup>

### 1. Territory and borders

When meetings commenced in January 2002, the sides adopted a new negotiation approach. They decided to eschew a “zero-sum game,” in which one side has to “lose” in order for the other to “win,” leading to a dynamics in which each side strives to squeeze as much as possible from the other side. Instead, they opted for a “win-win” game in which a permanent agreement would constitute the vital, mutual goals of both sides as it would create the reality for a stable, positive future. This new approach was based on a secret paper dubbed the “Day-after Plan – 2020,” prepared by National Security Council headed by Major General (ret.) Gideon Sheffer for the negotiations in Camp David, but was never actually implemented. (Sheffer was also a senior partner in the Geneva Initiative.) In this spirit, the sides made efforts to avoid creating potential friction points in harming sovereignty and more.

The sides agreed that the negotiations would commence from the point at which the official Taba talks had been terminated, in January 2001. This agreement was made possible by the fact that many of the negotiations participants of both sides had had active roles in official negotiations in the past. These included: Minister Dr. Yossi Beilin, Chief of Staff Amnon Lipkin Shahak and the author of this document (Shaul Arieli). On the Palestinian side were Ministers Yasser Abed Rabbo, Dr. Samih al-Abed, Dr. Nabil Kasis and others.

This decision (to commence negotiations from where the Taba talks had ended) spared the sides from returning to new-old starting points, and instead enabled them to benefit from the significant progress achieved in the Taba talks in which the sides succeeded in bridging the gaps. Moreover, it restricted the (unofficial) sides to the official interests, principles and positions that guided the sides in the Oslo process. While this sometimes blocked the emergence of new, out-of-the-box ideas, it ensured the continuity and consistency of the official diplomatic process, and even helped alleviate the “marketing” of the Initiative to public opinion.

The sides repeated their agreement to view territorial exchange as the solution for dissipating the tension surrounding the territorial issue. This tension is the result of the two very

disparate, conflicting frames of reference of the two sides. On the Palestinian side is Security Council resolution 242 and the way it was implemented in peace agreements between Israel and Egypt and Jordan, when Israel adhered to the June 1967 lines. On the Israeli side is its security and infrastructure considerations and the current facts on the ground: Currently, almost half a million Israelis live beyond the Green Line (if you include East Jerusalem), in about 140 settlements and neighborhoods scattered throughout the West Bank. The negotiators had to determine principles and measurements to hammer out basic land-swap solutions to resolve this tension.

The “package deal” approach was adopted for negotiations and agreements on the territorial issue; this approach helped bridge the gaps in all the issues. In other words, the principle adopted by Barak in Camp David that “nothing is agreed until everything is agreed” remained in force. Due to the basic credibility that existed between the sides and the welcome absence of mediators and the media, a “give-and-take” approach was made possible; this offered greater flexibility than traditional negotiations in which concessions are made separately on each issue. In many cases, the approach fostered a “win-win” situation. For example: when the issue of Israeli sovereignty arose regarding the passageway between Gaza and the West Bank, the Israeli side acceded to the Palestinian position of not calculating this territory in the territorial-exchange count. In exchange, Israel was given the right to use roads under Palestinian sovereignty in order to traverse the West Bank (roads 443, 60, and 90). In addition, when dealing with the land-swap issue it was easier and more correct for Israel to offer regions on its side on which Arab villages had stood before 1948. This way they could give the Palestinian side “assets” to help them market the agreement to Arab public opinion.

### Principles

We must keep in mind that any process involving partners with divergent interests will not be able to advance linearly and continuously as compared to the work process that characterizes initiatives with high stability and certainty. Thus, the Geneva Initiative negotiations and progress were circular in nature. Sometimes the chicken preceded the egg, sometimes the reverse was true. In other words, sometimes principles were set and the border was determined according to the principles, and sometimes drafts of maps of different regions generated the principles. Thus, the following principles were gradually consolidated and summarized in the course of the rounds of talks between the sides:

1. The agreement determines a permanent, final, secure and recognized border between the two states – Palestine and Israel, with the goal of effecting a final, accepted partitioning of Western-Mandatory Eretz Israel, between the sides. The intention was to reach a permanent agreement at the end of the negotiations, an agreement that would be immediately implemented. All the ideas for interim agreements, provisional borders and “triangular”

<sup>80</sup> <http://www.geneva-accord.org/mainmenu/english>



land swaps with Jordan and Egypt, were rejected at one point or another during the talks.

2. The border between Israel and Palestine will be based on the 1967 lines, in accordance with UN resolution 242 and President Clinton's Parameters. The sides agreed that the "land for peace" formula would be implemented, similar to earlier peace agreements signed by Israel with Egypt and Jordan. Nevertheless, it was decided that the 1967 lines would serve as a basis for mutually agreed territorial swaps on a one-to-one basis (1:1), as had appeared in President Clinton's proposal, mainly with regard to East Jerusalem.
3. Reciprocal territorial modifications in the form of land swaps on a 1:1 basis will be effected to serve the interests of both sides. This agreement maintained the size of the Palestinian territory according to the 1967 lines but not the borderline itself. It should be emphasized that this agreement significantly deviated from Clinton's Parameters, since Israel conceded 3% of the territory that it was supposed to annex without an equivalent substitute. Arafat's response to the Clinton's Parameters was to negate this idea in the reservations he submitted, but not to the extent of rejecting the entire proposal. He even sent the Palestinian delegation to Taba, on the basis of the Parameters. In exchange for this, the Israeli side succeeded in removing the "right of return" of the refugees from the wording of the agreement. While Clinton did elucidate that "there is no right of return specifically to Israel," he also determined that "the two sides recognize the right of the refugees to return to historic Palestine" or "return to their homeland." At the Geneva Initiative, the Israeli side succeeded in spearheading a compromise that focused on a practical solution for the refugees without using the term "right of return." This led to the adoption of Clinton's idea of requiring Israel to absorb a certain number of refugees in Israel, but subject to its sovereign laws and absorption policy.

Another important point is that the Palestinians demanded that territorial exchanges (land swaps) be equal not only in size but also in quality; the quality-test would be the agricultural quality of the land. At a certain point in the negotiations, the Palestinians even went so far as to ask the Israelis to "smooth" the measured territory to be swapped with suitable software (Geographic information system, GIS). This request is based on the fact that Israel annexed hilly areas and wanted to compensate the Palestinians with flat regions. While these two demands were rejected by the Israeli side, the Israeli alternatives of transferring desert territories were also removed from the negotiation table.

4. The tracts of no-man's land that exist along the length of the 1967 lines would be divided equally between the sides. This territory extends over almost one percent of the West Bank land, and no other way for dividing it was found except by dividing them equally. Nevertheless, since this territory is very close to the Jerusalem corridor

and the access-road to the city, it was decided that most of the territory would remain under Israeli sovereignty and the Palestinians would be compensated for their share by territorial exchange. This concept was adopted later on by the sides in the official negotiations in Annapolis.

5. Neither side would annex settlements or residents of the other side. This principle ensured three key goals of the Palestinians: to prevent Israel from demanding "straightening" of the borderline to accommodate the "finger" created by large settlements (for example: Givat Ze'ev, Maale Adumim and others) by annexing Palestinian villages adjacent to it; to scrap the option of exchanging populated territories; the Palestinians strongly opposed the idea of Arab-Israeli villages being transferred to their sovereignty; finally, to prevent exterritorial Israeli enclaves within the territories of the Palestinian state.

## The key points of the agreements

### 1. Territory and borders

The basic deal that crystallized at the beginning of the negotiations between Dr. Samih al-Abed (Deputy Planning Minister who has been in charge of territorial negotiations from the Palestinian side, from 1993 to today) and me was with regard to the key settlement blocs. In Taba, the Palestinians presented their border proposal which left Ariel under Israeli sovereignty, but not Maale Adumim and Givat Ze'ev. The Israelis nicknamed the Palestinian proposal the "balloon on a string method." In other words, they connected Ariel's built-up area to the Karnei Shomron settlement bloc along the length of Road Number 5, and from there to Alfei Menashe via a narrow road, then to Israel proper. It was then-Tourist Minister Amnon Lipkin Shahak (Lieutenant-General (ret.) and member of the Israeli delegation to Taba) who suggested that Israel should re-evaluate its stance regarding annexing settlements like Ariel, which are more than 20 kilometers [12.4 miles] from the Green Line. Following this refreshing approach, it was decided at the very beginning of the negotiations that Israel would forfeit the annexation of Ariel, and in exchange the Palestinians would agree to Israel's annexation of Maale Adumim and Givat Ze'ev. Later on this deal was sharply criticized by some of the members of the Palestinian delegation, and there were even (failed) attempts to replace them with other territories. The importance of this deal became clear later on when the Palestinians tried again to remove these settlements from the map, as part of the Palestinian proposal to Olmert in the course of the Annapolis talks. Nevertheless, the assessment then, like today, is that Maale Adumim and Givat Zeev would remain under Israeli sovereignty, under a comprehensive permanent agreement.

This deal led Israel to focus on the "Jerusalem envelope" region, the region where most of the Israeli population beyond the Green Line lives. The annexation of the major settlements in the area allows Israel to attain its objective of expanding the narrow Jerusalem corridor, to ensure that the

capital city will not revert to its pre-1967 status as a “dead-end city.” Thus Jerusalem benefits from the annexation of Maale Adumim in the East, Givat Ze’ev in the north, and Beitar Illit, with the Etzion Bloc, in the south.

The sides agreed to a territorial transfer of 124 square kilometers [48 square miles], in which each side would receive an additional 24 square kilometers [9.2 square miles] of the no-man’s land territory. In actual fact, Israel received 38 square kilometers [15 square miles], while the Palestinians received only 11 square kilometers [4.2 square miles], but they received other regions in compensation. Israel annexed 21 settlements and 11 neighborhoods that house 75% of the Israeli population beyond the Green Line, allowing 375 thousand Israelis to remain in their homes. In exchange, Israel will transfer non-populated territories of 86 square kilometers [33 square miles] in the Gaza Envelope area to the Palestinians, thus increasing the area of the Strip by about 25%. The rest of the land will come from the Lakhish Region in Western Judea.

## 2. Security

The Palestinian state will be demilitarized, supervised by multinational forces, and will include only a security force in charge of maintaining law and order and preventing terror.

The Palestinians commit themselves to refrain from joining, assisting, promoting or co-operating with any coalition, organization or alliance of a military or security character, the objectives or activities of which include launching aggression or other acts of hostility against the other.

The Palestinians commit themselves to comprehensive and continuous efforts against all aspects of violence and terrorism. Moreover, they will refrain from organizing, encouraging, or allowing irregular forces or armed bands to operate in their territory. This effort shall continue at all times, and shall be insulated from any possible crises between the sides. The sides will also promulgate laws and take action to bring an end to incitement.

## 3. Jerusalem

The Clinton Parameters were adopted for resolving the Jerusalem issue: the Palestinians would recognize Jerusalem as the capital of Israel.

The Jewish neighborhoods will be annexed to Israel and the Arab ones to Palestine. The one exception to this is the Har Homa neighborhood because its construction in 1996 contradicted the Declaration of Principles, according to which the sides committed themselves to refrain from creating “facts on the ground” in the course of the interim period.

The Old City was divided in such a way that the Jewish Quarter and half of the Armenian Quarter (where Jews live) remained under Israeli sovereignty. Furthermore, the following sites to be under Palestinian sovereignty would, nevertheless, remain under Israel’s control, security, and administration: Metzudath David, the Hashmonai tunnel, and the Jewish cemetery on the Mount of Olives. The

administrative-religious status quo on the Temple Mount and the Western Wall turned into diplomatic-sovereign. The Palestinians recognize the historical connection and unique significance of the Temple Mount to the Jewish people. Free access of Israelis to the Temple Mount is guaranteed. An international supervisory body will enforce the prohibition on excavations and construction on the Temple Mount.

The “Open City” model that was raised in the Taba conference was adopted with regards to the Old City, in order to avoid having to erect physical obstacles within the walls of the Old City. Ultimately, special arrangements were determined for the involvement of multinational forces in securing the Palestinian section of the Old City, with an emphasis on the Temple Mount.

The Palestinian residents of East Jerusalem will become citizens of the Palestinian state and lose their current status as permanent residents of Israel.

## 4. Refugees

The ‘right of return’ is not mentioned at all; instead, the refugee question was resolved by practical components. The document states that the agreed upon solution to the refugee issue will bring an end to the Palestinian refugee status and include monetary compensation and permanent place of residence. All the refugees have a number of options regarding their choice of a permanent place of residence. The only one that will be automatically available to all refugees is to live in the Palestinian state, their national home. The other options are: to remain in their present host countries or relocate to third countries that will absorb them, subject to the sovereign and exclusive discretion of the third countries.

Israel will be one of the third-party countries participating in the effort to rehabilitate the refugees. Regarding the number of refugees that will return to Israel, it was determined that Israel shall submit a number derived from the average number of refugees to be absorbed by different third countries (referring to countries that are not Palestine or hosting Arab countries). According to data submitted by third countries such as the United States, Canada and others, the number is about 15 thousand refugees. This agreement provides for the permanent and complete resolution of the Palestinian refugee problem, and no additional claims on this issue may be raised.

## Annapolis Conference – 2008

In November 2005, Ariel Sharon formed the Kadima party from Likud and Labor party defectors. In January 2006 Sharon collapsed and was hospitalized; Ehud Olmert from Kadima replaced Sharon as prime minister. After elections for the Knesset, in which Kadima received 29 mandates, Olmert established a government under his premiership in April 2006.

The international atmosphere at the time wanted to end the diplomatic deadlock. At the end of 2006, on the 59th

anniversary of the UN General Assembly Partition Plan resolution, the UN General Assembly passed six resolutions calling for Israeli withdrawal from the occupied territories. The first resolution, with a majority of 157 countries out of 192 UN members, recognizes the rights of the Palestinian people for self-determination and the founding of an independent state.

The construction momentum in Judea-Samaria in Sharon's era had been considerable. According to the data supplied by the Central Bureau of Statistics (CBS), 275,156 souls lived in settlements throughout Judea-Samaria in June 2007 (out of which 47.3% were ultra-Orthodox Jews). This constitutes an increase of 5.45% in comparison to June 2006. Thus a total of 15 thousand residents were added to the settlements in the course of the year. About two-thirds of this increase, about 9,300 people, were the result of high natural growth (3.5% yearly), and only one third from migration to the settlements. This atmosphere, and the Second Lebanon War that transpired in the summer of 2006, drove Olmert to renew negotiations with the PLO under American brokerage.

The Annapolis Conference took place on November 27-28, 2007 at the United States Naval Academy in Annapolis, Maryland, United States. The conference was attended by representatives from: Israel, the PLO, the Quartet, the European Union, the United States, the UN, and Russia. In addition, there were also representatives from most of the Arab League countries including Egypt, Jordan, and countries that do not have diplomatic relations with Israel such as Saudi Arabia, Malaysia, Sudan, Lebanon and even Syria.

Contrary to the Oslo agreement and the Wye Memorandum, but similar to the Madrid Conference, the Annapolis Conference was not a summation of negotiations but an attempt to restart them. The goal of the conference was to try to rejuvenate the peace process and pave the way for intensive negotiations toward an Israeli-Palestinian final status agreement.

The Israeli delegation was headed by Israeli Prime Minister Ehud Olmert and Foreign Minister Tzipi Livni; the Palestinian delegation was headed by Palestinian Authority Chairman Mahmoud Abbas in his role as PLO chairman together with Palestinian Authority Prime Minister Salam Fayyad. At the beginning of 2008 it was decided to establish 12 committees to deal with all the issues on the table, and these worked throughout the year. The negotiations extended over eight months and included about 300 meetings on various levels.

## 1. Territory and borders

Territorial negotiations commenced with a discussion of the considerations involved in demarcating the map. Israel presented the following two considerations:

- Security – recognized and secure borders, facilitating the protection of Israel and Israeli citizens
- Settlement issues – the need to take into account the situation created on the ground in the course of 40 years, with an emphasis on Israeli settlement blocs.

Israel viewed the territorial and security issues to be interdependent and interconnected. For example, it felt that the more territories would be transferred to the Palestinian side, the more Israel would need intrusive and deeper security arrangements to ensure that Israel's security would not be significantly harmed as result of the diplomatic arrangement. For example, Israel finds it imperative that the Jordan Valley remain under its control. If, however, Israel would concede this territory for diplomatic considerations, it would demand long-term security arrangements, including IDF deployment on the ground, in the first stage. For a long period of time, Israel would need control of the airspace for early detection and identification of air threats from the east.

- The considerations above led to the following guiding principles involved in creating the map:
- Political principles determined that most of the Israeli settlers would remain in their homes in settlement blocs that would be annexed to the State of Israel. Israeli citizens living in territories that will be turned over to the Palestinians, will get assistance and compensation from the State of Israel and will be moved to the settlement blocs or to Israel proper. On the other hand, a minimum of Palestinians will remain in territories that will be annexed to Israel.
- Security principles emphasized the following: (1) the prerequisite for defensible borders allowing Israel to protect its territories, its population centers and its strategic assets; (2) the necessity to take topography into consideration, such as elevated tracts of land that command settlements, strategic and military routes and facilities in Israel's domain; (3) separation of populations and avoiding friction and strife between populations; (4) building a border that includes effective barriers and controlled passageways.
- Additional principles relate to Palestinian independence while limiting its dependence on Israel; maximum territorial contiguity for both sides while addressing the "fabric of life" of civilians on both sides of the border; taking into account national interests such as water, holy places, archeology and quality of the environment.

The negotiations were identical to negotiations that had taken place previously, in its format as well as its characteristics. Like the negotiations in the Barak and Olmert eras, the Annapolis talks faced the same sticking-point: the discrepancy between the size of the territory that Israel wanted to annex, and the total built-up territory of the settlements including the Jewish neighborhoods in East Jerusalem, which is less than 2% of the West Bank area.

Israel's desire to increase its percentage of annexed territory was due to the following rationales: to minimize the number of Israelis that would be evacuated (no more than 20%); to allow territorial expansion room for the annexed settlements; to control/command certain tactical regions for security needs; and to have as few Palestinians as possible in the

territories that would be annexed to Israel. Therefore, all the negotiations that dealt with the border issue began with a discussion on the Israeli demands. Only after these were resolved, or at least understood, did the discussion turn to the location of the territories that would be transferred from Israel to Palestine in exchange.

Two official, parallel discussion channels were held in Annapolis: One was conducted between Foreign Minister Tzipi Livni and Ahmed Qurei (Abu Ala). Livni proposed that Israel annex 7.3% of the West Bank, and postpone the discussion on territorial exchange to a later date. The second channel was held between Olmert and Abbas. At the end of the discussions, on September 16, Olmert proposed that Israel annex 6.5% of the West Bank (about 380 square kilometers, [147 square miles]). As compensation, Olmert offered 5.8% of Israeli territory, and calculated the land of the corridor (or territorial link) between Gaza and the West Bank as an additional 0.7%. This was despite the fact that it is really a tenth of the size, and despite the fact that Israel demanded that it remain within its sovereignty. Olmert's justification was the fact that such a corridor had not existed before the war in June 1967. Olmert presumed that this proposal would allow Abbas to show his people that he agreed to a land swap on a 1:1 basis.

There was a dispute between the sides regarding the Green Line: the Palestinians wanted that it be considered a starting point, and the Israelis wanted it as a line of reference. The issue was resolved according to Secretary of State Rice's proposal: a total of 6,205 square kilometers [3,855 square miles] for calculating the area (the West Bank, the Gaza Strip and East Jerusalem).

There was a refreshing change in Annapolis in the Israeli position. For the first time, Israel proposed specific Israeli tracts of land for land swaps with the Palestinians. In Olmert's proposal, these territories were: the Gaza envelope, the Southern Hebron Hills, the Lakhish Region and the southern Beit Shean Valley. Israel insisted on a demarcation similar to that of the planned fence as a permanent border, with the exception of the Arab East Jerusalem area.

Olmert, like his predecessor Barak at Taba, drew a borderline of more than 800 kilometers [497 miles], almost three times the length of the Green Line. This was to satisfy one single internal political constraint: the number of Israelis who would be evacuated as part of the arrangement. With 6.5% of the territory, Israel could retain 85-87% of the half a million Israelis living today beyond the Green Line.

There is another territorial dispute between the sides, regarding the status of the no man's land in the Latrun enclave. This territory, 46 square kilometers [18 square miles] in size (0.8% of the West Bank territory), was created at the conclusion of the War of independence when the Armistice Agreement was signed between Israel and Jordan on April 3, 1949. While in the other West Bank areas the armistice line was drawn as a line running down the middle between the positions of the two armies, the area in Latrun was not

divided down the middle. That is because this area has strategic importance as it topographically commands the roads rising to Jerusalem (Maale Beit Horon and the old Israeli road that went from Mishmar Ayalon to the Nachshon intersection, and from there to the Shimshon intersection).

Israel applied the country's laws on territories beyond the partition borders that it conquered in war, but not on the no man's land zone. Jordan did the same when it annexed the West Bank in April 1950. And by the way, Israel has always avoided declaring its borders.

Subsequent to the Six Day War, Israel never imposed its state laws on no man's land, though it treated East Jerusalem differently. Nevertheless, Israel considered the no man's land as Israeli territory with all its implications, and established the following settlements there: Kfar Ruth, Shilat, Maccabim, Nof Ayalon, Lapid and Neve Shalom.

There are several contradictory Israeli legal judgments regarding the status of no man's land areas based on two fundamental, and contradictory, claims. Those who view it as part of Israel argue that since Israel was the first to demonstrate effective rule in the region, sovereignty applies to it even without legislation. The objectors maintain that this reality is a "negative arrangement" and that due to Palestinian claims in previous rounds of negotiations for potential Palestinian sovereignty, this territory is not part of Israel.

The international community and the Palestinians argue that this territory was conquered by Israel in 1967, therefore it is included in the occupied territories. Moreover, it was supposed to be included in the Arab state according to the Partition resolution of 1947. In 2012, the EU even published a list of zip codes of the settlements whose exports to the EU countries are not tax exempt. In addition to the settlements and to East Jerusalem, the list also included Israeli settlements in the no man's land. The sides came to an agreement in Annapolis to divide the no man's land equally between them, though in actual fact most of the territory will remain under Israeli sovereignty. Israel will then compensate the Palestinians with territories in its domain, as part of a territorial exchange.

## 2. Security

One of the security principles that guided the Israeli negotiators was to avoid a permanent agreement with the potential of creating a greater threat for Israel should the arrangement be violated. Therefore, Israel attempted to safeguard the following two interests in the negotiations:

- That the Palestinian state would not serve as a convenient platform for attacking Israel should such a coalition be formed on the east, in the intermediate or long-term time periods.
- To prevent terror threats against Israel from developing either within or by way of the Palestinian state.

Actions to be taken to avert these threats are based on the following three points:

1. Demilitarization of the Palestinian state from major military capacities, and from terror infrastructure.
2. Creating security arrangements that give Israel moderate strategic depth.
3. Bi-lateral and multi-lateral cooperation for implementing the arrangements and neutralizing the forces and agents that oppose the agreement.

In the course of the negotiations, Israel internalized the following basic argument of the Palestinians: That it is impossible to sign a permanent agreement crafted to inherently create a better security reality, while simultaneously maintaining a military deployment to deal with possible conflict and violence when the deployment itself constitutes an extension of the occupation. Therefore it was demanded of Israel to concede most of its territorial claims in the Jordan Valley which, psychologically and consciously, served as Israel's defensive space against threats from the east. Furthermore, it was demanded of Israel to concede control over the territories east of the Green Line that control the coastal plain. This region (the coastal plain) includes 73% of Israel's population, Israel's civilian and military airports, and 80% of its industry.

Thus, the borderline proposed by Israel in Annapolis is not based on the security rationale of control over the land, but mainly on demographic-political considerations. (This represents a different rationale than what was proposed in Camp David, but similar to what was proposed in Taba.) The main Annapolis concern was to annex to Israel the maximum number of Israelis and no Palestinians.

Thus a final arrangement template began to be formed, one that would answer Israeli needs while minimizing negative effects on Palestinian sovereignty. The following are the key elements:

- First, the demilitarization of the Palestinian state from an army and ban on entry of any foreign army in Palestinian territory. Palestine would be demilitarized of heavy weapons, tanks, cannons and rockets and missiles. It would be permitted to maintain an agreed-upon list of weapons. The airspace would serve the Israeli air force in addition to Palestinian civilian aviation use.
- Second, the Palestinians will establish a strong police force with the capacity to enforce law and order and fight terror.
- Third, Israel will administer two or three early warning stations.
- Fourth, international forces will be deployed in what the sides view as sensitive areas: on the border between Israel and Palestine; on the border between Palestine and Jordan-Egypt; the international passageways; Jerusalem; early warning stations; and along accepted traffic arteries. There will be coordination and liaison between all the

sides. It should be noted that Defense Minister Barak opposed the deployment of international forces.

- A unified airspace under prevailing Israeli security command.
- A unified electromagnetic space, under joint coordination and administration, without adversely affecting Israeli needs due to Israel's topographical disadvantage.

Furthermore, Israel continued to demand the deployment of a combined military force (Israeli-Palestinian-Jordanian and foreign) in the Jordan Valley. The purpose of this: to prevent the smuggling of weapons that are banned from the Palestinian state according to the agreements; and prevent the infiltration of terror cells and other hostile forces into the West Bank territory.

While the Annapolis negotiations also did not effect a permanent agreement, both sides felt afterwards that the security issues could be resolved in an agreement. In an interview given by Mahmoud Abbas in November 2012, he repeated and emphasized that he had come to an agreement with Prime Minister Olmert on the security issue.

### 3. Jerusalem

The Israeli prime minister presented a position in which all the Jewish neighborhoods would be under Israeli sovereignty.

The prime minister proposed that the Historic (Holy) Basin receive a special status (arrangement): both sides would transfer jurisdiction of the site to an accepted third party, while neither side would forfeit its claim to sovereignty on the territory. Furthermore, Olmert proposed the establishment of a steering committee with representatives from five countries: Israel, Palestine, the United States, Jordan and Saudi Arabia (as well as Morocco and Egypt). Later on, Ehud Olmert described it as such: "I proposed the following solution in Jerusalem: that the Jewish parts remain under Israeli sovereignty, and the Arab parts under Palestinian state sovereignty. I verbalized these things expressly as part of an official proposal. I thought that it was possible to resolve the Holy Basin issue, and demonstrated it on a precise map, according to which it would be administered by five countries<sup>81</sup> including Israel. It would be open to all religions and believers."

### 4. Refugees

Negotiations between Israel and the Palestinians were renewed at the end of 2007, in the Annapolis Convention. Israel felt that the solution to the refugee problem lay in the establishment of a Palestinian state, which is the national Palestinian homeland. Israel does not recognize its responsibility for the problem of the Palestinian refugees, certainly not its exclusive responsibility. Israel also links the Palestinian refugee issue to the Jewish refugee issue, with regards to the Jews who were expelled from Arab countries. Israel made it clear that it does not accept responsibility for

<sup>81</sup> Israel, Palestine, the US, Jordan and Saudi Arabia.

the refugee problem, but did express willingness to recognize the suffering caused to both sides as a result of the war.

Israel does not recognize the right of return. However, Olmert agreed that Israeli acceptance of the Road map, which includes the Arab League Initiative including Security Council resolution 194, constitutes recognition of the Palestinian demand. In addition, negotiations between Mahmoud Abbas and Ehud Olmert concluded with the following positions regarding the number of refugees that Israel would absorb: Olmert agreed to absorb a thousand refugees every year for a period of five years. Israel proposed that, in addition to the Palestinian state, the refugees be resettled in hosting and third party countries, if they (the countries) so agree.

One of the important agreements that were reached, due to the intervention of American Secretary of State Condoleezza Rice, is the establishment of an international apparatus to solve the refugee problem. This apparatus would deal with putting an end to the refugee status and would deal exclusively for: refugee claims, refugee resettlement and rehabilitation and compensation. Moreover, both sides agreed that the international apparatus would constitute the instrument for implementing the bilateral agreement. In addition, the two sides agreed to the dismantling of the UNRWA.

The Israelis insisted that the sides would not be committed to anything beyond what was written in the agreement, in other words: the “end of demands” in addition to the “end of conflict.”

The Issue	Olmert	Comments
Borders	Israeli annexation 6.5% Palestinian annexation 5.8% and the Gaza-West Bank corridor	Livni refused to display a territorial exchange map before coming to an agreement about the territories that will be annexed to Israel
Security	Demilitarized state	Additional security arrangements
Jerusalem	Partition of the neighborhoods and internationalizing of the Historic Basin	
Refugees	Return of a thousand refugees every year for five years	Livni rejected any return of refugees

### Kerry’s shuttle diplomacy – 2013-2014

After his re-election to the premiership, Benjamin Netanyahu delivered a speech on June 14, 2009 in which he discussed Israel’s position regarding the security issues of a permanent agreement. His main points were: the Palestinian state shall be a demilitarized state; a return to the 1967 lines will be rejected outright; and Israel will command the Palestinian border crossings and airspace. Later on, Netanyahu expanded

his border-related demands to include Israeli control of the Jordan valley. Over time, this demand was reduced to a long-term military presence of decades and, in one of his statements, was further diminished into a reduced Israeli presence only along the Jordan River. Netanyahu demanded that the duration of the Israeli presence be subject to its performance, and not to a specific time period. He said that there would be no return of refugees to Israel, and that Jerusalem will remain unified under Israeli sovereignty.

Kerry’s shuttle diplomacy terminated in April 2014 without results and without a proposal for a framework agreement. One way to summarize this diplomatic endeavor is to address the gaps between the sides that arose in the meetings, and to examine the key lessons.

Netanyahu raised the demand of Palestinian recognition of Israel as a Jewish national state; he pushed this issue to center stage in the last negotiations. The forerunner of this request was Tzipi Livni’s demand in Annapolis 2008 to conclude the negotiations and the agreement, with a Palestinian recognition of Israel as the Jewish state. This demand was new and had not arisen in previous negotiations, which limited themselves to mutual recognition between the PLO and Israel. This can be found in the “letters of mutual recognition” that were exchanged by Yitzhak Rabin and Yasser Arafat before signing on the Document of Principles. Netanyahu took this demand one step forward and wanted to turn it into a basic premise of the agreement. This was rejected by the Palestinians for many reasons.

Territorial issue: At first Israel rejected the “1967 lines as the basis for territorial talks with reciprocal land swaps on a 1:1 basis.” Later on, American envoy Martin Indyk reported that Netanyahu agreed to the 1967 basis concept and to territorial exchange. From statements made by the Prime Minister Netanyahu, Foreign Minister Liberman and others it is understood that the prime minister wanted to add two new “blocs” to the 6.5% settlement blocs proposed by Ehud Olmert in Annapolis. These were Kiryat Arba (Hebron) and Ofra-Bet El; in this way, Netanyahu would retain 90% of the Israelis living beyond the Green Line under Israeli sovereignty. Two proposals were made to compensate the Palestinians: One, transferring part of the Wadi Ara section (Nahal Iron) in the Small Triangle, not on a 1:1 basis (my assessment is a 1:6 ratio). The other is financial compensation for the lands.

Jerusalem: Israel tried to position the Palestinian capital in one of the outlying Arab neighborhoods like Beit Hanina.

Security: In addition to the demand for demilitarization of the Palestinian state, Israel also opposed the presence of American forces in the Palestinian state. The talks focused on the time-period in which an Israeli military presence would temporarily remain in a strip of the Jordan valley. The Israelis demanded tens of years.

Furthermore, Netanyahu demanded Israel’s freedom of action in fighting terror in all the territories of the Palestinian state.

The main barrier to progress and to closing the gap between the sides results from the lack of any binding framework of



accepted principles for the four big issues. The American model of conducting negotiations on all the issues without guidelines allowed Israel to re-open all its positions that it had presented in Annapolis.

## Summary

The Israeli viewpoint developed and underwent significant changes over time. These were the results of the following considerations:

- From the beginning of the Oslo process marked by Rabin's speech in October 1995 until the pre-Camp David period, the Israeli standpoint assumed that a "Palestinian entity" (in Rabin's words) would arise that would not satisfy the traditional criteria for statehood. Therefore, a plan was drafted by the IDF Central Command called Additional Step, which mainly dealt with security issues. According to this plan, the Palestinian entity would extend over 60% of the territories, and Israel would continue to control its external borders.
- Israel changed its standpoint during the Stockholm Process prior to the Camp David summit, and accepted the Palestinian position regarding the size of the Palestinian state: "100% minus." In other words, 100% of the territories minus Israel's unique needs, which would be met in 1:1 territorial exchanges.
- Prior to Camp David (in July 2000), the Israeli position was based on three factors:

1. Security factors – Maintaining the eastern border with Jordan under Israeli control.
2. Settlement related factors – Retaining most of the Israelis living over the Green Line under Israeli sovereignty.
3. Historic/holy – retaining Jerusalem under Israeli sovereignty.

Therefore, at this point in time, Israel still rejected the Palestinian demand for 1967 lines with land swaps on a 1:1 basis.

- The option of partitioning Jerusalem was first raised by Israel in the course of the Camp David summit.
- A dramatic change took place in the Taba talks (2001) when Israel omitted the Jordan valley from its demands and based all its territorial claims only on the settlement factor.
- The last change took place in the Annapolis Conference when Israel presented a map with the territories it proposed to transfer to Palestine, in exchange for the territories it wanted to annex.

We see how, over time, the settlement issue remained the sole decisive factor in the Israeli negotiating mindset. Meanwhile, all the other considerations disappeared; both during the diplomatic process, and during Israel's unilateral attempts to shape its borders.

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# When Concessions Are Not as Painful as Projected

Elias Zananiri

## Introduction

It took the Palestine Liberation Organization (PLO) exactly twenty years to change course and endorse the two-state solution. In 1968, the FATAH Congress called for the creation of a democratic state in all of Palestine where Jews, Muslims and Christians live in peace with full and equal rights and duties. In 1988, the PLO endorsed the two-state solution by accepting UN Resolutions 242 and 338. As a matter of fact, the 1988 de facto recognition of Israel's existence was a major unilateral move on the part of the PLO, but in a positive direction. The PLO, however, received nothing in return.

For twenty years the international community made every effort possible to pressure the PLO into accepting Israel's right to exist. The controversial statement made in 1974 by then US Secretary of State Henry Kissinger in which he conditioned any talk to the PLO on the latter's acceptance of UN Resolutions 242 and 338 had guided the US foreign policy on Palestine until 1989, when official meetings started between Robert Pelletreau, US Ambassador to Tunis, and Yasser Abed Rabbo, member of the PLO Executive Committee.

In 1993, the PLO accorded Israel another recognition, this time de jure. Palestinian leader Yasser Arafat and former Prime Minister of Israel, Yitzhak Rabin, exchanged letters of mutual recognition. In that exchange Israel recognized the PLO as the sole legitimate representative of the Palestinian people. There was no mention of a Palestinian State.

A long peace process then began. Preliminary efforts led to the first Interim Agreement between the two sides, stipulating a five-year interim phase during which both parties would negotiate core issues that were deferred to the final status agreement.

Nobody at that time ever imagined that what felt like a long period of time (five years) for an interim agreement to last, would become a form of a permanent situation that would last, until now, for twenty years. In the meantime, more facts on the ground were created day after day in blatant breach of the principle of the Interim Agreement which stipulated that none of the parties to the conflict would carry out any move that prejudice the final status agreement.

This paper is an attempt to explore why twenty years failed to bring about the long-awaited-for peace between Palestinians and Israelis. It highlights the Palestinian perspective on twenty years of efforts that were disrupted with numerous outbursts of violence and bloodshed between the two parties.

A historic background is added to help understand certain aspects of this conflict, which goes back more than one

hundred years. Later, the paper deals with major rounds of peace talks starting with the Oslo Process through the 1999 Sharm Al Sheikh summit, the 2000 Camp David negotiations, the 2001 Taba negotiations, the 2008 Annapolis process, and the latest failed round of negotiations that started mid-2013.

It also highlights the official Palestinian stand on all core issues of the conflict and explains that without solving those issues no permanent agreement can ever be reached between Palestinians and Israelis.

Some of the material in this paper relies on personal notes I took over years of involvement, both as a journalist for more than 35 years and as policy advisor to the Palestinian Authority (PA) on various intervals and in different positions since 2003, which gave me access to PLO officials who were directly involved in various phases of negotiations with Israel. Other material is being brought here from various sources with relevant citations added.

Rules of confidentiality do apply to certain aspects of the material, as occasionally, officials who spoke to me did so within the context of work relations or within the framework of personal friendship that allowed exchange of views on many issues relevant to the Palestinian questions, without the limits usually considered when one speaks to a journalist or to an outsider. Citations are provided where possible. I tried to minimize as much as possible citations from "official or reliable sources" as this term vaguely presents the real picture and in some cases is used to publish inaccurate information.

## Background

Irony in the Middle East is a never ending story. In 1974, when US Secretary of State, Henry Kissinger, made his famous statement tying the hands of the US Administrations for years and preventing any official contact with the PLO, he did so a few weeks after the PLO saved his life.

Kissinger took a flight to Lebanon a few weeks earlier. He was accompanied by his special assistant, Morris Draper, a career US diplomat who passed away in 2005. Prior to their arrival, the PLO learned of an ambush set by radical Palestinian groups to shoot down the US plane. Arafat immediately gave orders to Ali Hassan Salameh, his chief security officer who later became commander of Force 17, to do whatever it takes to protect the US plane. Salameh mobilized 2,000 fighters of FATAH and deployed them around Ryaq Airfield in the Beqaa Valley to which the plane was diverted.



Almost ten years later, Draper became the US Consul General in Jerusalem. In 1985, I interviewed him for the English language Palestinian weekly *Al Awdah*, where I was the managing editor. When I asked him about the incident, he sounded shocked but very politely requested that I shut my tape recorder. He then said he would be prepared to entertain my question as candidly as possible provided I did not publish his answer in the interview. I agreed. "I wonder where did you get this story from? Only very few people in D.C. know it," he said.<sup>1</sup> I replied that I happened to be among the very few Palestinians who knew about the incident and explained that I could not reveal my source on that story. He smiled and the ice was broken.

I asked Draper why the US paid Arafat back "so rudely" instead of appreciating what he had done. I asked why Kissinger set a barrier that prevented any contact between the US Administration and the PLO. Draper explained:

The US already told Israel of the new commitment before we took off to Lebanon. The announcement, however, came a bit late. The reason why we took that decision was to soothe Israel's worries after the 1974 Arab Summit in Rabat recognized the PLO as the sole legitimate representative of the Palestinian people.

What started as a one-time PLO assistance to the US later developed into a special covert relationship between the US and its CIA and the PLO and its security apparatus, Force 17. A few years later, on 27 February 1991, Draper gave a lengthy interview to the Association for Diplomatic Studies and Training which was working on a "Foreign Affairs Oral History Project." In that interview he confirmed the existence of special security ties between the US and the PLO in cases where the US felt the PLO could help solve some of the problems it faced in the Middle East, particularly with Iran during the hostages crisis in 1979, where he says:<sup>2</sup>

Among other tasks, I was trying to get the PLO to use their influence to get our personnel released if they were willing because they had very good relations with the Iranians. The PLO were at least partially successful in the initial release of our female and black staff members, which took place a few days after the Embassy take-over.

Addressing the question of how he continued contacts with the PLO despite the Congressional restrictions which existed at the time, Draper said:

First of all, we had our own commitment to the Israelis made originally by Kissinger not to recognize the PLO or to negotiate with them. But there is a long history of communications with the PLO for security reasons, primarily in connection with our people in Beirut. We had established a security channel and kept it open. The PLO made possible the successful evacuation of the American staff from Beirut in 1976. There were other episodes, so that we just broadened that channel to

include our staff captive in Tehran. This of course has never been made public, but we felt it was justified on the basis of the security requirements for our staff. We did enlist PLO support along with many other efforts. There were a lot of people talking to the PLO, some with Carter's personal approval. So we could get messages to Iran in a variety of channels.

The security coordination went on but never managed to penetrate the diplomatic wall that Kissinger established between the US and the PLO. It was not publicized by media outlets, as obviously the two sides had their reasons to remain discreet. The US did not want to antagonize Israel, its greatest ally in the region. The PLO did not want to be seen as "collaborating" with the US at a time the latter refused to grant her any political recognition. Again, covert coordination between various intelligence bodies in the world is a strange phenomenon, as it goes beyond traditional walls of animosity or bridges of friendship. Arafat, however, never gave up. He sought every means possible to gain points deep in Washington's playground. He instructed Zuhdi Tarazi, PLO special observer representative to the UN, to initiate in 1979 a meeting with Andrew Young, then US Ambassador to the UN. The moment the news of the meeting came out, President Carter forced Young to resign. A day after he was told to resign, Young said there was nothing wrong in what he did.<sup>3</sup> But his reasoning never convinced Carter:

I sought to protect the State Department from the things that I was doing. I did that in part because the State Department had very little credibility with either the Israelis or the Arabs.

Young repeated that he met with the PLO representative to seek postponement on a Security Council resolution proposed by Kuwait calling for Palestinian self-determination and a Palestinian state. The vote was postponed until August 23, apparently as a result of this meeting.

If the U.S. voted for the resolution, it would have totally alienated Israel. If the U.S. vetoed it, there would have been serious consequences for the U.S. in the Arab world and if the U.S. abstained, "it would have made everybody mad.

Young said he had met with Israeli Ambassador Yehuda Blum to avoid a public backlash on the issue. "I said in fact a big uproar over this issue only creates a constituency on the Palestinian issue that does not exist," Young stated. "It was the Israeli government that has decided to make this a public issue."

In the meantime, the PLO became more convinced that its democratic state solution was not an option to the international community and that an international consensus around Israel's right to exist within recognized and secure borders need to be taken into account.

1 A meeting with Mr. Draper at his office inside the US Consulate General compound, Agron St. West Jerusalem.

2 <http://www.adst.org/OH%20TOCs/Draper,%20Morris.toc.pdf>

3 <http://www.jta.org/1979/08/17/archive/young-insists-there-was-nothing-wrong-with-meeting-a-plo-official>

A self-trained political fox, Arafat understood he had to take a daring move that would perhaps leave an impact on the world and on the Israeli public no less than the 1977 historical visit to Jerusalem by former Egyptian President Anwar Sadat. Arafat did it his way, but never managed to cause the kind of psychological earthquake within Israel the way Sadat did. Sadat launched his psychological battle with Israel in one take, visiting Jerusalem and addressing the Knesset. Arafat thought he could achieve the same effect but with gradual steps and announcements, as such taking calculated risks as opposed to Sadat who went for the whole jackpot.

Under the hellish fire and siege by the Israeli army of the PLO forces in Beirut in 1982, Arafat received in one of his hideouts two Israeli peace activists, Uri Avnery, a journalist turned politician, and Mattityahu Peled, a retired army general. They both sought to end the siege and transform the war and its horrific outcome into a political capital for both Israel and the Palestinians. They returned to Israel with a clear message from Arafat confirming his acceptance of the two-state solution.

Months after the return from Beirut, Peled told me he was happy and satisfied with what Arafat told him:<sup>4</sup>

The PLO Chairman said explicitly and unambiguously that he was prepared to accept a political solution to the conflict that would guarantee the Palestinians their right to self-determination and create their independent Palestinian state on all the Palestinian territories Israel occupied in the June 1967 war. That statement should have been satisfying for Israel. The Israeli leadership should have taken the opportunity to utilize this statement and consider it the foundation of a peace agreement with the Palestinians. Instead, Israel did whatever it could to drive the PLO out of Lebanon and certainly away from the peace process.

Peled was member of the Israeli army's general staff during the June 1967 war. He lived until the first year of the Oslo process before passing away in March 1995.

The meeting Arafat had with the two Israeli peace activists in Beirut was not the first time he expressed his acceptance of the two-state solution. His gradual and hesitant approach lacked the impact that was needed to influence world and Israeli public opinion. Arafat had a group of Arab radical countries that kept trying to undermine his leadership of the PLO. A number of radical factions within the PLO were influenced by those countries, such as Iraq, Syria and Libya. Factions that were not members of the PLO resorted to physical assassination of PLO officials for being too lenient towards Israel. Of those was the group of Sabri Al Banna, better known as Abu Nidal, the notorious terrorist who was a gun for hire serving a number of Arab, and some even say Israeli, intelligence agencies. These factors hindered Arafat's psychological offensive. They also delayed the

4 A meeting with Peled in my office at the Palestine Press Services, East Jerusalem.

moment of truth for many in the PLO and FATAH leadership who opposed Arafat and his approach. Yet those opponents were soon to join Arafat in his quest. They stood to his right in support of his peace overture toward Israel.

Arafat's cautious moves went almost unnoticed by Arab or Palestinian media, which on a number of occasions argued that Arafat beamed his moderate views to the West and did not mean what he said or that he had no intention to address the Arab and Palestinian peoples, otherwise, he would have done so through Arab media outlets.

Long before the Israeli invasion of Lebanon and the visit by the two Israeli peace activists to Beirut, Arafat had taken a few more steps that were not popular at all within the PLO. In an article published in the October/November 1995 edition of the "Washington Report on Middle East Affairs"<sup>5</sup> former member of the US House of Representatives Paul Findley wrote:

..... During a four-hour meeting in Damascus the night of Nov. 25, 1978, Arafat risked the fury of the many Palestinians who wanted Israel eliminated completely by making an extraordinary pledge. Going beyond policy positions taken by the Palestine Liberation Organization at that time Arafat, as its chairman, authorized me to report to the White House that the PLO would renounce all armed struggle and all other forms of violence and would live at peace with Israel in exchange for an independent Palestine consisting of only the West Bank and Gaza.

The same night, Findley wrote, Arafat dictated the following message to President Jimmy Carter:

..... I am not a member of the Ku Klux Klan. I am not a Nazi, nor am I a communist. I am a freedom fighter, fighting for the benefit of my people who are refugees, living without any humane conditions, without a homeland, and suffering. And I would hope that the human rights Your Excellency is talking about will not exclude my people, who have such great need.

Arafat's proposal for peaceful co-existence with Israel elicited non-response from the White House, curiosity from the media, and protest from Palestinian critics, wrote Findley, who added that after ducking media questions about the pledge, he [Arafat] wrote in a letter to me dated March 3, 1979:<sup>6</sup>

Our goal is to regain our legitimate rights and to establish our independent state on any part of our homeland liberated or evacuated by the Israelis.

Without disavowing the pledge, the letter was sufficiently reassuring to disarm his critics, wrote Findley, adding:<sup>7</sup>

..... The November 1978 meeting was the first but not the last time the PLO chief told me his organization has very few cards to play in its relationship with the Jewish state

5 <http://www.wrmea.org/wrmea-archives/165-washington-report-archives-1994-1999/october-november-1995/8094-to-secure-agreement-yasser-arafat-has-played-precious-cards.html>

6 Ibid.

7 Ibid.

and must play each with great care. His principal cards: terminating Palestinian armed struggle and extending diplomatic recognition to Israel.

Those two cards were not that easy for Arafat to give away without something tangible in return. All US promises of recognizing the PLO once it accepted UN Security Council Resolutions 242 and 338 had proved to be hollow and unsubstantial. The 1988 Declaration of Independence which Arafat read out in Algiers at the closing session of the Palestinian National Council, parliament in exile, recognized the resolutions 242 and 338, endorsed the two-state solution and explicitly recognized the State of Israel. US attempts continued to squeeze more concessions from Arafat until the State Department finally decided to suffice with a statement Arafat made in his speech before the UN General Assembly in Geneva in December 1988.<sup>8</sup> At the time, the US denied Arafat entry visa to attend the United Nations General Assembly (UNGA) meeting in New York. Subsequently, the UN decided to move its GA session to Geneva. In his speech, Arafat clearly announced that the PLO renounced terror, prompting Washington to give instructions to Robert Pelletreau, its ambassador to Tunis, to open direct contacts with Yasser Abed Rabbo.

The PLO acceptance of UN Resolutions 242 and 338 paved the way for the Palestinian participation in the 1991 Madrid Peace Conference, but as part of a joint Jordanian-Palestinian delegation, as Israel opposed granting the PLO an independent delegation status in the conference.

The Madrid Conference, attended by Israel's hard-line Prime Minister Yitzhak Shamir, set the fundamental formula for reaching peace in the Middle East. It underlined the rule of "land for peace" as a prerequisite for peace to prevail in the Middle East. That formula has guided the PLO all the way until now. For the Palestinians, full Israeli withdrawal from the Palestinian territories occupied in the 4th June 1967 war would mean full peace with Israel. The Israeli position, however, has been based on the notion that Israel would still be able to achieve full peace with the Palestinians in return for less than a full withdrawal.

Throughout the process of negotiations between Israel and the PLO, the former ignored the fact that Menahem Begin's government in 1977 was the one that set the precedent for all peace treaties that followed peace with Egypt. The Begin government agreed in the treaty with Egypt to pull back to the 1967 lines. Although it took the Egyptians seven years to secure the Israeli withdrawal from Taba, an Egyptian tourist resort close to the Israeli borders near Eilat, the principle was clear. The deal with Egypt couldn't have been reached without Israel's consent to withdraw to the pre-1967 lines with Egypt.

Subsequent years proved that this precedent continued to guide every Israeli government at a time. In the 1994 peace treaty with Jordan, the international borders that existed prior

to 1967 between Israel and Jordan were safeguarded. Later on, the late Prime Minister Yitzhak Rabin issued his parameter for peace with Syria when he said that "depth of withdrawal from the Golan Heights depends on depth of peace."<sup>9</sup> That statement meant that were Syria to provide Israel with full peaceful and normal ties, it would retrieve every inch of the Golan Heights that Israel occupied in 1967.

In 2000, Israeli Prime Minister Ehud Barak took his decision to unilaterally pull out of Lebanon after over twenty years of occupation. The Israeli army pulled back to the international lines between Israel and Lebanon, with the exception of the Shab'a farms that continue to be disputed until present.

In 2005, Israeli Prime Minister Ariel Sharon decided to unilaterally pull out of Gaza Strip. He withdrew the Israeli army to the pre-1967 lines that separated Gaza Strip from Israel. Therefore, no wonder that each and every Palestinian leader or negotiator would insist that the same precedent be applied to the Palestinian-Israeli negotiations too. Why should any Palestinian leader, no matter how moderate he can be, suffice with less than what neighboring Arab countries received or were promised to receive in return for peace with Israel?

The wide gap between the doctrines with which the PLO and Israel went to negotiations was to blame for all ill-fated peace talks that took place over twenty years. From the outset, the Palestinians defined for themselves a clear objective, a two-state solution whereby the independent State of Palestine with East Jerusalem its capital lives side by side with Israel along the 4th June 1967 lines. To attain this goal, the PLO has been flexible enough to compromise some of the core principles of fully independent statehood and agreed to land swaps, a practical solution to the refugees question, demilitarization of their independent state, and a certain form of sharing all of Jerusalem with Israel, i.e. not insisting on the city's re-division. Those compromises were agreed to by the PLO following various rounds of negotiations in the past twenty years. Therefore, one may argue that negotiations for two decades yielded some fruits, although benefiting Israel more than the Palestinians. The PLO compromises went unnoticed by Israel, perhaps because they entailed painful withdrawals back to the 1967 lines. Each Prime Minister in Israel who took over after Rabin's assassination repeated the same old demands from the Palestinians, reshuffled all signed agreements and wanted to set a new starting point for the peace talks. This lack of consistency was dreadful for the peace process. Every kind of progress achieved would diminish the minute a new prime minister was elected in Israel. Governments change but agreements remain. In the Palestinian-Israeli instance, no matter what agreements were signed by a certain Israeli government and the PLO, a newly elected government would prefer to start a new round of negotiations on how to implement what was agreed upon with the previous government. Sometimes, negotiations were moved back to square one as there was no point in

<sup>8</sup> [http://articles.chicagotribune.com/1988-12-15/news/8802240683\\_1\\_palestinian-leader-yasser-arafat-renounces-terrorism-plo](http://articles.chicagotribune.com/1988-12-15/news/8802240683_1_palestinian-leader-yasser-arafat-renounces-terrorism-plo)

<sup>9</sup> Hebrew and other newspaper clips on various occasions quoting Rabin on his vision for a future settlement in the region.

negotiating the implementation of an agreement that a new government does not accept. This too explains why it took the two sides twenty years, and maybe more, to negotiate without reaching the two-state solution.

Israel always preferred to keep the borders question to the end of the negotiations. By contrast, the Palestinians wanted to finalize the borders issue in the beginning, especially after the land swap principle became an integral part of whatever agreement to be reached between the two parties. The PLO wanted to prevent a situation where borders are left till the end and in the meantime, any government that comes in Israel and does not agree to what was agreed upon earlier, would waste time and use it to build more facts on the ground. That was exactly the case since the signing of the Oslo Accord and the assassination of Rabin two years later.

One should understand the psyche of the Palestinians public when it comes to speaking on a peace agreement with Israel based on the two-state solution. For them, the 1947 UN Resolution 181 which partitioned Palestine allocated for the Arab state an area of 46% of Palestine and for the Jewish state something like 52% of the area. The rest, engulfing Jerusalem and Bethlehem were to have a special international system, *corpus separatum*. Between 1947 and 2013, the map changed very dramatically (see Annex III).

The day the PLO endorsed the two-state notion as a basis for a peaceful settlement with Israel, it compromised the area of land allocated to the Palestinian or Arab state in Resolution 181. Moreover, the PLO endorsement of the two-state solution along the 1967 lines literally meant that the Palestinians have sufficed with the remaining 22% of Palestine, where they would establish their state. How did Israel reciprocate with that concession? Almost nothing! The Israeli approach in all rounds of negotiations has been based on one concept: To guarantee pre-1967 Israel and to add to it whatever area that can be squeezed from the Palestinians in the occupied West Bank. This explains the mantra commonly repeated in Israel calling on the leadership "on both sides" to take tough decisions. This mantra simply implies that the Palestinian leadership too has to take tough decisions, as if the compromise it adopted is not sufficient for making peace in the region. This reminds of a story of an old man who was bargaining a deal with a merchant seeking to partner with him in his little shop. The merchant presented his offer, which was not convincing at all. The old man finally told him: "This is not real partnership. What you demand is that whatever in your pocket is yours, and whatever in my pocket is for us to share!" This behavior throughout the twenty years of negotiations was behind every step Israel made to impose new facts on the ground and drive the two-state solution further away.

Israeli officials spoke of the two-state solution, but their reference to that solution was more of lip service and less of substance, unless they envisaged a Palestinian state that would be established in much less territory than that conquered by Israel in 1967. There is doubt that Benyamin Netanyahu, when he spoke of the two-state solution in his

famous speech at Bar Ilan University in Ramat Gan after he formed his government in 2009 ever meant an independent Palestinian state along the 1967 borders. He may have thought of a state that is larger than the PA controlled areas, but less than the entire West Bank. With an assumption like this, no one can ever expect an endgame deal to prevail.

Other questions continue to haunt Palestinian officials as well as the public at large.<sup>10</sup> They reflect the level of frustration Palestinian negotiators have accumulated in two decades of negotiations with Israel. They highlight the lack of equity in relations between Israel and the PLO. They testify to the fact that the balance of power has always been manipulated by Israel, the regional superpower, against the PLO, the underdog of the region. Those questions include the following:

What did the PLO get in return for its unilateral recognition of Israel's right to exist within secure borders of 1967 as stipulated in the famous 1988 Declaration of Independence?

- What did Israel grant the PLO in return for its recognition of Israel?
- Why there hasn't been a single case where Israel reciprocated with positive stands on its behalf?
- Will there ever be a leader in Israel who will have sufficient courage to say 'enough is enough' and lead his country to a genuine two-state solution with the Palestinians?

The 1988 Palestinian unilateral *de facto* recognition of Israel has never been reciprocated by the State of Israel until this very day. In fact, Israel did everything it could to undermine this strategic change in Palestinian positions. With the exception of Rabin, no prime minister who came after him wanted to solve the conflict. They were more interested in managing the conflict, not solving it. This explains why twenty years of negotiations failed. Further explanations will be found in the upcoming chapters of this paper.

Some may argue that both Ariel Sharon and Ehud Olmert were slightly different. And yes they were. Sharon didn't believe in negotiations with the Palestinians but was prepared to lead his country, on a unilateral track though, to a situation where the Israeli occupation of the Palestinian people would disappear, but with less territory handed over to the Palestinians. Sharon spoke of this in public on a number of occasions, claiming that Israel could not sustain the occupation of the Palestinian territories forever. He was the same leader who once said that Netzarim, a Jewish settlement in Gaza Strip, shared the same fate as Tel Aviv<sup>11</sup>. But some time later, he was the leader who ordered his troops out of Gaza Strip and evacuated all the settlements in the area, including Netzarim. From a Palestinian viewpoint, Sharon's mistake was his unilateral approach, which Palestinians argue gave weight to anti-negotiations forces, such as Hamas, to claim

<sup>10</sup> Private discussions with officials and people at large over a very long period of the author's journalistic and/ or political work.

<sup>11</sup> Hebrew and other newspaper clips on a number of occasions.

that negotiations yielded no results and that only resistance forced Israel out of the occupied territories. Sharon's confident and close aide, Dov Weissglass, said:<sup>12</sup>

Sharon didn't believe in negotiations with the Palestinians. He didn't trust any of them. Besides, he felt that the right in Israel won't allow him to take such a daring step of removing settlements in Gaza Strip and later in the West Bank, if that was the outcome of talks with the Palestinians. He also felt he would need at least three years to convince the settler community in Gaza to leave. But once he took a unilateral decision, he was capable of arguing, and convincing many as well, that his move was in the best of Israel's interest, not something he was granting the Palestinians."

Weissglass' explanation of how Sharon thought made a lot of sense, although it didn't satisfy the Palestinian leadership which blamed the unilateral move in Gaza for the rise of Hamas. Palestinian officials warned that unilateral Israeli withdrawal from Gaza Strip would only give Hamas propaganda tools to solidify its image in the Palestinian public perception. That was exactly the case right after the Israeli army and settlers pulled out of Gaza Strip. Hamas banners throughout the Gaza Strip read slogans along the lines of "only resistance kicked the Zionists out of Gaza, not talks."

It is reasonable to assume that Sharon planned a similar move in the West Bank too. Terje Rod-Larsen, the former UN Special Coordinator for the Middle East Peace Process and Personal Representative of the Secretary-General to the PLO and the PA<sup>13</sup> said that Sharon had in mind a plan for the West Bank very similar to what he planned for Gaza. Larsen said he had a meeting with Giora Eiland, Sharon's national security advisor, who told him of the plan. "When I asked Eiland about the scope of the Israeli unilateral withdrawal from the West Bank, I was surprised to hear that the plan was to pull back to a new border very close to the lines suggested by the Geneva Initiative," Rod-Larsen said. In other words, Israel under Sharon was prepared to move ahead with practical solutions on the ground but without negotiations with the Palestinians. By contrast, other leaders in Israel were prepared to waste years in futile talks with the Palestinians only to avoid taking tough decisions like the ones Sharon took or considered taking.

## Missed Opportunities

The history of the Arab-Israeli conflict tells a few incidents in which a peace agreement could have been reached in the past but something went wrong with Israel and/or the PLO, casting blame for the failure.

Israel signed separate peace deals with Egypt and Jordan, but did not intend to end the conflict with the Palestinians. As back as in 1971, for instance, Egyptian President Anwar Sadat

<sup>12</sup> Meeting with Weissglass in Tel Aviv in mid-2013.

<sup>13</sup> Meeting with Larsen at Yossi Beilin's house in Tel Aviv late in 2004.

accepted the initiative of UN negotiator Gunnar Jarring.<sup>14</sup> He endorsed the initiative which could lead to a full peace with Israel on the basis of Israel's withdrawal to its pre-war borders. But Jarring failed as neither Israel nor the US accepted the terms of his initiative.

At a certain point, immediately after the war on Lebanon in 1982 was over, Israel's Prime Minister Menahem Begin considered a deal with Jordan but without any inclusion of the PLO in the process. The deal was based on the assumption that Jordan's King Hussein would be prepared to bypass the PLO and conduct direct negotiations with Israel to regain the territories it lost to Israel in the 1967 war. The PLO strongly rejected the move. The US immediately afterwards introduced the Reagan initiative, early in 1983, months after the PLO forces left West Beirut. Khalil Al Wazir, better known as Abu Jihad, who was the second in command in FATAH and deputy commander of the Palestinian Forces, moved to Jordan. He was among the PLO and FATAH top officials who joined Yasser Arafat in a meeting with King Hussein, who wanted to brief the Palestinian leadership with the latest contacts he had with the US Administration under Ronald Reagan. Abu Jihad said:<sup>15</sup>

President Reagan approached King Hussein with an offer to negotiate a peace treaty with Israel's Menahem Begin. The King asked for assurances and was told that Begin would be ready to pull back to the 1967 lines with minor changes. The King asked for a definition of minor changes. The answer from Israel through the Americans spoke of no more than 1.5 per cent of the area in the Old City of Jerusalem where Israel shall keep a special corridor under its sovereignty to allow free access for Jews to the Wailing Wall and in Qalqilya. The King told Reagan he would first consult the PLO, and he did. He called Arafat and asked him to come to Amman along with the top and most senior PLO officials. The King submitted the plan and asked us to think about it. The answer was no. We argued that the main goal of the offer was to bypass the PLO and announce its death. So the decision was to reject the offer."

The PLO as such deferred the question of land liberation to a later stage, which by today's standard, may look like an indefinite deference. That was a grave mistake by the PLO. True, there were no guarantees at the time that all the territories occupied in 1967 were to be evacuated by Israel. Similarly, no one could guarantee the revival of the PLO once it accepted the deal and stood down from the political arena.

Although the deal was to benefit Jordan and not the PLO, it could have been a lot better for the Palestinians to safeguard the area of their future independent state instead of leaving it under Israeli occupation, under whose nose further settlement activities would take place. In fact, since then the settlement

<sup>14</sup> <http://www.haaretz.com/weekend/week-s-end/seeds-of-peace-1.315172>

<sup>15</sup> My meeting with Abu Jihad early in 1983 at his house in Amman, Jordan.

activities have been rampant throughout all the occupied territories. Some may question whether Jordan would ever have been prepared to cede authority on the West Bank to the PLO at a later stage. Like every hypothetical question, a hypothetical answer is never an answer.

The Palestinian leadership may have misinterpreted the Israeli readiness to waive the occupied West Bank to Jordan as a sign of weakness. It may have thought that Israel was in no position to sustain its occupation anymore and subsequently was looking for someone with whom to cut a deal. In politics, several matters are judged by their outcome. In this case, the outcome was too bad for the Palestinians. The PLO wasn't ready to admit that it made a mistake. For the organization, the whole deal was meant to announce the death of the PLO, something no Palestinian leader could ever accept, especially at that time when the Israeli invasion of Lebanon was meant to destroy the PLO and eliminate its existence.

A few weeks later, the US Administration decided to take a different track. The objective was to guarantee the Palestinian inhabitants of the West Bank and the Gaza Strip an autonomous self-rule government for an interim period of five years. The US proposal came in the form of a speech delivered by President Ronald Reagan on 1st September 1982. In that speech, Reagan said:<sup>16</sup>

First, as outlined in the Camp David accords, there must be a period of time during which the Palestinian inhabitants of the West Bank and Gaza will have full autonomy over their own affairs. Due consideration must be given to the principle of self-government by the inhabitants of the territories and to the legitimate security concerns of the parties involved.

The purpose of the five-year period of transition which would begin after free elections for a self-governing Palestinian authority is to prove to the Palestinians that they can run their own affairs, and that such Palestinian autonomy poses no threat to Israel's security.

The United States will not support the use of any additional land for the purpose of settlements during the transition period. Indeed, the immediate adoption of a settlement freeze by Israel, more than any other action, could create the confidence needed for wider participation in these talks. Further settlement activity is in no way necessary for the security of Israel and only diminishes the confidence of the Arabs and a final outcome can be freely and fairly negotiated.

It was clear from Reagan's speech that the US strongly believed Jewish settlements were a real obstacle for any peace making effort in addition to being a real problem for the Palestinians. The major reason why the PLO could not accept the Reagan Initiative was the feeling of being neglected and deliberately left out of the political arena in the region.

<sup>16</sup> <https://www.jewishvirtuallibrary.org/jsources/Peace/reaganplan.html>

Again, the PLO made another mistake. The speech by Reagan was important in the sense that it underlined the US position that did not support acquisition of any more Palestinian land in the Occupied Territories for settlement purposes. At that time, someone in the PLO may have thought that the settlement activities would not be that crucial as long as they remained within certain minimal areas of the West Bank. As a matter of fact, some in the PLO never understood how gross and detrimental Jewish settlements were for the Palestinian cause. A senior PLO official<sup>17</sup> with whom I met in Amman in the early 1980s defended the hesitant moves of the PLO at the time and its rejection of political initiatives that were floated in the air, and blamed the Palestinians living under occupation for being in a hurry, trying to rush for a solution. He said:

You brothers coming from the occupied territories have no patience at all and you only think of the easiest ways to rid yourselves of the occupation but we look at the picture from a far distance, allowing us to see the comprehensive image that you don't see or you have no capacity to see.

A revolutionary movement like the PLO, which stood fast in the face of the strongest army in the region for 88 days in Lebanon, would not raise its hands so easily and succumb to international or American pressure, he argued. In retrospect, one would say today it was a grave mistake by the PLO to reject the Reagan Initiative, especially when this initiative highlighted matters that were crucial for the Palestinian inhabitants of the West Bank and Gaza Strip. But the fact that the Reagan Initiative spoke only of the "Palestinian inhabitants of the West Bank and Gaza" and failed to refer to diaspora Palestinians or to refugees was enough to make it unacceptable.

The Reagan Initiative bore some positive points but was not positive enough for the Palestinians to endorse. In a sense, it provided a glass which was both half-full and half-empty. But at least it made clear that the occupation by Israel was not to last and that the Palestinians, or using the Reagan wordings, the inhabitants of the West Bank and Gaza Strip, deserved freedom from this occupation. Reagan stated:

I want to make the American position clearly understood: the purpose of this transition period is the peaceful and orderly transfer of domestic authority from Israel to the Palestinian inhabitants of the West Bank and Gaza. At the same time, such a transfer must not interfere with Israel's security requirements.

So the United States will not support the establishment of an independent Palestinian state in the West Bank and Gaza, and we will not support annexation or permanent control by Israel.

There is, however, another way to peace. The final status of these lands must, of course, be reached through the give-and-take of negotiations; but it is the firm view of the

<sup>17</sup> A leading PLO member who requested anonymity.



United States that self-government by the Palestinians of the West Bank and Gaza in association with Jordan offers the best chance for a durable, just and lasting peace.

We base our approach squarely on the principle that the Arab-Israeli conflict should be resolved through the negotiations involving an exchange of territory for peace. This exchange is enshrined in United Nations Security Council Resolution 242, which is, in turn, incorporated in all its parts in the Camp David agreements. U.N. Resolution 242 remains wholly valid as the foundation-stone of America's Middle East peace effort.

It is the United States' position that - in return for peace - the withdrawal provision of Resolution 242 applies to all fronts, including the West Bank and Gaza.

The PLO was not alone in rejecting the Reagan Initiative. Israel also rejected it. Israel's rejection should have signaled to the PLO that certain positive points could be built on rather than ignored or entirely rejected. Israel learned of the initiative when US Ambassador to Israel, Samuel Lewis, visited Prime Minister Menahem Begin during his vacation in Nahariya. Lewis showed Begin the initiative and the later responded: "It is the saddest day of my life."<sup>18</sup> Begin was determined to reject the plan. He did not consider it even a starter for negotiations.

The outcome was clear. Settlement activities increased and another chance to end the Israeli occupation failed. Since then, it was the Palestinians and the Arab countries that urged Israel to pull back to the 1967 lines but to no avail. Even when the 2002 Arab summit in Beirut offered the Arab Peace Initiative, trading normal and diplomatic ties with Israel in return for its recognition of the independent Palestinian state along the 1967 lines, Israel rejected the offer. A year later, the Arab Peace Initiative rallied support of the Islamic Organization Conference in Tehran. As such, a total of 57 Arab and Islamic countries endorsed the Arab peace offer that was adopted at the Beirut summit in 2002. As a matter of fact, this initiative is still relevant. All Arab summits since then have reiterated its validity. But Israel, until today, has yet to officially respond.

With every missed opportunity to reach an agreement, realities on the ground continued to change, but not in the Palestinians' favor. Figures speak for themselves. In 1983, the settlers in the West Bank were 22,800 and in East Jerusalem 76,095, totaling 98,895. In 1993, the year the Oslo Accord was signed, West Bank settlers were 181,600 and East Jerusalem settlers were 141,000, totaling 252,600. In the year 2000, their number was 192,976 in the West Bank and 365,226 in East Jerusalem. By the year 2010, their numbers were 314,132 in the West Bank and 198,629 in East Jerusalem and their total stood at 512,761. In short, between 1983 and 2010, the number of Jewish settlers in the occupied West Bank and East Jerusalem doubled five times (see Annex I). What can be more detrimental to the

18 <https://www.jewishvirtuallibrary.org/jsource/Peace/reaganplan.html>

notion of the two-state solution other than the continued Jewish settlement activities?

The gaps between the official positions of the two sides continued. Although some understandings were reached here and there, Palestinian expectations remained far more than what Israel was ready to compromise. These gaps will not be bridged as long as a leader in Israel does not accept with full force and in full the two-state solution along the lines of the UNGA recognition of the State of Palestine, on the 4th June 1967 lines. Israel has always placed the onus of proving sincerity in making peace on the PLO. Now, it is evidently clear that the onus is on Israel to show sufficient readiness to reach an agreement that gives the occupied territories back to the Palestinians along with minimal land swaps and a just and agreed upon solution to the refugees' problem. Without a full Israeli withdrawal from 100% of the area Israel occupied in 1967, including of course the Golan Heights, there can never be any real peace in the region. The last twenty years of negotiations show beyond any doubt that no agreement could be reached as long as Israel rejected the notion of full withdrawal.

The withdrawal, according to a Palestinian perspective, includes East Jerusalem as well. But still, the PLO was ready to entertain ideas of sharing the city of Jerusalem, both East and West, with Israel without re-dividing it the way it was prior to the 1967 war. The complexities of the city and of any solution that may be implemented there remained one of the major reasons why rounds of negotiations failed to reach an agreement. When President Clinton presented his parameters for solving the conflict, including a set of ideas regarding East Jerusalem, Israel's interpretation of those parameters for a solution of the Jerusalem issue was far from being acceptable to the Palestinians. Ahmad Qurei, also known as Abu Alaa', believes that:<sup>19</sup>

Nothing is left of East Jerusalem that we could suffice with as capital for the Palestinian State. Israel has set up a network of bypass roads that carve every Palestinian village in the East Jerusalem governorate out of the district and arbitrarily separate them from the City. The Old City of Jerusalem is another complex issue where Jewish settlers managed to take over houses of Palestinian families and erected a special regime of Jewish neighborhoods or pockets within the Old City in such a way that it is not easy to separate those pockets from the rest of the Old City. In addition to all of this, Israel has designed a weird network of roads and bypass roads that lacerate most of East Jerusalem into parts that are not easily accessible to the Palestinians. Almost every bypass road is controlled by the Israeli army or police, who can suddenly decide on blocking the roadblock on a certain road and thus keep people divided for as long as the soldier or the policeman on the checkpoint wants. This is crazy and it won't work.

19 Meeting with Abu Alaa' at his office in Abu Dis, on the outskirts of East Jerusalem in mid-June 2014.

## The Oslo Process

The PLO wanted to place its footprint on any part of the national soil of Palestine. It also wanted to utilize the international momentum the Palestinian uprising (intifada) against the Israeli occupation in Gaza Strip and the West Bank gained between 1987 and 1993. In addition, it wanted to provide a political initiative that would build up on the Palestinian sacrifices and move on with an effort to reach a political settlement with Israel that ends the occupation and creates the independent State of Palestine.

Twenty years later, many in Palestine, the Arab world and in Israel itself still question whether Oslo was a mistake. It should not have happened, they say. They may have a point. The Oslo process was born out of desperate needs of both Palestinians and Israelis but it also bore the fruits of success and of failure at the same time. Elements of success depended foremost of all on the special chemistry and trust that existed between the two leaders who created Oslo, Arafat and Rabin. The elements of failure grew with the assassination of Rabin, whose legacy has hardly been honored by whoever came after him.

Under Rabin Israel became convinced that a political solution is needed to end the intifada, which eroded Israel's international standing at all levels following images of heavily armed Israeli troops facing unarmed Palestinian masses in the streets of every city, town, village and refugee camp in the Occupied Territories. The PLO too needed the Oslo process in what seemed to be the last chance it had to rescue itself from losing its grip over the last battlefield it had with Israel, the Occupied Territories, after it already lost the Lebanese theatre of operation. Besides, the Gulf War had already broken out two years earlier and Arafat took the wrong side supporting Saddam Hussein in the face of most of the Arab world and international community. True, Arafat and the late King Hussein of Jordan thought they could prevent a war between Iraq and the international coalition in the Gulf by means of convincing Saddam Hussein to pull out of Kuwait. Their effort, nevertheless, was in vain. Saddam never listened to them. Some argue he was not given the option of listening to them. The US had taken its decision to topple Saddam Hussein no matter what. That decision, as days and years proved, was final.

The PLO paid a steep price due to Arafat's stand on Iraq. The Gulf States minimized their financial support. Kuwait kicked out of its territories thousands of Palestinians who had spent most of their lives living and working in the Emirate. Most of those found their way to Jordan and added up to the internal crisis in the kingdom. It was within the context of all those complexities that the PLO found the Oslo Process, which came after Madrid Conference, a chance to step in and restore its status on the Arab and international arena. The Oslo Process was the life-rope that the PLO had long waited for. It also came as a result of the deep belief within the PLO that something political has to come out of the intifada. By contrast to the Madrid conference, the PLO saw in the

Oslo process a far more positive development since it led to the recognition by Israel of the PLO as the sole legitimate representative of the Palestinian people whereas in Madrid, the PLO could not officially participate and only "Palestinian individuals" were allowed to participate as part of the joint Jordanian-Palestinian delegation.

A few months after the Palestinian uprising broke out, Faisal Hussein, a leading local figure from East Jerusalem, spoke of how the uprising of the Palestinians had to lead to a political output, otherwise, it would prove to be baseless and fruitless to the Palestinians, who:<sup>20</sup>

...cannot continue demonstrations forever. This is unsustainable on the long run. People, any people, need their resistance actions to lead to a political horizon that rid their country of a foreign occupation. The Palestinians are no exception.

A month later, Hussein's views were echoed by Dr. Sari Nusseibeh, a leading scholar from East Jerusalem who was also active in the intifada and part of the inner political kitchen of the Orient House. Nusseibeh said:<sup>21</sup> "I have a feeling that a big thing will come out of this intifada." He referred to a political move but refused to get into details. In retrospect, he was referring to discreet political contacts that were taking place, with the Israelis and with the PLO in Tunis at the same time.

Israel was facing international isolation and criticism as images of "Palestinian David" challenging "Israeli Goliath" moved global public opinion to support the Palestinians. Besides, no official in Israel dared to confirm that the army was capable of ending the Palestinian revolt with minimal losses or damage. In fact, Israel's chief of staff Dan Shomron<sup>22</sup> was the first high ranking officer who said there wouldn't be a military solution to the intifada. His superior, defense minister Yitzhak Rabin, strongly reprimanded him for saying what he said. Rabin argued that the military echelon was not supposed to make political statements. But it was Rabin himself, upon winning the 1992 elections in Israel, who spoke of a political settlement to the intifada saying that "time has come for the Palestinians to govern themselves by themselves."<sup>23</sup> That line bore a very clear message. The Palestinians in the Occupied Territories were to set foot on the political track. Talks then followed between Israeli officials and leading Palestinian figures in the territories, including Faisal Hussein who, while under detention at the Russian Compound lockup facility in West Jerusalem, was visited by

20 Discussion in February 1988 with Faisal Hussein at his office in the Orient House in East Jerusalem.

21 Meeting with Nusseibeh at the American Colony Hotel one morning in March.

22 [http://books.google.co.il/books?id=OdmOAgAAQBAJ&pg=PA35&lpg=PA35&dq=Dan+Shomron+says+no+military+solution+to+intifada&source=bl&ots=0\\_16k5J7U1&sig=uY6SMHcD\\_5WNrO4sa58ScIyB8z8&hl=en&sa=X&ei=ukPBU5bwNpGA7QaZzoDQCQ&ved=0CCoQ6AEwAw#v=onepage&q=Dan%20Shomron%20says%20no%20military%20solution%20to%20intifada&f=false](http://books.google.co.il/books?id=OdmOAgAAQBAJ&pg=PA35&lpg=PA35&dq=Dan+Shomron+says+no+military+solution+to+intifada&source=bl&ots=0_16k5J7U1&sig=uY6SMHcD_5WNrO4sa58ScIyB8z8&hl=en&sa=X&ei=ukPBU5bwNpGA7QaZzoDQCQ&ved=0CCoQ6AEwAw#v=onepage&q=Dan%20Shomron%20says%20no%20military%20solution%20to%20intifada&f=false)

23 Hebrew and other newspaper clips.

Shmuel Goren, the government coordinator in the territories. Hussein said that after one of those visits, Goren looked at the warden and said:<sup>24</sup> "Look after Mr. Hussein. One day we will be sitting with him around the negotiations table." That was fundamentally the intention of the Israeli government at the time: to bypass the PLO and, instead, negotiate directly with the local leadership of the Palestinians. Hussein and his aides, as well as other figures that were approached by Israeli officials with the purpose of initiating political negotiations with them, made clear their position that any talks would only be conducted with the PLO, the sole and legitimate representative of the Palestinian people. Under that banner, they would be prepared to sit with the Israelis as long as they enjoyed the prior approval of the PLO.

Rabin instructed Uri Savir, Director General of the Foreign Ministry, and others to start talks with Hussein and Dr. Saeb Erekat. He exchanged questions and answers with the two Palestinian figures through Savir. Every time new ideas or questions were posed, Rabin had to wait for some time until after responses and directives came from Arafat. At one point, Rabin became convinced that to save time and energy he should talk directly with the PLO. That was the moment when he endorsed the secret track that was in progress in Oslo between Shimon Peres, the foreign minister, and Ahmad Qurei.

It was interesting to know why and how Israel changed its position and suddenly decided to speak to the PLO. Dr. Saeb Erekat<sup>25</sup> explained that Rabin was fed up of the time consuming process in delivering questions to the Palestinians in East Jerusalem and waiting for their answers that would only come after PLO responses are sent from Tunis to East Jerusalem:

At one point I asked Savir this question. I wanted to understand the dynamics of their decision making process and what made Rabin decide to talk to the PLO and subsequently authorize the Oslo channel. Savir told me that when he told Rabin he had to wait for the answers to come from Tunis, Rabin yelled: to hell with Tunis. We have no time to waste. Let us talk to Tunis directly.

Rabin's legacy faded away with his assassination. When Ehud Olmert was on the verge of reaching a deal with Abbas in 2008, he was indicted and became victim of what many considered character assassination. When Ariel Sharon ordered the unilateral withdrawal from Gaza Strip and was planning a similar move in the West Bank, he fell sick in a mysterious illness that kept him in bed for years before passing away. It is not necessarily a conspiracy theory, but there is room to question if all of that was a mere coincidence!

The Oslo process was nothing but an interim move that both sides needed until their peoples are ready for a permanent peace agreement. It stipulated a five-year interim period at the end of which the final status negotiations would lead up to ending the Israeli occupation that started in 1967. The

<sup>24</sup> Private discussions with Hussein at his Orient House office in 1992.  
<sup>25</sup> A meeting with Dr. Erekat at the Orient House early in 1991.

spirit of Oslo was the agreement that neither party would carry out any action that would prejudice the outcome of the final status talks. That phrase was all what the PLO wanted at the time. The PLO thought it was strong enough to secure a total and final freeze of settlement activities in the Occupied Territories. It was not.

Annex 1 of the Oslo II Accord explains why the Palestinians insist on the Oslo Accord as one of the main terms of reference for negotiations with Israel. It shows that what was agreed to in the Oslo Accord was one thing and what Israel did after Rabin's assassination was something extremely different.

The Israeli-Palestinian Interim Agreement on the West Bank and the Gaza Strip was signed in Washington on 28 September 1995<sup>26</sup>. In its Annex 1, which dealt with the Redeployment of Israeli Military Forces and Transfer of Responsibility, it gave a detailed plan of the Israeli withdrawal from the occupied territories. The fact that none of those clauses in the Annex had been honored or implemented by Israel explains what really went wrong and why every move that followed the Interim Agreement not only fell short of solving the conflict, but had created a high wall of skepticism and doubt among the Palestinian leadership. Here is what Annex 1 says:

#### First Phase of Redeployment

1. The first phase of Israeli military forces redeployment will cover populated areas in the West Bank - cities, towns, villages, refugee camps and hamlets, as shown on map No. 1 (see Annex 1 of the Accord). This redeployment will be effected in stages, as set out in the schedule attached to this Annex as Appendix 1, and will be completed prior to the eve of the Palestinian elections, i.e., 22 days before the day of elections.
2. In order to maintain the territorial integrity of the West Bank and the Gaza Strip as a single territorial unit, and to promote their economic growth and the demographic and geographical links between them, both sides shall implement the provisions of this Annex, while respecting and preserving without obstacles, normal and smooth movement of people, vehicles, and goods within the West Bank, and between the West Bank and the Gaza Strip.
3. Any security arrangements and measures which become effective commensurate with the redeployment of the Israeli military forces will not undermine the importance of, nor will they prejudice, the Palestinian development programs and projects for reconstruction and development of the West Bank and the Gaza Strip, as well as the moral and physical dignity of the Palestinian people in the West Bank and the Gaza Strip.
4. After the inauguration of the Palestinian Council, the unity and integrity of the Palestinian people in the West Bank and the Gaza Strip shall be maintained and respected. All Palestinian people residing in the West Bank and the

<sup>26</sup> <http://www.mfa.gov.il/MFA/ForeignPolicy/Peace/Guide/Pages/THE%20ISRAELI-PALESTINIAN%20INTERIM%20AGREEMENT%20-%20Annex%20I.aspx>

Gaza Strip will be accountable to the Palestinian Council only, unless otherwise provided in this Agreement.

5. After the inauguration of the Palestinian Council, the Israeli Civil Administration will be dissolved and the Israeli military government will be withdrawn.
6. The Council will assume powers and responsibilities for civil affairs, as well as for public order and internal security, according to this Agreement.
7. Nothing in this Article shall derogate from Israel's security powers and responsibilities in accordance with this Agreement.
8. There will be a period of 10 days prior to each stage of redeployment according to paragraph I of this Article, during which the commanders of the Israeli military forces will acquaint the respective commanders of the different echelons of the Palestinian Police with the respective area and its specific problems.

Further Redeployments after the Inauguration of the Palestinian Council

9. The further redeployments of Israeli military forces to specified military locations will be gradually implemented in accordance with the DOP in three phases, each to take place after an interval of six months, after the inauguration of the Council, to be completed within 18 months from the date of the inauguration of the Council.
10. The specified military locations referred to in Article X, paragraph 2 of this Agreement will be determined in the further redeployment phases within the specified time-frame ending not later than 18 months from the date of the inauguration of the Council, and will be negotiated in the permanent status negotiations.

Abu Alaa', who headed the Palestinian peace talks delegation to Oslo, says the Accord was clear.<sup>27</sup> It spoke of an Israeli withdrawal from the Palestinian cities, villages and refugee camps and specified the core issues that were to be left for the final status talks. As far as the Palestinians were concerned, the core issues of the conflict which had territorial impact were settlements and Jerusalem, but their territorial aspect did not involve more than 10% of the West Bank. In other words, the Israeli redeployment would cover at least 90% of the West Bank, excluding Jerusalem, which was left to the final status agreement. According to Abu Alaa', Rabin had the strongest intention to go ahead with the Accord as signed without any reservations. Abu Alaa' recalled a meeting that took place at the Erez Crossing between Gaza Strip and Israel late in 1995, weeks after the signing of the Oslo II Accord. The meeting was attended by Rabin and his team as well as by Arafat and his team, including Abu Alaa':<sup>28</sup>

Rabin was very clear in his statement. He was firm but honest. He soothed Arafat's worries of the fact that Israel tends to expand Jewish settlements every now and then.

<sup>27</sup> Private discussions with Abu Alaa' at his Abu Dis office on the outskirts of Jerusalem, June 2014.

<sup>28</sup> Ibid.

So Arafat pushed for clear assurances from Rabin that this won't be the case with the existing settlements. Rabin said: "Don't worry, my friend. I will build a fence surrounding every existing settlement at a distance of 50 meters away from the last house in that settlement. This fence will serve border for each and every settlement until after we reach a final status agreement on them.

When Abu Alaa' pressed for some goodwill gestures from Rabin, he was surprised, he said, to hear Rabin say:<sup>29</sup>

Look Abu Alaa'. Why do I have to be generous to you? Did you beat my army in the battlefield? Did you win a war against me? Are you in a position to impose anything on me that I don't accept? No. Therefore, let me tell you: I am fully and sincerely committed to implement every letter of every word in the Accord we signed. Don't expect me to honor things I did not sign on."

That statement, said Abu Alaa', showed how Rabin had such a high caliber leadership character. It was exactly this character that was missing all the way through since the day he was assassinated.

A typical question has been raised a hundred times over all those years about what went wrong. From a Palestinian perspective, everything went wrong. None of the Oslo Accord clauses was implemented to the letter of the word, as Rabin promised. Furthermore, the verbal exchange of views between Arafat and Rabin, without being added to officially signed documents, left room for whoever came after Rabin not to honor any of those commitments or understandings. Israel did not honor the spirit of Oslo, which prevented either side from making any moves that would prejudice the outcome of the final status negotiations. Further redeployments were not implemented and the PA found itself left with less than 20 percent of the West Bank, when under Oslo they expected no less than 90 percent. Killing the spirit of the Oslo Accord was tantamount to killing the Accord itself. That was exactly the case over the past twenty years of negotiations, at least from a Palestinian perspective.

Peace talks are never easy for either party. Tough negotiations precede the signing of an agreement. Tougher negotiations follow on implementing a signed agreement. The Oslo Accord was not an exception. Challenges emerged with every turn and at every corner, but the two leaders, who made Oslo, Arafat and Rabin, were sufficiently dedicated to make it happen and succeed. No wonder they both agreed to call their venture the "Peace of the Brave."

The tragic incident occurred. The brave man of peace was shot down with three bullets at a peace rally. A lone extreme right wing activist, Yigal Amir, shot Rabin in the back; minutes after the prime minister sang the song of peace with a number of Israel's first class singers! Amir didn't only assassinate an incumbent prime minister of Israel. He also eliminated the prospects of peace for years to follow.

<sup>29</sup> Ibid.

The assassination exterminated hopes both Palestinians and Israelis had to end the conflict. The course of events that followed the assassination showed beyond any doubt that the post-Rabin era was definitely different from the one prior to the assassination.

Regardless of whether Rabin meant everything he said or not, one thing is clear. What happened afterwards contributed to a drastic crash in the level of trust between the Palestinian and Israeli leaderships. Rabin's assassination was a dramatic setback for all and not only for his family or for the people in Israel. The assassination shocked Arafat who, for the first time in his life, paid a secret visit to Tel Aviv<sup>30</sup> to express condolences to Rabin's widow, Lea, at their house. Arafat was escorted by Rabin's confidant and ex-Shin Bet officer Yossi Ginosar.

The hopes that Arafat and the rest of the PLO leadership built on the Oslo Accord soon evaporated with the assassination. They expected the process to continue along the guidelines and parameters that Rabin promised; i.e. 90% of the West Bank would be handed over to the Palestinian Authority during the interim phase. To their dismay, they found that Oslo left them with control over 9% of the West Bank only and 60% of Gaza Strip. The core issues of Jerusalem, borders, Jewish settlements, water, security, and refugees were deferred to the final status talks, which they thought, naively or not, would be concluded by the end of the five-year interim period. Now, in 2014, none of those issues has been solved. Israel, in the meantime, continued to build new facts on the ground, making any implementation of the Oslo Accord itself near impossible, not to mention an endgame settlement. No matter how much the Palestinians were satisfied with the Oslo Accord, the way Israel implemented it, or should we say did not implement it, pushed them into entire frustration and despair.

When Shimon Peres took over after Rabin's assassination, he faced two of his worst nightmares. First, he authorized a Shin Bet operation to take down Yihya Ayyash, a leading Hamas member and bomb maker whom the movement codenamed "the engineer." Ayyash was assassinated by a booby-trapped mobile phone that exploded next to his ear as he took in an incoming call in Gaza. Immediately after the assassination, Hamas retaliated by dispatching suicide bombers to Israel, driving the Israeli public away from Peres and closer to Likud's Benjamin Netanyahu, his right wing rival. The second nightmare for Peres was the incident in South Lebanon at the peak of Israel's attack, codenamed Grapes of Wrath. An Israeli army shell hit a building in the UN compound near the village of Qana where Palestinian and Lebanese civilians had taken refuge. At least one hundred people were killed in the attack, prompting Arabs in Israel to refrain from voting.<sup>31</sup> The decline in Arab votes

30 [http://articles.chicagotribune.com/1995-11-10/news/9511100230\\_1\\_mrs-rabin-leah-rabin-prime-minister-yitzhak-rabin](http://articles.chicagotribune.com/1995-11-10/news/9511100230_1_mrs-rabin-leah-rabin-prime-minister-yitzhak-rabin)

31 <http://en.idi.org.il/analysis/articles/participation-abstention-and-boycott-trends-in-arab-voter-turnout-in-israeli-elections/>

contributed to the defeat of Peres at the hands of Netanyahu. One mistake led the Israeli public to support Peres' political foe. The second made the Palestinian Arabs in Israel vote with their feet.

When Netanyahu ascended to power he showed little intention to honor any of the agreements signed earlier between Israel and the PLO. Yet, he too suffered a setback. In September 1996 he ordered the opening of controversial tunnels underneath the Old City of Jerusalem. The Israeli media at the time reported that Netanyahu never consulted the top security officials in his government: Defense Minister Yitzhak Mordechai, Shin Bet chief Ami Ayalon, and army chief of staff Amnon Lipkin-Shahak. The press quoted the three as saying that they heard of the tunnels' opening on the radio. When a prime minister takes such a decision that has direct impact on angry Palestinians living under occupation, he should have first alerted his security branches. He did not. Eventually, the security establishment was taken by surprise. Israel paid a dire price as 15 soldiers were killed with the outbreak of clashes. The Palestinians too sustained over one hundred human casualties.

The US convened a summit in Wye Plantation for Arafat and Netanyahu and their teams. The Wye River Memorandum<sup>32</sup> was reached under which Israel undertook to carry out further troop redeployments in the West Bank. Had the Wye River Memorandum been implemented in full, Area C of the West Bank, which is under Israel's full security and civil control, would have been reduced from 74% to 61%. That was another example on why the Palestinians felt helpless and frustrated with all negotiations. After painstaking efforts to reach an agreement, a new round of effort was needed to guarantee the implementation of those agreements. And they were rarely implemented.

Understanding why negotiations between Israel and the PLO failed to bring about a final status agreement does not depend only on what was or wasn't said in the negotiations rooms. It depends more on the psyche of Palestinians and Israelis who participated in those talks at all levels.

In the exchange of letters of mutual recognition between Israel and the PLO, signed by Arafat and Rabin, the PLO leader committed the organization to the following principles:

1. Recognition of Israel's right to exist in peace and security.
2. Renounced terror and all forms of violence.
3. Undertook to adopt negotiations as the only means to solve the conflict.

A few years earlier, Israel would have been prepared to do anything to obtain a PLO commitment to at least one of those pledges. Once the PLO recognition of Israel was signed, it sank deep into Israel's pocket.

In retrospect, many now argue that Arafat could have negotiated a better deal in return for the three principles

32 <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/the%20wye%20river%20memorandum.aspx>

he undertook to honor in the letter of recognition. Others argue that was not the case because the ultimate goal of Arafat was to reach a final status agreement and he felt that Rabin was a serious partner, although very tough. Was it Arafat that the Palestinians should blame for going too far, too fast and too generous or was it the right camp in Israel that openly incited against Rabin and created a conducive environment for a single assassin to change the course of history in the Middle East?

It is hard to forget that the same people who took over after Rabin had been accomplices to the incitement campaign against him. With the exception of Ehud Barak, all three others were on that balcony looking down at Zion Square when right wing demonstrators held photos of Rabin dressed in Nazi uniform. Ehud Olmert, Ariel Sharon, and Benjamin Netanyahu were among those who incited against Oslo and against peace with the Palestinians. Ehud Barak was not there of course. But he too did whatever it took to destroy the spirit of Oslo. Being the prime minister who promised to honor the Rabin legacy, Barak turned out to be a major disappointment not only for the Palestinians but also to many Israelis, including his voters.

## Camp David 2000

Israel's best game was that of blame. It has had this habit ever since the process started with the PLO in 1993. Moreover, it has also adopted a line whereby the onus of proof is always on the PLO and the PA. It never was on Israel. So, from an Israeli perspective, whenever anything went wrong, it was always the PA to blame. Israel, however, was not alone in blaming the PA. In most of the cases, the US administrations would echo this blame and accuse the PA of not doing enough or not moving fast enough in honoring its commitments. Therefore, as long as Israel refuses to define where its final status borders would be with the future independent State of Palestine, this blame will continue as no Palestinian leader will ever accept less than what the UN accorded the Palestinians in its 29 November 2012 recognition of the independent State of Palestine along the 1967 lines.

Elsewhere in the world, UN resolutions enjoy a fast mechanism of implementation. However, in the case of the Arab-Israeli conflict, the typical US veto of every resolution that condemned Israel for certain deeds or demanded of it to withdraw from the Occupied Territories blew up all UN efforts.

These ideas and others were contemplated by Arafat the day he received the invitation from President Clinton to go to Camp David for a summit meeting that would attempt to reach a final status agreement between Israel and the PLO. Arafat's senior aide and policy adviser at the time, Akram Haniyeh, confirmed that Arafat was hesitant to go to Washington and there was not that much to expect from Barak. He said:<sup>33</sup>

<sup>33</sup> Meeting with Akram Haniyeh at his office in the Al Ayyam daily in Ramallah early in August 2000.

Arafat knew deep in his soul that Ehud Barak wasn't the kind of a leader in Israel who would go the extra mile to reach an agreement and that he won't be able to pay the full tag price of a full peace agreement with the PLO.

President Clinton had a different idea. In telephone conversations with Arafat, he insisted that Barak promised to bring to Camp David an offer Arafat could not reject. Clinton, who was deceived by Barak a year earlier when he thought the Israeli prime minister had the guts to go the extra mile in making peace with Syria and for this purpose initiated a summit meeting with former Syrian President Hafez Assad in Geneva, thought that Barak wouldn't even think of fooling him again. Clinton pushed Arafat<sup>34</sup> and at a certain point promised that if things go wrong, he won't blame the Palestinian leader or Israel and would suffice with saying that all parties did a great effort to reach an agreement and would continue this effort in the future too.

Clinton, nevertheless, was the first to blame Arafat for the failure of the Camp David talks. This chapter will try to explain why the Camp David talks failed.

Arafat tried his luck with Clinton. He tried to convince him not to listen to Barak and that the Israeli prime minister was bluffing again. Clinton never gave up. Arafat did not want to risk his close ties with the US President and ultimately agreed in principal to go to Camp David. However, according to Abu Alaa', he warned that "convening the conference without proper preparations might lead to a failure that would weaken hopes of the Middle East peoples that peace is possible in the future."<sup>35</sup> Arafat was worried that failure of the talks in Camp David would cause frustration and disappointment to explode in everybody's face.

Before leaving for Camp David, Arafat sent a detailed letter to President Clinton outlining the guidelines of the Palestinian position. Those guidelines were written by President Arafat personally, with the assistance of his negotiating team. In the letter, Arafat clarified that he had accepted UN Security Council Resolution 242, which meant sufficing with 22% of the land of historical Palestine and as such he has made the largest and fundamental compromise for the sake of a permanent settlement with Israel. That letter, according to Qurei in his book, presented the Palestinian views on the permanent status agreement with regard to all core questions of conflict. In that letter, Arafat outlined the following:<sup>36</sup>

1. Security to the Israelis based on logical and objective arrangements.
2. A sovereign and independent Palestinian state.
3. Cooperation with Israel in all economic, social and security fields.
4. Solving all core issues of the final status agreement based on the principles of the international legitimacy.

<sup>34</sup> Ibid.

<sup>35</sup> Abu Alaa's book: The Complete Palestinian Story of Negotiations from Oslo to the Roadmap. Arabic edition; page 232.

<sup>36</sup> Ibid; page 352.

In phone calls with Clinton, Arafat also requested that prior to starting the talks in Camp David, Israel should better implement the outstanding clauses of the Interim Agreement, including further redeployments and the handover of more Palestinian villages and towns to the PA. He never knew, and possibly neither did Clinton, that Barak had already made up his mind to go to Camp David with a totally different agenda. Barak adopted the all-or-nothing approach in which he insisted that there was no reason for Israel to carry out any of the clauses agreed upon in the Oslo Accords and instead, every effort should be made to reach a final status agreement. His position was clear. He preferred not to give the Palestinians any of what they expected relevant to implementing the interim phase agreements and instead wanted to go to an endgame settlement. If it works, it would become a win-win situation for both. If not, Israel will be the winning party and the Palestinians will be made to pay for the collapse of any talks. In other words, why do any effort in implementing interim agreements when both sides have the chance to reach a final status agreement, where every effort will be made to implement it.

That was more of a take-it-or-leave-it approach that created a great deal of mistrust among the Palestinian delegation in general and Arafat in particular. Barak put the PLO in an awkward position. He had no intention to honor any clause in the interim agreements, aiming at a permanent arrangement but at the same time, he had no intention to reach a final peace agreement, as he knew in advance that what he had to offer to the Palestinians was far less than what they expected. Barak's approach created an atmosphere that made any agreement almost impossible. Coupled with leaked reports alleging he presented the Palestinians with generous offers that they had rejected, the offer Barak made, from a Palestinian perspective, was not an offer at all, and certainly not generous.

Many ideas floated in the negotiations in Camp David between Arafat and Barak and their teams but Israel insisted from the outset that "nothing was final until everything is final." This "all or nothing" approach made it hard for the Palestinian interlocutors to embark on any of the ideas he suggested since it wasn't proposed in part of a deal that both sides would end up signing. When ideas fly in the room and nothing seems to be tangible, the overall atmosphere of negotiations does not give any reason for negotiators to embark in serious manner on those ideas.

After dinner on 15th July 2000 at Camp David, President Clinton requested a tête-à-tête meeting with Arafat.<sup>37</sup> In their meeting, Clinton told Arafat:<sup>38</sup>

If you don't want to reach an agreement, let me announce this and return to the White House. I cannot accept the method you are following. Yesterday's meeting was characterized with lots of speeches and rhetoric by your

<sup>37</sup> Ibid; page 261.

<sup>38</sup> Ibid; page 262.

delegation while the Israelis submitted their position in clear and detailed manner.

In other words, says Abu Alaa', Clinton was accusing the Palestinians of a lack of sincerity. Arafat retorted that it was the Israelis "who were raising old traditional positions, evading serious discussion and presenting the same old positions we had already rejected in Stockholm talks."

The following morning, the Palestinian delegation to Camp David met for internal consultations. They embarked on the percentage of the area of the West Bank that is to remain under Israeli rule. Abu Alaa' suggested 1.5%, repeating what he offered in the meeting with Clinton during a sub-committee meeting to discuss land, borders and security. Yasser Abed Rabbo suggested this area be 2.5% and he was supported by Hassan Asfour. Nabil Shaath suggested 3%. Arafat didn't welcome any of those proposals and the feeling was that he might have promised Clinton a percentage more than the highest submitted by his delegation.<sup>39</sup>

At the end of the consultation meeting, the delegation decided to send a letter to President Clinton outlining the Palestinian position on all major issues in all negotiations committees. Arafat asked both Saeb Erekat and Nabil Abu Rudeineh to take that letter, which he refused to carry, although his room was only 15 meters away from Clinton's.<sup>40</sup> The letter said:

We strive with Your Excellency to reach a comprehensive peace agreement around all issues. With regard to the three topics we discussed, I am ready to go as far as it takes, if that is done within the context of a solution that safeguards Palestinian sovereignty on East Jerusalem while taking into consideration the Israeli interests in the Jewish Quarter and the Wailing Wall and guarantees that the city of Jerusalem remain an open city within mutual cooperation, along with a just solution to the question of refugees based on international legitimacy resolutions and particularly Resolution 194.

Erekat and Mohammad Dahlan took the letter to President Clinton. They were received by Madeleine Albright and Sandy Berger who both listened to the letter's content and expressed their satisfaction, although Berger had a few questions to pose. One hour passed and Albright returned to Arafat's room with a verbal message from President Clinton saying:<sup>41</sup>

The President received your letter and thanks you very much. He considers it positive and encouraging and even believes it provides a new push. The President personally, as of tomorrow, will shuttle between you and Barak to discuss all issues on the agenda of the three working committees.

Albright indirectly apologized to Arafat for what happened in the morning meeting he had with Clinton, saying that the President highly appreciates President Arafat, respects him and wants this negotiations process to continue and to

<sup>39</sup> Ibid.

<sup>40</sup> Ibid.

<sup>41</sup> Ibid; page 263.

succeed.<sup>42</sup> That account of the flow of events within a few hours shows how inaccurate were the accusations that the Palestinians were not prepared for a compromise or that they had no ideas to submit.

In 2003, Mohammad Dahlan was appointed minister of interior and internal security in the first government of Mahmoud Abbas. Abbas, also known as Abu Mazen, was the first prime minister to take over this PA position from Arafat who had kept it since the forming of the first government. That government lasted slightly over 100 days, as Abbas resigned in protest against Israel's lack of cooperation with his government on the one hand and, on the other one, due to deep differences that emerged between him and Arafat over ways and rules of governance. Dahlan believed that both the PLO and Israel made mistakes in Camp David, but noted that the most important matter was Barak's arrogance that hardly left room for a positive atmosphere or an environment that was conducive for talks to succeed. He said:<sup>43</sup>

Both sides couldn't get together well. Barak was so arrogant that members of the Israeli team used to complain to us that he hardly shared his views with them. Imagine there were days when Amnon Lipkin-Shahak and Shlomo Ben Ami had more time to sit with us than with Barak. Barak's attitude was very detrimental to the negotiations and he didn't seem to be open to listen to what we suggested in all spheres of negotiations. We were certain that he had a fixed agenda with which he came to Camp David. Arafat too was very skeptical of Barak and he too was overwhelmed with this skepticism that he couldn't compromise on many issues. Arafat and the rest of the team were convinced that Barak wasn't sincere at all. Moreover, the way Barak behaved solidified Arafat's belief from the outset that the Israeli Prime Minister wasn't strong enough to deliver the full price of an end-of-conflict deal at Camp David.

In one of the meetings with Dahlan, I pressed him for more insight on how the negotiations went on in Camp David. He referred me to what Robert Malley and Hussein Agha wrote about those talks. Malley, a close aide to President Clinton, and Agha, a senior associate of Oxford University's St. Antony's College, wrote a lengthy piece<sup>44</sup> explaining the "Tragedy of Errors" in Camp David. They explained that "each side came to Camp David with very different perspectives, which led, in turn, to highly divergent approaches to the talks."

According to Dahlan, both Malley and Agha: "...presented an account that was pretty much objective and accurate. They were watching from the outside of the Palestinian and Israeli boxes and saw things we were deeply indulged in that made us sometimes miss the point."

I didn't know at the time whether Dahlan was trying to evade answering some of the questions, had no time to do so or

<sup>42</sup> Ibid

<sup>43</sup> Private discussions with Dahlan in September 2003.

<sup>44</sup> <http://www.jnul.huji.ac.il/ia/archivedsites/gushshalom010204/www.gush-shalom.org/archives/campdavid1.html>

simply thought he would keep his assessment for himself until time comes for him to publish his memoirs. His appreciation of the work done by the two gave weight to what they wrote.

Malley and Agha wrote that Barak went to the talks in Camp David loaded with antipathy towards the Oslo Accord, which he opposed from the outset. He wasn't convinced that Israel should honor any of the phases agreed upon in the interim agreement and thought he would better use his energy in reaching a final status agreement rather than in implementing interim steps which, he argued, "forced Israel to pay a heavy price without getting anything tangible in return and without knowing the scope of the Palestinians' final demands."

But, didn't Barak really know what the scope of the Palestinians' final demands was? He has heard their position time and again focusing on the creation of an independent Palestinian state alongside Israel on the 1967 lines with East Jerusalem its capital and a solution to the refugees' question.

Malley and Agha wrote:

Barak discarded a number of interim steps, even those to which Israel was formally committed by various agreements — including a third partial redeployment of troops from the West Bank, the transfer to Palestinian control of three villages abutting Jerusalem, and the release of Palestinians imprisoned for acts committed before the Oslo agreement.

The reasoning Barak had, they wrote, was:

.... if Israelis and Palestinians reached a final agreement, all these minor steps would be taken; on the other hand, if the parties failed to reach a final agreement, those steps would have been wasted. What is more, concessions to the Palestinians would cost Barak precious political capital he was determined to husband until the final, climactic moment.

Barak overturned the entire concept of interim phases endorsed by Oslo while not showing any sincere intention to reach a package deal that would end the conflict and reach a final status agreement with the Palestinians. In doing so, he jeopardized the chances of re-building confidence that the Palestinians lost in the previous Netanyahu era. He also blew up the chances of reaching the final status agreement, for which he never was prepared to pay the price anyway. Barak, like almost every other prime minister in Israel, expected the Palestinians to settle with less than 100% of their occupied territories in return for a 100% normal peace with Israel.

Defending his "generous offer" to the Palestinians, Barak argued that he wanted to unveil the true face of Yasser Arafat. Arafat may have fallen in Barak's trap although it was clear for the Palestinians that Barak never intended to reach a peace deal. They used the example of his promise to Syria through Clinton. The Palestinians also felt that Barak never changed and was only manipulating the US Administration to drive his agenda at the expense of every other party in the Middle East conflict. Barak simply set a trap for Arafat



and the latter simply fell in it. The issue ultimately never came to whether the two parties could or could not reach a final status agreement. It revolved around who would be whipped more by the international community for not allowing the parties to reach an agreement.

Therefore, it was clear that Barak made every effort he could to corner the Palestinian leader while he knew deep in his heart that he never was prepared to pay the full price of an end-of-conflict deal with Arafat. Here is what Malley and Agha wrote:

Barak's principles also shed light on his all-or-nothing approach. In Barak's mind, Arafat had to be made to understand that there was no "third way," no "reversion to the interim approach," but rather a corridor leading either to an agreement or to confrontation. Seeking to enlist the support of the US and European nations for this plan, he asked them to threaten Arafat with the consequences of his obstinacy: the blame would be laid on the Palestinians and relations with them would be downgraded. Likewise, and throughout Camp David, Barak repeatedly urged the US to avoid mention of any fallback options or of the possibility of continued negotiations in the event the summit failed.

Soon after he became prime minister, Barak adopted tough positions on almost every topic of negotiations with the Palestinians, including Jerusalem. He also delayed implementation of the 1998 Wye Agreement. It took him a long time to start final status talks with the Palestinians, hiding behind his need for more time to name his chief negotiator with them. Above all, Barak's reluctance to release the pre-Oslo security prisoners transformed the Camp David negotiations into a mission impossible. It simply made every Palestinian negotiator lose confidence in Barak and his intentions. With such skepticism, no genuine negotiations could take place.

What really exacerbated Palestinian animosity and lack of trust in Barak was his decision to explore chances of reaching peace with Syria, a front that has been quiet for the previous 33 years, instead of trying to address a boiling issue like Palestine. Barak in practice signaled that he wanted to waste time without dealing directly with the Palestinian question while trying to isolate Arafat by seeking peace with his main political foe in the region, Hafez Assad, who unlike Arafat never recognized Israel and never signed any interim agreement with it, except for the disengagement of forces after the 1973 October War.

Barak's Syrian endeavor hardened Arafat's belief that he was being taken for granted once the PLO recognized Israel's right to exist. Because of the already accorded recognition on one hand and the sudden disappearance of Rabin, Arafat's only partner in the peace of the brave, Israel could afford wasting all the time on earth before it reached a final status agreement. Arafat understood Barak did not feel he really needed that agreement. He became confident that Barak would still spend a few more years or perhaps decades without having to return occupied territories back to the

Palestinians. In short, Arafat and his team were extremely suspicious of Barak and his intentions. Here is what Malley and Agha said about this matter:<sup>45</sup>

Indeed, behind almost all of Barak's moves, Arafat believed he could discern the objective of either forcing him to swallow an unconscionable deal or mobilizing the world to isolate and weaken the Palestinians if they refused to yield. Barak's stated view that the alternative to an agreement would be a situation far grimmer than the status quo created an atmosphere of pressure that only confirmed Arafat's suspicions—and the greater the pressure, the more stubborn the belief among Palestinians that Barak was trying to dupe them.

Subsequently, the clash between Barak's negotiations doctrine which was based on ignoring all interim agreements and not implementing any of them and Arafat's stern belief that Barak had no intention whatsoever to reach a final status agreement and was trying to get away with Israel's obligations under the Oslo Accords, had led the two sides to the total collapse of the Camp David talks. Arafat understood that Barak hadn't enough courage to implement what his predecessors reached with the Palestinians and was sure he wouldn't have the guts to make genuine offers. Why would Arafat expect Barak to deliver an end-of-conflict agreement that entails so many controversial concessions while he has no ability to fulfill interim obligations that had already been accepted by previous governments?

There are those who might argue that Barak was right, or at least there was room to weigh positively his approach of seeking a final status agreement as opposed to fulfilling previous interim obligations. This is true once both Barak and Arafat were confident that negotiations on the final status would succeed and subsequently Israel would deliver the goods. But what if seeking a final status agreement failed? As a matter of fact, not fulfilling previous interim obligations gave Israel golden chances to solidify its grip over the Occupied Territories under the nose of the whole international community that did nothing to stop Israel for doing so. And with every move Israel made in that direction, the Palestinians lost more and more.

There is an interesting resemblance between Barak in Camp David and Netanyahu in 2014. Then Barak authorized President Clinton to convey to Arafat his readiness to hand over three Palestinian villages close to Jerusalem but later reneged and subsequently outraged President Clinton. Netanyahu cut a deal with US Secretary John Kerry to release all 104 Palestinian prisoners who had been incarcerated in Israel from the pre-Oslo era. (These prisoners were supposed to be released right after the signing of the Oslo II Agreement, but they have been kept behind bars until 2014 and God only knows when they will ever see light of freedom.)

Kerry took his deal with Netanyahu to President Mahmoud Abbas and sought his commitment not to apply for any international body throughout the nine months of negotiations

<sup>45</sup> Ibid.

in return for Israel's release of the 104 prisoners. Netanyahu changed his mind and reneged from implementing the fourth phase of the prisoners' release. He too outraged Kerry who openly blamed Netanyahu for the collapse of the talks. Netanyahu, Kerry told a Congressional sub-committee, continued building in the Jewish settlements and failed to release the prisoners. On the matter of Barak reneging on earlier commitments, Malley and Agha wrote:<sup>46</sup>

"When Barak reneged on his commitment to transfer the three Jerusalem villages to the Palestinians—a commitment the Prime Minister had specifically authorized Clinton to convey, in the President's name, to Arafat—Clinton was furious. As he put it, this was the first time that he had been made out to be a "false prophet" to a foreign leader. And, in an extraordinary moment at Camp David, when Barak retracted some of his positions, the President confronted him, expressing all his accumulated frustrations. "I can't go see Arafat with a retrenchment! You can sell it; there is no way I can. This is not real. This is not serious. I went to Shepherdstown [for the Israeli-Syrian negotiations] and was told nothing by you for four days. I went to Geneva [for the summit with Assad] and felt like a wooden Indian doing your bidding. I will not let it happen here!"

In the end, though, and on almost all these questionable tactical judgments, the US gave up or gave in; reluctantly acquiescing in the way Barak did things out of respect for the things he was trying to do, for there was a higher good, which was Barak's determination to reach peace agreements with Syria and the Palestinians. As early as July 1999, during their first meeting, Barak had outlined to Clinton his vision of a comprehensive peace. He provided details regarding his strategy, a timetable, even the (astronomical) US funding that would be required for Israel's security, Palestinian and Syrian economic assistance, and refugee resettlement. These were not the words of a man with a ploy but of a man with a mission."

Then Barak heard advice he should never forget. It came from President Clinton who said to him:<sup>47</sup>

"You are smarter and more experienced than I am in war. But I am older in politics. And I have learned from my mistakes."

To sum up the Camp David process, one should perhaps acknowledge that Barak went lengths and crossed some Israeli taboos with the offers he made to the Palestinians, but those offers were not enough. They fell short of meeting the Palestinian expectations to retrieve their occupied territories in full.

Back to his book,<sup>48</sup> Ahmad Qurei answered the question of why the Camp David talks failed. He wrote:

46 The Tragedy of Errors, Robert Malley and Hussein Agha.

47 Ibid.

48 Abu Alaa's book: The Complete Palestinian Account of the Negotiations: From Oslo to the Road Map. Arabic edition; page 346.

I believe that the failure, which we anticipated from the outset and warned against it on a number of occasions before we headed to Camp David, was never planned by any of the three parties that participated in the talks. Certainly no one strived to that failure, out of conviction of the repercussions of such a failure on all levels.....

The largest chunk of blame goes to Israel's stereotype perception of the Palestinians being first a crisis born out of terror and violence, taken over by undeniable yet also unacceptable and incomprehensible demographic facts on the ground; and, secondly, being a population group of ethnic inferiority that doesn't deserve equitable treatment and whose plights and hopes should never be addressed with fairness and objectivity; and thirdly for being an eternal enemy whose narrative and intentions should never be trusted.

The most significant outcome of the Camp David talks was the mantra that emerged right after the talks were over. That mantra, created and circulated by Israel's Barak, maintained that he offered the Palestinians everything and that he made a generous offer which Yasser Arafat and his negotiating team rejected. Qurei addressed this mantra and named a few reasons why it had legs to move fast throughout the whole universe. Of those reasons, he listed the following:<sup>49</sup>

- It came from US President Bill Clinton too, along with members of his team, including Madeleine Albright, Sandy Berger, Dennis Ross and others, in addition to the US media at large.
- It was repeated time and again by Israeli officials and media in a way that Barak, Shlomo Ben Ami, Gilead Sher and most of Barak's ministers persistently repeated it day and night justifying the failure by saying that Arafat was no partner and that we offered everything and he wants nothing.
- The violent events that erupted in September 2000 following the visit by then opposition leader Ariel Sharon to the Al Aqsa Mosque and the bloody response which Barak used against Palestinian civilians who protested against that visit.
- The Sharon government ministers, who took over from Barak's government, continued to repeat that same mantra, and along with them were Shimon Peres, Fuad Ben Eliezer and others, as all tried to exempt themselves from the responsibility of burying the peace process.

Abu Alaa' also listed a number of motives he said Barak had in order to push this mantra forward. Of those he pointed out the following:<sup>50</sup>

- Barak wanted to impose on us conditions that are totally unacceptable. Or he wanted to evade the requirements of the peace process. Evidently so was

49 Ibid; page 348.

50 Ibid; page 349.

his position on the interim agreement clauses that he maneuvered in order not to implement any of them.

- Barak wanted to create a crisis between the Palestinians and the US Administration so that this crisis would help him in imposing his conditions with US assistance.
- Barak wanted to remain very close and acceptable by the right in Israel at a time he was the leader of the left.

Qurei also listed the reason why President Clinton blamed Arafat and his negotiating team. Those were the reasons:<sup>51</sup>

- Because President Clinton really wanted to reach a Palestinian-Israeli peace agreement, something he couldn't achieve towards the end of his second and last term.
- Because the US President and his team were closer to the Israeli position and were more biased to Barak personally.
- Because Clinton exerted pressure on President Arafat and on the Palestinian negotiating team to force them accept Barak's offers, which fell short of meeting the Palestinian needs and which contravened the peace process terms of reference.
- Because President Clinton and his team had the illusion, or perhaps were convinced, that pressuring the Palestinian party would make them accept the offers Barak made.

But what did Barak really offer and the Palestinians reject in contravention with the agreed upon terms of reference which stipulate first and foremost of all the end of the Israeli occupation which started in 1967 and the creation of the independent Palestinian State along the Green Line? Here is what Abu Alaa' wrote about this issue:<sup>52</sup>

- Did Barak offer to pull out of the Palestinian territories that Israel occupied in 1967 and the Palestinians rejected that offer?
- Did Barak offer that West Jerusalem is the capital of Israel and East Jerusalem is the capital of the State of Palestine and the Palestinians rejected that offer?
- Did Barak offer to dismantle the Israeli settlements in the occupied Palestinian territories or did he offer to make some of those Israeli settlements in the West Bank under the Palestinian sovereignty and under the Palestinian law and the Palestinians rejected that offer?
- Did Barak offer to give back the water resources in the West Bank to their owners, the Palestinians, and the Palestinians rejected that offer?
- Did Barak offer the creation of an independent Palestinian state that would live with normal ties and cooperation with Israel and the Palestinians rejected that offer?

<sup>51</sup> Ibid.

<sup>52</sup> Ibid; page 350.

- What did Barak really offer in line with the terms of reference and we rejected?

Qurei said that no one ever asked those questions to Barak. But to address them, Qurei listed the following compromises he said the Palestinians made in Camp David and before:<sup>53</sup>

- Land: (1) We accepted 22% of Palestine while UN Resolution 181 which created the state of Israel allotted for the Arab state 46% of the land. (2) Barak wanted to take 8% out of the 22% and wanted secured areas and settlement blocs that lacerate the West Bank and prevent its geographical contiguity.
- Jerusalem: East Jerusalem is an integral part of the Palestinian territories that were occupied in 1967, yet Barak made an offer comprising the following: (1) all settlements around Jerusalem be annexed to Israel; (2) The Jewish quarter, the Wailing Wall and part of the Armenian Quarter would be annexed to Israel; and (3) Israeli sovereignty to extend underneath the Al Aqsa Mosque and the Western Wall. Just imagine a situation like this and how would movement, security, economy and municipal services look like. These proposals can be good enough for a few weeks or a month but they cannot be the ground for a permanent solution that guarantees security and stability.
- Refugees: What Barak offered was based on the following points: (1) no return for the refugees; (2) Israel bore no responsibility for the question of refugees; and (3) Israel would compensate the refugees like any other country in the world.
- Security: What Barak offered, in short, means the continuation of the Israeli control on the Palestinians, their movement and travels across the borders, in addition to controlling them through security centers, stations and areas in the West Bank, in addition to Israel controlling the Palestinian air space and other restrictions that would keep the Palestinian state under Israel's control.

Qurei, therefore, concludes that nothing of what Barak offered could serve a basis for a permanent and comprehensive settlement that guarantees stability and sustainability or safeguards the creation of a viable Palestinian state.

On 23rd December 2000, just before the US Presidential elections and months before the early elections that Barak called for in Israel, President Clinton came up with what were to be known as the Clinton Parameters.<sup>54</sup> Clinton prepared his ideas but decided not to submit them in writing.<sup>55</sup> He didn't want to leave behind any written thoughts that would ultimately become binding for his successor. So he decided to read those ideas out before the two teams that were still

<sup>53</sup> Ibid

<sup>54</sup> <http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook13/pages/226%20the%20clinton%20peace%20plan-%2023%20december%202000.aspx>.

<sup>55</sup> Abu Alaa's book: The Complete Palestinian Account of the Negotiations: From Oslo to the Road Map. Arabic edition; page 364.

negotiating in Washington. Clinton put out his thoughts in 20 minutes in the presence of his team, including Albright, Berger, Ross, Aaron Miller, Rob Malley, John Batista and Bruce Ryle, in addition to the official interpreter at the White House, Jamal Hilal. On the Palestinian side, those present included Yasser Abed Rabbo, Saeb Erekat, Mohammad Dahlan, Samih Al Abed and Ghaith Al Omari. The Israeli delegation included Shlomo Ben Ami, Gilead Sher, Shlomo Yanai, Beni Meidan and Gidi Greenstein.

In his presentation, Clinton said his parameters were not starters for further talks but for the leaders of both sides to give a yes or no answer. The ultimatum he set for the two sides was 27th December. He stressed those parameters were not American ideas but his understanding of what can be done in order to reach an agreement in two weeks. He stressed that those parameters would be deleted from the agenda the moment he leaves the White House, stating that the present status quo, including the ongoing violence, should not continue and "we should put an end to it."

Speaking to the Israeli Policy Forum in New York on 7th January, 2001 President Clinton outlined the "parameters" he had put forward to the two sides as "a guide toward a comprehensive agreement", and which had been accepted, albeit with reservations, by Prime Minister Barak and Chairman Arafat as the basis for further peace efforts:

1. The establishment of a "sovereign, viable Palestinian State that would accommodate Israel's security requirements and the demographic realities". It would include the Gaza Strip and "the vast majority of the West Bank", while settlement blocks would be incorporated into Israel "with the goal of maximizing the number of settlers in Israel while minimizing the land annex, for Palestine to be viable must be a geographically contiguous State"; some territorial swaps and other arrangements would be needed to make the agreement "durable".
2. A solution for the Palestinian refugees that would allow them to return to a Palestinian State, those who so wished, or find new homes in their current locations or in third countries, including Israel, "consistent with those countries' sovereign decisions". All refugees should receive compensation from the international community for their losses and assistance in building their new lives; the US would take a lead in raising the money necessary to relocate them in the most appropriate manner. One should not expect Israel to acknowledge an unlimited right of return to present-day Israel, as that "would undermine the very foundations of the Israeli State or the whole reason for creating the Palestinian State".
3. An "international presence in Palestine to provide border security along the Jordan Valley and to monitor implementation of the final agreement" as well as "a non-militarized Palestine, a phased Israeli withdrawal, to address Israeli security needs in the Jordan Valley,

and other essential arrangements to ensure Israel's ability to defend itself.

4. Four "fair and logical propositions" regarding Jerusalem: (a) It should be an open and undivided city, with assured freedom of access and worship for all, encompassing the internationally recognized capitals of two States, Israel and Palestine, (b) "What is Arab should be Palestinian" and (c) "what is Jewish should be Israeli", while (d) "what is holy to both requires a special care to meet the needs of all", with "mutual respect for the religious beliefs and holy shrines of Jews, Muslims and Christians".
5. "Any agreement would have to mark the decision to end the conflict, for neither side can afford to make these painful compromises, only to be subjected to further demands".

President Clinton said he was using his remaining time in office "to narrow the differences between the parties to the greatest degree possible" and to that end he was sending his envoy Dennis Ross to the region in the coming days.

The Clinton parameters were not new for the Palestinian delegation. They heard them over and over again from the President during the Camp David talks. On one hand, it was hard for them to accept them as they were. On the other hand, they couldn't reject them in full. That was the reason why the Palestinian leadership decided to ask for some clarifications but President Clinton refused to clarify any of the points until after the Palestinian leadership openly endorsed his thoughts. Clinton invited Arafat to see him at the White House, which he did on 2nd January 2001. Arafat said he was prepared to start immediate talks with Israel based on those parameters, but with some reservations. Clinton insisted his parameters were unchangeable, saying that time was running fast and that the last chance was diminishing.

Israel's conditional acceptance of the Clinton Parameters made it hard for the Palestinian leadership to reject them, although the tendency was for such rejection. Ultimately, the Palestinians decided to deal with the parameters in a positive manner hoping they could change some of the ideas. Consequently, the Palestinian leadership submitted a lengthy paper under the title: the Palestinian vision of the Clinton Parameters (see Annex IV).

To avoid further repercussions of the Camp David talks' failure, the two made a last minute attempt to rescue the peace talks as they met again in Taba on 21st January 2001. Qurei wrote in his book that the atmosphere was pretty serious and that both sides were earnest in their intention to use the little time left for them to reach an agreement. And indeed they almost made it. In his book, Qurei wrote that both sides achieved remarkable progress and listed the following as positive deliverables of Taba talks:

1. The two sides agreed that the 4th June 1967 lines would be the basis for the future borders between Israel and Palestine.

2. The Israeli party agreed that any annexation of land in the West Bank would be within the context of land swap with land of the same quantity and quality from inside Israel. The differences, though, remained around the percentage of the land to be swapped in such a deal.
3. Israel agreed that all Gaza Strip would be under Palestinian sovereignty and without any settlements and that the West Bank and Gaza Strip would be clean of any settlements.
4. The two sides agreed to set a safe passage between Beit Hanoun on the northern edge of Gaza Strip and the southern borders of Hebron district on the West Bank.
5. The two sides agreed that the Arab neighborhoods of Jerusalem be under Palestinian sovereignty while the Jewish neighborhoods are under Israeli sovereignty, in line with what was agreed upon in Camp David. The two sides also agreed that Jerusalem would remain open and would serve as capital for two independent states.
6. Although there was no agreement on the refugees' question, the two sides achieved a considerable progress as the Israeli side agreed on a just solution to the question of refugees based on UN Security Council Resolution 242 leading up to the implementation of UN General Assembly Resolution 194.
7. Israel agreed that the Palestinian state would enjoy full sovereignty over its airspace. It also agreed to respect the rights of the Palestinian civil aviation and recognized the Palestinian sovereignty over the electromagnetic field.
8. The two sides agreed that borders with Jordan would be the borders of the Palestinian State although they differed on the pace of time that would be needed for Israel to pull out of the Jordan Valley.
9. Israel agreed to consider possible means and forms of an international presence in the Jordan Valley, along with early warning stations in such a way that would meet the needs and interests of both sides.
10. Israel agreed that all border crossings be under Palestinian sovereignty provided a solution is reached for the question of monitoring through the presence of a mixed international presence.

Although those understandings were very remarkable and important, wrote Qurei, they were not written down in an official text. The only document available on those understandings was the European non-paper document that was written by EU special envoy Miguel Moratinos.<sup>56</sup> Negotiators on both sides, and mostly the Israelis, criticized that document after it was published. Some even cast doubt about its mere existence. Ehud Barak, for instance, said he knew nothing about those understandings and that he could not tell who murmured what in whose ear. Nevertheless, the Moratinos paper refutes Israeli allegations that the Palestinians never presented any maps for the West Bank. On the contrary, the Moratinos document confirms that the Palestinian side

<sup>56</sup> Akiva Eldar, Ha'aretz, 14 February 2002.

expressed readiness to take in 97% of the West Bank and swap the rest with 3% of land inside Israel and adjacent to the borders of the West Bank and Gaza Strip.

In short, Moratinos confirms in his document that the two sides agreed to keep Jerusalem an open city while the eastern part is called Al Quds and be the capital of the Palestinian state. The Palestinians also endorsed the Clinton parameter on the division between Arab and Jewish neighborhoods. The Moratinos non-paper never had an official status. Its importance, however, derives from the fact that it is the only systematic account by a third party present at the Israeli-Palestinian negotiations in Taba, Egypt, covering all permanent status issues including territory, Jerusalem, refugees and security. In short, it offers a fair description of the outcome of the negotiations.

The EU description of the permanent status talks in Taba confirms the basic approaches adopted by Israel and the PLO as set forth in previously published proposals for a solution to the refugee issue. The starting point for Israel's solution to the refugee issue is the demographic character of Israel as a "Jewish State." In other words, the refugee issue must be resolved in a manner that preserves a solid Jewish demographic majority inside Israel, and Jewish title to confiscated refugee properties. By comparison, the starting point for the PLO in crafting a durable solution to the refugee issue is international law and the principle of refugee choice, the basis for crafting durable solutions in all other refugee cases.

While both Israel and the PLO suggested "that a just settlement of the refugee problem ... must lead to the implementation of UN General Assembly Resolution 194," Israel's position at Taba – as described in the EU 'non-paper' and in Israel's non-paper presented during the final status negotiations in January 2001 – is not consistent with intent and meaning of UN Resolution 194.

## Abbas – Olmert Talks 2008 – 2009

What happened in Camp David recurred in subsequent talks with Ehud Olmert in 2008 and Benyamin Netanyahu in 2013. Although Olmert moved a bit closer and suggested, perhaps for the first time, a line defining Israel's future permanent borders, Netanyahu made every effort to blur the future borders of Israel, leaving it up to how fast his government can change more and more facts on the ground and move the Green Line eastward, in addition to perpetuating Israel's military presence in the Jordan Valley. Moreover, Netanyahu refused to honor the understandings that President Abbas and Olmert reached towards the end of 2008 on the two issues of security arrangements and borders.

As a matter of fact, Netanyahu endorsed an approach whereby all security understandings reached with his predecessor were to be abolished and a new approach was to be adopted. Unfortunately, the US Administration of President Obama and his Secretary of State John Kerry

moved closer to Netanyahu's approach, ignoring the security understandings reached with the mediation of Lieutenant General Keith Dayton, U.S. Security Coordinator to Israel and the Palestinian Authority. President Abbas could not hide his frustration with the US approach when he referred to the understandings with Olmert on deployment of third party troops, possibly of the NATO, along the Jordan Valley to replace the Israeli army and to provide security to Israel for an agreed upon period of time until the Palestinian State can take full control of the area. That understanding, he said, was not honored by the Obama Administration and their security team moved closer to the new position of Netanyahu and his team, instead of sticking to the understanding finalized with Olmert.<sup>57</sup>

The question of where the border should pass between the two states dominated most of the discussions that took place between the Israeli and Palestinian negotiating teams under Olmert. The Israelis never changed their attitude that in return for a peace agreement, the Palestinians should provide compromises on what they already consider theirs, the 1967 lines. The Palestinians, on the other hand, never gave up their argument that they have already made their historical and painful concession the moment they acknowledged Israel's right to exist when they endorsed in 1988 UN Security Council Resolutions 242 and 338.

In one of the meetings that took place at Inbal Hotel in West Jerusalem on 8th April 2008, this question of territories was best illustrated in the discussions that took place.<sup>58</sup> The meeting was attended from the Palestinian side by Ahmad Qurei', Saeb Erekat, Samih Al Abed, Salah Elayyan, and Zeinah Salahi. The Israeli team included Tzipi Livni, Udi Dekel, Tal Becker, and Dani Terza.

In that meeting, Qurei made clear that the Palestinian position would in no way accept a land swap that involves vast areas of land in the West Bank and stressed that the land swap should be minimal to address Israel's settlement considerations but not more than that. He said:<sup>59</sup>

Even though we do not acknowledge the realities on the ground imposed by Israel, the concession we made in Camp David is our willingness for swap by reciprocity and value. There was no talk about settlement blocs. There is talk about settlements in Israel only. We have never recognized these settlement blocs and therefore we suggested swap for a reasonable percentage and not a greedy swap, provided that we discuss how and where swap should take place. If you had asked today, we would have never agreed on swap. The basis is 1967 borders. You and the whole world including UN resolutions 242 and 338 recognize this. Then we can talk about modifications. I will look at the percentage if it is 1% or 2%, but if it is more I will not look any more.

57 Private discussions with President Abbas on a number of occasions at his office in Ramallah early in 2014.

58 <http://transparency.aljazeera.net/en/projects/the-palestinepapers/20121823243215959.html>

59 Ibid

The debate then went on arguing about the basis of the borders issue with Abu Alaa' insisting that Livni spell out the key figure of 1967. She didn't. The following is part of the discussion that took place in that same meeting. It illustrates the wide gap in the way both sides understood the question of land swap and accommodation of settlers in any future peace agreement:

Livni: I know what you are going to say: these fingers will pluck out your eyes. There are some small settlements that I exclude such as the ones near Nablus, for example. There is no Israeli leader who will sign an agreement that does not include Ariel.

Abu Alaa': And there is no Palestinian leader who will sign an agreement that includes Ariel.

Livni: Let us be fair. You referred to 1967 line. We have not talked about Jerusalem yet. There are some Palestinian villages that are located on both sides of the 1967 line about which we need to have an answer, such as Beit Safafa, Barta'a, Baqa al-Sharqiyeh and Baqa al-Gharbiyyeh. There are also some settlements that were built behind 1967 line but expanded inside 1967 line illegally, such as Uranit settlement south of Hebron.

Abu Alaa': First, we cannot accept this proposition and I am sorry to hear it. This solution is not the two-state solution. It is the five-state solution: a state in Gaza, a state in Jerusalem, a state for settlers, a Palestinian state and an Israeli state. I do not think this will be the basis for any discussion. Shlomo Ben Ami wanted to propose this to me but I told him no. Look how much Ma'ale Adumim has expanded since you suggested the swap. Thus if you want to be realistic and are concerned about the continuation of this channel, you have to come up with a realistic proposition.

In short, the talks between the two negotiating teams continued at no avail. Meetings that took place before and after the model meeting addressed above were almost the same. Abu Alaa', who headed the Palestinian delegation, could not accept less than the official PLO stand on the final status talks. Livni would not or could not (depending on whether she had the authority to propose or not) take one more step towards accepting the Palestinian demand and sought various ways to avoid any reference to the 1967 lines as the basis of any future agreement between the two parties.

It was at that point of no breakthrough that President Abbas and Prime Minister Olmert decided to step in. They held extensive talks of dozens of hours; meetings mostly at the prime minister's official residence in West Jerusalem. The two leaders managed to iron out much of their differences over borders and security arrangements. Both men confirmed, separately though, that they were on the verge of reaching an agreement. Olmert blames it on Abbas who didn't take that daring step he expected him to do. Abbas blames it on the police indictment of Olmert or more accurately on the fact that Olmert announced on 30 July 2008 that he won't seek a second term, would step down from his position

the minute a new leader for Kadima was named. Later in the year, Israel launched its war on Gaza on 27 December 2008, bringing to an end every effort the two men did to reach an agreement.

In a series of meetings President Abbas held in his Ramallah Presidential Headquarters in 2013 and 2014 with visiting Israeli delegations, he addressed what really happened in talks he had with Olmert.<sup>60</sup> I was present in most of those meetings and I hereby paraphrase what the President said:

..... We reached an understanding on the two issues of security and borders. Olmert insisted on an Israeli presence along the Jordan Valley for certain agreed upon period of time. I suggested that we both can suffice with deployment of third party troops to look after security needs in the Jordan Valley and to provide protection and security to both sides. Olmert questioned the identity of those third party troops and I suggested European, NATO or US Troops and he accepted the idea. When we spoke of the borders, Olmert spoke of Israel keeping up to 6.5 per cent of the West Bank territories while I said that Israel doesn't need more than 2 per cent of the area, referring mostly to the major Jewish settlement blocs that are adjacent or very close to the 1967 Green Line.

When we parted, we agreed to continue contacts in a few weeks, giving me time to consult my fellow members of the Palestinian leadership. In the meantime, police indictments were brought up against Olmert over charges of corruption. A few months later, the Israeli military onslaught on Gaza Strip started. The US Administration urged both of us to send our special envoys to Washington for further negotiations. I instructed Erekat to go to Washington, but Olmert refrained from sending his special envoy Shalom Turgeman to Washington.

I called Olmert upon request from US Secretary of State Condoleezza Rice and urged him to send Turgeman. He said he couldn't because of the war in Gaza. I drew his attention to the fact that we, the Palestinians, were the ones being attacked by Israel in Gaza and that we had every reason not to send Erekat to Washington and not him. But a few weeks later, the police indictment was too serious to ignore and that brought the whole process to a final standstill."

And what does Olmert say about this? New York Times Israel correspondent Ethan Bronner quoted Olmert as writing in his new memoirs that he and Abbas were very close to a peace deal, but Abbas's hesitation, Olmert's own legal troubles and the Israeli war in Gaza caused their talks to end and shortly afterward, a right-wing Israeli government came to power.<sup>61</sup> In excerpts from the memoirs Olmert provided

60 Meetings President Abbas hosted in 2013/2014 at the Presidential Headquarters in Ramallah with Israeli incumbent and former politicians, officers, students and peace activists.

61 <http://www.nytimes.com/2011/01/28/world/middleeast/28mideast.html?pagewanted=all&module=Search&mabReward=relbias%3Aw%2C%7B%22%22%3A%22RI%3A14%22%7D&r=0>

details on negotiations and said the two sides had agreed on key principles:

The State of Palestine would have no military; an American-led international security force, not Israeli soldiers, would be stationed on its border with Jordan; Jerusalem would be shared, with its holy sites overseen by a multinational committee; and a limited number of Palestinian refugees would be permitted back into what is now Israel, while the rest would be generously compensated."

The two agreed that Israel could keep some land in the West Bank on which settlements had been built, but disagreed over how much. Olmert wanted 6.5 per cent of the area but would go as low as 5.9 per cent. Abbas offered 1.9 per cent.

Olmert noted in his memoirs that his last meeting with Abbas took place on September 16, 2008, in Olmert's Jerusalem home. He had presented the Palestinian leader with his map of Palestine minus the 6.5 per cent that would stay with Israel. He also presented a map showing the equivalent area of land to be annexed by Palestine. Olmert said: "Abu Mazen told me he couldn't decide and that he needed time. I told him that he was making an historic mistake." By the time of that meeting, Olmert was mired in corruption investigations. He resigned days later. Elections the following February brought Netanyahu to power. Here are a few more details of what Olmert noted in his memoirs:<sup>62</sup>

'Give me the map so that I can consult with my colleagues,' he said to me. 'No,' I replied. 'Take the pen and sign now. You'll never get an offer that is fairer or more just. Don't hesitate. This is hard for me too, but we don't have an option of not resolving this.'

I saw that he was agonizing. In the end he said to me, 'Give me a few days. I don't know my way around maps. I propose that tomorrow we meet with two map experts, one from your side and one from our side. If they tell me that everything is all right, we can sign.' The next day they called and said that Abu Mazen had forgotten that they needed to be in Amman that day, and they asked to postpone the meeting by a week.

I haven't met with Abu Mazen since then. The map stayed with me.

Olmert said he suggested to Abbas that Jerusalem's holy basin, meaning the walled Old City and nearby areas, would be managed by a consortium of five nations: Palestine, Israel, Jordan, Saudi Arabia and the United States. Abbas said that while he considered the holy basin to be limited to the Old City, in principle he could agree with the international trust approach.

On security arrangements the two sides had largely come to terms. Abbas said his state would have no military confirming that the Palestinians "don't want an air force or tanks or rockets."<sup>63</sup> Olmert said he had accepted that the force in

62 Ibid

63 Statements by Abbas while hosting Israeli visitors to the Presidential HQ in Ramallah in 2013 and 2014.

question would not include Israelis. He added that Israel wanted to stipulate that Palestine could not enter into military treaties with countries that did not have diplomatic relations with Israel, and wanted commercial and military over flight rights over Palestine. Abbas said he accepted those requests. "This file was closed. We do not claim it was an agreement, but the file was finalized," he said.

On Palestinian refugees, Olmert offered to take 1,000 per year for five years into Israel. But Abbas rejected that number as far too low. Abbas agreed that the refugees and their descendants, who now number five million, could not all move to Israel because that would, in effect, destroy it. A creative solution was needed, and he believed one could be found, along the Clinton Parameters and the Arab Peace Initiative.

Two large settlements posed a problem. Olmert wanted to hold onto Ariel, deep in the West Bank, and Ma'ale Adumim, near Jerusalem. Abbas said no, but welcomed American bridging proposals.

The security discussions between Abbas and Olmert and their teams also involved senior US army officers and military liaisons at the US embassy in Tel Aviv. Olmert's offer suggested a preamble that would state that the agreement between the two sides represents the implementation of UN Security Council resolutions 242 and 338 as well as the fulfillment of the Arab Peace Initiative without any mention of the UN General Assembly Resolution 194 on Palestinian refugees. In brief, the Abbas-Olmert talks led to understandings on:

- The State of Palestine would have no military.
- An American-led international security force and not Israeli soldiers would be stationed on the Palestinian state's borders with Jordan.
- Jerusalem would be shared, with its holy sites overseen by a multinational committee.
- A limited number of Palestinian refugees would be permitted back into Israel, while the rest would be generously compensated.
- The two sides agreed on the land swap principle but disagreed over percentages. Whereas Olmert demanded 6.5% and went down to 5.9% of the West Bank area, Abbas offered no more than 1.9%, arguing that was exactly the area Israel needs to keep for its Jewish settlements.

In short, history might address the Olmert era as a unique opportunity for an agreement between the two sides since the assassination of Rabin. The domino effect of a number of factors impacting the process made it impossible to finalize the agreement or transform the understandings into written and signed agreements. Abbas knew he had to provide answers to questions that he could not address without conferring with his fellow members in the PLO leadership, when Olmert asked him to sign on the draft border he outlined in their last meeting on September 16, 2008.

Olmert too knew he was taking a big risk. He knew he was being investigated by the police and more importantly, he

had already announced his intention to step down and allow for someone else to lead Kadima to the upcoming elections. He was in a position of an outgoing prime minister whose agreement with Abbas, if ever signed, would be hard for his successors to honor. They could easily claim it was reached under pressure of his police indictment and that he wanted to leave a legacy of a peace hero rather than as a criminal.

Regardless of the reasons or factors that prevented the agreement, the end of Olmert's term characterized the end of a serious effort by both parties to reach an agreement. When Netanyahu took over in the elections that followed in 2009, the peace process took a different route. It was tough, rocky, and offered little promise.

## The Abbas – Netanyahu Talks

The new elections after Olmert left office brought in the Likud and its leader, Benjamin Netanyahu into the Prime Minister's office. A strange right wing coalition emerged and the government of Netanyahu decided to ignore every understanding reached between Olmert and Abbas.

In her handover note to the new US Administration after President Obama was elected, former US Secretary of State Condoleezza Rice recommended that any talks between the Palestinians and Israel were to resume from the understandings reached between Abbas and Olmert. True, in her book "No Higher Honor" she does not state that clearly; however, a senior political source at the US Consulate General in Jerusalem<sup>64</sup> confirmed the report and said that everyone in the State Department knows about the handover notes. Yet, he explained, the US State Department preferred to give Netanyahu the benefit of designing his route in talks with the Palestinians instead of being forced to follow the steps of his predecessor.

The problem was Netanyahu. He decided to reshuffle all the cards and return to square one in negotiations with the PLO. A major crisis erupted when the Palestinians refused to resume talks with Israel without an official and public freeze on Jewish settlement activities in the occupied territories, including East Jerusalem.

After a meeting at the White House on 28 May 2009 with visiting Palestinian President Mahmoud Abbas, Obama took a tough stance on Israel and its settlement policy and continued to press his administration's tough stance on Jewish settlements in the West Bank. He told reporters that Israel must halt all settlement activity to build momentum for peace.

He even referred to meetings he had with Netanyahu a week earlier when he said that in his conversation with Netanyahu, "I was very clear about the need to stop settlements, to make sure that we are stopping the building of outposts ... to alleviate some of the pressures that the Palestinian people are under in terms of travel and commerce."

<sup>64</sup> Meeting in mid-2013 with a political officer at the US Consulate General in Jerusalem who requested anonymity.



The continued growth in settlements and an unwillingness by various Israeli governments to dismantle settlement outposts that were defined as illegal even under Israeli law, have left the Arab world, not only the Palestinians, doubtful that Netanyahu will even want to reach a peace agreement. Obama was very honest and clear in his assessment of the overall situation. He told reporters that "time is of the essence and we cannot continue with the drift, with increased fear and resentments on both sides. We need to get this thing back on track."

Obama's blade sharp position on Jewish settlements gave Abbas a very serious push and the Palestinian leader decided to go along the footsteps of Obama and of course demanded a full freeze of Jewish settlement activities in return for resuming peace talks between the PLO and Israel. The stumbling block was when Obama backed down and his Secretary of State Hillary Clinton addressed the question of Jewish settlements in the West Bank and said they should be taken into account in any future deal between the Palestinians and Israel. Her statement made it difficult for Abbas to follow suit and back down.

The US position on Jewish settlements, be it as firm and clear as it was, has created a problem for Abbas, possibly unintentionally. When Obama speaks of Israel having to freeze settlement activities, including those related to natural growth of those settlements, Abbas could not be less Palestinian than Obama. He followed Obama's route, only to find himself stuck with an Israeli government that was not ready to freeze settlement activities in return for resuming negotiations with the PLO.

Only at the beginning of 2013 did efforts by Washington to resume talks between the PLO and Israel start to bear some fruits. US Secretary of State John Kerry spoke to the EU High Representative Catherine Ashton to convince President Abbas to resume talks with Israel, without insisting on any settlement freeze. An EU diplomatic source in Jerusalem who requested anonymity confirmed that Kerry spoke to Ashton with the hope that he would get a one-year extension during which he would try his best to bring the two sides around the negotiations table. Otherwise, he said, the EU would feel free to adopt whatever boycott decisions it wants on Jewish settlements in the occupied territories. The following pages tell the full story of the failed peace talks between Israel and the PLO in 2013/2014.<sup>65</sup> In messages to President Abbas, Ashton stated the following:

Kerry seems to be quite sure that he has a chance to bring about an agreement between you and Israel. Give him the chance. He told us he wasn't happy with our move on boycotting Jewish settlements in the occupied territories and argued that such an EU move would disrupt the peace talks. We asked him where those peace talks were anyway since not a single session had ever been convened. He said he would travel to the region and

<sup>65</sup> A special off the record briefing by one FATAH Central Committee member in August 2013.

convince both parties to resume talks. Give him one year. If he doesn't succeed, we will go back to our original plan and consider sanctions against Jewish settlements in the occupied territories and their products that they try to sell in Europe.

On April 7, 2013, Kerry and Abbas met in Ramallah amid a veil of secrecy as the US Secretary of State requested that all their discussions remain confidential in order to avoid leaks to the press. Kerry discovered that working discreetly is best in an area like the Middle East, where politicians sometimes tend to negotiate through the media and not around the negotiations table. The meeting ended with neither Abbas nor Kerry giving any timeline as to when talks would be resumed with Israel. The only thing public from that meeting was the mutual description of the meeting as constructive. Behind closed doors, Abbas raised a few issues and argued that without them being met, at least partially by Israel, it would be extremely difficult for him to resume talks.<sup>66</sup>

During the first part of the meeting, Abbas was joined by a number of his top aides, including Nimer Hammad, his political advisor. In that part of the meeting, the Palestinians spoke of the need for measures to improve the economy of the PA, but nothing political was raised. It was only 20 minutes later, when everybody else withdrew from the room that Abbas and Kerry had their closed meeting, where only political matters were discussed, including a set of measures that Israel, he said, should take. Below are those measures:

- Freeze settlement construction.
- Release Palestinian prisoners, mainly those who have been jailed prior to signing the 1993 Oslo Accord.
- Regularly transfer tax revenues to the PA without any interruption.
- Allow the Palestinians a free hand in building in Area C, which is still under Israel's full security and civil control.
- Enlarge the area under PA control, both in zones A which is currently under full security and civil control of the PA and zone B where Israel continues to keep for its security control.

Also at that very early stage of preparing for talks, Netanyahu had told Kerry before the latter left for Ramallah to see Abbas that he better not submit any map defining the borders between the two states of Israel and Palestine in any future agreement. Netanyahu argued that such a map would be part of the bargaining chips that he wants to keep very close to his chest without giving the Palestinians any hint as to where the border would stand. That in itself was an obstacle as it contravened every aspiration the Palestinians had from the talks, when Abbas insisted that the terms of reference were clear and that the borders of the two states should be defined in the beginning so that each would know which territories are to remain under their sovereignty.

<sup>66</sup> Ibid.

The early signs of Abbas softening his position and accepting the Kerry ideas for resuming talks with Israel came from a statement by the President's spokesman Nabil Abu Rudeineh, who stated:<sup>67</sup>

President Abbas told John Kerry that he has no objection to resuming talks with Israel, but it is necessary that Israel ceases settlement activities and release security prisoners, a matter we consider top priority in order to create an environment that is conducive for returning to negotiations.

The term "necessary" didn't reflect the pre-condition that Abbas had raised in the past for resuming talks. And that was the beginning.

Months later, after a few more visits to the region by Kerry, the two agreed to resume talks. Nothing was said about the settlement freeze except a promise from Kerry that he would see to it that Israel phases down the pace of construction in the Jewish settlements, whether in the West Bank or in East Jerusalem.

It was not an easy move for Abbas but he presented all the facts before his fellow leaders in the PLO and FATAH. He told them that they would be making a big mistake, if the whole world blamed them for foiling US efforts to bring peace to the region.<sup>68</sup> Members of the PLO Executive Committee and FATAH Central Committee who attended a joint meeting with the President listened carefully to his introduction, and when the President asked if they wanted to vote on whether to resume or not resume talks with Israel, most of them said they had reservations and worries but skipped the voting, giving the President a green light to go ahead. One of the reasons they wanted to avoid any voting was to avoid revealing their exact positions to the public afterwards. It was more of an opportunist position where they wanted to wait and see if talks succeed. If not, they would say they never voted for it in the first place, blaming everything on the President. Some must have thought that if they were to oppose beginning negotiations, they would infuriate the President and none of them was ready to take such a risk.

A week later, Kerry came to see Abbas again and reminded him not to apply to any of the international bodies since that move would be detrimental to the peace efforts. Abbas said he wanted something in return and reminded Kerry with the issue of the 104 pre-Oslo prisoners who were supposed to be released by the end of the five-year interim period of the Oslo Accords (1999). It took a few phone calls between Netanyahu and Kerry, who called the Israeli prime minister from the land line in Abbas office in Ramallah, until Netanyahu finally agreed to the deal with one condition: he won't release all the prisoners at once and instead would release them in four phases. Abbas agreed provided specific dates are included in the agreement. In return, Abbas undertook not

to apply to any of the international organizations during the nine-month period that was allotted for negotiations between the two sides.

On March 29, 2004, Israel was supposed to release the fourth phase but failed to do so. Because it was Saturday, Abbas convened the Palestinian leadership in his office and said that they should give Israel the benefit of the weekend and should wait, because certainly the Israeli government would meet on the following day, Sunday.<sup>69</sup>

On Sunday Abbas was ready to convene the Palestinian leadership and seek their support to joining various UN bodies. But a phone call from Martin Indyk to Abbas made him wait. Indyk said that Kerry was arriving in the region and that he was trying his best to save the negotiations. The time for Kerry's arrival was given as Monday evening.

Between Saturday evening and Monday evening, consultations continued between the Palestinians and Indyk who told them that Kerry received a promise from Netanyahu that he would convene an emergency session of the cabinet in order to pass the decision on the prisoners' release. But this session never took place. When Kerry arrived and met with Netanyahu, he told the Palestinians that the Israeli Prime Minister promised to convene the government on Tuesday morning to vote on the prisoners' release. That meeting did not take place either.

The American team under Indyk continued contacts with the Palestinians and, following another phone call from Kerry to Netanyahu, the Palestinians heard from Indyk that the Israeli government would convene on Tuesday evening, just before the Palestinian leadership meets in Ramallah, in order to decide on the prisoners' release. That meeting, again, never took place. Kerry felt embarrassed. He had already flown to Brussels carrying with him a promise from Netanyahu to convene the cabinet and pass the release.

The American team, including Indyk, who spoke to the Palestinians over this issue, reflected the level of embarrassment Kerry had and blamed Netanyahu's foot dragging, which they tried to justify saying he had serious problems within his extreme right wing coalition.

But by Tuesday evening, Abbas was convinced that Netanyahu was not serious at all and never intended to release the fourth group of prisoners.

Abbas insisted that Israel honor the deal reached eight months earlier on the prisoners' release, noting it was an agreement between the US and Israel, in return for a Palestinian freeze on international bids to join UN bodies, including the International Criminal Court. The deal at the time had nothing to do with the negotiations and was reached separately, a few days after the agreement on resuming peace talks was finalized. A frustrated Abbas sent a strongly-worded message to the US Administration protesting Israel's failure to honor its part of the prisoners deal and threatened that the Palestinians

67 Official statement by Abu Rudeineh was circulated by the official news agency, WAFA.

68 Off the record briefing by a PLO Executive Committee member in December 2013.

69 Meeting with President Abbas at his office in Ramallah mid-April 2014.



would immediately knock the door of every international body to gain membership in addition to instantly freezing every negotiations with Israel.

On April 2, 2014, a nine-hour meeting took place starting at seven in the evening and ending at four thirty the following morning between the Palestinian and Israeli delegations with the presence of US peace talks' coordinator Martin Indyk. That meeting was a turning point in the negotiations process as it ended with a serious explosion that blew up the remaining chances of resuming talks between Israel and the Palestinians. Tzipi Livni and Yitzhak Molcho from Israel and Saeb Erekat and Majed Faraj, head of the Palestinian Intelligence, from the Palestinian side, were present at that meeting. Indyk tried his best to defuse the tension between the two sides but did not succeed.<sup>70</sup> It all started when Erekat said:

We are here representing the State of Palestine which had already been recognized by the UN. Therefore, our status is that of a state under occupation and not an authority that Israel controls and decides what goes in and what goes out.

A verbal clash then followed with Livni yelling at Erekat saying:

We will not hesitate to punish the Palestinians. We have numerous means to make life difficult for them.

Erekat did not keep silent and replied:

In this case, we will sue you before the whole world as war criminals against our people.

When Indyk stepped in and blamed the Palestinians for the latest rising tension and said they were to blame if the security situation deteriorates, Majed Faraj responded:

Don't worry about Israel. It is a strong country and has a devastating power. It doesn't need more support from you to use against us. As a commander of one of the Palestinian security apparatuses, let me tell you that I came here to engage in political and not security negotiations. I came to negotiate over East Jerusalem which we demand the capital of our independent state. So my duty is to look after the security of my people and not to negotiate the release of some prisoners.

A few days later, Kerry seemed to have given up. Speaking during his visit to Algiers, he said leaders of both sides have to take tough decisions, adding his famous line: "One can take the horse to the water bucket but cannot force it to drink."

Still by that point, the Palestinians did not take any decision to stop negotiations and on the contrary, Abbas declared he continue talks with Israel and reiterated his commitment

<sup>70</sup> <http://www.almayadeen.net/ar/news/palestine-evSgFfvDT0iHbaMCAKBpjQ/%D9%84%D9%82%D8%A7%D8%A1-%D8%B9%D8%A7%D8%B5%D9%81-%D9%8A%D8%AC%D9%85%D8%B9-%D8%B9%D8%B1%D9%8A%D9%82%D8%A7%D8%AA-%D9%88%D9%84%D9%8A%D9%81%D9%86%D9%8A-%D8%A8%D8%B1%D8%B9%D8%A7%D9%8A%D8%A9-%D8%A3%D9%85%D9%8A%D8%B1%D9%83%D9%8A%D8%A9>

to negotiations. But when he signed the orders to join 15 UN bodies, most of which are human rights organization and have nothing to do with Israel, Netanyahu took the decision to suspend talks, clearing Abbas from the onus of remaining committed to what he was convinced would not yield any results.

A day or two after the Israelis announced suspension of peace talks with the PLO, I met with Mohammad Ishtayeh who was member of the Palestinian peace talks delegation but resigned a few months earlier, who told me:

- We still believe the gap is huge between us and the Israelis but we still honor our commitment and are ready to negotiate until the last moment. Israel has proved that it lacks the basic sincerity needed for the peace process to succeed.
- Can you imagine that Netanyahu made nine promises and breached them within two days on the issue of prisoners' release?
- When the prisoners were not released on 29th March, we gave Israel a bit more time as it fell on Saturday. Then we made our position clear that we cannot accept any further foot-dragging and that Israel should release the last 34 of the pre-Oslo prisoners. But then we were told that the Israeli government would take its decision within hours.
- The postponement repeated itself for the second, third and up to ninth time without anything happening on the ground. The last date given to us was 1st April evening, just before the Palestinian leadership meeting.
- We met and waited and when Israel failed to take its decision, the Palestinian leadership decided to act by utilizing our right to join all international bodies. Nevertheless, we sufficed with those 15 organizations in order to give chance for further diplomacy to act.
- To tell you the truth, the whole process of negotiations was not serious enough as Israel from the outset failed to show the required commitment to reach an agreement.
- We suggested to embark on borders and security arrangements and explained that an agreement on those two issues facilitates reaching agreements on the other issues, including settlements, Jerusalem and Jordan Valley security arrangements. Israel refused and insisted that we restart from scratch and discuss all issues at once. That approach by Israel created a chaos that reflected itself on the way negotiations went on between us.
- Besides, the Israelis continued a series of anti-Palestinian measures. They arrested 416 Palestinians over the same period of eight months since the start of the negotiations. They killed 60 Palestinians. They stormed our cities and villages on numerous occasions and on top of all built new housing units almost in

every settlement they have in the West Bank and East Jerusalem.

- If anything was proved in the last eight months of negotiations with Israel, it was the fact that we are still far apart in positions and the gap between us is very wide.
- There were times when the Americans threatened to scale down or stop their aid to the PNA and we were very clear in our response that we won't sell the cause of our people for aid or anything else. We are very keen on reaching an agreement, but it shouldn't be at the expense of our just demands.

Two weeks later, on April 16, Abbas received in his office five Israeli Knesset members, including Hilik Bar, Nahman Shai and Michal Biran of the Labor Party and Nitzan Horowitz and Tamar Zandberg of Meretz. In that meeting,<sup>71</sup> Abbas spoke in detail explaining what went wrong. In practical terms, he summed up the foiled eight months of fruitless talks with Israel. Here is what he said to his guests:

- We agreed with Israel on the resumption of negotiations for a full duration of nine months that will end on 29th of this month, April. A week after that agreement was reached John Kerry came and asked me not to apply to any international body as long as negotiations were underway. I demanded in return that Israel release the 104 pre-Oslo prisoners. Kerry spoke to Netanyahu and came back to us asking for a list of those names. Kerry took the names to Netanyahu and came back with a positive response saying that Israel undertakes to release those prisoners in four phases, the last of which on March 29. In return, as said, we would refrain from applying to any of the international bodies for the full duration of the negotiations that ends on April 29 this year.
- The first, second and third phases of release went on without any problem. When we drew closer to the time of the fourth phase, Israel started to send out messages that it cannot release those because among them were 14 holders of Israeli citizenship. We made clear our position and insisted that Israel had accepted the deal and should stand by its acceptance and carry out the fourth phase without any delay.
- The 29th of May was a Saturday and I thought to myself that the Israeli government might need some time to meet and take a final decision on the release of the fourth phase of those prisoners, numbering 30. We waited until Sunday and then until Monday and then until Tuesday evening, April 1. Kerry kept telling us that Netanyahu promised to convene his cabinet to take a final decision releasing the 30 prisoners in a couple of hours. In the morning, they said the meeting would take place later in the day. In

the evening, they returned to say the meeting would be held the following day.

- The postponements were nine in number. Kerry was the one who kept informing us about the new times slated for the cabinet to meet but the meeting didn't take place. On Tuesday evening, April 1, I was waiting at my office and the Palestinian leaderships were convening next door. By 1900 hrs. I found out the Israeli government had not met, so I spoke to the leadership and said I should go ahead and sign a decision to join some of the international bodies. And that was what I did.
- We joined treaties that cause no threat or worry for Israel. With the exception of the First, Second, Third and Fourth Geneva Convention, the rest of the treaties dealt with human-related issues such as prevention of violence against women or children, combat against corruption and so on and so forth. We were very careful not to apply for organizations that would harm Israel, such as the ICC, because we wanted to leave the door open for negotiations and to give peace in the region one more chance.
- Now, we are waiting for Israel to release the 30 prisoners as agreed. My team to the negotiations with Israel has the full power and authorization to consult with the Israelis all requirements for extending the negotiations once they are told that the prisoners are on their way home. Without their release, we will have a serious problem and that means I should get back to the PLO and PNA highest echelons and consult them on our future steps beyond April 29.
- We are ready to extend the talks by nine more months, but with one major condition: We embark in the first three months on borders and security arrangements and during this period Israel refrains from any kind of settlement activities or construction in the Occupied Territories or in East Jerusalem. Without agreeing on where the borders should pass between Israel and the future State of Palestine, there won't be any sense in negotiations, because up to this moment, and throughout the past eight months of negotiations with Israel, we never felt any sincere or serious approach on the Israeli party. We want negotiations for the purpose of reaching an agreement. We do not want negotiations for the sake of negotiations.
- If this is not doable and Israel is not ready to present its map of the final status agreement and the two state solution, that means there is nothing to talk about and we will have to convene the Palestinian leadership and take the appropriate decision.
- I keep hearing all kinds of threats by Israeli officials, mostly ministers in the current government, that the Israeli army might take over the West Bank or storm the Muqataa or even take me prisoner to the International Criminal Court. But let me tell you one thing: You don't

<sup>71</sup> I was present.

need to use your army to take over the West Bank. If there is no hope in negotiations and reaching an agreement with Israel proves impossible, you can only send a medium rank army officer to me. I will hand him over the keys to the PA and we will all go home. You have been occupying us since Oslo for free and now your occupation of our country will cost you money. There is no need to go into another round of clashes and violent showdowns, because we pity every drop of blood, whether Palestinian or Israeli.

## Conclusion & Recommendations

After two decades of swapping modes between fighting and talking the picture today is not as grim as it looks, provided the two sides agree that they have had enough with this insanity of ongoing conflict. The choice is very clear: the two sides either reach a formula that allows for mutual co-existence or opt for mutual destruction. A lot has been said over all those years about painful concessions but when one considers the future to come, not the past that was, those painful concessions may not be as painful as they were projected in the beginning. When a win-win agreement is reached ending the conflict and granting the Palestinians the independence they have aspired for and Israelis the security and acceptance in the region that they have dreamed of, no painful concession in the process will seem painful by then. As of today, examining the whole peace process for the past twenty years, nothing seems to have changed. The Palestinians continue to insist that an agreement can never be reached without Israel accepting the substance of UN Resolution 242 with regard to **“inadmissibility of the acquisition of territory by war”**, meaning they should retrieve every inch of territory Israel occupied in the June 1967 war. That interpretation, they explain, is the real meaning of “end of occupation” without which no peace can be reached.

Although many things have changed since then, as Israel has enforced new facts on the ground, the principle for the Palestinians continues to be unchanged. The passage of time on Israel's illegal measures in the occupied territories cannot and must not buy it international clemency to get away with what it did. This relates to the other leg of the Palestinian position – the insistence that international law should be applicable to all countries. Israel, for them is no exception.

Without a clear agreement on where the borders should pass between Israel and the Palestinian state to be born, there can be no agreement between the two parties, even if they continue to negotiate for twenty more years. Palestinian President Mahmoud Abbas, who is credited with leading his people to face the realities of the day, away from rhetoric, violence and terror and closer to the political rapprochement between Palestinians and Israelis, has clearly stated that he has had enough. Talking in Ramallah to Palestinian TV stations in the West Bank on Thursday, August 28, 2014 and summing up the ceasefire agreement in Gaza, the

President said the Palestinians cannot afford to continue talks with Israel for longer and that they cannot afford tolerate another round of violence or war on Gaza once every two or so years. He was right.

That explains the Palestinian leadership's bid towards international bodies. The new strategy that Abbas designed for himself and his leadership is to press the US to endorse the two-state solution along the 1967 lines without any ambiguity. If not, he wants to go to the UN Security Council and seek a binding resolution that endorses the November 29, 2012 recognition by the UN General Assembly of the State of Palestine along the 1967 lines with East Jerusalem its capital. If that does not work either, perhaps because of a US veto, then the PLO will apply to all international organizations, foremost of which is the International Criminal Court where the Palestinians hope to incriminate Israel for war crimes they insist it committed against them, not only within the context of the latest war on Gaza but throughout all those years of occupation. They list settlement activities, the separation wall, and moving the population of the occupying power to live in the occupied territory (Jewish settlers). The passage of time since 1967, they insist, should not buy Israel the kind of immunity that allows it to get away with what it did. Those facts on the ground explain the core contentions between the two sides. The Palestinians believe there are things they cannot live with and Israel argues there are elements it cannot live without. The distance between with or without is what defines how far or close the Middle East is from a permanent peace agreement.

A consensus exists among Palestinian officials, no matter how close or distant they were from the negotiations process, around one point. They are pretty sure that Israel has been foot-dragging in all negotiation rounds only to gain more time to create further facts on the ground that would inevitably make a two-state solution impossible.

To make their point clear, they argue that Israel could have reached an agreement with the Palestinians the moment the Palestinian leadership endorsed a flexible formula for solving the question of refugees without necessarily meaning the return of millions of Palestinian refugees to Israel. The formula which President Abbas introduced to the Arab Peace Initiative, which speaks of an agreed upon and fair settlement to the question of refugees, says it all. It says that Israel **MUST** be in agreement of whatever settlement is reached. This clause neutralizes the indoctrination campaign that various Israeli governments have used to mobilize the Israeli public against a peaceful settlement with the Palestinians. Scaring the public with the return of millions of Palestinian refugees was enough to push even moderates away from the concept of the two-state solution. In the meantime, nothing was done by any of those governments in Israel to alleviate this fear. On the contrary, they built on it so that the public would never contemplate a peace agreement with the Palestinians. In so doing, knowingly or unknowingly, the Israeli government made it difficult for themselves or for their successors to reach an agreement as they have already

incited their public against such an agreement. It was no less than a boomerang process in which Israeli governments fell in a trap they themselves set for themselves.

Even if any Israeli government were to agree to the return of 100,000 Palestinian refugees, either at once or in stages, that would not pose any demographic threat to Israel. In simple mathematics, Israel absorbs 100,000 Palestinian refugees and rids itself of over 300,000 Palestinians who are currently citizens of East Jerusalem which will become the capital of the State of Palestine. The bottom line is once there is readiness to reach an agreement, creative formulae and solutions can be found.

Another question revolves around the holy shrines in East Jerusalem and namely the Al Aqsa Mosque, which Israel insists on claiming sovereignty on, whether in full or partially. As noted in this paper earlier, Israel's Menachem Begin was ready to rescind Israeli control over East Jerusalem, in addition to the West Bank and Gaza Strip, back in 1982 in return for allowing Jews free access to the Wailing Wall. In political terms, the Palestinians do not question Jewish rights to the Wailing Wall, although from a religious point of view, they consider it an integral part of the Al Aqsa Mosque as it is the Wall where Prophet Mohammad is believed to have tied his horse the day he ascended to heaven.

The issue became complicated and as a matter of fact blew up the chances of reaching an agreement back in Camp David 2000 negotiations when Israel's Ehud Barak insisted on sharing sovereignty over the Mosque with the Palestinians. Such a decision is beyond any Palestinian leader to take. It involves the whole Islamic world and no sane politician would consider taking a decision that brings Israel to a frontal showdown with over a billion Muslims.

As per Netanyahu, the Palestinians believe he is less of a leader and more of a follower. He doesn't lead his people as much as he follows public opinion from day to day, or perhaps from week to week. It is hard to change this sharp and clear perception of Netanyahu among the Palestinians. They believe that public opinion and front-page reports and headlines dictate his policy for the day, but not necessarily for the day after. The way Netanyahu zigzags in talks with the Palestinians makes him a real non-partner partner. However, a statement made by President Abbas in his televised interview on August 28, 2014, sounds interesting enough to raise lots of eyebrows, but only time can prove how accurate it is. Abbas said that Netanyahu agreed, in his presence, to the principle of the two-state solution along the 1967 lines and that what is left is for the negotiators to sit and demarcate the exact border line between the two states.

On April 16, 2014 President Abbas received in his office a delegation of Labor and Meretz Knesset members. Nahman Shai, the Labor MK, pointed to a map behind President Abbas and asked him how come he keeps a map of historical Palestine without any line showing Israel. Abbas immediately responded: "Take this map to Netanyahu and ask him to

draw where he wants the borders of Israel to be and bring it back to me."

Abbas' response says it all. The main reason that blew up every chance of reaching an agreement in those twenty years was Israel's unpreparedness to declare where its borders are. Once, Moshe Dayan, the ex-defense minister, said that Israel's borders would extend to where Israeli troops set foot. The Palestinians, by contrast, have made clear their position from the beginning. Now they also know the international community not only supports their approach but also endorsed it practically in the UNGA resolution of November 29, 2012.

When twenty years of peace seeking efforts yield no results, and even witness a series of wars and rounds of violence, something really big must have gone wrong. It has always been the case that either the Palestinians were not ready to be genuine partners or were perceived as such by Israel. On the Israeli side, it was either a single government that was not prepared for a peace agreement or was perceived by the other side as not being ready to take the final move towards a settlement. In between, lots of opportunities were missed.

Time can only prove if what the Palestinians feel is right or wrong when it comes to the unlimited support the US grants Israel all through the way down to the minute details of the conflict. The question is crucial as it explains why Palestinian negotiators, and the public at large, are very much disappointed at the level of support Israel receives, contributing to a never ending intransigence almost in every issue of the conflict and its resolution.

The notion that the US is more interested in managing the conflict and less interested in resolving it continues to dominate Palestinian thinking, before, during, and after every round of negotiations between the two parties. They have a point. As long as Israel relies on the US to provide whatever support needed on the international level no government in Israel would look the other way and think of what is good for her in terms of earning the recognition of the Palestinians and the Arab world. The conflict cannot go on forever. Israel cannot sustain its occupation forever. One day, payback time will come and it will be too expensive for a country like Israel to pay.

A key sentence that sets the peace process on track and might help the two sides to solve their conflict is the one referring to the Arab Peace Initiative. The Palestinians insist it was them who urged the Saudis to submit their initiative to the Arab summit in Beirut in 2002 and then urged the Arab states to endorse it. They were the ones who argued in favor of the initiative during the 2003 summit of the Islamic Conference Organization in Tehran, which too endorsed the Arab Peace Initiative. This endorsement ultimately meant that 57 Arab and Islamic states were ready to trading normal ties with Israel for her recognition of the Palestinian state and end of its occupation of all the territories it occupied in 1967, including of course the Golan Heights.

The Arab Peace Initiative gives Israel all what it demanded and grants the Palestinians the freedom they have yearned for so many decades. The Arab Peace Initiative was and, for the time being, will remain the most relevant and fair document with parameters that address the needs of both Palestinians and Israelis and help them reach a peace agreement, leaving the rest to the nations of the two neighborly states to define how warm that peace can be.

The latest war on Gaza proved yet again that there can be no military solution to the Arab-Israeli conflict. Wars come and go, but the reality remains as solid as it can be. Only a political settlement can safeguard a war-free Middle East. Some skeptics may argue that making peace with the other side is risky. And yes it is. But the level of risk taken in signing a peace agreement with an enemy is a lot lower than a risk taken in launching war or continuing to fight with that same enemy. Risks are there whether we like it or not. Better to take them for the right, not for the wrong, reason.

The war in Gaza was as terrible as one can imagine, mostly for the Palestinian population in the Strip, where more than 2,100 were killed, some 11,100 wounded, close to half a million (one third of the population) were displaced out of their bombed homes and thousands of buildings were either entirely leveled or badly damaged by Israeli bombs and missiles. Yet a momentum was created. In movies, tragedies lead to happy endings. In reality, it sounds different but doable. Palestinians and Israelis can manipulate the latest war on Gaza to move out of the impasse into a genuine peace initiative that ends the conflict with a win-win settlement that soothes the worries of each party.

While this sounds like a cliché frequently heard over the past decades of the conflict, it bears a special meaning these days. In Gaza, close to 60% of the population are less than 16-years old. Those children have already witnessed three wars over the last eight years of their life: 2008-2009, 2012 and now 2014. How many wars can they still survive? And if they survive, how long can they avoid being indoctrinated with full hatred and animosity to the Israelis, meaning that they will never consider any deal with Israel.

Extremism is on the rise, and very rapidly, all through the Middle East. The insanity by which extreme Islamists groups, such as the Islamic State in Iraq and Syria and the atrocities they carry out against their foes give an indication on how the region will look like in a few years from now should these kinds of forces be given the chance to rule.

Needless to say the ongoing conflict between Palestinians and Israelis, and the religious connotation given to it due to the fact that Israel occupies the third holiest shrine in Islam, can easily be manipulated by radical Islamists to recruit new members and to mobilize further public support. The moment this conflict is solved, those groups will have fewer tools to manipulate.

Take Hezbollah for an example. The latest war on Gaza provided the group with the best opportunity to join Hamas and Islamic Jihad and attack Israel from the north. And if

what happened in Gaza was not enough for Hezbollah to step in militarily, then nothing else will. Some argue that Hezbollah was busy with supporting the Syrian regime against the Sunni radicals, but that is not enough a reason for not helping the Palestinians, especially for someone like Sheikh Hassan Nasrallah who never misses an opportunity to reiterate his threats against Israel.

One thing can be understood from Hezbollah's behavior. When Israel no longer occupies a single inch of Lebanese territories and its jails do not hold Lebanese nationals, neither Hezbollah nor any other Lebanese group have the justified reason to launch war on Israel. This, despite the fact that the group improved its arsenal of missiles and ammunition to at least ten times more than it was on the eve of the 2006 war on Lebanon, which had a goal of disarming Hezbollah and ended up with giving it the opportunity to acquire better arsenal and more highly advanced missiles.

The same applies to Gaza and to the West Bank, or in short to the would-be Palestinian state. A fully independent Palestinian state gives the vast majority of its citizens no reason to start any war on Israel. It bestows upon the governing authority a significant burden to prevent any attacks and curb any provocation against Israel, so that it won't have any excuse to destroy what they have built after so many years of yearning. The bottom line is to provide the Palestinians something very dear to them that they cannot afford losing. Unlike today's condition when many feel they have nothing to lose at all.

In the aftermath of the war on Gaza, the international community is brought again into a situation where it has to raise hundreds of millions of dollars to rehabilitate and reconstruct Gaza. This cannot go on forever, and therefore, a peace agreement that ends this conflict can allow for the reallocation of funds for building genuine peace between the two parties instead of being used to compile more weapons and incite more to hate the other.

Any recommendation to solve this conflict will remain hollow and meaningless as long as the US continues to provide Israel with unlimited support. No one suggests that Washington should stop its support for Israel. No one questions the level of such support anyway. What matters, mostly for the Palestinians, is that the US give Israel clear indications that in cases where its actions contravene international law, it cannot automatically count on US support to get off the hook. The US can refrain from using its veto powers in the UN Security Council, where a binding resolution is needed to compel Israel to pull out of the occupied territories. Any US veto disrupting an internationally binding resolution to pull the Israeli army out of the occupied territories simply means that Israel can stay in those territories for as long as it wants, counting on the US support.

The US should issue a clear message to Israel that it cannot count any longer on automatic US veto every time the UN Security Council considers a resolution on the Arab- Israeli

conflict. The PLO never had the luxury of such automatic support from any super-power, and that is why it behaves carefully, perhaps because it knows that international humanitarian law is on the side of the Palestinians.

The following is also a list of “out-of-the-box” ideas that one may consider to help solve the most difficult issues of contention between the Palestinians and Israel. For instance, if a minor change to the 1967 lines is not that easy to implement because of the amount of settlers already live in the occupied West Bank, some brilliant creative ideas may be put on the table. Here are some of those:

1. Israel trades a considerable percentage of the West Bank area with an equal area of land on the Mediterranean somewhere between Netanya and Herzliya along with a safe passage to the northern part of the Palestinian state. This way, the Palestinians can have a beach of their own, without having to drive all the way down to Gaza. It also addresses ambitions of some Palestinians who dreamed of a state between the Mediterranean and the Jordan River.
2. Israel can trade an area of land next to Haifa port and transform it into a docking station for goods imported or exported solely by the Palestinian state. This area shall be under full Palestinian sovereignty and counted as part of the land swap. It provides the Palestinians with the chance to handle their import/export businesses without having to go through Israel or others.
3. Safe passages should be opened for the Palestinians between Gaza Strip and the West Bank. They must be under Palestinian sovereignty and of course calculated in the land swap. Those passages can either be tunnels or bridges but are solely controlled by the Palestinians. A 60 kilometer bridge, three lanes each direction is the best option to link between Gaza and Hebron without having to touch Israeli territory. Service stations are not difficult to set on that highway.
4. The Palestinian state may consider building an international airport on the western side of the River Jordan next to Jericho where the land is flat and large enough to host the tarmac. Israel should not object, unless Israel wants its Ben Gurion Airport to remain the only aerial exit point for the Palestinians, something no sovereign state can accept.
5. Israel should abolish its claims to water resources within the boundaries of the Palestinian state and should recognize the right of the Palestinian state to natural gas found off Palestinian shores.
6. Palestinian refugees should be allowed to return to Israel under UN Resolution 194 and in agreement with Israel along the parameters set forth by the Arab Peace Initiative. A return of refugees, be it as symbolic as it is, removes a major psychological

barrier to an historical rapprochement between Palestinians and Israelis without jeopardizing Israel's demographic nature.

7. In a situation where the states of Palestine and Israel live side by side in peace, exchanging visitors, tourists, workers and worshippers between the two countries should not be a problem at all. Isn't that what peace between two neighbors is about?
8. With regard to Al Aqsa Mosque, which is one of the most difficult issues to settle, Israel needs to suffice with the right granted to it by the Palestinians, the Arab world, and the international community to have free access to the Wailing Wall, which is the center of the Jewish faith, not the mosque. The controversy over whether the Al Aqsa Mosque is or is not the site where the Second Temple was should remain a matter for historians to argue about. Under no circumstances should it become an element that prevents peace between the two parties.

**Annex I: Comprehensive Settlement Population 1972-2010**

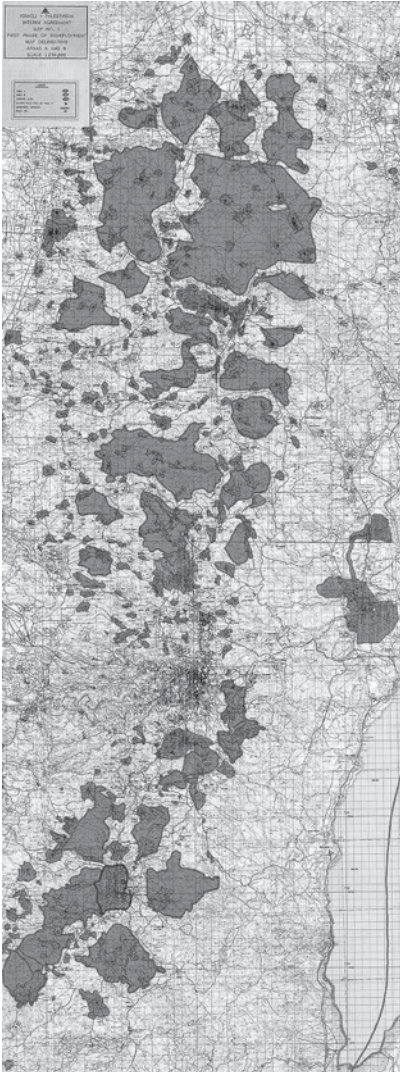
**Comprehensive Settlement Population 1972-2010**

Year	West Bank	Gaza Strip	East Jerusalem	Golan Heights	Total
1972	1,182	700	8,649	77	10,608
1983	22,800	900	76,095	6,800	106,595
1985	44,100	1,900	103,900*	8,700	158,700
1989	69,800	3,000	117,100	10,000	199,900
1990	78,600	3,300	135,000	10,600	227,500
1991	90,300	3,800	137,300	11,600	243,000
1992	101,100	4,300	141,000	12,000	258,400
1993	111,600	4,800	152,800	12,600	281,800
1995	133,200	5,300	157,300	13,400	309,200
1996	142,700	5,600	160,400	13,800	322,500
1997	154,400	5,700	161,416	14,300	335,816
1998	163,300	6,100	165,967	14,900	350,267
1999	177,411	6,337	170,123	15,313	369,184
2000	192,976	6,678	172,250	15,955	387,859
2002	214,722	7,277	175,617	16,503	414,119
2003	224,669	7,556	178,601	16,791	427,617
2004	234,487	7,826	181,587	17,265	441,828
2005	258,988	0	184,057	17,793	460,838
2006	268,400	0	186,857	18,105	473,362
2007	276,462	0	189,708	18,692	484,862
2008	295,380	0	193,091	19,083	507,554
2009	299,440	0	191,960	19,248	510,648
2010	314,132	0	198,629	19,797	534,224
2011	328,423	0	n/a	20,347	n/a

\*1986 data



**Annex II: Map of Israeli troop redeployment under Oslo II Accord of September 28, 1995:**



a comprehensive peace agreement. At the conclusion of the week, President Clinton offered a number of proposals intended to define the parameters for an immediate settlement. We remain grateful for the United States' considerable contributions to peace efforts and welcome its continuing involvement in future negotiations.

We are particularly indebted to President Clinton for the tremendous effort he has expended in promoting a just and lasting peace between Palestinians and Israelis. It is to his credit that both sides have come so far over the last seven years. As President Clinton has stated on so many occasions, however, the only successful and permanent peace will be one that takes into account the concerns of all parties and that is acceptable to Palestinians, Arabs, and Muslims, as well as to Israel, within the agreed upon bases for the Palestinian-Israeli negotiations, namely UN Security Council Resolutions 242 and 338.

We wish to explain why the latest United States proposals, taken together and as presented without clarification, fail to satisfy the conditions required for a permanent peace. As it stands now, the United States proposal would:

- Divide a Palestinian state into three separate cantons connected and divided by Jewish-only and Arab-only roads and jeopardize the Palestinian state's viability;
- Divide Palestinian Jerusalem into a number of unconnected islands separate from each other and from the rest of Palestine;
- Force Palestinians to surrender the right of return of Palestinian refugees. It also fails to provide workable security arrangements between Palestine and Israel, and to address a number of other issues of importance to the Palestinian people. The United States proposal seems to respond to Israeli demands while neglecting the basic Palestinian need: a viable state.

**Annex III: Map showing changing borders of Palestine vs. Israel**



The United States proposals were couched in general terms that in some instances lack clarity and detail. A permanent status agreement, in our view, is not merely a document that declares general political principles. It is, rather, a comprehensive instrument that spells out the details, modalities, and timetables of ending the Palestinian-Israeli conflict. For such an agreement to be effective, it must be backed by clear, effective international implementation guarantees. We believe that a general, vague agreement at this advanced stage of the peace process will be counter-productive. This conviction has resulted from our past experiences with vague agreements and from Israel's history of non-compliance with signed agreements. The permanent status agreement must be a truly final agreement rather than an agreement to negotiate.

**Annex IV: The Palestinian response paper to the Clinton Parameters:**

This is the official Palestinian response to the Clinton Parameters as published by the Palestinian Negotiations Affairs Department on 1 January 2001:

Palestinian and Israeli negotiators met last week in Washington, D.C. as part of our continuing effort to achieve

The United States side presented proposals regarding four primary issues: territory, Jerusalem, refugees, and security.

### Territory of the Palestinian State

On the issue of territory, the United States proposed that Israel annex 4 to 6 per cent of the West Bank; that the annexation is compensated through a “land swap” of 1 to 3 per cent; and that the Parties also consider a swap of leased land. The United States recommended that the final map be drawn in a manner that would place 80 per cent of Israeli settlers in annexed settlement blocs, but that would nevertheless promote territorial contiguity, minimize annexed areas and minimize the number of Palestinians affected.

This proposal poses a number of serious problems. As the proposal is not accompanied by a map, and because the total area from which the percentages are calculated is not defined, it is difficult to imagine how the percentages presented can be reconciled with the goal of Palestinian contiguity. This is especially worrisome in light of the fact that the Israeli side continues to insist, and the United States has never questioned, that Jerusalem, as defined by Israel, the “no-man’s land”, and the Dead Sea are not part of the total area from which the percentages are calculated. Moreover, the United States proposal calls for the “swap of leased land”. It is not entirely clear if Palestinian interests are served by such a swap since the Palestinian side has no territorial needs in Israel, except for a corridor linking the West Bank and the Gaza Strip, which will be covered in a land swap. This proposal, taken together with the map presented by the Israeli side in the most recent round of negotiations in Washington (see attached map), provides Israel with control over large swaths of land, rendering the Palestinian state unviable and lacking direct access to international borders.

Without a map clarifying the above ambiguities, the United States proposal does nothing to foreclose a return by Israel to its proposals at Camp David which leaves 10% of the West Bank under Israeli sovereignty and an additional 10% under Israeli control pursuant to ill-defined security arrangements. It is important to bear in mind that all of the settlements in the West Bank currently occupy approximately 2 percent of the West Bank.

In this context, the Palestinian side rejects the use of “settlement blocs” as a guiding principle as recommended by the United States proposal. The use of this criterion subordinates Palestinian interests in the contiguity of their state and control over their natural resources to Israeli interests regarding the contiguity of settlements, recognized as illegal by the international community. It also contradicts the United States proposal’s criteria concerning minimizing annexed areas and the number of Palestinians affected. In addition, the Palestinian side needs to know exactly which settlements Israel intends to annex.

Ultimately, it is impossible to agree to a proposal that punishes Palestinians while rewarding Israel’s illegal settlement policies. A proposal involving annexation of 4 to 6 per cent (not to mention 10 per cent) of the land would inevitably damage vital Palestinian interests. Under such a proposal, a number

of Palestinian villages will be annexed to Israel, adding to the already great number of displaced Palestinians.

Moreover, as the attached map demonstrates, a large quantity of unsettled land in key development areas such as Jerusalem and Bethlehem will also be annexed by Israel, destroying the territorial contiguity of the State of Palestine. In addition to compromising Palestinians’ freedom of movement within their own state, this would also have serious ramifications for the state’s development potential. In addition, any such large-scale annexation will inevitably prejudice Palestinian water rights.

As for the “land swap”, the United States proposal does not identify which areas within Israel are to compensate for the annexed land. The Palestinian side continues to insist that any annexed land must be compensated with land of equal size and value. No argument has been presented as to why this should not be the case. However, the United States proposal explicitly rejects the principle that compensation of land must be of equal size and remains silent on the issue of the location and quality of the compensated land. All previous Israeli and United States proposals concerning compensated land have referred to land near the Gaza Strip in exchange for valuable real estate in the West Bank. In addition to being desert areas, the lands being offered near the Gaza Strip are currently being used by Israel to dump toxic waste. Obviously, we cannot accept trading prime agricultural and development land for toxic waste dumps.

### Jerusalem

On the issue of Jerusalem, President Clinton articulated a general principle that “Arab areas are Palestinian and Jewish areas are Israeli,” but urged the two sides to work on maps to create maximum contiguity for both. Two alternative formulations were presented addressing each State’s sovereignty over and rights to the Haram al-Sharif (“Haram”) and the “Western Wall” (“Wall”). Both formulations provide for Palestinian sovereignty over the Haram and Israeli sovereignty over the Wall, restricting the Parties from excavating beneath the Haram or behind the Wall.

The United States formulations on the Haram are problematic. First, the proposal appears to recognize Israeli sovereignty under the Haram by implying that it has a right, which it voluntarily relinquishes, to excavate behind the Western Wall (i.e., the area under the Haram.) Moreover, the “Western Wall” extends to areas beyond the Wailing Wall, including the tunnel opened in 1996 by Israel’s former Prime Minister Benjamin Netanyahu which caused widespread confrontations.

The territorial aspects of the United States proposals concerning Jerusalem also raise very serious concerns and call for further clarification. As the attached map shows, as a result of Israel’s internationally-condemned settlement policy in occupied East Jerusalem, the United States formulation “that Arab areas are Palestinian and Jewish ones are Israeli” will be impossible to reconcile with the concept of “maximum contiguity for both”, presented in the proposal. Rather, the

formulation will inevitably result in Palestinian islands within the city separated from one another. Israel, however, will be able to maintain contiguity. Therefore, the proposal is actually calling for “maximum contiguity for both” translates in practice into “maximum contiguity for Israel”.

Israel's continued demand for sovereignty over a number of geographically undefined “religious sites” in Jerusalem, and its refusal to present maps clearly showing its territorial demands in Jerusalem only compounds the Palestinian concerns. Any formulation that will be acceptable by the Palestinian side must guarantee the contiguity of Palestinian areas within the city as well as the contiguity of Jerusalem with the rest of Palestine.

A key element of the Palestinian position on Jerusalem is its status as an Open City with free access for all. This status is imperative not only to ensure access to and worship in all holy sites for all those who hold the city sacred, but also to guarantee free movement through the State of Palestine. Unfortunately, the United States proposal makes no reference to this essential concept.

### **Palestinian Refugees**

On the issue of Palestinian refugees, driven from their homes as a result of the establishment of the state of Israel, the United States proposed that both sides recognize the right of Palestinian refugees to return either to “historic Palestine” or to “their homeland,” but added that the agreement should make clear that there is no specific right of return to what is now Israel. Instead, it proposed five possible final homes for the refugees:

1. The State of Palestine
2. Areas in Israel transferred to Palestine in the “land swap”
3. Rehabilitation in the host countries
4. Resettlement in third countries
5. Admission to Israel

All refugees would have the right to “return” to the State of Palestine; however, rehabilitation in host countries, resettlement in third countries, and admission to Israel all would depend on the policies of those individual countries.

The United States proposal reflects a wholesale adoption of the Israeli position that the implementation of the right of return be subject entirely to Israel's discretion. It is important to recall that Resolution 194, long regarded as the basis for a just settlement of the refugee problem, calls for the return of Palestinian refugees to “their homes,” wherever located – not to their “homeland” or to “historic Palestine.”

The essence of the right of return is choice: Palestinians should be given the option to choose where they wish to settle, including return to the homes from which they were driven. There is no historical precedent for a people abandoning their fundamental right to return to their homes whether they were forced to leave or fled in fear. We will not be the first people to do so. Recognition of the right of return and

the provision of choice to refugees is a pre-requisite for the closure of the conflict.

The Palestinians are prepared to think flexibly and creatively about the mechanisms for implementing the right of return. In many discussions with Israel, mechanisms for implementing this right in such a way so as to end the refugee status and refugee problem, as well as to otherwise accommodate Israeli concerns, have been identified and elaborated in some detail. The United States proposal fails to make reference to any of these advances and refers back to earlier Israeli negotiating positions.

In addition, the United States proposal fails to provide any assurance that refugees' rights to restitution and compensation will be fulfilled.

### **Security**

On the issue of security, the United States proposed that there be an international presence to guarantee the implementation of the agreement. The United States proposal suggests that the Israeli withdrawal should be carried out over a 3 year period, with international forces phased in on a gradual basis. Then, at the end of this period, an Israeli military presence would be allowed to remain in the Jordan Valley for another three years under the authority of the international force.

The United States also proposed that Israel be permitted to maintain three early warning stations for at least ten years and that it be given the right to deploy its forces in Palestinian territory during “a national state of emergency.” In addition, the United States has suggested that Palestine be defined as a “non-militarized State,” and, while acknowledging Palestinian sovereignty over its own airspace, it has proposed that the two sides develop special arrangements for Israeli training and operational needs.

Although the United States proposals placed fewer burdens on Palestinian sovereignty than earlier Israeli proposals, they nevertheless raised a number of concerns. There is no reason why Israel would require three years to withdraw from the West Bank and Gaza Strip. In view of the fact that Israel resettled more than one million immigrants from the former Soviet Union in a few years, one year is more than enough time to resettle less than 60,000 Israeli settlers. It is moreover unclear from the United States proposal that the withdrawal period relates to both soldiers and settlers, both of whom are considered part of the occupation forces in the Palestinian Territories. A protracted withdrawal process could jeopardize the peaceful implementation of the agreement and would create a continued source of friction.

There are other Palestinian concerns. Israel has yet to make a persuasive case regarding why it would require either a standing force in the Jordan Valley or emergency deployment rights – much less both. This is especially the case given that international forces will be present in these areas. Furthermore, Israel requires no more than one early warning station in the West Bank to satisfy its strategic needs. The maintenance of stations at current locations near

Ramallah and Nablus and in East Jerusalem will seriously inhibit Palestinian development. Moreover, the United States proposal would give Israel sole discretion for determining how long these stations will be operational.

The United States proposal's suggestion that special arrangements be made for Israeli training and operational needs in Palestinian airspace is also extremely problematic. Without specific clarification, this might be used to defend a right for Israel to use Palestinian airspace for military training exercises with all the accompanying dangers to the Palestinian civilian population and the environment while sparing Israeli citizens from any similar infringement. Palestinians remain committed to working out regional agreements concerning aviation in line with commonly accepted international regulations. Any arrangement to the contrary would infringe on Palestinian sovereignty and harm relations with neighboring countries.

### **Other Issues**

The United States proposal remains silent on a number of issues that are essential for the establishment of a lasting and comprehensive peace. By focusing solely on the four issues above, the United States proposal not only neglects matters relating to ending the conflict, but also disregards ways to ensure that the future relations between the two peoples will be mutually beneficial. Specifically, the proposal does not address water, compensation for damages resulting from over thirty years of occupation, the environment, future economic relations, and other state-to-state issues.

### **End of Conflict**

While we are totally committed to ending the Palestinian-Israeli conflict, we believe that this can only be achieved once the issues that have caused and perpetrated the conflict are resolved in full. This in turn can only be achieved by a comprehensive agreement that provides detailed modalities for the resolution of the issues at the core of the conflict. It must be remembered that in reaching a settlement between Israel and, respectively, Egypt and Jordan, the end of conflict came only after the final, detailed peace treaty.

Even putting aside the requirements of international law and justice, the United States proposals – unless clarified to take into account the above concerns – do not even allow for a pragmatic resolution of the conflict. If no such solutions are reached in practice, we believe that any formalistic pronouncement of the end of conflict would be meaningless.

### **Conclusion**

We would like, once again, to emphasize that we remain committed to a peaceful resolution of the Palestinian-Israeli conflict in accordance with UN Security Council Resolutions 242 and 338 and international law. In view of the tremendous human cost caused by each delay in negotiations, we recognize the need to resolve this conflict as soon as possible. We cannot, however, accept a proposal that secures neither the establishment of a viable Palestinian state nor the right of Palestinian refugees to return to their homes.



# An Unfulfilled Promise: The Historic Role of the United States in the Israeli-Palestinian Peace Process

Dan Rothem

## Background

For many years, the United States of America viewed the Israeli-Arab peace process as a key component of its foreign policy in general, and its Middle East policy in particular. In the twentieth century, American involvement in the Middle East was fueled by its desire to protect strategic interests in energy resources and in the regional rivalries that resulted from the Cold War. In the 1950s and 1960s, these regional conflicts were translated into American relations with pragmatic regimes, mainly Arab ones, and preventing instability that results from external intervention or internal developments.

In the 1970s and 1980s, the United States' relationship with Israel intensified into a strategic relationship that led to increasing American involvement in the peace process. This was because Israeli-Arab political and security arrangements were viewed as an important component in establishing stability in the Middle East, a sensitive and important region to the American superpower. And in truth, for many decades the US tried, with partial success, to broker such Israeli-Arab arrangements. These attempts included: ceasefire, armistice and disengagement agreements with Syria and Egypt (Kissinger 1974); phased plans and interim agreements with the Palestinians (Rogers Plan 1969, Road map 2003); finally, efforts toward a permanent Israeli-Palestinian agreement (Camp David summit 1978 and 2000, Annapolis process 2008).<sup>1</sup>

Subsequent to the collapse of the Soviet Union and the positioning of the United States as the only superpower in the international arena, U.S. interests in the Middle East focused on the Israeli-Arab peace process and regional stability for the purpose of safeguarding energy sources. It was no longer necessary to maintain regional alliances that had served Cold War strategy. Thus American military intervention in the region was massive, but reactive in nature. The United States initiated the First Gulf War in response to Iraq's invasion of Kuwait; it fought Al Qaeda and orchestrated the occupation of Afghanistan in 2001 in response to the attacks of the terror network. An exception was the invasion of Iraq in 2003 that was driven by neo-conservative, ideological-political motives; this move was

not justified by any measure of a realpolitik view of foreign relations and use of force.<sup>2</sup>

With the opening of the second decade of the twenty-first century, the United States found itself gradually withdrawing militarily from the Middle East. But American intervention remains reactive with an emphasis on managing challenges and crises, such as uprisings and civil wars in the Arab world, the Iranian nuclear program, and cross-border conflagrations (usually between Israel and its neighbors). Other phenomena contributing to this withdrawal process include: energy independence, war exhaustion, a complex and inexplicable regional reality, and growing internal American political polarization that spills over into its foreign policy. All these lead the United States to avoid direct military intervention in the region and re-examine American interests in the Middle East. In addition, it led the United States to restrict itself almost exclusively to the use of diplomatic tools in an attempt create collective responsibility by involving additional players in the international system when reacting to events.

However, in order to fully understand U.S. interests in the peace process, it is not enough to limit ourselves to an overview of international geo-political developments. Domestic American dynamics play an important – sometimes decisive – role in shaping American behavioral patterns on this issue.

The “special relationship” between the United States and Israel was, and remains, an unshakable fact. But it is harder today to argue that this relationship is based on joint values, as was argued in the past. That is because the United States is becoming more and more liberal<sup>3</sup> and ethnically diverse,<sup>4</sup> while Israel demonstrates increasing conservatism

1 Daniel Kurtzer, *The Peace Puzzle: America's Quest for Arab-Israeli Peace, 1989-2011*. “Introduction: The Decline of American Mideast Diplomacy.” (Ithaca: Cornell University Press, 2013), pp. 1-10.

2 Bob Woodward, *Bush at War* (New York: Simon & Schuster, 2002); Bob Woodward, *Plan of Attack* (New York: Simon & Schuster, 2004); Bob Woodward, *State of Denial* (New York: Simon & Schuster, 2006); and Peter Baker, *Days of Fire: Bush and Cheney in the White House* (New York: Doubleday, 2013).

3 Millennials in Adulthood – Detached from Institutions, Networked “with Friends,” Pew Research Center, March 7, 2014. Online at <http://www.pewsocialtrends.org/2014/03/07/millennials-in-adulthood/>.

4 Jens Manuel Krogstad and Richard Fry, “Dept. of Ed. projects public schools will be ‘majority-minority’ this fall,” Pew Research Center, August 18, 2014. Online at <http://www.pewresearch.org/fact-tank/2014/08/18/u-s-public-schools-expected-to-be-majority-minority-starting-this-fall/>.

accompanied by ethnocentrism.<sup>5</sup> Finally, American interest in Israel is waning because the United States of the twenty-first century has no need for Israel as a military or political “front-line post” in the area. The “special relationship” is retained mainly due to inertia, and as a by-product of Congressional dynamics.<sup>6</sup> For various reasons, members of Congress adopt conservative right-wing positions when Israel is concerned. Members of the House of Representatives and the Senate view pro-Israeli and anti-Arab votes as politically lucrative. This phenomenon insulates Israel from any effective pressures (for example, it is not possible to attach specific conditions to economic aid to Israel) and turns any possible incentive that the Administration could possibly offer (for example, enhanced support for the Iron Dome anti-missile defense system) into an almost natural right that the representatives and senators fight to increase and empower.

But in terms of the American public as a whole, only very specific publics express real interest in the Israeli-Arab conflict. American Jews undoubtedly head the list. In general, most American Jews view themselves as liberals and vote for the Democratic Party at rates that range from 70 to 80 percent.<sup>7</sup> Nevertheless, developments in the past decade point to a significant shift: The historic support of Israel as a liberal country with shared values, divides into two directions: on the one hand, there is a large liberal public undergoing a growing disconnection from Israel. This group does not view Israel as their “second homeland, under attack,” but instead as an unshakable regional power and occupier that is happy to receive contributions and political backing, but does not recognize their brand of Judaism (many of them belong to the Reform and/or Conservative denominations). On the other hand, there is a demographic increase among ultra-Orthodox Jews, most of whom are right-wing conservatives. It seems that no room or legitimacy remains for the classic

pragmatic-right-wing perspective. (In many respects, this is similar to developments in Israel’s own political system).<sup>8</sup>

A second group that has an interest in the conflict consists of some sectors of the Christian evangelical movement, mainly those who identify themselves ideologically and politically as hard-right Republicans; usually, they espouse more extreme ideologies. Since the tea-party supporters are ultra-conservatives with an isolationist agenda, it had seemed that they were poised to target the U.S. economic support that Israel receives. But in the end, they too became strong supporters of right-wing Israeli ideologues. Part of this support is rooted in religion, part in anti-Muslim bias, and partly because they view Israel as an instrument for attacking Democratic President Barack Obama. There is also an ideological connection between the American ideological Right and the settlers, who they view as their twin souls: both exhibit ethnic superiority, non-apologetic racial-religious intolerance, and clear preference for weapons and use of force.

A third relevant sector is American Arabs. However, subsequent to the September 11, 2001 terror attack, this sector focused on rehabilitating its public image in the United States, and less on channeling its energies into real influence over U.S. policy regarding the conflict. One exception is the great energies funneled into the Boycotts, Divestment and Sanctions (BDS) movement against Israel. This organization is active mainly on campuses.

The political power of American Jews is based on their ability to raise and mobilize large sums of money for political goals and to support candidates for the presidency, Congress and other positions on the state level.<sup>9</sup> Activists assess that Jewish political contributions are evenly divided between the Democratic and Republican parties, despite the fact that most of the Jews contribute to Democratic candidates even when the Republicans try to argue that the Democratic candidate is anti-Israel. But the Republican side has several large-scale Jewish contributors who shift the proportion between the parties towards equivalence.<sup>10</sup>

It is difficult to assess exactly how political money from Jewish contributors influences American policy vis-à-vis Israel and the peace process. Undoubtedly, most Congress members are very attentive to the policy recommended (some even say, dictated) by the Israeli embassy and pro-Israeli lobby groups such as AIPAC.<sup>11</sup> There are two important caveats to this general rule: First, when Israel and AIPAC overstep their boundaries and a gap opens between their demands and what the American public can contain, then Congressional

5 Tamar Hermann, Nir Atmor, Ella Heller, Yuval Lebel, *The Israeli Democracy Index 2013*, The Israel Democracy Institute, October 2013. On the internet: <http://en.idi.org.il/media/2720081/Democracy%20Index%20English%202013.pdf>

The authors write, “A salient finding throughout the survey is the greater tendency of Jewish respondents in the younger age cohort to express views ranging from patriotic to nationalistic compared to the older age groups. One explanation for this is the greater presence of religious and Haredi Jews in the younger age cohort because of the higher birth rate among these groups and because these groups more than the other groups tend to espouse patriotic/nationalistic views. Nonetheless, the finding can be attributed to more than demographics. Young Jews—to the chagrin of some and the satisfaction of others—are perhaps slightly less “political” than their elders (i.e., less interested in politics), but they are unquestionably more “Jewish-patriotic” and as a generation they desire a more “Jewish” state. At the same time, their commitment to democratic values—again, as an age group and not necessarily as individuals—is less than their parents’ or grandparents’ generation.”

6 The author’s interview with Israeli and American diplomats, June 2014.

7 Jim Gerstein, “2012 Post-Election Jewish Surveys Summary Findings National, Ohio, and Florida Surveys of Jewish Voters.” Online at [https://s3.amazonaws.com/s3.jstreet.org/images/2012\\_election\\_survey\\_findings.pdf](https://s3.amazonaws.com/s3.jstreet.org/images/2012_election_survey_findings.pdf)

8 Interview of the author with American political activists and analysts, April 2014. Also see: *A Portrait of Jewish Americans*, Pew Research Center.

Online at <http://www.pewforum.org/2013/10/01/jewish-americanbeliefs-attitudes-culture-survey/>

9 Interview of the author with Democratic political activists, June 2014.

10 Ibid.

11 Interview of the author with assistants of the House of Representatives members, June 2014.

members do not cooperate and AIPAC concedes defeats. Some recent examples are the issues surrounding Syria, Iran, and the request to waive entrance visas to the United States for Israeli citizens.<sup>12</sup> A second exception is when an American president proves that he is committed to promoting the Israeli-Palestinian peace process and willing to spend his personal political capital to promote the issue. At that point, members of Congress are willing to defy Israel and the pro-Israeli lobby.<sup>13</sup>

Clearly, the great attentiveness paid by the American administration and Congress to Israel's needs and to those of its agents, almost completely erase the ability of the United States to be perceived as an honest broker between Israel and the Palestinians. The Palestinian working assumption is that any position presented by the United States has already been coordinated with Israel in order to avoid public friction and public rejection of the American position. Frequently, the Palestinians suspect that ostensibly "American" positions were drafted in Jerusalem.<sup>14</sup> Many professionals from around the world contend that the United States has lost its credibility as a leader of the peace process (in parallel with a general waning of American influence abroad).<sup>15</sup> There is also the view that the American diplomatic system operates in an unprofessional manner: that it is plagued by internal rivalries within the White House and the State Department, and also between the two institutions. Often, relevant officials do not demonstrate the expertise necessary to do their jobs properly. There is an embarrassing tendency of retreating from, and changing, positions when faced with pressures from without and within.<sup>16</sup> Nevertheless, there is simply no other international player that is able and willing to take the place of the United States.

Another arena that merits attention is that of public activism. The official Israeli line, to which a respectable portion of institutionalized American Jewry subscribes, is that no legitimate activism can criticize the occupation and the settlements. This position pushes more and more good communities straight into the arms of the BDS movement mentioned above. When American groups believed that Israel was serious about peace and willing to end the occupation as part of a political agreement, it was easier to face the different boycott movements. But the linking of the occupation and the settlements as a direct extension of sovereign Israel places an intolerable weight on the statement of defense for a liberal, peace-loving Israel.<sup>17</sup>

12 Connie Bruck, "Friends of Israel," *The New Yorker*, Sept. 1, 2014. Online at: <http://www.newyorker.com/magazine/2014/09/01/friends-israel>

13 Ibid, interview of the author with Democratic political activists, June 2014.

14 Interview of the author with members of the Palestinian negotiating team, April 2008, July 2011, June 2014.

15 Interview of the author with international diplomats, May 2014.

16 Ibid.

17 Interview of the author with a pro-Israel liberal activist in the United States, June 2014.

## Managing the process

The main expertise of the American establishment emerged in its management of the Israeli-Arab peace process. A high-level discourse between the Israelis and Palestinians has existed from 1991 with the participation, if not under the leadership, of the American side. Yet despite the 23 years that have passed, only a few months were dedicated to serious discussions in an attempt to resolve the conflict by solving the core issues: between May 2000 and January 2001, and between April-September 2008. Perhaps the interval between July 2013 and April 2014 can also be included in these calculations, though it is not clear how serious those talks really were. The rest of the time, the peace process focused on managing the conflict: formation and implementation of steps that are not directed at solving the Israeli-Palestinian conflict but reducing it to a tolerable level.

Below is a short overview of the important diplomatic events and the role played by the American side in each and every one of them. This account is not an attempt to give a comprehensive picture of the peace process, but mainly tell the story of the American role in it.

**The Madrid Conference** (October-November 1991) was born from the rare opportunity created by the exclusive American hegemony in the era immediately after the break-up of the Soviet Union. More specifically, the conference took place following the results of the First Gulf War and the regional dominance that the United States succeeded in creating. With the full backing of U.S. President George H. W. Bush, Secretary of State James Baker worked tirelessly and ultimately succeeded in persuading (some would say, forcing) all the relevant sides to participate in a conference that is viewed to this very day as one of the greatest successes of American diplomacy. Although the conference did not yield real results regarding the core issues of the conflict – not in the Palestinian arena, nor in other arenas – its real power lie in the very fact of its existence. It created the foundations for a diplomatic process: bilateral and multilateral talks between Israel and its neighbors.<sup>18</sup> It should be duly noted that President Bush and Secretary of State Baker found in Israeli Prime Minister Yitzhak Shamir a stubborn and recalcitrant counterpart. The Americans were frequently forced to turn a cold shoulder to Shamir and create a visible gap between them and Israel, especially with regards to the massive settlement policy of the Likud government in those years. It should also be noted that the Bush administration maintained very close ties with Arab leaders, headed by the Saudi Arabian royal family.

**The Oslo process** was born from the recalcitrance that characterized Shamir's policies. The immediate result was that the Washington talks, the outcome of the Madrid conference, very quickly became unproductive and fruitless.<sup>19</sup> Israel's new Prime Minister Yitzhak Rabin was elected in 1992 and at

18 Kurtzer, *The Peace Puzzle*. Introduction

19 Interview of the author with a retired, high-level Israeli diplomat, June 2014.



first turned to the Syrian channel as he felt that Syria was a relevant strategic arena in Israel's conflict with its neighbors and a prominent, immediate threat. But Israel reached an impasse in the Syrian channel and was very disappointed by problematic American management of the indirect contacts between Rabin and Syrian President Hafez al-Assad. At that point, Rabin agreed to operate directly vis-à-vis the Palestine Liberation Organization (PLO) and its leader, Yasser Arafat, in a bilateral back channel that matured in Oslo and received American sponsorship, mainly for appearance's sake.<sup>20</sup> In fact, the Americans were taken by surprise by the Oslo breakthrough and in practice its involvement was very limited until Rabin's assassination and the disintegration of the bilateral process.

The Oslo process encompassed a few agreements. The following key agreements prior to Rabin's assassination demonstrated the beginnings of a strategic Israeli-Palestinian relationship and the dominance of the bilateral process: The Declaration of Principles (the DOP, on September 13, 1993), consisted mainly of mutual recognition between the sides and creation of a framework for an interim process that would lead to a permanent agreement. The Paris Protocol (April 29, 1994) was mainly devoted to regulating economic relations between the sides until a prospective final status agreement. The Cairo agreement on the Gaza Strip and the Jericho region (May 4, 1994), also known as the Gaza and Jericho First agreement, facilitated the establishment of provisional self-rule (the Palestinian Authority) first in Gaza and the Jericho area. (The Cairo agreement also signaled the beginning of a five-year countdown to the signing of a final status agreement.) Finally, the Interim Agreement (September 28, 1995) also known as "Oslo II" was designed to regulate the relations between the sides in the course of the interim period prior to discussions on the final status agreement, and included the imposition of Palestinian self-rule on the large majority of Palestinians in the West Bank<sup>21</sup> (by the partition of the territory into areas A, B and C). In general, the U.S. contribution to these agreements was minor.

Nevertheless, security instability and the murder of Rabin by a Jewish assassin who opposed the peace process, signaled the beginning of the **breakdown of the Oslo process**. The challenge faced by the United States only intensified when Benjamin Netanyahu was elected prime minister in 1996. The tension level between Israelis and Palestinians rose on the background of the terror attacks initiated by Hamas, the Palestinian resistance movement designated by Israel and the United States as a terrorist organization. Another source of friction was Netanyahu's refusal to continue to implement the Oslo agreements from the Rabin era and his propensity for presenting new conditions and interpretations to agreements that had already been reached. This tension reached new

20 Martin Indyk, *Innocent Abroad: An Intimate Account of American Peace Diplomacy in the Middle East*, "Chapter 5 – The Anatomy of Rabin's Oslo Decision" (New York: Simon & Schuster, 2009).

21 A clear exception to Palestinian self-rule is the hundreds of thousands of Palestinians in East Jerusalem.

heights in the Western Wall tunnel affair (September 1996). The United States was forced to deepen its involvement in the process in order to forestall its collapse. In light of Netanyahu's stubborn opposition to the establishment of a Palestinian state in every practical aspect, the Americans abandoned the goal of resolving the conflict in a final status agreement and instead focused on managing the conflict. Two agreements were achieved in these years: the Hebron Protocol (January 15, 1997) dealing with redeployment in Hebron, the only large Palestinian city that Israel had not evacuated as part of the Interim Agreement; and the Wye River Memorandum (October 23, 1998) that set timetables for Israeli redeployment in the West Bank and for implementing additional clauses from the Interim Agreement. In light of the deep distrust that prevailed between the sides, the Americans were required to be actively and prominently involved in both of these agreements.<sup>22</sup>

After Ehud Barak's election to the Israeli premiership in May 1999, the Americans sensed new winds blowing in the sails of the peace process. But Barak, like Rabin and Netanyahu who preceded him, actually focused on Syria as the primary strategic challenge. He spent long months in efforts to reach an Israeli-Syrian agreement under American sponsorship and mediation (the height of the process was the Shepherdstown Summit in January 2000). Only when the Syrian channel collapsed, and Israel's unilateral withdrawal from Lebanon was completed in May 2000, did Barak refocus to deal with the Palestinians. But the long months that had passed since Barak's rise to power left a bad taste in their mouths. From the Palestinian point of view, Barak had neglected them and hesitated to implement an Israeli commitment to redeploy in the West Bank. The Sharm El-Sheikh Memorandum (September 4, 1999) was signed after no final status agreement was achieved at the end of the allotted time as specified in Oslo. The Memorandum set goals to be reached in a framework agreement, and afterwards a final status agreement by September 2000. In fact, the Sharm Memorandum was intended to lower the tension between the sides, with only very limited success.

The height of the Israeli-Palestinian peace process, at least in terms of drama and public visibility, is undoubtedly the **negotiations toward a final status agreement** conducted under American leadership and mediation. Talks were held between Clinton, Barak, Arafat and their teams starting from spring 2000. The American peace team, headed by Dennis Ross, was composed mainly of American Jews such as Aaron Miller and Martin Indyk, whose concern for Israel was a central element in their professional world. Their pro-Israeli background played an important role in their ability to conduct an open and honest dialogue with their Israeli colleagues, but this also aroused suspicion of pro-Israeli bias among the Palestinian team members. One way or the other, the negotiation-period towards a final status agreement

22 Dennis Ross, *The Missing Peace: The Inside Story of the Fight for Middle East Peace* (New York: Farrar, Straus and Giroux, 2004), chapters 12-17.

included the following stages: preliminary talks in Stockholm in May; the dramatic Camp David summit in July; continued bilateral and multilateral sessions in the course of the fall; the introduction of Clinton's Parameters in December; and negotiations in Taba in January 2001. Without a doubt, America was very involved in the core issues in this period. This involvement reached its peak in the **Clinton Parameters**, which anchored, for all practical purposes, the framework of a potential Israeli-Palestinian deal as is generally accepted, in one form or another, to this very day.<sup>23</sup> The main reasons for the intensified involvement of the Americans were as follows: Deep personal mistrust between Barak and Arafat; President Clinton's aspirations to leave his mark on history before he departed 1600 Pennsylvania Avenue; and the deep gaps between the sides that were too significant and problematic for bridging without a mediator. After the attempts to reach an agreement collapsed, the heads of the American teams (including President Clinton) placed most of the blame on the Palestinian side, specifically on Arafat. However, some of the American team members spread the blame for the failure on all the parties (including their own).

After the collapse of the negotiations at the end of President Clinton's era, simultaneous with the eruption of the Second Intifada in September 2000, **the United States returned to conflict-management policy and attempts to halt the spread of violence**. Thus former Senator George Mitchell was sent in the spring of 2001 to evaluate the nature of the violent outburst and to draw up recommendations for bringing it to an end. The **Mitchell Report**<sup>24</sup> was published in April 2001. The report surveyed the eruption of violence, determined that the cause was rooted in the deterioration of trust between the sides and in the process itself throughout the 1990s, and gave a list of operative recommendations. The basic recommendations were: a 'package deal' involving the cessation of violence and renewal of security cooperation; confidence-building measures between the sides; and renewal of diplomatic negotiations with the goal of brokering a permanent peace agreement between the sides. For the first time, Palestinian terror and Israeli construction in the settlements were pinpointed as the main causes for the lack of confidence and the collapse of the process (see more about the Mitchell Report below).

The Mitchell Report recommendations were not implemented, and violence soared. The new American President, George W. Bush (son of former President George H. W. Bush) sent CIA Director George Tenet to the region, with the goal of brokering a ceasefire between the sides. On June 2001, an Israeli-Palestinian ceasefire and security plan called the **Tenet Ceasefire Plan**<sup>25</sup> was unveiled. This plan aimed to operationalize the Mitchell Plan. Unfortunately, this program was unsuccessful in slowing the violent momentum on the ground.

<sup>23</sup> Ibid, Chapter 25.

<sup>24</sup> Sharm El-Sheikh Fact-Finding Committee Report, online at <http://2001-24-2009.state.gov/p/nea/rls/rpt/3060.htm>

<sup>25</sup> <https://www.jewishvirtuallibrary.org/jsources/Peace/tenet.html>

Mitchell and Tenet's mission, as well as that of General Anthony Zinni who followed them, focused on managing the conflict on the tactical operational level, without any strategic vision. The new winds blowing in the White House wanted to distance the administration of newly elected President Bush from any Clinton policy (the motto of the new administration was ABC, for 'Anything But Clinton'). The diplomatic-security team of Bush was mainly comprised of neo-conservatives, headed by Vice President Richard Cheney; Secretary of Defense Donald Rumsfeld; Deputy Defense Secretary Paul Wolfowitz; and Elliott Abrams, who was in charge of the Israeli-Palestinian file in the National Security Council. This group had deep ties to the Israeli ideological right-wing, and exploited the opportunity after the September 11, 2001 terror attacks to lead a simplistic, aggressive foreign policy that divided the world into "good guys" and "bad guys," based on advancement of democracy, even at the price of operating a large military force. The main exceptions to this perspective were embodied by the new Secretary of State Colin Powell and his deputy Richard (Dick) Armitage. Powell, who came to the region for a series of meetings, tried to provide high-level political backing for the ceasefire attempts, and to a return to the negotiating table. But even as Powell shuttled between Tel Aviv-Jerusalem-Ramallah, his political enemies in Washington took control of the president's decision-making process regarding the conflict.<sup>26</sup> The era of pursuit of a final status agreement had ended. The time had come for a new paradigm.

On June 24, 2002 **Bush delivered a seminal speech**,<sup>27</sup> in which he presented his administration's view of the Israeli-Palestinian conflict. The main media attention was focused on Bush' demand of the Palestinians to replace their leadership – in other words, Arafat – and forsake violence. This was a principled, courageous demand, accompanied by a call for extensive reform in the functioning of the Palestinian Authority and the creation of suitable institutions, free of corruption and terror. But no less daring was the **first official recognition of the founding of a Palestinian state by an American president**. Initially, such a state would emerge – according to Bush's vision – in provisional borders, in the context of ending the occupation that began in 1967. Notably, throughout all the years of the peace process, the idea of a Palestinian state was implied, but never officially recognized by the United States. Throughout all the years of negotiations after Madrid, the United States was careful not to expressly recognize the right of the Palestinians to a state of their own and the conditions for its existence. To this very

<sup>26</sup> Elliott Abrams, *Tested by Zion: The Bush Administration and the Israeli-Palestinian Conflict*, "Chapter 2 – 9/11 and the Search for Policy," (Cambridge: Cambridge University Press, 2013).

<sup>27</sup> <http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020624-3.html>



day, there are laws in Congress forbidding the United States to support entities that recognize the state of Palestine.<sup>28</sup>

On the one hand, Bush's speech was viewed as clearly pro-Israeli, as he called for Arafat's dismissal. The president called for elections for a new Palestinian leadership and extensive reforms in the functioning of the Palestinian Authority, in exchange for American support of the establishment of a Palestinian state. On the other hand, some of the key elements in the speech contained bitter pills for members of the Israeli ideological right wing, allies of many of Bush's team members. His demands of Israel were: an Israeli withdrawal to the pre-Intifada lines, due to improvements in Israel's security situation; discontinuation of construction in the settlements; alleviating conditions on the ground for the Palestinians; and resuming the flow of tax money to the Palestinians – monies collected by Israel on behalf of the Palestinians.

The practical diplomatic manifestation of Bush's vision arrived in the form of the Roadmap plan<sup>29</sup>, disseminated on April 30, 2003. This document is the outcome of Bush's vision, put through a steamroller of pressures from interested parties, headed by the Middle East Quartet (the United States, the European Union, Russia and the United Nations) which published the document under its auspices. Undoubtedly, the Roadmap represented the most daring attempt of the international community, headed by the United States, to extract the Israeli-Palestinian process from the collapse of the peace negotiations and the Second Intifada. As opposed to the Oslo process, in which a Palestinian state was supposed to rise after, and as result of, signing a final status agreement, the Roadmap emphasized the creation of infrastructure of a putative state,<sup>1</sup> mainly the option of establishing a Palestinian state in provisional borders, before signing on a final status agreement. The Roadmap was supposed to be "performance-based and goal-driven," but it was also a phased agreement with a detailed timeline of three years divided into three phases (more on Road map below). But the Roadmap's implementation never advanced beyond the first stage that focused on the following steps: the cessation of violence, Palestinian governmental reforms, and "confidence building measures" including a complete halt of Israeli settlement activity. Starting in 2007, a high-level American general was designated as observer of the implementation of the sides according to the Roadmap. The general's team maintains a detailed documented record

28 In October 2011, the United States stopped funding UNESCO (Educational, Scientific and Cultural Organization), due to the UN agency's decision to accept Palestine. Two years later, the agency suspended voting rights of the US and Israel. See: <http://www.reuters.com/article/2013/11/08/us-unesco-idUSBRE9A70I320131108>

29 A Performance-Based Road map to a Permanent Two-State Solution to the Israeli-Palestinian Conflict. Online at <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/a%20performance-based%20Road%20map%20to%20a%20permanent%20two-sta.aspx>.

which, by the way, shows the absolute superiority of the Palestinian side.<sup>30</sup>

But the Roadmap did not extricate the Israeli-Palestinian process from the mud. Instead, important non-governmental initiatives filled the vacuum; these challenged Prime Minister Ariel Sharon, who personally did not believe that Jews and Arabs could reach a real agreement.<sup>31</sup> These initiatives included, first and foremost, the Geneva Initiative – which was a model of a detailed, final status agreement signed by Israeli and Palestinian personages.<sup>32</sup> There was also The People's Voice of Ami Ayalon and Sari Nusseibeh, which was a Statement of Principles for ending the conflict; this document was signed by hundreds of thousands of Israelis and Palestinians as a show of support.<sup>33</sup> Meanwhile, an interview of former Shin Bet heads was conducted by the Israeli media in which the security chiefs issued warnings regarding the political stalemate, and a public letter from a group of pilots who sharply criticized the occupation.<sup>34</sup> In addition to these domestic Israeli dynamics that buffeted Sharon, he also faced criminal investigations for corruption. All these caused Sharon to adopt a daring move to take the wind out of the sails of initiatives that he felt endangered Israel. This was how the Disengagement plan was born.

The Disengagement plan was an Israeli unilateral initiative for withdrawing from all the settlements in the Gaza Strip and from four settlements in the northern West Bank. With no small measure of political clumsiness, Sharon did not solicit inputs from the international community headed by the United States until after his dramatic announcement of the plan. On April 14, 2004 the American president was called on to extricate his friend Sharon from the acrimonious internal Israeli controversy over the Disengagement plan, and provide some form of political compensation for the Israeli unilateral move. This was accomplished in an **exchange of letters between Bush and Sharon**<sup>35</sup> and an accompanying letter between Dov Weissglass (Sharon's senior advisor, tasked with the American file) and American Secretary of State Condoleezza Rice. It was decided to carry out the following series of steps: the Americans would adopt the Disengagement plan as part of Bush' vision and the Roadmap. In exchange, they would adopt fundamental Israeli positions regarding borders and refugees: the future border would not be the 1967 lines but would involve agreed border modifications that would take the settlement blocs into consideration, and

30 Interview of the author with members of the Roadmap observer team, April 2011, April 2014.

31 Interview of the author with advisors to former Prime Minister Sharon (departed), April 2012, June 2014.

32 <http://www.geneva-accord.org/>

33 [http://en.wikipedia.org/wiki/The\\_People's\\_Voice](http://en.wikipedia.org/wiki/The_People's_Voice)

34 "Reserve air-force pilots: We will not attack in the territories," Hebrew, 24, Ynet, April 2003. <http://www.ynet.co.il/articles/1,7340,L-2767679,00.html>

35 <http://www.mfa.gov.il/mfa/foreignpolicy/peace/mfadocuments/pages/exchange%20of%20letters%20sharon-bush%2014-apr-2004.aspx>, and <http://www.mfa.gov.il/mfa/foreignpolicy/peace/mfadocuments/pages/letter%20weissglas-ricerice%2018-apr-2004.aspx>

Palestinian refugees would find a solution in Palestine, and not Israel. For its part, in a letter from Weissglass to Rice, Israel officially ratified its commitment to the Bush vision and to the Roadmap. Specifically, Israel obligated itself to a series of acts on the ground regarding settlements and outposts, the easing of travel restrictions for the Palestinians, and to amend the trajectory of the barrier it has begun building – all in order to minimize friction between the sides (for more about the exchange of letters, see below).

The possibility that the unilateral withdrawal from the Gaza Strip and northern West Bank would become a paradigm for an additional unilateral withdrawal in the West Bank quickly dissipated. Despite the rapid, effective evacuation of the area by Israeli security and police forces in August 2005, the reality on the ground became very problematic as Gaza became a base for launching rockets against the south of Israel and the western Negev.

After Hamas gained a majority in the Palestinian parliament in the 2006 elections –which the United States insisted on holding as part of its neo-conservative policy of democracy promotion, in the face of Israeli and Fatah objections<sup>36</sup> – it conducted a military coup and wrested control of Gaza to become the sovereign ruler there. The Gaza takeover speeded up American investment in the Palestinian reform enterprise in the West Bank, which included the creation of a reformed and unified Palestinian security force there. The project had matured toward the end of the decade under the command of American General Keith Dayton. In addition, several simultaneous changes in Israel combined to remove any possible unilateral withdrawal from Judea-Samaria from the national agenda. These were: Sharon's departure from the political arena due to a severe stroke and Ehud Olmert's rise to the premiership; as well as the negative public perception of Olmert's diplomatic-military management of the Second Lebanon War.

After surviving the political fallout of the Second Lebanon War, Olmert turned his attention to initiating a courageous diplomatic process with the Palestinians (and simultaneously with the Syrians, under Turkish mediation). Under American sponsorship, Israel and the Palestinians conducted intensive negotiations for many long months, reaching its height in September 2008. The Annapolis process, named after the Annapolis Conference that initiated the talks, mainly involved bilateral negotiations with an occasional American presence, usually led by Secretary of State Condoleezza Rice. Most of the American input involved keeping up to date with the talks, providing technical help and reinforcing positive dynamics in the negotiating room, mainly in the negotiating channel between Foreign Minister Tzipi Livni and chief Palestinian negotiator Ahmed Qurei (Abu Ala). In general, the Israelis and Palestinians agreed on one thing: that Rice not attend the meetings, because her presence became the focus for

mutual recriminations between the sides instead of facilitating a substantive give-and-take discussion between them.<sup>37</sup>

It should be noted that parallel to the Annapolis process, the United States invested much energy into two additional channels: The first was the Palestinian state building project, whose main executor was Palestinian Prime Minister Salaam Fayyad. This program involved security and governmental reforms, designed to bring the Palestinians to maximum readiness for independent state sovereignty. The second channel was a security plan, coordinated by General James Jones, the State Department's Special Envoy for Middle East Regional Security.

The Olmert-Abbas deliberations never matured into an actual agreement. Olmert disappeared from the political arena and his place was taken by Netanyahu in 2009. Simultaneously, **Obama was elected as the forty fourth president of the United States and on his first full day in office, he appointed former Senator George Mitchell** as his Special Envoy to the Middle East peace process under the new Secretary of State, Hillary Clinton. (This was eight years after Mitchell had submitted his 2001 report, mentioned above.)

Mitchell worked indefatigably to renew the negotiations between Israel and the Palestinians, but in vain. Already at the beginning of Mitchell's mission, Netanyahu told him that he had no intentions of adopting Olmert's proposal to resume the negotiations where they left off. But Mitchell, who refused to receive "no" for an answer, made an about-face and tried to consolidate an alternative strategy, which he found in the recommendations he had made in 2001 and had been adopted by the Quartet in the 2003 Roadmap: fundamentally, the Palestinians would fight terror and Israel would freeze its construction in the settlements. Since the Palestinians were already deep into the governmental and security reform process (at least in the West Bank), the construction freeze of Israeli settlements in the West Bank and East Jerusalem became the focus of the American-Israeli discourse. This dispute continued for several long months and finally bore partial fruit when Netanyahu declared a partial construction freeze in the settlements for ten months, starting November 25, 2009. The declaration on the partial and flawed freeze in settlement construction was nonetheless warmly received in Washington, which for its part was relieved to put the public polemics behind it. In addition to adopting Netanyahu's "initiative," Secretary of State Clinton declared that the United States believes that through negotiating in good faith, the sides could arrive at an agreement that reconciles the Palestinian goal of founding an independent state on the basis of 1967 lines with accepted land swaps, and the Israeli goal of a Jewish state with secure, recognized borders that reflect developments on the ground (in other words, settlement blocs). Of course, this cautious formulation

<sup>36</sup> Abrams, Tested by Zion, "Chapter 5 – Arafat, Disengagement, Sharon."

<sup>37</sup> Interview of the author with Israeli and Palestinian negotiators, 2008-2011.



attributed the positions to the respective sides and avoided adopting any specific formulation as the American position.<sup>38</sup>

But, to no one's surprise, "negotiations in good faith" did not materialize. Despite the declaration of a partial, temporary freeze, it took the sides long months to enable even the appearance of warming up. Netanyahu and Abbas met once in Washington, mainly for a photo-op with President Obama, but the process quickly collapsed.

In his distress, Obama turned to public diplomacy and **delivered a seminal speech on May 19, 2011, in which he presented his vision for the Middle East and North Africa.** In the last part of his speech, the American president expressed his understanding of the nature of a two-state solution, specifically regarding borders and security: the borders would be based on the 1967 lines with agreed land swaps, and the new security deployment would reflect Israel's ability to defend itself alongside a sovereign, non-militarized Palestinian state. The speech reflected Obama's basic willingness to invest his political capital in the conflict, but even more as an act of despair over the collapse of the process and the ongoing feud with the recalcitrant Netanyahu. These events were viewed differently in Netanyahu's environs, and a very angry Netanyahu landed for a visit in Washington. There, Obama had to explain himself in a speech in front of the pro-Israeli AIPAC lobby three days later. Obama elucidated to those who did not understand, or who did not want to understand, that the new border between the sides would differ from the 1967 lines in order to reflect the developments on the ground, specifically the large settlement blocs.

The new balance of power in the president's milieu became clear. Policy and tone would be dictated from now on by Obama's Middle East advisor, Dennis Ross, and by Tom Donilon, who served as National Security Adviser from October 2010. Mitchell, who ostensibly wanted to insist on referencing a solution to the status of Jerusalem in the president's speech but was vetoed, was pushed aside together with his approach – that Israel should be confronted when it adopts actions that oppose the two-state logic.<sup>39</sup> And so, the last eighteen months of Obama's first term of office saw great efforts were made to limit any public display of differences between Washington and Jerusalem.

President Obama was re-elected in November 2012 and his rivalry with the Republicans stimulated the latter to block the appointment of Obama's preferred candidate, Susan Rice, as Secretary of State (to replace Hillary Clinton). Thus Senator John Kerry was appointed to the much-coveted position, and he took upon himself the mission of recruiting Netanyahu and Abbas to another effort to **complete, and sign, a comprehensive final status agreement within nine months, by April 2014.**

38 "Israel's Announcement Regarding Settlements," November 25, 2009, <http://jerusalem.usconsulate.gov/remarks1125010.html>

39 Scott Wilson, "Obama Searches for Middle East Peace," *The Washington Post*, July 14, 2012.

Kerry and his team figured that in order to reinforce the peace process, they must be its only spokespeople and make every effort to try and minimize the damage that would inevitably be caused by opponents of the two-state solution. Specifically, Kerry gave Netanyahu three alternatives to choose from: to freeze construction in the settlements, to accept the 1967 lines as the basis for a future border, or to release Palestinian prisoners who were incarcerated before 1993, when the Oslo agreement was signed. Netanyahu chose the latter and Abbas, in turn, promised Kerry that the Palestinians would suspend their diplomatic process to have Palestine be recognized as a state by the United Nations and other international forums, for the duration of the negotiations. Unlike its performance during the negotiations of 2000, this time around the American team came to the talks armed with advanced insights garnered by unofficial experts regarding solutions to the core issues. An unprecedented number of hours had been devoted to examine possible solutions, but evidently this knowledge was never given real expression in the talks themselves.<sup>40</sup> In addition, Kerry devised three additional moves: First, he appointed General John Allen to craft a security plan that would answer Israel's security needs mainly with regard to the Jordan valley issue and methods to ensure demilitarization of the future Palestinian state. Second, he recruited the support of Arab leaders for the peace process via a delegation representing the Arab League, winning their support for minor land swaps as an addition to the Arab Peace Initiative.<sup>41</sup> Finally, Kerry announced an attempt to mobilize massive resources to rehabilitate the Palestinian economy (via Quartet representative, Tony Blair).<sup>42</sup>

In the twenty-five sessions between the sides – some with the participation of the American team, some without – it became clear that a comprehensive final status agreement was not a realistic goal.<sup>43</sup> The confidence gap between the sides increased even more in light of the massive Israeli construction wave in the territories. Thus the sides decided, under American sponsorship, to adjust the goal and try to reach a framework agreement for the final status settlement: an agreement that would list the principles on which the solutions would be based, and mark parameters for solutions to the core issues. In an attempt to minimize the friction and retain some iota of credibility in the peace process, the Americans adopted "proximity talks" – indirect negotiations that were held only through the American broker (such proximity talks had also been held during Mitchell's period).

40 Interview of the author with members of the American negotiating team, December 2013, April 2014.

41 Remarks With Qatari Prime Minister Sheikh Hamad bin Jassim bin Jabr Al Thani After Meeting With Arab League Officials, U.S. Department of State, April 29, 2013. Online at <http://www.state.gov/secretary/remarks/2013/04/208544.htm>

42 Remarks to Special Program on Breaking the Impasse, "World Economic Forum," Dead Sea, Jordan, May 26, 2013. Online at: <http://www.state.gov/secretary/remarks/2013/05/209969.htm>

43 Barak Ravid, "The secret fruits of the peace talks, a future point of departure?" *Ha'aretz*, July 5, 2014. Internet: <http://www.haaretz.com/news/diplomacy-defense/israel-peace-conference/.premium-1.603028>

The objective of these talks: to formulate a framework paper as a basis on which the sides could make substantive improvement.<sup>44</sup> There was much intensive work on the paper in the Washington-Jerusalem track, but work on the parallel Washington-Ramallah track was frozen. The Americans neglected the Palestinians, an act lacking any political or psychological sensitivity. They thought that the Palestinian positions were clear and that they, the Americans, were faithfully representing the Palestinians in their contacts with Netanyahu. In addition, Kerry assumed that the Palestinians were too weak to turn down proposals that would be presented as American proposals. In the dramatic meetings between Kerry and Abbas on February 19 and between Obama and Abbas on March 17, the dimensions of the American miscalculation became painfully clear. Abbas rejected the American ideas that were presented to him orally; from his perspective, they seemed blatantly biased in Israel's favor. By any measure, they represented a significant regression of ideas offered to the Palestinians when compared to those that had been submitted by Israel in the past.<sup>45</sup>

One cannot overemphasize the importance of this last point, and the inability of the Kerry and his chief negotiators to fully comprehend it. While the Palestinians under Abbas' leadership clung consistently to moderate positions, largely consistent with a viable notion of a final status agreement as it emerged during and since the Clinton Parameters, Israel had retreated from its positions presented by Barak (in Taba) and Olmert (in Annapolis), and stiffened its stance on the core issues. Israel even came up with new demands, such as express recognition of Israel as a Jewish state. With regard to the Americans, they at first had been excluded from the negotiation room, then invited inside, and finally turned into the only connecting channel between the sides. Kerry and his team lent American legitimacy to rigid Israeli positions and "updated" the content of the emerging package deal in Netanyahu's direction. Thus they lost the Palestinian partner.

In addition, Netanyahu's refusal to release the last group of prisoners served as the straw that broke the camel's back, as far as Palestinian respective commitments were concerned. Abbas signed on fifteen requests for Palestine to join various international organizations. Kerry's initiative limped, and totally collapsed when Fatah and Hamas signed a reconciliation agreement about a month later.

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With regard to substantive content, as opposed to managing the process as described above, American input is divided into two domains: The first focuses on the attempt to manage the conflict and lower the animosity between the sides to a tolerable level, perhaps creating an opening to reach the

<sup>44</sup> Ibid.

<sup>45</sup> This is especially true with regard to Abbas' meetings with Kerry in Paris. Some sources claim that Obama had shown Abbas more advanced positions in Washington, and that Abbas unfortunately did not judge them apart from the prominent pro-Israeli context of the original ideas. Interview of the author with Israeli, Palestinian and international analysts, April-June 2014.

second domain, which is an attempt to resolve the conflict with a comprehensive final status agreement, a framework agreement, a document of principles, or any other format so long as it embodies a true give-and-take on the core issues and constitutes a basis for resolution of the conflict.

## Managing the conflict

American inputs with regard to the Oslo process were expressed in the **Hebron Protocol** (1997) and **Wye River Memorandum** (1998). As aforesaid, these two agreements were meant to patch up the crumbling diplomatic process and return it to an operational course by implementing clauses and principles that had been agreed upon prior. In general, this meant setting time-tables for Israeli redeployment in the West Bank. The United States needed to be highly engaged in both these agreements, in light of the widespread lack of trust between the sides. Therefore, the American emphasis was on averting the total collapse of the process and deterioration into strategic violence; stabilizing trust between the sides by regulating the implementation of previous commitments in the time table; and maintaining appropriate work relations on the operative level, mainly in the security realm.

**The Mitchell Report**,<sup>46</sup> or according to its official name, Sharm El-Sheikh Fact-Finding Committee Report (from 2001) expresses an active attempt to inject American ideas to calm the situation and return to a credible diplomatic process. As aforesaid, the report surveyed the outburst of violence and determined that the causes were rooted in deteriorating trust between the sides and in the peace process itself throughout the decade of the 1990s. It listed a string of operative recommendations, mainly a package-deal including a mechanism to lead to a cessation of violence and renewal of security cooperation; to restore trust between the sides in general; and to renew diplomatic negotiations with the goal of achieving a final status agreement and peace between the sides. Below are additional points from the report:

- For the first time, Palestinian terror and construction in Israeli settlements were identified as the main elements in the crisis in confidence and the collapse of the process.
- After an immediate ceasefire, the Palestinians were to cease incitement and violence, to renew security cooperation, and show a one hundred-percent effort in the war against terror.
- Israel, for its part, was to remove security checkpoints, to resume the flow of tax monies that it collects on behalf of the Palestinians, and reduce the friction between settlers and the Palestinians.
- In addition, Israel was told to freeze all settlement activities, including "natural growth" of existing settlements.

<sup>46</sup> <http://2001-2009.state.gov/p/nea/rls/rpt/3060.htm>



**The Tenet<sup>47</sup> Cease-Fire Plan**, which was designed to convert Mitchell's recommendations into operative-tactical lines, focuses on the following points:

- Resumption of security cooperation.
- The adoption of immediate steps to thwart any violation of the cease-fire.
- Use of the security committee by Palestinian and Israeli security officials to provide each other, as well as the United States, with all intelligence information regarding terrorist activity in the territory.
- Action by each of the parties against any source creating violence in the areas under their control.
- Developing of an agreed-upon timeline for an IDF withdrawal to the lines of September 28, 2000 (just prior to the eruption of the Second Intifada).
- Developing of a timeline for removing closures and minimizing security checkpoints according to Israel's legitimate security requirements.

**The speech given by President George W. Bush from June 2002<sup>48</sup>** presented principles for managing the conflict. Some of the principles are new, some are recounting of past proposals:

- The Palestinians must replace their leadership and renounce violence.
- Widespread reform must be undertaken in the Palestinian Authority and appropriate institutions must be created, free of corruption and terror.
- In exchange, a Palestinian state will be established in provisional borders, in the context of ending the occupation that began in 1967.
- Israel must withdraw to the pre-Intifada lines.
- Israel must cease construction in the settlements.
- Israel should allow freedom of movement for Palestinians within the West Bank.
- Israel must release the tax revenues that Israel collects on behalf of the Palestinians.

**The Roadmap<sup>49</sup>** that was presented to the sides by the Quartet in 2003 embodies the height of efforts by the international community, led by the United States, to outline a plan of action leading from conflict to negotiations on a final status agreement. It is somewhat contradictory that the Roadmap is, on one hand, performance-based, and on the other hand involves a detailed timeline limited to three years. Below are its main points:

47 <https://www.jewishvirtuallibrary.org/jsource/Peace/tenet.html>

48 <http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020624-3.html>

49 <http://www.mfa.gov.il/mfa/foreignpolicy/peace/guide/pages/a%20performance-based%20Road%20map%20to%20a%20permanent%20two-sta.aspx>

- The Roadmap refers to U.N. Security Council resolutions 242, 338 and 1397; previous agreements between the sides; and the Arab League Peace Initiative as the basis for a diplomatic process.
- **Phase I** (a few months) focuses on cessation of violence, supportive measures taken by Israel to normalize Palestinian life, the beginning of the process of establishing Palestinian institutions with an emphasis on security and governmental reforms. Israel, for its part, withdraws from Palestinian areas occupied from September 28, 2000 to the lines that existed before the Second Intifada and takes measures to improve the Palestinian fabric of life. In addition, Israel does the following: allows the re-opening of Palestinian institutions in East Jerusalem that had been closed; dismantles all outposts established since March 2001; and in general freezes all settlement activity, including 'natural growth' of settlements.
- **Phase II** of the Roadmap (June-December 2003) focuses on the feasibility of establishing a Palestinian state with provisional borders. This state will rise on the basis of reformed civil institutions and security structures, a new constitution and new elections, and will constitute a transition phase to a final status agreement.
- **Phase III** (until 2005), is a more amorphous stage, and will concentrate on a second international conference to discuss core issues leading to a final status agreement.

**In the exchange of letters between Bush and Sharon<sup>50</sup>** and accompanying letter between Sharon's advisor Dov Weissglass and Secretary of State Condoleezza Rice, several operational ideas were put into writing regarding the management of the conflict. As follows:

- The United States adopts Sharon's initiative to evacuate the Gaza Strip and northern Samaria as part of Bush's vision and its realization in the Road map framework.
- The United States ratifies the exclusivity of the Roadmap, with an emphasis on Palestinian reforms, as the way to realization of an Israeli-Palestinian two-state solution, with the principle of fighting terror and the strong commitment of the United States to Israel's security and well-being as a Jewish state.
- Israel ratifies its commitment to the Roadmap, and specifically to limit construction in the West Bank to existing, agreed sites between Israel and the United States; to remove unauthorized outposts; to increase freedom of movement for Palestinians to the extent permitted by security needs; to ensure that the security fence will be a security barrier rather than a political barrier, temporary rather than permanent, and therefore will not determine the final border demarcation, and will

50 <http://www.mfa.gov.il/mfa/foreignpolicy/peace/mfadocuments/pages/exchange%20of%20letters%20sharon-bush%2014-apr-2004.aspx> and <http://www.mfa.gov.il/mfa/foreignpolicy/peace/mfadocuments/pages/letter%20weissglas-ric%2018-apr-2004.aspx>

take into account, consistent with security needs, its impact on Palestinians not engaged in terrorist activities.

Finally, **as supportive measures for the final status negotiations between July 2013 and April 2014**, the Americans proposed two alternatives to Israel (in addition to the alternative related to the final status agreement: the acceptance of the 1967 lines as the basis for a permanent border):

- Freezing all construction in the settlements, or
- Releasing prisoners.

## Resolution of the conflict

This paper attempts to present and analyze the American inputs related to the attempts to solve the Israeli-Palestinian conflict, and U.S. ideas for solving the four main core issues: borders (and the fate of the settlements, as derived from the border issue), Jerusalem, refugees and security arrangements.

However, it must be emphasized that American positions on the core issues, mainly the first three, are exceptions to the rule. In general, the United States viewed its role as the maintenance man of the peace process, the goal of which is an agreement resulting from direct negotiations between the sides. In other words, the United States viewed its job as ushering the parties into a room (hoping that they trust one another) where the sides will conduct negotiations (hopefully, in good faith) to resolve the core issues. The United States felt that its role was not to demarcate borderlines or decide on what kind of arrangement is need for the holy sites in Jerusalem. While American team members are happy to exchange impressions and offer help when needed, they usually do not present or push for real ideas, certainly not original ones. These usually fall outside the American negotiation tool-box. In the few times that the Americans espoused clear-cut positions, these positions are usually suggested rather than dictated, they are described briefly, and as far as content is concerned, they are usually compromise proposals between the positions of the sides.

Thus, the American positions quoted here are not a gamut of ideas that rose in the course of the negotiations. As aforesaid, the American negotiation team responded to proposals raised by the sides in the course of the negotiations, usually in the midst of free-flowing conversation. The American viewpoints raised here are those that matured into consolidated ideas, and were proposed to the sides in a strategic diplomatic context.

### Borders

The issue of permanent borders between Israel and the Palestinian state was a focus for many American statements. In fact, this was an issue in which they felt able to speak relatively freely, for several reasons. First, they viewed this issue as a 'practical' one with solutions 'on the ground,' as opposed to more symbolic issues that touch upon the

most sensitive nerves of the national narratives of each side (Jerusalem and the refugees). Second, borders is an issue that the United States addresses over and over, in response to Israeli settlement construction in the West Bank and East Jerusalem. Third, the border issue was viewed, somewhat erroneously, as relatively easy to resolve. Finally, this issue embodies the very heart of the two-state solution: Even if the other issues will not be resolved – as soon as there is a border, there are two states. And the reverse is true: Two states cannot exist without a borderline, even if security arrangements and the refugee issue are resolved.

Below is the American position as it has developed over the years:

### In the Clinton Parameters (2000):<sup>51</sup>

"You heard from me last time that I believe the solution will need to provide for Palestinian sovereignty over somewhere between 90 and 100 percent of West Bank territory, and that there will need to be swaps and other territorial arrangements to compensate for the land Israel annexes for its settlement blocs.

Based on what I have heard since we last met, I believe the solution should be in the mid-90 percents; I believe you should work on the basis of a solution that provides between 94 and 96 percent of West Bank territory to the Palestinian state with a land swap of 1 to 3 percent; you will need to work out other territorial arrangements such as permanent Safe Passage. As you work out the territorial arrangements, you might also consider the swap of leased land to meet your respective needs.

Given these parameters, you should lose no time in developing final maps consistent with the criteria I laid out last time (e.g., 80 percent of the settlers in blocs, contiguity of territory for each side, minimize annexation and the number of Palestinians affected)."<sup>52</sup>

Comments:

- Clinton outlined a vision for borders between Israel and the Palestinian state that will be based on the June 4, 1967 lines.
- Israel will annex 4-6 percent of the West Bank (since the Palestinian state will rise on 94-96 percent).
- In exchange, the Palestinian state will annex 1-3 percent of territory from sovereign Israel.
- In summary, the land swaps ratio will be to Israel's benefit.
- All of the Gaza Strip will be under Palestinian sovereignty.

<sup>51</sup> As aforesaid, the Clinton Parameters were read to the sides at the end of December 2000, in a last-ditch attempt to rescue the diplomatic process. President Clinton and his team tried to bridge the gaps between Israel and the Palestinians regarding all the core issues, in a paper that was supposed to be shelved once Clinton left the White House. In practice, Clinton's proposals became the cornerstone on which the solutions to the core issues were consolidated.

<sup>52</sup> Indyk, *Innocent Abroad*. Appendix D – The Clinton Parameters



- The Gaza Strip and the West Bank will be connected by a “Safe Passage.”
- Additional criteria involved in delineation of the borderline: 80 percent of the settlers in settlement blocs, territorial contiguity for each side, minimizing the size of the territory that is annexed and reducing the number of Palestinians adversely affected by the border arrangements.
- Additional territorial mechanisms will be considered such as land leasing. In earlier talks before the presentation of the Parameters, the Americans had proposed use of additional Israeli infrastructures such as its airport, a Palestinian dock in Israel’s harbor, using Israel’s desalination facilities, etc.

#### **Speech of President George W. Bush, 2002:<sup>53</sup>**

“... the Israeli occupation that began in 1967 will be ended through a settlement negotiated between the parties, based on U.N. Resolutions 242 and 338, with Israeli withdrawal to secure and recognized borders.”

#### **Comments:**

Bush’ reference to the “occupation that began in 1967” was viewed as a strong hint regarding the nature of the future territorial arrangement. On the other hand, the formulation is cautious and does not adopt the 1967 lines as an official basis for the delineation of the future border.

#### **President Bush, in the exchange of letters between Bush and Sharon (2004):<sup>54</sup>**

“As part of a final peace settlement, Israel must have secure and recognized borders, which should emerge from negotiations between the parties in accordance with UNSC Resolutions 242 and 338. In light of new realities on the ground, including already existing major Israeli populations centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion. It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities.”

#### **Comments:**

The term “Existing major Israeli populations centers” refers to the large settlement blocs. The “armistice lines of 1949” refers to the 1967 lines, and “mutually agreed changes that

<sup>53</sup> President Bush delivered a seminal speech in June 2002, in which he changed the United States conception of final status: Bush officially supported the establishment of a Palestinian state, initially in provisional borders, but this support was predicated on a change in leadership (in other words, Arafat must go), fighting terror, and instituting extensive governmental-security reforms.

<sup>54</sup> In order to assist Prime Minister Sharon execute the Disengagement Plan from the Gaza Strip and northern Samaria, President Bush came to Sharon’s aid in an exchange of letters. In his letters, Bush presented his position regarding management of the conflict, and his understanding of two core issues: borders and refugees.

reflect these realities” refers to land swaps that include Israeli annexation of the settlement blocs.

#### **President Bush, with Mahmoud Abbas (May 2005):**

“Any final status agreement must be reached between the two parties, and changes to the 1949 Armistice lines must be mutually agreed to. A viable two-state solution must ensure contiguity of the West Bank, and a state of scattered territories will not work. There must also be meaningful linkages between the West Bank and Gaza. This is the position of the United States today; it will be the position of the United States at the time of final status negotiations.”<sup>55</sup>

#### **Comments:**

These words were uttered by Bush at a press conference with Palestinian President Abbas. Bush repeats his viewpoint, according to which the changes to the 1967 lines (“1949 Armistice lines”) must be agreed by both sides. He also makes it clear that “a state of scattered territories will not work,” and therefore there must be contiguity within the West Bank and between it and the Gaza Strip.

#### **Annapolis (2008):<sup>56</sup>**

The American contribution to the Annapolis process was not expressed in substantive contribution to the core issues, but in facilitating the process and affording it credibility. The two leaders, Olmert and Abbas, negotiated in good faith and with great resolve. Nevertheless, President Bush noted the following in his visit to Israel in January, 2008:

“The point of departure for permanent status negotiations to realize this vision [of two states living side by side in peace and security] seems clear: There should be an end to the occupation that began in 1967... These negotiations must ensure that Israel has secure, recognized, and defensible borders. And they must ensure that the state of Palestine is viable, contiguous, sovereign, and independent...”

“While territory is an issue for both parties to decide, I believe that any peace agreement between them will require mutually agreed adjustments to the armistice lines of 1949 to reflect current realities and to ensure that the Palestinian state is viable and contiguous.”<sup>57</sup>

#### **Comments:**

President Bush reiterated his vision, with a slight change in the wording to indicate that these parameters constitute the basis from which negotiations should begin.

<sup>55</sup> <http://georgewbush-whitehouse.archives.gov/news/releases/2005/05/20050526.html>

<sup>56</sup> Israel and the PLO conducted direct negotiations in 2008, under American aegis, in an attempt to reach a permanent agreement. The Annapolis Process (named after the American site on which the opening conference was held), was conducted by Prime Minister Ehud Olmert and PLO Chairman Mahmoud Abbas. The process did not lead to an agreement.

<sup>57</sup> <http://georgewbush-whitehouse.archives.gov/news/releases/2008/01/20080110-3.html>

Furthermore, Secretary of State Condoleezza Rice, in a meeting with the sides in July 2008,<sup>58</sup> helped the parties reach an understanding regarding the basis for calculating the border: According to the United States, the basis is the territories occupied in 1967 including the West Bank, the Gaza Strip, East Jerusalem and the north-west section of the Dead Sea. There was no agreement regarding the no man's land areas. Later on, it was agreed that the no man's lands would be divided equally between the parties, as a basis for calculations.

### President Obama's speeches (2011):<sup>59</sup>

"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. 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. The Palestinian people must have the right to govern themselves, and reach their full potential, in a sovereign and contiguous state...."

"It was my reference to the 1967 lines — with mutually agreed swaps — that received the lion's share of the attention, including just now. And since my position has been misrepresented several times, let me reaffirm what '1967 lines with mutually agreed swaps' means.

"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. It allows the parties themselves to account for the changes that have taken place over the last 44 years. It allows the parties themselves to take account of those changes, including the new demographic realities on the ground, and the needs of both sides."

### Comments:

In stating that there will be "permanent Palestinian borders with Israel, Jordan, and Egypt," Obama implicitly negated the possibility that Israel will annex territory in the "envelope" of the Palestinian state (meaning, in the areas that lie between Palestine and Jordan and Palestine and Egypt).

58 Meeting Minutes: US, Palestine and Israel Bilateral and Trilateral Meetings," Palestine Papers, Al Jazeera. Online at: <http://transparency.aljazeera.net/en/projects/thepalestinepapers/201218233545203211.html>.

59 After the attempts to renew the negotiations on a permanent arrangement failed in 2010, and after President Obama got tired of the stubborn dispute with Prime Minister Benjamin Netanyahu regarding construction in the settlements, and on the background of uprisings in the Arab world – Obama delivered a ground breaking speech in which he presented his vision for the Middle East. With regard to the Israeli-Palestinian conflict, the President addressed issues of borders and security.

### Kerry's shuttle diplomacy (2014):<sup>60</sup>

We still do not have access to information regarding the nature of the discussions led by Secretary of State John Kerry, between July 2013 and April 2014. Nevertheless, it seems that the Americans presented a formula for the border issue, in which negotiations would be held on the basis of the 1967 lines with land swaps.<sup>61</sup> It is not clear if the American wording included territorial exchange on a one-to-one basis, but evidently it referred to a Palestinian state on an area 'comparable' to the territories occupied in 1967 ('comparable' is the term used by the Arab support group that adopted the land swap formula into the Arab Peace Initiative<sup>62</sup>).

### Summary:

The American position regarding Israeli-Palestinian borders has remained relatively consistent throughout the years of the peace process. However, the U.S. stance did change from ostensibly non-binding ideas (such as Clinton's Parameters) to official ideas publically expressed by presidents Bush and Obama. It is important to note that every presidential statement was affected by the prevailing political and diplomatic contexts, thus emphasis varied somewhat among the individual leaders.

According to the American view, the basis for a permanent border is the 1967 lines. President Bush referred to them as the "armistice lines of 1949" because his advisers felt that use of "armistice lines" lowered the high symbolic value attributed by the Palestinians, and the world, to the 1967 lines (that are sometimes mistakenly called the 1967 "borders").<sup>63</sup> In fact, the difference between the two lines is marginal. Ambiguities regarding the exact demarcation of the 1949 armistice lines in certain areas were resolved by Israel and Jordan in a process called the 'Generals Agreements' between 1949 and 1951. Theoretically, the original 1949 line differs in a few places from the lines that existed on the ground prior to the Six Day War, on June 4, 1967. However, it is doubtful whether Bush's advisors were aware of these subtle nuances. In general, these minor differences do not strategically alter the nature of the baseline.

Three American presidents (Clinton, Bush and Obama) accepted Israel's position that the large settlement blocs represented a major development that mandates changes to the 1967 lines. The American presidents suggested adjustments to the 1967 lines to satisfy the Israeli interest of annexing most of the settlers who live in large settlement blocs relatively close to the 1967 lines. In practice, land swaps serve as a bridging mechanism between the demands of the

60 In the summer of 2013, American Secretary of State John Kerry renewed the diplomatic process with the goal of reaching a permanent arrangement within nine months. The process failed due to extreme distrust between the sides.

61 <http://www.haaretz.com/news/diplomacy-defense/israel-peace-conference/.premium-1.603028>

62 <http://www.state.gov/secretary/remarks/2013/04/208544.htm>

63 Abrams, Tested by Zion: "Chapter 4 – New Realities on the Ground."

sides. When the Americans wanted to pacify the Israelis, they emphasized the annexation of the settlement blocs. When they wanted to pacify the Palestinians, they emphasized that the 1967 lines would constitute the baseline for the border. But with regard to land swaps, the presidents were not consistent in their views. While Clinton talked about an unequal land-swap ratio favorable to Israel, Bush and Obama talked about “agreed” land swaps. It should be noted that the Palestinians have consistently demanded that the land swaps be equal in size and quality.

In addition, all the presidents indicated in their vision of peace that the Palestinian entity must be contiguous and viable. Practically, they disqualified potential Israeli control of the envelope of the Palestinian state, and/or control in the depths of the West Bank; as well as the de facto splitting of the Palestinian state in the West Bank into several isolated cantons, connected by a separate road network called “transportation contiguity” (as opposed to “territorial contiguity”).

Another important point: the Americans have consistently opposed Israeli settlement construction throughout all the years. America has consistently viewed this activity as an obstacle to peace and an illegitimate enterprise. From the U.S. negotiator’s point of view, an agreement over borders is important because a borderline will solve the chronic headache surrounding the settlement enterprise. Once and for all, Israel will know and the world will know where Israel’s borders lie. Inside its borders it can build as much as it pleases, and outside its border it cannot settle its citizens – period.

## Jerusalem

In the period between the Camp David summit in July 2000 and the presentation of the Clinton Parameters in December 2000, the Americans guided a series of Israeli-Palestinian sessions. These talks were dedicated to the issue of Jerusalem in general, and the Old City and Temple Mount/ Haram al-Sharif in specific. In addition to ideas suggested by the partners and by unofficial entities, such as “Divine sovereignty” or “suspended sovereignty,” the main American input was with regard to transferring sovereignty to international supervision. President Clinton suggested in this period that sovereignty over the site be transferred to the U.N. Security Council, which would subsequently transfer custodianship to the Palestinians. The American ambassador to the United Nations, Richard Holbrooke, recommended that the role of the Security Council be to endorse an Israeli-Palestinian agreement on the issue but not to administer the site (in other words, to have a mandate over it). He suggested that a separate organization be formed to assume responsibility for implementation.<sup>64</sup>

64 Lior Lehrs, *Peace Talks over Jerusalem: A Review of the Israeli-Palestinian Negotiations Concerning Jerusalem 1993-2011*, Jerusalem Institute for Israel Studies, 2013, p.41-42. Online at <http://www.jiis.org/.upload/jerusalem/JPeace-Talks.pdf>

Later on, in response to the Palestinian proposal that sovereignty over the site be transferred to the Organization of the Islamic Conference, Clinton suggested the forming of a consortium that would include the five permanent members of the U.N. Security Council and four Muslim-Arab states: Saudi Arabia, Egypt, Jordan and Morocco. The Palestinians would be given “jurisdictional authority” over the site by the consortium, and the latter would also establish restrictions such as prohibition on excavations at the sensitive site.<sup>65</sup>

It was suggested to create parallelism between the Temple Mount/Haram al-Sharif and the Western Wall. Dennis Ross, head of the American negotiating team, suggested distinguishing between the holy places themselves, and the compound around them. For example, Palestinian sovereignty would apply in the mosques on the Haram al-Sharif but not over the entire plaza; Israeli sovereignty would apply to the Western Wall; and some kind of international regime would deal with the matter of excavations in the compound as a whole.<sup>66</sup>

One way or another, the American proposals (based on the positions of the two sides) were channeled into the Jerusalem chapter of Clinton’s Parameters:

### In Clinton’s Parameters (2000):

“On Jerusalem, as I said last time the most promising approach is to follow the general principle that what is Arab in the City should be Palestinian and what is Jewish should be Israeli; this would apply to the Old City as well. I urge you to work on maps to create maximum contiguity for both sides within this framework.

“We have all spent a lot of energy trying to solve the issue of the ‘Haram/Temple Mount.’ One thing seems clear to me — the gap does not relate to practical administration of the area but to symbolic issues of sovereignty and finding a way to accord respect to the religious beliefs of both sides. This is nevertheless clearly one of your most sensitive issues and concerns the interests of religious communities beyond Israel and Palestine.

“I know you have been speaking about a number of formulations. Perhaps you can agree on one. But I want to suggest two additional approaches that I believe would formalize Palestinian de facto control over the Haram while respecting the convictions of the Jewish people. Under each, there could be an international monitoring system to provide mutual confidence.

“Your agreement could provide for Palestinian sovereignty over the Haram, and for Israeli sovereignty over either ‘the Western Wall and the space sacred to Judaism of which it is a part’ or ‘the Western Wall and the holy of holies of which it is a part.’ There would be a firm commitment by both not to excavate beneath the Haram or behind the Western Wall.

65 Ibid.

66 Ibid, p. 43.

“Alternatively, the agreement could provide for Palestinian sovereignty over the Haram and Israeli sovereignty over the Western Wall and for ‘shared functional sovereignty over the issue of excavation under the Haram or behind the Western Wall.’ That way, mutual consent would be required before any excavation takes place in these areas.

“One of these formulations should be acceptable to you both.”

### **Kerry’s shuttle diplomacy:**

According to several sources, in the first stage of negotiations the American approach was tilted toward Prime Minister Benjamin Netanyahu and mention was made of “Palestinian aspirations” of a capital in East Jerusalem. At a later stage, when President Abbas met with President Obama, Obama proposed a more substantive, principled formulation: a Palestinian capital in East Jerusalem. However, since Netanyahu refused to discuss this issue, the Americans were not given the opportunity to develop new ideas.<sup>67</sup>

### **Summary:**

Jerusalem was viewed as the main source of dissension and failure of the process in 2000-2001. In the subsequent years, the United States did not express its vision regarding a final status solution in Jerusalem. This may have been due to political over-cautiousness, or perhaps because Clinton’s Parameters were very clear with regard to his vision of Jerusalem. And over the years, the United States re-iterated its position: the Israeli construction in East Jerusalem is not legitimate and that it is an inseparable part of the settlement enterprise in the occupied territories.

In general, the formulation of the final status agreement regarding Jerusalem outside the Old City and the Historic Basin remained as it had been under Clinton: partitioning the city into two capitals on a demographic basis. While the negotiations in 2000 conceived of an ‘open city’ without a physical boundary, the horrific terrorist attacks of the Second Intifada changed the ‘open’ conception, especially on the Israeli side. New ideas on the matter dealt with the construction of a physical border that would channel the movement of people and goods to organized border crossings; this was presented by experts to the American negotiating team in 2013-2014.<sup>68</sup> But as aforesaid, the talks on Jerusalem did not progress to the point of examining any of the solutions in depth.

Regarding the Old City (and the Historic Basin): the Americans limited themselves to Clinton’s suggestions, and did not deal with the issue in later years. In the Annapolis process, the Americans expressed their understanding (or even sympathy) for the Palestinian position of political but not physical division of the Old City, in accordance with Clinton’s suggestions.

<sup>67</sup> Ravid, *Ibid.* Interview of the author with analysts and experts, February-June, 2014.

<sup>68</sup> See the research of SAYA (Resolution Planning and Architecture) and the Geneva appendices. Internet:

<http://www.sayarch.com/category/publications/>

### **Refugees**

The parties addressed the refugee dilemma for the first time during the 1999-2000 negotiations. There are practical aspects of the problem (finding a site for permanent place of residency, and compensation to the refugees), as well as symbolic elements with regard to the narratives of the two sides (the demand to accept responsibility for the problem, and recognition of the right of return). The American and Israeli teams assessed that Arafat would be ready for far-reaching compromises on the refugee issue if the package-agreement would include the existence of an independent, sovereign Palestinian state on the West Bank and Gaza, with a capital in East Jerusalem.<sup>69</sup>

### **From the Clinton Parameters (2000):**

“The issue of Palestinian refugees is no less sensitive than Jerusalem. But here again my sense is that your differences are focused mostly on how to formulate your solutions, not on what will happen on the practical level.

“I believe Israel is prepared to acknowledge the moral and material suffering caused to the Palestinian people as a result of the 1948 War and the need to assist the international community in addressing the problem. I also believe the Palestinian side is prepared to join in such an international solution and that we have a pretty good idea of what it would involve.

“The fundamental gap seems to be how to handle the concept of the right of return. I know the history and how hard it would be for the Palestinian leadership to appear to be abandoning this principle. At the same time, I know the Israeli side cannot accept any reference to a right of return that would imply a right to immigrate to Israel in defiance of Israel’s sovereign policies on admission or that would threaten the Jewish character of the State.

“Any solution will have to address both of these needs. It will also have to be consistent with the two-state approach that both sides have accepted as the way to end the Israeli-Palestinian conflict. A new State of Palestine is about to be created as the homeland of the Palestinian people, just as Israel was established as the homeland of the Jewish people. Under this two-state solution, our guiding principle has to be that the Palestinian state will be the focal point for the Palestinians who choose to return to the area, without ruling out that Israel will accept some of these refugees.

“I believe you need to adopt a formulation on the right of return that will make clear there is no specific right of return to Israel, itself, but that does not negate the aspirations of Palestinian refugees to return to the area. I propose two alternatives:

“Both sides recognize the right of Palestinian refugees to return to historic Palestine.

<sup>69</sup> Interview of the author with American and Israel negotiators, June 2014.

“Both sides recognize the right of Palestinian refugees to a homeland.

“The agreement would define the implementation of this general right in a way that is consistent with the two-state solution. It would list the five possible homes for refugees: 1) The State of Palestine; 2) Areas in Israel being transferred to Palestine in the land swap; 3) Rehabilitation in host country; 4) Resettlement in third country; 5) Admission to Israel.

“In listing these five options, you would make clear that return to the West Bank, Gaza, or the areas acquired through the land swap would be a right for all Palestinian refugees, while rehabilitation in their host countries, resettlement in third countries, or absorption into Israel would depend upon the policies of those countries. Israel could indicate in the agreement that it intended to establish a policy so that some of the refugees could be absorbed into Israel, consistent with Israel’s sovereign decision.

I believe that priority should be given to the refugee population in Lebanon. Taken together the parties would agree that these steps implement Resolution 194.”

#### **President Bush, in an exchange of letters between Bush and Sharon (2004)**

“It seems clear that an agreed, just, fair, and realistic framework for a solution to the Palestinian refugee issue as part of any final status agreement will need to be found through the establishment of a Palestinian state, and the settling of Palestinian refugees there, rather than in Israel.”<sup>70</sup>

#### **Annapolis (2008):**

As aforesaid, the American contribution to the Annapolis process was not expressed by suggestions of content, since the two leaders – Olmert and Abbas – conducted negotiations in good faith and with resolve. However, President Bush did say the following in his visit to Israel in January 2008:

“I believe we need to look to the establishment of a Palestinian state and new international mechanisms, including compensation, to resolve the refugee issue.”

#### **Kerry’s shuttle diplomacy:**

In general, it seems that the Americans returned to the positions of Clinton and Bush and described a mechanism in which there would not be a right of return of refugees to Israel. Yet the Americans did emphasize (as did Clinton) that there would be refugees who would be able to choose to return to Israel, subject to Israel’s sovereign decision and criteria that Israel would set. Most of the refugees would be absorbed in their current places of residence in hosting countries, move to third countries, or settle in the new state of Palestine.

<sup>70</sup> <http://www.bitterlemons.net/docs/bushletter.html>

#### **Summary:**

The American leaders who led the negotiations generally accepted Israel’s position that the resolution of the Palestinian refugee issue would focus mainly in the new state of Palestine, and not in Israel, since mass immigration of refugees to Israel would change its Jewish character.

The five alternatives proposed by Clinton still remain the main basis for resolving the issue of site of permanent place of residency of the refugees. However, President Bush also addressed this issue with regard to his support of Prime Minister Sharon’s Disengagement plan. To try to shore up Sharon’s political position among the Likud ministers and Knesset members, Bush emphasized the centrality of the state of Palestine as the place where the refugees would return to, and not Israel. This statement was somewhat unusual, since until then the American view offered possible solutions without actively negating any specific alternative.

Only Clinton proposed alternatives for the most sensitive symbolic issue: the Palestinian demand that Israel recognize its responsibility for the refugee problem and recognition of the right of return. The formulations that he proposed were not accepted by either of the sides, and the issue remained in dispute into the Taba talks of January 2001.

#### **Security**

The Americans expressed themselves more freely on security issues, as on border issues, for several reasons. First, security was perceived as a ‘practical’ issue with solutions on the field level. Second, this is an issue that the United States addresses repeatedly due to its steadfast, unshakeable and ironclad commitment to Israel’s security, including maintaining Israel’s qualitative edge vis-à-vis its neighbors. Third, the security issue is perceived as being relatively easily resolved. Finally, the Americans view themselves as the supreme authority on security issues. In general, the Palestinians, and mainly Israel, turn repeatedly to the United States as an address for solutions to security issues.

The quotes below address the American positions regarding the security issue in a final status agreement (as distinct from ongoing security issues in the Israeli-Palestinian arena).

#### **From Clinton’s Parameters (2000):**

“As I said on security the last time, the challenge is to address legitimate Israeli security concerns while respecting Palestinian sovereignty. The key lies in an international presence that can only be withdrawn by the agreement of both sides. My best judgment is that Israeli withdrawal should be phased over thirty-six months while the international force is gradually introduced into the area. At the end of this period, a small Israeli presence in fixed locations would remain in the Jordan Valley under the authority of the international force for another thirty-six months. This period could be reduced in the event of favorable regional developments that diminish the threats to Israel.

"On early-warning stations, I believe that Israel should maintain three facilities on the West Bank with a Palestinian liaison presence; the stations would be subject to review after three years, with any change in status to be mutually agreed.

"On the emergency deployments, I understand you still have work to do on developing maps of the relevant areas and routes. In defining what would constitute an 'emergency,' I suggest you think about formulations that refer to 'an imminent and demonstrable threat to Israel's national security that requires Israel to declare a national state of emergency.' Of course, the international forces would need to be notified of any such determination.

"On airspace, I suggest that the state of Palestine will have sovereignty over its airspace but that the two sides should work out special arrangements for Israeli training and operational needs.

"I understand that the Israeli position is that Palestine should be defined as a 'demilitarized state,' while the Palestinian side has proposed 'a state of limited arms.' As a possible compromise formula I suggest you think in terms of a 'nonmilitarized state.' This would be consistent with the fact that, as well as a strong Palestinian security force, Palestine will have an international force for border security and deterrence purposes. Whatever the terminology, you need to work out specific understandings on the parameters of the Palestinian security forces."

#### **President George W. Bush, in the exchange of letters between Bush and Sharon (2004):**

"...there will be no security for Israelis or Palestinians until they and all states, in the region and beyond, join together to fight terrorism and dismantle terrorist organizations. The United States reiterates its steadfast commitment to Israel's security, including secure, defensible borders, and to preserve and strengthen Israel's capability to deter and defend itself, by itself, against any threat or possible combination of threats...

"The United States understands that after Israel withdraws from Gaza and/or parts of the West Bank, and pending agreements on other arrangements, existing arrangements regarding control of airspace, territorial waters, and land passages of the West Bank and Gaza will continue."

#### **Comments:**

In the context of Sharon's Disengagement Plan, when Israel planned to withdraw from the Gaza Strip, President Bush emphasizes the importance and necessity of fighting terror, and reiterates the U.S. commitment to Israel's security. Bush also makes it clear that after the Israeli withdrawal, existing security arrangements in the West Bank will remain in effect until they are superseded by other arrangements and agreements.

#### **President Obama's speeches (2011, 2013):**

"As for security, every state has the right to self-defense, and Israel must be able to defend itself – by itself – against any threat. Provisions must also be robust enough to prevent a resurgence of terrorism, to stop the infiltration of weapons, and to provide effective border security. The full and phased withdrawal of Israeli military forces should be coordinated with the assumption of Palestinian security responsibility in a sovereign, non-militarized state. And the duration of this transition period must be agreed, and the effectiveness of security arrangements must be demonstrated."<sup>71</sup>

"...we have spent a lot of time working with Prime Minister Netanyahu and his entire team to understand from an Israeli perspective what is required for the security of Israel in such a scenario. And ... we understand that we can't dictate to Israel what it needs for its security. But what we have done is to try to understand it and then see through a consultative process, are there ways that, through technology, through additional ideas, we can potentially provide for that ...

"Prime Minister Netanyahu and the Israeli military and intelligence folks have to make that determination. And ultimately, the Palestinians have to also recognize that there is going to be a transition period where the Israeli people cannot expect a replica of Gaza in the West Bank. That is unacceptable. And I think we believe that we can arrive at that point where Israel was confident about that, but we're going to have to see whether the Israelis agree and whether President Abbas, then, is willing to understand that this transition period requires some restraint on the part of the Palestinians as well. They don't get everything that they want on day one. And that creates some political problems for President Abbas, as well."<sup>72</sup>

#### **Kerry's shuttle diplomacy:**

In the course of Secretary of State Kerry's diplomacy, the Americans paid close attention to Netanyahu's security demands. Aside from the main issue of the demilitarization of the Palestinian state, Kerry appointed General John Allen as special U.S. envoy on Israeli-Palestinian security issues. Specifically, Allen dealt with Israel's demand to ensure the demilitarization of the West Bank by having an IDF presence along the Jordan Valley for an unlimited time span. The American solution, which was limited to the bilateral Israeli-Palestinian interface (Allen's team was not given a go-ahead to develop a regional approach that would include Jordan), focused on advanced monitoring, tracking and intelligence technologies to be provided by the United States. As we see in Obama's quoted statement above, the United States accepted the principle that Israel will station forces along the Jordan Valley for a longer transition period

<sup>71</sup> <http://www.whitehouse.gov/the-press-office/2011/05/19/remarks-president-middle-east-and-north-africa> [ ]

<sup>72</sup> "Remarks by the President in a Conversation with the Saban Forum," Willard Hotel, Washington D.C., December 7, 2013. Online at: <http://www.whitehouse.gov/the-press-office/2013/12/07/remarks-presidentconversation-saban-forum>

than the Palestinian anticipate. Nevertheless, the United States believes that technologies existing today facilitate effective border security without 'boots on the ground.' In general, the United States is willing to help Palestine develop border security capacities that, according to America, do not exist today.<sup>73</sup>

### Summary:

The American position, as referenced in the sources above – and in additional papers such as those written by General James Jones (2007-2009) and General John Allen (2013-2014) – bases the security arrangements in the final status agreement on a series of principles. The first and foremost principle is that the Palestinian state will be de facto demilitarized (without a standing army, and regardless of the specific terminology that will ultimately be adopted, whether "state with limited arms" or "nonmilitarized," for example). The Palestinians will be responsible for internal law and order and for guarding their borders. All the American presidents agree that Israel retains the right to defend itself, by itself, and this right, as well as all the operational derivatives from it, will be reflected in the Israeli-Palestinian final status agreement. All the presidents, and especially Clinton and Obama who dealt with final status security arrangements, accepted the principle of a transition period for Israeli redeployment, and the principle that Israeli forces will remain in the Jordan Valley for a limited time period. However, the United States also accepted the Palestinian need to envision the day when they will have palpable sovereignty over the entire Palestinian state, and they reject the Israeli demand for unlimited, open-ended military presence.

Presidents Clinton and Obama viewed the stationing of an International force – one derived from the agreement, unlike an international force deployed in a vacuum between two sparring sides – as an effective way to resolve the main security issues. While President Bush did not negate the idea of international forces, he chose to focus on other aspects of security. In accordance with his worldview regarding the fight against terror, he focused on creating a new sequence in which the Palestinians would have to prove their preparedness for becoming a sovereign state by demonstrating their ability to fight terror. However, according to General Jim Jones, who served as a special State Department security envoy during the Annapolis process, Israeli-Palestinian security arrangements in a final status agreement could and should be supported by regional security architecture. Specifically, Jordan would play a part in the security arrangements with regard to the Israeli-Palestinian arena.<sup>74</sup> (Note: Later on, General Jim Jones was appointed by Obama to be his first National Security Advisor.)

With regard to the Kerry initiative: the United States focused on Israel's ability, after the withdrawal and redeployment,

73 Ravid, *Ibid.* Interview of the author with an Israeli analyst who has information about the Allen outline.

74 Author's interview with a security analyst who was knowledgeable about the Jones plan, June 2014.

to monitor the Palestinian state and specifically the border between Palestine and Jordan in the Jordan River area. This would be accomplished via tracking technology and intelligence devices, to be provided by the United States. The United States believes that technologies existing today facilitate effective (if not optimal) border protection without 'boots on the ground.' Obama's view departs from the views held by Clinton and Bush. It should be noted that this change is largely the result of technological developments that enable long-distance detection and accurate strikes, without physical presence on the ground.

### Conclusion

It appears that there is no substitute for determined American involvement in the Israeli-Palestinian peace process. Although the U.S. global standings has declined and weakened, the United States is still the only superpower on good terms with most of the relevant players. Specifically, the United States is the only state with close relations with Israel and that can give Israel the political, diplomatic and physical security it needs for a final status agreement.

Nevertheless, the United States must draw important, substantive conclusions regarding its historic role in the process. The American mediator has refrained from explicit, active involvement in the attempt to find solutions to the core issues (the Clinton parameters are the exception that proves the rule), and focused on managing a process with a goal of bringing the two sides into the negotiating room, where the parties themselves would seek solutions to the issues separating them. In the Israeli-Palestinian negotiations of 2000 as well as of 2008, the two sides evidently exhausted their ability to progress in bilateral talks. The gaps between them are self-evident. In contrast, it seems that the United States has not exhausted its potential for advancing an Israeli-Palestinian agreement. Below are a few recommendations on the subject.<sup>75</sup>

First, the United States should seriously and thoroughly examine the structure of the peace-process and its role in it. An internal American re-evaluation should be held to deeply probe U.S. goals in the Israeli-Arab arena. What strategic goals does it aim for? Does it want to reach an agreement that will end the conflict? Or does it want to help the parties manage the conflict while America itself disengages from the Middle East?

Second, the United States must examine what types of leverage it is willing to use in order to realize its goals. There are some forms of pressure that are no longer effective and need to be updated (for example, goodwill gestures such as public pats on the back by Americans to Palestinian leaders). There are other types of diplomatic leverage that it currently cannot employ due to internal American considerations (for example, to condition aid to Israel on an Israeli commitment

75 Some of the recommendations were inspired by Daniel Kurtzer and Scott Lasensky, *Negotiating Arab-Israeli Peace: American Leadership in the Middle East* (Washington, D.C: United States Institute of Peace Press, 2008).

regarding halting settlement construction). And perhaps American diplomacy ought not to set conditions that it cannot enforce.

Third, U.S. policy ought to be viewed in the region as policy originating in Washington and specifically in the White House by the American president. The United States is liable to pay a steep price if it is viewed as promoting the narrow interests of regional players. On the other hand, the American president has limited time and attention to devote to Israeli interests. Presidential resources should not be tapped and made accessible too frequently to the sides, especially with regard to minor issues.

Fourth, the sides must fulfill their obligations; in other words, they must do what they have committed themselves to do. Violation of one's obligation by either side must entail real consequences. U.S. credibility in the whole region is tested by its ability to function fairly and impartially in the Israeli-Palestinian stage.

Fifth, the American negotiating team must be experienced and diverse. The process of policy formulation and its implementation must include open, honest discussion that exploits system-wide know-how and knowledge existing in all the government branches. If a special envoy is appointed to the peace process, he or she must have a direct line to the President and the Secretary of State and must operate as the sole relevant address for the negotiations, with the exception of those moments when the President choose to intervene. The United States must not tolerate a direct line that bypasses the envoy.

Sixth, a final status agreement should be viewed as a package deal. No attempts should be made to break it down into individual elements such as 'borders and security first' because this approach forestalls the important give-and-take dynamics between the various issues. Thus the sides cannot offer their most advanced proposals (their 'red lines') on a specific issue, unless they know that their needs on other issues are met. In addition, the American negotiator must not make the mistake of thinking that when America adopts the demand/position of one of the sides on a certain issue, it will be answered in kind in the form of a compromise by the same side on another issue. In general, the parties adopt those American positions that benefit their needs, while their demands on other issues remain unaltered.

Seventh, the American negotiator must not think, even for a moment, that a Palestinian leader is too weak to say "no." Over and over, the Americans are stunned at the ability of the Palestinians to turn down proposals that do not meet the

minimum required for a sovereign, independent Palestinian state. In addition, the Americans should devote attention to the political conditions and limitations on the Palestinian side, not only the Israeli side. Nevertheless, the Americans must not allow the sides to be swayed by internal politics to reject fateful, principled decisions regarding the core issues and resolution of the two-state solution.

Eighth, it is important to understand that Arab leaders can provide political cover to a Palestinian leader who is willing to adopt substantive compromises. However, the Arab leaders will not pressure a Palestinian leader to make compromises he is not ready for.

At times, Washington is guided by 'truths' that have not endured the test of time; experience has shown that these truths must be re-examined. For example, the statement that "the United States cannot want peace more than the sides themselves" is not commensurate with normative U.S. operating procedures with regard to any of its real interests in the international community. In other words: when the United States deals with one of its direct interests, it knows how to leverage both material and human resources to promote it.

The author aspires to challenge the prevailing viewpoint in Washington that a permanent agreement can only be the product of direct negotiations between the sides. This view simply does not stand up to the reality of failed negotiation attempts. Undoubtedly, by its very definition a final status agreement must entail the agreement of the parties involved, but the content-package the sides agree to does not have to be the product of direct negotiations. A great deal of relevant information related to final status exists, from proposals offered by the sides since 2000 as well as from the numerous in-depth unofficial research projects conducted over the last decade. All these could enable the United States to assume real, active, and substantive 'ownership' of the agreement's drafting. Then, the United States could promote the proposed agreement among the sides and the international community.

Finally, if there is no correlation between U.S. objectives and the steps it is willing to adopt to realize them, then the right thing to do is return to the drawing board and outline a new strategy. After all, the U.S. public image is weakened in the eyes of the parties as well as the entire world when avowed American objectives are not met. The reverse is also true: only a determined and proactive American president has the ability to engage domestic American politics, to enlist regional and international actors, and to harness the prevailing Israeli and Palestinian yearning for peace and normalization.





# The Strategic Conditions for Resolving the Israeli-Palestinian Conflict

Ephraim Lavie

## Executive Summary<sup>1</sup>

When we examine the nature of the decisions made by the leaderships of Israel and the PLO when they entered the Oslo process, we see that the two leaderships lacked strategies for achieving the goal of partitioning the land and resolving the conflict. The decisions that were made lacked comprehensive and coherent conceptions defining the overarching objective of the process, combined with appropriate modes of action that are necessary for attaining the objective, including making historic national decisions.<sup>2</sup>

This fact cast a cloud over the diplomatic process from its very onset, sowed the seeds of mutual distrust in the interim period, and blocked the parties from resolving the conflict. This was in spite of the fact that the parties had narrowed the gaps between them and uncovered areas of flexibility that could have facilitated a diplomatic agreement.

The main conclusion is that the parties must conduct direct negotiations out of a strategic decision supported by the Israeli and the Palestinian public, and out of a real commitment to reach a diplomatic agreement involving partitioning of the land. Such a decision must rest on the mutual recognition that both nations are of equal status and rights, and are equally entitled to self-determination and peace. They must both acknowledge that a peace arrangement must ensure self-determination of their national identity and their very existence – even if only on part of the homeland.

1 This article summarizes insights that stem from the three chapters in this brochure that deal with the development of the Israeli and PLO stances in negotiations on the permanent settlement, and the position of the United States as a mediator in the diplomatic process. The insights teach us about the progress achieved during the negotiations and the gaps that remained; these help us to appreciate the contribution of the American side to the process, and to suggest what conditions are needed, and what steps are appropriate, to resolve the conflict. The article also includes research insights that appear in two earlier studies conducted by the author together with Mr. Henry Fishman: Ephraim Lavie, Henry Fishman, "Strategic decisions taken during the Israeli-Palestinian peace process as barriers to resolving the conflict," [Hebrew] from: Yaakov Bar-Siman-Tov (ed.), *Barriers to peace in the Israeli-Palestinian conflict* (Jerusalem: Jerusalem Institute for Israel Studies, 2010); and Henry Fishman, Ephraim Lavie, "The Peace Process – Seventeen Plans in Ten Years," [Hebrew] Peres Center for Peace and the Palestinian Center for Strategic Studies, November 2010.

2 See: Lavie and Fishman, "Strategic decisions taken during the Israeli-Palestinian peace process" [Hebrew], p. 356-388.

## The shortcomings of the strategic decisions made by Israel and the PLO during the Oslo process

The PLO accepted the Oslo process due to lack of choice. For years, the diplomatic conception of the organization's leadership was based on a formula of right of return of the refugees and the right to **self-determination which can only be realized** in Greater Palestine. Over time and changing circumstances, the PLO leadership began to realize that a return to the entire homeland (Greater Palestine) was not possible at the present time. Instead, this goal was translated at the end of 1988<sup>3</sup> (on the background of the First Intifada) into readiness for a diplomatic settlement, even if not all the national goals would be realized. It was clear to the PLO leadership that an agreement that included surrendering parts of the homeland, a policy of no return of the refugees to their homes, and a commitment to end the conflict – all this would necessarily undermine the Palestinian national narrative, which is the definitional foundation of the Palestinian people. Therefore, a diplomatic stance was consolidated enabling the adoption of an arrangement ensuring the founding of a sovereign state on part of the homeland within the 1967 borders, but leaving the "1948 file," with its crucial refugee issue, pending for the future struggle of subsequent generations.

The PLO leadership viewed Oslo as a "lifesaver" that would give it a foothold on Palestinian land, thus they accepted it. The survivability issue of the movement was an important consideration in the decision. At the time, the PLO was mired in a serious diplomatic and economic crisis which resulted from the fact that it had supported Iraq in the Gulf War. The crisis interfered with the PLO's ability to maintain its organizational infrastructure, to control its operatives on the ground and to conduct a battle against oppositional organizations. Its loss of credibility in the international community at the time was even more pronounced in light of the rising power of the leadership in the territories. In addition, the PLO faced the looming possibility of non-PLO elections being conducted in the territories to establish self-government. Therefore, the organization's choice to enter the Oslo process when it was at such a low point was a decision without real historic resolve. There was no real resolve to change the PLO's basic positions as determined in 1988, including the "1948 file" and the refugees; or a

3 For information about the resolutions of the Palestinian National Council in its 19th session in Algiers, see: Ephraim Lavie, "The Palestinians in the West Bank: Political Organizational Patterns under Occupation and under Self-rule," doctoral dissertation [unpublished, Hebrew] (Tel Aviv University, 2009), pp. 199-201.

recognition of Israel's right to exist as the state of the Jewish people on part of Palestinian land. Instead, PLO's entry into the Oslo process expressed a willingness to recognize the existence of the State of Israel, in exchange for recognition of the PLO as the representative of the Palestinian people, and demonstrated its readiness to enter into diplomatic negotiations with Israel.

As opposed to the shortcomings of the Palestinian decision that stemmed from sheer survival, the weaknesses of the Israeli decision in its entrance to the Oslo process stemmed from entirely different reasons. The fact was that the Israeli leadership had not initiated the process, and had certainly not had the luxury of choosing it from among a number of different strategic alternatives. The Oslo process began with secret, informal contacts between two academics (Dr. Ron Pundak and Dr. Yair Hirschfeld) from Israel, and high-echelon PLO members; these talks continued from the end of 1992 until August 1993. At the time, Prime Minister Yitzhak Rabin was searching for ways to separate economically and physically from the Palestinians, thus he endorsed the secret talks to continue in Washington between the Israeli and Jordanian-Palestinian delegations. (The latter delegation included representatives from the Palestinian leadership in the territories.) A short time after the secret contacts began, Deputy Foreign Minister Yossi Beilin was informed of them and after a few months had passed with demonstrable progress in the talks, Foreign Minister Shimon Peres was notified as well. Finally, Prime Minister Yitzhak Rabin was informed somewhat later.<sup>4</sup> Developments were faster than had been anticipated, and in May 1993 it was decided that the back-channel talks in Oslo would become official, though not public, negotiations. At this point official Israeli representatives were added to the team.

Although Rabin did not oppose the existence of talks with PLO representatives, he only became convinced that the talks were serious in the middle of 1993. This was after he understood that the Palestinians were willing to accept the following Israeli conditions during the interim period: All the settlements would remain standing; Jerusalem would remain under full Israeli control; Israel would continue being responsible for the security of Israelis in the territories; Israel would continue to be responsible for security in the Palestinian Autonomous Areas; the agreement that would be signed would leave all the options open toward negotiations for a permanent solution. In August 1993, representatives of the parties reached an agreement called the Declaration

4 According to Yossi Beilin, the principles for opening the secret channel in Oslo were concluded (a short time after his appointment to deputy foreign minister) between him and Norwegian Deputy Foreign Minister, Jan Egeland, during the latter's visit to Israel in September 1992. The summary of principles was conducted in a secret meeting to which Beilin's friend, Dr. Yair Hirschfeld, was invited. On December 4, while residing in London, Hirschfeld summarized that his interlocutor in Oslo would be PLO official Ahmed Karia (Abu Ala), and the talks then opened in Oslo when Dr. Ron Pundak joined Hirschfeld. See: Yossi Beilin, "Oslo Successes" Ha'aretz [Hebrew], September 17, 2013.

of Principles (DOP). During last-minute contacts, Letters of Mutual Recognition were exchanged between Israel and the PLO. The Declaration of Principles was signed on September 13, 1993 in the White House, in the presence of the leaders of both sides.

The overarching diplomatic objective of the PLO leadership was clear from the beginning of the Oslo process: the establishment of an independent state in the 1967 borders. This was to satisfy the demands of the population in the West Bank and Gaza Strip territories, to liberate them from the Israeli occupation. This goal was congruent with PLO's diplomatic principles, but was not officially expressed in the Declaration of Principles or the interim agreements that were signed with Israel. In contradistinction to the PLO leadership, the Israeli leadership adopted the Oslo process as an outline for an arrangement without determining where they were headed. It was a decision lacking strategic perspective and historic resolve. It can be said that Israel had no strategic, conceptual foundation for any arrangement at all. The first time that Prime Minister Yitzhak Rabin presented his viewpoint regarding a permanent agreement, was in a speech in the Knesset two years after signing the Letters of Mutual Recognition:

"... We view the permanent solution in the framework of the State of Israel which will include most of the area of the Land of Israel as it was under the rule of the British Mandate, and alongside it a Palestinian entity which will be a home to most of the Palestinian residents living in the Gaza Strip and the West Bank. We would like this to be an entity which is less than a state, and which will independently run the lives of the Palestinians under its authority. The borders of the State of Israel at the time of the permanent solution will be beyond the lines which existed before the Six-Day War.... We will not return to the June 4, 1967, lines."<sup>5</sup>

In effect, Israel and the PLO did **NOT** set a final, agreed-upon objective they would try to attain during the Oslo process; such an objective could have influenced concrete politics during the interim period. As a result, they were not required (at that stage) to agree on the **source of authority** that would guide them during the negotiations on the permanent agreement, that was supposed to begin in the interim period of five years. The overarching assumption was that confidence-building would take place between the sides during the interim period, and this would help the parties resolve the core issues when the time would come. But turning their backs on the need for setting a final diplomatic objective and source of authority embodied the inherent shortcoming of the strategic decisions by both sides. This shortcoming was expressed in their failures and actions in the interim period – failures that eroded the basic trust and credibility of the parties, and gradually lowered their motivation to "pay" the requisite price for reaching a permanent agreement. On the Palestinian side, the 'price'

5 See Rabin's speech in the Knesset on October 5, 1995, during the approval of the interim agreement. Excerpt of the English translation: <http://www.fmep.org/reports/archive/vol.-5/no.-6/rabins-final-defense-of-oslo-ii>

was to forfeit their demand for right of return, and on the Israeli side – to forfeit the 1967 territories.

Israel continued construction in the territories at a pace that was viewed by the Palestinians as an expression of the unwillingness, or inability, of the Israeli leadership to recognize these as Palestinian territories that they must forgo. Also, Israel did not carry out the third withdrawal as stipulated in the interim agreement, which – according to the Palestinian interpretation – would have entailed an Israeli withdrawal from significant parts of the territory. The Palestinian Authority also did not fulfill one of the key commitments that the PLO accepted on itself: shunning violence and terror, and adopting all the necessary means to avert violence including taking legal steps against the perpetrators. The Authority did not meet Israel's expectations regarding abstention from incitement and hostile propaganda. The spirit of the agreement did not penetrate the Palestinian apparatus in a way that would ensure the forswearing of the use of terror and other violent activities.

The result of this reality was the complete lack of accord between the declarations of the leaders about an “historic peace” and “peace of the courageous,” and the policies that they adopted in practice. The negotiations on the interim agreements, and subsequently on the permanent agreement as well, were conducted without being directed by mutual objectives or defined interests.<sup>6</sup> The process of rapprochement that took place usually served specific goals that stood in stark contrast to the avowed, manifest purpose of the diplomatic process. The lack of historic resolve and diplomatic-strategic decisions in that vein stimulated both parties to create facts on the ground. This was in order to create facts that would sway the permanent status arrangements when the time would come. This was mainly connected to the Palestinian adoption of the trappings of sovereignty and establishing a presence in eastern Jerusalem, and the Israeli side settling more territories. In short, each side exhibited autonomous behavior as if the diplomatic process did not exist. This reality contributed to the undermining of trust and protracted violence between the sides, as well as to attempts to internationalize the conflict. And, ultimately, this behavior reduced the chances for reaching a diplomatic arrangement and establishing peace.

6 No joint overarching objectives were created in the interim agreement that was signed in Washington on September 28, 1995. Instead, the parties were careful to adopt formulations allowing for maximum flexibility in the permanent agreement. The wording of the agreement stipulated (Article XXXI, Final Clauses, Number 6), “Nothing in this Agreement shall prejudice or preempt the outcome of the negotiations on the permanent status to be conducted pursuant to the DOP. Neither Party shall be deemed, by virtue of having entered into this Agreement, to have renounced or waived any of its existing rights, claims or positions.”

## Negotiations over a permanent agreement [1999-2014]

So far, three main negotiation rounds have been held on a permanent agreement: in the Yasser Arafat-Ehud Barak period (1999-2001), the Mahmoud Abbas and Ehud Olmert period (2008) and Mahmoud Abbas-Benjamin Netanyahu (2013-2014). While gaps were narrowed in the stances of the parties in most of the issues, fundamental problems still remained in dispute that prevented the emergence of a permanent agreement.

### Opposite approaches for conducting the negotiations

The Oslo process was based on UN resolutions 242 and 338 that dealt with solving the territorial and humanitarian problems created by the war in 1967, and was supposed to lead towards the establishment of a Palestinian diplomatic entity side by side with Israel. The status of this entity was to be determined in negotiations on a permanent agreement at the end of a five-year interim period. However, a residue of mutual distrust during the interim period dampened the readiness of the parties to accept vague compromises and solutions during the negotiations on a permanent agreement. Therefore, when negotiations on a permanent agreement began in November 1999, the sides agreed that the talks would be on a full, comprehensive arrangement that would be formulated in a detailed, clear fashion and would lead to resolution of all the problems in the conflict: Jerusalem, territory, refugees, security arrangements, splitting up of natural resources, division of the air space and all spheres of life.

The Israeli side followed the directives of Prime Minister Ehud Barak, who did not want any more protracted interim agreements in which Israel would concede additional assets to the Palestinians, such as a third round (“salami tactics”), and that negotiations must bring an end to the conflict. Similarly, the Palestinian side emphasized that they would oppose negotiations on additional interim arrangements and declared that, “anything we decide now, will remain with us forever, and anything we give up, will be lost forever.”<sup>7</sup> Both sides exchanged compliments regarding the positive, serious approach and the very willingness of the other side to agree to “close” all the issues and not leave any serious subject in vague formulation.

The idea of a comprehensive, ultimate solution (and not only those problems connected to 1967 alone) was already decided on at the very beginning of the discussions on a permanent agreement. This meant that the leaders of the sides were cognizant of their great historic responsibility vis-a-vis the future of their respective peoples, and the kind of state they would have for future generations. However, the lack of an agreed-upon source of authority was felt very quickly; such a source could facilitate a comprehensive solution to the existing problems between the nations since 1948. The

7 Testimony of the author from a meetings of the negotiation teams in Neve Ilan on November 14, 1999.



Palestinians demanded that the source of authority be the UN resolutions that had been accepted over the years on the Israeli-Palestinian conflict. In this they referred to the authority source that had been accepted in the Camp David Summit in 1978, during negotiations between Egypt and Israel. At that summit it was determined that the negotiations for resolving conflicts between Israel and the Arabs and Palestinians would be based on UN resolutions 242 and 338 and the principle of “territories in exchange for peace.”

Thus from the Palestinian point of view, negotiations were meant to lead to realization of their rights, derived from “international legitimacy” (al-shar’iyya al-dawliyya) and not the result of the asymmetry existing versus Israel; in other words there was no room to compromise on rights, but only to recognize and implement them. The Palestinians adopted a fundamental position of “they have nothing to give,” therefore, they do not have to compromise on anything. In their view they already made the fundamental historic national compromise in which they recognized Israel and accepted resolution 242 as the basis for negotiations, in other words they limited themselves to a small portion of Palestine (about 22%). According to this position, negotiations with Israel are not supposed to lead to additional compromises but to receive something in exchange for the main compromise — that is, realization of the legitimate Palestinian rights stolen from them by force in the occupation, and consequently the establishment of a viable state. This stance has become their key strategy in negotiations over the permanent agreement in the Barak, Olmert and Netanyahu eras.

In contrast to this approach, the Israeli side (which favored the establishment of a limited state authority) demanded that the basis for negotiations would be the fair compromise principle that would take into account the reality on the ground that had emerged since 1967 and address Israel’s security and settlement interests. This outlook was based on creating a counterbalancing of interests that would make an agreement worthwhile for both sides. For this reason Israel wanted to disassociate from the issue of international legitimacy, even though it accepted resolution 242 as the basis for the Oslo process and negotiations on the permanent agreement.

These differences in approach created a communications failure and substantive difficulty in conducting the negotiations for a permanent agreement in all its stages. For all intents and purposes, it also prevented the sides from bridging the remaining gaps regarding permanent-status issues, after progress was made. Thus, for example, the Israeli side didn’t understand why the Palestinians were not prepared to accept proposals that the Israelis viewed as “fair” or “generous.” In addition, the Israelis didn’t understand why the Palestinians didn’t raise proposals of their own. The explanation is that the Palestinians didn’t see a need to raise proposals; instead, they wanted to realize their rights as outlined in the UN resolutions. In their eyes, the only proposal that could be “fair” or “generous” was one that conformed to the rights outlined in the UN resolutions. For this reason, the Palestinians first opposed the Israeli idea of

formulating a “framework agreement,” because they viewed the UN resolutions as constituting the framework agreement. To them, the purpose of negotiations was only to implement these rights in practice.

It seems evident that the strategic choice of each party regarding its starting point for negotiating a permanent agreement (UN resolutions versus “fair compromise”) reflected the nature of the strategic decisions of the parties in the diplomatic process, whether the reasons were political, ideological or other. Thus the Israeli leadership made no clear decision regarding detachment from the territory of the West Bank and the Gaza Strip, and the Palestinian leadership made no clear decision regarding waiving their demand for the return of the 1948 refugees to Israel.

### **Political minefields on the path to a permanent agreement: between “end of conflict” and a return to its beginning**

The national goal that the Palestinians aimed to achieve was diplomatic independence through bilateral negotiations. Their positions regarding the permanent agreement were clear: a Palestinian state on the basis of the principle of self-determination given to every nation, and the recognition of the two-state solution based on UN resolution 181: 1967 borders, including East Jerusalem as the capital. This, in turn, is based on the general principle that territory cannot be acquired through conquest and in accordance with UN resolution 242 (according to the interpretation on the basis of precedents vis-à-vis Egypt and negotiations with Syria); right of return of the refugees as a right recognized by international law, and in accordance with resolution 242 which demands a fair solution for the refugee problem. According to the Palestinians, the “fair solution” is defined in UN resolution 194 which includes right of return.

On the eve of the negotiations for the permanent agreement at the end of 1999, Prime Minister Ehud Barak listed, for the first time, Israel’s positions regarding a permanent agreement: an agreement that would bring about an end to the conflict, including all the national demands of each side; mutual recognition of each other’s legitimate, political rights; and the maintaining of two separate entities on the territory of Eretz Israel. Israel would not return to the 1967 borders; Jerusalem would remain united under Israeli sovereignty; most of the settlers would remain in the main settlement blocs under Israeli sovereignty; the territory to the west of the Jordan river would be demilitarized without a foreign army or heavy weaponry; Israel would have rights to the water originating from the Judea-Samaria region; and the refugees would not return to the State of Israel’s domain.<sup>8</sup>

A close look at the positions of the sides reveals significant gaps in three central core issues: territory – a fundamental difference between Israel’s starting point (settlements + security needs) versus the Palestinian stance (1967 lines); the refugees – Israel’s total rejection of the Palestinian

<sup>8</sup> See Shaul Arieli’s article in this publication, which refers us to: Project file for negotiation between Israel and the PLO [Hebrew], October 20, 1999.

demand to recognize right of return; the Jerusalem issue – the Palestinian demand for East Jerusalem as capital vis-à-vis Israel's demand that the city remain unified under Israeli sovereignty. The Palestinians clung to their fundamental position that Israel must first recognize their rights in every core issue. Only then would it be possible to discuss flexibility in implementation (the top-down approach). Israel, on the other hand, demanded to conduct the discussion on the details for resolving each issue (the bottom-up approach) and proposed to the Palestinian side to view the solution that would be achieved, as realization of the UN resolutions related to the conflict.

Considering their conflicting approaches to conducting the negotiation process as well as gaps in their positions, the Israelis and the Palestinians did not succeed in shaping a negotiation framework that would address the interests of both sides (win-win). Israel exploited its power and the fact of being the “giving” side (territory, recognition, authorities etc.) in order to dictate its goals. Israel adopted the outlook of “as few concessions as possible,” since it viewed each relinquishment as a loss. The practical significance of this view was that it set “redlines” to halt the demands of the other side, instead of positions for negotiation. The red lines were: no to a viable, permanent state, no to the 1967 borders, no to refugees and no to Jerusalem. Moreover, most of the negotiation was, from the onset, given over to the IDF. This meant that even the civic aspects of the negotiations – of key importance in creating peace between two nations – had a strong overlay of security.

This Israeli approach harmed the negotiation process and significantly contributed to its failure. The more that Israel activated its practical, concrete bargaining power on the negotiating table, the more the Palestinians learned that they had to inflict counter-pressure to get Israel to be more flexible in its positions. The Palestinians inflicted various types of pressures, from: threatening to declare statehood unilaterally, hardening its negotiating positions, engaging in violent confrontation and internationalizing the conflict.

One of the salient expressions for the hardening of negotiation positions was the fundamental Palestinian demand regarding the return of refugees to Israel on the basis of resolution 194. While this demand did exist even before the Oslo process, the PLO leadership knew that this demand was not feasible and would not receive backing from the international community, because it would mean the cancellation of Israel's existence. [This is in contradistinction to the demand for recognition of 1967 borders as a basis for negotiations on the borders of the Palestinian entity, which is viewed as legitimate and feasible.] It appears that the intractable Palestinian demand for right of return and its actualization in Israel's domain was mainly raised as a counter response to the Israeli position that was first raised at the end of 1999, at the onset of negotiations on the permanent agreement. At the time, Israel stated that it did not view UN resolution 242 and the “territories for peace” formula as the authority for negotiations. This Israeli

position was interpreted by the Palestinians as subversion of the entire diplomatic process.<sup>9</sup>

Also, Israel's demand for “the end of conflict” in the permanent agreement sharpened the Palestinian position regarding the return of the refugees. Prime Minister Ehud Barak needed this in order to enlist Israeli public opinion to support the agreement that included unprecedented concessions on the Israeli side, such as partitioning Jerusalem and relinquishing the Jordan Valley as Israel's eastern security border. However, this demand for “an end to the conflict” was interpreted by the Palestinians as a demand that they waive their rights to the 1967 territories, agree to share sovereignty on the Temple Mount, and expressly withdraw their demand for right of return.

Thus, the Palestinian demand for right of return served to offset the asymmetry between them and Israel in negotiating the permanent agreement. It also served as a Palestinian pretext for demanding all of the 1967 territory for settling the refugees; they would be resettled in the Jordan Valley and other areas they would receive in exchange for the settlement blocs (“the swap territories”). At a later stage in the diplomatic process, Israel raised the demand that the PLO recognize its Jewish identity vis-à-vis the Palestinian demand for right of return. This served to legitimize the right of return demand in the negotiations.

These developments in the right of return and end of conflict issues channeled the parties into an impasse which reflected the closed circuit between Israel's demand for an “end to the conflict” and the 1948 onset of the conflict. This (in Palestinian eyes) is connected to the iniquity of 1948 and the right of return demand which, in Israeli eyes, would signal the end of its existence as a Jewish state. Thus both sides have been drawn into the minefield of discussion of 1948 issues, for which no appropriate bridging formulations have been found.

### **Attempts to extricate the negotiations from their impasse**

The violent conflict that erupted between the sides in September 2000 led later on to stagnation in the diplomatic process between Israel and the Palestinians. Over the subsequent years, a number of attempts were made to conduct a diplomatic process with American involvement. The first attempt was the Road Map, a diplomatic program consolidated under the aegis of the Quartet (the United States, Russia, the European Union, and the United Nations). The Road Map initiative was an attempt to actualize President George W. Bush's vision for peace from June, 2002. The plan was formed on the background of the Second Intifada and the deep distrust that prevailed between the sides in that time period. Therefore, the plan offered a performance-based and goal-driven roadmap, with clear phases and

<sup>9</sup> Israel made it clear that it would not return to the 1967 borders and demanded border adjustments it needed due to the demographic and security-related facts on the ground, while opposing land swaps that were in a 1:1 ratio. See: Shaul Arieli, *A Border between Us and You* [Hebrew] (Books In The Attic 2013) , p. 251-253.

timelines to resolve the Israeli-Palestinian conflict under the supervision and assistance of the Quartet in no longer than three years, until 2005. The program was accepted in principle by both sides, but was unsuccessful in extricating the peace process from its standstill. The second attempt was at the Annapolis Conference in November 2007. The objective of the conference was to try and jump-start the peace process, pave the way to intensive negotiations towards an Israeli-Palestinian final status agreement within a year, by the end of 2008. Negotiations were renewed between Israel's Prime Minister Ehud Olmert and Chairman of the PLO and Palestinian Authority Mahmoud Abbas; and between Foreign Minister Tzipi Livni and PLO negotiator Abu Ala (Ahmed Qurei). For the first time, historic-strategic decisions guided the positions of the parties and the talks seemed likely to produce a permanent agreement.<sup>10</sup> However, the negotiations were cut short without practical results due to premature termination of Ehud Olmert's term of office as Prime Minister, and due to Israel's military operation in the Gaza Strip at the end of 2008 (Cast Lead).<sup>11</sup>

Additional attempts were made during the first and second terms of President Barack Obama. In the middle of June 2009, Prime Minister Benjamin Netanyahu presented his position regarding a permanent agreement (the "Bar Ilan speech"). The following were the main points: a Palestinian state would be demilitarized; a return to 1967 borders would be rejected outright; Israel would control the Palestinian border crossings and air space; Jerusalem would remain united under Israeli sovereignty. In 2010, President Obama sent an envoy, Senator George Mitchell, to the Middle East where he conducted "proximity talks" (indirect negotiations) between Israel and the Palestinians with the goal of formulating a working paper. The talks ended without results. From July 2013 until April 2014 negotiations were held on a permanent agreement under the aegis of Secretary of State John Kerry. The Israeli and Palestinian negotiation delegations held work meetings; the American team participated in some of them. When it became clear that a permanent agreement was not within reach, an attempt was made to reach a framework agreement via "proximity talks." These, too, ended without results.

The failure of these attempts was mainly due to the fact that the sides kept falling into the trap of continued discussion on issues connected to the beginning of the conflict, the "1948 file." Instead of conducting a practical diplomatic negotiation out of the understanding that an historic decision could be achieved by an agreement in solving the 1967 problems, Israel and the Palestinians did not create a framework for a balanced negotiation process based on defining mutual interests in the "Oslo spirit," of historic reconciliation and

striving for a peace agreement. Instead, Israel continued to adopt an aggressive approach when it did not stop expanding construction in the settlements; when it tried to dictate its conditions for a permanent agreement; and when it disregarded the need to found a viable Palestinian state, with components of sovereignty and territorial contiguity that would allow it to be stable and functioning. On the other hand, the Palestinians continued to entrench themselves in their demand for full recognition of their legitimate rights as a condition for practical compromises. They were drawn to hard-line positions due to Israel's aggressive approach, but also due to their basic worldview based on UN resolutions connected to their legitimate rights on the core issues: national self-determination, an independent state, 1967 borders, resolution of the refugee problem and the Jerusalem issue. The result was that both sides became entrenched behind their intransigent positions, on almost all the topics.

### **Summary of the positions of the sides on core issues, and the gaps that remained**

As aforementioned, formal discussions were held during the negotiation rounds that featured principled, uncompromising presentations of the positions of the two sides. However, practical, concrete discussions were held in tandem with the rounds of negotiation. These were generally in smaller forums, in an attempt to pinpoint joint areas of flexibility in the core issues. The two sides succeeded in bridging gaps in a way that drew them nearer to a two-state solution. The Israeli approach, especially with regard to territory, developed and went through significant changes. While the security-related considerations gradually dissipated, the settlement-related considerations remained decisive in the Israeli calculations. The Palestinian stance also underwent valuable changes and compromises in the various issues.

Below is a description of the agreements and imparities between the two sides:

**The Palestinian State** – there is agreement regarding the founding of a Palestinian state on the territory of the West Bank and Gaza Strip. Until the beginning of the negotiations on the permanent agreement at the end of 1999, the Israeli position was that a "Palestinian entity" would arise, but not an entity with all the trappings of statehood. In the IDF's Central Command a program called "Additional Step" was formed, mainly based on security-related considerations. According to this plan, the Palestinian entity was supposed to extend over 60% of the territory while Israel would continue to control its external borders. At the beginning of the negotiations over the permanent agreement, Israel's position was that the character of the Palestinian entity would be determined in the negotiations. The position of the Palestinian side, throughout all the negotiations, was that the founding of a viable Palestinian state was not dependent on negotiations with Israel. Instead, they felt it was a right bestowed on them on the basis of the general principle of self-determination given to every nation and the recognition of the two-state solution in UN resolution 181.

10 See: Fishman and Lavie, *Seventeen Plans in Ten Years* [Hebrew], pp. 61-69.

11 A new study by Lieutenant Colonel (Res.) Omer Zanany regarding the Annapolis talks will be published soon by Molad, The Center for the Renewal of Israeli Democracy, and the Tami Steinmetz Center for Peace Research. This study shows that the sides faced numerous obstacles including disparities in security-related issues and the refugees. These were likely to cause the talks to fail.

**The territorial issue** – both sides are willing to make adjustments in the 1967 lines on the basis of equal territorial swaps in order to allow the annexation of settlement blocs to Israel, with about 70 to 80% of the settlers. As a pre-condition, the Palestinians demanded recognition of their rights to 100% of the 1967 territories and territorial contiguity. Israel welcomed the Palestinian willingness for border adjustments and territorial exchanges, but did not accede to their request to recognize their full rights over all the territories. Instead, it wanted to reach an arrangement on the “fair compromise” basis. On the eve of the Camp David Summit in July 2000, the legal advisor to the government publicized a legal opinion that UN resolution 242 would not be implemented in an agreement with the Palestinians as it had been implemented with Egypt and Jordan. (The agreements with Egypt and Jordan were, indeed, based on the 1967 lines.) Therefore, Israel is permitted to determine the borders according to its security and settlement needs. The legal argument was that resolution 242 only applies to countries which in 1967 were separated by a border (and in 1967, no Palestinian state existed). Nevertheless, Israel accepted the Palestinian position regarding the size of the Palestinian state: “100% minus.” In other words, 100% minus Israel’s unique needs that would be compensated by equal land swaps. In the Taba talks (January 2001) and in Olmert’s proposal in the Annapolis talks (2008) Israel did not include the Jordan Valley in its demands, and did not view the Jordan as its eastern border remaining under Israeli control. In the Annapolis talks Israel showed, for the first time on a map, the territories it proposed to transfer to Palestine in exchange for the territories it wanted to annex.

**The Jerusalem issue** – At the Camp David summit (2000), Israel raised the option of partitioning Jerusalem for the first time. It was agreed that Jerusalem would be divided not on the basis of the Green Line, but demographically; based on Jewish and Arab population centers. The Palestinians were willing for Israel to annex the Jewish neighborhoods established after 1967 in East Jerusalem, such as Pisgat Ze’ev, Givat Ze’ev and Neve Yaakov but opposed the annexation of Har Homa and Ras al-Amud. They also agreed to Israeli sovereignty on the Jewish Quarter, on part of the Armenian Quarter and the Western Wall and demonstrated practical willingness to take into account Jewish historical-religious interests in East Jerusalem such as the City of David and the Mount of Olives, but not Israeli sovereignty. The Palestinian leadership demanded in exchange that Israel recognize full Palestinian rights to sovereignty in East Jerusalem, including the Temple Mount/Haram Al-Sharif, as an integral part of 1967 territory and resolution 242. Israel demanded to split sovereignty over the Temple Mount and establish a Jewish house of prayer in its sphere, and demanded sovereignty over the entire Western Wall, not just its exposed section as proposed by the Palestinians. At the Annapolis talks, Olmert proposed an international trusteeship instead of split sovereignty in the Old City. These two subjects remained divisive.

**The refugee issue** – Mutual flexibility exists regarding implementation of a solution for the refugee problem. The Palestinian leadership demanded that Israel declare its responsibility for creation of the refugee problem, and recognize their right to return to their lands and homes in accordance with resolution 194. Nevertheless, the Palestinian leadership recognized the Arab peace initiative that disallowed individuals from demanding right of return, and determined that the problem would be solved in a manner acceptable to Israel. In the negotiations, proposals arose that were accepted by the sides in principle, such as financial compensation and giving the refugees several alternate proposals for return: return to the Palestinian state that will arise; return to territories that were swapped; or resettlement of the refugees in hosting nations or a third country.<sup>12</sup> Similarly, it was agreed that a small, agreed-upon number of refugees would be returned to Israel in some fashion. Israel was not willing to admit to responsibility for the creation of the refugee problem and recognize the demand for a right of return, but was willing to acknowledge their suffering.

**Security arrangements** – There was Palestinian agreement regarding limitations on armament of the new state, and security arrangements that are essential for Israel. In addition, the Palestinians exhibited willingness to distinguish between “sovereignty” and “de facto control” in some spheres (such as airspace and electro-magnetic space); the Palestinian state would limit itself to a strong police force and to land and naval forces that would be limited in scope and designed to maintain internal security, public order, and the borders. On the other hand, the presence of a foreign army would be banned and the Palestinian state would be banned from making military or security alliances against Israel. The Palestinians were in favor of a diplomatic border between Israel and Palestine that would be open to facilitate freedom of movement of people and merchandise. Disparities remain between the parties regarding the kind of international force that would be involved and regarding the characteristics of split sovereignty, mainly with regard to airspace.

### The American side in the diplomatic process: between passivism and activism

American administrations have always attributed importance to striving for a comprehensive, permanent agreement in the Middle East, especially with regards to resolution of the Israeli-Palestinian conflict. They have persistently remained committed to Israel’s security and attributed importance to their role of sponsoring the diplomatic process between the sides and have supported a compromise between the positions. However, from the beginning of the Oslo process they avoided giving overt opinions regarding issues connected to the permanent agreement, because

<sup>12</sup> The two parties agreed (in the Taba and Annapolis talks) on an international apparatus and a trust for regulating the compensation issue for the refugees, but still disagree on the nature of the apparatus and extent of the financial burden that will be imposed on Israel.



they felt that the sides must make the necessary decisions themselves. Until the inception of the negotiations on the permanent agreement at the end of 1999, the American administration had intervened in the diplomatic process mainly to avert its total collapse in light of the residue of mutual distrust between the sides. In this way they actively helped realize the Hebron Protocol (in January 1997) that led to redeployment in the city; the Wye River Memorandum (October 1998) that set timetables for implementing an interim agreement and Israel's redeployment in the West Bank; and the Sharm el-Sheikh Memorandum (in September 1999) that set objectives and target dates to reach a framework agreement and a permanent agreement.

Even at the beginning of the negotiations over the permanent agreement (in 1999), the American administration preferred that the parties make the decisions themselves. The US refrained from forming an organized policy in the broad context of the permanent agreement. While the Palestinians wanted the United States to be actively and directly involved in the talks as much as possible, Israel insisted that negotiations be bilateral. Israel opposed direct American involvement in the talks which could have made it difficult for them in the core issues, and preferred to restrict its involvement to certain subjects such as security issues or the international apparatus for implementing a solution for the refugees. In accordance with this position, Israel prevented the American side from being partner to the formulation of positions and agreements in the course of the negotiations.

The various American administrations had different outlooks regarding their involvement in negotiations. Their basic inclination was to limit themselves to "guidance" of the parties in the diplomatic process, such as hosting the talks outside the Middle East venue, while avoiding substantive intervention. Instead, they focused on efforts to galvanize and convince the sides to commit to the necessary decisions to reach an agreement, but avoided being present around the discussion table. When Israel and the PLO reached a stalemate in the talks, the US increased its involvement by outlining "bridging proposals" for the sides, and being actively present participants in the talks.

The Americans contributed only modestly toward bridging the gaps between the positions of the sides in the course of the negotiations over the permanent agreement. Generally, they changed permanent positions they held regarding the conflict only with great hesitation and caution; usually, they only did this when the parties themselves showed flexibility and adopted a more progressive position.

Over the years, American administrations expressed opposition to founding an independent Palestinian state, and subsequent to the signing of the Oslo agreement

remained silent on the subject.<sup>13</sup> Their position changed only after Israel expressed its willingness to come to terms with the establishment of a Palestinian state in the course of the negotiations over a permanent agreement. Nevertheless, due to Israel's positions in the negotiations, the Americans opposed an "independent" Palestinian state, especially with regards to security issues; yet they did not support the "pure autonomy" proposal either. The first time an American President officially came out in favor of a Palestinian state was in June 2002 when President George W. Bush - outlined his vision regarding the Israeli-Palestinian conflict.<sup>14</sup> Starting from 2008 and simultaneously with the Annapolis process, the United States encouraged and supported programs for "building the state on the way," including security-related and governmental reforms designed to bring the Palestinians to maximum readiness for establishment of a state.

American administrations over the years consistently held that Israel must withdraw from all the territories to the 1967 lines with minor border adjustments and the implementation of appropriate security arrangements. In the periods when these issues were on the negotiating table, they expected the sides to demonstrate willingness for a compromise: they asked Israel to demonstrate significant flexibility in the scope, quality and contiguity of the territory that would be transferred to the Palestinian entity; and they asked the Palestinians to understand that Israel cannot evacuate all the territories for reasons of security and settlement. The Americans recognized Israel's demands that the Palestinian state be demilitarized, that there would be a transition period for Israel's re-deployment, and that Israeli forces remain in the Jordan Valley for a limited period. The administrations favored the option of stationing an international force as derived from the agreement, to solve the main security issues. In the Annapolis talks (2008) they felt that security arrangements could or should be supported by a regional security system and foreign military forces. In talks initiated by Secretary of State Kerry (2013-2014), the Americans formulated a security plan that would satisfy Israel's security needs by using advanced tracking and intelligence technologies.

<sup>13</sup> The Clinton administration made one public statement that alluded to the issue of a Palestinian state: On the eve of his meeting with Arafat in January 1998, President Clinton announced that "the Palestinians have the right to live as a free nation" (later on, he clarified that he was not referring to a Palestinian state). See:

Transcript: Clinton/Arafat Oval Office Q&A with Reporters, January 22, 1998

<http://www.usembassy-israel.org.il/publish/press/whouse/archive/1998/january/wh3123.htm>.

<sup>14</sup> President Bush was pessimistic regarding the ability of the Palestinians to found a state in practice. He accepted Israel's proposal of establishing a state in a phased manner, after the Palestinians would prove that they are capable of it. In accordance, Bush proposed an interim period in which a state would be established with provisional borders and with only some components of sovereignty. Thus the American administration again raised the idea of an interim period as a necessary transition stage for a permanent agreement. <http://georgewbush-whitehouse.archives.gov/news/releases/2002/06/20020624-3.html>

The consistent American position regarding settlements has always been that settlements are an obstacle to peace. According to all the administrations, the complexity of solving the settlement issue only grew over time due to the significant increase in number of settlers and due to the wide geographic distribution of the settlements. Their fundamental position was the sides must find a formula that would allow a large part of the settlers to remain in place.<sup>15</sup> According to the American view, it was important to work quickly in making decisions about the border in order to stop continued construction in the territories that would not be included in the Israeli state under the terms of the permanent agreement.

In light of the broad support in Congress and the Jewish lobby for the principle that “a unified Jerusalem is Israel’s eternal capital city,” the American administrations avoided adopting any official or clear position on the subject. They did not recognize the city as Israel’s capital nor the annexation of Eastern Jerusalem, but opposed partitioning the city and left the issue to future negotiations between the sides. While negotiations were held on the permanent agreement during the first half of 2000, the Americans favored Israel’s stance of postponing discussion on the issue to the end, in light of its complexity. Nevertheless, in the second half of that same year while the parties discussed various ideas regarding the city and its holy places, the Americans supported the partition of the city into two capitals on a demographic basis. They raised proposals regarding the holy places, including President Clinton’s plan that sovereignty over the Temple Mount/Haram Al-Sharif site should be transferred to the UN Security Council, which would then transfer the custodianship to the Palestinians. In later years, the Americans refrained from presenting a position on the issue, but continued to argue that construction in East Jerusalem was not legitimate. In the Annapolis talks (2008) they supported the Palestinian approach for political (but not physical) division of the Old City (in the spirit of Clinton Parameters).

In general, American administrations refrained from addressing the demand for return of the refugees, and argued that the subject must be discussed in negotiations between the sides. During the negotiations on the permanent agreement, they accepted Israel’s position of opposing the return of refugees to its domain. President Clinton proposed practical alternatives to solve the refugee problem, including the Palestinian demand for recognizing Israel’s responsibility for the refugee problem and recognition of their rights to

<sup>15</sup> It should be noted that Secretary of State George Schultz said in 1982 that he agrees that the Jews have the right to live in the territories. In his assessment, the settlements would not be dismantled in a permanent agreement. Nevertheless, their residents would live under the “duly constituted governmental authority” there that would be determined in discussions, similar to the right of Arabs to live in Israel. See: Shultz: U.S. Not Seeking to Impose Solution of Mideast Crisis, September 14, 1982

<http://www.jta.org/1982/09/14/archive/shultz-u-s-not-seeking-toimpose-solution-of-Mideast-crisis>

return to their homes and lands. However, the formulations he proposed were not accepted by the parties.

### Evaluating the American mediation

The American administrations that guided the Oslo process since September 1993 expected that Israel and the PLO would really and truly fulfill the agreements they signed and to which they committed themselves. While they tried to avoid deep involvement in the diplomatic process, they did intervene during times of crisis and stalemate to pinpoint the reasons for the crisis and avert the total collapse of the process. Thus, after halting the negotiations on the permanent agreement (January 2001), and as a result of the escalation in the violent conflict between Israel and the Palestinians, the United States did intervene with the goal of formulating recommendations for ending the conflict and renewing the diplomatic process to achieve a permanent agreement. American envoy Senator George Mitchell composed a report pointing to two primary causes of the crisis of confidence between the sides and collapse of the diplomatic process: Palestinian terror and construction in Israeli settlements.

These insights into the essential reasons for the inability of the sides to reach an arrangement, have accompanied the American position in all its attempts to bring the sides to renew the diplomatic process. The assessment was that the removal of these two obstacles, Palestinian terror and construction in the settlements, would pave the way for renewal of the diplomatic process and the chances of a permanent agreement.<sup>16</sup> The practical recommendations formulated by the Americans for the sides were characterized by “package deals” that generally included the cessation of violence, renewal of security cooperation, adoption of confidence-building measures between the sides, temporary cessation of construction in the settlements, and renewal of negotiations on a permanent agreement. However, all attempts that were made to achieve an arrangement via negotiations between the sides failed and ended with repeated cycles of violence.

Unfortunately, the various American administrations never really deciphered the root cause of the failures in the diplomatic process between Israel and the PLO. In fact, the construction in the settlements on Israel’s part, and violence on the Palestinian side, were the results of the weakness of the strategic decisions made by the leaderships at the beginning of the diplomatic process, not the reasons for its collapse. This weakness was expressed in their inability to decide, diplomatically and politically, on a territorial compromise because both sides felt themselves to have exclusive rights over the land. The Americans were blind to

<sup>16</sup> Examples: In his speech in June 2002, President Bush told the Palestinians to abandon violence, and told Israel to stop construction in the territories. In the Road Map of 2003 the Palestinians were asked to fight terror, and Israel was asked to freeze construction in the settlements. In the summer of 2013, Secretary of State John Kerry proposed to Prime Minister Netanyahu to freeze construction in the settlements (as one of three alternatives), to facilitate renewal of negotiations on the permanent agreement.

the fact that both leaderships had no strategy for reaching the goal of partitioning the land and resolving the conflict, and they never made the historic national decisions mandatory to reach such a goal. In any case, they never formulated the appropriate modes of action that must be taken to attain this goal. As described above, this fact is what eclipsed the diplomatic process from its onset, created a residue of mistrust between the sides in the interim period, and prevented them from resolving the conflict – even though they had, in fact, narrowed the gaps between them and revealed areas of flexibility that facilitated a diplomatic agreement. It seems that the American administrations viewed their role as limited to providing a “platform” for the process. The exception to this was President Clinton, who brought a concrete proposal for a permanent agreement.

### **The path to resolution of the conflict: Conclusions and recommendations**

The three main rounds of negotiations on a permanent agreement, held under American aegis (1999-2001, 2008, 2013-2014), utterly failed. It was only during the Annapolis talks (that lasted about a year) when it seemed that a permanent agreement was within grasp: this was because strategic-historic decisions guided the positions of the leaders of the negotiation parties. The quality of the Annapolis process, and the understandings that emerged from the Ehud Olmert- Mahmoud Abbas talks, showed that the two sides recognized the option of a resolution to the conflict between them. Such a resolution would be based on a bilateral agreement on the basis of the two-state principle in the 1967 borders (with the requisite adjustments) and a full solution for all the core issues. In effect, the Annapolis process returned Israel and the Palestinians to the original Oslo outline based on a comprehensive permanent agreement that regulates all the issues pending between Israel and the Palestinians, such as the relationship between the two countries in a permanent situation.<sup>17</sup> As aforementioned, the Annapolis talks were suspended due to Israel’s military operation in the Gaza Strip (the Cast Lead operation) and the premature termination of Prime Minister Ehud Olmert’s term of office.

In the decade and a half that has elapsed, about twenty plans for resolution of the conflict have been proposed by various sources such as the Arab League, Israeli civil society organizations, and Israel and Palestinian public figures.<sup>18</sup> Some of the plans were for a comprehensive agreement (such as the Arab Peace Initiative, The People’s Voice and the Geneva Initiative). Other plans set outlines for limited but long-term arrangements (such as the Shaul Mofaz plan, Ehud Ya’ari’s plan, the Hamas movement’s truce plan – a long-term hudna). Finally, additional proposals emerged for adopting a unilateral policy (such as the Haim Ramon plan, the Gilad Sher and Uri Sagi plan, the Institute for National

Security Research plan). Aside from the comprehensive agreement plans, all the rest were proposed while casting doubt on the abilities or desires of the parties to reach a full arrangement. One way or the other, none of the plans that were raised were discussed or adopted by the sides.

The importance of the US role in the efforts to resolve the Israeli-Palestinian conflict cannot be overestimated. Nevertheless, its efforts at mediation have, so far, not borne fruit. American mediation proposals were not supported by the players; negotiation prototypes such as “Proximity Talks” were unproductive; and assorted mediation efforts came to naught. The United States clung to its policy that the parties involved must make the necessary decisions to achieve a diplomatic arrangement. In accordance with this approach, it never imposed an agreement on the sides (though this might happen if the conflict would threaten American interests as a super power).

Thus, resolution of the conflict involves direct negotiations between Israel and the Palestinians over a permanent agreement. The parties must draw conclusions from their mistakes in the diplomatic process between them in the last two decades. They must acknowledge the following facts:

- A. Their avowed strategic interests require the existence of a diplomatic process in order to achieve a comprehensive permanent agreement. The future of Israel’s existence as a Jewish and democratic state, and the safeguarding of its security for coming generations, is predicated on the establishment of an independent, viable Palestinian state side-by-side with it. Simultaneously, the secure existence of the Palestinian people in its homeland and the safeguarding of its national identity – is predicated on the same solution.
- B. The cause of the failure to resolve the conflict lies in the fact that both sides held negotiations on interim and permanent agreements without first making the relevant strategic decisions. Therefore, the two sides could not make the necessary compromises because they did not first make national historic decisions to achieve a solution.
- C. The negotiations were held without the clear direction of defined goals and interests; in effect, they promoted objectives that stood in stark contrast to the avowed, visible objectives of the diplomatic process.

This acknowledgement, which would emerge from the self-introspection of each side, is vital in order to lead Israeli and Palestinian leaderships to exhibit true sincerity. They need to really desire to bridge the gaps that remain and to maximize the negotiation process, in order to achieve a comprehensive permanent agreement.

The parties must negotiate out of real commitment to achieve a diplomatic agreement on partitioning the land. The Palestinians must relinquish their non-feasible demand for recognition of right of return of refugees to Israel’s domain. Simultaneously, Israel must abandon its demand that the Palestinians recognize Israel’s Jewish character.

<sup>17</sup> See: Fishman and Lavie, *Seventeen Plans in Ten Years* [Hebrew], pp. 61-69.

<sup>18</sup> *Ibid.*

The withdrawal of these demands on the parts of the Palestinians and Israel would have ideological and practical value: it could be interpreted to mean that the two sides – Israel and the Palestinians – have come to terms with the historic compromise of partitioning the land. The determination of an agreed-upon border between them would serve the overarching national goal of each of the two nations. With regard to Israel's pragmatic demands regarding territory and security, there are practical solutions. With regard to the non-feasible demand of the Palestinians regarding right of return of refugees to Israel, there are alternate routes to a solution.

The leaderships in Israel and on the Palestinian side must come to negotiate on a permanent agreement based on a strategic decision supported by the public. Such a decision must rest on the mutual recognition that the two peoples have equal rights and status, and deserve self-determination and peace to the same degree, and that a peace arrangement will ensure their national identities and their very existence – even if on only a portion of the homeland. The process itself must be based on recognized sources of authority such as UN resolutions 242 and 338, and agreements previously reached by the sides. These are: components of Clinton's parameters (December 2000), understandings achieved in the Taba talks (January 2001) and Olmert's proposal (2008).

The following are several principles that may serve as guidelines for a permanent agreement:

1. Establishment of a Palestinian state in the 1967 lines, with "one-to-one" land swaps that would allow the settlement blocs to be annexed to Israel.<sup>19</sup>
2. Partition of the city of Jerusalem according to Clinton's parameters (the Jewish neighborhoods to Israel and the Arab ones to Palestine), and "special provisions" for the Holy Basin.
3. Limitations on the armament of the Palestinian state, and security arrangements to ensure Palestinian governability and state responsibility.
4. A formula that would ensure a phased solution to the refugee problem.

The adoption of the Arab Peace Initiative may well give vital backing to the Palestinians and Israel when they make the historic national decisions that are necessary for reaching a permanent agreement. Israel must adopt the Arab Peace Initiative as the main platform for promoting the diplomatic process. As opposed to some interpretations, the initiative does not dictate the results of negotiations, but constitutes a framework for peace between Israel and the Palestinians and the Arab world, out of the recognition that a military solution cannot bring peace and security to the states in the region. The initiative states that all the Arab countries

<sup>19</sup> As aforesaid, Israel began the negotiation over a permanent agreement at the beginning of 2000 with maps of 77%. After a year, Israel suggested maps of 96% (Taba talks, January 2000). The maps proposed by Prime Minister Ehud Olmert in the Annapolis talks (2008) were close to this.

will normalize their relations with Israel, after Israel will withdraw to the 1967 lines and agree to the establishment of an independent Palestinian state with its capital in East Jerusalem. The initiative does not exclude the possibility of agreed-upon border adjustments, does not dictate the way Jerusalem will be divided, and elucidates that the exact borders and a just solution to the Palestinian refugee problem will be determined by agreement of the parties.<sup>20</sup>

In light of the residue of hatred and distrust created between Israel and the Palestinians, the United States can assume a vital role as a third party that spurs the partners to renew the diplomatic process. That can be done by promising material assistance and providing the necessary guarantees and securities needed to actualize the agreement achieved by their handiwork. In case the parties reach the point where all the areas of flexibility and compromise have been exhausted, they have the option of turning to the American side to ask it to serve as a mediator to bring them to agreement, or as an arbitrator that will decide among the various options, so that all the components comprising the permanent-arrangement "puzzle" may be assembled. Since American prestige will be on the line in the diplomatic process, its intervention in crafting bridging compromise formulations, or deciding between the different positions of the two sides, must be done as part of a discreet dialogue with the parties. In this dialogue, the United States must exhibit its thorough familiarity with the parties' positions and its in-depth understanding of their feelings on various issues.

Therefore, the success of direct negotiations between Israel and the Palestinians, with the objective of negotiating a comprehensive and viable permanent agreement, is conditional on the realization and fulfillment of the following principles:

- Each side will base its commitment of realizing a diplomatic peace arrangement on a strategic decision supported by the public, and the willingness for an in-depth, continuous process of discussion via direct negotiations.
- Sources of authority for a diplomatic arrangement between Israel and the Palestinians will be UN resolutions 242 and 338, based on the "territories for peace principle," as well as agreements reached by the sides in previous negotiation rounds.
- The sides will define the final agreed-upon goal of the negotiations which will represent the starting point of the negotiations: two states for two peoples that exist side by side in peace and security.

<sup>20</sup> See: Ephraim Lavie (ed.), *Israel and the Arab Peace Initiative*, [Hebrew], (Tel-Aviv University: The Tami Steinmetz Center for Peace Research, 2010). Also, see the statement of Turki bin Faisal Al Saud, that "the Arab Peace Initiative was not simplistically prescriptive, but could be adjusted to take account of whatever was freely agreed to by Israelis and Palestinians in their negotiations." Turki bin Faisal, "Peace would be possible with the Arab Peace Initiative at its core," *Ha'aretz*, July 7, 2014. <http://www.haaretz.com/news/diplomacy-defense/israel-peace-conference/1.599067>



- Negotiations will focus on solving the 1967 problems, not the “1948 file,” and will be based on consolidating “a stabilizing map” that will ensure stable, secure borders for the two sides.
- All the issues will be placed on the negotiating table for a candid and open discussion which is likely to lead to compromises and agreements that both sides can live with. Its conclusion will be based on the principle that “nothing is agreed upon until everything is agreed upon.”
- Trust between the sides in the negotiation process will be built up via giving precedence to discussion and agreement on the core issues, according to the phased

negotiation principle of progressing from the “hard” to the “soft” issues.

- The sides will determine the time framework in advance for conducting the negotiations until their conclusion.

The probability is high that a comprehensive agreement will be reached if all the principles above are observed, and if the requisite international material assistance and guarantees are provided. Should the conditions be fulfilled only partially, or not fulfilled at all, the probability of achieving an agreement will drop. Then, either the sides will enter an ongoing process of conflict management, or the international community will force an arrangement (or the components of an arrangement) on the parties.



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Shaul Arieli, Col. (ret.) researches the Israeli-Palestinian conflict and follows all the issues involved in the diplomatic process. In the past, Arieli held the following positions: Commander of Gaza's Northern Division; Deputy Military Secretary to the Minister of Defense and Prime Minister; and head of the Interim Agreement Administration in the West Bank during the premierships of Yitzhak Rabin, Shimon Peres and Benjamin Netanyahu. Arieli also headed the Peace Administration in the Barak Government. Today, he is a senior researcher in the Economic Cooperation Foundation (ECF), he is one of the initiators of the Geneva Understandings and serves as board member of the Council for Peace and Security. Arieli has an M.A. in Management Studies from the Recanati School of Business Administration, Tel Aviv University, and is currently a PhD student at Haifa University. Arieli is on the teaching staff of the Herzliya Interdisciplinary Center (IDC) and the Academic College of Tel Aviv-Yaffa. He published five books on the conflict, the most recent of which is: *A Border between Us and You* [Hebrew] (Books in the Attic; 2013), winner of the Tshetshik Prize for Strategic Studies on Israel's Security in 2013. Arieli published hundreds of articles in Israeli periodicals and newspapers. He holds lectures and tours throughout the country and is frequently interviewed in the media on the diplomatic process and the security situation.

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