The ANNAPOLIS PROCESS (2007–2008)
NEGOTIATION AND ITS DISCONTENTS

Omer Zanany
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Negotiation and its Discontents

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THE TAMI STEINMETZ CENTER FOR PEACE RESEARCH

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INTRODUCTION

Israeli author Amos Oz once explained his view of the Israeli-Palestinian conflict by comparing its possible ending to that of a play: "There’s the Shakespeare tradition of resolving a tragedy with the stage hewed with dead bodies and justice of sorts prevails; but there is also the Chekhov tradition. In the conclusion of the tragedy by Chekhov, everyone is disappointed, disillusioned, embittered, heartbroken, but alive. And my colleagues and I have been working, trying... not to find the sentimental happy ending, a brotherly love, a sudden honeymoon to the Israeli-Palestinian tragedy, but a Chekhovian ending, which means clenched teeth compromise" (PBS 2002). Could the Annapolis talks have truly resolved the Israeli-Palestinian tragedy, in one way or another, or were they yet another chapter in a never-ending story? To quote New York Times columnist Thomas Friedman (2007), was the Annapolis process an oasis or a mirage?

The dual-track Israeli-Palestinian negotiations held in 2007 and 2008, later dubbed "the Annapolis process", were only the second time (after the Camp David and Taba talks in 2000-2001) that both sides made an official attempt, with close US assistance, to finalize a permanent-status agreement and promote the two-state solution.¹

Aims

This study offers a comprehensive examination of what actually took place in Annapolis process, and of the extent to which the talks furthered Israeli-Palestinian dialogue over

¹. Between these two official rounds, several unofficial attempts were made that significantly impacted both public and governmental opinion. Most prominent among these were the 2002 Ayalon-Nusseibeh Agreement and the 2003 Geneva Accord. For details on all peace process initiatives, cf. Henry Fishman & Ephraim Lavie (2010), The Peace Process: Seventeen Plans in Ten Years – An Assessment of the Initiatives to Resolve the Israeli Palestinian Conflict Over the Past Decade. Tel Aviv: The Palestine Center for Strategic Studies and the Peres Center for Peace.
core issues with an end to reaching a permanent-status agreement. The analysis yields several recommendations for future negotiations, which would require adaptation to the strategic context at the time.

**Methodology**

The study used net assessment to analyze both content matter and strategic management issues concerning the main actors in the Annapolis process – a systemic approach that goes beyond examination of their positions on certain issues. This integrative approach crosscuts all major issues to examine how the process itself was managed and what differences between the parties emerged. In addition to providing historical details of what actually occurred both in and around the talks, the study aims to deepen comprehension of the conceptual gaps that dogged the parties over years of negotiation, illuminating the complexity of the Israeli-Palestinian peace process. The study is based on unique primary sources, including hundreds of summaries of negotiation sessions and work meetings, and position papers prepared by the Palestinians throughout the process. The author also interviewed key Israeli and Palestinian officials, both governmental and professional, who participated in the Annapolis talks. Other sources used are academic studies and journalistic information and analysis concerning the peace process over the years.

2. The papers were leaked by a member of the Palestinian Negotiation Support Unit (NSU) to Qatari network Al Jazeera and British newspaper The Guardian. They now appear online under the title “The Palestine Papers” – cf. details in the following chapters.
The takeaway message

Although some progress was made in the Annapolis talks towards a permanent-status agreement, the process was marked by faulty preparation, inadequate management, and problematic guidelines, all of which ultimately hampered both parties’ ability to take significant steps forward. This was the case despite the unusual degree of trust achieved between former Israeli Prime Minister Ehud Olmert and President of the Palestinian Authority Mahmoud Abbas, both of whom declared their willingness to make historical strategic decisions in order to promote a final agreement. For example, the study demonstrates how the conceptual confusion, primarily on the Israeli side – between the different approaches of graded interim agreements (influenced by the Road Map), unilateral separation, and negotiating a permanent-status agreement – heightened the mutual mistrust, dragging the parties into futile, unfocused negotiations and generating broad conceptual differences on various issues.

Another drawback was the choice to hold talks in separate tracks and adopt inhibitive guiding principles (e.g. “nothing is agreed until everything is agreed”). Together with the marked absence of clear political guidelines over the core issues, the result was that both teams remained entrenched in their respective positions. These procedural faults were exacerbated by the deep mistrust between the Israeli and Palestinian establishments, which was fuelled by political constraints on either side. Hesitant and purportedly balanced involvement on the part of the US did not help to mitigate these difficulties.

The first chapter provides a brief overview of both the strategic context and the political and security challenges that informed the talks, highlighting the convergence of the main actors’ interests and the mistrust between Israel and the Palestinians. Also addressed is the central role played by the U.S, which initiated and facilitated exposure of the process largely to serve its own image, without formulating an effective strategy for furthering a peace agreement. The two world-views that guided the parties are also examined: the “process for process” approach – primarily a conflict management tool – on one hand, and genuine motivation to achieve a permanent-status agreement on the other.
The second chapter examines how the process was managed and the guiding principles established: "nothing is agreed until everything is agreed" and simultaneous "top-down" and "bottom-up" progress. These principles were adopted despite the fact that the parties did not agree on updated terms of reference (TOR) or on detailed political guidelines, the absence of which hampered progress. This chapter also examines the goals set for the talks and their adequacy given the preset timeframe – a single year. Various aspects of the process are analyzed in the two main tracks: the broad negotiation track led by the Steering Committee, headed by Israeli Foreign Minister Tzipi Livni and Palestinian Authority top official Ahmad Qurei (known as, and hereafter, Abu Alaa'); and the leadership track, which consisted of intimate meetings between Israeli Prime Minister Ehud Olmert and PA President Mahmoud Abbas. The loose connection between these two tracks is also discussed.

The third chapter details the parties' fundamental conceptions of various issues, as manifested in the Annapolis process and in the resulting proposal made by Olmert in September 2008, the core of which is still the subject of broad disagreement even among people who took part in the talks. This chapter also details the gaps between the parties' views of the terms of reference, the essence of the Palestinian state, and the issue of Palestinian recognition of Israel as a Jewish state. The fundamental conceptions of each party are delineated, as are the differences between their respective positions. The progress made in the negotiations is traced for each of the four core issues – territory and borders, security, Jerusalem, and refugees.3

The fourth chapter summarizes the analysis, examining what progress was achieved in the Annapolis process. This is augmented by comparing the end results of Annapolis and those of Camp David (2000) and mostly Taba (January 2001).

3. While the study notes the other important issues discussed in the talks – economy, infrastructure, water, law, "state to state" relations, "a peace culture", border crossings, prisoners, and the environment – these are not deeply analyzed. Appendix B details the major differences between the parties on these issues, based on a summary prepared by the Palestinian Negotiations Support Unit (NSU) in November 2008. Documented Israeli summaries of the Annapolis process results were not available for this study.
The fifth and final chapter offers conclusions and major recommendations drawn from this close analysis of the Annapolis process. Serious future Israeli-Palestinian negotiations over a permanent-status agreement should include the following principles, once they are adapted to the contemporary strategy context:

• A strategic decision on either side, based on full public and governmental acknowledgement of the high price of a stable agreement on one hand, and the far-reaching advantages of such an agreement for both bilateral and regional relations on the other;

• Updated terms of reference, based on previous agreements, to serve as guidelines. This is vital to ensure genuine negotiation rather than mere "process for process";

• A relevant formula for promoting a permanent-status agreement, should the parties fail to reach a comprehensive agreement. This would guide formulation of a framework agreement over the core issues, after which detailed discussion could ensue over the nature of the Palestinian state. More importantly, it would prioritize a permanent-status agreement concerning establishment of a viable and stable Palestinian state over trying to resolve all aspects of the conflict before reconciliation is achieved. This is based on the assumption that the conflict is solvable. However, the deep mistrust between the two parties and the complexity of an agreement require a linear approach that would ensure proper implementation of both the process and of an agreement. In this context the issue of borders and security must be prioritized in order to facilitate the establishment of a viable Palestinian state – the overriding interest of both parties, and the primary foundation for a stable permanent-status agreement. All this in no way diminishes the importance of resolving the refugee issue as a basis for ending all claims, and of solving the issue of the Holy Basin/Historic Basin in Jerusalem;

• An updated security approach favoring Palestinian governance and state responsibility over leaving significant control in Israeli hands or over transferring most responsibilities to an international military force as this would reduce Palestinian responsibility;
• A new regional approach based on adoption of the 2002 Arab Peace Initiative that would ensure constructive involvement of countries in the region. This would lend the process public support on both sides – a vital ingredient for tough historical decisions and successful implementation of an agreement.

Hopefully, this study will be a resource for information and planning, and even assist somewhat in future negotiations, with the goal of finally achieving a permanent-status agreement and implementing the two-state solution.
SUMMARY

The peace talks held in 2007 and 2008 (hereafter: “the Annapolis process”) stemmed from a convergence of Israeli, US, and Palestinian interests. The process was marked by deep mistrust between Israel and the Palestinians in the wake of the second Intifada, which Israel saw as a dramatic break that justified a more stringent security approach.

Deep conceptual confusion was apparent through the Annapolis process. Israel came to the talks debating between three conflicting approaches. There was the logic of the 2003 Road Map, which favored a "security first" approach, establishing a set of tests, and mutually agreed gradual progress. Then there was the alternative of unilateral separation from the Palestinians, which was significantly bolstered by the failure of the 2000-2001 Camp David and Taba talks and Israel’s 2005 ‘disengagement’ from the Gaza Strip. In this context, population growth became a factor to consider, as it was increasingly seen as a demographic threat; another factor was the Security Fence under construction, which was seen as a basis for political separation between two state entities (“they are there – we are here!”). A third option was the “Oslo logic” of a permanent-status agreement based on mutual compromise, reconciliation, and promotion of two states for two peoples according to the principle of "land for peace" (UN Resolution 242).

The conceptual confusion affected both strategic management of the negotiations and their content. When the parties sat down to talk, they had different terminologies and essentially did not speak the same language. The two principles guiding the talks formed a new combination: one was the familiar formula for a permanent-status agreement, “nothing is agreed until everything is agreed” – which, lacking detailed political directives or updated terms of reference, led the parties to futile discussions and an impasse; the other was a mix of simultaneously encouraging a “top-down” agreement and "bottom-up" measures for Palestinian state-building (in keeping with the Road Map). In practice, attention focused largely on the diplomatic negotiations,
and little effort was devoted to state-building. Small wonder, therefore, that the process revealed vast gaps between the parties on two key issues. Israel saw the future Palestinian state as an “autonomy plus” with certain elements of sovereignty, while the Palestinian Authority saw it as a viable, sovereign, independent state. As for the terms of reference for the Annapolis talks — Israel adopted an approach of constructive ambiguity, while the Palestinians demanded that international law serve as the underlying principle for promoting their goals. Understanding the rationale for these approaches on the part of Israel, the Palestinians, and the US can help explain the differences revealed later over the four core issues.

The Annapolis process consisted of two separate negotiation tracks. One, instated following the Annapolis Conference (November 27, 2007), was led by Israeli Minister of Foreign Affairs Tzipi Livni and Palestinian Authority official Ahmad Qurei (Abu Alaa’). This track, also called the Steering Committee, had twelve subcommittees — nine expert (professional-technical) subcommittees and a subcommittee for each of three core issues: territory and borders, security, and refugees.4 Dialogue was energetic, with hundreds of work meetings held between the Israeli and Palestinian representatives, as well as unilateral meetings with the US led by Secretary of State Condoleezza Rice and her people, and unofficial meetings between Livni and Abu Alaa’. This track helped create a restraining, stabilizing atmosphere. In some areas it helped delineate issues and yielded specific agreements and it was marked by lesser focus on military-security presence, although this had little effect on the dominance of the security approach on the Israeli side. However, in most areas, talks in this track lagged due to mutual mistrust, which sometimes took the form of inflammatory remarks towards the other party. Other problems with the Livni-Abu Alaa’ track were lack of coordination between the subcommittees, a “discourse of narratives” that drove a wedge between the parties rather than bringing them closer together, and failure to make the desperately needed

4. Jerusalem, the fourth core issue, was not discussed in a formal committee due to a political constraint — Israeli Prime Minister Ehud Olmert was under coalitional obligation to Eli Yishai, head of the Shas Party, to refrain from discussing it.
conceptual leap from present-day reality to the desired future of a permanent-status agreement. All this was informed by a prominent absence of detailed political directives for the teams and by lack of progress in agreement over the core issues, which was crucial for moving forward in the professional committees.

The second track, which operated between Israeli Prime Minister Ehud Olmert and President of the Palestinian Authority Mahmoud Abbas, began in late 2006. It apparently consisted of dozens of private meetings between the two leaders, in which they developed trust and a mutual understanding. The goal of these talks was to formulate an agreement in principle over all the core issues. Most of the progress in the Annapolis process was made in this track, as was made evident by Olmert’s September 2008 proposal (see details further). A point of interest is the positive model that Olmert created: intimate, practical, trust-based dialogue between the leaders. This now appears crucial to achieving a permanent-status agreement, and can serve not only as a model but also as a measure for the seriousness of future negotiations.

Yet the leadership track also had its flaws. Olmert suffered from growing lack of legitimization in Israel, instigated by the Winograd Commission’s scathing indictment of Israeli decision-making during the second Lebanon war (2006) and boosted by investigation of his alleged corruption and a drop in his political status. Olmert also failed to formulate an agreement together with the Palestinians: the talks ended with a unilateral Israeli proposal that may have formed a basis for further negotiation over a permanent-status agreement, but certainly did not summarize the talks or constitute a paper that Abbas could sign. As the proposal was close to the “zone of possible agreement” between the parties, focusing efforts on using it as the basis for formulating an agreement may have facilitated serious discussion earlier on. In hindsight, it is highly doubtful that any of the parties – including the US Administration – really believed that, given the tough political constraints: Olmert’s complicated situation, Abbas’ weakness,

5. These discussions, especially at the more advanced stages, were similar to the dialogue that led to the 1995 Beilin-Abbas understanding.
and the end of Bush’s term in the White Office. Haim Ramon, who was Israel’s deputy prime minister at the time, and was considered close to Olmert, was one of the main channels of communication with the Palestinian leadership. He says in retrospect that Olmert “got cold feet”, preferring the Annapolis Conference and a broad, futile negotiation process and “leaving us with nothing. A broad track led by Minister Livni, which had no significance for promoting an agreement, and a central track led by Prime Minister Olmert with President Abbas, which was an important and correct model but took place slowly and too late, politically speaking” (Ramon, interview).

Major areas of progress in Olmert’s proposal

Olmert’s proposal to the Palestinians was attractive, even compared to previous offers made by Israel. The president of the Palestinian Authority thought so: according to Olmert, Abbas “did not say no to the offer” (Olmert, 2014). The proposal centered on the four core issues and signified progress mostly on territory and borders, security, and Jerusalem. Although most analyses have lauded its “generosity”, in fact, both the proposal and the end point of the negotiations included lack of progress in several areas and certain elements that even constituted a regression from previous agreements, especially compared to the Taba talks.

On the issue of territory and borders, Israel and the Palestinians agreed for the first time in years over the baseline for calculating the border map: the total territory from which percentage should be calculated would be 6,205 square kilometers. This understanding constituted significant progress, as it demarcated the size of the Palestinian state and demonstrated Israeli willingness to address all territories occupied in 1967. This formula not only created a shared language but also successfully circumvented the legal

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6. The territory would include the West Bank, East Jerusalem, the Gaza Strip, and the northwestern Dead Sea. Also, the No Man’s Lands would be split in half, after which the territory would amount to 6,180.5 square km. For details, cf. chapter 3.
obstacle of recognizing the June 4, 1967 borders based on UN Resolution 242. Another step forward was Olmert’s suggestion that 6.3% of the territory be handed over to Israel in return for 5.8% to be handed to the Palestinians (land swap) based on territorial expansion of the Gaza Strip to the east, desert lands in the southern Judean hills, and other land throughout the West Bank. Proponents of Olmert’s map stress that it was generous, allowing for the existence of a contiguous, viable Palestinian state and reducing security concerns. Opponents note that the map followed the route of the Security Fence, left settlement blocs — especially the invasive Ariel bloc — in Israeli hands, and was actually very similar to previous Israeli offers (Taba talks, 2001) that the Palestinians had rejected. Unofficially, the Palestinians were willing to discuss a 4% land swap in the Annapolis process; officially, the only proposal they made (1.9%) was a step back compared to previous Palestinian offers, such as those made in Camp David and Taba. However, experts on both sides emphasize that post-Annapolis, both Israel and the Palestinians can now draw a stable map of permanent borders that meets their respective demands and illustrates that Israel can carry out a land swap without jeopardizing areas within the country.

On security, Israel reached advanced understandings with the US Administration via talks with the special envoy, General James Jones. This enabled agreement with the Palestinians on two major points. One was deployment of a US-commanded military NATO force, at least for a transition period of several years, instead of most components of Israeli security presence in the Palestinian state (without eliminating the transition period necessary for evacuating the settlements and withdrawing IDF forces, among other things); the other was no Israeli presence in the Jordan Valley at the permanent status stage. Together with reconfirmation of the agreement over a Palestinian state with “limited arms”, these two areas of agreement were supposed to resolve the security issue. However, many elements that were important to both parties remained

7. The term “limited arms” was coined to create a softer image after initial discussion of a “demilitarized state”. In practice, the degree of demilitarization should be measured by the actual details of an agreement on this issue, and not by terminology.
unresolved. These included division of control over airspace and electromagnetic space, the kind of restrictions to be placed on Palestinian security forces, how the international force would operate, security arrangements at the border crossings, and details of the transition period (in particular, the conditions for ending the transition and beginning the permanent-status era). Also, Israel did not relinquish its demand to remain free to operate along the border, including both routine activity and pursuit of terrorists. It is unlikely that the Palestinians would have accepted this, especially after both sides had agreed to the stationing of an international military force as the governing principle of the security issue.

Negotiation over Jerusalem was largely confined to the leadership track. Olmert’s proposal marked progress on two major points. One was establishing a joint trusteeship of five interested states over the Holy Basin / Historic Basin as a long-term alternative solution to the controversial issue of dividing sovereignty over the Basin and the holy sites. This sophisticated idea was meant to enable the parties to move forward without remaining caught in an argument over sovereignty in those areas, as occurred in the 2000 Camp David talks. It practically expressed the importance of a regional approach to a peace agreement, especially regarding Jerusalem. The second step forward was Olmert’s willingness to use the Clinton formula for division of East Jerusalem neighborhoods as the guiding principle for separating the two capitals – one in the Arab part and the other in the Jewish part, the latter including Jewish neighborhoods built after the 1967 war. While the Palestinians agreed to the formula, they did not accept the specific division suggested by Olmert and refused to leave both Har Homa (Jabal Ghanayem) and the Jewish settlement in Ras al-Amud under Israeli control. The Palestinians also apparently objected to the boundaries of the Holy Basin / Historic Basin in Olmert’s map, certainly not without receiving sovereignty over that section, which is inhabited by Palestinian residents (mostly in the Old City and in Silwan). Olmert’s circumvention of the sovereignty question was seen by some actors as leaving the issue open-ended, in contrast to the basic logic of a permanent-status agreement aimed at

8. The five trustees suggested by Olmert were Israel, the Palestinians, the US, Jordan, and Saudi Arabia.
ending the conflict. In any case, long after the Annapolis process it still cannot be said that the Palestinians have forgone their demand to divide sovereignty over the Old City and to solve the question of the Palestinian Authority’s sovereign status on the Temple Mount / Haram a-Sharif.

On the refugee issue, the talks did not advance but rather regressed. Olmert proposed that 5,000 – 15,000 Palestinian refugees be allowed to enter Israel over a period of five years, not under the family unification procedure.⁹ In the 2001 Taba talks, by comparison, Yossi Beilin and Nabil Sha’ath agreed on a much higher number (40,000), albeit unofficially. However, the major difference of opinion in the Annapolis process was not over the quota for entry into Israel. The Palestinians insisted that Israel acknowledge full, exclusive responsibility for the refugee problem and recognize the right of return; they also demanded that the Arab states hosting the refugees be financially remunerated. Israel refused to take full responsibility for creation and perpetuation of the refugee problem or for solving it, and refused to recognize the right of return. It also objected to officially acknowledging UN Resolution 194 as the term of reference for solving the problem (Olmert acknowledged it indirectly in his proposal by referring to “the spirit of the Arab Peace Initiative”, which included mention of the resolution). At the same time, Israel demanded finality of the conflict and even required the Palestinians to add a “reciprocity” clause to the agreement recognizing (even if only symbolically) the suffering of Jews from Arab countries. The discussion of this complicated issue and the final result demonstrate the difficulty of formulating an agreement that would once and for all – rather than gradually – resolve all aspects of the refugee problem, end the conflict, and end all claims.

⁹ According to Haim Ramon, Olmert’s deputy prime minister at the time, Israel had expressed before Abbas willingness to allow a much higher number of Palestinians (more than 100,000) into the country, as long as the parties agreed that the entry would be gradual, over fifteen rather than five years (Ramon, interview). This position was not included in Olmert’s official proposal.
Conclusions and recommendations

The Annapolis process was dogged by structural and strategic obstacles familiar from past negotiations. The lack of clear political directives and the conceptual confusion had a marked impact on the entire management of the process. In the Livni-Abu Alaa’ track, the parties failed to agree upon a satisfactory guiding framework and favored dealing with the easy topics first and only then addressing the heavyweight issues, instead of first of all laying out principles concerning territory and security. Furthermore, the negotiations were only partial, as discussion of Jerusalem was postponed. Other flaws in the management of the talks related to the problematic role of the US whose hesitant, supposedly balanced involvement created a futile process that actually widened the gaps between the two sides. Intra-Israeli political considerations also had a major impact, rendering the process partial and augmenting mutual mistrust, already pronounced due to continued construction in settlements. On the Palestinian side, the Negotiation Support Unit (NSU) had a negative effect: in the Annapolis process, it focused on policy-designing rather than on promoting discussion of Palestinian margins of flexibility vis-à-vis Israel. Hamas’ control of Gaza created problematic rules on the ground, which affected the negotiations and ultimately dragged Israel into a military operation in the Gaza Strip that terminated the Annapolis process.

Some claims have been made that Olmert’s proposal would have blossomed into a permanent-status agreement, had the conditions been right. This approach is supported by Olmert’s authentic willingness, based on a strategic decision, to withdraw from the West Bank “with or without an agreement” and on Abbas’ willingness in principle to continue discussing Olmert’s proposal, which he saw as a serious basis for further dialogue. However, the Annapolis process cannot support the claim later

10. In this context, cf. the similarity between the flaws of the Annapolis process and strategic flaws in previous Israeli-Palestinian negotiations, as described by Ephraim Lavie and Henry Fishman in Yaakov Bar-Siman-Tov (Ed.) (2010) pp. 300-339.

11. Cf., for example, “Abbas Will Sign a Fair Deal” (Pundak, 2014) and the book written by the former US ambassador to Israel, Dan Kurtzer (Kurtzer & Lazensky, 2008).
made that Abbas was unable, or unwilling, to reach an agreement.⁴² Olmert’s proposal was not a fully formulated agreement. It still contained gaps between the parties, and the political context blocked Abbas from reaching decisions and agreeing to various compromises.

Analyzing the Annapolis process yields many insights into the gaps between the parties’ positions and highlights the need for a more thorough examination of the systemic aspects of the process. This examination reveals that the Annapolis talks lacked much more than time.

Following are the major conclusions that can be drawn from the Annapolis process. They must be re-examined ahead of any future negotiations, since the conflict-management approach has run dry, and is currently dragging both Israel and the Palestinians into escalation and growing mistrust. Any future talks will require both parties to promote a stable agreement based on the two-state concept en route to fully resolving the conflict.

The need for a historic strategic decision on either side

First and foremost, the Israeli side must come to terms with the territorial price of dividing the land 78/22 and acknowledge what will be gained in return: a historical sea-change that a permanent-status agreement is expected to create, with political, security, and economic implications for Israel’s relations with the Palestinians, with other states in the region, and with the entire international community. Such a decision will require Israeli comprehension of the complex asymmetry between the two sides, and especially an understanding that Israel has only one strategic option – the two-state solution – while the Palestinians have an attractive alternative: one state for two peoples (Tamarkin 2014).

The Palestinian side must rise to the challenge of a transition from a dependent

⁴² Cf., for example, “Don’t expect Abbas to sign anything” (Avineri, 2014).
entity to a sovereign state, which will be required within a relatively short time to bear responsibility for security and stability. The Palestinians will also have to reduce their uncompromising adherence to the basic principles established by the PLO institutions in 1988, especially as regards the right of return. These historic decisions on either side – and, to a large extent, also by the US – will prevent further hedging and “process for process”, and will ensure promotion of a stable permanent-status agreement.

The need for updated terms of reference for both sides in order to expedite an agreement

The legalistic approach that favors constructive ambiguity must be replaced with an approach that relies on terms of reference in order to promote agreement, ensure that both parties are speaking the same language, develop a forward-looking perspective, and lend more stability to practical implementation of a future agreement. To that end, it is now important to promote a decision – ideally to be agreed on by both parties – based on the major bilateral understandings reached so far. In the absence of bilateral agreement, it should be based on a US initiative or on a Security Council resolution that both sides will have to accept, and which will include principles for an agreement based on the following parameters:

- Borders – relying on the 1967 borders and splitting in two of the No Man’s Lands, with agreed corrections and land swaps at a 1:1 ratio. A land corridor will be established for regular safe passage of people and goods between Gaza and the West Bank.

- Security – the Palestinian state will be demilitarized/with limited arms and will have the capacity for governance and state responsibility; security arrangements will be made to eradicate terrorism and violence.

- Refugees – a graded solution with regional and international assistance that will ensure compensation and adequate permanent homes for refugees while protecting
both Israel’s and Palestine’s sovereignty and identity. Resolving the problem will be the basis for normalization between Israel and the Palestinians, as well as between Israel and the Arab states and Islam, in the spirit of the Arab Peace Initiative (2002).

New formula: Palestinian state first, reconciliation later

The Annapolis process was another failed attempt to reach a full permanent-status agreement with the hope of ending the conflict and putting an end to all claims. That result would be preferable, were it feasible. Otherwise, alternatives should be tried that — while acknowledging the vision of ending the conflict and all claims — would allow the parties to progress gradually. Since the familiar formula has failed to yield a permanent-status agreement, a formula of first establishing a Palestinian state should be promoted. Reconciliation, an achievement that would rely on ending the conflict and come about through building a shared future narrative, should be left for later. The basic assumption is that the conflict is solvable, but a solution has not yet been reached due to faulty or absent decision-making, deep distrust between the two sides, and the sheer complexity of a comprehensive agreement. This calls for a linear approach to the process of reaching a permanent-status agreement. Borders and security should be put first in order to enable establishment of a viable Palestinian state — the top priority for both sides and the major foundation for a stable, ongoing agreement. All this in no way diminishes the importance of furthering a solution to the refugee problem and to the division of sovereignty over the Holy Basin / Historic Basin in Jerusalem. In terms of process management, the consequences of the Annapolis talks underscore the need to rely on fundamental understandings between the two parties. Only after an agreement in principle is reached over the core issues — which, in itself, will require significant mutual trust and broad input from the professional establishments and from the public on either side, and not only from the leaders — will serious negotiation over professional-technical matters be possible. Agreeing on the basic principles relating to the core issues — borders, security, Jerusalem, and perhaps even refugees — will pave the
way for professional committees to discuss the details of the Palestinian state (economy, water, culture, etc.) and elements of practical cooperation between the two sides which are needed to implement the agreement.

**An updated security approach – governance and Palestinian state responsibility**

A new security concept of a permanent-status agreement must be developed, based on state responsibility and international presence with possible regional involvement as an auxiliary element only. This would replace the Annapolis idea of stationing NATO forces or other military forces in the Palestinian state, as this may diminish Palestinian responsibility for security and harm governance. On the Israeli side, a fundamental change of attitude towards the peace process is needed which would require a political and not only military decision. A permanent-status agreement and establishing a viable Palestinian state that would also ensure Israel’s security require a basic change of approach on the Israeli side; this did not occur in the interim agreements or in the Annapolis process. The Palestinian side must also complete the shift to being fully prepared to assume responsibility and seriously meet obligations. The Palestinian demand to rely almost entirely on international presence raises concern over their commitment to functioning as a fully independent state. In this context, careful thought must be devoted to the transition period, which is vital not only for gradual evacuation of the settlements and withdrawal of IDF forces, but also for formulating a security approach and training Palestinian security forces that will be able to face the challenges of the permanent status era.
Developing a regional approach

Olmert referred to "the spirit of the Arab Peace Initiative" in his proposal and tried to use it as a basis for promoting ideas about Jerusalem, the refugees, and security. Now more than ever Israel understands the need to develop a regional approach as part of a permanent-status agreement with the Palestinians, including adoption of the Arab Peace Initiative (2002). The ongoing turmoil in the Middle East has reinforced the need for an approach that may enable Israel to leverage interests it shares with moderate states such as maintaining regional stability, fighting terror together, and forming a coalition against the radical Islamists and against a potential nuclear threat. Fostering such an approach would also help advance stable solutions for the core issues and broaden public legitimacy in Israel for reaching an agreement and evacuating settlements. It is also crucial for gaining the support of both the Palestinian public and the Palestinian diaspora for compromise on the toughest issues – the refugees and the holy sites in Jerusalem.
CHAPTER 1
BACKGROUND AND OPENING CONDITIONS

"I did not think those negotiations could succeed, but the argument for trying was strong."

Immediately after the Annapolis Conference (on November 27, 2007), NY Times columnist Thomas Friedman cautiously called it "the first good news in years" and commended it as an unusual attempt by moderates to push back on extremists. He considered the well-intentioned move insufficient, however, as it was “driven largely by fear, not by any shared vision of a region where Sunni and Shiite, Arab and Jew, trade, interact, collaborate and compromise.” Friedman also bemoaned the moderates’ lack of political innovation compared to extremists on the scene. While fear can be a potent motivator, he argued, building a durable peace requires a shared agenda and “a willingness by moderates to work together to help one another beat back the extremists in each camp.” He criticized the moderates for not being willing, as Rabin and Sadat were, “to go all the way” and risk their political careers for peace (Friedman, 2007).

In hindsight, Friedman hit the nail on the head by observing that what the Israeli-Palestinian negotiations needed was something new. Behind the scenes, talks between Israeli Prime Minister Ehud Olmert and Palestinian Authority President Mahmoud Abbas had been under way for a year, since late 2006. The Annapolis Conference, held in late 2007, was a turning point after which US Secretary of State Condoleezza Rice began to enthusiastically – although not very efficiently – lead the process. The entire Annapolis process, which took place throughout 2007 and 2008, was marked by a deep-seated apprehension shared by all parties, including the US, of taking the leap towards a permanent-status agreement.
These fears were well-founded, given the troublesome circumstances under which the talks were held. Israeli security was compromised by almost daily rocket fire from Gaza, an ongoing attempt by Hamas and other terror organizations to undermine efforts to maintain calm. Civilian casualties in Israel were followed by lethal IDF action in Gaza, and public pressure on the government to take action rose. Then-Defense Minister Ehud Barak, who did not support the Annapolis talks, repeatedly warned the US that a military operation in Gaza was only "a matter of time." In February 2008, four months after the talks resumed, Barak told the US that "we are still just reacting now, but what I am telling you is that probably we will end up in a ground operation... This could be a one- or two-day raid or a major operation with heavy divisions" (Abrams, 267).

The Israeli security establishment had been uncomfortable with Rice’s initiatives before the Annapolis Conference, too. In 2005, long before Hamas took control of Gaza, Rice pressured Israel into signing an agreement on Gaza movement and access including "safe passage" for bus convoys between Gaza and the West Bank. Security officials objected on the grounds that this would enable movement of weapons and terrorists between the two areas, and the agreement was never implemented. Israeli officials later clarified that "they had never intended to start the bus convoys, which they considered an unwarranted risk, in any case" (Erlanger, 2007).

Another significant challenge to the process was the political status of Prime Minister Ehud Olmert. His position within Israel was so fragile at the time that some sources see it as the major reason for the failure to achieve tangible results in the Annapolis talks. The prime minister was facing public protest (which eventually seeped into the coalition) in the wake of the 2006 second Lebanon war, and this was later reinforced by the Winograd Commission’s harsh criticism of political and military decision-making during the war. To make matters worse, several accusations of corruption began to surface against Olmert, gaining momentum in 2008. These factors combined to create a looming deadline for the talks, apparently motivating Olmert to speed up the pace and take dialogue with the Palestinians further than ever before. Outwardly, Olmert played down the various investigations into his affairs that were launched in July 2007, calling them "unpleasant
background music and no more. [...] I was concerned with only one person: Abu Mazen [Abbas]” (Olmert 2011, 38). According to Eliot Abrams, who was special assistant to President Bush at the time, it appeared as though Olmert sometimes “confused” national interests and personal interests in the context of the investigations against him. Abrams claimed that for Olmert, these investigations meant that the pressure “to complete negotiations in the ‘Annapolis Process’ was increasingly untethered to reality. Olmert was in no position to bind Israel to anything, and I thought he should not be trying to do so” (Abrams, 278). As time passed, all those involved (in the Palestinian Authority, in the US, and in Israel) increasingly saw Olmert as a weak prime minister who lacked public legitimacy and was on the verge of an early end to his term.

The Palestinian Authority (PA) was not faring much better; it was more divided than ever under President Mahmoud Abbas. Hamas trounced the PA in the January 2006 Palestinian legislative elections, which were held at US insistence despite Israeli objection and estimates that Hamas would overcome Fatah. The victory won Hamas growing recognition in the Arab world and increased PA willingness to work towards intra-Palestinian reconciliation at convenient timing for Hamas, effectively releasing the latter from meeting the three conditions laid out by the Quartet in 2005. This led to the Mecca Agreement signed between Fatah and Hamas on 8 February 2007, acknowledging the political power of the latter. The rise of Hamas’ influence peaked in June 2007, when the organization seized control of the Gaza Strip and violently ousted what remained of PA security forces under Head of Preventive Security Muhammad Dahlan, a sworn enemy of Hamas. These PA forces were supposed to form the basis for implementing a security agreement with Israel and ensuring Hamas’

14. The Quartet’s terms were: “[A] Palestinian Government committed to non-violence, recognition of Israel and acceptance of previous agreements and obligations, including the Road Map.” (Quartet, 2007)
15. Two opposing views of the Palestinian internal division have existed since then. One holds that Hamas must be overthrown or least “taken off the stage” by an Israeli–Palestinian agreement that would strengthen moderates, as a crucial step towards meaningful progress in the peace talks. The other sees Hamas as a significant social and political actor that must be recognized and “reconciled” with the PA so as to eventually be transformed into a non-military political actor on the intra-Palestinian scene. The official Israeli approach during the Annapolis period was to strengthen the PA and weaken Hamas (cf. further).
defeat, or at least keeping the organization's control from branching out to the West Bank.\textsuperscript{15} In this context, the months leading up to the Annapolis Conference (October–November 2007) saw growing doubts over President Abbas' ability to implement a possible agreement with Olmert. As former US negotiator Aaron Miller put it: “If you don’t control the guns and a monopoly on force, people don’t respect you... Will an Israeli prime minister make existential concessions to a man who doesn’t control the guns?” (Erlanger, 2007). Robert Malley, another former negotiator for the US, said that as long as Hamas controlled timing, it also controlled the timetable for peace. As he bluntly summed it up: “All this is a fantasy unless internal Palestinian divisions are healed” (Ibid.).

Paradoxically, the situation could also be seen as a unique opportunity. This was not lost upon US Secretary of State Rice, who wished to restore power to Abbas so that “the last of the pragmatists”, in her words, could democratically regain control over the entire Palestinian scene. In other words, Rice sought to leverage the weakness of both sides – Israel and the PA – to make reaching an agreement a mutual interest.

Like it or not, the US dictated the political timetable for negotiations. The Annapolis talks were held in the last year of Bush’s second term as president, which was set to end in January 2009. The fin de siècle atmosphere comes across in the memoirs of most senior US administration officials who were involved in the Annapolis process: President Bush, Secretary of State Rice, and Eliot Abrams. The latter’s particularly detailed book also paints a picture of an “end-of-term project” personally led by Rice, who saw it as her last chance to make history where many had failed. According to Abrams, “Rice’s desire for an agreement was deeper than Bush’s. He was already comfortable, in 2008, with his place in history, which he knew would revolve mostly around 9/11, the war on terror, and Iraq. She was still trying to make her mark...” (Abrams 2013, 274).

In his memoir, President Bush himself recalls being “skeptical” about the chances of reaching an agreement, especially after Hamas took over Gaza. However, he added, over time “I came to like the idea” (Bush 2010, 408). After the Annapolis process ended, Olmert claimed that President Bush had not really believed an agreement was possible and had
"decided to play the game" both to please Condoleezza Rice and because there was no alternative. “He [Bush] also thought probably that, you know, as long as we talk, we don’t fight” (Abrams 2013, 280). These personal accounts indicate that rather than truly seek an agreement, the Bush administration intended to use the process to bolster US status, while possibly helping to strengthen the PA. In his book, Eliot Abrams stresses how little faith he had in the possibility of achieving a permanent-status agreement: “I did not think those negotiations could succeed, but the argument for trying was strong” (Ibid.).

Although the US played a major role in moving the process forward, it was Israeli Prime Minister Olmert who initiated the most important talks. According to a well-informed official, this developed gradually as of late 2006 – earlier than is commonly believed and long before the Annapolis Conference, which was largely a symbolic event. When Olmert took office in March 2006, he was determined to promote a strategic shift based on Israeli withdrawal from the West Bank. He apparently intended to continue the “disengagement” process begun by his predecessor, Ariel Sharon, in the Gaza Strip, expanding it to withdrawal from most of the West Bank – unilaterally, if necessary.16 In a meeting held after the 2006 elections, President Bush encouraged Olmert to try and make progress with Abbas since “there are better conditions for negotiation” with him, compared to when Arafat was in power. Olmert accepted but emphasized that he saw two options for withdrawing from the West Bank. The first and preferable route was to make headway on a permanent-status agreement; the fallback option, should talks fail, was to withdraw unilaterally, with PA coordination if possible. This was based on the “convergence plan” (later dubbed “realignment plan”) developed by the Israeli government at the time (Political Official 1, interview).

Budding signs of Olmert’s deep paradigm shift and his strategic decision to withdraw from the West Bank with or without an agreement appeared as early as 2003, in a

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16. According to that source, Prime Minister Sharon fully recognized both the need for separation and that he was the last leader who would be able to evacuate Israelis from the West Bank despite insubordination on the ground (Political Official 1).
meeting with former minister Yossi Beilin. The latter described it in his book:

“When we returned to Israel [after signing the Geneva Accord], we encountered the initiative of unilaterally withdrawing from some of the [Occupied] Territories promoted by Deputy Prime Minister Ehud Olmert. He presented his plan as an alternative to Geneva, saying that in the end, Israelis would have to choose between his proposal and ours. That was the moment I had prayed for. For many years, he and his friends in the right wing had dismissed the demographic problem or presented themselves as optimists awaiting massive Jewish immigration from the West, which would ensure a stable Jewish majority west of the Jordan River.¹⁷ Now, a devoted representative of the Likud Party was forced to admit the problem and propose his own solution.” (Beilin 2004, 48)

Despite Israeli and US intentions, no progress was made from March to December 2006. The Palestinian elections strengthened Hamas and weakened President Abbas; the June 2006 abduction of IDF soldier Gilad Shalit heightened tension and led to a mini-war in the Gaza Strip; and, as of July 2006, Israeli-Palestinian politics focused on the northern front, following the abduction of three IDF reservists and the start of the second Lebanon war. The aforementioned Winograd Commission report strongly rebuked Olmert’s leadership during the war, markedly weakening his position to such an extent that he was labelled a "lame duck". Nonetheless, Olmert decided to push forward with negotiations in a real attempt to reach an agreement. This decision was personal and not driven by US pressure, as Bush’s double term in office was marked by a no-pressure approach that offered Israel...

¹⁷. Israeli national poet Nathan Alterman encapsulated this view after the 1967 war: “The core of this problem is not the existence of Arab residents, but the absence of Jewish immigrants” (Laor 2013, 742).
dialogue, support, and encouragement (Political Official 1, interview). 18

Under harsh criticism for not intervening in the second Lebanon war, the Bush administration decided to pay more attention to the region and develop a new “day after” strategy with Israel. This mutual understanding led to dialogue and meetings to formulate the new strategy. In preliminary talks held between Israel, the US, and the Palestinians about the terms of reference for the process, the parties concluded that the best basis for further talks would be the 2003 Road Map. This would spare the parties the need to address points of conflict directly, thereby enabling them to discuss a permanent-status agreement (according to phase 3 of the Road Map) while continuing to build up the Palestinian entity and strengthen PA institutions (based on phase 1 of the Road Map). At that point, the parties decided to effectively forgo the controversial phase 2 of the Road Map, which called for establishing a “provisional state” (“a state whose borders and some aspects of its sovereignty will be provisional”). The first Olmert-Abbas meeting was held in December 2006, a year before the Annapolis Conference. This milestone marked the beginning of talks and formed the foundation for further dialogue between the two leaders (Political Official 1, interview).

According to the above source, the negotiations were primarily an Israeli initiative led by Prime Minister Olmert, while the Annapolis Conference, held a year later in the US, not only did not contribute but possibly even damaged the talks already under way.

"Let’s Play Peace Talks" or “It's Time for a Historical Agreement”

In July 1939, Israeli poet Nathan Alterman published a poem titled “The London-Moscow-

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18. This is verified in Abrams’ book, which describes other strategically significant incidents that frequently generated disagreement between Olmert and the US Administration, including Bush himself, but did not jeopardize relations or even lead to serious pressure on Israel. Instead, they actually won Olmert Bush’s approval of his courage (Abrams 2013, 246–248).
Paris Talks” – a sarcastic critique of the futile talks held on the cusp of WWII. He believed that the talks were an empty vessel running on inertia: “The talks go on and the matter is forgotten, wandering in the thicket of wandering talks... The world talks about the talks because the talks are the talk of the day...” (Laor 2013, 223, freely translated).

The peace process between Israel and the Palestinians was marked by flaws from the start, as was evident from the gap between the Oslo Accords and their implementation, and later from the Camp David and Taba talks. Dr. Ephraim Lavie and Henry Fishman addressed the failure of strategy as a major obstacle to the negotiations. They claimed, among other things, that “the Oslo process failed because the decisions of both sides to resolve the conflict peacefully were neither sound nor strategically substantive. In other words, both sides saw the negotiation process as a tactical cover – if only to play for time and gain international support – an alibi that would enable each of the sides to develop more comfortable solutions with time” (Lavie & Fishman 2010).

Like with the 2000 Camp David talks, two different approaches to the negotiations emerged as the Annapolis process progressed, and especially after Israeli Foreign Minister Livni and Palestinian leader Abu Alaa’ began their meetings.

The pessimistic view has been dubbed “process for process’ sake”. It held – and still does – that the vast gaps between the Israeli and Palestinian positions, and the personalities and leadership qualities of those involved, make it impossible to reach a permanent-status agreement. This approach is exemplified by Eliot Abrams’ description of the process as “political tactics” on the part of the US Similar concerns were voiced concerning the PA.¹⁹

Proponents of this approach hold that although an agreement is impossible, the very act of negotiation is strategically important in order to increase international legitimacy, prevent escalation on the ground, bolster moderate forces, and set a foundation for expanding security and economic cooperation between the two parties. Some actors on

¹⁹. Cf., for instance, Prof. Shlomo Avineri’s recent article “Don’t Expect Abbas to Sign Anything”, in which he claimed that Abbas seeks only to talk – “as long as the talks are designed to lead Israel to make more and more concessions” (Avineri, 2014)
the Israeli side favor a “blame game” – unless the Palestinians change their approach, Israel must demonstrate its willingness to negotiate and pin failure on the Palestinians. Many persons involved in the Annapolis talks expressed similar views. Senior Israeli security officials adopted a skeptical, adversarial approach to the negotiations and consistently voiced doubts over the possibility of reaching any sort of agreement with the Palestinians. The Defense Ministry’s lack of cooperation forced the negotiation team to create their own maps for the Livni-Abu Alaa’ and Olmert-Abbas discussions of territory. Also, when Livni felt that progress had been made regarding territory and borders while none had been made on security issues, she decided to slow down and initiated field trips on which, among other things, Israeli representatives explained Jewish heritage sites to Palestinians (Tirza, interview).

Another example was the “Turkish bazaar” method that both parties adopted, described here by a senior official who was involved in the talks: “One side presents an extreme position, reinforcing the other side’s impression that they don’t seriously intend to make progress, so the other side presents their own extreme position. That creates false proof for those opposed to an agreement, who claim – and rightly so, from their point view – that given such extreme positions, there is no room for compromise.” According to the source, the Israeli team sometimes felt that the Palestinian positions were actually intended to serve internal politics, according to the following logic: “If Israel compromised, then Fatah was right and could achieve more than Hamas’ way of resistance; if Israel did not compromise, the negotiators could present themselves and Fatah as strong representatives who did not bow to Israeli demands” (Political Official 2, interview).

All political camps in Israel shared a skeptical, pessimistic view of the talks and none more so than the Left, which probably suspected the prime minister’s motives. For example, just before the Annapolis Conference, Olmert stated that, “the government’s position has changed... As of now, we are willing to reach agreements with the Palestinians over a permanent-status agreement”. He added that the conference was “actually the public inauguration of our negotiations with the Palestinians”. This was
met by objection on the part of Member of Knesset Yossi Beilin, then chair of the leftist Meretz party, who said: “Annapolis, in the form it is taking, is doomed to failure. It will weaken the pragmatic Palestinian camp, strengthen Hamas, and lead to violence” (Ma’ariv, 17 Nov. 2007).

The second, more serious approach saw the negotiations as a means to reach an agreement. Olmert clearly adopted this view, as was evident both in the way he negotiated and in the content of the final proposal he made to President Abbas. Olmert’s approach to the talks was to promote open dialogue, mutual trust, and – contrary to expectation – address all the issues at hand. He made these intentions clear in the address he gave at the Annapolis Conference:

“I do not ignore all the obstacles which are sure to emerge along the way. They are right in front of me. [...]. The negotiations between us will not be here in Annapolis, but rather in our home and in yours. It will be bilateral, direct, ongoing and continuous, in an effort to complete it during the course of 2008. It will address all the issues which have thus far been evaded. We will do it directly, openly and courageously. We will not avoid any subject, we will deal with all the core issues. I have no doubt that the reality created in our region in 1967 will change significantly. While this will be an extremely difficult process for many of us, it is nevertheless inevitable. I know it. Many of my people know it. We are ready for it.” (Olmert, Israeli Ministry of Foreign Affairs, 2007)
Settlement construction and rocket fire from Gaza – obstacles to the Annapolis process

Like previous rounds of Israeli-Palestinian negotiations, the Annapolis process was punctuated by crises generated by external factors, some in an apparent attempt to influence the talks.

**Construction in settlements and in Jerusalem:** Despite accepting the Road Map as the primary term of reference for the negotiations, Israel did not comply with the demands made by the PA and by Secretary of State Rice, both before and during the talks, to stop construction in settlements and in East Jerusalem.\(^{20}\) The resulting crisis lasted throughout the talks, exacerbating the existing mistrust between Israel and the PA. In January 2008, following Israel’s declaration that thousands of housing units were to be built in East Jerusalem, Abu Alaa’ declared in a meeting with Livni that the construction was harmful and that “negotiating issues whose future Israel has already determined by imposing new realities on the ground is meaningless... This calls for a meeting of the tri-lateral committee to put a program and a timetable for the implementation of the first phase of the Road Map Plan” (Palestine Papers 9). However, the negotiations continued without Israel freezing construction. In the background were preliminary talks that Olmert held with the US Administration in which he clarified that in order to further an agreement, he needed quiet on the settler front (after his challenging experience with the much-publicized February 2006 attempt to evacuate the illegal outpost of Amona in the West Bank). As he put it: "If I have to choose between freezing construction and serious negotiations that may result in an agreement, I prefer the latter." In his talks with the US, Olmert also stressed the distinction between illegal outposts, most of which were set to be evacuated in a permanent-status agreement, and “the neighborhoods in Jerusalem”, regarding which "there is no doubt that they are

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\(^{20}\) It should be noted that Israel accepted the Road Map after adding 14 qualifications. Nonetheless, in practice, Israel did not implement phases 1 and 2 concerning a construction freeze in settlements and in East Jerusalem, removing all illegal outposts, and reopening the Palestinian institutions in East Jerusalem (cf. Road Map, 2003).
part of the State of Israel and always will be" (Olmert, excerpts from his memoirs, 32).

**Hamas power in Gaza:** 2008 saw a record amount of rockets and mortars fired from the Gaza Strip into Israel, killing four Israelis and injuring dozens (before Operation Cast Lead). Then-Defense Minister Ehud Barak, who did not support the negotiations, later detailed the increased threat that year as Hamas multiplied its arsenal of rockets and repeatedly fired at Israel despite the ceasefire agreements ("tahadiyeh") that were in place until mid-2008. The flotillas to lift the siege on Gaza also began in mid-2008 (Ehud Barak, testimony before the Turkel Commission, 2010).

Both these developments heightened the mutual mistrust. The Palestinians saw the settlement construction as proof that the peace talks were only tenuously tied to reality. For Israel, and particularly its defense establishment, the rocket fire and rise of Hamas power in Gaza reinforced the estimation that most power did not lie in the hands of President Abbas, with whom peace talks were being held, but rather with Hamas.

**The Annapolis Declaration: “Walking on Eggshells”**

President Bush’s address in the Annapolis Conference, given on November 27, 2007, was not a significant milestone in the talks. It was largely a symbolic gesture – an acknowledgement of the fact that negotiations were indeed under way. More than assisting the talks, the conference was intended to underscore US efforts to promote peace and not warfare in the Middle East, given the stagnation of its troops on the Iraqi and Afghani fronts. Unsurprisingly, many of the points raised in the presidential address – the subject of intricate negotiation between all three parties until the very last minute – illustrated the faulty management of the process, which was marked by joint attempts to leave ends open
and avoid placing responsibility on either side for lack of progress or for failure.

The declaration emphasized the parties’ adherence to the Road Map as the major term of reference — undoubtedly important common ground. However, as the Road Map was open to interpretation and raised interest-based reservations on each side, it was too broad to compel the parties to address points of conflict such as the role of the Arab Peace Initiative, the adoption of UN Resolution 194, the significance of the 4 June 1967 border, and timetables.

The presidential address left the role of the US purposefully ambiguous. The US refrained from adopting a judicial position regarding the negotiations themselves, declaring only that it would monitor implementation of the Road Map. Also, the address did not define priorities for the talks or guiding principles for a future agreement. This allowed both parties to drag their feet throughout the talks on issues such as Jerusalem (cf. details further). A Steering Committee was formed to "develop a joint work plan and establish and oversee the work of negotiations teams". Although the committee was described as the central negotiation mechanism, many of those involved later acknowledged that they knew the real content matter would be discussed between Olmert and Abbas. The Annapolis Declaration only noted that the two leaders would "continue to meet on a biweekly basis" (cf. inset).

Although largely symbolic, the Annapolis Declaration epitomized the strategic problem of faulty management that was to hamper the entire process: an attempt to reach a framework agreement in too little time, without updated terms of reference, and with equivocal US involvement that made a show of balanced support. The conjunction of these circumstances allowed the parties to evade significant political decisions. Secretary of State Rice admitted in her memoir that she invested her energy in political arrangements surrounding the Annapolis Conference. Despite taking pride in the results, she acknowledged in retrospect that the conference was purely symbolic, contributing nothing to the talks themselves (Rice 2011, 617).
The Annapolis Declaration, 27 November 2007\textsuperscript{21}

“We express our determination to bring an end to bloodshed, suffering and decades of conflict between our peoples; to usher in a new era of peace, based on freedom, security, justice, dignity, respect and mutual recognition; to propagate a culture of peace and nonviolence; to confront terrorism and incitement, whether committed by Palestinians or Israelis. In furtherance of the goal of two states, Israel and Palestine, living side by side in peace and security, we agree to immediately launch good-faith bilateral negotiations in order to conclude a peace treaty, resolving all outstanding issues, including all core issues without exception, as specified in previous agreements. We agree to engage in vigorous, ongoing and continuous negotiations, and shall make every effort to conclude an agreement before the end of 2008. For this purpose, a steering committee, led jointly by the head of the delegation of each party, will meet continuously, as agreed. The steering committee will develop a joint work plan and establish and oversee the work of negotiations teams to address all issues, to be headed by one lead representative from each party. The first session of the steering committee will be held on 12 December 2007. President Abbas and Prime Minister Olmert will continue to meet on a biweekly basis to follow up the negotiations in order to offer all necessary assistance for their advancement. The parties also commit to immediately implement their respective obligations under the performance-based road map to a permanent two-state solution to the Israel-Palestinian conflict, issued by the Quartet on 30 April 2003 – this is called the road map – and agree to form an American, Palestinian and Israeli mechanism, led by the United States, to follow up on the implementation of the road map. The parties further commit to continue the implementation

\textsuperscript{21} Emphases added.
of the ongoing obligations of the road map until they reach a peace treaty. The United States will monitor and judge the fulfillment of the commitment of both sides of the road map. Unless otherwise agreed by the parties, implementation of the future peace treaty will be subject to the implementation of the road map, as judged by the United States”.

(The Guardian, 27 November 2007)
CHAPTER 2: MANAGEMENT OF THE ANNAPOLIS PROCESS

Guiding principles

Negotiations were held in two major tracks – one between Olmert and Abbas, and the other between Livni and Abu Alaa’. Although essentially different in the way they were run and in their outcomes, the tracks operated according to two guiding principles that were agreed upon by all parties, including the US.

Principle 1: "Nothing is agreed until everything is agreed"

This principle was first introduced in the Camp David talks (1999–2000) under then-Prime Minister Ehud Barak, to ensure that any agreement between Israel and the Palestinians would span all issues and bring an end to the conflict and to all claims. According to this approach, signing a permanent-status agreement would diplomatically and legally oblige each party to end the conflict, to reach reconciliation, and to relinquish all claims – developments that would fundamentally change regional strategic ties. The heavy responsibility of accepting such a sweeping agreement fuelled understanding that the finalized package must be well-planned and carefully worded. Since every part of such an agreement would carry strategic weight, and given the mutual distrust between the parties, making headway on certain issues without reaching a comprehensive agreement might be exploited by one side, possibly ruining the entire agreement.

The Palestinians agreed to this idea, as it prevented Israel from enforcing interim stages without addressing their major claims for the permanent-status phase. Hiba Husseini, who headed the Legal Committee in the Annapolis process, explained: "The Palestinians support the principle because they are the weak, limited side. Not closing all issues could be exploited by Israel, the strong side, to entrench partial measures or enforce an
interpretation that would be convenient for Israel. In that context, one of the Palestinian demands in the Annapolis process was an international force that would assist them as long as their power remained limited and ensure that Israel completed its obligations” (Husseini, interview).

In practice, this approach was not backed by political directives or by explicit terms of reference. The result was that the parties became more entrenched in their respective positions, leaving little to no room for flexibility. At the same time, mutual commitment to the process appeared to dwindle. Udi Dekel, who headed the Israeli negotiation team at the time, described the problem: “The biggest mistake was that everything was based on the premise that nothing is agreed until everything is agreed […]. Every time someone showed flexibility, the other side tried to pin him down.” Another consequence, according to Dekel, was that “we found the Palestinians taking an approach of ‘all or nothing’. They preferred to stay in their current situation, without improvement, instead of going down to 95% of their aspirations” (Dekel, Geneva Initiative Conference, 2010)

Samih al-Abed, the Palestinian territory and maps expert, also claimed in retrospect that the “all or nothing approach” adopted by both Israel and Palestinian Authority officials was misguided and left the parties stuck in a rut. He thought it preferable to promote graded steps: within a year, reaching agreements over the three concrete issues of territory (including East Jerusalem), security, and economy, and implementing them. At the same time, the sides should continue discussing the thornier issues and “sign a final permanent-status agreement that would include the end of the conflict and an end to claims only at a later stage” (Samih al-Abed, interview).

On the other hand, an Israeli official who was involved in the talks over the years sees this approach as only natural. He believes that the “all or nothing” attitude enabled the Palestinians to be more open and, more importantly, allowed the leaders on both sides to remain flexible throughout the process (Political Official 2, interview).

This totalistic approach had other negative repercussions, not only for the talks but
also for practical progress outside the negotiation room: it hampered steps on the ground and the process of Palestinian state-building. According to Eliot Abrams, Palestinian Prime Minister Salam Fayyad complained throughout the negotiations that the Palestinian economy and the attempt to bolster Palestinian institutions were being neglected: “There was a great and sad irony here because we were often accused of just plain loving Fayyad in Washington, where he was said to be far more popular than among Palestinians. And yet we were focusing our efforts on Abbas... although we were helping Fayyad's efforts for sure, we were not making them central to our approach” (Abrams, 275-276). The lack of progress on the ground resulted not only from inattention, but from the idea that no advancement could be made without establishing the content of a permanent-status agreement.

This range of opinions exemplifies the complexity of managing the peace process. Adopting an "all or nothing" approach as a guiding principle is understandable. Israel was concerned that the Palestinians would not fully uphold the agreement; the Palestinians feared that Israel would create long-term facts on the ground before reaching a principled agreement over core issues (i.e., concern that the shift to a permanent status would not be made). Instead of achieving the intending calming effect, however, this principle became an obstacle to progress both in Annapolis and in previous talks, in the absence of terms of reference or explicit directives from above that may have facilitated more open and conducive discussions. Given the inherent concerns of both parties and the mutual distrust, this principle should have been accompanied by an understanding based either on clear directives from the leadership or on concrete terms of reference. That would have enabled progress towards finalizing an agreement or even promotion of more significant steps on the ground.
Principle 2: Bottom-up and top-down simultaneously

"Bottom-up progress" relates here to the broad process that included not only diplomatic negotiations, but also steps to advance the development of a Palestinian state under the leadership of then-Prime Minister Salam Fayyad, with close international assistance (led by US Security Coordinator General Keith Dayton on security issues and by Quartet Special Envoy Tony Blair on civilian issues). This included institution building, economic development, and the establishment and training of Palestinian security forces. These steps were carried out in the spirit of the 2003 Road Map, which prioritized state-building over reaching an agreement.

However, the conceptual confusion had a negative effect on the multi-track negotiations in the Annapolis process. While Prime Minister Olmert and President Abbas discussed basic principles of the framework agreement, the working teams operated “bottom-up”, holding expert talks on all issues. In essence, this approach governed the failed 2000 Camp David talks. The working teams were expected to formulate an agenda and identify specific points requiring discussion between the leaders, as well as to finalize agreements wherever possible and even draft proposals. It was hoped that these parallel processes would complement each other and expedite progress. Hiba Husseini still believes in the parallel work strategy, since formulating draft agreements is complex and time-consuming. She also claims that, at least on the Palestinian side, the committees assisted discussion on the leadership level, and that this work mode helped the parties address taboo issues such as refugees, Jerusalem, and water in a relatively open manner (Husseini, interview). In an entire year of negotiations, however, the Legal Committee that Husseini headed discussed only seven of the thirteen issues listed on the agenda, and failed to formulate an advanced draft proposal. An Israeli official who was involved in structuring the process claimed that the committees were primarily the result of political demand, in the general context at the time: “There are many work models and kinds of tools that can be used in the peace process (secret/open, with or without committees, etc.), and the tools are adapted to meet political demands. Ehud Olmert wanted the declaration of principles to be only
two pages long. On the other hand, Minister Livni thought that it was in Israeli interests to finalize details concerning security arrangements, swaps, and so on. The process was managed in a way that suited both approaches. Also, some professional areas required involving experts in the negotiations to outline the issues and identify points that needed to be resolved, instead of deciding and resolving them on the spot... The detailed dialogue also made it possible to determine, for instance, in what areas a permanent-status agreement could be signed, while postponing certain components for later” (Political Official 2, interview).

Despite these explanations, no real progress was made in areas left unresolved by the leaders. The parallel work strategy did not expedite negotiations as hoped, nor did it substantially contribute to the central Olmert-Abbas track. Instead, it led to crises and conflicts between the parties, possibly even reinforcing mistrust.

An Israeli official who was involved in the peace process for many years explained the difference in approaches that guided the talks: "The top-down process is usually secret and centers on finalizing a package based on trade-offs between issues. It must be bilateral (i.e., without US representatives in the room) and based on mutual trust, and include a real effort to establish each party’s red lines and margins of flexibility. Only afterwards can a paper listing the agreed guiding principles be jointly formulated (much like the process that took place between Beilin and Abbas in 1995). Those principles will serve as terms of reference for the subsequent process, in which the sides will finalize specific agreements. That was basically the Olmert-Abbas approach. The other approach, which governed the Camp David talks under Ehud Barak and the Livni-Abu Alaa’ talks during Annapolis, was to make progress on outlining issues and preparing drafts wherever possible without prior leadership decisions... The notion of promoting any kind of agreement without directives from above was doomed to failure.

22. Trade-off: the term used to denote the parties’ ability to reach agreements in principle by compromising on certain points – ‘margins of flexibility’ – in exchange for keeping other points that were ‘red lines’. An example is the idea raised in the past to promote Israeli compromise on borders (including East Jerusalem) in exchange for Palestinian compromise on refugees and security.
So any attempt to work ‘bottom-up’ before finalizing a package that would serve as a binding framework for a future agreement cannot be seen as a serious attempt to make headway through that track” (Official involved in the negotiations, interview).

Haim Ramon also believes that no real progress was made in the Livni-Abu Alaa’ track. He attributes that failure, and similar failures in the past, to a leadership problem and hesitant decision-making on the Israeli side: Olmert, and his negotiation predecessor Barak, were afraid to take a full step forward alone. He sees Olmert’s later change of position as “welcome”, but also thinks that it occurred “too late” (Ramon, interview).

In addition to the diplomatic talks, security negotiations were under way in various tracks with no central authority – a fact that further encumbered committee coordination. The Livni-Abu Alaa’ negotiation teams included nine expert committees, in addition to the three committees assigned to work on three of the four core issues. Consequently, the technical complexity of the process itself, with its large number of participants, quickly became the center of attention.

On the Israeli side, the professional committees were headed by the director-generals of relevant ministries, based on the optimistic assumption that implementing a future agreement would require their involvement and familiarity with the details. In reality, their contribution fell short of expectations. It is unclear, in hindsight, how helpful it was to establish the broad forefront track described above, given the limited timeline. Also, both parties understood that a vision, or at least some kind of framework agreement, was necessary in order to reach a comprehensive agreement. That was the view President Bush expressed in his meeting with the Israeli security cabinet (in January 2008) – rather than formulation of drafts on one issue or another.

An Israeli committee head related how, shortly before the talks began, Minister Livni gave him and his colleagues three professional directives. The first was, “nothing is agreed until everything is agreed”. He took that to mean that “you don’t write anything down…”, as the Palestinians may exploit anything set in writing at other opportunities. The second directive was to try and promote separation from the Palestinians – “they’re
over there and we're over here!” – although, he claims, many heads of committees on
civilian issues considered this a mistaken and inapplicable policy, certainly as regarding
the West Bank. The third directive was “do not get into political issues”, although it was
clear that the Palestinians would try to pull in “political” directions as yet unresolved.
Indeed, that is exactly what happened. Therefore, the official added, the talks held
later on were clearly a “study seminar” and not serious political negotiations, as the
Palestinian side was naturally interested primarily in the “political issues” that the
Israeli negotiators were not authorized to discuss. Those issues had to first be resolved in
talks on the core issues – borders, security, and Jerusalem (Israeli head of professional
committee, interview).

Similarly, towards the end of the talks, the PA Negotiations Support Unit (NSU) sent
President Abbas several questions expressing frustration over the basic principles
guiding management of the process – principles that the unit director, Saeb Erekat, had
been central in defining. For instance, the NSU asked: “Where there is an impasse on a
specific issue in a technical committee, and no resolution is made at the political level,
how should we proceed? Continue to meet and discuss to show good faith, or do we
table the issue and only address others that are not directly related?... Some technical
committee heads perceive that the Israelis are not serious and that the Palestinians are
obliged to attend so that we are not blamed for the failure of the process. There is a
sense that the meetings are unproductive, and absent clear political directions... Should
we continue down this path of brainstorming? If so, for how long – what is the timeline?
Or, should we suspend the technical negotiations until there is clearer political direction
on the core issues?” (Palestine Papers 1)

Both Israel and the Palestinians appear, therefore, to have adopted a broad approach
that led nowhere, despite the professed good intentions of those in charge. The
explanations offered, such as responding to political constraints in Israel or vis-à-vis
the US, or needing to assist dialogue between the leaders, do not fully explain what
happened. Certainly, it was important to ensure broad, inclusive, detailed dialogue
on matters concerning the essence of the future Palestinian state and relations
between the parties. However, given the mutual distrust, especially as the two sides had not yet agreed upon a vision and terms of reference, it was impossible to make significant progress in building Palestinian state institutions and taking steps on the ground. In the Annapolis process, as in previous negotiations, a strategic decision and an understanding over a permanent vision were crucial – or, at least, agreement over borders (including East Jerusalem) and security. Only then would it have been possible to progress in a linear rather than a parallel fashion to discussing the details of a permanent-status agreement and the Palestinian state.

The negotiation teams in the Annapolis process
The issue of Jerusalem: At Israel’s request, due to the political sensitivity of the topic, a “Jerusalem committee” was not formed for the Annapolis process. As a result, the issue was discussed at a late stage of the proceedings, and almost only in the secret talks between Olmert and Abbas and between Ramon and Yasser Abd Rabo (cf. details further).

The professional committees (cf. flowchart) - colors mark progress: 23

• Committees that did not rely on a territorial or sovereign context – “state to state” and “peace culture” – made considerable progress and formulated nearly final drafts for an agreement.

• The more sensitive committees, which required political decisions on core issues that the parties did not achieve, made no significant progress. This was noticeable in the committees on water, prisoners, and international border crossings. According to unverified information, meaningful progress was made on water towards the end of the Annapolis process, and a mutual understanding was reached. However, this occurred independently of the water committee.

• In the other committees – economy, infrastructure, environment, and Legal – only partial progress was made. Most of the inputs involved outlining topics of discussion and the parties did not come near to agreed drafts.

23. For details, cf. Appendix B, based on parts of the Annapolis process summary written by the NSU.
The aim of the Annapolis process: Principles? Framework agreement? Permanent-status agreement?

As in previous rounds of peace talks, the Annapolis process was largely influenced by the diplomatic and political timetable. The parties understood early on that the chances of finalizing a permanent-status agreement before Bush’s last year in office ended were small or nonexistent. The PA’s lack of control over the Gaza Strip also meant that any agreement would not be immediately implemented; instead, it would serve as a strategic tool for encouraging Palestinians to democratically re-elect President Abbas to rule Gaza, thereby toppling Hamas and facilitating implementation of the agreement in both Palestinian areas. Accordingly, the parties set a framework agreement as a realistic goal for the extremely short timeframe. Given the problematic aspect of Hamas’ control over Gaza, the goal was sometimes defined as a "shelf agreement", which would not be implemented while Hamas remained in power in Gaza. At any rate, the idea was not to reach a detailed agreement but rather to agree on a basic document outlining the core issues, which would guide progress towards establishing a Palestinian state. That is how President Bush saw the goal, as he stated before the Israeli cabinet in January 2008: “The goal now is to lay out a vision of a state, not to move to a state right now...” (Abrams 263).

Secretary of State Rice also related in her memoir that when she was formulating the strategy for the talks with President Bush, it was clear to all that the timeframe was a single year (Rice 613). However, as will be detailed later, not everyone acknowledged this schedule. Both parties adopted a broad approach; in an attempt to make headway with the details of the Palestinian state from the outset, the professional committees discussed detailed issues that went far beyond the principles set for the core issues.

24. Over the years, the peace process acquired a terminology of its own. In the context of talks about a permanent-status agreement, both parties saw two basic stages as progress: FAPS (a framework agreement) and CAPS (a comprehensive permanent-status agreement).
In the 2000 Camp David talks, too, the parties tried and failed to finalize a framework agreement that would guide discussion of various issues. The Palestinians, under Yasser Abd Rabo, had refused, fearing that this would determine the negotiation results in advance. They insisted upon a terms-of-reference approach to be based on international law, instead of a framework agreement that they believed would be tailored to the Israeli approach.

The goal of the process remained undefined, and no explicit statement was made concerning the pressing timeframe and the need for efficiency. Whether this was politically driven or not, it was detrimental to the strategic management of the process. In this context, the US played a major negative role: the need for a peace process to be “visible” in Bush’s last year in office overrode the need to focus efforts on moving towards a permanent-status agreement through the main negotiation track between the two leaders.

**One process - two tracks**

**The Livni–Abu Alaa' track**

Many protocols of meetings held in this track were leaked under the name “Palestine Papers” through Al Jazeera, the Qatari news network, and British newspaper The Guardian. The papers afford a rare “fly on the wall” perspective of many formal talks (both bilateral and trilateral) and many other meetings that the Palestinian side held with foreign parties (cf. insert on leak).

Interviews with officials from the Israeli negotiation team and with other actors from both sides paint a positive picture of the Livni–Abu Alaa' talks and the related committees’ work. The negotiations held in this track, as well as the background work carried out by each side, demonstrated a serious attitude and a real effort to outline issues and understand the parties’ claims, their basic positions and the deep disparities
between them, and each party’s room for flexibility. The parties managed to formulate partial drafts in some areas, and in others to lay the foundation for more advanced talks on senior levels. The Livni–Abu Alaa’ talks differed substantially from previous rounds in that fewer defense establishment officials took part: unlike past talks, military representatives did not participate – barring one representative in the security committee – nor did officials from COGAT (Israel’s Coordinator of Government Activity in the Territories). The Palestinians welcomed this choice on Israel’s part. However, it did not indicate any decrease in the prominence of the military-defense approach in the discussions themselves. Talks in this track were also marked by the participation of ministry director-generals as heads of teams, which enhanced professional discussion and enabled potential connection between the negotiations and future implementation.

However, all that was not enough to define the Steering Committee as a successful negotiation track. Ultimately, it failed: the Livni–Abu Alaa’ talks did not advance agreement on the core issues and, by most accounts, did not substantially assist talks between the leaders. One of the many reasons was lack of sufficient guidance from above and distrust between the Israelis and the Palestinians. Some participants hampered the process by bringing narratives into the negotiation room, not only impeding progress but sometimes causing regression. For instance, Abu Alaa’ repeatedly insisted on emphasizing Palestinian rights under international law. He was also demonstrably suspicious of Israel’s intentions throughout the entire process, once asking, after a secret track with Syria was revealed: “Who will be first [to sign a deal with Israel], us or the Syrians?” (Palestine Papers 3). In quite a few discussions, he questioned whether Israel truly intended to

25. For example, in the formal opening session of the Annapolis talks, Saeb Erekat favorably noted the fact that Israel’s foreign ministry had been chosen to lead the talks on “state to state” relations – i.e., as opposed to the defense establishment’s COGAT in previous negotiations – a choice befitting appropriate relations between two states (Palestine Papers 5).

26. By most accounts, there was disagreement within each party, too. On the Israeli side, PM Olmert, Minister Livni, and Defense Minister Barak did not see eye to eye on the way the negotiations should be run, and even on holding them in the first place. On the Palestinian side there were marked differences of approach between President Abbas and Abu Alaa’, the head of the Higher Committee on behalf of the PA. These differences of opinion apparently increased the distrust between the parties.
reach an agreement with the Palestinians. Several officials stated in retrospect that they believed Abu Alaa’ did not act in good faith throughout the Annapolis talks, whether for personal ideological reasons or due to political/intra-Palestinian considerations (Political Officials 1 and 2, interviews). On the other hand, Amos Gilad, Director of Policy and Political-Military Affairs at the Israel Ministry of Defense, repeatedly expressed – both at the negotiations table and ‘backstage’ – his mistrust of the process and of the Palestinian side. He once stated, concerning security, that “we need a long period [to build that trust]” and added that “your army contradicts our basic understanding of security” (Palestine Papers 2). Another time, he railed that promoting security required “cooperation between reliable, effective, credible partner [sic], but right now we don’t consider you a partner” (Palestine Papers 22).

Even when attempts were made by Israel or by the US to promote trust-building gestures towards the Palestinians, they were not authorized – usually by Israel. For example, the negotiation team tried to promote steps such as establishing an industrial complex in Abu Dis, to which end the Palestinians even agreed to build a bypass road in the area. After much foot-dragging, the idea was rejected by Israel’s defense establishment (Dekel, interview).

The mutual distrust also stemmed from the different conceptions with which Israel and the Palestinians arrived at the negotiations. For instance, regarding the essence of the Palestinian state: while Israel insisted on a graded process in the spirit of the Road Map, the Palestinians demanded talks that would include all issues on the agenda, for fear of an Israeli plot (“mu’amara” in Arabic) to promote only those aspects that would expedite the establishment of a limited, partial entity before the sides agreed upon the permanent borders and details of sovereignty. The Palestinian representatives who summarized discussions on behalf of the NSU – and who expressed distrust of Israel’s approach throughout the entire process – often made a note to themselves that Israel was trying to advance the idea of a “Provisional state”. This contradicted earlier understandings between the two sides that the permanent-status talks would focus on final borders (Palestine Papers 40). The committee on infrastructure made no progress
as the Palestinian side insisted on discussing core issues such as a West Bank airport, safe passage between Gaza and the West Bank and laying railroads, while Israel claimed that those issues would be discussed — if at all — by other committees, and tried to divert discussion to the degree of future Palestinian dependence on Israeli electricity and gas (Muhammad a-Shtiya, interview).

Another negative feature of the Livni–Abu Alaa’ talks was the mutual blame game. This was especially noticeable when US representatives were present as each party made an effort to highlight the faults of the other and expose the other side’s ulterior motives. Naturally, ‘the blame game’ extended beyond the negotiation room and was played out through the media. Erekat repeatedly apologized for leaking negotiation details that were attributed to sources close to Abu Alaa’. Meanwhile, Minister Livni apologized for Israeli leaks, which she claimed did not come from within the negotiation rooms.

Throughout the talks, both parties complained that the other side was unwilling to talk openly and move on from the familiar claims that hindered progress. For example, leading up to the continuation of talks, Erekat suggested: “Let us prepare a matrix about the positions regarding the different issues.” Livni refused, saying: “I am worried that it will be leaked to the press.” Livni’s explanation implied that this would show Israel as willing to compromise (Palestine Papers 4). Udi Dekel claimed in retrospect that Israel tried to further strategic dialogue with the Palestinians, who refused: “The fundamental Palestinian approach is to demand 100% of their claims from 1967. The applied aspect is of lesser interest to them. They are not prepared to discuss any more compromise. We tried to create scenarios, even imaginary ones, about a certain compromise, but we found the Palestinians in an all or nothing position” (Dekel, Geneva Initiative Conference, 2010).

Underlying all this was an asymmetry, at least in the early stages of the talks, in favor of the Palestinian team. Dekel himself later related that the Palestinians arrived better prepared than their Israeli counterparts: “When I went in search of the 2000 materials [from Camp David and Taba], we couldn’t find them. Someone apparently made them disappear” (Ibid.). Secretary of State Rice also described how well-prepared and broadly
informed the Palestinians were compared to the Israelis, whom she viewed – at least in the early stages of negotiation – as ‘rookies’: “There was something of an asymmetry since the Palestinian team was experienced, having negotiated the issues for more than fifteen years. Like the back of their hands, the team members knew the ins and outs of the maps, the nuances of the phrases, and the history of the conflict. Tzipi admitted that she didn’t know the issues as well but she came up to speed very quickly” (Rice 2011, 650).

The disparity was also evident in the Palestinian groundwork, which relied solely on the NSU (headed to this day by Saeb Erekat). The unit worked closely with the teams in the Annapolis process, at times challenging team heads and decision makers over the way the process was managed, and not only on content issues. The NSU did not favor compromise and often adopted a hardline approach to the issues at hand. This was detrimental to the negotiations and mostly “helped” the Palestinian leaders by telling them what “not to agree” on. This was also apparent in Erekat’s own management of the Palestinian negotiation team. The experienced Erekat, who adopted a centralist approach throughout the talks, took part in almost all the professional teams’ discussions and worked closely with the Olmert-Abbas track. Together with Abu Alaa’, he often demonstrated his depth of knowledge to the Israeli team, remarking that he knew secrets about Israel’s conduct and Israeli proposals in previous diplomatic discussions that the Israeli team was not aware of, to the best of his knowledge (Palestine Papers 4). On the Israeli side, there was lengthy deliberation over how best to behave with the Palestinians, and especially with Erekat.

All these factors illustrate just how complex the negotiations were. Not only were there gaps between the parties’ positions to overcome and strategic considerations to weigh, but interpersonal aspects and political constraints had to be taken into account, too. These hampered both sides from moving towards a permanent-status agreement, and even a framework agreement, on such a tight schedule.
The Palestinian Negotiations Support Unit (NSU)

The unit was established in 1997, after the interim agreements, to support the Wye Plantation talks, as the Palestinians recognized the need for thorough thinking to assist the negotiators. The unit was meant to provide research support for decision makers and negotiators concerning the application of international law in the talks (and was therefore originally called the Legal Unit). It was funded by the UK Adam Smith Institute, and over time grew stronger and became independent. Eventually, policy consultants and even media advisors joined the unit, shifting its focus from legal support to shaping policy. The turning point occurred during the second Intifada.

The unit consists of full-time advisors: some fifteen Palestinians with relevant training, and a broad range of external consultants and experts enlisted to carry out specific projects such as calculating refugee compensation, compensation for Jews who would have to leave their homes, water division, and more. These consultants signed a confidentiality agreement. The NSU played a central, intensive role in the Annapolis process, supporting the talks, holding work meetings, and carrying out other professional backstage activities to assist the negotiations.

In 2011, unit documents concerning many of the Israeli-Palestinian talks were leaked (see further on). The Palestinian leadership consequently considered shutting the unit down, but eventually decided to leave it standing, with reduced power. The unit is now a less dominant force, as no substantial talks are being held and in-depth research on most of the relevant issues has been completed (Husseini, interview).27

A senior Israeli official noted that the NSU team did not appear to be working towards peace, but rather seemed like overseas lawyers intent on winning a case and not on resolving a conflict. He added that they did not appear connected to what was

27. Hiba Husseini headed the Legal Committee in the Annapolis talks, and immediately afterwards became director of the NSU. She was head of the unit at the time of the leak, and carried out the investigation into the leak on behalf of the Palestinian Authority.
happening on the ground or to diplomatic tracks, and dubbed them “the cautionary club” – a team whispering to decision makers what “not to agree on” (Political Official 2, interview).

Unit documents and internal correspondence during the talks reveal that the unit was often excluded from the “inner circle”, and its members felt that they were being kept at arm’s length from the negotiation process. This is indicated in a November 2008 document titled “Questions for President Abbas” (Palestine Papers 1) and in many correspondences between unit members, in which they protested their sidelining and what they considered to be a faulty Palestinian negotiation strategy. It is evident that information representing the Palestinian positions must be thoroughly researched and that positions presented in NSU papers must be treated with caution, and not as official Palestinian positions.

In their first joint meeting with the heads of the professional committees (February 2008), the team heads – and especially Saeb Erekat, Tal Becker, and Tzipi Livni – tried to instill the following rationale on both sides: refrain from politics and aim for progress. As Erekat put it: “You have to leave political discussion to decision makers. We will not have an agreement without borders. Give it a chance. Perhaps the agreement on key issues will cover 20 pages, but agreement on issues you want to discuss may cover 1000 pages” (Palestine Papers 5).

In that initial meeting, some committee heads voiced concerns over what would later become key problems in the process. For instance, an Israeli committee head noted that coordinating so many teams might be problematic; Hiba Husseini said to the team heads and to Minister Livni: “We want your guidance. The more answers you give about
key issues that you look into and the criteria that you identify will help us in our work and remove all ambiguity from our minds” (Palestine Papers 5).

Many discussions were held in the Livni–Abu Alaa’ track but, despite mutual efforts, they did not yield progress. Instead, they focused on how best to run the process, each committee’s mandate, and the topics to be discussed. A prominent example is the sensitive issue of water, discussed at an advanced stage of the talks (August 2008). The parties argued at length over the agenda, over the data relevant to discussion of water, and over the role of experts given the absence of a strategic decision on the matter. Fadel Kawash, advisor to the Office of the Palestinian Prime Minister and director of the Palestinian Water Authority, said: “The experts will not take our work – they will not do our job... We have to agree before we tell them what to do – we have to agree where the shared aquifers or basins [sic] – we have to give them the job.” Zeinah Salah, an NSU lawyer, argued that a technical discussion would “preclude the answer to the rights question”. In contrast, Udi Dekel argued: “You would like to achieve your political rights through the subcommittee – that is your objective. We would like to create a common language from the work of the subcommittee from the point of view of the experts, not the politicians. And then the politicians will make decisions based on the data” (Palestine Papers 6).

Dekel later claimed that at no stage were the professional/technical committees expected to lead to agreement between the parties in various areas, nor were they intended to achieve agreed drafts. The idea was to further discussion of the Palestinian state, delineate specific issues, and use the committees to raise problems and major disputed issues to be addressed in talks between the leaders, in order to help resolve those issues. Dekel views this approach as successful and notes that in several cases, issues raised by the professional committees were discussed on higher levels. Moreover, he claims that some parts of Olmert’s proposal (September 2008) were based on content discussed in these committees (Dekel, interview).

Another senior official who was involved in the process offers a slightly different
view of the effectiveness of the Livni-Abu Alaa’ track. He believes that the track was indeed meant to generate a detailed, applicable discourse ('bottom-up') alongside the leadership talks, so that the teams could prepare drafts and reach mutual understanding over non-conflictual issues, while the rest would passed on for decision on the leadership level. This was "so as to avoid a situation like Oslo, where the sides were caught 'with their pants down'." He gave an example: "You make progress where you can on water allocation and if you don’t agree, for example, on the future of the aquifer in the Ariel area, you mark that as an issue to be decided by the leaders". However, he summed up, "in the end, it didn’t really work. The Livni-Abu Alaa’ track did not contribute to the talks between Olmert and Abbas" (Political Official 1, interview).

The Palestinian side was suspicious of Israeli intentions and aware of the problems from the outset. An NSU document prepared for the negotiators several days after the Annapolis Conference, in November 2007, recommended as follows:

“At the present time, Palestinians are particularly concerned that Israel will use the process launched at the Annapolis conference to seriously (i.e. substantively) negotiate only issues that it wishes to agree... Essentially, Israel may use this process to implement the 'state with provisional borders' - or some form of 'agreed convergence' that would rid it of the occupation, and defer the major issues of the conflict (Jerusalem, borders and refugees) to future inter-state negotiations.” (border disputes and compensation claims)

Consequently, the recommendation for negotiators was to express good will and agree to 'parallel' progress, but also to clarify that “substantive progress at the technical level will be conditional on clear political instruction for the Steering Committee / political principals” (Palestine Papers 39).

In conclusion, a general overview reveals that the professional committees could not make substantial progress for three reasons:
• The direct links between most of the topics discussed (economy, water, infrastructure, etc.) and the core issues, which were not resolved by the leaders during the process or at the end of it.

• Difficulty synchronizing many committees, such as those dealing with infrastructure, border crossings, and security. This led to the formation of new committees (e.g. the Border Crossings Committee) and changing the mandate of other committees.

• Mutual inability, or lack of desire, to think beyond the present and imagine the future reality of a permanent-status agreement. Israel found it hard to envision a reality of reduced security threats, and the Palestinians feared progress before their core demands were met.

In addition to all the above, there were considerable gaps between the approaches of each party in the committees. In the absence of updated terms of reference, Israel relied on the 1990s interim agreements which it viewed as a valid basis for managing civilian aspects. The Palestinians, in contrast, wished to establish international law as the major anchor for an independent sovereign state.28

US involvement in the Livni–Abu Alaa’ talks

“Both of them played to the US audience; there was no negotiating, and it was clear to me that there never would be while we were in the room.”

The US grew increasingly involved in Israeli–Palestinian talks after Oslo, becoming – intentionally or not – a judge and arbitrator. In the Annapolis process, Israel preferred

28. For an illustration of these gaps, cf. NSU summary (November 2008) of all positions held by both sides in the professional committees (Appendix B).
limited US involvement channeled into Israeli areas of interest (e.g. security or the international mechanism for implementing a solution to the refugee problem). Israel objected to US over-involvement for fear of losing its right of veto, especially on the core issues. During preparations for the Annapolis process, Minister Livni made it clear: “We can have trilateral meetings, but not a trilateral committee” (Palestine Papers 7). Another time, she noted before the Palestinians and the US that, concerning discussion of the refugee issue: “Drafting positions and having others take part in it is against our interest. We agreed that the agreement is bilateral and that we should not have others take part in it” (Palestine Papers 4). A senior Israeli official stated afterwards that Olmert, too, wished to focus on bilateral talks. In his opinion, “American involvement, and particularly trilateral talks, could be destructive and hinder the parties from reaching an agreement.” As an example, he described an attempt made prior to the Annapolis Conference to include Abu Alaa’ in the leadership talks, due to US pressure. As opposed to Abbas, Abu Alaa’ undermined the trust that had been built up, changed the rules of the game, and introduced a discourse of rights and justice (Political Official 1, interview).

Haim Ramon, who worked on the peace process for years on the Israeli side, also believes that progress was inversely tied to US involvement. When Israel wanted to reach agreements, it did so without US intervention. He thinks that the US not only acted in ways that demonstrated poor understanding of the conflict, but also was – and still is – incapable of pressuring the Israeli government. Therefore, making headway on an agreement depended on Israeli willingness and not on US pressure (Ramon, interview).

The Palestinians felt likewise, although their view of Israel as the stronger side could have dictated a preference for third-party involvement. President Abbas voiced that position towards the end of the Annapolis process: “The Americans do not have to bridge the gap... we have asked them to observe” (Kurtzer 2013, 220). In a discussion of the refugee issue in August 2008, Erekat stated: “Recognition of responsibility is a bilateral issue. I don’t want the Americans to be involved in this”. This was apparently based on Erekat’s impression that Secretary of State Rice adamantly objected to Israeli acknowledgment of responsibility for the refugee problem (Palestine Papers
Therefore, the Palestinians, too, understood that it would be better for the parties to resolve disagreement over sensitive issues themselves, given their traditional view of the US as biased towards Israel, even in negotiations. This view did not prevent the Palestinians from holding lengthy discussions with the US, both behind the scenes and formally, in which they criticized Israeli conduct as contributing to ‘the blame game’.

US literature on the Annapolis talks describes two approaches towards desired US involvement in the talks. The two opposing views express different ideological-political positions in the US. Eliot Abrams took part in some of the trilateral meetings. In his book, he portrayed the danger of US over-involvement in the negotiations as an adventure with no good ending, which would compromise Israeli security: “This experiment proved that trilaterals were counterproductive. We got nowhere and, in fact, Livni and Abu Alaa’ got into an argument that would have been avoided had we not been there. Both of them played to the US audience; there was no negotiating, and it was clear to me that there never would be while we were in the room” (Abrams, 277-278).

Dan Kurtzer, former US ambassador to Israel, presented an opposite approach in his book Peace Puzzle. According to Kurtzer, lack of real involvement by Secretary of State Rice and President Bush was the main reason for the failure to reach an agreed package deal. Along with the US Administration’s marked skepticism, exemplified by Vice President Dick Cheney’s perception of the Annapolis process as “something generated out of the State Department” (Kurtzer 2013, 221), Rice did not use every means at her disposal: “For Bush and Rice, bridging proposals were not a part of their diplomatic arsenal, and they were left, as was typical for them, to try to convince both sides to act on their own. As had happened so many times in the past, this approach failed and no agreement was reached on their watch” (Ibid., 233).

Beyond the basic distinction between hands-on and passive involvement, the US participated in the talks in two ways. US representatives met with both parties, confronted them with their situation, and tried to push progress through exerting pressure and encouraging “creative” new ideas. At the same time, they met separately
with each party, discussed major disputed issues, and professionally examined each side’s positions and freedom to maneuver. The first kind of involvement was unfruitful and even dragged the sides a few steps back, drawing them into a ‘blame game’. The second kind, bilateral meetings, served mostly as preparation for the trilateral talks, which were held immediately after and became yet another forum for confrontation. At any rate, the US refrained from proposing an independent middle-ground agenda, which in some cases may have served as a basis for new dialogue.

A recent article published by an Israeli researcher on US involvement in 21 years of Israeli-Palestinian talks calls this involvement an “unfulfilled promise”. The researcher claims that in all cases, barring the exception of the Clinton proposal (December 2000) that aimed to solve the conflict, the US regularly focused on “ushering the parties into a room (hoping that they trust one another) where the sides will conduct negotiations (hopefully, in good faith)” rather than taking decisive action to solve the conflict. This contradicts the US view of its essential role as mediator (Rothen, 2014).

In conclusion, the US approach had a mostly negative impact on the Annapolis process – from the actual conference, which created false expectations and enabled the parties to avoid historical decisions, to the secretary of state’s hesitant, ineffectual participation in the talks, which became a platform for mutual accusations between Israel and the Palestinians. It is hard to define what effective US involvement would look like, depending as it would on the political and strategic context at the time. It can, however, be established that active involvement without the US first setting clear goals and a strategy for reaching a permanent-status agreement – including understanding of the chances and the possible implications, and not merely accompanying the parties throughout the process – is a sure recipe for failure.
The NSU paper leak

In January 2011, the Qatar-based Al Jazeera network announced that it had in its possession more than 1,600 files containing thousands of classified Palestinian documents, including protocols of work meetings and private meetings, internal agreements, e-mails, maps, account numbers, strategy papers and even presentations. The papers related to the period between 1999 and 2010.29

In May 2011, Ziyad Clot – a French lawyer of Palestinian origin who joined the NSU during Annapolis and managed the refugee portfolio – published an article detailing his motivation for leaking the papers. He argued that the peace process was a farce in which the Europeans and the US toed the line with Israel’s unilateral positions, preventing a fair peace agreement. According to Clot, his experience “confirmed that the PLO, given its structure, was not in a position to represent all Palestinian rights and interests.” He called for reconciliation between all Palestinian constituents as a prerequisite to national liberation, reuniting Gaza and the West Bank, and real Palestinian self-determination (Clot, 2011). In contrast, the Economist ran an op-ed calling those responsible for the leak “enemies of Mahmoud Abbas”, arguing that the leaked documents attested to the integrity of the Palestinian leadership and their willingness to make concessions, and claiming that above all, Israel had a true partner on the Palestinian side (Economist, 2011). Hiba Husseini, who headed the NSU at the time, later claimed that the leak did not negatively affect decision makers and negotiators in the Palestinian Authority, both because it was quickly overshadowed by the events of the Arab Spring and because most of the positions detailed in the documents were public knowledge and did not contain much that was new (Husseini, interview).

In contrast, Israelis who were involved in the process stressed the great value of the

29. The leaked papers also contained a few primary materials concerning the Camp David and Taba talks, and material relating to the post-Annapolis talks period (the direct talks held by Senator George Mitchell, US Envoy for Middle East Peace).
leaked papers, while noting two flaws. First, the papers documented only official meetings, while the protocols of many important informal meetings held throughout the process were not leaked (e.g. one-on-one meetings between Livni and Abu Alaa'). Second, many of the papers reflected the position of the NSU, and not necessarily the official Palestinian position presented in the talks.

The Olmert–Abbas track

As noted, Israeli Prime Minister Ehud Olmert arrived at the Annapolis process, having reached a strategic decision to withdraw from the West Bank as the basis for ending the occupation. Olmert detailed the conceptual change he underwent several years before Annapolis: in December 2003, he replaced then-Prime Minister Ariel Sharon and spoke at the annual ceremony commemorating David Ben-Gurion, Israel’s first prime minister. Olmert quoted a statement made by Ben Gurion in April 1949, during a Knesset debate on the armistice agreements: "When the question arose of having the entire country without having a Jewish state or having a Jewish state without having an entire – greater – Israel, we decided in favor of having a Jewish state without the entire Land of Israel". Olmert added that after the 1967 war, Ben Gurion stated that "in exchange for true peace, Israel must relinquish almost all the territories it conquered in the Six Day War" (Olmert 2011, 24).

Olmert also described the change in his position on Jerusalem: “Slowly, I began to feel that the slogans about Jerusalem as a unified city did not match the reality of life in the city, which I got to know as only a mayor can. The gap between the western and eastern parts of the city was intolerable... It was not easy... I went through a long process of soul-searching... But I could not continue to deceive myself” (Ibid., 25).
As prime minister, Olmert immediately began to promote the Convergence Plan in direct continuation of the unilateral disengagement from the Gaza Strip led by the late Ariel Sharon. While Olmert did not rule out negotiations, Palestinian developments at the time – chiefly the weakened position of Abbas and the rise of Hamas – led him to prefer withdrawal without an agreement. A meeting with President Bush in March 2006, two months after becoming prime minister, sharply changed his outlook: “Bush wanted to ensure that what we called the Convergence Plan was not an evasion tactic to avoid direct negotiation with the Palestinians. I stressed in our meeting that I did not want to waste time on preliminary advances and preconditions, and emphasized that Abbas must be prepared to talk immediately, otherwise I would have no choice but to initiate unilateral steps that would affect the stability of the Palestinian Authority and the standing of President Abbas himself” (Ibid., 28).

Olmert related how he and Abbas only began to draw closer in late 2006: “Every time, he would postpone our meeting. In the end, I got fed up. He tried to push off the meeting that had been set for Saturday night, December 23, 2006. He called me up and said he had to travel to Gaza. I told him, ‘If you have decided to offend me, I can understand that. But why offend my wife? She has been cooking for 24 hours straight in your honor, and what do I tell her now?’ He said, ‘Really? I will not offend your wife. If that is the case, then I will come.

I made a point of having Turgeman and Turmovitch go out to receive him at the Bitunya checkpoint. There he found a motorcade waiting for him, including security cars with police lights. When he got to the house in Jerusalem he saw two flags flying over the Prime Minister’s residence: Israel and Palestine. Also inside the house, and on the conference table. I made him feel like an equal partner. I called him ‘Mr. President’. We spoke about freeing prisoners. He asked for 500-600. I said, ‘Why don’t you ask for more?’ He asked for the taxes owed the PA – 50 million [shekels] I said not a chance. He grumbled about it but then I surprised him and said, ‘you will get 100 million – it’s Palestinian money. The days when you have to ask for what is rightfully yours are over.’ When he left, he told his people, ‘A new era has begun – he wants to talk to us.’” (Issacharoff, 2013).
How did the Olmert-Abbas track operate?

In the first few months of 2007, almost no meetings were held. They apparently began in mid-2007, and most took place in 2008. Standard procedure was that the leaders first talked privately about various matters, including personal subjects, and then discussed the core issues. When the discussion was over, Shalom Turgeman (Olmert’s political adviser) and Saeb Erekat entered the room, summed up the conclusions presented by the leaders, and passed on directives for action as necessary. Olmert and Abbas separated symbolic aspects (e.g. the right of return and division of sovereignty over the historic Basin in Jerusalem) from practical aspects (e.g. security arrangements, territory, and borders) in order to enable headway. A senior official related that “although Olmert and Abbas made quite some headway in the secret talks... Abbas had not been involved in the talks before on an intimate, personal level, and as the meetings progressed he proved to be both serious and flexible. He suddenly began to understand how it should look” (Political Official 1, interview).

There were many advantages to the Olmert-Abbas track: only open talks between the two leaders, based on mutual trust, could facilitate finalization of a "top-down" package that could lead to a deal and serve as a framework for a permanent-status agreement. For example, it is virtually impossible to trade points from various core issues when each issue is discussed separately. Another advantage: talks between the two leaders also enabled coordination of expectations and steps to be taken by each side, thereby easing mutual suspicion throughout the process. This is especially true with leaders, who have the power to point the systems under them in the desired direction. Indeed, the Olmert-Abbas track was the one in which most agreement was reached, as it was based on an unusual degree of trust. As Olmert later said: “Is trust between two negotiators sufficient in order to reach an agreement? I have to say candidly, the answer is no. It’s not sufficient. Is trust essential? The answer is absolutely yes... [but] no matter how much personal trust you have, if this is against your interests, you most likely will not do it” (Olmert, conference on "The Role of Trust in Conflict Resolution", 2014).
Nonetheless, the leaders’ dialogue track had its problems. Although it supposedly lasted for two years, it resulted in no declaration of principles or a framework agreement, despite Olmert’s wishes. There were two main reasons for this lack of progress. First, the dependence of the Olmert-Abbas track on the Livni-Abu Alaa’ track prevented the two leaders from formulating an agreement separately. Olmert apparently tried to bring in people of his own to help with the formulation, but at too late a stage. Second, President Abbas was unwilling to progress with an actual agreement due to the said dependence, but also – primarily – because he understood Olmert’s difficult political situation after accusations of corruption against the latter were exposed. Consequently, the process ended with an open offer by Olmert on the table, without a detailed declaration of principles ready to be signed. It can, on the other hand, be argued that “secretly” signing an agreement would be problematic. Even had the parties reached an agreement, the fact that Israeli and Palestinian systems were not significantly involved may have engendered opposition. This was the case with the Oslo Accords: they were signed without involving the military-defense establishment, which only later took it upon itself to lead formulation of the interim agreements.

Secret talks between Haim Ramon and PA leadership

In the beginning of September 2007, before the Annapolis Conference, Israeli daily Yedioth Ahronoth revealed that Haim Ramon was carrying out talks with senior Palestinian officials about a “two-page” declaration of principles. Ramon was quoted as saying that, “for the first time in the history of the conflict, an agreed, binding basis will be established for the essence of a comprehensive agreement”. According to the prime minister’s office, Ramon’s step was condoned but not authorized. The article included details of Ramon’s proposal. Regarding borders: “The border will be the [Security]
Fence, with some changes... 3%-8% of the West Bank will be annexed to Israel" and "the Palestinians will be compensated with land of equal size lying within the Green Line [i.e., within Israel proper]". On security, according to the article, the parties would commit to carrying out phase 1 of the Road Map – disarmament, withdrawal from cities, and completion of arrangements according to General Dayton's plan. As for Jerusalem, the "Clinton formula" for division of the Jewish and Arab neighborhoods would be implemented, and in the Holy Basin, "every religion will be responsible for its holy places and no national flags will be flown". Israel would also transfer three "neighborhoods on the outskirts" (Walaje, Sawahra, and Shu'afat) to PA jurisdiction "immediately after the agreement of principles will be signed". Concerning refugees, "the right of return will be fulfilled in the Palestinian state and Israel will not allow refugees into its territory except as part of a quota [1,000 families] to be defined as a humanitarian gesture" (Barnea and Schiffer, 2007). The article caused a stir, leading to a vitriolic public exchange between Ramon and Nir Barkat, Jerusalem mayor hopeful (later elected in 2008) who opposed division of the city. Some ten days later it transpired that Ramon, vice prime minister at the time, expected to head negotiations on behalf of Israel, a role he did not eventually fulfill (Roni Sofer, 2007). In conversation, Ramon confirmed that major progress in Israeli-Palestinian talks was indeed being made at the time, but was halted by the US demand to attend the Annapolis Conference and by Olmert's decision, after he "got cold feet", to change the nature of the process. Ramon protested the change and told Olmert he saw it as a huge mistake, but when the latter finally agreed it was too late (Ramon, interview).

The major elements in Olmert’s proposal were, therefore, already on the table a year before they were officially presented to the Palestinians. This, yet again, demonstrates Israel’s faulty management of the process. In the precious time wasted, the negotiation teams on each side could have been given advanced political guidelines – at least concerning Jerusalem and borders – facilitating progress towards a permanent-status agreement and a Palestinian state.
Joint statement signed by President Abbas and Prime Minister Olmert, read out by President Bush at the Annapolis Conference, November 27, 2007

President Abbas and Prime Minister Olmert during the Annapolis process. After it was concluded, Olmert claimed that the mutual trust he and Abbas built up was crucial to advancing the negotiations.
CHAPTER 3

BASIC CONCEPTS AND POSITIONS IN THE ANNAPOLIS PROCESS

Terms of Reference (TOR)

In a preliminary discussion held before the Annapolis Conference about the content of the joint statement to be released, each party tried to reinforce their position by adding or deleting elements in the terms of reference (hereafter TOR). Naturally, Israel pushed to base the statement on the Road Map, including reference to the 2002 vision presented by President Bush about advancing democracy in the Middle East and to UN resolutions 242 and 338. The Palestinian position, promoted by Abu Alaa’, was that the statement must include a commitment that negotiations would proceed according to predefined guidelines. The Palestinians repeatedly stressed the demand to rely on international law, which Israel immediately rejected. Minister Livni said: “NO. I was the Minister of Justice. I am a lawyer...But I am against law -- international law in particular... [The] Palestinians don’t really need international law” (Palestine Papers 7). Subsequently, Abu Alaa’ suggested including the Arab Peace Initiative of 2002 in the statement, arguing that it was not in Israel’s interests to refuse: “I think that this is a mistake for Israel. It is the only real compromise from the Arab world” (Ibid.). Livni agreed to refer to the initiative in the agreement, but not in the preamble to the agreement. The Palestinians also tried to bring in previous understandings reached between the two parties. For instance, Abu Alaa’ proposed including elements from the 2000 Clinton proposal, which he claimed Israel had previously accepted. In reality, the Palestinians had rejected the Clinton proposal under then-PLO Chairman Arafat.

Underlying the debate over the TOR was the basic gap between the Israeli and Palestinian positions that has dogged the peace process for years. In the spirit of Kissinger’s “constructive ambiguity”, Israel has consistently preferred open negotiations
without committing to anything in advance, leaving room for creative suggestions on both sides. In her book, US Secretary of State Rice described the tug-of-war over the TOR leading up to the Annapolis Conference: “Again the Palestinians looked for as complete a recitation of the terms of an agreement as possible. The Israelis wanted the document to say very little” (Rice 613). For example, Israel preferred UN resolution 242 (see section on territory and borders) and the Road Map as terms of reference, as they are sufficiently ambiguous and open to interpretation to lend each party support for their claims while preventing movement towards the accepted international and Palestinian interpretation. The Palestinians, on the other hand, tried to restrict the negotiations within the boundaries of international law and international resolutions (e.g., UN resolution 194 of December 1948 as the basis for resolving the refugee problem). The Palestinians saw the TOR as guidelines that would lead the talks in the desired direction, obliging the parties to pay detailed attention to the core issues. They saw refusal to define TOR as an indication that Israel was not approaching the negotiations with serious intentions. Hiba Husseini explained: “The dominance of security thinking in Israeli discourse meant that Israel was unwilling to rely on legal elements like international law in the Annapolis process, too. Instead, Israel preferred to rely on political terms of reference, creating constructive ambiguity that is problematic, as it allows Israel to interpret the agreements as it wishes” (Husseini, interview).

Palestinian official Muhammad a-Shtiya, who headed the Infrastructure Committee in the Annapolis process and later participated in the talks led by Secretary of State John Kerry (2013-2014), sees Israeli agreement to TOR as a crucial condition for serious negotiation of a permanent-status agreement: “Without [TOR], you cannot agree on the agenda, you don’t form a common language, narratives start entering the talks, and the parties are like wanderers in the desert without a map” (a-Shtiya, interview).30

30. A-Shtiya also mentioned this in the context of the 2013-2014 talks: “When John Kerry said, ‘there are no TOR for the negotiations', I realized there was nothing to talk about. I also understood that this enabled Israel to deliberately insert the issue of recognizing the Jewish state into the negotiations” (interview).
In contrast, an Israeli official who was involved in the talks claims that “this issue is not so important to either of the parties. Some people on our side and some on theirs wanted TOR from the outset, as if that’s what decides what will happen in the negotiation room... If, say, Israel had agreed to UN resolution 194 as a term of reference, it would have made no difference whatsoever. It’s important outside the room and allays initial fears, but nothing more. The deciding factor is the agreement itself, not the TOR” (Political Official 2, interview).

Had the talks been founded on mutual trust and genuine efforts to advance a permanent-status agreement, neither Israel nor the Palestinians would have needed TOR. However, all negotiations to date have remained stuck, in part due to lack of agreement over these terms, primarily regarding the main issue of recognizing the 1967 borders, including East Jerusalem. Therefore, while TOR cannot ensure a permanent-status agreement, they can force the parties into serious, constructive discussion of the core issues. As advanced as any external TOR may be, their political, legal, and interpretive status will never be as strong as terms finalized through mutual agreement based on previous understandings.

What is a viable Palestinian state?

In 2007, during the Annapolis process, the US-based think tank RAND Corporation published a comprehensive report on the necessary conditions for a viable Palestinian state. These included a stable security situation, social and economic development, and good governance. The crosscutting issue of territory, and specifically the contiguity of a future Palestinian state and the nature of its borders, was identified as major key to success. The detailed report analyzed the challenges and probabilities involved in building a viable Palestinian state, including estimates of the financial costs associated
with implementing every recommendation (RAND, 2007).\textsuperscript{31}

From the Palestinian point of view, their state must be viable — population density and close links to Israel notwithstanding. Accordingly, negotiating a permanent-status agreement is primarily meant to ensure the actual existence of the state, since the Palestinians hold that Israel promised to agree to this when the peace talks began. The possibility of the state’s existence depends on size of territory (the division principle based on the 78/22 compromise); quality of territory (contiguity and not accepting low-quality land in exchange for land annexed to Israel); importance of territory (Jerusalem as capital and sovereignty over the holy sites, which would increase the regional importance of the Palestinian state); and infrastructure (as a basis for economic development and ensuring water sources for Palestinian residents). At the same time, it is understood that the Palestinian state will depend on Israel, in light of the balance of power between the two states and their physical proximity.

At Livni’s request, Abu Alaa’ detailed his view of a viable state when the Annapolis process began:

“A state that has adequate land space that is geographically contiguous and is able to absorb all civilians of whom refugees are a part. Such a state will have the respect of its neighbors and have full control of its own water resources, borders and holy places. It has also to be capable of developing its own economy.” (Palestine Papers 9)

Erekat added “an end to the occupation”, “democratic” and “independent” aspects of the state, and “coexisting side by side with Israel and other neighbors in peace and security”, in accordance with the Road Map principles. He further stated: “We don’t

\textsuperscript{31} This paper (Annapolis process) deals with The Annapolis process and does not address the physical probability of the two-state idea and the viability of a Palestinian state – an issue worthy of in-depth research into the territorial, security, and financial aspects.
mind to have [Jewish] settlers live as Palestinian citizens who have all rights under the Palestinian law” (Ibid., and see further on).

The Palestinians, fearing a partial or temporary state as outlined in phase two of the Road Map, demanded speedy recognition of an independent, reinforced entity with territorial contiguity, full sovereignty, and practical control over all basic elements (including water sources, infrastructure, and economy). The transition period should be symbolic and as short as possible, incorporating international supervision that would ensure the process of evacuation and full Israeli withdrawal from the territory, and pay less attention – if any – to Palestinian progress and performance. In any case, according to many NSU papers on the subject, establishing as state would not suffice to end all claims, certainly not regarding the refugees.

Israel, on the other hand, sees Palestine as a “conditional state” – an autonomous entity that may become independent like any other nation state. Security considerations dictate limitations to its sovereignty and a lengthy transition period, which would serve as a trial period for establishing a state. Moving on to the permanent status stage would depend on Palestinian performances. The Palestinian state should be demilitarized, with certain capacities and aspects of sovereignty restricted. In return, Israel demands Palestinian commitment to resolving the conflict and ending all claims, and to the Palestinian state being the only solution for Palestinian refugees wishing to "return" to the area. Also, Israel does not relinquish any aspect of its demand that the Palestinian state provide security as the major structural principle guiding its establishment. As part of the Annapolis process, Israel’s negotiations team researched the conditions for a viable Palestinian state, stressing measures of state-related progress such as democratic government institutions, law and order, economic development, etc. Israeli

32. Israel’s basic attitude towards the Palestinian state was exemplified by Prime Minister Rabin’s statement to the Knesset plenum in October 1995. He described the Palestinian entity as "less than a state" and explained that its establishment would not necessitate Israeli withdrawal to "the June 4, 1967 borders", that Jerusalem would remain "unified", that "the security border will be placed in the Jordan Valley, under the broadest interpretation of the term", and that "settlement blocs" would be established based on the Gush Katif model in Gaza (Rabin, 1995).
officials say they are not aware of in-depth Palestinian work on this matter (Negotiations Team Official), although the Palestinian Authority did commission several research projects on the Palestinian state from international actors such as the RAND Corporation and the World Bank, albeit not directly to serve the peace talks.

The significant difference in views on this issue was summarized by Zeinah Salahi, an NSU lawyer who represented the Palestinians in most of the bilateral and trilateral talks and also met separately with US representatives. Well into the Annapolis process, Salahi met with Jonathan Schwartz, a longtime State Department representative to the peace talks. In a leaked protocol of their meeting, Salahi describes the disparity between the Israeli and Palestinian positions on statehood:

“Israel has not accepted that the goal of these negotiations is a fully sovereign Palestinian state. They continue to take the approach of incremental improvements to the facts on the ground, leading towards some quasi-independent entity, while Palestinians seek to define a PS state and then reverse engineer how to get there. JS [Jonathan Schwartz] seemed to agree that Israel maintained a 'colonial' outlook.” (Palestine Papers 10)

Udi Dekel succinctly portrayed the mutual suspicion that led to broad disagreement over the future of the Palestinian state: “While the Palestinians are afraid that Israel will make what is temporary into something permanent [and therefore object to forgoing the "all or nothing" approach], Israel fears the opposite – that the permanent [agreement to supposedly end the conflict] would become merely temporary” (Dekel, interview).

In November 2008, towards the end of the Annapolis process, the NSU submitted a list of questions to President Abbas concerning flaws in the talks. One question related to the guiding principles for establishing a Palestinian state:

“The guiding principles for the Palestinian team are different from the Israeli ones. While the focus of the Palestinians is
sovereignty, Israelis’ focus is on improving the status quo and maintaining control, all under the pretext of "security", which limits the discussion and diffuses it among the different Committees [...]. There are some issues that are addressed in the Oslo joint committees [the interim agreements]. The discussion of some of these committees undermines the permanent status discussions because the outcome of these discussions would have a long term impact [for the permanent status stage].” (Palestine Papers 1)

At the end of the Annapolis process, the NSU prepared a comparison of the two parties’ key positions and differences between them. The conceptual rift concerning most aspects of statehood is evident: while the Palestinians wished to discuss a sovereign state under international law, the Israelis were only willing to discuss a “Provisional state”. See details in appendix B (Palestine Papers 8).

This is indicative of the overall gap between Israeli and Palestinian perceptions of core issues in the Annapolis process. Had both sides agreed that Palestinian state viability was important, with strong emphasis on territorial contiguity, the negotiations may have gone further. This may have later assisted practical work on territory and borders and on Jerusalem (a long-term approach to drawing maps with stable borders), on refugees (a territorial solution for Palestinians wishing to immigrate to the Palestinian state), and on security (establishment of a Palestinian authority with state-like responsibilities). Leaving the essence of the Palestinian state vague and undefined in the Annapolis talks increased mutual mistrust.
Demand to recognize Israel as a Jewish state

In the November 2007 discussions held to prepare for the Annapolis Conference, Erekat noted that the Palestinians had never denied Israel’s right to free self-definition and added: "If you want to call your state the Jewish State of Israel you can call it what you want". At a later stage of the discussion, Abu Alaa’ asked that “East Jerusalem” be included in the “preamble”, to which Livni responded by challenging the Palestinian side to recognize the Jewish state. She was "visibly angered" and explained:

“If you want to take us back to 1947 – it won’t help. Each state constituting the homeland for its people and the fulfillment of their national aspirations and self-determination in their own territory. Israel the state of the Jewish people - and I would like to emphasize the meaning of "its people" is the Jewish people – with Jerusalem the united and undivided capital of Israel and of the Jewish people for 3007 years.” (Palestine Papers 7, errors in the original)

Although angered, the Palestinians realized that this was a tactical move intended to remove Jerusalem from the agenda, rather than a demand that they recognize Israel as a Jewish state. Livni clarified that by adding: “In order to continue we have to put out Jerusalem from your statement and from our place. We have enough differences, without putting another one out there” (Ibid.).

As this excerpt indicates, Israel did not demand Palestinian recognition of Israel as Jewish state during the Annapolis process, neither as a core issue nor as a precondition to the talks. Instead, this was used as a fallback position in case the Palestinians withdrew from agreed points. Similarly, when Livni detailed her vision of two states for two peoples in a September 2006 speech before the UN Assembly, she avoided mentioning such recognition as a condition for reaching an agreement with the Palestinians (Livni, UN Assembly, September 2006).
When President Bush visited Israel in January 2008, Livni explained her position to him. The idea was that “zero” refugees would enter Israel: “Our goal is to end the conflict through the creation of a Palestinian state, a Palestinian homeland [...]. The creation of a Palestinian state is the solution for the Palestinians. [...] [Regarding refugees], how would we ever choose who comes back? The argument about which ones get to come to Israel would never end. And the Delegitimization of Israel would continue. To give up part of our land, to divide the land between two peoples, provides an answer to their national aspirations” (Abrams 262).

In the period leading up to the Annapolis Conference, this kind of demand was also seen as an attempt to undermine the negotiations. In fact, Israeli officials who objected to the Annapolis process used this as a major argument. For example, in November 2007, then-Minister of Strategic Affairs and Chairman of the Yisrael Beiteenu party, Avigdor Liberman, demanded that the government discuss a proposal that Israel make Palestinian recognition of a Jewish state a precondition for any future negotiations — in an attempt to foil the upcoming Annapolis talks (Mazal Mualem, Ha’aretz, 2007).

Tal Becker, assistant to Minister Livni and one of the negotiators in Annapolis, wrote a position paper in which he noted that “in the lead-up to the 2007 Annapolis conference, Prime Minister Olmert repeatedly insisted on the importance of recognizing Israel as a Jewish state, stating outright, ‘I do not intend to compromise in any way over the issue of the Jewish state. This will be a condition for our recognition of a Palestinian state’” (Becker 2011, 3). However, Olmert’s proposal to the Palestinians at the end of the Annapolis process, which purportedly summarized all obligations and claims on both sides, made no mention of a demand for Palestinian recognition of a Jewish state.

A position paper prepared by the NSU in November 2007, prior to the Annapolis Conference, detailed the major Palestinian arguments against recognizing Israel as a Jewish state. The unit recommended that the Palestinian leadership recognize Israel as a sovereign state but not as a Jewish one, in accordance with all the traditional terms of reference of the peace process and existing agreements, and particularly the Road
The writers believed that Palestinian recognition of Israel as a Jewish state could only be achieved in the spirit of UN Resolution 181; this would require opening all issues and basing them on that resolution. Other suggested arguments were: both parties agreed to not set preconditions for the negotiations; Israel did not include that demand in its peace treaties with Jordan and Egypt; Israel was admitted to the UN as a “state” and not as a "Jewish state", since the UN does not address the ethnic-demographic character of states; recognizing a Jewish state would create a serious legitimacy problem for the Palestinian Authority, given the implications for non-Jewish citizens of Israel (“how can we agree that non-Jewish citizens should be treated to second-class status?”); and the Palestinian Authority has no interest in entering the debate in Israel between secular and orthodox Jews over what defines a Jew. The unit also analyzed the possible impact that recognizing Israel as a Jewish state may have on permanent-status issues: such recognition might undermine the Palestinian demand for right of return; expanding the definition of Israel to include its being a Jewish state might strengthen Israel’s claim to sovereignty over “all of Historic Palestine” and not only the area currently defined as “the 1948 territories”; recognition would also lend legitimacy to an Israeli demand to include demographic considerations in land swaps, and later to swap Israeli land inhabited by Palestinians (Palestine Papers 11).

These arguments are still accepted by the Palestinian leadership. Dr. Muhammad a-Shtiya, one of the chief Palestinian negotiators, clarified their insistent refusal to recognize Israel as a Jewish state, including in the 2013-2014 talks led by Kerry:

"The issue was prioritized [under Netanyahu] in order to obstruct an agreement. Israel also exploited the fact that that this is seen as a soft spot (a supposedly legitimate one) by the international community... The Palestinians are afraid to hurt the historical account balance (acknowledging the Jewish narrative at the expense of the Palestinian

33. The final version of the Road Map does not mention Palestinian recognition of Israel as a sovereign state, but addresses Israel’s right “to exist in peace and in security”. It lays out “the two-state vision of an independent, viable, sovereign Palestinian state living in peace and security alongside Israel” (Road Map, 2003).
narrative), the present account balance (inequality for Palestinian citizens of Israel), and the future account balance (denying the right of return and Israeli applications to the ICC against Palestinian persons who will be defined as terrorists).” However, “if the whole world recognizes Israel as a Jewish state, the Palestinians will join in, but not as a separate entity” (a-Shtiya, interview).

This issue was initially discussed shortly after the Annapolis process began and was rarely revisited. It was understood that the topic belonged in the lead-up to negotiations, in which the parties list the terms of reference that form the basis for their respective positions, or at the end of negotiations. As noted above, the proposal that Olmert made to the Palestinians towards the end of the Annapolis process (September 2008), which was supposed to span all points relevant to a deal between the two parties, made no mention of the matter.

In conclusion, Israel refrained from demanding that the Palestinians recognize it as a Jewish state as a precondition in the Annapolis process, a requirement that would have considerably hindered the talks. However, Israel did use this point as a potential threat, to caution the Palestinians against deviating from the rules of the game defined at the outset. Such a deviation might be listing Jerusalem as a topic for discussion by the Steering Committee, or adding terms of reference to those already agreed upon.34

34. In the 2013–2014 peace talks, Prime Minister Netanyahu made Palestinian recognition of Israel as a Jewish state a central condition for if and how the talks would be held. Leading Israeli journalist Nahum Barnea traced the development of the issue from Ariel Sharon’s time to Netanyahu’s latest term in office: “The history of the demand is well known: Tzipi Livni came up with under Sharon as a symbolic gesture to go along with signing the permanent-status agreement. Sharon did not consider it important. He believed in unilateral steps... Netanyahu understood the potential... He relocated the demand to an earlier stage and made it a strict red line. At a certain point, he even had John Kerry convinced” (Barnea, 2014).
### Analysis of the differences over the four core issues

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Territory and borders

“The 1967 border is already the biggest concession we made in our history.”

“We are in need of [the territory] not because we want your land but because we do not wish to evacuate people from their homes.”

Background

The gaps between the Israeli and Palestinian positions on territory and borders have diminished over the years, ever since the Gaza-Jericho agreement of 1994. The Palestinians have not changed their essential demands on those issues since 1988, when the PLO decided to accept the idea of dividing the land and establishing a Palestinian entity in Gaza and the West Bank – i.e., in 22% of “Historic Palestine”. Since the Palestinians see that decision as the greatest strategic compromise possible, they refused to make any concessions over the guiding principle of receiving 100% of the territory. In other words, they were adamant about basing their claims on all territory occupied by Israel since June 4, 1967, meaning an end to Israeli occupation. This is seen as the crucial foundation for a viable Palestinian state, in exchange for Palestinian willingness to reach a comprehensive agreement with Israel. The latter, on the other hand, did not accept the Palestinian formula, enlisting legal and security arguments to claim that those territories were negotiable. Israel claimed that developments over the years in those territories must be taken into consideration, referring primarily to the settlement blocs. Various versions of this claim were supported by three US presidents (Clinton in 2000, Bush in 2004, and Obama in 2010, after the Annapolis process). Israel also distinguished Gaza and the West Bank from the land in East Jerusalem that it annexed immediately after the 1967 war.
According to the Israeli interpretation, UN resolution 242 (of November 1967) does not oblige Israel to withdraw from all the territories, and in fact emphasizes the need for "secure, recognized boundaries free from threats or acts of force". In contrast, the Palestinian legal claim is based on the principle that annexing territory as the result of war is unacceptable (as stated in the preamble to resolution 242) and on the precedents of withdrawal from all territories set in Israel’s peace treaties with Jordan and Egypt (Herzog 1-3).

The dialogue between the parties has developed over the years, with the Israeli position gradually drawing closer to the Palestinian one while the latter remains unchanged. In the beginning of the Camp David talks, Israel offered Palestinians some 77% of the territory; later maps offered more than 80%, and towards the end of the 2001 Taba talks, Israel presented the Palestinians with a map offering 93-94%. At that point, the Palestinian map included 97-98% and a clarification that the remainder would be transferred to Palestinian control by a 1:1 swap (not the ratio presented in the 2000 Clinton proposal). This would uphold the principle of receiving 100% of the territory, while leaving room for minor, equal-sized adjustments near the border. The issue of land to be annexed to Israel as compensation was only partially discussed in the Camp David and Taba talks (2000–2001), in an initial probe rather than detailed negotiation.

The parties entered the Annapolis process with these positions, which were viewed as "informal" and therefore not binding. As in other areas, the talks did not resume where the Taba negotiations left off. In the absence of updated terms of reference, the topic was reopened, revealing broad gaps between the parties and exposing their underlying narratives.

The Clinton proposal of late 2000 is based on the following points concerning borders: reliance on the June 4, 1967 borders; a Palestinian state in 93-94% of the West Bank; in exchange – Israel to be compensated with territory equaling 1-3% (swap ratio in Israel’s favor); entire Gaza Strip to remain under Palestinian sovereignty; safe passage connecting Gaza and West Bank; 80% of settlers to remain in settlement blocs; territorial contiguity for both sides, less annexed land, and minimal number of Palestinians to be adversely affected by the border arrangements; additional territorial mechanisms, such as land leases, to be examined (Dan Rothem, 2014; Clinton Proposal, 2000).
The Palestinian approach to territory and borders in Annapolis: major points

The issue of territory and borders is central to the Palestinians, as noted by Abu Alaa‘ and Mahmoud Abbas both at the negotiation table and in their talks with the US. For example, after the Annapolis process ended, Abbas told the NSU team in March 2009: “That issue, had it been addressed and resolved, would have solved all three issues of borders, settlements, and Jerusalem” (Palestine Papers 12). Abu Alaa‘ repeatedly stressed the importance of the matter in meetings with Israel and the US. In a trilateral meeting held in June 2008, he said: “If a breakthrough takes place in this issue then other issues become easier, because defining the land will determine our future” (Palestine Papers 4).

The Palestinians see the territory issue as primarily their own concern, with general Arab interests playing a secondary role, except inasmuch as this would set a precedent for treaties with other states in the region. In December 2008, Erekat told US Deputy Secretary of State David Welch that “Saudi’s main concern is Jerusalem – not swaps and neighborhoods. To them, Jerusalem is the Haram [al-Sharif]” (Palestine Papers 13).

Samih al-Abed, who was responsible for territory and maps on behalf of the Palestinian Authority throughout the peace process, explained that the reasoning behind the Palestinian maps was not to win at the negotiation table, but to generate what he calls “a stabilizing map” – a realistic outline that would allow reasonable quality of life for both sides after negotiations ended (al-Abed, interview).

To recap: at the heart of the Palestinian position on territory and borders lay the claim that Palestinians had already made an enormous concession in their willingness to relinquish 78% of “Historic Palestine”. This was seen as “a strategic compromise” and as “final”, making any additional readiness to discuss border changes and territory characteristics a “bonus”. Abu Alaa‘ made the point in a Palestinian-US meeting with Condoleezza Rice in July 2008: “We consider the 1967 border is [sic] already the biggest concession we made in our history. Modifications, etc. on a swap basis we are willing to discuss. If the 1967 [sic] is approved as the basis for the discussions, we can move
forward” (Palestine Papers 14). The Palestinian arguments on this issue addressed not only the practical need for territorial contiguity to ensure a viable state, but also rights and historic justice. Also, the Palestinian view was that the negotiations must relate to all territories occupied by Israel since June 4, 1967, including East Jerusalem, the northwestern part of the Dead Sea, the No Man’s Land, and the Gaza Strip. As the proposed land swaps with Israel were seen as an extra bonus, they must retain a “1:1 ratio” — i.e. be of equivalent size and quality. For instance, the Palestinians refused to accept desert land from Israel in exchange for agricultural land. Both Abu Alaa’ and Erekat went significantly further than President Abbas in the Annapolis talks, telling Livni that the 1:1 ratio related not only to size and quality but also to location: if Israel annexed land in the area of Jerusalem, it would have to concede similar land in the area in exchange. Samih al-Abed admitted in retrospect that this was merely a negotiation tactic, as this formula would only be applicable if Israel greatly reduced the scope of land swaps (al-Abed, interview). This explains Abu Alaa’s approach, exemplified in a meeting on territory and borders held on May 4, 2008, in which the Palestinians presented their only official map in the entire Annapolis process (the 1.9% map). Abu Alaa’ clarified the basics of the Palestinian position and listed the “ten principles” guiding the proposed map and land swap — with the aim of maximizing Palestinian demands so as to minimize Israeli annexation:

“Any settlement included in the swap should not impede geographical contiguity especially with and within Jerusalem. This partially means that any settlement swapped to Israel should be near 1967 line. Therefore, any settlement swapped to Israel should be dealt with individually not as settlement blocs or individual houses. All areas should be equal; in other words,

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36. The No Man’s Land comprises some 46 square kilometers (0.8% of the West Bank), which lie mostly near Latrun. Under the April 1949 Armistice Agreement between Israel and Jordan, these zones remained undivided and no law was applied there. Israel argued that developments on the ground have essentially made these areas part of Israel, while the Palestinians claimed that they are an inherent part of the territories occupied by Israel.
all areas included in the swap should be in the same area (i.e., land in Jerusalem for land in Jerusalem). Areas swapped 'from' should not impede Palestinian development, and areas swapped 'to' should support Palestinian development, in accordance with the plans, and allow for urban expansion of Palestinian cities and towns. The value of agricultural land should be preserved.

The Palestinian state must have adequate land, capabilities and resources to absorb Palestinian refugees who do not prefer to return to Israel, and those who hope to return to Palestine. Areas of religious, cultural and historical significance for the Palestinians should not be included in the swap. In any swap, there should be access to quality water and other water interests. Civilians will not be included in any swap; in other words, land inhabited by Palestinians will not be subject for swap. Empty land shall not be swapped to Israel. Security is not a condition for land swap because there will always be borders between Palestine and Israel.” (Palestine Papers 16)

As for the territories to be handed over by Israel in return, the Palestinian side remained divided. Some experts deemed it best to use most of the land to expand the Gaza Strip, given the population density and lack of development there. Others – al-‘Abed implies that they are part of the PA leadership – preferred to concentrate most, or all, land handed over by Israel in the West Bank (al-Abed, interview).

As in the past, the Palestinian position centered on the settlements. Samih al-Abed and others emphasize problems with the maps presented by Israel, including in Olmert’s proposal. They say that annexing settlements and broad swathes of land to Israel would cut off certain Palestinian communities (e.g., in north Jerusalem, Gush Etzion, and enclaves in the Ariel area) and make it difficult to move between Palestinian communities and cities, harming daily life. Therefore, in the Annapolis talks, the Palestinians presented Israel and the US with a specific list of settlements to leave out
of a swap. Abu Alaa’ made it clear that “under any condition”, the final map would not include Har Homa, Ma’ale Adumim, Giv’at Ze’ev, and Ariel (Palestine Papers 16). Yet in the 2003 Geneva Accord, although the Palestinians did not agree to Israeli annexation of Ariel, they did agree to leave Giv’at Ze’ev and Ma’ale Adumim within Israel, as long as minimal territory connected these settlements to Jerusalem. The settlement of Ariel, which lies some 20 kilometers from the Green Line, became a major point of contention in the Annapolis talks. It was perceived by some – and certainly by the US – as a bargaining chip, although the final map that Olmert presented to Abbas showed Ariel within Israel.37

In discussions of territory, the Palestinians repeatedly emphasized before both Israel and the US that they were willing to leave Israeli settlers under Palestinian rule as a gesture of good will. Abu Alaa’ even made a concrete suggestion to give all Ma’ale Adumim residents that status, in order to reach an agreement over the future of the settlement, given its controversial location. This was also proposed in NSU position papers as a flexible point for negotiation, and even defined as “a creative idea” to present Israel in order to “avoid swapping difficult areas and make Palestinians look more reasonable at the table” (Palestine Papers 15). However, a May 21, 2008 meeting saw an interesting intra-Palestinian exchange in which Erekat, an Abbas loyalist, objected to the idea: “We don’t want Palestinians to become Israelis and we don’t want Israelis to become Palestinians.” Abu Alaa’ replied: “I don’t mind if Israelis become Palestinian citizens. Let them stay...” Abu Alaa’ later stated that he was willing to accept minor adjustments to the border in places where the Green Line “cuts” Palestinian villages and families (Palestine Papers 3). This reveals different approaches on the Palestinian side to the question of leaving Israelis within the Palestinian state. In any case, the parties discussed the issue, albeit in a general and non-binding fashion, and the Palestinians

37. Samih al-Abed denies any previous Palestinian agreement to Israeli annexation of Ariel. Regarding the map held to be a formal Palestinian proposal, which includes Ariel under Israeli sovereignty, al-Abed claims that the map was never shown at the Taba talks and was not official, but rather represented “Palestinian thoughts” about Israel’s proposals. He says that Abu Alaa’ had asked him to draw up alternative responses to the maps presented by Israel in order to counter the claim that “Israel offers maps and the Palestinians do not respond” (al-Abed, interview).
even made a formal proposal on the matter during the Annapolis process. At present, however, it appears that the Palestinian policy is to minimize the number of Israelis remaining within Palestine at the permanent status stage – in the spirit of Abbas’ approach, rather than that promoted by Abu Alaa’.

The Israeli approach to territory and borders in Annapolis: major points

Israel’s major consideration in the Annapolis process was political and demographic: to minimize the number of Israelis to be evacuated from their homes in the West Bank. Livni addressed tactical and security considerations in routing the border as secondary in importance. This contradicted Israel’s declared position in Camp David and Taba, that – officially, at least – security was paramount. In an April 2008 session of the Territory Committee, Livni described Israel’s principles regarding the border with a certain degree of empathy to Palestinian demands, in an attempt to soften their predicted response:

“I know that what you will see will make you feel like we are taking it away from you. You will say that we are taking your hands and your legs, but I hope you will look at what there is on the other side. We are in need of it not because we want your land but because we do not wish to evacuate people from their homes. I know that every inch hurts you.”

38. Shaul Arieli claims that since the beginning of the peace process, Israel did not think in “win-win” terms (“a stabilizing map”) and gradually decreased the importance of security considerations in drawing the borders on the maps offered to the Palestinians. He sees Israel’s position throughout the process as based on a political outlook, i.e. the number of settlers to be evacuated, and not on security (Arieli, interview).
In that meeting, Livni further detailed the principles underlying Israel’s choice of areas for annexation: “To include the largest possible number of Israelis; to exclude Palestinians; to include constructed areas or areas under construction; to take into account security needs; to link between [these areas] and Israel... [In the direction of] what you call 1967 line”. Abu Alaa’ sardonically noted: “She cannot even say the word [1967]!” (Palestine Papers 17).

Israel changed its previous stance, talking less about the “narrow waist” of land at its center and about “defensible borders”, and much more about political difficulties vis-à-vis the settlers.39 Udi Dekel objected to this and claimed afterwards: “In the end we evaluate the borders on the basis of how many residents we will not have to move from their homes, and the defensible borders issue becomes of secondary importance” (Dekel, Geneva Initiative conference, 2010).

Along with the political-demographic aspect, Israel saw drawing the border as a way to implement and reinforce separation between the two national entities. Several times, Israel suggested that the Palestinians agree to include in the swap Palestinian citizens of Israel who live in communities divided by the border. For example, on June 21, 2008, Minister Livni mentioned Rajar, a village that lies on the border with Lebanon and which Israel refused to divide. Udi Dekel followed by noting several large villages similarly cut in half by the Green Line: “Barka [sic], Barta il Sharqiya, Barta il [Garbiya], Betil, Beit Safafa...” Tal Becker, Livni’s adviser, concluded by saying: “We will need to address it somehow. Divided. All Palestinian. All Israeli” (Palestine Papers 18). In 2005, as minister of justice, Livni herself addressed the connection between the Security Fence and Israel’s future border, stating – in contrast to the position presented by the defense establishment over the years, including before the High Court of Justice – that “one does not have to be a genius to see that the fence will have implications for the

39. In the Camp David and Taba talks, Israel based its claims about the border on security: the short distance between Palestine’s western border and Israel’s shoreline (in the Tel Aviv-HaSharon area) would leave a “narrow waist”, enabling enemies to quickly encircle and carve the heart of the area in a short time.
future border. This is not the reason for its construction, but it could have political implications” (Yuval Yoaz, *Ha’aretz*, 2005).

One of the most controversial points in the territory talks was the fact that Israel postponed discussion of East Jerusalem and separated it from the other territory issues in most meetings. Despite Palestinian efforts to discuss East Jerusalem and include it in a map, the issue was discussed independently and only towards the end of the talks. Israel’s official reasoning was, yet again, purely political – the coalition agreement between Prime Minister Olmert and Shas Party Chairman Eli Yishai. At an advanced stage of the process, in the summer of 2008, senior NSU lawyer Zeinah Salahi told the US that “unless they start talking about Jerusalem, the negotiations are going nowhere. And there certainly won’t be any agreement by September” (Palestine Papers 10). See detailed discussion of Jerusalem further on.

Israel also rejected the supposedly new idea put forth by the Palestinians, of leaving Israelis under Palestinian rule. Livni remarked that more than passports were at stake, and that she could not vouch for the safety of Israeli citizens living in Palestine. She did not, however, reject the proposal (Palestine Papers 16).

40. According to Israeli territory expert Shaul Arieli, the Israeli map matches the fence’s route on the ground. He claims that ever since plans for the fence began (in the late 1990s), and especially after construction commenced, Israeli negotiation proposals matched this route, combining a unilateral approach with an agreement-oriented approach. For example, the settlement of Kedumim in the northern West Bank was on Israel’s map at Annapolis only because Prime Minister Sharon included it within the boundaries of the fence as a bargaining chip – his original intention being to leave the settlement outside Israeli territory in an agreement (Arieli, interview).

41. The Palestinians apparently made similar overtures in the past. For instance, the Beilin-Abbas agreement of 1995 established that all Israeli settlements could remain in the Palestinian state unless defined as Jewish-only communities, and the settlers would retain their Israeli citizenship. This was intended to spare Israel forceful evacuation of West Bank settlements (Benn, Ravid, Yissacharoff, *Ha’aretz*, 2007).
Summary of differences between Israel and the Palestinians in the Annapolis process

**Significant progress on calculating territory:** According to Saeb Erekat, Israel agreed with the Palestinians and the US on a joint formula for calculating territory in late 2008. In a December 2009 paper including a Palestinian summary of the Annapolis process, Erekat claimed that in a trilateral meeting held in Washington between Rice, Livni, Abu Alaa’, and their assistants, the parties agreed that “the basis of negotiations would be the 4 June 1967 Map, including East Jerusalem, [the relevant area of] the Dead Sea, Jordan Valley, the no-man’s land and the Gaza Strip. The principle of land swaps through agreement, including a territorial link between the West Bank and Gaza Strip. The area of the no-man’s land before 4 June 1967, which is 46 km2, would be divided on a 50 – 50 percent basis between the two States. The goal of the peace process would be to realize the principle of the two-state solution on the grounds of this understanding” (Erekat 2009, errors in the original). According to Rice, the parties emerged from the meeting with an agreed, although partial, formula concerning the 1967 borders. In August 2008, in response to Abu Alaa’s question whether Israel accepted the principle of the 1967 borders as a guideline, Rice said: "[Regarding borders,] this is the position of both sides. When I mentioned it in the trilateral meeting held in Washington, I gave a chance for objection, but none of the two parties objected. Therefore, I considered this an agreement by both sides. Territories: Those occupied in 1967. The only dispute is over No Man’s Land... Regarding the exchange, the two sides agree on the exchange, but not on the ratio and its place” (Palestine Papers 26). According to an Israeli source, both parties agreed at the end of July 2008 that the size of the territory under discussion was 6,202 square kilometers. This did not include agreement to recognize the 1967 borders or formalized the 1967 borders as the basis for talks, is unverified and does not appear in the Palestine Papers.

42. Erekat’s detailed information, and especially the fact that the parties gathered in Washington and agreed to formally recognize the 1967 borders as the basis for talks, is unverified and does not appear in the Palestine Papers.

43. The minute remaining difference (3 square km) is largely explained by varying interpretations, probably less relevant now, of land to be included in the Gaza Strip given the land swaps between Israel and Egypt in 1950 (northern Gaza to Israel and Gaza expanded east).
to split the No Man’s Land at that stage (Dekel, interview). Therefore, the parties made
the most progress on issues concerning the baseline for calculating territory and the
denominator representing 100% of the land. In that context, Israel agreed to recognize
the territory occupied in June 1967 and to discuss the overall territory to be divided. Livni
even initiated discussion of “square kilometers instead of percentage” at the negotiation
table. The map experts on both sides – Danny Tirza for Israel and Samih al-Abed for
the Palestinians – say that this brought the parties closer to real agreement, and that
the remaining dispute on this point (over northern Gaza and the size of the No Man’s
Land) was negligible. This almost complete agreement over the total land calculation
is significant compared to past differences between the parties, even in the advanced
Taba talks. In Taba, the Israeli calculation was based on the “boundary line for Judea
and Samaria” (5,450 square kilometers), which did not incorporate Gaza, East Jerusalem,
or the No Man’s Land, while the Palestinian calculation relied on a broad interpretation
including all the territories (6,241 square kilometers). The new understanding reached
in Annapolis created common ground. Jonathan Schwartz of the US State Department
summarized just how important this achievement was in July 2008: “The idea is that
if both sides are using the US database, there will be no more debate over what
percentages mean because everyone will be using the same starting point and the
denominator will be easily identified.” Zeinah Salahi added that this would highlight
any Israeli attempt to annex “empty land”, and that “it is about mutually drawing a line
based on common interest” (Palestine Papers 10).

**Major difference over settlements:** The major difference between the Israeli and
Palestinian positions was, and still is, the future of the settlement blocs – Ariel in the
northern West Bank and Ma’ale Adumim–Giv’at Ze’ev to the north and east of Jerusalem.
Livni stated in the Annapolis talks that Israel would not be able to concede over Ariel;
Abu Alaa’ begged to differ. Condoleezza Rice told Abu Alaa’ at a meeting: “I don’t
think that any Israeli leader is going to cede Maale Addumim”. He replied: “Or any
Palestinian leader”, meaning that no Palestinian leader would concede the opposite
(Palestine Papers 14). In negotiations over Ma’ale Adumim in May 2008, Danny Tirza
urged the Palestinians to accept the Israeli map, mentioning Taba: “Ma’ale Adumim...
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[is now] 85 square kilometers. In Taba, it was only 64” (Palestine Papers 16). Abu Alaa’ suggested a compromise: “There are 30,000 people in Ma’ale Adumim. They can live under Palestinian rule.” This was not seriously addressed by Israel. In the same meeting, in which the Palestinians also voiced concern over the discovery of Israel’s secret talks with Syria, Abu Alaa’ stressed Palestinian displeasure with Israel’s “bloc” approach, as it would bisect the Palestinian territory: “It’s a proposal for five states... We had better leave the division to future generations.” He added: “Actually, when I see your map, I advise you to go to Syria [first]. It will help us. We cannot accept Ma’ale Adumim, Giv’at Zeev and Ariel... If this is your proposal, let us wait... I am serious” (Palestine Papers 3).

Regarding the large settlement of Ariel, the Palestinians repeated another argument throughout the Annapolis process against leaving it under Israeli control: as the settlement was built on top of the crucial part of the Mountain Aquifer, annexing it to Israel would deny fulfillment of Palestinian water rights. Israel rejected this claim on procedural grounds: the separate negotiation over territory and water (Palestine Papers 4).

The discussion of maps revealed further differences relating to the size of the territory to be annexed to Israel in Gush Etzion and northern Jerusalem. Several approaches were proposed to reduce the differences, one of them by Zeinah Salahi, mirroring the Israeli claims: “You are taking all these empty areas for roads, and so on. But if it’s about roads, there could be other arrangements made for access.” This approach resonated positively with Livni and other Israel team members (Palestine Papers 3). However, Livni objected to “erasure” of the Har Homa neighborhood in Jerusalem from the Palestinian map. A Palestinian team member responded by explaining that the connection between Bethlehem and Jerusalem “is even more important than the connection between Jerusalem and Ramallah” (Palestine Papers 16). Only at a much more advanced stage did the US call for creative solutions, when Rice first told Abu Alaa’: “I think that you will have to find an answer to Maale Addumim. And we will need to find an answer to Ariel” (Palestine Papers 14). In other words, the US asked the Palestinians to come up with ways to leave Ma’ale Adumim (and Giv’at Ze’ev) under Israeli control, taking upon itself to ensure Israeli concession of Ariel. In light of the overall lack of progress, it appears
that Rice did not continue to urge the parties to accept the exchange, which to this day is a major basis for resolving the border issue.

Olmert’s proposal regarding territory and borders: Olmert’s proposal was more advanced than the understandings reached in the Livni-Abu Alaa’ track – he agreed to use the 1967 borders, including East Jerusalem, as the basis for the map. In an Israeli precedent, he also agreed to equally split the No Man’s Land. In September 2008, Olmert showed Abbas a map of some 93.5% of the territory, with Israel concession of land for compensation east of Gaza and around the West Bank at an almost – but not precise – 1:1 ratio (5.8%), just as the Palestinians demanded. He also suggested connecting Gaza and the West Bank with a tunnel that would be under Israeli sovereignty, with the openings at either end under Palestinian control. In the proposal he made to Abbas, Olmert emphasized the following: the territorial solution would be based on the 1967 borders, with land swaps, and the areas that were demilitarized prior to 1967 would be divided “completely equally between us... The relative part of the Dead Sea adjacent to the border of the Palestinian state... will be under their sovereignty, not including the Dead Sea Works, the tourist area, and the hotels.”

According to Olmert, the map would include settlement blocs spanning 6.3% of the territory. In exchange, the Palestinians would receive land within Israel equaling 5.8%. Israel would also agree to connect Gaza and the West Bank with a 40-kilometer tunnel whose openings at either end would be under Palestinian control. For safety and security reasons, there would be gates in the tunnel, in case of a security incident or an accident (Olmert 2011, 39-40).

44. NSU position papers recommended that the Palestinian side demand an above-ground road instead of a tunnel, to be used for a variety of transport options including a railway. Agreement to tunnels or bridges should only be a last resort (“margins of flexibility”), in places where “territorial constraints” left no choice. One paper stressed objection to including the “land corridor” in the calculation of territory, unless Israel agreed to Palestinian sovereignty over the corridor (Palestine Papers 19). In its widest version, the corridor would span no more than 0.06% (40 square km for every 100 meters, as the Palestinians demanded) – in contrast to Olmert’s declarations of dedicating 0.5% to 0.7% to the land corridor, even though the value of that land is higher than the rest of the territories, given that it lies within Israel (Arieli, interview).
Three years later, in an interview with Israeli journalist Avi Yissacharoff, Olmert said that his offers were meant to create “transport contiguity” in order to ease Palestinian access to cities. For instance, the tunnel network would lead to the settlement of Ariel "under the Cross-Samaria Highway", as would a similar network to be built in the area of a-Za’ayem (between Jerusalem and Ma’ale Adumim) and Hizma (in north Jerusalem, near the settlement of Pisgat Ze’ev). Olmert added: “Since I was insisting on E-1, there would be a tunnel that would enable Palestinians to have quick passage between Bethlehem and Ramallah, despite our control over the territory, and so their territorial contiguity would not be impaired” (Yissacharoff 2013).

At another occasion, Olmert claimed that he was even prepared to offer Abbas a more "generous" map including 5.9% (i.e., 94.1%) — if a real breakthrough was reached in the talks. “But,” he said, “that would be final” (Avishai 2011). Olmert also claimed that he "knew, not only estimated" which map would be the basis for Palestinian agreement on a permanent status solution: “I have a precise percentage that I think will be able to close the discussion” (Olmert, Geneva Initiative Convention, 2010).

Olmert clearly estimated that Abbas would not be able to sign the map presented to him in September 2008, and was using it as an advanced basis for further negotiation. One month before Olmert submitted his proposal (in August 2008), Ha’aretz published further details of his territorial offer. In the article, Aluf Benn noted that Olmert intended to rely on graded implementation, as his proposal added another phase to the agreement: “Israel would immediately receive the settlement blocs, but the land to be transferred to the Palestinians and the free passage between Gaza and the West Bank would only be delivered after the PA retakes control of the Gaza Strip. In this way, Olmert could tell the Israeli public that Israel is receiving 7 percent of the West Bank and an agreed-upon

45. “Transport contiguity” is an Israel term developed during the peace process to provide a suitable alternative to the Palestinian demand for territorial contiguity. The idea is based on a network of roads, tunnels, and bridges that would enable vehicular access between populated Palestinian areas.

46. According to Rice, Olmert led Abbas to believe that he would be willing to reach a 5.8% map (Rice 723).
border, while the Israeli concessions will be postponed until Hamas rule in Gaza has ended. Abbas, for his part, could tell his people that he has succeeded in obtaining 98 percent of the West Bank from Israel, along with a promise to remove all settlers over the border” (Benn, *Ha’aretz*, 2008).

Abbas did not respond to Olmert’s proposal, but he did relate to it in a later NSU debriefing, summarizing the main points he had agreed with Olmert and stating briefly: “We said only 1.9% and that is when the built up area of all the settlements is only 1.2%” (Palestine Papers 12).\(^47\) Although the map was officially presented by the Palestinians and was even slightly more demanding than previous ones, behind the scenes the Palestinians prepared another 2% map that included new swap areas – which were not discussed – in the West Bank, to be conceded by Israel and added to Palestine (Palestine Papers 18). Moreover, according to several Israeli sources, the Palestinians informally expressed willingness to reach a 96-4% map, had the sides agreed upon all other issues – which did not occur in the Annapolis talks.

Eliot Abrams casts doubt on these claims of serious progress on borders, listing Olmert’s vague proposal as one reason for the Palestinian refusal: “Olmert showed Abbas a map, but Livni also showed a map. The problem was not that they looked different but that they looked very much the same, which caused confusion because Olmert claimed to be saying he would take only 6.3% (or, in some versions, 6.5%) of the West Bank while Livni said the number had to be 8 or 10%. So how could the maps be so similar? This kind of doubt also argued against agreeing to anything” (Abrams 291).

In conclusion, despite Olmert’s claim that Israel and the Palestinians were very close to agreeing on a map in the Annapolis process, this analysis shows that major differences remained – albeit much smaller than before. An important consequence is that we can now outline a clear space for agreement in which each side will be able to rely on a map

\(^{47}\) The Palestinian claim that the settlements comprise less than 2% of the territory was also made at Camp David and Taba. It should be noted that the Palestinians presented similar maps in Annapolis and in the direct talks held by Sen. George Mitchell in his 2010 Middle East visit (Herzog 2011).
that serves its interests.\textsuperscript{48} In that context, it is clear that the permanent status map will not include the Ariel bloc in a way that will bisect the Palestinian state. However, the blocs of Ma’ale Adumim and Giv’at Ze’ev will remain within Israel, although in a more limited version than that proposed by Olmert (only partial annexation of area E1). The map will enable division of the Jewish and Arab neighborhoods in East Jerusalem based on the Clinton parameters accepted by Olmert, and will compensate the Palestinians for annexed land at a 1:1 ratio (at least in terms of quantity), in accordance with the Palestinian acceptance of a 78/22 division of the land.

Analysis of the territory talks in the Annapolis process reveals that Israel and the Palestinians could have made much more progress had the process been managed differently. Reopening the debate wasted time and increased mutual mistrust. Israel’s reluctance to discuss Jerusalem throughout most of the process led to misunderstanding and lack of Palestinian confidence in Israeli intentions. The mistrust led to provocative tactical measures, such as Abu Alaa’s stringent “ten principles” for land swaps and the US’ decision to refrain from promoting an “exchange deal” in which Israel would concede part of the Ariel bloc in return for annexing Ma’ale Adumim and Giv’at Ze’ev. Moreover, the gist of the map that Olmert offered Abbas in September 2008 had already been secretly discussed a year before between the Palestinians and Israeli minister Haim Ramon. Therefore, the map may have served as a basis for more advanced talks than before – especially given the trust that built up between Olmert and Abbas – but it could not serve as a sufficient basis for agreement on Abbas’ part.

\textsuperscript{48} Cf. statements attributed to Abbas, according to which he agreed to give up on 3.8% of land annexed to Israel (Ravid, 2010). Also, since Annapolis, new maps have been drawn up that may serve as a basis for agreement. The Baker Institute has offered three to five territorial alternatives based on 2010 talks held in Washington between Israeli and Palestinian teams. See Baker Institute publication on the subject (Djerejian 2010). David Makovsky published his own alternatives, which are closer to the Israeli approach in the negotiations, through the Washington Institute (Makovsky 2011). Mike Herzog detailed issues for consideration and preparation for further talks on territory and borders, including: choosing the kind of negotiation, outlining possible trade-offs at the outset, finding a balance between steps taken on the ground and progress in negotiations, identifying alternatives in case the talks reach a dead end, and creating a public atmosphere conducive to historic compromise on both sides (Herzog 9-10).
Pre-1967 residence rights for Jews in the Occupied Territories

One of the issues examined by the NSU was how to deal with possible claims by Jews concerning loss of property within the Palestinian state. The unit’s research distinguished between “unacceptable” claims of lost property after Israel’s 1967 occupation and claims made by Jewish people “entitled to remedies for their losses under international law” concerning property lost before 1967, when the areas were under Jordanian or Egyptian control. Should a permanent-status agreement be implemented, the NSU added that “they are in fact in a very similar position to that of Palestinians who were displaced and dispossessed in what became Israel... According to international law, such Jewish Palestinian nationals or permanent residents have a right of residency in the future Palestinian state if they were residents of the areas that became Gaza and the WB.”

As opposed to the Palestinian claims concerning refugees, when it came to compensation of Jewish people, the NSU differentiated between loss of “tangible” and “intangible” property, arguing that responsibility for the latter lies with Egypt and Jordan. The paper detailed major assets purchased over the years by individual Jews or by the Jewish National Fund, and discussed possible alternatives for negotiation with Israel over this complex issue. The report also mentioned that, while trying to minimize the residency rights of these Jews, upholding international law may strengthen the Palestinian strategy of “pressure on Israel to act similarly in regard to displaced Palestinians” (Palestine Papers 38).

That fact that this matter was specifically researched illustrates the Palestinian emphasis on historical account balancing and the seriousness of their intentions – at least as represented by the NSU – regarding individual solutions to returning refugee property.
Comparison of maps

This section was written with the assistance of Dan Rothem, a territory and borders expert and senior research consultant at the "S. Daniel Abraham Center for Middle East Peace", who also prepared the maps presented here.

Background

This section compares maps in order to examine the positions on territory presented by each side in the Annapolis process (August-September 2008) and in the Taba talks (January 2001). These maps represent the most advanced official maps agreed upon by the parties. They illustrate the differences between the Annapolis and Taba talks in five areas: percentage, square kilometers, settlements remaining in Israel, areas to be transferred to the Palestinians in a swap; and the percentage of Jewish settlers not to be evacuated.49

The maps were redrawn and unified, both visually (using the same colors and scale) and in terms of baseline calculation. The baseline represents all the relevant areas: the West Bank, East Jerusalem, the Gaza Strip, and the northwestern part of the Dead Sea, given that the No Man’s Land — especially in the Latrun area — will be split (in practice, Israel annexes most of it and includes this in calculation of territorial compensation). This calculation creates a joint baseline of 6,180.5 square kilometers. Prior to division of the No Man’s Land, the joint baseline was 6,205 square kilometers, to which the parties agreed in Annapolis. This territory more or less constitutes the size of the Palestinian state, as understood by both parties in Annapolis.

49. A note on methodology: given the disagreement over the basis for calculation — Israel relied on a Judea and Samaria map (5,450 square km) while the Palestinians included all territories occupied in 1967 (6,241 square km) — differences remained in the percentage of declared land and of settlers marked for evacuation. Using a uniform baseline for calculation creates a gap between the percentage that each side attributed to the map (based on their original calculations) and the percentage that appears in our calculations, which is supposed to serve as the basis for joint, mutually agreed calculation.
The demographic data were taken from the Israeli Central Bureau of Statistics, according to the relevant years: the maps from the Taba talks (January 2001) are matched with 2000 data, and the maps from the Annapolis talks (August–September 2008) are matched with 2008 data.

The Israeli map in the Annapolis process (2008)

Map 1 (p. 103) is a copy of the map that Olmert presented to the Palestinians on August 31, 2008. It was reconstructed by the Palestinians and leaked to Al Jazeera after the Annapolis process ended. The map depicts annexation of approximately 7%, and is based on the route of the Security Fence (which, in the last decade, has become a concrete border on the ground). Israeli territorial compensation of the Palestinians (swap) is 4.3%. On September 16, 2008, Olmert showed Abbas a more advanced map depicting 6.3% annexation and a 5.8% swap. As the map was never published, it is not visually presented here. However, the famous “napkin map” drawn by Abbas after the meeting (p. 107) in an attempt to reconstruct Olmert’s proposal (Yissacharoff, 2013) does not include annexation of the Hinanit-Shaked bloc (the northern bloc) – possibly the major difference from the map presented on 31 August. In any case, a map showing Israeli annexation of less than 0.7% would probably not differ substantially from Map 1.

The Palestinian map in the Annapolis process (2008)

Map 2 (p. 104) was presented to Israel in May 2008. The Palestinians have consistently adhered to this map since the Annapolis process. It depicts Israeli annexation of some 1.6% and a swap of approximately 2%. According to Palestinian calculations, the map depicts an equal swap of 1.9%, as the Gazan border is defined according to the original armistice line of 1949 (before the Israel-Egypt “modus vivendi” agreement of 1951, in which the boundary of the Gaza Strip was changed).
The Israeli map in the Taba talks (2001)

Map 3 (p. 105) was presented to the Palestinians with the approval of the Israeli leadership, although some of the Israeli negotiators did not see it as “the official map”. It was the most advanced map presented in the 1999-2001 negotiations, and it reflects Israel's classic conception of three large settlement blocs: the Western Samaria bloc (Ariel bloc), the bloc around Jerusalem, and the Gush Etzion bloc. The map details Israeli annexation of approximately 7%, but as Israel calculated the annexation based on the "Judea and Samaria boundary" alone, the Israeli calculation is closer to 6.1% – which is why the map is called "the 6 percent map". Division of Jerusalem (based on the Clinton parameters) and the land swap were not included, remaining principles that were discussed but not visually documented.

The Palestinian map in the Camp David-Taba talks (2000-2001)

Map 4 (p. 106) was presented to the Israeli side by the Palestinians in the Camp David-Taba talks (2000-2001). The Palestinians offered Israel annexation based on a narrow territorial approach ("fingers" of land rather than blocs) in the Ariel area, including the settlements of Alfey Menashe and Karney Shomron. The Palestinians also included the settlements of Elkana, Oranit, Modi’in Illit, Beitar Illit, Gush Etzion, Efrat, and the Jewish neighborhoods of East Jerusalem (without Har Homa / Jabal Ghanayem). Israel’s annexation came to only 1.6%. Another method of calculation, relying only on the West Bank (including East Jerusalem), yields some 2.2%. It is unclear why the Palestinians called it "the 3.1 percent map". This map, too, does not visually represent the land swap from Israel.

50. Shaul Arieli, who participated in the Taba talks and represented Israel in the area of territory and borders, claims that he was officially authorized by then-Prime Minister Ehud Barak to show the map to the Palestinians (Arieli, interview).
51. Contrary to the Palestinian claim that this map was informal and intended for Palestinian use only, Israeli sources who took part in those talks claim to have been officially shown the map at Taba (Arieli, interview; Herzog, 2011).
Map 2: The Palestinian map in the Annapolis process (2008)

Legend
- The Old City
- Jerusalem - Israeli defined border
- 1967 Lines (the Green Line)
- Israeli towns
- West Bank settlements for annexation
- Israeli annexation
- West Bank settlements for evacuation
- Palestinian towns and villages
- Land compensation from Israel

Geography

<table>
<thead>
<tr>
<th>Description</th>
<th>Sq Km</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land annexed by Israel</td>
<td>434.0</td>
<td>7.02%</td>
</tr>
<tr>
<td>Land compensation from Israel</td>
<td>267.0</td>
<td>4.32%</td>
</tr>
</tbody>
</table>

Demography

<table>
<thead>
<tr>
<th>Description</th>
<th>Towns/neighborhoods</th>
<th>Population</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Israeli side of the border</td>
<td>63</td>
<td>419,800</td>
<td>88%</td>
</tr>
<tr>
<td>of which East Jerusalem</td>
<td>13</td>
<td>166,500</td>
<td></td>
</tr>
<tr>
<td>Palestinian side of the border</td>
<td>69</td>
<td>57,000</td>
<td>12%</td>
</tr>
<tr>
<td>Total</td>
<td>132</td>
<td>476,800</td>
<td>100%</td>
</tr>
</tbody>
</table>
Map 4: The Palestinian map in the Camp David – Taba talks (2000–2001)

Legend
- The Old City
- Jerusalem - Israeli defined border
- 1967 Lines (the Green Line)
- Israeli annexation
- Palestinian towns and villages
- Israeli towns
- West Bank settlements for annexation
- West Bank settlements for evacuation

Geography
- Land annexed by Israel: 435.1 Sq Km, 7.04%
- Land compensation from Israel: 0.0 Sq Km, 0.00%

Demography
- Israeli side of the border
  - Population: 305,200
  - Percentage: 85%
- Palestinian side of the border
  - Population: 51,800
  - Percentage: 15%
- Total
  - Population: 357,000
  - Percentage: 100%
The napkin on which President Abbas tried to reconstruct the map shown him by Prime Minister Olmert on 16 September 2008 (Yissacharoff, 2013)
Security

“If we achieve security, everything else will be resolved.”

“Do you want a Palestinian state or a military base?”

Background

The issue of security relates to almost every important aspect of the permanent-status agreement: territory and drawing borders, the components of Palestinian sovereignty and control (over land, sea, air, and electromagnetic space), the nature of the state and its responsibility for actions carried out within it – and international involvement in the agreement and in its practical implementation. As with the issue of territory and borders, the Israeli position on security developed throughout the process: from seeing security as the sole important factor to accepting that this issue must be balanced with the need to establish a viable Palestinian state. Historically, Israel insisted on defensible borders with the Palestinian state that would rely on Israeli control on the ground – in the west (along the Seam Line), in the east (the Jordan Valley “in its broadest sense”), around Jerusalem, and in strategic routes running the length and breadth of the West Bank. By the time the Camp David and Taba talks were held, Israel had shifted to focusing on demilitarization and emergency deployment, and was more open to ideas concerning use of international forces and special arrangements instead of Israeli presence within the territory of the Palestinian state. Throughout the peace process, the Palestinians were very much on guard concerning security issues, fearing that fulfillment of Israeli security demands could harm the sovereign and territorial aspects of the future Palestinian state, which they saw as continuation of the occupation in a different form.
In the 2001 Taba talks, Israel and the Palestinians reached several significant agreements in principle in this area: a Palestinian state with limited arms, no permanent Israeli presence in the Jordan Valley, the existence of emergency areas and three early warning stations located within the Palestinian state, and Palestinian sovereignty over airspace and electromagnetic space. The parties also agreed in principle to the presence of international forces, at least for the transition period, the duration of which was not yet settled. However, crucial differences remained regarding actual implementation of a future agreement and the attendant impingement on Palestinian sovereignty. The parties did not agree over the number of emergency areas (the Palestinians agreed only to two, while Israel demanded five), over who would run them routinely (the Palestinians demanded that an international force, and not Israel, be charged with this), and over the actual deployment of IDF forces in an emergency. They also did not agree over the management and maintenance of the early warning stations. The Palestinians demanded full practical control of airspace and electromagnetic space, refused Israeli security control over these spaces, and rejected Israel’s request to carry out IDF training and activity within the future Palestinian state (Arieli, 2013).

“Lost in the Desert” – Israel’s conceptual confusion pre-Annapolis

As with territory and borders, discussion of security at Annapolis did not pick up where it left off at Taba. Instead, most matters of principle, such as demilitarization, international presence, and the future of the Jordan Valley, were reopened for negotiation. This was driven by two major shifts in Israel’s perception of national security, following the failed previous talks, the second Intifada, and the fall-out of the 2005 disengagement from Gaza. First, skepticism was high over the Palestinian Authority’s ability, and intention, to guarantee security for Israelis. The IDF increasingly believed that the underlying assumption of the Oslo Accords, that peace would bring security, was unrealistic and should be reversed – security would bring peace. This change in outlook was also
behind the graded approach that guided the Road Map since 2003.

Second, concern over demographics in Israel increased along with the understanding that this vital factor in maintaining Israel’s Jewish and democratic character, as well as reinforcing its international legitimacy, must take precedence over geography. No longer a statistical “development”, this issue became a “threat” — albeit not a standard military one, but certainly one that influenced Israel’s pre-Annapolis perception of national security (Brom 2007, 1).

These contradicting trends engendered three different approaches to dividing the land. One school of thought supported unilateral withdrawal from the West Bank in keeping with the disengagement from Gaza: “Those who assume that it will be a dysfunctional state hostile to Israel favor unilateral separation, while those who believe in the feasibility of a Palestinian state living in peace with Israel continue to argue for a negotiated settlement” (Ibid.,2). This approach guided Olmert’s Convergence Plan, which was based on the route of the Security Fence and willing civilian evacuation with governmental support. Eival Gilady, former head of the IDF Strategic Planning Division who later advised Olmert on the subject, described the strategic thinking behind the plan:

“Olmert gets into the prime minister office and he’s elected for one single thing and this is what we used to call the convergence. He one hundred percent adopted the concept that we take the momentum created with the disengagement and move on to the West Bank... Let's shape the future unilaterally. We put up this fence - barrier, wall, whatever people call it. We pull out of Gaza. In the next two to three years we can incentivize people to move... [I]f you have most of the West Bank empty of Israelis, all Gaza empty of Israelis, and arrange the connections between the two... The real goal was to create a semi-state actor for final status negotiation. There is no way we can negotiate with a bunch of militias.” (Abrams, 172-173)
The second approach, driven by the 2003 Road Map, was that some kind of agreement must be reached but, given the breakdown of trust following the second Intifada, Israel must put security first and insist on placing trials to be met before progress on every stage of forming the Palestinian state-like entity. This logic was behind the concept of the "provisional state", as an interim stage towards establishment of a sovereign Palestinian state.

The third approach favored a permanent-status agreement based on the Oslo Accords and the UN resolution 242 proposing "land for peace". The rationale here was to use every opportunity to fulfill the stable, cooperation-based model that would promote "two states for two peoples". Proponents of this view wished to continue the significant progress made in previous talks, even though overall agreement had not been reached. They were bolstered by the signing of the informal Geneva Accord, which was meant to prove to all parties that reaching an agreement was possible if the leaders put their minds to it.

The result was that Israel arrived at the Annapolis talks with confusion on several issues, primarily security. The IDF was wary of any agreement that might be reached with Abbas, whose standing had markedly weakened with the rise of Hamas, leaving him with only partial control of the West Bank and none in Gaza. Prime Minister Olmert had changed his approach in light of the diplomatic window of opportunity created with Abbas, but had yet to declare abandonment of the Convergence Plan. In fact, he repeatedly notified the US that, while he would give diplomatic negotiations a chance, “if we don’t reach an agreement, I will carry out the withdrawal plan” (Olmert, 2011). Moreover, sources close to the negotiations relate that Olmert would have seen his final offer, and the map he proposed to Abbas (which was not met with approval on the Palestinian side), as a potential platform for implementing the Convergence Plan only if political conditions in Israel had made it realistic.

That was the background for media reports quoting "top security officials" about tough Israeli demands made at the beginning of the Annapolis process, in the direction of a permanent-status agreement (primarily, maintaining effective security control in the West Bank):
“As part of the permanent-status agreement, Israel wants the US to agree to limitations on the sovereignty of the future Palestinian state, such as demilitarization and Israeli freedom to fly in Palestinian airspace. Another demand is to have undercover Israeli supervision at the Palestinian state's border crossings, in a way that would not encroach on the symbols of Palestinian sovereignty but would allow Israel to know who is entering and leaving... Israel will suggest that an international force be stationed in the West Bank and at the Philadelphi Route in Rafah, and will request regular deployment of IDF forces to remain in the Jordan Valley for the foreseeable future. According to the plan, a small force will be stationed in the Jordan Valley to serve as a deterrent - a mission known in military jargon as "tripwire". Israel will demand that the Palestinians agree to IDF deployment in the West Bank in an emergency, in order to counter an invasion from the east. This deployment will only occur in extreme situations, but including it in the agreement is meant to guarantee that the Palestinians will not object when the time comes... Israel wishes to obtain President Bush's support for its security demands, so that an understanding with him will serve as the basis for the work of the US envoy on behalf of the Secretary of State, General James Jones, who is supposed to formulate the security arrangements in the agreement.” (Benn, Ha'aretz, 2008a)
Security discussions in the Livni-Abu Alaa’ track

Despite the importance and sensitivity of the topic, discussion of security in the Annapolis process was decentralized and took place in various tracks. General Dayton discussed establishing and training Palestinian security forces as part of implementing the Road Map; bilateral and trilateral meetings in the Livni-Abu Alaa’ track involved lengthy debates over security, with no progress. Separate dialogue held in the Security Committee, led by Amos Gilad and Hazem Atallah (head of national security in the PA), was similarly unproductive. The major developments occurred in the talks that each party held with General James Jones, in which Jones finalized the security package, and in the Olmert-Abbas discussions of security.

In the Livni-Abu Alaa’ talks, Israel expressed great doubt that an international force would be effective enough to overcome security threats, given its experience with UNIFIL in Lebanon, the MFO in Sinai, and TIPH in Hebron. Therefore, Israel aimed to retain as many aspects of control as possible, both routinely and during an emergency. While the Israeli position presented to the Palestinians did distinguish security demands from border routes and territorial aspects, Israel did not forgo special border arrangements and special locations within the Palestinian state that would guarantee it sufficient control. This was intended to prevent Hamas from taking over the West Bank and to reduce smuggling, which was rampant in the Gaza Strip. Livni made it clear to the Palestinians that security was paramount: “If our security needs are fulfilled, then all other issues, except the sensitive issue of Jerusalem, can be solved” (Palestine Papers 9). Another time, she explained Israel’s strategic rationale for the entire process: “Our strategic view is to strengthen you and weaken Hamas” (Palestine Papers 20). More than once, Livni acknowledged the problematic tension underlying the security talks: on one hand, Israel wanted the Palestinians to have good capacities to fight terror and defend borders; on the other hand, Israel demanded demilitarization, necessarily limiting the Palestinians’ ability to ensure security. However, Livni repeatedly complained both to the Palestinians and to the US that not enough progress was being made on security. In late May 2008, she said: “We spoke and came a long way on territory. So far we have nothing on security. So we
need to step forward. Without it, this is a problem” (Palestine Papers 2).

The major differences over security can be classified into four main categories.

1. **Perception of security risks after a Palestinian state is established:** in the Annapolis talks, Israel presented pessimistic scenarios of a continued fight on terror and even larger challenges that would result from signing an agreement. This stemmed from the mutual mistrust between Israel and the Palestinians, partially driven by the attitude of the IDF and the Defense Ministry. Some sources claim that the preliminary talks and the material prepared for Annapolis demonstrated how little had changed in the IDF’s perspective – there was no conceptual shift from conflict to the existence of a Palestinian state with a permanent-status agreement. This was noticeable in the negotiations, too. For example, Udi Dekel said in a trilateral meeting with the Palestinians and the US: “Unfortunately, at the other side [sic] they think that mere reaching an agreement will bring about peace between us and that Hamas will disappear and that we will live in peace and security” (Palestine Papers 4). When the security talks began in February 2008, Amos Gilad, who headed the Security Committee on behalf of Israel, explained Israel’s rationale concerning the strategic situation and its possible implications for negotiation: “When the West Bank is weak, Iran will make efforts to weaken Jordan. The West Bank is important and can cause more danger because it’s closer to Israel... We’re talking about a state and the Gaza Strip is part of it... But there’s an entity called Hamastan and it’s strong and organized and controls the region. It is an extremist entity that doesn’t look for peace, but its goal is to control the West Bank and destroy Israel... What happened in Gaza shouldn’t happen in the West Bank.” In that meeting, Gilad noted Jordan as a positive model in terms of security, which could offer examples of how to effectively deal with extremist Islam and terrorism (Palestine Papers 21).

The Palestinians, meanwhile, did not change any of their positions on security, including “day after” scenarios. To them, peace was supposed to lead to security; crossing the Rubicon of a permanent-status agreement was expected to usher in a new era of
reconciliation, diplomatic arrangements, and Palestinian willingness, as well as in the Arab world in general, to come towards Israel. Security risks and terrorism would be meaningfully reduced once the main reason for their existence was eliminated. In a trilateral meeting held in June 2008, Abu Alaa’ stated his view: “The problem in Israel is with security personnel and not with politicians because they consider the current situation and build up on it. They do not look to the time after independence.” He added that “transparency in dealing with the Israelis in this field is more efficient than military bases and alert stations” (Palestine Papers 4). In another meeting he asked his Israeli counterparts: “Do you want a Palestinian state or a military base?” (Palestine Papers 22).

2. Responsibility for security: Israel considered itself to be responsible for protecting its citizens, including from security risks posed by the Palestinian entity and by other actors. Therefore, the military approach in Israel was to retain control of the West Bank, or certain parts of it. This was driven by concern over possible emergencies – military or otherwise – and by the intention to maintain freedom to act in order to neutralize threats and carry out quality intelligence work on the ground. These aspirations narrowed the margins of a possible diplomatic compromise, although they were not formally supposed to dictate Israel’s overall perception of national security. In the Annapolis talks, they led Israel to demand the right for military presence in the Palestinian state, “even undercover”, rather than rely on international presence of any kind, least of all military. The Israeli emphasis was not to strengthen Palestinian responsibility for security but rather to demilitarize the territories, leaving Israel with room for military action in times of peace and in an emergency.

The Palestinians, however, insisted on having the responsibility for security. They were prepared to discuss involvement of international forces to help them maintain security during the transition period, and possibly even afterwards. These forces were supposed to supervise Israel’s process of withdrawal and evacuation, among other things. For example, in light of Israel’s demand to station IDF forces in the Palestinian state, Erekat stated in a security session that the Palestinian side would favorably consider “[a]nything short of an Israeli soldier on Palestinian territory... When there is a Palestinian state,
your occupation will be over. Your only presence will be civilian – doctors, technicians” (Palestine Papers 23). As early as February 2008, Erekat (SE) gave General Jones (JJ) his interpretation of Israel’s position: “JJ asked about the extent of Israeli acceptance of 3rd party. SE said they [the Israelis] agree to it, but want to have an Israeli presence alongside it. He explained that what the Israelis mean by ‘threat from the east’ is not about Iran or a distant enemy, but about threat of Palestinians taking over in Jordan. He said this is nonsense, and that stability of Jordan is a key Palestinian interest... SE gave the examples of EU, BAM and TIPH as indications of Palestinian preference for European, rather than Arab, Muslim, American presence. However, he agreed that the European role can be carried out under NATO auspices” (Palestine Papers 24). As the negotiations progressed, it became increasingly clear that the Palestinians wished to rely on a third-party force to supervise implementation of the agreement and to “protect the Palestinians” from external threats. It is not clear whether this was a tactical step down in response to Israel’s demand for military presence in certain locations within the Palestinian state, or whether it became a key Palestinian position. According to Hiba Husseini, the Palestinians insisted on an international force because they did not trust Israel, as they were the weaker side and feared that Israel would implement the agreement as it saw fit (Husseini, interview).

Israel saw this Palestinian position as a demand for protection against Israel. Livni protested, saying: “We cannot accept protection from outside because we see that as a protection for you from Israel and not from Jordan and Egypt. Therefore we have disagreement about the main concept of security” (Palestine Papers 4). The NSU summaries, which reflected the Palestinian positions presented in the talks, noted that the Palestinians “do not need an army but need more than police to carry out responsibilities” (Palestine Papers 8). In a meeting with Udi Dekel in July 2008, in which the Palestinians presented their basic concept of security for a permanent-status agreement, Erekat said: “You tell me your concerns, and I will ensure they are met by the third party – anything short of your military’s presence on my territory. For example, if you need early warning stations – you tell me where to put them, what specifications they should have; you don’t even pay for them. But they will be run by others, not you.
This way I am meeting your concerns, not undermining them. Anything short of an Israeli soldier on Palestinian territory” (Palestine Papers 23).

On almost all issues, Erekat preferred international presence to an Israeli one – even if it undercut Palestinian sovereignty. This was an attempt to undermine the Israeli demand for presence and effectively eliminate it, as a solution such as the one quoted above would be unfeasible. The Israeli side augmented this negative attitude by expressing mistrust of Palestinian intentions. For instance, Amos Gilad informed the Palestinians that he did not see them as a “reliable, effective, credible partner” (Palestine Papers 22).

3. Demilitarization and limitation of Palestinian control: Israel saw the Palestinian entity as a potential future threat, and therefore held it essential that the Palestinians form and train police and security forces rather than an army. Accordingly, Israel demanded that the entire Palestinian state be demilitarized, and made lists of military equipment and weapons that would be permitted or not. Israel required more limitations, and insisted – with US backing – that the small airspace of the West Bank could not be split. In one meeting, Condoleezza Rice pointedly asked Udi Dekel: “Your airspace is too small, not like the American airspace. How long does it take to fly from Jordan and enter into your airspace?” He responded: “Two minutes” (Palestine Papers 4). In one of the first Annapolis meetings, Amos Gilad described Israel’s view of demilitarization:

“You will have limits. Because of small distances in the two states - it's like suburbs in the United States. We are not persuaded that if you have an army it will not be a threat to us. We frankly don't trust that if you establish an army that you won't turn against us because of the history, terrain, etc. We need a long period. From our security, not political, point of few (sic) - distances are tiny - strategic depth is so small. Without demilitarization your strategic depth will be bigger than ours! Limited arms and demilitarization are totally
different. As a friend (I tell you), the way we look at the Middle East, your army contradicts our basic understanding of security.” (Palestine Papers 2)

This explained Israel’s view of the ties between demilitarization, territory and borders, and why it insisted on graded trials and a prolonged transition period in order to build up trust – in addition to considerably limiting Palestinian military capacity, which could pose a threat to Israel. The underlying assumption was that a post-agreement Palestinian state would be a risk and, at least according to Gilad, would not match Israel’s perception of security. Gilad also failed to detail what conditions would make a Palestinian state conducive to Israeli security. In other words, he used the security argument to oppose the very idea of a viable Palestinian state and, by implication, a permanent-status agreement. This was probably why the Palestinians told the Israeli team that they believed the Defense Ministry opposed the entire peace process and a permanent-status agreement between Israel and the PLO.

As noted, the Palestinians emphasized the need to have a semi-military force in order to fulfill their responsibilities. Therefore, they favored a softer approach based on the term “limited arms” rather than a “demilitarized state”. They also preferred mutual agreement over how the forces would be structured and deployed than committing to predefined lists of what military equipment and weapons they would be permitted to possess or produce. At one meeting, Erekat claimed that the issue had come up in consultation with General Dayton and he had agreed. The Palestinians also closely tied specific negotiation over restriction of their weapons and security forces to Israeli commitment to fully withdraw from the Palestinian territory – in fact, they made it a condition (Palestine Papers 1).

4. The transition period before the permanent status stage: The idea that a transition period was necessary in order to shift from conflict management to the permanent status era, including a Palestinian state-entity, was raised as early as 1978 in the Camp David talks with Egypt. It was then that Israel first agreed to recognize the existence of
the Palestinian people and their right to elements of self-definition. In those talks, the parties agreed that a five-year period was required before full autonomy and self-rule could begin in the Gaza and the West Bank (Brom 2007, 4). The 1994 Oslo Agreement was also based on a transition stage ("interim period") that was supposed to last five years, ending in 1999. The 2003 Road Map included only two years for transition, despite Israeli opposition. Unlike the interim agreement approach, in a permanent-status agreement the parties know what the end vision is, which should incentivize them to fulfill their commitments during the transition period. In the Annapolis talks, as before, Israel saw a transition period as crucial to reinforcing Palestinian security strengths and building civilian and political state institutions. Israel also preferred to carry out a gradual, prolonged withdrawal that would include evacuating settlements and military bases, especially in light of the non-graded, traumatic disengagement from Gaza in 2005. The Palestinians, on the other hand, preferred that the transition period focus on Israeli commitment to evacuate settlements and withdraw army forces and bases. As in the Taba talks, Israel demanded a lengthy transition period with Israeli supervision, and that the transition be conditioned on Palestinian performances; the Palestinians demanded a relatively short period, with international supervision of ending the occupation and Israeli withdrawal, with no prerequisites to moving on to the permanent-status stage. In August 2008, when Rice asked whether the Palestinians would agree to a transition period, Abu Alaa’ responded: “We are not there yet. A withdrawal period, one year, but not [based on] testing the Palestinians... not as part of the agreement.” He later added, regarding the need for cooperation between the two sides: “They [Israel] need to change their mindset from that of control to that of partnership” (Palestine Papers 25).

Security in Olmert’s proposal

In his proposal, Olmert emphasized how important it was that the Palestinian state be demilitarized and that the border between Palestine and Jordan be closed to free movement. Only afterwards did he explain that he meant a NATO force to be
stationed on the Palestinian and/or Jordanian side of the border. Olmert's proposal also emphasized the elements of military response; procedures preventing a foreign army from entering the territory and Israel's right to defend itself should such an invasion occur; a prohibition on forging military alliances with "enemies; Israel's right to defend itself "without limitation" against terror attacks; and "Israeli freedom of action" in the airspace and "control" over the electromagnetic space (Olmert 2011, 40).

Given the deep differences in approach demonstrated in the Livni-Abu Alaa’ meetings, in the Olmert-Abbas meetings, and in the US summary paper written at the end of the Annapolis process (under General Jones), progress was made on several major issues.

First, contrary to the spirit of the Livni-Abu Alaa’ discussions but in keeping with the Palestinian demand, Israel agreed to an international presence instead of Israeli security presence. In that context, President Abbas emphasized that the parties had reached a joint understanding with US over a US-led NATO force to carry out the necessary tasks. Abbas provided the NSU team with his description of the understanding: “We do not oppose a third party force for a transitional period. The Israelis nearly did not object to this and asked who do you propose. We said whomever you like as long as there are no Israelis. There was a proposal by Gen. Jones; I believe you have it, so on this issue it was almost ready” (Palestine Papers 12). Shaul Arieli claims that the basic agreement to an international forces related to broad deployment, including the following areas: "The border between Israel and Palestine, the border between Palestine and Jordan and Egypt, the international border crossings, Jerusalem, the early warning sites, and along agreed routes” (Arieli, 2013).

Second, progress was made concerning the Jordan Valley. Olmert and Abbas agreed to "seal off" the border with an international force instead of an Israeli one, including the special areas, the early warning stations in the West Bank, and the emergency deployment sites. Olmert described his proposal on this issue: “I completely gave up on having an Israeli presence in the Jordan Valley. That was because I could protect the line of the Jordan River through an international military force on the other side
of the Jordan River” (Yissacharoff, 2013). He later claimed, both in an interview to Israeli Channel 2 News (on February 7, 2014) and in conversation, that the defense establishment had agreed to forgo military presence in the Jordan Valley. This was corroborated in an article by Dov Weisglass on the future of the Jordan Valley (see insert, Weisglass 2013). Even if Israel had agreed to this, however, it appears that Jordan would not. In an interview with Bernard Avishai, Abbas claimed that he personally suggested to Olmert the idea of an international force patrolling the Jordanian border and consulted the US, who agreed to station a NATO force there under their command. However, “Jordan and Egypt, whose borders were implicated, made some conditions of their own: no Jordanian or Egyptian would participate in the force, and it would be based only on Palestine’s side.” Despite this major qualification, “the file on security was closed,” Abbas told me. “We do not claim it was an agreement, but the file was finalized” (Avishai 2011). In contrast, Haim Ramon does not think that the issue of security was crucial: “If Israel wanted to go back into the [West Bank Palestinian] towns, it would do so, just as it did in Operation Defensive Shield.” Ramon says he understood that Olmert and Abbas had agreed to a five-year transition period for withdrawing IDF forces and evacuating Israeli communities in the Jordan Valley, and that the idea of stationing a NATO force on the Jordanian side was part of Olmert’s attempt to garner public Israeli support for his proposal (Ramon, interview).

Condoleezza Rice was similarly optimistic in one of the last trilateral meetings: “We all know what’s in the security paper and it can be written in 15 minutes” (Abrams, 286). In her memoir, she claims that Olmert asked her in May 2008 for US help on security issues. He believed that the Palestinians would not accept the IDF’s list of security demands, and asked the US to arrange matters directly with the IDF. Olmert further claimed: “I can sell this deal, but not if the IDF says it will undermine Israel’s security. That’s the one thing no prime minister can survive” (Rice 652). Consequently, Rice asked General Jones to provide a “regional solution” as an alternative to Israeli presence in the Jordan Valley. She believed that she could personally convince King Abdullah of Jordan to send soldiers to participate in a peacekeeping force along the border, under NATO. As for other security issues, such as control of airspace and protecting borders, Rice
believed the solutions were largely “technical”, such as a joint “early warning system” controlled by Israel and the US (ibid., 653–654).

Dan Kurtzer, former US ambassador to Israel, claimed that the most significant progress made in the Annapolis process was on security. According to Kurtzer, the two leaders repeatedly stated that they had reached an agreement over security limitations, and that the other differences related to other issues (Kurtzer 2013, 228). According to Shaul Arieli, while the negotiation did not result in a permanent-status agreement, “it left both parties with the feeling that an agreement could be reached over security” ( Arieli 2013, 337). Palestinian journalist and political adviser Elias Zananiri reported that the parties had almost finalized an understanding on the issue, and that Abbas had even agreed to Olmert’s demands that the Palestinian state not forge alliances with enemies of Israel, and that Israel enjoy a commercial and military advantage in using Palestinian airspace (Zananiri 2014).

These positive views are contrasted by an NSU paper prepared in November 2008, after the Annapolis process ended, analyzing the differences between the parties on various issues, including security. According to the paper – and much like claims made throughout the process, primarily by Livni – major differences remained between the Israeli and Palestinian positions:

Concerning an international force – while the Palestinians demanded that the force be charged with a range of tasks (border protection, supervision of border crossings, capacity building, overseeing implementation of the agreement, etc.), Israel’s position was inconsistent. The Defense Ministry objected to any international presence, Livni was flexible but was against military presence, and Olmert agreed to military international presence on the ground to replace the IDF.

Concerning demilitarization and military limitations – the Palestinians were prepared to accept restriction on arms and establishment of a limited security force (“do not need an army but need more than police”); Israel demanded a “demilitarized state” without elaborating what that meant, but included restrictions based on lists of prohibited
military equipment and weapons.

Concerning Israeli presence/control – the Palestinians demanded zero Israeli presence and control over borders, airspace, territorial waters, international border crossings, and electromagnetic space. Israel, on the other hand, insisted on the “eight-point” demands it had laid out before the US – and not, by implication, before the Palestinians – regarding Israeli presence: “Military presence (specifically in the Jordan Valley / along the borders; early warning stations; right to deploy in ‘emergencies’; control over airspace (civil aviation); use of airspace for military operations, controls over EMS [Electromagnetic sphere]; controls over territorial water; border crossings; arrangements for ‘strategic sites’ / ‘special zones’ (unspecified)” (Palestine Papers 8).

In his book, Abrams quotes Olmert’s closest advisers at the time, Shalom Turgeman and Yoram Turbovitch, retrospectively describing the significant differences over security. According to Turbovitch, “they [Olmert and Abbas] never agreed to anything. Clearly the security list was not acceptable to them [the Palestinians]. NATO forces were never seriously discussed...” Turgeman said: “In all our talks we said it cannot be an option, not NATO and not other forces. Our claim was always that an international force will be only observers and it will prevent the Palestinians from doing what they are obliged to do. We had the 8 points [of which Barak had spoken to President Bush] and didn’t want to desert them” (Abrams, 290).

According to Menachem Klein of the Geneva Initiative team, Olmert sent his security papers to the US Administration, apparently in order to overcome Palestinian objections. Furthermore, Olmert’s proposal was problematic regarding security because he presented it without consulting Foreign Minister Tzipi Livni, who was holding parallel talks with Palestinian leader Abu Alaa’, or Defense Minister Ehud Barak (Klein 2010, 24-25).

Shlomo Brom, former head of the IDF Strategic Planning Division, headed the Israeli security team at the 2003 Geneva talks. He says that the growing mistrust led to a quantum leap in the Annapolis talks, from demanding Israeli presence to agreeing to a NATO force against Israel’s will: “Israel had no trust in the Palestinians, and the
Palestinians came to the talks feeling that Israel wants to continue the occupation in other ways, in keeping with the tale about Joha’s nail. With such an impasse, the only choice the two sides had – as a compromise, not as a point of departure – was a third party. But what is a third party? External intervention was not supposed to solve all the problems for the Israelis and Palestinians, but to provide a partial response. A NATO force, on the other hand, would give the sides a feeling that a solution had been found for all security problems (Brom, interview).

In conclusion, unlike the issue of territory and borders, where both sides clearly understand and accept the point where the negotiations ended, and the remaining differences are clear, the picture regarding security is hazier. On one hand, the leaders achieved several breakthroughs on matters of principle: accepting the principle of demilitarization based on the idea of a state with limited arms; accepting deployment of a US-led military force in the Palestinian state and along its borders instead of the IDF, including the Jordan Valley; and Palestinian acceptance – as a continuation of the Taba understandings – of early warning stations, and apparently also emergency deployment sites. On the other hand, the Annapolis process did not yield agreement over vital issues, some of which had been under dispute since the Taba talks. These included: division of control over airspace and electromagnetic space; practical arrangements concerning emergency protocol and responses to terror attacks, and Palestinian principled refusal to any Israeli presence in Palestinian territory; the nature of the transition period, and especially the transition from the interim period to the permanent status stage.

These differences illustrate, yet again, the problems that dogged the management of the Annapolis process. The Israeli actors, driven by deep conceptual confusion and both political and personal motivations, were not coordinated and did not define clear goals and consistent positions on security issues. It is hardly surprising, therefore, that Israel reached a markedly different endpoint from the tough positions with which it began.

52. The tale tells of Joha, who left a nail hanging in his neighbor’s house. Since he claimed to own the nail, he built a shelf on top of it, and then more shelves, and then a closet, and finally he took over the entire house.
the Annapolis talks. This is evident in the disagreements that exist to this day between people who took part in the talks, over what was agreed and what the negotiations yielded in this sensitive domain.

Brigadier General (Res.) Michael (Mike) Herzog, chief of staff to the defense minister at the time, had been closely involved in security negotiations with the Palestinians since the early 1990s, and at a certain point in the Annapolis process filled in for Major General (Res.) Amos Gilad as head of the Security Committee. According to Herzog, Defense Minister Ehud Barak demanded that Prime Minister Olmert try to obtain a “safety net” for negotiations from the United States (as he himself had obtained from President Clinton in 2000), in the form of agreeing to support basic Israeli positions on core issues, especially concerning security. To that end, Barak drew up the “Eight Points” paper, which summarized Israel’s core demands for security arrangements in a future agreement, and presented it to President Bush on the latter’s visit to Israel in early 2008. Despite these efforts, the U.S. refrained from explicitly endorsing most of the positions presented (beyond supporting the idea of a demilitarized Palestinian state). Instead, the Bush administration appointed General James Jones (former commander of the U.S. European Command) to formulate a plan that, as Herzog understood it, was meant to reconcile Israel’s security demands with the Palestinian demands for sovereignty.

According to Herzog, General Jones consistently refrained from showing Defense Minister Barak a detailed security plan. Instead, he made do with a brief presentation of ideas for resolving the issue of the eastern border, based on a combination of technical means and third-party intervention. Moreover, Herzog claims, Jones appears to have come up with the idea of stationing a NATO force there; as opposed to statements made by Dov Weisglass (see insert), the IDF and the defense establishment did not favor the idea of deploying a foreign military force in the Jordan Valley as a full substitute for IDF presence there over time (Herzog, interview).
Palestinian security forces operate in Hebron in October 2008, after training in Jordan under the reform program led by US General Keith Dayton and PA Prime Minister Salam Fayyad (IICC 2008)
The future of the Jordan Valley – Bar-Lev Line or international border?

In late 2013, when US Secretary of State Kerry led Israeli-Palestinian talks, there was fierce public debate in Israel over different concepts of national security, especially regarding control of the Jordan Valley in a future agreement with the Palestinians. The heightened media attention offered a glimpse into different views on the matter, which governed the peace process in general and the Annapolis talks, in particular. Giora Eiland, head of the IDF Planning Department and former head of Israel’s National Security Council, claimed that the argument over the future of the Jordan Valley was “not about length, but about width”, and that “for Israeli control along the Jordan Valley to be effective, we need a strip about 5 km wide, which would include control over both sides of the Jordan Valley Road (Route 90). That’s about 400 square km, which make up some 7% of the West Bank.” According to Eiland, the Palestinians would not agree to that demand (Eiland, Yedioth Ahronoth, 2013). Meanwhile, Major General (res.) Gadi Shamni wrote: “The proponents of an Israeli withdrawal from the Jordan Valley argue that it is unlikely Arab armies will create an eastern front that poses a threat to Israeli national security over the next ten years. While this argument is correct, it is irrelevant in the debate on an Israeli presence in the Jordan Valley: Security arrangements that form the basis of any peace agreement must be solid enough to withstand dramatic changes, and must provide Israel with a sufficiently wide security margin that would enable it to deal with sea changes, even if they should take place a few decades on. At a time when the Middle East is undergoing enormous changes, it makes abundant sense to exercise the utmost caution regarding security arrangements. The second reason for such caution is the fact that, with regard to thwarting terror attacks, immense importance must be attached to territorial depth and to the degree of flexibility that it creates” (Shamni, Ha’aretz, 2013).

Dov Weisglass, former head of Prime Minister Ariel Sharon’s office and close adviser to Prime Minister Olmert, wrote an article listing the reasons to forgo Israeli military presence in the Jordan Valley: “Terrorism in the Jordan Valley has always been small in scale in comparison with other areas of Judea and Samaria... Once Iraq ceased to
pose a military threat to Israel, there is no state or other military force east of the Jordan River that could invade Israel or pose a land-based military threat to Israel.... If, heaven forbid, the kingdom of Jordan collapses... it will not be the garrison force, limited in its scale and capabilities, which will engage in this. In general, past experience shows that sparse military forces, deployed along a long defensive line, do not contribute to security. Usually they are busy defending themselves, as the IDF did in southern Lebanon and on Philadelphi Road.” Therefore, Weisglass supported “a similar security arrangement [that] was proposed in the peace plan of the former prime minister, Ehud Olmert (with the support of the US Administration).” He concluded by adding that “the above security plan—without an IDF presence in the Jordan Valley – was prepared by the security establishment and presented with its approval; today, reports indicate that the security establishment supports the prime minister’s (Netanyahu’s) firm demand for a military presence in the Jordan Valley. What has changed? Not the reality. The prime minister has changed” (Weisglass, Yedioth Ahronoth, 2013).

The charged debate over the future of the Jordan Valley in a permanent-status agreement with the Palestinians did not begin at Annapolis. During preparations for the Camp David talks, and even earlier, various opinions were voiced among the top ranks in the IDF, including opposition to leaving small forces in the Jordan Valley within the Palestinian state, in a dangerous position. Also, former top security personnel wrote in a Council for Peace and Security paper: “The assumption that physical IDF presence is needed in the Jordan Valley to prevent an attack launched from east of Jordan is no longer valid. Under the conditions of modern warfare, the topographic inferiority of the area will make the Jordan Valley an open field for decimating any military force stationed there. [Israeli] civilian communities in the Jordan Valley are not important from a security perspective. In the event of battle, they will immediately become a security burden” (Council for Peace and Security 2000). In practice, Israel’s approach to security and borders changed dramatically already in the Camp David and Taba talks (2000–2001), when Prime Minister Barak decided that a new security approach should be formulated, based on the assumption that the Jordan Valley would not be part of Israel in a permanent-status agreement (Arieli, interview).
For Israel to retain control over the Jordan Valley, in one form or another, would not only be unfeasible from a military perspective but would also foil any attempt to create two states. Therefore, in keeping with the general security approach required from Israel in a permanent-status agreement, a solution for the Jordan Valley would have to combine responsibility of the Palestinian state with external supervision and a regional approach. Specifically, this would mean involving Jordan in security measures. As a neighboring country on peaceful terms with Israel, it would in any case be necessary to involve Jordan in other elements of a permanent-status agreement with the Palestinians.
Jerusalem

“If we wait until you decide sovereignty over the Haram or the Temple Mount... Your children's children will not have an agreement!”

“We are offering you the biggest Yerushalayim in history. But we must talk about the concept of Al-Quds.”

Background

Jerusalem is one of the most sensitive issues in the Israeli-Palestinian peace process. Over the years, Israel has been reluctant to so much as discuss the matter with the Palestinians – given the political sensitivity of the issue, the religious and national sentiments involved, the annexation of East Jerusalem and its environs to Israel since 1967, and the strategic view that the Palestinians must not be allowed to establish their capital there, especially as division of the city is not practically possible.

This approach naturally influenced the negotiation over territory and borders, which did not end in agreement. The Palestinian view is that the eastern part of Jerusalem was conquered by Israel in 1967 as part of the occupation of the West Bank; therefore, UN resolution 242 concerning a “land for peace” formula included the eastern parts of Jerusalem and the holy sites within them. On a practical level, the Palestinians see Israel’s annexation and expansion of East Jerusalem (from 6.5 square km to some 72 square km) as a “settlement” that bisects the West Bank, preventing territorial contiguity. This effectively blocks fulfillment of a major aspect of quality in a viable Palestinian state, as the Palestinians see sovereignty over “al-Quds” and the connection with the holy sites there as a central asset that may lend their state a
considerable advantage and importance, both regionally and internationally.

Negotiations over Jerusalem highlighted two major bones of contention. One is the dilemma over division of the city – both sovereignty over the various neighborhoods and communities and the kind of border between the two states (an open city or a divided city). The other, and most sensitive aspect, is the debate over possible division of sovereignty over the historical Holy Basin, including the status of the Old City, the Western Wall, and the Temple Mount/Haram a-Sharif compound.53

In the Camp David and Taba talks (2000-2001), the parties agreed on several matters of principle but also left considerable differences unresolved. Regarding the division of sovereignty over neighborhoods in Jerusalem, they agreed to apply the core principle established in the 2000 Clinton plan: “The general principle is that Arab areas are Palestinian and Jewish ones are Israeli.” The parties also reached an understanding concerning how each side would manage its holy sites, and progress was even made on practical arrangements concerning archaeological digs, construction, and public order in the Temple Mount compound. However, differences remained over Har Homa (Jabal Ghanayem, to the Palestinians) and the Jewish settlement in Ras al-Amud. The Palestinians refused to recognize Israeli sovereignty, which developed after the Oslo Accords, over those sites. Deep conflict also remained over division of sovereignty in the Old City quarters (especially the Armenian Quarter), the Temple Mount/Haram a-Sharif, and Jewish sites in the Holy Basin outside the walls of the Old City. The parties also did not agree over the boundaries of the Western Wall, and whether Israel would have sovereignty only over the open part (called the Wailing Wall by the Palestinians), which was the Palestinian position, or also over the tunnels, which was the Israeli position (Lehrs 2011; Moratinus, 2001).

53. The Historic Basin, known also as the “Holy Basin”, spans the Old City of Jerusalem, Ir David (or Silwan, to the Palestinians), the cemetery on the Mount of Olives, and the Kidron Valley. According to Olmert’s approach, it spans some 2.2 square km.
Discussion of Jerusalem postponed in the Livni-Abu Alaa’ track

Most Israeli-Palestinian discussion of Jerusalem in the Annapolis talks took place behind the scenes, between the leaders, and was augmented by the secret talks between Deputy Prime Minister Haim Ramon and his Palestinian counterpart. The exclusion of Jerusalem from Livni’s talks in the framework of the Steering Committee meant that discussion of territory and borders in that track remained partial. In the Territory Committee, the Palestinians argued that serious discussion, including negotiation over swaps of land and blocs, could not be held without addressing Jerusalem. They refused to accept the Israeli position, which was based both on a legal argument (the annexation in 1967) and a political argument (Olmert’s commitment to Shas Chairman Eli Yishai not to discuss Jerusalem, as a condition for preserving the coalition). When Abu Alaa’ purposely asked, at an advanced stage of the Annapolis talks (August 2008), to present the Palestinian position on Jerusalem, Livni responded: “Since I cannot refer to it I won’t say anything. I am going to just listen” (Palestine Papers 31). When the parties tried to discuss specific territorial points relating to Jerusalem in late May 2008, Udi Dekel said: “I do not have permission to discuss Jerusalem without knowing what arrangements will be in Jerusalem.” Samih al-Abed, the Palestinian map expert, responded: “And Abu Alaa’ said we cannot discuss Ma’ale Adumim.” Udi Dekel summed up by saying: “So let’s eat lunch together, and let them [leaders] decide what to do” (Palestine Papers 32).

Throughout the negotiations, the Palestinians tried to demonstrate to both Israel and the US their willingness to make progress. They claimed that in the talks on territory, they made their first generous and advanced formal offer, which Israel did not properly acknowledge. In a June 2008 trilateral meeting, Erekat said: “It is no secret that on our map we proposed we are offering you the biggest Yerushalayim in history. But we must talk about the concept of Al-Quds” (Palestine Papers 33). According to the Palestinians, the proposed map included Neve Ya’akov and Pisgat Ze’ev (which appeared on the 1.9% map presented to Israel), as well as the following neighborhoods: French Hill, Ramat Alon, Ramat Shlomo, Gilo, Talpiyot, and the Jewish Quarter in the Old City. These neighborhoods, according to Erekat, are inhabited by 120,000 Jewish settlers. In the
same meeting, Abu Alaa’ claimed that Palestinian willingness to recognize all Jewish neighborhoods apart from Jabal Ghanayem (Har Homa) was a serious step forward, as they had refused to do so at Camp David. Naturally, presenting the details of the plan and emphasizing its generosity were intended to reduce Israeli (and US) opposition, given the Palestinians’ refusal to annexation of larger settlements to Israel (Palestine Papers 33). In the negotiations over territory, the Palestinians demanded that the “belt of settlements”, as they called it, that cuts Jerusalem off from the rest of the West Bank, be dismantled. The “belt” includes Har Homa (Jabal Ghanayem) to the south, Givat Ze’ev in the north, and Ma’ala Adumim and E1 (the area connecting Jerusalem to Ma’ale Adumim) in the east. As before, the Palestinians also demanded removal of the Jewish settlement in Ras al-Amud.

The Palestinian compromise, as presented in the Livni–Abu Alaa’ track, was to avoid evacuation of Ma’ale Adumim and to leave its Jewish residents “under Palestinian law”. This was, indeed, a new official proposal by the Palestinians (although they did mention the option in the Camp David talks). However, it appears that the Palestinians used this offer as a negotiation tactic, presenting it as a compromise although they had theoretically already agreed to it in the past: in the Geneva Accord, the Palestinians agreed to leave Ma’ale Adumim in Israeli hands. Livni’s dismissal of Abu Alaa’s suggestions with “you know this is not realistic” and “the matter is not simply giving a passport to settlers” is telling of the extent to which Israel, and in many ways the Palestinians, too, were surprised and not prepared to deal with such an approach. This illustrates, yet again, the conceptual confusion that did not differentiate a permanent-status agreement on the way to peace and reconciliation from separating the two peoples as a guiding principle. In a June 2008 briefing, Erekat updated Marc Otte of the European Union on the negotiations over Jerusalem:

“On Jerusalem, we are following the general principle of what is Arab is Palestinian, what is Jewish is Israeli. The Israelis are not responding. We want two municipalities as capitals of each state, and a joint body to deal with coordination and
cooperation. The big stumbling bloc is the Haram (a-Sharif). We cannot accept Israeli sovereignty, and they cannot accept our sovereignty. For some other places we have creative solutions—like having their embassy at the 7 Arches (mount of olives) and ours at Mamilla.” (Palestine Papers 34)

Secretary of State Rice backed the Israeli position on Jerusalem, at least in Steering Committee discussions. In her book, she described being astonished at the extent of Olmert’s generosity in his initial offer to begin negotiations over dividing Jerusalem (Rice 2011). At another meeting, in response to repeated protestations by Erekat and Abu Alaa’ over lack of progress in talks on Jerusalem, Rice said: “If you insist on it as part of a deal, we’re through. Sovereignty in the Old City is the only zero-sum part of your negotiations with the Israelis, so delay it” (Abrams, 272).

Behind the scenes, NSU members voiced their indignation to the US over excluding Jerusalem from the negotiations. They claimed that not discussing the issue was an Israeli conspiracy aimed at getting the Palestinians to compromise on other issues. For instance, Ziad Clot, who was responsible for refugees, wrote to his NSU colleagues in late July 2008: “I think that it has now become urgent to say to the US and the Israelis that the Palestinians will not discuss further the refugee issue before the Israelis engage seriously on Jerusalem” (Palestine Papers 35).

In August 2008, Abu Alaa’ urged Rice to deepen discussion of Jerusalem in the few remaining weeks of the Annapolis process. She responded less harshly than before, detailing what she understood to be the agreements in principle that had to be reached on Jerusalem, and the issues to be discussed before the talks ended:

“I think, regarding Jerusalem, we have an understanding on the issues that must be

54. Rice was aware of the Olmert-Abbas talks: the former updated her on the details of his proposal in May 2008, including the basics of the offers made to Abbas concerning Jerusalem. In her book, she stresses her surprise over the extent of Olmert’s willingness to compromise on this issue (Rice 2011).
solved. These are: Jerusalem is part of the bilateral agreement; there are the practical and administrative dimensions related to the population’s life; the political dimension as a capital for two states; and the religious dimension related to the holy sites... Regarding the holy sites, this is a sensitive issue and must be resolved. I think that listing what we must resolve is a way to speak about Jerusalem without wasting the next 3 weeks on nothing" (Palestine Papers 26).

Jerusalem in Olmert’s proposal

Although discussion of Jerusalem was postponed in the Livni-Abu Alaa track, Israel’s position on the issue – as expressed in Olmert’s proposal – was something of an innovation compared to previous talks. Olmert had changed his outlook on Jerusalem and explicitly referred to the process he underwent in the years leading up to Annapolis, understanding as mayor of Jerusalem that unification of the city was a baseless slogan (Olmert 2011, 25).

Regarding division of the neighborhoods and settlements in East Jerusalem and around the city – Olmert and Abbas reached an understanding, formulated already in the Camp David and Taba talks, that the division would be guided by the Clinton parameters from 2000: Jewish neighborhoods under Israeli sovereignty and Arab neighborhoods under Palestinian sovereignty. However, even after Olmert made his proposal, disagreement remained over the content of these parameters, and especially over developments on the ground since the Oslo Accords. Olmert made it clear in his proposal that the Jewish neighborhoods built in Jerusalem since 1967 would remain under Israeli sovereignty, and added that the 6.3% (of the borders map) included the new Jewish neighborhoods in the city. To make his position clear to Abbas, Olmert emphasized that “the Arab neighborhoods in Jerusalem will be part of the Palestinian state and, if the Palestinians wish, Jerusalem will be the capital of the Palestinian state” (Olmert 2011, 38). These words from an Israeli prime minister signify meaningful progress, compared to the hardline position on this issue adopted by former Prime Minister Ehud Barak in the 2000 Camp David talks. Olmert
also proposed a special access road to bypass East Jerusalem and connect Bethlehem with Ramallah, as annexation of Ma’ale Adumim would cut off access between the cities. Olmert’s demand to annex E1 in its broad interpretation, between Jerusalem and Ma’ale Adumim, met with Palestinian refusal, as they saw it as further harm to the territorial contiguity already compromised by the annexation of Ma’ale Adumim.

Regarding the future of the Historic Basin/Holy Basin, including the Old City, Olmert’s proposal incorporated a new development: placing the area, holy to all three monotheistic religions, including the Old City, under the “trust” of five countries – Saudi Arabia, Jordan, Palestine, Israel, and the US. These five would be responsible for the procedures, regulations and arrangements applied to residents and visitors (Ibid., 38). This suggestion to make the Historic Basin an international site, raised in intimate talks with Abbas, reflects an approach shared by some Jerusalem experts on both the Israeli and the Palestinian sides, that sovereignty cannot really be divided in this sensitive area. According to this view, in any case, any change of sovereign status in the Holy Basin requires broader regional and even international discussion, which can only take place – if at all – after many years of peaceful relations between Israel, the Palestinian state, and other countries in the region who have a direct interest in the matter. The proposal is also the result of the lesson learned from the impasse on sovereignty reached by former Prime Minister Barak and former PA President Arafat in the Camp David talks.

In an interview, Abbas claimed to have accepted the basics of Olmert’s proposal but protested the expansion of the Historic Basin to span some 2.2 square km, including not only the residents of the Old City but also Palestinian residents of a-Tur and Silwan. This would force them to not live under non-Palestinian sovereignty (Avishai 2011). On the other hand, proponents of the “finality of the conflict” approach – adopted by Olmert in this proposal to Abbas – hold that not dividing sovereignty over Jerusalem, including holy sites, in a permanent-status agreement would invite a temporary agreement, would make decisions on refugees redundant, and would undermine the idea of ending the conflict. For example, supporters of the Geneva Initiative claim that they have managed to create a formula to end the conflict, based on dividing sovereignty and resolving
the refugee problem, within the framework of the agreement they formulated with the Palestinians (Geneva Initiative 2009). Haim Ramon, who discussed Jerusalem at length with the Palestinians and served as minister responsible for Jerusalem affairs, believes that the Olmert proposal reduced differences on this issue, and that a division of neighborhoods based on the Clinton parameters – including creating a trusteeship while retaining the status quo concerning Palestinian status on the Temple Mount – is the right solution. As for fears of a temporary agreement, he sees the hopes for a permanent-status agreement to solve all Israel’s problems and needs as unrealistic from the outset – a view that, according to Ramon, he voiced to Barak during Camp David and Taba. Therefore, Ramon supports a graded agreement, which would only lead in its final stages to solving the refugee problem and dividing sovereignty over the holy places in Jerusalem (Ramon, interview). Lior Lehrs of the Jerusalem Institute for Israel Studies claims that Olmert’s approach, to circumvent the issue of dividing sovereignty, was not aimed necessarily at postponing the issue to a later stage but rather at establishing a long-term trusteeship. He sees this as progress in negotiations over Jerusalem, and not as a step back (Lehrs, interview).55

Olmert’s suggestion of a trusteeship for the entire Historic Basin also eliminated the need to discuss the future of the holy sites (Haram a-Sharif/Temple Mount and the Western Wall), as the trusteeship would be charged with managing all aspects of these sites apart from security. With this proposal, Olmert effectively removed the need to discuss division of sovereignty at that stage of the talks.

Regarding the border regime and municipal division – the major difference related to the overall conception of the border regime. While Israel preferred a barrier and total separation, albeit with relatively “soft” border characteristics, Olmert and Livni appeared

55. Lehrs’ comments here are based on the approach presented in The Historic Basin of Jerusalem, a book edited by Prof. Ruth Lapidoth that analyses the problems involved in discussion of dividing sovereignty over Jerusalem. According to Lehrs, not negotiating division of the Old City quarters and the boundaries of the Western Wall, which were points of contention in previous rounds, is yet more proof that Olmert’s proposal was based on the right approach (Lapidoth 2007).
to be in agreement over the need to physically divide Jerusalem – as opposed to Israel’s official position in the Taba talks, which did not reject outright the idea of an "open city". However, Olmert distinguished the Historic Basin, which he preferred to leave undivided, from the rest of Jerusalem. In contrast, the Palestinians adhered to the "open city" concept, both in the Annapolis talks and afterwards. President Abbas just recently explained his view on the subject: "[It is important that] East Jerusalem will be the capital of the Palestinian state. Jerusalem will remain open to all religions, with arrangements between the two parties" (Abbas, interview with INSS, February 2014). In keeping with Clinton’s proposal that Jerusalem remain open and undivided, Rice hinted during the talks that she supported the idea of an "open city" (Lehrs 2011, 94).

On the municipal level, Olmert claimed that Abbas agreed to the familiar formula of two separate capitals with an “umbrella municipality”, which was supposed to be Jewish given the clear demographic majority (Olmert 2014). A similar suggestion appears in the Beilin-Abbas document of 1995: a joint city council with representatives from Israeli quarters and Palestinian quarters, divided in a way that would reflect Israel’s demographic advantage; these representatives would elect the mayor. Authority in some fields would be transferred from the "umbrella municipality" to two secondary municipalities: one Israeli and the other Palestinian (Lehrs 2011, 94).

The lack of progress on Jerusalem was in the realm of security. In Olmert’s proposal to Abbas, the former stated that "Israel will remain responsible for security in the holy sites, too... We are the only ones who can guarantee free access" (Olmert 2011, 38). It is highly doubtful that the Palestinians would have accepted that principle, especially with a joint trusteeship in which Israel would be a senior partner and not exclusively responsible for residents’ security.

In conclusion, the discussion of Jerusalem is an especially vivid demonstration of the problems that marked the entire Annapolis process, despite the fruitful talks between the leaders. The choice to postpone discussion of Jerusalem due to political constraints, with the US supporting Israel’s approach to negotiating Jerusalem, led to
fragmentary talks, enhanced Palestinian mistrust of Israel’s intentions, and created misunderstandings and conceptual gaps in the Livni–Abu Alaa’ talks on territory, borders, and security. Furthermore, Israel’s definition of Jerusalem as “not a legitimate topic for dialogue” problematized the entire negotiation process, as it could have created a public illusion in Israel that an agreement could be reached with the Palestinians without dividing Jerusalem and relinquishing its eastern Arab parts. For the Palestinian public, it demonstrated Israel’s intention to preserve the idea of a unified Jerusalem with Jewish control over the city and its environs, and to create a barrier that would impede Palestinian territorial contiguity, effectively nullifying the two-state idea. This was especially prominent given the Palestinian conception of “al-Quds” as the Palestinian capital and a vital component in a viable state. The fact that Israel arrived at the talks confused and unprepared prevented it from properly addressing the Palestinian positions on Jerusalem, not to mention developing new ideas, such as leaving Israelis under Palestinian rule.
Olmert presented Abbas with some of the ideas detailed on this map throughout the Annapolis process (2008). It was drawn up by SAYA, an architectural firm that designs solutions for the Israeli-Palestinian conflict.
Refugees

“It doesn't make sense to demand that Israel take in five million or even one million refugees.”

“Instead of responsibility we can talk of suffering.”

Background

The refugee issue is unique, as it is the only core issue that relates to developments since 1948 and the war that lead both to Israel’s independence and to the Palestinian ‘nakba’ (‘catastrophe’), which entailed losing parts of their homeland and an ongoing refugee crisis.56 The gap widened over the years in three respects: legally, laws were passed that make it difficult for decision makers on both sides to compromise over this sensitive issue; practically, Israel demolished homes and villages and the Palestinians perpetuated the problem, assisted by UNRWA and the Arab world; and as a matter of principle, moral positions and narratives developed in support of each side. The Palestinians and international institutions and representatives see international law as the basis for resolving the refugee problem, and specifically Article 11 of UN resolution 194 of December 1948, which states:

“The refugees wishing to return to their homes and live at peace with their neighbors should be permitted to do so at the earliest practicable date, and that compensation should be paid

56. Figures: from some 750,000 Palestinian refugees in 1950 to some 5 million registered in UNRWA’s areas of activity – Jordan, Lebanon, Syria, the West Bank, and the Gaza Strip. These comprise some 45% of the global Palestinian population (Matti Steinberg, in Reuven Pedatzur [ed.] 2013, 47).
for the property of those choosing not to return and for loss of or damage to property which, under principles of international law or in equity, should be made good by the Governments or authorities responsible.” (Miller 2012)

Two major points are under dispute here. One is the question of responsibility for three domains: the creation, perpetuation, and solution of the problem. Throughout the peace process, the Palestinians demanded that Israel bear full responsibility for creating the refugee problem. Israel refused to acknowledge responsibility and/or apologize for creating and/or perpetuating the problem, and wished to transfer the overall burden of responsibility to the Arab world and to the international community. Accordingly, Israel proposed an international mechanism, led by the US and funded internationally, that would deal with the matter.

The second point is the right of return, which the Palestinians demanded remain a real option, although implementation would depend on Israeli consent. The Palestinians also demanded extensive compensation for loss of material property (including houses and land) and immaterial property (compensation for refugee status and for damage caused by the occupation), as well as compensation for the Arab host countries. Israel, on the other hand, tried to come up with practical solutions based on alternative places of residence and a mechanism for financial restitution, without consenting to the return of a significant number of refugees to Israel.

The refugee problem has implications for the entire perception of a permanent-status agreement: the parties have, over the years, developed a close conceptual link between resolving the refugee problem and ending the conflict. Israeli journalists Zeev Shiff and Ehud Yaari identified this link in their 1990 book, Intifada:

“A basic condition overriding everything else is to eliminate the conflict between the two peoples. Signing an agreement will end any further claims on both sides. This will be stated in the agreement, and will be one of the guarantees that
the Palestinians indeed give up on what they call 'the stage program'. Another no less important condition is that the Palestinians relinquish what they call 'the right of return', which is a sure recipe for destroying Israel from within. That is not even negotiable." (Kahana 1993, 54)

In contrast, in 1990, former PLO chief ideologue Abu Iyad (Salah Khalaf) detailed the Palestinian position, which distinguished the refugees' right of return from its practical implementation:

"The right of return is crucial to Palestinians, yet they are prepared to consider its implementation realistically; first, because they understand that a general return is not possible, if only because Israel destroyed more than 400 Palestinian villages and towns... Also, there is no guarantee that many Palestinians will wish to return and live under Israeli rule, especially if a Palestinian state will exist as an alternative; additionally, Israel will not want to accept a large number of returning refugees that will tilt the demographic balance against the Jewish population." (Ibid., 56)

Thus, over the years, the refugee problem ceased to stand alone and the finality of the conflict came to be seen as an essential condition for reaching a permanent-status agreement.57 It appears that when negotiations over such an agreement began in 2000, given Israel’s strong objection to recognizing the 1967 borders and its demand to tie the agreement to ending the conflict, legitimization grew on the Palestinian side for

57. PLO Chairman and PA President Yasser Arafat also explained, regarding the refugee problem: “We understand Israel’s demographic concerns and understand that the right of return of Palestinian refugees, a right guaranteed under international law and United Nations resolution 194, must be implemented in a way that takes into account such concerns” (Arafat 2002). Two years later, an Israeli newspaper reported after an interview with Arafat that “he definitely understands and accepts that Israel must be, and must stay, a Jewish state... the refugee problem needs to be solved in a way that will not change the Jewish character of the state. That is ‘clear and obvious’” (Eldar & Landau, 2004).
defiantly demanding the right of return, not for practical reasons but as a negotiation tactic. During negotiations over the refugee problem in the 2001 Taba talks, the parties reached partial agreement on the following points:

- Resolving the refugee problem based on UN resolution 194 would end the conflict and all claims.

- UNRWA should be gradually dismantled over five years.

- It must be acknowledged that a just solution to the refugee problem (according to UN resolution 242) would be based on implementation of resolution 194. A joint narrative was agreed upon that would allow circumvention of the demand that Israel bear sole responsibility for the refugee problem. However, the parties did not reach a detailed agreement over the content of the shared narrative.

- In the spirit of the 2000 Clinton proposal, Israel agreed to implement the resettlement idea over 15 years, based on one of three options: entering Israel (an unofficial offer was made to absorb 25,000–40,000 persons over five years); entering any part of the Palestinian state, including those swapped from Israel; or resettlement in the host countries or in other countries. The Palestinians accepted the principle but demanded that every refugee have the personal right to choose, and that the right to return to houses in Israel not be harmed.

- An international mechanism and fund must be established as the basis for resolving the issue of compensation. The parties did not agree on the method of calculation and on who would carry out the calculations. Israel rejected the principle of returning property to Palestinian refugees, and the Palestinians refused Israel’s request to include practical compensation for Jewish refugees from Arab countries in the agreement.

In the declaration that concluded the Taba talks, Abu Alaa’ emphasized the Palestinian view that progress had been made on several issues, but not on the right of return. Beilin, who opposed the declaration, noted in his book that Abu Alaa’s statement
paradoxically led to “the most broadly agreed issue [becoming] a symbol of inability to reach a solution” (Beilin 2001; see also Moratinus 2001).

The refugee issue in the Livni-Abu Alaa’ track

In the Livni-Abu Alaa’ track, the refugee issue was allocated separate, limited discussion between Tal Becker (Livni’s diplomatic assistant) and Saeb Erekat. Once in a while, the results were presented in a plenary session or in a trilateral meeting. Both Israel and the Palestinians stressed the need for bilateral talks without US involvement, even though behind the scenes, advanced talks were being led by Jonathan Schwartz, legal adviser to the US State Department, concerning details of the international mechanism and sources of funding. Secretary of State Rice said to the Palestinians in August 2008: “We [the US] work on the issue of the international mechanism. You continue to work together on the issue of responsibility and the right of return” (Palestine Papers 26).

In September 2008, towards the end of the Annapolis process, when the parties were reviewing their progress, Tal Becker said: “I think that these negotiations on refugees could serve as a model to a certain extent.” Erekat concurred, but added that, “at this stage, the main decisions remain to be made.” It is not entirely clear what Becker meant by a model – perhaps the mutual success in identifying secondary issues and formulating legal drafts, but certainly not agreement over the major sources of conflict. In the same meeting, Ziad Clot (NSU representative in charge of refugees) noted that “the level of details included in the draft article is clearly insufficient,” and that “there is no definition of Palestinian refugees in the article” (Palestine Papers 28).

In earlier discussions between the sides, the broad differences on various issues were apparent. For example, in response to the Palestinian demand that Israel bear overall responsibility for the refugee problem, Livni said: “Instead of responsibility we can talk of suffering of both our people... We need to give them suffering plus giving them compensation. We need as you said before that this is [sic] the end of conflict – but
we need to address some of the other issues.” At another meeting, Livni emphasized the role that the Arab countries played in perpetuating the problem: “By the way on responsibility – whose responsibility is it for keeping them in the camps? The Arab world! Responsibility not just [sic] about the war, but what happened after. For creating false hope” (Palestine Papers 18). Rice, too, did not accept the Palestinian argument of Israeli responsibility, repeating on several occasions: ”If you want to talk about responsibility it is the responsibility of the international community, not Israel. They created Israel” (Palestine Papers 14).

During the negotiations, the parties addressed the possible impact of acknowledging responsibility on the referendum that the Palestinians assumed would be held once an agreement crystallized. The Israeli side asked the Palestinians how legitimate the PA was in the eyes of the many dispersed refugees to handle their affairs (Palestine Papers 27). The Palestinians, meanwhile, made it clear to the US that “the key here is that this needs to pass a referendum and it is an issue that will play a very large role in that consideration” (Palestine Papers 10).

In the Annapolis talks, Israel also demanded a “reciprocal” approach from the Palestinians – primarily, to recognize the suffering of Jews who were forced out of Arab countries, leaving homes and possessions behind. According to Livni: ”We need to address also the Jewish refugees. Maybe as part of the international Fund” (Palestine Papers 18). Yet in a September 2008 meeting, the Israeli representatives said: ”We don’t want the Palestinians to be involved in this. We would just need to insert a sign in the article indicating that the next step will be the resolution of the Jewish refugee issue. This is not a tactical move. It is just needed for the Israeli audience” (Palestine Papers 28). Saeb Erekat objected, stating in another meeting: ”With all due respect – you had an agreement with Egypt. With Jordan [and did not make a similar demand from them]. But we never caused anything to the Jews. This will not be in an agreement.” As usual, Abu Alaa’ cynically noted that, ”all the Arab countries are ready to receive the Jews” (Palestine Papers 18). Analysis of the dialogue in these meetings does not reveal Israel’s position on the matter – whether it aspired to use the opportunity and, along
with solving the Palestinian refugee problem, also advance a real solution for the issue of the lost property of Jews from Arab countries, or whether that was merely a symbolic gesture to appease possible claims by Jews who left Arab countries over neglect of their demands. At any rate, this yet again demonstrates Israel's lack of coherent strategy, even on such a delicate matter.

Another point discussed was possible compensation, as per Palestinian demand, for the host countries – Jordan, Lebanon, and Syria. Abu Alaa': "As for the refugees, if the Arabs will be part of the solution there will be no [further] problem in this issue." Rice said to the Palestinians that "there are no precedents where states get compensation." When the Palestinians demanded "compensation for occupation", Livni responded: "The answer is a dramatic NO. We don’t want to put in [claims] for all the terrorism. The Israelis [who were] killed" (Ibid.). In the Livni–Abu Alaa’ track, therefore, the parties remained entrenched in their respective positions and except specific dialogue on the issue, no real progress was made towards reducing differences over the major points of disagreement.

Olmert’s proposal on refugees

Prime Minister Olmert proposed to President Abbas that over a period of five years, Israel agree to absorb 1,000 Palestinians a year (5,000 in total) on a humanitarian and individual basis, and not through the procedure of family unification (due to the size of Arab families, according to Olmert). This was contingent on Palestinian commitment to end all their claims and the conflict. Olmert also suggested that the agreements be phrased in the spirit of the Arab Peace Initiative of 2002, stating that Israel is "sensitive to the suffering" caused to the Palestinian people. He added that "similar things" would be said concerning the great suffering caused to “the citizens of Israel and the Jewish people”. Olmert also said that the two sides would work together with international parties, and with their financial support, to establish a fund that would be charged with generously compensating Palestinians, Jews, and Israelis who suffered from the wars. The fund would be financed by other countries (Olmert 2011, 38).
Olmert relates making it clear to Abbas that Israel could not accept the right of return and recognize UN resolution 194 which, he claims, created the ethos of return. “But I said to him, first we will set up a special fund for compensation to the refugees, second, we will accept the road map, which includes in it the Arab peace initiative which also refers to resolution 194 with respect to a solution for the refugee problem. That way you too can claim that Israel accepted the basis of the Arab peace initiative including Resolution 194.” Olmert concluded: “If Abu Mazen (Abbas) had been ready to sign on an agreement that would require our absorbing 10,000-15,000 over five years, I would have agreed. It was after all about the number of African illegals who were sneaking across the border every year back then. But all of it, of course, on condition that they would sign an agreement for an ‘end of conflict and end of demands,’ so there would no longer be a ‘right of return’” (Yissacharoff 2013).

According to Haim Ramon, negotiations with Abbas over the refugee problem had reached an advanced stage. He relates having personally given the Palestinians a document written with Olmert’s approval, in which Israel stated that it was willing to allow a much larger number of Palestinians into its territory (more than 100,000!). This was conditioned on a much more gradual implementation – over fifteen rather than five years, as the Palestinians demanded (Ramon, interview).

Bernard Avishai presents a rather rosy picture of the refugee issue, as he does of other issues, as though the parties were a mere step away from an agreement. He understood that the entire package, including the international mechanism proposed by Olmert, was accepted in principle by Abbas, with only the number of Palestinians set to enter Israel left open (Avishai 2011).

In contrast, Erekat described a much deeper rift. He claims that at the end of the process, the Palestinians demanded several things: that the right of return be preserved based on international law and resolution 194; the return to Israel of 15,000 Palestine refugees a year, for ten years (150,000 in total); granting citizenship in the state of Palestine to be based on Palestinian law only (not automatically); retaining the right
to choose both return and compensation, rather than having to choose between them; and compensation of the host countries, too (by the international mechanism to be established) (Erekat 2009). A matrix prepared by the NSU in November 2008 summarizing the results of the process also reveals the considerable remaining differences over refugees. The two sides agreed almost only on the fact that resolving the problem would end the conflict and all claims, and would lead to the dismantling of UNRWA within several years. Points included in the summary: while the Palestinians aimed to rely on international law, Israel based the solution solely on the Palestinian state; resolution 194 does not represent all the refugees’ rights, plus Israel is not prepared to use the resolution as a basis; the Palestinians demanded moral and legal responsibility or an apology as a core component, but Israel did not accept this principle and agreed only to acknowledge Palestinian suffering; the Palestinians demanded compensation, resettlement, and integration of the refugees as residents, while retaining the three options for return (to Israel, to the Palestinian state, or integration into another country), yet Israel offered only eligibility for Palestinian citizenship and resettlement or integration without return to Israel. Compensation was also the source of broad disagreement: the Palestinians demanded return of property and compensation for both material and immaterial loss, including compensation of host countries, while Israel suggested that only refugees be compensated; the Palestinians demanded that the international mechanism for handling the refugee problem include Israel, Palestine, and the host countries, while Israel offered only US leadership along with Israel and the Palestinians; as for funding – the Palestinians demanded open Israeli payment according matched to the degree of Israeli responsibility, while Israel demanded that a set sum be agreed in advance (Palestine Papers 8).

The papers leaked to Al Jazeera reveal that in this area, too, the Palestinians did not compromise on any of their basic principles. Behind the scenes, in studies carried out by the NSU, the Palestinians tried to prove Israel’s capacity to absorb a large number of Palestinians in its territory (0.5 -1 million), and calculated compensation amounting to hundreds of billions of dollars (Palestine Papers 36).
On the other hand, another document prepared by the NSU during the Annapolis process with "questions and advice" on the refugee issue outlined certain margins of flexibility on the Palestinian side. The document suggested that the PLO could somewhat relieve the heavy burden of full Israeli responsibility for the refugee problem, if major progress was made in the talks, in one of two ways. One was "insisting on [responsibility for] Israeli actions/laws taken after 1948 rather than the 1948 event". The second, more drastic measure, was "introducing a partial responsibility from the International Community along with Israel's [for the refugee problem]." Yet this document, too, recommended treating the right of return to Israel as a realistic option, preferably with international rather than US leadership of the mechanism for dealing with the refugees (Palestine Papers 29).

In conclusion, unlike the spirit of the interviews conducted by Bernard Avishai, and based on all that we know about the refugee issue, the differences between Israel and the Palestinians remained substantial in the Annapolis process. In fact, the gaps were wider than those remaining after the agreements reached in the Taba talks. Those were also the basis for later agreements in the Geneva Accord, which does not include Israeli acknowledgement of responsibility but does contain agreement over resolution 194 as a guiding principle and acceptance of the Arab Peace Initiative (Geneva Initiative 2009).

Quite a few experts claim that attempting to resolve such a unique, profound and longstanding problem in an agreement with the Palestinians and tying it to the finality of the Israeli-Palestinian conflict actually perpetuates the conflict and is doomed to fail. This is because even if the PA were to compromise further, it would have to pass a referendum on the matter, having committed to that more than once (Erekat 2000), and

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58. Zeinah Salahi of the NSU presented a similar approach to Secretary of State Rice in a meeting held on the subject on 16 July 2008 (Palestine Papers 14).

59. Senior Palestinian officials (such as Muhammad Dahlan) even claimed in the past that tying resolution of the refugee problem to the demand to end the conflict is a "golden goose" for the Palestinians, as with no end to the conflict on the horizon, Israel will continuously have to compromise on other issues, drawing nearer to the Palestinian position.
this may endanger the future both of the PA and of the entire agreement.

Abbas himself addressed the refugee problem in his meetings with Olmert. In a briefing with the NSU in early 2009, he stated:

“All Palestinians can receive Palestinian citizenship if they want. For example, Palestinian refugees in Jordan may not want citizenship, while refugees in Lebanon may need it. In this way, Palestinian refugees will no longer be stateless, but rather foreign nationals [in the host countries]... As for the number of refugees: it doesn't make sense to demand that Israel take in five million or even one million refugees - that would mean the end of Israel... They said 5,000 [to enter Israel] over the years. That is even less than family unification and is unacceptable. There should be compensation, too... And there should be compensation for the host countries.”

When an NSU member who lives in Nazareth asked whether he would be granted citizenship in the future Palestinian state, Abbas replied: “I understand why you ask that. I am a refugee from Safed. The strategic answer is ‘no’. You must stay where you are, protect your rights and preserve your community. You don’t need a passport to prove that you are Palestinian... We don’t want you to take part in an Intifada. Wave two flags: equality and an independent state for your brothers in the Occupied Territories” (Matti Steinberg 2013, 45-46).

In Matti Steinberg’s opinion, “denying ‘tawtin’ (‘resettlement’) does not inevitably lead to only one possibility – ‘awda’ (‘return’) to the state of Israel.” Moreover, this does not contradict the possibility of return to the Palestinian state, as indicated by Abbas, who encouraged the refugees “to continue living in the Arab host countries as ‘residents’,...
while receiving Palestinian citizenship.” Steinberg describes the increasing conceptual shift from life in exile, identified primarily with returning to the homeland in Israel, to life as a diaspora, affiliated more with the Palestinian state. He explains, however: “This process of constituting a state as a major centerpoint for ‘abroad’ depends not only on achievements around the negotiation table, but also on the stability and viability of the Palestinian state.” Therefore, the key to resolving the refugee problem is a viable Palestinian state, which can embody Palestinian national aspirations” (Ibid., 51).

In conclusion, the Annapolis process, like previous rounds of Israeli-Palestinian negotiations, illustrated the extreme difficulty of fulfilling the equation long since accepted by both sides, according to which ending the conflict based on resolving the problem of “all refugees” is a prerequisite to a permanent-status agreement and a viable Palestinian state. This holds the Palestinian state – in itself crucial to resolving the refugee problem – hostage to an issue that is intertwined with reconciliation between the two peoples. Therefore, the chances of agreeing on the details of this issue at the stage of drafting an agreement is extremely low (cf. conclusions in chapter 4).

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60. This relates indirectly to the heated debate that took place in Israel during the Annapolis process over interpretation of the article concerning refugees in the Arab Initiative. In this context, cf. another approach promoted by Prof. Asher Susser regarding the final article: “rejection of all forms of [refugee] resettlement (tawtin in Arabic)” (Susser 2008).
90 billion dollars to solve the refugee problem

A detailed study conducted by a joint Israeli-Palestinian research group known as the Aix Group (after its location in Aix en Provence, France) examined the funding needed to end the conflict and establish a viable Palestinian state. The results of the study (which also addressed division of Jerusalem) were presented in November 2007, just before the Annapolis Conference, to relevant officials in Israel including the Defense Ministry, Haim Ramon, and Prof. Manuel Trajtenberg, financial adviser to the prime minister at the time.

According to the document, which was positively received in Israel, resolving the right of return would cost 55 to 85 billion dollars. The solution to the problem would rely on UN resolution 194, while recognizing that changes on the ground may prevent full implementation of the resolution, and on alternative solutions for every refugee: relocation, rehabilitation of existing residence, financial or material remuneration, or moving to Palestine (primarily to areas swapped from Israel). Beyond the advanced planning entailed in the group’s research and practical suggestions, it worth noting the analytical approach they adopted. The group used a method called “reverse engineering”: a permanent-status agreement was set as a term of reference and a framework for the research teams, and this then served as the basis for productive discussion of ways to implement the solution. This is a marked departure from the method used in the negotiations (Arnon & Bamya 2007; Eldar 2007).
CHAPTER 4
COMPARISON OF OLMERT’S PROPOSAL AND THE TABA TALKS

Foreword

It is difficult to precisely measure how much progress was made in the Annapolis process. In an attempt to do so, this chapter compares the end results of the Annapolis talks with those of the Taba talks. The latter, which ended in January 2001, are commonly considered the most advanced point reached in Israeli-Palestinian negotiations – at least until Olmert’s proposal. To begin with, however, it should be noted that analyzing the results of diplomatic negotiations, and especially trying to compare them, is inherently problematic for several reasons.

First, the Annapolis and Taba talks took place in markedly different strategic contexts. The Taba talks were held at the height of the second Intifada, in an atmosphere of heavy mistrust between the leaders managing the talks. Also, the nature of the negotiation process was different. For instance, the Taba talks were held towards the end of Prime Minister Barak’s term in office, with emissaries of Yasser Arafat. Unlike the Olmert-Abbas talks, Barak and Arafat did not personally attend any of the meetings at Taba, and Barak even retroactively refused to recognize the talks as official Israeli-Palestinian negotiations.

Second, it is difficult to measure progress in processes that were cut short. A senior Israeli official who took part in the Annapolis talks offered the analogy of a marathon paused after 30 kilometers. Stopping midway made it difficult to determine exactly what point the negotiations had reached, especially given the ambiguous strategy on either side (Negotiations Team Official, interview).

Third, it is hard to define measures of progress. Should only core issues be considered?
What about progress in other major areas, such as process management or various structural aspects of the negotiations? For example, the model that Olmert created, of negotiations based on mutual trust between the leaders, can be seen as a significant step forward.

Fourth, what is the significance of understandings, proposals and even maps passed between negotiators, and especially leaders towards the end of their terms in office, as was the case with both Olmert and Barak?

Despite all these drawbacks, the tables below list the bottom lines reached on every core issue in the Taba and Annapolis talks. The comparison indicates that certain progress was made in Annapolis concerning territory and security, while not much changed regarding Jerusalem. Negotiations actually regressed on the refugee problem, compared to the Taba talks. Overall, it appears that the results did not deviate substantially from the course set by previous negotiations. Contrary to portrayals of Israel as having drawn significantly closer to the Palestinian position in the Annapolis process while the Palestinians yet again refused the most generous Israeli offer possible, the actual results remained well within the parameters of previous Israeli offers rejected by the Palestinians, albeit in a more advanced version.

**Progress on secondary points, differences over core issues**

The Annapolis talks achieved progress in several areas other than the core issues. For example, Israel’s willingness to hold broad forum discussions of permanent status issues considered highly sensitive, and especially the 1967 borders, swaps, and the refugee problem, can be viewed as progress even if the end result was not a formal agreement in all cases. Furthermore, the direct negotiations between Olmert and Abbas can serve as a model for dialogue between leaders based on mutual trust and respect. Also, although the parties did not manage to formulate terms of reference and remained with
constructive ambiguity, it should be noted that the Annapolis process was based on more advanced views than both the Camp David and Taba talks. For example, Olmert took care to relate indirectly to the 2002 Arab Peace Initiative, not only as a basis for resolving the refugee problem but as a platform for promoting a regional approach, so vital for Israel, to implementing a permanent-status agreement and improving Israel's status in the entire region. Also, relying on the Road Map as a major term of reference in the Annapolis talks highlights what was not discussed at all in Camp David and Taba – the need to focus on building up the Palestinian state, and not just on its borders and relations with Israel.

Following is a summary of the major areas of progress, or lack thereof, on core issues in the Annapolis talks.

**Territory and borders**

The major step forward in this area was significantly reducing disagreement over the baseline, and Israel's agreement to include all the territories occupied since 1967 and split the No Man's Land. Headway was also made on land swaps, marked especially by Olmert's willingness to accept the "1:1 ratio" in principle, in terms of quantity.

On the other hand, the final map that Israel presented to the Palestinians did not indicate significant progress. In fact, the official map was even a slight step back from the Taba talks; according to the percentages published, it followed the route of the Security Fence rather than the Green Line.

The official Palestinian map was also a less advanced than what was presented in Taba. Yet although the maps were still far from the "middle ground", it appears that after Olmert's proposal, both Israel and the Palestinians were clear on what constituted a "stabilizing map" that would meet their respective interests in a permanent-status agreement.
Security

The understandings that each party reached with General Jones enabled agreement in principle in two major areas. For the first time, the Palestinians agreed to a US-led NATO force, at least for a five-year transition period, as an alternative to Israeli presence in the Palestinian state. At the same time, Israel completely relinquished IDF presence in the Jordan Valley, and even tried to advance agreement to stationing the NATO force along the eastern bank of the Jordan River, instead of in the West Bank – although Jordan apparently refused this offer. These basic elements, coupled with agreement in principle over a softer version of Palestinian demilitarization termed “limited arms”, were supposed to resolve the matter of security. Unfortunately, many issues crucial to both sides remained unresolved, including: division of sovereignty and control of airspace, details of the demilitarization and the exact limitations placed on Palestinian security forces, how the international force would operate, additional security arrangements at sea and in electromagnetic space, and equally important – the details of the transition period. Moreover, Israel did not retract its demand to retain freedom to act in Palestinian territory, both in routine border operations and in pursuing terrorists. It is unlikely that the Palestinians would have agreed to this, especially given the agreement to a NATO force as the governing principle of security arrangements.

Jerusalem

The major progress on this issue was Olmert’s suggestion of a trusteeship over the Historic Basin as a possible alternative to dividing sovereignty in the area between Israel and the Palestinians. Olmert and Abbas ensured that the 2000 Clinton formula agreed in Camp David and Taba was established as the governing principle for dividing control over the Jewish and Arab neighborhoods in the city. On the other hand, Abbas refused to Israel’s proposed boundaries of the Holy Basin, as they would leave several thousand Palestinians outside the Palestinian state. Also, according to top sources, not dividing sovereignty over the Basin might have encouraged a partial agreement, undermining the idea of a permanent-status agreement to end the conflict and all claims.
Refugees

Despite open, detailed discussion of the past, no progress was made on this issue. In fact, Israel slightly withdrew from its previous position concerning the number of Palestinians to be allowed into the country. Olmert officially spoke of 5,000 refugees, 15,000 at most, who would enter Israel over a period of five years, not under the family unification procedure. Even if Haim Ramon is correct in stating that Olmert agreed behind the scenes to a much higher quota, with gradual entry over fifteen years, the official numbers in Olmert’s proposal are lower. In the 2001 Taba talks, Yossi Beilin and Nabil Sha’ath informally agreed on a much larger number of refugees (25,000-40,000). In the Annapolis talks, the Palestinians suggested various figures ranging from an informal minimum of 80,000 to an official demand that 150,000 refugees return to Israel over ten years. However, the major dispute was not over the number of refugees returning to Israel but over the underlying principle and the overall perception of the solution to the refugee problem. Israel refused to accept responsibility for the problem – not even symbolically or partially – and to acknowledge the right of return. Olmert did agree to indirectly relate to UN resolution 194 through offering recognition in the spirit of the Arab Peace Initiative, but rejected it as a term of reference. He also demanded, in his proposal to the Palestinians, that the agreement include a reciprocal article recognizing the suffering of Jews from Arab countries, even if only symbolically, and to address that in the compensation mechanism (as Beilin demanded in the Taba talks). In return, Olmert asked for Palestinian commitment to end the conflict and all claims.

Agreement or unilateral proposal

In his book, Menachem Klein summarizes the endpoint reached in the Annapolis process. Abbas saw Olmert’s proposal as a basis for further negotiation. Israel, however, claimed that the proposal was a non-negotiable package deal (Klein 2010, 24).

Towards the end of his term, in September 2008, Olmert tried – at apparently too late a
stage – to formulate a broad strategic plan: should Abbas agreed to his proposal, the two leaders would bring it to the UN Security Council, which would agree unanimously. The proposal would also be supported by the UN General Assembly, the US Congress, and EU institutions. The agreement would be initialed in a White House ceremony and fully signed only after Israeli and Palestinian elections (Avishai 2011).

Conclusion: Olmert’s proposal

Although the Annapolis talks and Olmert’s proposal at the end underscored significant differences between the Israeli and Palestinian positions, they also achieved progress. The proposal could have been an excellent basis for further negotiation, even to the point of resolving all core issues, had both parties been truly willing to promote a permanent-status agreement based on the two-state solution. Now, more than before, Israeli and Palestinian supporters of an agreement are more appreciative of the crucial role of mutual trust between the leaders, as a vital condition for reaching an agreement. Also, they more fully appreciate the importance of the 2002 Arab Peace Initiative and of regional support for signing and implementing an agreement. Post Annapolis, the parties are more aware of the conditions for a stable permanent-status agreement; they can draw a final map, based (in principle) on the historic compromise of 78% for Israel and 22% for the Palestinians, with a 4% swap; they can detail the security arrangements needed to ensure stability and bolster Palestinian governance in the long term; and they can integrate the most suitable formulas for dividing Jerusalem into two capitals. The issue of refugees (along with Palestinian recognition of Israel as a Jewish state) remains a considerable bone of contention. If not resolved in the first stage, this issue should be left for later, as part of a graded permanent-status agreement based on the principle of “a permanent-status agreement and Palestinian state first”. Reconciliation, which would depend on an end to the conflict and to all claims, would only come later.
Negotiation over the core issues – the results of Taba and Annapolis compared

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<tr>
<td><strong>Territory and borders</strong></td>
<td>Baseline</td>
<td>Major difference — Israel relied on “Judea and Samaria boundary line” (5,450 square km), Palestinians on “Green Line” w/ broad calculation (4,241 square km)</td>
<td>Difference overcome — Israeli, Palestinian &amp; US agree in principle on baseline (6,205 square km); Olmert’s proposal includes splitting No Man’s Land</td>
<td>Significant progress</td>
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<tr>
<td><strong>Land Swap</strong></td>
<td>Israeli map – 6%; Palestinian map – 3.1%. Initial discussion of land to be swapped from Israel to Palestine.</td>
<td>Israeli map – 6.3% + 5.8% swap from Israel; Palestinian map – 1.9%. Advanced discussion of land to be swapped from Israel to Palestine.</td>
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<td>Step back in Palestinian map; progress in negotiation over land swapped from Israel</td>
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<td><strong>Settlements and blocs</strong></td>
<td>Israel: three settlement “blocs” — Gush Etzion, Ma’ale Adumim, Ariel; demand to leave 80% of settlers in Israeli blocs. Palestinians: settlements not “blocs”; agree to Ariel settlement (not bloc), do not agree to leave Ma’ale Adumim and north Jerusalem settlements.</td>
<td>Positions similar to Taba. Olmert’s proposal: border traces Security Fence route; advanced approach to transport contiguity. Palestinians do not receive Ariel and Ma’ale Adumim. Palestinians (Abu Alaa’) propose to leave Israelis under Palestinian rule (Ma’ale Adumim)</td>
<td>No progress</td>
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<tr>
<td>Territory and borders</td>
<td>Safe passage / land corridor</td>
<td>Parties agree in principle on Beit Hanoun-Tarqumya route. Details of management and sovereignty not agreed.</td>
<td>Israel: 5 square km route; most of it in tunnel under Israeli sovereignty. Palestinian control of exits at either end and emergency exits. Palestinians: agree in principle; demand broad route (road + train), preferably above ground (not tunnel)</td>
<td>Slight progress</td>
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<tr>
<td>Security</td>
<td>International presence</td>
<td>Agree in principle that intl. force supervise and oversee transition period (Clinton proposal)</td>
<td>Abbas accepts US proposal of military presence (US-led NATO force), at least for transition period</td>
<td>Breakthrough or a step back?</td>
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<tr>
<td>Demilitarization and limitations</td>
<td>Agree in principle to Clinton’s proposal; do not agree over term “demilitarized state”; differences over details of demilitarization</td>
<td>Agree to term “state with limited arms”; slight progress on details of limitations; differences reduced over content of demilitarization</td>
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<td>Slight progress</td>
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<td>Israeli presence / control</td>
<td>Disagree over control of airspace and electromagnetic space; agree on 3 strategic sites. Jordan Valley: disagree over number of emergency areas, Israeli presence within them, and duration of withdrawal</td>
<td>Differences reduced over sovereignty and control of airspace and electromagnetic space and Israeli operations on western border. Agree on 2 strategic sites. Jordan Valley: Olmert agrees to remove Israeli presence there (replaced by NATO)</td>
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<td>Significant progress, mostly on Jordan Valley</td>
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The ANNAPOLIS PROCESS (2007–2008)

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<tr>
<td>Jerusalem</td>
<td>Division of neighborhoods</td>
<td>Agree in principle over Clinton formula for dividing neighborhoods.</td>
<td>Reconfirm agreement and remaining gaps – as in Taba talks</td>
<td>No progress</td>
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<td>Palestinians do not agree to leave Ma’ale Adumim &amp; Et, Givat Ze’ev, Har Homa, and Jewish settlement in Ras al-Amud</td>
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<td>Historic Basin / Holy Basin</td>
<td>Differences over defining boundaries of Basin and division of sovereignty, especially in Old City quarters; initial discussion of models for intl. control of Basin</td>
<td>Olmert proposes trusteeship (five states), circumventing division of sovereignty; Palestinians do not fully respond; Palestinians disagree over Basin boundaries</td>
<td>Significant progress + possibility of step back (partial agreement)</td>
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<td>Holy sites</td>
<td>Differences over division of sovereignty in Temple Mount and Western Wall</td>
<td>Olmert proposes no division of sovereignty (“God as sovereign”); Palestinians do not respond to proposal</td>
<td>Slight progress</td>
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<tr>
<td>Municipal division of city</td>
<td>Israel prefers strict border, Palestinians prefer “open city”; slight differences over municipal management – two separate municipalities or a joint one</td>
<td>No real change since Taba</td>
<td>No progress</td>
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<td>File</td>
<td>Issue</td>
<td>Palestinian Position</td>
<td>Israeli Position</td>
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<td>Refugees</td>
<td>Responsibility and the right of return</td>
<td>Progress in wording sections with no final agreement over right of return and resettlement – was basis for Geneva Initiative (Beilin). Disagreement over content of &quot;shared narrative&quot;. Israel proposes choice between resettlement alternatives, centering on swapped areas</td>
<td>Israel prepared to acknowledge suffering, not responsibility; not prepared to recognize right of return, to mention resolution 194 (indirectly only), or to compensate Arab host countries. Palestinians reject Israeli demand for “symbolic reciprocity” (suffering of Jewish refugees from Arab countries) and demand compensation for damage caused by occupation</td>
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<td>Compensation</td>
<td>Principles formulated for compensation mechanism and financial fund. Differences and disagreement over who calculates and how. Israel refuses to &quot;return property&quot;. Palestinians refuse to compensate Jews from Arab countries.</td>
<td>Principles formulated for compensation mechanism and financial fund. Differences over sums, role of Israel, role of US in the lead, and guiding principles for compensation.</td>
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<td>Resettlement – refugees entering Israel</td>
<td>40,000–25,000 (some versions state 100,000–50,000)</td>
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<td>Israel proposes 15,000–5,000, over five years, on humanitarian basis. Palestinians demand ~100,000–150,000 over ten years.</td>
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CHAPTER 5
CONCLUSIONS AND RECOMMENDATIONS

While the Annapolis talks did not fail, they can hardly be seen as a success. At the end of the day, despite going through a broad and dynamic process, Israel and the Palestinians did not reach a permanent-status agreement. The above analysis indicates that there are two primary ways, which complement each other, to examine why the talks failed.

One approach, which some sources who were involved in the talks described in interviews, holds that with “a bit more time” and more joint work on Olmert’s proposal, “we would have had a permanent-status agreement by now”. Ron Pundak wrote an op-ed for Israeli daily Ha’aretz in that vein, stating that “Abbas will sign a fair deal” and claiming, among other things:

“… The negotiations did not stop because Abbas did not sign a document. No such document existed, ever. In their final meetings, the two [Olmert and Abbas] decided to start formulating a document, but they did not actually do it. The only reason that the negotiations stopped, to their mutual chagrin, was Olmert's resignation following the decision to indict him. From that moment on, in Olmert's few remaining months in office, Abbas was systematically pressured to continue negotiating but he preferred to wait for Livni. As part of the campaign to convince Abbas in the remaining "injury time", Olmert tried at the last minute to get him to sign the map that included Israeli annexation and land swaps, but Abbas remained steadfast in demanding an agreement.” (Ron Pundak, Ha'aretz, 2014)
Ron Pundak believed that Olmert had “crossed the Rubicon” and reached a strategic decision to withdraw from most of the West Bank, including East Jerusalem, as a necessary basis for an agreement with the Palestinians. Abbas, according to Pundak, was consistently serious in his intentions and truly wished to reach an agreement. Furthermore, Olmert’s proposal had been discussed for some time and was not suddenly introduced in September 2008. Its details, which reflected significant progress on the Israeli side, were close to what both parties saw as a “zone of possible agreement”.

While this is certainly true of what took place between Olmert and Abbas in the Annapolis talks, the entire picture of the process is more complex, including the strategic and structural problems described in previous chapters. Let us note that the Oslo process was based on a similar approach – it was a great success of “peace entrepreneurs”, who managed to persuade Israel’s leaders and facilitate a historic agreement. This agreement transformed the Israeli-Palestinian conflict, and the ramifications are still apparent today. However, in the broader picture, the Oslo process failed. Despite achievements – especially on the issues it was intended to address – the parties did not reach a historic agreement over establishing a Palestinian state and signing a permanent-status agreement. Why? Systemic analysis indicates that both parties faced strategic and structural obstacles that prevented them from reaching a final agreement over dividing the land and subsequently ending the conflict from a secure position.

According to Shlomo Avineri, Abbas “will not sign” and had no intention of signing such an agreement in the Annapolis process. However, close examination of what was actually proposed to Abbas in the Annapolis talks reveals that his intentions were irrelevant. Israel’s proposal was made in a problematic context, given Olmert’s shaky political situation, and could not pose a real dilemma for Abbas. The US administration, including President Bush himself, understood this. The growing rift between Olmert and the Israeli establishment (the defense establishment, the defense minister, and Minister of Foreign Affairs Tzipi Livni) had a negative impact on the process, and it is doubtful that Olmert would have had the ability and/or legitimization to promote a historic permanent-status agreement
in that political situation. In addition, the map that Olmert proposed was essentially identical to the one proposed at Taba; he evaded – or was forced to evade – tough issues such as dividing sovereignty over Jerusalem, claiming that negotiation over that issue should be postponed for a later stage; and he withdrew from Israel’s previous positions on refugees presented at Taba and in the Geneva Accord. Olmert also refrained from using softer formulations that could have helped the Palestinians show successes to the Palestinian Diaspora and among Arab countries. Despite all this, Olmert demanded that the Palestinians agree to end the conflict and all claims. As discussed in Chapter 3, Israel did not approach the Palestinians with a coherent, uniform strategy on security and the Israeli camp was sorely lacking clear guidelines. Israel discussed the issue with the Palestinians and with the US as though they were two separate entities, attempting to shift responsibility to the US instead of promoting an Israeli–Palestinian agreement based on creating Palestinian governance and state responsibility.

Above all, as Ron Pundak noted, Olmert pressured Abbas to sign a map rather than an agreement because, despite the many meetings held between the two leaders and lengthy discussion in the Livni–Abu Alaa’ track, the parties did not formulate a draft agreement sufficiently detailed and serious to pose a real dilemma for Abbas. It is not clear what significance could have been attached to Abbas’ signing Olmert’s map, given the mutual aspiration to reach a framework agreement or a declaration of principles that would serve as a basis for a comprehensive permanent-status agreement. As detailed throughout this book, Olmert himself was not the problem – in fact, he was one of the few actors who made every effort, for one reason or another, to promote a permanent-status agreement, albeit too little and too late. The major problems lay elsewhere.

The Israeli side came to the Annapolis talks unprepared: the protocols of the Taba and Camp David talks had “vanished”, the defense establishment – a weighty professional counterpart for Israeli decision makers – was uncooperative, and the negotiation team tried to reopen previous agreements reached with the Palestinians. Additionally, the “take it or leave it” attitude adopted by both Israel and the Palestinians was highly problematic, as it barred the parties from using the advanced agreements reached in
the past to move forward – as indeed transpired when the Annapolis process ended.

The US and its management of the process were not helpful in promoting constructive dialogue. The Bush administration was clearly skeptical regarding the chances of success and did not approach the talks with a clearly formulated strategy. Its people expressed a range of different positions, some of which actually harmed negotiation, and avoided direct intervention when it was most necessary (for instance, on the suggested land swaps). In retrospect, it appears as though the US’s primary goal was not to reach a permanent-status agreement but rather to facilitate the talks themselves, as a landmark to end the Bush presidency. Needless to say, such an approach cannot be conducive to real mediation in such delicate and complicated negotiations. Had the US been truly determined to help Israel and the Palestinians reach a historic agreement, it should have created a conducive framework for doing so. This could be achieved by, for instance, insisting on updated terms of reference or on formulation of a “framework paper” as early as possible, detailing the possible margins of flexibility for each side. If the US wished merely to accompany the negotiations, it should have refrained from major intervention in the talks themselves.

The Palestinian side, too, arrived at the talks with inherent barriers to progress: the hard-line approach led by the NSU (later manifested in the intentional 2011 leak of the Annapolis protocols) made movement difficult for the negotiators and decision makers, and perhaps even restricted them, especially on sensitive issues such as the refugees and Jerusalem. Palestinian negotiator Hiba Husseini candidly admits that the Palestinian side suffered from management and decision making problems. She claims that while everyone on the team knew the red lines, no one was clear on what room for flexibility there was on various issues. The Palestinian team did not meet to discuss and brainstorm creative solutions, and the decision making process relied solely on the 1988 basic principles. This barred progress (Husseini, interview).

Looking back on the Annapolis process, lessons can be drawn from closely studying several major factors: the extent of agreement within each party, Israeli and Palestinian;
the nature of US (and international) involvement in the talks; the existence, or lack thereof, of a coherent strategy for the process; time, and the impact of the diplomatic timetable (and others); and the degree of mutual trust between the parties.

Accordingly, the ideal negotiations would look something like this: the Israeli and Palestinian publics would explicitly recognize that peace talks were vital to their interests; the talks would be held after each side had matured enough politically to formulate guidelines for a future agreement and for the steps leading up to it; the US should only be involved inasmuch as both parties are willing, with a clear definition of its role, and in any case without forcing either party into an agreement; the process must be free of time constraints, allowing it to continue uninterrupted and independently of political changes on either side; and it must be founded on basic mutual respect between the leaders. As Olmert noted: even if the trust-building process “is inefficient” in terms of the time and input needed, it is “crucial for reaching a permanent-status agreement” (Olmert, conference on “Trust in Negotiations”, 2014).

As the ideal process described above does not seem feasible in the present-day reality of the Israeli–Palestinian conflict, efforts must focus on improving existing strengths in order to raise the chances of reaching a stable agreement. The following conclusions, distilled from systemic failings in the last 21 years of Israeli–Palestinian negotiations, are no substitute for real-time planning in the relevant political and strategic context for tactical negotiation – but they can serve as basic guidelines for both parties.

Both parties must make a strategic decision acknowledging the payoff between the high price and the expected gains of an agreement

As the two parties harbor mutual distrust and suspicion, a permanent-status agreement is the only way to genuinely move towards ending the conflict. Gradual measures such as interim agreements and/or unilateral Israeli withdrawal do the opposite: they put off
a resolution, prevent Palestinian governance, heighten mistrust, and exact a high toll from both parties. Any steps that do not contribute to achieving a permanent-status agreement create false hope, while effectively perpetuating – and even escalating – the conflict. Both sides reaching a strategic decision would first of all mean Israel coming to terms with the cost of an agreement — not only, but also, in terms of territory. This would mean accepting that 78% of the territory would remain in Israeli hands, and recognizing the historic magnitude of what Israel could expect to gain from a permanent-status agreement, on both the regional and international levels. The Palestinian side would have to accept the transition from being a dependent entity to having a sovereign state, which would quite soon have to take on responsibility for security and stability. The Palestinians would also have to come to terms with less strictly adhering to the basic principles established by the PLO institutions in 1988, especially concerning the unfeasible demand to uphold the right of return. Strategically deciding to accept these terms and acknowledge what could be gained in return — accompanied, to a large extent, by a similar US decision — would guarantee negotiations that would not be merely “process for process’ sake”, but a real effort to reach an agreement. Making such a decision would require, first and foremost, adequate leadership on both sides. Achieving and implementing a permanent-status agreement must rely on a tough decision based on concessions in which the leaders must believe. Each leader must integrate support for these concessions into their respective governments and the general public, both of which naturally tend to obstruct any thawing of relations. Therefore, bottom-up processes that would drive change in public opinion must be matched with leaders capable of leading such change. In hindsight, Haim Ramon believes that lack of proper leadership is the main obstacle to reaching an agreement, especially on the Israeli side, as Israel is supposedly expected to make more painful concessions (Ramon, interview). On the Palestinian side, the major obstacle in this context was, and still is, the question of Hamas. Without incorporating Hamas as a social and political movement (rather than a military or terrorist organization) within the

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framework of the Palestinian entity, based on a national unity government recognized by Israel, any agreement might not be fully accepted on the Palestinian side, creating dangerous potential for a future escalation.

Updating the terms of reference would expedite an agreement

One condition for promoting a permanent-status agreement, rather than negotiations alone, is that Israel change its approach. Instead of relying on constructive ambiguity, which is both advantageous and disadvantageous in leaving wide margins for interpreting an agreement, Israel must adopt updated terms of reference. This will provide the parties with a common language, which will facilitate understandings on various issues and prevent communication breakdowns. It will enable the parties to work towards the future, and will also lend stability to actual implementation of an agreement. This would not necessarily mean accepting the Palestinian guiding principles (international law as the framework) but rather relying on previous understandings between the sides. In this context, it is important to note that 47 years have elapsed since UN resolution 242, to which Israel still adheres, was passed; and the Oslo process, which also relied on that resolution, began 21 years ago. In that time, Israel and the Palestinians have reached advanced suggestions and an understanding over division of the land and the fundamentals of a future agreement, especially regarding the four core issues. However, it is time to change the basis of the discourse, and accordingly to change the terms of reference, and move on to real diplomatic discourse once talks are resumed. This will help the parties refrain from going back and avoid a discourse of narratives that hampers dialogue. To that end, it is now important to consider a decision – ideally a bilateral one, and if not then based on a US initiative or even on a Security Council resolution – to promote mutually agreed framework principles that would include the fundamentals of a permanent-status agreement concerning division of the land into two responsible sovereign states, based on the following parameters:
• Territory and borders: the division will be based on all territories occupied in 1967 (6,205 square kilometers), with adjustments and agreed land swaps at a 1:1 ratio in terms of quantity.

A land bridge will be defined for safe, regular passage of goods and people between Gaza and the West Bank.

• Security: the Palestinian state will be demilitarized or have limited arms, its responsibility for security will be clearly established, and security arrangements will be made to fight terrorism and violence. International forces will supervise and help the parties with implementation during the transition period.

• Jerusalem: the city will be divided into two capitals, based on the principle of Jewish neighborhoods to Israel and Arab neighborhoods to Palestine. A special arrangement will resolve the status of the Historic Basin and its management, together with interested parties in the region.

• Refugees: a practical solution will, with international and regional assistance, provide refugees with compensation and/or a permanent place of residence, while preventing harm to the sovereignty of both Israel and Palestine. Resolving the problem would serve as the basis for normalizing relations between Israel and the Palestinians, the Arab countries, and Islam, according to the Arab Peace Initiative.

New formula for a permanent-status agreement: first a Palestinian state, then reconciliation and ending the conflict

The Annapolis process was a second or third (including the Beilin-Abbas agreement of 1995) failed attempt to reach a full permanent-status agreement that would lead to resolving the conflict and ending all claims. This approach would undoubtedly have been best, had the parties been practically able to rise to its demands. Yet now, given
the complexity of the region and the changes on the ground, which both necessitate evacuation of a much larger number of Israelis and make it difficult to implement a proper solution to the growing refugee problem, Israel and the Palestinians should try to promote alternatives that will enable gradual progress towards a permanent-status agreement. For example, a new approach could be to first discuss borders (including East Jerusalem) and security in the permanent-status stage, enabling progress on security and Israeli withdrawal from the West Bank towards safe, agreed borders, and leaving the core issues of dividing sovereignty over the holy sites in Jerusalem and solving the refugee problem for a later stage. This stage could be at the end of the transition period, which would take several years. Agreeing on a sovereign, independent Palestinian state should happen first, leaving reconciliation and an end to claims to the next stage: reaching an agreed division of the land and drawing borders is more urgent than ending the conflict. Israel must also acknowledge the complexity of the asymmetry between the two sides: from a superficial, tactical perspective, Israel is undoubtedly stronger than the Palestinians. Israel has a powerful military advantage, its close ties with the US ensure it the upper hand in setting the terms for negotiation, and it holds the key to strengthening or weakening the Palestinian Authority. Yet from a deeper, more strategic perspective, Israel is currently the weaker side in the conflict and in the negotiations, for two major reasons. First, over the years it has become increasingly clear that military might alone cannot solve the conflict; any resolution will involve a combination of cultural and civilian aspects that cannot be adequately addressed by military means, no matter how powerful. This was starkly demonstrated in the 2014 Operation Protective Edge in the Gaza Strip. More importantly, within the realm of strategic possibilities, Israel has only one long-term alternative – a two-state solution in the spirit of Israel’s Declaration of Independence, based on the double idea of a Jewish and democratic state. All other proposals (full annexation, cantonization, Jordan as an alternative homeland for the Palestinians, etc.) are neither realistic nor a proper strategic substitute for ensuring Israel’s continued existence as a Jewish and democratic state. The Palestinians, as they have said before and are more strongly reiterating now, have another alternative: the one-state solution, which is currently gaining traction in the Palestinian public and among Palestinian leaders. Therefore, while Israel can supposedly enter negotiations from a strong position, in fact,
from a historic perspective, the power paradoxically lies with the Palestinians. This point must be comprehended in order to expedite historical decisions in Israel (Tamarkin 2014).

**Preferring linear rather than nonlinear progress**

As this study has shown, the Annapolis process highlights the need for “agreements first”. Only after the parties reach a deal over the core issues – which in itself requires massive input from both the professional and political echelons – will it be possible to move on to a more serious discussion of professional/technical matters. Agreeing on the basic principles pertaining to the core issues of territory and borders, security, and Jerusalem will enable establishment of a guiding framework for the professional committees, who will only then discuss the parameters of mutual cooperation and coordination and the details of the Palestinian state. Moreover, finalizing a package deal is supposed to be ratified by the international community, by the Israeli public, and by the Palestinian public. The process of ratification will provide the leaders with support and boost the political chances of implementing the agreement. Only after that can the parties more easily make headway on the detailed agreements, based on resolution of the core issues, as well as agreements on aspects of identity arising from the ongoing reconciliation process.

To prevent any regression on sensitive issues, as happened in the Annapolis talks, the negotiation methods should facilitate reaching agreement. For example, the talks can be “reverse engineered” – starting with discussion of the basis for an agreement and previously presented maps, while outlining the problematic areas preventing the parties from agreeing. Such an approach would compel the parties to go straight to the heart of the matter and not beat about the bush.

It appears that prior agreement between the parties is also necessary for developing Palestinian state institutions. In addition to the PA’s chronic dependence on external assistance and institutional corruption, the major impediment to state development is the ongoing occupation and lack of Palestinian independence and sovereignty. Dr. Ephraim Lavie defined the “maximum level” of Palestinian state building that can be attained without a permanent-status agreement:
"The lack of territorial contiguity and control of Area C prevents the PA from any possibility of tangibly planning and developing infrastructures in the context of a national set of priorities. It is unable to operate in Area C, for example in the Jordan Valley, which represents the largest reserve of open spaces for residential and agricultural development; and it is subject to restriction of water resources, which influences economic activity and especially agriculture." (Lavie & Gal 2012, 40)

Therefore, it would be wise to depart from previous habits and prepare joint contingency plans that would enable the parties to move forward with negotiations, based on the idea of building the Palestinian state in practice, and leaving disagreement over other crucial issues to a later stage of the talks.

**Territory and borders: beginning at the end**

In the paper summarizing the development of each party’s position during the peace talks, journalist and political advisor Elias Zananiri claimed that the major obstacle was Israel’s refusal to “declare where its borders would be”. He sees this as the reason for Abbas’ current demand to negotiate “borders first” (Zananiri 2014). Clearly, borders cannot be discussed again from the beginning. Negotiation should focus on a map that incorporates both parties’ interests, at around 4%, representing proper margins for agreement. According to Shaul Arieli, throughout the peace process, Israel’s preparations for negotiation did not distinguish the “allocation” stage (decision makers marking areas or blocs on the map) from the “boundary” stage (professional joint planning of areas or blocs addressing all geographical parameters: roads, residential communities, water, etc.). Only once those stages are completed can the parties together delineate their positions and room for flexibility, and seriously discuss disputed areas (Arieli, interview). Now, more than in the past, talks can rely on maps drawn up in informal tracks (e.g.
the proposals published by the Baker Institute proposal, by David Makovsky, and by the Geneva Initiative). Also, contingency plans should be made for implementing the permanent status stage that would expedite acceptance of the idea of dividing the land. For example, emphasis should be placed on research that would analyze and plan the evacuation of settlers from deep within the West Bank, and on proposals that would ensure them housing in Israel and fitting compensation. Planning should also look at land intended for swaps, which the parties agree will be included in any territorial solution. All these steps can become realistic only after Israel makes a historic decision to acknowledge the need to divide the land, based on 78% to Israel and 22% to Palestine.

Diplomatic solution as national interest – not diplomatic process as political instrument

This study identified many aspects of the Annapolis process that showed up the political constraints hindering an agreement.

One major obstacle was Olmert’s coalitional commitment to not discuss Jerusalem with the Palestinians, which limited the seriousness of Israel’s intentions. Another was the political tension within Israel at the time, and especially between Olmert and Barak, which enhanced the inconsistency of the positions that Israel presented to the Palestinians, for instance on security. On the Palestinian side, political tension also adversely affected the talks. For example, the problematic three-way relationship at the top of the PA between President Abbas, his natural rival and PA manager of the talks Abu Alaa’, and PA Prime Minister Salam Fayyad, who was leading a completely different approach, backed by the US, to promoting state-building. This turned the negotiations into a major instrument for serving political agendas in the PA, rather than a real means to end the conflict.63

63. The political context also had a devastating impact on how the Oslo, Camp David, and Taba talks were run, according to Shlomo Ben Ami (A Front Without a Rearguard, 2004) and Ron Pundak (Secret Track – Oslo, the Full Story, 2013).
A revised security approach focusing on Palestinian governance and state responsibility

Israel should update its security approach regarding the permanent-status agreement. The new approach should center on responsibility of the Palestinian state and on international – possibly even regional – presence as auxiliary only, unlike the Annapolis idea of deploying a NATO force or other military forces. The presence of such forces would likely diminish Palestinian responsibility for security and undermine Palestinian governance. Israel should revise its entire approach to the negotiations, a shift that would require political and not only military decision making. Reaching a permanent-status agreement and establishing a viable Palestinian state that would secure the safety of Israel, its neighbor, would require a sea-change in Israeli concepts – a change that did not occur in the framework of the interim agreements. While Israelis are, understandably, not overly optimistic about “the day after” scenarios, given regional developments in the last few years, a conscious effort must be made to avoid self-fulfilling prophecies. If Israel decided to agree to a Palestinian state, it would have to be willing to take a security risk that would transform military reality. This would not fall solely within the military realm but would be a strategic, diplomatic issue based on elements of bilateral, regional, and international cooperation. The basic assumption is that a Palestinian state could provide Israeli security only if it took on responsibility based on elements of territory, sovereignty, control, and capacities that would give it sufficient power, while preventing the Palestinians from becoming a major threat to Israel (as the parties have already agreed in principle). The other solutions suggested thus far do not serve this goal. Israel’s attempt to leave the IDF with some control, even if partial, of Palestinian territory – for example, along the eastern border of the Palestinian state and at other select locations – primarily guarantees continued Israeli friction with the Palestinian side for security reasons, prolonging a temporary state of affairs, and perpetuating Palestinian dependence on Israel. The solution at the other end of the scale, of a military force such as NATO, is not particularly promising, either: at the end of the day, it is a bad compromise for both sides. In this context, while the technical-technological solution proposed by US Secretary of State Kerry (2013–2014) is important, it does not address the heart of the matter. The
Palestinian side would also have to be truly willing to take responsibility and seriously carry out commitments. The unworthy demand made by the Palestinians to rely almost entirely on an international presence raises concern that they are not truly willing to function as an independent state. In this context, it is important to distinguish between a transition period that is crucial to both sides – for evacuating settlements, withdrawing forces, and training capable security forces for a Palestinian state – and the permanent-status era.

**Jerusalem: promoting discussion of dividing the city**

Negotiations over Jerusalem should not be compartmentalized or postponed. Jerusalem is an essential issue that requires in-depth discussion of dividing sovereignty, management of the city, the Historic Basin, and the nature of external intervention, should it occur. Discussion of Jerusalem would also have implications for other areas of negotiation. Therefore, Israel’s refusal to discuss the issue reflects unwillingness to promote a permanent-status agreement. Public debate over this should be encouraged in Israel, to make it clear that the issue can be resolved – as it is still perceived as taboo and unsolvable. As regards the Historic Basin / Holy Basin, planning and research should be carried out into both approaches: a trusteeship without dividing sovereignty, as proposed by Olmert, and new formulas for dividing sovereignty. Also, a security approach to complement the various ideas for dividing the city should be developed.

**Developing a regional approach and adopting the Arab Peace Initiative**

Now, more than in the past, Israel understands that it is crucial to develop a regional approach based on a permanent-status agreement with the Palestinians, which would include adopting the Arab Peace Initiative of 2002. The ongoing turmoil in the Middle
East exacerbates the need for this new kind of approach, as it would enable Israel to leverage shared interests with moderate neighbors: maintaining stability, fighting terrorism, and forming a coalition against the radical Islamists and the Iranian threat, including the latter’s nuclear potential. It would also broaden legitimacy within Israel to sign an agreement with the Palestinians and evacuate settlements, and within the Palestinian leadership to compromise over refugees and Jerusalem. New ideas should be encouraged, such as developing Israeli-Arab dialogue over Jerusalem and refugees, and security arrangements such as joint supervision of the borders and reinforcing the idea of state responsibility.

Empathy for the other side’s narrative

In the Livni-Abu Alaa’ track, the parties did not succeed in avoiding confrontations over narrative. That is probably not even possible when discussing such fraught issues that touch on "historical facts" that lie at the core of each party’s identity. Yet even in those talks, each party demonstrated sensitivity to the other side and acknowledged the authenticity of their narrative. Olmert wisely drew closer to Abbas by displaying empathy for the difficult Palestinian narrative, without undercutting the importance of the Jewish and Israeli narrative. On the Palestinian side, there was a noticeable difference between Abu Alaa’, who adopted a discourse of historic justice in his meetings with Israelis, and the milder approach of Abbas, who recognized the importance of the matter and took care – as he still does – to avoid belittling the Jewish and Israeli narrative (as is demonstrated, for instance, in his moderate views on the refugee issue). Recently, Israeli Prime Minister Netanyahu stated that “the Palestinians must acknowledge the Jewish people’s historic ties to their homeland in the Land of Israel, and their rights in this land.” He ruled that, “there is no question of narratives here, there is one historic truth” (Eldar, 2014). Such blatant disregard for the narrative of a future party to an agreement that would hopefully end the conflict greatly reduces the chances of such an agreement being signed. Both sides would do well to avoid focusing the argument, whether in the
negotiation room or outside it, on the authenticity of their respective narratives; instead, they should devote their energy to promoting an agreement that would facilitate development of a better, shared narrative in the future.64

64. “While meta-narratives are considered impossible to alter or overturn, and are often regarded as holy and treated as protected values, national narratives are malleable enough to be reconstructed as necessary in order to allow for the resolution of conflicts.” Yehudith Auerbach, “National Narratives in a Conflict of Identity” in Barriers to Peace in the Israeli-Palestinian Conflict, Yaakov Bar-Siman-Tov (ed.), 2010 (99-134).
APPENDIX A

OLMERT’S PROPOSAL

(From “Excerpts from Olmert’s New Book”, Yedioth Ahronoth – 7 Days supplement, January 28, 2011)\(^65\)

Territory and borders

"The map... must include all settlement blocs, which will span 6.3% of the entire territory... In return, the Palestinians will receive land amounting to 5.8% within the state of Israel... from the north to the Judean desert, including the area adjacent to the Gaza Strip."

"The territorial solution will be based on the 1967 borders, with land swaps... The territories that were No Man’s Lands before 1967 will be divided on a fully equal basis between us and them..."

"Israel will agree to connect the Gaza Strip and the West Bank with a 40-kilometer long tunnel whose openings will be under Palestinian control... For safety and security reasons, there will be gates... [in case of] a security situation or a road accident."

"The proportion of the Dead Sea adjacent to the border of the Palestinian State... will be under their sovereignty, except for the Dead Sea Works, the tourist area, and the hotels."

\(^65\). Since presenting the proposal to Abbas on September 16, 2008, Olmert added details that do not appear in the quoted version, which was published by Yedioth Ahronoth. These include updates on territory and borders, the agreement over NATO forces, a higher quota of Palestinians allowed to enter Israel, and more. All these changes were noted and analysed in the relevant chapters of this book.
Security

“The Palestinian state will be completely demilitarized, with no military force.”

“Along the border with Jordan, free movement will be blocked and there will be military presence (I did not detail how the border would be blocked).”

“Procedures will be set to ensure that a foreign army will not be able to enter the territory of the Palestinian state. In case of an invasion – Israel has the right to defend itself.”

“Additional security principles” [discussed between the IDF and the US]: “Entering military alliances with enemies is forbidden”; “defending against acts of terrorism taken against us, with no restriction”; “freedom of action in airspace and control of electromagnetic space.”

Jerusalem

“The Jewish neighborhoods built in Jerusalem after the 1967 war will remain under Israeli sovereignty. Here, too, I noted that the 6.3% include all the territory of the new Jewish neighborhoods in the city.”

“The Arab neighborhoods currently included within the area of Jerusalem will be part of the Palestinian state… if they wish, as the capital of the Palestinian state.”

“The Holy Basin… which is holy to the three religions, including the Old City, will be defined as an area under the trusteeship of five states: Saudi Arabia, Jordan, Palestine, Israel, and the US The entire area will remain open to free entry of worshippers... The five states will be responsible for the procedures and regulations applying to residents and visitors...”
Refugees

"Israel will agree to accept Palestinians into its borders on an individual, humanitarian basis and not under the family unification procedure. Israel will agree to absorb 1,000 Palestinians a year for five years."

"A prerequisite to this agreement is that the Palestinians provide a written statement confirming that this ends all their claims, and that this agreement constitutes the end of the conflict between the two sides."

"This delicate part matches the spirit of the Arab Peace Initiative, and the written version will also state that Israel is sensitive to the suffering caused to the Palestinian people... Similar things will naturally be said about the deep suffering caused to the citizens of Israel and the Jewish people..."

"The parties will work together with international actors, who will provide funding, to establish a monetary fund that will promote generous compensation of Palestinians, Jews, and Israelis who suffered from the wars... It will be budgeted by other states."
The following summary was written by the Palestinian Negotiations Support Unit (NSU). It reflects the unit’s understanding of the differences between the Israeli and Palestinian positions in the Annapolis process in general, and specifically in the professional committees. The summary was based on reports provided by the negotiators and does not necessarily represent the official Palestinian view; it certainly does not reflect the official Israeli view of the negotiation results. However, reviewing the various positions on different issues can afford a deeper understanding of how the process was run and of the different perceptions that each party held of the Palestinian state and of future relations between Israel and Palestine. The gaps listed below illustrate how hard it was to advance towards a permanent-status agreement in the Annapolis process:

1. Lack of capacity for dialogue, and sometimes difficulty to even agree on an agenda for discussion, as many issues corresponded to the “core issues” (territory and borders, security, and Jerusalem) that were awaiting resolution by the Steering Committee and/or the leaders.

2. Disagreement over both content and agenda, given the different levels of preparation and the different legal approaches: while Israel relied on previous agreements and on a bilateral approach, the Palestinians relied on “international law”.

3. Lack of coordination between some of the committees. (1 November 2008)\(^6\)

\(^6\) The original summary included differences over the core issues; these are not included here as they were analyzed at length in chapter 3 (Palestine Papers 8).
(1 November 2008)

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<th>File (Committee)</th>
<th>Issue</th>
<th>Palestinian Position</th>
<th>Israeli Position</th>
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<tr>
<td>State to State (State to State)</td>
<td>Preamble</td>
<td>The state to state relations between the parties shall be governed by international law, treaties, customary international law, conventions, regulations and standards, including, inter alia the instruments regulating the work of international institutions and organizations such as the World Tourism Organization, the World Health Organization and UNESCO. Any relations that are not covered by international and/or regional instruments will be developed and agreed bilaterally between the parties. The required details shall be agreed in the Treaty.</td>
<td>The Agreement will include an agreement in principle that the two states will cooperate and coordinate on state-to-state matters and that the details will be agreed at a later date in treaties/agreements between relevant ministries so as to replace the “existing arrangements”.</td>
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| State to State (State to State) | Archaeology    | 1. Archaeological sites and archaeological artifacts shall be treated without discrimination on religious, ethnic, national or cultural grounds.  
2. In accordance with international law, all artifacts excavated or looted subsequent to June 1967, shall be returned to the State in which their original archaeological sites are located, along with all documentation related to their excavation.  
3. The modalities for repatriation shall be agreed in the Treaty. After resolution of any repatriation issues, all archaeological artifacts are the sole responsibility of the sovereign state in which they reside. | Archaeology encompasses holy sites and is considered a territorial issue and the Israeli side is not authorized to discuss it in the State-to-State committee. |
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<td>State to State (State to State)</td>
<td>Health</td>
<td>The Parties will cooperate in the areas of health and medicine and shall negotiate with a view to the conclusion of an agreement that is in accordance with internationally accepted standards, taking into account the International Health Regulations of the World Health Organization among other regulation that would be of interest to the parties.</td>
<td>The Parties shall maintain independent public health systems and shall conduct their relations in the field of public health in accordance with internationally accepted standards, taking into account the International Health Regulations of the WHO, and in a manner that does not endanger the public health of the other side. In this context, they shall immediately notify each other of potential health risks within their jurisdiction which could affect the other side. The Parties shall facilitate and encourage cooperation and coordination in the fields of health and medicine including in the prevention and management of public health risks or emergencies, epidemics and contagious diseases; the promotion of quality health care, medical equipment, technology and medicines; the exchange of information and mutual assistance; the exchange of specialists and professional training; the prevention of the import and export of counterfeit or unauthorized pharmaceutical products; as well as the facilitation of direct contact between health and medical institutions in their respective jurisdictions.</td>
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<td>State to State (State to State)</td>
<td>Tourism</td>
<td>The nature of the tourism regime between Palestine and Israel -- whether it will be a restricted or open regime -- will depend on the status and borders of Jerusalem. Movement of tourists between the two states is a key issue to be arranged due to the integration of essential types of tourism in Palestine and Israel.</td>
<td>The Israeli side shared their position with the Palestine side as follows: 1. Israel and Palestine will cooperate in the development and marketing of joint tourism in Palestine and Israel. 2. A joint tourism committee will be established to follow up on bilateral tourism issues. 3. The parties will implement special movement arrangements on crossings. 4. Each state will determine its entry policy (visa). 5. Israeli and Palestinian tour guides will operate in their respective areas. 6. The Parties agree to negotiate an agreement to facilitate tourism.</td>
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<td>Economics (Economics)</td>
<td>Economic Relations Agreement</td>
<td>Trade Agreement based on an FTA model:</td>
<td>Trade agreement based on FTA model:</td>
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<td>• General Principles and Trade in Goods: Agreement will be based on an FTA model and compatible with established rules and principles of global trade including those of the WTO. Must include asymmetrical preferential treatment for Palestinian products until existing gap remedied.</td>
<td>• General Principles &amp; Trade in Goods: agreement will be based on an FTA model and WTO principles.</td>
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<td>• Trade in Agricultural Produce: Free trade in agricultural produce.</td>
<td>• Border Crossings: Each side will have control over its side of the border crossings. Trade and movement between the two sides will be only through the agreed crossings.</td>
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<td>• Labor: Free movement of Palestinian Labor to Israeli market according to an agreed quota which will include professional labor.</td>
<td>• Fiscal Policy: Each side will have its independent fiscal policy. In this section we don't deal with monetary affairs. There needs to be an agreement on taxation issues given the proximity between the two sides including VAT and Purchase Tax and not only Income tax.</td>
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<td>• General and Security Exceptions: Based on defined criteria's compatible with WTO standards.</td>
<td>• Agriculture: there is no definite position but trade in agricultural products will be restricted according to agreed quotas.</td>
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<td>• Border Crossings: Each side will have full control over its side of the border crossings. Border Crossings must allow for efficient and free movement of goods, labor and vehicles.</td>
<td>• Services: General agreement to be followed by a detailed agreement in a later stage.</td>
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<td>• Fiscal Policy: Each side will have its independent fiscal policy.</td>
<td>• Labor: no definite position but is considering the option of restricted movement according to an agreed quota and a levy system that will insure that Palestinian labor will not compete with Israeli labor</td>
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<td>• Services: General agreement to be followed by a detailed agreement in a later stage.</td>
<td>• Dispute Settlement: possible agreement on a binding dispute settlement mechanism</td>
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<td>• Dispute settlement: binding arbitration.</td>
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<td>• Implementation and miscellaneous.</td>
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<td>Culture of Peace</td>
<td>Agenda</td>
<td>In agreement and for the period after the agreement, dealing with negative aspects and fostering a culture of peace. 1. Education 2. Incitement 3. Implementation 4. International fund Mention API in the agreement.</td>
<td>In agreement and for the period after the agreement, dealing with negative aspects and fostering a culture of peace. 1. Education 2. Incitement 3. Implementation 4. International fund Unwilling to agree on API</td>
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<tr>
<td>Prisoners (Prisoners)</td>
<td>Agenda for committee</td>
<td>1. Release of all prisoners imprisoned as a result of the Israeli-Palestinian conflict upon signing of agreement on permanent status issues. 2. Coordinated and continued release of prisoners until signing in support of the peace process and in order to signal that we are moving towards an atmosphere of peace. 3. Improving conditions of the prisoners. The need to open a direct chancel and convene an experts committee from relevant authorities to discuss and agree systematically issues and plan for improvement.</td>
<td>Agreed to discuss all three issues in the committee. Agreed to submit Israeli position on release of prisoners upon and following signing of agreement, after consultation with internal authorities and political level. Wants to link No. 2 (release of prisoners until agreement) to performance of PA on the ground or other conditions. Working on #3 (improvement of conditions) with internal authorities now.</td>
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<tr>
<td>Environment (Environment)</td>
<td>Agenda</td>
<td>Presentation of list of decidable issues (11 substantive and 1 administrative).</td>
<td>Provide list of 8 agenda items in response to Palestinian list of decidable issues. Have provided Palestinians with draft language, but have prevented the Palestinian experts from Gaza in any meaningful participation which would allow the Palestinian team to organize.</td>
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<td>Environment (Environment)</td>
<td>Approach</td>
<td>International Environmental Law, Principles and Best Practices shall form general framework for negotiating position.</td>
<td>International Multilateral Agreement’s are not helpful in negotiations. Negotiate bilateral arrangement on a subject by subject basis. Israel has been unwilling to provide permits to Palestinian experts in Gaza who are required for review of draft Israeli language and organize Palestinian positions.</td>
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<td>Water (Water)</td>
<td>Water Right</td>
<td>Fundamental to achieve equitable allocation of shared water resources (West Bank and Coastal Aquifers, and Jordan River Basin, Wadi Gaza, West Bank Wadis) Palestinians invited Israelis to discuss Israeli water rights and interests after which Israelis responded that discussing Palestinian water rights is not interesting. Day to day issues, like increasing the amount of available water, dealt with through PWA.</td>
<td>Pragmatic approach to start with Oslo II and provide for additional Palestinian needs. Israelis have not responded in meetings and refuse to commit to Committee agenda. Accurate depiction of positions. GoI wants to start with “defining the problem” i.e., the shortage of water. Want Palestinians to acknowledge the diminished water in the region as the basis for ongoing negotiations. Need to create alternatives, including desalinization. Initially, the Israelis suggested the interim agreement should be the basis of the future agreement, updated to reflect Palestinian needs.</td>
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<td>Water (Water)</td>
<td>Jordan River</td>
<td>Access essential to Jordan River as a source of water and adjacent valley for a viable Palestinian State. Moreover, the Palestinians assert their rightful share to Jordan River Basin waters (approx. 1400 MCM/year).</td>
<td>Initially, Israel refused to discuss the Jordan River as they identified it must first be addressed in the territory and security committees. Subsequently, Israel has agreed to discuss the Jordan River in the water committee albeit limiting discussion to only the Lower Jordan River instead of the whole Jordan Basin. This implicitly would limit the possible share to the 75MCM/year in the lower Jordan without reference to remaining Basin flows unilaterally diverted and utilized by the other riparians. Have lots of aspirations in JV.</td>
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<td><strong>Water (Water)</strong></td>
<td>Experts Subcommittee</td>
<td>Necessary to establish expert subcommittee to create data baseline on natural sources, including aquifers and surface water. Subsequently, the expert subcommittee composed of experts in groundwater, surface water, wastewater and utilization was convened in September 2008.</td>
<td>Initially, the Israelis wanted to establish the subcommittee without inclusion of surface water experts. Next, the Expert subcommittee shall begin with a review of aquifers, but then the parties can discuss Jordan River. Could also look at sewage systems as a water source, which has implications on public health etc.</td>
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<td><strong>Legal (Legal)</strong></td>
<td>List of Decidable issues</td>
<td>Palestine shall have full jurisdiction over its territory and all legal and natural persons present or operating therein. The list of decidable issues: I. STATE TO STATE LEVEL: A. Mutual legal assistance 1. Civil and commercial matters • Definition of matters that require mutual legal assistance. • Service of judicial documents • Taking of evidence • Recognition and enforcement of judgments in civil and commercial matters • International child abduction 2. Criminal matters • Definition of matters that require mutual legal assistance • Mutual legal assistance in criminal matters other than extradition • Extradition • Cooperation in combating cross border offences B. Diplomatic and consular immunities C. Legal issues related to Jerusalem</td>
<td>Previously raised 4 exceptions to applicability of Palestinian jurisdiction over Israelis, and note that in order to determine the system for legal aid, the past agreements should be evaluated to establish their relevance to the PSA. The agreed agenda items so far comprise of the following subject matters: • Mutual legal assistance and cooperation; • State immunity and claims against one state in the courts of the other state; • End of claims, including implicitly those pertaining to occupation; • Transitional arrangements related to the above listed issues and other legal issues In relation to other issues presented by the Palestinian side, the Israeli side took the view that those issues should not be discussed in the Legal Committee but rather in other committees or by the political level. According to the Israeli view, the political leadership would discuss: • Legal issues related to Jerusalem; • Dispute resolution mechanism;</td>
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<td>Legal (Legal)</td>
<td>List of Decidable issues</td>
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<td>D. Claims against a State in another State (State immunity)</td>
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<td>E. Jurisdiction issues related to Safe Passage (as opposed to Territorial Link which shall be under Palestinian sovereignty)</td>
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<td>F. Dispute resolution mechanism</td>
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<td>G. Compensation for occupation</td>
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<td>H. Family unification between Palestinian and Israeli citizens</td>
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<td>I. Private property rights in the &quot;swapped areas&quot;</td>
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<td>J. Truth and reconciliation</td>
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<td>K. End of conflict and finality of claims</td>
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<td>II. TRANSITIONAL ARRANGEMENTS</td>
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<td>A. Civil and commercial matters</td>
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<td>B. Criminal matters</td>
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<td>C. Transfer of records</td>
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<td>D. Civil and criminal jurisdiction in the transitional period</td>
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<td>E. Legal issues related to outstanding claims against PA/PLO and PA Money held by Israel</td>
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<td>• Jurisdiction issues related to Safe Passage/Territorial Link as may be relevant;</td>
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<td>• Family unification between Palestinian and Israeli citizens;</td>
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<td>• End of conflict</td>
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Other committees would discuss:  
- Diplomatic and consular immunities- possibly in the State-to-State Committee  
- Private property rights in the "swapped areas – possibly in the Territorial Committee  
- Truth and reconciliation – possibly in the Culture of Peace Committee.
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</table>
| Territory (Plenary/Territory) | Baseline              | • 1967 is only basis for two-state solution and defines sovereign Palestinian area.  
• Accept US formula, which includes EJ but keeps NML unresolved.  
• Discuss baseline in entirety (cannot delay Jerusalem).                                                                                     | • 1967 is only "symbolic".  
• Accept US formula, which includes EJ but keeps NML unresolved.  
• Discuss baseline piecemeal, delay Jerusalem for now.                                                                                       |
| 1967 Border               | East Jerusalem         | • Included in baseline (as per US formula).  
• Defined as 1967 municipal boundary (i.e., 6 km²).  
• Part of whole border; cannot be delayed.  
• Borders determined same as rest of WB (1967 border, with possible agreed 1:1 swaps, etc.).  
• Sovereignty and modalities/arrangements are two different issues.                                                                               | • Included in baseline (as per US formula).  
• Defined as Israeli municipal boundary (+).  
• Unwilling/unable to comment on areas inside Israel-defined municipal Jerusalem at this time.  
• Issue of Holy Basin/Old City should be postponed.                                                                                              |
|                           | No Mans Land           | • Part and parcel of 1967 and is occupied territory.  
• Have proposed to split evenly.                                                                                                                                                                                      | • Not up for discussion; "not occupied from anyone"  
• Have proposed to split evenly.                                                                                                                                             |
<table>
<thead>
<tr>
<th>File (Committee)</th>
<th>Issue</th>
<th>Palestinian Position</th>
<th>Israeli Position</th>
</tr>
</thead>
<tbody>
<tr>
<td>Territory</td>
<td>General</td>
<td>• Must be 1:1 in both size and value.</td>
<td>• Willing to discuss swaps, but not necessarily 1:1.</td>
</tr>
<tr>
<td>(Plenary/Territory)</td>
<td></td>
<td>• Any modification to 1967 is a Palestinian concession.</td>
<td>• Palestinians do not have ‘rights’ to the land; Israel not under any obligation to ‘return’ land.</td>
</tr>
<tr>
<td>Land swaps</td>
<td>Criteria/Interests</td>
<td>• Contiguity, viability, Jerusalem, security, water, etc.</td>
<td>• Primarily “facts on the ground”, minimizing number of settlers evacuated, “security needs” and contiguity of settlements with Israel.</td>
</tr>
<tr>
<td></td>
<td>Settlements</td>
<td>• No Palestinians from either side of 1967 to be swapped.</td>
<td>• No West Bank Palestinians to be annexed (but want to consider swapping Pal. areas inside Israel).</td>
</tr>
<tr>
<td></td>
<td>Settlements</td>
<td>• Palestinian interests outweigh Israeli or settlers’ interests as per legal rights; also Israeli state already existing and viable.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Settlements</td>
<td>• Primarily “facts on the ground”, minimizing number of settlers evacuated, “security needs” and contiguity of settlements with Israel.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Settlements</td>
<td>• No West Bank Palestinians to be annexed (but want to consider swapping Pal. areas inside Israel).</td>
<td></td>
</tr>
<tr>
<td>Territory</td>
<td>Territorial Link</td>
<td>• Settlements to be considered on an individual basis (i.e., built-up areas).</td>
<td>• Want to annex all major “blocs” (esp. Etzion, Adumim, Modi’in, Ariel/Shomron) and other settlements “close to the line” (not specified).</td>
</tr>
<tr>
<td>(Territory)</td>
<td>Territorial Link</td>
<td>• Cannot include Ariel, Ma’ale Adumim, Giv’at Zeev “blocs”, or Efrat and Har Homa settlements in swap.</td>
<td>• Keep 80% of Israeli settlers (i.e., 89% with EJ &amp; NML)</td>
</tr>
<tr>
<td></td>
<td>Territorial Link</td>
<td>• Substantial majority of settler population can remain under Israeli sovereignty (%42 under Pal. proposal).</td>
<td>• May have additional claims in Hebron/Qiryat Arba’ and Jordan Valley, depending on security arrangements.</td>
</tr>
<tr>
<td></td>
<td>Territorial Link</td>
<td>• Necessary for a viable state.</td>
<td>• Agree to “safe passage”/link in principle (but no clear position stated as to nature or sovereignty of link).</td>
</tr>
<tr>
<td></td>
<td>Territorial Link</td>
<td>• Permanent land corridor, under Pal. sovereignty, control, and jurisdiction; sufficient width to allow for multiple lanes, rail connection and utilities/water infrastructure.</td>
<td>• Proposed link under full Palestinian control but under Israeli sovereignty (cannot be confirmed).</td>
</tr>
<tr>
<td>Territory</td>
<td>Maritime</td>
<td>• Maritime boundaries should be agreed as part of Territory negotiations.</td>
<td>• No need for bilateral agreement, as the issue is governed by international law.</td>
</tr>
<tr>
<td>(Plenary/Territory)</td>
<td>Maritime</td>
<td>• Palestine will have full share of maritime zones to which it is entitled as coastal state under international law (including UN Convention on Law of the Sea).</td>
<td></td>
</tr>
</tbody>
</table>
### Appendix B

#### Palestinian Position

**Territory (Plenary/Territory)**
- **Map/Proposal**
  - Presented proposal to swap 1.9% of total WBGS area (3 May 08).
  - Proposed swaps on both sides of 1967 line.

**Infrastructure (Infrastructure)**
- **Mandate**
  - Mandate should cover all infrastructure issues in Palestine, infrastructure connecting the West Bank and Gaza, and that connecting Palestine to Israel.
  - Many of the subject matters cannot be constructively discussed without knowing the final borders and the status of Jerusalem. Nonetheless, the Palestinian side presented its vision for infrastructure components as part of a Palestinian state on the 1967 line, without settlements, with East Jerusalem as its capital, and with a territorial link between the West Bank and Gaza Strip. This vision includes sovereignty and control over Palestinian air space, the electromagnetic sphere, maritime boundaries and all of its territory (surface, air, and subterranean). [Details listed in the subheadings below]

#### Israeli Position

**Territory (Plenary/Territory)**
- **Map/Proposal**
  - Presented Olmert’s proposal to AM of “7.3%” of WB (i.e., 9.2% of WB with EJ & NML), in exchange for equivalent of 5% from Israel (7 Apr. 2008).
  - Unwilling to present Olmert’s proposal to AM of “6.8%” (31 Aug. 08) to technical committee.
    - In exchange for equivalent of 5.5% from Israel (in Bisan and areas adjacent to Hebron and Gaza);
    - Issue of Holy Basin/Old City (comprising 0.04% or 2.2 km\(^2\) of WB) to be postponed;
    - Part of “package” deal on all PS issues.
  - Technical team not allowed to present GoI position on specific areas in Israel to be swapped.
  - Maps presented are similar to the Wall

**Infrastructure (Infrastructure)**
- **Mandate**
  - The Israeli side agreed to discuss the subject matters proposed by the Palestinian side with the exception of settlement infrastructure, East Jerusalem infrastructure, the Wall and compensation. The only addition that Israel made to the list of issues is a fifth sub issue to the energy component and that is called “liquid propane gas.” The Israeli side stated that:
  1. the issue of settlements’ infrastructure is not within the mandate of the infrastructure committee and that if they would be mandated to tackle it, it will be discussed only after the fate of the settlements is decided on the political level;
  2. all issues relevant to East Jerusalem can not be tackled before a political decision is made on Jerusalem.
Although the Israeli side included the West Ghor Canal in their agenda for discussion, they retreated in the ninth infrastructure meeting, where they proposed deferring the issue of the West Ghor Canal to the Water Committee.

The Israeli side committed to respond to the Palestinian vision regarding all infrastructure issues at the tenth infrastructure meeting, but when the time came for the meeting itself they instead requested a meeting for the Transportation Subcommittee. However, in a previous meeting, the Israeli side insisted on placing conditions on the order of the discussions by deferring aviation, navigation and telecommunications until these matters are first dealt with as security issues. The security committee has not dealt with these issues to date.

The Israeli side suggests making progress on the issues that are not conditional to decisions by the other committees including the security and the plenary committees. The issues that Israel is ready to discuss immediately include all issues on energy and the issues of roads and railways under the transportation file.

If the Palestinian side decides to freeze the discussion until the all political and security decisions are made, the Israeli side has indicated that they will respect this decision and would agree to freeze infrastructure discussions until all issues on the agenda can be discussed.
<table>
<thead>
<tr>
<th>Infrastructure (Infrastructure)</th>
<th>Mandate</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>resolving that issue. It is not acceptable that the infrastructure issues be discussed or decided by other committees without the participation of the infrastructure committee. In regards to the sequencing of the decision making and the linkage between the infrastructure issues and the core issues, the Palestinian side suggested discussing all the issues and where there is no agreement, disputed issues would be referred to political level. Such discussion could be fed to the leadership level as information, recommendation, scenarios, etc that would facilitate the decision making on the core issues. Simply it would be a bottom-up approach rather than a top-bottom approach.</td>
</tr>
<tr>
<td>File (Committee)</td>
<td>Issue</td>
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</table>
| Infrastructure  | Border Crossings       | The Crossings committee is a subcommittee to the Infrastructure committee. The main issues for the crossings subcommittee discussion include:  
- the location of the crossings  
- the number of the crossings  
- the use of the crossings for goods, people, vehicles, services and transit  
- infrastructure on the crossings  
- procedures for the crossings  
Agreement is needed on the location of the border and the nature of the trade and economic regime between the Parties before we can engage in meaningful negotiations on the crossings.  
The crossing subcommittee will be working on a detailed mandate and agenda for the passages negotiations.  
The main principles for the crossings discussions are:  
1. The border crossings shall be located on the agreed border between the two sides. (The existing check points will not be considered.)  
2. Border crossings between Palestine and its other neighbors (Egypt and Jordan) will be discussed bilaterally between the PLO and Egypt and the PLO and Jordan. Israel has nothing to do with these crossings.  
3. Ports and airports in Palestine are a sovereign right for Palestine that is not an issue for the Crossings Subcommittee to discuss. | The crossing committee is a separate committee from the infrastructure committee in the Israeli committee structure for the permanent status negotiations.  
The first step on the crossings discussions is to finalize the mandate and the agenda of the crossings committee discussions.  
The crossings committee will be addressing all kinds of crossings including goods, vehicles, and people and services crossings.  
The Israeli side considers the crossings between Israel and the state of Palestine as the priority topic for the crossings committee discussions.  
After the security committee is done with the issues relevant to the crossings between the state of Palestine and third states including the ports and airports and land crossings with neighboring countries, the crossings committee will discuss the issues relevant to those crossings if there are any issues to be discussed.  
The crossings committee will discuss and agree to the principles governing the establishment and operation of the crossings and then will move to the detailed procedures relevant to operating the crossings. |
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<tr>
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<th>Israeli Position</th>
</tr>
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<tbody>
<tr>
<td>Infrastructure (Infrastructure, Border Crossings Subcommittee)</td>
<td>Border Crossings</td>
<td>4. The border crossings must be operated as efficient commercial crossings allowing for free and secured movement of vehicles, goods services and people (and not security checkpoints allowing for restricted movement of vehicles, goods, services and people).</td>
<td></td>
</tr>
<tr>
<td>Infrastructure (Infrastructure, Transportation subcommittee)</td>
<td>Aviation, navigation, roads and railways</td>
<td>Transportation issues were discussed in all the infrastructure committee meetings. and the tenth meeting for the infrastructure committee was dedicated to the Transportation Subcommittee discussions. Transportation is one integral issue that can not be divided since all issues of transportation are linked to each other and are equally important. The Palestinian side presented the Palestinian vision and main positions with regards to all transportation issues relevant to aviation, navigation, roads and railways as follows: <strong>Aviation:</strong> • For informed negotiations, data and maps that concern, inter alia the aeronautical routes for the airports in Palestine and Israel need to be shared. • Palestine will have separate Air Traffic Controls (ATC) that will operate in accordance with the Chicago Convention and ICAO rules and regulations that govern the relations between countries including the use of the airspace, cooperation and coordination measures, an air corridor between the West Bank and Gaza Strip (if necessary), and the use of the other party’s airspace to allow for</td>
<td>The security committee should discuss the general security principles for the peace agreement between Palestine and Israel. After they finish the security principles they will discuss the security aspect of aviation, navigation and the territorial link. Afterwards the issues of infrastructure relevant to these issues will be addressed by the infrastructure committee. <strong>Aviation:</strong> • The Israeli side considers the Qalandia Airport as a territorial issue for the Jerusalem discussion and as a security and environmental issue. In general, the Israeli side does not see a venue for Palestinian use of the Qalandia Airport • In the Dr. Erekat – Mr. Dekel meeting on September 2008 11, Mr. Dekel noted that from a security point of view there should be no airport in the West Bank, esp not near Jerusalem. Moreover, Mr. Dekel noted that the first step is to agree that the airspace would be unified. Then Palestinians and Israelis have to discuss whether there should be one FIR (Flight Information Region) or two.</td>
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</table>
The ANNAPOLIS PROCESS (2007–2008)

<table>
<thead>
<tr>
<th>Infrastructure (Infrastructure, Transportation subcommittee)</th>
<th>Aviation, navigation, roads and railways</th>
<th>Roads:</th>
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<tbody>
<tr>
<td>» civil use of airplanes maneuvering to land at airports.</td>
<td></td>
<td>• The roads and railways’ maps that were shown to the Palestinian side are maps that were prepared by the Israeli Ministry of Transportation and reflect only the Israeli planning with respect to all of mandate Palestine, without any political consideration, and were clearly not prepared for the purpose of permanent status negotiations or with a two state solution in mind.</td>
</tr>
<tr>
<td>• The two main airports that Palestine is considering are Gaza International Airport and Qalandia (Jerusalem) Airport and airport in Jericho for cargo.</td>
<td></td>
<td>Territorial link:</td>
</tr>
<tr>
<td>Roads:</td>
<td></td>
<td>• The Israeli side is pending authorization to discuss this issue at the Infrastructure Committee or another committee only after the Plenary level addresses the political aspects of the territorial link.</td>
</tr>
<tr>
<td>• Sharing information such as data and maps regarding the road network in the West Bank including Jerusalem and the settlements is needed for the negotiations to be effective.</td>
<td></td>
<td>• The territorial link is not in the interest of Israel. Accordingly the Palestinians side should not expect to see any projection for the territorial link on the Israeli maps.</td>
</tr>
<tr>
<td>• Palestinians and Israelis need to agree on international road connections between the State of Palestine and the State of Israel (which needs to be coordinated with the border crossings discussions and the discussions on the actual border).</td>
<td></td>
<td>Railways:</td>
</tr>
<tr>
<td>• The parties need to agree on the recognition of licensing of persons and vehicles (commercial and private) to enable driving in the other party’s jurisdiction.</td>
<td></td>
<td>• The coordination and cooperation between the Palestinians and the Israelis on the roads and railway networks are the kink of cooperation and coordination that is needed for the peace negotiations on these issues.</td>
</tr>
<tr>
<td>• The parties need to agree on the insurance policies that would provide coverage for drivers and vehicles while driving or transiting in the other party’s jurisdiction.</td>
<td></td>
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</table>

As a response to the Israeli presentation and showing of current and projected regional roads, the Palestinian side emphasized that the Israeli maps and presentation of issues is not acceptable since the maps shown do not even mention the West Bank and Gaza and illustrate

1. None of the maps shown were handed over from the Israeli delegation to the Palestinian delegation and according to the Palestinian members of the Transportation Subcommittee Committee. In addition the maps shown were outdated.
an Israeli planning of roads that does not reflect Palestinian interests or needs. Accordingly the discussion over Palestinian-Israeli relations on roads would be considered only after the Israeli side presents revised maps in the next meeting which show the West Bank and Gaza Strip as well as the projected regional roads that could connect the two states in the future.

**Sovereign Territorial link:**

- An infrastructure link between the West Bank and Gaza is necessary to protect the integration of the two administrative areas of the State of Palestine and to determine the interconnection for electricity, gas, transportation, telecommunications, etc.

- The route and the type (whether a sunken road link, a surface road link, etc) of the territorial link are important details that need to be determined before discussing the infrastructure. USAID and the World Bank, among other institutions, have been involved in the development of various scenarios for the territorial link in terms of its type and route and relevant infrastructure. Such efforts were developed in the year 2005, and may be helpful in our discussions. We are open to discussing all options.

- On speculation that there are some security dimensions to the issues, security experts are invited to attend the infrastructure meetings.

- From an infrastructure perspective, coordination is required for the type and the route of the territorial link based on the following considerations:
### Infrastructure (Infrastructure, Transportation subcommittee)
- **Aviation, navigation, roads and railways**
  - electricity
  - fuel pipelines
  - water pipelines
  - roads
  - railways
  - telecommunications (fixed and mobile)
  - fiber optics
  - site plans
  - use of radio frequencies

### Navigation:
- The parties need to agree on the maritime motorways between the State of Palestine and the State of Israel.
- Palestine will have a commercial port in Gaza.

### Railways:
- Railway routes between the State of Palestine and the State of Israel (and including within Jerusalem) need to be agreed between the parties.
<table>
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</tr>
</thead>
<tbody>
<tr>
<td>Infrastructure (Infrastructure)</td>
<td>Electricity</td>
<td>For constructive negotiations, data and maps showing the electricity network in the West Bank are needed from the Israeli side. The data and maps needed include the grid networks, the substations with their specifications and locations, and the connection points along with their locations and specifications. Supply of electricity to Palestine from Israel is a commercial issue. If Palestine is offered a competitive deal for the supply of electricity, it will be interested in continuing buying electricity from Israel, especially given that the current integration in the electricity networks between Palestine and Israel.</td>
<td>Israel would like to continue providing commercial electricity to the Palestinian market and requires information on the amount needed and the length of the contract to purchase electricity for Israeli planning purposes. Israel needs to know if Palestine will continue to buy electricity supplies from Israel in order to consider it in its capacity planning. Palestine should not only look at the price in its decision making for the supply of electricity to Palestine.</td>
</tr>
<tr>
<td>Infrastructure (Infrastructure)</td>
<td>Fuels</td>
<td>Information from Israel is required concerning the capacity of the fuel pumps in Israel which are adjacent to the 1967 borders and the fuel distribution pipeline network. Supply of fuel to Palestine is a commercial issue that depends on the volume and capacity of supplies, price, quality and how easy it can be supplied. If Israel puts forward a competitive offer for fuel supply, Palestine will consider it especially that Palestine would be interested in benefiting from its Arab depth where Arab countries would be interested in supplying Palestine with crude oil as support to the Palestinian State. Palestine is planning to have its own refinery in the state of Palestine. It is also considering contracting refinery facilities in Israel; however this issue is a commercial one and would be relevant only for commercial deals.</td>
<td>Response pending. Israel is interested in building storage areas for its liquefied petroleum gas (LPG) in Palestine.</td>
</tr>
<tr>
<td>File (Committee)</td>
<td>Issue</td>
<td>Palestinian Position</td>
<td>Israeli Position</td>
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<td>----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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</tr>
<tr>
<td>Infrastructure (Infrastructure)</td>
<td>Telecom and the Electromagnetic Sphere</td>
<td>Information from the Israeli side is needed on the telecom infrastructure in the West Bank and Gaza (including settlements and East Jerusalem) for fiber optic networks, switches, towers, current use of spectrum and location of the fiber optic links between the West Bank and Gaza. Palestine may need to agree with Israel upon a defined period for the continuation of specific telecom services to the Palestinian State through commercial operators. The two sides need to agree on the transitional arrangements for the provision of telecom services to the settlements and the military areas until they are fully evacuated. Palestine and Israel need an agreement on microwave links to connect the West Bank with the Gaza Strip (telecom issues for fixed and mobile communications relevant to the territorial link will be defined in the discussion on the specifications of the territorial link). On the day after Palestinian sovereignty, the State of Palestine will accede to the ITU as full state members and will need to develop arrangements to fully implement ITU regulations concerning such issues as spectrum interference (especially in close populated areas).</td>
<td>Response pending.</td>
</tr>
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Brig. Gen. (res.) Shlomo Brom – senior research associate at the INSS and former head of the IDF Planning Directorate (April 3, 2014)

Brig. Gen. (res.) Udi Dekel – head of the Israeli negotiation team in the Annapolis process and former head of the IDF Planning Directorate (April 2014, Tel Aviv)

Mr. Yehuda Greenfield – head of SAYA; specializes in architectural design of solutions
in the Israeli-Palestinian conflict (April 24 and June 1, 2014, Tel Aviv)

Hezi Kugler – former director-general of the Ministry of Infrastructure and head of the Infrastructure Committee in the Annapolis process (April 10, 2014, Tel Aviv)

Mr. Lior Lehrs – researcher at the Jerusalem Institute for Israel Studies and author of Peace Talks over Jerusalem (January 20, 2014, Tel Aviv)

Mr. Ehud Olmert – prime minister of Israel during the Annapolis process (February 5, 2014, Tel Aviv)

Political Official 1 – was involved in the negotiations (February 2014, Tel Aviv)

Political Official 2 – was involved in the negotiations (March 11, 2014, Tel Aviv)

Mr. Ron Pundak – took part in initiating the Oslo Accords, director of the Peres Center for Peace (January 20, 2014, Tel Aviv)

Mr. Haim Ramon – deputy prime minister during the Annapolis process and former senior minister; major actor in the Annapolis talks (April 23, 2014, Tel Aviv)

Mr. Dan Rothem – senior research consultant for the S. Daniel Abraham Center for Middle East Peace; specializes in territory (March 13, 2014, Binyamina; April 29; June 3, 2014, Pardesiya; October 2014, Tel Aviv)

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Senior official in Israel's negotiation team in the Annapolis process (December 2013, Tel Aviv)

Col. (res.) Danny Tirza – in charge of territory in the Israeli negotiation team (December 24, 2014, Tel Aviv)
Conversations and interviews with Palestinians

**Dr. Samih al-Abed** – PA representative in all negotiations with Israel, including the Annapolis process, responsible for territory and maps (March 19, 2014, Jerusalem)

**Mr. Rawhi Fattouh** – speaker of the PLO Legislative Council and member of the Palestinian Authority leadership (April 2, 2014, Ramallah)

**Att. Hiba Husseini** – took part in negotiations with Israel throughout the entire peace process; was head of the Legal Committee in the Annapolis process; headed the NSU in 2010-2012 (March 3, 2014, Jerusalem)

**Dr. Muhammad a-Shtiya** – member of the Palestinian Authority leadership and head of PECDAR; headed the Infrastructure Committee and Border Crossings Committee in the Annapolis process on behalf of the Palestinians; participated in the negotiations led by US Secretary of State John Kerry in 2013 (April 2, 2014, Ramallah)
ACKNOWLEDGEMENTS

I devoted many years to working on the Palestinian arena and on the peace process from various perspectives. During the Annapolis talks, I was actually in the process of retiring from the IDF, and therefore was not directly involved in them. It was later, as a consultant to the Policy Planning Bureau in Israel’s Ministry of Foreign Affairs, that I learned of Israel’s movement away from seeking a permanent-status agreement. I recall that immediately after entering office in 2009, Foreign Minister Avidgor Lieberman demanded that the basic premise of “land for peace” be evaluated and that plans be drawn up for enforcing an interim agreement on the Palestinians. After the Annapolis process, Prime Minister Netanyahu established the formula of “negotiations without preconditions”.

These developments begged a deeper analysis of what had taken place in the Annapolis talks – the last substantial round of Israeli–Palestinian negotiations to date. I strongly felt that these, and other, aspects of the peace process must be examined in order to formulate recommendations for the future. While this idea germinated for years, I needed the right setting to facilitate such a research project. Fortunately, in 2013, the Tami Steinmetz Center for Peace Research and Molad – the Center for the Renewal of Israeli Democracy offered their support, and I embarked on the research project whose fruits lie before you.

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Omer Zanany is an experienced researcher and strategic consultant who specializes in intelligence research and policy design. Before retiring from the IDF as a lieutenant colonel, he wrote intelligence and policy papers, took part in security negotiations, and managed teams charged with formulating the IDF’s positions on a variety of core issues (the Clinton proposal, the Arab Peace Initiative, the Road Map, the Security Fence, and the disengagement from Gaza, among others).

In recent years, Zanany has consulted the Policy Planning Bureau in Israel’s Ministry of Foreign Affairs and is currently a consultant to the defense establishment. In 2014, he published several opinion articles on Israel’s policy in Operation Protective Edge in the Gaza Strip (through the Peace and Security Association), on the need for mutual agreement as a condition for resolving the Israeli-Palestinian conflict (Common Sense Magazine, Netanya Academic College), and on the ramifications of the Arab Spring for Israel’s national security conception (Galilee International Management Institute).

Zanany holds a B.A. in Middle Eastern & African history and an M.A. in public policy, both from Tel Aviv University.