“Can’t Say ‘Yes’ – Can’t Live With ‘No’”

Analysis of Past Israeli-Palestinian Negotiations

by

Michael J. Reimer

A Dissertation submitted to the

Graduate School-Newark

Rutgers, The State University of New Jersey

in partial fulfillment of the requirements

for the degree of

Doctor of Philosophy

Graduate Program in Global Affairs

written under the direction of

Dr. Norman Samuels

and approved by

________________________
Dr. Norman Samuels

________________________
Dr. Yale Ferguson

________________________
Dr. Simon Reich

________________________
Dr. Louise Stanton

Newark, New Jersey

October, 2017
Abstract of the Dissertation
“Can’t Say ‘Yes’ – Can’t Live With ‘No’”
Analysis of Past Israeli-Palestinian Negotiations
by Michael J. Reimer
Dissertation Director:
Dr. Norman Samuels

1) Rationale for the study
This dissertation was written to see if an alternative to the methods used in previous Israeli-Palestinian negotiations could create peace and a Two-State Solution in Israel, Gaza and the West Bank. The mediation paradigm used in 2000, 2008, 2014 and 2016, though showing progress, has not resolved the conflict. This study tries to determine what the causes of continued failure to achieve a resolution could be and whether the standard mode of mediation is itself the problem. This study also tries to determine if there is some alternative to the standard mediation paradigm which might produce more conclusive results.

2) Hypothesis
The basic hypothesis of this dissertation is that one should not point to any specific issue or issues as the cause of failure but rather to the lack of courage on the part of political leaders. Further there may be a modification to the mediation paradigm which would produce better results.

3) Method
Two different databases have been used extensively. First, a database called CaseMap was used in which more than 15,000 separate quotations from every first party writer who attended the Camp David Negotiations was inserted. The database EndNote, which, in addition to being able to provide a detailed bibliography, also does an excellent job of indexing documents which are in PDF format across all the documents was used for every document and reference material. Of the 1,856 references, nearly all have PDF files associated with them which have been cross indexed and are now searchable.

4) Results
It has been determined that by changing the order of how negotiations are usually conducted, a substitute for political courage can be found which might have a valuable effect on future negotiations. A referendum taking place
simultaneously in Israel, Gaza and the West Bank authorizing negotiations and the conclusion of a Two-State Solution prior to the actual final negotiations would have a greater chance of achieving a successful conclusion.

5) Conclusion
   A referendum taking place simultaneously in Israel, Gaza and the West Bank authorizing negotiations and the conclusion of a Two-State Solution would have a greater chance of achieving a successful conclusion.
Acknowledgment and/or Dedication

I dedicate this dissertation to my children, Matthew and Leah, Marc and Miriam and Jamie and Mike. They have continuously asked about the progress and encouraged me to keep going. I would like to thank Patricia Meyer who had the task of proof reading and correcting every page of this dissertation. I would like to thank the members of my Dissertation Committee and especially Dr. Samuels and Dr. Ferguson, who pushed me to do all that was necessary to meet the requirements of writing this dissertation. I would like to thank the entire faculty and staff of the Division of Global Affairs at Rutgers who have provided, not only a great education but also inspiration and a great learning experience. I would also like to thank Bach, Mozart, Beethoven, and all the other wonderful classical music composers who were my constant companions in my work on this dissertation.
# Table of Contents

<table>
<thead>
<tr>
<th>CHAPTER ONE</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>I. Introduction</td>
<td>1</td>
</tr>
<tr>
<td>A. Idea</td>
<td>1</td>
</tr>
<tr>
<td>B. Subject</td>
<td>4</td>
</tr>
</tbody>
</table>

| II. The Research Project          | 6 |
| A. Research Question              | 6 |
| B. Research Hypotheses            | 7 |
| C. The Goal of the Dissertation   | 8 |

| III. Overview of the Dissertation's Methodology | 9 |
| A. CaseMap                              | 15 |
| B. TimeMap                              | 19 |
| C. EndNote                              | 20 |

| IV. Outline of Chapters              | 21 |

| V. Literature Review                 | 23 |

| VI. Chapter Conclusion               | 34 |

| CHAPTER TWO                         |   |
| VII. The Camp David Round - Overview| 35 |

| VIII. The Olmert-Abbas Round - Overview | 43 |

| IX. Secretary of State, John Kerry's Efforts – 2014 and 2016 - Overview | 48 |
| Figure 1 Kerry's Principles         | 52 |

| CHAPTER THREE                       |   |
| X. Understanding the Israeli-Palestinian Conflict in a Historical Context | 54 |
| A. Understanding the Israeli-Palestinian Conflict in the Context of the Modern History of the Middle East | 54 |
| B. Israel is a European Style Nation-State | 58 |
| 1. The Balfour Declaration          | 59 |
| 2. The Sykes-Picot Agreement of 1916 | 70 |
| 3. The Palestine Mandate            | 73 |
| 4. The Churchill Memorandum         | 75 |
5. Consequences of World War I 77
   C. A Framework for Viewing the Modern Middle East 79
      1. A Framework Which May be Applied to the Modern Middle East 81

CHAPTER FOUR
XI. Analysis of Some Other Treaty Negotiations 84
   A. Chapter Introduction 84
   B. Historical and Philosophical Analysis of Treaty Negotiations 87
      1. Ancient Treaty Negotiations 87
      2. Philosophical Underpinnings of Treaty Negotiations 89
   C. Additional Case Studies of Other Treaty Negotiations 95
      1. Sri Lanka and the Tamil Tigers 101
      2. Cyprus 106
      3. Northern Ireland and Bosnia
         a. Northern Ireland 109
         b. Bosnia and the Former Yugoslavia 117
   D. Chapter Conclusion 120

CHAPTER FIVE
XII. Other Israeli-Palestinian Negotiations 122
   A. Chapter Introduction 122
   B. Historical Analysis of Israeli-Arab Hostility 123
   C. Case Studies of Israeli-Arab Negotiations 135
      1. The Egyptian-Israeli Armistice Agreement 1949 135
         Map 1. UN Armistice Lines 1949 136
      2. Continuing Israeli-Arab Negotiations 143
   C. Case Studies of Other Israeli-Palestinian Efforts 145
      1. The Road to Madrid - James Baker 147
      2. The Road to Oslo - Jan Egeland 160
      3. The Road Map
         a. "Pre-Road Map" 167
         b. The Road Map 168
      4. Secret or Private Negotiations 176

CHAPTER SIX
XIII. Case Studies of the Major Israeli-Palestinian Conflict Negotiations 181
   A. The Clinton Round 181
   B. The Olmert-Abbas Round 188
      1. Evolution of "1967 Borders" as a Negotiating Point 198
         Figure 2. "1967 Borders" Chart 200
      2. Security Issues in Gaza 201
   C. The Efforts of Secretary of State John Kerry 204

vi
## XIV. Political Psychology as Applied to the Israeli-Palestinian Conflict

- **A. Introduction to the Chapter**
- **B. Political Psychology Applied to Israeli Prime Ministers**
- **C. The Palestinian Negotiating Mind Set**

## XV. Mechanics, Tactics and Strategies of Treaty Negotiations

- **A. Negotiating Across Cultures**
- **B. Negotiations as a Process**
- **C. The Role of International Law**
  1. The Law of Belligerent Occupation
  2. Israel’s Legal Status in the Administered Territories

## XVII. Proposals

- **A. Introduction to the Chapter**
- **B. Change the Order**
- **C. Mechanics of a Pre-Referendum**
- **D. Questions and Answers about the Pre-Referendum**
- **E. Pre-Negotiations**
# Table of Contents for Appendix

<table>
<thead>
<tr>
<th>Appendix Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Balfour Declaration - November 2\textsuperscript{nd}, 1917</td>
</tr>
<tr>
<td>2. The Palestine Mandate - July 24, 1922</td>
</tr>
<tr>
<td>3. Cyprus Peace Plan - 1959</td>
</tr>
<tr>
<td>5. The Clinton Parameters - December 23, 2000</td>
</tr>
<tr>
<td>6. Prime Minister Netanyahu Speech at Bar Ilan University - June 14, 2009</td>
</tr>
<tr>
<td>7. Matrix of President Bush’s Road Map</td>
</tr>
<tr>
<td>8. CaseMap Reports</td>
</tr>
<tr>
<td>Fact Chronology</td>
</tr>
<tr>
<td>TimeMap Negotiating TimeLine</td>
</tr>
<tr>
<td>TimeMap Camp David TimeLine</td>
</tr>
<tr>
<td>Cast of Characters</td>
</tr>
<tr>
<td>1967 Borders Fact Chronology</td>
</tr>
<tr>
<td>CaseMap Screen Shots</td>
</tr>
<tr>
<td>CaseMap Place Object Screen Shot</td>
</tr>
<tr>
<td>Compromise Screen Shot</td>
</tr>
<tr>
<td>9. EndNote</td>
</tr>
<tr>
<td>EndNote Screen Shots</td>
</tr>
<tr>
<td>Maps</td>
</tr>
<tr>
<td>Matrix</td>
</tr>
<tr>
<td>10. Photos</td>
</tr>
<tr>
<td>MJR Photos October 2016</td>
</tr>
</tbody>
</table>

* Due to their length these documents are supplied only on a flash drive or CD.
I. Introduction

A. Idea

The modern Israeli-Palestinian conflict can trace its origins back to the late nineteenth century when the first wave of Zionist inspired European Jews immigrated to Palestine. The Arabs living in Palestine at those times reacted to these waves of immigration with emotions ranging from disregard to outright hostility and every emotion in between. The conflict between the Arabs and the Israelis has raged and smoldered ever since. This dissertation will focus on the several attempts to bring the conflict to an end by establishing what has become known as “The Two-State Solution”.

Prior to examining the Israeli-Palestinian conflict it is necessary to come to grips with some very general understandings. For example, determining what “Palestine” is or who was a Palestinian is both a most fundamental and difficult task. In order to move to understanding the ongoing Israeli-Palestinian conflict it is probably necessary to gloss over some of these most fundamental issues. If one requires academic rigor in defining the history of “Palestine” or the nature of its origin or its history or the national identity of its people, the discussion will fall into a deep hole and is likely never to dig itself out. Even the Israelis and Palestinians have come to understand the necessity of not dwelling on the past and the importance of looking to the future. As early as 1993, at the very first meeting between two Israeli academics, Yair Hirschfeld and Ron Pundak and PLO minister Abu Ala (“Ahmed Qurei”) at a country house in Sarpsborg, Norway, Norwegian Minister Jan Egeland himself noted:

... If we are to quarrel about the historic rights to these holy lands, about who of us were there first, or about who betrayed
whom and when, we will sit here quarreling forever. We must agree to look to the future.¹

The Israeli-Palestinian conflict is so often in the news that there are very few people without a strongly held opinion on exactly what the problems are with this conflict and what the simple outcomes must be. It may well be said that these strongly held opinions about the conflict are an important reason why this conflict remains so intractable. It seems that regardless of education or background - or lack thereof - there is no shortage of experts on this conflict. It seems many people believe that, if only the parties listened to them, a solution would be worked out in due course.²

The principle idea behind this dissertation is that the best way to figure out how to solve and settle the Israeli-Palestinian conflict is to take a close look at what the respective parties have been saying and thinking over the last three decades about the conflict. In other words, how does each party see the conflict in terms of its own narrative? The path to learning what each party thinks is to examine, indeed, analyze what each party says about the conflict. This includes what optimistic parties say to each other and what the parties may say in documents which are intended for internal use only. While it may well be very elucidating


² This, of course, does not include those vehemently pro-Israel people who know that G-d promised the land to the Jews (some say “from the Nile to the Eufrates”) and also does not include the vehemently pro-Palestinian people who know that Israelis are merely European colonizers who should simply leave and return the land to its rightful owners.
to read the words spoken and take them at face value, it is often true that the words themselves can serve to obscure, rather than illuminate the positions and motivations behind them.

In this regard, the research for this dissertation has analyzed more than 15,000 first party quotations concerning the negotiations of 2000-2001 and more than 1,500 documents from 1999-2011. The analysis sought to determine when and why there may have been inconsistencies in the writings and whether these inconsistencies may have reflected the underlying beliefs of the respective parties. A discussion of these methods will follow.

An approach known as “Words as Data” ("WaD") was considered in analyzing the respective positions of the parties from the texts mentioned above. However, it was concluded that there was no proven quantitative approach which could be utilized with the great amount of words in the universe to be examined. Instead, two different data bases have been utilized. While the utilization of these databases is not the same as WaD, its use provides an equally well-analyzed result. The use of the data bases will be described below.

The analysis of this great quantity of documents provided a unique examination of the positions of the parties. It may even help to understand why there has not yet been any successful resolution of the conflict and why there are so few persons who are optimistic that there ever will be.

3 It should be noted that Words as Data is a term of art and has a particular meaning. This dissertation will not employ the mathematical techniques normally associated with WaD. Instead it will apply an analysis of how words are used in conjunction, or not in conjunction, with other words. It will analyze the frequency of words and phrases, when useful, in order to get into the basis for the parties positions.
B. The Subject

There have been four major rounds of Israeli-Palestinian negotiations since the turn of the present century. The most well-known of these rounds was conducted by the Clinton Administration. It is associated with negotiations at Camp David and subsequent negotiations. It was conducted in the final months of the Clinton Presidency. These negotiations were led by Yasser Arafat for the Palestinian Authority (“PA”) and Prime Minister Ehud Barak of Israel. On December 23, 2000, at the White House, President Clinton advised the parties of what has been referred to as the “Clinton Parameters”. These detailed principles have served as the basis for all subsequent negotiations although neither party will openly admit it.

Seven years later, in 2008, there were direct negotiations between the Ehud Olmert administration in Israel and the Mahmoud Abbas administration of the PA4. These negotiations were detailed and extensive and were memorialized in detail by documents referred to as The Palestine Papers. These documents will be discussed and analyzed at length below.

4 The Israelis, for the most part, have names which are Hebrew. They are written in the Hebrew language. However, English is the second language and many of the newspapers in Israel are written in English. As a result, the Israeli names are generally written in English with a single spelling which is universally recognized. On the other hand, the names of Palestinians are written in Arabic. The translation, or more accurately, transliteration, is written in English. However, there does not seem to be any consistency in the English spelling of the Palestinian names in this dissertation. That goes, as well, for the internal documents of the Palestinians in The Palestine Papers. Even within consecutive documents the English spelling of the Palestinian names are not consistent, notwithstanding that, for the most part, The Palestine Papers were written, for the most part, in English. The choice made in this paper is to use the spelling that is contained in the specific pertinent document regardless of consistency. It is unlikely that this will lead to any confusion.
In 2014, Secretary of State John Kerry undertook behind the scenes negotiations between President Abbas and Prime Minister Netanyahu. This round of talks produced what has been called the “Kerry Principles”. These Kerry Principles may have taken some small steps toward conflict resolution and will be discussed below. Two years later, in 2016, during the very last moments of the Obama administration, Secretary Kerry again made an attempt to bring an end to the conflict. The details of these efforts have only recently been revealed.5

With each of these distinct rounds of negotiation the terms of any proposed settlement have become more granular and clear and the parties have moved closer. Each round has built upon the Clinton Parameters and no proposals have contained elements which went beyond these parameters or deviated from them in any substantial way. With the level of detail contained in the Olmert-Abbas round of 2008 and particularly the two Kerry rounds, it should be understood that the terms of any subsequent agreement are substantially within focus and known by the parties.

Almost immediately upon taking office, President Obama appointed Senator George Mitchell, who had so much success with bringing peace and hope to Northern Ireland, to serve as his envoy to the Israeli-Palestinian conflict. Beginning in 2014, President Obama sent his Secretary of State, John Kerry, to serve the same purpose. We are just beginning to

come to know the full extent of Secretary Kerry’s efforts and how close or how far he may have come to a resolution.

II. The Research Project

A. Research Question

The issues surrounding the Israeli-Palestinian conflict are so complex and so well documented that a complete analysis would be endless, ever-changing and therefore impossible. It is necessary to address just a few of these issues and research questions in this dissertation lest the dissertation become so long that it would be unwieldy. The research question that this dissertation will principally address is as follows:

6 On February 19, 2017, the Israeli newspaper Ha’aretz published a detailed news article on Kerry’s failed efforts of 2014 and his renewed secret efforts in 2016 in ending the conflict. These renewed efforts will be discussed below. The reported details of the secret negotiations can be found in Ravid, B. (2017, 2017-02-19). Kerry Offered Netanyahu Regional Peace Plan in Secret 2016 Summit with al-Sissi, King Abdullah. Ha’aretz. Retrieved from: http://www.haaretz.com/israel-news/.premium-1.772531?=&ts=_1487712546947


8 Because the amount of material contained in the databases upon which this dissertation relies is so extensive, it will only be possible to place a limited number of reports in the Appendix of this work. Moreover, several of the reports themselves are so extensive they will be placed in the Appendix in electronic format only.
Will the continued use of the negotiation/mediation paradigm produce better results in the future than it has so far achieved in the Israeli-Palestinian efforts at treaty negotiations or can a new method for peace treaty negotiations between the Israelis and Palestinians be developed?

B. Research Hypotheses

Nearly all the details of any Two-State Solution negotiated between the Israelis and the Palestinians are already knowable and more importantly, substantially known to the parties. However, neither party is capable of getting to “Yes” without a fundamental change in the methodology of the negotiations. The central hypothesis of this dissertation is that a proposed radical change in the negotiation/mediation paradigm offers the best prospects of producing a treaty which will legalize and formally recognize a viable Two-State Solution. This suggested change in the process will be proposed in the Conclusion and Proposal section of this dissertation.

It is also a hypothesis of this dissertation that courage has been a critical ingredient that has been missing from the past efforts at resolution. It is important to set forth explicitly what is meant by courage. The usual definitions of courage include the ability to do something that frightens; or, strength in the face of pain or grief. However, this dissertation uses the term slightly differently. Absence of courage, in this paper, is used to mean that a political leader opts for an alternative that achieves a tactical political need or momentary advantage rather than choosing an alternative which may achieve a long term strategic goal “in the face of pain or grief” or in the face of short term losses. One of the hallmarks of great
leadership is to be able to recognize the difference between the tactical and the strategic and act, wherever possible on the strategic goal. This applies to both the Israelis and the Palestinians.

Moreover, the proposed change in the process of a future negotiation is intended to substitute for the lack of courage that has been shown on both sides of the conflict. Each side needs the courage to make some very difficult concessions. Each side needs the courage to understand that they will not get everything they want out of an end-of-conflict solution. Each side needs the courage to face internal opposition, whether from political adversaries or the proverbial “street”. Each side needs to find the courage to understand that a separation of the peoples will lead to a better life for both. Last, the Palestinians need the courage to face the fact that they are not likely to survive a conflict with important elements within their society without the help of some third party, Israel, the United States, NATO or some combination thereof.

C. The Goal of the Dissertation

The goal of this dissertation is to analyze previous Israeli-Palestinian negotiations in order to see what went wrong and why. It is a premise of this work that the terms of a resolution of the dispute between the Israeli government and the PA has substantially been reached four times. Another task of this dissertation is to propose an alternative to the negotiation/mediation paradigm which has, so far, failed to reach a solution to the conflict and failed to produce a Two-State Solution.
As recently as November 29, 2016, George Mitchell published a book with his suggestions for negotiating a Two-State Solution. However, the methodology suggested by Senator Mitchell was fundamentally the same as the new Kerry Plan of 2016 which was the same as the Kerry Plan of 2014, which was the same as the Olmert Plan of 2008, all of which were the Clinton Parameters with some of the bones fleshed out.

None of these plans have taken a new path or provided a new methodology. It is hoped that the proposals contained in the final chapter of this dissertation will be seen as sufficiently different and potentially effective enough to achieve a full and final end-of-conflict treaty with a true Two-State Solution.

III. Overview of the Dissertation’s Methodology

This dissertation utilizes several different methods of analysis of the history of treaty negotiations as well as a textual analysis of first hand and primary source accounts of prior Israeli-Palestinian negotiations.

The methodology which this dissertation has applied to the several rounds of Israeli-Palestinian negotiations was a function of the type and quantity of the documents associated with that round of negotiations. Because there were quite a few first hand accounts of the Clinton round, it was determined that the best form of analysis would be to place direct quotations from these first hand accounts into a database so that these quotations could provide insight into the positions taken by the parties and the negotiators themselves. It is for this reason that more than 15,000 quotations were placed in a database, CaseMap. Like any

---

good database, it made these quotations easily searchable and subject to detailed scrutiny. However, there was no technological shortcut which could synthesize this amount of non-numerical data and apply a formula or algorithm to produce a coherent understanding of the material. What was required to produce a textual analysis of these first hand accounts was *sitzfleisch*. Given the amount of data, the “Words as Data” (WaD) approach was ruled out as a workable approach.

WaD is a mathematical or quasi-mathematical approach to interpreting the true meaning behind texts. Its fundamental basis is its ability to compare a new or unknown or unanalyzed text to other known and analyzed texts. Such a technique does not seem to have a value here. The position taken by this dissertation that the use of quantitative models of language analysis would be of little or no value is supported by some of its most thoughtful practitioners.\(^\text{10}\)

As a result of having reached the conclusion that a quantitative analysis of the documents would be impossible due to the enormous number of these documents that have been reviewed, together with the enormous number of quotes; this dissertation will limit its analysis to a qualitative review of the writings. One can only hope to get the flavor of the respective positions of the parties by immersing oneself in reading the documents.

In addition to the aforementioned first hand accounts, this dissertation examines more than 1,500 separate documents contained in *The Palestine Papers*. These documents will be discussed below. It can be assumed that when authors are writing books or articles, they are trying to project their ideas in a manner that is clear and, perhaps, convincing. On the other hand,\(^\text{10}\)

---

hand, it should be assumed the Palestinian Negotiating Support Unit (“NSU”) is trying to produce documents which are in accordance with their superiors’ instructions or perceived or implicit instructions. At a minimum, these documents produced by the support team were, no doubt, written in order to curry favor with the higher ranking politicians who were doing the actual negotiation.

There is also a third reason why the documents produced by the support team may have been written in the manner that they were written. None of the 1,500 documents that were reviewed revealed any member of the support team who got out in front of the negotiators. At no time did any document produced by the support team suggest any tactic, strategy, proposal or recommendation that in any way had not already been a part of the Palestinian positions set forth in the actual negotiations from the very onset. So many of the documents in The Palestine Papers simply listed, time and time and time again the well known and oft expressed positions of the PA. On these internal documents, these well-known positions never moved an inch from 2007 through 2011. While it is known that the PA negotiators were significantly more flexible, their support staff never changed or moved any Palestinian position from the onset of negotiations. Any suggestion of a new or different strategy or tactic or proposal or wording came from the highest ranking negotiators and political leaders or not at all. It was not reflected in the works of the support staff.

11 No fewer than 384 of the documents contained The Palestine Papers are attributed to the NSU directly.

12 As noted in subsequent chapters, the PA’s initial offer of land in the West Bank would be just under 2%. While the Israelis offered several suggestions for swaps, ranging from 10.6% down to 5.9% the official Palestinian position never varied from just under 2%. This will be discussed below.
There are several possible reasons for this to be so. First, it is clear that the members of the support team were serious young men\textsuperscript{13}, many clearly trained in law. Second, it is clear that none of these young men had either the gravitas or the courage to write anything other than what had already been set down as doctrine. Third, if a serious young man wanted to keep his position, the easiest way to do that is to run with the pack. It requires no courage and it places nothing at risk to simply repeat the same analysis day after day. While it has been the position of this dissertation that the PA has, in fact, made many meaningful concessions in the course of more than two decades, it does not appear that any of these concessions came from the suggestions or with the support of any persons working on the support teams. It is assumed that the members of the support team were all familiar with the adage, “The protruding nail gets hammered down”. None of the writing of the team displayed any element of courage in any suggestion. What was written was the repetition of the positions taken since 1991.

This dissertation will look behind the positions taken by the Americans and the Israelis\textsuperscript{14} at Camp David in order to determine, by means of a qualitative analysis, the true meanings of the words used by these first party witnesses to history. This same analysis will not be applied to the writings contained in what has been referred to as The Palestine Papers released by al Jazeera in 2011. This is so because the parties to the negotiations of 2008 and 2009 do not admit to the authenticity of these papers. However, given the details contained

\textsuperscript{13} It is likely safe in saying that when any actual name of the team members was mentioned, it appeared to be a man’s name; no women’s names appeared as members of the support team.

\textsuperscript{14} This qualitative analysis is not limited to the positions taken by Americans and/or Israelis because of any bias but rather because the Palestinians did not offer any change of positions or substantive policies while at Camp David.
in the Meeting Minutes and Meeting Summaries, it would be difficult to conclude that these
documents are mere fabrications. It is likely that these documents are the best recollections
of a person who actually attended the negotiation sessions and recorded these recollections
nearly contemporaneously.

It is a fact of history that none of the Palestinian negotiators at the Camp David
meeting of 2000 have written books or articles concerning either their experiences or tactics
in negotiating with Israel. On the other hand, nearly all of the Israeli negotiators, other than
Ehud Barak himself, have written first hand accounts of the negotiations. This dissertation
will, therefore, need to draw upon the work of French author, Charles Enderlin, to provide some substance and context for the Palestinian negotiating positions,
although many of those positions were not actually expressed during the meetings with
President Clinton or Secretary of State Madeleine Albright. Further, there were two
documentaries in which video interviews were conducted with both the Israeli and, more

While Mr. Enderlin is not well regarded in Israel due to his reporting on the
disputed and controversial video involving the purported shooting of a Palestinian
child by the IDF, he was provided with the widest and most substantive access to
the Palestinian negotiating team before, during and immediately after the Camp
David process.

Enderlin, C. (2002). Shattered dreams: the failure of the peace process in the
Middle East. New York: Libriarire Artheme Fayard, Other Press, LLC.

pring-fractured-lan

[Timeline]. In D. Setton (Producer), Fronline. Frontline: PBS - Thirteen. Retrieved from:
http://www.pbs.org/wgbh/pages/frontline/shows/oslo/etc/cron.html
https://www.youtube.com/watch?v=Uf3LYMInebE
importantly, Palestinian negotiators, including Dr. Erekat and Chairman Arafat among others. These interviews concerned the positions taken at a time contemporaneously with the negotiations themselves. The interviews contained in each of these documentaries was then transcribed and placed into both CaseMap and EndNote databases.

Interestingly, The Palestine Papers, dealing with the Olmert-Abbas negotiations of 2008 and thereafter, were placed on the al Jazeera website. There are about 1,149 documents which date from January 2006 through December 2009. I have selected this time frame because it approximates the time during the Olmert-Abbas negotiations and the aftermath thereof. Contained in these papers are, ostensibly, transcriptions of dialogues between Palestinian and Israeli negotiators, sometimes including bilateral, trilateral and multilateral meetings with other states, including the United States. The fact that these meetings were not actually recorded means that these transcripts are, *ipso facto*, the recollections and impressions of a scrivener who was working from either his/her memory or notes or both. While many of these documents are in the form of a transcript, with specific words attributed to specific speakers, they must, nevertheless, be treated as subject to the memory, perception and bias of the scrivener. It is for this reason, and the fact that the parties themselves do not confirm the authenticity of the documents, that these documents have not been subjected to the specific words to data analysis in CaseMap, in the

---

18 It appears that The Palestine Papers have been taken down from that website since the time that the work for this dissertation was concluded.

19 The identity of the scrivener, or scriveners, has not been revealed.

20 An example of a Meeting Minutes transcript in the Appendix.
same manner as set forth below. However, they are contained in a second database, EndNote which is also accessible and searchable.

**A. CaseMap**

On this project, every first-hand account of the Camp David and subsequent negotiations of 2000 and 2001, plus many additional books and articles discussing the topic have been thoroughly analyzed. From these accounts were drawn more than 15,000 direct quotations. These quotations were then placed in the database, CaseMap\(^{21}\). CaseMap can and has produced a full Fact Chronology.\(^{22}\)

It has been necessary to transfer these quotations into separate fact entries in a database, CaseMap, by typing in the quotations themselves into the CaseMap spreadsheet.\(^{23}\) These quotations have been chosen by this author. Since most of these books are more like the memoirs of the negotiators, it was necessary to cull through the books for statements, as differentiated from feelings or thoughts or ruminations. It was necessary to determine what was offered or suggested by any party and what were merely the feelings of the negotiator or author, presented in retrospect. It was a revelation how few actual proposals were made by either side; almost no proposals from the Israelis and absolutely none by the Palestinians.

---

\(^{21}\) Now a LexisNexis product.

\(^{22}\) Because the full fact chronology is so extensive, 3,334 pages, it has not been included in this dissertation or the Appendix. I will, however, make a PDF file available with the dissertation submission.

\(^{23}\) One of the key elements of CaseMap is the use of “ShortNames” It is by use of the “ShortName” that various names, places, objects, organizations, issues, documents etc., can be tracked and quantified. Because of this, the entry of “ShortNames” is of critical importance when entering data into CaseMap.
For example, the word “Jerusalem” was mentioned in 810 separate facts.²⁴ This is not to say that Jerusalem was mentioned only 810 times. Many of the facts use the term Jerusalem in it more than once. By clicking the ellipses at the end of the Jerusalem line, it will bring up all 810 facts in which the term Jerusalem is mentioned. This method makes research on the proposals involving Jerusalem very organized and very easy. It also makes it fairly easy to determine how many of these 810 facts actually involved a concrete proposal about how to deal with the issue of Jerusalem in a final status treaty. The answer to that question is: less than a dozen and all by the Americans.

It was necessary to determine what the actual reactions of the parties were to the suggestions of the other party, or more often the suggestions of the United States. It was necessary to decide what was being suggested as part of the negotiations and what was mere wishful thinking on the part of any person or party.

By using actual quotes, each author was responsible for his/her own words. Further, by ultimately using more than 15,000 separate quotations from more than twenty first hand accounts, any bias or preconceptions of this author would be evened out by the statements of those who actually attended the negotiations. This includes the interviews with both Yasser Arafat and Saeb Erekat in the documentary films.

What is the point of simply gathering these quotations? These quotations in and of themselves can provide an interesting and comprehensive guide to the primary issues of the Camp David negotiations of 2000. Reading the more than 15,000 facts would itself be a worthwhile task; one that would produce an overall impression of what each party thought

²⁴ A copy of the CaseMap “Object - Places” page with “Jerusalem” on it is contained in the Appendix.
was important at the negotiations. But such an unanalyzed reading would produce only bare impressions. By placing all these quotations in a database, one can see patterns emerge from the texts. By then being able to associate a speaker with many of these quotes one is able to determine which of the participants actually played a more or less active role in the Peace Conference than others. Further, the database also quantifies each time a shortname is mentioned and each time a particular organization is mentioned or a particular document or an event is mentioned. More importantly, it can also quantify each time a particular issue is mentioned or implicated.

The Issue Linker is a critical element in the use of CaseMap. As its name implies, the Issue Linker creates a link between one of the 15,000 facts and a particular issue or person or place. To be perfectly clear, the issues that are used are the exact issues which were addressed by President Clinton in his Parameters of December 23, 2000. There were eleven primary issues which were being negotiated and three secondary or sub-issues. The Issue Outline shows the things that the negotiators spent their time on at Camp David and subsequent negotiations. It reflects that the issue of Jerusalem, as opposed to the city or location, the actual issue was mentioned in 383 facts; added to that there are an additional 42 mentions of the Holy Sites. Compare that to only 4 mentions of a “Right of Return” and

---

25 It must be borne in mind that the author of the book from whom a quote is taken is different from the speaker of the quote who may be quoted in the author’s book. For example, Yasser Arafat did not write a book concerning the Camp David Negotiations, however, many of the authors were present when he did address the assembly and have quoted Arafat verbatim, or, presumably, tried to.

26 The use of “ShortNames” throughout the database is a way of determining how often a name is used within the database. It is this “ShortNames” system which allows quantification of issues, persons and other objects.

27 A CaseMap Issue Outline is provided in the Appendix.
42 mentions of Refugees. The Issue Linker provides a rough sketch of the relative salience of each of the issues to be negotiated.\textsuperscript{28}

Lest there be some confusion, it should be noted that the mention of an Issue in the Issue Outline does not mean that one party or the other was offering or suggesting some type of solution or proposal regarding that particular matter. In fact, it is more likely that when discussing the issue of Jerusalem, for example, the suggestion would be to put off the discussion until all the other issues had been resolved or for a period of two years. Perhaps the clearest pattern to emerge from these 15,000 facts is that the parties, Israel, Palestine and the United States were all reluctant to discuss Jerusalem and the Holy Sites and to a lessor extent Refugees. All parties completely understood that there could be no final status agreement without a resolution of the conflict over Jerusalem, the Holy Sites and Refugees, yet each party remained reluctant to discuss these issues in any meaningful way.

As stated previously, the largest component missing from the Camp David Negotiations was courage. Only Ehud Barak demonstrated any courage until some five months after Camp David, President Clinton outlined his Parameters at the White House. At no time did the Palestinians generally or Arafat more particularly show any courage whatsoever. “‘Do you want to come to my Funeral?’ was a frequent warning that Arafat manipulated throughout the Summit to repel the President’s pressure on him”.\textsuperscript{29}

\textsuperscript{28} In a way the use of the Clinton Parameters as the basis of the Issue Linker Outline, has the effect of using this analysis in a manner that is the functional equivalent of a WaD analysis.

In like manner, it is interesting to note who the important players were in the Camp David round of negotiations. The United States delegation was led, for the most part, by President Clinton. There was a period during the time at Camp David when Secretary of State Madeleine Albright led the U.S. delegation while President Clinton was out of the country at a G-7 meeting. The Palestinians were led by Yasser Arafat. The Israelis were led by Prime Minister Ehud Barak. A review of the Objects - Person Report reflects those persons were the primary movers at Camp David. Madeleine Albright was mentioned in 594 facts. Ehud Barak was mentioned in 2,109 facts. William J. Clinton was mentioned in 1,120 facts. But very clearly the one person who had the most profound effect at the Camp David was Yasser Arafat with 3,520 fact mentions. The only other person who played a very prominent part of the Camp David negotiations was a person who was not even present, former and future Prime Minister of Israel, Benyimen Netanyahu – his total was 1,431 mentions, actually more than President Clinton himself. What makes this comparison all the more remarkable is that Netanyahu was the previous Prime Minister and was not even the next Israeli Prime Minister. In fact, he followed both Ariel Sharon and Ehud Olmert. The role that Mr. Netanyahu plays in Israeli politics is far greater than merely serving as Prime Minister. This is clearly demonstrated by the CaseMap Cast of Characters Outline Report.

B. TimeMap

It is very difficult to hold a large body of facts in one’s mind while maintaining an understanding of the sequence of events leading up to or leading from the event which give rise to a dispute. In such cases, a pictorial timeline of the most important events can be an

\[\text{A CaseMap Cast of Characters Outline is contained in the Appendix.}\]
important aide in achieving a comprehensive understanding of the totality of the issues or the “big picture.”

A copy of such a timeline involving the Israeli-Palestinian negotiations and surrounding events from 1993-2002 is shown in the timeline in the appendix. This timeline is relatively simple, a six page timeline. The timeline, was created with a program called TimeMap which is part of the CaseMap Suite.

C. EndNote

Like CaseMap, EndNote is an off the shelf database whose prime objective is to help prepare a complete Bibliography and to help with footnotes. There is in EndNote another extraordinarily powerful tool. EndNote can review all documents which are in PDF format. EndNote seamlessly performs a new indexing of each word in the PDF documents with each new entry. For example, of the approximately 1,850 sources which will be contained in the bibliography of this dissertation, approximately 1,700 such sources have a PDF file associated with the source. Some of those files were downloaded directly from the source as PDF files. Of course both books and e-books do not have a PDF file associated with them.

Neither documentary video has a PDF document associated with it. It is for this reason that each book was notated, with the important elements of each book placed in its own word processing file. Then each text file was converted into a PDF file which could be indexed by EndNote. It should be explained that if books are available in a Kindle edition, one can use the highlighting feature to create a notebook which can then be turned into a word processing file which, in turn, can be converted into a PDF file. Therefore, I have been able to create a PDF file for indexing for books which are available in Kindle format. Needless to say, this approach is not available for books that are not available in Kindle
format. For those works, it was necessary to read, highlight and transfer the highlighting into a word processing file and then converting the file into a PDF file to be placed into EndNote.  

There are two primary screens in EndNote. The first is the listing of all the references. Clicking on any reference will bring up a screen which provides all the information about the reference on the left side and a copy of the PDF of the actual document on the right side. The PDF can be highlighted and comments can be added.

The key to the effective use of EndNote as a database is its very elaborate searching tool. For most searches the “Quick Search” tool will be enough. However, for more granular searches, the Advanced Search tool allows very narrow searches that can rule out documents that do not meet the search criteria.

IV. Outline of Chapters

Chapter One sets forth the research Question which this dissertation will attempt to answer. In addition it states the research Hypotheses and the Goal of the Dissertation. Finally, it provides information concerning the methods used to conduct the research for this paper.

Chapter Two provides a cursory overview of each of the four rounds of Israeli-Palestinian negotiations which have taken place since 2000. It is intended to provide a

---

31 A screen shot of an EndNote reference page has been placed in the Appendix. On that shot is shown that there were 1,850 different references. Each reference with a paperclip in the left column reflects an attached PDF file which has been indexed and is searchable.

32 A screen shot of the EndNote reference for page 4 of a Meeting Minutes: Ahmad Qurei, Saeb Erekat and Tzipi Livni is contained in the Appendix. Shown on the screen shot is a highlighted portion and a comment which this author has added.
reader who has little or no knowledge of the details of these negotiations with
a basis for understanding the remainder of the work.

Chapter Three is intended to provide the reader with both a historical context of the Arab-
Israeli conflict and with an understanding of the foundations of the modern
Middle East.

Chapter Four provides some historical context by using prior treaty negotiations as case
studies. These include an ancient treaty and the thoughts of a renowned
philosopher treaty negotiations.

Chapter Five sets forth the historical background of earlier Arab-Israeli treaty negotiations.
These include the Armistice of 1949, the Madrid Conference, the Oslo
Accords and the Road Map of President George W. Bush.

Chapter Six discusses in detail the four rounds of Israeli-Palestinian negotiations which
are the subject of this dissertation. A detailed examination is provided for
each round including the qualitative analysis provided by use of the research
methodology discussed in Chapter One.

Chapter Seven provides some reasons why the Israeli-Palestinian conflict has been so
difficult to settle. It also discusses some of the extrinsic issues that have also
made the conflict so intractable.

Chapter Eight is divided into two sections. The first sets forth some of the conclusions which
are derived from the research. The second section states the methods which
are proposed to bring about a concluded treaty.
V. Literature Review

It is not for lack of effort that the Israeli-Palestinian conflict remains unresolved. The conflict is an ongoing problem and will require future efforts by all relevant parties. Perhaps the biggest problem faced by this author is that there is rarely a week that goes by that some major issue involved with the Israeli-Palestinian conflict is not in the news and is not the subject of a major article in the newspapers or journals.

The relevant literature to be utilized in this dissertation will, of necessity, be divided into several distinct categories. The first category, will be the fifteen separate first-hand accounts of the Camp David negotiations of 2000 and subsequent meetings ending with the end of the Clinton presidency. The reasons for the saliency of these first-hand accounts has been alluded to above and will be discussed below. The reason why these Camp David negotiations produced so many first hand works was that each of these author-participants was stunned that the Israelis, Ehud Barak in particular, broke such significant new ground but which led to no response from the Palestinians, meaning from Yasser Arafat. Each of these books has been placed in the EndNote database described above.

Further, each book was highlighted and each of the highlighted quotes was placed in the CaseMap database. Each such quote thereby became accessible and searchable. Also included in this first category are two documentary films, the footage for which was mostly taken contemporaneously with the Camp David Round of negotiations. In this category is a

________________________________________


book written by Charles Enderlin who had near total access to the Palestinian negotiators during the Camp David Round.34

The second category of literature to receive analysis also concerns the Clinton Round of negotiations. These documents are located on an al Jazeera website. There are 1,592 documents which have been placed on the website. Al Jazeera has not provided any information on how they acquired these documents. The documents date from 1999 - 2011. While the majority of the documents deal with the Olmert-Abbas round, there are 172 documents dated between 1999 - 2001, the Clinton round years. It is these 172 documents which are included in the second category. They stand as both supporting and contrasting with the first-hand accounts analyzed in the first category and come from Israeli and American authors. The vast majority of the documents are written in English. In fact, of the 1,592 documents, only 107 are written in Arabic.

It is important to remember that the documents on the al Jazeera website, referred to as The Palestine Papers, have never been authenticated. Neither the Israelis nor the Palestinians have vouched for the accuracy of these documents. On the other hand, no person has ever said that the documents are not accurate or misleading or not validly edited. A review of the documents shows that the documents demonstrate every sign of being authentic as to facts, as to locations, as to persons present, and as to positions taken, etc.

The vast majority of these documents fall into one of just a few types. There are Meeting Minutes, Meeting Summaries, Talking Points and miscellaneous planning documents. In addition The Palestine Papers include documents which were written and

prepared by other entities such as U.S. Security Draft: Protocol on Security at Rafah Border.\textsuperscript{35} These documents provide a deep understanding of the Palestinian concerns from 1999 - 2011. \textit{The Palestine Papers} dated between 2002 - 2011 constitute the third category of documents reviewed for this dissertation.

The collection of documents written by an unknown author(s) who have prepared what are referred to as “Meeting Minutes” is invaluable. These Minutes list the persons who attended each meeting and attribute actual “verbatim” statements to each of the participants.\textsuperscript{36} These Minutes include both bilateral meetings between Israeli and Palestinian negotiators as well as some meetings with officials of other, mostly European countries. The Minutes also include some tri-lateral negotiating sessions with the U.S., Israel and Palestine participating. These documents have not been acknowledged by any of the participants, but neither have they been specifically repudiated.

In addition there are the documents which have ostensibly been written by a group of Palestinian advisors, economic, legal and otherwise, whose memoranda cover strategy and methods to be utilized by Palestinian negotiators. Perhaps more importantly, these memoranda also include the thoughts or impressions of the Palestinian negotiators. Significantly, they include an analysis of the reasons why the Palestinians rejected such


\textsuperscript{36} Many of these “Minutes” documents are written as a transcript of the proceedings. However it is understood that these Minutes were written by a person who did not take actual dictation or transcription and probably came from that person’s memory, probably shortly after the meeting adjourned.
proposals as the “Clinton Parameters.” These documents are a part of The Palestine Papers located on the al Jazeera website. It is believed that this dissertation will be the first work to thoroughly analyze and compare the public writings of both the American and Israeli authors with the private writings of the Palestinian Authority regarding these negotiations.

This third category of documents is also contained in the approximately 1,149 documents in The Palestine Papers. These documents deal, in rather extreme detail, with the secret negotiations undertaken by Israel and Palestine between 2007 and 2009 under the leadership of Ehud Olmert and Mahmoud Abbas.

Nevertheless, these documents, when viewed either individually or as a whole, provide a profound insight into the nature and extent of the Palestinian level of cooperation and understanding of the issues to be decided by an ultimate treaty. When read as a whole, it might be surprising to learn just how far the Palestinians were prepared to go to achieve a Two-State Solution. In fact, it is clear that the details of the negotiations which took place in 2000 - 2001 remained factually the same as the details which were negotiated in 2007 - 2009 and remain open today.

The fourth category is the literature which seeks to reach an understanding of the meanings, both expressed and implied, of political documents by use of methodology known as Words as Data (WaD). This methodology, along with its pre-computer analog, Comparative Manifesto Project (CMP) seeks to remove the audience or recipient from the

---

37 NSU, & Unit, L. (2001). NSU Memo Re President Clinton's Proposals The Palestine Papers. (pp. 8).

38 However, it is important to understand that rarely is Yasser Arafat ever quoted in these documents. Firstly because he did not attend these negotiation sessions, outside of Camp David itself. Secondly, it is unknown just how much Chairman Arafat wanted to be an active participant in any negotiations.
analysis of a Political Document. The analysis of the documents undertaken in this
dissertation is consistent with the CMP methods of pre-computer days. For the most part, it
was determined that WaD and rigid adherence to CMP is of no substantial value to an
understanding of the conflict.

The fifth category of literature will be those works which discuss the actual activity
of treaty negotiations. Some of these works deal with specific historical examples of treaty
negotiations and analyze why one particular method or another was either successful or
unsuccessful. This type of work is of enormous value to the work done in this dissertation.
These articles provide important insights into the business of treaty negotiations, and all
share an understanding that treaty negotiations follow a pattern of either direct negotiations
between the parties or some sort of mediation with a third-party facilitating the negotiations
between the parties or a hybrid of both. It is understood that this element of the literature
requires both broad and deep analysis.

In addition to these articles on specific treaty negotiations, another group of scholarly
works deal with conflict resolution based upon a type of “game theory” or some other form
of gimmick used to make decisions between the parties. Here too, these works have a certain
value in gaming an end to the Israeli-Palestinian conflict. However the time that these
gimmicks may have been a useful tool has come and gone.

The sixth category of literature reviewed deals with the information available
concerning the secret negotiations led by Secretary of State John Kerry in 2014 and 2016.
Here too the authenticity of the information being relied upon may be questioned. However,
when viewed in the context of and as part of a continuum of negotiations since 2000, these
few documents can be valuable in establishing where the parties stood quite recently, at least according to the Secretary’s thinking on the issues.

The seventh category of articles and books are the works written by third parties who were not directly engaged in negotiations. These articles and books deal with the particulars of the negotiations or the necessity of reaching an agreement and can provide important thinking on ending this conflict.

This dissertation is unique in that it involves an extensive but finite number of texts that were written by those who actually participated in the events which are being studied or at the behest of those who were participating in the negotiations. Nearly every one of the American negotiators and nearly every Israeli negotiator have written about his/her experience and observations at the Israeli-Palestinian negotiations of 2000 - 2001. But perhaps more elucidating are the actual working documents produced by an unknown author concerning the Palestinian negotiating positions, strategy, impressions, musings, and goals.

Interestingly, the negotiations between Olmert and Abbas from 2007 - 2009 present the opposite difficulty for analyzing the negotiations than the 2000 meetings. Where the Camp David and subsequent meetings were thoroughly explored by Israeli and American negotiators in their written works, the 2007 - 2009 meetings are covered in sublime detail by Palestinian scriveners. It will be the task of this dissertation to make a balance between the details presented in *The Palestine Papers* against their repudiation by the parties.

In addition, there are several books and articles discussing the Clinton round. Further, a book published by Tel Aviv University\(^\text{39}\) contained the Conference presentations

of many of the negotiators, including Ehud Barak. This book was a joint project of The University Institute for Diplomacy and Regional Cooperation, at Tel Aviv University; The Issam Sartawi Center for Peace Studies, at Al-Quds University; and, Konrad Adenauer Stiftung, in Jerusalem. None of the Palestinian negotiators have written books on the topic, at least not books that have been translated into English or ones that have even been identified in scholarly journals.

Notwithstanding the absence of published works by Palestinian negotiators, as stated previously, there is a work written by an author who was given access to both the Israeli and Palestinian negotiators during the negotiations in 2000 - 2001. This dissertation will, draw upon the work of French author, Charles Enderlin, Shattered Dreams, to provide some substance and context for the Palestinian negotiating positions. Further, there were two documentaries in which video interviews were conducted with both the Israeli and, more importantly, Palestinian principles at a time contemporaneously with the negotiations themselves.

There are two videos that undertook to interview several of the Palestinian negotiators contemporaneously with the negotiations and shortly thereafter. These videos

---

40 In 2001, I was a Fellow of the Konrad Adenauer Stiftung.

41 Actually, no first-hand accounts have been written by Palestinians and the only essays I have found are contained in the book: The Camp David Summit. However, these essays were written by Palestinians who played no leadership role in the Palestinian Delegation and no role in the negotiations themselves. They are: Munther S. Dajani, Samih al-Abed and Mohammed S. Dajani. Saeb Erekat has written some articles but they do not deal with the 2000 Camp David negotiations.

42 Shattered Dreams of Peace – https://www.youtube.com/watch?v=8dBSOmbmKGA
Elusive Peace: Israel and the Arabs - https://www.youtube.com/watch?v=gK283owmgdI
are interviews with many of those persons who negotiated at Camp David and thereafter, including several in the Palestinian delegation. Since these individuals have not written on the negotiations, I have included their statements in the CaseMap database.

This dissertation has conducted a thorough analysis of all the first party works written by those persons who actually participated in the preliminary talks, the Camp David negotiations and the subsequent negotiations which took place between 1999 and 2001. All of these recorded works were written by either Israelis or Americans. For some time, it seemed as though the Palestinians did not write about these negotiations. In fact, nothing was published by any of the Palestinian negotiators.

However, it turned out to be only partially true that nothing was written by those who were the first hand negotiators for the Palestinians at Camp David. In 2011, nearly 1,600 documents were posted on an al Jazeera website. The nature of these documents will be discussed below. For this discussion, it is enough to note that Palestinian officials and aides wrote approximately 117 documents about the negotiations between the years 1999 through 2001, the years of the Clinton round.

In addition, contemporaneous interviews have been published by a few members of the Palestinian negotiating team. These have been made available in various forms. Most notable have been interviews which were conducted with Dr. Saeb Erekat. In January 2001, Dr. Erekat gave an important interview shortly after the negotiations at Taba which followed

43 While Palestinian chief negotiator, Saeb Erekat, has written a few articles, they do not directly deal with negotiations of 2000 - 2001. Only some Erekat interviews reflect on the relevant issues about the Clinton round of negotiations.
the Camp David talks, at the beginning of Prime Minister Netanyahu’s first term.\footnote{Erekat, S. (2001, 2001-01) Saeb Erekat \textit{Frontline Interviews}. PBS.org, PBS. Retrieved from: http://www.pbs.org/wgbh/pages/frontline/shows/oslo/interviews/erekat.html} These interviews give insight into the Palestinian positions and reasoning in much the same way as the first party writings of the Americans and Israelis.

It should also be noted that Charles Enderlin wrote a very detailed book about the Palestinian side of these Camp David negotiations.\footnote{Enderlin, C. (2002). \textit{Shattered dreams: the failure of the peace process in the Middle East}. New York: Librarian Artheme Fayard, Other Press, LLC.} Mr. Enderlin was given unprecedented real time access to the Palestinian negotiators such as Erekat and Arafat himself during and after the Camp David negotiations. This book is quite valuable to reaching some understanding of where and why the Palestinians could not get to “Yes”.

Mr. Enderlin also was involved in a documentary video in which several Palestinian and Israeli negotiators, including Ehud Barak, gave access to PBS Frontline while the negotiations were taking place.\footnote{Anderson, M. (Writer). (2005). Elusive Peace [Video]. In N. Percey (Producer), \textit{Frontline}: PBS. Retrieved from: https://video.search.yahoo.com/yhs/search:_ylt=A2KLqIAsOr9YCHYA0UU0nIIQ?fr=yhs-adk-adk_sbyhp&fr2=piv-web&hsimp=yhs-adk_sbyhp&hspart=adk&p=shattered+dreams+Israel+Palestine&durs=long#id=15&vid=a0af0fa16a2bc43d4c701f07fd7abba0&action=view} Further, a second important video was viewed in which interviews with both sides are shown.\footnote{Shattered Dreams of Peace. (2002) [Timeline]. \textit{Frontline}: PBS - Thirteen. Retrieved from http://www.pbs.org/wgbh/pages/frontline/shows/oslo/etc/cron.html; see also https://www.youtube.com/watch?v=Uf3LYM1nebE} While it is true that Mr. Enderlin is not held in high regard inside Israel because he became involved in what was likely a doctored video of a Palestinian child who, it was claimed, was injured or killed by the IDF. Mr. Enderlin never...
retreated from his position that the video was authentic. Notwithstanding this position, it is submitted that his work with the Palestinians and Israelis during the Clinton round was invaluable.

In short, there is ample source material which can be relied upon to see the Clinton round of negotiations from both sides and to produce the objective analysis that should be the product of all available writings and media.

As to the Olmert-Abbas round in 2008, there is no shortage of documents to digest in order to reach some understanding of these negotiations. In fact, *The Palestine Papers*, written by the Palestinian negotiators and/or their support team prepared no fewer than 606 documents in 2008 alone. These documents include Briefing Papers, Talking Points, Meeting Summaries, emails, Committee Meeting Minutes, Draft Agreements, and Transcripts of various actual bilateral and trilateral meetings. In addition there were 266 such documents written in 2007 and 177 more in 2009. Thus there are more than 1000 documents prepared by Palestinians concerning the Olmert-Abbas round.

Together this body of material written about the Olmert-Abbas negotiations is the mirror opposite of the body of material written about the Clinton round. Nearly all the first-hand written material concerning the Clinton round was written by Americans and Israelis. All the first-hand written documents about the Olmert-Abbas round were prepared by Palestinian authors and are found in *The Palestine Papers*. Ehud Olmert’s memoirs, written in Hebrew do cover the Olmert-Abbas round of negotiations. These documents will be discussed in later sections of this dissertation. This is not to say that there is a dearth of non-Palestinian information concerning these negotiations.
There are quite a few documents written about the Olmert-Abbas round of negotiations, including articles based upon interview with the principle negotiators. These articles and interviews and journal articles are interesting and informative in their own right; they also provide a solid basis for authenticating the documents in *The Palestine Papers*. The negotiating positions of each side can be determined by these articles and will tend to show the hypothesis of this dissertation that the Israeli-Palestinian conflict has been substantially settled two, or three or four times. A list of the these articles which deal with the Olmert-Abbas round is contained in the following footnote.  


Abbas, M., & Olmert, E. (Cartographer). (2009). Hand Drawn Olmert - Abbas Map. Retrieved from https://www.bing.com/images/search?q=olmert+abbas+map&view=detailv2&id=0C3D72DA89F1740449B4F12BA1C9906A65174AD3&selectedIndex=2&ccid=q7i6v9Dw&simid=608055408999074578&thid=OIP.Mabb8babfd0f07f161cb5c9dd288071f4o0


VI. Chapter Conclusion

The purpose of the first chapter is to provide the reader with the essential elements of this dissertation. It also provides information concerning the basis of the author’s conclusions and the methods used to reach those conclusions.


CHAPTER TWO

V. The Camp David Round - Overview

The conflict between Israel and a potential Palestinian State has, in fact, been substantially resolved four times. In 2000 - 2001, President Clinton, at the very end of his administration, set forth the Clinton Parameters. On December 23, 2000, at a meeting in the White House, President Clinton addressed each of the major issues which have prevented the conflict from being resolved.¹

The terms of the “Clinton Parameters” were set forth in at least three different sources.² It is interesting to note that the one major discrepancy between the Palestinian enunciation and the Parameters set forth in the Clinton memoir is contained in the Palestinian Meeting Minutes. It is

1 For the sake of providing a complete understanding of what the Clinton Parameters said and did not say, a verbatim statement taken from a Palestinian document is provided in the Appendix. While both the Dennis Ross book, The Missing Peace and the William Clinton autobiography each cite the specifics of the Clinton Parameters, this particular recitation of the Parameters is taken from the Palestinian document relating to the Parameters.

2 This document is the Meeting Minutes of the December 23, 2000 meeting at the White House. It is maintained on the al Jazeera website for The Palestine Papers. It is mostly consistent with the Clinton Parameters set forth by Dennis Ross in his book, The Missing Peace (Ross, D.B. The Missing Peace: The Inside Story of the fight for Middle East Peace) and is mostly consistent with the Clinton Parameters set forth by President Clinton himself in his memoir, My Life (Clinton, W.J. My Life). The major discrepancy between the document contained in The Palestine Papers and the ones contained in the books noted above deals with the issue of “early-warning” stations in the West Bank. In President Clinton’s book, Clinton states:

   “...On security, I said Israeli forces should withdraw over a three-year period while an international force would be gradually introduced, with the understanding that a small Israeli presence in the Jordan Valley could remain for another three years under the authority of international forces. The Israelis would also be able to maintain their early-warning station in the West Bank with Palestinian liaison presence.”

   As can be seen, nowhere does Clinton speak of or allude to a fixed time limit or a ten-year review period. It is unknown where the Palestinian negotiators came up with a ten-year review period.
even more interesting to note that this difference is less favorable to the Palestinians than the outline of terms recalled by Clinton himself or by Dennis Ross. This difference, and the possible reasons, will be discussed within. At this point it is sufficient to say that the PA made no effort to clarify this discrepancy or, in fact, any detail of the Parameters. Chairman Arafat simply walked away.

These issues were set forth in the Clinton Parameters and will always be the framework of any conflict resolution: Territory, security, Refugees, Jerusalem and End of Conflict. On each of these issues, President Clinton outlined the broad strokes of what he saw as both fair and workable. President Clinton told the parties that he wanted a “Yes” or “No” answer from each of them. He told the parties that he could accept reservations and subsequent negotiations after an acceptance of the parameters so long as the reservations and negotiating points were within the parameters themselves. Clinton wrote, “I said these parameters were nonnegotiable and were the best I could do, and I wanted the parties to negotiate a final agreement within them.”

Clinton’s memoirs continue:

Arafat immediately began to equivocate, asking for ‘clarification.’ But the parameters were clear; either he would negotiate within them or not. As always, he was playing for more time. I called Mubarak and read him the points. He said they were historic and he could encourage Arafat to accept them.

***

I have no way of knowing what they told him, though the Saudi ambassador, Prince Bandar, later told me he and Crown Prince Abdullah had the distinct impression Arafat was going to accept the

---

3 Subsequent discussions included the issue of water rights as a fundamental issue, as well.


5 Ibid.

6 Ibid.

7 Ibid.
President Clinton’s December 23, 2000 pronouncement was just what its name implied, “parameters”. These parameters did not address all the necessary details in a very substantiative way, nor were they intended to do so. What had transpired was that after many months of tough negotiations, final status issues were laid out for the first time, albeit by the President of the United States and not by either party. Why then did Arafat not take the deal or at least attempt to continue negotiations? This issue will be discussed below. What we do know is that the Palestinians were able to create a reason for the failure to accept the Clinton Parameters.

An internal document which is part of The Palestine Papers sets forth, in eight pages, intended for internal use only, the justification for Arafat’s failure to react in any way to the Clinton Parameters. On or about January 2, 2001, eight days after the Parameters were enunciated, the NSU set forth the rational for their ultimate rejection. Below are our remarks regarding President Clinton's proposals. We believe that the proposals in general are too vague and unclear to form an acceptable framework for an agreement. In addition, certain points are in direct contradiction with

---

8 Ibid. at location 19096

9 As will be discussed at length later on, the parties themselves did not really discuss the final status issues with each other and did not suggest any solutions and certainly did not make any offers to move toward a resolution.


11 It is unknown if the PA did not understand the concept of the word, “Parameters” or just simply was trying to come up with a justification for the rejection. The fact that the Parameters were “too vague and unclear” suggests that the PA did not appreciate that these Parameters were intended to be ill-defined. I would submit that whether Arafat understood the concept of “Parameters” or not, there is no doubt that the Legal Unit of the NSU did, in fact understand the concept. It should be pointed out that nearly all the work of the NSU, approximately 800 documents, were written in English and were highly
the Palestinian positions in the negotiations.\textsuperscript{12}

\begin{itemize}
\item \textbf{The United States proposals were couched in general terms that in some instances lack clarity and detail.} As we have insisted since the beginning of the negotiations, a permanent status agreement should not be a document that declares general political principles. Rather, it must be a comprehensive instrument that spells out the details, modalities, maps and timetables of ending the Palestinian-Israeli conflict.\textsuperscript{13}
\end{itemize}

\begin{itemize}
\item \textbf{The permanent status agreement must be a truly final agreement rather than an agreement to negotiate.} Israel's aims in the negotiations are mainly political, namely a normalization of its international position through peace with the Palestinians. This can be achieved in a short, political agreement. The Palestinian aims, on the other hand, relate to specific steps on the ground. This can only be achieved if the agreement spells out all the necessary details.\textsuperscript{14}
\end{itemize}

Ehud Barak, Israeli Prime Minister and the Israeli cabinet accepted these parameters, albeit, without any joy.\textsuperscript{15} While the Israelis did set forth a list of questions and requests for clarifications, sophisticated.

\textsuperscript{12} “... certain points are in direct contradiction with the Palestinian positions in the negotiations.” This sentence suggests that the PA did not really have a deep understanding of the nature of compromise. This statement will be discussed within.

\textsuperscript{13} Here again, it is unknown if the PA did not understand the very basics of the Camp David negotiations or were pretending that they thought they would leave with a detailed final treaty. This paragraph suggests the problem was that President Clinton proposed parameters at all. Instead, suggests the PA, the President should have come forward with a fully formed permanent status treaty.

\textsuperscript{14} It is impossible to know if the PA actually thought the Clinton Parameters were intended by President Clinton to represent the final status agreement in its final draft. Given the circumstances of the Camp David and subsequent negotiations, it is difficult to believe that either the Americans or, for that matter, the Israelis led the PA to believe the outline presented on December 23, 2000 at the White House was intended to be a ‘ready for signature’ treaty.

it was deemed by President Clinton that each was within the outline of the Parameters themselves.

Despite the probable encouragement of Arab leaders in Egypt, Jordan and Saudi Arabia, Yasser Arafat, Chairman of the Palestinian Authority, did not accept the parameters, but neither did he reject them. There simply was no Palestinian response.

Arafat wouldn’t even do that, because he didn’t want to be seen conceding anything. The parties continue their talks in Taba, Egypt. They got close, but did not succeed. Arafat never said no; he just couldn’t bring himself to say yes. Pride goeth before the fall.

Immediately thereafter, time and Clinton’s term expired.

Right before I left office, Arafat, in one of our last conversations, thanked me for all my efforts and told me what a great man I was. ‘Mr. Chairman,’ I replied, ‘I am not a great man. I am a failure, and you have made me one.’ I warned Arafat that he was single-handedly electing Sharon and that he would reap the whirlwind.

***

Nearly a year after I left office, Arafat said he was ready to negotiate on the basis of the parameters I had presented. Apparently, Arafat had thought the time to decide, five minutes to midnight, had finally come. His watch had been broken a long time.

The Palestinians never quite came up with any specific or even general reasons why the Clinton Parameters were not a satisfactory starting point for continued negotiations. Much has been written about the absence of a positive response by the Palestinians. In fact, one of the important

---

16 Clinton (2004). My Life. location 19187

17 Ibid. location 19223

18 Ibid. location 19215

19 The vast majority of the sixteen hundred documents in The Palestine Papers deal with the 2008 - 2010 round of negotiations, there are some documents which predate the Camp David negotiations of July 2000 and some which go through January 2001.

20 Ibid. location 19215

21 Ibid. location 19230
negotiators for the United States, Dennis Ross, wrote a book about the negotiations entitled, *The Missing Peace*\(^\text{22}\), no doubt a deliberate double entendre. In an article written by both a Palestinian and an American, the blame was placed on the Americans themselves for insufficiently preparing the ground for the substantive negotiations.\(^\text{23}\) This issue will be discussed in greater detail within.

However, the Palestinians may have believed that a different reason caused the Camp David round of negotiations to fail, leaving the conflict unresolved. Less than two weeks after the enunciation of the Clinton Parameters the PA (“Palestinian Authority”) with the help of the NSU (“Negotiations Support Unit”)\(^\text{24}\), an internal explanation was prepared. That document, as noted previously, is critical to understanding the failure of the Parameters, at least from the standpoint of the PA.

The NSU placed in an internal document their justification for the failure of the PA to accept the Clinton Parameters.\(^\text{25}\) The document in question is the Palestinian internal response to the Clinton Parameters. As noted, it is possible that the Palestinians did not fully comprehend the nature of the Parameters. Even though Clinton explained that Ehud Barak’s reservations were all within the Parameters and that it was up to the Palestinians to accept or reject the Parameters as an outline or

---


\(^{24}\) The NSU was a team of educated lawyers and scholars that worked to support the Palestinian negotiators. The financial support of this team came from an outside, European source. Hundreds of documents in *The Palestine Papers* were drafted by the NSU, when known, which is listed as the author of those documents.

framework, this idea seems not to have registered with the PLO negotiating team.

How else could you explain that the PA thought that they were dealing with a proposed final status agreement.\textsuperscript{26} The NSU states that the PA was seeking to leave the negotiations with a final treaty with all ‘i’s’ dotted and all ‘t’s’ crossed.\textsuperscript{27}

Is it possible that the PA did not comprehend the concept of “Parameters”? Is it possible that the PA thought a final and detailed peace treaty would come from the Camp David negotiations? Is it possible this lack of specificity was enough to doom these negotiations? Were the Israeli’s looking at the Parameters and seeing the big picture while the PA was not seeing that same picture at all? Did the PA not understand the Parameters were to be just that, a framework which could form the basis of ongoing detailed negotiations?

Perhaps the biggest question which will be explored in this dissertation is, if the PA did not understand the concept of the Clinton Parameters, why then, did they not ask? Why then did the PA not seek an explanation of the process? Why then, did the PA not present a list of their reservations? Did they not understand that all of the Israeli reservations came within the Clinton framework?

Subsequent meetings were held between the parties at Taba.\textsuperscript{28} Some progress was made there as the negotiators came closer together on security and borders.\textsuperscript{29} However, even after Arafat claimed to have accepted the Clinton Parameters, he was still taking a contrary position on both refugees and the Western Wall.\textsuperscript{30}

\begin{itemize}
\item \textsuperscript{26} Ibid.
\item \textsuperscript{27} Ibid.
\item \textsuperscript{28} Clinton (2004). \textit{My Life}. location 19214
\item \textsuperscript{29} Ibid. location 19216
\item \textsuperscript{30} Ibid. location 19272
\end{itemize}
Notwithstanding the ultimate failure of Camp David to produce a resolution, Dennis Ross, one of the lead U.S. negotiators stated:

That explains why so much was done in the negotiations: why, in effect, Camp David and its aftermath did produce the intellectual infrastructure for settling Jerusalem, Refugees, and Borders; why we were able in the Clinton proposals to offer what will probably be the basic outlines of the eventual peace settlement between Israelis and Palestinians.\textsuperscript{31}

In the end, it was, perhaps Shlomo Ben-Ami, quoting President Clinton in part, who summed up the Camp David process the best.\textsuperscript{32}

‘Instead of repeatedly rejecting the Israelis' proposals, make counter proposals,’ Clinton would tell the Palestinians at Camp David. Robert Malley, in the analysis of the Summit he co-authored with Agha Hussein, repeated this remark: ‘Indeed, the Palestinians' principal failing is that from the beginning of the Camp David Summit onward they were unable either to say yes to the American ideas or to present a cogent and specific counterproposal of their own.’\textsuperscript{33}

\begin{itemize}
\end{itemize}

\begin{itemize}
\end{itemize}
VIII. The Olmert-Abbas Round - Overview

Again, in 2008 - 2010, Israelis and Palestinians conducted a series of negotiations, substantially without direct U.S. participation, although the U.S. continuously monitored the progress, principally, through Secretary of State, Condoleezza Rice. These meetings tried to put flesh on the broad outlines of the Clinton Parameters. However, it is unlikely that the Palestinians saw this round as an extension of the Camp David round or that they were intended to fill in the blanks in the Clinton Parameters. It was always the intention of the PA that if any agreement were reached during this series of negotiations, it would be a full, complete and detailed final status agreement. That may be the reason that throughout the entire process, the phrase “Nothing is agreed to until everything is agreed to” was stated at every possible opportunity.

These negotiations were conducted in secret with only very limited leaking to the press. Most of the actual meetings were conducted by committees on various substantive issues. Many of the “Minutes” of these meetings are included in *The Palestine Papers*. However, the meetings between Ehud Olmert and Mahmoud Abbas themselves did not produce any summaries or transcripts.

In 2011, al Jazeera posted some sixteen hundred documents on its website which were called “The Palestine Papers”. The identity of the person who released these documents to al Jazeera is remains unknown. The details of these negotiations conducted by and/or for Ehud Olmert, Israeli

---

34 For the most part, the highest level meetings between Olmert and Abbas were not to be found in *The Palestine Papers*.

35 There were approximately 222 documents listed as “Meeting Minutes” in *The Palestine Papers*.

36 It seems likely that Chief Palestinian Negotiator, Dr. Saeb Erekat, was a person behind the release of these documents to al Jazeera. This stems from the fact that the NSU (Negotiations Support Unit) had a close relationship with Erekat. It is also because Dr. Erekat would have had access to all these meeting minutes and summaries but not to the Olmert-Abbas meetings. Neither the minutes nor the summaries of the Olmert-Abbas
Prime Minister and Palestinian Authority President Mahmoud Abbas were contained in what has been referred to as “The Palestine Papers.” These negotiations were quite detailed and specific.

It is not surprising to note the details of this Olmert/Abbas round of discussions took place within the bounds of the Clinton Parameters. By that, it is meant these discussions did not exceed or substantially go beyond the parameters set forth by President Clinton. These discussions dealt with the same issues as presented by President Clinton. The details did not break some new ground or offer some new concept. Each proposal was firmly within the outline of the Clinton Parameters. Any new round of negotiations will, likewise, take place within the Parameters. This should be obvious because the Parameters while not detailed, were broad enough to encompass any future negotiations.

Once again in 2009, despite agreement, or at least acquiescence, to many of the particulars of a deal, no end of the conflict ensued. While Ehud Olmert made a very substantial offer, President Abbas could not bring himself to agree to the totality of the terms even though a tacit understanding seems to have been reached on almost all of the details of an agreement.  

Mr. Olmert said the two sides had agreed on key principles: the state of Palestine would have no military; an American-led international security force, not Israeli soldiers, would be stationed on its border with Jordan; Jerusalem would be shared, with its holy sites overseen by a multinational committee; and a limited number of Palestinian meetings, for the most part, have been provided by The Palestine Papers.

The authenticity of these minutes and documents has been questioned and denied by Israeli negotiators. However, whether completely accurate or not is beside the point. Clearly they provide some insight on the remaining issues which require resolution.

It is interesting to note that, while negotiators from both sides have denied the documents were either authorized to be created or released, neither side has questioned their accuracy or authenticity.

refugees would be permitted back into what is now Israel, while the rest would be generously compensated.

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

In a separate interview, Mr. Abbas confirmed most of Mr. Olmert’s account. Both said they hoped at the time that American proposals would settle the differences.\(^{39}\)

The details of this proposal were quite well laid out. Mr. Olmert laid out two maps. One map showed his proposal of the particular 6.5 percent that would stay with Israel with specifics as to which settlements would remain in Israeli control. The other map showed the State of Israel with an equivalent land to be swapped to the new Palestinian state.\(^{40}\) Olmert asked Abbas to sign the maps.\(^{41}\)

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

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

“I haven’t met with Abu Mazen since then. The map stayed with me.”\(^{42}\)

\(^{39}\) Ibid.


\(^{41}\) Ibid.

\(^{42}\) Ibid. page 2
Other issues were either agreed to or the parties agreed to have the Americans bridge the differences. On settlements only Ariel, well into the West Bank and Ma’ale Adumim, near Jerusalem, remained unresolved. However, both parties thought the Americans could conclude that issue. As to refugees, Olmert offered to accept 1,000 refugees per year for five years. Abbas rejected the offer as being too low, but now it was just a matter of a number. On security, Olmert accepted that the Jordan Valley, after a period of time, would be secured by an international force headed by the Americans and would include Israelis. Mr. Abbas acknowledged that the security “file was closed”. It was not an agreement “but the file was finalized.” Once again, circumstances on the ground, and some human emotion, overcame the work done by the negotiators and a final agreement went begging. Once again, the Palestinian leader had walked away without an answer, neither agreeing nor disagreeing.

It has not always been politicians or the actual negotiators who have worked on this deeply troubling conflict. In 2011, David Markovsky, a scholar at The Washington Institute, actually proposed a map of the borders and land swaps which might resolve one of the most contentious issues. Markovsky’s suggestions create a “so-called maximalist map, which shows that Israel could absorb 80 percent of its settler population by swapping land with the Palestinian’s equivalent to less

43 Ibid. page 3


Many of the details set forth regarding the Olmert-Abbas round have been confirmed in articles written by Bernard Avishai. The article noted herein specifically cites to the details noted.
than 5 percent of the West Bank.\textsuperscript{45}\textsuperscript{46} This new proposal should be compared to the offers made by Prime Minister Ehud Olmert in 2008 which centered on 7.9 percent, then 6.9 percent, then 6.3 percent and then perhaps on 5.9 percent of the West Bank.\textsuperscript{47} On the other hand, the Palestinian offer started out as 1.9 percent of the West Bank and the Palestinians never deviated from that position.\textsuperscript{48}


\textsuperscript{46} Of course it must be remembered that in 2011, when this proposal was made, the settler population was roughly 300,000, about one-third smaller than it is now.


IX. Secretary of State, John Kerry’s Efforts – 2014 and 2016 - Overview

In 2014, Secretary of State John Kerry, may have refined the areas of agreement and narrowed the small differences which remained. In a July 20, 2014 detailed article published in the New Republic, Ben Birnbaum and Amir Tibon wrote extensively about the Kerry, Netanyahu and Erekat negotiations.\(^4\) While the article was not extensively sourced, it was quite detailed and specific.

By late January, the Americans believed that their strategy of patient engagement with Netanyahu was finally paying off. After months of painstaking negotiations over every word in the framework, the prime minister had accepted once-unthinkable language. On refugees, the document would promise monetary compensation to Palestinians displaced in Israel’s War of Independence (and, separately, to Jews who left their homes in the Arab world). It also stated clearly that “the Palestinian refugee problem” would be solved within the new Palestinian state. But, in a groundbreaking departure from Israeli policy and his previous statements, Netanyahu agreed to a mechanism whereby Israel—at its sole discretion—would admit some refugees on a humanitarian basis. The more dramatic Netanyahu concession, however, concerned borders. After decades of railing against any mention of the 1967 lines, Netanyahu accepted that “[t]he new secure and recognized border between Israel and Palestine will be negotiated based on the 1967 lines with mutual agreed swaps.” Said one Israeli official: “If the Israeli public knew back in February that Netanyahu agreed to include this sentence in the framework, it would have created a political earthquake.”

On other issues, though, Netanyahu was less amenable. Most notably, he rejected any explicit mention of the formula Prime Ministers Barak and Olmert had accepted for Jerusalem (Jewish neighborhoods for Israel; Arab neighborhoods for Palestine) and was prepared to accept only vague wording that spoke of “Palestinian aspirations” for a capital in the holy city. He also considered it essential that Israel be acknowledged as “the nation-state of the Jewish people,” a phrase the Americans inserted into the document against Abbas’s strong objections (while clarifying that such

recognition not abridge the rights of Israel’s Arab citizens).  

In 2014, the John Kerry round of negotiations concluded. This time both Israel and Palestine may have walked away from any potential deal. However, the article written by Michael Herzog takes a substantially different position on the failure of the talks. Perhaps General Herzog may have been in the best position to know since he was actually present during both the secret back-channel negotiations which proceeded the Kerry led public negotiations of 2014 and the public negotiations themselves.

Things came to a head on February 19, 2014, when Kerry met Abu Mazen in Paris. By then, the U.S.-Israel talks were progressing, but Abu Mazen had “shut down.” He rejected out of hand the proposed U.S. framework. The U.S. side now focused most of its efforts on moving Abbas. It was too little too late. Abbas appeared no longer interested or invested in the process.

On March 17, Abbas came to the White House to meet President Obama. He was presented with new ideas and formulations that departed from traditional official U.S. positions and tilted toward his positions (including an explicit conformation of a Palestinian capital in Jerusalem and equivalent land swaps), and that were never shared with Israel. He avoided answering and pleaded for time to ponder. He was given until March 25. To this day (as with his still-pending response to Olmert’s offer of 2008), he has not provided a response.

The very next day, April 1, it all blew up in our faces. In the evening, as Netanyahu was toiling to secure a cabinet majority for the deal, Abbas ceremoniously signed letters seeking accession in 15 UN and international bodies.

---

50 Ibid.
52 Ibid. 11
53 Ibid. 13
On June 8, 2017, an article in *Haaretz* was published concerning the 2014 Kerry round. It revealed that *Haaretz* had obtained two documents which were American drafts of terms of two proposals on the “core issues” for resolution. It appears that it was Kerry’s thinking to produce a draft proposal which favored Israel and have Prime Minister Netanyahu give his approval. Contemporaneously a different proposal which favored the PA would be presented to Mahmud Abbas for his approval. It would then fall to the United States to bridge the differences. The problem was that neither Netanyahu nor Abbas was willing to give assent even to the proposal which was drawn to favor their respective sides.

On February 19, 2017, it was learned for the first time that Secretary Kerry may well have come closer to resolving the Israeli-Palestinian conflict than he did in 2014 and perhaps closer than ever before. On February 21, 2016 a secret meeting took place at the Jordanian port city of Aqaba. That meeting was attended by Kerry, Prime Minister Netanyahu, Jordanian King Abdullah and Egyptian President al-Sissi. It is interesting to note that neither Mahmud Abbas nor any Palestinian was in attendance even though Secretary Kerry met with Abbas that morning to discuss the upcoming meeting.

The meeting was an attempt to sweeten the Arab Peace Initiative and raised several new positions. According to U.S. diplomatic sources, the new positions included the recognition of Israel as the Jewish State as demanded by Netanyahu, recognition of Jerusalem as the shared capital for


56 Ibid.
Israelis and Palestinians and a moderated language regarding the “right of return” to a Palestinian state.\textsuperscript{57}

Around the time of this meeting, Secretary Kerry developed six principles which he felt would lead to a successful end-of-conflict resolution of the Israeli-Palestinian struggle.\textsuperscript{58} These principles were published in the Israeli Daily Newspaper, \textit{Ha’aretz}, on February 19, 2017, almost exactly one year after the meeting. Until then, the meeting and these principles have remained secret. Below are the principles as they appear in \textit{Ha’aretz}.

\begin{footnotesize}
\begin{itemize}
\item \textsuperscript{58} Is it possible to refer to these principles as the “Kerry Principles”?\end{itemize}
\end{footnotesize}
If there is anything that is clear about the last two decades of Israeli-Palestinian negotiations it is that there does not seem to be any single issue or constellation of issues which cannot be resolved. At various times, each set of negotiators has moved to accept positions that had previously been deemed unthinkable. It is submitted that the ultimate outcome of borders, security, land swaps, refugees, and Jerusalem are well understood by the parties in their all too rare lucid intervals.

Given that these general positions are understood, it must be concluded the failure to reach an end of the conflict and achieve a Two-State Solution must lie in something other than the specific details of a negotiated settlement. It will be the task of this dissertation to subject the words used by
the first-hand participants in the Camp David negotiations of 2000 and thereafter to a thorough and rigorous analysis in order to determine what is actually preventing a resolution of this heretofore intractable conflict. It will also be the task of this dissertation to raise some alternative methods and actions which could, finally, resolve the conflict.

Since the issues raised in this dissertation find themselves in the news and in scholarly articles on a constant basis, its relevance is patent. The concept of the Two-State Solution seems to change nearly every day, depending on the nature of the audience that is being addressed. If the parties are serious and see the necessity of completing this treaty in the small window of time before the “facts on the ground” overtake the possibility, this dissertation may provide a possible path to resolution.

59 This concept has, in fact, changed as recently as the day before the most recent Israeli elections.
CHAPTER THREE

X. Understanding the Israeli-Palestinian Conflict in a Historical Context

A. Understanding the Israeli-Palestinian Conflict in the Context of the Modern History of the Middle East

Some of the differences between the previous Arab-Israeli negotiations and the Israeli-Palestinian conflict negotiations were noted recently by Ambassador Martin Indyk in his remarks to the Weinberg Conference at The Washington Institute on May 8, 2014. Ambassador Indyk noted that:

Public opinion was another element that we found very challenging over the past 9 months. Kissinger focused very little on this element, because while the Israelis and Egyptians fought wars with each other, their societies were not physically intertwined. The peace between two states mediated by Dr. Kissinger was not psychologically difficult. Israelis and Palestinians by contrast are both physically intertwined and psychologically separated and terrorism and occupation have added to the trauma between the peoples, making everything harder.¹

It is perhaps interesting to note that Israel has been able to enter into an enduring peace agreement with what can be referred to as “nation-states”.² That being said, the treaties with Egypt and Jordan continue. The Egypt-Israel peace treaty has undergone some very significant stresses since it was concluded. As noted by Ambassador Indyk:

Peace treaties with Egypt and Jordan have held today despite very difficult circumstances—two intifadas, conflicts with Hezbollah in Lebanon and Hamas in Gaza, and of course the


² The term “enduring” is used advisedly. In view of the fact the history of Jerusalem goes back more than 3000 years, mere decades long peace treaties with Egypt and Jordan seem far less “enduring”. 
Arab Revolutions. Turmoil in the Mideast is bringing Israelis and Arab states closer together. Indeed, there is a virtual realignment taking place between the enemies of moderation on the one side and the proponents of moderation on the other that crossed the Arab Israeli divide. As Israeli Prime Minister Netanyahu has noted, “many Arab leaders today already realize that Israel is not their enemy, that peace with the Palestinians would turn our relations with them and with many Arab countries into open and thriving relationships.”

On October 27, 2016, this author attended a speech delivered by former Israeli Prime Minister Ehud Barak. In that speech, Prime Minister Barak fully agreed with the position taken by Ambassador Indyk. He was personally aware of discussions between Israel and several Arab countries, most notably Saudi Arabia, concerning joint economic projects. He stated that the biggest obstacle to these joint projects is the failure of Israel to resolve the Palestinian conflict with a true Two-State Solution. He went further to state that the problem was not that the leaders of these Arab countries cared inordinately about the plight of the Palestinians but rather that the “Arab Street” would not allow such interactions.

There are very significant additional historical stresses between the Palestinian and Israeli peoples which were not present when negotiating a peace treaty with the Egyptians. At no time were Israelis seen as colonizers of Egypt. While Egypt may have suffered the sequella of British and/or French colonization, in no manner could it have thought that Israel

---


5 The visit of President Trump to both Saudi Arabia and Israel in May, 2017, suggests that the possibility of economic collaboration between Israel and the Arab states may be more than wishful thinking.
was responsible for that status. However, this way of thinking of one’s adversary as the colonizer or imperial power may be present in the Palestinian psyche. Several times in *The Palestine Papers* Israelis are referred to in terms of a colonizing power. “The ‘trusteeship’ will also be responsible for supervising the travel of Israeli colonists to and from their settlements until their scheduled evacuation.”6 “... ensuring the withdrawal of current Israeli colonists in the Palestinian Territories according to a present schedule that would guarantee Palestinian contiguity and viability.”7 As can be seen, the Palestinians, even while believing their great compromise was acknowledging the right of Israel to exist, still think of the Israelis as a colonizing power and therefore as not legitimate.

However, the position of the Palestinians is even more muddled in that Palestine had not been a true colony of a European power in the same sense as an African state or North African state. The territory occupied in what is now Israel and/or Palestine was a part of the Ottoman Empire for many centuries and governed from Damascus. Arabs, Christians and Jews all lived in the Ottoman Empire whose history spanned the time from before Peace of Westphalia and lasted until the end of World War I.

Jordan can trace its leadership back many generations with the Hashemite Kingdom and while its population is now majority Palestinian, the Jordanians themselves seem to believe themselves Jordanians.


It is not too much a stretch to think of Israel as a nation-state in the European sense. In fact, it is a relatively recent position of the Netanyahu government that in any final treaty between Israel and Palestine, Israel must be referred to as the “Jewish State for the Jewish People.” While the Clinton Parameters did reflect the notion of a Jewish State, “the state of Israel as the homeland of the Jewish people”, it was not until approximately 2007, that the recognition of a “Jewish State” began to become contentious in the negotiations.

The Palestinian position with regard to the status of Israel was discussed in great detail. The NSU prepared a document on or about November 16, 2007 addressing this issue:

**Recommended Approach**
We recommend that the Palestinian negotiators maintain their position not to recognize or otherwise characterize the state of Israel as “Jewish”. Any recognition of Israel within a treaty or agreement should be limited to recognizing it as a sovereign state. It should not recognize Israel as a “Jewish state”, “state for the Jewish people”, “homeland for the Jewish people” or any similar characterization.

In response to Israeli demands for recognition of Israel as a Jewish state and/or as a state of the Jewish people, the Palestinian negotiations team should refuse to engage on the issue and assert that the traditional terms of reference of the peace process and existing agreements serve as the basis of peace. These terms of reference and agreements do not contemplate Palestinian recognition of Israel as a Jewish state as a basis for peace or at all. They are based on the model of two sovereign states living side-by-side in peace and security and a just settlement of the refugee issue (Resolution 242, 338, [194] and Road Map). In addition, the Jewish state as currently constituted formally discriminates against the non-Jewish population. Palestinians cannot recognize a situation which violates basic norms of international law.

If Israel insists on recognition of the demographic character of its state, then the Palestinian team may insist that the whole

---

8 Clinton, W. J. (2000). Meeting Minutes Saeb Erekat and President Clinton; *The Palestine Papers* (p. 3)
status of Mandate Palestine should be opened for discussion because the demand to base the agreement on two ethnically-defined national entities subverts the traditional terms of reference. The Israeli approach is closer to Resolution 181, which called for the partition of Palestine into two national units.⁹

As can be seen, the PA does not seem to be willing to accept the notion that Israel should be recognized as the Jewish homeland. In its eyes, Israel can view itself any way it wishes, but the PA believes that it is a step too far to ask that the PA recognize Israel as a Jewish state.¹⁰

B. Israel is a European Style Nation-State

Going further, in this discussion, Israel may be viewed as a nation-state as that concept is understood. A detailed review of the history of the formation of the State of Israel, with its intellectual underpinnings in European culture, and its formalistic birth by vote of a collection of states, would, provide another interesting topic for a formal paper. But for this dissertation, it will be assumed the State of Israel, born in 1948, was and remains a European style nation-state and a European style parliamentary democracy.¹¹


¹⁰ Ibid.

¹¹ No doubt there are scholars who can take a different position on the concept of Israel as a nation-state as seen through a European lens. Moreover, some scholars may suggest that the mere discussion of the concept is absurd as Israel was born in the twentieth century in Asia minor.
This assumption is based on the way in which the British and possibly the Germans thought of and dealt with the Zionists during the period of the First World War. It is clear that the British, as European powers, were negotiating with other Europeans and Americans when seeking their support for the war effort. A discussion is provided below as a means of justifying the assumption of Israel as a European Nation State. Even today, most of the elites in Israel, see themselves as European in their secular culture.

It is submitted that the contrast between the negotiation by the British for the support of the Zionists and the negotiation by the British for the support of the Arabs in the war against the axis powers in World War I reflects this underlying differentiation. By and large, the Arabs were entreated to support the British war efforts with promises of independence from the Ottoman Empire. It is unlikely this was very persuasive. It is more likely that each Arab leader with a fighting force saw a potential for leadership by his family, his clan or his tribe in the limited region that it might control. A pan-Arab result may have been on the minds of some Europeans\textsuperscript{12} but was not on the minds of the local Arabs of the Middle East.

1. The Balfour Declaration

Perhaps the most direct proof of the “Europeaness” of the State of Israel in this context can be provided by examining the now famous document, the Balfour Declaration\textsuperscript{13}, its negotiation, inception and subsequent disregard and the subsequent League Mandate.

\textsuperscript{12} Such as T.E. Lawrence of the David Lean film, \textit{Lawrence of Arabia}, 1962.

\textsuperscript{13} The full, one-page, text of the Balfour Declaration is contained in the Appendix.
Negotiations over this one-page letter were conducted between two entities, which were not exactly equal but at least bringing independent assets to the table. The three paragraphs, composed of just three sentences, were seized upon the Zionists of Great Britain, Europe and the United States who never let go of the Declaration until the promise was realized. As will be discussed subsequently, these Zionists held to the promise long after the British themselves no longer saw the Declaration as policy. Given the fact that the Declaration’s viability was so short lived, what was the motivation behind the statement in the first place? There have been many suggestions as to the British motivation. The Zionist motivation is undisputed.

Fundamentally, it must be stated that the Declaration was not a binding document of legal standing. It was not a treaty between the British Government and any state or even any Zionist Organization. While the Declaration was approved by the British Cabinet, it was, as reflected by subsequent actions of the British Government, not binding in any way. Nevertheless, it was the subject of a thorough negotiation down to each and every word. That each word was negotiated indicates that the British Government understood that they were negotiating with an entity of sufficient standing so as to warrant discussion and negotiation. Compare this to the manner in which the British Government dealt with the Arab tribesman in order to solicit their help in the Great War.

In fact, it can easily be argued that two other documents involving the British had far greater contemporaneous and subsequent impact on Palestine than did the Balfour Declaration. Those two documents were the Palestinian Mandate of the League of Nations, which, in effect, incorporated the Balfour Declaration, and a document known as the
Churchill Memorandum, which acknowledged a change in the British approach to the territory. Both will be discussed below.

As early as 1915, Jewish scientist Chiam Weizmann, “who was already in touch with Lord Balfour, opened serious discussions with him concerning the future of Palestine. He was assisted by Sir Herbert Samuel, then a member of the Government, who discussed the question with Lord Grey and Lloyd George.”14 In October, 1916 serious discussions were taking place in Britain and parallel negotiations were started in Paris with Baron Edmund Rothschild.15

The British negotiations were conducted predominately by Sir Mark Sykes, the very same man who had negotiated the Treaty bearing his name only months before. It was given to Sykes to “work on [Woodrow] Wilson through Louis Brandeis, who was very influential with the President.”16 It did not take much persuasion to bring Wilson to the cause of Zionism. “Lloyd George wrote, ‘...President Wilson thus interpreted the Balfour Declaration in his explanation to the American public: I am persuaded that the Allied nations, with the fullest concurrence of our government and our people are agreed that in Palestine shall be laid the foundation of a Jewish Commonwealth.”17

15 Ibid.
16 Ibid. 10
At the forefront of the negotiations which led to the Balfour Declaration was Dr. Chaim Weizmann, a chemical engineer of some renown. Dr. Weizmann was successful in developing a new method of producing acetone which was used in the manufacture of explosives for the war effort. In 1916 he was asked to serve as Director of the Admiralty Chemical Laboratories. “Weizmann’s war service as a scientist made him known and had a great deal to do with the greater influence in pleading for the Jewish National Home.”

The suggestion that the Balfour Declaration was a *quid pro quo* for Weizmann’s work on explosives has been advanced for many years. This is a theory “which almost nobody takes seriously any longer”.

It has been suggested that Imperial designs on the Middle East motivated Britain. Specifically, it was the intention of Britain to limit the role of the French in the scheme to be established for Palestine in the Sykes-Picot Agreement of 1916. British interests were certainly involved in the formulation of the Declaration. This is especially true considering plausible rumors that the Germans might be contemplating similar overtures to the Jewish peoples of Europe to provide continued Jewish support against Russia or at least to balance Jewish support for the Allies.

Segments of British and American public opinion were very much in sympathy with the “Holy Land” and with the connection of the Jews to the Holy Land. A renewed religious

---

18 Ibid. 56
20 M. Verete, “The Balfour Declaration and Its Makers”.
fervor in the 19th and 20th\textsuperscript{22} century led many to support a Jewish homeland in Palestine and the restoration of the Jews to that land.\textsuperscript{23} Here again, the understanding of Jews was the picture of European Jews.

In 1967 Christopher Sykes, the grandson of Sir Mark Sykes, took the opportunity on the fiftieth anniversary of the Balfour Declaration to discuss and analyze the generally accepted motivations which produced the pledge.\textsuperscript{24} His overview of this analysis was:

> We know that there were both idealistic and materialistic reasons behind this most fateful act. A fashion has grown up of dismissing the idealism as so much humbug and seeking the explanation in the harsh propositions of \textit{Realpolitik}. What this fashion obscures is that the materialistic arguments in favour of Gentile support of Zionism all proved fallacious.

As late as 1967, the discussion of the establishment of a Jewish state was still being discussed and analyzed in terms of Realism and European history and politics.

The first motive which Sykes disposes of was a belief that an affirmative act toward a Jewish homeland would dispose world Jewry against the Bolshevik party in Russia and thus might moderate the nature of the Russian revolution. Mr. Sykes suggests that this motivation was based upon a general, but mistaken, overestimate of Jewish influence\textsuperscript{25}.

An earlier idea concerning the motivation has been mentioned above. The idea that

\textsuperscript{22} And certainly the 21\textsuperscript{st} century as well.


\textsuperscript{25} This is a common anti-Semitic trope, although it is not being suggested in any way, that Mr. Sykes himself was anti-Semitic.
a benevolent pro-Zionist British policy would cause American Jews to shift their anti-Russian and somewhat pro-German views and use their influence in favor of the Allies. However dismissing this particular motivation comes to Sykes quite easily since by November 1917, the United States was already in the war, “for American, not Jewish, reasons.”

The next motivation discussed by Sykes has also been briefly mentioned above. By setting up a British protectorate the French would be kept out of the area. He notes that this is the motivation which has most often been attributed to Lloyd George. Sykes’ conclusion was that this was no more than a reflex of anti-French political habit left over from the Napoleonic era and still thriving in the Foreign and Colonial offices. Mr. Sykes gives no credence to this Imperialist belief and concludes that a Jewish Homeland in Palestine would in no way have guaranteed Britain’s welfare in the Middle East.

However to these anti-French motivations Sykes, while again dismissive, does attribute a good result. He suggests that if the Mandate had become French that it stood a chance of becoming a Vichy territory in 1940 to the great detriment of the World War II British effort. It is difficult to see how the motivation for a 1917 declaration could have found fulfillment in the events some twenty-five years later.

Sykes reviewed one additional Realpolitik motive for the Declaration. Relying on the work of Leonard Stein in 1961, Sykes notes that there were ongoing negotiations between

---

26 Ibid. page 18.

27 It has also been noted that Lloyd George himself insisted that the Declaration was nothing more than a bargain or payment reached based upon Dr. Weizmann’s work on explosives. Ibid.

German Zionist leaders, the Auswartige Amt for a declaration from the German government favoring a Jewish presence in Palestine. What does seem clear is that Dr. Weizmann used this information to up the ante in the pre-Declaration negotiations. However, both Sykes and Stein himself reflect doubts on this motivation as it was well understood that Turkey, as a German ally, would greatly restrict any pro-Zionist position taken at that time.²⁹

Concluding, Sykes dismisses all the cynical motivations as “empty delusions”. He then goes on to analyze the “soft-headed” arguments. Mr. Sykes takes at face value the sincerity of Arthur Balfour’s own expression of personal beliefs presented in a speech to the House of Lords on June 21, 1922. Lord Balfour saw a Jewish Homeland “as a necessary act of historic justice and reparation to an injured people.”³⁰ He notes with an equal lack of skepticism that Lord Balfour’s cousin Lord Robert Cecil, also in the Foreign Office, gave no less a personal endorsement in a speech to the House of Commons in June, 1921.³¹

In the end, Christopher Sykes’ arguments that altruism and not cynical Realism was the true motivating factors behind the Balfour Declaration seem to have been arrived at by working backwards. While he acknowledges that the Declaration was negotiated with no foreknowledge of the most horrific events of the 20th century, he nevertheless ascribes to the Declaration a reason d’etre which was only revealed as a result of, and in the context of, this tragic history. He admits to this conclusion: “I believe that the small saving grace of idealism

³⁰ Ibid.
³¹ Ibid.
in the transaction represents what is enduring and important in the Balfour Declaration.\textsuperscript{32}

In short, what is suggested by Sykes analysis is not so much the altruism of the British government of the early 20\textsuperscript{th} century, but rather a deeply moral underpinning of Mr. Sykes himself and those he chose to take at face value:

How could they have recovered their self-respect, or preserved civic virtues, thrown off the sense of humiliation, if they had not had that positive aim and achievement to inspire them? Balfour’s idea of an act of historic reparation concerned the years to come even more vitally than the centuries of Jewish tragedy in the past. The idea came only just in time.\textsuperscript{33}

There is little doubt that regardless of the underlying motivations of His Majesty’s Government in undertaking to negotiate a Jewish Homeland in Palestine, the Zionists who were negotiating, understood only one primary motivation on the part of the British. That motivation involved United States support for the Allied war against Germany and Jewish support for that effort. In short, what the Zionists understood, perhaps better than the British or the Americans, was the motivations for the Balfour Declaration were the fundamental underpinnings of British foreign policy; that is, what is in the best interest of Great Britain at the time. What is also fundamental is that Great Britain was conducting negotiations with an entity that it believed was playing under the same rules as it was playing under, to wit, the rules of Realism International Theory.

What is also clear is that not only did the Zionists firmly believe that the British were engaged in a form of global wartime calculous, but that the British negotiators themselves were instructing the Zionist leaders to conduct their own efforts to bring the Americans to

\textsuperscript{32} Ibid.

\textsuperscript{33} Ibid.
the British side. Both the Zionists and the British were engaged in statecraft of the type envisioned by the Realism school. In this regard, the work of Dr. N.M. Gelber leaves no doubt.  

Dr. Gelber’s typed manuscript reflects the priority given by the Zionists to the role of the American President. As early as the summer of 1916, Louis Brandeis was engaged in keeping the anti-Zionist influence from President Wilson. He drafted a detailed memorandum concerning the Zionist position for the President and kept in constant contact with the Zionist leaders in London. Brandeis was a constant advisor to President Wilson.

Even in the negotiations themselves, the Zionists sought the help of the Americans in dealing with the Sykes-Picot Treaty and the details of the Declaration. In September and October, 1917 Weizmann cabled Brandeis to review the initial draft of the Balfour Declaration. Each succeeding draft seemed to limit further Zionist claims. On October 16, 1917 Wilson cabled London with his comments on what was the final draft.

Buttressing the position that the motivation for the Balfour Declaration from the Zionist perspective is a fascinating work, a typewritten manuscript, of Mr. S. Landman.

34 Author unknown, Summary of Dr. N.M. Gelber’s “History of the Balfour Declaration,” (In Hebrew) Jerusalem, 1939.

35 Ibid. page 28

36 Ibid. page 29

37 It is noted that Dr. Gelber reproached Brandeis for failing to comment on a critical change in the language of the final draft of the Declaration. The final draft substituted “a Jewish National Home in Palestine” for “Palestine as a Jewish National Home.” “(What the author [Dr. Gelber] failed to re-emphasize at this point was that the very fact that the Allies were seeking the goodwill of the American Jews was the greatest contribution they made to the Balfour Declaration.)” Ibid. page 30
From 1915 until 1918 he acted as the private secretary to Nachum Sokolow, Zionist leader and President of the World Zionist Organization from 1917 to 1922. Mr. Landman’s paper, Balfour Declaration, Secret facts revealed, was published in 1935\(^{38}\).

Mr. Landman lays out his understanding of the motivations as follows:

That was the situation in late summer of 1916, when Sir Mark Sykes, then Under-Secretary of the War Cabinet (with Amery and Ormsby-Gore), held a conversation with Mr. James Malcolm, a member of the Armenian National Delegation who was of such invaluable help to the British Government in Eastern Affairs.

Sir Mark told Malcolm that the War Cabinet was greatly disturbed at the failure, up to that time, of all efforts to enlist the practical sympathy and help of the United States. The French Government had sent a special Emissary, without success. Italy had tried to use the influence of powerful Italian citizens in the U.S.A., but to no avail. He had thought of enlisting the substantial Jewish influence in the United States, but had been unable to so.

The leaders of Anglo-Jewry, lay and clerical, whom he had seen, did not seem able to give him effective help. It might be that the Jewish hatred of Tsarist Russia was so string [sic] as to make it impossible for American Jews to be other than pro-German.

Malcolm informed Sykes that there was a way to make Jews thoroughly pro-Ally, and he knew of a man in America who was probably the most intimate friend of President Wilson. Through that man, if through anybody, the President’s mind could be turned towards active participation in the War on the side of the Allies.\(^{39}\)

***

\(^{38}\) The word, “published” is used advisedly. This author was able to view a collection of papers, pamphlets and documents in the private library of the American Jewish Committee, on 65\(^{th}\) Street in New York City. These documents were kept in a draw in a filing cabinet. It was fortunate to be given an opportunity to examine these documents over a two day period with the help of the library. Mr. Landman’s hand typed paper, the copy of which was written on old onion skin paper was the most fascinating of the documents which I reviewed.

\(^{39}\) Ibid. page 1-2
After an understanding had been arrived at between Sir Mark Sykes and Weizmann and Sokolow, it was resolved to send a secret message to Justice Brandeis that the British Cabinet would help the Jews gain Palestine in return for active Jewish sympathy and support in the U.S.A. for the Allied cause so as to bring about a radical pro-Ally tendency in the United States. This message was sent in cipher through the Foreign Office. One of the principal under-secretaries at the Foreign Office at that time was Sir Ronald Graham. He was in the confidence of Sir Mark Sykes and during the whole time he was at the Foreign Office he was of unfailing help to the Zionists. Secret messages were also sent to the Zionist leaders in Russia to hearten them and obtain their support for the Allied cause, which was being affected by Russian ill-treatment of the Jews. Messages were also sent to the Jewish leaders in neutral countries and the result was to strengthen the pro-Ally sympathies of Jews everywhere.\(^{40}\)

The personal recollections of Mr. Landman laid out above were confirmed in nearly every detail in the typed notes of James A. Malcolm, who himself was thoroughly involved in the deliberations and negotiations leading to the Declaration. Mr. Malcolm writes of a discussion with Lord Milner, a member of the War Cabinet.

... Lord Milner was greatly interested to learn of the Jewish Nationalist movement, but could not see any possibilities of promising Palestine to the Jews. I replied that it seemed to me the only way to achieve the desired result, and mentioned that one of President Wilson’s most intimate friends, for whose humanitarian views he had the greatest respect, was Justice Brandeis, of the Supreme Court, who was a convinced Zionist. Sir Mark was much interested in this new aspect and said he would check up on the matter, but he still saw no possibility of the War Cabinet adopting my idea. I asked him why, and he replied, “We cannot act without our Allies and I am afraid they would never agree”. I then suggested that if the object was to secure United States help, surely the Allies would agree. If he could obtain from the War Cabinet an assurance that help would be given towards securing Palestine for the Jews, it was certain that Jews in all neutral countries, especially the United States, would become pro-British and

\(^{40}\) Ibid. page 6
pro-Ally. He promised to put the question again to Lord Milner, with the additional arguments I had suggested.\footnote{Malcolm, J. A. (1944). \textit{Origins of the Balfour Declaration, Dr. Weizmann's Contribution}.}

As shown, the British and the Americans were engaged in negotiations on the highest level with the Zionists during the early and middle stages of World War I. Of importance to this paper is that the British and Americans were negotiating with an entity that was seen as European in nature. Chaim Weizmann, a thoroughly European man, became the first President of the State of Israel; Israel being a European state in both thought and culture.

As with any negotiation, it is unwise for either party to play its cards in the open. One does not need to disclose one’s true needs or desires in order to negotiate effectively or in good faith. Nor does one need to disabuse one’s counterpart from any assumptions he may have of one’s own motivations. It is for this reason that mere knowledge of the Zionist perception does not necessarily shed light on the actual British motivation.

Based upon the writings of James A. Malcolm, who played so prominent a part in the negotiations leading to the Balfour Declaration, it is not difficult to conclude that the single most important motivation was other than obtaining the active help of the United States on the side of the Allies in the war. However, as Christopher Sykes so plainly states, if this motivation were the only one in play, then once the United States was already in the war, there would have been no need to continue down the path.

2. The Sykes-Picot Agreement of 1916

Given the Sykes-Picot Agreement of 1916, and given the American entry into World War I in 1917, the British would have had ample excuse to discontinue further negotiations,
or at a minimum, dilute the wording of the Declaration so much that it would simply have meant nothing. But the British did not do this. They continued to negotiate with the Zionists with no clear indication that they were pulling away from the underlying understandings at that time.

One could argue that the work of Dr. Weizmann, would have made it dishonorable for the British to disavow that negotiations which had taken place prior to the American entry into the war. However, it is difficult to point to too many instances where an early 20th century European State followed conduct simply because to fail to do so would be less than honorable.

In short, while it is undeniable that the “hard-headed” motivations were predominant in the British activities prior to the American entry into the war, the “soft-headed” motivations are necessary to explain the final publishing of the Declaration. As with most activities in human experience, the Balfour Declaration was motivated by a myriad of cynical and sentimental reasons all playing a part in the ultimate Declaration. What is also clear is that once the “hard-headed” motivations were no longer present, the “soft-headed” ones were, after a period of only a few years, no longer sufficient to sustain the policy. This should be contrasted with how the other states of the Middle East came into existence. In this regard it is illuminating to see what Lord Balfour himself thought of the evolving relationship with the Arabs of the Middle East.

Arab Territories and Palestine

“So far as the Arabs are concerned . . ., I hope they will remember that it is we who have established an independent Arab sovereignty of the Hejaz. I hope they will remember it is we who desire in Mesopotamia to prepare the way for the future of a self-governing, autonomous Arab State, and I hope that, remembering all that, they will not grudge that small notch—for it is no more than that geographically, whatever it
may be historically—that small notch in what are now Arab territories being given to the people who for all these hundreds of years have been separated from it.42

Following on Lord Balfour’s statement on the creation of the modern middle east, it is now necessary to look at the other states in the region who began their current iterations only when the Ottoman Empire, the then “sick old man of Europe”, collapsed.43 These states do not share many characteristics of a European nation state.44 This will be a basic issue that must be addressed in any ultimate Two State Solution – that a European nation-state is making peace with an entity with no independent history of any existence except as a small piece in a very large non-western empire. Can an understanding of this distinction provide a sufficient basis for analysis or for a resolution of the conflict? Clearly it does not. It is submitted that no theory of international relations provides a completely useful tool for analysis of anything that has transpired or is transpiring in the Middle East.

First, and most fundamentally, this paper will examine who, exactly the parties to this conflict are.46 The Middle East is not Europe. Like modern Europe, the Middle East has


44 It might be interesting to determine if there have ever been long term peace treaties negotiated between a European style nation-state and an artificially created state such as Iraq or Syria. The Israel-Jordan peace treaty is the only one which comes to mind, albeit of relatively recent vintage.

45 It is interesting to note that in the world’s truly global game, soccer (football), Israel plays in the European soccer federation and not the Asian federation. This is not to suggest that the reason for Israel’s inclusion in UEFA has anything to do with my analysis which treats Israel as a European style nation-state.

emerged from older empires. But, unlike Europe, the Middle East’s foundational empires did not disappear millennia or even centuries ago.\(^\text{47}\) The modern Middle East, did not arise from the Treaty of Westphalia. It did not arise in response to a prolonged period of religious war which resulted in a new system of States and governance\(^\text{48}\); it was not “the culmination of a thousand years of politico-military consolidation after the collapse of the Western Roman Empire that gave rise to terrrritorialized politico-military rule in Europe.”\(^\text{49}\)

Instead, the Modern Middle East was created by Europeans with nothing more than a straight edge and a pencil. It was created with and by a European sensibility of arrogance and entitlement. In his remarkable piece in the New York Times Magazine Section of August 14, 2016, author and reporter Scott Anderson refers to the creation of the modern Middle East, and specifically, Iraq, Syria and Libya as “artificial states”.\(^\text{50}\)

3. The Palestine Mandate\(^\text{51}\)

As to the first, the Palestinian Mandate, a brief review will demonstrate both the difference between the Declaration and the legally binding Trust Agreement which was, at

\(^{47}\) The Roman Empire reached its height nearly two thousand years ago. While the term “Empire” has been used with such entities as the Austro-Hungarian Empire and the Russian Empire, these entities were merely the names given to nation states led by “emperors”. The Holy Roman Empire, as goes the saying, was neither Holy nor Roman nor an Empire.

\(^{48}\) Lust, ibid. throughout


\(^{51}\) A portion of the text of The Palestine Mandate, is contained in the Appendix.
least theoretically, the governing document of the British administration of Palestine and the ratification of the Declaration by the League. The first several paragraphs of the Preamble amply demonstrate this analysis and are contained in the Appendix.

As reflected in the Mandate, the League had ratified the principle of a “national home for the Jewish people” enunciated in the Balfour Declaration. This concept remains a contentious point in all recent and present and potential new Israeli-Palestinian negotiations. Bringing this issue to contemporary times, there are approximately 1596 documents contained in The Palestine Papers. Of those only six mention the League of Nations Mandate – the Palestine Mandate. Of those six documents, none mention the actual terms of the Mandate and its goal of a “national home for the Jewish people”\textsuperscript{52}. \textit{The Palestine Papers} only briefly discuss the League Mandate in terms of its history of British colonization.

What is undeniable is that not only did the League of Nations, and the European powers think of the Jewish population of Palestine as European, but to this day, many Palestinians also think of Israelis in terms of a colonial European power.

The Mandate which established the conditions for Great Britain’s presence in Palestine, also specified its authority to govern. It also implied a very significant limitation on the British. Great Britain did not “own” Palestine, it only administered it on trust,

\textsuperscript{52} As will be shown subsequently, there are many documents, most notably UN General Assembly and UN Security Council Resolutions dealing with the Israeli-Palestinian conflict. Frequently these documents take on a meaning over time which was not indicated in the original document and was not intended by the official body.
according to the terms of the Mandate for the purpose of establishing a “national home for the Jewish people”\textsuperscript{53}.

Sovereignty over Palestine had passed from the then fully decayed Ottoman Empire to the hands of the League of Nations. No mention was made about whether the League had a right to possess or govern the Mandate territory. It was merely assumed that European powers would govern these lands. The League of Nations had recognized British governance over to the Mandate. However, governance was always to be under the control and examination of the League’s Mandates Commission. The Palestine Mandate does not deal directly with the rights or status of Arabs in the Mandate Territory, much less their right to govern independently. It may be that the reason for this slight was that the Jews were seen as a “European” population, some transplanted and some native to the territory. As a “European” population the Jews were accorded some status which Arabs, at least initially, were not. In other words, the European approach to the Middle East has a way of understanding and dealing with Israel while such an approach really has no way of dealing with fictitious “nation states” such as Syria, Iraq, or Lebanon, non-monarchic entities.\textsuperscript{54}

4. The Churchill Memorandum

The Churchill Memorandum is a portion of a British White Paper of 1922. The Memorandum sets forth a significant change in the concept of Palestine. While still a

\begin{footnotes}
\footnote{It is submitted that by the Jewish people, it was understood that the people referred to were Jewish people in both western and eastern Europe. It is not to be understood as the Jewish populations of Northern Africa and the Middle East.}

\footnote{I refer to these places as entities rather than states because to refer to them at states would be to commit the same fault in logic and policy that was committed during and after World War I.}
\end{footnotes}
Mandate under British governance, the paper established the principle of “double obligation”, to both Jews and Arabs. It is interesting to note that the Churchill Memorandum does not attempt to reconcile its provisions with the Palestine Mandate which had the status of International Law under treaty.

The Churchill Memorandum declared that it was not the intention of the British Government to establish a Jewish state in Palestine but only a “Jewish Home”. It can be assumed that this misreading of both the Balfour Declaration and the Mandate stemmed from the hope that the British Empire would hold on to its territories in perpetuity by placating the Arabs and by disregarding the edicts of the Mandate document. At a minimum, perhaps the British felt they could have it both ways. There could be a “Jewish Home” and a British Protectorate in Palestine.

This 1922 Memorandum represented a very significant shift in British policy. The British could claim that the Memorandum was nothing more than a restatement of the Mandate (and, of course, the Declaration). But unlike the Mandate, which never even mentioned the Arabs then living in Palestine, the Memorandum enunciated an obligation to the Arabs. So it took about seven years for the British to see the Jewish homeland for European Jews and to realize that Palestine was inhabited by non-European Arabs and Christians.

---


56 Ibid.
5. The Consequences of World War I

What then can account for this substantial change in British policy? In the five years from the issuance of the Balfour Declaration to the White Paper of 1922, what accounts for the complete turn around from the absence of a recognition of the Arabs to the acknowledgment of a co-equal obligation to them? In fact, by the 1930's the British had thrown in their lot with the Arabs, completely abrogating the Balfour pledge.

To come to some understanding of this fundamental change, one needs to examine the motives which originally supported the Balfour Declaration. Below are some suggestions for the motivating factors which may have originally produced the Balfour Declaration.

Very early in the war questions of the Middle East presented themselves. With Turkey only barely engaged, the Allies, England, France and Russia, moved to divide the Arab land held by the Ottomans. With Russian claims being given short shrift, the discussions centered on the claims of Britain and France over Palestine and other lands of the former Ottoman Empire. This resulted in an agreement between Britain and France. In May 1916, the Sykes-Picot Treaty divided the Arab lands between these two Allies.

It is critical to note that all three of the Allies, even Russia, recognized the Jewish

---

57 Would it be too cynical to state that the exploitation of petroleum resources in the Arab and Persian middle east became a prime motivator to recognize some sort of obligation to the Arabs of the Palestine Mandate?


59 It might be stated that the secret Sykes-Picot agreement which drew lines on a map of the middle east is largely responsible for the utter chaos which is the present middle east. Lust, E. Ed. (2014). *The Middle East*. California: SAGE Publications, Inc.
claims on Palestine as being just and legitimate.\footnote{Author unknown, Summary of Dr. N.M. Gelber’s “History of the Balfour Declaration,” (In Hebrew) Jerusalem, 1939.} It was this treaty which was the backdrop for the Declaration which followed only a year later.

Also of concern to the Allies was the attitude of Jews in then neutral countries, including but not limited to the United States. It must be understood that as a result of the predominance of Jews living in Eastern Europe and Russia, subject to the whims of the Czar and given the long history of violent anti-Semitic uprisings, it was natural that Jews in neutral countries might well support German efforts against Russia. In fact, Winston Churchill later stated in the Commons that the Declaration was designed to secure Jewish support in neutral countries, such as in the United States and in Russia.\footnote{Melvin I. Urofsky, \textit{American Zionism from Herzl to the Holocaust}, 1975, page 219.}

France sent a delegation to Jewish leaders in the United States in 1915. The French mission was a failure. The British also reached out to Jewish leaders. These Jewish leaders made it clear that the only interest the Jews living in neutral countries would have was a Jewish homeland in Palestine. It now seemed that the interests of the Zionists and the British could be seen as compatible. The implicit bargain was that in return for Jewish support for the Allies’ war efforts in Europe, the Jews (Zionists) would receive British support for a Jewish homeland in Palestine.\footnote{Since the Palestinian Mandate was under British governance, British support for a Jewish homeland in Palestine would logically be viewed as necessary but not a sufficient step in the establishment of the Land of Israel.}
C. A Framework for Viewing the Modern Middle East

Even the most sophisticated of thinkers tend to fall back onto an outdated vocabulary when discussing present circumstances in the Middle East. On October 27, 2016, Ehud Barak, former Prime Minister of Israel and considered to be the brightest of the Israeli Prime Ministers, gave a speech as noted previously. Prime Minister Barak made a statement concerning the Arab Spring of 2010 - 2011, saying that as a result, several “Nation States” had collapsed. He referred to Syria as an example. However, Syria was a French Protectorate. As with most protectorates or colonies, the colonial power was able to establish a ruling class that was a minority within the colony. In Syria, it was the Alawite Shi’ites who ruled over a Sunni majority with Kurds and other minorities having no political voice whatsoever.

In Iraq, the British used the Sunni minority as the local ruling class. When Britain left Iraq, they left behind a Sunni ruling class to control the Shi’ite majority. Here again, the Kurds and other minorities were simply without political voice.

The Ottoman Empire was a constant in the Middle East until 1918. Its governance was little more than a tax collection system. So long as the territories which became the modern Middle East, paid their taxes to the Sultan and the Empire and provided men for the military, governance was loose, fluid, local and tribal. It would seem that, for the most part, these same conditions remain to this day.

---


65 Lust, Ibid. throughout
The history of the Middle East has always involved vicious localized conflicts, slaughters and massacres involving local tribal, ethnic, religious and other groups – Sunni/Shiite; Arab/Jewish; Arab/Christian; Christian/Druse; etc. These conflicts pre-dated World War I and have continued since. These conflicts are not examples of the state violence which is a central premise of European history but rather a feature of a less rigidly structured society which requires a different type of analysis.

In or before 1918, pursuant to secret agreements with their European allies, the map of the Middle East was created. Since everyone knew the Ottoman Empire was in extremis and had placed its bets on the losing side in World War I, the victors carved up the old, sick Ottoman Empire. The French and the British split the spoils of war by drawing new maps and receiving an imprimatur of the League of Nations. However, a critical consideration was missing from their map drawing. Many tribes or ethnic groups in the Middle East straddled the borders created by the World War I European Agreements.

In addition to creating the modern (temporary) map of the Middle East, the British Mandate of Palestine was created. The territory known then as Palestine and now known as

67 Lust, Ibid. throughout
69 Lust, ibid. throughout
Israel, Gaza and the West Bank, had never been a state. However, as noted, Europe’s relations with Israel have been more routine and less volatile because Europe’s relationship with Israel is based upon a familiarity and comprehension of the rules on the part of Israel – that is the rules of state to state relations. One need only look to the combined efforts of Great Britain, France and Israel in the Suez crisis of 1954 to see this relationship played out.

1. A Framework Which May be Applied to the Middle East

This dissertation attempts to draw distinct differences between the thinking, and more importantly, the actions of three different Israeli Prime Ministers, Ehud Barak, Ehud Olmert and Benjamin Netenyahu. If one sees the Israeli-Palestinian negations exclusively in light of Israel’s generally understood self-interest, one would never reach a working understanding of the negotiations themselves nor of the conflict. Likewise, it will attempt to discern, from the language and actions of the actors as set forth in The Palestine Papers, the underlying reasons for the negotiating tactics of the Palestinian leaders, Yasser Arafat and Mahmoud Abbas and their negotiating teams.

The previous attempts to settle the Israeli-Palestinian conflict cannot be understood in the light, exclusively, of national interest. In fact, it is more likely that they can only be understood by disregarding national interest to some extent. It is more than two decades since the Oslo Accords were concluded. The situation for Palestinians has continued to grow worse. The map of the region has continued to grow more and more difficult, especially for the Palestinians. The events in the Middle East have grown more dangerous and volatile.

71 And to far lesser extent, Ariel Sharon
Surely, in 2000 and/or 2001 and/or 2008 and/or 2009 and/or 2014 and/or 2016 the opportunity for the birth of a Palestinian nation would have been a better alternative than the deepening despair and the economic regression of 2017. Surely, an enlightened view of the Palestinian national interest would have brought some acceptance of some plan or offer during that time.

The issues involved are as complex as the number of actors influencing the leaders of each side are numerous. Understanding, at least partially, and dealing with the norms and rules of the influencing non-state actors on both sides is a necessary pre-condition to resolution.

In the end, it does not matter what framework of thinking about the conflict we use, so long as we are not bound and constrained to employ a single theory which can never hope to inform the complexity of the conflict. It is submitted that the Israeli-Palestinian conflict is the sine quo non of what has been referred to as “postinternational” with all the complexity and all the state actors and all the non-state actors that are at work in all of the conflicts in the headlines today.

One thing is certain, any rational examination of the Israeli-Palestine conflict must take into account a very long list of non-state actors and a very long list of events which are the works of non-state actors. You can be sure that the PA is constantly aware of the actions and is constantly trying to figure out the plans of Hamas and Jihad and the other Palestinian organizations. Likewise, Israel must always be aware of the thoughts, plans and actions of both AIPAC and J-Street, or Kadima and Likud and Labor and Shas, and the Settlement

72 This, of course says nothing of the U.N.’s proposal for partition in 1948.

73 Ibid. 35-66
Movement and Yisrael Beiteinu as well as Hamas, Hizballah, ISIS, al Qaeda, the Muslim Brotherhood and a myriad of other non-state actors.
XI. Analysis of Some Other Treaty Negotiations

A. Chapter Introduction

In order to fully appreciate the Israeli-Palestinian conflict, it is necessary to examine some other treaty negotiations. This chapter will look at several other treaty negotiations, some in detail and some only in passing. Because this dissertation is fundamentally about a land of contention which dates back to pre-history, it will also look at an ancient treaty which was about the same land that is the topic of this work, showing that very little has changed. Further, because so little has changed regarding the basis of treaty negotiations, this chapter will also examine some principles which laid down by one of the great philosophers of the enlightenment.

In addition, this dissertation will examine several first-hand accounts of negotiations between long-term adversaries. The dissertation will seek to draw some analysis from an essay written by Richard Holbrook\(^1\) regarding the end of conflict negotiations for the former Yugoslavia. In addition, it will seek to compare and contrast the efforts of Ambassador Holbrook and the efforts of Senator George Mitchell\(^2\) in bringing an end to the hostilities in Northern Ireland.

There is no shortage of treaties, ancient, modern and contemporary, which could be studied in order to gain some insight into the negotiations concerning Israeli-Palestinian conflict. That being said, this introduction will mention but a few, each for a very specific reason, starting with the negotiations conducted by Benjamin Franklin at the French Court in 1778.


The thirteen British Colonies on North America, having declared their independence from the British Empire two years before were about to reach the end of their resources and strength. They had very little left with which to fight the British. One might say that all they had left was a genius named Benjamin Franklin. The task of reaching a treaty with a European power who might be persuaded to support the upstart collection of independent colonies fell to Franklin. A failure by Franklin almost assuredly would lead to the failure of the experiment. Armed with only his wit, his cunning and his reputation, Franklin was able to secure the financial, military and material support from France which enabled the colonies to turn the tide of the war and achieve independence.

It is obvious to compare the barely born Colonies to the not quite born Palestinian state. There are several important lessons to be learned from Mr. Franklin’s efforts in Paris which might help the PA in any future negotiations. Those lessons include the knowledge that even the most powerless entity can achieve a successful negotiation result if the leadership is both brilliant and strategic. Moreover, Franklin, whose ostensible goal was only to achieve a treaty of trade with France, was patient enough to understand that the trade deal would only come with a fully independent new American nation. It was only after this ulterior motive became apparent that the French agreed to “mutually engage not to lay down their arms, until the independence of the United States shall have been formally or tacitly assured by the Treaty or Treaties that shall terminate the War”. These lessons might be of some value to the PA in future negotiations.

At the end of the Napoleonic Wars, at the Congress of Vienna, the French diplomats were

---


4 Ibid. 54-58

5 Ibid. 151-152; 288-290
in the position of the vanquished and powerless. Nevertheless, they were able to ask for a seat at the negotiating table and to use the tool of moral indignation. The French accepted the reality of the outcome of the war, but skillfully negotiated to make the best of their situation. “I ask for nothing, but I bring you something important—the sacred principle of legitimacy.” Here again, there may be some applicability of this French approach to negotiations which may be of some help to the PA.

In 1905, the Japanese understood that their war with the great European Empire, Russia, was going very well for them. The longer the war continued, the better the circumstances would be for Japan. Russia, on the other hand, did not share the Japanese view. They were blind to reality. They did not understand that they had very little to offer Japan. The parallels between the Russo-Japanese War and the Israeli-Palestinian conflict are still more obvious. The arguments between the Russian and Japanese negotiators sound as if they might be dealing with the West Bank with the Russians “asserting that under international law, occupation did not confer rightful title.”

There is yet another stark similarity between the Russo-Japanese treaty negotiations and the Israeli-Palestinian negotiations. That is a justifiable fear on the part of the actual negotiators for their very lives. A Japanese member of Parliament noted that the Japanese lead negotiator at Portsmouth, Maine, that the population might kill him if he yielded the advantage. The concept of killing the peace negotiator is no stranger to the Israeli-Palestinian negotiations. It was the constant refrain of Yasir Arafat at Camp David in 2000. This constant fear on his part, the truth of which can not be known, was recounted by all who wrote of the peace conference. Of course, the same can more clearly be applied to the Israeli side. Yitzhak Rabin was, in fact, called a traitor and murdered by an

---

6 Ibid. 1194-1195
7 Ibid. 1274-1278
8 Ibid. 1376-1378
Israeli at the urging of those who could not tolerate even the concept of peace with the Palestinians.

The end of World War I brought a negotiated treaty. The Paris Peace Conference of 1919 and the San Remo Conference of 1920 carved up the Middle East and set in motion the chaos of today’s Middle East.

... In the Middle East the settlement played out largely along the lines of secret wartime agreements made between the French and British governments. ... Britain was given custody over Palestine and Mesopotamia in present-day Iraq, whose rich oil deposits were shared evenly with France. Syria and Lebanon were handed over to French control. The arrangement ushered in the birth of the modern Middle East, establishing Saudi Arabia, Syria, Iraq, Palestine, and eventually Lebanon and Jordan as separate nations, and laying the foundation for decades of continuing tension and conflict in the region.9

B. Historical and Philosophical Analysis of Treaty Negotiations

1. Ancient Treaty Negotiations

Agreements between States or armed forces are as old as history. In fact, one of the earliest known treaties between two peoples discussed lands which are, in part, the subject of this dissertation. In about 1280 B.C.E. the Egyptians and the Hittite were engaged in armed hostilities - The Battle of Kadesh - dealing with taking a dominant position in the Middle East along the Mediterranean. The issues may have included modern day Israel. After a protracted period of warfare with neither side gaining much of an advantage, King Hattushilish of the Hittite nation and Pharaoh Ramses II of Egypt entered into a treaty, “witnessed by the thousand gods, by the male gods and the female gods”.10 Perhaps the most remarkable features of this treaty are the level of detail contained

9 Ibid. 2096-2104

in the treaty and the fact that each of the protagonists was able to use the treaty to its own advantage.

The treaty was a non-aggression pact with each leader agreeing not to “pass over into the land” of the other. Each agreed to come to the aid of the other should they be under attack of a third party. The Hittite agreed to return fugitives (“delinquent subjects”) to the lord of Egypt. Perhaps most importantly, if any men shall be engaged in a scheme against the Pharaoh, the King of the Hittite “shall not receive them” and shall return them to the Pharaoh.\(^{11}\)

It is so interesting that the terms of this treaty are so appropriate in any discussion of an agreement between Israeli and Palestinian negotiators. The elements of the Hittite-Egypt treaty will be replicated today if and when a treaty is negotiated. For example, first and most obviously it will and must be a peace treaty, “There shall be no hostilities between them forever.”\(^{12,13}\)

Second, any Israeli-Palestinian treaty will require Israel to come to the defense of Palestine “if another people shall come as an enemy against the land.”\(^{14}\) That is because it is likely that Palestine will be a demilitarized or minimally militarized state.\(^{15}\)

Third, it will largely be the responsibility of the PA to handle, at least in the first instance,

\(^{11}\) Ibid. Words written within quotes in this section are taken from the translation of the treaty used in the Schuman book.

\(^{12}\) Ibid.


\(^{14}\) Ibid.

terrorist threats emanating from the Palestinian State against Israel. It will be the initial role of the Palestinian Security Forces to deal with “delinquent subjects” who may “provoke” or “have committed some other fault”.

Fourth and finally, it would be the responsibility of the PA to cooperate with the Government of Israel in the capture and return of fugitives who may flee from Israel into the Palestinian state – “the great chief of the Hittite shall not receive them, but the great chief of the Hittite shall cause them to be brought to Ramses...”.

As we can see, the history of negotiations between states or peoples or kingdoms goes back more than three thousand years. The issues which require a treaty between two entities does not seem to have changed much in that time. The issue of security has been of paramount concern for the length of history and remains paramount today. Moreover, an agreement to not engage in conspiring with other entities to the detriment of the negotiating power is also in the forefront of current negotiations as it was some twelve centuries before the common era. An agreement to turn over fugitives was as much a part of ancient negotiations as it is to this day. *Plus ça change, plus c’est la même chose.*

---

16 Ibid.


2. Philosophical Underpinnings of Treaty Negotiations

In our review of treaty negotiations, there is no better place to start than with the philosopher, Immanuel Kant whose treatise on perpetual peace can be of great value. In 1795, Kant published a treatise entitled “Toward Perpetual Peace: A Philosophical Sketch”. In this small pamphlet Kant set forth six “articles”, two of which are particularly relevant to Israeli-Palestinian negotiations. The first reads:

1. ‘No peace treaty is valid if it was made with mental reservations that could lead to a future war.’

Otherwise this would be only a truce, a suspension of hostilities, not peace, which means the end of all hostilities—so that it’s really redundant to qualify ‘peace’ with the adjective ‘perpetual’. There may be existing states of affairs that could be causes of future wars—ones that the parties to the peace treaty don’t know about, and perhaps couldn’t know except through clever forensic digging in dusty documents—but these are all, all, annihilated by the peace treaty. When one or both parties sign a peace treaty only because they are too exhausted to continue the war, and in bad faith enter into the treaty with a silent mental reservation concerning issues that are to be confronted later on, that’s a bit of Jesuit casuistry. [In that sentence, ‘that’ refers not to the treaty but to the mental reservation. Kant aims to head off any such plea as: ‘I’m not morally bound by the treaty that I signed, because I signed it with a mental reservation that excluded clauses x and y from what I intended.” Some Jesuit casuists—i.e. theoreticians of practical morality—have attributed that kind of moral force to ‘mental reservations’.]
The idea of “mental reservation” is of critical importance to the analysis of the Israeli-Palestinian conflict. The concept goes to the heart of the mistrust between the two parties. There is a prevailing thought in Israel that the Palestinian’s recognition of Israel’s right to exist is simply a tactic in the short term. Some in Israel believe that this recognition will last only so long as the Palestinians are at a military and economic disadvantage. If there should ever come a point when circumstances change so that the Palestinians will see themselves as strong militarily and/or economically as Israel, the negotiated treaty of peace will be functionally obsolete.

Many in Israel also believe that the insistence on the Right of Return is simply a “mental reservation” in another form. Some Israelis believe that if between four million and seven million Palestinian refugees “return” to Israel, the nature and character of Israel will be so fundamentally changed that the State of Israel will cease to exist as a Jewish homeland.

The Palestinians, on the other hand, seem to believe that Israelis are also negotiating with “mental reservations”. They assume that because Israeli negotiators provide no plan or map or even a discussion about Jerusalem\textsuperscript{22}, the Israeli’s maintain a “mental reservation” about Jerusalem. They are probably correct. However, it should be pointed out that the Clinton Parameters did deal with the issue of Jerusalem\textsuperscript{23} \textsuperscript{24}. Further, the offer made by Ehud Olmert also dealt with Jerusalem.\textsuperscript{25} These


positions with respect to Jerusalem will be discussed in sections of this dissertation dealing with the Camp David negotiations and the Olmert-Abbas negotiations.

Returning to Immanuel Kant, his final article is of profound importance. It speaks about the need to create some minimal relationship between warring states inorder to keep some hope of a peace treaty at the end.

6: ‘No state during a war is to permit acts of hostility that would make mutual confidence impossible after the war is over—e.g. the use of assassins and poisoners, breach of capitulation, incitement to treason in the opposing state.’

These are dishonourable stratagems. Even in war there must be some confidence in the enemy’s character; otherwise no peace could be concluded, and the hostilities would degenerate into a war of extermination. What is war? In the state of nature that obtains between states, where there is no higher court to settle disputes through law, war is the sad recourse by which each state uses violence to assert its right and in which neither party can be condemned as wrong, because that would presuppose a juridical decision. In the absence of such a decision, the question of which side is right is answered by the outcome of the conflict (as though this were a so-called ‘judgment of God’). There can be no question of one state’s going to war to punish another state, because no state has authority over any other state.

Even a cursory examination of the Kant article would produce an understanding that war in the Middle East does not fit in the framework that might produce a Perpetual Peace. Certainly Kant’s understanding of western nation-states based upon Realism International Theory is a mismatch with what is happening in the Middle East. The use of “poisoners” seems all too common in recent hostilities. There is little doubt that Saddam Hussain massacred several thousand people in Halabja


in 1988 with poison gas. More recently the Syrian Civil War has produced known instances of the use of toxic chlorine against civilian populations.²⁶

Using Kant as a lens to examine the Israeli-Palestinian conflict, we are aware that Israel has used and continues to use targeted assassinations as a tactic²⁷, or perhaps as a strategy in the conflict, mostly with Hamas and Jihad. The issue of the continued use of assassinations was brought up by the PA in a document discussing the Israeli withdrawal from Gaza in 2004²⁸.

For many years, Israel has relied upon its intelligence services and informants induced with “incitement to treason” in identifying persons in the territories who are engaged in the planning and execution of terrorist activities. Those persons so identified, were then targeted by the Israeli military for execution. This policy presented a difficult legal issue. The persons identified, what was their status? Under international law, a person is either a combatant or a civilian. A combatant is a lawful target for military attack. A civilian is not only not a lawful target, but is entitled to protection from harm. No other status is recognized under international law. There is no middle ground of “unlawful

²⁶ Lust, Ibid.

²⁷ It is interesting to note that the United States now admits to the use of targeted assassinations, mostly by drone strike but most famously by Navy Seal operation against the highest ranking members of al-Qaeda or ISIS.

combatant” recognized in international law.\textsuperscript{29} \textsuperscript{30} This dichotomy is understood by Kant in Article 6.

This dichotomy between combatant and non-combatant presented a difficult legal problem to the Israeli Supreme Court. Obviously a state would like to treat these designated persons as combatants so that they can target and kill them. On the other hand, if the state fails to kill the person, it would like to capture and try the person. However, combatants can not be tried in courts and civilians can not be targeted. On the other hand, Palestinians would like to claim civilian status for all terrorists, even when actively engaged in acts of terrorism.

While international law recognizes that civilians, at the time when they may be engaged in hostile activities, become legitimate targets of military action that legal conclusion does not really help Israel to defend against terrorist attacks. Is a terrorist only a proper target at the exact moment he is engaged in the terrorist act? Is the person who plans the terrorist attack, or who transports the active terrorists to the scene of the attack, not also a legitimate target? Is the leader of a terrorist cell subject to targeting at all times? These questions serve to point out the legal issues which face nations when engaged in armed conflict with non-state actors. These issues also point out that Kant’s brilliant masterpiece is of little value in a world which is engaged in the kind of asymmetrical warfare where the antagonists are likely to be non-state actors, usually with no loyalty to the states engaged in the action.

We have examined an ancient peace treaty that, in many respects, could have been applied

\begin{quote}
\textsuperscript{29} The Public Committee against Torture in Israel v. The Government of Israel, (2005) The Supreme Court of Israel sitting as the High Court of Justice, HCJ 769/02. Retrieved from http://elyon1.court.gov.il/files_eng/02/690/007/A34/02007690.a34.pdf,
\end{quote}

\begin{quote}
\textsuperscript{30} Public Committee against Torture in Israel v Government of Israel (High Court of Justice 2006). Retrieved from http://elyon1.court.gov.il/files_eng/02/690/007/A34/02007690.a34.pdf
\end{quote}
to the present Israeli-Palestinian conflict. We have also shown that the outstanding genius philosopher, Immanuel Kant, has not produced a logical path to an Israeli-Palestinian peace treaty. It will now be the task of this dissertation to examine other peace treaties which have been successful and to determine what makes those treaties different than the Israeli-Palestinian treaty which has been so elusive.

C. Additional Case Studies of Other Treaty Negotiations

Moving ahead to some other treaty negotiations, we will examine the negotiations in Cyprus, Sri Lanka, Northern Ireland and the former Yugoslavia. These conflicts share at least one important characteristic with the Israeli-Palestinian conflict. In each of the aforementioned conflicts, a critical element is that the parties are divided on the basis of religion and/or ethnicity. Needless to say, the religious differences are not all that separate the parties, but it is the one characteristic that is the most fundamental in the most intractable conflicts.

Author Sumantra Bose discussed the type of conflict being discussed. Using the name, “ethnonational group”, he describes these conflicts in stark terms:

... where ethnonational groups have come to see their interests and frequently their very existence in zero-sum terms, as incompatible with those of other groups. When rival states or mobilized ethnonational national groups claim sovereign power over the same territory, the most intractable type of political dispute is born.32

Mr. Bose’s book deals with several “ethnonational” conflicts but this particular discription

31 It has become fashionable in some academic circles to assert that these conflicts were not based on religious animus but rather economics or historical differences. What is often unsaid is that these supposed economic or historical differences seem themselves to be based upon religious animus.

certainly fits the Israeli-Palestinian conflict perfectly. However, in several critical ways, the Israeli-Palestinian conflict is different from the other conflicts discussed by Bose. In some of the conflicts, one or both parties were supported, quite openly, by nation-states whose predominant religion or ethnicity was the same as the party involved in the conflict.

As we know, in Cyprus, the Greeks and the Turks squared off for the umteenth time in the last three thousand years. In Sri Lanka, India (a predominantly Hindu nation) supported both in armaments and moral support, their Hindu co-religionists the Tamil Tigers. The government of Northern Ireland is a part of Great Britain both of which are predominantly Protestant. In Yugoslavia, which was formerly held together by a strongman who abided Serbian dominance was now splintering along ethnic and religious lines.

Moreover, after the dissolution of Yugoslavia, the Serbs, Eastern Orthodox, were able to maintain the tools of government and the military of the former Yugoslavia to oppress the Roman Catholics of Croatia and more viciously, the Muslims of Bosnia. The viciousness of the Serbian violence against the Muslims was on full display in the War Crimes Trial of the Former Yugoslavia. We will be able to discuss the conflict in the former Yugoslavia briefly below through the eyes of Richard Holbrooke, chief U.S. negotiator to the Peace Conference which took place primarily in Dayton, Ohio.

For each of the conflicts noted above, the ethnonational parties were each capable of inflicting significant punishment upon their adversary, if only by terrorism. While that may have

---

33 In a trial that was concluded with a verdict in 2012 the testimony of a U.N. investigator of the War Crimes Trial of the Former Yugoslavia was obtained. She testified that her task was to determine the validity of the Serbian claim that the Bosnians were themselves guilty of war crimes. Her conclusion was that there was no credible evidence of any systematic war crimes committed by the Bosnians, despite the protestations of the Serbs to the contrary.
been true of the Israeli-Palestinian conflict as recently as the Second Intifada of 2000-2001, it is substantially untrue today. The trend regarding the effect of terrorism as a tactic in negotiations is no longer favorable to the Palestinians. The first intifada which started on December 7, 1987 and basically declined to nothing by 1993 did have a profound effect on Israelis and their Prime Minister Yitzhak Shamir.\(^{34}\) It may have been the first time that Israelis understood that Palestinians could not be ignored.

By the time of the second intifada in 2000, Israelis were more stunned and almost hurt that the settlement terms presented at Camp David produced no response by the Palestinians. But there was certainly no feeling among the Israelis that they were facing an existential foe. The strategic response was to build a separation wall or separation fence or whatever it may be called.

In 2015, a third intifada, consisting mostly of individual knifing incidents\(^ {35}\) produced mostly personal tragedies to the victims but on a macro scale was little more than an annoyance.\(^ {36}\) The point of this discussion of the various Palestinians uprisings is to show that the trajectory of these civil actions is decidedly against the Palestinian position. The original intifada may have been arguably viewed as an existential threat. The second intifada, the “al-Aqsa” intifada, was seen as infuriating. The latest intifada which began in October, 2015, is viewed as annoying and as a justification for

\(^{34}\) Aronoff, Y. S. (2014). The Political Psychology of Israeli Prime Ministers When Hard-Liners Opt for Peace (pp. 248). at location 1220 and throughout


\(^{36}\) In October, 2015, I was in Israel when this uprising was just beginning. I spent several days on the West Bank. On a number of occasions my driver/guide advised that he was uncomfortable being on certain roads in the West Bank. He prudently turned around and took another root. It was only when I returned to Jerusalem that I learned that a new uprising was beginning.
not negotiating but not much more.\textsuperscript{37} It is difficult to believe that the Palestinians can see violent activity as a viable method of bringing pressure on the Israelis.

It is this trajectory which is so pertinent and which differentiates the Israeli-Palestinian conflict from those that have already been discussed and those that will be discussed below. Between the separation barrier and the increased tactical advantage of Israeli security forces together with the decreasing ability and coordination of the Palestinians as a terrorist organization, it is difficult to see when or how the Palestinians will present a terroristic threat sufficient to cause Israel to change its negotiating strategy.

Prior to discussing some additional treaty negotiations, it is appropriate to examine some general important factors which have effected several end-of-conflict treaties. Author Sumantra Bose has made several interesting observations about these end-of-conflict treaty negotiations. First, where the conflict is an ethnonational conflict over claimed sovereignty by both sides, it is necessary to have a third party to mediate the negotiations.\textsuperscript{38} This mediation can range from mere facilitation such as the role of Norway in the Oslo Accords, to the type of intervention which was demonstrated by Dr. Ralph Bunch in the Armistice of 1948 between Israel and Egypt.

Various entities have served the role of third-party mediators since the end of World War II. The U.N. in Cyprus and 1948 Israel-Egypt; Norway in Sri Lanka and the Oslo negotiations and the

\textsuperscript{37} A recent Pew Research Center survey found that only about 38\% of Israelis believe that terrorism in general is the most significant problem facing Israel. Compare this to about 66\% of American Jews who believe that security concerns remain Israel’s most significant problem. See Pew Research Center. (2016). \textit{American and Israeli Jews: Twin Portraits} From Pew Research Center Surveys. Retrieved from http://www.pewforum.org/2016/09/27/american-and-israeli-jews-twin-portraits-from-pew-research-center-surveys/

United States in Portsmouth and Israeli-Palestinian conflict have all played the role of mediator with various degrees in the intensity of their involvement and with various degrees of success. Bose holds that the identity of the third party mediator is less important than the nature of the third party’s role.  

In addition Professor Bose points out that it is not only the skill and persuasiveness of the third party that is important, but also the presence of the third party can preserve the negotiations when “the bitterness and distrust between the parties in conflict will combine with the vested interests of spoilers hostile to settlement to overwhelm prospects of peace.”

Bose’s book, Contested Lands, also makes another very important point regarding these types of ethnonational end-of-conflict negotiations. Dr. Bose questions the premise of the widely presumed efficacy of "incrementalism"—a strategy of step-by-step progress toward a final settlement that emphasizes gradual "confidence building" between the parties in conflict through a phased, sequenced process that tackles the relatively minor and less-contentious issues first.

Bose asserts that an incremental approach can become merely a way of postponing true engagement between the parties and a way of avoiding the crucial issues which separate the parties. This position can surely be seen retrospectively when applied to the Oslo Accords. By agreement, the Oslo negotiations were not intended to deal with the issues of borders, refugees or Jerusalem.

Clearly this type of incremental approach allowed the spoilers, the right wing and settler movement in Israel and Hamas, Jihad and other violent entities on the Palestinian side to put an end to negotiations any time they saw fit. Rockets from Gaza, or knifings by individuals from the West

---

39 Ibid. 37
40 Ibid. 36
41 Ibid. 42
42 Ibid. 45
Bank or the announcement of new building permits or expansion of settlements will surely and predictably put an end to any progress in negotiations. The recent announcement that the Knesset will retroactively legalize even the hilltop trailers as legal settlements can have no other outcome.\textsuperscript{43}

It may well be true, as Bose suggests, that if the negotiation process proceeds agonizingly slowly, it it likely to fail and might result in a new round of armed conflict and/or violence. Moreover, such a petty pace also serves to increase the ability of the spoilers to end the process.\textsuperscript{44} Bose does acknowledge that it may well be necessary for the implementation of a negotiated treaty to be performed in stages, the actual negotiations should not be prolonged or incremental.\textsuperscript{45}

On the other hand, in the Israeli-Palestinian negotiations, where the parties did not acknowledge each other’s right to exist, it is difficult to imagine a successful negotiation which did not start with baby steps. The Madrid Conference permitted the parties to negotiate while maintaining the charade that the PLO did not exist or only existed as a terrorist entity with no right to represent the Palestinian people. The Oslo Accords allowed the parties to negotiate while maintaining the charade that the Government of Israel would never negotiate with a terrorist entity. It was only at Camp David in 2000 that the parties could even acknowledge that negotiations were taking place dealing with the essential elements of an end-of-conflict treaty. It is submitted that while it is true that in the best of all possible worlds, incremental negotiations are not the best way forward, there are times when reality must overtake best practices.


\textsuperscript{44} Bose. Ibid. 47

\textsuperscript{45} Ibid. 51
We shall now examine, briefly, several other treaty negotiations which have given rise to end-of-conflict treaties.

1. Sri Lanka and the Tamil Tigers

The conflict in Sri Lanka is, like so many of the conflicts discussed here, based squarely on religious differences. Like in India, a large part of the Tamil population is Hindu with a large minority Christian, mostly Roman Catholic. The majority population of the island land mass of Sri Lanka is Buddhist.

The conflict in Sri Lanka bears a macabre similarity to the Israeli-Palestinian conflict. Between 1980 and 2003, only the Tamil Tigers used the tactic of suicide attacks more frequently than did the various Palestinian movements – 76 Tamil suicide attacks to 54 Palestinian attacks.

The conflict in Ceylon-Sri Lanka may have begun with a new constitution which became effective in 1972. That constitution renamed Ceylon as Sri Lanka and effectively reaffirmed that the Tamil minority were inhabitants with no rights. Ever since independence in 1948 efforts to strip the Tamil of the rights of citizenship were in effect. The Sinhalese majority viewed the Tamil as being in Ceylon, now Sri Lanka, as descendants guest workers who should be returned to India.

Few concepts make populations more intransigent than when it views the other as being on the land

---

46 It is interesting to note that despite the Hindu religious custom of cremating the dead, the Tamil have chosen to bury their Hindu “martyrs” in Christian cemeteries. It would seem that the value of a visual symbol of martyrdom is greater than the religious rite of cremation. See Bose, Ibid. location 99

47 Ibid. 99

48 Ibid. 101 citing study by Robert Pape.

49 Ibid. 146

50 Ibid. 154
illegitimately.

Dr. Bose has noted yet another similarity between the conflict in Sri Lanka and the Israeli-Palestinian conflict. The similarities are obvious for all to see.

After 1956 Sri Lanka became an "ethnic democracy"-to deploy a term used by Israeli political scientists to describe the character of the State of Israel. This type of state combines democratic institutions and procedures with the systematic, encompassing dominance of one ethnonational community (in both cases the majority, since Jews are almost 80 percent of Israel's population).

Beyond questions of citizenship and equal rights, the ethnicization of the state opened up a deep conflict over a land and the right to that land. Once Sri Lanka was defined as a sacred geographic space giving its Sinhalese-Buddhist citizens privileged status, Tamils responded from 1956 onward with a defensive political construct of their own, by claiming that the north and east of the island constitute a traditional Tamil "homeland" in which Tamils are entitled to regional autonomy, if not sovereignty.\(^{51}\)

The similarities play out in terms of land use as well.

There is a clear pattern over several decades of many new Sinhalese settlements being placed in areas of strategic importance in the conflict over the land-for example, in the multiethnic eastern district of Trincomalee, which is contiguous to the overwhelmingly Tamil northern province, and in parts of the north close to the junction with the east.\(^{52}\)

Just as the Israeli right wing has continued to grow more powerful and more intransigent, so too have the toughest, most anti-Tamil positions taken the majority of seats in the parliament. As in Israel, the Sinhalise try to sway the voters by outdoing each other to be the most populist and most intransigent (pro-settler movement) and most anti Tamil (Palestinian).\(^{53}\)

\(^{51}\) Ibid. 207-209

\(^{52}\) Ibid. 220-222

\(^{53}\) Ibid. 239
Tamil (Palestinian) voters were not a factor that needed to be taken into consideration by vote-seeking Sinhalese (Likud and other right wing) politicians. To the contrary there existed an incentive to appeal for votes by taking strongly anti-Tamil (anti-Palestinian) chauvinist positions.\(^{54}\) \(^{55}\)

The analogy between the Sri Lankan conflict and the Israeli-Palestinian goes deeper yet. The mission of the Tamil Tigers was set forth in the election platform of the Tamil party. It would be the mission of the party to “establish an independent, sovereign, secular, socialist state of Tamil Eelam that includes all geographically contiguous areas which have been the traditional homeland of the Tamil-speaking people of the country.”\(^{56}\) That mission of the Tamil Party seems to be almost exactly what the PLO has been demanding since 1993. As we can see, the problems and hostile relationships which are well known concerning the Israeli-Palestinian conflict are hardly unique.

However, there is now at least one major difference between the Sinhalese-Tamil conflict and the conflict being discussed herein; the exhaustion which marked the south Asian conflict by 2001\(^ {57}\) is all on one side today in Israel-Palestine; on the Palestinian side. Journalist Max Fisher writing in *The New York Times* recently noted that “the status quo has, for most Israelis, become relatively peaceful and bearable. Many see little incentive for adopting a risky and uncertain two-state solution, leaving Mr. Netanyahu with scant reason to risk his political career on one.”\(^ {58}\)

\(^{54}\) Ibid. 242

\(^{55}\) The quote is taken from Dr. Bose’s description of the political situation in Sri Lanka. The parenthesis have been placed to allow the same discription to apply to the Israeli-Palestinian conflict.

\(^{56}\) Ibid. 263

\(^{57}\) Ibid. 445

Another difference may also be the role of a regional power, India, in the conflict. Beginning in 1983, India authorized covert support for their co-religionists, the Hindus in the Tamil Tiger movement. At this time, there is no regional power in the Middle East that can risk the wrath of Israel by supporting a Palestinian terrorist movement with the exception of Iranian support for Hezbollah and to a lesser extent Hamas. Perhaps that is why former Prime Minister Barak recently spoke, if just cryptically, about the changing relations between Israel and some of her Middle Eastern Sunni neighbors. This same position was reaffirmed by Secretary of State John Kerry on December 28, 2016 in a speech at the State Department.

In this same regard, the Sri Lankan government sought assistance from China, Pakistan and, most interestingly, from Israel whose help in counter-terrorism efforts was welcomed. In fact, it was Israeli intelligence agents who suggested fortifying the Sinhalese settlements in strategic areas of the Tamil areas. By the mid-1980's many Tamils hoped for an Indian military intervention, similar to the Turkish intervention in Cyprus in 1974. This notion that there will be some third party who will intervene, will come riding in on a white horse to save the Tamil dream of sovereignty is a very strong theme in the Palestinian thinking in all its negotiations. This is a topic which will be discussed at length in later chapters of this dissertation.

59 Bose, Ibid. 318

60 As an aside, I would note that there is now one element that can upset Israel’s comfort with the status quo. The rise of an aggressive and unrestrained Russia in the Middle East has the potential to change the calculus for Israel.


63 Bose, Ibid. 324
In 2001, both sides perceived that there would not be a military solution to the conflict. Unfortunately, there was no apparent and/or willing major power who was willing to serve as a mediator or even a facilitator.\(^{64}\) In this regard, the situation differed from the Israeli-Palestinian conflict. However, in the absence of a major power to serve the necessary position, Norway, as it had done for the Oslo Accords, tried to step in and fill the void.\(^{65}\) The difficulty with a relatively small power serving as the facilitator is that when negotiations stall or breakdown, they lack the resources or the hard power to bring the sides together.\(^{66}\) This may be why it is often said that the United States is the “indispensable party”.

The Sri Lankan conflict was resolved by creating an autonomous region in the north and east for Tamil self-rule. The Tamil have authority over internal security (similar to the Oslo Accords); they have their own army, navy and a nominal air force.\(^{67}\) These are attributes which will almost definitely not be part of an Israeli-Palestinian end-of-conflict treaty. While the definitions of “demilitarized” have not been explicitly agreed to, there is some agreement that a Palestinian state will have no army, navy or air force. Rather, there will likely be a strong security force.\(^{68}\) The Tigers are transitioning from a fighting force into a political player.\(^{69}\)

---

\(^{64}\) Ibid. 416  
\(^{65}\) Ibid. 416-533  
\(^{66}\) Ibid. 533  
\(^{67}\) Ibid. 554  
\(^{69}\) Bose, Ibid. 558
2. Cyprus

So far this dissertation has discussed several conflicts and discussed some of the ways that they either resemble or differ from the Israeli-Palestinian conflict. It will be the task of this section to examine an attempt at settlement of a religio-ethnic-nationalistic conflict which played out on the island of Cyprus. However, instead of examining the negotiations of a successful treaty negotiation, I will attempt to examine a series of proposals for resolution which only briefly came into fulfillment and subsequently brokedown.

The terms of the proposed settlement were quite intricate and detailed. I have included Dr. Bose’s outline of the plan in the Appendix.\(^70\) The point of including the details of this settlement is to show that even when the smartest and most learned political scientists put together a solution for a settlement of a conflict, no matter how well thought out and detailed it may be, it still requires people of good will to decide that a peaceful settlement is better than a continuation of long-standing hostilities. In Cyprus, the most important initial step was that each side give up enosis on the Greek side and taksim on the Turkish side. That is that the Greek Cypriots would have all of Cyprus governed from Greece and the Turkish Cypriots would have all of Cyprus governed from Turkey. This one winner desire of each side was written out of the 1960 Constitution.\(^71\)

In this case, Cyprus remains substantially unresolved although there is a working relationship on the ground between Greek Cypriots and Turkish Cypriots. The leaders are beginning intensive

\(^70\) Please see the outline of the Cyprus Plan set forth by Dr. Bose in the Appendix.

peace talks with reunification as the goal on January 9, 2017. One of the many outstanding issues is the “right of return”. A UN representative suggests that any ultimate solution will need a referendum of all the people of Cyprus to ultimately decide on these issues. However, regardless of the fact that there remains a division of the population on the island, where the Turkish Republic of Northern Cyprus (TRNC) is recognized only by Turkey, there are now ongoing business transactions between the Turkish Cypriots and the Greek Cypriots on the island predominantly in Nicosia and other bi-ethnic cities. Here again, Cyprus may finally be coming to some sort of agreement because both sides find an agreement advantageous and both sides are exhausted by the decades long struggle.

This type of agreement may resemble, in some ways the treaties concluded in recent years in Bosnia (November-December 1995) and Northern Ireland (April 1998). We shall briefly examine those treaty negotiations below.

3. Northern Ireland and Bosnia

A full discussion of the Northern Ireland and Bosnian conflicts is not possible in this dissertation. It is far too complex and detailed to be examined as merely a part of a dissertation on

[2017, 2017-01-09]. New Round of Cyprus Peace Talks to Start; Best Chance Yet to End Division of Cyprus; Cyprus Reunion: “Citizens will Decide” says UN [BBC Radio Newscast]. Retrieved from http://www.bbc.co.uk/programmes/p04n3pcw

Bose, Ibid. 636

Bose Ibid.

BBC Newscast, Ibid.

Bose Ibid. 790
the Israeli-Palestinian conflict. Therefore I shall simply attempt to draw some contrasts between those conflicts and the topic herein. First and foremost, both the Northern Ireland and Bosnian conflicts are European conflicts in their totality. Therefore, the actors in both the Northern Ireland conflict and in the Bosnian conflict were European.

This fundamental difference should not be thought of as simply a location issue. Again, it is I have stated, while for purposes of this dissertation Israel has been considered a European nation but Palestinians or the peoples of the occupied territories are not European, neither in geography nor sensibility. It is submitted that this fundamental difference must be placed at the forefront of any subsequent negotiations. Thus I have concluded that a detailed study of the end-of-conflict treaty negotiations in Northern Ireland and Bosnia are of much more limited value than many others have suggested.

Nor am I alone in this conclusion. Dennis Ross, a senior U.S. Middle East Negotiator under multiple administrations and his co-author, David Makovsky have likewise concluded:

Second, and again keeping in mind the question of whether or how the example of Northern Ireland might be applicable to the Middle East, it is worth noting the instrumental role that the Irish government played in the peace talks. This could be instructive in the context of the Middle East. Dublin has consistently provided the type of leadership that the Arab states, sadly, have not.77

Ross and Makovsky noted another and perhaps more important distinction. They noted that the Irish government and the British government were active participants in ending the violence in Northern Ireland. Even under the Arab Peace Initiative, the Arabs have not shown any willingness to engage affirmatively in bringing the Palestinians to the negotiations but rather suggest that if Israel

permits a Palestinian State, the Arab States will engage in those diplomatic and economic relationships that are usual and customary in relations between states; thus placing the onus on Israel to be the primary actor.\textsuperscript{78}

It is also worth noting another difference which Ross and Makovsky pointed out. At no time did the IRA nor Sinn Fein ever state that one of its goals was the destruction of Great Britain. However, it is the stated goal of non-state actors such as Hizbollah, Hamas and Islamic Jihad that Israel is illegitimate and must be destroyed. Needless to say, these groups can not and will not be included in Israeli-Palestinian negotiations.\textsuperscript{79} The only role these actors serve are as spoilers to any productive negotiations and to any proposed peace settlement.

\begin{itemize}
\item a. Northern Ireland
\end{itemize}

George Mitchell, former United States Senator and peace negotiator is the person most associated with the “Good Friday” settlement of the conflict in Northern Ireland. Senator Mitchell has dedicated his post-Senatorial life to the most difficult and intractable peace negotiations of our time. He has written two books concerning his negotiations in bringing about the Northern Ireland resolution. His first, \textit{Making Peace},\textsuperscript{80} was published in 1999 and is an in-depth analysis of the peace treaty negotiations. The second, \textit{The Negotiator: A Memoir}\textsuperscript{81} is more about Mitchell’s thoughts and understandings of the Northern Ireland negotiations.

Since the subject matter of Northern Ireland has been the topic of so much writing and

\begin{itemize}
\item\textsuperscript{78} Ibid. 4558-04569
\item\textsuperscript{79} Ibid. 4512-4513
\item\textsuperscript{80} Mitchell, G. (1999). \textit{Making Peace} (pp. 208).
\item\textsuperscript{81} Mitchell, G. (2014). \textit{The Negotiator: A Memoir} (pp. 379).
\end{itemize}
analysis by first party witnesses as well as scholars, I will not attempt to deal with the well known details in this dissertation. However, it is appropriate and interesting to analyze what the PA thought of the Northern Ireland negotiations and of its principle negotiator, George Mitchell. On May 26, 2009, members of the Negotiations Support Unit (NSU) of the PA wrote a critique of the book, *Making Peace*,82 by George Mitchell. It is entitled, “Selected Experiences and Lessons: George Mitchell in Northern Ireland”.83 This was done because George Mitchell had recently been appointed as President Obama’s envoy to the Middle East peace process.

It is submitted that the NSU looked upon their task of analyzing the Mitchell Parameters as a way of overcoming any “Mitchell Israeli-Palestinian Parameters” which may be coming. The PA recognized that

> The issues in the Palestinian-Israeli conflict are different and unique. It is important to recognize, however, that Mitchell’s approach today will be closely tied to his assessment of those issues and the direction they suggest the conflict will be taking in the near term.84

The Palestinians recognized that their conflict was sufficiently different from Northern Ireland so that the guidelines for negotiation must be different. However, I do not believe that the PA fully comprehended some of the most substantial differences. Perhaps the most substantial will be discussed in the next few paragraphs. Again it is important to remember that unlike the Northern Ireland conflict, the Israeli-Palestinian conflict is not one where the parties are each European and each supported by a European state.


84 Ibid. 1. Taken from the NSU commentary on the Mitchell parameters.
Perhaps the most consequential difference between the Northern Ireland and Israeli-Palestinian conflicts is set forth in the first Mitchell Principle. He states that there must be adherence to fundamental “principles of democracy and non-violence”. As to the first of these two fundamentals, democracy, there can be little hope. If the peace process needs to wait until democratic principles abound in the Middle East, it may well be a very long time. Of all the democratic uprisings associated with the Arab Spring which began in December 2010, only in Tunisia is there some remnant of a democratic movement. In the remainder of the Arab Middle East, democracy is nowhere to be found. Even the suggestion that democracy might take hold in Syria has produced hundreds of thousands of deaths and millions of internally displaced persons.

This fundamental difference between the Israeli-Palestinian conflict and Mr. Mitchell’s prior experience, it is submitted, arises from a mindset that is fundamentally different. This is not to say that a commitment to non-violence needs to take a back seat. It does not. Negotiations can’t go forward at the point of a gun. Jan Egeland, the experienced Norwegian negotiator who was largely responsible for facilitating the Oslo Accords takes a similar tact as George Mitchell on the issue of non-violence. On whether negotiations can go forward with an armed paramilitary, Egeland states:

The latter are criminal terrorist organizations that should be met with only to discuss the laying down of arms. The random killing of fellow citizens in a society should not lead to negotiations in the presidential palace. [emphasis added]

George Mitchell used a very effective and useful tool in negotiating the Northern Ireland peace agreement. The NSU referred to this approach as the “one-text” procedure. First Mitchell and

---


his group listened to all sides for many days. They listened until the sides were tired of hearing the same thing over and over again and they may have been equally tired of saying the same things over and over again. It was after hearing this long litany of grievances and demands from each side that Mitchell put together a draft package. This one-text approach would appear to lend itself to a conflict where the parties have been negotiating intermittently for twenty-four years. By now, each party must be sick and tired of hearing the same positions asserted every few years. More importantly, by now each party basically knows where the resolution to most issues should end up. Both the Israelis and the Palestinians know where President Clinton ended up in 2000-2001 and where Olmert and Abbas ended up in 2008-2009. As a result, there should be no large and/or substantial surprises at any draft of a “one-text” prepared by a third party mediator.

George Mitchell used this one-text as the working draft for subsequent drafts. This approach led to a negotiated settlement for a conflict that was felt to be intractable – a conflict involving religious differences, political differences and cultural differences. This approach seems very well suited to the Israeli-Palestinian conflict. If the Clinton Parameters taught nothing else, it certainly taught, in broad strokes, the issues that will need to be addressed by any final status agreement.

President Clinton’s concluding remarks at the White House (The Clinton Parameters), on December 23, 2000 as set forth in The Palestine Papers, were made in the presence of Sa’eb Erakat, Mohammad Dahlan, Sarnih Abed, Ghaith Al-Omari from Palestine and Shlomo Bin Ami, Gild Sher,

\[\ldots\]

\begin{footnotes}

\footnote{Mitchell, G. (1999). Making Peace, 2468}

Penny Medan, Shlomo Yanai, Gidi Grinstein from Israel. They make this position abundantly clear. I have used the wording directly from *The Palestine Papers* so that there can be no doubt as to what each party knows and for how long each party knows. These same parameters have been consistently set forth in several sources including *The Missing Peace*\(^90\) and *My Life*.\(^91\) President Clinton said:\(^92\)

I believe that this is the outline of a fair and lasting agreement.

It gives the Palestinian people the ability to determine their future on their own land, a sovereign and viable state recognized by the international community, Al-Quds as its capital, sovereignty over the Haram, and new lives for the refugees.

It gives the people of Israel a genuine end to the conflict, real security, the preservation of sacred religious ties, the incorporation of 80% of the settlers into Israel, and the largest Jewish Jerusalem in history recognized by all as its capital.

This is the best that I can do. Brief your leaders and tell me if they are prepared to come for discussions based on these ideas. If so, I would meet them next week separately. If not, I have taken this as far as I can.

These are my ideas. If they are not accepted, they are not just off the table, they also go with me when I leave office.

It is interesting to note that this one-text approach is both similar to and differs from the approach used by Dr. Ralph Bunche in 1948 with respect to the successful negotiations between Israel and Egypt. At one point he advised that he was preparing a draft agreement and would have

---


it ready the next morning. This draft was Dr. Bunche’s one-text.93

Dr. Bunche also used another effective technique. He took each minor detail of what was to
be discussed and placed it in its own small agenda. By breaking down the issues into very small bits,
he found that ideology became less compelling. Dr. Bunche then asked each side to sign an
agreement on the agenda to be discussed. As with classical techniques of salesmanship, he was able
to get each side to get used to agreeing and to signing an agreement.94

Whenever they got together, you’d always find that there was still a
gap between them. It was always a matter of timing, always a matter
of finding out when it would be appropriate to reduce a discussion to
a formal, written draft of one point. We never would throw a whole
draft at them at the beginning—that would’ve scared them to death.
Finally, after we had gone pretty far along, we’d give them the first
draft of a complete agreement [on that point.] that had to be modified
over and over. It was just that you had to talk everything out with
them beforehand, separately and together—a matter of their going
back to consult with their governments, of compromises and more
compromises.95

We now return to the thoughts of the Palestinian NSU on the Northern Ireland negotiations.
The Palestinian viewed the Mitchell Parameters as being completely unique to the Northern Ireland
negotiations. Their review of Mitchell’s strategy seemed directed only at learning how best to game
Mitchell and not how best to reach an agreement.

It is important to speculate what principles Mitchell might devise for
the Palestinian-Israeli conflict. Once identifying possibilities, the
Palestinians might be in a position to influence the principles

93 Stanton, F. (2010). Great Negotiations: Agreements that Changed the Modern
World. location 2356

94 Ibid. 2407

95 Ibid. 2413-2419
themselves and the timing of their promotion.⁹⁶

The NSU noted that Mitchell came with a draft package in 1997. They expressed some hope that a draft package could be provided by President Obama and/or Secretary Clinton which could serve the “one-text” as was the case in the Northern Ireland negotiations. As will be discussed below, it would seem that the PA would be amenable to a solution imposed by an outside party. The one-text approach may be a part of this PA desire.⁹⁷

As will be shown below, the PA puts great emphasis and trust and authority in documents, or official statements of almost any third party. This dissertation will show that the PA has become tied to all U.N. General Assembly and Security Council Resolutions and treats them as sacrosanct. The PA seems to have become incapable of referring to issues involving borders without referring to “1967 borders” even though that border was simply an armistice line established to stop the fighting in 1948. That border, such as it was, was only in effect for nineteen years. The PA continuously brings to the fore the Arab Peace Initiative notwithstanding the chaos which is the current Middle East. The reasons for this undue reliance upon policies of third parties will be discussed below.

It is remarkable just how lacking in internal insight and introspection the NSU and the PA seems to be. They seem to admire and take heed of Mitchell’s needing the support of the respective publics based upon communication from the leadership to the broader public. Using the NSU’s words: “Whatever process established, it must encourage communication to the public and not just

---


⁹⁷ Ibid. 6
secrecy – even for the very sensitive issues (Jerusalem, settlements and Refugees).” Yet despite this admonition there does not seem to be a single instance of the PA advising the Palestinian public that all Refugees will not be returning to Israel proper, among other positions. It is submitted that this lack of internal honesty is one of the largest single obstacles to a negotiated settlement.

The Northern Ireland negotiations seemed to build a momentum of peace despite the violence which escalated as an agreement neared. This momentum is absent in the Israeli-Palestinian negotiations because the lack of honesty and transparency makes compromise all the more difficult. There is a long history regarding a lack of transparency in the relationship between Arab governments and the Arab public with respect to Israel. As far back as 1948, the Egyptian government had been telling the public that the Egyptian army was at the doorstep of Tel Aviv when, in fact, an entire division was being held by the Israelis. Thus, any concessions would be seen as treasonous.

Yet again, the NSU and the PA seems to have learned the wrong lessons from Mitchell’s involvement in the Northern Ireland conflict. Since it saw that Sinn Fein was included in the negotiations, it drew the conclusion that Mitchell would want Hamas to be included in the discussions. The fact that Sinn Fein disavowed violence before it could be included in the negotiations seemed to been lost on the NSU. The fact that Hamas sees Israel’s existence as

---

98 Ibid.

99 Photographs of old men and old women holding large metal keys which represent the home they left in 1948 still abound. Each represents the aspiration that these people will be returning to the home they left in 1948.

100 Stanton, F. (2010). Great Negotiations: Agreements that Changed the Modern World. locations 2243
illegitimate is likewise ignored by the NSU.¹⁰¹

In short, it is submitted that no prior experience in end-of-conflict treaty negotiations is without value. In fact the approach taken by Mitchell in Northern Ireland can provide many insights on how best to proceed in the Israeli-Palestinian negotiations. However, what it does not provide is a blueprint or recipe for achieving a resolution. Only the parties can do that.

b. Bosnia and the Former Yugoslavia

There is a story about a man who is having a great deal of trouble with his mule. He can’t seem to get the mule to carry anything. The man then hears of a person who can get mules to become compliant, kind of a mule whisperer. He hires the mule expert for his own mule. When the mule obedience master arrives, he is paid and goes directly to the mule. He opens his case and takes out a large two inch by four inch wood beam. With the two inch by four inch beam he gives the mule a tremendous wallop. When the owner asks what the master had done, the master said, “First you have to get their attention.” The mule then becomes completely compliant. That, in a nutshell, is the negotiations for Bosnia and the Former Yugoslavia.

Nothing focuses the mind like several rounds of NATO bombing. On January 13, 1993, Richard Holbrooke, the person most associated with the negotiations which ended the bloodletting in the Former Yugoslavia, wrote a memo to the soon-to-become Secretary of State Warren Christopher and Tony Lake. Ambassador Holbrooke suggested a very bold approach indeed:

DIRECT USE OF FORCE AGAINST THE SERBS:

Bombing the Bosnian Serbs and even Serbia proper if necessary would send the proper message. However, the actions must be

effective, both militarily and politically!… If done only to show the
world we are “doing something,” minor bombing— like the
enforcement of the no-fly zone— might be a quick public relations
success, but it would be followed by a long-term disaster.\textsuperscript{102}
[emphasis added]

Of course in Bosnia, the effectiveness of bombing in order to drive the parties to the
negotiation tables was perhaps too effective. The Bosnians seemed to be so pleased with the
bombing that they seemed to be more concerned with demanding that NATO bomb the Bosnian
Serbs than they were with deciding the very nature of post-war Bosnia. In fact, one of the most
difficult positions to reach was with the Bosnians themselves. Did they want a single Bosnian state
or a state partitioned into small (Balkinized) Serbian, Croatian and Bosnian ethnic states? Of this,
the Bosnian leader, Bakir Izetbegovic, was unsure. What he was sure of was that he wanted more
bombing of Bosnian Serbs.\textsuperscript{103}

Perhaps the most useful information provided Holbrooke was his analysis of the people who
had incited and participated in the ongoing brutality. Holbrooke understood that under the extremist
facade of some of the leaders was a mere wish for personal power. Such an insight was applied to
the most infamous of the leaders, Slobodan Milosevic. “Because of his success in stirring up Serb
fanaticism, he was widely regarded as an extreme nationalist, but in fact he had no deep comitment
to nationalism: he had merely exploited it to gain power.”\textsuperscript{104} Holbrooke’s analysis went further, “I
was beginning to get a sense of these men: they were headstrong, given to grandiose statements and

\textsuperscript{102} Holbrooke, R. (1998). \textit{To End a War: The Conflict in Yugoslavia To End a War: The Conflict in Yugoslavia-America's Inside Story- Negotiating with Milosevic} (pp. 465). Kindle locations 1226-1230

\textsuperscript{103} Ibid. 2054

theater, but they were essentially bullies. Only force, or its credible threat, worked with them.”

Holbrooke’s approach to public disclosure can also serve as guidance for other negotiations. “...never overstate the achievement; always assume the worst about the behavior of the parties; and repeatedly portray the glass as half empty rather than half full.”

Certainly the Bosnian negotiations have become most associated with “Dayton”. As noted by Holbrooke:

Since November 21, 1995, “Dayton” has entered the language as shorthand for a certain type of diplomacy— the Big Bang approach to negotiations: lock everyone up until they reach agreement. A “Dayton” has been seriously suggested for Northern Ireland, Cyprus, Kashmir, the Mideast, and other festering problems.

This Dayton approach was unusual to say the least. It may have been the uniqueness of the circumstances at Dayton which allowed this approach to succeed. The effectiveness of this approach was dependent upon two very important elements. First and foremost, the knowledge, experience and sound judgment of the mediator needed to be of a very high order and those skills needed to be known and understood by each of the participants. Included in this understanding was both the reputation of the mediator and knowledge that the mediator was speaking for the President of the United States and for NATO.

Second, each of the participants needed to have authority to actually settle the conflict without going up a chain of authority. In Dayton, this was the case. Each of the warring parties was represented at Dayton by its political leader. As nasty as some of those leaders were, at least they

105 Ibid. 6679-6680
106 Ibid. 6578-6580
could not hide behind the need to consult with their government back in Serbia or Croatia or Bosnia. Each leader, ultimately had to make a decision for himself.

This circumstance is unusual. Negotiating with the person with authority to conclude the deal is a necessary but not sufficient condition. At Camp David in 2000, that condition was met. Both Barak and Arafat had the authority to either conclude a deal or to, at least, accept an outline and continue to negotiate. Only one, Barak, was willing to step up and accept a deal. The other, Arafat, lacked the courage to accept and lacked the courage to reject the deal. President Clinton had no two by four beam in 2000 at Camp David as Holbrooke had in Dayton.

D. Chapter Conclusion

Perhaps the most important lesson learned from this chapter is that fundamentally very little has changed in treaty negotiations in the last 3,500 years. The issues of security and alliances against common enemies and fair and open dealing between allies remain the concerns of treaty negotiators up to this day. Further, as noted by Kant, there is a fundamental difference between a mere cessation of violence and a treaty of peace. Kant, cautions that while conducting war, one should never commit such atrocities at to make a conflict resolution treaty impossible.

This chapter has examined treaty negotiations between European nation-states (Bosnia and Northern Ireland) and between non-European adversaries (Sri Lanka) as well as a conflict where one party is European and one is not (Cyprus). In each of these conflicts, religion plays a critical role in dividing the sides and in reaching a solution. Each conflict provides hope that religious differences will not impose an everlasting obstacle to peace.
Perhaps the most important lesson to be learned is the critical role of a third party mediator in these conflicts. The best example of this type of strong mediation process was demonstrated by Dr. Ralph Bunch in concluding an agreement between Israel and Egypt in 1949. While Richard Holbrooke also demonstrated a strong hand in resolving the Bosnia conflict, he had and used powerful NATO air forces to strengthen his hand. In each of these treaty negotiations discussed at length in this chapter, exhaustion of both the military and civilian participants played an important role in coming to a resolution. In the Israeli-Palestinian conflict only one side, the Palestinian side, can be seen as exhausted.
XII. Other Israeli-Palestinian Negotiations

A. Chapter Introduction

This chapter will examine other historical and contemporaneous Arab-Israeli treaty negotiations in order to determine what makes the Israeli-Palestinian conflict different from all these other conflicts. Taking 1967 as the beginning point of the present Israel-Palestine conflict, we can see that once the peace treaties with Jordan and especially with Egypt were finalized, this conflict was ripe for resolution. If we take the Madrid and subsequent Conferences as a starting point for actual treaty negotiations, we can see that attempts at conflict resolution between the Israelis and the Palestinians began in 1991 and has continued, albeit sporadically, since that time. However, it is important to keep in mind that in 1991, the myth of no negotiations with Palestinians was maintained by Israel and supported by the United States.¹

As we approach nearly a quarter century of fruitless negotiations², what can we discern about what makes these parties such intractable adversaries? Of course the history of treaty negotiations of peace treaties concerning the Arab-Zionist or Arab-Israeli conflict is much older than the last twenty-five years. Both the substance and results of these negotiations have produced similar and familiar results. For example, the treaty or peace negotiations between Israel and Lebanon, to the extent that Lebanon was an actual nation-


² In terms of a final Two State Solution.
state, which took place between December 28, 1982 and May 17, 1983 lasted for nearly five months and produced nothing more than a piece of paper termed a “Treaty.”

“The presence of so many elements that permitted negotiations to persist for the wrong reasons—that is, those other than for actually making peace—allowed these talks to progress all the way through ratification of a formal agreement, which then failed completely.”

A. Historical Analysis of Israeli-Arab Hostility

As has been previously stated, the Israeli-Palestinian conflict may have been substantially settled two and perhaps three and perhaps four times. Despite these efforts and apparent success, the dispute continues and optimism for resolution diminishes rather than expands. What is the reason for this futility? It is the primary goal of this dissertation to develop an understanding of the reason for the continuation of this conflict and perhaps, overly ambitiously, a suggestion for a more productive way to proceed.

In order to reach some conclusions regarding a better path forward, it will be a secondary goal of this dissertation to examine other historical and contemporaneous treaty negotiations in order to determine what makes this conflict different from all other conflicts. It will also be necessary to keep in mind some of the history of the Arab-Israeli conflict in its broader outlines.

---

This paper will examine other successful treaty negotiations to find out what are the missing ingredients in this set of negotiations that were present in past negotiations or, in the alternative, what qualities are present in the Israeli-Palestinian conflict that are not present in other resolved conflicts.

Our cursory look at past Israeli-Palestinian relations need to go back to the 1967 Six Day War. In an area of the world where misperception is the rule and not the exception, the period following the 1967 war is a prime example. In just six days, the Israeli military devastated the military resources of two of its most belligerent and hostile neighbors and occupied lands held by three of them. No person needed a sophisticated strategic or even tactical analysis of what had happened and what the “facts on the ground” were.

Perhaps the most succinct analysis of Israel’s understanding (misunderstanding) of the consequences of its victory in the Six Day War was set forth in Michael Oren’s Six Days of War: June 1967 and the Making of the Modern Middle East. The book contains the contents of an Israeli Government’s documented understanding of what it thought would be the

---

4 It would certainly be worthwhile to examine unsuccessful treaty negotiations as well. However, not surprisingly, there are very few first-hand accounts of failed treaty negotiations. Even speculative third-party writings are very few and of limited value. Further, many of the treaty negotiations that will be examined in this paper were unsuccessful until they were finally concluded.


6 Michael Oren, was born in New Jersey and was raised in West Orange, New Jersey. He has served as the Israeli Ambassador to the United States, was a member of the Knesset. Recently, he was appointed to a Deputy position in the Foreign Ministry. He is the author of what is considered the seminal book on the 1967 war.

7 Ibid.
consequences of the war. On June 19, 1967, just days after the war, Israel’s Government
Secretariat issued Decision No. 563 which outlined Israeli thinking at that time⁸:⁹

I. Israel's position with regards to the territories held by the IDF
   a. Egypt:
      Israel suggests the signing of a peace agreement with Egypt on the basis of
      the international boundary and the security interests of Israel. In accordance
      with the international boundary, the Gaza strip is within the territory of the
      State of Israel.
      
      This peace agreement will require:
      1. A promise of freedom of navigation in the Straits of Tiran and in
         the Gulf of Shlomo.
      2. A promise of freedom of navigation in the Suez Canal.
      3. A promise of freedom of overflight over the Straits of Tiran and the
         Gulf of Shlomo.
      4. Demilitarization of the Sinai Peninsula.
      Until the signing of a peace agreement with Egypt Israel will continue to hold
      onto the territories that it is currently holding.
      
   b. Syria:
      Israel suggests the signing of a peace agreement with Syria on the basis of the
      international border and the security needs of Israel.
      
      The peace agreement will require:
      1. Demilitarization of the Syrian heights currently held by IDF forces.
      2. A final promise of non-interference in the flow of water from the Jordan
         River's sources to Israel.
      Until the signing of a peace agreement with Syria, Israel will continue to hold
      onto the territories it is holding currently.
      
      c. To push off the discussion on the stance that will be taken in
         relation to Jordan.
      d. Refugees:
      1. Preparations for peace in the Middle East and the regional coordination
         that will come with it will open up chances for a regional and international
         settlement on a solution for the problem of refugees.
      2. Push off the discussion of ways to settle the problem of refugees.
         [emphasis added]

---
⁸ Ibid.
⁹ General Secretariat. (1967). Decision No. 563. Israel: GOI.
As can be seen from Decision No. 563, several important conclusions can be drawn as to Israel’s expectations in 1967. First, Israel believed that peace would be imminent. Israel looked at the strategic situation and assumed that any rational state would appreciate the soundness of its defeat. From 1967 on, it must have been understood that, for the foreseeable future, the Arab states and/or the Palestinians were not going to be able to change their fortune by military means. This was born out, eventually, in the 1973 Yom Kipper War.

However, neither the Egyptians nor the Jordanians, understood the relative strategic strengths, at least not immediately. The Syrians have never fully considered the strategic analysis at all, which is why the Syrians have never been interested in any solution that gave them anything less than the full return of the Golan and a toehold on the Sea of Galilee (Kinneret)\(^\text{10}\). The concept of compromise does not seem to play a part in the negotiation strategy of the Syrians\(^\text{11}\). Further, the concept that one must consider the relative strengths of the parties and the relative satisfaction with the status quo also does not seem to play a part in the Syrian negotiation plans.\(^\text{12}\)

As someone who has been involved in legal negotiations for more than forty years, as a litigator, as a mediator and as an arbitrator, I have learned that the one condition that is most likely to move a party from its present negotiating position to a more conciliatory


\(^{11}\) This concept will be discussed below with respect to the PA.

\(^{12}\) As will be discussed later, the Palestinian negotiators or at least the NSU, also fails to take these basic qualities into consideration.
position is not the understanding of that party’s relative strength but rather an understanding of a party’s relative weakness. Nothing sharpens the mind better than fear.\footnote{Zartman, I. W. (2008) \textit{Negotiation and Conflict Management: Essays on theory and practice}. Routledge Press. New York}

The second conclusion that can be derived from Decision No. 563, was the logical consequence of the aforementioned first conclusion, and was that occupation of the lands gained in the war would be, therefore, temporary. Since it was obvious to the Israelis that the surrounding Arab states would want their land returned and would conclude that military conflict was not likely to be successful, it was equally obvious that peace treaties would soon be at hand, and the occupation of those lands would be short lived. The Israelis clearly misperceived the situation then extant. The Israelis believed that rational decisions on the part of Egypt, Syria and Jordan, would lead to a peace treaty and a return of the conquered lands, Sinai, Golan Heights and the West Bank in return for peace.

These two Israeli expectations and assumptions: peace treaties with Egypt, Syria and Jordan in exchange for the return of occupied lands, did not materialize for many years, and in the case of Syria, has never materialized. An Israeli national unity government adopted a resolution that would have authorized Israel to withdraw to the international borders with Egypt and Syria in exchange for peace treaties but such authorization turned out to be unnecessary.

After the Six Day War, the Arab states took an approach which was diametrically opposite to the one that Israeli planners were expecting. There was no phone call. As to the Sinai, West Bank, Gaza and Golan Heights, they all remained under Israeli occupation. Clearly Israeli planning required revision.
Despite the crushing defeat in June, 1967, Gamel Abdel Nasser enunciated the historic “three no’s” at the Arab summit in September 1967; ‘no’ to recognition of Israel, ‘no’ to negotiation with Israel, and ‘no’ to peace with Israel. When it became apparent that Israel’s expectations for peace were not to be, Israel began to plan and build strategic military settlements in the West Bank and Gaza. These strategic military settlements became the settlements which have been so contentious for the past forty years. The Arab position also enunciated a position with respect to a Palestinian “country” insisting on the “the rights of the Palestinian people in their own country.” It is assumed that the statement means that the Palestinian people were entitled to their own country which was, by then, Israel.

---


15 On September 1, 1967, less than three months after the Six Day War, the Arab Ministers met in Khartoum, Sudan. There they adopted the Khartoum Resolution. In pertinent part, a translation reads:

3. The Arab Heads of State have agreed to unite their political efforts at the international and diplomatic level to eliminate the effects of the aggression and to ensure the withdrawal of the aggressive Israeli forces from the Arab lands which have been occupied since the aggression of June 5. This will be done within the framework of the main principles by which the Arab States abide, namely, no peace with Israel, no recognition of Israel, no negotiations with it, **and insistence on the rights of the Palestinian people in their own country.** [emphasis added]


17 See Khartoum Resolution.

18 See Khartoum Resolution.
This is yet another example of the PA and/or the Palestinians and/or the Arab states refusing to deal with the situation at hand, only to subsequently wish that they had accepted that situation and possible solution when it was available.

The Israeli historian, Benny Morris, has a somewhat different explanation for the location of the Israeli settlements both before 1948 and after 1967. In his seminal book, *Righteous Victims*, Mr. Morris suggests that most of the Palestinian villages were in the hill country where sources of water were located. Many were established on hilltops or cliffs for defensive purposes. Therefore, the coastal plain and the Jezreel and Jordan Valleys were relatively empty\(^1\).

Not only did Israel fully expect that as a result of its complete and devastating victory, peace would now be possible, Israel also now believed that its continued existence must logically be acknowledged by its Arab neighbors. All that was needed, so Moshe Dyan’s and Israel’s thinking went, was to sit by the phone and wait for front line Arab States to call.\(^2\) Israel is still waiting for that call, at least from Syria and the Palestinians and the remainder of the Muslim world, excluding Egypt and Jordan.

Beginning in 1969, Egypt began military planning which took into account Israel’s military superiority by launching a prolonged war of attrition based upon small, indirect acts of violence. The war ended in a stalemate after about a year and one half, nevertheless both sides could claim victory even though each knew that it had suffered losses with nothing


\(^{2}\) Oren, Ibid.
gained. From 1971 through 1973, Israeli strategic planning changed but did not improve. In July 1972, Egypt expelled Soviet advisors leading to the conclusion in Israel that Egypt would then be even further from a point where it could contemplate a military action against Israel.

This hypothesis or “conception” argued first that Egypt would not attack until the Egyptian Air Force could strike at Israel in depth and at Israel’s airfields in particular, and second, that Syria would attack only in conjunction with Egypt. This assessment of Egyptian thinking assumed rational cost-benefit calculation, as deterrence always does, and relied on evidence of Egyptian military thinking. Members of Egypt’s general command had argued through a large part of 1972 that until the Egyptian Air Force acquired advanced medium-range bombers to strike at Israel’s airfields, a general attack was impossible.

Clearly the Israeli calculus was flawed and in October, 1973, it failed. The Yom Kipper War nearly brought victory to Egypt and Syria and Jordan until the overwhelming military superiority of Israel was finally able to be brought to bare. When the fighting stopped, all the land occupied by Israel in 1967 remained in Israeli hands. Sometimes it takes more than one defeat to learn a lesson.

The area previously held by Jordan, the West Bank, was viewed by the parties as primarily dealing with refugee issues. Eventually Jordan renounced all ownership, sovereignty or governmental ties with the West Bank.

---


22 Ibid.

23 Perhaps the lesson to be learned is best summed up by a quote that is attributed to the famous American journalist, Damon Runyon, who said: “The race is not always to the swift nor the contest to the strong, but that is the way to bet.”
Then, suddenly, in July 1988, the Hashemite ruler shattered that assumption. To the astonishment of Israelis and Palestinians alike, Hussein announced that he was “bowing to the wishes” of the PLO by formally separating the West Bank from the remainder of his kingdom, and dismantling all legal and administrative links between Palestine and Jordan. Henceforth, no further subventions would be available for the Arab civil service in the territories, both the public or private institutions of any kind. The announcement was a thunderbolt. Nevertheless conceivably it might have been anticipated.\textsuperscript{24}

And so, since 1988, Jordan has asserted no rights with respect to the West Bank and, in fact, has signed a peace treaty with Israel which makes no claim for a return of West Bank territory\textsuperscript{25}. It is submitted that the 1988 act of King Hussein is a major reason that just discussing the Israeli-Palestinian conflict is so difficult. It is a primary reason that discussions of Israeli-Palestinian history are nearly impossible. It is also the reason that this side note of history makes even the vocabulary of peace negotiations so difficult. Perhaps a short list of these issues might demonstrate the difficulty:

- In the 1967 war, Israel defeated Jordan. At the end of the war, Israeli forces (“IDF”) occupied the West Bank and all of Jerusalem.
- The West Bank and East Jerusalem had previously been under the control of Jordan. The Armistice Line of 1949, the Green Line, ran through Jerusalem.

\begin{itemize}
\item Ibid.
\end{itemize}
• Jordan’s military forces occupied East Jerusalem as a result of the Armistice Line drawn at the end of the 1948-1949 war. The Armistice Line, to the extent it was a territorial border of sorts, was only in existence for nineteen years²⁶.

• Between 1920 and 1948 the entire area was controlled by Great Britain pursuant to the League of Nations Mandate²⁷.

• For centuries prior thereto, the entire area was controlled by the Ottoman Empire and ruled from Damascus and Istanbul²⁸.

• While it is true that beginning in 1967, Israel occupied the West Bank and East Jerusalem, it is unclear exactly what entity was entitled to control the West Bank at that time or immediately thereafter.

• The logical answer to the question as to what entity was entitled to control the West Bank in 1967 comes down to two possibilities: the first is Israel under the Law of Belligerent Occupation²⁹ and the second is Jordan, since the area was controlled by Jordan prior to the 1967 war.

• From 1967 through 1988, Israel occupied the West Bank under the Law of Belligerent Occupation³⁰.

---


²⁷ See the text of the Mandate in the Appendix.

²⁸ Lust, Ibid.

²⁹ Hague Convention of 1907.

From 1988 the question as to what entity was entitled to control the West Bank is not quite so clear.

What is clear is that *de jure* and *de facto*, Israel is the occupying force in the West Bank and that the PA represents the Palestinian people living there.

What is also clear is that the West Bank is governed by some hybrid of control by Israel, the PLO or PA and the settlement groups.

This outline has specifically and purposefully omitted any discussion of the status of Jerusalem.

Likewise, the city or the concept of Jerusalem was not mentioned in Decision No. 563 which clearly indicates that the Government of Israel did not and has never considered that it would relinquish the portion of Jerusalem that it gained in 1967, at least not without a final peace treaty.

According to Decision 563, The Golan Heights would have been returned to Syria in return for peace. The Israeli government had adopted the concept of “land for peace” four months before the UN Security Council adopted resolution 242 which is now associated with that concept. However, UNSC 242 does not exactly say what some of the negotiators seem to believe that it says.\(^\text{31}\) As with most UN resolutions, the terms of the document were drafted to create the most ambiguity possible because unanimity in the Security Council is required among the permanent members. The wording of the most pertinent provisions of the resolution itself are as follows:

1. **Affirms** that the fulfilment of Charter principles requires the establishment of a just and lasting peace in the Middle East which should include the application of both the following principles:
   (i) Withdrawal of Israel armed forces from territories occupied in the recent conflict;
   (ii) Termination of all claims or states of belligerency and respect for and acknowledgment of the sovereignty, territorial integrity and political independence of every State in the area and their right to live in peace within secure and recognized boundaries free from threats or acts of force;

2. **Affirms further** the necessity
   (a) For guaranteeing freedom of navigation through international waterways in the area;
   (b) For achieving a just settlement of the refugee problem;
   (c) For guaranteeing the territorial inviolability and political independence of every State in the area, through measures including the establishment of demilitarized zones;

As can be seen, both the plans expressed in UNSC 242 and Israeli Decision No. 563 have been left undone.\(^{32}\) Further, since UNSC 242 was passed on November 22, 1967, it preceded the decision of Jordan to relinquish all claims on the West Bank by twenty-one years. That is more time than the 1949 Armistice Line was used as a border. The “thunderbolt” of Jordan’s 1988 decision has made even discussions of these issues more problematical because the two sides can’t even agree on very recent history. It is submitted that the concept of “land for peace” itself has created difficulties for the parties that they have not yet learned to overcome.

On the one hand, we have the most concrete, both literally and figuratively, substance in the political sphere, land. On the other hand, we have the least concrete and most ephemeral substance in the political sphere, peace. On the one hand, we have the most

\(^{32}\) There is an old expression, “Man plans and G-d laughs” (“*Der mentsh trakht un got lakht*”).
eternal substance, one that goes back to the dawn of civilization, this holy land. On the other hand, we have a concept which, unfortunately, is only measured in short intervals – peace. On the one hand, can we exchange some portion of the eternal land for some temporal concept of peace? If the peace is broken, does the land revert to the other party? Is peace absolute? Is any outbreak of violence a breach of peace requiring a return of the land? Finally, does the fundamental concept of land for peace need to be revised in order to provide some more realistic concept of resolution?

C. Case Studies of Israeli-Arab Negotiations

1. The Egyptian-Israeli Armistice Agreement 1949

The Israeli War of Independence or the Nakba\textsuperscript{33} as it is referred to in many Arab documents, put Egypt and Jordan in a very difficult situation. The Egyptians were advising their people of the great victory which the Egyptian Army was having in its war with the Zionist entity\textsuperscript{34} while at the same time an entire Egyptian Army Division was surrounded and held at al-Faluja.\textsuperscript{35} A cease-fire was the first order of business. Dr. Ralph Bunch was

\textsuperscript{33} The Catastrophe.

\textsuperscript{34} Stanton, F. (2010). Great Negotiations: Agreements that Changed the Modern World. Locations 2327-2331

\textsuperscript{35} Ibid.
appointed by the U.N. to negotiate an Armistice between Egypt and Israel.36

The first item on the agenda was al-Faluja. Anxiety over the fate of the besieged division there was the principal reason for

**UN ARMISTICE LINES**

**1949**

A cursory look at this map looks very similar to the outline shape of Israel at present. This map does not show the detail of Jerusalem which is quite different since the Six Day War of 1967.

The white area on the eastern part of Israel is the West Bank of the Jordan River.

The white area on the southwest part of Israel is the Gaza Strip.

By the end of the 1949 war, Jordan retained control of the West Bank.

By the end of the 1949 war, Egypt retained control of the Gaza Strip.


Egypt’s presence at the talks, and the Israelis were well aware of its bargaining value. Bunche wanted the issue resolved early in the discussions in the hope of building momentum by removing this source of tension before moving on to the

36 Ibid.
thornier question of **demarcation lines**. Bunche composed a plan that allowed the Egyptian division to evacuate under UN supervision, with its heavy equipment held in UN custody until a settlement was in place. ... the Israelis relented and agreed to an evacuation to take place on January 24, one week later. Both sides approved the plan at a formal joint meeting on the evening of January 17.\(^{37}\) [emphasis added]

As can be seen from the above quote, the lines which were to be the topic of discussion were referred to as “demarcation lines”. It was these lines that became the Armistice Line of 1949. At no time was it ever considered that these lines would become international borders. It is this 1949 Armistice Line which, with very few exceptions, became the “Green Line” and became the “1967 borders”, meaning the lines prior to the Six Day War. It is important to take a look at the 1949 Armistice Line. As noted by the PA Legal Unit in January, 2001 “to all Palestinian territory occupied by Israel beyond the Israeli and Jordanian agreed upon 1949 Armistice Line (the June 4, 1967 Line or the Green Line).”\(^{38}\)

The consequences of the United Nations negotiated Armistice Agreement of 1949 are felt every day in Israel and the West Bank. The Armistice Line of 1949 has become a pseudo international border to the PA and their supporters. The line has now become known as the “1967 borders”. Whether or not these 1949 lines should or should not be the basis of future negotiations will be discussed later in this dissertation.

At this point it is necessary to come to an understanding of exactly what these lines were and how they were derived. It is also important to remember that the 1949 lines were

\(^{37}\) Ibid. 2259-2266

“borders” for a total of eighteen years, from 1949 - 1967. In other words, of the three thousand years of Jerusalem and the four thousand years of the land of the bible, during a period of less than twenty years were these the borders. Let us, therefore, examine just how these lines first appeared.

The year 1948 was not only the year of the birth of Israel but it was also the infancy of the United Nations. Notwithstanding the fact Israel was only hours old when the armies of five Arab states began their assault, the war went badly for the Arab forces. The nascent State of Israel was not nearly as untrained, unequipped or unorganized as the Arab forces may have supposed. The war between the Arab states and Israel led to an upheaval in the Middle East and a growing humanitarian problem regarding the Egyptian troops which were surrounded by Israeli troops. It was up to the UN to step in. The first envoy of the UN Security Council to be sent to negotiate the armistice was Swedish Count Folke Bernadotte, who wrote about his frustration:

Since my arrival in Cairo . . . I have striven ceaselessly to find a common basis upon which peace negotiations between the two parties might be undertaken. I have tried to bring them together in my presence or without it. I have studied carefully their respective positions, claims, and contentions, and . . . have devised compromises . . . put to them either orally or in writing. I have employed abundantly both reason and persuasion, but to date neither agreement between the parties nor a basis for agreement has been found. citing: J. C. Hurewitz, “The United Nations Conciliation Commission for Palestine: Establishment and Definition of Functions.” International Organization 4 (Nov. 1953), 485.


Count Folke Bernadotte was assassinated the next day\textsuperscript{41}. It is critical to fully understand the role played in Israeli-Palestinian negotiations of fear of assassination. While this topic will be covered in detail in later chapters, suffice it to say at this time that during the 2000 Camp David negotiations, Yasser Arafat talked about the issue constantly. Nearly every first person account of these negotiations cited to Yasser Arafat’s continuous reply to various proposals from the United States and Israel.\textsuperscript{42} Mr. Arafat would frequently ask words to the effect, “What, do you want to go to my funeral?” I’m certain that some of the Americans may have, at least initially, believed that Arafat was being overly melodramatic. However, given the history of the assassination of political leaders in the Middle East, it was not nearly as melodramatic as it may have seemed at first thought. At the time of these talks, Egyptian Prime Ministers were targets of assassination regularly.\textsuperscript{43}

The Israeli War for Independence was quite horrific. More than 10,000 lives were lost. Given the Israel’s small size, Israeli losses were enormous as a percentage of the population.\textsuperscript{44} Somewhere around a half million Palestinian refugees were created.\textsuperscript{45} On January 6, 1949,  

\begin{flushright}
\textsuperscript{41} Stanton, F. (2010). \textit{Great Negotiations: Agreements that Changed the Modern World}. Location 2144-2152
\end{flushright}

\begin{flushright}
\textsuperscript{42} In a later chapter, using the CaseMap database I will be able to analyze the use of this type of language by Yasser Arafat.
\end{flushright}

\begin{flushright}
\textsuperscript{43} Eytan, W. (1949, 1949-01-16), Documents on the Foreign Policy of Israel, vol. 3, 28
\end{flushright}

\begin{flushright}
\textsuperscript{44} Morris, B. (1999). \textit{Righteous Victims: A History of the Zionist-Arab Conflict, 1881-2001}
\end{flushright}

\begin{flushright}
\textsuperscript{45} It is interesting to note that the number of Jews living in Arab lands in the Middle East prior to the war and were forced to leave and emigrate to Israel was also roughly one-half million.
\end{flushright}
with pressure from the UN and the British and American governments, together with the precarious situation of the Egyptian army, the parties consented to UN-sponsored armistice negotiation.\textsuperscript{46}

These negotiations could not be more difficult due to the fact that Egypt did not recognize the State of Israel nor did it even acknowledge Israel’s right to exist. Egypt refused to recognize Israel or acknowledge its right to exist. Cairo insisted on UN involvement for fear that one-on-one negotiation would imply recognition of what it referred to as “the so-called State of Israel.” Egyptian leaders swore often and publicly that they would rather die than strike a bargain with Israel, and there was no shortage of assassins willing to keep them to their word.\textsuperscript{47} \textsuperscript{48}

***

When the negotiators passed each other in the narrow hallways they would avert their eyes and turn away. The two sides refused to meet, forcing Bunche to tell them, “It was my understanding that we had come here to negotiate, and to do this, gentlemen, one side must talk to the other.” The Egyptians and Israelis would not sit down at working meetings with each other, forcing Bunche to work separately with each side. He shuttled between the two delegations, discussing the proposals and delivering the written responses.\textsuperscript{49}

Given the obstacles noted above, what were the methods and tools used by Dr. Bunche which could produce an eventual armistice? Perhaps the most effective of his methods was to maintain pressure on the parties. Some of the pressures available to Dr. Bunche then are not available to negotiators in any present or future negotiations. In 1949, the United Nations

\textsuperscript{46} Stanton, F. (2010). \textit{Great Negotiations: Agreements that Changed the Modern World}. Location 2255-2259


\textsuperscript{48} Stanton, Ibid. 2174-2177

\textsuperscript{49} Stanton, Ibid. 2231-2238
was new and the entire world was optimistic about its potential as an agent of peace. Compliance with U.N. resolutions or cooperation with its envoys was seen as an imperative. Clearly the U.N. no longer has the trust or prestige to work its will in peace negotiations. In that same vein, neither side wanted to be seen as the one who was not working to be cooperative with the U.N.

Dr. Bunch understood that neither the Egyptians nor the Israelis wanted to be seen as the ones who caused the collapse of the conference. This notion that neither side wanted to be blamed for the failure of peace talks was a significant factor in the post Camp David talks of 2000. The Palestinians particularly worked hard to create reasons for their refusal to accept the Clinton Parameters. But President Clinton himself well understood that it was Yasser Arafat who turned down Clinton’s proposal.

Right before I left office, Arafat, in one of the last conversations, thanked me for all my efforts and told me what a great man I was. “Mr. Chairman,” I replied, “I am not a great man. I am a failure, and you have made me one.” I warned Arafat that he was single-handedly electing Sharon and that he would reap the whirlwind.

Returning to Dr. Bunche, he was able to bring pressure that neither Clinton nor subsequent mediators could apply. He told both the Egyptians and the Israelis that he was calling for “agreement by Tuesday or disagreement by Wednesday.” On January 30, 1949, Dr. Bunche advised the parties that he would present a detailed proposal the next day.

50 NSU, & Unit, L. (2001, 2001-02-01 ). NSU Memo Re President Clinton's Proposals The Palestine Papers (pp. 8).


52 Stanton, Ibid. 2343.
What was Dr. Bunche’s approach to mediating this treaty? He separated the many large issues into small constituent parts including the Egyptian forces at al-Faluja; demarcation lines along almost a thousand square miles of desert; troop withdrawal and the status of towns in Israel and Gaza. The first thing he did was speak with each side in order to discuss placing each item on the agenda. He would then bring the sides together to sign an agreement simply placing that item on the formal agenda. Only after each side agreed, in writing, to placing the issue on the agenda could actual discussions of the item take place. Having each side sign the agenda item, some inertia could be established.

Why was this approach eventually successful? First and foremost, it was the United Nations heightened prestige and perceived authority. Second, this approach was new to the parties and each was partially unaware of the importance of the inertia established by the signed agenda agreements. Third, by breaking each issue down to its details, neither party could object that the items did not belong in a negotiation about an Armistice. Fourth, the precarious situation of the Egyptian troops and the exhaustion of both military forces meant that the situation was ripe for an Armistice.

On February 24, 1949, the Rhodes Armistice Agreement was signed by the parties. The Agreement permitted the eventual release of the Egyptian troops at al-Faluja, including a young deputy commander, Gamal Nasser. It also marked a line which was meant simply to confirm a cease-fire but actually became some sort of international border.

The Armistice was an honorable one for Egypt, especially so given their military position.53 If Egypt had walked away from this Armistice, it is unlikely that any future deal would have been better for Egypt. Certainly the future of the Middle East would have been

53 Stanton, Ibid. 2549
very different if Egypt had settled for a cease-fire and not an Armistice Treaty. Given how bad
the future of the Middle East has turned out, it is hard to imagine how much worse it would
have been if the Armistice was the path not taken. As with counter-factuals, it is impossible
to know. What is known is that the Armistice was a precursor to the Israeli-Egyptian Peace
Treaty signed under President Carter.

2. Continuing Israeli-Arab Negotiations

We can begin our discussion of recent Israeli-Arab Negotiations at a time when the
peace treaties with Jordan and especially with Egypt were finalized. It is at that point that no
rational political entity could believe that a military solution could create a situation that was
better for the Arabs than a negotiated solution. No combination of Arab states, or Moslem
states, could, without Egypt and/or Jordan, entertain a solution based upon military conquest.
It was, therefore, on July 25, 1994 when the Israeli-Palestinian conflict should have been ripe
for resolution.

Even if we take the Madrid and subsequent Conferences as a starting point for actual
treaty negotiations, we can see that attempts at conflict resolution between the Israelis and the
Palestinians began in 1991 and has continued, albeit sporadically, since that time. However,
it is important to keep in mind that in 1991, the myth of no negotiations with Palestinians was
still maintained by Israel and supported by the United States.54

Mediation in a Complex World C. A. Crocker, F. O. Hampson, & P. Aall (Eds.),
Kindle Edition. Locations 3632-3740
An essay written by Secretary of State James Baker III concerning The Road to Madrid\textsuperscript{55} will help shed some light on the earliest days of direct Israeli and Palestinian negotiations.\textsuperscript{56} An additional book chapter\textsuperscript{57} written by a Norwegian diplomat\textsuperscript{58} regarding the establishment of the negotiations which led to the “Oslo Accords” provides interesting insights to the mind set of both the Israelis and the PLO during the early stages of direct negotiations.\textsuperscript{59}

As we approach nearly a quarter century of fruitless negotiations\textsuperscript{60}, what can we discern about what makes these parties such intractable adversaries? What is it that makes the Israeli-Palestinian conflict different from the many historical conflicts that remained intractable until they weren’t? Equally important, what characteristics does the Israeli-


\textsuperscript{56} The machinations needed to prevent the appearance of direct negotiations with the PLO while still permitting the PLO to be at the table is probably worthy of a dissertation of its own.


\textsuperscript{59} Rogers, J. T. (2016). \textit{Oslo [Play]}. It also gave rise to an excellent Broadway play, Oslo.

\textsuperscript{60} In terms of a final two-state solution.
Palestinian conflict share with historical conflicts that eventually were concluded with a treaty?

C. Case Studies of Other Israeli-Palestinian Efforts

It is critical to a working understanding of Israeli-Palestinian negotiations that one not look at the different sets of negotiations as separate books or even as a single long book with separate chapters. Rather, these past negotiations and future negotiations, if there are any, should be seen as a continuum. Since the topic of this dissertation is Israeli-Palestinian negotiations, its history probably can not start any earlier than the Madrid Conference of 1991. This is so because prior to that time, the PLO was simply seen as a terrorist non-state actor that had been driven out of Jordan and Lebanon and was now located in Tunisia. It was in Madrid that, for the first time, Palestinians, albeit, disguised as Jordanians, could be a party to the negotiations.  

It was only in 1991 that several circumstances and events collaborated to create the possibility of such negotiations. First, the Gulf War was conducted in such a way that the goal of driving Saddam Hussein from Kuwait was met expeditiously and no attempts to expand that mission were taken by the United States. It was this position of the U.S. which provided the credibility for the U.S. to serve as the only possible mediator.  


62 Ibid.
Second, the U.S. did not need to extract any form of retribution from the Arab entities who supported Saddam, such as the PLO and Jordan. In fact, the magnanimity of the U.S. may well have been seen as a chit which could be used to obtain Jordanian, Syrian and Palestinian cooperation in this new effort.\textsuperscript{63}

Third, and perhaps most importantly, the Soviet Union was in its death throes. That meant that the U.S. was now the only superpower in a new, unipolar world. If a state wanted the protection of a superpower or aid from a superpower or military equipment from a superpower, the Soviet Union was no longer in that business. Nor could the Soviet Union be used as a bargaining chip or as leverage against the U.S. For these reasons, the time was never better to attempt to resolve the Israeli-Palestinian conflict. Nevertheless, the path forward was difficult. At the time, it may have seemed to be that the path led nowhere, but in retrospect, the path forward was begun with the baby steps of the Madrid Conference, later to be held in Washington, D.C.

The next section will be devoted to the establishment of the Oslo back channel meetings which were begun while it was still illegal for any Israeli to speak to a Palestinian who was intending to speak for a Palestinian entity. Notwithstanding these legal impediments Israeli private citizens and Palestinian representatives were willing to meet secretly in order to explore the possibility of establishing, first a relationship and second, the beginning of a partial resolution of the Israeli-Palestinian conflict.

We will utilize the first hand account of the Norwegian private citizen, married to a Norwegian public official, whose efforts brought about this first, halting step. This story was

\textsuperscript{63} Sachar, Ibid.
so improbable and dramatic that it actually gave rise to a theatric dramatization of these meetings, *Oslo*.\(^{64}\)

1. The Road to Madrid - James Baker\(^{65}\)

In 1991, the Palestine Liberation Organization (“PLO”) was located in Tunis, having been removed from Jordan in a bloody war and later from Lebanon by the IDF\(^{66}\). It had, as a nod to the most militant in its midst, supported Saddam Hussein in the Gulf War. To make matters worse, its distant location and its political and financial mismanagement had led to the rise of an Islamist rival within Palestine, Hamas.\(^{67}\) This disastrous situation left the PLO with an enhanced willingness to negotiate. The PLO was primarily committed to its own continued existence and viability so, when faced with nothing but bad options, negotiations were seen as the least bad option. If nothing else, these multi-party talks made the PLO a stakeholder, even if only indirectly.

The Israeli government was also aware of a new set of facts and pressures pressing up against it. The rise of “Radical Islamic fundamentalism”\(^{68}\) was a new fact of life, not only in

---

\(^{64}\) Rogers, J. T. (2016). *Oslo* [Play].

\(^{65}\) For this section, the first hand account of Secretary of State James I Baker who was tasked by President George H.W. Bush to take a serious stab at getting the Israelis and Palestinians to talk to each other was relied upon. Baker, J. I. (2013). The Road to Madrid *Herding Cats: Multiparty Mediation in a Complex World*: U.S. Institute of Peace Press.

\(^{66}\) Ibid.


\(^{68}\) Ibid. This is the term used by the former Secretary of State, James I. Baker in his book chapter.
the occupied territories\textsuperscript{69}, but throughout the Middle East and Northern Africa. This new and intractable foe was largely responsible for the increase of violence and hostility within Israel and the territories\textsuperscript{70}. Perhaps more consequential was the increasing desire on the part of the Israeli population that it wanted “to put the political, economic, and psychological rigors of being a nation permanently at war behind them.”\textsuperscript{71}

The sponsors of the Madrid Conference faced a major problem even before the conference could get going. The U.S. faced an ongoing problem with regard to the invitation list. What entity would be invited to represent the interests of the Palestinians? This was the problem facing Secretary of State, James I. Baker. He summarized the task, the difficulty and the plan in a single paragraph.

Other than Egypt, Arab governments simply would not deal directly with Israelis. It was maddeningly simple: you can't make peace if you won't talk. In consultation with my senior advisers, I decided that we would try a two-track approach. The United States would attempt to restart a process leading to an Israeli-Palestinian dialogue—although we recognized that the question of Palestinian representation would ultimately be the most difficult issue of all to resolve. Simultaneously, however, we would propose and pursue a second track—direct talks between Israel and her Arab state neighbors in the form of a regional conference on the Middle East cosponsored by the United States and the Soviet Union, where all parties would be represented.\textsuperscript{72}

\textsuperscript{69} Here again use of the term “occupied territories” is merely an arbitrary selection on the part of this writer. Again, if we become bogged down in the terminology of the occupation, little else will be discussed.

\textsuperscript{70} Sacher, Ibid.

\textsuperscript{71} Baker, Ibid. 3623

Each of the elements of the Baker statement will require some analysis. First, is the most fundamental of problems. One cannot negotiate a peace treaty with a party with whom it will not speak. Perhaps a cumbersome and arcane formula of negotiations with a proxy or representative is possible as an opening gambit, but eventually the parties have to talk to each other. This fundamental problem was outlined by Foreign Minister Moshe Dayan fourteen years before the Madrid Conference. Most famously Mr. Dayan stated, “if you want to make peace, you don't talk to your friends. You talk to your enemies”.\footnote{Newsweek. (1977, 1977-10-17). Interview with Foreign Minister Dayan. \textit{Newsweek}, 4-5. Retrieved from http://www.mfa.gov.il/mfa/foreignpolicy/mfadocuments/yearbook3/pages/58%20interview%20with%20foreign%20minister%20dayan%20in%20newswe.aspx}

This statement has become almost an aphorism and sounds like Secretary Baker’s statement noted above. However, the rest of that quote is much more elucidating. The full paragraph reads as follows:

Of course, if you want to make peace, you don't talk to your friends. You talk to your enemies. But the question is whom do we want to make peace with - not just who are our enemies. Now, we want to make peace with all our neighbours - Egypt and Syria and Jordan. And when we say Jordan, that includes Palestinian Arabs who are living on the West Bank... and in the Gaza Strip, with whom we have to live together... But the PLO organization, which is head-quartered in Beirut, is a very specific organization - terrorists - and in their Covenant, it's clearly put that their aim and target is to destroy Israel. While we want to make peace with our neighbors, we do not think that a new Palestinian state... would be the right solution. [emphasis added]\footnote{Ibid.}

Moshe Dayan, the hero of the Sixth Day War of 1967, in his role as the foreign minister, spoke in 1977 in exactly the same way as the Israelis spoke in 1991 and, indeed, in
exactly the same way as some Israelis speak today. The rise of the right in Israel does not seem to have strayed much from this position in the intervening forty years.

The second part of the Baker Statement, what Secretary Baker described as his two-track approach, likewise requires some discussion. The first track, the Israeli-Palestinian track is the topic of this dissertation and will be discussed at length. However, the second track deals with the potential for establishing relations between the State of Israel and some of its Arab neighbors. Baker may have thought that the two tracks could proceed simultaneously. This turned out to be untrue. At the time, 1991, there could be no hope of improving Arab-Israeli relations unless and until the Israeli-Palestinian conflict is resolved.

It is interesting to compare and contrast Secretary Baker’s notion of a second and simultaneous track with what became known as the Arab Peace Initiative (“API”) which was first enunciated in Beirut in 2002. In a document entitled “Official translation of the full text of a Saudi-inspired peace plan adopted by the Arab summit in Beirut, 2002” it was the Saudi voice which carried sway. The API set forth the obligations of Israel in exquisite detail. They are set forth in the Appendix. In return for Israel’s acceptance of absolutely every Palestinian bargaining position, signatory Arab States will give, in exchange, two obligations:

I- Consider the Arab-Israeli conflict ended, and enter into a peace agreement with Israel, and provide security for all the states of the region.

***

II- Establish normal relations with Israel in the context of this comprehensive peace.\(^{75}\)

In other words, the Arab Peace Initiative is an exchange of obligations between Israel, Palestine and the Arab States. All Israel needs to do is completely agree to all the Palestinian
demands\textsuperscript{76} and in return the Arab States will get to carry out relations with the largest economy\textsuperscript{77} in the region. If this seems highly inequitable, than you have understood the Israeli position and understood why the API does not seem all that appealing to Israel. It is unlikely that Secretary Baker would have placed such a high priority on the second track if he knew or understood exactly what the Arab States had in mind.

\textit{The Palestine Papers} mention the Arab Peace Initiative in no fewer than 181 separate documents.\textsuperscript{78} As will be pointed out below, the PA constantly relies upon the documentary works of other or “third parties” as though they were sacrosanct. More importantly, the PA relies not on the actual document but rather their interpretation of the document. This approach always leads nowhere. That is, the PA’s undue reliance on U.N. General Assembly Resolutions and Security Council Resolutions as a substitute for actual negotiations has never helped resolve any disputed issue. It is unlikely that such reliance will be helpful in the future.\textsuperscript{79}

\textsuperscript{76} It is important to understand that while the PA has indicated some flexibility and willingness to compromise, but the provisions set forth above remain the only definitive positions taken by the PA to date.

\textsuperscript{77} Not counting petroleum and natural gas revenue and profit

\textsuperscript{78} This count was taken by the database, EndNote. The methodology will be discussed below.

\textsuperscript{79} Secretary of State Baker noted this same propensity on the part of the Arabs in his description the Arab side clinging to UN Security Council Resolution 242.

\textquoteleft\textquoteleft Both sides could interpret the formula however they wished, but the Arabs would never agree as a basis for a meeting to any language limiting or modifying Resolution 242 as passed by the Security Council.\textquoteright\textquoteright

One more word concerning the Baker Second Track. One should consider what the situation would be today if Israel had accepted the notion of a general Israeli-Arab peace agreement. If Israel had accepted the terms laid down by Baker in return for diplomatic and economic relations, would they have considered the deal to have been fair or reasonable since the aftermath of the Arab Spring. Would an economic relationship with Yemen or Syria or Iraq or Lybia be seen as a worthwhile bargain?\footnote{Of course the counter-factual can never be argued with surety. Perhaps if such Peace Agreements had taken place, the Arab Spring would have had a more productive and positive effect.}

On the other hand, very recently, former Israeli Prime Minister Barak has stated publicly that there are ongoing, if secret, relations between Israel and some of its Arab countries. He mentioned Saudi Arabia specifically. He stated that the obstacle to greater cooperation and contacts is frequently referred to as the “Arab Street”.\footnote{Barak, E. (2016). Ehud Barak Speech at NJPAC 2016-10-27. New Jersey Performing Arts Center NJPAC.} Saudi Arabia and other Arab states fear how the street would react to the knowledge that economic and political contacts are greater than thought. That keeps the Arab nations from seeking to deal more overtly with their neighbor, Israel.

Secretary Baker speaks of his mission in the Middle East with almost identical language to that used by those who were negotiating at Camp David in 2000. He describes his primary way of moving the parties to negotiate in good faith as follows:

One of our strongest points of leverage, with respect to all parties, was the threat to, as I found myself saying all too often, lay the dead cat on their doorstep. No one wanted to accept
blame for scuttling the process. Some days this felt like the only leverage I had.  

It would seem as both Israel and the PA have always found it useful to appear to be negotiating for a lasting two-state solution. At the same time, neither party actually wants to be seen by its own side as making any compromises toward that end. Neither side wants to take the steps necessary to actually achieve peace. Both sides want to be seen as being flexible to the rest of the world while appearing strong and resolute to their own people. It is this dance, which appears to be started from the earliest Israeli-Palestinian negotiations in Madrid in 1991 under Prime Minister Yitzhak Shamir and has continued through 2014 under Prime Minister Benjamin Netanyahu.  

However, it must be pointed out that on two separate occasions, under Ehud Barak at Camp David in December 2000 and January 2001 at Taba and again in 2008 under Ehud Olmert, the Israeli side did, in fact, make offers which were too good to turn down, but not good enough, apparently, for the PA to accept. These offers will be discussed in greater detail later in this dissertation.

---

82 Baker, Ibid. 3640-3643  
83 Ibid.  
Returning to James Baker’s approach for opening negotiations, the Secretary developed a strategy which he termed as “parallel reciprocity” which, perhaps is more accurately referred to as simultaneous reciprocity. It was felt that simultaneous and reciprocal confidence building measures might be able to break the impasse and give each side some cover with its own difficult population.\footnote{Baker, Ibid. 3655-3659} \footnote{It is important to recognize that James Baker himself fully appreciated the need to take into account the positions of the people who were, ostensibly, being represented by their respective sides. This concept will be discussed in greater detail later in this dissertation.} This approach was called for specifically because neither side trusted the word of the other. Secretary Baker provided an example of this approach in regard to the second track.

In my private talks with King Fahd, for instance, I outlined my idea of a two-track approach and listed a variety of confidence-building measures that both Saudi Arabia and Israel might consider. I suggested that the Saudis could drop the economic boycott of Israel, reject the 1975 UN resolution equating Zionism with racism, end the formal state of belligerency with Israel, meet with Israeli officials at a low level, or quietly exchange intelligence information on terrorist activities. In turn, I was prepared to urge Shamir to respond in kind by, among other things, halting the deportation and administrative detention of Palestinians in the occupied territories and withdrawing the Israeli army from certain towns in the West Bank and the Gaza Strip.\footnote{Baker, Ibid. 3674-3675}

The Secretary might simply ask that a party consider his suggestion for a particular confidence building measure. He might then shuttle off to the next stop on his itinerary and advise the next head of state that his suggestions were viewed favorably. That might increase the pressure on the next leader to make concessions with regard to confidence building.
measures on their part. Thus the train proceeds down the track with each stop seeming more favorable. Until, of course, it is time to actually put up and deal with the actual confidence building measures. Then, as is almost always the case in the middle east, no concessions are made.

It can be supposed that even the most transitory suggestion of movement toward a positive gesture might be seen as progress, especially so since Madrid was the first time the parties pretended to speak to each other, or more accurately, pretended not to speak to each other.

It is perhaps not surprising that Baker’s recollection of the lead-up to the Madrid Conference deals more with the second track than with the first track, the Israeli-Palestinian track. At one point, Baker discussed with Shamir the withdrawal from the Golan Heights. On the one hand, Shamir wanted to make it clear that he had no wish to discuss even the possibility of such a withdrawal. On the other hand, when Baker raised the possibility of placing American troops on the summit, Shamir expressed both surprise and greater flexibility.89 90

Baker continues to outline the steps needed to even begin the negotiations. He notes that the Palestinians appeared to agree to the preconditions of Prime Minister Shamir as the price for being able to sit down at the table. The Palestinians “agreed to support a two-track

89 Baker, Ibid. 3706-3708

90 It is interesting how much things have changed since 1991 in this regard. It would now be hard to imagine either Israel or Palestine or Syria agreeing to placing U.S. troops in a position between Israeli forces and Arab forces.
process between Israel and both Arabs and Palestinians, phased negotiations, and peace with Israel.”

Shamir also wanted written assurances that they would never mention the PLO and that they would not be representing Yaser Arafat. While Baker did not agree to a written memorialization of such position he did advise the Arabs that “trumpeting” the PLO would have the effect of wrecking the conference.

Assad too had a number of preconditions to the conference. Most troubling was Assad’s demand that the conference take place under the sponsorship of the United Nations. As Baker noted:

> The United Nations had always been perceived, with no small justification, by Israel as a mortal enemy held at bay only by the American veto in the Security Council. The 1975 resolution equating Zionism with racism had cemented this view. I knew Shamir would never attend any conference under UN auspices, and I warned Assad that it was a deal breaker. However, I replied, the United States had no problem with a UN presence; in fact, I told Assad, I was willing to press Shamir to agree to allow a UN observer to attend.

It took all of Baker’s persuasive skills, including the threat of leaving the “dead cat at his doorstep”, to overcome the Shamir position, “I can’t accept the United Nations.”

---

91 Baker, Ibid. 3744 - 3747
92 Baker, Ibid. 3750 - 3753
93 Baker, Ibid. 3809 - 3812
94 Baker, Ibid.
Despite the obstacles put up by Shamir, Dennis Ross was able to work out an agreement on East Jerusalem. Not an actual agreement on East Jerusalem but rather an agreement that East Jerusalem residents would not be included in the Jordanian delegation.95

In terms of its value as an observation of the Palestinian viewpoint, Secretary Baker was most on point. He noted that the Palestinian position that Jerusalem issues needed to be resolved prior to beginning negotiations on other issues was not only counterproductive but was calculated to bring neither Israeli response nor progress. But most keenly, Baker noted that the Palestinians “seemed to be most interested in arguing. I pointed out that we could talk forever, but while we did Israel would continue to settle what Palestinians claimed as their land.”96

This observation could not have been more accurate. It seems counterintuitive, but it is often the case that the weaker party to negotiations does not take into consideration both the present status of the parties and the trajectory of the parties into the future. Since 1991, Palestinian lives have generally gone from bad to worse. Their relative strength vis-a-vis Israel has declined precipitously, economically, militarily and in lifestyle. It is curious that the weaker party so infrequently asks the question, will any resolution improve the facts on the ground for the other party? That is, would any resolution require Israel to give up some authority over Palestinian lands that it occupies? If the criteria is control over land, then, in effect, Israel will never be in a better position than it is before a resolution is reached. Further, the Palestinians will never be in a weaker position than they are prior to some form of statehood and some form of sovereignty. And yet, the Palestinians seem to want it all up front.

95 Baker, Ibid. 3812 - 3817
96 Baker, Ibid. 3851 - 3854
The ultimate question, what would be the impetus for Israel agreeing to a Two-State solution is not one that has yet occurred to them. Doing the right thing is seldom enough of a motivation in and of itself.

The Americans eventually settled on an approach which would make each side uncomfortable. It was suggested that in return for the lifting of the Arab boycott, Israel would modify its settlement policies. However the Palestinians were still stuck on the issue of Jerusalem. The Palestinians felt that the absence of East Jerusalemites was to be a foreshadowing of the end of a Palestinian Jerusalem. Baker warned the Palestinians that, “the train was moving and they’d better not miss it.” Baker told them to understand the difference between “symbols and substance”. As we will learn later, this inability to see beyond symbols and deal with the terms of a possible agreement will be one that plagues the PLO to this very time.

At that point Secretary Baker did what Israeli-Palestinian negotiators have been doing ever since, he advised the Palestinians that Jerusalem issues would have to be postponed to some later date. As a practical matter, the status of Jerusalem must wait for later. If you highlight it first, I warned, there will be no peace process, and that would be a pity first and foremost for you, because Palestinians will suffer more than anyone from its absence.

97 Baker, Ibid. 3884 - 3887
98 Baker, Ibid. 3900
99 Ibid.
100 Baker, Ibid. 3907 - 3911
101 Ibid.
They wanted the United States to change long-standing policy opposing an independent Palestinian state. I offered them a letter of assurances that I thought would meet their concerns: a reiteration of our support for their legitimate political rights, not including a separate independent Palestinian state, but not excluding self-determination in the context of a confederation with Jordan. I tried to convince them that they hadn’t surrendered their claims relating to East Jerusalem in advance of negotiations, and that the question of East Jerusalem would be on the agenda at some point. If that’s not good enough, I said, then I must tell you that your position is that symbols are more important than substance—and, unfortunately, that position has helped to create and sustain the Palestinian tragedy. For God’s sake, don’t let Israel hide behind symbols.\textsuperscript{102}

In the history of fits and starts in Israeli-Palestinian negotiations, the Madrid Conference was the beginning of the beginning. Its greatest value was it had broken the long line of intransigent positions which began as Nasser’s Three No’s. For the first time in the Israeli-Palestinian, the two sides of the conflict were, reluctantly, willing to talk with each other. While this fact has not yet proven to be sufficient to resolve the conflict, it is certainly a necessary step if the conflict is ever to be resolved.

2. The Road to Oslo - Jan Egeland\textsuperscript{103}

\textsuperscript{102} Ibid.

\textsuperscript{103} Here again in this section the primary source is a first person account of Jan Egeland, a Norwegian private citizen. It is perhaps fitting that the Israeli-Palestinian negotiations studied in this dissertation are based primarily upon first hand accounts of persons who were actually participating in the negotiations.

As we have seen, Israeli-Palestinian negotiations are never easy. Even when the negotiations start with the smallest of baby steps, a mere willingness to speak with each other, progress such as it is, tends to be three steps forward and three steps back. In Madrid the Palestinians had to pretend that they were different entities in order to pretend to be negotiating or not negotiating. In the years between the Madrid Conference in 1991, which were both prior to and simultaneous with the Oslo negotiations of 1993, almost nothing had happened on the official front. It was still illegal, under Israeli law, for Israelis to meet officially with Palestinians. The PLO was still deemed to be a terrorist organization under the rule of Yasir Arafat. It was still located in Tunis, far from its named homeland, Palestine.

Because the Washington Conferences were quite public, and because there were so many parties to the discussions, posturing was the primary accomplishment of this round of negotiations. This was not to say that the Madrid/Washington Conferences were worthless. They did open some strange kabuki theater which was something rather than nothing. And if the primary parties were not actually talking to each other, they were, at least, in the same city.

While the Washington Conference was going nowhere, confidential back channel discussions were beginning in an out-of-the-way castle in the hinterlands of a Scandinavian nation with no specific ties to either Israel or to the Palestinians. These early discussions were


quite asymmetrical. On the one hand, the PLO sent a very high ranking official, Ahmed Qurei a/k/a Abu Ala, to Norway. He would later become Prime Minister of the PA. The Israeli side was represented by two academics, Yair Hirschfeld, an economics professor and Ron Pundak, a journalist and historian, both of whom had only personal links to the new Israeli Labor government.\textsuperscript{104}

While the common wisdom about these Oslo negotiations was that they were truly secret, the U.S. State Department was informed, if only obliquely. The State Department was mildly approving of these back channel negotiations while maintaining plausible deniability.\textsuperscript{105} The Clinton administration supported these back channel negotiations.\textsuperscript{106}

These Oslo negotiations were almost the opposite in style to the formal Washington Conference. In Washington, the Israelis needed to maintain the charade of not dealing directly with either the PLO nor those who may be accused of representing them. In Oslo, however, the representatives of the PLO and the representatives of the Israelis met face to face. Moreover, they not only were meeting directly, but there was no other entity in the room where the negotiations were being conducted. Mr. Egeland referred to this as “multiparty facilitation” as opposed to the usual Mediator paradigm. He states that:

The Israelis and the Palestinians turned out to be uniquely qualified for and motivated to doing the actual negotiations by themselves once we, the facilitators, had been able to organize

\begin{itemize}
\item \textsuperscript{104} Egeland, J. (1999). The Oslo Accord: Multiparty Facilitation through the Norwegian Channel. Ibid. locations 10258-10261
\item \textsuperscript{105} Ibid. 10264-10261. See also Rogers, J. T. (2016). \textit{Oslo} [Play].
\item \textsuperscript{106} Ibid. 10271-10273
\end{itemize}
a direct and confidential meeting place and a continuous and secret channel for communication.\textsuperscript{107}

Oslo was able to produce within two weeks, a Declaration of Mutual Recognition between Israel and the PLO. Thus, the PLO and Israel were changed from enemies who would not speak with each other into parties with a mutual goal of resolving the conflict between them.\textsuperscript{108} This symbolic treaty required each side to recognize the right of each other to exist and the right of the PLO to represent the Palestinian people.\textsuperscript{109} The Oslo conferences were responsible for negotiating the first substantive agreement between the parties. In what became known as the “Declaration of Principles on Interim Self-Government Arrangements (“DOPOISGA” or “DOP”), the parties outlined a limited transfer of authority to the Palestinian Authority (“PA”). With this document a Two-State solution became the goal of negotiations.

Specifically, Oslo produced a

“... five-year framework agreement on Palestinian self-government in Gaza and the West Bank was analyzed and discussed throughout the world. Palestinians and Israelis had agreed to establish the first-ever Palestinian self-rule, but agreed to disagree until a later phase of negotiations on the status of Jerusalem, the refugees, the final status of the Palestinian entity, and the Jewish settlements in the occupied territories.” [emphasis added]\textsuperscript{110}

As can be seen in the emphasized text above, nothing has changed. All throughout the Camp David negotiations in 2000-2001 and also throughout the Olmert-Abbas rounds in

\begin{flushleft}
\textsuperscript{107} Ibid. 10273-10276 \\
\textsuperscript{108} Ibid. 10276-10278 \\
\textsuperscript{109} Ibid. \\
\textsuperscript{110} Ibid. 10280-10285
\end{flushleft}
2008-2009, both sides were reluctant to discuss the status of Jerusalem. The Israelis, no doubt, felt that they had nothing to gain from negotiating over the status of Jerusalem. Western Jerusalem was completely and undeniably under the control of Israel. East Jerusalem was increasingly under the *de facto* control of Israel with the Arab neighborhoods shrinking and with Israelis acquiring property in the Arab neighborhoods. Further, what Israel calls neighborhoods and what Palestinians call settlements in East Jerusalem were expanding rapidly.

Jan Egeland’s description about Oslo remains true to this day – what Israel wants is maximum security for Israelis going forward while the Palestinians want maximum territory, maximum self-rule and maximum economic development.\(^{111}\) This dichotomy remains true today. However, as the relations between the Israeli right wing governments and the increasingly feckless Palestinian administration deteriorates, it may no longer be true that a solution of maximum Israeli security and maximum Palestinian self-rule, even if well fashioned, would produce a resolution.

At all times during the Oslo negotiations, each side was justifiably worried about disclosure. The Israelis were violating policy by the very existence of the talks while the Palestinians were equally justified to be anxious as they could be vulnerable to attacks from violent extremists both within and external to the PLO.\(^{112}\) How ironic it is that the one person who actually lost his life as a result of the Oslo Accords was the Labor Party Prime Minister, Yitzhak Rabin.

\(^{111}\) Ibid. 10358-10359

\(^{112}\) Ibid. 10362-10364
It is important to understand the nature of the negotiations at Oslo. The patterns which emerged at these meetings became familiar at all subsequent negotiations. Each side would engage, at various time, in brinkmanship, threatening to leave and making a show of it. Each leader would give instructions to make additional demands and would provide no instructions as to flexibility. Each side would then refuse to accept new terms from the other side.\textsuperscript{113} There really is no shortage of tactics and ruses which will maintain the appearance of seeking peace while, at the same time, assure that no peace will be achieved.

This is not to say that there was no meaningful and lasting change which has been effectuated by the Oslo Accords. Life in the West Bank has been marked by these agreements. Initially, Israel withdrew military forces from Gaza and Jericho; then civil administration of these areas would be turned over to the PA. That is not how things actually turned out.

The West Bank was divided into Areas A, B and C. Area A is under full civil, administrative and security control of the PA. Israeli civilians are not permitted into Area A nor are they permitted to drive on the roads within Area A. Area B is under Palestinian civil control and joint and/or Israeli security control, depending on the political and security situation in the West Bank at any given time. Area C is that area where the Israeli settlements are located and the roads which connect them to each other and to Israel. Palestinians are permitted to drive on the highways in Area C.

\textsuperscript{113} Ibid. 10372-10375
The Israeli settlements themselves are secured by fences and gates and guardhouses.\footnote{114} I visited the West Bank for a total of approximately fourteen hours. I was driven through both Samaria and Judea, visiting settlements. These settlements are both religious and secular. They must be distinguished from what has been termed “outposts”. The outposts tend to be several double-wide trailers set on hilltops with a commanding view of the territory below as shown in the photo contained in the appendix.\footnote{115}

Up until the summer of 2016, these outposts were diplomatically deemed by Israel to be illegal, the product of certain rogue “settlers”. It was the GOI’s position that these outposts would be removed once a resolution of the conflict had been achieved. The Israeli Supreme Court has ruled that certain outposts should be dismantled.\footnote{116} However, in successive but quiet steps, the Knesset has been debating and approving the “Regulation Bill” which would retroactively make these outposts legal.\footnote{117} This process of legalizing these outposts has been going on for some time. It is yet another example of the Likud party taking steps to ensure that the Two-State Solution is a vacuous goal and never a reality.\footnote{118}

\footnote{114} Israel does not consider any of the settlements or neighborhoods in or around Jerusalem to be Area C. Israel has simply annexed these areas into Israel proper and they are administered by Israel and the Palestinian East Jerusalem neighborhoods are administered by the municipal government of Jerusalem.


\footnote{116} Ibid.

\footnote{117} Ibid.

\footnote{118} Kershner, I. (2016). Israel Quietly Legalizes Pirate Outposts in the West Bank Unauthorized settlements dot hilltops in the West Bank, and anti-settlement groups and Palestinians say retroactively legalizing them is a methodical effort to change the region's map. New York Times. Retrieved from NYTimes.com website:
Returning now to the negotiating of the Oslo Accords, the difficulties were clearly noted by Jan Egeland.

Enemies of peace on both sides have repeatedly tried to derail the process, mounting terrible terrorist attacks against civilians, including women and children, in Hebron, Jerusalem, Tel Aviv, and elsewhere. Other obstacles to the peace process such as new settlements and border closures have also played their part in preventing the implementation of the Oslo Accord and Oslo 2.¹¹⁹

To the extent that Mr. Egeland sees The Oslo Accord as being at least a partial success, he attributes its “gradualness”. Further, it was only intended to create some outline of the relationship between the parties for a brief five-year period from 1993 - 1998. After that time, it was hoped that, a Permanent Status Agreement would be concluded.¹²⁰

The optimism of Oslo has given way to the somber realization that success must be built upon the foundation of compromise. Even Egeland writes in pessimistic tones.

**With the Netanyahu government in office, close to all multiparty efforts to further the peace process have been frustrated, because the new Israeli government is not willing to compromise as the Rabin-Peres governments were. [emphasis added]** ¹²¹

***

A new political leadership in Israel hostile to the original Oslo Accord midway in the implementation halted a process that needed gradual progress in order to avoid regression.¹²²


¹²⁰ Ibid. locations 10444-10447

¹²¹ Ibid. locations 10517-10519

¹²² Ibid. locations 10258-10261
And so the process which started under President George H.W. Bush and continued under President Clinton came to an ignominious, and bitterly disappointing end. In 1997, I remember going to Palestinian restaurants and visiting the mosques on the Temple Mount. I surely would not do that today.

3. The Road Map
   a. “Pre-Road Map”

On June 24, 2002, just nine months after World Trade Towers fell and while President Bush was trying to whip up support for the coming war in Iraq, he went to the Rose Garden of the White House to set forth his vision for a resolution of the Israeli-Palestinian conflict. This vision was quite specific and has set a foundation for subsequent Israeli-Palestinian negotiations. It will be important to cite exactly what President Bush said at that time:

- Two states “living side by side in peace and security”
- “There is no way to achieve peace until all parties fight terror”
- “Peace requires a new and different Palestinian leadership, so that a Palestinian state can be born.”
- “... a Palestinian state whose borders and certain aspects of its sovereignty will be provisional until resolved as part of a final settlement in the Middle East.”
- “If Palestinians embrace democracy, confront corruption and firmly reject terror, they can count on American support for the creation of a provisional state of Palestine.”

---

• “The final borders, the capital and other aspects of this state's sovereignty will be negotiated between the parties, as part of a final settlement.”

• “We must also resolve questions concerning Jerusalem, the plight and future of Palestinian refugees”

These seven points which were the basis of the “pre-Road Map” discussions were the same ones that were set forth in the Clinton Parameters and are the same points which require resolution today.

b. The Road Map

Just several months after his Rose Garden speech, President Bush drafted a more detailed and time delineated document for a negotiated two-state solution. Below you will find a matrix which was prepared for this dissertation. It was taken from a draft dated October 15, 2002 by the Bush Administration. The document was provided to the New York Times and published on November 14, 2002. The terms of the document, as shown in the matrix contained in the Appendix, provide, and demonstrate the fundamental flaws in this plan.

By placing the obligations side by side, it is hoped that it will make the task of comparing and contrasting these obligations of the parties with each other. At first glance, the obligations of the Palestinians and Israelis may seem comparable and nearly equivalent. However they are not nearly so. It should be plain to see that the obligations of the

---

Palestinians are basically requests that the PA reform itself as to governance and security, while the obligations of the Israelis are very concrete and easily observable and measurable.

Perhaps a few examples would prove instructive. The first obligations of the PA under the Road Map include appointment of a new cabinet and drafting a new constitution. The first obligations of the Government of Israel include lifting curfews and easing movement between Palestinian areas. Subsequently the PA will establish independent Election Commission and revise the election law. At the same time the GOI resumes monthly revenue clearances and transfers all arrears of taxes withheld from the PA. The Road Map continues. The PA must issue a statement reiterating Israel’s right to exist; while the GOI must dismantle settlement outposts.

The Second Stage requires the PA to continue political reform and improve security performance; while the GOI must withdraw the IDF from areas occupied since September 28, 2000. The PA should hold free, open and fair elections while the GOI freezes all settlement activity.

Phase II, the Transition Phase, establishes a Palestinian State with provisional borders while the GOI proceeds with the dismantling of settlement outposts and other settlements. Phase III will move to a full Palestinian State and Israel will receive diplomatic recognition from Arab States such as Syria, Lebanon, Iraq, Saudi Arabia and Yemen\(^\text{125}\).

It is easy to see why this Road Map did not produce the intended result of a resolution of the Israeli-Palestinian conflict. On the one hand, the PA’s obligations seem rather fuzzy and

\(^{125}\) Looking back from our vantage point at this time, there could be no more valueless prize than the recognition of the right of Israel to exist on the part of Syria, Iraq and Yemen. As to the other Arab States, their recognition, at this point, is of little or no value as well.
can be seen as good government reforms which should be undertaken regardless of any external obligations. Moreover, any complaint of the GOI regarding the PA fulfilling this obligation could be met with a response that the PA was “working on it” or doing the best they could. On the other hand, the obligations of the GOI all seem to be rather concrete and require very demonstrable and measurable actions on the part of Israel. As will be shown below, the Road Map simply became yet another third party document which the PA could grasp onto as a justification for not actually engaging in the give and take negotiations and good faith bargaining.

Is it any wonder that such an asymmetrical approach to the obligations of the parties did not have a positive outcome? It is submitted that the imposition of the Road Map did much more harm than good. As will be shown below, the PA came to believe that by reforming its election laws and constitution, it had met all the obligations under the Road Map and it was the GOI that failed to meet its obligations.\(^{126}\)

Moreover, as a result of the out-of-balance obligations in the Road Map, both parties required further and more detailed assurances from the United States regarding the achievement of the Two State Solution. It is difficult to believe that the Bush administration fully appreciated how much the PA obligations and the GOI obligations were not comparable and of a substantially different quality. To demonstrate the Administration’s misconception, all one needs to review are the subsequent letters written by each of the parties.

\(^{126}\) For the most part, it is true that the GOI did not meet many of its obligations under the Road Map as will be discussed below.
On or about April 13, 2004, Prime Minister Ariel Sharon wrote a letter to President Bush. It was in this letter that Sharon advised Bush of Israel’s plan to unilaterally withdraw from Gaza with no quid pro quo from the PA. Sharon went on to state the Israeli position. The two most important elements of the letter were:

“Having reached the conclusion that, for the time being, there exists no Palestinian partner with whom to advance peacefully toward a settlement and since the current impasse is unhelpful to the achievement of our shared goals, I have decided to initiate a process of gradual disengagement with the hope of reducing friction between Israelis and Palestinians.”

***

“In this regard, we are fully aware of the responsibilities facing the State of Israel. These include limitations on the growth of settlements; removal of unauthorized outposts; and steps to increase, to the extent permitted by security needs, freedom of movement for Palestinians not engaged in terrorism.”

It was about the next day that President Bush responded to Sharon. Since the exchange of these two letters took place over approximately two days, it is apparent that the terms of these letters were negotiated in advance, as would be expected in such circumstances. The most consequential statement of assurances given by President Bush to the Prime Minister is as follows:


“The United States is strongly committed to Israel's security and well-being as a Jewish state. It seems clear that an agreed, just, fair, and realistic framework for a solution to the Palestinian refugee issue as part of any final status agreement will need to be found through the establishment of a Palestinian state, and the settling of Palestinian refugees there, rather than in Israel.

As part of a final peace settlement, Israel must have secure and recognized borders, which should emerge from negotiations between the parties in accordance with UNSC Resolutions 242 and 338. In light of new realities on the ground, including already existing major Israeli populations centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949, and all previous efforts to negotiate a two-state solution have reached the same conclusion.

It is realistic to expect that any final status agreement will only be achieved on the basis of mutually agreed changes that reflect these realities....” [emphasis added]

In this brief two page letter, President Bush, on behalf of the United States of America assured the GOI of U.S. support for several of the most contentious positions. It is impossible to know if the President or his advisors fully appreciated the ramifications of the provisions of this letter. It appears that President Bush, with a mere stroke of his metaphorical pen took the following positions:

- Israel shall be recognized as a Jewish State.
- Palestinian refugees would be resettled in the new state of Palestine and not in the land of Israel.

129 Without trying to be overly harsh, there is very little to suggest that neither George W. Bush nor his foreign policy team was sufficiently well acquainted with Middle East Politics to comprehend and fully appreciate the ramifications of their positions outlined in this letter.
• Any subsequent peace agreement would have to take into consideration "new realities on the ground".\textsuperscript{130}

• Any new borders between the State of Israel and the new State of Palestine must take into consideration "already existing major Israeli populations centers".

• As a result of these population centers, it could not be expected that the new borders between the State of Israel and the new State of Palestine would or could follow the "armistice line of 1949". (Read as the June, 1967 borders.)

• Any final status agreement "will only be achieved on the basis of mutually agreed changes that reflect these realities."

It is not the position of this paper that these positions are either unrealistic or not achievable. It is the position of this paper that these positions are so significant that they should not have been made in a two page letter ostensibly clarifying the U.S. policy which was set forth only sixteen months before. If the U.S. wanted to take charge of the negotiations and if it was determined that the U.S. would begin to lay down the outline of a final status agreement, then the President should have taken a strong hand in bringing the parties back to the table and put the Clinton Parameters with the Bush positions before the two parties. Instead, the Bush letter of assurances dated April 14, 2004 did nothing to bring the parties closer to resolution and simply escalated the tensions.

The aforementioned letters of Sharon and Bush led to a flurry of letter writing by Palestinian National Authority Prime Minister Ahmad Qurei. On April 15\textsuperscript{th}, 2004 he wrote

\textsuperscript{130} In 2004, when this letter of assurances was revealed and President Bush and Prime Minister Sharon appeared at a joint press conference, I remember wondering at that time if the President appreciated the meaning of the words, "new realities on the ground". In retrospect, it is hard to believe that he did.
several letters to U.N. Secretary General Kofi Anan\textsuperscript{131}, British Prime Minister\textsuperscript{132}, and President Bush\textsuperscript{133} himself expressing grave misgivings about the “oral statements of President George W. Bush at his news conference with Israeli Prime Minister Sharon yesterday and the letter of assurances exchanged between the two leaders.” Prime Minister Qurei’s interpretation of the Bush assurances were even worse than the actual letter of President Bush.\textsuperscript{134} Prime Minister Qurei read the letter as saying:

\begin{itemize}
  \item a total rejection of the right of return of Palestinian refugees to return to their homes lost prior to 1948;
  \item acceptance of illegal Israeli settlements on Occupied Palestinian Territory on land wrongfully confiscated from their rightful owners;
  \item implicit acceptance of the territorial annexation of occupied East Jerusalem;
  \item and the acceptance of acquisition of territory through the use of force
\end{itemize}


\textsuperscript{134} Later in this dissertation, letters of the nature of these from Prime Minister Ahmad Qurrie will be placed in the context of the Palestinian “negotiating psyche”. This term will also be defined below.
To fully appreciate the Palestinian understanding of President Bush’s assurances, and to place them in context, one needs to recall the Road Map as previously noted. The PA felt that as long as it was living up to its end of the bargain, *i.e.* taking steps to develop a civil society and government structures while simultaneously developing a sound security apparatus in cooperation with the Israelis, then the U.S. and the rest of the Quartet would see to it that the new Palestinian State would be created and all of the Palestinian positions would be adopted and come to fruition.

Imagine how the Palestinian Authority must have taken the new Bush position. The Road Map led them to believe that by taking several ephemeral steps, all of which would have been necessary for a new state to succeed in any case, the PA would be rewarded for their good conduct by the establishment of the Palestinian homeland. Now, with Bush’s thrust into the Israeli-Palestinian conflict while so heavily involved in the wars in the Middle East, the PA had to come to grips with the fact that the U.S. was not going to simply hand them what they wanted.

With the letter of April 14, 2004, the PA must have taken a severe body blow. No longer could it be seen that the U.S. would simply prevail upon the Israelis and provide the Palestinians with “the right of return” to Israel. No longer could the Palestinians believe that the U.S. would prevail on the Israelis to simply surrender all the territory taken in the June 1967 war. No longer could the Palestinians believe that the U.S. would prevail on the Israelis to simply give East Jerusalem to the Palestinians. No longer could the Palestinians believe that the U.S. would prevail on the Israelis to accept responsibility for taking land by force. Not only is it difficult to believe that the Palestinians actually believed that this would be the U.S. position, but as we will see later in this dissertation, even after the hard lesson of Bush’s
Letter of Assurances, the Palestinians continued to believe that each of these assurances would, eventually be overturned and that they would have a Palestinian State on the entirety of the West Bank, East Jerusalem and Gaza and that the Palestinian refugees would all be able to relocate in Israel itself.¹³⁵

Notwithstanding these diplomatic missteps by President Bush, taking one set of positions in the Road Map and a different set of positions in his letter of assurance to Prime Minister of Israel Ariel Sharon and press conference, the negotiations between the Israelis and the Palestinians were not irrevocably destroyed. About four years later, the Israelis and the Palestinians began a new round of negotiations, this time without direct participation by the United States or any other third party; although the United States and Jordan were being briefed on the progress.

4. Secret or Private Negotiations

Before there was Oslo I; before there was a famous handshake on the Whitehouse lawn; before there was a Nobel Peace Prize for Arafat, Rabin and Peres; there were secret, or “back channel”, negotiations which took place outside of the eye of the press and the world at a castle in the rural area of Norway. Private negotiations have two very significant advantages over public negotiations at the summit; i.e. Clinton’s Camp David round. The first advantage, obviously, is that it is secretive. No position taken need be seen as a loss of face or status. No position will automatically be endorsed by the associated government. Ideas or

¹³⁵ Actually, it is doubtful that the most objective of the PA leadership actually believed these points. It was, however, all of the positions continuously taken in each of the internal documents which constitute The Palestine Papers.
proposals can simply be floated to see what reaction they get from the other side or even from one’s own government.

The second advantage of a secret negotiation process is that its existence and the details of the negotiations can be denied by either party. They can be conducted by senior members of a government, as was the case for the Palestinians at Oslo. But they can also be conducted by either lessor officials or even by private citizens, as was the case for Israel in the earlier sessions at Oslo. That can be helpful in keeping the press from learning the terms or even the existence of secret back channel negotiations. There have been several such back channel rounds.

Needless to say, very little can be known about the details of these sessions unless and until they blossom into a full fledged round of negotiations at higher levels of each government. Such was the case in Norway. However there was another secret round of negotiations which took place in 1994 about which a few things are known. Yossi Beilin, a member of the Knesset and later the Minister of Planning, began a series of secret meetings with the number two in the PLO, Mahmoud Abbas a/k/a Abu Mazan. The meetings were concluded with an agreement on October 31, 1995. This agreement, then known as the “Stockholm Agreement” was concluded just four days before Prime Minister Yitzak Rabin

---

136 Of course, it is imprecise to speak of a senior member of a government of the PLO in 1993, as the PLO was located in Tunisia and had control of no land area whatsoever. Nevertheless, it was very clear that the PLO sent a very senior official, Ahmed Qurei a/k/a Abu Ala, to the Oslo meetings, while Israel sent two non-official academics.

was assassinated on November 4, 1995. The text of the document was never shown to Rabin by his friend, Yossi Beilin.

Over the course of eighteen months, most of the meetings took place in Stockholm and Tel Aviv. While the text of the agreement has never been completely verified, details have been leaked. Dennis Ross produced an outline of this agreement in his book, *The Missing Peace*. Beilin and Abu Mazan were able to find a very far reaching understanding on most critical issues.

Perhaps the most important and creative idea was reached with respect to Jerusalem. The city of Jerusalem and its municipal boundaries would be expanded to include the Palestinian village of Abu Dis. Thus, Jerusalem could serve as the capital of both Israel and the new State of Palestine. This same idea seems to be floated every few years by different Israeli and Jewish groups. Later, Beilen noted that the Jerusalem solution posed by the Stockholm agreement should have been appreciated by the Israelis for a number of reasons. First, Israel would maintain sovereignty over East Jerusalem and second, the Palestinian capital would be in Abu Dis, east of the then city limits and only nominally in Jerusalem.

139 Ibid. 13-14; See also Ross, Ibid.
140 Ibid. 14
141 Ibid. Ross 208
142 Ibid. 208
143 Enderlin Ibid. 14
Going further with regard to Jerusalem, “a borough system would be established, with questions of Sovereignty on the HaramEl-Sharuf/TempleMount deferred.”144 On the critical issue of Security, it may have been agreed that the Israelis would keep several battalions in the West Bank, probably the Jordan Valley, for twelve years.145 With respect to territory and borders, “there would be adjustment of the 1967 Borders to accommodate Israeli Settlement blocs, but there would be Territorial compensation on nearly a one-for-one basis.”146 As to “Refugees, each side would state their respective positions, but then address the question using practical guidelines.”147

The Beilin-Abu Mazen plan was never presented to Rabin due to his untimely death. Subsequently Prime Minister Peres ostensibly denied the document. Arafat denied that Abu Mazen had any authority to negotiate such a plan.148

Some five years later, during the Clinton Round at Camp David the Beilin-Abu Mazen agreement was discussed in terms of the Refugee issue. The idea was to use the Beilin-Abu Mazen formulation where the Palestinians require the Israelis to recognize the human suffering and the need to resolve the Refugee issue while the Israelis seek wording “emphasize the practical limitations on return” to Israel.149

144 Ibid. 208. The practice of deferring issues involving Jerusalem is one that persists to all the most recent rounds of negotiations.

145 Ibid.

146 Ibid.

147 Ibid.

148 Ibid.

149 Ibid. 671
The point of this section is not to set forth yet another resolution of the Israeli-Palestinian conflict which went nowhere. It is simply to point out that no matter who is negotiating, no matter when the negotiations take place, no matter where the negotiations take place, the issues are always the same and the proposed solutions seem to always fall within a very small range of possibilities. If there is to be a final status agreement, both parties have known for a very long time generally what the terms will be.
CHAPTER SIX

XIII. Case Studies of the Major Israeli-Palestinian Conflict Negotiations

A. The Clinton Round

Much has been written about the preparations for the Camp David Meetings of July 2000. For some, it was the lack of sufficient preparation for these negotiations which led to their failure.\(^1\) It was commonly known that Yasser Arafat wanted more time for preparation before the summit. “... Arafat expressed his fear that if he went to a Summit and it failed, all hope would be lost, and ‘the people must not lose hope.’ But Arafat also said he would go to a Summit if there were two more weeks of preparation.”\(^2\) However, magnanimously, Arafat said that if President Clinton decided that the Summit was ready to go, he would come.\(^3\) What can probably be said with assurance is that no person prepared more for the Summit than President Clinton himself.\(^4\)

As shown previously in the section concerning President Bush’s Road Map, it is possible to prepare a matrix of the obligations, rights and duties spelled out in the framework of the Road Map documents.\(^5\) It is not possible to do so for the negotiations at Camp David.

---


\(^3\) Ibid.


\(^5\) A copy of this Road Map Matrix is contained in the Appendix.
This is so because there were no concrete proposals by either party to the dispute. The only proposals came from the United States’ officials. Sometimes the Israelis might couch a proposal as a hypothetical question; a “what if”. Mohammed Dajani noted that on the second day of negotiations at Camp David he was confronted with a question by the Israelis. “What if we withdraw to the 1967 Borders, what are you willing to concede on Jerusalem?”

However, this kind of *quid pro quo* negotiation was not conducted at Camp David.

This is not to say that the parties did not understand the nature of the meetings. It is, however, true that the Israelis chose to play their cards very close to their vests while the Palestinian negotiators did not want to make any move which would or could be overridden by Yasser Arafat. On the other hand, Dennis Ross noted that he was told by several of the Palestinian negotiators that only Arafat “had the moral authority among Palestinians to compromise on Jerusalem, Refugees and Borders.”

In short, Rob Malley, the National Security Council’s Middle East expert under Mr. Clinton, summed up the round taking a position shared by many of the Palestinian negotiators. They state that there never was an Israeli offer. This position is taken by those who want to justify the lack of response by the Palestinians, most notably, Yasser Arafat. Technically, this may be true. Nearly every


7 Ross. Ibid. 768

8 Shamir, S., & Maddy-Weitzman, B. Ibid.

9 Compare this position to the one discussed previously where the NSU wrote a detailed document that set forth, in detail, why they thought the offers at Camp David were insufficient. NSU, & Legal Unit. (2001). NSU Memo Re President Clinton’s Proposals. *The Palestine Papers* (pp. 8).
proposal was brought to the Palestinians by the Americans. However, the Palestinians never felt it necessary to ask the Americans if a proposal that was being conveyed as an offer of the Israelis was genuine or authorized. If a proposal was solely an American one, the Americans duly noted that fact.

It is interesting to see who the most important players were at Camp David. As stated previously, the CaseMap database shows that the names Yasser Arafat (3,520) and Chairman (164) come up more times than the names of President Clinton (1,120) and Ehud Barak (2,109) combined. Even the name of a the man who was absent, Bibi (771) and Netanyahu (452) is mentioned more often than President Clinton. It is therefore necessary to examine the Clinton round by carefully analyzing Arafat’s behavior and statements at Camp David and beyond.

Perhaps the most important element of the Chairman’s bargaining position was fear – including fear for his own physical safety. So many of the first hand writers about Camp David remarked how often Arafat would rebuff a proposal or an idea by saying that if he agreed, he would be killed. While one may view this position as mere grandiosity, there can be no doubt that the Middle East is a very rough neighborhood and more than one leader has been assassinated for negotiating peace, i.e. Yitzhak Rabin and Anwar Sadat. However, Arafat’s perseverance on this idea was striking. Shlomo Ben-Ami, one of Israel’s lead negotiators at Camp David noted that Arafat would frequently say, “Do you want to come

10 In no way is this intended to mean that Arafat thought he would be harmed by the Israelis or the Americans.
Mr. Ben-Ami presumed that Arafat would rather die a hero, defeated in war, as Gamel Nasser than murdered as a man of peace like Anwar Sadat.

On July 19, 2000 Arafat is noted to have said, “I’ll send you an invitation to my Funeral after my assassination, if you insist on this point.” On July 24, 2000 Arafat said, “I can't betray my people. Do you want to come to my Funeral? I'd rather die than agree to Israeli Sovereignty over the Haram el-Sharif (Temple Mount).” “There was nothing new in Barak’s proposals, I will invite you to my Funeral if you insist on your demands for Jerusalem,” “I cannot go back to my people without Al-Quds, Al-Sharif. I prefer to die as someone who has been occupied, rather than as someone who yielded and gave up.” ‘A billion Muslims will never forgive me,’ Arafat complained to the President, ‘if I don’t receive full Sovereignty in East Jerusalem. I do not have a mandate to compromise. It’s not for me, it’s the entire Muslim world.” With Arafat, all was bluster and self-righteousness. He had not come to Camp David to negotiate.

---


12 Interestingly, Nasser died of a heart attack.

13 Ibid.


15 Ibid. 253


17 Ibid. 82

18 Sher, Ibid. 84
In fact, it was Arafat’s position that he truly was not there to negotiate at all. It was his position that when the PLO recognized Israel’s right to exist in 1988, that was the Palestinian side of the negotiations; the totality of the PLO concessions.\textsuperscript{19} Arafat believed that the PLO had accepted Israel on 78% of the historic Palestinian Mandate and that was all he was willing to concede.\textsuperscript{20} Israel must make do with that 78% and Palestine will have to make do on the remaining 22%. While there is a certain logic to this simplistic thinking, it is not likely to lead to final status agreement. In one of the few times that Ehud Barak, himself, went on the record about the Clinton Round, he noted,

\begin{quote}
“Oslo, as they saw it, was not about negotiating peace terms but terms of surrender. Bearing this perspective in mind explains the Palestinians’ view that Oslo itself is the historic compromise - an agreement to concede seventy-eight percent of mandatory Palestine to Israel.”\textsuperscript{21}
\end{quote}

Some nine years after the Camp David sessions, one of the lead negotiators for the United States, Dennis Ross, wrote a second book about the Middle East and these negotiations, this time with, perhaps the greater perspective of time. Mr. Ross described Arafat as follows:

\begin{quote}
President Bush was right to break with Arafat. Arafat was duplicitous. One cannot call for the martyrs to liberate Jerusalem and yell ‘Jihad’ on al-Jazeera and still be a peace partner of the United States and Israel. A lesson of the 1990's is that if a leader cannot tell his public before a fateful Summit like Camp David in 2000 that he will compromise,
\end{quote}

\begin{flushright}
\textsuperscript{19} Ben-Ami, Ibid. 371
\end{flushright}

\begin{flushright}
\end{flushright}

\begin{flushright}
\textsuperscript{21} Ibid. 131. Barak E.
\end{flushright}
the odds are he will not do so. Arafat may have embodied Palestinian nationalism, but his actions, especially from 2000 to 2004, ensured that Arafat could not be a partner for peace.22

This is not to suggest that the remainder of the Palestinian negotiators were not sincere in their efforts to establish a Palestinian State, an end-of-conflict treaty and peace with Israel. There is every reason to believe that these gentlemen were men of high moral standards and great integrity. In fact, Galead Sher, another of the Israeli lead negotiators at Camp David summed it up best. Interviewed by the New York Times in June, 2013, Mr. Sher said

“most members of the Palestinian leadership ‘knew and agreed that this is a historic compromise that requires the Palestinians yielding on some issues – all except one: Yasser Arafat.”23

At a conference held at Tel Aviv University in Israel in 2005, Rob Malley described how the American delegation thought the negotiations would proceed.

“We came to Camp David imagining that we would get close to Israel’s bottom line, we would then give it to the Palestinians, receive a counter-offer, bring it back to the Israelis and clinch the deal.24

Once again, Man plans and G-d laughs. Two weeks at Camp David, for the reasons set forth above, did not produce a single Palestinian proposal nor acceptance of a single American proposal. In the end, the major setback of Camp David was not that Arafat did not


24 Shamir, S., & Maddy-Weitzman, B. Ibid. R. Malley 111
accept an offer, rather it was that he failed to respond to it at all.\textsuperscript{25} Arafat’s fault was not that these negotiations failed, but rather that he failed to negotiate.

The Clinton Round continued for several months after Camp David in various locations, most notably Taba, Egypt. During this time period the sides were able to bridge many of the gaps in the Camp David round and the Clinton Parameters. On January 27, 2001, a week after President Clinton left office, the two sides issued a joint statement thanking the Egyptian President and the European Union for their help. What gaps were closed? There was tighter language on Jerusalem and refugees. Several sources have indicated that Mohammad Dahlan, a lead Palestinian negotiator received a verbal offer that Israel would accept the annexation of 4\%-5\% and would swap back land inside the Green Line of about 2\%.\textsuperscript{26} This offer has never been confirmed and seems unlikely in that it is less land than Prime Minister Olmert ever offered some seven years later. We shall deal with that round of negotiations in the next section.

\textsuperscript{25} Ibid. Aaron David Miller. p. 96

\textsuperscript{26} Ibid. Ron Pundik 153
B. The Olmert-Abbas Round

In 2008 and 2009, the parties, using the broad parameters specifically enunciated by President Clinton on December 23, 2000,\textsuperscript{27} reached a more detailed and comprehensive agreement. The parties again agreed not to agree on some issues which would be left for later discussion.

The Negotiation Support Unit ("NSU")\textsuperscript{28} was a group of scholars and/or lawyers, working for the PA who were tasked with preparing documents and research for the negotiations. They prepared such documents as Meeting Summaries [130], Meeting Minutes [259], Talking Points [159], presentations [53], internal emails [142], letters [313] and issue and/or policy analysis [201]. Their work can be seen throughout the entirety of *The Palestine Papers*. It was possible to identify more than 350 documents prepared by the NSU not including those documents which were prepared by a single person working for or at the NSU whose particular authorship was acknowledged directly in the document itself.

Of particular note to this analysis of the Olmert-Abbas round were documents referred to as the Matrix of Palestinian-Israeli Positions.\textsuperscript{29} Between April 2008 and July 2008 the NSU prepared several documents attempting to list all of the issues that had been decided up until that point and also all those issues that remain to be decided. Each such document

\begin{itemize}
\item[\textsuperscript{27}] The "Clinton Parameters" were rarely, if ever mentioned by any of the negotiators by name. Nevertheless, ultimately the issues remained the same as the Parameters. The solutions proposed were, by and large, all within the Parameters.
\item[\textsuperscript{28}] It is interesting to note that the NSU as an important contributor to the PA’s negotiation process, was paid for by a philanthropic agency in Europe. The NSU was disbanded 2010.
\item[\textsuperscript{29}] Copies of these Matrices are included in the Appendix.
\end{itemize}
contained a note saying “Note: This chart is for informational purposes only. Nothing in it shall be understood to bind either party to the positions indicated herein.”

On April 20, 2008 the NSU drafted its first matrix of then current Palestinian/Israeli positions. On this five page document the NSU listed 12 separate categories. Each of these categories corresponds to a specific committee working on the issue. In this document, each category is noted as a “file”. These files are: refugees, territory, Jerusalem, territorial link, security, state to state, energy telecom and transportation, infrastructure, economics, Culture of Peace, prisoners, environment, water and legal. The remainder of the matrix includes Issues, Palestinian position, Israeli position, Areas of Agreement, Last Date Updated, and Committee. Perhaps the most interesting part of this particular matrix is that the only area of agreement is under the category of “Legal”. This area of agreement deals primarily with civil matters and areas of family law.

Also of particular interest is the PA’s understanding of the respective positions of the parties with respect to UNGAR 194 and to the term “1967 borders”. As to Resolution 194, the PA states that “194 does not represent all the rights of the refugees,” while it is stated that “Israel does not recognize Resolution 194.” Once again, the PA takes a position with

---

30 It must be understood that these positions are set forth in a document prepared by the NSU. It represents the understanding of the NSU and may not accurately represent the positions held by the Israeli negotiators.


32 To some it may seem ironic that only in the “Legal” was there agreement.

33 It is an important premise of this dissertation that statements of third parties, such as UN Resolutions and the Arab Peace Initiative (“API”) and the Road Map, take
respect to a third party document or policy. In the PA’s style of policy and/or negotiations, third party policies, in this case the United Nations General Assembly, take on an importance way beyond their actual importance at the time of its creation.

A brief description of Resolution 194 will shed some light on this PA tactic. The Resolution was sponsored by France, Turkey and the U.S. It was passed on December 11, 1948, prior to there being an armistice between the Arab nations and the nascent Israeli State which was only about seven months old. The document itself is about four pages long. It consists of fifteen substantive paragraphs only one of which deals directly with the Palestinian refugee issue\(^\text{34}\). That paragraph reads as follows:

11. Resolves that the refugees wishing to return to their homes and live at peace with their neighbours should be permitted to do so at the earliest practicable date, and that compensation should be paid 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;

Instructs the Conciliation Commission to facilitate the repatriation, resettlement and economic and social rehabilitation of the refugees and the payment of compensation, and to maintain close relations with the Director of the United Nations Relief for Palestine Refugees and, through him, with the appropriate organs and agencies of the United Nations;

---

As can be seen, the wording of this Resolution is anything but clear. First, it would only apply to those “refugees wishing to return to their homes and live at peace with their neighbours”. Since it was not until the PA actually recognized Israel’s right to exist in 1988, some forty years later, that any presumption could be extant that any refugee might want to “live at peace with their neighbours.” Second, implementation of the resolution would be governed by “principles of international law or in equity” as though those principles are specific and laid out for all to see. Third, responsibility for implementation of the resolution “should be made good by the Governments or authorities responsible;”. There is no mention of which governments or authorities were responsible. There is no understanding of what or who would be responsible for what. In other words, this resolution is more word salad than a document which could govern the future of the refugees. Moreover, that was exactly what the document was intended to be.

Perhaps even more obvious is the fact that Resolution 194 is now sixty-eight years old. It is difficult to imagine that this resolution could possibly serve as a basis for a negotiated treaty dealing with refugees. What is less well known is that Resolution 194 was passed by an overwhelming vote.\(^35\) However, other than Turkey which was a sponsor of the resolution, no other Muslim country voted in favor of the Resolution. Even Iran, a non-Arabic country, abstained from voting rather than voting for the Resolution. It is submitted that the PA demonstrates an exasperating pattern of wishing that they, or their predecessors, had supported a resolution or offer or parameter at the time that it mattered rather than in the

future. The PA seems to reject an offer in real time and then feels regret months or years later that they did not accept the offer and also regret that they will never get nearly the same offer in the future.

Another example of this propensity of the PLO to reject proposals which are suggested and then, only after the passage of considerable time, accept the same proposal when it may already be too late took place at the Oslo negotiations of 1993. The team of negotiators, Abu Ala, Hirschfeld and Pundak prepared a set of draft agreements in preparation for what is referred to as Oslo Accords. These included:

“a fourteen-point Declaration of Principles on basic arrangements for Palestinian Self-rule and a framework for future negotiations; a six-point proposal for major infrastructure and development programs on which Israel, the Palestinians, and Arab neighbors could cooperate; and, third, an ambitious “Marshall”-style international assistance plan that would engage the Group of Seven greatest economies (G7) and the Organization for Economic Co-operation and Development to the benefit of the Palestinian areas in particular, and the wider Middle East in general.\(^\text{36}\)

One can only wonder what the Middle East would look like now if these sets of draft agreements were implemented at the time. Moving on to the point regarding the maddening propensity of the PA to reject proposals when offered only to wish that the proposal be offered again years latter, one more proposal was made at the Sarpsborg mansion.

Importantly, they also agreed that self-rule could start in Gaza and gradually grow to include the West Bank. This latter was

an old proposal of Shimon Peres that previously had been rejected by the PLO.\textsuperscript{37}

This is one more instance of the PA rejecting an offer when it could have improved the lives of their people and, perhaps, paved the way for a brighter future only to accept the same proposal later when it is too late to do any good. It is important to recall that eventually, Prime Minister Ariel Sharon unilaterally left Gaza and the PA was not able to hold Gaza together for more than a few months. Only months later, Hamas defeated the PA military wing, Fatah, and has controlled Gaza ever since.

On May 23, 2008, the NSU prepared the second of their Position Matrixes.\textsuperscript{38} Columns were removed, including the most interesting column, “Areas of Agreement”. The most important of the entries are those that deal with the question of Refugees. The PA has taken a hard position that resolution of the “refugee issue” must include the position that Israel must recognize its “moral and legal responsibility / apology as a core element of refugees’ rights for repatriation.”

It is fascinating to read that in the face to face meetings between the highest level negotiators for which we have “transcripts”, the PA is far more flexible regarding refugees (and other issues) than they appear to be in the documents prepared for strictly internal use by the NSU. This dichotomy between the Matrix discussed above and below and a transcript of a progress meeting on refugees will be discussed below.

\textsuperscript{37} Ibid.

On or about June 15, 2008, the NSU prepared the third Matrix of Current P/I Positions.\textsuperscript{39} Once again, the Israeli position on refugees is clear. “Israel so far opposes to recognize its responsibility.” and “Refugees shall be entitled to Palestinian citizenship and provided with resettlement and integration options only (no return to Israel)”. It is hard to imagine a clearer statement. It must be kept in mind that this is the PA’s understanding of the Israeli position as it is set down in an internal Palestinian document.

We can use this third Matrix as an example of the PA’s stated position regarding refugees and compare it with their position in the actual negotiations. The PA position reflected in their documents for internal use only should be seen in light of their position at the Progress Meeting on Refugees which took place on September 14, 2008 at the King David Hotel in Jerusalem.\textsuperscript{40} It is important to remember that this text is from a document prepared for the PA by some person working for the PA and/or the NSU. The following is taken directly from the document referred to in the footnote.

TB (Tal Becker, lead Israeli negotiator): ...

I have listed the points of agreement and disagreement:

Points of agreement

1- the structure of the article: after several months of discussion, we have accepted the Palestinian proposal with minor modifications.


2- Our understanding is that the following issues are at stake:

a. Responsibility – it’s a major concern for the Palestinians
b. The destination choices: we agree that different destination options will be offered to Palestinian refugees. The return to Israel remains an issue of disagreement. The position of the Israeli PM and T. Livni are different on this.
c. An international mechanism will have to be created. Regarding the mandate of the mechanism and its goals, we agree on:
   i. compensation (disagreement on restitution – it’s a non-starter for Israel)
   ii. rehabilitation
   iii. settlement choices (except return)
   iv. bring a definitive end to the issue
   v. gradual dismantlement of UNRWA
   vi. IM should be the exclusive forum
   vii. the establishment of an International Fund
   viii. the principle that Israel will contribute to this Fund
   ix. the principle that there will be no obligation beyond the Treaty:

d. We also narrowed some textual differences.

Points of disagreement:

1- The preamble: Palestinians insist on the reference to resolution 194 and the API. Israel wants a reference to the 2 States for 2 peoples. I guess this will become clear when all the other political issues will be resolved.

2- For Israel, in the context of a complete resolution of the refugee issue, a sign has to be given to our domestic audience regarding the Jewish refugee matter. The article on refugees will have to be sold to an Israeli opinion.

3- Responsibility: we understand that this is very important for the Palestinians. As long as we keep talking I think that we can find an acceptable wording for both sides.

4- Palestinian citizenship: in the Israeli view, all Palestinian refugees should be provided with Palestinian citizenship according to Palestinian law.

5- Regarding compensation, there are two main issues of disagreement:

   a. Restitution is a non-starter for the Israelis. We have a strong legal case to prove this.

   b. Regarding compensation, we have decided not to make counter proposal on the different forms of indemnification. We could have
done it but we would prefer to remain vague in order to prevent a dispute that could not be sorted out. Our view is that the priority should remain to use the funds for rehabilitation.

6- The level of details in the bilateral agreement. We think the details should be left to the mechanism. There was a phase where the US were ready to put a proposal on the table. We were able to avoid that, but we didn’t oppose the idea of a US-led mechanism. But I understand that you could not accept it.

7- We disagree to refer to the Custodian of Absentee Property.

8- We also disagree on the way to refer to the Israeli financial contribution.

9- Finally, compensation for Host States is not acceptable for us. Let me clarify: we are not against compensation for the future (rehabilitation).

SE (Saeb Erekat, lead Palestinian Authority negotiator; the most experienced and most famous of the Palestinian Negotiators.) “I think we have the ingredients for a settlement and that the work done could serve as a serious basis for the agreement.” [emphasis added]

What we see here is the Israeli lead negotiator, Tal Becker, laying out in detail the Israeli position with respect to refugees. The statement is broken down into two distinct parts: the first is points of agreement and the second is points of disagreement. The points of disagreement take up nearly a full page. They are specific and direct. If the Israeli statement says nothing else, it surely states that Palestinian refugees will not be returning to Israel. It is also clear that the Israelis will not accept responsibility for the refugee problem. Once Tal Becker has set forth the Israeli position in no uncertain terms, the lead negotiator for the Palestinian Authority, Saeb Ereket, states, “I think we have the ingredients for settlement and that the work done could serve as a serious basis for the agreement.” [emphasis added]

41 Which actually set forth areas of disagreement as well
How frustrating it must be to be negotiating with a partner who continues to take very strong and antagonistic positions in its internal documents and then when negotiating face to face, takes positions which are both conciliatory and diametrically opposed to their position papers.\textsuperscript{42}

It will be the task of this paper to provide a sense of the PA’s reasoning for this dichotomy. Suffice it to say at this time, it is much easier and safer for those who are drafting the internal documents to show just how tough and hard negotiators they can be.\textsuperscript{43} It is much more difficult to sit down face to face and to continue to take a position which you know has no chance of being accepted and, more importantly, is unlikely to be taken seriously. Surely any suggestion that Israel will permit 4,000,000 or 3,000,000 or 2,000,000 or 1,000,000 or half of half that number of Palestinian refugees to simply move into Israel as a result of an agreement voluntarily made is a non-starter. In this regard, as with many others, it is important to recall the position set forth in the Clinton Parameters.\textsuperscript{44}

On July 15, 2008, the fourth and final Matrix\textsuperscript{45} was prepared. It shows no progress on either the refugee issue or the territory issue. In fact, the four Matrices, taken as a whole,

\textsuperscript{42} This is not to suggest that the Israeli negotiators knew the content of the PA’s internal documents.

\textsuperscript{43} Even though these NSU persons are not actually attending the negotiations.


\textsuperscript{45} Copies of these Matrices are reproduced in the Appendix.
show no substantial progress in any area other than the legal committee. And yet, the PA negotiators themselves seem continuously optimistic. The only way to reconcile the optimism of the negotiators and the very calcified positions reflected in the documents prepared for the negotiators by the NSU is to understand that as long as the positions are as hard and firm as possible, no drafter will have to justify themselves or their writings.

One can also see the evolution of the Olmert Round in the evolution of the maps which have been included in The Palestine Papers. These maps, including the one produced by Ehud Barak as he was leaving office, are reproduced in the appendix.

1. Evolution of “1967 Borders” as a Negotiating Point.

Using the EndNote and CaseMap databases as research instruments, one can see changes in negotiating tactics on a year by year basis. An important example of this analysis is the use of the concept of “1967 Borders” as a single concept as opposed to being merely descriptive. As stated previously, over 15,000 quotes taken primarily from the first person writings of those negotiators who actually attended the Camp David Summit have been placed into CaseMap. During the entirety of the Camp David and post-Camp David negotiations, the term “1967 borders” was only used six times. Mohammed Dajani noted with respect to Taba, “This was actually the first time throughout our meetings that the Israelis expressed willingness to consider the possibility of withdrawal to the 1967 Borders.”

On July 14, 2000, Israeli negotiator Shlomo Ben-Ami discussed the concept of the 1967 borders at length:

We’ve offered you territories, and, of course, you’re within your rights to refuse. But we have to get a coherent counter-proposal from you. We can’t accept the demand for a return to the borders of June 1967 as a precondition for the negotiation. What would happen if we accepted this principle, and then we didn’t reach an agreement? We’d be left with a situation in which you got recognition of the principle and we didn’t get an agreement. This is why I refuse to accept the principle of a return to the 1967 borders.  

It may be that in Taba, the Israelis first accepted, at least conceptually, a return to the 1967 borders. However, Rob Malley enunciated the Israeli position as he understood them at Camp David:

These principles translate into a core set of policy redlines: no mass influx of refugees that would upset Israel’s demographic balance; Jerusalem as the capital of Israel; the recognition of the sacred Jewish link to the Temple Mount; no return to the 1967 borders; the incorporation into Israel of the vast majority of settlers in their current locations; no second army between the Jordan River and the Mediterranean Sea; and the perpetuation of the Jordan Valley as Israel’s de facto eastern security border.

It is interesting to note that beginning in 2007, the Palestinians began to use the term “1967 Borders” whenever the word borders had been used in the past. As the chart below

---


reflects, by 2010, the Palestinians could scarcely use the term “borders” without referring to “1967 Borders”.

![Percent of Documents in which the term Borders was used together with the term "1967"

Figure 2

It appears that once Shlomo Ben-Ami announced the Israeli position with respect to the term or principle “1967 borders”, the Palestinians understood that whenever they wanted to slow down negotiations or bring them to a halt, all they needed to do is raise and cling fast to the “1967 borders” principle. It seems a foolish principle. Does it mean that if the Palestinians were offered 30% of Mandatory Palestine, they would turn it down because it could not follow “1967 borders”? Does it mean that if they were offered a better deal than the 1949 Armistice Line, they could not accept? The principle of “1967 borders” is another case of symbolism over substance.

It now appears that in the most recent set of negotiations that Israel is willing to acknowledge that the “1967 border” with negotiated land swaps will form the substance of
a Two-State Solution.\textsuperscript{50} Of course, the real issue was always what are the land swaps and what does it mean for governing a Palestinian State? That remains to be decided.

2. Security Issues in Gaza

The period between 2004 and 2007 was a period when there were few, if any, Israeli-Palestinian negotiations. Ariel Sharon, the elected Prime Minister of Israel after Barak lost his bid for re-election, was not interested in negotiating a treaty with the Palestinians. He announced a “unilateral withdrawal” of Israel from Gaza in early 2004. This “unilateral withdrawal” can provide some important insights into the nature of the Israeli-Palestinian conflict. Palestinians frequently point out that the reasons that Gaza turned into a haven for Hamas was that the Israelis failed to inform and coordinate the Israeli withdrawal from Gaza with them. However, the documents contained in \textit{The Palestine Papers} seem to put the lie to this notion. Just a brief survey of \textit{The Palestine Papers} is needed to demonstrate the point. When the Palestinians learned of Sharon’s disengagement plan, announced in early 2004, there clearly was ample time for preparation to take over the Gaza strip as a part of the territory to be governed by the PA.

In fact, there was no shortage of preparation for this take over of Gaza by the PA, at least on paper. During 2004, of the 66 documents contained in \textit{The Palestine Papers} a full two-thirds, 45 papers dealt, at least in part, with planned security measures in the Gaza. The

names of just a few of these papers is all that is needed to show that the PA was thinking and planning for the withdrawal.

- Withdrawal Plan from the West Bank and Gaza Strip and Resumption of PA Control.\textsuperscript{51}
- NSU Memo to Erekat Re: Gaza Withdrawal Plan.\textsuperscript{52}
- US Lobbyist Memo: Implications of Sharon's Disengagement Initiative.\textsuperscript{53}
- Internal Email Re: Sharon’s Disengagement Plan (Full Text)\textsuperscript{54}
- NSU Internal Briefing - Assessment of Sharon's Gaza Withdrawal Plan.\textsuperscript{55}
- NSU Memo Re: Gaza Presentation to the European Union.\textsuperscript{56}

The following year, The Palestine Papers reflect that nearly half of the documents, 77 of 142 dealt with, at least in part, the preparations for security in Gaza. Again, the titles of these documents are of value. One document shows a PowerPoint presentation given by the Government of Israel to ministers of the PA about the “Disengagement Plan”.\textsuperscript{57} Another document reflects the PA security plan given to the United Kingdom Military Liaison

\begin{itemize}
\item \textsuperscript{51} NSU. (2004; 2004-02-28). Withdrawal Plan from the West Bank and Gaza Strip and Resumption of PA Control. The Palestine Papers. (pp. 11).
\item \textsuperscript{52} NSU. (2004; 2004-02-29). NSU Memo to Erekat Re: Gaza Withdrawal Plan. The Palestine Papers. (pp. 3).
\item \textsuperscript{54} Attili, S. (2004; 2004-05-08) Internal Email Re: Sharon's Disengagement Plan (Full Text) The Palestine Papers.
\item \textsuperscript{56} NSU. (2004; 2004-06-08) NSU Memo Re: Gaza Presentation to the European Union. The Palestine Papers.
\end{itemize}
Office. 58 Hardly does this indicate that the disengagement was either a surprise or clandestine or that the PA failed to plan for the turnover of Gaza.

In 2006, the work of the NSU and the PA continued. Of the 145 documents prepared, 64 touched upon security in Gaza. The NSU prepared a document Security Studies Workplan 59 about the security in Gaza. The same can be said about 2007. The NSU and PA prepared 266 documents, almost half, 131 discussed Gaza security.

Why is this level of detail important? The answer is quite simple. Originally, in 2004 and 2005, the Palestinian rejoiced in the upcoming disengagement.60 In 2006 Palestinian elections were called. These elections were generally seen as fair and transparent. Fatah, the political arm of the PA suffered a terrible setback. Hamas won a surprise and decisive election victory. In April 2006, the Fatah security forces in Gaza refused to follow orders from the Hamas-led government. By the summer of 2006, Hamas had handed Fatah and the PA a sound and violent defeat and took over Gaza.61

It is submitted that the Gaza experience noted above may have a very impactful role to play in the negotiating mind set of the Palestinians. While it is one thing to think long and hard about an impending problem and to assign the most educated and conscientious planners to develop tactics for an upcoming increase in the role that the PA must play in the governance of the Palestinian people; it is another thing to actually complete the task, to


61 Ibid. 360
actually govern. With two years of preparation for the disengagement, the PA could not survive an election and then could not survive the force of a relatively small terrorist group. How could this fact not be in the back of the PA’s collective mind as it looks forward to a time when it will be called upon to govern the entirety of the Palestinian people. They could not govern Gaza. Will they be able to govern the West Bank, Gaza and the several millions of the Palestinian diaspora who might want to exercise their right to “return” to Palestine. Is this the underlying reason that both under Arafat in 2000 and under Abbas in 2008 each neither rejected the best Israeli offer, but could not bring themselves to accept it?

C. The Efforts of Secretary of State John Kerry

Beginning in 2013, President Obama charged Secretary of State John Kerry with the task of reopening the peace process between Israel and Palestine that had bogged down in the previous administration and in the prior years of his own administration. On November 6, 2013, Kerry called upon a known and long time ally for peace, then outgoing Israeli President Shimon Peres.62 His remarks, at that time were recorded by the U.S. State Department. These remarks were appropriately optimistic for the start of a new round of negotiations. He said,

I am convinced from my conversations today with Prime Minister Netanyahu as well as with President Abbas that this is not mission impossible; this can happen. It will require both leaders to make big, historic, difficult decisions. But I am also convinced that those are decisions that are absolutely, totally

---

62 The “Warrior for Peace” Shimon Peres, who only recently left government service, has suffered a stroke and has passed away at the age of 93.
in the interests of their country, Israel and their country-to-be, Palestine, and in the interests of both peoples.

As you said a moment ago, there is no alternative. There will be chaos, violence, turmoil, confrontation, in the absence of peace. You cannot live with perpetual war, particularly in the Middle East, and not find huge complications. So President Obama has asked me to put this time into this effort. He is deeply committed to this cause. We believe that over the next months, with good effort we can hopefully make some progress.  

Shortly after Secretary Kerry’s admonition to Israel through President Peres, the Palestinian Lead Negotiator, Saeb Erekat, voiced his understanding of this new round of negotiations in the Muqata’a in Ramallah saying:

What Secretary Kerry is doing – and let me repeat it in front of him – is not an interim agreement. It’s not a transitional period that’s beyond us. We’re working hard to achieve an agreement on all core issues. No one benefits more from the success of Secretary Kerry’s efforts than Palestinians, and no one stands to lose more of failure than Palestinians. Failure to us is not an option. We really are doing everything humanly possible to ensure the success of Secretary Kerry. We really hope that the Israeli side would refrain from any acts that may prejudice or preempt the outcome of permanent status negotiations, i.e., settlement activity and home demolitions.

Secretary Kerry – I have read in the papers that he presented papers, documents. Up till this moment, Secretary Kerry has shared ideas. We’re discussing these ideas. The job is not done yet. We have meetings scheduled for next week, and I think the Secretary will be coming back in the days ahead.  

---


The point of these quotations is to clearly demonstrate that both the United States and the Palestinians believed, as they had every right to do, that this latest round of peace negotiations might actually bear fruit and the Two-State Solution might actually be realized. It further, lends credibility to the reporting of Birnbaum and Tibon discussed below.

What is also important is that Mr. Erekat set forth the potential Israeli acts which would prevent success in the “negotiations i.e., settlement activity and home demolitions.” As always, stating that settlement activity will prevent success of the negotiations places the power to disrupt negotiations in the hands of those who do not seek a peaceful end to the conflict. Knowing that the PA can not get past even minor additions to already existing settlements, those who do not want a Two State Solution to succeed, will continue to have all the power. Whenever it seems that negotiations could be productive, new plans or new permits or new tenders become publicly known and the potential negotiations come to naught.

In 2014, Secretary of State John Kerry may have bridged a few of the remaining issues and had reason to believe that a final agreement might be ready to be signed within weeks. In fact, on July 18, 2014, it is reported that Mahmoud Abbas convened a meeting of the Palestinian leadership in Ramallah. At that meeting, Abbas was going to try to convince the Palestinians that a peace agreement with Israel was possible and to authorize renewed negotiations.

The words “may have” is used deliberately because this position has not been made public and no party has corroborated it.

What seems to be clear is that Secretary Kerry was able to fill in some of the critical blank areas from prior negotiations. For example, it is likely that General John Allen, a former commander of U.S. forces in Afghanistan, was able to put together a plan concerning security issues in the Jordan Valley. These plans included “new early warning infrastructure, an invisible Israeli presence (via cameras) at border crossings, and top-shelf American gadgetry”. While this technological approach did not satisfy every Israeli official, it was enough to move on to other issues.

By January 2014, Netanyahu and Kerry were discussing such issues as borders and other outstanding disputes. There may have been tentative agreement on monetary compensation to Palestinian refugees from the 1948 War of Independence. It confirmed the Clinton Parameter that the so-called “right of return” would be to the new Palestinian State. Equally as important, it was agreed that Israel, at its sole discretion, would admit some refugees on humanitarian grounds.

In addition, it has been reported that:

“Netanyahu accepted that “[t]he new secure and recognized border between Israel and Palestine will be negotiated based on the 1967 lines with mutual agreed swaps.” Said one Israeli


Ibid.

Ibid.

Ibid. There was even understanding that there might be compensation for the Jews from Arab countries who were forced to leave their homes.

Ibid.

Ibid.
official: ‘If the Israeli public knew back in February that
Netanyahu agreed to include this sentence in the framework,
it would have created a political earthquake.’”\textsuperscript{72}

This is not to say that progress toward a potential settlement of the conflict has been
or will be a steady march toward resolution. In fact, a position taken by both Ehud Barak in
2000-2001 and taken by Ehud Olmert in 2008 was rejected by Netanyahu in 2014.
Specifically, the plan for Jerusalem was rejected.\textsuperscript{73} Netanyahu would not accept the principle
that Jewish neighborhoods would be in Israel; while Arab neighborhoods would be in
Palestine. Even the concept of Jerusalem as the capital of Palestine would need to be made
less explicit. Netanyahu even added a new essential term to the negotiations. He demanded
that the Palestinians acknowledge that Israel is the “nation-state of the Jewish people.”\textsuperscript{74}

On March 17, 2014, it has been reported, President Obama committed to a Palestinian
capital in Jerusalem.\textsuperscript{75} However even this commitment did not entice the Palestinians to
continuing bargaining. During most of the months of negotiation, two issues took
precedence; the same two issues which seem to come up during every negotiation session.
The Israelis always want to authorize, permit, plan, announce and build extensions of various
settlements in both the West Bank and in Jerusalem. The Palestinians always want prisoners
released from Israeli prisons.

\textsuperscript{72} Ibid.

\textsuperscript{73} This is not to say that Netanyahu or Israel reneged on any agreement. It has always
been a guiding principle of these and most other negotiations that nothing is
agreed to until everything is agreed to-nothing is settled until everything is settled.
Until an agreement is signed, there is no agreement.

\textsuperscript{74} Ibid.

\textsuperscript{75} Ibid.
This pattern has continued intermittently since 1993. Whenever progress is being made toward a resolution, the Israelis will attempt to slow the process down to a virtual halt (without actually leaving the negotiation process) by announcing or authorizing an expansion of settlements. Whenever the Palestinians want to slow the process down, they will demand or demand that the Americans procure, the release of prisoners held in Israeli prisons. The more the Palestinians want to slow the process, the worse the prisoners on their list will be. If the Palestinians really don’t want to proceed, they will demand release of prisoners who are Israeli citizens or legally reside in Israel. Nothing is guaranteed to test the Israeli’s desire to continue the negotiations more than a demand for the release of prisoners who lawfully resided in Israel.

In the spring of 2014, the Kerry process was reaching a dead end. The time table was drawing to a close and even the extension had expired. President Abbas was refusing to continue negotiations, neither about a final resolution nor even about a “framework” for resolution unless the fourth and final group of prisoners, those who were Israeli citizens and/or those with “blood on their hands”, were released. Netanyahu refused to release the prisoners until Abbas agreed to continue the talks.

So Kerry concocted a grand bargain. Under the deal, Israel would release the fourth tranche, free another 400 prisoners of its choosing, and halt all new settlement announcements throughout the West Bank (though not in East Jerusalem). In return, the Palestinians would agree to extend talks for another nine months and Netanyahu would get a prize that Israeli prime ministers had been seeking for decades: the release of convicted Jewish-American spy Jonathan Pollard.76 Netanyahu was prepared to go along with the deal, and Abbas

76 During the week of July 27, 2015, the spy, Jonathan Pollard won his parole, apparently without Obama administration opposition.
was signaling that he was, too. There was just one problem:
President Obama was against it.\textsuperscript{77}

In June, 2017 Amir Tibon, writing for \textit{Haaretz} obtained two previously unknown
documents which both confirmed his article of January 2015 and expanded on the details of
Kerry’s efforts.\textsuperscript{78} Tibon writes that secret negotiations took place in London during the first
two months of 2014. An American representative attended along with Isaac Molho, a friend
and representative of Prime Minister Netanyahu and Professor Hussein Agha, a close advisor
to President Abbas. “Netanyahu asked the U.S. team to take the fruits of those secret
negotiations and turn them into an ‘American document’ outlining the basis for a final peace
agreement.”\textsuperscript{79}

The document obtained by Haaretz is one of the very
last drafts the U.S. team was working on, and includes
suggestions and objections from the Israeli side, which are
clearly marked within the document.

The document touches on all the “core issues” of the
conflict – the same issues that Trump’s team, sooner or later,
will want the Israelis and Palestinians to discuss and resolve
together.

The first of the core issues mentioned in the document
is mutual recognition between Israel and Palestine. The
document states that the peace agreement between the two
sides “will need to be based on a shared commitment to
fulfilling the vision of two states for two peoples, with full
equal rights and no discrimination against any member of any
ethnic or religious community. Achieving this outcome of two
states for two peoples – Palestine, the nation-state of the
Palestinian people, living in peace with Israel, the nation-state

\textsuperscript{77} Ibid.

\textsuperscript{78} Tibon, A. (2017, 2017-06-08). Obama’s Detailed Plans for Mideast Peace Revealed - and
How Everything Fell Apart, Newspaper Article. \textit{Haaretz}. Retrieved from

\textsuperscript{79} Ibid.
of the Jewish people – will enable the establishment of full diplomatic relations between the two states.”

In addition to solidifying the concept of two states for two peoples, the Kerry document also affirmed the Palestinian position of borders based on the 1967 lines with mutually-agree swaps... “corresponding in size to the territory controlled by Egypt and Jordan before June 4, 1967, ... the parties will take into account subsequent developments, Israel’s security requirements ...”.

The core issue of Jerusalem was only briefly discussed. The document offers two alternative versions on the issue of the capital of each state.

Option 1: “Israel seeks to have the city of Jerusalem internationally recognized as its capital and the Palestinians seek to have East Jerusalem as the capital of their state.”
Option 2: “Palestinians seek to have the internationally recognized capital of their state in East Jerusalem and Israelis seek to have Jerusalem internationally recognized as their capital.”

The document goes on to discuss Jerusalem in slightly more detail. Tibon quotes from the document, saying:

“Jerusalem is perhaps the most complicated and sensitive of all the issues to be resolved in the agreement,” it stated. “Any solution to these issues must correspond to the deep historic, religious, cultural and emotional ties of both peoples to the city’s holy sites, which must be protected. The parties agree that the city should not be redivided and that there cannot be a permanent status agreement without resolving the issue of Jerusalem.” [emphasis added]
According to Tibon, a second document dated March 15, 2014 was not prenegotiated with the Israelis. What is perhaps the most interesting element of this second document was that it assumed that there would be a final agreement as to permanent status.

“Once the needs of both sides are met on all the foregoing issues, the two-state solution will have to be expressed in the Agreement through mutual recognition and establishment of a state of peace between Palestine, the nation-state of the Palestinian people, and Israel, the nation-state of the Jewish people. This is without prejudice to the historical narratives of both sides, and with full equal rights for all and no discrimination against any of their citizens.”  

Kerry’s plan was to produce this second document as being more favorable to the PA and to get Abbas’ “yes”. They would then take it back to Netanyahu to negotiate and revise the differences. There was one minor detail that Kerry did not, but should have, count on; Abbas didn’t reject the framework – “he simply didn’t respond”. One U.S. official told Tibon that, “Abbas was always afraid of saying yes to something, only to then discover that Bibi [Netanyahu] doesn’t accept it. He was afraid of being blamed by his opponents of selling out the Palestinians in return for nothing.”

Both the Israelis and the Palestinians have become quite accomplished in taking the steps necessary to squander the chances for resolution. For the Israelis, the plan is almost always the same, taken affirmative steps regarding the expanding of settlements. More recently, the Palestinian’s tactics have become more varied. In April 2014, the Palestinians

83 Ibid.
84 Ibid.
85 Ibid.
86 And just in case the Israeli and Palestinian negotiators are not playing their parts by stalling and preventing progress in peace talks, Hamas can always be counted
acceded to fifteen separate U.N. conventions. On April 23, 2014, with the negotiators still seeking to get the talks restarted, the Palestinians pulled the plug on Kerry’s efforts at resolution. On that day, it was announced that Fatah and Hamas would end their years of hostility and form a unity government.

When the two tactics are compared - Israeli settlements and Palestinian demands for prisoner releases and the incorporation into the U.N. - it would seem that the Palestinians prefer some sort of symbolic statement while the Israelis seem to be constantly trying to effect the facts on the ground. Of the two sets of tactics, it is the Israelis’ that will be the hardest to reverse.

Despite these efforts and apparent potential success, the dispute continues and optimism for resolution diminishes rather than expands. What is the reason for this futility? It is the highest goal of this dissertation to come up with an understanding of the reason for the continuation of this conflict and perhaps, overly ambitiously, a suggestion for a more productive way to proceed. As noted in the New Republic article of January 6, 2015, Ben Birnbaum and Amir Tibon stated:

...for any agreement to be reached in the future, something major, something fundamental would have to change—the

---


88 Ibid.

89 Birnbaum & Tibon, Ibid.
leaders, the American approach, the terms of reference, the external pressures.

Then in February, 2016 something dramatic did change. Once again, Secretary of State, John Kerry, working to the very end of his term, sought to bring resolution to the Israeli-Palestinian conflict. Perhaps at the behest of Benjamin Netanyahu and perhaps because he never gives up, Kerry took a new approach. He sought to bring into the negotiations some of the most important of the Middle East players, Egypt, Jordan and secondarily Saudi Arabia. On February 19, 2016 at a meeting in Jordan which has been discussed previously, Kerry proposed a new and clearer set of principles. These principles dealt with the usual issues; Borders, Two-states, Refugees, Jerusalem, Security, and End of claims. But there were new positions taken.\(^9^0\)

On Borders, Kerry’s position moved toward the Palestinian position – the basis of the negotiated borders would be the “1967 lines with agreed land swaps.” Here, as in so many other held positions, the Palestinians feel very strongly on the symbolism over the substance. One might wonder why it would matter what the borders were based on so long as both parties agreed to the actual border. If the Palestinians wanted the borders based upon the 1967 line and the Israelis wanted the border based upon what the Oracle of Delphi proscribed, so long as both sides agree, it should not matter. However, for reasons which have been discussed, the term 1967 lines has become a non-negotiable position to the Palestinians.

---

Kerry’s position on Two-States cleverly obscures the most contentious issue, that of a “Jewish State” and calls for “two states for two peoples” in order to fulfill the vision of UN General Assembly Resolution 181. Here again Kerry satisfies the symbolic positions of both parties. For Israel, he provides for a “Jewish State”. For the Palestinians, Kerry brings the UN Resolution 181 with its symbolic value, into the negotiations. For reasons which have been discussed, the Palestinians seem to require reference to outside rules, norms, resolutions, plans or doctrines to bolster their position on every proposal.

As to Refugees, Kerry again uses wording which is intended to satisfy the needs of both parties. By referencing “just, agreed, fair” solution, Kerry gives symbolic heed to the need for respect and honor and victimhood of the Palestinian refugees. The use of the term “realistic” is reflected in the remainder of the statement “two states for two people.” By that it is meant that the new Palestine will be the home for the Palestinians.

The most contentious issue, Jerusalem, is, at least in one way, not the most difficult. The city of Jerusalem is a functioning city where people live and work and play and pray. Secretary Kerry calls for Jerusalem to be the internationally recognized capital of both Israel and Palestine. The holy sites of Jerusalem, of which there are many for the three major western religions, operate each day. People come to the holy sites to pray every hour of every day. This day-to-day operation of these sites will form the basis for a permanent settlement “in line with the status quo.”

For so many Israelis the key issue to be resolved is security. As it is often said, Israel lives in a very tough neighborhood. Kerry’s principles provide that Israel’s security needs will be met and Israel can defend itself. It provides for Palestine to be able to “provide security for its people in sovereign, non-militarized state.”
Finally, Kerry’s principles provide for both an end of the conflict and an end of all outstanding claims. He calls for “normalized relations” as suggested by the Arab Peace Initiative. The February 19, 2016 meeting took place in Jordan in the presence of both King Abdullah and President el-Sissi of Egypt.

The outcome of the summit in Aqaba was what it always seems to be. One of the two critical players, the only one participating in the meeting, Benjamin Netanyahu, walked away saying that he was sure that he could not get his right-wing coalition to go along with Kerry’s proposals.  

Notwithstanding the lack of resolution at the Aqaba summit and the continued failure of any solution to the Israeli-Palestinian conflict, there is a curious pattern developing in the continuing attempts to settle the matter. It seems that each succeeding attempt, brings additional clarity, detail and comfort with various elements of a final end of conflict treaty. Despite the continued use of the phrase and its application to the negotiations, “Nothing is agreed to until everything is agreed to”, the parties are, in fact, coming to a clearer and clearer picture of what a Two-State Solution will look like. All that is missing is the actual doing of it. It is submitted that if and when the leadership of the parties changes, in Israel, in Palestine, in the United States, the picture of the resolution will come into focus.

---


CHAPTER SEVEN

XIV. Political Psychology as Applied to the Israeli-Palestinian Conflict

A. Introduction to the Chapter

The branch of Political Science known as Political Psychology is a relatively new one. A prime example of this discipline is the book, The Political Psychology of Israeli Ministers\(^1\) written by Yael S. Aronoff and published in 2014. Since the purpose of this dissertation is to shed some light on past Israeli-Palestinian negotiations in order to determine if there is any hope of a future end-of-conflict treaty with the Palestinian State being fully formed, it is uncertain whether the field of Political Psychology will shed much light on the subject. Perhaps the role of Political Psychology in this dissertation is to determine if certain traits of personality in particular Prime Ministers would be an obstacle to a final treaty. The proposals contained in the final chapters of this dissertation are intended to remove issues psychology and personality from the Two-State Solution equation.

B. Political Psychology Applied to Israeli Prime Ministers

First, the book deals with only five Israeli prime ministers\(^2\). Second, the book omits a chapter on Ehud Olmert who was Prime Minister in 2008 and 2009 when the negotiations with the Palestinians came closer to success than ever before. Third, if you accept the premise that the Israeli-Palestinian conflict has been substantially settled four times under


\(^2\) Actually six if Ehud Olmert is counted, but no single chapter is devoted to Prime Minister Olmert or his term as Prime Minister even though he is discussed at length.
different prime ministers, including Ehud Barak, Ehud Olmert and, possibly Netanyahu, then it seems obvious that the failure of these negotiations is not due to the psychological mind sets of one or more of the prime ministers of Israel.

Fourth and most importantly, there is no similar work dealing with the Psychology of the Palestinian leaders. The fact that there have been only two such leaders since the Madrid Conference in 1991 should make the task easier not harder. Further, since each of these leaders, Yasser Arafat and Mahmoud Abbas have each walked away from comprehensive proposals for a peaceful settlement without any counter-offer, it seems unlikely that a psychological analysis of these personalities would produce some key factor that may produce a better result with a different mindset.

On the other hand, could it be possible that some psychological factor present in the personality of both Yasser Arafat and Mahmoud Abbas is the reason that there was no response, either positive or negative, to the proposals of either President Clinton or Prime Minister Ehud Olmert or John Kerry? Is it possible that whatever psychological trait is unique to both Arafat and Abbas would not be a factor in some future negotiations with some other Palestinian leader? This notion seems unlikely.

Returning to the Israeli prime ministers, if we include Itzhak Rabin and Shimon Peres, both involved in the initial willingness to engage the PA and who concluded the Oslo Accords, and winners of the Nobel Peace Prize for their efforts, we find that four of the six prime ministers discussed were, at least, able to move in the direction of a negotiated settlement.

In that same regard, perhaps we should add Prime Minister Ariel Sharon, who unilaterally withdrew from Gaza and four villages on the West Bank and might well have
withdrawn from the majority of the West Bank had he not suffered a devastating stroke. It
was Sharon who said in 2003, “We would like you to govern yourselves in your own country.
A democratic Palestinian state with territorial contiguity in Judea and Samaria.” On the
other hand, Sharon also believed that Palestinian military and economic strength would
decline over time and that negotiations could be postponed for many years while Israel
builds settlements and increased immigration and the putative Palestinian State becomes less
and less viable.

It would seem that only Yitzhak Shamir, Prime Minister from 1983-1984 and from
1986-1992, remained steadfastly committed to no negotiations with the PLO and no
recognition of a Palestinian entity. In addition, Prime Minister Benjamin Netanyahu seems
to take both pro and anti negotiation positions at the same time or at least during the same
day.

On the other extreme, Ehud Barak, seemed the most willing to negotiate positions
that had previously been held to be taboo, including a division, at least administratively, of
Jerusalem. It is submitted that of all the Israeli prime ministers discussed, it was Barak who
exhibited the most personal bravery and courage, not just in negotiations but also in his
extraordinary military career. President Clinton spoke glowingly of Prime Minister Barak.

---

3 Aranoff, Ibid. 2630
   New York: Palgrave.
5 Ibid. 153
6 Ibid. 124
7 Clinton, W. J. (2001). Transcript of Clinton's Remarks to the Israel Policy Forum
   Gala. New York, IPF Gala. 2001-01-07. retrieved from
But no dilemma I have ever faced approximates in difficulty or comes close to the choice that Prime Minister Barak had to make when he took office. He realized that he couldn’t know for sure what the final intentions of the Palestinian leadership were without testing them. He further realized that even if the intentions were there, there was a lot of competition among the Palestinians and from outside forces, from people who are enemies of peace because they don’t give a rip how the ordinary Palestinians have to live and they’re pursuing a whole different agenda.

He knew nine things could go wrong and only one thing could go right. But he promised himself that he would have to try. And as long as he knew Israel in the end could defend itself and maintain its security, he would keep taking risks. And that’s what he’s done, down to these days. **There may be those who disagree with him, but he has demonstrated as much bravery in the office of Prime Minister as he ever did on the field of battle and no one should ever question that.** [emphasis added]

However, Barak did not have a firm grasp on the value of interpersonal relationships and the role that personality might play in negotiations. He believed that those people on the other side of the table would act in a way that was both furthering their own self interest and was logical. He was unable to disabuse himself of this mind set.\(^8\) Prime Minster Barak, perhaps, did not fully appreciate that there are very few examples where negotiation strategies were chosen over a propensity for self-destruction. “History seems to confirm this game theory - combatants choose self-destruction rather than risk one’s identity.”\(^9\)

Aronoff’s book was not intended to provide any real guidance on how best to proceed in the future. We must look to factors other than the personal psychology of the prime ministers of Israel or the leaders of the PLO in order to determine the best path forward.

\(^8\) Ibid. 4557

This is not to say that the study of the political psychology of the Israeli Prime Ministers is valueless in attempting to examine Israeli-Palestinian peace negotiations. To the contrary, there are some psychological traits that are common in those Prime Ministers who have sought to make peace as opposed to those who have not. As stated by Yael Aronoff, it is ironic that nearly all the prime ministers of Israel started out as hawkish regarding the Palestinians.\(^\text{10}\)

The history of peacemaking between Israel and her Arab neighbours showed that it was the change of mind of the hawks and the shift in their positions, not the preaching of the doves, that allowed Israel to exploit chances of peace at vital crossroads. The major breakthroughs in peacemaking were made and legitimized by the hawks.\(^\text{11}\)

Perhaps the most interesting way to analyze the psychology of the Prime Ministers is to examine, not the Prime Ministers who ended up negotiating with and making concessions to the Palestinians, but rather those two who, generally, have not, Yitzhak Shamir and Benjamin Netanyahu.\(^\text{12}\) It is clear that simply asserting that both Shamir and Netanyahu were and are hawkish regarding dealing with the Palestinians is not very helpful. As noted above, Peres, Rabin, Sharon and Barak all started out as very hawkish.

\(^{10}\) As the saying goes, “only Nixon could visit China”.

\(^{11}\) Aranoff, Ibid. 273

\(^{12}\) While it is true that Shamir ended up agreeing to attend the Madrid Conference, a significant change of policy; nevertheless, no actual concession of Israel’s position was actually made. As to Benjamin Netanyahu, it is true that an agreement was reached with regard to Hebron at the Wye River Plantation. These were agreements without long lasting significance. The propensity of Benjamin Netanyahu to speak of peace, on the one hand, but to always find a particular reason why no progress can be made at any given time will be discussed below.
Is it possible to find some other connection between Shamir and Netanyahu which might explain their long term intransigence?\textsuperscript{13} There is such a link. The link is an ideological one. It might well be said that one’s propensity to adhere to a specific ideology is dependent upon one’s psychological set or predisposition. In fact, Aranoff finds that a propensity for change is an inverse function of a strong linkage to certain ideologies.\textsuperscript{14} In this case, it is quite easy to determine the ideology which links Shamir and Netanyahu and becomes an impediment to fruitful negotiations.

Specifically, the ideology at work here is known as the Zionist Revisionism of Vladimir (Ze’ev) Jabotinsky. Jabotinsky was born in Russia in 1880. His writings, especially including his 1923 essay\textsuperscript{15} “On the Iron Wall” set the tone for hard line revisionist Zionists for years after. This so-called iron wall is in the nature of a military defense so strong and durable that the Arabs would be forced to accept the existence of Israel on the Greater Land of Israel.\textsuperscript{16} It is this iron wall theory which forms the ideological underpinnings of Israel’s hard right.

Given this vision, these two Israeli Prime Ministers cannot view the Palestinians in any light other than as an intractable enemy bent on Israel’s destruction. Yitzhak Shamir was a first generation leader of the new State of Israel. He learned his Zionism first hand. He was

\textsuperscript{13} This statement may seem to fly in the face of the discussion in the previous chapter concerning the efforts of John Kerry in 2014 and 2016 in which Prime Minister Netanyahu was a principle participant. With Netanyahu it is never easy to differentiate between positions taken for the sake of governance and those positions which are purely political and are easily abandoned.

\textsuperscript{14} Aranoff, Ibid. 82-211 throughout; also 392

\textsuperscript{15} Ibid. 392

\textsuperscript{16} Ibid. 400
a “Jabotinskyite” from the beginning. In fact, Shamir may have been, as a younger man, even further to the right than Jabotinsky himself. It was upon Lehi (“Lochemei Herat Israel” or “Israel Freedom Fighters”), the ideological parent of the current Likud party in which Shamir found his political home; Lehi, and whose underpinnings were based,

on a Land of Israel reaching from the River Euphrates to the River Nile, the ancient Kingdom of David at its height, whereas the Revisionist Party “settled” for the territory of the twelve tribes, which was largely included in the original British Mandate for Palestine.\textsuperscript{17}

It is often noted that in the absence of a Two-State solution, Israel cannot remain both a Jewish state and a democracy.\textsuperscript{18} These words are spoken as if that statement and the position espoused should be enough to convince an Israeli leader to negotiate a final status agreement in good faith. But by stating this maxim, the speakers seem to misunderstand the position of a significant portion of the Israeli polity. Prime Minister Shamir was candid enough to state his position regarding democracy and the continuing Jewish state with no sense of ambivalence. In an interview with author Yael Aronoff, in Tel Aviv on July 5, 1998, Shamir stated:

For democracy I will not give up on Eretz Israel. Eretz Israel is a tiny country, a very tiny country, as you know, and if we give up Yehuda and Shomron, and they want more, also Jerusalem, we won't have anywhere to bring Jews. We will be such a tiny, tiny country we won't be able to exist ... of course this is more important than democracy.\textsuperscript{19}

\textsuperscript{17} Ibid. 925

\textsuperscript{18} Mitchell, G., & Sachar, A. (2016). \textit{A Path to Peace: A Brief History of Israeli-Palestinian Negotiations and a Way Forward in the Middle East} (pp. 272). Retrieved from https://www.amazon.com/reader/1501153919/ref=rdr_sb_li_hist_1&state=01111

\textsuperscript{19} Aronoff, Ibid. 1119
Perhaps Shamir’s statement was spoken in the context of an extreme example, but I do not think that for Shamir or many of the present day Likudniks it is a close call. For so many Jews, most particularly the Herradim, but not exclusively so, the democratic nature of the Israeli state is far less important than its Jewish and biblical nature. It would be good to keep this in mind when bringing up the future of Israel in the absence of a Two-State solution.

Shamir stated that “Jabotinsky’s name and spirit are kept alive mostly through the Likud Party.”\(^\text{20}\) As we can see, Shamir was the ideological child of Jabotinsky. We can now look to see whose ideological child Benjamin Netanyahu is.

Prime Minister Netanyahu was the first Israeli leader who was not a living part of the birth of the State of Israel. He was born about a year and a half after the Israeli state became independent. He was not the ideological son of Jabotinsky\(^\text{21}\) but rather he was both the ideological and biological son of his own father, Ben-Zion Netanyahu\(^\text{22}\) who himself was an ideologue of Revisionist Zionism and was “Jabotinsky’s personal assistant until Jabotinsky’s death in 1940.”\(^\text{23}\)

Ben-Zion was a critical political influence on his son from the very beginning. Ben-Zion’s form of political extremism pre-dated the State of Israel itself. In November 1947, he and some friends took an ad in the New York Times opposing the UN’s partition of Palestine.

\(^{20}\) Aronoff, Ibid. 880  
\(^{21}\) Perhaps Netanyahu may be referred to as the ideological grandson of Jabotinsky.  
\(^{22}\) Ben-Zion Netanyahu was a historian and a scholar of the Spanish Inquisition which may say all we need to know about his world view regarding the place of Jews in society. Ibid. 1156  
\(^{23}\) Ibid. 1596
Later Ben-Zion felt that Menachem Begin had endangered the existence of Israel by signing the Camp David Accords with Egypt. It is difficult to overestimate the influence of Ben-Zion Netanyahu on his son Benjamin right up to his father’s death on April 30, 2012.

On the one hand, Benjamin Netanyahu is an ideologue of the Revisionist Zionism of both Jabotinsky and of his father as discussed above. On the other hand, Benjamin Netanyahu is the ultimate politician. Many see him as an opportunist with no deeply held beliefs. Many see him as willing to make any agreement if he believes that it will keep him as Prime Minister. Although strongly opposed to the Oslo Accords, he was willing to announce implementation of some provisions because it would help his polling.

Perhaps his style is best summed up in the way he dealt with the Hebron Agreement and the Wye River Accords. Surely a religious political leader would never have compromised on Hebron, the traditional burial place of Abraham, Sarah, Isaac and Jacob. But when the polls told him that such a compromise would help his election, he was willing to concede. In the same manner, the Wye Agreements called for ceding areas of the West Bank to Palestinian administration. Netanyahu felt that agreeing would enhance his chances of getting elected in 1999. The key to Netanyahu’s acquiescence to these agreements was that he never moved to implement them.

On June 14, 2009, Netanyahu spoke at Bar Ilan University. The speech is widely seen as Netanyahu’s acceptance of the Two-State Solution. However, reading the actual speech,

---

24 Ibid. 1600
25 Ibid. 1604
26 Ibid. 1571
27 Ibid. locations 1571-1578
it is hard to come to the conclusion that Mr. Netanyahu has spoken of anything except in the broadest of platitudes.  

It is hard to believe that sixteen years after Oslo and nine years after the Clinton Parameters, this speech can be taken as a genuine move to a Two-State resolution. It could just as easily be taken in the same framework as the Likud’s position that the status quo can be maintained indefinitely with minor improvements in Palestinian living conditions.  

And so, the Netanyahu administration continues to speak of negotiations without any preconditions while at the same time implementing policies designed to prevent meaningful negotiations – continuously building West Bank settlements, refusing to acknowledge any Palestinian role in the future of Jerusalem, demanding the Palestinians recognize Israel as a “Jewish state”; and demanding that there will be an Israeli military presence in the Jordan Valley in perpetuity. In other words, Netanyahu is seeking a negotiated treaty with the Palestinians so long as the entirety of Judea and Samaria remain under Israeli control and so long as Israel maintains a military presence in the territories.  

---


30 Aranoff, Ibid. 1579

31 This may be overstating the intransigence of Netanyahu. However, it is clear that regardless of his positions in negotiations, he has never implemented any policy which differs from the hard line position.
It is not surprising that Netanyahu is less than candid about his ultimate goals with respect to negotiations. After all, he is the present leader of Israel. What is surprising is that his ideological predecessor, Yitzhak Shamir has been so forthcoming in the years since he was Prime Minister. We can learn a great deal about the present head of the Israeli government from what Mr. Shamir has said publically, particularly upon his defeat in 1992.

Shamir told Yosef Harif, a reporter for *Ma’ariv* in an interview published on June 26, 1992:\(^{12}\)

> In my political activity I know how to display the tactics of moderation, but without conceding anything on the goal - the integrity of the Land of Israel...I would have carried on autonomy talks for ten years and meanwhile we would have reached half a million [Jewish] people in Judea and Samaria.

The New York Times corroborated the story and the plan referred to as a “Demographic Revolution”.\(^{33}\) Is it too great a step to paint Benjamin Netanyahu, with Shamir’s negotiating tactics? It is appropriate to do so. Zwier described the situation, although about Ronald Reagan, aptly concerning Netanyahu. “If they have run campaigns that endorsed a “get tough” approach, they have a great deal to lose should they appear weak to their constituencies. They deny rather than apologize. They posture and pretend rather than listen for understanding.”\(^{34}\)

---

\(^{12}\) Ibid. 1282


The tumultuous relationship between Netanyahu and President Obama is well known. Many who discuss this relationship are very quick to assign anti-Semitic animus to President Obama. In Israel and in Jewish groups in the United States, these people still speak of this animus in discussions which seem always to circle back to President Obama’s speech in Cairo, Egypt on June 4, 2009; as if speaking to an audience of young people in Egypt was proof enough of anti-Semitism.

There are signs that Mr. Netanyahu’s positions on the Israeli-Palestinian conflict are beginning to wear thin. On a trip to Washington in November, 2015, Netanyahu spoke to President Obama informing him that he had new ideas for re-opening talks with the Palestinians. Given the President’s previous dealings with the Prime Minister, he advised Mr. Netanyahu to take the matter up with Secretary Kerry. The next day, Netanyahu met with Kerry and made some significant proposals including one involving construction in the settlement blocs. It was unclear if he meant construction inside or outside the blocs. It did not matter, two weeks later Netanyahu informed Kerry that his prior suggestions were now off the table.

---


37 Ibid.

38 Ibid.

39 Ibid.
been well known for many years. Going back to the pre-Camp David days of Netanyahu’s
first term as Prime Minister, both presidential advisors Sandy Berger and Madeleine Albright
understood the “Bibi trick to avoid doing what was necessary while creating the illusion of
making progress.”40

Netanyahu, meanwhile, backtracked publicly from the
positions he expressed during his conversations with Kerry,
and later also lied to the Israeli public multiple times during
the 2015 Knesset election about what he agreed to during the
2014 negotiations.41

On January 31, 2016, Secretary Kerry met with Netanyahu in Davos, Switzerland. At
that time, Kerry presented his Principles and suggested a meeting to include King Abdullah
and Egyptian President el-Sissi. Netanyahu agreed to a summit, which was arranged for
February 19, 2016 in Aqaba, Jordan.42

At the four way meeting in Aqaba, instead of discussing Kerry’s Principles and plans,
Netanyahu presented his own plan. When Abdullah and Sissi expressed doubt about
Netanyahu being able to bring his right-wing coalition along, Netanyahu dangled the
possibility of a new coalition which would include Itzhak Herzog’s centrist Zionist Union
party.43 Thereafter, Netanyahu discontinued negotiations with Herzog and moved his


How Everything Fell Apart, Newspaper Article. Haaretz. Retrieved from

42 Drucker, R. (2017, 2017-02-21). Netanyahu Should Have Given Kerry a Kiss. A
year ago Benjamin Netanyahu received from then-U.S. Secretary of State John
Kerry the most perfect expression of the two-state solution. Clearly the premier
was not serious in his intentions., Opinion. Haaretz. Retrieved from

43 Ibid.
coalition further to the right by including Avigdor Lieberman of the Yisrael Beiteinu party as the new defense minister. Clearly, Netanyahu used the Kerry negotiations and the discussions with Herzog as a triangulation ruse to move the most right leaning settlement Movements and religious parties into his coalition. The trend in Israel seems to be toward not away from, Netanyahu. Even though Zionism started as a secular ideology, there now is growing, both in the settlement movement and in Israel within the Green Line, “a religious version of Zionism still flourishes after statehood, and now links the Jews’ reclamation of power to a messianically tinged belief in the fulfillment of God’s promise to Abraham in the Biblical covenant.”

Not only are Netanyahu’s tactics beginning to wear thin with leaders who would be expected to be his natural allies, his adversaries seem to have understood the psychology of Netanyahu for a very long time. As far back as 2001, lead Palestinian negotiator, Saeb Erekat gave an interview to Frontline, the long-running PBS documentary series. Mr. Erekat noted:

> We were going to pursue this peace process, a gradual withdrawal, making peace with Israel. [And then the] Rabin assassination and then comes Yehiya Ayash assassination. ... I think, every element of these things -- Rabin assassination, Ayash assassination, the buses exploding – there was one man [who] was watching this very carefully. ... With each Palestinian death and with each Israeli death was one man who was seizing the opportunity, seizing the moment, a very opportunistic person who knew exactly how to manipulate the blood of Palestinians and Israelis. And that’s Benjamin Netanyahu.

---

44 Ibid.


C. The Palestinian Negotiating Mind Set

Professor Raymond Cohen has discussed a quality which he referred to as historical grievance. He has noted that a sensitivity to perceived status insult coupled with a sense of the injustices of history can make negotiations extremely difficult. This concept has often been referred to as a sense of victimhood. There is no better example of this sense of victimhood than the Palestinian concept of the “Nakba” or “catastrophe” or “disaster” which is how the events of 1948 are described. Regardless of how the Palestinians may feel about those events, by describing the events as if they were natural cataclysms, the sense of helplessness is inevitable. If one is a victim of the 1948 War in the same sense one may be a victim of an earthquake or volcano – then certainly it is through no fault of one’s own.

Perhaps this sense of victimhood goes back even before 1948. It has been noted that the Palestinian view may have started with the Balfour Declaration of 1917. The British promised the small Zionist movement a “national home” in Palestine. “Palestinians see that each day since November 2, 1917, Israelis have (with the support of the West) dispossessed them of their land.” Just as with the 1948 partition, the Palestinians can say, “Why should we pay for what the Europeans did to the Jews?” The question is not invalid.

By maintaining this description, for all these years, it is no wonder that the overriding ethos is that of a victim of circumstances beyond the control of the population. This sense

http://www.pbs.org/wgbh/pages/frontline/shows/oslo/interviews/erekat.html


of victimhood has prevented the Palestinians from reacting favorably to any suggestion of a political resolution. It also may account for the fact that so many generations have remained in refugee camps and have remained reliant on the largess of the U.N. refugee agency. In 1948, both the Jews and the Arabs of the Mandate were offered about half the land each. The Israelis said yes. The Arabs said no. Since then, there have been other opportunities to resolve the conflict. Again the Palestinians said no or more accurately never responded or offered a counter-proposal. Just recently it was learned that in March, 2014, President Obama gave Abbas until the end of the month to respond to a series of United States proposals. President Abbas did not provide any response at all, just as he had done to the proposals of Ehud Olmert in 2008 and just as Yasser Arafat had done to the Clinton Parameters in December 2000.\(^49\) Let us examine the reasons for this.

The Palestinians are a high-context culture. In such cultures honor and face saving are the highest concern. If the seminal event of history is considered to be a catastrophe than only a reversal of that event can restore honor and save face. The only alternative would be to remain a victim. As noted by Professor Cohen, in this “high-context” society, being forced to give up the hope of a historical reversal is only compatible with victimhood and is incompatible with any compromise. Even if the Palestinian negotiators are able to get over the catastrophe, it is questionable that the Palestinian population can.\(^50\)


It is for this reason that the Palestinians have adopted a method of dealing with most of the nations of the world which relies upon what Professor Cohen refers to as “the high ground of moral superiority and self-righteous indignation”. Because the Palestinians are devoid of military or economic advantages, they have most effectively used the moral lever of victimhood. While the Palestinians have been adept at using such tools as U.N. Resolutions and the BDS campaign, one needs to ask, to what end are these tools being employed? Such methods will not get the Israelis to leave Israel nor will it create a Palestinian State.

Perhaps General Michael Herzog, based upon his experience of many years dealing with Palestinian negotiators has described the situation and the negotiating tactics best. The Palestinians see negotiations as “simply about exacting what Palestinians perceive to be their rights, rather than engaging in a two-way give-and-take.”

Author Paul J. Zwier discussed the role played by pressure from public negotiations. He noted the difficulty which, likely, stems from a lack of courage.

In the Middle East, political leaders can sometimes get in the way of this transformative process. They negotiate in the public eye where the more radical elements of their constituencies can accuse them of being, among other things, too soft, too conciliatory, or betraying their cause. Our leaders often fall into the process of “shuttle diplomacy” – holding individual meetings with the parties involved and potentially

---

51 Ibid. locations 1585-1587
52 Boycott, Divest, Sanction
sowing seeds of mistrust by holding in secret the goals each party wants to advance.\textsuperscript{54}

Clearly, this mind set is not exclusive to the Palestinians. Before he was assassinated, Prime Minister Rabin was called many things, perhaps the mildest of which were “too soft, too conciliatory, or betraying their cause.” Once again, it is noted that the absence of courage and true leadership is an impediment to ending the conflict.

XV. **Mechanics, Tactics and Strategies of Treaty Negotiations**

There is some thought that negotiating a treaty between Israel and the Palestinians can be accomplished if we only knew the secret sauce, the true method, the path or whatever you might want to call it. It is doubtful that any type of gimmicky negotiating tactic would have ever had a chance to resolve the Israeli-Palestinian conflict. But what is certain is that after twenty-four years of intermittent negotiating, a game theory approach will not break the deadlock. The parties are all too familiar with each other’s positions and tactics.

This is why little discussion of such techniques as “divide and choose” and “fair division” and “adjusted winner” procedures is included herein. A brief discussion of an article by Tansa George Massoud in which he applies a “Fair Division Adjusted Winner Procedure” to the Israeli-Palestinian conflict will illustrate why these game approaches are unlikely to work. Mr. Massoud suggests that, “After decades of fighting, Israel and the Palestinians have reached a stage of a ‘hurting stalemate’ (Zartman 1989).”

This is a completely inaccurate statement. The “hurting stalemate” description might justifiably apply to the Palestinians, it most assuredly does not apply to the Israelis. The Israeli economy and standard of living will not place any pressure on the Government of Israel to complete the final status negotiations of a Two-State Solution. In fact, it may militate against changing the status quo.

Discussing the fundamentals of negotiations as an art or science would not be without value so long as we keep in mind there is no simple recipe for resolution. One might think

---


56 Ibid. location p. 22
that on a relatively tiny plot of land inhabited by several ethnic and religious groups for so many thousands of years, their cultures would have melded into each other or at least each would be so familiar with the other so as to permit negotiations to persist without consideration of cross-culture complexities. However, this is clearly not the case with the Israeli-Palestinian conflict.

A reason why the cross-culture issues are as pronounced in this conflict as in so many others is that much of the Israeli population elite, is Ashkanazy, i.e. from Eastern or Central Europe or close descendants of Ashkanazy Jews. This is not to say that negotiations with a primarily Saphardic population would have been any easier as so many of the Saphardim have found their political home in the Likud Party or other right parties and/or Shas. Nor is it suggested that negotiations across cultures would have been less difficult with Saphiardic Israeli governments.

Perhaps one reason that negotiation across cultures has been so difficult is because, for the most part, the United States has either been the primary mediator, or, at a minimum, maintained a watchful eye over bilateral negotiations. The primary reason that Israeli-Palestinian negotiations have had cross-culture difficulties is that Israel is a European style democratic nation in the midst of a non-European part of the world.

As an example of the difficulty of cross culture negotiations in the Israeli-Palestinian conflict, we need only to return to the Clinton Parameters of December 23, 2000 pronounced at the White House. It is important to recall that Mr. Arafat did not reject the parameters, he simply walked away without acceptance and without counterproposal. Neither did the

57 As was the case with Secretary of State Condoleezza Rice and the Olmert-Abbas round of negotiations.
Palestinian side offer a specific reason why it chose to walk away. It is unnecessary to reiterate the terms of the Parameters as set out by President Clinton. At this point the critical element is to examine what, exactly, the Palestinians were thinking about the Parameters. In this regard we are fortunate to have a document written just nine days later by the Legal Unit of the Negotiation Support Unit of the Palestine Liberation Organization.\(^{58}\)

This Palestinian internal response to the Clinton Parameters demonstrates that it is likely that the Palestinians may not have fully comprehended the nature of the Clinton Parameters and may not have understood the term “Parameters” as used by the President. As defined in the Oxford University Dictionary definition 3, is how the term was intended. That is, “a limit or boundary which defines the scope of a process or activity.” In other words, the President meant the word “Parameters” to mean the broadest outlines of an ultimate resolution without providing details as to how each element will be concluded. One may suggest that “the devil is in the details” but that is actually the point. The details will take hard bargaining but at least let us set the broad limits of where we can expect the negotiations to go.

President Clinton advised that the Parameters were broad and ill-defined enough that there was no need to raise extraneous issues at that time. He explained that he would entertain discussion of positions which were deemed to be within the Parameters themselves but would not accept any response as being positive if the party raised issues outside the parameters. President Clinton explained that Ehud Barak’s reservations were all within the

Parameters and that it was up to the Palestinians to accept or reject the Parameters as an outline or framework. From the NSU Memo of January 1, 2001, it is clear that this idea seems not to have registered with the PLO negotiating team. How else could you explain the response,

“The United States proposals were couched in general terms that in some instances lack clarity and detail. As we have insisted since the beginning of the negotiations, a permanent status agreement should not be a document that declares general political principles. Rather, it must be a comprehensive instrument that spells out the details, modalities, maps and timetables of ending the Palestinian-Israeli conflict.”  

59 [emphasis added]

The response goes on to say:

The permanent status agreement must be a truly final agreement rather than an agreement to negotiate. Israel’s aims in the negotiations are mainly political, namely a normalization of its international position through peace with the Palestinians.  

60 [emphasis added]

What is clear from this memo is that the parties, Israel and Palestine, and certainly not the mediator, President Clinton, were each using the same words to mean the same thing. It is likely that the Palestinians expected that, somehow, the parties would go directly to some final, complete and comprehensive agreement with no interim understanding of the eventual terms. If the Palestinians thought the Parameters were to be the final treaty, and that they were told that acceptance meant they could not change the terms, it is no wonder the discussions did not conclude the conflict.  

61 It is not suggested here that the parties should

________________________

59 Ibid. 1

60 Ibid.

61 On the other hand, it is equally likely that the Palestinians did not actually think any such thing. It is submitted despite the document, Arafat may have understood
have been negotiating merely a framework or interim agreement as the ultimate outcome of the Camp David process, but rather that it is necessary to come to some preliminary understandings in order to proceed to the details of the negotiations. This concept may not have been understood by the Palestinians.

Again, it is not the case that the Palestinians were less thoughtful or less prepared than the Israelis or the Americans. It is simply that the Americans and the Israelis had a similar mind-set as to the fundamentals of the procedures of the negotiations while the Palestinians may not have shared that understanding.

The other interesting element is how many times this Memo brings up three different UN Resolutions. It discusses UNGA Resolution 194, involving refugees no fewer than six times in eight pages. It also refers to UN Security Council Resolutions 242 and 338. It is because the Palestinians believe that some third party, the UN or some functional equivalent will ride in and save them from the colonizers.

the terms and just could not get himself to end the conflict. He could not say “Yes”.
A. **Negotiating Across Cultures**

The mind-set of Israel and the United States is based upon a European/American sensibility. The mind-set of the Palestinian side is decidedly not based upon that sensibility. This is so notwithstanding that so many of the Palestinian negotiators and members of the Negotiating Support Unit (NSU) may have been educated in the West. Author Raymond Cohen’s book attempts to examine the cultural aspects of negotiation, not merely from a language standpoint but from a more fundamental aspect.

Dr. Cohen’s work deals with the basic understanding negotiating across cultures but, as a Professor at Hebrew University where he received his Ph.D., many of his examples deal with Israeli negotiations. The premise of this portion of his work finds that the American approach to negotiations assumes other cultures negotiate in the same way. For example, he notes that Americans follow a “give-and-take model of negotiation” which, by way of successive rounds of compromise, gives rise to a completed negotiation in which reciprocal concession leads to eventual resolution. Moreover, Americans tend to believe their adversary, sitting across the table, is operating under the same understanding. The adversary may well not accept the “give-and-take model” or the concept of compromise as a given. “In some cultures, the adversary is quite happy to demand one-sided concessions in payment of a supposed moral debt or as the duty of the stronger party.”


63 Ibid. 1911-1914
actually to accept the positions of the weaker party. This notion fits completely with the sense of victimization of the Palestinian mind set.

... let us ponder the resonances of the American-English term “negotiate.” The word itself, a moment’s reflection reveals, is synonymous with a willingness to give up something, make a concession, in order to arrive at a compromise, “somewhere in the middle,” that meets the needs of both parties. Thus to say “let us negotiate this” or “this is negotiable” implies a willingness to give and take. Almost everything in American life is negotiable, including the outcome of litigation, which in most cases does not reach adjudication but is usually settled, even in criminal cases, by a negotiation between plaintiff and defendant known as plea bargaining. (To legal systems with a more absolutist sense of justice, this is an incomprehensible idea.) “Concession” and “compromise,” on the whole, have acquired either neutral or positive meanings. Obviously, concessions may be wise or foolish, favored or deplored, depending on circumstances; but they are not usually thought to be inherently illegitimate. Quite the reverse: to make a concession in order to reach a desired agreement is fully justified behavior. If anything, expressions like I'm willing to concede that point” have connotations of open-mindedness and generosity.64

The Israeli negotiator, Shlomo Ben-Ami noted that “To Arafat, the peace process was not meant to be an open-ended give and take. Arafat had already given, now Arafat had only to take: a Palestinian State on the 1967 Borders, the Right of Return for the refugees, Jerusalem and the Temple Mount.”65 Dennis Ross took note of this propensity on the part of Yasser Arafat when he described “... Arafat sought to reclaim his role as victim. Assuming the status of victim required the Israelis to make concessions, not the Palestinians.”66

64 Ibid. 1930-1938


The opposite of the American style of negotiations, as exhibited by the Palestinians, is what Dr. Cohen has termed high-context cultures. It is in these cultures that the concepts of pride, saving face, and sovereignty play a far greater role than in American culture.\(^\text{67}\) It is in these high-context societies that issues involving historical grievance and victimhood play the greatest role in negotiations. It is in these cultures where there may be more effort given to righting a perceived wrong or just obtaining acknowledgment of a historical wrong than to obtaining a more favorable resolution of a conflict going forward.\(^\text{68}\)

In this regard, the Palestinian position seems to be that drawing borders in a manner which states the basis is the 1967 line, may be more important than obtaining a more favorable border or retaining a greater portion of the West Bank. In other words, \textit{The Palestine Papers}, those documents written by or for the Palestinian negotiating teams, mentions the term “1967” no fewer than 411 times.\(^\text{69}\) In fact, as time went by, it was nearly impossible to find any discussion of borders by the Palestinians where the term “1967” was not used to describe the basis for the border.\(^\text{70} \text{ 71}\)

The use of the term by Israel “1967” when applied to borders in its latest round of negotiations may be viewed as a major concession to Palestine. The Palestinian negotiators view the 1967 war as a great tragedy and that using the term “1967” with border negotiations

\(^{67}\) Ibid. 1165-1169  
\(^{68}\) Ibid. 862-863  
\(^{69}\) \textit{The Palestine Papers}. Throughout  
\(^{70}\) \textit{The Palestine Papers}. Throughout  
\(^{71}\) See 1967 Borders Chart in Chapter Six.
serves, somehow, to turn the tragedy into some small victory. It is another case where the Palestinians place greater value on the symbolism of a negotiated provision than on the actual substance.

This same reasoning may be applied to the Palestinian requirement that Israel acknowledge responsibility for creating the 1948 Palestinian refugees. More than 130 documents prepared by or for the Palestinian negotiating team set forth a statement very similar to the one used in a “Non-Paper on Palestinian Refugees”.

- Israel acknowledges its moral and legal responsibility for the forced longstanding displacement and dispossession of the Palestinian civilian population stemming from its actions during and subsequent to the war of 1948;\(^\text{72}\)

American negotiators would likely look at the refugee issue in a purely prospective way. They would seek to determine how can we best satisfy the needs of the refugees going forward without effecting the demographic and democratic character of the Israeli state. In fact that is the way in which Secretary of State John Kerry set forth the refugee proposal contained in his principles.\(^\text{73}\) The bad news is that the American and Israeli refugee proposals do not account for the symbolic needs of the Palestinians. The good news is that American and Israeli refugee proposals and the symbolic needs of the Palestinians are not necessarily mutually exclusive.


It should be possible to craft some solution which incorporates both the prospective needs of the refugees and the symbolic needs of the Palestinians and their negotiators. This solution, whatever it turns out to be\(^74\), can only be accomplished if both Israel and Palestine see the goal of a Two-State solution as one which is worth seeking and one for which it is worth acquiescing to the other’s symbolic and non-symbolic needs.

Symbolic needs are not the exclusive domain of the Palestinians. The Israelis have, in the last several years\(^75\), demanded that a Palestinian State accept Israel as a Jewish state. At the end of negotiations, Israel would have borders, Palestine would have borders. Each would have a population. Israel could call itself the “Jewish State”. But why would Israel require Palestine to refer to Israel as the “Jewish State”, especially since a fairly large portion of Israeli citizens are Muslims and Christians? *The Palestine Papers* do set forth the reasons for the Palestinian reluctance.\(^76\) However, review of the reasons set forth reflect some very convoluted reasoning dealing mostly with U.N. Resolution 181 and the fact that it did not call for population transfers in 1948.

---

\(^74\) Obviously, it is known exactly what the solution must be. The end-of-conflict treaty must create wording which would acknowledge some Israeli responsibility for the condition of the refugees since 1948. Further, the acknowledgment of responsibility for the suffering of the Palestinian refugees might be more palatable to Israel if some side agreement would acknowledge the suffering of the Saphardic Jews who were forced to abandon their homes in the Arab and Persian middle east and North Africa.

\(^75\) On the other hand, this Israeli demand is one that is most associated with Prime Minister Benjamin Netanyahu. It is likely that the demand was initially proposed by Netanyahu as a way of slowing the peace process or, perhaps in order to make negotiations unacceptable to the Palestinians.

We recommend that the Palestinian negotiators maintain their position not to recognize or otherwise characterize the state of Israel as “Jewish”. Any recognition of Israel within a treaty or agreement should be limited to recognizing it as a sovereign state. It should not recognize Israel as a “Jewish state”, “state for the Jewish people”, “homeland for the Jewish people” or any similar characterization.77

However, recent negotiating positions seem to reflect that the Palestinians would, reluctantly, accept the notion of Israel as a Jewish State78 if that would bring a negotiated treaty and a Palestinian State.79 John Kerry’s proposals in February, 2016 referred to a Two-State solution which would “Fulfill the vision of UN General Assembly Resolution 181 of two states for two peoples with mutual recognition and full equal rights for all respective citizens.”80

A conclusion which must be drawn is that negotiations across cultures requires not only cold analysis of the parties and their needs, but also an understanding of the symbols which each party must preserve in order to begin to make necessary concessions. If all that was necessary to conclude the Israeli-Palestinian conflict was a cold calculation by each party, the matter would have been resolved more than twenty years ago. The quid-pro-quo approach that Americans favor in their internal dealings clearly can not be relied upon in these international negotiations.

77 Ibid.
80 Ibid.
B. Negotiations as a Process

The Israeli-Palestinian negotiations have had at least a twenty-four year history. By now, the parties know or should know the intricacies of each other’s negotiating styles. There should be very little that should surprise either party. Therefore it can be assumed that when one party acts in a particular way so as to produce an action in the other which is contrary to productive negotiations, that is exactly the effect the move was intended to produce.

So when the governing party of Israel does not want to engage with the PA, it knows that it need only take some affirmative action on increasing the settlement population. These steps can be merely hypothetical, such as a request for proposals or tenders. These steps can be far less than actually breaking ground on new housing. So when the Prime Minister of Israel says, magnanimously, that he is willing to engage in negotiations with “absolutely no preconditions” what is really meant is that Israel will negotiate while, at the same time, take steps to increase the population, if not the footprint, in the settlements.

On the other hand, the PA also know how to favor negotiations in the abstract while not being willing to engage in actual negotiations. When Israel announces plans to increase the housing, not the footprint, of Gilo or Homa, even though both parties know that there is no chance that an agreed treaty will have those two Jerusalem neighborhoods be part of a Palestinian state, the Palestinians will make a show of refusing to negotiate. Once again, all is symbol over substance, for the reasons set forth above.

---

81 For the sake of this argument, the established settlements located in the innermost ring around Jerusalem are not included in the analysis. However, if the PA wants to disengage from negotiations, they will become rigid on building in the Jerusalem “neighborhoods”.
When the PA needs to disengage from negotiations, they will seek a return of prisoners who are Israeli citizens or have a right to reside in Israel and are, therefore, subject to Israeli law. Worse yet, the PA will demand return of prisoners who are said to have Israeli blood on their hands. Few things the PA can do will have a more disastrous effect than such a demand. However, there is one other thing that is certain to end productive negotiations. Certainly, as was the case with the efforts of Secretary of State John Kerry in 2014, the PA can announce they have reached an agreement with Hamas for a unity government. The PA surely knows this by now, just as the Israelis know that the PA knows.

All these tactical maneuvers and ruses are part of the Kabuki dance which has led to decades of disappointment. A new productive and conclusive round of negotiations must not permit such moves to derail the efforts. The terms of any new negotiations should, prior to the actual negotiations, disarm these tactics prior to starting the negotiating sessions.

What other external forces are frequently at work at putting the Israeli-Palestinian negotiations as exercise in futility? One certainly is the dysfunction of the PA and their lack of governing ability. In 2004 and 2005, the Palestinians rejoiced in the Israeli plan to disengage from Gaza.\textsuperscript{82} By the summer of 2006, Hamas had handed Fatah and the PA a sound and violent defeat.\textsuperscript{83} How could Israel rely upon the PA for security if they could not even take control of security in Gaza for more than a few months.\textsuperscript{84} It is not too cynical to


\textsuperscript{83} Ibid. 360

\textsuperscript{84} There is a persistent rumor that one of the reasons Fatah forces fell so easily to Hamas was because all the senior officers instructed to go to Gaza instead decided to direct the military defense of Gaza from some luxury hotels in Cairo; perhaps not the best tactical response.
note the PA seems better at producing coherent memorandums and written plans than they are at actually governing.

It is not unfair to say that the GOI has, on more than one occasion, used the dysfunction of the PA as a strategy in previous negotiations.\textsuperscript{85} Regardless of how one feels about the ethics of such a tactic, it is certainly a legitimate concern for Israel that any peace agreement negotiated with the Palestinian Authority may be violated and nullified by Hamas. This is yet another critical consideration which Israel must bring to any subsequent negotiations.

Israel has also been very capable at using the internal politics of the United States to its advantage. We have seen that there seems to be a very strong tie between the Likud Party in Israel and the Republican Party in the United States. This is partly due to the connection between the Christian Right and the Republican Party and the Christian Right’s protestation of love for the State of Israel, whether for “biblical” or other reasons. Going further, we have witnessed Prime Minister Netanyahu’s overt support for Mitt Romney in 2012 and Donald Trump in 2016 as well as his appearance before a joint session of the U.S. Congress at the invitation of the majority Republicans without consultation with President Obama. Moreover, it has become nearly traditional that presidential candidates pledge their full support for Israel and the need to maintain the qualitative superiority of Israel’s military in the region.

There may be yet another way that GOI has used the U.S. political environment to its advantage. There seems to be some evidence that the Israelis warm up to negotiations toward the end of a United States President’s term in office. This was true in 2000 during the Clinton round. This was also true in 2008 when the bilateral talks with Abu Mazan, but under the watchful eyes of Secretary of State Condoleezza Rice, came to an end as did George W. Bush’s term. Once again, in 2016, as we have recently learned, Secretary of State John Kerry’s final efforts ended as the term of Barack Obama was ending. This tendency may not be merely coincidental. By beginning at nearly the end of a Presidential administration, Israel can always slow walk negotiations so they can not be pressured into an end-of-conflict resolution. That way the process can begin again with the election of a new U.S. President.

It is suggested that if a negotiated resolution of the conflict should actually come to fruition, it would be best if the same urgency which Presidents have shown at the end of their administration, when, perhaps, historical legacy is foremost on the mind, be shown much earlier in the term; the first term if possible.

86 This section does not address such lobbying efforts as AIPAC to influence the Congress and Administration of the U.S.

87 Ibid. 107
C. The Role of the International Law in Treaty Negotiations

1. The Law of Belligerent Occupation

As previously addressed, Israel obtained Gaza, East Jerusalem and the West Bank (those areas east of the 1949 Armistice Line) as a result of the 1967 Six-Day War. As a result, Israel has occupied that territory since then.

The “laws of war” are the rules of civilized behavior during armed conflict developed in the late nineteenth century into a complex and sophisticated area of international law. The “law of belligerent occupation” is one of the most fully developed parts of that law. The basic premise is that a state which conquers territory does not actually acquire title to that territory either during the war or after hostilities have subsided. Therefore, it was necessary to develop a body of rules to regulate the relationship between the occupying power and the residents of the governed occupied territory. This body of law seeks to balance the interests of the occupying power, the displaced power and the population that remains in the territory. The law of belligerent occupation is, nevertheless, the only basis upon which the actions of an occupying power may be judged.\(^88\)

Where this issue becomes cloudy is not which entity is the occupying power, rather it is which entity is the “displaced power”. That issue is anything but clear. What is obvious is that in 1967 Jordan was the “displaced power”. If we go back to the maps before the Six-Day War, we will not find a state named “Palestine”; we will find Jordan. Of course, the occupation of the West Bank provides a circumstance which had not previously been contemplated. The displaced power, Jordan, asserts no dominion over this territory and has

formally given up all authority over the West Bank and neither Israel nor Egypt asserts
dominion over Gaza at this time.

2. Israel’s Legal Status in the Administered Territories

The legal status of the West Bank and formerly the Gaza Strip has remained in
intense dispute since 1967. Israel has maintained, for the most part, that it administers the
West Bank, referred to as “Judea and Samaria [hereinafter - the area]”\textsuperscript{89}, under a military
government pursuant to the law of belligerent occupation.\textsuperscript{90} On the other hand, East
Jerusalem is not treated in the same fashion. In 1967 Israel unilaterally applied Israeli internal
“law, jurisdiction and administration” that governs the entirety of the city.\textsuperscript{91}

The Palestinian view is not nearly as straight forward as the Israeli view of the legal
status of the occupation. In fact, neither the Palestinian Authority nor any other recognized
Palestinian entity has ever set forth any view on the international legal status of the territories
administered by Israel. The Palestinian position suffers from logical inconsistencies
resulting, in large part, from PLO’s 1968 National Covenant. “Palestine, with the boundaries
it had during the British mandate, is an indivisible territorial unit.” While it is true the PLO
has rescinded these provisions, they have never been replaced or modified them.

\textsuperscript{89} This is how the Supreme Court of Israel, sitting as the High Court of Justice,
phrased it in a case in 2004 dealing with the placement of the security fence

\textsuperscript{90} \textit{Beit Sourik Village Council v. The Government of Israel, H.C.J. 2056/04}

\textsuperscript{91} Benvenisti, E., & Zamir, E. (1995). Private claims to property rights in the future
Israeli - Palestinian settlement. \textit{American Journal of International Law, 89}, 295.
Since the PLO until 1988 and continuing with Hamas, does not recognize Israel’s right to exist, it can not logically differentiate between territories controlled by Israel prior to 1967 and those which came under its control as a result of that war. This makes any understanding of the position of the PA under International Law unclear and standing upon questionable legal footing.

Also of important legal consequence is the fact that Israel is not a signatory to the Hague Conventions or many other international treaties, both of historical and recent vintage. Notwithstanding that Israel, as a sovereign nation, is not bound by these treaties, it has recognized the humanitarian aspects of them. Israel has accepted many, or most, of the humanitarian mandates of these international treaties as part of the “public international law”. The manner by which Israel incorporates international treaties into its law is similar to the way that we, in the United States, rely upon both British and American Common Law. In 2004 the Israeli Supreme Court recognized that “the authority of the military commander flows from the provisions of public international law regarding belligerent occupation.” Going further, the Court relied on the fact that, indeed, “[e]very Israeli soldier carries, in his pack, the provisions of public international law regarding the laws of war and the basic provisions of Israeli administrative law.”

---


95 Ibid.
Based on the foregoing, it is clear that the role International Law ("IL"), as a body of rules and norms, would be a part of any treaty negotiation. Certainly no treaty negotiators or mediators or facilitators would consciously violate the norms of IL. Nor would such negotiators want to contravene those norms. The PA and the NSU in particular demonstrate an understanding of what constitutes IL in a rather curious manner. There is a reliance on the term “IL” as if that term has a very specific and universally agreed upon meaning.

Over 400 of the documents contained in The Palestine Papers use or refer to the term “International Law”. The Palestinians tend to use the term IL when referring to such things as United Nations General Assembly resolutions and Security Council resolutions as if those resolutions are susceptible to only one interpretation. As was demonstrated, such resolutions are often written in terms that are intentionally ambiguous and subject to more than one meaning. Yet the PA clings to the one meaning that they deem will be most helpful to their cause and will not abide any alternative interpretation.

Moreover, the PA also subscribes to an unusual notion that certain offers and/or suggestions somehow become embodied in the fabric of IL. Such is the case with an important letter sent by Ahmed Qurei, a/k/a Abu Ala, the former Palestinian Prime Minister to Secretary of State Condoleezza Rice on June 14, 2008.\textsuperscript{96} It states, in part:

\begin{quote}
Our baseline and terms of reference are those that the international community and international law have established, namely that any agreement must be based on the United Nations resolutions pertinent to the conflict, specifically UNSC 242, 338, 252 and 478 the Road Map as endorsed in UNSC Res. 1515, and the \textbf{Arab Peace Initiative of 2002, reaffirmed in 2007}; it must be based on international law; the agreement, based on the “\textbf{land for

peace” formula, must lead to the end of the Israeli occupation that began in 1967 and end the conflict, thus establishing an independent viable and sovereign Palestinian State; and resolving the issue of the refugees in a just and agreed upon manner, in accordance with UNGA 194. [emphasis added]

The terms of this letter are instructive. They seem to suggest that such things as the Arab Peace Initiative (“API”) of 2002 and reaffirmed in 2007 became, somehow, embedded in International Customary Law. How this was accomplished is unknown. What makes the problem worse is that the PA believes the API is a recognized part of IL and its terms can, somehow, somewhere, be enforced. This same notion seems to be applied to the concept of “land for peace” which may well be the basis of negotiations but certainly is not embedded in IL even if approved by a body of the UN. The idea that the intentionally ambiguous UNGA 194, which was discussed earlier, provides an enforceable right in 2017 when in 1948, the resolution was opposed by every Arab State that voted, seems rather implausible.

On the other hand, it is quite understandable that the PA would very much like as many issues as possible to be decided pursuant to UN resolutions and some odd concept of IL. There can be no doubt the PA has had a great deal of success in those forums.

Taking the power to bind the PA in a negotiated settlement out of the hands of the parties and placing it in the hands of some third party is very appealing to the PA. Placing the power to bind the PA in the hands of a third party is also quite compatible with their sense of victimhood. If the PA is bound by some outside authority, and they don’t like the result, they can simply assign the ill-fated result to their historical victimhood. This concept may well provide a very valuable tool in any ultimate resolution.

The PA needs to be very careful with regard to some issues of which it seems very sure. For example, the very basis of the claims of the Palestinians can be quite muddled. The
argument that the Jews acquired the land in violation of IL is not supported by the very provisions of the IL upon which the PA wants to rely. First, as shown previously, the League of Nations Mandate, which first carved out the Palestinian land, codified the concept of a Jewish Homeland.  

Second, there may be some moral or ethical arguments which would tend toward a Jewish control of the land. Prior to the migration of Jews from Europe, “the land was not productively occupied, that Jews made the land bloom.” Another moral argument was when the Arabs were in control of Jerusalem, they did not permit Jews to pray at their holiest site, but with Jews in control of Jerusalem, all are welcome to pray.

There are some other “clouds on the title” of the Palestinians to the land in questions. The land, at the time when the first wave of Jewish immigration occurred was under the control of the Ottoman Empire, a non-Arab sovereign. Later, the land in question came under the control of the British Empire. Britain came to title of the land pursuant to a League of Nations Mandate. In 1948, the UN ordered a Partition of Palestine between the Arabs and the Jews. The Arab states turned down the UN opportunity and the Jewish State was born. From 1949 - 1967, the land in question was controlled by Jordan, a sovereign nation. Therefore, under IL, Israel occupied lands it had taken in the Six-Day War from Jordan. Jordan might have made a claim for a return of the land when the state of hostility ended in

---

97 See Palestine Mandate in the Appendix.


99 Ibid. A recent outbreak of violence at the Temple Mount - Noble Sanctuary, has produced a backlash whereby the GOI has installed metal detectors at the entrances.
1994. However, in 1988, King Hussein severed all legal and administrative rights over the West Bank. It is unclear how these factual underpinnings lead to a clear right of the Palestinians to the land in question under IL.\(^{100}\)

The PA has argued that it has rights under the Geneva Conventions as part of International Humanitarian Law. However, even those rights are subject to opposing legal argument. Having made the legal case that the respective legal rights of the Israelis and the Palestinians are anything but clear, neither party should want to place their fate in the hands of a third party such as the International Court of Justice. The United States may remind Israel and inform the Palestinians that a negotiated settlement is a far better outcome than to stand before the world in a case before the International Court of Justice.

\(^{100}\) This is not to suggest that the Palestinians are not entitled to the West Bank and Gaza, but only that reliance on IL may be misplaced.
CHAPTER EIGHT

XV. Conclusions

A. Introduction to the Chapter

In December 2000, President Clinton laid out the most important issues that must be included in any final Israeli-Palestinian end-of-conflict treaty. Not only did he set forth the issues but he stated, quite explicitly, how these issues must be resolved. While it is true that the details of a final treaty were not contained in the parameters, the broad outline of a settlement was stated very directly. In fact, none of the subsequent rounds of negotiations have abrogated any of the provisions of the Clinton Parameters. Yasser Arafat, despite the urging of foreign Arab leaders, failed to respond and failed to suggest a counter proposal. In fact, there is no direct evidence of which term or terms of the parameters he found most objectionable.\(^1\)

In 2008, after many dozens of committee meetings, and the presentation of several maps,\(^2\) Prime Minister Olmert made an offer to President Abbas, which was detailed and supported by a hand drawn map.\(^3\) This offer was significantly more detailed and filled in many of the gaps in the Clinton Parameters. Like his predecessor, Abbas failed to respond and failed to suggest a counter proposal. Like his predecessor, provided no official position as to which proposed term he found most difficult to accept.\(^4\)

\(^1\) Although based on Arafat’s protestations about attending his funeral and their association with Jerusalem, it is most likely that he was most dissatisfied with the Clinton Proposal on Jerusalem.

\(^2\) These maps are contained in the Appendix.

\(^3\) Two copies of the hand drawn map are contained in the Appendix.

\(^4\) Again, it was most likely, but not definitively, Jerusalem.
In 2014, Secretary Kerry, again made specific proposals which did even more to flesh out the Clinton Parameters. This time, the Israeli Prime Minister, Benjamin Netanyahu and the Palestinian President Abbas, both walked away from the proposals that both had been involved in crafting.

In 2016, Secretary Kerry working right up to the moment of the transition to a new administration, and with the endorsement of several Arab leaders, provided the most detailed resolution of the conflict to date. Language which had never been acceptable before was added to the treaty negotiations. But, once again, both Netanyahu and Abbas walked away. Neither side stated the reasons why the Kerry plan was not acceptable.

Four times the Israeli-Palestinian conflict has moved ever closer to a resolution by treaty. Each effort has produced suggestions which contained more and more details and greater attention to the wording of a potential final treaty. Four times no contrary positions have been asserted by either party. Four times counter proposals have never been voiced. And yet, so far, each time, after some duration, the parties return to the bargaining table. Therefore, it must be concluded that it is not the terms of a resolution which are wanting – it is some other ingredient.

B. Courage is the Missing Ingredient

One of the recurring themes of this dissertation has been that the missing ingredient from the Israeli-Palestinian negotiations is courage. It is important to reiterate explicitly what is meant by courage. The usual definitions of courage include the ability to do something that frightens; or, strength in the face of pain or grief. However, this dissertation uses the term

---

5 Can’t Say “Yes”, Can’t Live with “No”
slightly differently. Absence of courage, in this paper, is used to mean that a political leader opts for an alternative that achieves a tactical political need or momentary advantage rather than choosing an alternative which may achieve a long term strategic goal “in the face of pain or grief” or in the face of short term losses. One of the hallmarks of great leadership is to be able to recognize the difference between the tactical and the strategic and act, wherever possible on the strategic goal.

In the Israeli-Palestinian conflict it is necessary to see the strategic goal in terms of three elements of possible harm: Physical Harm; Political Harm; National Harm. All three of these elements play an important role if the conflict is to be resolved. This conclusion will address all of these elements from the standpoint of both the Israelis and the Palestinians.

There are several overriding assumptions in these conclusions.\(^6\)

- Each party would like an overall solution and an end to the conflict.
- Each party would like to exercise sovereignty over a defined nation-state.
- Each party would like to be free of interference by the other.
- Each party would like to manage its own affairs.
- Each party would like not to govern the other.
- Each party would like peaceful relations with the other.
- Each party would like beneficial economic relations with the other.
- Each party would like beneficial economic relations with all the states of the region.
- Each party would like to preserve its political integrity and legitimacy.

\(^6\) There are elements in both the Israeli and Palestinian populations who do not share these assumptions. They would just as soon be rid of the other completely. Those groups believe that they can, eventually, take actions which would have the effect of removing the “other” as a party which needs to be considered in any way.
While I am sure there are other goals that each party would like to achieve, and even share, I believe these set forth the most commonly thought of principles. While it is true that this chapter could have been written in terms of fear instead of courage, courage was chosen as the more positive attribute. Courage is the willingness to take action, not without fear, but despite fear.

C. Physical harm

It is well known that on October 14, 1994 Israeli Prime Minister Yitzhak Rabin, Israeli Foreign Minister Shimon Peres, and Yasser Arafat were awarded the Nobel Peace Prize for their roles in the Oslo accord. Less than a year later, on September 28, 1995, in Washington, D.C., Rabin and Arafat signed the Oslo II agreement, which provided for Palestinian self-rule in parts of the West Bank and also set the framework for Palestinian elections. Under Oslo II, the West Bank was divided into three areas: Area A, which is under exclusive Palestinian control; Area B, where Palestinians have civilian control and Israelis control security; and Area C, which is controlled exclusively by Israel. The following week, the agreement was ratified by a slim margin in the Knesset, where Rabin faced harsh criticism from those in the conservative Likud Party and a blistering attack in the right wing press. Only a month and one half later, on November 4, 1995, following a peace rally in Tel Aviv, Yitzhak Rabin was assassinated by a Jewish extremist. He was succeeded by Peres.7

In July, 1951, King Abdullah II, the present king of Jordan’s grandfather, Abdullah I, was assassinated. On October 6, 1981, Anwar Sadat, President of Egypt, another winner of the Nobel Peace Prize, was assassinated. While three American Presidents attended the funeral, only one Arab head of state attended.

In short, being seen as insufficiently hostile to the other party to the Arab-Israeli conflict can be a very dangerous position to hold. This danger should not be seen as minor or hypothetical. As we have seen previously in this dissertation throughout and particularly in Chapters Four and Seven, this fear of physical harm and death may well have been an overwhelming concern of Yessar Arafat, who constantly asked, “Do you want to attend my funeral?” when confronted with a proposal from the U.S. or Israel. President Clinton himself remarked about the bravery of Ehud Barak at Camp David. This is not surprising concerning a man who was the most decorated warrior in the IDF. Fear of assassination is justified and the negotiators should be free to discuss the issue during any future negotiations.

D. Political harm

Political harm is, perhaps, the most prevalent consideration of each of the persons who have negotiated for each of the parties. As recently as 2016, Prime Minister Netanyahu admitted that the latest secret round of negotiations would not come to fruition because he

8 It seems clear that Mr. Arafat thought that all the American proposals originated with Israel.
could not bring his far right wing coalition along with him.\(^9\)\(^10\) The fact that Netanyahu used the efforts of John Kerry in order to get opposition leader Herzog to open negotiations about a unity government was, no doubt, the underlying motive. The fact is that Netanyahu used the leaked information about negotiations with Herzog to motivate the far right wing parties into his coalition thereby moving his government further to the right and further away from a true end-of-conflict resolution.\(^11\)

Israelis likely do not know or fully appreciate the extent to which the Palestinians have moved toward the Israeli positions on resolution of the conflict. It is likely that if the Israeli population knew even the broadest outlines of the negotiations of 2000 - 2001; 2008; 2014; and, 2016, they would not be saying such things as “no partner for peace”. If the Israelis understood the Palestinians have substantially reconciled themselves to the fact that the “right of return” would be to the new Palestinian state or other states with only a token number of Palestinians coming to Israel for humanitarian reasons, they would be surprised.\(^12\)

---


12. In 2013, in a paper presented at Hebrew University on the Israeli-Palestinian negotiations, two Israeli professors of Political Science expressed the widely held
The Israelis do not know that for the most part, most of the settlers would live in the parts of the West Bank which will remain part of Israel. The Israelis do not know that even such areas as Moddin Illit, Ma’ale Adummim, and Beitar Illit and Ariel would likely remain as part of Israel. Most Israelis do not know there has been tacit understanding that the areas of East Jerusalem which are called neighborhoods by Israel and settlements by Palestinians would remain part of Israel. The Israelis do not know there would be no effect on the administration of holy sites within Jerusalem.

If the Israelis did know these elements of the negotiations, they might be far more disposed to favor a resolution and might be far more likely to elect a government committed to negotiating a peace treaty.

If this lack of information on the part of the Israeli population is to be an important element of understanding, such information is absent in the Palestinian population. The reason for this most impactful deficit in understanding is both the fear of physical harm and the fear of political harm. The PA is fearful that if the most radical elements of its population understood the details of the negotiations, the result in the West Bank would be the same as it was in Gaza when Hamas defeated Fatah quite easily. The fear in the PA is not simply that new elections will produce a new government from the present opposition. It is a genuine fear that a change of government might well lead to death or exile and to the end of the PA. Any new negotiations should explore this problem and prepare to deal with it.

opinion that the major road block to a negotiated settlement was the Refugee issue. Neither was aware of what President Clinton stated in his memoirs and neither was aware of the same position set forth in *The Palestine Papers*. If the members of the academic faculty at Israeli Universities were not aware of these issues, then clearly the government is not going out of its way to educate its population.
E. National harm

On January 24, 2014, in the middle of his secret Middle East negotiations, Secretary of State, John Kerry delivered a speech to the World Economic Forum in Davos, Switzerland. He set out a detailed, if not exhaustive, list of the harms which will befall each party if the Israeli-Palestinian conflict is not soon resolved. In that speech, he noted what he referred to as “the demographic dynamic” facing Israel. “That dynamic will make it impossible to preserve its future as a democratic, Jewish state.”

The Secretary continues by reminding Israel that President Abbas remains an advocate of nonviolence. “But failure will only embolden extremists and empower hardliners, at the expense of the moderates who want to make peace.” What might happen then? he asked.

Kerry remarked that “Israel’s economic juggernaut is a wonder to behold, but a deteriorating security environment and growing isolation could put that prosperity at risk.” If negotiations fail again, Palestinians “will be no closer to the sovereignty they seek, no closer to their ability to be masters of their own fate, or to grow their own economy, no closer to resolving the refugee problem that has been allowed to fester for decades.”

If the Palestinians again fail to achieve statehood, there may be no future opportunity.

“This issue cannot be resolved at the United Nations. It can only be resolved between the parties. If peace fails, the region

---


14 As set forth in Chapter Seven there are many Israelis who feel as Prime Minister Shamir did. If the choice is down to the land or democracy, he opted for the land over the democracy and so would many Israelis.
risks another destabilizing crisis. One unilateral act will beget another, and another, and another, until we have fallen into a dangerous downward spiral.”

However, there are those who disagree with Secretary Kerry. They believe that there is a role to be played by the United Nations in completing an Israeli-Palestinian treaty. Zwier has made a suggestion that is breathtaking in its naivete but amply demonstrates why Israel must act to resolve the Two-State Solution soon. Zwier speaks for far too many “experts” when he says:

Instead, the goal this time would be to obtain UN membership for that state and a Security Council resolution in which it assumes responsibility for finalizing the terms of a two-state deal. Simultaneously, Palestinians would invite those nations which have yet to recognize Palestine as a state to do so, including the member states of the EU and the United States. In other words, Palestinians would gain functional recognition of their state in exchange for handing over to the UN Security Council the authority to determine the specific resolution of all final status issues.

The strategy could play out as follows. First, the PLO and Israel could engage in direct negotiations with mediator facilitation. If after a few months it becomes apparent that these talks may not produce an agreement because of the difference between the positions of the two sides, the UN Security Council (at Palestinian and European urging) could take hold of the situation. It could give itself until some set date in the future, to pass a resolution recommending to the GA that Palestine be granted UN membership and to come up with solutions to all permanent status issues, including the borders of Palestine. The PLO and Israel could be asked to submit to the Security Council their respective positions at their closest point in negotiations on all final status issues. (The United States, the mediator, would also present to the UN Security Council the positions that it reached in its capacity as mediator.) The Security Council could mandate one or more arbiters to present proposals that could bridge the gaps between the two sides. With a Reconciliation Agreement reached between Hamas and Fatah in May 2011, and now

15 Quotes taken from Kerry speech. Ibid.
renewed, in December 2012, it is now possible for the Palestinians to present a unified position to the United Nations, so perhaps the time is ripe for such a move.

This scenario painted by Zwier should be reason enough for Israel to come to the negotiation table and soon. The pressure for this type of resolution seems to be growing. It is unknown how long Israel can resist this pressure. This plan will fulfill the PA’s greatest desire and turn a fantasy into reality. That fantasy is that some third party will, in fact, ride in and save the PA from both the Israelis and themselves. Does Israel really want to place its future in the hands of the U.N. or the International Court of Justice? Israel should want to control its own destiny at the negotiating table.

F. National Benefits

Physical and political harms, which might befall the parties if no peace treaty is negotiated having been discussed, we can look to Kerry’s same speech to see what could be the product of a successful peace negotiation.

The Palestinians, obviously stand to gain their own state with a right to govern themselves and sovereignty over their people and their future “their own place among the community of nations.” Kerry went on to picture a World Economic Forum with Palestinian businessmen and leaders seeking the investment of the world’s elite in the new State of Palestine. He pictured the new State with new jobs, new infrastructure and a new future free from occupation and interference.

The Secretary also spoke about the benefits for Israel. He noted that no state “stands to gain so many new economic partners so quickly as Israel does today. That’s because 20
additional nations of the Arab League and 35 Muslim countries—that’s 55 countries in all—have committed to recognizing Israel and normalizing relations.”

G. The Cycle Continues

So if the harms from failure to reach an accord are so apparent and the benefits are so great, why is the conflict not resolved? The answer was noted by Paul Zwier who stated that the propensity to choose strategies which lead to self-destruction are often chosen over a perceived loss of self identity. And so, this is the circle which continuously spins. This is the pattern of failure:

1. Certain persons in Israel do not want a Two State Solution. However, they do not say that directly.

2. Instead they seek a very small increase in one or two settlements for “internal growth” or some other plausible reason.

3. The PA refuses to continue negotiations if there is no halt to the settlement expansion.

4. Yet, since the negotiations have been suspended, the settlements continue to grow and become more and more a permanent fixture on the West Bank.

5. As the settlements become larger and more permanent, their eventual removal becomes more and more impossible.

6. As the removal of massive “settlements”, which have now become cities, such as Ariel and Ma'ale Adumim becomes unrealistic, negotiations become less and less productive.

---


17 Of course this does not even include those who simply want the entirety of the Palestinian Mandate.
7. As negotiations become less productive there is increased frustration in the West Bank and Gaza.

8. As frustration increases, violence increases.

9. As violence increases, the Israeli population becomes less and less inclined to negotiate and/or more demanding in their negotiations. They believe more and more there is no partner for peace.

10. This cycle continues and shows no sign of ending or abating.

It is clear that in the face of this cycle, no real progress can be made in ending the conflict with a treaty and a Two State Solution. Both the Government of Israel and the PA know this pattern only too well. Unless this pattern is broken, no resolution will emerge. The last section of this dissertation, “Proposals”, will set forth some ideas about breaking this pattern of failure and achieving a resolution of the conflict.
H. Other Necessary but Not Sufficient Requirements for Resolution

Paul J. Zwier makes another very important point. In any future negotiations, the persons who show up at the negotiating sessions must be the persons who have the authority to bind their respective parties in any perspective agreement.\(^\text{18}\) The time for negotiations between minor government functionaries or private citizens has come and gone. This is not to say the parties will not have the right to submit the final document to their respective legislatures, but simply there will be no intermediary step between the signing of the agreement and its ratification. This is why it is so important each side be represented by the highest ranking person in the government. It may be said a high level person will have enormous political considerations and the negotiation sessions would be better served by those less involved in the political process. Perhaps, but only the President or Prime Minister can bind their state. What is necessary is the courage to act on a strategic policy and not some immediate political gain.

I. Conjectures

As to Israel

- There are no insurmountable, or nearly insurmountable, issues facing Israel that do not involve Jerusalem.

- There are no “right of return” or refugee issues which Israel will not be able to accommodate.

- There are no territory issues which Israel will not be able to accept including issues involving settlements.

• The only issue which remains is Jerusalem. Yet Jerusalem is a functioning city and runs better than many other cities in the Middle East on a day to day basis.

As to the Palestinians

• The Palestinians believe (or at least formerly believed) that once they agreed to Israel’s right to exist on 78% of the Mandate Palestine, they have already gone more than half-way and need not go any further.

• The Palestinians believe they are the party that is constantly put upon but that some outside force will come in and save them.

• The Palestinians play the role of the victim not only in negotiations but also internationally.

• As the victims, the Palestinians believe the U.N. or some other entity will eventually step in and resolve the matter in their favor.
XVI. Proposals

A. Introduction to the Chapter

In November, 2016, former Senator George Mitchell and his co-author Alon Sachar published a new work on the Israeli-Palestinian Conflict and the pursuit for peace. George Mitchell has long experience as a treaty negotiator and his prominence in the field is undeniable. It could be expected that Senator Mitchell would produce some new and brilliant plan to resolve the Israeli-Palestinian conflict. However, Senator Mitchell had simply suggested more of the same type of negotiation, but with more good faith. While good faith is an important element of any negotiation, it is unlikely there would be a significant change in this regard in the near future. It is with that in mind, the following proposals are presented.

B. Change the Order

Nearly all the necessary elements of the Israeli-Palestinian negotiations have been present for many years. As has been stated throughout this dissertation, the conflict has been substantially resolved four times. The framework, the terms, the details, the partial agreements, previously proposed remain the same.

The broad elements of a negotiated settlement are and have been present since Camp David. The details of a settlement have grown clearer with each new round of negotiations. However, there has been no change in the methodology of negotiating. What needs to change is the order in which these elements are undertaken. Both the Israelis and the Palestinians have always stated that whatever the terms of a final status agreement, the agreement would be submitted to their respective populations. In fact, the Israelis have acknowledged this fact at least since July 9, 2000, when a lead negotiator, Shlomo Ben Ami stated that any agreement
reached at Camp David would be submitted to the Israeli people in the form of a referendum. President Clinton also understood any agreement coming out of Camp David would be submitted to a referendum. Likewise, the Palestinians also recognized the value of submitting, both a new constitution and a finalized peace agreement to a referendum. So the notion of submitting a negotiated treaty to the respective populations for approval is not new to this conflict and, in fact, has been assumed.

A major theme of this dissertation is the primary missing ingredient of a negotiated peace is courage. It is for this reason it is necessary to develop proposals which will find some way to furnish a substitute for courage in order to provide the negotiators with the back bone necessary to end the conflict. Therefore, this proposal is for a referendum to proceed rather than follow the negotiations. Actually the suggestion of a pre-referendum is not completely new. It was suggested by Rob Malley, Special Assistant to President Clinton for Arab Affairs, at a conference at Tel Aviv University on June 18, 2003.

---


Consequently, it is now time to consider holding a referendum, not one that would endorse an agreement already reached, but a referendum that would precede an agreement.

This proposal was made at a conference which took place nearly three years after the Camp David negotiations ended. It was, in effect, a post-mortem on the failure of the Camp David conference to achieve peace. This line by Rob Malley was, more or less, a throw away line. This suggestion was paid no attention in any subsequent meeting and has not been proposed again.\(^{23}\) It is now time for that idea to be revisited and developed.

C. Mechanics for a Pre-Referendum

It is proposed that on the same day in Israel, the West Bank and Gaza, a single question, the same question, be submitted to the respective populations. The wording of the question would be of critical importance because it would have to mean the same thing in Hebrew, Arabic and English. The particular wording would be subject to negotiation; but a suggested possible wording is set forth herein. The Pre-Referendum would ask words to this effect, \textit{“Should negotiations be conducted and a treaty be concluded which would establish two states living side-by-side, a Jewish State and a Palestinian State, each with its capital in Jerusalem?”}\(^{23}\)

\(^{23}\) It is possible that because the idea was enunciated by Rob Malley, the only first party commentator from Camp David who did not blame the lack of a framework agreement based on the Clinton Parameters on Yasser Arafat, he was not taken seriously by the Israelis and certainly not by the Bush administration. The idea has sat out there for the last fourteen years without any comment.
D. Questions and Answers about the Pre-Referendum

Q. Would that be the only question?
A. Yes.

Q. Shouldn’t there be more details?
A. No.

Q. Why?
A. The details are known and/or certainly are knowable.

Q. Why not put more details in the question? The details are critical.
A. This will, it is hoped, begin a conversation or an education of the respective populations about the negotiations that have gone on for more than seventeen years, the details of which are in the public domain.

Q. Won’t the political leaders lie about what has been negotiated?
A. Probably, but all the sources used in this paper are in the public domain. It will be up to the legitimate media to keep the politicians and others from lying too much.

Q. What happens if the Israelis vote “No”?
A. Then it will be known just who is to blame for not being willing to conclude a peace agreement.

Q. What happens if the Palestinians vote “No”?
A. Then it will be known just who is to blame for not being willing to conclude a peace agreement.

Q. What happens if both sides vote “No”?
A. Then it will be known that the moment is not right for further negotiations. There is no sense wasting any more time.

Q. What happens after one or both parties vote “No”? 
A. A new vote can be taken in two years or so, to see if there is a change in public opinion.

Q. What happens if both parties say “Yes”? 
A. At that time diligent and serious pre-negotiations would take place.

Q. What are “Pre-Negotiations”?

24 Except one which was found in a private library and deals with the Balfour Declaration, about one hundred years ago.
A. These are the negotiations which will reach an agreement on the sources for establishing a final status agreement. They will set a limit on the time for concluding a negotiated settlement. They will acknowledge the terms of all past negotiations including but not limited to the Clinton Parameters, the Olmert-Abbas round, the Kerry efforts of 2014 and 2016.

Q. What else will the “Pre-Negotiations” deal with?
A. They will establish what steps will be taken if an impasse is reached on any or all issues of contention.

Q. What else will the “Pre-Negotiations” deal with?
A. They will get a signed agreement that within the agreed upon time limit, a full and complete final status agreement will be signed by the leaders of each side.

Q. Why is it necessary to have a “Pre-Referendum”
A. Because the political leaders lack courage. Also because the most extreme groups on each side have held the peace treaty negotiations hostage for so many years. It is the “Pre-Referendum” which confers legitimacy on the final treaty.

Q. What will happen when the extreme opposition on each side tries to prevent the “Pre-Referendum”?
A. Each side will have to deal with security issues in a way so as not to poison the referendum.

Q. What are the advantages of this “Pre-Referendum”?
A. First, if the vote passes, it will marginalize the extreme opposition; thereby increasing the courage of the political leaders and the legitimacy of the effort.
A. Second, it will create a date certain for the creation of a Palestinian State and take the issue away from extremist parties.
A. Third, a “No” will take the pressure off to engage in a fictitious bargaining ritual.
A. Fourth, both parties know the basic outline of a settlement and they can be sure the final agreement will bear a striking similarity to the previous efforts.
A. Fifth, it may help remove some of the symbolic obstacles preventing a negotiated resolution.
A. Sixth, it will empower a majority of each population and decrease the power of the extremists.
A. Seventh, it will allow the Palestinians to conclude a final status agreement, which they can blame on the mediator/arbitrator
who will break each impasse. This will help with their sense of victimhood and will serve as yet another historical inequity.

A. Eighth, the Palestinians will not have to agree to any terms of an agreement for which they have not prepared their population. They could simply allow the mediator/arbitrator to take the last step.

A. Ninth, it will allow Israelis to stop governing Palestinians and relieve the Israelis of a sense of guilt.

A. Tenth, it will create an atmosphere where the regional relations which are now under way to come out into the open and increase.

Q. What are the biggest shortcomings of this proposal?
A. Israeli Security.

Q. In what way?
A. While it is true that security arrangements have been a major part of every discussion in every negotiation, it remains the most significant concern of the Israelis together with the issue of Jerusalem.

Q. What can be done concerning Israeli Security?
A. There have been two major policy papers prepared and written by former high ranking Israeli military and security personnel. The plans set forth in those policy papers should be explored with the Palestinians. Each plan is compatible with a Two-State Solution.

Q. Why would the Palestinians agree to the plans drawn by Israelis?
A. Because they know that what happened in Gaza could easily happen again in the West Bank leaving all their efforts for

---


Each plan is detailed and comprehensive. Given my very limited military and security knowledge; I am unable to describe the differences between the two plans. Given that they were published just two days apart, it is likely they are basically the same plan.
naught. It could have the effect of keeping the members of the PA hierarchy alive and in Palestine.

E. Pre-Negotiations

Under this proposal, the hard bargaining will occur during what has been termed “Pre-Negotiations”. During this phase, it will be necessary to have the parties and most of all, the mediator/arbitrator be completely familiar with the terms of the most serious negotiations of the last seventeen years.\(^\text{27}\) It will be the goal of the mediator/arbitrator to obtain a signed agreement that so long as the final agreement is shaped under the terms of the previous rounds of the negotiations, they will submit any issues which are not resolved by direct negotiations, to the mediator, who will then act as an arbitrator. There must be a signed agreement that each party will be bound to the final arbitration ruling.

The most essential element of this form of resolution is that the population of both Israel and Palestine must have access to the same information. They must have access to the details of what has been previously negotiated. They must have access as to what issues remained unresolved in past negotiations. In short, the population must not be taken by surprise. It is critical that the information be made public prior to the actual “Pre-Referendum” so the parties will know they have been authorized by their people to finally and fully resolve the conflict once and for all. The media must be able to tell the truth.

\(^\text{27}\) In that regard, it is submitted that the two databases used for this dissertation would be invaluable to the parties. The CaseMap database is composed of actual quotations from the parties. In the EndNote database, more than 900 documents were written by the Palestinians or reflect the notes taken by the Palestinians during the Olmert-Abbas round of 2008 - 2009.
There is no doubt there will be large portions of the media who will try to poison the information so the public will vote no in the “Pre-Referendum”. It would be, perhaps, wise for the mediator/arbitrator to have educational documents prepared in all three languages which would spell out the details of the negotiations which took place over the past seventeen years. Even those documents would be subject to a brief negotiation.

The oft-used statement, “Nothing is agreed to until everything is agreed to” would no longer be operative. The public simply has to know just how far the other side has been willing to go in previous negotiations. It is necessary to put the lie to the Israeli statement, “There is no partner for peace.”

On the other hand, it is necessary to educate the Palestinian population that the end of a negotiated treaty will not mean the Jews will pick up and leave the land. Nor will it mean that seven, or six, or five, or four, or three, or two, or one, or a half million Palestinians will suddenly be given a right to “return” to the land of Israel. The Palestinians will have to know they will have the right to “return” to the new state of Palestine. They will have to know they will have to govern themselves.

The time for conclusion of this conflict has come. It arrived in 1991 in Madrid. The window for settlement, while never actually shut tight, is, nevertheless closing. It is time to act.

Dated: August 7, 2017
Bibliography


Abbas, M., & Olmert, E. (Cartographer). (2009). Hand Drawn Olmert - Abbas Map. Retrieved from https://www.bing.com/images/search?q=olmert+abbas+map&view=detailv2&&id=0C3D72DA89F1740449B4F12BA1C9906A65174AD3&selectedIndex=2&ccid=q7i6v9Dw&simid=608055408999074578&thid=OIP.Mabb8babfd0f07f161cb5c9dd288071f4o0


Abd Al Nasser Al Aziz v. Commander of IDF Forces, HCJ 785/87, Israeli Supreme Court.


Ahren, R. (2016). Q and A on the Israeli legislation that aims to legalize West Bank outposts


Attili, S. (2004). Internal Email Re: Sharon's Disengagement Plan (Full Text). In (pp. 5).


Clinton, W. J. (2016). Bill Clinton Delivers the Clinton Parameters to IPF. IPF Conference.


DRAFT Negotiating Brief - Palestine Air Access and Air Corridor. (2006). *The Palestine Papers.* (pp. 75).


Draft of Bader Khoury Speech at University of Tel Aviv. (2009). *The Palestine Papers.*


Drucker, R. (2017, 2017-02-21). Netanyahu Should Have Given Kerry a Kiss
A year ago Benjamin Netanyahu received from then-U.S. Secretary of State John Kerry the most perfect expression of the two-state solution. Clearly the premier was not serious in his intentions., Opinion. Haaretz. Retrieved from http://www.haaretz.com/opinion/.premium-1.772826?=&ts=_1487736035900


Executive Summary: Immediate International Deployment (Arabic). (2006). *The


Foreign Involvement in Israeli Settlements. *The Palestine Papers.*


Gowan, R. (2014). Failed Peacemaking Efforts Make 2014 Year of Dead-End


Palestine Papers.


Israel, O. o. t. V. P. M. o. (2005). Israeli Presentation on Economic and Civilian Disengagement. The Palestine Papers. (pp. 9).


Benjamin Netanyahu turned down regional peace initiative last year brokered by John Kerry, former US officials confirm. Al Jazeera.


Kant, I. (1795). Toward Perpetual Peace: A Philosophical Sketch (J. Bennett, Trans.).


Legal Study Of Palestinian President Term In Office. (2008). The Palestine Papers.

Legal Unit of the Palestine Liberation Organization Negotiations Affairs Department, J. (2000). Meeting Minutes U.S.-Palestine Delegations - Pre-Camp David. The Palestine Papers (pp. 6).


Meeting Minutes on Borders 5_4_08 (2008a). *The Palestine Papers*.


Meeting Minutes: 2nd Sub-Committee Meeting on Drafting. (2007). *The Palestine Papers.*


Meeting Minutes: Condoleezza Rice and Salam Fayyad. (2005). The Palestine Papers

Meeting Minutes: Condoleezza Rice, Salam Fayyad, David Welch and Robert Zoellick. (2005). In (pp. 3).


Monitoring and Verification of Mechanism for Quartet Roadmap. (2002). *The Palestine Papers.* (pp. 7).


Best Chance Yet to End Division of Cyprus
Cyprus Reunion: Citizens will Decide” says UN [Radio Newscast]. Retrieved from http://www.bbc.co.uk/programmes/p04n3pcw


NSU. (2001b). Meeting Minutes Taba Borders 1_23_01. The Palestine Papers. (pp. 3).


NSU. (2001k). NSU Memo Re: “Internationalizing” the US Monitoring Mechanism. The
Palestine Papers. (pp. 3).


NSU. (2001o). NSU Memo to Abed Rabbo on Satterfield Proposal - Additional Details. The Palestine Papers. (pp. 3).


NSU. (2003m). Tel Asur Israeli Early Warning Station - Effects and Impacts. *The Palestine Papers.* (pp. 18).


NSU. (2005k). NSU Memo to President Abbas Re: Unsettled Issues with Israel (Arabic). The Palestine Papers.


Palestine Papers.


NSU. (2008}). NSU Email Re: Employing a Media Strategy Following Meeting with Condoleezza Rice. *The Palestine Papers*.


NSU. (2008«). Summary of Israeli Road Map Violations since Annapolis. *The Palestine Papers.*


Palestine Papers


NSU. (2009—). Talking Points for President Abbas Following his Meeting with President Obama on May 28, 2009. The Palestine Papers.


NSU, & Clot, Z. (2008e). NSU Email Re: Saeb Erekat and Marc Otte Meeting. The
Palestine Papers.


Palestine Papers.


Palestine Papers.


Palestinian-Israeli Customs Arrangements within Commerce Agreements. (2007). The Palestine Papers.


Preliminary Palestinian draft list of decidable issues for the Legal Committee (Subject to revisions). (2008). *The Palestine Papers.*


Public Committee against Torture in Israel v Government of Israel (High Court of Justice 2006).


(2,8),(995,999)


Road Map Phase I Obligations for All Parties - September 2009 (Arabic). (2009). *The
Palestine Papers.


Table on Status of Mitchell Report and Road Map Implementations. (2009). *The Palestine Papers*. 


Talking Points for Dr. Sabri Saidam at Middle East Workshop. (2008). *The Palestine Papers*.


The Public Committee against Torture in Israel v The Government of Israel, 769 (High Court of Justice 2005).


Updates on General Situation in Palestinian-Israeli Conflict. (2000). In *The Palestine Papers*.


Dear Lord Rothschild,

I have much pleasure in conveying to you, on behalf of His Majesty's Government, the following declaration of sympathy with Jewish Zionist aspirations which has been submitted to, and approved by, the Cabinet.

His Majesty's Government views with favor the establishment in Palestine of a national home for the Jewish people, and will use their best endeavors to facilitate the achievement of this object, it being clearly understood that nothing shall be done which may prejudice the civil and religious rights of existing non-Jewish communities in Palestine or the rights and political status enjoyed by Jews in any other country.

I should be grateful if you would bring this declaration to the knowledge of the Zionist Federation.

Yours,

Arthur James Balfour
The Palestine Mandate

Dated: July 24, 1922

Whereas the Principal Allied Powers have agreed, for the purpose of giving effect to the provisions of Article 22 of the Covenant of the League of Nations, to entrust to a Mandatory selected by the said Powers the administration of the territory of Palestine, which formerly belonged to the Turkish Empire, within such boundaries as may be fixed by them; and

Whereas the Principal Allied Powers have also agreed that the Mandatory should be responsible for putting into effect the declaration originally made on November 2nd, 1917, by the Government of His Britannic Majesty, and adopted by the said Powers, in favor of the establishment in Palestine of a national home for the Jewish people, it being clearly understood that nothing should be done which might prejudice the civil and religious rights of existing non—Jewish communities in Palestine, or the rights and political status enjoyed by Jews in any other country; and

Whereas recognition has thereby been given to the historical connection of the Jewish people with Palestine and to the grounds for reconstituting their national home in that country; and

Whereas the Principal Allied Powers have selected His Britannic Majesty as the Mandatory for Palestine; and

Whereas the mandate in respect of Palestine has been formulated in the following terms and submitted to the Council of the League for approval; and

Whereas His Britannic Majesty has accepted the mandate in respect of Palestine and undertaken to exercise it on behalf of the League of Nations in conformity with the following provisions; and [emphasis added]
Bose Cyprus Plan for Appendix

In India in 1947 and Palestine in 1948 the British exit strategy was based on partition. In Sri Lanka in 1948 they bequeathed a Westminster-type minster-type model of majoritarian government in a centralized state on their departure, which was taken over by nationalists of the Sinhalese-Buddhist ethnic majority within a decade (see Chapter 1). The structure of government put in place in Cyprus in 1959-1960 was strikingly different, and indeed rather novel for its time.

This may have been because the British had little direct input into the process. In early 1959 the constitutional structure of independent pendent Cyprus emerged from negotiations between the governments of Greece and Turkey held in Zurich in which Swiss experts had an advisory role. The tentative agreement was then sent to London. Once the agreement was approved by the British government, the leaders of the Greek and Turkish Cypriot communities were summoned to London and "presented with a fait accompli." The "London-Zurich agreements" codified in the 1960 Cyprus constitution expressly forbade both enosis and taksim. Instead a complex power-sharing formula was adopted with the following key features:

- A bicameral legislature. A 50-member house of representatives composed of 35 Greek and 15 Turkish Cypriots elected by their respective communities. The president (speaker) of this chamber would be a Greek Cypriot, the vice president a Turkish Cypriot. A simple majority would suffice for most legislation but on matters regarding taxation, municipal governance, and electoral laws separate majorities of both community blocs were required. In addition, a Greek Cypriot communal chamber of 24 members and a Turkish Cypriot communal chamber of 30 members would be elected by the respective communities. These chambers were empowered to legislate on religious, educational, and cultural matters pertaining to their own continuity.

- The executive arm would consist of a Greek Cypriot president and a Turkish Cypriot vice president, each elected by his or her own community. Either the president or the vice president could veto legislation passed by the house of representatives in the areas of foreign affairs, defense, and

---

internal security, although no such veto right was given for legislation passed in the constitutional chambers. The cabinet consisted of a ten-member council of ministers, including seven Greek Cypriots and three Turkish Cypriots. A Turkish Cypriot had to hold one of the three major portfolios-defense, foreign affairs, or finance. Council decisions could be made by an overall majority vote but could be vetoed by either the president or the vice president.

- Constitutional issues and disputes were to be decided by a three-person supreme constitutional court. The court's president would be a neutral foreign judge and the two Cypriot communities would have one representative each. The high court of justice would similarly be presided over by a foreign national, who would have two votes, along with two Greek Cypriots and one Turkish Cypriot, who would have one vote each. Each community would also have communal courts, composed of civil and ecclesiastic branches, to deal with issues of personal status and religion.

- The Cyprus civil service would be apportioned among Greek Cypriots and Turkish Cypriots on a 70:30 basis. The police and gendarmerie, with a strength of two thousand, would also be 70 percent Greek Cypriot and 30 percent Turkish Cypriot.

- The army of the new state would have two thousand personnel, 60 percent Greek Cypriot and 40 percent Turkish Cypriot.

- Greek and Turkish would be the co-official languages of the Republic public of Cyprus.
Arab Peace Initiative (“API”) for Appendix

Having listened to the statement made by his royal highness Prince Abdullah bin Abdul Aziz, crown prince of the Kingdom of Saudi Arabia, in which his highness presented his initiative calling for full Israeli withdrawal from all the Arab territories occupied since June 1967, in implementation of Security Council Resolutions 242 and 338, reaffirmed by the Madrid Conference of 1991 and the land-for-peace principle, and Israel’s acceptance of an independent Palestinian state with East Jerusalem as its capital, in return for the establishment of normal relations in the context of a comprehensive peace with Israel,²

But that was not the end of the document. The API set forth very specific Israeli obligations. Among them:

I- Full Israeli withdrawal from all the territories occupied since 1967, including the Syrian Golan Heights, to the June 4, 1967 lines as well as the remaining occupied Lebanese territories in the south of Lebanon.

III- Achievement of a just solution to the Palestinian refugee problem to be agreed upon in accordance with U.N. General Assembly Resolution 194³.

*The Parties shall recognize the [rights] [right of return] [right to return to their homeland] of Palestinian refugees under UNGAR 194, UNSC Resolution 242[, and the Arab Peace Initiative (Article 2.ii.)]. The number and modalities of return shall be agreed between the Parties [with consideration to maintaining the demographic balance in Israel] [consistent with the two-state solution].

Refugees will have the right to choose between:
- return to the state of Palestine
- return to the state of Israel
- return to areas in Israel being transferred to Palestine
- remain in the host states, subject to the latter’s decision
- resettle in third countries, subject to the latter’s decision


FAPS means “Framework Agreement on Permanent Status

³ The text of UNGAR 194 has already been provided. The various interpretations have also been discussed.
Israel will compensate the refugees for their refugeehood and for loss of property.

The Parties recognize the right of states that have hosted Palestinian refugees to compensation.

An International Commission shall oversee the implementation of the refugee provision of the permanent status agreement.

III- The acceptance of the establishment of a sovereign independent Palestinian state on the Palestinian territories occupied since June 4, 1967 in the West Bank and Gaza Strip, with East Jerusalem as its capital.

***

The Palestinian side will transfer sovereignty over the Jewish Quarter and the Wailing Wall section of the Western Wall in East Jerusalem to Israel, while retaining sovereignty over the remainder of the Old City.4

And in return for Israel’s acceptance of absolutely every Palestinian bargaining position, signatory Arab States will give, in exchange, two obligations:

   I- Consider the Arab-Israeli conflict ended, and enter into a peace agreement with Israel, and provide security for all the states of the region.

   ***

   II- Establish normal relations with Israel in the context of this comprehensive peace.5

---

4 Ibid.
5 Ibid.
The Clinton Parameters

President Clinton:

Territory:
Based on what I heard, I believe that the solution should be in the mid-90's, between 94-96% of the West Bank territory of the Palestinian state.

The land annexed by Israel should be compensated by a land swap of 1-3% in addition to territorial arrangements such as a permanent safe passage.

The Parties also should consider the swap of leased land to meet their respective needs. There are creative ways for doing this that should address Palestinian and Israeli needs and concerns.

The Parties should develop a map consistent with the following criteria:

• 80% of settlers in blocks.
• Contiguity.
• Minimize annexed areas.
• Minimize the number of Palestinian affected.

Security:
The key lies in an international presence that can only be withdrawn by mutual consent. This presence will also monitor the implementation of the agreement between both sides.

My best judgment is that the Israeli withdrawal should be carried-out over 36 months while international force gradually introduced into the area.

At the end of this period, a small Israeli presence would remain in fixed locations in the Jordan Valley under the authority of the international force for another 36 months. This period could be reduced in the event of favorable regional developments that diminish the threats to Israel.

On early warning stations, Israel should maintain three facilities in the West Bank with a Palestinian liaison presence. The stations will be subject to review after 10 years with any changes in status to be mutually agreed.

Regarding emergency deployments, I understand that you still have to develop a map of the relevant areas and routes. But in defining what is an emergency, I propose the following definition:

Imminent and demonstrable threat to Israel's national security of a military nature that requires the activation of a national state of emergency.

Of course, the international forces will need to be notified of any such determination.
On airspace, I suggest that the state of Palestine will have sovereignty over its airspace but that the two sides should work out special arrangements for Israeli training and operational needs.

I understand that the Israeli position is that Palestine should be defined as a "demilitarized state" while the Palestinian side proposes “a state with limited arms”. As a compromise, I suggest calling it a “non-militarized state”.

This will be consistent with the fact that in addition to a strong Palestinian security force, Palestine will have an international force for border security and deterrence purposes.

Jerusalem and Refugees
I have a sense that the remaining gaps have more to do with formulations than practical realities.

Jerusalem
The general principle is that Arab areas are Palestinian and Jewish ones are Israeli. This would apply to the Old City as well. I urge the two sides to work on maps to create maximum contiguity for both sides.

Regarding the Haram/Temple Mount, I believe that the gaps are not related to practical administration but to the symbolic issues if sovereignty and to finding a way to accord respect to the religious beliefs of both sides.

I know you have been discussing a number of formulations, and you can agree on one of these. I add to these two additional formulations guaranteeing Palestinian effective control over the Haram while respecting the conviction of the Jewish people.

Regarding either one of these two formulations will be international monitoring to provide mutual confidence.

1. Palestinian sovereignty over the Haram, and Israeli sovereignty over [the Western Wall and the space sacred to Judaism of which it is a part] [the Western Wall and the Holy of Holies of which it is a part].

   There will be a firm commitment by both not to excavate beneath the Haram or behind the Wall.

2. Palestinian sovereignty over the Haram and Israeli sovereignty over the Western Wall and shared functional sovereignty over the issue of excavation under the Haram and behind the Wall as that mutual consent would be requested before any excavation can take place.

Refugees:
I sense that the differences are more relating to formulations and less to what will happen on a practical level.
I believe that Israel is prepared to acknowledge the moral and material suffering caused to the Palestinian people as a result of the 1948 war and the need to assist the international community in addressing the problem.

An international commission should be established to implement all the aspects that flow from your agreement: compensation, resettlement, rehabilitation, etc . . .

The US is prepared to lead an international effort to help the refugees.

The fundamental gap is on how to handle the concept of the right of return. I know the history of the issue and how hard it will be for the Palestinian leadership to appear to be abandoning this principle.

The Israeli side could not accept any reference to a right of return that would imply a right to immigrate to Israel in defiance of Israel's sovereign policies on admission or that would threaten the Jewish character of the state.

Any solution must address both needs.

The solution will have to be consistent with the two state approach that both sides have accepted as the way to end the Palestinian Israeli conflict: the state of Palestine as the homeland of the Palestinian people and the state of Israel as the homeland of the Jewish people.

Under the two state solution, the guiding principle should be that the Palestinian state will be the focal point for Palestinians who choose to return to the area without ruling out that Israel will accept some of these refugees.

I believe that we need to adopt a formulation on the right of return that will make clear that there is no specific right of return to Israel itself but that does not negate the aspiration of the Palestinian people to return to the area.

In light of the above, I propose two alternatives:
1. Both sides recognize the right of Palestinian refugees to return to Historic Palestine. Or,
2. Both sides recognize the right of Palestinian refugees to return to their homeland.

The agreement will define the implementation of this general right in a way that is consistent with the two state solution. It would list the five possible final homes for the refugees:

1. The state of Palestine.
2. Areas in Israel being transferred to Palestine in the land swap.
3. Rehabilitation in host country.
4. Resettlement in a third country.
5. Admission to Israel.
In listing these options, the agreement will make clear that the return to the West Bank, Gaza Strip, and areas acquired in the land swap would be a right to all Palestinian refugees.

While rehabilitation in host countries, resettlement in third countries and absorption into Israel will depend upon the policies of those countries.

Israel could indicate in the agreement that it intends to establish a policy so that some of the refugees would be absorbed into Israel consistent with Israel’s sovereign decision.

I believe that priority should be given to the refugee population in Lebanon.

The Parties would agree that this implements Resolution 194.

The End of Conflict:
I propose that the agreement clearly mark the end of the conflict and its implementation put an end to all claims. This could be implemented through a UN Security Council Resolution that notes that Resolutions 242 and 338 have been implemented and through the release of Palestinian prisoners.

Concluding Remarks:
I believe that this is the outline of a fair and lasting agreement.

It gives the Palestinian people the ability to determine their future on their own land, a sovereign and viable state recognized by the international community, Al-Quds as its capital, sovereignty over the Haram, and new lives for the refugees.

It gives the people of Israel a genuine end to the conflict, real security, the preservation of sacred religious ties, the incorporation of 80% of the settlers into Israel, and the largest Jewish Jerusalem in history recognized by all as its capital.

This is the best that I can do. Brief your leaders and tell me if they are prepared to come for discussions based on these ideas. If so, I would meet them next week separately. If not, I have taken this as far as I can.

These are my ideas. If they are not accepted, they are not just off the table, they also go with me when I leave office.
Prime Minister Netanyahu Speech at Bar Ilan University for Appendix

I appeal to you, our Palestinian neighbors, and to the leadership of the Palestinian Authority. Let us begin peace negotiations immediately without prior conditions. Israel is committed to international agreements, and expects all sides to fulfill their obligations. I say to the Palestinians: We want to live with you in peace, quiet, and good neighborly relations. We want our children and your children to 'know war no more.' We do not want parents and wives, sons and daughters, brothers and sisters, to know the sorrow of bereavement. We want our children to dream of a better future for humankind. We want our children to devote our efforts to 'plowshares and pruning hooks' and not to "swords and spears"? I know the terror of war, I participated in battles, I lost good friends who fell [in battle], I lost a brother. I saw the pain of bereaved families from up close - very many times. I do not want war. No one in Israel wants war. (Applause)

Let us join hands and work together in peace, together with our neighbors. There is no limit to the flourishing growth that we can achieve for both peoples - in the economy, in agriculture, in commerce, tourism, education - but, above all, in the ability to give our younger generation hope to live in a place that's good to live in, a life of creative work, a peaceful life with much of interest, with opportunity and hope.

***

The connection of the Jewish People to the Land has been in existence for more than 3,500 years. Judea and Samaria, the places where our forefathers Abraham, Isaac and Jacob walked, our forefathers David, Solomon, Isaiah and Jeremiah -this is not a foreign land, this is the Land of our Forefathers.  

6

George W. Bush Road Map Matrix

b. The Road Map

Just several months after his Rose Garden speech, President Bush drafted a more detailed and time delineated document for a negotiated two-state solution. Below you will find a matrix which was prepared for this dissertation. It was taken from a draft dated October 15, 2002 by the Bush Administration. The document was provided to the New York Times and published on November 14, 2002. The terms of this document, as shown in the matrix provided, demonstrate the fundamental flaws in this plan.

---

### President Bush's Road Map to a Palestinian State

**Acronyms Used:**

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Full Form</th>
</tr>
</thead>
<tbody>
<tr>
<td>AHLC</td>
<td>Ad Hoc Liaison Committee</td>
</tr>
<tr>
<td>PLC</td>
<td>Palestinian Legislative Council</td>
</tr>
<tr>
<td>PA</td>
<td>Palestinian Authority</td>
</tr>
<tr>
<td>GOI</td>
<td>Government of Israel</td>
</tr>
<tr>
<td>IDF</td>
<td>Israeli Defense Forces</td>
</tr>
</tbody>
</table>

### Preface

The following are elements of a performance-based plan, under the supervision of the Quartet, with clear phases and benchmarks leading to a final and comprehensive settlement of the Israel-Palestinian conflict by 2005, as presented in President Bush's speech of 24 June, and welcomed by the EU, Russia and the UN in the 16 July and 17 September Quartet Ministerial statements. Such a settlement, negotiated between the parties, will result in the emergence of an independent, democratic Palestinian state living side by side in peace and security with Israel and its other neighbors. The settlement will end the occupation that began in 1967, based on the Madrid Conference terms of reference and the principle of land for peace, UNSCRs 242, 338 and 1397, agreements previously reached by the parties, and Arab initiative proposed by Saudi Crown Prince Abdullah and endorsed by the Arab Summit in Beirut.

### Phase I: October 2002-May 2003 (Transformation/Elections)

**First Stage: October-December, 2002**

<table>
<thead>
<tr>
<th>Quartet and other Obligations</th>
<th>Palestinian Obligation</th>
<th>Israeli Obligation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Quartet develops detailed roadmap, in consultation with the parties, to be adopted at December</td>
<td>Appointment of new Palestinian cabinet, establishment of empowered Prime Minister, including any necessary Palestinian reforms for this purpose</td>
<td>GOI facilitates travel of Palestinian officials for PLC sessions, supervised security retraining, and other PA business without restriction.</td>
</tr>
<tr>
<td>Arab states move decisively to cut off public/private funding of extremist groups, channel financial support for Palestinians through Palestinian Ministry of Finance.</td>
<td>PLC appoints Commission charged with drafting of Palestinian constitution for Palestinian statehood.</td>
<td>GOI implements recommendations of the Bertini report to improve humanitarian conditions, including lifting curfews and easing movement between Palestinian areas.</td>
</tr>
<tr>
<td>Quartet and other Obligations</td>
<td>Palestinian Obligation</td>
<td>Israeli Obligation</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>-----------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>PA establishes independent Election Commission. PLC reviews and revises election law.</td>
<td>GOI ends actions undermining trust, including attacks in civilian areas, and confiscation/demolition of Palestinian homes/property, deportations, as a punitive measure or to facilitate Israeli construction.</td>
<td></td>
</tr>
<tr>
<td>AHLC Ministerial launches major donor assistance effort.</td>
<td>GOI immediately resumes monthly revenue clearance process in accordance with agreed transparency monitoring mechanism.</td>
<td>GOI transfers all arrears of withheld revenues to Palestinian Ministry of Finance by end of December 2002, according to specific timeline.</td>
</tr>
<tr>
<td>Palestinian leadership issues unequivocal statement reiterating Israel's right to exist in peace and security and calling for an immediate end to the armed intifada and all acts of violence against Israelis anywhere. All Palestinian institutions end incitement and against Israel.</td>
<td></td>
<td>GOI dismantles settlement outposts erected since establishment of the present Israeli government and in contravention of current government guidelines.</td>
</tr>
<tr>
<td>In coordination with Quartet, implementation of U.S. rebuilding, training and resumed security cooperation plan in collaboration with outside oversight board. (U.S.-Egypt-Jordan)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palestinian security organizations are consolidated into three services reporting to an empowered Interior Minister.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Restructured/retrained Palestinian security forces and IDF counterparts begin phased resumption of security cooperation and other undertakings as agreed in the Tenet work plan, including regular senior-level meetings, with the participation of U.S. security officials.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
**Second Stage: January-May 2003**

<table>
<thead>
<tr>
<th>Quartet and other Obligations</th>
<th>Palestinian Obligation</th>
<th>Israeli Obligation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent Commission circulates draft Palestinian constitution, based on strong parliamentary democracy, for public comment/debate.</td>
<td>Continued Palestinian political reform to ensure powers of PLC, Prime Minister, and Cabinet</td>
<td></td>
</tr>
<tr>
<td>Quartet monitoring mechanism established.</td>
<td>Devolution of power to local authorities through revised Municipalities Law.</td>
<td></td>
</tr>
<tr>
<td>Palestinian performance on agreed judicial, administrative and economic benchmarks, as determined by Task Force.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>As comprehensive security performance moves forward, &gt;&gt; &gt;&gt; holding of Palestinian elections. Palestinian security forces redeploy to areas vacated by IDF.</td>
<td>&gt;&gt; IDF withdraws progressively from areas occupied since September 28, 2000. Withdrawal to be completed before &gt;&gt;</td>
<td></td>
</tr>
<tr>
<td>GOI facilitates Task Force election assistance, registration of voters, movement of candidates and voting officials.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GOI reopens East Jerusalem Chamber of Commerce and other closed Palestinian economic institutions in East Jerusalem.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Constitution drafting Commission proposes draft document for submission after elections to new PLC for approval.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palestinians and Israelis conclude a new security agreement building upon Tenet work plan, including an effective security mechanism and an end to violence, terrorism, and incitement implemented through a restructured and effective Palestinian security service.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>GOI freezes all settlement activity consistent with the Mitchell report, including natural growth of settlements.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Palestinians hold free, open, and fair elections for PLC.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Regional support: Upon completion of security steps and IDF withdrawal to September 28, 2000 positions, Egypt and Jordan return ambassadors to Israel.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Progress into Phase II will be based upon the judgment of the Quartet, facilitated by establishment of a permanent monitoring mechanism on the ground, whether conditions are appropriate to move on -- taking into account performance of all parties and Quartet monitoring.

Phase II starts after Palestinian elections and ends with possible creation of a Palestinian state with provisional borders by end of 2003.

International Conference: Convened by the Quartet, in agreement with the parties, immediately after the successful conclusion of Palestinian elections to support Palestinian economic recovery and launch negotiations between Israelis and Palestinians on the possibility of the state with provisional borders.

Such a meeting would be inclusive, based on the goal of a comprehensive Middle East peace (including between Israel and Syria, and Israel and Lebanon), and based on the principles described in the preamble to this document.

<table>
<thead>
<tr>
<th>Phase II: June 2003-December 2003 (Transition)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Quartet and other Obligations</strong></td>
</tr>
<tr>
<td>Progress into Phase II will be based upon the judgment of the Quartet, facilitated by establishment of a permanent monitoring mechanism on the ground, whether conditions are appropriate to move on -- taking into account performance of all parties and Quartet monitoring.</td>
</tr>
<tr>
<td>Phase II starts after Palestinian elections and ends with possible creation of a Palestinian state with provisional borders by end of 2003.</td>
</tr>
<tr>
<td>International Conference: Convened by the Quartet, in agreement with the parties, immediately after the successful conclusion of Palestinian elections to support Palestinian economic recovery and launch negotiations between Israelis and Palestinians on the possibility of the state with provisional borders.</td>
</tr>
<tr>
<td>Such a meeting would be inclusive, based on the goal of a comprehensive Middle East peace (including between Israel and Syria, and Israel and Lebanon), and based on the principles described in the preamble to this document.</td>
</tr>
<tr>
<td>Other pre-Intifada Arab links to Israel restored (trade offices, etc.).</td>
</tr>
<tr>
<td>Revival of “multilateral talks” (regional water, environmental, economic development, refugee, arms control issues).</td>
</tr>
<tr>
<td>Newly elected PLC finalizes and approves new constitution for democratic, independent Palestinian state.</td>
</tr>
<tr>
<td>Continued implementation of security cooperation, collection of illegal weapons, disarm militant groups, according to Phase I security agreement.</td>
</tr>
<tr>
<td>Israeli-Palestinian negotiations aimed at creation of a state with provisional borders. Implementation of prior agreements, to enhance maximum territorial contiguity.</td>
</tr>
<tr>
<td>Conclusion of transitional understanding and creation of state with provisional borders by end of 2003. Enhanced international role in monitoring transition.</td>
</tr>
<tr>
<td>Further action on settlements simultaneous with establishment of Palestinian state with provisional borders.</td>
</tr>
</tbody>
</table>
### Phase III: 2004-2005 (Statehood)

<table>
<thead>
<tr>
<th>Quartet and other Obligations</th>
<th>Palestinian Obligation</th>
<th>Israeli Obligation</th>
</tr>
</thead>
<tbody>
<tr>
<td>Progress into Phase III, based on judgment of Quartet, taking into account actions of all parties and Quartet monitoring.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Second International Conference: Convened by the Quartet, with agreement of the parties, at beginning of 2004 to endorse agreement reached on state with provisional borders and to launch negotiations between Israel and Palestine toward a final, permanent status resolution in 2005, including on borders, Jerusalem, refugees and settlements; and, to support progress toward a comprehensive Middle East settlement between Israel and Lebanon and Syria, to be achieved as soon as possible.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Continued comprehensive, effective progress on the reform agenda laid out by the Task Force in preparation for final status agreement.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Arab state acceptance of normal relations with Israel and security for all the states of the region, consistent with Beirut Arab Summit initiative.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
ISRAEL'S WALL AND SETTLEMENTS (Colonies)  
December 2007

Map 1: 12/07  Map: Israel's Wall and Settlements (Colonies) - December 2007
Map 2   02/21/08   Map of Old City of Jerusalem showing different neighborhoods and their respective sovereignty.
An Israeli proposal map for the "Etzion Bloc", a Western Bethlehem Governorate.
Map 4  05/07/2008  Bethlehem illustrating settlements as of April 2008.
Israeli land swap proposal encompassing 10.6% of West Bank.
85 km² ~ 1.5% of West Bank

Map 6  04/07/2008  Proposed land swap encompassing 1.5% of the West Bank.
Proposed land swap encompassing 1.5% of the West Bank and Gaza

Comparison of Israeli proposals for the Palestinian State presented at Taba and Camp David II.
Proposal for land swap encompassing 2% of West Bank
- The Gaza Strip.

Other land related issues:
- Land contiguity (Safe Passage).
- Water borders.

**Swap:**

**Terza:** The population of Gush Etzion is 50,000 people and the road near 'Abu' is not included in the swap.

**Livni:** The problem is the road to Gush Etzion.
Samih: As you can see, there is a large area of empty land, and we think that Batir can be a suitable area for crossing and trade and others. As you probably know, there was a railroad there.

Livni: Does it Har Homa exist?

Khaled: The interest is to reconnect Jerusalem and Bethlehem. Such reconnection has a social, religious, economic and tourist significance. It is even more important than the connection between Jerusalem and Ramallah. The area is also important for the expansion of Beit Safafa which has become an isolated town between Gilo and Har Homa settlements.

Abu Ala': To address natural growth.

Livni: Now we are talking about natural growth??
**Samih:** There is empty land, but do not rush. Do not go tomorrow to take it and build a new settlement.

**Saeb:** We are building for you the largest Jerusalem in history.

**Khaled:** This area was the most difficult to delineate.

**Tal:** How can Pisgat Ze’ev settlement be connected with the French Hill?

**Samih:** A bridge can be built to connect them.
Dokel: You have overstepped everything. Is it on your side or our side?

Abu Ala': It is on our side with Me'ale Adumim and Ariel.

Terza: There is a kibbutz on this side near Beit Iksa.

Samih: Not exactly.

Saeb: The intention is not to take even one Israeli.
Samih: We have drawn the line in a manner that keeps for you the main road connecting Tel Aviv and Jerusalem. Latroun Monastery is important for us but it is with you because the road is important for you. We have taken into account your interest by keeping connection between Tel Aviv and Jerusalem.
Khaled: The interest here is to maintain geographical contiguity between Palestinian areas. It will be difficult to include more settlements without creating Palestinian enclaves.

Livni: This area and more to the left is the most complicated. Where is the Turkish enterprise located?

Terza: Not here; it is in al-Muqibleh.
Terza: Again, there is a kibbutz in this area.

Livni: It is Dahlan again in all places.
Livni: It is clear that Ma'ale Adumim, Olva't Ze'ev, Har Homa and Ariel do not exist.

Sariri: Real peace cannot be reached with an 18-km long enclave inside Palestine. We do not want to create problems in the future. We do not wish to hurt peace.

Saeb: Can you imagine that you accept for the sake of peace to have Jews as citizens with full rights in Palestine like Arab Israelis?

Livni: But how can I provide Israelis living in Palestine with security?

Saeb: Can you imagine that I have changed my DNA and accepted a situation in which Jews become citizens having the rights that I and my wife have. Can you imagine that this will happen one day?

Dekel: I do not have such fancy.
Israel’s Wall and Settlements (Colonies)
October 2008

Map depicting all settlements in the West Bank, and of the path of the separation wall.
Map 19 07/01/2008  Israeli settlements in the greater Jerusalem area, and the path of the separation wall through parts of the West Bank.
Map 21 08/31/2008  Summary of Olmert Package Offer to Abu Mazen w Maps
Map 22 09/15/2008  Map displaying a projection of the Israeli proposal for territory
Olmert had a map, but would not give it to Abbas. The hand drawn map was Abbas' best recollection immediately after the meeting on September 16, 2008. Hebrew markings.
Map 23  9/16/2008 Olmert had a map, but would not give it to Abbas. The hand drawn map was Abbas’ best recollection immediately after the meeting on September 16, 2008. Mr. Olmert notes in his memoirs that his last meeting with Mr. Abbas, also known as Abu Mazen, took place on Sept. 16, 2008, in Mr. Olmert’s Jerusalem home. He had presented the Palestinian leader with his map of Palestine minus the 6.5 percent that would stay with Israel. Alongside it was a map of Israel with the equivalent amount of land to be annexed by Palestine.

“Abu Mazen said that he could not decide and that he needed time,” Mr. Olmert writes. “I told him that he was making an historic mistake.”
Map 25  10/2008  Map depicting all settlements in the West Bank, and of the path of the separation wall.
Map 26  11/25/2008  Map of Israeli Settlement Expansion Around Occupied Old City in East Jerusalem as of November 2008
Facts and a map about the Ma'ale Adumim settlement bloc and the E-1 corridor. "Nowhere is Israel’s relentless colonization of Palestinian territory more intensive than in and around Palestinian East Jerusalem, without which an independent, viable and contiguous Palestinian state is not possible. Among the most dangerous of these is the settlement of Ma’ale Adumim, along with its numerous satellite settlements and the planned expansion area known as the "E-1 Plan"."
Map 28 05/01/2009  Map of Israel’s Wall and settlements as of May 2009.
Map 29 12/1/2009 Map of Israel's Wall and settlements as of December 2009.
Map 30 12/20/2009  Olmert’s Peace Plan Map
الجدار والمستوطنات الإسرائيلية المحيطة بالقدس المحتلة
كانون أول 2009

Map 31 01/04/2010 Map of Palestine (in Arabic)
A Land Swap Proposal

Jewish West Bank settlements are a major complication in defining a Palestinian state. A possible solution is to exchange territory between the two sides — land swaps. Now, the Washington Institute for Near East Policy, a pro-Israeli policy research group, claims that Israel could absorb 80 percent of its Jewish settlers by exchanging land with the Palestinians, according to the plan presented in this map. This plan is not currently being considered in the negotiation process.

Map 32       09/01/2011       Map Proposed by David Makovsky
Map 33 09/01/2011  Detail of David Makovsky’s Map.
Photograph 1  Photograph taken on October 6, 2015

In Jerusalem, the same area is known as a neighborhood by Israelis and a settlement by Palestinians. This photo was taken from an Israeli school that was captured, actually, re-captured, in the 1967 war. It overlooks an Arab village to the east as shown. The proximity between these areas is only a matter of meters. The complexity of the mix of lands and populations in Jerusalem is the single most difficult issue facing future negotiators.

© Michael J. Reimer, 2015
Photograph 2

Photograph taken on October 6, 2015

This photo was also taken from a Jerusalem neighborhood or settlement. It is close enough to the center of Jerusalem that there are no structures between the camera and the Temple Mount and the Black Mosque which is shown in the center.

© Michael J. Reimer, 2015
Photograph 3

Photograph taken on October 6, 2015

This photo was also taken from a Jerusalem neighborhood or settlement. Shown is the Dome of the Rock Mosque, the Crusader Wall around the Old City, the cemetery on the Mt. of Olives and, in the foreground, what was referred to as the “Holy Basin”. As can be seen, it is Jerusalem which is the greatest obstacle to a resolution of the conflict.

© Michael J. Reimer, 2015
Photograph 4  Photograph taken on October 7, 2015

This photo was taken in a Judean settlement. Many of these settlements are home the orthodox community. As shown the apartments are quite substantial and fortified against any violent activity. Other than the design of the apartments, these settlements are small cities.

© Michael J. Reimer, 2015
Photograph 5  Photograph taken on October 7, 2015

This photo was also taken in a Judean settlement. A pleasant traffic circle with apartment buildings and retail stores are shown behind the circle.

© Michael J. Reimer, 2015
Photograph 6

Photograph taken on October 7, 2015

This photo was also taken in a Judean settlement. Each settlement has several synagogues and/or Yeshiva.

© Michael J. Reimer, 2015
Deep inside the West Bank is a settlement Ariel. It is located just a short distance from an Israeli industrial park. Ariel is a very large settlement. It is very well groomed and has a large population. In it is a swim club and tennis courts. There is a restaurant/dining facility located next to the indoor pool.

This photo shows a Palestinian village in the background.
This Sumerian settlement, like most, sits on the top of a hill so that it can command the strategic highland.

© Michael J. Reimer, 2015
Photograph 9  Photograph taken on October 8, 2015

On many of the roads leading to and from Jerusalem are major settlements. Many of the residents commute to Israel proper for work and study.

© Michael J. Reimer, 2015