



Creating the Enabling Conditions for Reaching an Israel-Palestine Two-State Solution

YAIR HIRSCHFELD

1. Introductory Remark: Four Questions to be asked

On the first evening in Norway, January 20, 1993, when the Oslo negotiations began, I told Abu Ala and the other members of the PLO delegation, Maher el-Kurd and Hassan Azfour, the following joke:

God had summoned the three most important leaders of the world: President Bush (the father), Mr. Gorbachev, and Mr. Shamir and told them that he – God – had made a mistake; a meteor would in two weeks hit planet earth, and everybody would die. And God added: "You have the privilege of telling your people so that they can prepare and at least enjoy the last two weeks of their lives." Accordingly, Gorbachev went on air, in a speech to the Russian people and said: "I have two bad news items to tell you. The first news item is that there is a God; we hoped and believed that there was no God and we were wrong. But the second news item is far worse: we are all going to die in two weeks. Please, my dear Russian people, prepare for it and enjoy your last days."

Then President Bush went on air, and said: "My dear American people, I have one wonderful news item, and another bad one. There is a God, and we rejoice in God. However, in two weeks all of us will die. Please prepare."

Finally, Yizchak Shamir went on air, and said: "My dear Jewish people, I have two wonderful news items. There is a God, and we rejoice in God. The second news item is even better: I can assure you there will never be a Palestinian State."

Abu Ala, Maher el-Kurd and Hassan Azfour were pleased about the joke, as it clearly signaled that the intent of our discussions would be to reach, one way or the other, a peaceful Israel-Palestine two-state solution.

In this essay, I will refer to the following issues:

1. Why did I dare to indicate that the aim of the Israeli-Palestinian negotiations would be to reach a two-state solution? Or in other words: why is it a mutual Israeli and Palestinian interest to reach a two-state solution?
2. What progress on the way toward a two-state solution has been made since 1993?
3. Why did negotiations aiming to reach a Permanent Status Agreement fail repeatedly?
And
4. What are the lessons learned and accordingly what are the enabling conditions that have to be pursued in order to proceed on the way to a peaceful Israel-Palestine two-state

solution?

1. The Mutual Israeli-Palestinian Interest to Reach a Two-State Solution

The foundations for the negotiations in Norway were laid almost fifteen years before the negotiations in Norway started by the conclusion of the Camp David Accords, of September 17, 1978, which provided for a two phase process and three time periods: first, an open-ended period to negotiate the modalities for establishing an elected Palestinian self-governing authority in the West Bank and the Gaza Strip; second, a five-year transitional period to begin "when the self-governing authority (administrative council) in the West Bank and Gaza is established and inaugurated";^[1] and third, negotiations that would take place "as soon as possible, but not later than the third year after the beginning of the transitional period, negotiations will take place to determine the final status of the West Bank and Gaza and its relationship with its neighbors ..."^[2]

Listening to President Sadat's speech at the Knesset in November 1977, it was clear that the Egyptian leader aimed at promoting negotiations that would lead to a peaceful Israeli-Palestine two-state solution. By negotiating the Camp David Accords of 1978, Sadat laid the foundations for such an outcome. Four provisions of the treaty made it evident that the only possible outcome of negotiations would be a two-state solution. These provisions were:

1. Negotiations on the "final status of the West Bank and Gaza...shall be based on all the provisions and principles of UN Security Council Resolution 242," which provided for Israeli withdrawal from territories occupied in June 1967.
2. If this was not clear enough, it was made evident that withdrawal from territories "will resolve, among other matters, the location of the boundaries and the nature of security arrangements".
3. Israeli withdrawal and negotiations on borders will lead to a solution that will "recognize the legitimate rights of the Palestinian peoples and their just requirements", which in Sadat's mind clearly referred to the Palestinian right for self-determination; and
4. In order to ensure that the final outcome will be in line with the wishes of the Palestinian inhabitants of the West Bank and Gaza, the Camp David Accords (1978) obliged the parties that "the agreement will have to be submitted to a vote by the elected representatives of the inhabitants of the West Bank and Gaza."^[3]

Anyone who read and understood the text of the Camp David Accords could guess that the only outcome by a process of negotiations would be either an agreement between Israel and a

Jordan-Palestine Confederation, to which King Hussein and Chairman Arafat had committed in an agreement of February 1985,^[4] or if this would not be the case, would lead to an Israel-Palestine two-state solution.^[5] Therefore, most former Heruth party Members of Knesset, who ideologically opposed a renewed partition of *Eretz Yisrael* (the Land of Israel), or the territory of the former British Mandate of Palestine, and in particular the leading members Yitzchak Shamir and Moshe Arens, either abstained or voted against the Camp David Accords. However, after thirteen years of failed negotiation efforts, it was Prime Minister Shamir who agreed to the conditions of the Madrid Conference; it was under his leadership that peace negotiations between Israel and at first a joint Jordanian-Palestinian delegation started, and it was again under his guidance that the Jordanian-Palestinian delegation split, and Israel was negotiating with a purely Palestinian negotiating team, dominated by the PLO, on how to implement the provisions of the Camp David Accords of September 1978.

It was not merely the text of the Camp David Accords that made it clear that the best outcome of negotiations would be the establishment of an Israel-Palestine two-state solution. More important, it appeared to be evident that both Israel, its Jewish majority and its Arab minority, as well as the entire Palestinian people, had a vested existential interest in reaching a peaceful two-state solution.

In order for Israel to maintain its Jewish-democratic identity, it remains essential to separate from the West Bank and Gaza. The desire to maintain the Jewish-democratic identity of Israel had influenced Ben Gurion to accept the UN Partition Plan of November 1947, and motivated him to oppose any Israeli attempt to conquer the West Bank during the War of Independence of 1947-1949. Israel's other national strategic interest was to finally demarcate Israel's borders with all its neighbors in order to achieve both regional and international legitimacy.

Parallel hereto, it was evident that the Palestinian people wanted to implement their right to self-determination, establish a state of their own, and end the Israeli occupation of the West Bank and Gaza. The Israeli Arab minority has repeatedly expressed its interest to maintain Israeli citizenship, while remaining a minority in a state that was led and shaped by its Jewish majority. For many years, the major political slogan of the Israeli Arab communist party was: "two states for two peoples". The establishment of good neighborly relations between Israel and Palestine would make it possible, so it was hoped, to enable the Israeli Arab citizens to play a bridging role.

On the practical level, it was also obvious that the success of Israel, as well as of Palestine depended on good neighborly relations. The Palestinian and Israeli physical infrastructure – water, energy, the road and railway network – are largely if not completely

dependent one on the other. Essential economic interests also dovetail. If Israel wanted a successful Palestinian state to emerge beside it, the Palestinian people needed to rely on Israel. Israel was the most natural market for Palestinian goods. If Israel wanted to connect to Jordan and Egypt, the effective way was to cooperate with the Palestinians in doing so. As a recipe for conflict resolution, it was essential for the Jewish and Palestinian people to get to know each other and to cooperate.

In order to lay the foundation for good neighborly relations and close cooperation between Israel and the Palestinian Authority, I wrote what became (without any change) Annex III and IV of the Israel-PLO Declaration of Principles signed on September 13, 1993. It provided for Israeli-Palestinian cooperation in the fields of water, electricity, energy, finance, transport and communications, trade, industry, labor relations, the promotion of a Human Resources Development plan, environmental protection, and coordination and cooperation in the field of communication and media; it also provided for a regionally supported Economic Development Program for the West Bank and the Gaza Strip, which was to include social rehabilitation, small and medium business development, infrastructure development, and more.^[6]

Whatever the conclusion may be from past developments, the conceptual approach is today no less relevant, as it was in 1993. Political and national separation between Israel and the emerging state of Palestine has to be combined with a comprehensive program of economic, social, cultural and other cooperation that both sides need in order to establish two prosperous and successful states. Seen in this context, good neighborly relations are an essential common interest, as is the need to pursue a process of social reconciliation in order to overcome – gradually and slowly – the wounds of the past.

- **What Progress Has Been Made on the Way to a Two-State Solution?**

1. **Moving from Opposition of all Parties Towards Nominal Support of the Two-State Solution**

1. *The Historic Background for the Rejection of the Two-State Concept*

The British Peel-Commission was the first to introduce the concept of a two-state solution already in the summer of 1937. In November 1947, it was the United Nations that renewed the concept and voted in favor of partitioning British Mandatory Palestine into a Jewish and an Arab State. Although thirty-three nations voted in favor, international support for the concept very quickly evaporated. The Arab and Islamic states opposed the creation of a Jewish state. After the proclamation of the State of Israel, most Arab nations, Egypt, Jordan, Syria and Iraq, in complete disregard of the UN GA Resolution 181, invaded Israel's territory with the aim to wipe Israel off the map. Nevertheless, in the atmosphere of the unfolding Cold War, the great powers were fast to court for the support of the Arab states.

In December 1948, UN GA Resolution 194, nominated the United States (and its dependent allies Turkey and France) to lead the peace-finding process. Mr. Lovett, acting Secretary of State, gave the guidelines for the US peace-finding policy to the US chief negotiator Mark F. Ethridge, on January 19, 1949. Under Point 8 it read: "8. Disposition of Arab Palestine – US favors incorporation of greater part of Arab Palestine in Transjordan. The remainder might be divided among other Arab states as seems desirable."^[7] It was most evident, the United States wanted to prevent the establishment of an Arab State in former British Mandatory Palestine, in clear contradiction to the UN GA resolution 181, of November 1947. It was feared that the Palestinian leader Haj Amin el-Husseini, who had sided with Hitler Germany, would become the unrivalled leader of an emerging Palestinian state.

Under these conditions Israeli policy had to deal with the emerging dilemma: to please the United States and go along with the policy proposed in Washington, or to sustain the concept of the partition of British Mandatory Palestine into a Jewish and Arab state. In May 1949, the US Peace Envoy, Mark Ethridge reported about Israel's position as follows: "Eytan remarked re boundaries that partition was based on independent states in Palestine,.... Israeli delegation will insist on withdrawal of all Arab states. Principle of self-determination should be observed for Arab Palestine. Future of Arab Palestine should be left to its inhabitants."^[8] Ambassador Eytan's demand to observe the principle of self-determination for Arab Palestine and permitting the inhabitants of Arab Palestine to determine their own future was important enough to provoke already on the next day an answer of the Secretary of State personally. The Israeli demand to respect the "principle of self-determination for Arab Palestine" was most conveniently ignored. ^[9] Thus, the concept of seeking a peaceful Israeli-Palestinian two-state solution, originally proposed by the United Nations, was put on ice, and forgotten for over three decades.

During the 1950s, the Palestinians themselves did not ask for a Palestinian state^[10] and when the PLO emerged, its National Covenant demanded the establishment of a Palestinian

State over the entire *indivisible* territory of British Mandatory Palestine, indicating (under paragraph 6) that only Jews who had lived in Palestine "before the Zionist invasion" would be tolerated. [11]

In response to Palestinian and Arab enmity, the Israeli, Zionist, response was along a similar line. The opposition within Israel toward the creation of a Palestinian state was overwhelming. On the Israeli extreme right, opposition to any understanding with the Palestinians derived from the national-religious camp, which viewed the 1967 Six-Day War and the "liberation of Judea (the southern part of the West Bank) and Samaria (the northern part of the West Bank), and Gaza, as a God ordained development. It was believed that "the main purpose of the Jewish people is to attain physical and spiritual redemption by living in and building up an integral 'Eretz Yisrael" (i.e the Land of Israel including Judea and Samaria). The territory of Eretz Yisrael is assigned a sanctity that obligates its retention once liberated from foreign rule, as well as its settlement, even in defiance of (Israeli) government authority." [12] This belief has largely guided the politics of Israel's National Religious Party, as well as the Gush Emunim movement, who have consistently advocated and driven Israel's settlement policy in the occupied territories with the intent to prevent a two-state solution.[13] The *raison d'être* for this approach was based on the belief that God has promised the Land of Israel to the Jewish people, and not to the Palestinians. Moreover, many religious directives given in the Bible to the Jewish people are related to Eretz Yisrael, particularly to Jerusalem, Hebron, and the other holy places situated in the occupied West Bank. Following this belief it would be a fatal mistake to grant sovereignty over these areas to the Palestinian people, who then would have the power to prevent the Jewish people from exercising their religious duties.

Prime Minister Begin and his Likud party similarly opposed the creation of a Palestinian state. In signing the Camp David Accords, Begin insisted, and received President Carter's agreement, to refer to the West Bank as "Judea and Samaria", hereby clearly maintaining the claim for Jewish sovereignty over these areas. But not only the Likud, also the Israeli Labor Party initially opposed the idea of creating the State of Palestine. Shimon Peres, in his memoirs *Battling for Peace*, wrote:

"In our view, a Palestinian state, though demilitarized at first, would over time inevitably strive to build up a military strength of its own, and the international community, depending upon massive Second and Third World support at the United Nations, would do nothing to stop it. That army, eventually, would be deployed at the very gates of Jerusalem and down the entire, narrow length of Israel. It would pose a constant threat to our security and to the peace and stability of the region." [14]

Many senior members of Israel's security establishment shared Peres's views. Among them was Israeli army commander Ariel Sharon. In his view, during the 1970s and 1980s, Jordan should become the state of the Palestinian people.

Yitzhak Rabin, was ideologically closest to supporting a "territorial solution". In the early 1970s he once remarked that he would be willing to travel to Gush Etzion - an area in the West Bank

south of Bethlehem - with his passport and by obtaining a visa. Nevertheless, Rabin was still hesitant to openly declare his support for a two-state solution. In a speech to the Knesset in October 1995, he pointed out his objections to the formation of the State of Palestine. He envisaged the creation of a Jordanian-Palestinian confederation rather than a fully independent State of Palestine. He insisted that the Jordan River should remain Israel's security border and the settlements within settlement blocs should be annexed to Israel, while others could stay where they were situated. Accordingly he also rejected a return to the June 4, 1967, cease-fire lines. Last but not least, he insisted on maintaining the unity of the city of Jerusalem.[15]

The position of the Hashemite kingdom of Jordan was similarly hostile to the PLO and to the creation of the State of Palestine, as it was understood at the time (until July 1988) that a Palestinian State would question and undermine the existence of the Kingdom of Jordan. King Hussein also feared that the Jordanian army "would fracture along Palestinian-Jordanian lines".[16] Henry Kissinger describes the Jordanian position as follows:

"Jordan's position was perhaps the most complex. Each Arab state proclaimed its devotion to the Palestinian cause, partly out of conviction, partly to carry favor with the radical trend in the area. ...Every Arab leader was in a position to play this game except our friend King Hussein. A Palestinian state could be formed only at the expense of Jordan's previous position in Palestine...and indeed its genesis (of a Palestinian state) would mark the opening of a struggle over the very existence of the Hashemite state east of the Jordan River. Leaders of the PLO had avowed frequently enough that the blood feud with Hussein was even deeper than that with Israel."[17]

The logical conclusion of this state of affairs for the American leadership, for the Hashemite kingdom, and for the leadership of the Israeli Labor Party, was to seek – along the lines of the Camp David Accords – an Israeli-Jordanian agreement. This was actually achieved in April 1987, by signing the "London Agreement" between Shimon Peres, Yitzhak Rabin and King Hussein.[18] However, Israel's Prime Minister Yitzhak Shamir rejected the agreement.[19] Several months later, in December of 1987, the intifada, a Palestinian rebellion, started, eventually empowering the PLO and weakening Jordan's influence in the West Bank and Gaza. [20]

1. The Unfolding of Change in Support of the Two-State Concept

Change towards the acceptance of the PLO, and herewith of the concept of establishing a Palestinian State occurred at first during 1988, mainly by two consecutive and inter-related events: At the end of July 1988, King Hussein disengaged Jordan from the West Bank and Gaza and left a void that could only be filled by the PLO.[21] Following this Jordanian move, US Secretary of State, George Shultz, initiated with the assistance of Swedish foreign minister

Sten Andersson an indirect dialogue with the PLO. The US demand of the PLO to accept UN Security Council Resolution 242, providing for the principle of territory for peace had now become acceptable to the Palestinians. It meant that if a Palestinian delegation were to negotiate with Israel, sooner or later Israel would have to withdraw from the West Bank and Gaza, in return for peace. This would make the establishment of a Palestinian state feasible. Arafat also – at least nominally – accepted the other two demands of the US: to recognize the right of existence of the State of Israel and to renounce terror. The next day, December 14, 1988, the United States announced that a dialogue with the PLO would begin, led by the American ambassador to Tunis, Robert Pelletreau.^[22]

King Hussein's decision to disengage from the West Bank and Gaza, and replace Jordan's initial opposition to an Israel-Palestine two-state solution, by favoring such an outcome, was a seminal development. The logic guiding the Jordanian action was altogether simple. It meant that the Jordanian national interest was to solidify the Jordanian identity, and in return give up territory. The establishment of a Palestinian state West of Jordan would permit the Palestinian people to exercise their right to self-determination, and ease the Jordanian-Palestinian relationship on the East Bank of the Jordan River. More so, the Palestinian elite in Jordan, which largely controls the Jordanian economy, continue to have a vested interest in the stability of the Hashemite kingdom of Jordan. A Palestinian state, if it aimed at becoming successful and prosperous, needed to develop good neighborly relations with both Israel and Jordan, coordinate security affairs and develop its economy by promoting close relations with both neighbors.

It took the leadership of the Israeli Labor Party several years to think in similar terms. Israel's identity as a Jewish and democratic state tended to overrule the need for territorial control of the West Bank and Gaza, under the condition that security arrangements could be made to prevent Palestine from becoming an irredentist state that would harbor aggressive military and/or terrorist activities against Israel. When, following the conclusion of the Oslo Declaration of Principles, in September 1993, the way for signing an Israel-Jordan Peace Agreement was opened, and peace was actually signed, accepting a Palestinian State had become acceptable. In May 1997 the Israeli Labor Party platform advocated the establishment of a Palestinian state, besides Israel. The Palestinian right to self-determination was recognized, and the establishment of a Palestinian state with "limited sovereignty" was "not being excluded". The Israel Labor Party platform of 2006, was more forthcoming and spoke of the establishment of a Palestinian state, and demanded the lease of settlements in settlement blocs, in order to solve the settlement issue.^[23]

On Israel's right wing, opposition toward a two-state solution was still strong. However, it was gradually, though partially and slowly, eroding. In January 1997, the "National Agreement Regarding the Negotiations on the Permanent Status Settlement with the Palestinians" was concluded between Yossi Beilin on "the left", and with Michael Eitan of Likud, David Levy of

Gesher, and Rafael Eitan of Tzomet on “the right”. There was no acceptance for the establishment of an independent State of Palestine, but a commitment to the need “to permit the establishment of a Palestinian entity whose status will be determined in negotiations.”^[24] All these activities prepared the way for Ehud Barak to seek a two-state solution in negotiations with Chairman Arafat, an effort that failed at the end of January 2001 (for discussion on the reasons, see below).

Nevertheless, the concept of a two-state solution, received substantial reinforcement from two most relevant and important actors:

In March 2002, the Arab Summit meeting in Beirut adopted the Saudi proposed Arab Peace Initiative, which in its essence subscribed to a peaceful Israel-Palestine two-state solution. The central sentence read:

“(The) Initiative, calling for full Israeli withdrawal from all the Arab territories occupied since June 1967, in implementation of Security Council Resolution 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.”^[25]

President Bush’s Rose Garden Speech followed this in June 2002, where the United States adopted the concept of a peaceful Israel-Palestine two-state solution. Whereas the concept of a peaceful Israel-Palestine two-state solution was identical with the concept advocated by the Arab Peace Initiative, the suggested enabling conditions were substantially different. The key elements of President Bush's speech read:

“My vision is two-states living side by side in peace and security... There is simply no way to achieve that peace until all parties fight terror...When the Palestinian people have new leaders, new institutions and new security arrangements with their neighbors, the United States of America will support the creation of 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.”^[26]

There can be little doubt that the nominal commitment of the most relevant actors to the concept of a peaceful Israel-Palestine two-state solution indicated important progress on the way toward a possible peaceful solution. Nevertheless, the remaining gap of two contradictory concepts, threatened to create obstacles on the way towards implementation. The enabling conditions suggested and demanded by the Palestinians and the Arab states were: Israeli withdrawal from occupied territories, the establishment of the State of Palestine with its capital in East Jerusalem, and agreed provisions for the right of return of Palestinian refugees to their former homes in Israel.

The American concept of a two-state solution shared by Israel's center left wing parties was very different: The enabling conditions were first and before anything else, a common struggle against terror; the creation of a peace-seeking Palestinian leadership, the establishment of

functioning state institutions, as a pre-condition towards a phased approach on the way toward a two-state solution.

2. Achieving Headway on the Ground toward a Peaceful Two-State Solution

1. The Political Obstacles to Palestinian State-Building

When Ben Gurion proclaimed the State of Israel on May 14, 1948, the Yishuv (the Jewish community living under British Mandatory Palestine) had built its state institutions for almost three decades (mainly since 1921). [27] No similar development occurred in Palestine after the conclusion of the Oslo I and Oslo II Agreements. The causes of not doing so were mainly twofold: 1) Arafat's self-serving political interests and leadership style; 2) Israeli imposed limitations.

Arafat's Political Style

Arafat was a most remarkable leader. His leadership remained (by and large) unchallenged until his death. He achieved this without a government apparatus to assert his authority, without a monopoly over the use of violence, heading an umbrella organization – the PLO – which combined several revolutionary groups, each with its own leadership, its own paramilitary organizations, its own grassroots support, and its own largely independent financial income. To maintain an unchallenged leadership under such circumstances required a remarkable manipulative capacity. Arafat did so by adopting several strategies:

1. Controlling three different Constitutional Structures:

After the signing of the Oslo Accords, Arafat maintained effectively three different constitutional structures: those of the PLO, of Fatah and of the Palestinian Authority. Additionally, he saw to it that decisions were taken in his own court, outside those structures. Arafat allowed for elections to the Palestinian National Council (the legislative branch of the PLO), for the Palestinian Revolutionary Council (the legislative branch of Fatah) and on January 20, 1996, he held elections for him to become president, and for the Majlis – the Parliament of the Palestinian Authority. However, he maintained the right to nominate members and decisions were continuously taken outside those structures, based on offering revolving favors to changing actors. Nevertheless, the three legislative bodies served an important function: their elected members acted as mediators and go-betweens between the Palestinian people and the leadership.

1. Controlling the Emerging Governmental Structure of the Palestinian Authority:

After the Madrid Conference of 1991, the Palestinian "inside" leadership of the West Bank and Gaza, established the so-called "technical committees", which in effect were state institutions

in the making. Experts under the political and organizational guidance of Faisal Husseini and Sari Nusseibeh managed these “committees” most professionally.[28] After the signing of the "Israel-PLO Declaration of Principles" on the White House Lawn, in September 1993, when negotiations on establishing the Palestinian Authority got underway, I was given the task to offer to transfer all (or most of the) files of the Israeli Civil Administration in the Occupied Territories to these technical committees, in order to allow them to prepare effectively for emerging governmental tasks. This offer that had the backing of Prime Minister Rabin was rejected, as Arafat was not willing to permit the technical committees under the leadership of Faisal Husseini and Sari Nusseibeh to gain governmental power.

- *Arafat Maintained Financial Control*

One of the jokes told to us in Norway referred to a PLO official who wanted to fly from Rio de Janeiro to Sao Paolo. In order to be permitted to buy the ticket, he was ordered to come to Tunis, as he needed Arafat's personal signature for the ticket purchase. Financial control was linked to corruption in order to create personal dependency upon Arafat, as well as political vulnerability. A leading Palestinian diplomat spent many hours with me, telling me in much detail, how Arafat created financial dependencies, offering at first presents to the Palestinian leaders of the intifada, and to their families, and gradually creating hereby a dependency relationship. Favors were always measured and could be withdrawn at any given moment.

1. *Maintaining a "Revolutionary" Structure of Armed Groups*

Arafat was not willing to establish a monopoly of the use of force or a single command structure. Instead, he played one armed group against the other and provided each of them with a kind of financial fief: one group was given the right to control the income of the Karni passage of people and goods between Israel and Gaza; another group was given the right to control the income from the Allenby Bridge passage, and other groups received income from different trades. This system prevented a transparent financial administration and a single state budget, but depended upon different financial pots, which Arafat controlled or permitted others to control, as to control them.

Israeli Imposed Limitations

The Oslo II Agreement of September 25, 1995 established the Palestinian Authority as a governmental structure and provided the ground rules for the establishment of the Palestinian Parliament, the Majlis. Hereby important foundations for state building were created. This however, went together with substantial limitations imposed mainly by dividing the West Bank into area A, the cities, where the Palestinian Authority obtained administrative and security authorities; into area B, the villages, where the Palestinian Authority obtained administrative but no (or very little) security authorities, and the rest of the West Bank (60% of the territory),

where Israel maintained administrative and security authorities. These provisions had a damaging impact on the Palestinian capability of state building, as explained below.

1. *Diminished Administrative Capacities*

The fact that the Palestinian Authority does not have administrative control over 60 % of the West Bank territory became a severe impediment for state building:

It hinders planning for a road and railway network, a sea and airport to serve the Palestinian people. Nor can the Palestinian Authority build without Israeli permission a functioning energy infrastructure: power stations, an electricity network; the exploitation of natural gas reserves and more. It also encumbers planning and zoning necessary to permit urban and rural areas to expand for additional housing and more.

1. *Limited Policing Capacities*

In order to create a functioning, responsible and prosperous State, the maintenance of law and order is essential. The judicial system remains largely under the control of the Palestinian political leadership. Correctional facilities are wanting. Yet, most important, the Palestinian police forces are seriously hampered in executing their duties by provisions of the Oslo II Agreement. There are few police stations in Area B, and the pursuit of criminals from one area to the other is dependent on a lengthy and tedious procedure of coordination with the Israeli security authorities.

- *Limited Economic Development Capacities*

The expansion of Palestinian agriculture, of tourism facilities, as well as possibilities for creating new urban centers would be possible – theoretically – in area C, which covers 60 % of the West Bank. Alas, under present conditions these economic development options are mostly undermined.

1. *Israeli Settlements Create Various Impediments for Palestinian State-Building*

The settlements have impeded Palestinian development. However, an even greater impediment to development has been the allocation of "state land" to settlements and, at times, the expropriation of private Palestinian land. The settlement leadership has asserted strong political pressure on the Israeli government to limit Palestinian access and movement in order not to impede or endanger the movement of settlers. Successive Israeli governments have withheld important concessions for state building to the Palestinians, in order to keep these measures as a negotiating chip, particularly in order to gain Palestinian concessions in regard to Israeli settlement areas.

In addition, the Palestinian Authority has created self-imposed impediments for development in order to maintain the claim that the settlements are illegal according to international law. This

is actually not the case, or would only be the case, if the Palestinian Authority, announces the Oslo Accords as invalid. In the various agreements signed under the Oslo process, the PLO and the Palestinian Authority have agreed that the responsibility and jurisdiction for the Israeli settlements in the occupied territories remains with Israel, and that the settlement issue has to be dealt with in permanent status negotiations. This issue has a major effect in regard to water. The Oslo Accords have provided for the creation of a joint water committee that coordinates all activities regarding water in the occupied territories. Many projects for extending water resources to the Palestinians have been vetoed by the Palestinian representatives to that committee, in order not to "legalize" water supply to the settlements. A change of this policy would facilitate solving the water problem, and enable substantial expansion of Palestinian agricultural activities, tourism, and urban development.

1. Improvement on the Way to Palestinian State-Building

Palestinian state building is undoubtedly a most important national interest of the Palestinian people. It is a tedious, lengthy and complicated process that is necessary to turn a revolutionary movement, as the PLO was and (possibly) still is, into an orderly state. Yet, the moment the Palestinian Authority in the West Bank and Gaza was created, in spite of all the obstacles, the need for a state-building process, had gotten underway. And as a matter of fact, in spite of setbacks, **important headway has been achieved.**

Creating a Monopoly over the Use of Force, and a Single Functioning Chain of Command

One of the first activities of Salam Fayyad, when he became Prime Minister in 2007, was to regulate the relationship between the Palestinian Ministry of Finance and the various security apparatuses. He insisted on a seemingly very simple change: all security officials would receive their salaries directly into their personal bank accounts from the Ministry of Finance. This move largely (although not completely) eliminated the financial power base of various Palestinian warlords, and hereby in effect unified the Palestinian security forces.

General Keith Dayton, who was appointed US Security Coordinator to work with the Palestinian Authority and Israel, assisted President Abbas and his ministers of interior, to create the various security branches, and develop a clear and unified chain of command. A most essential component for Palestinian state-building had been accomplished.

Creating Conditions Supportive for Palestinian Economic Development

The Economic Cooperation Foundation under my and General Baruch Spiegel's leadership developed a concept to overcome the anarchic situation that followed the second intifada. The concept had four components: The first was to reintegrate so-called fugitives – those individuals and groups that had been members of security formations, carried arms, and terrorized the local population by demanding protective money for economic activities. Fearing apprehension by Israeli security forces, these fugitives violently opposed the changing and

reformed Palestinian security forces and thus became a major threat to law and order. We suggested that fugitives who were willing to give up their arms should be granted clemency by the Israeli security forces, and the PA would arrest them for several more months in order to keep them off the streets for a transitional period, while offering their families a minimal degree of social security. Both the relevant Israeli and Palestinian authorities accepted this concept, which enabled the Palestinian security forces to disarm the fugitives and start to restore law and order. This agreement prepared the way for further cooperation. The second component was to remove roadblocks and other impediments to movement and create a relatively free flow of access and movement, mainly between Jenin and Ramallah in the North of the West Bank, and between Bethlehem and Hebron in the South. The passage via Jerusalem has still remained problematic. The third component was to foster the establishment of border industrial parks, in the North in Jenin, in the South West in Tarqumiyya and in the South-East, near Jericho. The fourth and final component was to ease procedures at the crossing points into Israel. [29] There remains the need to expand Palestinian activities substantially into Area C, to renegotiate the Paris Agreement of May 1994, governing the Israel-PA economic relations; to renegotiate the agreement in regard to water, and providing conditions for Palestinian control of West Bank natural resources. This – so far – has not happened.

Creating Israeli-Palestinian Security Cooperation

After the second intifada, the Israeli security forces still viewed the Palestinian security forces that politically identified with the Fatah movement, as potential enemies. Yet, the coordinated Israeli-Palestinian effort to deal effectively with the problem of the fugitives opened the way to further security cooperation. The Israeli security apparatus largely ignored serious efforts of General James Jones, who was designated by Secretary of State Condolezza Rice, to propose security conditions for a Permanent Status Agreement, as those of General Keith Dayton. Early in July 2008, General Jones complained about this in a meeting with Gilead Sher (who had been Barak's chief negotiator on the Palestinian file), with Baruch Spiegel and myself. Gilead Sher arranged on the spot a meeting between General Jones and Ehud Barak, the Minister of Defense at the time. Several weeks later, Barak and Israel's chief of staff Gabi Ashkenazi travelled to Washington. What followed was the emergence of a US overseen Israeli-Palestinian security cooperation. General Ashkenazi would sum this up, with the simple sentence: "When they (the Palestinian Authority) do more, we do less". In spite of all the ups and downs in peace negotiations, security cooperation has so far remained intact. As such, it has become an important building block for a two-state solution and the maintenance of good neighborly relations between the two-states.

Salam Fayyad's State-Building Strategy

Another most important part of state-building was the reforms introduced under the premiership of Salam Fayyad to create functioning Palestinian state institutions. The working of the various ministries was coordinated and streamlined; a transparent state budget has been created; some initial reforms of the judicial system have been promoted. As important as

this strategy was, it disregarded two fault lines: In creating a functioning state apparatus, Fayyad lost the confidence of President Abbas, which eventually led to his dismissal and a slow-down, if not a move away from his reform efforts. Second, Fayyad's tendency was to act unilaterally and disregard the need to seek a negotiated agreement on necessary changes with the Government of Israel.

Remembering that the Israeli state-building effort, before the proclamation of the State of Israel, lasted for twenty-seven years, the Palestinian effort of state-building, partly under more difficult conditions, is relatively impressive. In conclusion: First, Palestinian state-building is a vital national Palestinian interest and as such has proven to be guardedly sustainable. Second, additional Palestinian state-building efforts have to be promoted both top-down and a bottom-up. Top-down means that coordination and agreement with Israel is essential, as most vital Israeli interests are involved in almost every Palestinian move. Bottom-up means that substantial change has to be achieved on the ground that will create mutual trust, as well as legitimacy for necessary political concessions on both sides. Third, substantial regional and international support and oversight functions are essential.

1. Why Did Negotiations Seeking a Permanent Status Agreement Fail Repeatedly?

1. Five Failures

Since the conclusion of the Oslo Accords, attempts to reach an Israel-Palestine Permanent Status Agreement that would include "end of conflict" and "finality of claims" failed five times: The first attempt was the "Beilin-Abu Mazen Understanding", which was concluded on October 31, 1995, five days before the assassination of Yitzhak Rabin. I played a leading role in the negotiations under the oversight of Yossi Beilin and the support of Ron Pundak. Today I am convinced it was the biggest mistake I have ever made, as the paper created the illusion that an "end of conflict" agreement was attainable. Several weeks before we concluded the Understanding, on September 11, 1995, I attended a meeting with Chairman Arafat, together with the former chef de cabinet of Chancellor Kreisky, Ferdinand Lacina. At the meeting Arafat turned to me and remarked that the Permanent Status issues were too difficult and too complex to deal with.^[30] He gave a similar warning to Yossi Beilin.^[31] When Permanent Status negotiations got to a critical stage, in September 2000, Abbas publicly renounced the Beilin-Abu Mazen Understanding. At the time Palestinian demands went most substantially beyond of what had been agreed in October 1995, which made it evident that the "Understanding" was not worth the paper it was written on.^[32] Arafat, maintained a consequent position, asking either for a total Israeli acceptance of all Palestinian demands, in order – possibly – to commit to "end of conflict", ^[33] or as an

alternative he suggested a phased approach. Already several years earlier, during the first premiership of Netanyahu, Arafat refused to negotiate a Permanent Status Agreement. In the summer of 2000 Arafat asked Israel to accept the proclamation of the State of Palestine; to carry out a Further Redeployment of 11 %, giving Palestine de facto control over 51 % of the West Bank territory and establishing a Palestinian municipality in the Arab neighborhoods of Jerusalem. In regard to the territorial issue, Arafat was willing to commit to negotiate the final outcome, while agreeing to disagree on the final outcome, permitting the Palestinians to claim the June 4 cease-fire line as a temporary border.^[34] Prime Minister Barak did not accept these conditions and thus the second attempt to reach a Permanent Status Agreement in the aftermath of Camp David, in September 2000, failed.^[35]

On December 23, 2000, President Clinton submitted to both the Israeli and Palestinian negotiating teams, what became known as the "Clinton Parameters". Arafat rejected them and Clinton commented:

"...I still had no idea what Arafat was going to do. His body language said no, but the deal was so good I could not believe anyone would be foolish enough to let it go. Barak wanted me to come to the region, but I wanted Arafat to say yes to the Israelis on the big issues embodied in my parameters first... Finally, Arafat agreed to see Shimon Peres... Nothing came of it. As a backstop, the Israelis tried to produce a letter with as much agreement on the parameters as possible, on the assumption that Barak would lose the election and at least both sides would be bound to a course that could lead to an agreement. Arafat wouldn't even do that because he didn't want to be seen conceding anything." ^[36]

Similarly the third attempt at Taba, at the end of January 2001, failed.

Olmert's peace proposal of September 2008 met the same fate. The Palestinian claim that it was a "take it or leave it proposal" is not exact. Olmert after the initial rejection sent Ron Pundak to President Abbas, to ask for possible changes. President Bush and Secretary of State Condoleezza Rice, asked Abbas to reconsider, but to no avail. ^[37]

Finally, Secretary Kerry's attempts of 2013-14 added to the long list of failures.

2. Understanding the Causes of Failure

Historically and politically the different approaches to reach a two-state solution as prescribed by the Arab Peace Initiative on one hand, and by President George Bush's Rose Garden speech on the other, illustrates the fact that no common approach as how to reach a two-state solution has yet been established. The Arab States and the leadership of the PLO demand in essence an Israeli up-front commitment to accept an almost complete withdrawal to the June 4, 1967 cease-fire lines, the establishment of a Palestinian capital in Jerusalem, and more than mere symbolic moves in order to implement the Palestinian "right of return" of the refugees. Whereas, more radical Palestinian groups, particularly the Hamas, reject Israel's right of existence, while they might be willing to accept some temporary compromise solutions.

The United States and Israel – among those who support the concept of a two-state solution – envisage by and large a gradual and phased process. During the fourteen years that have passed since the publication of the Arab Peace Initiative and the Bush approach to a two-state solution, this gap was not narrowed, but rather widened.

Israeli past fears that a Palestinian state will become a harbinger for Palestinian or Arab military or terrorist aggression against Israel have, due to the second intifada, Israel's experience gained by withdrawing from South Lebanon, and later from the Gaza Strip, and the more recent destabilization in the Middle East, been reinforced. Ongoing Palestinian terror acts, if even only committed by individuals, steadily reinforce this fear. The common reality based knowledge in Israel is that any peace agreement with Palestine will by no means put an end to terror. ISIS, other jihadist movements, Hezbollah, Hamas and last but not least Iran, who all publicly committed to the destruction of the State of Israel, will try to undermine the Israeli-Palestinian peace.

Another Israeli nightmare, would be the emergence of Palestine as a "failed state"; an eventuality that can hardly be excluded. Destabilization in Palestine could all too easily overspill to the East, and threaten the stability of Jordan; or spill over to the West, and undermine security, law and order in Israel, either by terror, or by criminal action.

As a two-state solution does serve Israel's national interest to maintain its Jewish-democratic character and create peaceful relations not only with the Palestinian people, but similarly with other Arab and also Islamic states, cautious headway in a phased controllable process appears to be imperative. Israel's realistic policy choice is not between signing and not signing a Permanent Status Agreement with the Palestinian Authority, but either to engage in a phased process on the way toward an agreeable two-state solution or to try to pursue a policy of crisis management along the lines of the present status quo.

On the other side, the Palestinians fear that any phased process will leave them in the end with a truncated and bifurcated Palestinian state, with limited sovereignty over its own territory. So far, the gap between these two positions has not been bridged, largely due to the following reasons:

1. The Destructive Repercussions of Double Asymmetry

The first asymmetry relates to the uneven Israel-Palestine power relationship. Israel's military power, its economic prosperity and income and its control of Palestinian affairs, creates a very dangerous sense of Israeli superiority, causing the Israeli side all too easily to over-estimate its own negotiating position, and causing the Palestinian side, to fear Israeli bullying.

This first asymmetry is being matched by a second asymmetry, which makes the Palestinians believe that geo-politics, demographics and time, are working in their favor. It is being assumed that the Palestinian people and leadership are and will be capable in the future of mobilizing not only the Arab world but most the world's Islamic population. The geo-political

situation makes it evident that Israel cannot for decades to come remain an isolated beleaguered island, armed to its teeth, in the Middle East. Demographics clearly indicate that Israel will not be able to maintain a Jewish majority by maintaining the occupation of the West Bank and Gaza and time will enable the Palestinians sooner or later to overcome Israel's qualitative (educational) edge and build regional and global coalitions against the Jewish state. The double asymmetry creates a dangerous dynamic. The Israeli side is afraid of Palestinians switching repeatedly from negotiations to violence. It is aware of the wider regional support for the option of violence and armed conflict, and is thus hesitant about making far-reaching concessions and giving up strategic assets that would be needed in conflict. Those on the Palestinian side, aware of their power to withstand pressure, do not see the need to settle for less than what they perceive to be minimally fair.

2. The Questionable Wisdom of Seeking "End of Conflict"

Sometimes politicians tend to create hurdles that are too high to overcome. Many conflict resolution processes have been relatively successful without demanding the one or other side to commit to "end of conflict". The peace process in Northern Ireland offers a clear example. There, even agreement on the final end game has not been achieved, but rather a commitment of both sides to solve the ongoing conflict, by agreed procedural and democratic means.

The need for Chairman Arafat to sign an "end of conflict" agreement and "finality of claims", frightened him and contributed to his remark that he would be assassinated if he were to sign the proposed agreement. This is even more evident for President Abbas. To commit to "end of conflict" Abbas would have to satisfy the essential demands of three different Palestinian groups: the Palestinian inhabitants of the West Bank and Gaza, the Palestinian Diaspora and the Palestinian Arab citizens of the State of Israel. To obtain the support of the West Bank and Gaza Palestinians, any territorial concession is conceived as failure; to obtain the support of the Palestinian Diaspora, Abbas could not compromise on the "right of return"; and in order to take care of the interests of the Palestinian Arab citizens of the State of Israel, he could not accept the Israeli demand to recognize Israel as the state of the Jewish people.

On the Israeli side, the unrealistic promise to achieve "end of conflict" was offered to explain what most Israelis perceived as far-reaching concessions. The "end of conflict" concept created the need for a destructive "everything or nothing" approach that has repeatedly ended with "nothing", leaving any agreement dependent on solving all outstanding core issues of conflict.

Probably even worse, the "end of conflict" concept in substance sustained the slogan that "President Abbas was no partner". True enough, he was and is no partner for an "end of conflict" and "everything or nothing" approach, which ruled out other options of moving towards a two-state solution, an approach which interests both sides.

3. *The Danger of Underestimating the "Price for Peace"*

Aiming to deal with all outstanding core issues of conflict, the "price for peace" both sides have to pay remained substantial. The Palestinian refugees were in essence asked to give up their right of returning to their former homes; the Israeli settlers were asked to give up their dream of residing in Judea and Samaria and fulfilling what they believed was God's demand. On security issues, the Palestinians were asked to give up substantial components of their own sovereignty, while Israel was asked to withdraw from territories that offered a certain strategic depth for the defense of Israel's population centers between Ashqelon and Haifa, which would be vulnerable to attack if violence recurred. Failure became a foregone conclusion as long as those groups, who had the most to lose by a Permanent Status Agreement, were neither brought on board, nor effectively marginalized.

4. *The tendency of the Peace Negotiators to Ignore the Religious Leadership on Both Sides*

In 2006, the Spanish Government organized a 15-year anniversary of the Madrid Conference. At that occasion, the Israeli and Palestinian delegations were invited to a reception with the King and Queen of Spain who received us graciously and after an initial speech mingled among us. At the occasion, small snacks were served, including various forms of pork and bacon. The problem was not the faux pas of the Spanish Court; the problem was rather the fact that neither the Palestinian nor the Israeli negotiators, cared that the delicious snacks were neither kosher, nor halal.

On both sides, Yossi Sarid on the Israeli side, and Yasser Abed Rabbo on the Palestinian side, in referring to the peace process, raised the flag of secularism and hereby tended to alienate a majority of Israelis and Palestinians who cherished strong religious and traditional sentiments. The four issues discussed represent the major strategic reasons that have caused the repeated failure of negotiations. In addition, many tactical mistakes were made, which have to be avoided in future negotiations.[\[38\]](#)

1. **The Enabling Conditions to Promote an Israel-Palestine Two-State Solution**

In order to identify the enabling conditions, particularly for Israel, but also for the Palestinians, it is useful to review experience gained during the Oslo negotiations and compare, what to do and what to do differently.

1. **What to Do?**

Understanding the "Need" for Fifteen Years of Failure:

When the European Union commissioned me to write a research paper, which eventually became the blue-print for the Oslo negotiations,[\[39\]](#) I had had the privilege of learning the

lessons from fourteen years of failed negotiation attempts – aimed at defining an agreement on Palestinian self-government. This experience led to success. One should remember Churchill's sarcastic remark saying that "American foreign policy would always be rationale, but only after all other alternatives have been exhausted". In negotiations aiming to overcome particularly prolonged conflicts, the process of testing possible "irrational" outcomes is almost obligatory, as each side wants to obtain the optimal outcome. Only after having tested various options that do not work, and extracting from each of them, one or more constructive elements, is it possible to define and reach achievable common ground.

After the Camp David Accords were signed in 1978, we experienced repeated failures. The attempt to reach an agreement in Israeli-Egyptian negotiations failed at the end of 1981; President Reagan's Peace Proposal of September 1982 failed; another attempt to reach an Israeli-Jordanian understanding by concluding the London Agreement of 1987 also failed; so did the attempt to reach an understanding with the Palestinian "inside" leadership, first in 1989-90, and again during the Washington talks after the Madrid Conference. However, important elements of each attempt were adopted in the concept that was finally concluded and agreed upon.

Aiming to reach an Israel-Palestine two-state solution today, we again have the privilege of being able to learn from repeated failures: Seeking an end of conflict agreement failed repeatedly; the concept of the "Performance-Based Roadmap to a Permanent Two-State Solution in the Israeli-Palestinian Conflict" similarly failed.[\[40\]](#) So did the attempt to initiate the concept of Unilateral Disengagement.[\[41\]](#) In seeking to move forward on the way toward an Israel-Palestine two-state solution, it is essential to extract from each one of these attempts, elements that both parties need in order to agree.

A decisive enabling condition for success is to prevent failure to turn into despair, but rather turn failure and the related suffering into determination and hope. Optimally this is the task of leadership. As a backstop this is the task of civil society.

Defining (Accurately) the Zone of Possible Agreement

An obvious precondition enabling leaders and negotiators to define the Zone of Possible Agreement is to have an in-depth understanding of all issues of disagreement. In preparing the Oslo concept I received from Hana Siniora, who in 1985, had been appointed by Arafat as possible negotiator, a detailed description of the diverging Israeli and Palestinian positions on each issue related to the self-government negotiations.[\[42\]](#) As both Rabin and Arafat perceived the establishment of Palestinian self-government as both a separate and a shared interest, headway was possible. Understanding the difficulties offered a way forward by adopting the principle of gradualism; i.e. moving forward step-by-step in a well-controlled and pre-described process.

While seeking a two-state solution, a majority of Israelis and a majority of Palestinians will tend to agree that the creation of a successful, prosperous, responsible and contiguous State of Palestine is potentially a shared interest. In this context, the question the negotiators ask

provides a key to identifying the Zone of Possible Agreement. If the question asked is: How can all core issues of conflict between Israel and the Palestinians be solved? – Experience has shown that there is no Zone of Possible Agreement. However, if the question asked is: How can a successful, prosperous Palestinian state be established that will live in good neighborly relations with Israel and its other neighbors? – A substantial Zone of Possible Agreement can be identified.

Identifying the Deal-Making Element for Both Sides

The Oslo negotiations were successful, as the deal-making elements were identified mostly at the beginning. For Arafat, the decisive dealmaker was the offer to return from Tunis to historical Palestine, as well as the willingness of Israel to recognize the PLO. For Rabin, the decisive dealmaker was the concept of gradualism, which permitted the Israeli government to maintain effective control mechanisms, i.e. the source of authority, and maintain the civil administration, and the military government (which according to the Camp David Accords was meant to be withdrawn).

I argue that similar dealmakers can now be identified in the effort to move forward toward a two-state solution. President Abbas and the Palestinian inhabitants of the West Bank and Gaza need an irreversible commitment of Israel for reaching a two-state solution. Thus, such an Israeli commitment, in the form of phased recognition of the State of Palestine, enabling negotiations to be pursued between two states – with no recognized border between them, has the potential to become a dealmaker, leading to full recognition, when agreement on territory and the border shall be achieved. Prime Minister Netanyahu or any other Israeli leader will need in return, as Rabin did, to maintain control mechanisms of an envisaged process. In order to support such an approach both sides will need substantial political, security, economic, technical and moral support from the international community, and even more so, from the Arab states in the region.

2. What to Do Differently?

The Need to Manage Expectations Realistically

In trying to sell the Oslo Agreement to the Israeli public, Rabin and Peres oversold it, claiming that they had achieved a peace agreement, which the Oslo Accords never were. The Oslo Accords described an agreed process how to pursue a common search for conflict resolution. Benny Begin, in an interview to Connie Bruck in 1996, clearly indicated that this mistake would make it possible for the Likud to effectively oppose the Oslo Concept.^[43]

In the present context it would be a mistake to argue that headway in the peace process will end terrorist attacks and thus create personal security to Israel's citizens. The likelihood that Iran will instigate terror acts, that ISIS, various jihadist groups, Hezbollah and Hamas will try to do so – mainly in order to stop the peace-finding process, or that individual acts of terror will continue, is very high.

Expectations can be tuned down to realistic aims, strengthening the Jewish-democratic identity of Israel; improving relations with neighboring countries; overcoming trade boycotts, and most important creating security alliances and a joint regional and international struggle against terror.

The Need to Create an Effective Policy against Spoilers

Rabin's slogan that he would fight terrorism, as if there were no peace negotiations, and he would pursue peace negotiations, as if there was no terror, was a mistake. The outcome of this approach was detrimental on two accounts: First, the continuing and escalating acts of terrorism brought about a dwindling of popular support for Prime Minister Rabin, contributing to the public atmosphere that led to his assassination. Second, the commitment to negotiate in spite of Palestinian terror acts created neither a stick nor a carrot incentive for Arafat to take effective action against Palestinian terrorism. Under present conditions, Israeli-Palestinian security coordination alone, is not good enough, as the Palestinian Authority even together with Israel, is not capable to stop terrorist acts, which plague the entire region, as well as Europe and the United States. Hence, what is asked for, is to build an effective regional and global coordination and cooperation structure to deal – as effectively as possible – with all the features of terror: incitement, the production and smuggling of arms, the movement and training of terrorists, and effective preventive action.^[44]

Most evidently, in parallel, decisive action against Jewish terror and hate crimes, have to be taken by the Israeli Government.

The Need to Get Opponents on Board and/or to Marginalize Them

In pursuing the Oslo process, two (overlapping) groups – the religious leadership and the settler community – were, with devastating results, largely ignored. Permanent Status negotiations under Prime Minister Barak also alienated Israel's Palestinian Arab community. Ignoring and alienating stakeholders threatens any negotiating process.

Working With and Not Against the Settler Community:

The settler community are undoubtedly the group to pay the major price in order to enable a two-state solution: they will have to give up their ideological commitment to *Eretz Yisrael* (the Land of Israel), and quite a few will have to pay a high personal price – to move out of their present homes – either into settlement blocs – or move West of the June 1967 cease-fire line. Estimates about the internal division of the settler movement indicate that about twenty percent favor a two-state solution; almost sixty percent may lean either way, largely dependent on whether they themselves will have to move, or not; and about twenty percent of the settlers oppose progress toward a two-state solution, although among them are those who will obey and go along with any government decision, while calling for civilian resistance. The remainder will most likely struggle – probably violently – against any headway toward a two-state solution.^[45]

In order to create enabling conditions for obtaining at least passive support of the settler community five measures seem essential:

- To refrain from demanding a total settlement freeze, as such a step lumps all different groups together. The great majority of settlers live in urban areas very close to the 1967 cease-fire line. These include religious-orthodox (haredi) settlers who politically tend to identify with Shas, whose support for the envisaged peace process is essential.
- On the basis of the principle "what has been agreed upon shall be implemented" to negotiate balanced quid pro quo understandings that will on the one hand legalize settlement activity in specific areas, and on the other hand clarify from where settlers will have to be relocated/evacuated.
- To make necessary provisions for settlements that will have to be relocated; to build their alternative residence, before asking them to move, thus enabling these families to move from one home to another.
- To formulate a code of conduct with the settler leadership (the ideological leadership, the heads of regional councils, and the rabbinical leadership) to allow for political and civil protest action, while maintaining the full commitment to observe government decisions; and
- To take necessary action to deter settler violence.

In order for these tactics to succeed two additional measures are essential: emerging change on the ground, enabling Palestinian state-building particularly in Area C that will create a reality to be accepted; and keeping the number of settlements and settlers who will have to be evacuated at a minimum, seeking a variety of solutions for permitting the majority to remain in their present homes, while undertaking an Israeli governmental commitment to refrain from confiscating Palestinian land.

Working with and Not Against the Religious Leadership

For both Israel and Palestine at least the passive support of the Jewish and Muslim religious leadership will be essential. Presently two different dialogues are being pursued: an internal Jewish dialogue with rabbinical leaders aimed at asking them to take responsibility in supporting a realistically achievable peace process; and a parallel Jewish-Islamic dialogue aimed at defining common ground and coordinated action.[\[46\]](#)

Bringing Israel's Palestinian Arab Community on Board.

This will have to occur on several levels: the Israeli Palestinian political leadership has been in the past as well as more recently in secret mediating missions between the Israeli Prime Minister and Arafat or Abu Mazen. (Ahmed Tibi undertook such a task for PM Rabin, Aiman al-Oudeh for PM Netanyahu). On the wider socio-political level it will be essential to build joint Jewish-Arab coalitions in support of seeking together a two state solution. A wider process of Arab elite formation in Israel which is underway, will constitute another socio-cultural, socio-economic, and socio-political pre-condition for bringing the Palestinian Arab Community of Israel on board. (footnote to Kamal, and possibly to the specific quote of Benny Neuberger's statement).

3. The Emerging Dilemma for the Palestinian People and Leadership

The present political position of President Abbas is largely in line with the concept laid out in the Arab Peace Initiative of March 2002: seek to obtain from the international community sufficient support to assert pressure on Israel to accept up-front the contours of a permanent settlement agreement. Pursuing this approach, Abbas has shown flexibility in regard to the process of implementation, but no flexibility in regard to the asked for final outcome.

I believe this is an understandable but realistically untenable position. The Palestinian leadership has a vested interest in convincing the international community, not to pursue the paradigm of "end of conflict", but to seek a most pragmatic paradigm, for which they possess sufficient legitimacy to come to terms with Israel, and bring about the "end of occupation". " Abbas and/or his successor have all the necessary legitimacy internally, regionally and internationally, to ask for a territorial agreement that will end occupation and establish a contiguous and not a truncated Palestinian State. Evidently this will have to be achieved in such a way, as to take care of Israel's essential political and security interests, in a controlled process, necessary to reach good neighborly relations.

If Abbas and/or his successor will sustain the "everything or nothing" approach, I am afraid that Palestinian rejection will be eventually perceived by the international community as recipe leading to a continued stalemate, causing hereby passive support to incitement, or worse to terror. This is a dangerous fault line the Palestinian Authority might not want to trespass. It would repeat the mistake of 1990-1991, when Arafat sided with Saddam Hussein's aggression against Kuwait, and against a widely united coalition of the international community and most Arab states.

Only rejectionist tendencies of a right wing Israeli government might save the Palestinians from being held responsible for trespassing the fault line between those countries opposing terror, and those passively or actively supporting it.

A constructive Israeli governmental policy committing to gradual and controlled progress toward a peaceful Israel-Palestine two-state solution, living in good neighborly relations one beside the other, would make a change of the present rejectionist approach of President Abbas untenable and vice versa, a pragmatic approach of President Abbas would leave Netanyahu with no excuse not to move forward on the path toward a peaceful two state solution.

4. Repercussions for a Needed Policy of the International Community

There are voices among the international community, who tend to ignore the remark of Albert Einstein that when an experiment has failed four to five times, repeating it another time is senseless. These voices tend to stick to the concept of "everything or nothing" and still

advocate the paradigm of solving all outstanding core issues of conflict, in order to reach a commitment on "end of conflict" and "finality of claims". In doing so, they keep both the Palestinian and the Israeli leadership in the "comfort zone" of maintaining a rejectionist policy. For internal political reasons, this has advantages for Prime Minister Netanyahu on one side, who can claim that "the world is all against us" and pose as the sole defendant of Israel's inalienable rights. And it has similar political advantages for President Abbas, as he can maintain his position of "everything or nothing".

As a matter of fact the recent Quartet statement of July 1, 2016 [47] has made an effort to get both the Israeli and Palestinian leadership out of their comfort zone, and made essential preliminary demands to introduce political change on both sides of the divide: demanding the Palestinian Authority to stop incitement, and demanding Israel to change drastically the settlement policy and the preclusion of Palestinian development in Area C.

Further action of the international community should involve:

- Develop in a dialogue with the parties a gradual approach towards the achievement of a two-state solution.
- Encourage the parties to work out understandings in regard to territory, settlements security, economic and civilian state-to-state relations, on the basis of "what has been agreed upon shall be implemented".
- Assist the parties to develop together with the neighboring Arab states an effective "control and command" structure to fight against all forms of violence, incitement and terrorism.
- Mobilize regional and wider international support for creating an independent physical infrastructure of the emerging Palestinian State, coordinated with Israel in order to create supportive conditions for good neighborly relations. This should definitely include a commitment to the indivisibility of the West Bank and Gaza, as integral parts of the State of Palestine. In dealing politically with Gaza it will be essential to develop a fully coordinated position between the Government of Israel, the Palestinian Authority in Ramallah, the Government of Egypt and obtain further support from Saudi Arabia, other Arab Gulf States (with the exception of Qatar) and Jordan.
- Define in agreement with the parties, an effective international oversight mechanism, to hold the parties responsible for implementation of commitments made. In this context various approaches may be tested. On security issues it may be advisable to permit the USSC (United States Security Coordinator) to review progress and work with the parties together in order to move forward. Another option would be to create a joint working group between Israel, the PA, Egypt and the United States (as referred to in the Agreement of Movement and Access of November 2005) in regard to security issues. In regard to economic issues, the AHLC (Ad Hoc Liaison Committee) may assert a well mandated review function. Another option would be to create (in line with the French

Initiative) a joint committee, which would report periodically to an agreed international forum. In regard to the political process, the Quartet powers, (USA, EU, Russia and the UN) will have to assert a reviewing, supportive, and correctional role.

- Assist the parties to define an agreed mechanism, as how to permit both sides to continue to work together, while "agreeing to disagree" on various issues; and assist the parties to establish a mechanism for resolving disputes that will either come up, or will remain. Such a mechanism will have to be negotiated between the parties.
- Assist civil society on both sides of the divide to act as a backstop, to maintain in the public awareness the concept of mutual interest and partnership for a two-state solution and promote an ongoing process of civilian reconciliation.

1. The Bad Case Trajectory

I have argued in the past "there is no alternative to peace". Unfortunately this is not true. There are many alternatives: maintaining a more or less volatile status quo, mutual violence and war. An alternative to courageous and innovative action will always be non-action. At the present point of time, the most realistic trajectory is one or the other of these negative options. Europe is too occupied with the refugee problem and Brexit; the United States has yet to decide in what direction to move, while its international role in the Middle East is by American intent, as well as by default, diminishing.

The Israeli and Palestinian narratives of what has happened during the last three decades seem to be non-bridgeable, although largely symmetric, and the political process for the succession of Abbas and Netanyahu, will tend to prevent the adoption of rationale policies on either side.

In spite of all of this, the concept and idea of a two-state solution has been remarkably resilient. The sequence outlined by President Obama in his speech at the memorial service in Dallas: suffering causes perseverance – perseverance causes character (and determination) – character and determination creates hope, may well have to be repeated.

Israel has a strategic interest to build regional alliances with its Arab and Muslim neighbors, a fact that Prime Minister Netanyahu is well aware of. For the time being the Palestinian leadership still holds the key for success in this endeavor. A joint bilateral and multilateral strategic brainstorming effort, optimally on track one, but also on a track one and a half (non-officials with officials participating) has the clout, to show the way forward.

=====

[1] See Camp David Accords, September 17, 1978;..

[2] Ibid.

[3] Ibid.

- [4] See Avi Shlaim, *Lion of Jordan – The Life of King Hussein in War and Peace*; Allen Lane, Penguin, London 2007; chapter twenty "Peace Partnership with the PLO", pp.422-439.
- [5] Compare with Henry Kissinger's remark: "A Palestinian state was inherent in Prime Minister Menachem Begin's offer of Palestinian autonomy at the first Camp David summit in 1978." In: Henry Kissinger's *Does America Need a Foreign Policy? Toward a Diplomacy for the 21st Century*; Simon and Schuster, New York 2002; p. 183.
- [6] See: The Israel-PLO Declaration of Principles, September 13, 1993.
- [7] Acting Secretary of State to Mr. Mark F. Ethridge, Washington, January 19, 1949; in *Foreign Relations of the United States, 1949*; Government Printing Office, Washington, 1977; vol. vi; p. 682.
- [8] Mr. Mark Ethridge to the Secretary of State, Lausanne, May 17, 1949,-noon; **FRUS vol. vi. Op.cit. pp. 1018-1019.**
- [9] See: The Secretary of State to the Israeli Ambassador (Elath), Washington, May 18, 1949; *ibid.* pp. 1021-1022.
- [10] Rashid Khalidi calls the period between the "First Israel-Arab War" of 1948 and the appearance of the PLO, "the lost years", as well as the "the disappearance (and Reemergence) of Palestinian Identity"; see Rashid Khalidi *Palestinian Identity – The Construction of Modern National Consciousness*; Columbia University Press, New York, 1997;pp. 177-178.
- [11] The PLO National Charter, 1964 and 1968; see:
Avalon.law.yale.edu/20th_century/PLOCOV.asp
- [12] Quoted from Martin Gilbert, *Israel – A History*; London Black Swan, 1998; p. 469; for a more in-depth account of religious national thinking see: two essays of Eliezer Berkovits: "On the Return to Jewish National Life"; and "On Jewish Sovereignty" both in: David Hazony (ed.) *Eliezer Berkovits Essential |Essays on Judaism*; Shalem Press, Jerusalem 2002; pp.155-175; and pp. 177-190.
- [13] See Idith Zertal and Akiva Eldar, *Lords of the Land: The War Over Israel's Settlements in the Occupied Territories, 1967-2007*; New York, Nation Books, 2009.
- [14] Shimon Peres, *Battling for Peace – A Memoir*; ed. David Landau (London, Weidenfeld and Nicolson, 1995; pp. 352-353.
- [15] Yitzhak Rabin, speech to the Knesset, October 5, 1995; <http://www.mfa.gov.il/mfa/mfa-archive/1995/pages/pm%20rabin%20in%20knesset%20ratification%20of%20interim%20agree.a.spx>
- [16] Hussein has been quoted of saying this; see Avi Shlaim, *Lion of Jordan – The Life of King Hussein in War and Peace*; Penguin Books, London 2007; p.312.
- [17] Henry Kissinger, *Years of Upheaval*; Little Brown, Boston, Toronto 1982; p.748. the italics are quoted from Kissinger.
- [18] See Shlaim *op.cit.* pp. 440-447.

[19] Ibid.

[20] See Yair Hirschfeld, *Track Two Diplomacy toward an Israeli-Palestinian Solution, 1978-2014*; Woodrow Wilson Center Press, and John Hopkins University Press, Baltimore; 2014; pp. 57-62.

[21] See Shlaim op.cit. pp. 453-477.

[22] See Hirschfeld op.cit, pp. 59-60.

[23] See in regard to the 1997 and the 2006 ILP policy platform:
www.jewishviruallibrary.org/jsourc/politics/laborplatform.htm

[24] Hirschfeld op.cit. p. 196. The content of this Agreement between members of the Israeli peace camp and right wing parties did not become a platform for joint action. However, most politicians who signed the agreement, and particularly the two parties Gesher and Tzomet, disengaged from their coalition with Likud under Netanyahu's leadership and hereby contributed to Ehud Barak's election victory of May 1999.

[25] Quoted from Appendix 4 The Arab Peace Initiative Adopted at the Beirut Arab Summit, March 2002; in: Marwan Muasher *The Arab Center – The Promise of Moderation*; Yale University Press, New Haven and London 2008; p. 281. Marwan Muasher, being Jordan's Minister of Foreign Affairs, played a leading role in preparing the Arab Peace Initiative (and later also the Benchmarked Roadmap for Peace in the Middle East) describes the political and diplomatic activity in preparing the Arab Peace Initiative. See: *ibid.* pp.102-133.

[26] See: Full text of George Bush's speech on Israel and Palestine,
<http://www.theguardian.com/world/2002/jun/25/Israel.USA>.

[27] See Anita Shapira, *Israel – A History*; Weidenfeld and Nicolson, London 2012; Part II: A State in the Making; 1918-1948; pp.67-152.

[28] See Sari Nusseibeh (with Anthony David), *Once Upon a Country – A Palestinian Life*; Halban, London 2007; chapter 23 "A Shadow Government", pp.353-363.

[29] See Hirschfeld op.cit. pp. 317-318.

[30] Hirschfeld op.cit. p.375, footnote 113.

[31] *Ibid.* pp.176-177

[32] *Ibid.* p. 245.

[33] Arafat met Clinton April 20, 2000. We received a read out of the meeting, which in many ways was pathetic and a dialogue of the deaf. Clinton told Arafat that what was on the table was "everything or nothing" and accordingly Arafat laid out demands that no Israeli government could accept in their entirety. See *ibid.* pp. 232-233.

[34] This proposal of Arafat was given to me and Boaz Karni by Hanan Ashrawi and was rejected by Barak. The same evening Arafat and Barak met and the same idea was again proposed and rejected. See: *ibid.* pp. 246-247.

[35] The failure of the Camp David Summit had been predictable. On the eve of the opening of the Camp David Conference I phoned my sister and told her that Barak was jumping from an airplane without a parachute. See: Hirschfeld op.cit. Chapter Seven: "The March of Folly:

Ehud Barak's Attempt to Conclude a Permanent Status Agreement, May 1999-February 2001; pp. 221-260.

[36] Bill Clinton, My Life, New York, Random House, 2005; p. 944.

[37] Condoleezza Rice, No Higher Honor: A Memoir of My Years in Washington; Random House, New York 2011; pp. 723-724.

[38] For a discussion of tactical mistakes, see Hirschfeld, chapters seven, eight and nine.

[39] Yair Hirschfeld, Israel, the Palestinians and the Middle East: From Dependency to Interdependence; September 1992; unpublished policy paper; the content of the paper is being summed up in Hirschfeld op.cit. pp. 100-106.

[40] For the text see Muasher op.cit. pp.283-290; for a description of the diplomatic activities and the motivation in developing the concept of the Roadmap see: ibid. chapter five, pp. 134-175.

[41] See Dov Weissglas, Arik Sharon –Rosh-Hamemshala – Mabat Ishi (Sharon-A Prime Minister) Tel Aviv, Yedioth Ahronot, 2012.

[42] Hana Siniora's document is printed in Hirschfeld op.cit. pp.102-103.

[43] See Connie Bruck, The Wounds of Peace, The New Yorker, November 14, 1996.

[44] Cross reference to Ron Shatzberg's article. This will have to be specified, as soon as we have the pageing off the publication.

[45] These findings are based on a private unpublished poll that has been carried out by Othniel Schneller in 2014. Is there anything public that could be used as a reference here?

[46] Cross reference to article of Ro'li Ravitzky. This will have to be specified, as soon as we have the pageing off the publication.

[47] "Report of the Middle East Quartet, July 1, 2016: see: reliefweb.int/report/occupied-palestinian.../report-middle-east-quartet-july-1-2-16 Link is uncomplete