

The Israeli-Palestinian Political Process: Back to the Process Approach

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Since the Oslo Accords were signed in September 1993, there have been three and a half serious rounds of talks over a permanent resolution to the Israeli-Palestinian conflict: Camp David in 2000; President Clinton's parameters at the end of 2000; the Annapolis Process in 2007-2008; and the initiative led by US Secretary of State John Kerry in 2013-2014. All failed due to insurmountable gaps between the two sides on the core issues of the permanent status agreement and due to the asymmetry in the objectives of the talks. Attempts to bypass the problem by adopting different approaches to promote negotiations were fruitless, and instead of an agreement, the various efforts led to violent outbursts, deadlocked talks, and despair among both sides at ever achieving a resolution of the conflict.¹

This essay examines whether the possibility of a permanent status agreement is indeed (at least for now) off the table. It assesses the issue on two levels: (a) the core issues and their importance to the possibility of reaching a permanent agreement; and (b) the development of different approaches to bypass the core issues and progress in the political process along other channels. Based on an analysis of previous negotiations, the essay proposes a resolution that affirms two fundamental principles: the two-state solution is the best option regarding the Israeli-Palestinian issue; and to implement this solution, the Palestinian Authority must be strong, responsible, and functional. The proposal herein involves the launch of a transitional process that does not purport to offer a quick, uniform solution to every disagreement between the sides but does work toward a two-state reality.

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The Previous Rounds of Negotiations

The Oslo I Accord, also known as the Declaration of Principles on Interim Self-Government Arrangements, was a milestone in Israeli-Palestinian relations, and in many respects the Oslo principles continue to drive the bilateral relations.² The major contribution of the Oslo Accords lay in the PLO's recognition of Israel's right to exist and its commitment to avoid any violent struggle, alongside Israel's recognition of the PLO as the legitimate representative of the Palestinian people and a partner for negotiations. The Oslo process and the rounds of talks held since, along with international resolutions, sketched out the model of the two-state solution with two sustainable states existing side by side in peace and security between the Mediterranean Sea and the Jordan River. Other theoretical options, such as one binational state or one state for both peoples, a three-state option (the West Bank, Israel, and the Gaza Strip as autonomous entities), a Jordanian-Palestinian confederation, or an Israeli-Palestinian confederation (two states in one space), have never been officially discussed by the sides.

The Gaps in the Core Issues

The gaps between the parties on the core issues have widened over the years, especially with the loss of trust and the changes in the strategic environment. These issues have an emotional, almost obsessive nature that makes progress well nigh impossible.

Borders and territory: In most of the rounds of talks, the Israeli position (in its interpretation of UN Resolutions 242 and 338) was that the 1967 borders were indefensible and that the situation created on the ground since 1967, i.e., the settlement blocs, must be taken into consideration when drawing the future border between the two states. By contrast, the Palestinians claim – after they abandoned their demand for a return to the partition plan borders of UN General Assembly Resolution 181 from 1947 – that the establishment of a Palestinian state in the West Bank and Gaza Strip (the borders on the eve of the Six Day War) represents a great and painful concession of most of the territory of their homeland, because their state would consist of only 22 percent of historic Palestine. Therefore, in their view, the 1967 borders are the minimal opening position in any talks, and any additional flexibility on the matter would be nearly impossible.³ By contrast, in the Israeli view, the 1967 borders are more than the maximum position on land to be given to a future Palestinian state. Although Israel agrees that the territory conquered in June 1967 is the basis for calculating

the area of a future Palestinian state, the sides find it difficult to agree to the scope and ratio, both qualitatively and quantitatively, of land swaps. The Palestinian position has been consistent throughout, mainly that land swaps of equal size and quality must not exceed 1.9 percent of the West Bank and Gaza Strip territories. By contrast, the Israeli position has changed, depending on the Prime Minister in office, and over the years, Israel's flexibility on territorial compromises has grown. Former Prime Minister Ehud Olmert presented the most far-reaching formula to the Palestinians: Israel's annexation of the settlement blocs, equivalent to 6.5 percent of the territory under Israeli control since 1967, in exchange for compensation to the Palestinians of 5.6 percent of land from within Israel's pre-1967 borders. The remaining 0.7 percent gap would be calculated as the passage connecting the Gaza Strip and the West Bank. This dynamic generated a powerful Palestinian incentive not to compromise in any negotiation and wait for a better Israeli offer. Nonetheless, considering the political orientation of Israel's leadership since then and the emerging public and political climate, it is unreasonable to think that in the near future an offer as far reaching as Olmert's will resurface.

Security: Israel's approach asserts that security is vital to the establishment and foundation of peaceful relations,⁴ and over the years Israel has demanded security arrangements that would ensure that Israel's security not be at greater risk. By contrast, the Palestinian approach sees peace as the main component of security.⁵ The Palestinians recognize Israel's security needs, but not at the expense of total Palestinian sovereignty – on land, in the air, and at sea. For example, while the Palestinians see aerial control above the West Bank as a sovereignty issue, Israel maintains that a unified airspace with increased Israeli security control is essential for security reasons.⁶ In light of developments in the Middle East and the Palestinian arena, the Israeli government has broadened its security demands for freedom of military action in the entire Palestinian sphere with no time limit, an approach that has been rejected by the Palestinians outright.⁷

The Palestinian refugees and the "right of return": The PLO represents both the population residing in the territories and the refugee diaspora. A commitment to the Palestinian refugees limits the PLO's flexibility in its demand for "the right of return" of Palestinian refugees to the 1948 areas. For the refugees, settling in a Palestinian state in the West Bank instead of the places where their families lived until 1948 means the loss of the dream of return – the heart of the Palestinian national narrative. It is not

happstance that this dream was nurtured over years, as in the preservation of the house-key as a symbol for the yearning to return home.⁸ Abbas, as president of the PA as well as the chairman of the PLO, claims that it is not within his authority to concede “the right of return” of others. He therefore cannot agree to a demand whereby Israel is the national homeland of the Jewish people and the Palestinian state will be the national homeland of the Palestinian people, a de facto concession of “the right of return.” He is willing to compromise on the scope of that return, but not on the right itself.⁹ Israel views an agreement as recognition of its unique identity as a Jewish and democratic state, and hence for Israel, acknowledgment and certainly the fulfillment of the Palestinian refugees’ dream of return means the loss of its identity as the national home of the Jewish people and a danger to the demographic majority – the foundation of the Jewish state. In addition, according to Israel, recognizing the right of return would mean not agreeing to an end of claims. Not only do these gaps have implications for reaching a permanent agreement, but they also erode the chances for a pragmatic solution that could answer the needs of both sides.

Jerusalem: Over the years, the Palestinians have demanded that Jerusalem serve as two capital cities, and have likewise demanded control of the sites holy to Islam and Christianity, especially the Temple Mount (Haram a-Sharif). Israel is hard pressed to recognize two capitals in Jerusalem. Prime Minister Olmert’s proposal, which was far reaching on this issue as well, included an outline whereby the Jewish neighborhoods would be included in Israel’s capital and the Arab neighborhoods in the Palestinian al-Quds, while special status would be accorded to the Historic Basin (the Old City, the Temple Mount, the City of David, and the Mount of Olives) where both sides claim sovereignty but would be prepared to cede management authority to a third party. However, the Palestinians rejected this proposal, and deep gaps remain.¹⁰

The core issues package: Beyond the difficulty of arriving at a compromise on each individual issue, the negotiations process is burdened by the reference to issues that must be resolved collectively at once. Every time that a round of talks arrived at the final stretch toward a permanent agreement, including a discussion of trade-offs in one area that offset concessions in another, the Palestinians chose to leave the negotiating table, whether by rejecting or not relating to the proposal without placing a counterproposal on the table. Abbas opted neither to accept nor to reject Prime Minister Olmert’s proposal of late 2008,¹¹ as Arafat had done in 2000 at Camp David

with Prime Minister Barak, and later rejected the parameters set out by President Clinton. President Abbas rejected the idea of the second stage of the Roadmap – the establishment of an independent Palestinian state within provisional borders – and refused to relate to Secretary of State Kerry’s proposal in early 2014 of framework principles for a permanent agreement.¹² Instead, he opted to invest in the struggle against Israel in the international arena, where he enjoys solid ground and is not required to make difficult decisions or face domestic charges of treason. This recurring phenomenon indicates that the Palestinians are not prepared for any flexibility in the parameters they have set for themselves for a resolution, and the leaders lack the ability to make difficult decisions that do not meet the expectations of the Palestinian public. For its part, the current Israeli leadership will likely find it hard to make decisions that involve security risks or painful concessions.

The Development of the Process Management Approach

Over the years, various approaches were attempted in order to promote a political process toward a permanent status agreement. The Oslo talks were based on the process approach, built on an attempt to construct a reality of two separate entities in a gradual process by implementing confidence building measures and establishing an independent Palestinian authority that would be in charge of the Palestinian population. The hope was that such an environment would strengthen understanding and trust between the sides and provide the Palestinians with strategic assets they would try to preserve, in part by raising the value of the “cost of defeat.” In practice, neither side fulfilled its obligations as stipulated in the interim agreement, and each conditioned the fulfillment of its obligations on the other’s side doing so first, while engaging in mutual bouts of recriminations for the failures and losing trust in one another.¹³

Given the failure of the process approach, the end-state approach was attempted. Developed during Prime Minister Barak’s term in office, this approach sought to define at the outset the parameters of a permanent status agreement with the Palestinians, while discussing the interim steps. This approach was the foundation for the Camp David summit in 2000, and later, for President Clinton’s parameters toward a permanent agreement.¹⁴ The second intifada, marked by years of terrorism and many fatalities on both sides, erupted following the failure of the Camp David talks and

Arafat's rejection of the Clinton parameters, and generated a crisis of trust and damage to understanding and cooperation.¹⁵

In an atmosphere of terrorism, eroded trust among the public and the leaderships, and political stalemate, proposals arose in unofficial negotiating channels or Track II discussions. One prominent example is the Geneva Initiative formulated by Israeli and Palestinian experts, which included agreements on every component of a permanent status agreement.¹⁶ On another track, the Arab League formulated the Arab Peace Initiative, which expressed willingness to normalize relations between the Arab League and Israel in exchange for a consensual, just, sustainable peace based on Israel's full withdrawal from all areas under Israeli occupation since 1967 – the West Bank, the Gaza Strip, and the Golan Heights.¹⁷ But no Track II initiative or channel resulted in a breakthrough, due to the profound mistrust and ongoing violence and terrorism.

In 2003, in an attempt to bring the sides back to the negotiating table, the Quartet, led by US President George W. Bush, formulated the Roadmap, a performance-based approach that established a timetable for creating the conditions for negotiations over a permanent status agreement. The document introduced the conditions the Quartet considered critical before discussion of the core issues of a permanent status agreement. The purpose was to sketch out a time frame, divided into three main stages, which would culminate with the establishment of an independent Palestinian state and normalization between Israel and the Arab states. The Roadmap stressed the need for security and stability as preconditions for negotiations, as well as an end to construction in the settlements and the need to build the appropriate base for the Palestinian state.¹⁸ The timetable called for a peace agreement to be attained by 2005, but from the first stage, neither side abided fully by its commitments.

Given the ongoing terrorism and the understanding that Arafat was not sincerely interested in reaching a peace agreement, Ariel Sharon's government opted for a unilateral approach.¹⁹ In 2002, the Israeli government approved the construction of the security barrier to protect Israel against terrorist incursions and suicide bombings within Israel proper and the settlement blocs near the Green Line.²⁰ The next unilateral move was the disengagement from the Gaza Strip and northern Samaria in 2005. The rationale was similar, i.e., that Israel itself must shape an acceptable security reality,²¹ and was based on the understanding that Israeli control of the Gaza Strip was, in terms of security, more of a burden than an asset.²²

Sharon believed that Israeli relinquishment of control and responsibility for one and a half million Palestinians (today, the number is closer to two million) in the Gaza Strip would improve Israel's strategic position and force the Palestinians to assume responsibility and prove their state building capacity and their ability to establish functional self-rule. The hopes for the disengagement were dashed when Hamas seized control of the Gaza Strip, first through elections and later, in 2007, by violence. Hamas's seizure of the Gaza Strip created a severe intra-Palestinian rift that has failed many reconciliation attempts between the PA's leadership and Fatah on the one hand, and Hamas's leadership in the Gaza Strip on the other, and generated profound Israeli concern for the implications of a similar disengagement from the West Bank.

The combined process and end-state approach: Given Hamas's seizure of the Gaza Strip and the changes in the Palestinian leadership after Arafat's death, an attempt was made to create a peace process that would bypass Hamas. The result was the 2007 Annapolis Peace Conference under US sponsorship with the participation of the Quartet states and several Arab states in the opening round of renewed talks.²³ The idea was to merge the gradual process approach of the Roadmap with the end-state approach of talks focused on issues in an overall permanent status agreement.²⁴ The sides held intensive talks over a permanent agreement (300 meetings in eight months), and on the implementation of the first stage of the Roadmap, which served as a precondition for the implementation of the permanent status agreement, and concurrently aimed to strengthen the PA's leadership and its governing foundations. The talks petered out in late 2008 without the Palestinian side responding to Olmert's proposal for a package of core issues to reach an agreement. Operation Cast Lead and Olmert's resignation gave the Palestinians a reason – if not an excuse – to avoid answering the Israeli offer, rendering the whole process meaningless.²⁵

In the summer of 2013, Secretary of State John Kerry launched a nine-month round of talks aimed at formulating the principles for a framework agreement for a permanent status agreement, while carrying out steps designed to create an atmosphere conducive to the process. This process was initiated despite difficult conditions of profound mistrust, a prolonged deadlock in the talks, and the widespread public sense of the pointlessness of an agreement.²⁶ The Kerry round failed too, as the Palestinian side, led by President Abbas, refused to respond to the principles presented by the US Secretary of State. By contrast, based on leaks from the US team, it

transpired that Prime Minister Netanyahu was prepared to accept several principles, such as agreeing to consider the 1967 lines as the reference point for calculating territories. Nonetheless, Prime Minister Netanyahu was not satisfied with the security arrangements the United States offered and was unwilling to consider the idea that Jerusalem would serve as the capital of two states.²⁷ The fact that the Netanyahu government continued to build in the settlements during the talks was viewed by the Palestinians and the international community as proof of the Israeli government's unwillingness to make the necessary concessions for effecting the two-state solution.²⁸ For their part, the Palestinians refused to make any concession before Israel would publicly draw the borders of the Palestinian state,²⁹ set a timetable for evacuating the settlements, and recognize East Jerusalem as the capital of the future Palestinian state; they also expressed their vehement refusal to recognize Israel as "the nation state of the Jewish people." Several weeks later, violence erupted again with Operation Protective Edge in the Gaza Strip,³⁰ and the end of the conflict seemed at best a remote prospect.

Deadlock

Although both sides declared they were committed to the two-state solution based on the 1967 lines, the wide gaps remain on "what," including preconditions for negotiations, and "how." It is hardly surprising that at the end of two decades of fruitless talks, each side is deeply skeptical of the other's desire and capacity to be flexible for the sake of a permanent agreement. The Palestinians see the Israelis' continued construction in the West Bank as proof that Israel has no intention of ceding large portions of the territory. In their assessment, the right wing Israeli government will not evacuate Israeli residents of the West Bank from their homes because it does not want and may not be able to remove tens of thousands of people, some of whom might employ physical resistance. Another assumption based on the same rationale is that at the moment of truth, the present government will not be prepared to make the painful concessions necessary to match the maximum Palestinian concessions. This doubt can explain the Palestinian insistence on receiving proof of the seriousness of Israel's intentions in the form of freezing settlement construction, delineating the borders of a future Palestinians state, and releasing prisoners as conditions for renewing talks. Concurrently, the Israeli government is doubtful of the PA's ability to abide by the agreement and implement it because of its weakness and the loss of the leadership's legitimacy in the eyes of the

Palestinian public, its relative weakness compared to Hamas, and the huge gaps between the PA in the West Bank and the Hamas government in the Gaza Strip. This gives rise to the worry that even after the establishment of a Palestinian state, a failing, impoverished entity would come into being, and the governing vacuum would be filled by radical Islamic forces. In addition, the confrontational policy the PA has taken against Israel in the international arena and the campaign against Israel's legitimacy strengthen the Israeli assessment that there is no partner for an agreement.

The distrust and inability to bridge the gaps are further underscored by the asymmetry between the sides. Israel is a stable, prosperous state with the strongest army in the region, and de facto in control of the everyday lives of the Palestinians, compared to the PA, which lacks full state capabilities, relies totally on international economic and political support, and whose very existence and functionality depend on Israeli government decisions. This asymmetry has led the Palestinians to focus on safeguarding Palestinian rights before discussing an implementable agreement, and to apply an all-or-nothing approach (relating to the notion that the absence of a state is preferable to a state that does not represent all the Palestinians' goals and aspirations).³¹

Given the gaps and obstacles, it seems that the sides do not believe it is possible to reach a resolution, and in the meantime, both sides benefit from the deadlock. The Palestinians are not required to make painful compromises and can adhere to their all-or-nothing mindset, wait for a better offer, and hope that a resolution will be imposed on Israel by the international community. By contrast, the Israeli government, led by the right wing coalition, asserts that as long as the Middle East upheavals continue and the Palestinian camp is divided, it is not the time to take unnecessary risks. According to this view, it is better for the Israeli government to wait for improved environmental conditions or perhaps even a regional arrangement that will ensure that the establishment of a sustainable Palestinian state will not adversely affect Israel's security. This wait-and-see attitude allows Israel to postpone decisions on dividing the land, compromising on Jerusalem, and evacuating the settlements – decisions sure to arouse difficult internal conflicts. The Palestinians have managed to brand continued construction in the Jewish West Bank settlements as Israel's major current injustice, and proof that Israel is uninterested in peace, thus casting all the blame for the political deadlock on Israel.

Back to the Process Approach

Under present conditions, the only possible way to conduct a political process, preserve the two-state option, and rebuild trust, is to return to the process approach. The ongoing deadlock means a growth in the Jewish population in the West Bank and greater evacuation problems in the future. At the same time, there are warning lights already flickering as to the PA's long term ability to rule effectively, maintain law and order, and fight terrorism and radicalism, without a fundamental change in the situation that would improve the fabric of life of the Palestinian population and economic and infrastructural development of the Palestinian state-to-be. The split between the Gaza Strip and the West Bank places yet another obstacle before the PA and Israel in terms of the possibility of a political settlement, as Hamas can undermine the entire process. Therefore, together with the Arab Quartet (Egypt, Jordan, Saudi Arabia, and the UAE), it is necessary to promote programs for the reconstruction of the Gaza Strip to prevent a humanitarian disaster as well as to rein in Hamas.

At present, the timing is propitious both internationally and regionally for finding some way out of the deadlock. The new Trump administration is an opportunity for presenting a new approach and replacing the paradigm of a permanent status agreement that resolves all problems. Transitional agreements are the only possible option for a gradual construction of the two-state reality, while setting short term objectives that can be implemented in practice, using an "anything that's agreed upon is implemented" formula, strengthening the coordination and cooperation mechanisms between Israel and the PA, and enlisting the support and involvement of the United States, the international community, and the Arab Quartet. To make this happen, the following elements are needed:

Economy and infrastructure: It is critical to jumpstart activity to reduce the profound gaps and economic woes of the Palestinians that cause them despair that often prompts violence. In this context, it is necessary to increase the number of permits for West Bank Palestinians to work in Israel, and issue permits to Gaza Strip Palestinians to work in the nearby Israeli communities; promote critical infrastructure in the West Bank and Gaza Strip, including water, electricity, sewage, transportation, and housing facilities; and encourage the establishment of employment and commercial zones in the West Bank and Gaza Strip with regional and international cooperation. In a second phase, there must be willingness

to develop and update the Paris Protocol, which regulates the economic relations between Israel and the PA.

Traffic and access: It is imperative to improve the arrangements regulating the transit of people and goods between Gaza and the West Bank, and between the West Bank and Jordan across the Allenby Bridge, in order to integrate the West Bank and Gaza in regional and global trade relations. Provided there is calm and stability, and with regional and international help, there must be subsequent willingness to allow the construction of a seaport that would be operated by a third party and meet all of Israel's security requirements.

Stabilizing the PA: In order to promote the conditions that would allow the future establishment of an accountable, stable, and functional Palestinian state, and concurrently create the conditions for negotiations, it is necessary to generate bottom-up processes to strengthen governing institutions and infrastructures for a Palestinian state-to-be. It is incumbent to improve the PA's security in the West Bank. Depending on the Palestinians' performance, expanding control of the security mechanisms to all of the Palestinian populated areas should be considered, with emphasis on law and order missions but also on the dismantling of terrorist infrastructures. As the Palestinians do more, the IDF will be able to do less.

Differential policy on settlement construction: So as not to exacerbate the problem, but rather in order to offset the international damage to Israel, it is imperative that a differential settlement policy be established. At first, it is necessary to freeze construction and investment in isolated settlements deep within the Palestinian territory, while continuing construction in the blocs adjacent to the Green Line and Jerusalem. Later, there must be an Israeli effort to remove unauthorized outposts and create alternate communal solutions, either in the settlement blocs or in Israel proper.

People-to-people connections: In order to reduce the vast gulfs of mistrust and hatred, it is necessary to foster people-to-people dialogue between educational, cultural, and religious figures. To this end, Arabs in Israel should be enlisted to foster bridges between Jews and Palestinians.

Foundation for the future: As the living conditions of the Palestinian population improve, the level of performance of the PA's institutions and its security mechanisms will rise as well. This will also lead to a dynamic of confidence building between leaders and population groups, and an emergence of more convenient conditions for holding talks to prepare for a two-state reality, even if the sides do not succeed in bridging all the gaps

on all permanent issues. Assuming better PA performance and improved coordination with the Palestinian government, Israel will be able to recognize a Palestinian state within provisional borders based on the Roadmap.

In conclusion, an accumulation of small successes in a gradual process approach is a more realistic approach than attaining the elusive full, final agreement in one fell swoop. Such an approach would provide both sides with a more acceptable environment, which in turn, step by step, would create a reality on the ground that slowly moves toward a two-state reality. Regional support by Sunni Arab states, which have an interest in an end to the Israeli-Palestinian conflict, would help turn transitional arrangements into reality, as these regimes would provide the Palestinians with the guarantees they need to insure that temporary arrangements do not become permanent – the Palestinians' great fear – and would concurrently provide Israel with incentives to continue advancing the process.

Although both sides need internal motivation to approach this daunting but crucial task, at the end of the day they also need external direction, help, and perhaps even pressure. This is an opportunity for the new administration in the United States to prove it will not disengage from the Middle East, but rather remain committed to promote solutions and resolve disagreements. Withholding such support would mean abandoning the arena to the radical, uncompromising parties that will fail to be mindful of any long term implications.

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Who's Afraid of BDS? Economic and Academic Boycotts and the Threat to Israel

Amit Efrati

Background

The BDS campaign is not the first time Israel has encountered boycotts by international parties. Since its establishment, Israel faced both political and economic boycotts by Arab countries that did not recognize its right to exist. Arab states boycotted imports of Israeli goods and boycotted international companies that had trade ties with Israel. The peace agreements signed with Egypt and Jordan, as well as the Oslo Accords, however, caused a substantial decrease in the impact of this boycott.

While the Arab boycott emerged from a resolution by the Arab League and was the result of an official government policy shaped by national leaders, in 2002, at the height of the second intifada, Israel began to encounter a new type of boycott by international non-governmental organizations (NGOs) calling on their governments and other entities, such as universities, private companies, and artists, to boycott Israel. This type of boycott has gained momentum in recent years, led by the boycott, divestment, and sanctions (BDS) campaign, which draws its inspiration from the international sanctions against South Africa in the 1980s in response to apartheid. At the same time, not all attempts to boycott Israeli goods and companies, whether by individuals or official bodies, are necessarily linked to this campaign. For example, the decision by Brussels Airlines in August 2015 to remove halva produced in the West Bank from its flights resulted from an individual complaint by a passenger to the company offices, and had nothing whatsoever to do with any campaign.

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