

and did not understand that it was “off-limits”; he also noted that on all issues, except Jerusalem, there could have been a breakthrough that would lead to an agreement. Shahak claimed at the summit that the issue stalling the negotiations was the Temple Mount and that on all other issues reaching an agreement appears feasible.⁹⁴ The Americans presented a similar position. Indyk’s explanation for the failure of Camp David is that Arafat refused to accept proposals that did not meet his minimal condition of Palestinian sovereignty over Al-Haram Al-Sharif. Clinton, for his part, wrote in his book of memoirs that the parties at Camp David had few differences of opinion regarding the administration of Jerusalem, and that the dispute lay only in the question of sovereignty.⁹⁵ These assertions were also based on a determination that Arafat gave preference to the issue of Jerusalem over all others during the negotiations. Shmuel Ashid told Ben-Ami as far back as May 2 that Jerusalem would be the “killing point” without which Arafat would not accept an agreement, and Dahlan recounted that Arafat told Abu Azzam at the summit not to bother him with the refugees, “I want Al-Quds.”⁹⁶

In sum, we see that a substantive discussion of Jerusalem took place at the Camp David Summit for the first time since the start of negotiations with the PLO. This discussion took place on each side internally and between them. Likewise we can conclude that during the summit changes took place in the parties’ positions regarding Jerusalem.

On the Palestinian side the starting position was “East Jerusalem is ours and West Jerusalem belongs to the Israelis,”⁹⁷ but in time they expressed acceptance of Israeli sovereignty in the Jewish neighborhoods of East Jerusalem, the Jewish Quarter, and the Western Wall. Abu Ala claims in his book that the Palestinian stance presented at Camp David with the following elements: areas populated by Jews in East Jerusalem would be under Israeli sovereignty and areas with Palestinian residents or unpopulated areas would come under Palestinian sovereignty; expansion of Jewish areas to be annexed to Israel would not be permitted beyond 5% in relation to the current situation; Jewish residents of the Old City in quarters transferred to Palestinian sovereignty because of the new arrangements can choose between evacuation and reparations or residence under

⁹⁴ Sher, pp. 29, 232. Perlmutter rejected this view, asserting that the Palestinian positions on the refugee issue are genuine rather than tactical and pose the major obstacle to agreement.

⁹⁵ Indyk, p. 362; Clinton, pp. 915-916.

⁹⁶ Ben-Ami, pp. 55, 237.

⁹⁷ Sher, pp. 159, 174; Ben-Ami, p. 141; Qurie, p. 17.

Palestinian sovereignty; the Armenian Quarter would come under Palestinian sovereignty, but security arrangements under international auspices would apply to the corridor connecting the Western Wall and the Jewish Quarter with West Jerusalem; Jerusalem would be a united, open city and both Israelis and Palestinians would be permitted free entry; the City of David and the Mount of Olives cemetery would come under administrative Israeli rule, but without Israeli sovereignty.⁹ The Palestinians rejected the Israeli distinction between “external” and “internal” neighborhoods, and demanded Palestinian sovereignty over all Palestinian neighborhoods.⁹⁹ On the question of Al-Haram Al-Sharif the Palestinians presented an unequivocal demand for full Palestinian sovereignty.

The Palestinians also firmly rejected solutions proposed at the summit that were intended to compensate for lack of Palestinian sovereignty. They opposed the idea of a presidential Palestinian compound in the Old City, which Arafat described as a “small island surrounded by Israeli soldiers who would control its entrances.”¹ Likewise the Palestinians opposed the idea of paving a sovereign corridor to the Al-Haram Al-Sharif compound. In response to this idea Arafat and Dahlan told the Israelis to “stop building us a peace of overpass highways.”¹¹ Akram Hanieh, a journalist and member of the Palestinian delegation, writes that Arafat was guided at Camp David by three “lines of defense” regarding Jerusalem:

1. Palestinian public opinion – public opposition among to proposals on this issue;
2. International and historical rights – resolutions of the Security Council and historical and religious arguments;
3. The Arab-Muslim-Christian dimension – Jerusalem as an exceptional issue beyond the Palestinian context, relevant to the entire Arab world and Muslims and Christians throughout the world.¹²

On the Israeli side the opening stance opposed the possibility of Palestinian sovereignty anywhere within the municipal borders of Jerusalem. On July 15 Arafat warned Clinton that if an American paper containing concession of Israeli sovereignty in Jerusalem, he would abandon the summit. He also told Ross that the limit of his concessions was autonomy for external villages in Jerusalem,

⁹ Qurie, pp. 254-256. For further information on the Palestinian position, see Qurie, pp. 269-271.

⁹⁹ Ben-Ami, p. 24.

¹ Hanieh, p. 95.

¹¹ Ben-Ami, p. 152.

¹² Hanieh, pp. 5-6.

such as Beit Hanina and Shuafat,^{1 3} but this position changed. That very night Ben-Ami presented a proposal that included Palestinian sovereignty in external neighborhoods,^{1 4} and shortly thereafter Arafat agreed to Palestinian sovereignty over two quarters in the Old City as well. Interestingly, when Arafat began to demonstrate flexibility, it was in relation to Palestinian sovereignty in the Old City rather than internal neighborhoods. Ben-Ami pointed to a contradiction in this stance and told Arafat that the Palestinians would be asking themselves how it could be that Arafat is willing to grant them sovereignty in the Old City but not in Wadi Jo .^{1 5}

At Camp David, Israel in fact objected to the possibility of Palestinian sovereignty in internal Palestinian neighborhoods, but agreed to functional Palestinian autonomy or partial Palestinian sovereignty. In light of the lack of continuous sovereignty, Israel proposed a sovereign corridor between the external neighborhoods and the Palestinian portion in the Old City. Ben-Ami told the Palestinians that there was room to conduct negotiations over which functions they would be granted in the internal neighborhoods, but only presupposing Israeli sovereignty, and he refused to reveal to them which neighborhoods Israel considered “internal neighborhoods.”^{1 6} Sher relates that towards the conclusion of the summit, Arafat’s instructions were that areas remaining under Israeli rule have no more than 12,000 Palestinian residents.^{1 7}

Regarding the Old City, Israel supported the solution of a “special regime,” but in the event of a division of sovereignty, it demanded a division of 2:2: the Muslim Quarter and the Christian Quarter under Palestinian sovereignty; the Jewish and Armenian Quarters under Israeli sovereignty, as well as full Israeli sovereignty over the City of David and Mount of Olives.¹ Sher claims that he and Ben-Ami

^{1 3} Ross, pp. 667, 671-672; Ben-Ami, p. 166; Atom, p. 31; Weit, “Final Moments of Dialogue,” p. 2.

^{1 4} During an internal discussion within the Israeli delegation, Peridor said that “it is strange and really serious that the prime minister tells the president of the United States that there will be a crisis if he proposes conceding sovereignty in Jerusalem and a few hours later Ben-Ami proposes conceding Arab neighborhoods within the city. See Weit, “Final Moments of Dialogue,” p. 2.

^{1 5} Ben-Ami, p. 211.

^{1 6} Ben-Ami, p. 24. Ben-Ami explains that doing so would have revealed the names of the neighborhoods over which Israel was willing to grant Palestinian sovereignty.

^{1 7} Sher, p. 229.

¹ Sher, p. 219. Sher spoke of a contiguous Israeli connection from Mount Zion, continuing through the Dormition Abbey, the Jewish Quarter and the Western Wall, the Archeological Park, the City of David, and the Tomb of Absalom, and concluding at the Mount of Olives and as Al-Amud.

disagreed with Arafat's view regarding divided sovereignty, and that Arafat adopted the stance supporting a special regime only at a later stage.¹⁰⁹

Regarding the Temple Mount, Israel made clear that it would not relinquish sovereignty over the place. On this matter Arafat stated that a Jewish prime minister cannot transfer sovereignty to Palestinians because under the ground resides the "Holy of Holies."¹¹⁰ At the same time, during the course of the summit Israel's representatives explained that Israel is primarily seeking symbolic sovereignty for itself, which is why it agreed to formulas such as Palestinian guardianship or custodial sovereignty at the site.¹¹¹ Ben-Ami told the Palestinians that this demand was intended to ensure three elements: security, prevention of excavation, and an agreed-upon arrangement for a Jewish prayer compound on the Temple Mount.¹¹² The Israeli demand regarding Jewish prayer on the Temple Mount was raised for the first time at Camp David and provoked much anger on the Palestinian side. Martin Indyk argues that Arafat thought the idea of establishing a place of prayer for Jews on the margins of the Temple Mount would help him secure the support of religious parties for an agreement regarding Jerusalem. According to Indyk, the idea originated with Eliakim Rubinstein and Isaac Herzog.¹¹³ Arafat described this request as an Israeli plan to undermine Muslim rule in the place and told Clinton that if the Israelis insist on their demand to pray at "Haram, an Islamic revolution would erupt."¹¹⁴ Arafat also pointed out that rabbis prohibit Jews' visiting the place and that even Moshe Dayan "who is considered a hero by Israelis" issued an order prohibiting Jews from praying at the site.¹¹⁵ Akram Hanieh writes, "Suddenly, secularists began talking a religious line avoided even by some Israeli rabbis."¹¹⁶ The issue of the Temple Mount Al-Haram Al-Sharif also sparked stormy historical, theological arguments between the sides on the question of whether the first Temple indeed stood at that site.¹¹⁷

¹⁰⁹ Interview with Nilead Sher, 16 March 2011.

¹¹⁰ Ben-Ami, p. 146.

¹¹¹ Ben-Ami, p. 25; Weiss, p. 75; Atom, p. 47.

¹¹² Ben-Ami, p. 25.

¹¹³ Indyk, p. 39; Ben-Ami, p. 19.

¹¹⁴ Indyk, p. 39; Sher, p. 174. Regarding the Palestinian reaction to this demand, see Sher, p. 247; Ben-Ami, p. 261; Qurie, pp. 199, 201, 261.

¹¹⁵ Qurie, p. 244. See also Qurie, p. 229.

¹¹⁶ Hanieh, p. 3.

¹¹⁷ See Ben-Ami, pp. 219, 229.

After Camp David: “The Temple Mount is the lock and we do not have a key”¹¹⁸

Despite the failure of the Camp David Summit, talks continued between the parties along various channels. The main track between Yitzhak Rabin and Yasser Arafat was preserved, but some of the talks now also included Yehonatan Levi, Haseenah, and Dahlan. Likewise, the US, Egypt, and Jordan undertook mediation efforts.¹¹⁹ The meetings focused on efforts to find a formula that would resolve the dispute over the Temple Mount Al-Haram Al-Sharif, and various proposals were offered in an effort to address the parties' mutual objection to the possibility of sovereignty being granted to the other side.

One of the solutions proposed was the concept of “Divine Sovereignty : neither side would have sovereignty. Under this proposal sovereignty would be granted to God, and the parties would agree between them on the division of authorities in the place.¹²⁰ In August 1993 during a conversation with the US ambassador to Israel, Martin Indyk, Arafat hinted that he would consider waiving the Israeli demand for sovereignty over the Temple Mount while transferring it to God, on the condition that Arafat also agree. Chief Sephardic Rabbi at the time Eliyahu Bakshi-Doron also conveyed to Indyk his support for this idea on the condition that status quo be preserved at the site.¹²¹ On the Palestinian side Dahlan and Arafat supported the concept of Divine Sovereignty, but Yitzhak Rabin and Yasser Arafat opposed it.¹²² The Egyptians tried first to promote the concept, but in light of Palestinian opposition they withdrew the proposal from the agenda and gave their support to the demands for Palestinian sovereignty.¹²³ In a conversation with Clinton in September 1993, Arafat rejected the concept, saying that Divine Sovereignty exists everywhere, “even in the White House. ¹²⁴ A proposal along these lines had already been presented in 1994 by King Hussein of Jordan, who said that religious faith requires that sovereignty over the holy places in Jerusalem

¹¹⁸ Statement by Amnon Lipkin-Shahak see Indyk, p. 323 .

¹¹⁹ Sher, pp. 242, 244, 249; Levi-Ami, pp. 24 , 276. From the conclusion of the Camp David Summit until the eruption of the Intifada, a total of 3 meetings between Israeli and Palestinian representatives took place.

¹²⁰ On this point see Sher, p. 25 ; Levi-Ami, pp. 244-245; Indyk, pp. 33 -339.

¹²¹ Indyk, pp. 33 -339.

¹²² Levi-Ami, p. 245.

¹²³ Levi-Ami, pp. 245, 24 ; Sher, pp. 244, 256-257.

¹²⁴ Levin, *Breaking the Taboo*, p. 63.

be exclusively in the hands of God.¹²⁵ In a meeting with Prime Minister Ehud Barak in August 2000, Prof. Ruth Lapidot and Dr. Menachem Stein presented an additional proposal for circumventing the problem of sovereignty. Among other ideas, they raised the concepts of “suspended sovereignty” which applies to the South Pole and arrangements for practical administration without recognition of the parties’ claims of sovereignty as in the case of the Falkland Islands.¹²⁶

Yet another idea that was considered at the time was the transfer of sovereignty to an international body. President Clinton proposed that sovereignty over the compound be transferred to the Security Council, which would transfer custodianship to the Palestinians.¹²⁷ Under Sher’s proposal the Security Council would have sovereignty and would establish an international mechanism through an agreement delineating the mandate of this mechanism as well as the authorities granted to each party, and excavation at the site would be prohibited by agreement.¹²

Ben-Ami underscores that under this proposal, Security Council involvement was intended to grant legitimacy to Palestinian custodianship without assigning the Council operational responsibility or the right of intervention in every instance of misunderstanding.¹²⁹ Richard Holbrooke, a US diplomat who mediated the negotiations in Bosnia and served as US ambassador to the United Nations in 1999-2001, recommended in a conversation with Ben-Ami that the Council’s role under such an arrangement would be to endorse the agreed-upon arrangement, not to mandate it. He proposed establishing a separate organization that would be responsible for implementation, comparable to the Peace Implementation Council established following the Dayton Accords 1995 between the parties to the Bosnia conflict.¹³

Arafat rejected Clinton’s proposal on the grounds that there is not one Islamic state among the permanent members of the Security Council and therefore he

¹²⁵ Indyk, p. 339. Statement by King Hussein, Address to the Joint Session of the U.S. Congress, 26 July 1994, http://www.kinghussein.gov.jo/94_july26.html.

¹²⁶ Sher, p. 246; Ben-Ami, p. 243. On this point see Ruth Lapidot, “The Question of Sovereignty,” in Avner Amon (ed.), *The Historic Basin of Jerusalem: Problems and Possible Solutions* (Jerusalem: Jerusalem Institute for Israel Studies, 2007), pp. 292-300 (Hebrew).

¹²⁷ Ben-Ami, p. 26; Sher, p. 265.

¹²⁸ Sher, p. 267.

¹²⁹ Ben-Ami, p. 309.

¹³ Ibid.

would be accused of giving Jerusalem away to the “Crusaders.”¹³¹ A Palestinian counter-proposal was posed that sovereignty be transferred to the Organization of the Islamic Conference but the Americans rejected this proposal categorically. Dennis Ross maintained that from the Israeli perspective this proposal was less acceptable than the transfer of sovereignty to the Palestinians, given the membership of states such as Iran, Libya, and Iraq in this organization.¹³²

In response Clinton proposed establishing a consortium that would include the five permanent Security Council members and four Islamic Arab states: Saudi Arabia, Egypt, Jordan, and Morocco. The consortium would grant Palestinians jurisdictional authority over the place and establish restrictions, such as a prohibition on excavations at the site.¹³³ Simultaneously Ben-Ami presented a proposal that was labeled the covenant of “the Three Kings, by which sovereignty or custodianship would be granted to the kings of Jordan, Morocco, and Saudi Arabia, in order to obscure the sovereignty problem.”¹³⁴

It should be noted that later, in January 2001, another potential international solution was raised, under which Jerusalem would be defined at the “City of Prophets” and administered by a council headed by the secretary-general of the United Nations and its members would include the prime minister of Israel and the Palestinian president.¹³⁵

Yet another idea that surfaced during meetings was the “horizontal division of sovereignty” a concept borrowed from the Law of the Sea. Under this proposal the Palestinians would have sovereignty over the grounds of the mosques of Al-Haram Al-Sharif while sovereignty below the ground would be granted to Israel. This idea had been raised earlier, at Camp David, after which then President Jacques Chirac of France tried to promote it.¹³⁶ Chirac met with Arafat on 2 December 2000 and called upon him to accept this proposal, but Arafat refused, and again attacked the claim that ruins of the First Temple lie beneath Al-Haram Al-Sharif. Chirac responded that it was necessary to address the issue of

¹³¹ Indyk, p. 34.

¹³² Ross, pp. 719, 721. Regarding this proposal see also Klein, *Breaking the Taboo*, p. 63; Indyk, p. 341; Sher, p. 266; Ben-Ami, p. 245.

¹³³ Ben-Ami, p. 246.

¹³⁴ Ben-Ami, p. 243-245. Indyk opposed this idea and warned against involving the Arab monarchs in the matter Ben-Ami, p. 244.

¹³⁵ Qurie, p. 297-29.

¹³⁶ Ben-Ami, p. 21.

ruins as it is set in the mind of the Israeli people, not necessarily with the ruins themselves.¹³⁷

The Egyptians proposed another alternative: drawing a parallel between Al-Haram Al-Sharif and the Western Wall, with an agreement accepting Palestinian sovereignty over Al-Haram Al-Sharif and Israeli sovereignty over the Western Wall, or a special arrangement by which the Palestinians would relinquish sovereignty claims to Al-Haram Al-Sharif and the Israelis would relinquish sovereignty over the Western Wall.¹³⁸ Israel refused to draw a parallel between the two sites, emphasizing that the dispute is only over the Temple Mount and that the Palestinians have already accepted Israeli sovereignty at the Western Wall.¹³⁹

Another proposal to draw a parallel between the sites was presented by Dennis Ross. It drew on the distinction between the holy places themselves and the compound surrounding them. That is, Palestinian sovereignty would apply in the mosques themselves but not to the entire compound while Israeli sovereignty would apply to the Western Wall itself, with agreement regarding an international regime on the matter of excavations in the compound as a whole.¹⁴⁰

The talks between the parties continued and after a meeting between Arafat and Arafat in Jaffa on 25 September, representatives of the two sides departed for a round of talks in Washington. On September 20 Al-Aqsa Intifada erupted, however, and the entire picture changed.¹⁴¹ At this point diplomatic efforts focused on putting an end to the violence and calming the tempers, but in December after Arafat declared early elections national status talks resumed.¹⁴²

¹³⁷ Indyk, p. 446

¹³⁸ Indyk, pp. 34-399; Ross, p. 716; Klein, *Breaking the Taboo*, pp. 62-63; Ben-Ami, p. 254.

¹³⁹ Indyk, p. 34; Klein, *Breaking the Taboo*, pp. 62-63.

¹⁴⁰ Ross, p. 716. The Egyptian ambassador to Israel Mohammed Assiouni had previously proposed the idea of sovereignty in mosques, but it was not pursued; nor did it receive Arafat's support Ben-Ami, p. 243. This proposal by Ross was one of four that he raised during a visit to Egypt in August 2000.

¹⁴¹ Regarding the meeting and the round of talks in the US, see Sher, pp. 21-22; Ross, p. 725; Ben-Ami, pp. 24-25; Qurie, p. 277. In his book Ross recounts that there was progress and optimism during the talks. The delegations returned to Israel on September 29 and reported that they expect the Americans to present a draft paper on October 9.

¹⁴² The meetings that took place between Arafat and Clinton in November 2000 and between Arafat and Ross in December 2000 inspired some sense of optimism among the Americans. During these meetings Arafat hinted at a willingness to accept the draft outline presented by the Americans, which was based on Palestinian sovereignty in Arab neighborhoods and Israeli sovereignty in Jewish neighborhoods, a special regime in the Old City, and some form of divided sovereignty in the Temple Mount-Al-Haram Al-Sharif. See Ross, pp. 742-747.

The Bolling Meeting and Clinton Parameters: “What is Arab in the city should be Palestinian and what is Jewish should be Israeli”¹⁴³

On 19 December 2000 a round of talks commenced between representatives of both sides at Bolling Air Force Base near Washington, D.C.¹⁴⁴ The Israeli delegation included Shlomo Ben-Ami and Yigal Sher, while the Palestinian delegation had Yasser Abed Rabbo, Saeb Erekat, and Yehiyah Dahlan.¹⁴⁵ The talks again focused on the issue of Jerusalem. According to Yigal Sher it was clear to both sides that if they did not reach an agreement on Jerusalem, there would be no agreement whatsoever, and “therefore we concentrated on this issue.”¹⁴⁶

On the question of East Jerusalem neighborhoods, a consensus emerged regarding the principle of Israeli sovereignty over Jewish neighborhoods and Palestinian sovereignty over Arab neighborhoods. But the Israeli representatives complained that the Palestinian map presented during the talks connects Jewish neighborhoods to the western part of the city through “thin strings that create ‘ghettos of sovereignty,’ according to Ben-Ami, and they demanded a genuine urban connection.”¹⁴⁷ Additionally, Israel objected to the Palestinian position that counted all Jewish neighborhoods in East Jerusalem as a portion of the totality of annexed lands.¹⁴

On the issue of the Old City, the Palestinians demanded a division of 2.5:1.5—that is, the Christian Quarter, the Muslim Quarter, and half of the Armenian Quarter would come under Palestinian sovereignty, while the Jewish Quarter and half of the Armenian Quarter would belong to Israel. The Israeli position proposed establishing a “special regime” in the Old City that would not lead to its division, but the proposal emphasized if there is to be a division, then its ratio must be 2:2—the Christian and Muslim Quarters to the Palestinians, the Jewish and Armenian Quarters to Israel.¹⁴⁹

¹⁴³ Citing the Clinton Parameters. See Ross, pp. 752-753.

¹⁴⁴ Ben-Ami, p. 365; Ross, p. 74; Sher, p. 354.

¹⁴⁵ Sher, p. 354.

¹⁴⁶ Sher, p. 355.

¹⁴⁷ Ben-Ami, pp. 366-367, 37; Sher, p. 355.

¹⁴ Ben-Ami, p. 37.

¹⁴⁹ Ben-Ami, pp. 366, 379; Sher, p. 357. Abed Rabbo proposed that the joint council that would be formed for the two capitals would decide on the special regime to be established and the areas where it would apply, covering not only the Old City—Ben-Ami, p. 366.

Israel also demanded sovereignty over the “Holy Corridor” between the City of David and the Tombs of the Prophets to Mount of Olives. The Palestinians were opposed to this idea but made clear that they would accept a creative solution: “Anything that does not grant you full sovereignty there is acceptable to us.”¹⁵

The most dramatic part of the meeting, however, was the attempt by Ben-Ami to facilitate a breakthrough on the issue of Al-Haram Al-Sharif – the Temple Mount. Ben-Ami feared that everything had already been tried and “nothing worked” so he decided to put a new proposal forward as “the ultimate test of the likelihood of reaching a comprehensive agreement, through the question of the Temple Mount.”¹⁵¹ His proposal was as follows:

1. Full Palestinian sovereignty over Al-Haram Al-Sharif – the Temple Mount; Israeli sovereignty over the Western Wall;
2. A commitment by the Palestinian state not to undertake excavations, in recognition of the sacred nature of the place for the Jewish people;
3. A Jewish prayer area within a delineated compound and under the supervision of a body agreed upon by both sides;
4. Verification of the agreement and accompanying declaration by the OIC.¹⁵²

Ben-Ami believed that with this formula Israel could receive Palestinian and all-Islamic recognition of their historical and religious Jewish connection to the Temple Mount and, in fact, of the Jewish people’s connection to the land of Israel. He saw this as a more important objective than the demand for virtual Israeli sovereignty in the Temple Mount’s underground chambers.¹⁵³

Ben-Ami’s Israeli colleagues were surprised by his proposal and saw it as deviating from their instructions. The proposal exposed an internal dispute within

¹⁵ Ben-Ami, pp. 366, 379.

¹⁵¹ Ben-Ami, p. 373.

¹⁵² Ben-Ami, p. 375; Sher, p. 357. Ben-Ami writes that his proposal was offered *ad referendum* rather than as Israel’s negotiating position, and that only if accepted would the proposal be presented to Arafat for approval. Ben-Ami also made clear that this compromise on Jerusalem was solely meant to be part of an overall breakthrough on all issues, and that if an agreement is not reached, then the compromise would be withdrawn. Ben-Ami, pp. 375-376.

¹⁵³ Ben-Ami, pp. 375-376. In his book Ben-Ami writes that his proposal is analogous to the Palestinian demand that Israel recognize the right of return as a separate issue from the question of its implementation. Ben-Ami, p. 375. Ben-Ami also presented ideas along these lines when he met with Arafat on 1 December 2000. Indyk, p. 354.

the negotiating team, which the Americans as well as the Palestinians noticed. According to Meleah Sher, the salient feeling was that Ben-Ami was galloping ahead unrestrained. Moreover, Israel Hasson announced upon returning to Israel that he was quitting the negotiating team as protest over Ben-Ami's conduct.¹⁵⁴ Indyk draws a link between Ben-Ami's proposal and the political situation that prevailed in Israel in light of the elections and Shimon Peres's intention to challenge Arafat.¹⁵⁵ In his book Ben-Ami responds to critics, arguing that although he did indeed presume a great deal of leniency for himself in negotiating, to the point of being daring, he believes that he was correctly interpreting the "captain's intent" and that he received no word of reservation or reprimand from Arafat regarding his proposal.¹⁵⁶

According to Ben-Ami, Arafat's instructions to the delegation on the eve of the talks at Tullin were that they were to carefully develop a formula that would be "sufficiently sensitive to our connection to the place." Ben-Ami emphasizes in this context that there was no mention of sovereignty.¹⁵⁷

The Palestinians rejected Ben-Ami's proposal. They agreed to commit to not allowing excavations at the Temple Mount, but they refused to declare that this commitment stems from the site indeed being a Jewish holy place. "You are causing us to act like historians, judges, or clergymen," claimed Abed Rabbo in reaction to this proposal.¹⁵⁸ At the same time, the Palestinians informed Ben-Ami that they would agree to declare their intention of not excavating at the Mount out of recognition of "the importance of the place to believers of all religions."¹⁵⁹ It should be noted that during a meeting a few days earlier, the Palestinians announced that they would accept international supervision of the issue of excavations at "Haram al-Sharif the Temple Mount."¹⁶⁰

The failure of the initiative can also be understood in the context of the difference between the perception of Ben-Ami whose proposal was based on the assumption

¹⁵⁴ Sher, p. 356. Hasson later retracted his decision after Arafat and Sher persuaded him to do so.

¹⁵⁵ Indyk, p. 355.

¹⁵⁶ Ben-Ami, p. 374.

¹⁵⁷ Ben-Ami, p. 359.

¹⁵⁸ Sher, p. 357; Ben-Ami, p. 377; Shavit, "The Day Peace Died.

¹⁵⁹ Ben-Ami, p. 529. See the comparison between the Palestinian position and the Geneva Accord, Ben-Ami, p. 529. According to Meleah, Ezerkat proposed that each side recognize the legitimacy of the other side's narrative regarding the Temple Mount Al-Haram Al-Sharif Meleah, *Breaking the Taboo*, p. 7.

¹⁶⁰ Sher, p. 349.

of a package deal with Israeli acceptance of Palestinian sovereignty over Al-Haram Al-Sharif the Temple Mount in exchange for a Palestinian waiver of “the right of return” and the Palestinian perception that Palestinian acceptance of Israeli sovereignty in Jewish neighborhoods in East Jerusalem would be granted in exchange for Israeli acceptance of Palestinian sovereignty in Al-Haram Al-Sharif the Temple Mount.¹⁶¹

On 23 December 2000 President Clinton met with representatives of both sides and presented them with his outline for an agreement, which included parameters for solutions on all the core issues. The parties were requested to provide a response within five days, either accepting or rejecting these ideas. Clinton stressed that if the outline is not accepted, then it will be removed from the agenda and will have no standing after he leaves the White House.¹⁶²

The “Clinton Parameters” held that on the question of Jerusalem, Palestinian neighborhoods in East Jerusalem would come under Palestinian sovereignty and Jewish neighborhoods would be under Israeli sovereignty, with a view towards maximal geographical continuity for both sides. The same principle would apply in the Old City, with the addition of special arrangements for its administration.¹⁶³ With respect to the Temple Mount Al-Haram Al-Sharif, Clinton proposed two options:

1. Palestinian sovereignty over Al-Haram Al-Sharif and Israeli sovereignty over the Western Wall and the Holy of Holies,¹⁶⁴ which forms part of it.
2. Palestinian sovereignty over Al-Haram Al-Sharif, Israeli sovereignty over the Western Wall, and joint functional sovereignty on the issue of excavations.¹⁶⁵

It should be noted that the Clinton Parameters did not address sites in the Historic Basin beyond the Old City Walls.¹⁶⁶

¹⁶¹ Ben-Ami, pp. 367-377; Sher, p. 355.

¹⁶² Weiss, pp. 749-751; Ben-Ami, pp. 3-11; Sher, p. 36; Indyk, p. 356; Clinton, p. 936.

¹⁶³ The Clinton Parameters are unclear about the division of sovereignty within the Old City whether the ratio would be 2:2 or 3:1. Ben-Ami claims that Clinton intended a 2:2 division with Israeli sovereignty in the Western Wall Tunnel Ben-Ami, p. 52.

¹⁶⁴ Weiss explains that the term “Holy of Holies” was intended to imply the existence of the Temple at the site without explicitly stating so. See Weiss, p. 753.

¹⁶⁵ Weiss, pp. 752-753; Ben-Ami, p. 31; Indyk, p. 426; Qurie, pp. 21-22; Ben-Ami, p. 31; Clinton, pp. 936-937.

¹⁶⁶ Sher, p. 361; Qurie, p. 29. Ben-Ami claims that this issue remained open following a conversation that had taken place between Barak and Clinton just prior to the announcement of the Parameters. See Shavit, “The Day Peace Died.

On December 2 the government of Israel by a majority of ten supporters, two opponents, and two abstainers approved Clinton's proposed ideas as a basis for continued negotiations, conditional on a similar Palestinian commitment.¹⁶⁷ Israel transmitted a document to Clinton that included the government's decision and a list of comments and issues for clarification. The main problems from Israel's point of view related to the division of the Old City where Israel preferred the establishment of a special regime and the lack of attention to Israel's interests regarding Jewish sites within the Holy Basin Mount of Olives and City of David. Israel also emphasized the importance of ensuring the contiguity of Israeli sovereignty between Jewish neighborhoods in East Jerusalem and West Jerusalem.¹⁶⁸

The Palestinians did not provide an unequivocal reply by the date set by Clinton.¹⁶⁹ They transmitted a list of reservations and questions for clarification to the Americans, but the latter refused to conduct any discussion whatsoever of the document before the Palestinians provide a clear answer in principle of "yes" or "no."¹⁷⁰

On January 2, Clinton and Arafat met in Washington, and here too, no clear Palestinian answer was forthcoming. Arafat expressed willingness to accept the outline but presented a series of reservations that contradicted the parameters.¹⁷¹ Moss claimed that Arafat effectively rejected the outline, and Rucewiedel from the National Security Council also asserted that Arafat's answer contained

¹⁶⁷ Sher, p. 369; Ben-Ami, p. 377; Indyk, p. 357; Moss, pp. 745-755. Ministers Peres and Michael Elchior opposed this proposal, and Ministers A'anan Cohen and Itan Ilanai abstained. Regarding the debate in the government, see Ben-Ami, pp. 377-391.

¹⁶⁸ Sher, pp. 364, 372-373, 377; Klein, *Breaking the Taboo*, p. 74. Israel's response also requested clarification of the term "Western Wall" and of the principle "Arab to Palestine, Jewish to Israel" whether this relates strictly to neighborhoods or also to individual homes, and it expressed a reservation concerning the solution for the Temple Mount.

¹⁶⁹ Peres, *Manual for a Wounded Dove* (Tel Aviv: Mifal, 2001), p. 194 (Hebrew).

¹⁷⁰ Ibid.; Indyk, pp. 357, 359; Moss, p. 754; Qurie, p. 24; Ben-Ami, p. 393.

¹⁷¹ Indyk, pp. 359-367; Moss, p. 756; Ben-Ami, pp. 43-45; Clinton, p. 943. In his book Clinton relates that during the meeting Arafat expressed objection to Israel having sovereignty at the Western Wall beyond the "Wailing Wall" area and demanded Palestinian sovereignty over parts of the Armenian Quarter because of the presence of churches therein. Clinton writes that he could not believe that Arafat was bringing this issue up at this time. Clinton, p. 943. In a January 7 speech, Clinton stated that both Prime Minister Rabin and Chairman Arafat "accepted these parameters as the basis for further efforts." See Clinton, "U.S. President Bill Clinton: Summarizing His Experience with the Peace Process, January 7, 2001," in W. Laqueur and J. Rubin eds., *The Israel-Arab Reader* (New York: Penguin Books, 2001), p. 577.

more reservations than acceptances.¹⁷² Abu Ala argues that the Palestinians had difficulty accepting Clinton's ideas, but to the same extent found it hard to reject them. He relates that the Palestinian leadership wanted to reject them in general, but when it became evident that the Israelis were accepting the proposals, at least in part, then the Palestinian side decided to give them serious consideration, "in the hope of being able to modify the elements we were unsatisfied with."¹⁷³

On the question of Jerusalem, the main Palestinian reservation related to the definition of the term "the Western Wall." The Palestinians opposed Israeli sovereignty at the site beyond the prayer area—the compound termed "the Wailing Wall" in English and *Haram al-Sharif* in Arabic—as well as inclusion of the entire Western Wall and the Tunnel.¹⁷⁴ The Palestinian response document in reply, which Abu Ala presents in his book, indicates additional Palestinian reservations. On the issue of Al-Haram Al-Sharif—the Temple Mount, the Palestinians expressed objection to Israeli sovereignty beneath the Temple Mount, claiming that this would undermine their own sovereignty over the place, which under international law applies beneath the surface of the land as well. Likewise they had reservations about the term "shared functional sovereignty" on the matter of excavations, arguing that this is a vague term to which Israel will seek to attribute a broad interpretation; they claimed that if the objective is to prevent excavations, then a formula may be found to define special arrangements without using the term "sovereignty."¹⁷⁵ The Palestinians further argued that the document does not address the principle of Jerusalem as an "open city" and they underscored the importance of geographical continuity between the Palestinian territories and warned against creating small, dispersed Palestinian enclaves within the city.¹⁷⁶ They also asserted that the principle of "what's Arab to Palestine and what's Jewish to Israel" retroactively approves of the Israeli policy of settlement in East Jerusalem, and that the document does not address the "green areas" in East

¹⁷² *ibid.*, p. 756; Ben-Ami, p. 44; Indyk, pp. 359-360. At first the Americans hinted to the Israelis that Arafat's answer provided a "green light" to continue the talks, but they later claimed that the Palestinian reply was in fact negative. Sher, p. 379-382. See also Ben-Ami, pp. 43, 46.

¹⁷³ Qurie, pp. 24-25.

¹⁷⁴ *ibid.*, *Breaking the Taboo*, p. 74; Indyk, p. 36; Sher, p. 382; Ben-Ami, pp. 394, 400. The Americans informed the Palestinians that what they meant was the entire extent of the wall. Ben-Ami, p. 415; Clinton, p. 943.

¹⁷⁵ Qurie, pp. 28-29.

¹⁷⁶ *Ibid.* Likewise, Abu Ala made clear to Ben-Ami that the Palestinians would not agree to *Yifat E'ev*, *Ma'ale Adumim*, and *Har Homa* becoming part of Israel's side of Jerusalem. Ben-Ami, pp. 41, 424, 436.

Jerusalem; nor is there a clear stance regarding the Israeli demand for sovereignty in Jewish holy places in East Jerusalem.¹⁷⁷

According to Enachemlein, the Israeli reservations regarding Jerusalem were more substantive than the Palestinian ones, but in all, the Israeli “yes” was stronger and faster than the Palestinian “yes.”¹⁷⁸ During a meeting on January 11 at the Ere Checkpoint between representatives of the two sides, the Palestinians presented their stance regarding the Clinton Parameters, making it clear that they would not accept the term “Western Wall” but only “Wailing Wall” and that they would not waive their demand for comprehensive Palestinian sovereignty over Al-Haram Al-Sharif with no geographical or topographical division.¹⁷⁹ The Israeli delegates argued that in effect the Palestinians were rejecting Clinton’s Parameters in their answer and sending the negotiations back to square one.¹⁸⁰

The Taba Talks: “There might not be such negotiations over Jerusalem even an entire generation from now”¹⁸¹

On 21 January 2001, the eve of the Knesset elections, the final round of talks under the Arafat administration took place in Taba. Participants included Abu Ala, Saeb Erekat, Hassan Asfour, Fathi Sha’ath, Yasser Abed Rabbo, and Yehiam Dahlan on the Palestinian side, and Shlomo Ben-Ami, Amnon Lipkin-Shahak, Yossi Beilin, Yossi Sarid, Yitzhak Mordechai, Israel Hasson, Pini Gaidan-Shani, and Yehonatan Rabin on the Israeli side. There was no U.S. involvement in this meeting.¹⁸²

The discussion of Jerusalem at Taba reflected an agreement between the parties regarding the principle set by Clinton with respect to the future status of neighborhoods in East Jerusalem: what’s Arab to Palestine; what’s Jewish to Israel,¹⁸³ with the exception of Har Homa, Jabal Abu Ghneim, and the Jewish

¹⁷⁷ Qurie, pp. 20–29.

¹⁷⁸ Enachemlein, *Breaking the Taboo*, p. 75.

¹⁷⁹ Sher, p. 30; Ben-Ami, p. 414; Qurie, p. 296.

¹⁸⁰ Sher, p. 30; Ben-Ami, p. 415; Indyk, p. 36. On January 15 Abu Ala told Ben-Ami that Arafat was interested in an agreement but that “the Clinton Parameters do not permit an agreement that he can defend.” Ben-Ami, p. 41.

¹⁸¹ Ben-Ami during the Taba talks, January 2001. See Ben-Ami, p. 444.

¹⁸² Sher, p. 397; Indyk, pp. 361–362; Qurie, pp. 294–295, 299, 324–325. Regarding deliberations within Israel about whether to participate in the Taba talks, see Sher, pp. 397–398.

¹⁸³ Ben-Ami, p. 442; Enachemlein, *Breaking the Taboo*, p. 76; Enachemlein, *The Geneva Initiative: An Insider’s Account* (Jerusalem: Carmel, 2006), p. 141 (Hebrew); Qurie, 323, 354–355; Beilin, p. 216; A. Eldar, “The Taba Document,” *Ha’aretz*, 14 February 2002 (Hebrew).

settlement in as Al-Amud, which were founded after the signing of the Oslo Accords 1993.^{1 4} Nonetheless, differences still remained between the parties regarding the question of sovereignty in the Armenian Quarter,^{1 5} at the Temple Mount Al-Haram Al-Sharif,^{1 6} and at Jewish sites in the Holy Basin outside of the Old City, foremost among them the Mount of Olives.^{1 7}

Yossi Sarid and Shlomo Ben-Ami proposed a “Solomonic” compromise, whereby of the four issues in dispute regarding Jerusalem, two would be resolved in accordance with the Palestinian position, and the two others in accordance with Israel’s stance, but the suggestion was rejected.¹

The talks included a discussion of the Holy Basin which includes the Old City as well as the cemetery on the Mount of Olives, the City of David, and Kidron; Yigal Allon presented its borders on the map in accordance with the Israeli

^{1 4} Qurie, pp. 3 5, 355; Ben-Ami, *The Geneva Initiative*, p. 141; Eldar, “The Taba Document.

^{1 5} Sher, p. 41 ; Ben-Ami, p. 443; Qurie, pp. 313-315, 355; Eldar, “The Taba Document ; Interview with Shaul Arieli, 12 April 2 11. During the Taba talks Israel demanded sovereignty over the Armenian Quarter, which would divide the Old City by a ratio of 2:2, whereas the Palestinians demanded sovereignty in part of the Armenian Quarter, thus making the ratio 2.5:1.5. In response Ben-Ami asked the Palestinians, “ Because of half of a quarter, you rejected Clinton’s proposal at Camp David According to the official non-paper prepared by E. Ambassador Yigal Allon as an unofficial summary of the Taba talks , Israel understood that the Palestinians were prepared to accept Israeli sovereignty over the Jewish Quarter and in part of the Armenian Quarter. Abu Ala claims in his book that the Palestinians demanded full sovereignty over the Armenian Quarter and did not agree to sovereignty only in part of the quarter. According to Ben-Ami, during the talks that led to the Geneva Initiative, the Israeli representatives claimed that in the course of the Taba talks the Palestinians had agreed to Israeli sovereignty over Jaffa Gate and the road connecting it to Lion Gate, but the Palestinians claimed that there had never been such an agreement and that they had only agreed that Jewish-owned homes within the Armenian Quarter that are located near the Jewish Quarter would be considered part of the Jewish Quarter Ben-Ami, *The Geneva Initiative*, p. 156 .

^{1 6} The Palestinians rejected Clinton’s proposal that Israeli sovereignty would apply beyond the Western Wall and apply to the area beneath Al-Haram Al-Sharif as well. They also objected to the implementation of Israeli sovereignty over the entire extent of the wall in the context of Israeli sovereignty over the Western Wall. See Ben-Ami, p. 443; Indyk, p. 362; Ben-Ami, *The Geneva Initiative*, p. 141; Qurie, pp. 314, 322. According to Shaul Arieli, the demand for a Jewish prayer area in the Temple Mount was not raised again during the Taba talks Interview with Shaul Arieli, 12 April 2 11 .

^{1 7} Ben-Ami, pp. 443-444; Ben-Ami, *Breaking the Taboo*, p. 77; Qurie, pp. 313, 316; Ben-Ami, p. 216; Sher, p. 41 . Abu Ala made it clear during the talks that sovereignty over sites within the Holy Basin would be Palestinian but that Israelis would be assured access. During these talks the Palestinians conveyed a willingness to accept any arrangement short of Israeli sovereignty in these areas.

¹ Ben-Ami, pp. 443, 446.

perspective.¹⁹⁰ Ben-Ami stressed that “even the secular Israeli public would not be able to accept or understand an agreement in which the Mount of Olives is not part of Jerusalem.”¹⁹¹ Abu Ala said that he opposes the concept of the “Holy Basin” and claimed that in the Palestinian view all of Jerusalem is holy.¹⁹² The Palestinians expressed willingness to accommodate Israeli interests at these sites, but insisted that they have sovereignty. The Israeli representatives tried to promote discussion of a special regime as a solution in the Holy Basin, along the lines of internationalization or a joint regime, as an alternative model to division of sovereignty.¹⁹³

A discussion also took place at Taba regarding the connection between the two parts of the city. The Palestinian stance posited that Jerusalem be an open city, with no internal physical division, but with checkpoints outside the two capitals.¹⁹⁴ Israel proposed that an open city be established within a more limited geographical area, to include the Old City and parts of the Holy Basin, but the Palestinians opposed this idea and underscored that they would accept an open city only if its borders overlap with the municipal borders of Jerusalem. The Israeli representatives raised the additional possibility of a “flexible border regime” that would include special identification cards for residents of Jerusalem and Al-Quds, enabling them to transit freely between the two sides of the city. The Palestinians made clear that if their proposal for an open city is not accepted, the only alternative that would remain would be that of firm physical separation between the two sides of the city with transit between them only by visa.¹⁹⁵

The parties also discussed various types of arrangements for coordination and cooperation between the municipalities in areas such as infrastructures, electricity,

¹⁹⁰ Qurie, pp. 315, 356. For a list of the sites located within the boundaries of the “Holy Basin” from the Israeli perspective, see Ben-Ami, *Breaking the Taboo*, p. 77.

¹⁹¹ Ben-Ami, p. 444; Qurie, p. 313.

¹⁹² Qurie, p. 315, citing as support Surah 17, verse 1 of the Quran: “the remote mosque Al-Aqsa of which We have blessed the precincts,” *The Qur’an*, trans. H. Shakir Elmhurst, London: Tahrike Tarsile Qur’an, 1993, p. 17.

¹⁹³ Qurie, p. 356; Ben-Ami, *The Geneva Initiative*, p. 141; Interview with Shaul Arieli, 12 April 2011. According to Arieli the Palestinians rejected the proposed concept of a special regime in the Holy Basin, but there were differences in approach to this issue between Erekat and Abu Ala.

¹⁹⁴ Qurie, p. 312; Ben-Ami, *The Geneva Initiative*, pp. 14–141; Sher, p. 41.

¹⁹⁵ Ben-Ami, *The Geneva Initiative*, pp. 14–141; Sher, p. 41; Qurie, pp. 313, 355; Eldar, “The Taba Document.” Eyal Sher claims that throughout the negotiations he was unable to receive a clear explanation from the Palestinians regarding the meaning of the term “open city.” In his book he writes that the term “open city” is “a theoretical model which had no practical possibility of being implemented.” Sher, p. 26; Interview with Eyal Sher, 16 March 2011.

and roads and it was agreed that there would be no municipal umbrella-body but, rather, a committee for coordinating between the two municipalities.¹⁹⁵

After the meeting concluded, the European envoy to the Middle East, Miguel Moratinos, drafted an unofficial and non-binding document a “non-paper” after consultations with representatives of the two sides. The document outlined the contours of an agreement and the differences of opinion between the parties as these became evident during the Taba talks.¹⁹⁶ The “Moratinos non-paper” addresses six issues regarding the question of Jerusalem: sovereignty, an open city, a capital of two states, the Old City and the Historic Holy Places, holy places – the Western Wall / Wailing Wall, and Al-Haram Al-Sharif / the Temple Mount.¹⁹⁷ The document notes that the parties accepted Clinton’s proposal regarding neighborhoods in East Jerusalem as well as the principle that each side would govern and administer its own holy places. Likewise the document states that there had been progress on practical arrangements in the “Haram / Temple Mount” compound regarding excavations, construction, and public order. Nevertheless, the document makes clear that disputes remain with respect to issues such as sovereignty over Al-Haram Al-Sharif, the boundaries of the Western Wall, and the question of Jerusalem as an “open city.”

The Moratinos non-paper notes that an unofficial proposal was made during the talks that Al-Haram Al-Sharif / the Temple Mount be placed under the international sovereignty of the five permanent members of the Security Council as well as Morocco as a representative Islamic state by agreement for three years, during which time the Palestinians would serve as custodians of the place. At the end of this period the parties would decide whether to extend the arrangement or seek another solution. According to the document, the two sides neither accepted nor rejected this proposal.¹⁹⁸

Alongside these issues the Palestinians posed a demand for reparations for the Palestinian properties abandoned in West Jerusalem.¹⁹⁹

¹⁹⁵ Klein, *The Geneva Initiative*, p. 14 ; Eldar, “The Taba Document.”

¹⁹⁶ The document is available in Qurie, pp. 352-364. See also Eldar, “The Taba Document.”

¹⁹⁷ Qurie, pp. 352-357.

¹⁹⁸ The document states that “in the absence of an agreement, the parties would return to implement the Clinton formulation.” Qurie, p. 357

¹⁹⁹ Regarding the Palestinian demand for compensation for property in West Jerusalem, see Sher, p. 41 ; Qurie, p. 312.

The Sharon Era: “There will be no involvement with issues pertaining to the final settlement”²⁰⁰

After the victory of Ariel Sharon in the elections of February 2001, Israeli-Palestinian national status negotiations ceased and they did not resume for the duration of his time as prime minister. Against the background of the escalating violent confrontation, Israel announced that it did not view Arafat as a partner in peace.

We can point to five central and relevant political developments that occurred during the two terms that Sharon served as prime minister – first from 2001 to 2003 and then from 2003 until his hospitalization in January 2006 :

1. The Arab Peace Initiative

On 28 March 2002 the Arab League Summit meeting passed a resolution on an Arab peace plan that proposes principles for ending the Israeli-Arab conflict.²¹

Under this plan Arab states would “establish normal relations with Israel” and “consider the Arab-Israeli conflict ended” in exchange for Israel agreeing to withdraw from all territories captured in 1967, a just and agreed-upon solution to the refugee question, and the establishment of an independent Palestinian state in the West Bank and Gaza Strip, with East Jerusalem as its capital. The Arab League states affirmed the principles of the initiative at meetings in Riyadh in 2002, Damascus in 2003, Libya in 2004, and Baghdad in 2005.²²

The Arab position reflected in this plan has East Jerusalem completely under Palestinian sovereignty, the capital of the future Palestinian state. Prof. Ilai Alon emphasizes that the Arab League used the geographical term “East Jerusalem” rather than the demographic “Arab Jerusalem,” which appeared among other

²⁰⁰ Israel’s response to the roadmap, 25 May 2003, http://www.knesset.gov.il/process/docs/roadmap_response_eng.htm.

²¹ See Michael ed., *The Arab Peace Initiative – A Historic Opportunity?* Jerusalem: Jerusalem Institute for Israel Studies, 2007 (Hebrew); E. Lavie ed., *Israel and the Arab Peace Initiative* Tel Aviv: The Tami Steinmetz Center for Peace Research, the Moshe Dayan Center for Middle Eastern and African History, and the S. Daniel Abraham Center for International and Regional Studies, 2004 (Hebrew).

²² For the document, see Michael, pp. 13–17. See also E. Podeh, “Israel and the Arab Peace Plan: Possibly a Missed Historical Opportunity” in Lavie, *Israel and the Arab Peace Initiative*, p. (Hebrew).

places in resolutions of the League in 1999 Casablanca and 1966 Cairo.^{2 3} Dr. Ezer Weizman notes that the plan does not contain a single clear statement regarding Al-Haram Al-Sharif, arguing that this does not necessarily indicate willingness to concede on the issue, but in his opinion this formulation leaves room for flexibility regarding practical arrangements.^{2 4} In contrast Prof. Shlomo Avineri finds that the plan's formulation points to a demand for full Israeli withdrawal, with no possibility of border adjustments or territorial exchange and no hint of the possibility of special arrangements in the Holy Basin. More recently, however, speaking on behalf of the Arab League, Qatar's prime minister indicated that the League was in fact open to the possibility of a "comparable and mutually agreed minor land swap."^{2 5}

2. The Security Fence

In April 2002 the Sharon government decided to construct a separation fence security fence. The contours of the fence were approved by the government in stages. The fence was described as a temporary security line that was not intended to have an effect on permanent borders,^{2 6} but its significance and implications go beyond this. In the Jerusalem area, the contours of the fence mostly overlap the municipal boundary of the city, but at a few points it crosses over into the jurisdictional area of Jerusalem and leaves parts of the city beyond the fence, including West Aqab, Semiramis, East Jerusalem, the Shuafat refugee camp, and the neighborhood of Dahyat Al Salam, where Palestinians reside.^{2 7} Some see this as

^{2 3} I. Alon, "The Language of the Arab Peace Initiative," in Michael, *The Arab Peace Initiative*, pp. 43-44, 62.

^{2 4} E. Steinberg, "Above All: The Palestinian Issue at the Core of the Arab Peace Initiative," in Lavie, *Israel and the Arab Peace Initiative*, p. 35.

^{2 5} Remarks with Qatari Prime Minister Sheikh Hamad bin Jassim bin Jabr Al Thani after meeting with Arab League Officials, 29 April 2003, <http://www.state.gov/secretary/remarks/2003/04/20030429544.htm>.

See also S. Avineri, "Between Acceptance and Rejection of the Initiative," in Lavie, *Israel and the Arab Peace Initiative*, pp. 63-64.

^{2 6} In an exchange of letters between Sharon and President Bush, Sharon wrote, "The fence is a security rather than political barrier, temporary rather than permanent, and therefore will not prejudice any final status issues including final borders." Bush wrote that the fence "should be a security rather than political barrier, should be temporary rather than permanent." Exchange of Letters between P. Sharon and President Bush, 14 April 2004, <http://www.mfa.gov.il/mfa/foreignpolicy/peace/mfadocuments/pages/exchange%20of%20letters%20sharon-bush%2014-apr-2004.aspx>.

^{2 7} I. Limhi ed., *The Security Fence Around Jerusalem: Implications for the City and Its Residents* Jerusalem: Jerusalem Institute for Israel Studies, 2006.

a sign of Israeli willingness to waive sovereignty in these areas and a challenge to the “sanctity” of the municipal boundaries of Jerusalem.

3. The Roadmap

On 24 June 2002, US President George W. Bush delivered a speech in which he presented principles for resolution of the Israeli-Palestinian conflict. These served as the basis for the “Roadmap” prepared in September 2002 by representatives of the Quartet—the US, Russia, the European Union, and the United Nations—and submitted to Israel and the Palestinians in April 2003.

The Roadmap proposed a three-stage plan. The first stage up to May 2003 was to include cessation of terrorism and violence, normalization of the lives of Palestinians, and the establishment of Palestinian institutions; the second stage up to December 2003 would be the transition stage during which a Palestinian state is established within provisional borders; and during the third stage up to 2005 negotiations would take place on a permanent agreement that will put an end to the Israeli-Palestinian conflict.² The government of Israel discussed the plan on 25 May 2003 and accepted it conditional on fourteen reservations.²⁻⁹ The Palestinian Authority (PA) also announced that it accepts the plan.²¹ On the issue of Jerusalem the Roadmap required that during the first stage the government of Israel reopen the Palestinian Chamber of Commerce and other closed Palestinian institutions in East Jerusalem, on the basis of a commitment that these institutions operate in accordance with previous agreements between the parties.²¹¹ This demand stemmed from Israel’s having taken control of the Orient House in East Jerusalem in August 2001, ordered its closure, and issued orders closing other Palestinian institutions in East Jerusalem, including the Palestinian Department of Trade.²¹² Before its closure, the Orient House had served as a center of PLO activity in East Jerusalem.

² Roadmap to Solution of Israeli-Palestinian Conflict, US State Department, 3 April 2003, <http://www.america.gov/st/wash-le-english/2003/April/200304313437relhcie.393475.html>.

²⁻⁹ Israel’s response to the Roadmap, 25 May 2003, http://www.knesset.gov.il/process/docs/roadmap_response_eng.htm.

See also J. Eitan, *Peace in Tatters* (Jerusalem: Carmel, 2004), p. 224 (Hebrew).

²¹ C. Sigdalovitz, *Israeli-Arab Negotiations: Background, Conflicts and US policy*, Congressional Research Service CRS Reports and Issue Briefs, 29 January 2001.

²¹¹ Eitan, p. 26.

²¹² J. Eitan, “The Orient House,” in J. Eitan, *City in Turmoil*, pp. 37–38. A list of the ten institutions that were closed appears among the leaked “Palestine papers” exposed by *Al-Jazeera*, <http://transparency.aljazeera.net/files/175.PD>.

Israel's stated reservations held that there would be no engagement in final status issues, including the status of the PA and its institutions in Jerusalem.²¹³ It should also be noted that in August 2003, then Minister of Internal Security Tzachi Hanegbi approved the extension of closure orders that had been issued against the Orient House and the other Palestinian institutions in East Jerusalem.²¹⁴ The demand to open these institutions was repeatedly raised by the PA during the Annapolis Process and by the Obama administration.²¹⁵

The question of Jerusalem is mentioned in the Roadmap as one of the issues to be addressed during the final status talks, to take place as part of the third stage.²¹⁶ Unlike the Clinton Parameters, the Roadmap did not present clear principles for resolution of the Jerusalem issue. Its drafters offered only a general formula stating that the agreement should include a "negotiated resolution on the status of Jerusalem that takes into account the political and religious concerns of both sides, and protects the religious interests of Jews, Christians, and Muslims worldwide."²¹⁷

4. Unofficial Peace Initiatives

Against the background of the deadlocked peace process during the second Intifada, a number of unofficial peace initiatives emerged. In June 2003 Ami Ayalon, former commander of the naval forces and former head of General Security Services "Shin Bet" or "Shabak" and Sari Nusseibeh, president of Al-

²¹³ Israel's response to the Roadmap, 25 May 2003, http://www.knesset.gov.il/process/docs/roadmap_response_eng.htm.

See also D. Eshor, "Israel's 14 Comments on the Roadmap," *ynet*, 25 May 2003 (Hebrew).

²¹⁴ E. Weiss, "Despite the Roadmap, the Orient House Will Remain Closed," *ynet*, 26 May 2003 (Hebrew). Hanegbi approved extension of closure orders for five institutions: Orient House, Chamber of Commerce, Higher Tourism Council, Palestinian Research Center, and Palestinian Prisoners Club. On 21 August 2003 the Israel Police closed Arafat's "Arab Graduate Club," located in the neighborhood of Sheikh Jarrah in East Jerusalem. See E. Weiss, "Arafat's Arab Graduate Club' in East Jerusalem Closed," *ynet*, 21 August 2003.

²¹⁵ A. Shavit, "Israel fears US Will Pressure and Isolate It," *Ha'aretz*, 29 March 2001 (Hebrew). See also the *Al-Jazeera* documents meeting minutes: US, Palestine and Israel bilateral and Trilateral meetings, 29 July 2002, <http://transparency.aljazeera.net/en/document/34>; Letter from Qurei to Vice President Annan regarding negotiations, 15 June 2002, <http://transparency.aljazeera.net/en/document/2731>.

²¹⁶ Eital, p. 263.

²¹⁷ Roadmap to Solution of Israeli-Palestinian Conflict, US State Department, 3 April 2003, http://www.america.gov/st/wash-le-english/2003/April/2003_4313437relhcie_0393475.html; Eital, p. 264. See also J. Lapid and O. Rieser, "Reflections on the Roadmap and the Annapolis Joint Understanding," *The Israel Journal of Foreign Affairs*, vol. 3, no. 3 (2009), p. 7.

Quds University, launched their initiative a statement of principles for a final status agreement, which they had jointly drafted. Their document included six paragraphs offering solutions to the core issues. On the question of Jerusalem the document held that the city would be open and would serve as the capital of both states. Arab neighborhoods would come under Palestinian sovereignty and Jewish neighborhoods would come under Israeli sovereignty. Regarding holy places it was proposed that neither side have sovereignty; rather, the State of Palestine would be declared the “guardian of al-Haram al-Sharif” as would Israel for the Western Wall. The status quo in Christian holy places would be preserved, and there would be no excavations in holy places absent mutual consent.²¹

In December 2003 the Geneva Initiative was launched. It offered a detailed model for an Israeli-Palestinian agreement, based on the parameters Clinton had proposed in December 2001. The initiative was led by a group of Israeli and Palestinian public figures, foremost among them Moshe Elkin and Yasser Abed Rabbo.²¹⁹ On the issue of Jerusalem, the Geneva Initiative proposed establishing two capitals: Israeli Jerusalem and Palestinian Al-Quds. It proposed annexing the Jewish neighborhoods in East Jerusalem excluding Har Homa as well as Ilat el-Yeha and Ma’ale Adumim to Israel. The two capitals would establish a Jerusalem Co-ordination and Development Committee, and sovereignty in the Old City would be divided but it would remain united and movement therein would be free and unobstructed. The Western Wall would be under Israeli sovereignty and Al-Haram Al-Sharif the Temple Mount would be under Palestinian sovereignty, but in the Al-Haram Al-Sharif compound there would be a multi-national presence. In light of the “unique religious and cultural significance of the site for the Jewish people, there would be no excavation or construction unless approved by both sides. The Mount of Olives cemetery and the Western Wall Tunnel would be under Israeli administration but Palestinian sovereignty.²²

An additional initiative was raised by a group of former Canadian diplomats, who drafted a solution for the Old City in the aftermath of the failure of the Camp David Summit. This initiative, titled the “Jerusalem Old City Initiative,” was sponsored by the University of Windsor. It offered a detailed proposal for a special regime in the Old City, to be administered by a governance board

²¹ Statement of Principles Signed by Ami Ayalon and Sari Nusseibeh on July 27, 2002, http://www.knesset.gov.il/process/docs/Ayalon_nusseibeh_eng.htm.

²¹⁹ See Elkin, *The Geneva Initiative*.

²² For the full text see The Geneva Accord: A Model Israel-Palestinian Peace Agreement, http://www.geneva-accord.org/mainmenu_english.

composed of senior Israeli and Palestinian representatives and other agreed-upon members. This body would appoint a chief administrator – an experienced and reputable international figure – to be responsible for implementing the regime’s mandate. The regime would be a separate legal entity responsible for such matters as security and policing, entry and exit, heritage and archaeology, zoning and planning, and environmental regulation. Administration of the holy places would remain in the hands of the relevant religious bodies, and an international police force would be established, which would be responsible for security and public order in the compound. The authority of the regime would derive from the Israeli-Palestinian agreement and a Security Council resolution on this issue.²²¹

5. The “Disengagement Plan”

The “Disengagement Plan” was approved by the government in June 2004 and by the Knesset in October 2004, and it was implemented in August 2005. In the framework of this plan, a unilateral Israeli move, Israel evacuated all settlements in the Gaza Strip and four additional ones in northern Samaria. The logic behind the plan, according to publications of the Prime Minister’s Office, was that Israel does not have a Palestinian partner but – as the political stalemate is dangerous and in order to overcome it – action is needed that does not depend on Palestinian cooperation.²²² The plan did not include measures aimed at achieving a final status agreement. Dov Weisglass, Sharon’s advisor, even hinted that the plan was intended to prevent the emergence of a different political plan, similar to the Geneva Initiative, one that would compel discussion of the core issues.²²³ On the

²²¹ For detailed information about the initiative, see <http://www1.uwindsor.ca/joci/>. Prominent Israelis and Palestinians participated in developing this initiative, including Yigal Allon, Pini Givon, Yehonatan Shani, Daniel Seideman, Jibril Rajoub, Sami Ju’beh, and Moshe Dajani. The details of the initiative were presented to Prime Minister Ehud Olmert and Foreign Minister Tzipi Livni in the context of the Annapolis process. Israel’s Peace Administration also used this plan in the course of its work on the question of Jerusalem. Likewise, the text of the initiative is among the PLO’s Secret documents that were exposed as part of *Al-Jazeera*’s “Palestine Papers,” from which one may conclude that the Palestinian government was familiar with the initiative.

²²² See “The Disengagement Plan of Prime Minister Ariel Sharon: Main Principles,” produced by the Communications Department of the Prime Minister’s Office, http://www.women.gov.il/onlyres/D_29_1C-C_5A-4_2D-A676-4_E1_A_D7_hitnatkut.doc (Hebrew).

²²³ A. Shavit, “On Behalf of His Client,” *Ha’aretz*, October 2004. According to Olmert, Sharon told him that his son Yigal had said that unilateral steps “could release Israel from the international pressure driving it towards the Geneva Initiative. See E. Olmert, “How I Almost Bought Peace,” *Yedioth Ahronoth – 7 Days*, 2 January 2005, p. 24.

eve of the plan's implementation, a meeting took place with PLO representatives that led to an exchange of letters between Sharon and Arafat in which the PLO pledged to prevent attempts to impose a plan on Israel other than the Roadmap, and declared that "in light of new realities on the ground, including already existing major Israeli populations centers, it is unrealistic to expect that the outcome of final status negotiations will be a full and complete return to the armistice lines of 1949."²²⁴ The Arafat administration was acknowledging here that a final status agreement might entail border adjustments as well as Israeli annexation of neighborhoods or settlements in the framework of a territorial swap agreement with the Palestinians.

The Olmert Era: "I realized that the unity we talk about is more slogan than reality"²²⁵

In March 2006 the Kadima Party won the elections to the Knesset, and a government headed by Ehud Olmert was formed.

The start of Olmert's term as prime minister was characterized by continued political stalemate against the background of Hamas's victory in the January 2006 Palestinian elections and the formation of the government of Ismail Haniyeh. Olmert was elected in the context of the "Convergence Plan," which was intended to follow the Disengagement Plan and unilaterally determine the permanent borders in a way that would entail the evacuation of settlements beyond the wall and unilateral withdrawal from most areas of the West Bank. After the Second Lebanon War, however, the Convergence Plan was dropped from the agenda.²²⁶ On the Palestinian side, the "National Accord Document" emerged in May 2006; it also came to be called the "Prisoners' Document" because it was signed by the most prominent Palestinian prisoners in Israeli prisons. The document proposed a Palestinian framework intended to unite the various factions around the Palestinian right of self-determination and the right to an independent state in the lands occupied in 1967 with Jerusalem as its capital, the right of return of refugees, and the demand for release of Palestinians prisoners and detainees. Jerusalem is mentioned three times in this document: as the capital of the future

²²⁴ Exchange of Letters between PM Sharon and President Arafat.

²²⁵ Interview with Ehud Olmert, *Channel 2*, 5 February 2006 (Hebrew).

²²⁶ See Olmert, "How I Almost Brought Peace."

Palestinian state, as a target for liberation alongside the West Bank, and in the opening paragraph, which condemns “the Judaization of Jerusalem.”²²⁷

Olmert and Abu Ayyash met in December 2006 in an attempt to promote confidence-building measures,²²⁸ but the key turning point occurred after violent clashes erupted between Hamas and Fatah in the Gaza Strip and after the Hamas takeover in June 2007 events that led to the dismantling of the Palestinian unity government that had been established in March 2007 and to the establishment of the Fayyad government, paving the way for renewal of the peace process. On 27 November 2007 the Annapolis Conference opened, at which time the parties announced a renewal of negotiations with the aim of achieving a final status agreement before the end of 2008.²²⁹

The Annapolis joint communiqué did not mention the issue of Jerusalem, but it did note that the negotiations would address all issues, “including all core issues without exception as specified in previous agreements.”²³⁰ Despite this declaration Olmert announced that because of the sensitivity of the issue, negotiations over Jerusalem would be postponed to a later stage. Olmert said that it was preferable to begin with issues on which “we have a chance of reaching understanding than to begin with issues on which initial disagreement is great.”²³¹ This announcement

²²⁷ The full text of the National Conciliation Document of the Palestinian Prisoners and Exilees, 11 May 2006 and 2 June 2006, http://www.mideastweb.org/prisoners_letter.htm.

²²⁸ Olmert, “How I Almost Bought Peace.” Regarding the meeting, see Draft of Abbas and Olmert Joint Communiqué, December 2006, <http://transparency.aljazeera.net/en/document/136>.

²²⁹ Joint Understanding Headed by President Bush at Annapolis Conference, White House Office of the Press Secretary, 27 November 2007, <http://georgewbush-whitehouse.archives.gov/news/releases/2007/11/27/1127.html>.

On the Annapolis conference, see J. Bush, *Decision Points* (New York: Crown Publishers, 2010), pp. 4–49. Israel refused to participate in a dialogue with the Palestinian unity government as long as the latter was not complying with the Quartet’s demands: denunciation of violence and recognition of Israel as well as previous agreement. G. Migdalovitch, *Israeli-Arab Negotiations*.

²³⁰ Joint Understanding Headed by President Bush at Annapolis Conference, White House Office of the Press Secretary, 27 November 2007, <http://georgewbush-whitehouse.archives.gov/news/releases/2007/11/27/1127.html>.

The statement also included a commitment to by each party to implement its obligations under the Roadmap.

²³¹ J. Engel, “Negotiations Not to Commence with the Question of Jerusalem,” *NRG*, 2 January 2008 (Hebrew). In February the media was informed that “the prime minister’s position is that the issue of Jerusalem is the most problematic. If this issue is brought up now, the negotiations will end.” A. Waked, “Olmert: We didn’t discuss Jerusalem; Palestinians: Yes we did,” *ynet*, 19 February 2008, <http://www.ynetnews.com/articles/0,7340,L-3579112,00.html>. Regarding the discussion between Palestinian and American representatives about Olmert’s statement on Jerusalem, see Meeting Minutes: US, Palestine and Israel Bilateral and Trilateral Meetings, 29 July 2008, <http://transparency.aljazeera.net/en/document/34>.

was made against the background of the January 2005 decision of the Shas Council of Torah Sages, holding that the Shas political party would pull out of the government if negotiations over the future of Jerusalem take place.²³²

In February 2005 Olmert promised the head of Shas, Eli Yishai, that the issue of Jerusalem is not on the agenda for negotiations.²³³ In April 2005 Olmert stated that the gaps between his and Abu Ayyub's positions are not great, except for the issue of Jerusalem, discussion of which was being postponed. "I'm not saying that everything is not on the table," Olmert said. "The question is what to address now. We and the Palestinians agree unambiguously that the last issue to be discussed will be Jerusalem."²³⁴ The Palestinians were angered by Olmert's statement that the negotiations would first address the issue of borders and would postpone the issue of Jerusalem to the end. They made clear that no agreement on borders was possible without Jerusalem. Internal correspondence leaked in the *Al-Jazeera* documents included a warning by a member of the PLO's Negotiations Support Unit, Sami al-Hindi, against an attempt to create a "Jerusalem-less state, with only rights of access and other arrangements rather than Palestinian sovereignty in East Jerusalem."²³⁵ Another internal document, reporting on a visit of the Palestinian delegation to Washington in June 2005, states that the Palestinians categorically rejected a proposal by Michael Pascual of the National Security Council (NSC) to have an agreement that addresses the borders in general, with the exception of Jerusalem's border, and to agree only on functional and practical arrangements for Jerusalem.²³⁶

The Americans emphasized that they were aware no agreement would be possible without addressing Jerusalem, but Secretary of State Condoleezza Rice raised the possibility of leaving the question of sovereignty over holy places, especially the Temple Mount, without resolution. According to the *Al-Jazeera* documents, Rice explained that "Sometimes in international politics you need to have a device to

²³² S. Yabbi, "Council of Sages Decides: When discussions on Jerusalem begin, we will pull out of the government," *Behadrei Haredim*, 27 January 2005, <http://www.bhol.co.il/ArticlePrint.aspx?id=4126> Hebrew.

²³³ "Olmert to Yishai: No negotiations on dividing Jerusalem," *Ha'aretz*, 14 February 2005, Hebrew.

²³⁴ D. Landau and J. Lerner, "More Secure, Stronger, and Happier," *Ha'aretz*, 1 April 2005, Hebrew.

²³⁵ S. E-mails re: borders, 14 February 2005, <http://transparency.aljazeera.net/en/document/324>.

²³⁶ S. Draft Memo and Meeting Summaries, re: ADSS Visit to Washington, <http://transparency.aljazeera.net/en/document/2>.

solve the problem later, and in a meeting with Palestinian representatives she said, “If we wait until you decide sovereignty over the Haram or the Temple Mount – your children’s children will not have an agreement”²³⁷

In addition to renewal of relations, Israel made public declarations that hinted at its preparedness to compromise on Jerusalem. For example, during a memorial service for Yehavam Et’evy at the Knesset in October 2007, Prime Minister Olmert recalled that in 1967 Et’evy had overseen the preparatory work for delineation of Jerusalem’s borders and questioned whether it was necessary to add the refugee camp Shuafat, Arab Al-Sawahira, Walaja, and other villages and declare them to be part of Jerusalem, adding that on this issue, “I have to admit I am not convinced.”²³⁸

Minister Haim Ramon, who was close to Olmert, presented similar positions and in September 2007 expressed support for a solution whereby Jewish neighborhoods in East Jerusalem would be under Israeli sovereignty, Arab neighborhoods would be recognized as Palestinian, and a special regime would apply in the Holy Basin.²³⁹

Ramon even proposed that immediately after signing a Declaration of Principles, Israel would transfer three peripheral neighborhoods within Jerusalem – Walaja, Al-Sawahira, and Shuafat – to Palestinian sovereignty.²⁴⁰

The Annapolis negotiating process took place at three levels: a total of twelve working groups in various areas – security, refugees, economy, environment, water, infrastructures, prisoners, culture of peace, and the like – whose work was coordinated on the Israeli side by Brigadier-General Ezer Weizman, head of the Peace Administration, and on the Palestinian side by Saeb Erekat; a channel for negotiations between Israeli Foreign Minister Tzipi Livni and the head of the Palestinian negotiating team, Ahmed Qurei Abu Ala; and a channel for negotiations between Olmert and Abu Ala. There was also a US presence throughout the talks, and Secretary of State Rice participated in some of the meetings between Livni and Abu Ala.

²³⁷ Meeting minutes: US, Palestine and Israel bilateral and Trilateral meetings, 29 July 2007, <http://transparency.aljazeera.net/en/document/34>. Update from US on Washington meetings, 29 July 2007, <http://transparency.aljazeera.net/en/document/472>.

²³⁸ See A. Meranda, “Olmert Hints at Possible Concessions in Jerusalem,” 15 October 2007, <http://www.ynetnews.com/articles/0,7340,L-346113,00.html>.

²³⁹ Ramon and S. Shiffer, “Ramon Draws a Map,” *Yedioth Ahronoth – Saturday Supplement*, 7 September 2007 Hebrew; N. Sofer, “Ramon in Official Document: Give parts of Jerusalem to the Palestinians,” *ynet*, 1 September 2007 Hebrew.

²⁴⁰ Ramon and Shiffer, “Ramon Draws a Map.”

The working group negotiations and the Abu Ala-Livni negotiating channel did not address Jerusalem in a substantive way because of Israel's objection to discussing the issue. The negotiating committees that were created did not include one that would address the Jerusalem issue. The postponement of discussions over Jerusalem in these channels apparently resulted from a "gentlemen's agreement" between Olmert and Abu A'la en, but Palestinian representatives attempted nonetheless to raise the issue at various opportunities, primarily during three-way meetings with the participation of Secretary Rice and during discussions of borders. The question of Jerusalem did, however, come up for discussion in the negotiating channel between Olmert and Abu A'la en.²⁴¹

The negotiating documents that were leaked to the *Al-Jazeera* network, for example, reveal that during a meeting on the issue of borders that took place on 12 March 2005, Israeli representatives Shimon Peres and Dany Tir'a told their Palestinian colleagues that they do not have a mandate to discuss the question of the border in Jerusalem and that only after an agreement is reached between the leaders on this issue will they be able to address it.²⁴²

Livni adopted a similar stance, and during a meeting on 3 June 2005, when Abu Ala raised the question of Jerusalem, Livni commented, "Since I cannot refer to it I won't say anything. I am going to just listen."²⁴³ Abu Ala asserted in a newspaper interview that Livni "did not negotiate with us over Jerusalem. She heard our positions but did not discuss the issue with us even though she knows that there will be no agreement without Jerusalem."²⁴⁴ In July 2005, Yassir Arafat, a member of the PLO's Executive Committee, wrote in an internal letter that Israel had not yet given the Palestinians an indication of its position on Jerusalem. He suggested that the Palestinian representatives inform Israel and the UN that they are not prepared to continue negotiating the question of refugees unless Israel agrees to address

²⁴¹ Regarding his talks with Abu A'la en, Olmert writes that "we dealt with the question of Jerusalem over and over. Olmert, "How I Almost Bought Peace." Regarding the talks between Olmert and Abu A'la en, see E. Avishai, "A Plan for Peace That Still Could Be," *New York Times*, 7 February 2005, <http://www.nytimes.com/2005/02/13/magazine/13Israel-t.html> pagewanted=all.

²⁴² Minutes of First Meeting on Territory, Wednesday, 12 March 2005, <http://transparency.aljazeera.net/en/document/2339>.

²⁴³ Meeting Minutes: General Plenary Meeting, 3 June 2005, <http://transparency.aljazeera.net/en/document/226>.

²⁴⁴ E. Shaked, "Not What I Want, But It's What Happened," *Yedioth Ahronoth - Saturday Supplement*, 26 September 2005, p. 1 (Hebrew).

the question of Jerusalem seriously.²⁴⁵ Likewise, in a letter sent from the SS to Abu a'en in November 2000, he was asked how representatives were supposed to deal with the Israeli position, which insists on removing Jerusalem from the negotiating agenda, and how much longer they should continue the negotiations in light of this position.²⁴⁶

Nevertheless, minutes of the talks reveal that the Palestinians did raise the issue of Jerusalem and present positions as well as proposals to address the matter. On 4 May 2000, the Palestinians presented a map with a proposed borderline and territorial swap, by which the Palestinians would accept Israel's annexation of the neighborhoods of East Talpote, Silo, the French Hill, Ra'alot Dafna, Ra'e Ra'akov, Pisgat Ze'ev, Ra'amat Eshkol, Ra'amat Shlomo, Ra'amat Elon, and the Jewish Quarter of the Old City. They made it clear, however, that they would not agree to Israel annexing the neighborhoods of Har Homa, Jabal Abu Ghneim, Ra'ale Adumim, and Ra'ivat Ze'ev.²⁴⁷ Erekat told Livni that it is "no secret that on our map ... we are offering you the biggest Yerushalayim in history."²⁴⁸ In another meeting Abu Ala told Livni and Rice, "We proposed that Israel annexes all settlements in Jerusalem except Jabal Abu Ghneim, Har Homa. This is the first time in history that we make such a proposition; we refused to do so in Camp David."²⁴⁹ Livni told the Palestinians that their proposal was unacceptable to her because it does not meet Israel's demands, but she emphasized that she appreciates their proposal and believes that continuing to discuss it is worthwhile.²⁵⁰

The Palestinians explained that their demand for the evacuation of Har Homa stems from its severing of the connection between Jerusalem and the Bethlehem area: "Such reconnection has a social, religious, economic, and tourist

²⁴⁵ SS Email re: Refugees and Jerusalem Issues, Bargaining Chips, 27 July 2000, <http://transparency.aljazeera.net/en/document/464>.

²⁴⁶ SS Questions to President Mahmoud Abbas, November 2000, <http://transparency.aljazeera.net/en/document/3547>.

²⁴⁷ Meeting Minutes: Orders with Erekat, Qurei and Livni, 4 May 2000, <http://transparency.aljazeera.net/en/document/264>. See Chap 2. It should be noted that the *Al-Jazeera* documents include different versions of Palestinian maps. One map proposes a land swap amounting to 1.5% and another proposes 2%. The first map does not include Ra'ivat Ze'ev within Israeli territory whereas the second one does.

²⁴⁸ Meeting Minutes: General Plenary Meeting, 3 June 2000, <http://transparency.aljazeera.net/en/document/226>.

²⁴⁹ Meeting Minutes: Trilateral Meeting, United States, Israel and Palestine, 15 June 2000, <http://transparency.aljazeera.net/en/document/225>.

²⁵⁰ Meeting Minutes: Orders with Erekat, Qurei and Livni, 4 May 2000, <http://transparency.aljazeera.net/en/document/264>.

significance.²⁵¹ The Palestinians emphasized that they would demand a territorial swap of equal value, meaning that they would not, for example, accept land in the Dunhiyyeh desert in exchange for land in Jerusalem.²⁵²

The Palestinians reiterated their support for the idea of an open city and the creation of an umbrella municipality overseeing the two municipalities and ensuring the continued connection and freedom of movement between the two sides of the city. Abu Ala explained that the term “open city” means “to have an Israeli check ... those coming into the city from the Israeli side, and a Palestinian check ... for those coming into the city from the Palestinian side, with different models of coordination and cooperation in municipal services related to the infrastructure, roads, electricity, water, sewage and the removal of waste material.”²⁵³ Livni stated in this context that Israel’s security needs require “real borders.”²⁵⁴

On 16 September 2000 the final meeting took place in the series of talks between Olmert and Abu Ayyash after Olmert’s announcement of his intention to retire and a day before the elections for the Kadima Party chair. During this meeting Olmert presented Abu Ayyash with a Declaration of Principles for a final status agreement as well as a map with his proposal for the border between the two states.²⁵⁵ On the question of Jerusalem, Olmert’s plan proposed that the Jewish neighborhoods constructed in Jerusalem after 1967 including Har Homa remain under Israeli sovereignty while the Arab neighborhoods come under Palestinian sovereignty and serve as the capital of the Palestinian state. The Holy Basin would be managed as an international trusteeship of five states: Israel, the Palestinian state, Jordan, Saudi Arabia, and the United States. Members of all religions would have free entry into the area, and the five states would determine the arrangements that will apply to all residents and visitors.²⁵⁶ The agreement would not address questions

²⁵¹ Ibid. The Palestinian representatives demanded that Har Homa, Sharafat, and Yifat Hatos come under Palestinian sovereignty.

²⁵² Ibid.

²⁵³ Meeting minutes: Ahmed Qurei, Saeb Erekat and Tzipi Livni, 22 January 2001, <http://transparency.aljazeera.net/en/document/234>.

²⁵⁴ Ibid.

²⁵⁵ The Palestinians were expecting a “ceremonial” rather than substantive meeting. See S. Email: Office of President Morning Meeting Summary, 16 September 2000, <http://transparency.aljazeera.net/en/document/416>.

²⁵⁶ Olmert, “How I Almost Brought Peace,” pp. 39-41. See also S. Shiffer, “Olmert’s Legacy,” *Yedioth Ahronoth*, 29 January 2009 (Hebrew). Sigdalovitz, *Israeli-Arab Negotiations*, pp. 26-27. Avishai, “A Plan for Peace That Still Could Be.” In an interview to *Channel 2*, Olmert explained that the regime would include representation from all three religions: there would be three Islamic

of sovereignty in the Holy Basin, and each side would maintain its claims in the matter, with agreement that administrative responsibilities be transferred to the international trusteeship.²⁵⁷ Under Olmert's proposed map, Israel would annex 6.3% of the lands of the West Bank which include the Jewish neighborhoods of East Jerusalem in exchange for lands in Israel whose total area is comparable to 5.1% of the territory of the West Bank.²⁵⁸ Because the annexation of al-Baleh Adumim bisects the passage between Bethlehem and Ramallah, Olmert proposed a special access road for the Palestinians that would circumvent East Jerusalem and connect the two cities.²⁵⁹

Olmert claims that Abu Ayyash was evasive about replying to the proposal, but that Olmert urged him to sign: "Take the pen and sign now. You will never receive a better or more just offer."²⁶⁰ According to Olmert, Abu Ayyash asked to receive the map for the purpose of consultations, but Olmert refused and it was agreed that Saeb Erekat and Shalom Turgeman would meet the following day with map experts. This meeting was postponed, however, and the two leaders never met again.²⁶¹

Olmert had formulated a plan by which had Abu Ayyash accepted his proposal they would then have presented this proposal to the Security Council, which would have accepted it unanimously. The proposal would also have secured the

states; the US would represent the Christian world; and Israel would represent the Jews. He added that under his proposal there would be complete freedom of movement within the Holy Basin. For a link to the interview, see A. Segal, "Map of Concessions: How Olmert Proposed to Divide Jerusalem," *Channel 2*, February 2, 2001, <http://www.mako.co.il/news-military/israel/Article-6c41b27fd214.htm> Hebrew.

²⁵⁷ Segal, "Map of Concessions." One of the Palestinian documents exposed by *Al-Jazeera* claims that under Olmert's proposal the two sides would continue discussions regarding the question of sovereignty in the Holy Basin, and the US, Saudi Arabia, Jordan, and Egypt would participate but would not be able to impose an agreement on the parties. See Summary of Ehud Olmert's "Package Offer to Mahmoud Abbas, 31 August 2001," <http://transparency.aljazeera.net/en/document/4736>.

²⁵⁸ Avishai, "A Plan for Peace That Still Could Be"; Olmert, "How I Almost Brought Peace," p. 3. Among the *Al-Jazeera* documents is a map presented as one of Olmert's proposals, according to which Israel would annexivat Be'er, Beit Horon, Be'er Yamin, al-Baleh Adumim, and far Adumim. See Summary of Ehud Olmert's "Package Offer to Mahmoud Abbas, 31 August 2001," <http://transparency.aljazeera.net/en/document/4736>. See also map 3.

²⁵⁹ See Summary of Ehud Olmert's "Package Offer to Mahmoud Abbas, 31 August 2001," <http://transparency.aljazeera.net/en/document/4736>.

²⁶⁰ Olmert, "How I Almost Brought Peace," p. 4. See also Avishai, "A Plan for Peace That Still Could Be."

²⁶¹ Olmert, "How I Almost Brought Peace," p. 4.

support of the General Assembly, the US Congress, and European Union agencies. There would have been a ceremony on the White House lawn where the agreement would have been initialed, with final approval only after elections on both sides.²⁶²

President Bush writes that following Olmert's proposal, a plan was formed to turn it into an agreement. He relates that Olmert was scheduled to travel to Washington and present the proposal to the US president, while Abu Arafat would announce that the proposal accommodates Palestinian interests, after which Bush would invite both leaders to a summit meeting in order to finalize the details of the agreement. As we know, this process never commenced. According to Bush, Abu Arafat did not want to sign an agreement at that time, with a prime minister who was about to finish his term in office, and the talks were aborted against the background of the fighting in Gaza.²⁶³

The Palestinian response to Olmert's proposal is revealed in a Palestinian document of 16 September 2000 titled "Talking Points and Questions," which was leaked to *Al-Jazeera*. The foreword to the document is framed as a letter to Olmert, stating that his proposal was being considered but could not be fully assessed without the map or answers to a number of questions. The document poses a number of questions in relation to the Holy Basin: What does this term mean? Who would administer the place in the interim period? Which parties would conduct the final status negotiations? What is the deadline for concluding negotiations? What will happen if an agreement is not reached in the time allotted? What will become of the current Israeli policy regarding access, excavations, and ruins during the interim period?

The Palestinians were also evasive about postponing the question of sovereignty and emphasized that it was agreed at the Annapolis conference that negotiations would take place on all issues. They pondered how it was possible to claim that the proposal implements Security Council resolutions 242 and 338 if it avoids the question of Jerusalem and the Holy Basin. They also raised questions regarding the regime that would apply between the capitals: Would the border between them be hard or soft? Would there be one municipal authority or two?²⁶⁴

²⁶² See Avishai, "A Plan for Peace That Still Could Be"; Segal, "Map of Concessions."

²⁶³ Bush, pp. 49-41. Operation "Cast Lead" was launched in the Gaza Strip on 27 December 2008 and concluded on 18 January 2009.

²⁶⁴ Talking Points and Questions – Abbas and Olmert, 16 September 2000, <http://transparency.aljazeera.net/en/document/3294>.

Regarding the question of the border, the document claimed that Israeli annexation of Ma'ale Adumim, Be'er Sheva, Ariel, Har Homa, and Efrat would “prejudice contiguity, water aquifers, and the viability of Palestine.”²⁶⁵ The list of questions was transmitted to Olmert and the Americans, but according to the Palestinians they did not receive a response.²⁶⁶

According to Bernard Avishai who interviewed Olmert and Abu Ayyash separately and published an article in the *New York Times* about his talks with the two leaders, Abu Ayyash agreed in principle to Olmert’s proposal regarding a trusteeship regime, but a dispute remained regarding the boundaries of the Holy Basin. Olmert wanted the Holy Basin regime to encompass, in addition to the Old City, also the Mount of Olives, the City of David, and portions of Silwan, but Abu Ayyash would only agree to the regime covering the Old City and objected to portions of the Palestinian neighborhoods of A-Tur and Silwan not being included in a Palestinian state.²⁶⁷ He pondered why additional areas from the Israeli side were not included in the scope of the proposed regime, suggesting for example the possibility of including the Muslim cemetery of Ramat al-Nabi in a future regime for the Holy Basin.

Avishai also notes that Abu Ayyash proposed adding Egypt and the Vatican to the international trusteeship commission that would administer the Holy Basin, and that he hoped to secure the approval of the Arab League for an arrangement whereby Islam’s holy places would be administered by Palestinian religious authorities.²⁶⁸

Notably, the Palestinian position regarding the Old City shows a preference for the division of sovereignty and insists on agreement over the borderline before starting discussions about special arrangements.²⁶⁹ According to an UN document of 15 June 2008 among the leaked “*Al-Jazeera* documents”, the Palestinians were prepared to accept Israeli sovereignty over the Western Wall, the Jewish Quarter, and twenty homes in the Armenian Quarter as well as a special arrangement for the Jewish cemetery.²⁷⁰

²⁶⁵ Ibid.

²⁶⁶ Interview with Khaled Al-Gindi by e-mail, 25 March 2011.

²⁶⁷ Avishai, “A Plan for Peace That Still Could Be.” The Palestinians claim that “Holy Basin is an Israeli term, which the Palestinians do not recognize, and that it is a vague term that different Israeli representatives define in different ways (Interview with Khaled Al-Gindi by e-mail, 25 March 2011).

²⁶⁸ Avishai, “A Plan for Peace That Still Could Be.”

²⁶⁹ Interview with Khaled Al-Gindi by e-mail, 25 March 2011.

²⁷⁰ Matrix of Israeli and Palestinian Positions, 15 June 2008, <http://transparency.aljazeera.net/files/2722>.

According to the *Al-Jazeera* documents, Palestinian representatives told their Israeli counterparts that “it was ridiculous to think any decisions could be made with nothing submitted in writing. The Palestinians claimed that many details in Olmert’s proposal were unknown and unclear, such as the definition of the “Holy Basin, and they requested that Israel respond to the questions they had transmitted.²⁷¹ The documents reveal that Rice told Abu Aaen that Olmert’s proposal effectively grants him the 1967 borders, and she urged him to work with Olmert’s map. Abu Aaen’s reaction, however, was furious; he claimed that the map proposed by the Palestinians 1.9% was closer to the 1967 borders, and he pondered why she was not requesting that it be the map on which they work. In their conversation Abu Aaen stressed the importance of East Jerusalem, which Rice acknowledged, distinguishing among four issues: neighborhoods, administrative arrangements, political aspects relating to arrangements between the two capitals, and the Holy Basin.²⁷² The *NY Times* report of October 2 claims that President Bush told the Palestinians that at this stage it would not be possible to reach an agreement with Olmert and that in his opinion it was necessary to continue the talks but not to expect anything from them.²⁷³

A Palestinian document prepared in November 2008 in advance of a meeting with representatives of the Quartet states that the Palestinians will not accept postponing the issue of Jerusalem or aspects of the issue, and that they view such efforts as an Israeli attempt to continue unilaterally establishing facts on the ground; they also pondered what the basis was for assuming that the issue of Jerusalem would be less complex in the future. The document charges that for months Israel refused to state its position regarding Jerusalem, and it claims that Olmert’s proposal annexes all the settlements in the area that Israel terms “greater Jerusalem. It further asserts that this proposal does not grant the Palestinians any territory in exchange within the Jerusalem area, and that it “would postpone resolving the fate of the Holy Basin.²⁷⁴

The Palestinians’ version of the close of negotiations, which took place towards the end of Olmert’s term in office, differs from his version of events. In their

²⁷¹ Meeting Summary: Adi Dekel and Saeb Erekat, 5 October 2008, <http://transparency.aljazeera.net/en/document/4115>.

²⁷² *NY Times* Email re: Meeting Summary Heads of Committee, 6 October 2008, <http://transparency.aljazeera.net/en/document/4195>.

²⁷³ *Ibid.*

²⁷⁴ Talking Points for President Mahmoud Abbas re: upcoming Quartet meeting, 9 November 2008, <http://transparency.aljazeera.net/en/document/3493>.