

Chapter Six

The Annapolis Process—Lessons from the Negotiations

Lessons for Implementation

Secrecy

The background preparations and the documentation of meetings occurred on the negotiating team level only and summaries were not distributed, apart from those sent to Prime Minister Olmert and Foreign Minister Livni. The heads of the negotiating teams were privy to the material only within the confines of the negotiating unit itself. The two sides did not give any interviews to the press and were careful not to reveal any content from the discussions. The Palestinians also had a clear interest in maintaining secrecy, to avoid exposing themselves to domestic criticism or having to deal with Hamas. In our estimation, the low level of public expectation on both sides led a lack of interest in the talks, a situation that made it much easier to keep quiet about the negotiations and avoid external pressure on the negotiators.

The Negotiating Format

The fact that the two sides agreed to the format of the negotiations before the negotiations began proved essential, even though they did not reach a settlement at the end of the day. Contributing to this was the involvement of a mediator—US Secretary of State Rice. At the start, the two sides decided upon the subjects to be included in an agreement and accordingly determined the negotiating agenda and the professional committees. They determined the format of the agreement document ahead of time; by mapping the subjects and creating a planning map, it was always possible to know the status of the process, the progress, and the issues and differences that had not yet

been bridged. This arrangement helped in managing the negotiations. Links between the various issues were also mapped, while issues were ranked according to priority and according to which interim targets would contribute to maintaining the momentum of the process.

Background Work and Preparation for the Negotiations

The Peace Negotiation Team was created after the process of negotiations had already been initiated. Professionals, who had the background and experience in having contact with Palestinians and in decision-making processes within the government, were recruited to the Peace Negotiation Team. They then had to study the details and lessons from previous negotiations (most of the material had disappeared from the Israel State Archives but was preserved with the IDF Planning Division, the attorney general, and within the memories of the past negotiators); prepare the parameters and map the planning of the negotiations; and prepare for the initial sessions to deal with all the administrative aspects (with the Foreign Ministry providing a great deal of assistance) and brief the negotiation leaders for the meetings.

Israeli interests in this field	Israeli positions in the negotiations	Palestinian interests in this field	Palestinian positions in the negotiations	Zone of possible agreement	Gaps and subsequent goals
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Since directors general and senior officials from the government ministries were involved and had been recruited to lead the professional negotiating committees, they became partners in the process. In this context, they attended the status discussions where the foreign minister or the leaders of the negotiation teams updated those present about the policy directives and the interim goals. In those meetings, the various committees synchronized the progress and determined the order of priorities between the issues and the discussions. Simulations were carried out prior to important meetings to prepare the teams for the encounter with the Palestinians and for negotiations over potential points of contention. The representatives of the Peace Negotiation Team documented every meeting, and on the conclusion of a meeting, they reviewed the lessons to be learned with respect to the negotiating positions and the way they should be presented, identifying areas with a potential for consensus and discussing how to raise the subject in the next meeting.

The negotiation leadership prepared a “dynamic” table of the issues, which included the following components:

The objective of the negotiation was to identify the zone of possible agreement (ZOPA) and expand it through negotiation (see Figure 25).

Figure 25. Identifying the Zone of Possible Agreement



Multiple Channels

The Peace Negotiation Team—which reported directly to the prime minister and worked closely with the foreign minister (who headed the Israeli negotiating team)—managed, organized, and coordinated the background work of the negotiation managers. Apart from orchestrating the work of the government ministries and the professional bodies, the Peace Negotiation Team was involved in strategic planning, brainstorming meetings, and policy recommendations. At the same time, it maintained ongoing contact with the Palestinian negotiators. In addition, they opened side channels with senior Palestinian officials, to assist in clarifying the progress of the negotiations from the Palestinian viewpoint and to formulate creative solutions to problems that were not resolved at the negotiating table.

Obstacles in the Negotiations

Asymmetry Between the Sides

A major obstacle (see Figure 26) was the asymmetry between each side in coming to the negotiating table. Israel arrived from a position of strength, as the side in control on the ground and the one that determined the Palestinians' day-to-day conditions. In comparison to the Palestinians, Israel has a powerful army that controlled the territory and its access, including in the heart of the Palestinian areas. In contrast, the Palestinians considered themselves the "victim" and came to the negotiations demanding their rights. They conceded their rights to making claims based on 1947 borders and gave up 78% of Palestine; in exchange they demanded full rights to the West Bank and the Gaza Strip. The Palestinian narrative, which they described as primarily about dignity, emphasized that they have been under Israeli occupation and therefore have been unable to realize their right to self-determination, while Israel confiscates their lands on a daily basis and ultimately decides all matters. With this asymmetry, it was difficult to create trust between the sides, essential for the process to advance.

A Practical Approach Versus Securing Rights

The goal of the Palestinian side was to anchor Palestinian rights—the right to self-determination and their deep connection to the land of Palestine. In their view, these were natural rights and in the meeting of the 19th National Palestinian Council in Algiers in 1988, the Palestinians gave up the claim to all of Palestine and settled for achieving their full rights over the territory occupied in June 1967 (22% of Palestine's pre-1948 territory). This is one the reasons that the Palestinians turned to the international arena to secure their rights and to gain international recognition, by means of a UN decision recognizing a Palestinian state. They preferred this route over bilateral negotiations with Israel. In contrast, Israel sought an agreement, with the willingness to adjust demands so that the agreement could be implemented on the ground.

The “All or Nothing” Approach

In many conversations between the heads of the negotiating teams, Dekel emphasized to Erekat that Palestinian acceptance of Prime Minister Olmert’s proposal would achieve about 97% of their demands and that it would allow Abbas to say to his people that the implementation of the agreement is equivalent to achieving 100% of the June 4, 1967 rights. In any case, a positive response to Olmert’s proposal would improve the situation of the Palestinians infinitely relative to their current situation. Erekat’s response was “All or nothing” and that the Palestinians prefer to suffer in their current situation if their demands on territory, Jerusalem, sovereignty, and refugees were not met.

“Nothing Is Agreed on Until Everything Is Agreed on”

This formula was adopted so that the sides could present greater flexibility at the negotiating table, with the goal of identifying areas of agreement and breaking the connections between the various issues in the negotiations. This did not imply that the position presented constituted agreement and was given to the credit of the other side. Furthermore, given the close connections between the various issues of the negotiations, it was impossible, for example, to agree on the territorial issues before agreeing on the issue of Jerusalem and the security arrangements. Therefore, the teams adopted the rule that even if the teams demonstrated flexibility—such as on the territorial issues—if no appropriate security solution could be found, then there was no obligation to what the sides had agreed upon regarding territory. For example, during the negotiations on territory, the Israeli side tried to ascertain the Palestinian position regarding the swap of populated land—namely settlement blocs—in exchange for the transfer of Arab villages within Israel, to the future Palestinian state. The Palestinian side was opposed but softened its opposition in a hypothetical discussion about the Israeli side of pre-1967 Beit Safafa. In any case, it should not be understood from the aforementioned that Israel officially proposed the exchanged of populated land.

The Goal: An Agreement on All of the Permanent Status Issues

This goal was highly ambitious and even grandiose, given the wide gaps between the sides, particularly on the issues of refugees and Jerusalem. Both sides opposed a partial settlement, as suggested by US Secretary of State Rice, on the issues of territory and security. Her position was that a consensus on these two issues would enable the creation of a Palestinian state before agreement was to be reached on the other issues, and this would serve as a lever and catalyst for progress in the other negotiating areas.

Israel was opposed to this idea, as it would have been left without any “assets” for subsequent “give and take” and would have had to accept the Palestinian demands on Jerusalem and/or refugees. In addition, Israel demanded consensus on the end of claims, lest there remain disputes and gaps that would prevent the solution of all the issues as well as to avoid a Palestinian pretext for not implementing commitments or resorting to violence and terror. The Palestinians fundamentally opposed any temporary settlement or understandings that were not final, due to a concern that “everything is temporary until it becomes permanent.” Furthermore, they would not sign an agreement that did not mention the “right of return” of Palestinian refugees and sovereignty in the capital of the Palestinian state in Arab Jerusalem.

1967 Versus 1948: 100% of the 1967 Territorial Demands Versus Refugees Rights

The Palestinian position presented in the international arena emphasized the major concession they had made on historical Palestine and the fact that they were willing to accept only the West Bank and the Gaza Strip. Therefore, they were not prepared to concede any additional territory or to give up their demand that the Palestinian state’s territory be based on the June 4, 1967 armistice lines.

The presentation of the Palestinian position by Abbas—which emphasized that the Palestinians would suffice with having their rights to 1967 borders restored and would concede territory that was determined by the UN Resolution 181 on November 27 1947—was disingenuous given their demand for the “right of return” of the 1948 refugees to the State of Israel. Based on this demand, they made additional demands relating to the problem of the 1948 refugees, including the claim that Israel was exclusively responsible for the refugee problem; demanding the return of some 80,000 refugees and their

families; and requesting compensation and restoration of property that had been confiscated from them. In her memoir, US Secretary of State Rice wrote that Abbas’s explanation for why he did not provide a positive response to Olmert’s proposal was that he “can’t tell four million Palestinians that only five thousand of them can go home” (Rice, 2011b, p. 652).¹⁵

Figure 26. Obstacles in the Negotiations

- **A practical approach versus the anchoring of rights** (natural, historic, and legal)
- The Palestinian approach of “**all or nothing**”
- A problematic formula: “**Nothing is agreed on until everything is agreed on**”
- **1967 vs. 1948** (100% resolution of 1967 rights versus a partial resolution of the 1948 refugee problem)
- A triangle that does not converge: **Security–Territory–Sovereignty**
- The **Gaza** issue: implementation depending on PA’s ability on the ground
- Palestinians’ unwillingness to discuss Hamas regime
- **Pronounced asymmetry between the sides, leading to a lack of trust and unbridgeable gaps**
- **A war of narratives: National identity, victimhood, and rights**
- Stalemate in the peace process: Netanyahu and Abbas’s comfort zone
- **Settlement policy**

15 “The next day I went to see Abbas and asked to see him in the little dining room adjacent to his office. I sketched out the details of Olmert’s proposal and told him how the prime minister wanted to proceed. Abbas started negotiating immediately. “I can’t tell four million Palestinians that only five thousand of them can go home,” he said. . . . I talked to the President and asked whether he would be willing to receive Olmert and Abbas one last time. What if I could get the two of them to come and accept the parameters of the proposal? We knew it was a long shot. Olmert had announced in the summer that he would step down as prime minister. Israel would hold elections in the first part of the next year. He was a lame duck, and so was the President. . . . We had one last chance. The two leaders came separately in November and December to say good-bye. The President took Abbas into the Oval Office alone and appealed to him to reconsider. The Palestinian stood firm, and the idea died” (Rice 2011a).

The Issue of Gaza

Given that Hamas rather than the PA had control of the Gaza Strip, the two sides agreed that even though Gaza would be discussed in the framework of a comprehensive agreement, the implementation would be conditional on the ability of the PA to regain control of Gaza and implement the agreement there.

When the Palestinians were asked to comment on the issue, Erekat again emphasized that if an equitable agreement is reached, it will be brought for a plebiscite also in the Gaza Strip, the inhabitants will vote for the agreement and Hamas will no longer be relevant because the people will have chosen the way of peace. With respect to the Israeli side's question as to the response of the PA in a situation where the residents of Gaza do not vote or Hamas refuses to accept the agreement, an answer was not forthcoming.

In this context, Israel was compelled to initiate Operation Cast Lead against Hamas as the negotiations came to an end, while senior officials in the PA conveyed a message to Israel that this was the time to overthrow the Hamas regime in Gaza. When asked if the PA would be prepared to take control of Gaza, the PA answered that it did not have the ability to do so and that it could not reestablish control over Gaza on the tip of the IDF's bayonets.

A Two-State Solution: A Bargaining Chip Held by the Palestinians?

Prime Minister Olmert and Foreign Minister Livni initiated the negotiations—given the assessment that a two-state solution was essential for Israel to ensure a democratic and Jewish state—out of fear of losing a Jewish demographic majority west of the Jordan. In addition, they were concerned about calls for a one-state solution and the fact that implementing a two-state solution had become increasingly less feasible. In contrast, the Palestinian side—and in particular Abu Ala—claimed on various occasions that the Palestinians preferred a one-state solution (not a binational state since they did not recognize the Jewish nation) and that from their perspective, a two-state solution was a compromise. The members of the Palestinian negotiating team also made it clear that they thought time was on their side and that the “demographic clock” was ticking at an accelerated rate.

Full or Partial Sovereignty?

The government of Israel under Olmert agreed to recognize an independent and stable Palestinian state, which would have peaceful relations with the State of Israel and would function responsibly. However, due primarily to security and settlement considerations, Israel demanded limitations on Palestinian sovereignty. This included the presence of IDF forces in the Jordan Valley, which was to be under Palestinian sovereignty, for an extended period; a single airspace and electromagnetic space under Israeli control; Israel security inspections at the external border crossings of the Palestinian state; free movement of settlers between the West Bank and Israeli territory, and more. Some refer to this scenario as a “quasistate.” Meanwhile the Palestinian side demanded full sovereignty in the air, on land, and at sea and was not prepared to compromise in this context. It recognized Israel’s security needs and was willing to accept the restrictions placed upon the Palestinian security forces (without any army and without any external alliances) and to commit to preventing terror and military threats against Israel; but it was not willing to give Israel control of areas under Palestinian sovereignty.

Unofficial and Unauthorized Channels of Negotiation

In parallel to the official negotiation channels, there were also unofficial channels of negotiations involving individuals who believed in peace and were cynically referred to as being part of the “peace industry.” These individuals had previously participated in or advised the official negotiating channels and continued to maintain “informal” dialogue and participate in track-two frameworks. These unofficial channels were extremely important during periods of stagnation when there were no official negotiations for building up a basis of knowledge prior to renewing official negotiations; for mapping areas of consensus and understanding the extent of the gaps; for finding creative solutions to complex problems; and finally for maintaining hope that one day there would be an agreement.

One problem was that on the Palestinian side, the same individuals participated in the official and the unofficial channels. As a result, the Palestinians had the impression that Israel presented greater flexibility in the unofficial negotiations and therefore had more room for compromise than it presented in the official negotiations.

At a certain stage, the members of the Peace Negotiation Team realized that it was necessary to coordinate the activity in the two channels. As a result, the Israelis involved in the unofficial channels were asked not to discuss those issues that had achieved some consensus in the official negotiations. In parallel, they were asked to check the Palestinian degree of flexibility on issues where achieving agreement proved difficult. At the same time, official Israeli negotiators maintained secret channels of dialogue with senior Palestinian officials who were not part of the negotiations, to understand which way the wind blew on the Palestinian side, to map areas of Palestinian flexibility, and to identify potential “tools” for a breakthrough.

The Obstacle of “Packaging” the Core Issues

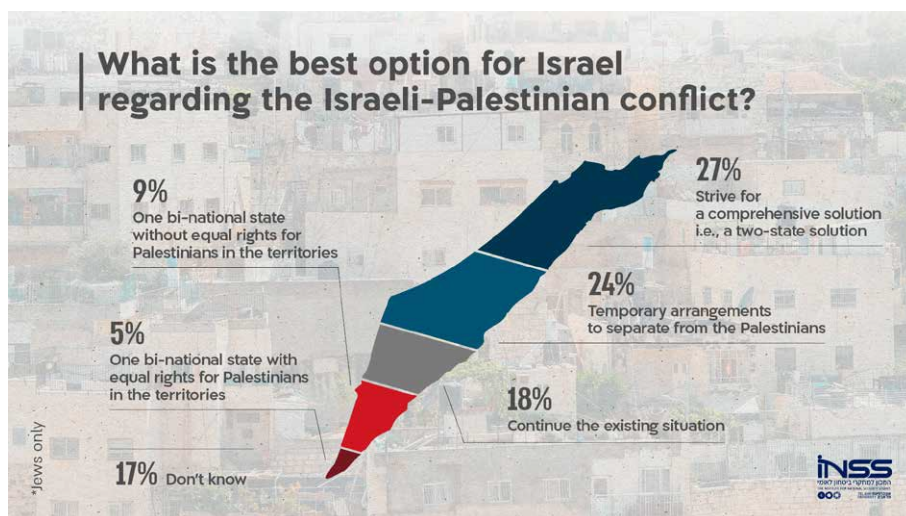
In addition to the difficulty in reaching agreement on each issue separately, treating them as a single unit was also an obstacle to success in the negotiations. Every time that a round of negotiations approached the finish line, of having reached a final agreement that included a discussion of the core issues as one package—with substitutability between them—the Palestinians chose to leave the table, either because they rejected the proposal, refused to consider it, or offered a counterproposal. Abbas chose not to say yes or no to Prime Minister Olmert’s proposal in late 2008 (Rice, 2011b), just as Arafat had done before him at Camp David in 2000 in negotiations with Prime Minister Barak and again later when he rejected the parameters for a permanent settlement drawn up by US President Clinton. President Abbas rejected the idea of the second stage of the Roadmap, namely the establishment of an independent Palestinian state within temporary borders and did not agree to respond to Secretary of State Kerry’s proposed framework of principles for a permanent settlement in early 2014 (Friedman, 2014). Instead, he turned to the international arena for a confrontation with Israel, where he was in a superior position as he did not have to make difficult decisions nor deal with domestic criticism and accusations of treason. This oft-repeated pattern indicated that the Palestinians were not prepared to show any flexibility on the parameters they determined for themselves and that the Palestinian leadership were unable to make difficult decisions that did not meet the expectations of the Palestinian public. Similarly, alongside painful concessions, the Israeli leadership found it difficult to make decisions that involved historic responsibility, security risks, or election considerations.

The Public Opinion Paradox

The paradox that has developed is that close to 70% of the public in Israel still favors political, demographic, and geographic separation from the Palestinians, and between 55 and 60% view the idea of two-states-for-two-peoples as a just solution (See Figure 27). At the same time, a similar proportion of the public believes it is impossible to reach a solution to the conflict and a permanent settlement (Israeli, 2020). The situation on the Palestinian side is a mirror image: In 2015, 56% of the Palestinians in the West Bank supported a two-state solution, while in 2020, that support had fallen to less than 10% (Pollock, 2020, p. 5).

Therefore it can be concluded that indifference has increased among the Palestinian public, while both sides have lost confidence in being able to reach a permanent settlement. As a result, neither leadership is motivated to invest efforts in loosening the political logjam, allowing both sides to avoid the difficult decisions that are needed to restart negotiations. Among the Palestinians, especially the young and educated, the attitude is that the two-stage solution should be put on a back burner and that time and demography will work in their favor. Their ultimate goal is one state, which will eventually become a state of all its citizens, with full civil rights for both Palestinians and Jews.

Figure 27. The Best Option for Israel in the Israeli-Palestinian Conflict



Findings taken from the INSS National Security Index, November 2021